

# Ohio Township Association Risk Management Authority

“Leading the Way for Ohio Townships”



# UPDATE

Above photo courtesy of Marselles Township, Wyandot County.

A QUARTERLY NEWSLETTER

SUMMER 2019

## OTARMA Board of Directors

**Joyce Fetzer**

Chair

Perry Township, Stark County

**Marsha Funk**

Vice Chair

Brownhelm Township, Lorain County

**Nick Schwab**

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**Connie Fink**

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**Matt DeTemple**

Board Member

Ohio Township Association

**Tim Lynch**

Board Member

Liberty Township, Seneca County

**Philip Cox**

Board Member

Monroe Township, Miami County

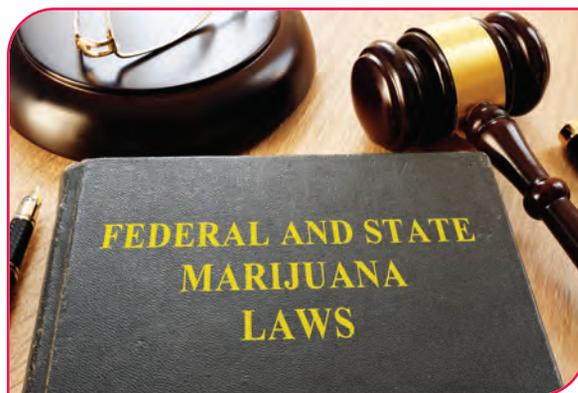
## Current State of Medical Marijuana in Ohio

*By Adair M. Smith, Esquire, Reminger*

Ohio recently legalized medical marijuana for certain qualifying medical conditions. Starting in January 2019, medical marijuana became available for sale from licensed dispensaries in Ohio. Given this recent change, Ohio employers should familiarize themselves with the medical marijuana law and review their employment and drug-testing policies.

## House Bill 523's Passage and Implementation

In June 2016, House Bill 523 was signed into law by Governor John Kasich. The bill legalized the use of medical marijuana in Ohio for the following qualifying medical conditions: HIV/AIDS, Alzheimer's disease, ALS, cancer, CTE, Crohn's disease, epilepsy, fibromyalgia, glaucoma, hepatitis C, inflammatory bowel disease,



multiple sclerosis, pain that is chronic and severe, Parkinson's disease, PTSD, sickle cell anemia, spinal cord disease or injury, Tourette's syndrome, traumatic brain injury, and ulcerative colitis. Recreational marijuana use is still illegal in Ohio. Prior to purchasing medical marijuana from an approved dispensary in Ohio, patients must visit a certified physician who can confirm they have one of the permitted medical conditions that qualify for medical marijuana and register for the medical marijuana program through the OMMCP Patient & Caregiver Registry.<sup>1</sup>

The Ohio law allows state-run or licensed growing facilities and retail dispensaries to sell medical marijuana to qualifying individuals. There are 56 licensed dispensaries approved to sell medical marijuana, most of which are located in northeast and central Ohio. Of these licensed dispensaries, nine currently have Certificates of

*Cont'd on pg. 2*



The OTARMA Program is exclusively endorsed by the OTA.

Every effort has been made to ensure the accuracy of the information in this newsletter. Professional counsel should be sought before any action is taken or decision is made based on this material.

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Operation and are selling cannabis products.<sup>2</sup> House Bill 523 only permits medical marijuana in “edible, oil, vapor, patch, tincture, and plant matter form;” smoking marijuana and home cultivation of cannabis is illegal.

Licensed growing facilities and retail dispensaries in Ohio have been in operation since September. Due to construction and legal delays, however, sales of medical marijuana in Ohio did not begin until January 2019. Approximately 5,500 Ohioans have purchased medical marijuana to date,<sup>3</sup> and sales from January 16, 2019 - March 18, 2019 total \$2,173,990.<sup>4</sup>

## Tensions Between State and Federal Law

Notably, while medical marijuana usage is legal in Ohio, marijuana remains a Schedule I substance under the Controlled Substances Act. Therefore, its use, possession, or cultivation is a federal crime. 21 U.S.C. § 812(c)(10). Despite the fact that ten states and the District of Columbia have legalized recreational marijuana and 33 states have legalized medical marijuana, the Department of Justice still takes the position that marijuana is illegal, albeit not a priority for prosecution.<sup>5</sup> Specifically, in 2013, the Department of Justice issued a memorandum to prosecutors indicating that state law should be the primary means of addressing marijuana-related activity in states that have legalized marijuana.<sup>6</sup> As such, individual medical marijuana users are relatively unlikely to be prosecuted under the Controlled Substance Act. The Department of Justice’s approach is to target larger-scale marijuana growers that supply marijuana for recreational use.

