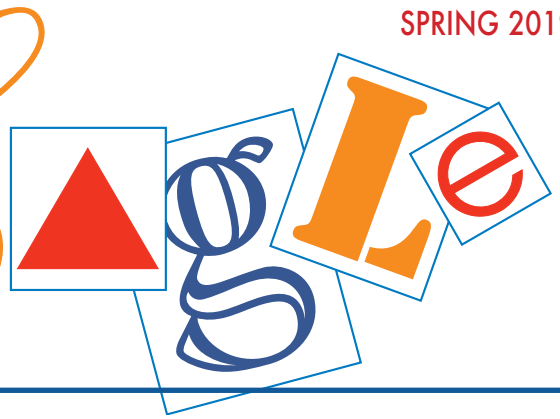


# THE LEGAL

A LEGAL NEWSPAPER FOR KIDS



## For-Profit College Industry Under Fire

by Maria Wood

Pursuing higher education is a worthy goal, but the choice of what educational path to take can be daunting—traditional four-year college, two-year community college, trade school or maybe a for-profit college.

Colleges are classified as either non-profit or for-profit. A non-profit college can be either private (Harvard University) or public (Rutgers University) and is typically managed by a board of trustees. A for-profit college (University of Phoenix) is run like a business and is beholden to its owners and shareholders.

### Making a profit

For-profit colleges trace their origins to colonial times when many colonists didn't have access to formal higher education. Ben Franklin was an advocate of



CONTINUED ON PAGE 6

## Court Keeps Pace With the Digital Age & Privacy

by Phyllis Raybin Emert



Privacy is often defined as a person's right to control his or her personal information. You probably voluntarily spend much of your day on your smart phone, texting, posting pictures, announcing where you are and where you're going. You may also wear exercise-tracking devices that collect your personal data.

Your movements are recorded in stores, restaurants, clubs and on public streets. If you are suspected of a crime, these digital devices can be used to track your every move and access your

CONTINUED ON PAGE 2

## New Jersey's Not-So-Smooth Road to Marijuana Legalization

by Michael Barbella

It goes by many names—weed, pot, hashish and cannabis, to name a few—but marijuana is the most common. While medical marijuana is legal in 33 U.S. states, recreational use of the drug for adults over 21 is only authorized in 10 states and the District of Columbia. New Jersey is poised to be the 11th state to legalize marijuana.

During his campaign, Governor Phil Murphy promised to legalize the recreational use of pot in the Garden State and according to a Monmouth University poll, 6 in 10 New Jersey residents support legalization. Despite poll numbers, the measure has met with resistance from some.

### What's in the bill?

New Jersey's legislation would essentially establish a cannabis industry in the Garden State. The 166-page bill would authorize small amounts of hashish for adult recreational use, expand New Jersey's existing medical marijuana program and permit home delivery of the drug.



CONTINUED ON PAGE 3

confidential data.

Privacy issues involve the Fourth Amendment which states: “The right of the people to be secure in their houses, papers and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause... particularly describing the place to be searched and the persons or things to be seized.”

The third-party doctrine also deals with privacy. The doctrine, which dates back to the 1970s, states that if you voluntarily give information to a third party, like the phone company, banks or Internet service providers, you do not have a reasonable expectation of privacy.

## A decision for the digital era

*In Carpenter v. United States,*

extensive cell phone records (127 days worth) from Timothy Carpenter revealed that he was at or nearby several armed robberies of Radio Shack and other stores in the Detroit metropolitan area. This evidence, as well as other testimony, was used to convict Carpenter and he was sentenced to 116 years in prison. The case made its way to the U.S. Supreme Court in June 2018. The majority of the Court, in a 5-4 decision, ruled in Carpenter’s favor.

The government based its argument to **uphold** Carpenter’s conviction on the third-party doctrine. “In its [the government’s] view, cell-site records are fair game because they are ‘business records’ created and maintained by the wireless carriers,” wrote Chief Justice John Roberts for the majority. “The Government’s position fails to contend with the seismic shifts in digital technology...[and] fails to appreciate that there are no comparable limitations on the revealing nature of CSLI [cell phone location tracking].”

