

In Brief

Medical Cannabis Alert

William G. Roark

On May 12, 2015, the Pennsylvania Senate, by a vote of 40-7, passed Senate Bill 3 - the Medical Cannabis Act. And while that Bill has not yet been voted on in House, it is nevertheless under serious consideration. The House has appointed a "task force" to meet regularly and discuss the best way to move this legislation to a final vote. While the nuances of the law are still being negotiated, the bottom line is that Pennsylvania looks ready to legalize medical cannabis. If the law is passed, then the Commonwealth will be joining the surrounding states of Maryland, Delaware and others as recognizing the medical benefits of cannabis and opening the doors to one of the fastest growing industries over the last three years.

You deserve to know how this law may impact you, your family and your community. Also, now may be the time to weigh the costs and benefits of getting involved in this industry.

Who will have access to medical cannabis and how will they get it?

If reading this article conjures up images of Cheech and Chong or their more modern counterparts Jay and Silent Bob, then your perception of Pennsylvania's law is misplaced. Your local Starbucks is not going to be overrun with people playing hacky sack nor is Bob

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BUSINESS OWNERS:

Are You Legally Protected?

The law firm of Hamburg, Rubin, Mullin, Maxwell & Lupin is pleased to announce the formation of its specialized Business Advisory Group. Comprised of some of the firm's top business, tax, estates and employment lawyers, the Business Advisory Group was formed to help businesses grow, avoid costly pitfalls, save money and focus on profits.

One of the chief services of the Business Advisory Group is a "legal check-up" or audit of your company's legal documents and business practices. We will review your customer contracts, your employee handbooks and your corporate structure to see if there are any obvious areas of possible exposure. Based on the audit, we will meet with you, spot and cure problems, and propose steps to protect your business and make it stronger going forward.

Managing partner, Steven Lupin relates: "We know firsthand how rough it is out there. Whether it is a business that failed when an officer became suddenly incapacitated, or a company sued by a group of employees alleging unfair working conditions, we have seen it all. Had they talked to us first, we might have prevented these crippling events from occurring. Running a business today can be especially difficult, given the myriad of laws within which a company must comply - in addition to dealing with competition, employee issues and changing customer needs. For all these reasons, we wanted to protect our clients more, and so we created this laser-focused team of lawyers to help our business clients be protected and properly advised at all times."

Some of the areas where the Business Advisory Group can help include: choice of business entity, Buy-Sell Agreements, corporate structure and management, succession planning, compliance with federal and state employment laws, business sales and acquisitions, asset protection, real estate purchases, sales and leases, and environmental compliance.

We want to be your trusted advisors and counselors and provide you with all the legal resources you will need to succeed - now and in the future. Please feel free to contact a member of our Business Advisory Group to set up an audit or discuss any concerns you may have. Just call 215-661-0400 or email Lawyers@HRMML.com. ■

**BUSINESS
ADVISORY
GROUP**

at HRMM&L

It's always hard to pick a favorite in the crayon box...

But this year we did.

In recognition of our lawyers selected to the 2015 Pennsylvania Super Lawyers and Rising Stars lists, our firm has made a donation to Cradles to Crayons, a super charity whose mission is to provide children with much-needed, everyday essentials.

HRMM&L
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Marley music about to permeate through your neighborhoods. The law being debated in Harrisburg is aimed at one thing: providing medicine to severely sick or injured people and creating a regulated industry to support that service.

For example, SB 3 lists only fifteen qualified medical conditions for which an individual could receive medical cannabis. At the time of passage, those conditions were: cancer, epilepsy, ALS, cachexia/wasting syndrome, Parkinson's disease, traumatic brain injury and postconcussion syndrome, multiple sclerosis, spinocerebellar ataxia, post-traumatic stress disorder, HIV, glaucoma, chronic pain, Crohn's disease and diabetes. Importantly,



chronic pain only qualifies as a medical condition if "other methods of treatment no longer have therapeutic or palliative benefit."

SB 3 provides that beginning in 2017, individuals may bring other medical conditions to the attention of the soon-to-be created State Board of Medical Cannabis Licensing. The Board will have a legal mandate to consider these petitions and determine if the condition identified should be added to the list of qualified conditions treatable with medical cannabis.

