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# Tip of the Month

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## Assisting Clients in Connection with the Medical or Recreational Marijuana Industry Continues to Be Risky

The federal prohibition of marijuana under the Controlled Substances Act creates thorny ethical issues for attorneys representing clients in the cannabis industry in the twenty-nine states that have legalized medical marijuana and the eight states that have legalized recreational marijuana. The Rhode Island Ethics Advisory Panel Op. 2017-01 recently joined other states in concluding that attorneys may ethically advise clients on all matters related to a particular state's medical marijuana law, as long as attorneys also advise clients regarding the federal law. Although there is a growing consensus among courts and ethics committees that attorneys representing clients in the marijuana industry are not in violation of the applicable state rules of professional conduct, these rules and opinions do not protect lawyers who assist clients in the operation of marijuana-related businesses in ways which might contravene federal laws. Actively assisting clients in the marijuana industry may be illegal under federal law, and therefore has the potential to result in criminal liability for violation of the Controlled Substances Act, aiding and abetting criminal conduct (18 U.S.C. § 2), or money laundering (18 U.S.C. §§ 1956, 1957). While the Cole Memorandum provides some protection against federal prosecution for legal marijuana businesses that adhere to their state's regulatory framework, it does not provide legal protection for service providers to the industry, including attorneys. Indeed, the Cole Memorandum expressly states that state law does not provide a legal defense to a violation of federal law, including a civil or criminal violation of the Controlled Substances Act.

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