Chief Justice Roberts explained that the case was not about a person’s location at a particular time, but “about a detailed chronicle of a person’s physical presence every day, every moment,” raising serious privacy concerns. In the majority opinion, Chief Justice Roberts noted that the Government essentially “conducted a search” which required a warrant for probable cause. Instead of a warrant, the police obtained

a court order stating the records were relevant to their investigation. The Court ruled the prosecutors violated Carpenter’s Fourth Amendment rights by collecting extensive amounts of data without a warrant.

“We decline to grant the state unrestricted access to a wireless carrier’s database of physical location information,” Chief Justice Roberts wrote. “The fact that such information is gathered by a third party does not make it any less deserving of Fourth Amendment protection. The Government’s acquisition of the cell-site records here was a search under that Amendment.”

Therefore, in this particular case, the Court ruled the third party doctrine did not apply, **reversed** the conviction and returned the case to the lower court. Carpenter is still in prison and awaiting a new trial.

## Alexa, was it murder?

Technology has changed evidence collection in criminal cases. In Arkansas, for instance, access to an Alexa Echo became an issue. In February 2016, prosecutors brought first-degree murder charges against James Bates after a friend, who had slept over at his home in November 2015, was found dead the next morning. Bates discovered the body and claimed it

was a tragic accident.

In the course of



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Jodi L. Miller  
EDITOR

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## Digital Age **CONTINUED FROM PAGE 2**

their investigation, the police seized an Amazon Echo from Bates' kitchen. At first, Amazon refused to release customer information collected from the Echo, but Bates agreed to hand over the data voluntarily. As it turned out, nothing of value was found on the Echo. But police also discovered that a "smart" water meter recorded the use of an abnormally large amount of water in the early morning hours, suggesting the possibility that a crime scene had been cleaned up. The prosecutors ultimately dismissed the case, declaring that the evidence could support more than one reasonable explanation.

In another first-degree murder case, this time in Connecticut, a Fitbit exercise tracker became a crucial piece of evidence, recording the movements of murder victim Connie Dabate. According to Dabate's husband Richard, on December 23, 2015 a masked intruder shot Connie at 9 a.m. in their basement. Her Facebook account showed she had posted three videos that day at 9:46 a.m. The police obtained a warrant for Connie's Fitbit, which showed her last recorded movement was at 10:05 a.m. Richard Dabate's call to 911 was

recorded at 10:10 a.m. Dabate is scheduled to go on trial for his wife's murder in April 2019.

### Addressing privacy issues

"The third party doctrine says you only have an expectation of privacy in information you do not share with a third party," Bernard Bell, a professor at Rutgers Law School—Newark, who is a constitutional law expert specializing in privacy law. "Scholars have long noted that this unduly limits privacy protections and is at odds with the perceptions of privacy prevalent in society."

Professor Bell notes that "a person cannot do very much in today's society without sharing information with service providers" and says that, as in the *Carpenter* case, the Supreme Court has begun to question the third party doctrine. He predicts that the doctrine "will be modified or abandoned altogether."

"Police technology could be used to keep persons of interest under government surveillance at all times. [In *Carpenter*] the Court is finding there is an expectation of privacy even when



people are in public," Professor Bell explains and notes that putting a GPS on a person's car requires a warrant, "even if the device is simply tracking the car while it is driven and parked on public streets."

Professor Bell says the key to privacy "enforceable against law enforcement officers is the Fourth Amendment" and its requirement for a warrant based on probable cause.

"With such a warrant, the Government can conduct just about any search be it a physical one, like searches of homes and paper records, or a digital one," Professor Bell says. "Privacy is certainly a civil right and essential to self-development and freedom."

As technology advances, it is likely the courts will continue to address questions of privacy, keeping pace with the digital age in which we live.