## Implications for Employers

In light of the tension between state and federal law, employers are in a delicate position concerning employees who use medical marijuana. To add to the confusion, the EEOC has not published new guidance on recreational or medical marijuana laws. The EEOC continues to allow employers to discipline or terminate employees for marijuana use since it is illegal under federal law. This presents a problem for employers



whose employees are subject to drug testing and use medical marijuana.

In Ohio, employers are not required to accommodate a job applicant or employee’s medical marijuana use. House Bill 523 states that an employer may prohibit any drug usage, including medical marijuana, under its workplace drug policy. As such, Ohio employers can discipline, discharge, or take any other adverse employment action against an employee or job applicant because of use, possession, or distribution of medical marijuana. Similarly, employers can make an exception in their drug policies for lawful use of medical marijuana. It is important to note that while there have been several lawsuits concerning whether the Americans with Disabilities Act (ADA) requires

employers to accommodate employees’ use of medical marijuana, there has been no published federal case law holding that this is protected activity under the ADA.

As legal medical marijuana use becomes more prevalent in Ohio, employers should create and implement drug policies that address medical marijuana. Having a clear drug policy in place will set expectations for employees and may deter unwanted and costly litigation. Drug policies should explicitly

define what drugs are considered illegal and specify whether exceptions are made for off-premises use of legal drugs, like medical marijuana. Employers should further implement policies that ensure any employee using

medical marijuana is considered a qualified user in Ohio and indicate whether qualified users can be fired or disciplined if they fail a drug test. Having a clear policy in place will remove any “gray area” as to whether lawful medical marijuana use is appropriate for employees.

Employers that have a zero-tolerance drug policy should review their policies in light of the recent changes in Ohio law under House Bill 523. Any zero-tolerance policy should clearly state that marijuana is prohibited in any form and for any purpose, including medicinal, and that a positive drug test will result in discipline. Such policies should extend to drug usage that occurs outside of work. While zero-tolerance drug policies are simpler administratively, they are inflexible and do not permit as much employer discretion. Moreover, low unemployment rates and the opioid

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# OTARMA Board of Directors Election Results

The OTARMA Board of Directors election results were announced at the OTARMA Annual Meeting on Friday, February 1 during the Ohio Township Association's Winter Conference & Trade Show in Columbus, Ohio.

## Ms. Joyce Fetzer



Joyce Fetzer

Ms. Joyce Fetzer retained her position on the OTARMA Board of Directors. Ms. Fetzer is a six-year member of the Board, the current OTARMA Chairperson, and Township Administrator for Perry Township in Stark County.

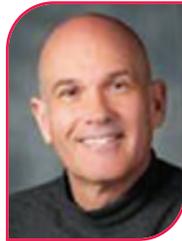
“The Board is compiled of a dedicated group of people who are enthusiastic and passionate about serving OTARMA Members,” stated Ms. Fetzer. “Together, we have worked diligently to develop programs and services to benefit our members.”

Ms. Fetzer continued, “OTARMA’s recipe for success is simple. The finest service teams, coupled with loyal members, make the OTARMA experience second to none.”

Ms. Fetzer is a lifelong resident of Stark County. She has two adult

children and four grandchildren. In her casual time, she enjoys being with her family, traveling and engaging in her community.

## Mr. Philip Cox



Philip Cox

The OTARMA Board of Directors welcomed new board member Mr. Philip Cox.

Mr. Cox is a Trustee with Monroe Township in Miami County. As an OTARMA Member, he

is familiar with the many benefits and services of the program. Mr. Cox has a career in the insurance industry with both corporate and agency ownership positions and understands the financial responsibilities and mechanics involved in a risk management pool.

According to Mr. Cox, “I respect the financial strength and stable position that OTARMA has achieved and I would like to assist with the future development of the organization.”

Mr. Cox received a Masters in Business Administration from the University of Dayton and a Bachelor of Science degree in Journalism/Public Relations from Bowling Green State University.

