

State of Louisiana  
Office of Alcohol and Tobacco Control

John Bel Edwards  
Governor



Juana Marine-Lombard  
Commissioner

March 21, 2019

**CBD ADVISORY NOTICE**  
Post Release of Louisiana Pharmacy Board Guidance Document

To All:

As previously disclosed by the agency in its February 8, 2019 *Notice Regarding CBD and the Agricultural Act of 2018*, the *Agriculture Act of 2018* (attached) conflicts with Louisiana law because it legalizes the production of hemp products which to some extent have been defined or clarified as a strain of marijuana plant that contains less than .3% THC. However, Louisiana law prohibits any product to contain any level or trace amount of THC. Furthermore, the Louisiana Board of Pharmacy has issued guidance its *Guidance Document re Cannabidiol (CBD) Oil* (attached) that any product extracted from a marijuana plant is classified as a schedule I under the Louisiana Controlled Dangerous Substance Law.

The Louisiana Drug Policy Board is currently reviewing both laws and is expected to issue an opinion soon. Additionally, the agency is awaiting an opinion by the Louisiana Attorney General on the possible conflict between federal and state law. While the agency awaits the decision of the Louisiana Drug Policy Board and the opinion of the Louisiana Attorney General, ATC agents will be issuing citations to any retail permit holders who offer CBD products which appear on the agency's banned list and, ordering the removal of all CBD products from the licensed premises. Additionally, the agency will continue to process pending CBD store applications, but will not issue any permits to CBD stores until said opinions are received.

Should you have any questions regarding same, please do not hesitate to contact our office.

Thanking you in advance, I remain,

A handwritten signature in cursive script, appearing to read "Juana Marine-Lombard".

Juana Marine-Lombard, Commissioner  
Louisiana Office of Alcohol and Tobacco Control



# Louisiana Board of Pharmacy

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Baton Rouge, Louisiana 70809-1700  
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*During their November 14, 2018 meeting, the Board approved the following guidance document for the benefit of its licensees, particularly those holding state controlled substance (CDS) licenses and federal registrations from the U.S. Drug Enforcement Administration (DEA).*

## Guidance Document re Cannabidiol (CBD) Oil

The Board continues to receive questions about cannabidiol (CBD) oil, derived from hemp or derived from marijuana. Act 261 of the 2015 Legislature, which established the state medical marijuana program, made no exception for possession or sale of CBD oil. Louisiana's controlled substance law includes CBD oil in the definition of marijuana.

All marijuana products shall comply with the rules adopted for the state medical marijuana program; they must have a known source as well as known quantities of active ingredients. Further, they may only be dispensed by marijuana pharmacies licensed by the Board of Pharmacy.

Since marijuana is listed in Schedule I of the state's list of controlled substances, no one, including board licensees, may possess or sell CBD oil. Violations of the Louisiana Revised Statutes or Louisiana Administrative Code can subject a person to criminal and/or administrative action.

### *Frequently Asked Questions re CBD Oil*

#### **1. Is CBD (cannabidiol) oil legal under Louisiana law?**

No. The Louisiana Controlled Dangerous Substances Law defines marijuana as: *"all parts of plants of the genus Cannabis, 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, but shall 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, or cannabidiol when contained in a drug product approved by the United States Food and Drug Administration."* CBD is a compound of marijuana and therefore is considered marijuana under Louisiana law. Marijuana is listed in Schedule I of the state controlled substance list. There is no lawful possession of a substance listed in Schedule I, except for the marijuana products authorized in the state medical marijuana program.

#### **2. Is CBD oil legal under federal law?**

No. CBD is considered marijuana under federal law. Section 21 U.S.C. 812 of the Controlled Substances Act [CSA] establishes marijuana as a Schedule I substance.

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*NOTICE: In compliance with Act 2018-655, the Board gives notice to its licensees and applicants of their opportunity to file a complaint about board actions or board procedures. You may submit such complaints to one or more of the following organizations: (1) Louisiana Board of Pharmacy; 3388 Brentwood Dr.; Baton Rouge, LA 70809; 225.925.6496; [info@pharmacy.la.gov](mailto:info@pharmacy.la.gov). (2) Committee on House & Governmental Affairs; La. House of Representatives; PO Box 44486; Baton Rouge, LA 70804; 225.342.2403; [h&ga@legis.la.gov](mailto:h&ga@legis.la.gov). (3) Committee on Senate & Governmental Affairs; La. Senate; PO Box 94183; Baton Rouge, LA 70804; 225.342.9845; [s&g@legis.la.gov](mailto:s&g@legis.la.gov).*

The federal Drug Enforcement Administration (DEA) cites scientific literature [*J. Anal. Toxic.*, Vol. 24, 715-717 (2000)] in its guidance that cannabinoids such as CBD are “found in the parts of the cannabis plant that fall within the CSA definition of marijuana.” Therefore, CBD oil is considered marijuana and a Schedule I substance under federal law.