## Marijuana Legalization **CONTINUED FROM PAGE 1**

Much of the New Jersey Cannabis Regulatory and Expungement Aid Modernization Act is a patchwork of borrowed concepts from existing legalization laws throughout the United States. For instance, the Garden State is following its predecessors' lead in prohibiting smoking in vehicles and on federal land, but also is prepared to ban it in large multifamily homes, high-density apartment buildings and public housing.

Public consumption of the drug is still illegal. This is true in all states where recreational marijuana is allowed. The bill creates public consumption areas where smokers can gather in designated sections within cannabis dispensaries to use the drug.

Similarly, New Jersey looked to Michigan and California for guidance in fostering a thriving cannabis market. Michigan encourages small business participation, while California's

industry favors large companies with the money to purchase multiple licenses.

New Jersey's proposed cannabis legislation strikes a better balance by requiring 10 percent of licenses be awarded to businesses that employ 10 workers or less and process less than 1,000 pounds of marijuana every month.

In addition to promoting small businesses, New Jersey's plan would set a precedent by also establishing quotas for minority-owned enterprises. The legislation prioritizes licensing for retailers in "impact zones," or cities with more than 120,000 residents, like Elizabeth, Jersey City, Newark



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**Editor's Note: The following post was originally published on The Informed Citizen, the NJSBF's free civics blog.**

## U.S. Needs Presidential Norms to Have Faith in Democracy

by Jodi L. Miller

Article II of the U.S. Constitution spells out the powers of a U.S. president. Traditionally, the president has also been limited to some degree by what are called democratic or presidential norms.

What is a democratic norm? Essentially, it is an unwritten rule that those in power are aware of and by silent agreement consent to abide by. These norms are not formal rules or laws, but most agree they are important to a functioning democracy.

"It is important to have democratic norms to uphold the integrity, respect, and public confidence in institutions and elected offices," says Tiffany N. Basciano, associate director of the International Law and Organizations Program at Johns Hopkins School of Advanced International Studies in Washington, DC. "Institutions and elected offices are a lot like currency—their value is determined by how much faith we have in the system."

In their book, *How Democracies Die*, Harvard University professors Steven Levitsky and Daniel Ziblatt argue there are two norms that are fundamental to a functioning democracy—mutual toleration and institutional **forbearance**.

"Mutual toleration refers to the idea that as long as our rivals play by constitutional rules, we accept that they have an equal right to exist, compete for power, and govern," the professors write. "We may disagree with, and even strongly dislike, our rivals, but we nevertheless accept them as legitimate. This means recognizing that our political rivals are decent, patriotic, law-abiding citizens—that they love our country and respect the Constitution just as we do."

In other words, political rivals should "agree to disagree."

As for institutional forbearance or restraint, the authors state, "...institutional forbearance can be thought of as avoiding actions that, while respecting the letter of the law, obviously violate its spirit. Where norms of forbearance are strong, politicians do not use their institutional prerogatives to the hilt, even if it is technically legal to do so, for such action could imperil the existing system."

### Skirting Norms

So what are examples of presidential norms? Presidents usually don't question the legitimacy of judges, promote conspiracy theories, criticize the

independence of federal agencies or reject the findings of the U.S. intelligence community. President Donald Trump has broken all of these norms.

Chris Edelson, a professor at American University and the author of *Power without Constraint: The Post 9/11 Presidency and National Security*, told *The Dallas News*, "It's not illegal for a president to call a judge a 'so-called judge,' or to suggest he should be held responsible if there's a terrorist attack. It's a violation of a norm, though, and it undermines faith in the justice system."

To be clear, President Trump is not the first president to test the limits of democratic norms. Franklin Roosevelt, one of the most popular American presidents, re-elected with 61 percent of the vote in 1936, ignored norms as well. Frustrated with a conservative U.S. Supreme Court, President Roosevelt proposed expanding the size of the Court, giving himself six immediate appointments. The president could make this proposal because the Constitution does not specify the number of justices required for the Court.