In addition to his education and career experience, Mr. Cox is a Member and Past President of the Miami County Township Association, a Member of the Miami Valley Regional Planning Commission, and the Past President of Tipp Monroe Community Services, to name a few of the community organizations he is involved with.

Mr. Cox is married with two sons. For enjoyment, he participates in marathons, cycling, kayaking, reading, traveling and volunteering.

Thank you, OTARMA Members, for voting and making these important leadership decisions.

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epidemic may also narrow the pool of qualified workers in various industries and regions in Ohio. These factors should all be taken into consideration when creating a workplace drug policy.

For employers that have operations in multiple states – including those that have not legalized medical marijuana – a

state-specific drug policy is crucial. Multi-state employers should stay updated on the state laws in which they operate. While most states, like Ohio, that have legalized medical marijuana allow employers to exclude users from employment, some states consider medical marijuana use to be protected activity. Given this complication, employers who operate in multiple states should consult with counsel to ensure compliance.

<sup>1</sup> <https://www.medicalmarijuana.ohio.gov/>.

<sup>2</sup> <https://www.medicalmarijuana.ohio.gov/>.

<sup>3</sup> <https://fox8.com/2019/03/10/1st-ohio-medical-marijuana-processor-receives-ok-to-operate/>.

<sup>4</sup> <https://medicalmarijuana.ohio.gov/News?articleID=180>.

<sup>5</sup> <https://www.businessinsider.com/legal-marijuana-states-2018-1>.

<sup>6</sup> <https://www.justice.gov/opa/pr/justice-department-announces-update-marijuana-enforcement-policy>.



Adair M. Smith is an associate in Reminger's Cincinnati office. Her practice includes general liability, insurance matters, medical and nonmedical professional liability, premises liability, and employment law. She originally joined Reminger as a law clerk in 2015, where she gained experience in a wide variety of practice groups and in all aspects of litigation. Adair graduated cum laude from the University of Cincinnati College of Law, where she served as an Articles Editor of the University of Cincinnati Law Review and competed in the L. Edward Bryant, Jr. National Health Law Transactional Moot Court Competition. Adair also published two articles with the University of Cincinnati Law Review.

# OTARMA's Service Team is Recognized: A Message from Joyce Fetzer, OTARMA Chair

At the Annual OTARMA Meeting on Friday, February 1, the OTARMA Board of Directors presented OTARMA's Service Team with plaques in recognition of *outstanding commitment and service to OTARMA Members*.

Joyce Fetzer, OTARMA Chair, shares the following message:

Dear Members of OTARMA,

When you need to file a claim, seek risk guidance, or enjoy the numerous benefits of OTARMA services, you call upon the expertise of our Service Team.

On this page, you will see the many faces of OTARMA... "Your Service Team." In every situation, they go above and beyond for our members!

During the Annual OTARMA Meeting, the Board recognized the Service Team's past accomplishments and commitment to continued excellence. We look forward to celebrating their future accomplishments with them and with *you* – our OTARMA Members.

Our Service Team takes much pride in serving you! We are most thankful for the caliber of people and for the difference they make while serving each of you. Their harmonious teamwork and work ethic have contributed greatly to OTARMA's success.

We thank you, York, KLA, Burnham & Flower and PERSO, for being such a valuable part of our team. You all contribute to making OTARMA - Simply the Best!

Ms. Wendy French of Burnham & Flower was not able to join us for the February recognition ceremony. Therefore, we would like to thank Wendy for the outstanding customer service she provides to our members.

Yours in service,

Joyce Fetzer  
OTARMA Chair

*Thank You!*



**Public Entity Risk Services of Ohio (PERSO)** - OTARMA Board Member Timothy Lynch (left) presents to PERSO Representative Bradley Tucker.



**York Risk Pooling Services, Inc.** - OTARMA Board Member Marsha Funk (center) presents to York Representatives Kristin Smolek (left) and Cindy Dieck (right).



**KLA Risk Consulting, Inc.** - OTARMA Board Member Nick Schwab (center) presents to KLA Representatives (left to right) Kelly Austin, Sandra Arnold, Kim Arnold, Cathy Gonzalez, and Becky Ames.



**Burnham & Flower Insurance Group** - OTARMA Board Members Matt DeTemple and Connie Fink present to Burnham & Flower Representatives Thomas Welsh, Steve Johnson, Megan Roschek, Jim DeLucas, Andy Leitch and Craig Hibner. Not in attendance: Wendy French (inset), Burnham & Flower Representative.