Pennsylvania will also deviate from states like California and prohibit patient cultivation of medical cannabis. Instead, Pennsylvania aims to strictly regulate the growing, processing and distribution. Caps on the number of licenses are in place, and the law is written to require that the licenses to process and dispense medical cannabis be geographically dispersed in order to allow registered patients reasonable access. As currently written, the law will only allow medical cannabis to be grown inside of a licensee's secure facility and not in a residentially zoned district.

Methods of ingestion

Pennsylvania's proposed law is one of the more restrictive pieces of medical cannabis legislation in the Country. Debate exists over the most efficient and timely method of ingestion. While smoking may be the most familiar and cheapest method of ingestion, legitimate concerns exist over the health implications of inhaling smoke from medicinal cannabis. Some states have weighed the evidence and decided to allow smoking. Other states have struck a balance by prohibiting smoking but permitting vaporizing. Pennsylvania has decided to plow its own road. Unless amended, the proposed law will limit patients' means of ingestion to extracted oils, ointments and tinctures. Smoking is strictly prohibited and only a handful of conditions can treat with vaporization. SB 3 does not allow the manufacturing of any edible products for resale, but does permit patients to make edible products at home if appropriate.

What can be done now?

As of now only those with a qualified medical condition will be able to apply for a medical cannabis access card. For those of you with

such a condition and with questions about this law, contact us as soon as possible to discuss your options and the law's immediate impact on you. For those of you with a condition not currently identified by SB 3, but who believe your condition should be added, then rest assured that we will be able to assist you with the preparation of the necessary paperwork to file. Just give us a call.

"When everybody is looking for gold" Mark Twain once said, "it's a good time to be in the pick and shovel business." For those of you interested in investing in this industry, you too should contact us as soon as possible to learn about the law's opportunities and its risks. Land across this Commonwealth is already being targeted for growing and processing medical cannabis. Stores and pharmacies are already considering if they should apply for dispensary license. And business plans built around reasonable expectations are already being drafted. If interested, then call us to discuss the pros and cons of this new industry. ■



DIY Legal Documents

Lisa A. Shearman

The 21st Century has been marked by a generation of resourceful and creative self-starters. With the advancement of technology and wide-spread social media outlets, there are unlimited resources available. On YouTube you can get step-by-step instruction on just about anything. The home network channels teach us how to refinish furniture, retile a bathroom and renovate a house. There are TV channels, websites, apps, programs and old fashioned classes devoted to DIY (Do It Yourself).

The concept of DIY has spilled over to legal services. *LegalZoom* and *Rocket Lawyer*, among other online services, attempt to streamline the process of creating legal documents, such as Wills, employment contracts, shareholder's agreements and other personal and business documents. *LegalZoom* recently partnered with Sam's Club to provide "affordable legal help for their families and small businesses." While picking up your bulk items shopping at Sam's Club, you can also purchase software to write your own Will and powers of attorney. Another new player in the game is *TaxSlayer*. After completing your income tax preparation on *TaxSlayer.com*, the site offers a "deal" on their product, *WillSlayer*. The costs may sound appealing, but what value are you receiving?

The obvious benefit to DIY legal services is cost, plain and simple. The cost to create a Will and other legal documents through one of these sites is certainly less than the cost a lawyer will charge, however, you are getting what you pay for: low cost canned legal documents.

What are you sacrificing? The personal interaction and evaluation you would receive

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in a one to one meeting with an attorney. A software package is not going to provide a client with the necessary tools to assure his or her estate plan is set up correctly. Sure, you can print out a will or a form power of attorney, but you are missing the “out of the box” benefits that an attorney can provide. For instance, if you have a Will, it designates who should receive your property when you die. But, if the beneficiary designations on your life insurance policies and retirement accounts are inconsistent with your Will, those designations will override the directions in your Will. Estate planning involves more than just a set of written documents. It includes proper planning of all assets, and coordination with other advisors, such as life insurance agents, accountants and financial advisors. It involves building a relationship for you and your family.

LegalZoom’s job is to deliver a generic product. If needed, their site will connect you with an anonymous attorney who isn’t working for you, but rather LegalZoom. Our job instead, is to assess a client’s individual circumstances, make recommendations based on those circumstances, and create a plan with that information. We work for you and are interested in assisting you with a legal need, not just selling you a product.