In their book, Professors Levitsky and Ziblatt write, "Had Roosevelt passed his judicial act, a key norm—that presidents should not undermine another co-equal branch—would have been demolished."

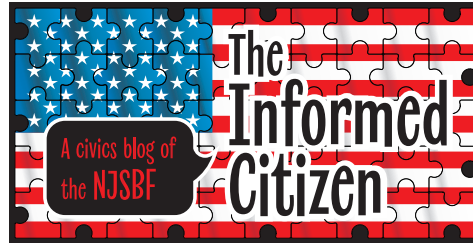
FDR also flouted the norm of term limits. Since President George Washington established the norm of only serving two terms, all presidents had followed suit. President Roosevelt bucked convention and ran (and won) two additional terms. In 1947, the breaking of that norm led to the passage of the 22nd Amendment to the U.S. Constitution, which stipulates that presidents can only be elected twice.

President John F. Kennedy broke an unwritten rule against hiring family members when he appointed his brother as Attorney General, which led to Congress passing an anti-nepotism law. President Trump's daughter and son-in-law both work in the White House; however, they are unpaid advisors.

### Protecting Norms

If norms are so important, why not **codify** them into law as was done with the 22nd Amendment?

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“At this point in U.S. politics, one would think that a lack of imagination is the reason that these norms have not been codified. For example, we did not envision that even the appearance of impropriety by not following the norms of divesting or releasing tax returns would be of no concern to an elected official,” Basciano says. “Norms are behaviors that society expects—like holding the door open for others. It is not required, but society expects it, and failure to follow could lead others to view the norm-breaker negatively. We would never think to codify that societal expectation.”

In an effort spearheaded by the Brennan Center for Justice at New York University School of Law, Preet Bharara, former U.S. Attorney for the Southern District of New York, and former New Jersey Governor Christine Todd Whitman are co-chairing a **bipartisan** task force that is looking at codifying norms into law.

In its first report, released in October 2018, the National Task Force on the Rule of Law and Democracy made 11 proposals that support two basic principles—the rule of law and ethical conduct in government. In the report’s introduction, the authors write: “Our republic has long relied not just on formal laws and the Constitution, but also on unwritten rules and norms that constrain the behavior of public officials. These guardrails, often invisible, curb abuses of power. They ensure that officials act for the public good, not for personal financial gain. They protect **nonpartisan** public servants in law enforcement and elsewhere from improper political influence. They protect business people from corrupting favoritism and **graft**. And they protect citizens from arbitrary and unfair government action. These practices have long held the allegiance of public officials from all political parties. Without them, government becomes a chaotic grab for power and self-interest.”

Among the task force’s proposals is a recommendation requiring the president, vice president and any candidate for


those offices to publicly disclose personal and business tax returns for the previous three years. The report notes that every president since President Richard Nixon has released his tax returns, though it is not a requirement. President Trump elected not to do so.

Another proposal dealt with presidential pardons, advising Congress to require written justification from the president when pardoning close associates and recommended passing a resolution “expressly disapproving self-pardons.” The report states: “Presidents should follow established procedures when using the pardon power and should use it to right clear miscarriages of justice, not to reward political allies.” The report mentions questionable pardons by former presidents, including ones issued by Ronald Reagan, George H.W. Bush, Bill Clinton and George W. Bush, as well as several pardons President Trump has granted since taking office.

The task force’s work is not finished. More reports and recommendations will be forthcoming. The task force will be looking at other ethical concerns, including money in politics, congressional reform and the process for appointing qualified individuals to critical government positions.

### Eroding Norms

“The consequences of norm erosion is a lack of civility and a lack of predictability in behavior, Basciano says. “There is also the fear that once a norm is eroded, we may never get it back.”

When James Madison, Alexander Hamilton and John Jay were writing *The Federalist Papers*, advocating for the ratification of the U.S. Constitution, Madison wrote, “Enlightened statesmen will not always be at the helm.” In other words, politicians might not always put the best interests of the country first. It seems Madison knew what he was talking about. 

