



Cannabis: Internationally & Domestically

 **PRIMERUS**

Cannabis Practice Group

February 22, 2022



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Why a Cannabis Practice Group?

- Huge commercial growth in less than a decade
- Worldwide sales of legalized marijuana alone topped \$21 billion in 2020; projections show market growth rising above \$100 billion by 2028
- There has been an equally rapid growth of cannabis ancillary businesses and accessory products, including those infused with CBD, CBG, and/or CBN or developed through the cultivation of hemp with its ever increasing commercial and industrial uses
- A very broad-based industry:
 - Plant-touching cannabis businesses –
 - Cultivators
 - Lab Testers
 - Manufacturers
 - Distributors
 - Retailers/Dispensaries
 - Delivery Services
 - On-Site Cannabis Consumption Lounges

Why a Cannabis Practice Group? (cont'd)

- Non-touch ancillary/accessory businesses – numerous and growing annually; don't face the licensing and regulatory hurdles of plant-touching companies; but offer the types of products and services that both cannabis and non-cannabis businesses and everyday people engage with regularly
 - Environmental
 - Construction
 - Packaging
 - Security
 - Marketing
 - Technology
 - Numerous Accessory Products
 - Infused Products (CBD, CBG, CBN)
 - Hemp-Based Products
 - Psychedelics



A modern office interior with wooden walls and shelves. The shelves are filled with various items, including glass jars and books. In the foreground, there are several computer workstations with monitors and keyboards. The lighting is warm and ambient.

Diverse, Multi-Disciplinary Legal Services

- Corporate
 - Corporate formation and structure
 - Public companies and SEC and other agency filings
 - Capital formation activities
 - Mergers and acquisitions
 - Partnership and operating agreements
 - Domestic and cross-border financing and merger and acquisition transactions

Diverse, Multi-Disciplinary Legal Services (cont'd)

- Litigation
 - Civil matters, such as breach of commercial contracts or fraud/misrepresentation
 - Products liability/manufacturing defects
 - Trademark and patent infringement
 - Employment-related claims



Diverse, Multi-Disciplinary Legal Services (cont'd)

- **Taxation**
 - General planning and advice
 - IRS Section 280E
 - **Real Estate and Construction**
 - Zoning and land use
 - Leasing and landlord/tenant matters
 - **Intellectual Property**
 - Trademarks and patents
 - Licensing agreements
 - Marketing and branding
 - **Health Law**
 - Hospital compliance; HIPAA
 - **Labor and Employment**
 - Workplace training
 - Non-compete
 - Executive employment agreements
 - **Insurance**
 - **Cybersecurity**
 - **Financial Restructuring and Bankruptcy**
 - **Information Technology and Management Software**
 - **Environmental Considerations**
- 



What Is Cannabis?

- A plant, obviously (though some refer to it as a “weed”). It’s existence dates back to the prehistoric era. It was first domesticated about 12,000 years ago in East Asia.
- Like most plants, it is composed of roots, a stem (stalk), branches, leaves, and buds or flowers. The bud/flower is the primary source of active ingredients used to make medical marijuana and adult recreational cannabis products. The other principal user component of the cannabis plant is its stalk whose fibers, known as hemp, are used to make, among other things, paper, fabric, rope, construction materials and oil.
- Another notable component of the plant are its “trichomes.” These trichomes contain a great deal of the “cannabinoids,” such as THC and CBD, produced by the cannabis plant. The larger the number of trichomes, the higher the level of cannabinoids. The trichomes also contain “terpenes” (aromatic molecules) that carry the aroma of the plant which assist in product selection via aroma and flavor.

