

August 3, 2022

# Cannabis Law Group



Practice

Newsletter



**Seed-to-sale law for New York's adult-use cannabis, CBD and hemp providers. Our Cannabis Law team is at the forefront of this new marketplace.**

**In 2021, New York State and Connecticut legalized adult-use cannabis, joining other states legalizing a national and global cannabis industry.**

As leaders of trade associations who have authored policy papers and offered guidance to state and local officials in support of legislation, Cuddy & Feder's cannabis attorneys know firsthand the unique challenges the industry faces, including educating about the benefits and myths of this new marketplace.

Navigating the complexities of a cannabis business and taking advantage of emerging legal developments and new industry trends are critical to any New York or Connecticut cannabis business. Our attorneys are monitoring forthcoming regulations so that entrepreneurs, startups and real estate owners know what will be required to successfully obtain a license to operate from the New York Office of Cannabis Management or Connecticut Department of Consumer Protection. We can help you get started now to plan for that process and gain a critical competitive edge. Whether your business model is cannabis, hemp, CBD, real estate transactions, construction, transport, or one of the many other businesses that will be connected to this market, a myriad of traditional legal considerations have to be considered as you build a business in this new ecosystem.

As a multi-disciplinary firm, we distinguish ourselves by leveraging the collective experience of colleagues in Land Use, Zoning & Development, Real Estate, Corporate, Finance, Litigation and Dispute Resolution, and Environmental practice areas to provide our cannabis clients superior service and a comprehensive array of integrated legal services.



**Our cannabis lawyers are uniquely suited to guide clients through New York's application process, advise on local market considerations and represent clients in municipal forums to obtain local approvals to operate cannabis businesses.**

**[Kristen Motel](#)**, a Partner in the firm's Land Use, Environmental and Telecommunications practice groups and Chair of the Cannabis Law practice group, has extensive experience with federal, state and local permitting and real estate development. She frequently appears before municipal land use boards and permitting agencies to secure approvals for clients in numerous controversial projects. Kristen is uniquely suited to guide applicants through the state cannabis application process and represent clients in municipal forums to obtain land use approvals. Kristen is an active member of the Hudson Valley Cannabis Industry Association and the Westchester County Bar Association's Cannabis Law Committee and has presented as a panelist on local land use and municipal considerations related to New York's adult-use cannabis legislation.

**[Eon S. Nichols](#)** is a Partner at the firm, a member of the Management Committee and Vice-Chair of the firm's Real Estate, Corporate, Finance, Cannabis Law and Non-Profit practice groups. He represents clients in all aspects of real estate and corporate transactions, including financing, leasing and formation of corporate entities. As Vice-Chair of the Cannabis Law practice group, Eon is excited to apply the practice he has developed for nearly two decades to help clients in this newly emerging field with corporate formation, governance, employment agreement, real estate transactions and other related legal business needs. He frequently speaks on various real estate and financing topics and has represented clients with all aspects of their business needs. As a resident of the Hudson Valley and an active member of the community, Eon is familiar with issues impacting the area and is able to advise cannabis applicants of local market considerations.

**[Richard J. Sandor, Jr.](#)** is Special Counsel to the Firm. His principal areas of practice include commercial and residential real estate transactions, real estate financing, commercial lending transactions, leasing and corporate law. As a member of the Cannabis Law practice group, Rich assists clients with corporate formation, investment agreements and private placement memoranda, and real estate transactions including commercial leases, ground leases, purchases and lending transactions.

We are advising clients on New York's new cannabis law and forthcoming regulations and the licensing processes. Our attorneys can assist with all aspects of your cannabis business, including:

- General consultation, overall strategic planning and project team management
- Evaluate proposed locations for cannabis-related businesses
- Strategize and obtain municipal land use approvals
- Formation of corporate entities and corporate governance
- Drafting and negotiation of partnership/shareholder and member agreements
- Preparation of license application materials
- Regulatory compliance
- Services for ancillary businesses in the market
- Real estate transactions, including purchasing, sales and leasing
- Vendor contracts

Whether you are an individual, business, pro-cannabis or pro-hemp organization, we are here to provide guidance with successful implementation of a legal cannabis market and promote commerce with a conscience.



## Cannabis Control Board releases regulations related to branding, advertising, packaging & labeling of adult-use cannabis

Earlier this summer, the Cannabis Control Board (CCB) released draft regulations for public comment pertaining to the marketing, packaging and labeling of adult-use cannabis. These regulations contain guidelines for advertising adult-use cannabis, including limitations on signage for retail dispensaries and sustainability requirements for packaging.