## ★ ★ ★ THE INFORMED CITIZEN GLOSSARY WORDS ★ ★ ★

**bipartisan** — supported by two political parties. ★ **codify** — arrange rules into a systematic code. ★  
**forbearance** — patience or self-control. ★ **graft** — the acquisition of money or advantage. ★  
**nonpartisan** — not adhering to any established political group or party.

## For Profit Colleges **CONTINUED FROM PAGE 1**

for-profit colleges, which taught valuable trades such as bookkeeping, engineering and navigation.

The industry first drew scrutiny after World War II. In 1944, Congress enacted the G.I. Bill, which provided government funds to train returning service members. The number of for-profit schools tripled after that and federal reports from that time revealed that these institutions defrauded millions of veterans.

A commission established in 1956 by then President Dwight D. Eisenhower concluded that “of the 1,677,000 veterans who attended profit schools, only 20 percent completed their courses” and “much of the training in for-profit schools was of poor quality.” As a result, President Eisenhower barred for-profit schools from receiving federal funding.

Critics of the for-profit school industry level similar charges today, claiming enrollment officers use strong-arm tactics to persuade students to take out sizable federal student loans. Reversing President Eisenhower’s ban, the Higher Education Act of 1965 was amended to allow for-profit colleges to receive federal student loans and Pell Grants. When some for-profit institutions fail to deliver the proper training to get certified for a skilled job—or close altogether—students are saddled with huge loans and no means to repay them. Since much of those student loans are borrowed from the federal government, U.S. taxpayers ultimately foot the bill for unpaid balances.

### **Needed oversight or filling gaps?**

According to a 2013 Harvard University study, for-profit schools can fill gaps in technical training that non-profit institutions may not. The report said while community colleges offer similar vocation training programs those institutions may be unable to accept all students because of budgetary constraints. For-profit schools therefore act as an alternative for individuals seeking a shorter-term, technical education.

The report also noted that for-profit colleges have the ability to quickly conceive programs to meet the ever-changing technical skills that businesses require.

For-profit schools typically offer shorter-term programs in specific vocations or trades. While for-profits train students for good-paying jobs, their business model often relies on prospective students borrowing the maximum amount from the federal government. A study published by the National Bureau of Economic Research in 2018 revealed that for-profit college students, on average, take out at least one more federal loan than their

non-profit college counterparts, taking on approximately \$6,500 more debt to achieve a degree.

Despite the valuable education most for-profits provide, critics say the predatory tactics employed by some for-profit schools justifies heightened oversight of the sector. Adam Pulver, a litigator with the consumer advocacy group Public Citizen, says a number of for-profit schools target first-generation college students who may not understand the financial impact of the loans.

“They are likely to be misled and not know what it is they are buying,” Pulver explains. “We have over a decade of history of egregious practices by these schools. This is a problem that does not happen to the same extent in the country’s thousands of non-profit schools.”

Congress launched a two-year investigation into the industry, releasing a report in 2012 that painted an unfavorable picture of for-profit colleges. The report states that for-profit colleges make up “13 percent of the nation’s college enrollment, but account for about 47 percent of the defaults on loans.” In addition, the report revealed that approximately “96 percent of students at for-profit schools take out loans, compared with about 13 percent at community colleges and 48 percent at four-year public universities.”

While non-profit private and public higher education institutions reinvest tuition revenues into their academic programs, Congress’s report disclosed that for-profit colleges spend the bulk of their revenue on profit-sharing and marketing efforts, with only 17.7 percent spent on instruction. According to the National Center for Education Statistics, in 2016 the six-year graduation rate was 59 percent at public institutions, 66 percent at private non-profit institutions, and 26 percent at for-profit institutions.

Still, in a sign that the for-profit college industry may have influenced the non-profit sector, statistics show that public colleges and universities increased online enrollment by 7.3 percent between 2015 and 2016. A number of non-profit colleges, including Harvard and Rutgers universities, offer online degrees in select fields of study.

