



## Cannabis, Hemp and CBD

### Industry Contact

Elizabeth T. Smith

### Attorneys

Timothy J. Bechtold

Charles F. Billington III

Tiffany Strelow Cobb

Perry W. Doran, II

Bryan H. Falk

Lauren N. Fromme

Laura T. Geyer

Michael C. Griffaton

J. Liam Gruz

Jolie N. Havens

Adam J. Rocco

J. Theodore Smith

Jill S. Tangeman

### Related Industries

Financial Institutions

Health Care

Vorys is a full-service law firm that represents employers, health care providers and practitioners, manufacturers, sellers, distributors, medical marijuana cultivators, processors, and dispensaries, commercial landlords and tenants, investors, financial institutions and higher education institutions on the legal, regulatory and business issues surrounding the cannabis, hemp and cannabidiol (CBD) industries.

With 100 years of experience in business, manufacturing and commercial representation, Vorys has successfully assisted emerging businesses navigate federal, state and local laws and regulations and we continue to work alongside these businesses and industries as they mature.

Since medical marijuana and hemp have been legalized in Ohio and CBD has emerged on the market, Vorys has represented those directly involved in the industries, including cultivators, processors, agricultural entities, dispensaries, retailers and suppliers, as well as related industry stakeholders. Our attorneys stay current on these complex and rapidly-changing federal and state laws and related regulatory guidance governing these emerging industries.

## What We Do

To deliver the highest quality service, we work on an inter-disciplinary basis, bringing deep experience from our different practice groups. We employ attorneys in virtually every legal practice area when servicing our cannabis, hemp and CBD clients. Our team of experienced attorneys assist clients by providing services in the following areas:

## Licensing and Regulation

Vorys has a long history of representing a variety of clients in administrative hearings regarding licenses and legal compliance, as well as working with various governmental regulators to assist contested compliance issues. Our attorneys bring a wide variety of experience to these government hearings and negotiations, as well as a reputation in Ohio that enables us to work with various regulatory bodies as necessary.

We also help medical marijuana cultivators in post-application challenges and litigation, having defended a license before the Ohio Medical Marijuana Control Program and challenged the denial of a license to another applicant. We also assist medical marijuana dispensaries with start-up and subsequent transition issues. We have the knowledge and experience to help businesses assess their risks under state-specific laws and federal cannabis-related laws, as well as address the conflicts between state and federal law.

## Real Estate and Zoning

We have a wealth of knowledge when it comes to zoning considerations and compliance concerns related to the Ohio Medical Marijuana Control Program applications, including location restrictions. We have also assisted dispensaries, processors and cultivators with local zoning issues and obtained approvals in the face of local opposition. Additionally, we assist with land development, permitting and environmental zoning issues.

## Financial Institutions

Since cannabis remains illegal under federal law, both cannabis-related businesses and financial institutions are forced to operate in a complex and fluid regulatory and corporate environment. Financial institutions who service cannabis-related businesses, regardless of whether it has been legalized under state law, can potentially be subject to various federal civil and criminal issues and face increased risks of state and federal regulatory scrutiny, enforcement actions, criminal prosecution, asset forfeiture, insurance coverage, officer and director liability issues and reputational harm. We can assist cannabis-related businesses with the challenges associated with finding a financial institution partner to service their banking needs. In addition, we work with financial institutions to create and implement practical policies that enable them to service hemp- and cannabis-related businesses mitigate risk, and comply with state and federal guidance.

## Financing, Bankruptcy and Insurance

Vorys has experience assisting cannabis-related businesses as they navigate state and federal laws and regulations to secure banking and related services. Through strategic relationships with key stakeholders, federal and state regulators and policymakers, we are also uniquely positioned to monitor legal and regulatory finance developments at both the state and federal level and help marijuana-related businesses and financial institutions prepare and adapt accordingly.

In these challenging economic times, where both cannabis-related suppliers and customers may be facing financial difficulties, clients need a careful understanding of creditors' rights and bankruptcy laws. Our lawyers have decades of practical experience in this important area. Our multidimensional and national experience representing clients in all aspects of bankruptcy proceedings, combined with our cannabis expertise and deep bench, makes us well poised to represent clients in cannabis-related bankruptcy matters, which also includes our up-to-date knowledge of ever-evolving circuit law on whether cannabis businesses qualify to be a debtor under federal bankruptcy law.

