

## Pennsylvania: The Year in Review of the Pennsylvania Medical Marijuana Act

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Andrew Sacks is involved with medical marijuana and industrial hemp law formation, regulation, and updates in Pennsylvania, and he is often considered the leading legal professional in the state for these matters. In 2015, he was selected by the American Trade Association for Cannabis and Hemp (ATACH) as the only lawyer to serve on their State Level Coalition. He has since worked extensively with the association to promote fair laws surrounding medical marijuana, cannabis, and hemp, focusing largely on how lawyers can advocate legally for people working within those industries. He has spoken at several seminars, including those for the Marijuana Policy Project (MPP), the Pennsylvania Canna-Business Seminar, and the Pennsylvania Bar Association.

Mr. Sacks has personally lobbied state senators in conjunction with ATACH (The American Trade Association for Cannabis and Hemp) to move Pennsylvania's medical marijuana regulations forward. His efforts have helped Pennsylvania create the medical marijuana program currently in formation. He played an integral part in founding the Pennsylvania and Philadelphia Bar Associations' Medical Marijuana and Hemp Law Committees and in helping the Pennsylvania Bar Association gain an understanding of the complexities inherent to medical marijuana law. He is now the co-chair of the Pennsylvania Bar Association Medical Marijuana and Hemp Law Committee (appointed by Pennsylvania Bar Association President Sara Austin), as well as the Philadelphia Bar Association Business Law Section: Medical Marijuana and Hemp Committee. But perhaps his best contribution was to get the National Lupus Organization to recognize the benefits of medical marijuana and to change its policy to reflect it.



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William G. Roark is a Principal of Hamburg, Rubin, Mullin, Maxwell & Lupin and a member of the firm's Litigation Department. Mr. Roark also represents individuals and businesses in the medical marijuana industry by helping them comply with Pennsylvania's Medical Marijuana Act. Mr. Roark is co-chair of the Pennsylvania Bar Association's Medical Marijuana and Hemp Law Committee.

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## **ARTICLE**

They said it would never happen. They said the General Assembly was too conservative. They said Pennsylvania, a state where until recently the sale of alcohol on Sundays was frowned upon, would never permit and regulate medical marijuana.

Well, one year after Governor Wolf signed Pennsylvania's Medical Marijuana Act ("Act") into law, it has become abundantly clear – they were wrong.

On May 17, 2017 Pennsylvania's Medical Marijuana Act turns one year old. And while there was justifiable concern at the time of passage that the program would take years to get off the ground, Pennsylvania's Department of Health ("DOH") has done a commendable job ensuring that Pennsylvania's citizens will soon have access to medical marijuana. This article will revisit the progress made over the last twelve months, showcasing the efforts made to bring one of the fastest growing industries to our area.

On June 25, 2016, only one month after the law became effective, the DOH released temporary regulations concerning the safe-harbor provision of the Act. Instead of making the most vulnerable and youngest of patients wait for medical care, the DOH implemented a system where parents and guardians could obtain recommendations from their children's doctors for the use medical marijuana. If recommended, then the parents could obtain from the DOH a letter stating that their possession of medical marijuana was not a violation of state criminal laws. Albeit limited in scope, the program has already approved over 200 applications for safe-harbor letters.

Then, beginning in the fall of 2016 the DOH began releasing temporary regulations concerning the supply side of the medical marijuana industry. First, general regulations concerning permit applications were released alongside specific regulations for the growing and processing of medical marijuana.

Shortly thereafter, regulations concerning dispensaries and testing facilities were released. While many feared that the DOH would take years to release such detailed regulations, in less than six months of passage, entrepreneurs were already being shown the road map for medical marijuana in Pennsylvania. Instantly, plans of operation, diversity statements and community impact proposals started to be drafted. Regulations

concerning everything from fertilizers to transportation manifests were now being studied by prospective applicants. One thing was clear, however, the speed and thoughtfulness with which the regulations were released evidenced a willingness from the DOH to get this industry started as quickly and reasonably as possible.

As the kids would say, “things got real” on December 21, 2016 when DOH Secretary Murphy held a press conference advising that permit applications to grow/process and dispense medical marijuana would be made available in January 2017 and due on March 20, 2017. Moreover, at the December press conference, the DOH articulated the number of permits to be released in phase 1 and the manner in which the permit will be spread across the Commonwealth. During this initial phase of applications, only 12 permits to grow/process medical marijuana and only 27 permits to dispense medical marijuana would be released.

Although specific numbers are not yet available, DOH estimated that by March 20, 2017 approximately 900 applicants submitted the required fees and forms to enter the medical marijuana industry. DOH is currently in the process of cataloging and reviewing these applications, which the winners expected to be announced this summer.

DOH has also made sure that the demand side of the medical marijuana industry is up and running. A physician’s work group was created to ensure that the medical profession continues to play an integral role in the regulation drafting. Moreover, in April 2017 the Department released draft temporary regulations for physicians wishing to recommend medical marijuana to their patients.

While Pennsylvania has made incredible strides over the last year, perhaps more exciting is the promise of more to come. With the passage of the Act, a Medical Marijuana Advisory Board was created. Tasked with various obligations, this Board will serve an integral role in shaping the future of medical marijuana in Pennsylvania. At about the same our first dispensaries open their doors (Spring 2018) the Medical Marijuana Advisory Board will be issuing a report to the DOH with various recommendations including, but not limited to, the possible expansion of this industry. Issues such as the sale of dry leaf/flower and additions to the list of qualified medical conditions will all be addressed by the advisory board. Given the trend seen in other states, it is not unreasonable to start planning for an expansion of this market.

For now though, Pennsylvania residents can bask with a sense of pride. Refusing to get bogged down in red tape, our DOH has plowed ahead. Medical marijuana is here to stay, and Pennsylvania is making sure it doesn't get left behind.

If you have any questions concerning Pennsylvania's Medical Marijuana Act, either as an industry participant, health care provider or patient, then contact William G. Roark, Esq.

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