Some of the More Notable of the 100+ Cannabinoids from Cannabis Are:

- Tetrahydrocannabinol (THC) is the psychoactive chemical compound in cannabis that creates the high. It can affect thinking, memory, pleasure, physical movement, concentration, coordination, and sensory and time perception.
- Cannabidiol (CBD) is mostly associated with cannabis' potential health benefits. CBD is often used by patients seeking relief from pain, inflammation, anxiety, and seizures. It's not psychoactive. CBD can also be extracted from hemp, and in this form, it's federally legal; hence, hemp-derived CBD products are generally more available across the U.S.
- Cannabigerol (CBG) is a non-psychoactive cannabinoid. It has analgesic, muscle relaxant, anti-erythemic (reduces redness in skin), antifungal, anti-depressant, anti-proliferative, anti-psoriatic, and anti-bacterial properties.
- Cannabinol (CBN) is a mildly psychotic cannabinoid that comes from the degradation of THC after an extended period of time. CBN has analgesic, antibacterial, anti-inflammatory, anti-insomnia, antiemetic, appetite stimulant, and bone stimulant properties.



Types of Products Generated from Cannabis Include:



- Fresh or dry herbal material (flowers/leaves) for smoking/vaping
- Cannabis oil (cannabis extract dissolved in oil) which can be used in a variety of ways, including infusing edibles
- Chemically concentrated extracts with heavy doses of cannabis extract dissolved in solvent
- Physically concentrated extracts (e.g., hash/kief) such as pressed in resin
- Edibles as food or drinks containing cannabis extracts
- Tinctures/sprays composed of cannabis extract dissolved in a solvent
- Sublinguals dissolvable under the tongue
- Creams/salves/liniments using cannabis extract
- Cosmetics enhanced with a cannabinoid like CBD

Legality in the United States

- The cannabis plant has a history of medicinal/therapeutic as well as religious use dating back thousands of years among many cultures.
- In the United States, however, increased restrictions and the labeling of it as a poison began in many states in the early 1900s. Outright prohibitions started to begin shortly thereafter. By the mid-1930s, all states regulated cannabis as a drug, including more than 30 that adopted the Uniform State Narcotic Drug Act. The first national regulation was the Marihuana Tax Act of 1937.
- With the passage of the 1970 Controlled Substance Act (CSA), which among a number of other things, listed cannabis as a Schedule 1 controlled substance, cannabis was federally outlawed for any use, including medicinal. Criminalization and the “war on drugs” were also significantly enhanced.
- Despite the ongoing designation of cannabis (non-hemp) as an illegal Schedule 1 drug at the federal level, beginning approximately in 1996 with the passage of California’s Proposition 215 (California’s Compassionate Use Act permitting the use of medical cannabis) states and other jurisdictions have continued to pass and implement policies conflicting with federal law. By 2018, a majority of states had legalized medical cannabis. Also, beginning in 2012, the states of Colorado and Washington legalized the recreational use of marijuana and currently more than a third of the states have followed suit.
- The Hemp Farming Act of 2018, at the federal level, also removed hemp (defined as cannabis with less than 0.3% THC) as a Schedule 1 controlled substance and made it an ordinary agricultural commodity.



Cannabis Internationally

- Have to be careful to not generalize the international market for cannabis and the status of its legality country to country.
- The legality of cannabis for medical and recreational use, CBD and its infusion into edibles, and hemp and hemp products varies by country, in terms of possession, cultivation, distribution, and consumption (from a medical standpoint and what medical conditions it can be useful for). Cannabis, in general, is highly regulated worldwide.
- A review of a majority of countries does lead to one notable generalization and that is how they treat cannabis for medicinal and recreational use. The differing approaches can be generally summarized as follows:
 - Illegal for all purposes including both medical and recreational (particularly in most Asian countries, a number of African countries, and most Middle Eastern countries, with the exception of Israel)
 - Decriminalized recreationally and legal medically (such as Argentina, Australia, Brazil, Uruguay, Mexico [with various limitations], Colombia, Israel, Luxembourg, Peru, Portugal, South Africa, Spain, and Switzerland)
 - Legal recreationally and medically (Canada, the Netherlands, Malta, a notable number of states in, or territories of, the United States)
- Various of the countries in the European Union, particularly Germany and Italy, have legalized cannabis use medicinally and have indicated the possibility of moving towards legalized recreational use too. The United Kingdom, Ireland, and France allow medical cannabis use but not recreational.