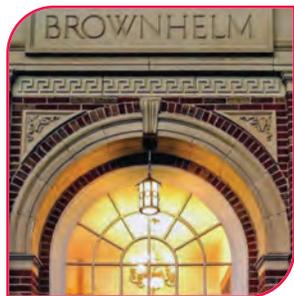


## Member Profile: Brownhelm Township, Lorain County

Brownhelm Township is a smaller-sized township located along the shores of Lake Erie, about 30 miles west of Cleveland. The township has maintained its rural roots even though the Ohio Turnpike traverses its southern border and Route 2 cuts through its northern portion.

The Vermilion River winds through the township, passing the site of a beautiful Lorain County MetroPark called Mill Hollow. Over the centuries, steep shale cliffs have been carved by the river and form a scenic park setting with trails, historic buildings and an amphitheater.

Over 25 years ago, a dedicated group of residents formed the Brownhelm Historical Association to preserve Brownhelm's history. As a result, a church built in 1889 is home to a museum and the residents maintain an old cemetery with Revolutionary War Veterans. Beyond these tireless and determined efforts to preserve the township's history, the



*Brownhelm School*

original Brownhelm School is being restored; it's owned by the Trustees and leased to the Brownhelm Historical Association. A photo of the entryway impressively reflects a section of the structure's beauty.

For recreation, the Brownhelm Schoolhouse Park is located behind the township hall and provides soccer and baseball fields, basketball courts, a picnic pavilion, and a playground.

For residents in search of tranquility, Brownhelm Lakefront Park offers beautiful views of Lake Erie, which can be seen from the park benches. There is also a handicap-accessible picnic area.

Marsha Funk is Brownhelm Township's Fiscal Officer. She recently reached her 24th year in this role. When asked what she enjoys most about her responsibilities, Marsha replied, "As my college degrees are in finance, accounting, economics, and computer science, I especially enjoy the financial aspects of the job. I have attended every OTA Winter Conference since 1996; learning never ends. Over the past 24 years, I have made so many friends at the township, county, and state levels; friends that will last a lifetime. It can't get any better than that."

Marsha is proud of the Brownhelm Township's Trustees, stating, "The Trustees and I have worked hard to live within our means. Several years ago, when local government funds were reduced, we met that challenge by immediately cutting



back on expenditures while still providing services to our residents. In 2014, our residents passed a 2-mil levy for fire and EMS services. This levy is used by the township to pay for contractual fire services from a city, a township, and a village, and one contract for EMS services."

### Why Did Your Township Select OTARMA?

Marsha said, "Brownhelm Township has been a member of OTARMA for over 30 years. OTARMA was selected because it was readily available to all townships and, most importantly, it is endorsed by the Ohio Township Association.

"I am proud that Brownhelm Township is a subdivision within Lorain County and that all 17 Lorain County Townships are members of OTARMA. As a 15-year member of the OTARMA Board of Directors, I know that OTARMA serves its members well. We are always looking at ways to enhance coverages, offer member programs, and to provide excellent service at the time of a claim."

### What Would You Say to Another Township Considering OTARMA?

Marsha replied, "OTARMA is the premier pool for Ohio Townships. It is governed by a seven-member Board of Directors; three being representatives of the OTA and the remaining four being elected by current OTARMA Members. These seven members are actively involved in the day-to-day operations of Ohio Townships. We are committed to providing excellent claims service, providing programs to enhance risk management, and offering coverages to help meet the needs of all Ohio Townships."

For more information about Brownhelm Township, see its website at [www.brownhelm.com](http://www.brownhelm.com).

If your Ohio Township is interested in learning more about OTARMA, we invite you to visit [www.OTARMA.org](http://www.OTARMA.org) or call (800) 748-0554 and ask to speak with an OTARMA Representative.

# OTARMA Programs and Resources to Assist Members

Since 1987, Ohio Townships have trusted OTARMA with their unique coverage and risk management needs. OTARMA has become the safest, most financially sound property and liability coverage program, the largest local government risk-sharing pool in Ohio, and one of the largest in the United States. OTARMA distinguishes itself by its longevity and commitment to work on behalf of Ohio Townships to the advantage of township government and its constituents.