### **Tightening regulations**

Given the federal government’s investment in these institutions, the Department of Education under the Obama administration tightened regulations governing for-profit schools. Corinthian Colleges, for instance, was fined \$30 million in 2015 for inflating graduation rates and misleading students about job prospects. As a result, the institution closed its doors leaving thousands of students in debt and without a degree.



## For Profit Colleges **CONTINUED FROM PAGE 6**

To lessen the debt burden on students unable to complete their training at shuttered schools, the previous administration proposed updating the borrower defense rule, which was established in the 1990s. This rule permits impacted students to have their unpaid federal loan balance automatically wiped out.

The Trump administration preferred a more hands-off regulatory approach toward for-profit schools and newly installed Education Secretary Betsy DeVos sought to delay implementation of the automatic discharge provision of the borrower defense rule. Automatically canceling the federal student loans would unfairly shift the costs to taxpayers, she said.

Secretary DeVos's effort to block the updated borrower defense rule triggered a lawsuit by 19 state attorneys general in 2017. In September 2018, a judge in the Federal District Court in Washington, D.C. ruled in favor of the attorneys general, deciding that the Department of Education under Secretary DeVos had deprived these students "of several concrete benefits that they would have otherwise accrued," Judge Randolph Moss wrote in his ruling. "The relief they seek in this action—immediate implementation of the Borrower Defense regulations—would restore those benefits." Judge Moss also ruled that the delay was "**arbitrary** and **capricious**" and the rationale for the delay contained a "fundamental and unexplained inconsistency."

Following the district court ruling, the Department of Education canceled roughly \$150 million in student loan debt held by 15,000 borrowers. Students from Corinthian Colleges accounted for about half that debt.

## Gaining employment

Another regulation Secretary DeVos singled out for review was the gainful employment rule. The regulation's purpose is to hold schools accountable for fulfilling their guarantee of elevating graduates into well-paying positions.

Under this rule, a vocational-oriented higher education program, whether at a for-profit or non-profit school, such as a two-year community college, would fall short of the gainful employment standard if, on average, its graduates put 12 percent of their annual earnings or 30 percent of their discretionary income toward student loan repayments. In other words, a school would fail if a graduate wasn't earning enough in his or her career to absorb their student loan debt. If a school failed in this regard, it would no longer qualify for federal student loans.

When the Department of Education analyzed how their graduates between 2010 and 2012 fared under the gainful employment rule, 800 schools flunked. Of those that failed, 98 percent were for-profit schools.

Last summer, the Department of Education announced plans to revise the gainful employment rule. Attorneys general in 18 states again challenged the agency in the courts. Among the changes Secretary DeVos proposed was removing the penalty that barred failing for-profit schools from receiving federal student aid. In the end, DeVos's agency missed the deadline to alter the rule, so it will remain in effect until 2020. 🗡️



## Marijuana Legalization **CONTINUED FROM PAGE 3**

and Paterson, where "past criminal marijuana enterprises contributed to higher concentrations of law enforcement activity, unemployment, and poverty." These areas must have high crime rates, unemployment levels averaging 15 percent or more, and rank in the state's top-third tier for total hashish-related arrests. The bill also requires that 25 percent of licenses be awarded to women, minorities, or veterans.

### Not everyone in favor

While New Jersey's cannabis industry could potentially bring in an estimated \$300 million in tax revenue, not everyone is excited about the prospect.

Seventy New Jersey towns have said no to having a marijuana dispensary in their community. The Monmouth University poll revealed that what concerns the 28 percent of New Jersey residents who don't want legalization is the potential for increased car accidents while driving under the drug's influence. In addition, 21 percent see marijuana as a "gateway drug," meaning that its use could lead to the use of harder drugs.