Cannabis Internationally (cont'd)

- A number of countries allow hemp cultivation and hemp-based products with little or negligible THC. Hemp cultivation increased almost 60% in European Union countries from 2015 to 2019 growing from 95,000 tons to 150,000 tons, with France generating more than 70% of that production.
- Internationally, the manufacture and sale of consumer products with CBD has also been much more accepted with the exception of:
 - Infused edibles
 - Products making unsubstantiated medical or therapeutic claims
- The policies in most countries are regulated by three United Nations treaties:
 - The 1961 Single Convention on Narcotic Drugs
 - Has been used as the basis for the standardization of national drug-control laws (incl. the CSA in the U.S.)
 - Categorizes cannabis as a Schedule 1 drug
 - But also affirms repeatedly the importance of medical use of controlled substances
 - The 1971 Convention on Psychotropic Substances
 - Designed to control psychoactive drugs like amphetamine stimulants, barbiturates, and psychedelics
 - The 1988 Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances
 - Drafted in attempt to provide greater enforcement against illegal drug trafficking, especially through organized crime, as part of the “war on drugs”

Cannabis Internationally (cont'd)



• New York •



• London •



• Moscow •



• Tokyo •

- Even with the European Union driving principals of free movement of goods among the EU countries and the development of a single EU market, there is no one European cannabis market. There are few, if any, uniform sets of laws or regulations concerning cannabis by and between the EU member states. Instead, the cannabis market, and the corresponding regulations and criminal laws, vary from member state to member state. That applies to the three primary cannabis markets:
 - Medical use
 - Recreational use
 - Consumer health (especially CBD products)
- Most cannabis-friendly EU countries: Netherlands, Luxembourg, Malta
- EU countries becoming friendlier: Germany and Italy
- EU countries decriminalizing (or lax enforcement of) personal use and legalizing medical use: Czech Republic, Estonia, Finland, France, Poland, Portugal, Slovenia, and Spain
- Other international countries cannabis-friendly (to varying degrees); Canada Australia, Argentina, Chile, Colombia, Croatia, Ecuador, Georgia, Israel, Jamaica, Mexico, Morocco, Norway, Peru, Poland, South Africa, Switzerland, United Kingdom, and Uruguay

Cannabis in Canada

- The *Cannabis Act* and its supporting regulations became effective October 17, 2018. Edibles, extracts, and topicals are all subject to a separate set of regulations.
- Federal, provincial and territorial governments share responsibility for overseeing the cannabis regulation system. Health Canada is the primary regulatory body at the Federal level, however, some licensees (cultivators and processors) are also required to obtain licenses from the Canada Revenue Agency.
- The Federal government's responsibilities are to set strict requirements for producers who grow and manufacture cannabis, as well as industry-wide rules and standards, including:
 - types of cannabis products available for sale
 - packaging and labelling requirements for products
 - standardized serving sizes and potency
 - prohibitions on the use of certain ingredients
 - good production practices
 - tracking requirements of cannabis from seed to sale to keep it out of the illegal market
 - restrictions on promotional activities.
- Provinces and territories are responsible for developing, implementing, maintaining and enforcing systems to oversee the distribution and sale of cannabis. They are also able to add their own safety measures, such as:
 - increasing the minimum age in their province or territory (but not lowering it)
 - lowering the personal possession limit in their jurisdiction
 - creating additional rules for growing cannabis at home, such as lowering the number of plants per residence
 - restricting where adults can consume cannabis, such as in public or in vehicles.

