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# WHAT'S NEW AT TIPS

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## The Cannabis Law & Policy Committee

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Cannabis has crept into the American Bar Association as it has captivated a majority of the United States today, creating the dawn of a new industry as laws change to legalize both “marijuana” and hemp—exciting times to be an attorney! The American Bar Association, Tort Trial and Insurance Law Section was not late to the party, presenting its first marijuana law CLE at the annual meeting in New York City in 2017, entitled, “How the Trajectory of Marijuana Law Will Affect Your Practice.” This CLE was over a year in the making after the onslaught of cannabis legalization that began in 2014. The reception to that CLE led to the creation of a Cannabis Law & Policy Task Force and, as of August 2019, a Cannabis Law & Policy Committee.

The Cannabis Law & Policy Committee is comprised of attorneys from throughout North America who have various mainstream practices. This is merely another industry—yet it is unlike any other industry, like what it must have been with the lifting of alcohol prohibition and the scuffles following that process, leading to Coors and Budweiser today. The law is disparate in every state as to the same issues, and simultaneously federally illegal. Businesses are laden with taxes, regulatory compliance, and lack of banking or merchant processing, thus must conduct business in cash. Regulations constantly change and new issues arise daily. Over 1,200 marijuana-related bills are pending with the US Congress, with the S.A.F.E. Act (pertaining to banking and business protections) passing the House floor, and the M.O.R.E. Act (proposing legalization and expungement of cannabis-related offenses), recently passing the House Judiciary Committee 24-10 to move to the House for a vote. These are all very historic moves quickly moving upon us to reverse 100 years of prohibition, including the prohibition of research.

And then there is the 2018 Farm Bill which greatly expanded the 2014's limited Farm Bill, which is in effect for another year. The Hemp Farming Act in the 2018 Farm Bill removed hemp from the definition of “marihuana” under the US Controlled Substances Act, where it sits as a Schedule One Substance alongside heroin and LSD, considered to have no medical use and a high potential for abuse; therefore, research is not allowed absent special DEA registrations, which are never granted. The chicken and egg saga of this circular argument, ignoring the Shafer Commission's recommendation to President Nixon that marijuana be decriminalized, could be the subject of another article. But, hemp and cannabis are varieties of the same plant, such as roses can be bred to be different colors. Hemp must be less than .3 percent THC, which is the only cannabinoid of hundreds in the plant that causes a high (but is also therapeutic), and rich in CBD and other cannabinoids and botanical terpenes. We are only just beginning to understand how these cannabinoids interact with our body's natural endocannabinoid system to bring the body to homeostasis and reduce inflammation, which is likely why users report reduced pain, anxiety, sleeplessness, among other serious conditions including epilepsy, MS, ALS, autism, and other spasm causing disorders—although the science supporting how the plant works for individual people and conditions is still developing.

Hemp also creates incredible sustainable resources in the forms of oils, soil phytoremediators, carbon

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atmosphere reduction, as well as industrial applications for textiles and inflammable, mold resistant building materials that are stronger and more multi-functional than steel and cotton. The hemp industry is not burdened with the regulations as strict as marijuana, but it is a new agricultural commodity that, while the wave of the future, will soon have most states all converting to this crop leading to later commoditization and consolidation. But for the next three years, there is a lucrative window of opportunity for entrepreneurs to take advantage of this industry. And they need good attorneys to navigate them through these ever-changing mazes and political times.

The complex and contradictory interplay between federal and state law, in addition to the various agencies and regulations involved, creates an agile legal environment where the anachronistic law lags behind public opinion and is being rewritten for the future. Attorneys must divine the course of future law and its potential judicial interpretations. The members of TIPS Cannabis Law & Policy Committee seek to be stewards of this historic change in the law by providing meaningful education and promoting professionalism and unparalleled ethics in this pioneering field. Attorneys are able to create niche within niche practices in this industry right now.

The Cannabis Law & Policy Committee has already taken steps toward its goals, one by presenting a resolution to the ABA House of Delegates that resolves the current uncertainty facing attorneys in the provision of advice and legal services to clients within the cannabis industry. Because marijuana related activities remain federally criminal conduct, the fear of prosecution for conspiring to commit a crime or aiding and abetting a crime is currently deterring attorneys from advising clients operating state-authorized marijuana businesses, who are thus deprived of desperately needed counsel and guidance. The Resolution clarifies that such provision of advice and legal services in compliance with state law does not constitute unlawful activity pursuant to Federal law. The other step was to present a two day cannabis and hemp law CLE in Chicago, IL on September 19-20, 2019, that covered nearly every angle of the law affected by cannabis legalization, and included numerous executives from high profile cannabis and hemp companies across the country.

The Cannabis Law and Policy Committee will continue to publish educational materials about this emerging area of law and is already planning its second annual standalone cannabis and hemp law CLE program. The Committee would also like to put together a book covering the most common challenges to practice in this area, with a history of the evolution of the re-legalization of cannabis, so if you or someone you know has become an expert in the field and would like to author a chapter, please get in touch with us. And come to our meetings and join our Committee. It is highly fun!