The MSCE held its annual Legislative Breakfast on Friday, January 5, 2019 at the MSCE conference Center. Rose Berkun MD, chair of the MSCE Legislative Committee. There was much discussion regarding the legalization of recreational marijuana. Gale Burstein, MD chair of the MSCE Public Health Committee, and Erie County Commissioner of Health discussed the effects of marijuana on the developing brain and noted that representatives from agencies such as “Kids Escaping Drugs” have publicly stated that marijuana is often the “gateway” to other drugs/substances. Concern was raised that currently there are no regulations on the sale of marijuana or how the income from the sales will be used. Commentary also included statements from the report from the Center for Arizona Policy “Legalized Marijuana: What Has It Done to Colorado”. It was noted that states cannot legally conduct studies on the addiction properties and health benefits, since marijuana is still classified as a Schedule 1 controlled substance. Copies of the MSSNY Legislative Agenda were distributed and reviewed.

Dr. Madejski and Christine Nadolny met with Assembly member Crystal Peoples Stokes and Mark Boyd, her chief of staff, on December 10, 2018 to discuss her support for the legalization of marijuana. Her support for the “adult use” of marijuana is based upon the criminal justice disparity which has had a devastating effect on families. She adamantly states that the term “recreational use of marijuana” is incorrect, her support for legislation is based on “adult use”. A copy of her position statement is attached to this report.

The “LEGAL GUIDELINES FOR THE MEDICAL OFFICE”, a joint publication of the MSCE’s Health Law Committee and the Bar Association of Erie County (BAEC) is being finalized with distribution scheduled for March 2019. This compendium provides information on topics including: Summons, Subpoenas, Audits, Physician Testimony, Confidentiality, Cybersecurity, Medical Records, Dispute Resolution for Physicians and Attorneys, The ADA, Guardianship, Stark Regulations, the NYS Anti-Referral Law, Mental Health Treatment, Right to Die, Limitation of Treatment, Workers’ Compensation, No Fault. It also provides copies of documents such as: a model contract for record review and testimony, authorization for the release for health information and confidential HIV Related Information (DOH 2557), Authorization for the release of Health Information Pursuant to HIPAA (NYS OCA 960), Health Information Privacy Complaint (OCR – HHS-700), NYS Nonhospital Order Not to Resuscitate (DOH 3474).

Regionalization continues due to the sudden closure of the administrative offices of the Niagara County Medical Society. Transition to administration by the staff of the Erie County Medical Society has not been smooth, and points to the need for revision of MSSNY, County and District Bylaws and a series of best practice guidelines which would provide information on topics such as finance administration/transition, notification of membership, IT/Website access to assist in the transition of services.
Hon. Crystal D. Peoples-Stokes
New York State Assembly, 141st District

Sponsor of the Marijuana Regulation & Taxation Act (MRTA) – A.3506-C

MRTA FACT SHEET

The Basics:

- Legalization of adult cannabis use under MRTA applies to adults age 21 & over. Marijuana will be illegal for those under age to purchase/consume, allowing NYS to better restrict minors’ access to marijuana while also improving accessibility for those with medicinal needs.
- MRTA provides significant reinvestment of tax revenue into communities, especially communities of color, most harmed by the failure of the war on drugs. Opportunities for investment include education, treatment and prevention programming, re-entry services, job training, community development projects, industry-focused small businesses, revolving loan funds, and health & scientific research.
- MRTA allows for personal cultivation of up to 6 cannabis plants per private residence.
- Adult use is not about recreation. MRTA does not promote cannabis use. It advocates for decriminalization, regulation and taxation. Many people currently self-medicate with product from the unregulated market to address chronic illness or pain because medical marijuana is too expensive and inaccessible for many approved patients.
- MRTA will create a system to tax and regulate the sale of marijuana and cannabis products, including controls over THC levels, pesticide use, and other factors to ensure the product is safe for consumers. Cannabis products must be grown and manufactured in NYS in order to be sold here.
- MRTA will create a new industry, jobs, and various entrepreneurial opportunities.

Bill Highlights:

- It’s about social justice: Legalization of adult cannabis use must address the hundreds of thousands of individuals arrested for minor marijuana offenses, mainly people of color, by sealing their criminal records. Too many lives have been devastated by the inequitable enforcement of marijuana prohibition. A criminal record affects one’s ability to obtain public housing, student loans, employment and more.
- MRTA creates a welcoming diverse and inclusive industry, allowing for employees and license holders with non-violent criminal records. It’s also opposed to an industry dominated by big business and Wall Street.
- Provides opportunities for “mom & pop” micro-businesses to access licenses, as well as low-interest loans for prospective licensees who need access to capital.
- NYS Medical Marijuana Program requires vertical integration of licenses, resulting in only wealthy corporations being able to engage in the industry. MRTA establishes separate license categories, including for cultivation, manufacturing, retail dispensing, and testing.
- MRTA recognizes the potential for marijuana and cannabis to be a significant agricultural commodity (hemp & cannabis) and farming as an economic opportunity. The goal is to generate economic opportunities for all the varying regions of the state.
Other Issues to Consider:

- Some people suggest that marijuana is a "gateway drug" that leads to use of hard, dangerous illicit drugs. However, many others note that there is no evidence to suggest that just because a person uses marijuana first, that there is a causation to use of more illicit and dangerous drugs. Some individuals are influenced by their social environments; others are predisposed with addictive personality genetic traits that contribute to substance use disorders. Opioids, alcohol, and other drugs too often lead to fatal results. No one has ever died from marijuana consumption. In states where marijuana is legal, data has shown a noticeable decrease in opioid abuse. Recently, the NYS Department of Health authorized medical marijuana to be prescribed as a replacement for opioid prescriptions, with positive results.


- How do we ensure road safety with legal adult marijuana use? EVERY state is still trying to figure this out. Marijuana intoxication cannot be easily determined and tested for like with alcohol because every person metabolizes THC differently. Per se amounts (i.e. BAC .08% limit is a "per se amount") of THC should never be applied as a standard: some people are perfectly safe drivers at amounts that might exceed a per se limit, while others could be very unsafe drivers at amounts below it. Studies have indicated that THC taken alone in doses preferred by the person using it does not seriously affect driving performance. Because most people overestimate their degree of marijuana intoxication and are highly aware of their impairment, the decision to drive is typically a cautious one and is marked by slower speeds and increased following distances. The people who do crash and have THC in their system are the same demographic of people at a higher risk of crashing and often already pay higher insurance premiums because they are likely to: follow closely; turn without signals; speed; and drive drunk. Marijuana itself does not make unsafe drivers. Additionally, the Insurance Institute for Highway Safety states that the presence of THC in a person’s system does not necessarily mean they were driving while intoxicated. Although marijuana is not as dangerous to roadway safety as was once believed, law enforcement does need some type of tool for determining unsafe driving. Right now, Drug Recognition Expert (DRE) training and implementation is an available tool for law enforcement agencies.