**3. Is CBD extracted from hemp legal under Louisiana law?**

No. Louisiana law does not make a distinction between CBD extracted from hemp and CBD extracted from marijuana. CBD is a compound of marijuana and therefore is considered marijuana under Louisiana law.

**4. Does the State of Louisiana have a hemp program?**

At this time, the State of Louisiana does not have a hemp program.

**5. Is CBD extracted from hemp legal under federal law? And how do I know if CBD/hemp oil has been extracted from an illegal part of the Cannabis plant?**

The DEA cites scientific literature [*J. Anal. Toxic.*, Vol. 24, 715-717 (2000)] in its guidance, which states in part:

*“Cannabinoids are not found in the parts of the cannabis plant that are excluded from the CSA definition of marijuana, except for trace amounts (typically, only parts per million) that may be found where small quantities of resin adhere to the surface of seeds and mature stalk.*

*Thus, based on the scientific literature, it is not practical to produce extracts that contain more than trace amounts of cannabinoids using only the parts of the cannabis plant that are excluded from the CSA definition of marijuana, such as oil from the seeds. The industrial processes used to clean cannabis seeds and produce seed oil would likely further diminish any trace amounts of cannabinoids that end up in the finished product.”*

**6. Can I or my business sell CBD oil products?**

No. CBD oil, whether derived from hemp or marijuana, is listed in Schedule I of the state’s list of controlled substances. There is no lawful possession of a substance listed in Schedule I, except for the marijuana products authorized in the state medical marijuana program.

**7. What are the consequences for selling CBD oil?**

Violations of the Louisiana Revised Statutes or Louisiana Administrative Code can subject a person to criminal and/or administrative action.

**8. How does the Board of Pharmacy intend to enforce this guidance statement?**

The Board’s efforts at this time are educational. In the event licensees continue to sell CBD oil despite having accurate guidance information, the Board may reassess its compliance methodology.

**9. How is a DEA licensee allowed to dispense Marinol and Epidiolex?**

Marinol and Epidiolex have been approved by the federal Food & Drug Administration (FDA) as prescription drug products, and further, have been scheduled by the DEA in other controlled substance schedules used for prescription drug products [Schedule II for the Marinol product in aqueous formulation, Schedule III for the Marinol product in oil formulation, and Schedule V for the Epidiolex product].

# State of Louisiana

Office of Alcohol and Tobacco Control



JOHN BEL EDWARDS  
GOVERNOR

JUANA MARIE-LOMBARD  
COMMISSIONER

February 8, 2019

## NOTICE REGARDING CBD AND THE AGRICULTURAL IMPROVEMENT ACT OF 2018

On December 20, 2018, the President signed H.R. 2, the Agricultural Improvement Act of 2018, known more commonly as the 2018 Farm Bill, into law. The \$867-billion agricultural legislation effectively removed hemp from the list of controlled substances and allows states to regulate its production, commerce and research with approval from the USDA.

A provision in Section 12619 of the bill removed hemp from the definition of "marihuana" with hemp being defined as marijuana that contains no more than 0.3 percent (three-tenths of one percent) tetrahydrocannabinol, or THC for short. This federal act may be in conflict with State Law, specifically Louisiana's Uniform Controlled Dangerous Substances Law (La. R.S. 40:961 et seq.) and the Louisiana Drug Policy Board is currently reviewing both laws and will issue an opinion soon.

While the Agency awaits the decision of the Louisiana Drug Policy Board, it will not issue any permits to CBD stores and the Agency's most recent January 10, 2019 *5<sup>th</sup> Updated List of Banned Substances and Wholesalers who are Selling Illegal Products* remains in full effect for all permit holders. Should you have any questions regarding same, please do not hesitate to contact our office.

Thanking you in advance, I remain,

A handwritten signature in cursive script, appearing to read "Juana Marie-Lombard".

Juana Marine-Lombard, Commissioner  
Louisiana Office of Alcohol and Tobacco Control