

PORTFOLIO

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Aug. 01, 2018  
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*Project Memo: "Dispensaries confident protections for budding pot industry will stay"*

## **News Judgment**

Given that the Chicago Daily Law Bulletin presents news to Illinois' legal community of judges, attorneys, lawmakers and others, any news updates from the U.S. Department of Justice are of interest to its audience. What made this piece, about Attorney General Jeff Sessions' rescission of a guidance memo, of particular interest, though, is its potential effect on the state's marijuana program. Law Bulletin readers typically subscribe to other news outlets, such as the Chicago Tribune, for day-to-day news coverage of national and state issues. So more than this story being topically interesting to the paper's readers is the Law Bulletin's ability to contextualize it with the additional background and legal information readers have come to expect from the Bulletin. CDLB's deep-dive coverage of issues such as this one tends to clear up misreporting from other news outlets because articles delve into the legal weeds.

Marijuana is illegal at the federal level, but that has not stopped 29 states and the District of Columbia from legalizing the drug for medical purposes and other states for recreational uses. Given this murkiness, President Barack Obama's Department of Justice had issued a guidance memo to federal prosecutors that it would be best to focus resources pursuing other types of crime. That is the memo Sessions overruled, effectively instructing federal prosecutors to pursue marijuana charges as they see fit. It came at a time when

Sessions was being criticized by President Donald Trump and others, and just shy of the Trump Administration's first full year in office. All of these factors made this story one of interest to national, state and community audiences.

And the piece was timely beyond Sessions' involvement. Eight days after the article was published, a rider to the federal government's budget legislation that expressly prohibited the Department of Justice from using resources to prosecute marijuana-related crimes was set to expire. More than the memo rescission, this would have definitely negatively affected Illinois, which has a medical marijuana program in place. (That program is set to expire in July 2020.) It also has a community of attorneys who specialize in regulated substances, including marijuana. As such, this piece had a definitive audience of invested readers.

## **Research**

I began working at the Law Bulletin's Capitol bureau on January 2, when there was not much of any news coming from the state's legislative, executive or judicial branches. My bureau chief did not have anything for me to work on, so I spent a lot of time consuming the national and state news of the day from other outlets. When the news of Sessions' decision to rescind the marijuana guidance memo broke, my first inkling was to localize the story for the Law Bulletin's readers and contextualize it with as much background information and details as possible. California also had just legalized recreational cannabis, adding another layer to the potential piece. As I began exploring the topic, though, I discovered a better news hook — while these two news events were playing out, reports of the stopgap measure's looming expiration, which provided funds for the federal government, was

getting buried. Further research led me to discover the Rohrabacher-Blumenauer Amendment, a measure passed with the federal budget that prohibited the Department of Justice from spending federal funds prosecuting cannabis-related crimes. At the time, the future of the amendment was unclear. There was speculation that Congress might not renew it after Sessions' announcement, or if it did, whether it would also seek to protect the states that have protections in place for recreational marijuana use.

The majority of my research for this piece was through documents, and I used interviews with attorneys and local cannabis distributors to add color and insight to the information I discovered in those documents. I read Illinois' medical marijuana program law to learn about what it specified, how long the program was to run and when dispensaries were allowed to begin operating in the state. The law also includes an interesting line that related to the national legal quandary very well — it almost defends the state's program despite marijuana's status as an illegal substance federally. In the same vein, I also consulted a piece of proposed legislation, Senate Bill 316, to get a sense of what the current General Assembly thought about marijuana and contacted Melaney Arnold with the Department of Public Health's press office to get a report from the Division of Medical Cannabis detailing how that industry was performing.

To get a sense on where Sessions, and thus the Justice Department, stood on these issues, I read two pertinent memos: the initial Cole Memo, issued by the assistant attorney general under Obama that suggested U.S. attorneys leave prosecution of marijuana laws to state officials, and Sessions', which overturned it. I also read a number of letters from Justice to the U.S. Senate and U.S. House legislative leaders, including the supplemental

information mentioned therein and the U.S. Treasury Department's guidance to banks detailing how to interact with cannabis businesses.

I also consulted the text of the Rohrabacher-Blumenauer Amendment and Trump's statement concerning it when he signed the stopgap measure. (That statement indicated he would balance his constitutional duties with the budget as it was passed.) In an effort to further contextualize this information, I read about laws in other states, such as Georgia, and court cases from around the country that attempted to interpret how these laws interacted.