Our estate planning attorneys assess information about the client’s family, assets and financial situation, including identifying areas of concern, such as beneficiary issues, future incapacity, healthcare decision making, long term care planning, asset protection, and minimizing costs, time delay, and taxes. We want to develop a relationship with our clients and their families so that in the event of a loss, we will be able to provide some comfort and guide them through the legal process.

There is no “one size fits all” in estate planning, especially when you have unique circumstances. DIY programs do not address the various issues that can come up in a second marriage, same sex marriage or special needs situations. Furthermore, with the constant changes in laws, it is important to understand how these changes may affect your planning. LegalZoom and other document preparation services are not lawyers and offer no assurance that they keep up with changing laws.

It is important to understand what you are buying when you use LegalZoom or a similar product or service. The disclaimer on their website provides in part, that “[they] are not a law firm or a substitute for an attorney or law firm. We cannot provide any kind of advice,

explanation, opinion, or recommendation about possible legal rights, remedies, defenses, options, selection of forms or strategies.” Their



“terms of use” is pages long, in small print, and essentially provides a complete disclaimer of any legal responsibility to you.

We have become more familiar with these products because we have seen their ineffectiveness and they have become more and more the source of litigation. The savings your family member or business partner may have obtained on the creation of the documents is lost in the first consultation with an attorney when things go wrong. Litigation will cost beneficiaries thousands of dollars and will leave a family divided.

Feel free to contact us with your questions or comments about DIY products or any legal questions you may have. ■

DUI Update

Ethan R. O’Shea

A recent change in the law is Act 1189 which modifies Pennsylvania’s DUI law in three important ways. First, the law has been amended so that all second time DUI offenders who refuse a breath or blood test will be guilty of a misdemeanor of the first degree which carries a maximum jail sentence of five years. Previously, because of certain language inserted into the law, the maximum sentence was only six months. Second, the law has been amended to increase the punishment significantly for certain repeat offenders. Under the prior law, it was required that an offender have been found guilty of a DUI prior to a second DUI in order for the second DUI to be counted as a subsequent offense. For example, if a person committed two separate DUIs two months apart, the person would be sentenced as a first-time offender on each because the person had not been convicted of the first by the time he had committed the second. Now, that same person will face second offender penalties and under the sentencing structure of DUI laws, the penalties increase significantly for each subsequent DUI. Thirdly, the revised DUI law addresses certain situations that arose whereby PennDOT was suspending driver’s licenses for DUI offenses even where the court took years to notify PennDOT of the DUI conviction. Persons who are now subject to belated driver’s license suspensions will be eligible to obtain an Occupational Limited License.

The change in the DUI law should remind everyone that DUI is a very serious criminal offense that carries significant consequences. If you, a family member or close friend have been charged with DUI or another criminal offense, please call Ethan O’Shea at HRMM&L who has been practicing criminal law for more than 20 years and can help you navigate Pennsylvania’s criminal justice system. ■





Andrew Grau moderated a session of the 4th Annual Small Business University, a half day education program sponsored by the Penn Suburban Chamber of Commerce. The session focused on business transitions and decisions, including intergenerational transfers of ownership, family dynamics, and key actions to change or sustain the direction of businesses.



Mark Himsworth's daughter, **Annie**, was selected to the USA Field Hockey's 2015 Junior National Camp.



Steven A. Hann is a contributor to the Tenth Edition of the publication "Municipal Authorities in Pennsylvania." This book, published by the Pennsylvania Department of Commerce and Economic Development, provides information on a wide variety of topics germane to municipal authorities in Pennsylvania. He was also the sole presenter for a Pennsylvania Municipal Authorities Association ("PMAA") webinar on March 4, 2015. He provided attendees with answers to frequently asked questions on the Municipal Authorities Act, The Sunshine Act, Right to Know Law and storm-water related issues. **Steve** also spoke at the PMAA annual Board Member Training Sessions on March 12, 2015 in Breinigsville, PA and on March 24, 2015 in Camp Hill, PA. He provided Municipal Authority Board Members with an update on issues of interest impacting Municipal Authorities in Pennsylvania. **Steve** additionally provided an update on recent litigation and regulatory issues of interest to Municipal Authorities at the Pennsylvania Municipal Authorities Association's annual Spring Management Workshop in Hershey, PA on April 7, 2015 and spoke at the Pennsylvania Bar Institute's Environmental Law forum in Harrisburg, PA on April 9, 2015 on the topic of Enforcement Issues facing Municipalities under the Clean Water Act.