California

- 1996: California became the first state to allow medicinal cannabis use when voters passed the Compassionate Use Act of 1996, also referred to as Prop 215.
- 2016: Voters passed Prop 64, the Adult Use of Marijuana Act (“AUMA”) which:
 - allowed adults 21+ to possess up to one ounce of cannabis and cultivate up to 6 plants for personal use,
 - gave the state the ability to regulate and tax the production, manufacture, and sale of cannabis for adult use,
 - amended criminal penalties.
- 2017: AUMA was substantially revised with the Medicinal and Adult Use Cannabis Regulation and Safety Act (“MAUCRSA”). MAUCRSA established the licensing regime and regulatory framework for cannabis operators. MAUCRSA gave three separate agencies regulatory powers - the Bureau of Cannabis Control, Department of Public Health, and Department of Food and Agriculture. These have since been consolidated – the primary regulatory body is now the Department of Cannabis Control.
 - Note: California operates on a dual licensing system. All operators must first obtain local approval before applying for State licensure. Most local jurisdictions have some sort of social equity component that aims to rectify issues created by the War on Drugs.
- 2018: The recreational market officially opened for consumers.

Oregon

- The Oregon Legalized Marijuana Initiative, or Measure 91, was approved in 2014. The Measure legalized recreational cannabis and tasked the Oregon Liquor Control Commission (now called the Oregon Liquor and Cannabis Commission) with regulating cannabis activities. Measure 91 is also referred to as the Control, Regulation, and Taxation of Marijuana and Industrial Hemp Act of 2014. Recreational sales became legal in October 2015.
- There are 6 types of recreational cannabis licenses offered by the State of Oregon: producer (cultivation), laboratory, research, processor (manufacturing), wholesaler (distribution), and retailer. Additionally, each employee of a licensee must obtain a worker permit.
- Similar to California, Oregon law allows cities and counties to prohibit cannabis activity in their jurisdiction and local approval by way of a formal Land Use Certificate is required for State licensure. The vast majority of Oregon localities allow for cannabis activity.
- In 2019, the State's legislature voted 18-10 to freeze cannabis production licenses (while allowing existing licensees the ability to renew). The moratorium was set to expire this year, however, the legislature is exploring extending this moratorium to 2024 by way of [HB 4016](#). The bill is controversial in that it would allow the regulatory body to inactivate applications submitted on or after January 2, 2022, creating serious financial consequences for applicants.

Washington

- 1998: Washington State legalized medical use in November when voters approved Initiative 692, providing immunity to patients.
- 2012: Recreational cannabis became legal with the passing of Initiative 502. Initiative 502 grants the Washington State Liquor and Cannabis Board regulatory powers.
- 2014: Recreational cannabis sales became legal in July.
- Washington has 3 separate tiers for licensees: producers, processors and retailers.
- Despite its status as a pioneer state in the cannabis space, Washington operators and applicants face three significant challenges:
 - The law does not allow for vertical integration. While a licensee may hold both producer and processor licenses, the initiative does not allow those licensees to also hold a retail license.
 - Washington differs from other West Coast states in its highly restrictive residency requirement. Under Washington law, all applicants (including members, governors, or agents of business entities) must have resided in the state for at least six months prior to application. This has proven to make securing capital difficult for operators and potential applicants.
 - While California's cannabis industry is often regarded as the most over-taxed, Washington actually has the highest excise and sales taxes at 37% and 46.2%, respectively.

Arizona

- 2010: Medical use of cannabis is legalized when Arizona voters approve Proposition 203 with 50.15%. This is the third attempt at medical legalization – the first was in 1996 and the second in 2002.
- 2020: Recreational cannabis is legalized with the passage of Prop 207, or the Smart and Safe Arizona Act. The state had what is perhaps the most efficient rollout of its licensing structure with operators coming to market in 2.5 months. This was the second attempt at recreational legalization, after the first narrowly failed with 48.7% of the vote in 2016.
- Arizona cannabis policy highlights:
 - Licensing Structure
 - Unlike some of the other West Coast states, AZ has a vertical integration requirement.
 - Limited licenses – the bill that legalized medical use capped dispensaries based on the number of pharmacies in the state (1 dispensary for every 10 pharmacies) for a total of 130 licenses. 26 are set aside for social equity applicants.
 - The law allows for licensees to sublease space in cultivation and manufacturing facilities.
 - Taxation
 - Consumers of recreational cannabis are required to pay an excise tax of 16% on top of normal sales tax. Medical consumers are not subject to the excise tax. Operators are also responsible for the transaction privilege tax. Taxes go toward community colleges, law enforcements, public health and criminal justice programs.

