

## Cannabis and Industrial Hemp FAQ

May, 2021

**NOTICE: This is an informational document and does not recommend that veterinarians incorporate cannabis or industrial hemp products into their practices.**

Q: What is cannabis?

A: According to the [California Health and Safety Code section 11018](#): “Cannabis” means all parts of the plant *Cannabis sativa* L., whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. It does not include either of the following:

- (a) Industrial hemp, as defined in Section 11018.5.
- (b) The weight of any other ingredient combined with cannabis to prepare topical or oral administrations, food, drink, or other product.

[Title 21, section 802\(16\)](#) of the federal Controlled Substances Act supports the definition above: “The term ‘marihuana’ means all parts of the plant *Cannabis sativa* L., whether growing or not; the seeds thereof; the resin extracted from any part of such plant; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds or resin. Such term does not include the mature stalks of such plant, fiber produced from such stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture, or preparation of such mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of such plant which is incapable of germination.”

Q: What is industrial hemp?

A: [The California Health and Safety Code section 11018.5\(a\)](#) states, “Industrial hemp means a crop that is limited to types of the plant *Cannabis sativa* L. having no more than three-tenths of one percent tetrahydrocannabinol (THC) contained in the dried flowering tops, whether growing or not; the seeds of the plant; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin produced therefrom”.

[United States Code Title 7, Section 5940](#) defines Industrial Hemp as: “...the plant *Cannabis sativa* L. and any part of such plant, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis.”

Many of the CBD products (including CBD oil) marketed for use in animals are derived from industrial hemp.

Q: What is the major difference between cannabis and industrial hemp?

A: The main difference between cannabis and industrial hemp is the presence of tetrahydrocannabinol (THC), which is one of the main hallucinogenic compounds produced in higher concentrations in certain parts of the cannabis plant such as the flowering/ fertile seed producing heads (buds), leaves and resin. Industrial hemp contains no more than three-tenths of one percent THC and is commonly derived from the stalks of plants or male plants with sterilized seeds.

Q: What does federal law permit veterinarians to do in relation to cannabis?

A: The [Federal Drug Enforcement Administration](#) (DEA) also has enforcement authority over federal controlled substance regulations, independent of state law. According to the DEA, marijuana, tetrahydrocannabinol (THC), and several other cannabinoids, both natural and synthetic, are still classified as Schedule I controlled substances. The DEA defines any part of the cannabis plant containing THC as being included in the Schedule I classification. By definition, Schedule I controlled substances have a high potential for diversion and no demonstrated beneficial medicinal use. The DEA does not grant Schedule I clearance to health care practitioners (which includes veterinarians). Therefore, the DEA does not give veterinarians the authority to possess, administer, dispense, prescribe, or recommend cannabis or cannabinoid products containing more than 0.3% THC. The only exception is for the extralabel use of FDA-approved, non-schedule I cannabis drugs such as Epidiolex or Dronabinol (marinol). As DEA registrants, veterinarians agree to abide by the [Code of Federal Regulations](#) pertaining to controlled substances. Violation of this agreement could subject veterinarians to DEA investigation and possible prosecution.

Even though the changes to the law removed hemp products containing less than 0.3% of THC from being subject to the Controlled Substances Act, these products expressly remain subject to the Federal Food, Drug and Cosmetic Act (FFDCA). Under the FFDCA, any product used to diagnose, cure, mitigate, treat, or prevent disease in animals is a drug that requires FDA approval. Further, such a drug is deemed unsafe for any particular use or intended use in an animal that is not part of the approved labeling. The exception is the Extra-Label use of drugs under the regulations promulgated as part of the Animal Medicinal Use Clarification Act (AMDCUCA), which allow veterinarians to utilize FDA-approved drugs in a manner inconsistent with their labeling under certain conditions. There is an approved human drug product containing CBD that can be utilized under AMDUCA. FDA is currently working through a process to determine how they will apply their authority under the FFDCA to all of the hemp and CBD products currently available on the market. FDA has also indicated that the sale of any CBD or hemp product in food or as a dietary supplement is not legal. At this time it is unclear as to what FDA's final policy in this area will look like, as they have broad authority to exercise enforcement discretion. In the meantime, veterinarians should exercise caution and understand the legal status of any hemp or CBD products utilized for therapeutic purposes.

Q: What does California law permit veterinarians to do in relation to cannabis?

A: [AB-2215](#) (Kalra) was signed into law in 2018, which prohibits the Veterinary Medical Board (VMB) from disciplining, denying, revoking, or suspending the license of a veterinarian solely for discussing the use of cannabis on an animal for medicinal purposes, absent negligence or incompetence.