Additionally, our attorneys understand the complex nature of insurance-related risks and insurance coverage challenges faced by cannabis-related businesses. We understand the state and federal regulations and can provide guidance on different ways to manage risks.

## Health Care, Product Regulation and Labeling

Vorys assists health care providers across the industry (including hospitals and health systems), as well as individual practitioners (including physicians), with cannabis, hemp and CBD compliance issues arising under federal and state laws, as well as the general impact of specific cannabis policies and practices, including issues related to Medicare, Medicaid and other third-party payors, professional licensure matters, privacy, informed consent and medical record documentation. We have also assisted university research centers on their state medical marijuana licensing requirements and other related issues.

Aside from health care provider and practitioner issues, others operating in the cannabis, hemp and CBD industry often need advice on best practices related to selling, labeling and advertising such products. Vorys has experience in providing legal and business guidance to manufacturers, distributors and sellers on the requirements and limitations related to selling, labeling and advertising CBD products under federal and state law.

We also have considerable experience with matters falling under the jurisdiction of the Food and Drug Administration (FDA), including compliance with the federal Food, Drug and Cosmetic Act and related federal and state laws. We have specific experience with pharmaceuticals, medical devices (including personal protective equipment), dietary supplements, vaccines, biologics, cosmetics, medical foods and nutraceuticals, including pre-market strategies and applications (510(k)s, emergency use authorizations (EUAs), and testing, as well as post-market compliance, such as labeling, advertising and promotion, adverse event reporting, recalls, good manufacturing practices and responding to enforcement actions.

## Product Liability

Vorys has deep experience representing and assisting products manufacturers in connection with product liability claims. Vorys has represented small manufacturers to Fortune 500 companies in state and federal courts nationwide and involving numerous types of products, such as chemicals, consumer products, pharmaceutical products and others. As cannabis-related consumer products enter the marketplace, Vorys' depth and breadth of product liability experience uniquely positions us to assist with identifying issues and, if necessary, developing the right facts and selecting the right experts to reach favorable judgments effectively and efficiently. Additionally, Vorys attorneys have significant experience with product liability reform and legislation, making Vorys a vital resource for offering input on and shaping the initial regulations and policies governing this new area of law.

## Employment

Whether operating an established business or just starting out, cannabis, hemp and CBD businesses face the same types of employment issues that other businesses do. And most businesses need advice with the multitude of employment-related issues involving cannabis, hemp and CBD. Vorys helps businesses navigate federal, state and local employment laws to ensure that their operations are safe and compliant.

We can assist companies with the full range of employment issues, such as:

- Employment policies and manuals
- Non-compete, non-solicit, confidentiality and non-disclosure agreements
- Employment litigation
- Wage and hour / Fair Labor Standards Act (FLSA)
- Workplace safety and workers' compensation
- OSHA, Department of Labor, EEOC and other agency complaints and compliance
- Management and employee training
- Workplace harassment
- Workplace investigations
- Employee discipline and termination
- Employee benefits

We are also familiar with both federal and state drug testing requirements and how they interact with state protections for cannabis use. For example, states may protect off-duty use of cannabis; limit, restrict or prohibit drug testing; or require reasonable accommodations for medical cannabis users. We regularly work with clients on implementing substance abuse testing policies and procedures that account for states' legalization of medical and adult use/recreational cannabis and the court decisions interpreting and applying those laws.

We work extensively with clients on practical guidance, proactive compliance, implementing employment policies, mitigating risk, crisis management and dispute resolution.

## Intellectual Property (IP)

With the rapid advances in the cannabis market, it is critical to secure early protection of intellectual property (IP) rights. Our clients rely on our IP attorneys to guide them through complex strategic planning, sensitive negotiations, and obtaining and enforcing patents and trademarks relating to cannabis products, as well as other important aspects of IP protection. As the cannabis industry grows and products evolve, our multidisciplinary team can help inventors develop, customize and strengthen operation-wide IP strategies. Our attorneys do not simply provide rote registration services. Instead, we work with our clients to articulate their IP objectives, ensuring that each IP asset serves those broad goals. We also educate our clients on the risks of their IP asset decisions and suggest procedures or alternatives to minimize those risks.

