

Demystifying Cannabis Contracts: The Significance of Authority and Its Implications

Cannabis contracts serve as legally binding agreements between parties, yet understanding what makes them legally binding can be complex. In the fast-paced cannabis industry, overlooking fundamental contract requirements can lead to disastrous outcomes. Today, we'll delve into the concept of "authority" and its crucial role in the cannabis sector.

What Exactly is Authority in Cannabis Contracts?

When an individual who meets certain criteria – such as being an adult, free from coercion, and mentally competent – enters into a contract, its binding nature is generally unquestioned. However, when it comes to contracts involving entities, such as companies, the situation becomes more intricate. While entities are recognized legally, they cannot physically sign contracts; instead, they operate through authorized representatives known as "agents."

Agents must have explicit authorization to act on behalf of a company. Without such authorization, any contracts they sign are not legally binding, with some exceptions we'll explore later.

How is Authority Granted to Agents?

Agents receive authorization to act on behalf of a company through various means. Corporate officers, such as presidents or CEOs, typically derive their authority from governing documents like bylaws, granting them broad powers to sign contracts. Other individuals, such as employees or contractors, may have limited authority specified in their employment or contractual agreements.

Generally, the level of authority diminishes as one descends the corporate hierarchy. For instance, a procurement officer may have authority to execute purchase agreements but not to engage in mergers. Clear delineation of authority is essential in employment agreements to prevent overstepping.

Even high-level executives like CEOs may face restrictions on their actions. Shareholders or directors might require additional consent for certain transactions, establishing a hierarchical process of approval.

What about "Apparent" Authority?

A significant challenge arises when an employee or agent enters into a transaction without proper authorization. In such cases, the concept of "apparent authority" comes into play. If a third party reasonably believes that the individual is an authorized agent, they may infer authority. For instance, if a CEO signs a contract without required board approval, the third party may assume the CEO has the authority based on their position. Unless the third party is aware of restrictions outlined in governing documents, they may prevail in legal disputes.

The policy behind apparent authority is clear – preventing situations where transacting parties are unfairly forced to unwind agreements due to unauthorized signatories.

How to Prevent Apparent Authority Issues?

Both parties involved in a contract can take steps to mitigate apparent authority risks. Companies should ensure agents understand the extent of their authority. On the other hand, contracting parties can:

- Verify the identity and authority of the signatory.
- Include representations of authorization in the contract.
- Request documentation of authority, especially in significant transactions.
- Refuse to proceed with unauthorized signatories.

While these measures aren't foolproof, they help mitigate potential issues.

What about Ratification?

If an unauthorized individual signs a contract on behalf of a company, the company can ratify the agreement through proper channels, such as a board resolution or shareholder approval. Ratification clarifies the agreement's validity and reaffirms the agent's authority.

Conclusion: Simplifying Authority in Cannabis Contracts

Navigating cannabis contracts involves grappling with complex issues like authority. However, careful consideration and adherence to legal protocols can prevent costly mistakes and legal disputes. Understanding the nuances of authority is essential for smooth contract execution in the dynamic cannabis industry.

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