The bill also stipulates a number of new legal violations for veterinarians regarding cannabis, which clarifies the VMBs jurisdiction over veterinarians in regard to cannabis and cannabis products. It authorizes the VMB to:

- revoke or suspend a veterinarian license, or to assess a fine, for accepting, soliciting, or offering any form of remuneration from or to a Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA) licensee if the veterinarian or his or her immediate family has a financial interest, as defined, with the MAUCRSA licensee.
- revoke or suspend a veterinarian license, or to assess a fine, for discussing medicinal cannabis with a client while the veterinarian is employed by, or has an agreement with, a MAUCRSA licensee.
- revoke or suspend a license, or to assess a fine, for distributing any form of advertising for cannabis in California.
- prohibit a licensed veterinarian from dispensing or administering cannabis or cannabis products to an animal patient.

The law requires the Veterinary Medical Board (VMB) to adopt veterinary guidelines on cannabis discussion and to make them available on or before January 1, 2020.

Q: What does federal law permit veterinarians to do in relation to industrial hemp?

A: The DEA does not oversee industrial hemp products because industrial hemp is not classified as a controlled substance. Here is a statement from the federal Drug Enforcement Administration (DEA):

*“Products and materials that are made from the cannabis plant and which fall outside the CSA definition of marijuana (such as sterilized seeds, oil or cake made from the seeds, and mature stalks) are not controlled under the CSA. Such products may accordingly be sold and otherwise distributed throughout the United States without restriction under the CSA or its implementing regulations. The mere presence of cannabinoids is not itself dispositive as to whether a substance is within the scope of the CSA; the dispositive question is whether the substance falls within the CSA definition of marijuana”* [meaning: containing THC].

However, the Federal Food and Drug Administration (FDA) has jurisdictional and enforcement authority through the federal Food, Drug, and Cosmetic Act (FDCA, codified at [21 USC § 301](#) et seq. with implementing regulations at [21 CFR § 1.1](#) et seq.) to regulate products containing cannabis or cannabis-derived compounds for use as drugs or food. This means these products and the manufacturers of them are subject to meeting the same requirements as FDA-regulated products containing any other substance. This is true whether or not the cannabis or cannabis-derived products are classified as 'hemp' or not.

'Drugs' are defined under the FDCA as "articles intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals; and articles (other than food) intended to affect the structure or any function of the body of man or other animals." 'Food' is defined as “articles used for food or drink for man or other animals.” When it comes to its use as therapeutic agents and their inclusion in animal food or feed, the FDA has indicated that CBD products derived from industrial hemp are considered to be drugs pursuant to the definition of “drugs” above.

Veterinarians who administer, dispense, prescribe, or recommend products with the intent to prevent, mitigate, treat, or cure a disease or condition are utilizing the products as drugs. Products for animals for which therapeutic claims are made that have not been evaluated and approved by the FDA are considered to be unapproved animal drugs. Unapproved animal drugs are considered to be "unsafe" under the FDCA, because they have not been shown to meet FDA standards for safety and efficacy for their intended use.

There are currently no approved animal drugs derived from cannabis, including industrial hemp products. The manufacture and marketing/sales of drugs in interstate commerce that have not been FDA approved is a violation of federal law.

Q: What does California law permit veterinarians to do in relation to industrial hemp?

A: State law does not restrict the use of industrial hemp products because they are not classified as controlled substances. Here is a statement from the VMB:

*“Under federal and state law (21 USCA § 802(16) and Cal. Health & Saf. Code, § 11018.5), industrial hemp is not a controlled substance regulated under the Uniform Controlled Substance Acts and is not regulated under the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA) (BPC, § 26000 et seq.). Rather, industrial hemp is regulated by the federal Department of Agriculture and the California Department of Food and Agriculture (7 USCA § 1639o; Cal. Food & Agr. Code, § 81000). Thus, if a veterinarian prescribes, dispenses, furnishes, or recommends the use of industrial hemp on an animal patient, the veterinarian would not be subject to the statutory provisions regarding cannabis but would be subject to the provisions of the Veterinary Medicine Practice Act applicable to diagnosing, prescribing, or administering a drug, medicine, appliance, application, or treatment of whatever nature for the prevention, cure, or relief of a wound, fracture, bodily injury, or disease of animals (Bus. & Prof. Code, § 4826, subs. (b), (c)).”*

Q: How do I know what is in an industrial hemp product?

A: Industrial hemp products are not tested and approved by the FDA. Laboratory analyses of products may indicate purity, THC concentration, and the presence of contaminants such as heavy metals or pesticides. Hemp/cannabis testing labs are stringently regulated in [California by the California Bureau of Cannabis Control](#) (BCC). To search for a licensed laboratory on the BCC website, visit [here](#).