To make sense of these documents, pieces of legislation and court cases, I consulted the websites of attorneys who practiced law in this area. SmithAmundsen's website includes legal guidance, and is how I found Michael McGrory. From speaking with him, I learned a bit about the state's medical cannabis industry, its legal challenges, the Rohrabacher-Blumenauer Amendment, how states have been able to legalize marijuana despite the federal government's stance and what effect Sessions' announcement had on any of this. William Silas Hackney III is from the same firm, but practiced financial law and so was able to illuminate issues the banking industry faced in regards to interacting with cannabis businesses. I also interviewed Peter Murphy about the same topics. As an attorney from Delaware, he was able to speak more broadly. To localize these issues, I spoke with the chief operating officer, Scott Abbott, for a local dispensary.

The aforementioned sources were the ones that made it into the final product. There were other sources, such as the U.S. Justice Department's website showing who the U.S. attorneys in Illinois are and how, because a few of the positions had not been filled at the

time, there was confusion about whether marijuana businesses in those districts could safely continue operations; letters from the U.S. Drug Enforcement Agency on this topic that address ongoing cannabis studies, which could eventually lead to the reclassification of the drug; and a press release from U.S. Senator Cory Gardner (R-Colorado) detailing how Sessions' memo was contrary to promises the AG had made.

### **Editorial Decisions**

The information I discovered about the Rohrabacher-Blumenauer Amendment's expiration forthcoming became my lede after a discussion with my bureau chief, Andrew Maloney. We both decided it was not only a better news hook, it would not make this piece as overplayed as the rest of coverage around Sessions' rescission of the guidance in the Cole memo. From there, I zoomed in to quickly touch on how this national news was of any importance to the Law Bulletin's Illinois audience. Therefore, the piece hits the story's most important parts right away: the timely national deadline for re-upping an amendment to the budget, the possibility of this negatively impacting Illinois dispensaries and the outlook of those businesses.

From there, I continued to organize this story in order of the importance of the information. It is important in news pieces to arrange information in order of most impactful to least, so if a reader stops consuming the piece, he or she still has absorbed the most important tidbits. I zoomed out to explain the national legal precedent and clear up what Law Bulletin readers may have been misinformed about from other news outlets, then zoomed back in to more directly spell out the information's effect on local businesses, banks and legal practices.

In my opinion, quotes should add opinions that, as a journalist, I cannot assert or phrase information in a way that rewriting would not benefit readers. The quotes from Scott Abbott, from a local dispensary, do just that. Murphy's quotes contain interpretations of Sessions's actions and speculation about what Congress might do; McGrory's interpret court actions; and Hackney's explain the conundrum banks face. Those insights are based on the three men's legal expertise and I felt the information they shared were best left said by them. The quotes I used from documents better summarized points than I could have, and quotes from legal documents were included to adhere to the Law Bulletin's style of letting its audience read the most important text from a law or court decision.

## **Reaction**

The four experts I spoke with for the piece emailed me to say they were satisfied with how I framed this issue and the manner in which I depicted their positions. SmithAmundsen in particular circulated the article around to members of both their substances and banking divisions. Aside from this feedback, I did not hear anything else from Law Bulletin readers about this story. I am satisfied with the level of in-depth reporting I did on this piece and think I accomplished what I set out to do. At the time, several news outlets were incorrectly reporting that Sessions' announcement meant U.S. attorneys would automatically begin to prosecute medical marijuana dispensaries across the country despite their status of being legal under state law. In fact, all the attorney general's memo did was allow prosecutors to use their judgement in bringing such cases. The Cole Memo still allowed for this, and as such, the only impact Sessions' announcement had was creating unease in the medical marijuana industry. I am hopeful that those who



consumed my piece had a better understanding of this fact, and were more informed on the various nuances of the topic.

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*Project Memo: "Trade orgs: No 'persons' in state bill"*

### **News Judgment**

A pair of bills, House Bill 5119 and Senate Bill 3005, would change the scope of who could appeal a permit decision by a group of state agencies. I had been tracking them since they were proposed because this is the sort of legislation in which attorneys are invested, as it had the potential to expand client sizes for firms. What cemented my interest in the story, and the reason I reported it out when I did, was because a coalition of interest groups scheduled a news conference to denounce the measures, but for reasons that were inaccurate. The groups were circulating a news release that claimed these bills, if enacted, would allow anyone in the world to sue the decisions made by Illinois state agencies. Each chamber had a different version of the bill with separate stipulations, and to arrive at that interpretation, the groups conflated the two versions. Given the subject matter and the potential for less informed news outlets to be doomed to parrot this misinformation, I felt it was important to pursue this story.

It also helped that Senator Kwame Raoul (D-Chicago), the sponsor of the Senate's version of the measure, was (and still is) a candidate for attorney general. This race is perhaps as well followed by Law Bulletin readers as the gubernatorial race is for the rest of the state's news consumers. Therefore, this story would be part of a wider coverage of issues in both Raoul's campaign and that of his Republican rival, Erika Harold. Also, Rep.

