

## Client Alert: New California Privacy Law, AB-2402, Specifically Targets Cannabis Licensees

A new California privacy law aims to protect cannabis customers by restricting the information to be shared by cannabis companies licensed under the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA).

Signed into law on September 20, 2018, [AB-2402](#) prohibits California cannabis licensees from sharing their customers' personal information, with a few exceptions.

Notably:

- Under this new law, a cannabis licensee may not disclose a consumer's "personal information" to a third party, except under certain circumstances relating to payment, to facilitate the official duties of the state/county/city, or where the consumer has consented to the disclosure.
- Importantly, the law prohibits cannabis licensees from refusing service to (or otherwise discriminating against) consumers who do not consent to disclosing their personal information.
- "Personal information" under this law means an individual's first name (or first initial) and last name in combination with one or more of the following: (i) Social security number; (ii) Driver's license number or California identification card number; (iii) Account number, credit or debit card number, in combination with any required security code, access code, or password that would permit access to an individual's financial account; (iv) Medical information; (v) Health insurance information.
- A "third party" under this law does not include a contractor providing software services to conduct a transaction or verify eligibility (so long as the contractor does not share the consumers' information).
- The law now categorizes marijuana identification cards (issued under the Medical Marijuana Program) as "medical information" for purposes of complying with California's Confidentiality of Medical Information Act (or "CMIA").
- Further, a MAUCRSA licensee authorized to receive or receiving marijuana identification cards is considered a "provider of health care" (again, for purposes of complying with the CMIA only), meaning that cannabis companies could face penalties for improper use and disclosure of medical information.
- In sum, the law clarifies cannabis licensees' duties with respect to their customers' personal information and affords greater protection to such information than the [California Civil Code](#)

For questions regarding this update, please contact:

[Kristina Sherry](#)

310.203.2800

ksherry@nelsonhardiman.com