Triangle Club of Montgomery County Vice President **John Iannozzi** participated in the 52nd Anniversary Awards Banquet Thursday, May 14, 2015 at Presidential Caterers. The ceremony honored student-athletes who excel on the field of play, in the classroom and out in the community.



Bernadette Kearney is scheduled to be a speaker for the National Business Institute on September 16, 2015 in King of Prussia, PA. She will be a presenter for the seminar "Practical Guide to Zoning and Land Use Law" and will address "Challenging or Appealing an Administrative Zoning Decision."



Joseph J. McGrory, Jr. was elected Secretary/Treasurer for the Municipal Law Section of the Pennsylvania Bar Association.



Joe McGrory and **John Walko** were the speakers at the Montgomery County Zoning Officers Association luncheon on June 10, 2015. The presentation addressed the impact of the Moran decision on the conduct of zoning officers. In attendance were zoning officers from Montgomery, Chester, and Bucks Counties, as well as some elected officials.



Ed Mullin was recently appointed chair of the Pennsylvania Builders Association Judicial Task Force.



In February, **Ethan O'Shea** was elected Secretary of the Montgomery Bar Association's Trial Lawyers Section.



William Roark co-led Montgomery Bar Association Young Lawyers Section's "Dress for Success" efforts. An estimated 600 pounds of women's professional clothing were donated toward Dress for Success Philadelphia. **Bill** also participated as a panel member of a Pennsylvania Bar Institute seminar entitled, "Is Medical Marijuana Coming to Pennsylvania? What will be the impact of the Medical Cannabis Act?" which was organized by **Bill** and co-led by Pennsylvania State Senator Daylin Leach, Steven Auerbach, and David Dinnenberg. The session focused on what clients' rights will be under the proposed Medical Cannabis Act and the possible impact the Act could have on Pennsylvania. He also presented a similar seminar in May, sponsored by the Montgomery Bar Association; that seminar focused on the municipal and zoning aspects of the Pennsylvania Medical Cannabis Act.



Jonathan Shaw, a member of the firm's Litigation Department, participated as a panelist at Pennsylvania State University Abington's annual Law Forum. The

panel discussed careers in law and offered attendees a unique insight into the panelists' diverse legal backgrounds, including a former Judge, former District Attorney, and current mayoral candidate Lynne Abraham.



Lisa Shearman received the 2015 Pennsylvania Bar Association ("PBA") Special Achievement Award for her dedication and commitment to the Wills for Heroes Program. She received the award at the May 8th PBA's House of Delegates meeting in Philadelphia. The Wills for Heroes Program provides free wills and other estate planning documents for emergency responders and veterans. **Lisa** has been advising clients throughout the Commonwealth for over 20 years.



On February 3, 2015, in conjunction with the annual High School Mock Trial District Competition held at the Montgomery County Courthouse, **John Walko** presented a CLE on Pennsylvania's criminal homicide laws to the attorneys serving as mock jurors for the competition.



Hamburg Rubin Mullin Maxwell & Lupin is pleased to announce that it has been appointed Solicitor for the Borough of Narberth, Montgomery County. **John Walko** will play a lead role in working with the Borough.



Carl Weiner participated on a panel presenting an informational session on community and condominium associations in Pennsylvania to a joint meeting of the Pennsylvania Senate Urban Affairs and House Committee and House Urban Affairs Committee. The point of the session was to educate legislators on the creation and operation of common ownership interest communities in Pennsylvania and the impact of pending and proposed legislation on such communities. In addition, on April 29, 2015, **Carl** presented a seminar to the Bucks County Planning Commission, along with other members of the Community Associations Institute's Government Affairs Committee. The seminar presented information regarding the formation of common interest communities as well as the transition of communities from developer control to homeowner control. The seminar took place at the offices of the Bucks County Planning Commission.



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