

From Our Investigators

Currently, the Oregon Board of Chiropractic Examiners has no administrative rules regarding products derived from marijuana or hemp, such as CBD. However, this is perhaps the number one question we receive each week. While we have provided guidance in the past, it bears repeating and offering some suggested guidance and rationale for the Board's current stance. Please consider this a guide for further study and research as you consider the landscape of CBD as it relates to your practice.

What is the situation in Oregon regarding CBD?

Recreational marijuana and CBD products derived from hemp are regulated by multiple agencies, including the Oregon Department of Agriculture, the Oregon Health Authority (Oregon Cannabis Commission), and the Oregon Liquor Control Commission. Oregon law requires that CBD derived from hemp products contain no more than 0.3% THC.ⁱ The quantity of THC in the product must be tested and certified by a certified Oregon laboratory or tested under substantially similar requirements.ⁱⁱ Hemp derived products must have been tested in an Oregon lab, or under the same or substantially the same requirements in order to be sold legally in the state.ⁱⁱⁱ

Many doctors who contact the Board report having been contacted by vendors offering CBD products. However, many of those products are not labeled, or labeled appropriately, as having been tested at an Oregon approved laboratory. The Board is in constant communication with the Oregon Department of Justice regarding such cases around the State. The potential danger is that such products will have more than the allowable quantity of THC, resulting in intoxication or adverse reactions. Understanding the requirement around proper laboratory testing and labeling is imperative.

Can an Oregon licensed Chiropractor sell CBD products?

The Board will reiterate that it does not regulate marijuana or hemp derived products. We have been advised by OLCC that any sale or use of a CBD product "for consideration" requires a license from the State.^{iv} In the past, the Board was advised by OLCC that sales would require a license and that the use of CBD in treatments, where the cost of the treatment would be the "consideration," would also require licensure. The variety of products are too varied for the Board to comment on or regulate. We recommend any interested parties to seek guidance from the relevant agencies and possibly also independent legal counsel.

What is CBD good for?

Like many new entrants to the healthcare landscape, there is tremendous interest in CBD. With that interest comes a whole host of claims regarding its efficacy for a wide variety of conditions. CBD has shown some effectiveness as an anxiolytic, anti-inflammatory, antiemetic, and antipsychotic including some neuroprotective properties. Consequently, it could be used at high doses for the treatment of a variety of conditions ranging in psychiatric disorders such as schizophrenia and dementia, as well as diabetes and nausea.^v

Currently, the only federally approved use of CBD is in the treatment of rare forms of childhood epilepsy. This is the only approved human treatment form to date.^{vi} Such medications will briefly be discussed as they are outside the scope of chiropractic.

Are there side effects to CBD use?

Research into CBD is ongoing. Some side effects have been observed in clinical research thus far, primarily in-vitro and in animal studies. “They include alterations of cell viability, reduced fertilization capacity, and inhibition of hepatic drug metabolism and drug transporters (e.g., p-glycoprotein).^{vii} Consequently, more human studies have to be conducted to see if these effects also occur in humans. In these studies, a large enough number of subjects have to be enrolled to analyze long-term safety aspects and CBD possible interactions with other substances.^{viii}” Early research showed few side effects, and that patients tolerated relatively high doses with little observable effect.^{ix} Later research has documented commonly reported side effects including tiredness, diarrhea, and changes in weight/appetite.^x A large portion of the ongoing research, however, focuses on psychiatric benefits.^{xi} Practitioners should be conversant in the relevant literature, consider the early stage of research, and understand that most of the research conducted focused on area of practice outside the scope of chiropractic.

Is CBD legal at the federal level?

It is helpful to keep in mind that these derived substances remain illegal at the federal level. The federal government recently issued guidance regarding marijuana prosecution noting that current federal laws “reflect Congress’s determination that marijuana is a dangerous drug and that marijuana activity is a serious crime.^{xii}” The January 4, 2018, the U.S. Department of Justice issued a memo to all federal prosecutors reiterating the illegality of such materials and the criminal penalties associated therewith.^{xiii}