### Packaging & Labeling

The draft regulations require specific detailed information to be included on the labels of adult-use cannabis products, including but not limited to:

- Quantity of THC
- List of active ingredients
- Number of servings
- Weight
- Mandatory warnings (advising the product contains THC, health hazards, and child safety warnings)
- Expiration and use-by dates
- Universal symbols for cannabis
- A scannable QR code

Detailed minimum standards for tamper-proof and child-proof packaging are also included in the draft regulations. Further, product labels cannot include content or images attractive to people under age 21,

like bright colors, imitation food, cartoons and commercial mascots. Additionally, any reference to the terms “craft” or “organic” will be prohibited on labeling for adult-use cannabis products. [READ MORE >](#)



## Leveraging Opportunities In New York’s New Cannabis Market

Last year, New York legalized adult-use cannabis, opening the door for entrepreneurs to set up shop in local communities. But with new opportunities come new laws and regulations. In this series, Cuddy & Feder’s Cannabis Law practice offers helpful tips and best practices for prospective New York cannabis applicants.

### Part 1: Where to Locate Your Retail Cannabis Business

The New York Marihuana Regulation and Taxation Act (MRTA) requires applicants seeking a retail license to have identified the location for their business at the time the license application is submitted. Specifically, the applicant must either own the property, have a valid lease in place or provide proof that they will possess the property within 30 days of being granted a license for a term that equals the license period (which is renewed every 2 years).

This requirement leaves applicants in the risky situation of securing a location at a potentially significant cost and outlay of capital without even being granted a license and leads to many unanswered questions about where they should purchase or lease property. These concerns are compounded by the fact that a handful of communities have already opted out of allowing retail dispensaries and on-site consumption sites within their jurisdiction, with more communities expected to opt-out before the end of the year when the deadline to do so expires.

Aside from the challenges under federal law related to financing or leasing property to operate a business that involves a plant that is fully legal under state law but still not legal under federal law, applicants face another obstacle: onerous and restrictive local zoning provisions. The MRTA delegates to local municipalities the ability to regulate time, place and manner of the operation of retail dispensaries and onsite consumption sites, as long as such regulation does not render the business unreasonably impracticable. [READ MORE >](#)



## Diversity, Equity & Inclusion: Fostering an Environment of Respect and Equality

Throughout its 50-year history, Cuddy & Feder LLP has made tremendous strides in maintaining a diverse workforce of attorneys and staff. We are focused on the retention and promotion of our talented individuals and are committed to providing them with the tools for success.

Cuddy & Feder recognizes that promoting diversity requires both proactive attention and focus. The Firm's Diversity Committee is comprised of both attorneys and staff and works to develop and implement practices to promote diversity and inclusion across the firm. The Committee also coordinates diversity focused programs and events as well as community outreach opportunities. [READ MORE >](#)

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### Insights



## Cannabis and Land Use & Zoning Regulation in New York

[Kristen Motel](#), Chair of the Cannabis Law practice group at Cuddy & Feder LLP, authored an update to the Land Use & Zoning Treatise, featured in the March/April edition of the New York Zoning Law and Practice Report newsletter.

The [article](#), supplementing the Land Use & Zoning Treatise, provides guidance and updates regarding the status of New York's adult-use cannabis regulations, administration of the adult-use permitting program, municipal opt-out provision, Office of Cannabis Management and Cannabis Control Board appointments and details about anticipated local zoning regulations for cannabis uses.

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## News Alerts

### Cannabis Control Board Appoints Chief Equity Officer

**On June 23, 2022, the Cannabis Control Board (CCB) appointed Damian Fagon as the office of Cannabis Management's (OCM) Chief Equity Officer.**

Fagon will be responsible for the development and implementation of OCM's social and economic equity plan. The role will include establishing public education programming dedicated to providing communities that have been impacted by cannabis prohibition with information detailing the licensing process and informing individuals of the support and resources that are available.

"Damian's background as a leader in New York's Black farmer community, his knowledge of the industry, and his efforts to support farming communities around the world uniquely position him to develop our equity program," Cannabis Control Board Chair Tremaine Wright said, according to the Advance.

Cuddy & Feder's cannabis law attorneys have experience advising social equity applicants on New York's cannabis law and forthcoming regulations and the licensing processes. Contact us to discuss how we can help you succeed in this emerging market at [kmotel@cuddyfeder.com](mailto:kmotel@cuddyfeder.com) or [enichols@cuddyfeder.com](mailto:enichols@cuddyfeder.com).

# Cannabis Control Board Releases Proposed Packaging, Labeling and Testing Regulations

On Wednesday, June 1, 2022, the New York Cannabis Control Board (CCB) adopted a resolution publishing for public comment the proposed cannabis packaging, labeling, marketing and advertising [regulations](#).

These regulations establish parameters for marketing and advertising adult-use cannabis products and licensees. The regulations also include limitations for retail storage signage and details on the environmental sustainability components of the packaging program. Additionally, the CCB adopted a resolution filing the proposed cannabis laboratory testing [regulations](#).

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