1. What is your state’s law on the use of CBD oil in products to be sold to the public, i.e. cosmetics, etc.?

Virginia has recently legalized the possession and use of cannabidiol (CBD) and THC-A oil for medical use where the oil is dispensed by a pharmaceutical processor in Virginia pursuant to a valid written certificate. See Va. Code § 54.1-2519. The prescription of and distribution of CBD oil and THC-A oil in Virginia are regulated by Virginia’s prescription monitoring program. As such, all CBD oil and THC-A oil dispensaries in Virginia are subject to the reporting requirements contained within Va. Code § 54.1-2521, and all prescribers of CBD oil or THC-A oil must comply with the requirements of Va. Code § 54.1-2522.1.

CBD-oil and THC-A oil can only be produced by a licensed pharmaceutical processor that has obtained a permit from the Board of Medicine. See Va. Code §§ 54.1-3442.5 and 54.1-3442.6. All pharmaceutical processors must also follow regulations promulgated by the Board of Medicine relating to physical standards, labeling, inspections, and recordkeeping. See Va. Code § 54.1-3442.6. Additionally, all employees of pharmaceutical processors must have their fingerprints taken for government-mandated criminal history background checks. Id. Pharmaceutical processors are barred from employing anyone who has previously been convicted of a felony drug offense. Id.
Medical practitioners in Virginia can prescribe CBD oil or THC-A oil to Virginia residents for the purpose of treating or alleviating the symptoms of a diagnosed condition by issuing a written certification for the use of CBD oil or THC-A oil. See Va. Code § 54.1-3408.3. This certification must be on a form provided by the Office of the Executive Secretary of the Supreme Court, and it must contain the name, address, and telephone number of both the practitioner and the patient as well as the date of the certification and the signature of the practitioner. Id. CBD-oil and THC-A oil prescriptions must expire within one year of their issuance.

It is still criminal to possess either CBD oils or THC-A oil without a valid written certification issued by a medical doctor. See Va. Code § 18.2-250.1. In the event that a person is charged with the unlawful possession of marijuana because of his or her possession of CBD oil or THC-A oil, that person may file a valid written certification with the court at least ten days, the filed certification serves as *prima facie* evidence that the oils were legally possessed. Id. Licensed practitioners cannot be criminally charged for unlawful distribution of CBD oil or THC-A oil; however, the Virginia board of medicine can take disciplinary action if a medical practitioner fails to properly evaluate a patient’s medical condition and therefore improperly prescribes CBD oil or THC-A oil. See Va. Code § 54.1-3408.3.

Importantly, Virginia’s regulations of CBD oil and THC-A oil only touch those products with at least 15% of a narcotic compound (cannabidiol in the case of CBD oils and tetrahydrocannabinol in the case of THC-A oils). See Va. Code § 54.1-3408.3. As a result, it is unclear whether sales of CBD and THC-A products that contain lower than 15% of the relevant narcotic compounds are regulated under the Virginia Drug Control Act (Va. Code § 54.1-3400, et seq.), Virginia’s existing criminal law, or some other regulatory scheme. There is no Virginia case law addressing this question at this time.

2. **Regarding privacy issues, has your state adopted its own version of GDPR or how is your state dealing with GDPR requirements? What other privacy laws has your state adopted recently in response to concerns about the lack of protections for consumers?**

Virginia has not currently adopted its own version of the General Data Protection Regulation (GDPR). In response to the enactment of the European Union’s General Data Protection Regulation in May 2018, Virginia amended its data breach notification law. See Va. Code Ann. § 18.2-186.6. Over the past three years, Virginia made expansions to privacy laws to provide better coverage of protection to consumers.

The new additions to §18.2-186.6 of the Virginia Code seek to counter tax fraud and include notice requirements after the discovery of unauthorized access to taxpayer identification numbers in combination with their tax withholding information. Va. Code Ann. § 18.2-186.6(1)(M). Similarly, Virginia added §58.1-341.2 to the Virginia Code which requires paid income tax return preparers to
notify the Department of Taxation within a reasonable time period if they
discover an unauthorized person has gained access to a taxpayer’s return

While the personal information protected under Virginia’s data protection law is
not as expansive as Europe’s General Data Protection Regulation, new legislation
in Virginia now requires the breach of personal information such as passport
numbers and military identification numbers to be reported to the Office of