The U.S. Food and Drug Administration (FDA) continues to ban the use of CBD in food products and restrict its use as a dietary supplement.^{xiv} Based “on the evidence, FDA has concluded that THC and CBD products are excluded from the dietary supplement definition under sections 201(ff)(3)(B)(i) and (ii) of the FD&C Act, respectively. Under those provisions, if a substance (such as THC or CBD) is an active ingredient in a drug product that has been approved...or has been authorized for investigation as a new drug for which substantial clinical investigations have been instituted and for which the existence of such investigations has been made public, then products containing that substance are outside the definition of a dietary supplement. ...FDA is not aware of any evidence that would call into question its current conclusions that THC and CBD products are excluded from the dietary supplement definition under sections 201(ff)(3)(B)(i) and (ii) of the FD&C Act.^{xv}”

On December 20, 2018, the Agriculture Improvement Act of 2018 was signed into law. As part of the new regulations, hemp was removed from the Controlled Substances Act. The FDA has continuing jurisdiction to regulate hemp and marijuana products. Of critical importance in this new area of regulation, “...the FDA requires a cannabis product (hemp-derived or otherwise) that is marketed with a claim of therapeutic benefit, or with any other disease claim, to be

approved by the FDA for its intended use before it may be introduced into interstate commerce.^{xvi}

Where does that leave you?

The OBCE has, thus far, declined to make any rules regarding CBD or product derived from marijuana. There are numerous regulatory bodies making changes to the existing law that leave this an unsettled matter, resulting in a regulatory landscape that would make it impractical for the Board to offer conclusive advice. The Board's current rules, specifically clinical justification^{xvii}, more than cover this rapidly developing area. We urge any doctor considering the use or recommendation of these products to consult the clinical justification rule and reflect on their use of any substance, supplement, or treatment, whether generally available or OTC, specifically:

What is that substance used to treat?

Is it generally accepted as a treatment for that condition?

Is there relevant medical research and literature to support that position?

What are the potential side effects of the substance, including possible medication interactions?

What's the proper dosing of that substance for the condition being treated?

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ⁱ ORS 571.339

ⁱⁱ ORS 571.330

ⁱⁱⁱ ORS 571.339

^{iv} ORS 475B.227

^v Iffland, Kerstin and Franjo Grotenhermen. "An Update on Safety and Side Effects of Cannabidiol: A Review of Clinical Data and Relevant Animal Studies" *Cannabis and cannabinoid research* vol. 2,1 139-154. 1 Jun. 2017, doi:10.1089/can.2016.0034

^{vi} Dennis Thompson, *CBD Oil: All the Rage, But Is It Safe & Effective?*, (May 7, 2018)

<https://www.webmd.com/pain-management/news/20180507/cbd-oil-all-the-rage-but-is-it-safe-effective#1> (Last visited December 14, 2018)

^{vii} Bergamaschi MM, Queiroz RH, Zuardi AW, et al. Safety and side effects of cannabidiol, a Cannabis sativa constituent. *Curr Drug Saf.* 2011;6:237-249

^{viii} Iffland, Kerstin and Franjo Grotenhermen. "An Update on Safety and Side Effects of Cannabidiol: A Review of Clinical Data and Relevant Animal Studies"

^{ix} Mateus Machado Bergamaschi, Regina Helena Costa Queiroz, Antonio Waldo Zuardi and Jose Alexandre S. Crippa, "Safety and Side Effects of Cannabidiol, a Cannabis sativa Constituent", *Current Drug Safety* (2011) 6: 237.

^x *Id.*

^{xi} Crippa, José A et al. "Translational Investigation of the Therapeutic Potential of Cannabidiol (CBD): Toward a New Age" *Frontiers in immunology* vol. 9 2009. 21 Sep. 2018, doi:10.3389/fimmu.2018.02009

^{xii} Memorandum for All United States Attorney's, Attorney General Jefferson B. Sessions, January 4, 2018.

^{xiii} *Id.*, and 21 U.S.C. § 801 et seq

^{xiv} *FDA and Marijuana: Questions and Answers*,

https://www.fda.gov/newsevents/publichealthfocus/ucm421168.htm#dietary_supplements (last visited December 26, 2018)

^{xv} *Id.*

^{xvi} Statement from FDA Commissioner Scott Gottlieb, M.D., on signing the Agriculture Improvement Act of and the agency's regulation of products containing cannabis and cannabis-derived compounds,

<https://www.fda.gov/NewsEvents/Newsroom/PressAnnouncements/ucm628988.htm> (last visited December 26, 2018)

^{xvii} OAR 811-015-0010