



Staff Memorandum

HOUSE OF DELEGATES Agenda Item #8

REQUESTED ACTION: Approval of the report and recommendations of the Committee on Cannabis Law to become the Cannabis Law Section.

Attached is a report from the Committee on Cannabis Law outlining the work it has undertaken since its formation in 2017, including proposals for NYSBA policy, comments on proposed legislation, and the development of CLE programming. The committee notes that it has seen a large increase in applications for membership on the committee; section status would enable more members to engage in activities. Accordingly, the committee requests the House's approval for it to be converted to a section. Under the Bylaws, House approval is required for creation of a section.

The report will be presented by committee chair Lynelle Bosworth.



NEW YORK STATE
BAR ASSOCIATION

A report and recommendations from the Committee on Cannabis Law requesting that the House of Delegates establish a Section on Cannabis Law

January 2022

The views expressed in this report are solely those of the Task Force and do not represent those of the New York State Bar Association unless and until adopted by the House of Delegates.



New York State Bar Association

One Elk Street, Albany, New York 12207 • 518/463-3200 • <http://www.nysba.org>

COMMITTEE ON CANNABIS LAW

LYNELLE KATHLEEN BOSWORTH, ESQ.

Chair

Greenberg Traurig LLP

54 State St Fl 6

Albany, NY 12207-2510

Phone: (518) 689-1469

Email: bosworthl@gtlaw.com

To: House of Delegates, New York State Bar Association

From: Lynelle Bosworth, Chair of the Committee on Cannabis Law

RE: Section Status for the Committee

The Committee on Cannabis Law (“Committee”) respectfully requests that the House of Delegates authorize Committee to establish a Section on Cannabis Law, pursuant to Article X., Section 1, of the NYSBA’s Bylaws.

The Committee on Cannabis Law serves as the New York State Bar Association’s panel of experts regarding the emerging body of law related to cannabis, both on the state and federal level. The Committee drafts legal comments, proposes legislation, pushes for the adoption and implementation of policy by the Executive Committee and House of Delegates, and creates CLEs for the Association in the practice area.

The recent enactment of the Marijuana Regulation and Taxation Act (“MRTA”), legalized adult-use cannabis, expanded the State’s medical cannabis and cannabinoid hemp programs and implemented a number of criminal law reforms. The MRTA also created the Cannabis Control Board (“CCB”) and Office of Cannabis Management (“OCM”), a new regulatory agency, charged with implementing the provisions of the law, promulgating regulations, issuing licenses for operation, and pursuing enforcement actions. Practitioners throughout the state are advising their clients on how to navigate this new and evolving frontier. In addition, cannabis is not legal in all 50 states nor on the federal level, creating a complex patchwork of laws and presenting a broad spectrum of challenges for attorneys and their clients. In the last several years, the Committee has sought to give attorneys the information that they need to navigate this area of law by sharing updates, resources, and best practices to set the highest possible legal and business standards for licensed entities and their cannabis products.

With the appointments to the CCB and staff to the OCM, the implementation activities are underway in earnest. Emerging business are seeking to expand into a brand-new market and the industry in New York is building itself from scratch. New York will soon implement a robust regulatory framework which will require the advice of attorneys. Moreover, there are a number of criminal law provisions practitioners are navigating. The Committee of the Association is a key resource for New York’s attorneys and to assist in shaping ongoing regulatory activities.

Converting the Committee into a Section will expand the resources of the Committee to better respond to the rapidly emerging area of law and allow materials produced by the Committee to be distributed more widely, thereby increasing the influence of the Section and the value of membership in the Association.

The Current Cap on the Committee's Membership

The Committee currently has 39 members due to the cap placed on the number of attorneys who can join the Committee each year. Upon passage of the MRTA, the committee saw a dramatic increase in applications for appointment to the committee during the normal appointment process -- a direct reflection of the increase in interest from the membership of the Association in this area of law. However, with the cap, we were unable to capitalize on this interest.

As a practice area, cannabis law is wide-ranging and affects business law, criminal law, environmental and employment law, among others. Cannabis legalization will also impact other traditional practice areas such as state and local government, food drug and cosmetic law, intellectual property, and trusts and estates.

The current cap deprives the Committee and other Sections of useful cross-communication and collaboration efforts on educational materials, knowledge sharing, and CLE opportunities.

The Current Problem with Limited Resources

Committees get their resources from the Association directly. This can be a limitation for Committees in a large, or emerging practice area. As a Section, the Committee would be able to leverage the demonstrated interest in this area into section dues. Given the widespread interest in joining the Committee, as a Section, it is conceivable that the resources raised from membership dues and CLEs will make the Section self-sustaining.

Another resource is a greater pool of participating members. As was touched on before, the conversion to a Section will allow a virtually unlimited number of members to participate. The Executive Committee of the Section can leverage larger section membership into more CLE, and educational materials. As the Committee is currently comprised, an increase in membership would allow the committee to create a wider range of CLE topics as more members will be available and will lessen the burden on the relatively small number of Committee members to satisfy the voracious appetite of our members and the public at large for Cannabis CLEs.

Conclusion

Converting the Cannabis Committee to a Section will contribute to Association growth and will position the Association as a leader for practitioners looking for guidance in an emerging market and practice area.

The Committee respectfully requests that the House of Delegates authorize the establishment of a Section on Cannabis Law.

Respectfully Submitted,

Lynelle Bosworth, Chair
Committee on Cannabis Law