Steven Andersson (R-Geneva), the sponsor of the other chamber's initiative, is one of the republican lawmakers who split from Governor Bruce Rauner's influence during the almost three-years-long budget stalemate. Law Bulletin readers who closely followed state government expressed interest in what Representative Andersson and his other Republican colleagues not running for reelection would choose to support moving forward. Both men are also attorneys.

The organizations holding the news conference included the Illinois Manufacturers' Association and the Illinois State Chamber of Commerce, both of which the paper's readership follows, especially in Chicago. Any time these groups hold a media event to denounce or support legislation, someone from the bureau attends.

## **Research**

I began, much like Professor Wheeler has advised, by rereading both bills again. I compared each version of both chambers' legislation and then made a chart comparing what HB 5119 actually would do if enacted and what SB 3005 would do differently. Creating such a detailed graphic better helped me to understand the complexity of what the bills included and what that meant practically, and then ask informed questions at the news conference.

The media advisory circulated to Statehouse reporters also helped me prepare for the news conference and writing the story. It included the names of the trade groups' representatives scheduled to attend the event and a synopsis of what those organizations would discuss. At the event, I was able to record information given by each of those five individuals: Mark Denzler, vice president of the Illinois Manufacturers' Association; Bill

Bodine, associate director of State Legislation for the Illinois Farm Bureau; Kelly Thompson from the Illinois Chamber of Commerce; Dan Eichholz, executive director of the Illinois Association of Aggregate Producers; and Jim Watson, executive director of the Illinois Petroleum Council. I specifically questioned Denzler at the press conference, pressing him to address inaccuracies presented.

After the conference, I interviewed Andersson, Raoul and Harold. The lawmakers not only were able to speak in great detail about their bills but also, being attorneys, the legal nuances of the issue. My conversation with Harold was short, but she was able to articulate why she did not support either version of the bill. Additionally, I spoke to both attorney general candidates generally about their positions on regulation.

I spent a bit of time looking into which other groups supported and opposed the legislation, and who drafted the language. I placed phone calls to representatives from law firms and other organizations who filled out a witness slip when both bills were still in committee. It was through one of those many inquiries that I discovered Jennifer Walling from the Illinois Environmental Council, the executive director of the group that wrote this legislation. She was able to answer questions about why the legislation would be important and what accurate arguments opposition groups might have. Walling also passed along an internal memo her organization penned that detailed what inspired HB 5119 and SB 3005 and how the judicial branch had interpreted similar legislation. I spent additional time learning about the cases mentioned in that memo.

## **Editorial Decisions**

To avoid repeating the misinformation the trade group representatives said at the news conference, I began this story more generally. Law Bulletin style is to craft a lede that is as specific as possible without naming names. Therefore, this piece begins by saying trade groups do not like a piece of legislation that specifically would open permit decisions made by state agencies to more criticism. My next paragraph gets slightly more specific, naming both sponsors, adding additional information about what the legislation does and introduces the legal crux of the problem. From there, I informed readers of the controversy, the main trade organizations that have a problem with the legislation and the bill numbers. This is the right place for such information because by this point in the story, readers are already aware of the facts, have a basis of information to understand the groups' opposition and, if they choose, can look up the bills' language for themselves.

The piece then zooms in to examine the legal minutia of two main points: the "persons" v. "parties" debate and the issue with the phrase "adversely affected or aggrieved." To break up this dense information, I interspersed quotes from the group that wrote the legislation, the groups that oppose it and one of the sponsors. To contextualize how the courts have interpreted these legal debates, I included information about a relevant court case, *Sierra Club v. Morton*, that addresses these issues directly. I also added specific changes each bill would make. Law Bulletin readers, as aforementioned, prefer this sort of detail and often read the legislation's text for themselves. I concluded the piece with information from the other sponsor, Raoul, and the position of Harold, his rival in the attorney general race.

The quotes I chose for this piece are phrase and complete thoughts that are strongly-worded opinions best left in their own words. I also included relevant language from the bills to provide the Law Bulletin's audience with the sort of information they have come to expect from the publication.

## **Reaction**

Prior to publishing this piece, I had a good working relationship with the Chamber of Commerce and the Illinois Manufacturers' Association. In interviews with Denzler for subsequent stories, he has insisted a spokesperson be present. He apparently did not appreciate being grilled during the press conference. Aside from that, however, this story did not spark any other reaction. I am glad I pursued this story because other reporters had come up to me after the press conference to say they had not realized the trade organizations' position was predicated on a conflated amalgamation of both chamber's versions of the legislation.