New York State Cannabis Law



Marijuana Regulation and Taxation Act (“MRTA”)

- Signed into law on March 31, 2021, by then Governor Andrew Cuomo
 - Legalized adult-use cannabis with the stated goal of generating significant new revenue and promoting social justice
- Created the Office of Cannabis Management and Cannabis Control Board
 - Cannabis Control Board will draft the rules and regulations that will implement the MRTA
 - Chair is Tremaine Wright
 - Office of Cannabis Management will administer the rules and regulations, issuance of licenses, etc.

ATTIONS TO ENCOURAGE SOCIAL JUSTICE, PUBLIC HEALTH AND ECONOMIC DEVELOPMENT IN THE LIVES OF ALL NEW YORKERS

Office of Cannabis Management

and Taxation Act creates a first in the nation comprehensive regulatory structure to oversee the licensure, cultivation, production, distribution, sale and taxation of medical, adult-use and cannabinoid hemp within New York State.

Immediate Impacts of MRTA

- No penalties for possession of 3oz. or less by people over the age of 21
- People over the age of 21 can have three mature and three cannabis plants within their private residence, with a limit of six mature and six immature plants per private residence
- Past convictions for marijuana-related offenses which would no longer be criminalized will be expunged
- Cannabis consumption generally permissible wherever smoking tobacco products is allowed. However, it is also prohibited wherever smoking and vaping are prohibited, as well as in or upon the grounds of a school, or in or on a school bus



Cannabis Licenses

- **Exact licensing framework still to be developed**
- **Cannabis process has various components- growing, processing, distribution, retail, etc.**
- **Ban on “Vertical Integration”**
 - **Can only hold one type of cannabis license in NY**
- **Each license has a 2-year duration**
- **Types of cannabis licenses:**
 - **Cultivator**
 - **Processor**
 - **Nursery**
 - **Distributor**
 - **Retail Dispensary**
 - **On-Site Consumption**
 - **Delivery**
 - **Microbusiness**

Licensing Process

- Extensive licensing process
- Requires disclosure of:
 - Personal information
 - Entity information
 - Financial information
 - Racial and ethnic diversity
 - Criminal background
- License Fees
 - Unknown but expected to be staggered based on license type
- For most applicants, real estate must be secured at time of application
 - Caveat for social and economic equity applicants