## eControl

The cannabis industry has been increasingly seeing the advantages and opportunities created by eCommerce. This rapid growth has created several new problems for brands that disrupt their sales and business and threaten their value. Many brands today have little control over who is selling their products, or where or how they are selling them online.

Our end-to-end **eControl services** combine monitoring data and analytics, investigations, reseller policies, gray market legal foundations, diversion diagnostics, corrective action consulting and comprehensive legally backed enforcement tactics. We define, implement and execute the comprehensive eControl solutions that help companies control online sales in a manner that facilitates optimized revenues and margins in today's market.

We help businesses grow by developing innovative strategies to remove third-party unauthorized sellers, achieve MAP compliance, stop diversion and control the quality of products. Vorys couples these services with others, such as investigations, enforcement and legal compliance, to help further increase revenues.

## Experience

- Representing retail clients to analyze issues relating to CBD product sales under applicable health care laws and their banking and credit card processing agreements
- Representing a global corporation updating their drug screening policy to account for multiple disqualifications based on THC in hiring and providing counseling about CBD use policies and multi-state medical/recreational marijuana-related issues across the country
- Representing successfully a cultivator client in multiple state litigation challenges of its license from competitors
- Representing successfully a cultivator from a challenge by the Department of Commerce to strip it of its provisional license
- Representing a cultivator applicant in a post-regulatory appeal to the Franklin County Court of Common Pleas and challenge to scoring process
- Representing a dispensary through the application phase through start-up, ongoing operation and ultimate potential sale
- Representing a dispensary applicant in a challenge to the Ohio Pharmacy Board
- Working with the Ohio Medical Marijuana Program, both the Department of Commerce and the Board of Pharmacy in regard to license transfers and ownership issues
- Representing several clients during trademark application of cannabis-related goods
- Representing a dispensary in a land use matter against an Ohio city in front of the Planning and Zoning Commission
- Representing a client on CBD and hemp issues, including labeling and testimonials for their CBD products and contracting issues related to the farming of hemp
- Representing multiple health systems and other health care providers relative to their practices and policies on medical marijuana

## News

[News, 8.18.2022](#)

115 Vorys Attorneys Named to the 29th Edition of The Best Lawyers in America® List; 33 Vorys Attorneys Named to Best Lawyers: Ones to Watch in America List

[8.18.2022](#)

Ten Vorys Attorneys Included in the 29th Edition of Best Lawyers: “Lawyers of the Year”

[News, 7.12.2022](#)

Falk Named to the Leadership Cleveland Class of 2023

[6.29.2022](#)

59 Vorys Attorneys Included in 2022 *Columbus CEO's Best Lawyers*

## Publications

[Client alert, 5.4.2023](#)

It's Not Easy Being Green, and It Could Get Harder - FTC Considering Changes to Green Guides

[Client alert, 4.10.2023](#)

From Bluegrass to Green Grass: Kentucky Legalizes Medical Marijuana

[Authored article, \*Law360\*, 9.23.2021](#)

PA Ruling Reminds Employers to Rethink Cannabis Testing

[Client alert, 9.8.2021](#)

Pennsylvania Superior Court Opens the Door to Medical Marijuana Discrimination Claims

[Authored article, 9.2.2021](#)

Cosmetics Containing CBD—How Regulated Should They Be?

[Authored article, Spring 2021](#)

SAFE Banking Act Reintroduced in Congress as Cannabis Banking Reform Gains Bi-Partisan Momentum

[Spring 2021](#)

*The Bankers' Statement*: Spring 2021

[Authored article, Summer 2020](#)

FinCEN Issues Additional Guidance for Financial Institutions Serving Hemp-Related Businesses

[Authored article, Summer 2020](#)

*The Bankers' Statement*: Summer 2020

[Authored article, Fall 2018](#)

Continued Uncertainty in Banking Marijuana Businesses in Ohio

## Speaking Engagements

Event, 10.20.2020

Knueve Speaks at the 2020 RILA Retail Law Conference