Several studies on car accidents related to drugged driving have been conducted. One study examined the fatality rates pre- and post-recreational marijuana legalization in Washington and Colorado, which showed no

statistical difference. While another study determined that the frequency of collisions in four states (Colorado, Nevada, Oregon and Washington) where marijuana is legal is higher than average. Still another study found that driving while under the influence of marijuana increases the risk of being in a car accident by 83 percent. By comparison, drugabuse.com, a resource of American Addiction Centers, maintains that driving while under the influence of alcohol increases the risk of being in an accident by 2,200 percent.

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## Marijuana Legalization **CONTINUED FROM PAGE 7**

As for being a gateway drug, experts are divided on this concept.

“There are many people who use marijuana and do not progress to other drug use, as well as many who do,” Elizabeth Hartney, PhD wrote in an opinion piece for *verywell mind*, an online mental health resource. “Even if it was proved that users of marijuana were significantly more likely to use other drugs, there is no way of knowing whether it was because of the gateway role of marijuana, whether there were other factors at play, or because the individuals involved simply used whichever drugs were available to them.”

In an op-ed piece for *The New York Times*, writer Alex Berenson sparked debate by making the connection that marijuana use “increases the risk of psychosis and schizophrenia.” In his op-ed, Berenson cited a 2017 report published by the National Academies of Sciences, Engineering and Medicine (NASEM). After the editorial appeared in the newspaper, Ziva Cooper took to Twitter, writing: “In response to the recent @NYTimes editorial on cannabis and as a committee member on the @theNASEM #cannabis and #cannabinoids report we did NOT conclude that cannabis causes schizophrenia.” What NASEM found is that there is an association between marijuana use and schizophrenia and also an “association between cannabis use and improved cognitive outcomes in individuals with psychotic disorders.” The National Institute on Drug Abuse concluded that those that use marijuana and carry a specific gene “are at an increased risk of developing psychosis.”

It is important to note that recreational use of marijuana is still illegal in

most states, making studies of its long-term effects on brain chemistry, as well as mental health, difficult. More research needs to be done, but one thing that all current studies agree on is that the adolescent brain is still developing and can be harmed by marijuana use. Multiple studies show teens that smoke marijuana can be at greater risk for learning problems later in life, as well as difficulties with memory retention.

### **Legislation languishing**

After months of debate, New Jersey’s legalization bill moved a step closer in February 2019 when the governor and the bill’s sponsors reached a deal on taxation and regulation of the drug. In addition, it was agreed that a five-member commission would be in charge of setting prices and regulating the industry. The governor will maintain three appointments to the commission.

Another issue dividing lawmakers had been an expungement program for those convicted of low-level drug crimes. It was agreed that the bill would forgive past minor marijuana convictions. At press time, another hurdle still to be worked out is how many manufacturers and distributors are to be allowed in the state.

“The devil is always in the details. Unlike most states, the draft legislation really gets into the details instead of

leaving it to the regulators to draft rules after marijuana is legalized,” says Sean Mack, a Hackensack attorney specializing in unfair business practices resolution who helped prepare New Jersey’s marijuana reform legislation. “Unfortunately, that also is part of the reason passage of the legislation has stalled, because of the degree of detail included in the legislation. The challenges have changed over time and continue to this day, which is why legislation has not passed.”

Final authorization, however, is likely to spawn even more complex challenges—namely, conflicting state, local and federal laws governing marijuana use.

“That conflict will not be resolved even after New Jersey legalizes adult use marijuana. Until the federal government takes action, the possession of any amount of marijuana will remain a federal crime,” Mack explains. “There are several federal bills pending that would effectively decriminalize marijuana at the federal level and leave it to each state to decide how to treat marijuana within its borders. If one of those bills passes, then state laws would [gain] control, and possession of small amounts of marijuana consistent with state law would no longer be illegal. Until that happens, there is still the risk of federal prosecution.”

For marijuana legalization to become a reality in New Jersey, the measure needs 21 votes in the Senate. At press time, it only had 16. 🗳️



## **GLOSSARY**

**arbitrary** — random or subjective.

**capricious** — impulsive or fickle.

**reverse** — to void or change a decision by a lower court.

**uphold** — supported; kept the same.