In addition to specialized coverage, which is designed specifically for Ohio Townships, OTARMA offers the following coverage, programs and resources to assist members to identify and resolve potential exposures before they happen.

## Comprehensive Cyber Package

OTARMA created a comprehensive cyber package for members, which consists of:

**Cyber Coverage** - \$250,000 in cyber breach coverage that includes coverage for identity theft, public relations expenses, restoration expenses, loss of income, and more. OTARMA Members can increase their cyber breach coverage limit to \$1,000,000 at renewal.

**Cyber eRisk Hub** - Access to a cyber portal, called eRisk Hub, which provides access to tools and resources necessary to help prevent and combat a data breach. Key features of the portal include breach response planning, incidence response training, and risk management tools.

**Cyber Specialist** - Consultation with Cyber Specialist Cal Anderson. Mr. Anderson conducts systems and network security evaluations and provides loss control recommendations related to systems security.

## Police & Fire Policy Grant Program

The Police & Fire Policy Grant Program is designed to assist OTARMA Members with developing or updating policies and procedures for both police and fire departments. OTARMA Members may apply for up to \$2,000 (\$1,000 for police and \$1,000 for fire) in grant funds for contracting



with a service provider specializing in police and/or fire policies and procedures, subject to the conditions on the application. (Please see the application for complete program details.) OTARMA Members can download the one-page Police & Fire Policy Grant application from the OTARMA Website at [www.OTARMA.org](http://www.OTARMA.org).



Ross Township in Butler County was the recipient of a MORE Grant as well as a Police & Fire Policy Grant, totalling \$2,500.

## Managing Ohio Risk Exposures (MORE) Grant Program

This popular and successful program was announced in 2013 and has helped many Ohio Townships expand their loss control and risk management budgets while providing additional safety.

The MORE Grant offers up to \$500 per township per year for the purpose of assisting OTARMA Members in eliminating or

preventing risk exposures that can lead to liability claims and property losses. Examples of items purchased with MORE Grant funds include: safety signage, Automatic External Defibrillators (AEDs), playground surface materials, reflective raingear, cyber security software updates, life jackets, fire extinguishers, and safety cones.

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# OTARMA Welcomes New Account Manager: Andy Leitch



Andy Leitch

Today, more than 1,000 Ohio Townships enjoy the benefits of OTARMA and are well acquainted with the stability, security, and peace of mind OTARMA provides. Formed in 1987, OTARMA is endorsed by the Ohio Township Association and provides townships with the broadest coverage available in Ohio, the best claims and risk management services, most stable pricing, and the friendliest service staff anywhere.

OTARMA is committed to offering members personal attention and customized coverage specific to the unique needs of townships. Our goals are simple – to serve all existing OTARMA Members and welcome new members.

To help us reach our goals, there is a new face at OTARMA. We are pleased to introduce Andy Leitch. You are most likely to meet Andy at a township board meeting or in your township office. As an OTARMA Account Manager, Andy is responsible for serving OTARMA Members throughout the state of Ohio. Andy's focus is to deliver exceptional customer service to members by answering questions and providing any needed assistance. Andy graduated from Ohio State University with a degree in Financial Management

and worked in the insurance industry serving customers across the state.

As a loyal Buckeye, in his spare time, Andy manages a networking tailgate that has been featured on Sports Illustrated, the Travel Channel and the Cooking Channel. As the tailgate has grown, it has provided fund-raising opportunities for many local charities. Andy and his wife Lynn have two young children, Peyton and Declan, and a seven-month-old rescue puppy, Penny. Let's welcome Andy to OTARMA.

And, thank you, OTARMA Members, for your ongoing commitment and participation. Your satisfaction with your township association's program is our first and foremost priority. Please let us know if you have questions, concerns or suggestions. We are continually searching for innovative ways to serve you.

If your township is not familiar with the benefits of OTARMA, we invite you to consider what OTARMA can do for your township. Our representatives welcome the opportunity to meet with you and find out how OTARMA can serve you. Please give us a call at (800) 748-0554 and ask to speak with an OTARMA Representative.

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In 2018, 61% of OTARMA Members (626 Ohio Townships) participated in the MORE Grant Program. And 249 OTARMA Members have received MORE Grant funds *every year* since 2013!

Members who apply and qualify for both programs – the Police & Fire Policy Grant and the MORE Grant – can receive up to a total of \$2,500 in grant funds in 2019!