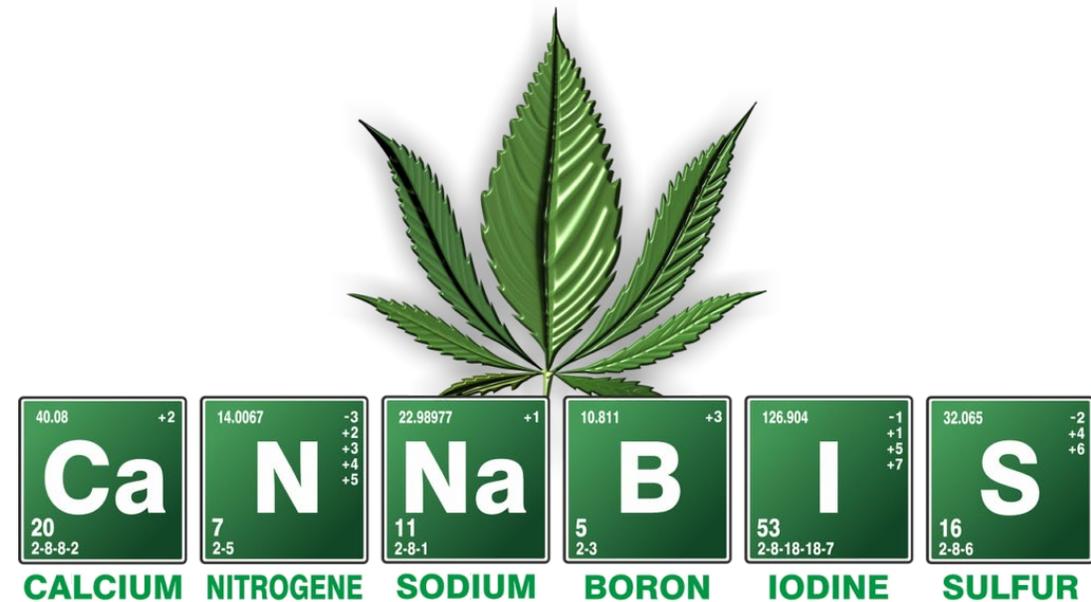


Social and Economic Equity

- Stated goal of MRTA is the promotion of social justice
- Seeks to repair the damage that has been done to disadvantaged, mostly minority communities in the past by the prosecution of marijuana laws.
- Also intended to provide opportunities for minority and women-owned businesses, disabled veterans and “distressed” farmers.
- Provides for the “deletion” of records of marijuana crimes that would no longer be illegal under the new law.
- Aim is to offer 50% of business licenses to people disproportionately affected by drug arrests and convictions and to make financial investments in these communities.

Selection Criteria

- Whether an applicant is a social and economic equity applicant
- Security system
- Compliance system
- Plan for benefiting the community and people who have been impacted by cannabis enforcement
- Sufficient land, buildings, and equipment to properly carry on the activity described in the application or has a plan to do so if qualifying as a social and economic equity applicant
- Whether granting of the license is in the public interest



Cannabis



Public Interest Criteria

- Number, classes, and character of other licenses in proximity to the location;
- Evidence that all necessary licenses and permits have been or will be obtained;
- Effect of grant of the license on pedestrian or vehicular traffic, and parking, in proximity to the location;
- Existing noise level at the location and any increase in noise level generated by the proposed premises;
- Ability to mitigate adverse environmental impacts, including but not limited to water usage, energy usage and carbon emissions;
- Effect on the production and availability of cannabis and cannabis products;
- Whether applicant will contribute to communities and people disproportionately harmed by enforcement of cannabis laws and report these contributions to the board;
- The applicant and its managing officers are of good moral character and do not have an impermissible ownership or controlling interest in other licenses; and
- Any other factors specified by law or regulation that are relevant to determine that granting a license would promote public convenience and advantage and the public interest of the community.



Timing

- Recently Cannabis Control Board Chair Tremaine Wright indicated that final rules should be expected by early spring
- License applications would be accepted sometime thereafter



State of Getting High in New Jersey

CARRIE WARD, EARP COHN

NEW JERSEY | PHILADELPHIA

Timeline

- February 22, 2021, New Jersey became the fourteenth state to make cannabis legal
- December 2021 – applications open
- March 15, 2022 – prospects can apply – causing some drama due monopolies from existing

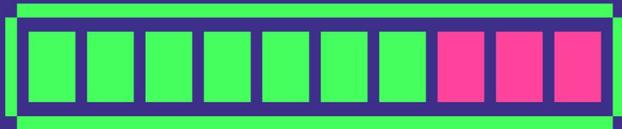




PLEASE STAND BY

Licensing Delays

LOADING...



- When process opened, over 500 licensing applications were received within first 4 hours!
- Four Alternative Treatment Centers (ATC) — vertically-integrated medical marijuana operations submitted "conversion" applications to sell recreationally
- The Cannabis Regulatory Commission's (CRC) Executive Director Jeff Brown won't say how long to review the medical marijuana operators' applications
- Purchases will initially be made at existing medical marijuana dispensaries, but only after they show they have enough dope for the nearly 100,000 patients in New Jersey

99 Problems and Weed is One

- ATCs spent 2021 preparing for retail sales that never came
- Some tripled cannabis growing operations and staffing in anticipation of sales beginning in the fourth quarter
- Now, vaults stuffed to the gills with harvested cannabis



The applications will take months to result in licensure of those facilities, and then a harvest cycle needs to occur which puts new licensees at least six months away from producing adult-use cannabis.



Questions?

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