Applications for the Police & Fire Policy Grant and MORE Grant Programs may be submitted January 1 through December 31,



2019

Please register the user

OTARMA Board of Directors is pleased to announce the continuation of the loss control and risk management initiative – MORE Grant

Since 2013, the MORE (Managing Ohio Risk Exposures) Grant has been assisting Ohio Townships in eliminating or preventing risk exposures that lead to liability claims and property losses.

The MORE Grant Program is only available to OTARMA Members. All Members are encouraged to participate and apply for a grant during the application period of January 1 through December 31, 2019. Applications that are incomplete or are not submitted within the required time frame may be deemed ineligible. Each applicant must be an OTARMA Member both at the time of submission and issuance of the grant funds. Approved funds will be issued once membership is verified.

Examples of qualified expenses include, but are not limited to:

- Playground surface materials
- Safety signage
- Safety cones or other hazard warning items
- Automated External Defibrillators
- Fire extinguishers
- Life jackets

The MORE Grant Program has a brief application that may be found on the OTARMA Website at [www.OTARMA.org](http://www.OTARMA.org) or by contacting Wendy French at (800) 748-0554 ext. 3134 or via email at [wfrench@otargroup.com](mailto:wfrench@otargroup.com)

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OTARMA.org

OTARMA Grant applications must be received by December 31, 2019. Submissions are accepted via mail, email or fax:

Please complete and return to:

Wendy French  
OTARMA Customer Service Representative  
315 South Kalamazoo Street  
Kalamazoo, MI 49007  
[wfrench@otargroup.com](mailto:wfrench@otargroup.com)  
Fax: (269) 216-4891  
Phone: (800) 748-7946, ext. 3134

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OTARMA.org

2019. Each application is quick and easy to complete. Apply today! The applications are available on the OTARMA Website at [www.OTARMA.org](http://www.OTARMA.org).

As an OTARMA Member, you are encouraged to take advantage of the comprehensive cyber package, Police & Fire Policy and MORE Grants. There are benefits to OTARMA Membership. If your township is not enjoying the benefits of being an OTARMA Member, we invite you to consider joining in 2019. For more information or questions about OTARMA, please contact an OTARMA Representative toll free at (800) 748-0554.



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***If your contact information needs to be updated or if you want to receive newsletters electronically, please contact the OTARMA Service Center at (800) 748-0554, ext. 3136.***

## OTARMA Welcomes New Members

### Baughman Township, Wayne County

Located in Northeast Ohio, less than an hour's drive south of Cleveland, is a woody terrain that includes Baughman Township in Wayne County. Johnson Woods State Nature Preserve offers a beautiful example of this region's eastern old growth forest – a glimpse into the landscape that dominated this area prior to European settlement. Rural residences and family businesses intermingle with well-tended fields in this pleasant community.

Baughman Township selected OTARMA for its increased coverage and cost savings, as well as the programs and services OTARMA provides for its members.



OTARMA is pleased to welcome Baughman Township, joining over 1,000 Ohio Townships that benefit from OTARMA's coverage, programs and risk-management services.

### Defiance Township, Defiance County



Defiance Township is among eight townships in Defiance

County that are OTARMA Members. This area in Northwest Ohio is known for its hometown atmosphere, waterways, rolling farmlands and community activities that offer a great family environment for residents and visitors alike.

OTARMA Representative Craig Hibner explained that OTARMA's pricing, coverage, and member benefits, such as the \$500 MORE Grant, property appraisal service, and higher liability

limits, convinced Defiance Township to become an OTARMA Member.

### Violet Township Port Authority

The Violet Township Port Authority in Pickerington, Ohio, was recently



welcomed as a new OTARMA Member. Violet Township Port Authority assists the community by promoting trade and business expansion. Their stated mission is, "To maintain a healthy and balanced community by fostering economic growth and employment opportunities for area residents."

According to OTARMA Representative Wendy French, "Violet Township Port Authority needed a liability policy. We were extremely pleased that they selected OTARMA based on the favorable quote they received."

## Upcoming Events

### OTA Annual Golf Outing Friday, August 2, 2019

#### The Golf Club of Dublin

A registration form may be downloaded by visiting the OTA's Website at [www.ohiotownships.org](http://www.ohiotownships.org)



### Law Directors Group Meeting Friday, August 16, 2019

#### OTA Office

