



MEMORANDUM

DATE	July 7, 2022
TO	Veterinary Medical Board (Board)
FROM	Richard Sullivan, DVM, Chair Multidisciplinary Advisory Committee (MDC)
SUBJECT	Agenda Item 5.B. Recommendation Regarding Board Guidelines for Veterinarian Discussion of Cannabis Within Veterinarian-Client-Patient Relationship

Background

During the January 2022 Board meeting, the Board was provided a written request from former MDC Member, Jeff Pollard, DVM, to consider updating the Board's [Guidelines for Veterinarian Discussion of Cannabis Within the Veterinarian-Client-Patient Relationship](#) (Guidelines) to reflect the present use and current legislation regarding cannabis products (attached). The Board requested the MDC review the request and bring recommendations back to the Board at a future meeting. MDC Chair Richard Sullivan, DVM, and Christina Bradbury, DVM, formed the Cannabis Subcommittee (Subcommittee) to complete this task.

Subcommittee Research

Medical cannabis has a long history in California in human medicine with the Compassionate Use Act in 1996, which was passed via Proposition 215. The legality of the Compassionate Use Act was litigated in *Conant v. McCaffrey* (1997) 172 F.R.D. 681, and affirmed in 2002 by the United States Court of Appeals for the Ninth Circuit in *Conant v. Walters* (2002) 309 F.3d 629. In *Conant v. McCaffrey*, the court had the dilemma of resolving the Medical Oath, which states that it is the moral and ethical duty of a physician to prevent pain and suffering versus the fact that marijuana was a Schedule I drug and prohibited from use under any circumstances. In the *Conant v. Walters* appeal of the permanent injunction issued in *Conant v. Walters*, the court resolved this dilemma by saying that a physician's license could not be disciplined for the sole fact of recommending marijuana, but they could not prescribe, dispense, or administer the drug.

In the concurrence appendix of *Conant v. Walters*, the following was written:

From 1978 to 1992, the federal government conducted its own medical marijuana program. Today, the government continues to supply individuals who participated in this program with marijuana under its Compassionate Care program; they are among the few people in the country who can use the drug legally." Four people in this program with various medical conditions participated in an amicus brief in support of the plaintiffs. (*Conant v. Walters* (2002) 309 F.3d 629, 648.)

In 2018, Assembly Bill (AB) 2215 (Kalra, Chapter 819, Statutes of 2018) was passed by the California State Legislature and allowed veterinarians to “discuss” with clients the use of cannabis on an animal patient for medicinal purposes without the risk of disciplinary action but did not allow veterinarians to prescribe, dispense, or administer the drug.

Then came the federal Agriculture Improvement Act of 2018, also known as the Farm Bill of 2018, which removed hemp, defined as cannabis (*Cannabis sativa L.*) and derivatives of cannabis with extremely low concentrations of the psychoactive compound delta-9-tetrahydrocannabinol (THC) (no more than 0.3 percent THC on a dry weight basis), from being classified as a Schedule I drug under the federal Controlled Substances Act. Hemp seed products that do not naturally contain cannabidiol (CBD) or THC can be legally used in food products and are regulated by the federal Food and Drug Administration. However, the Federal Food, Drug, and Cosmetic Act does not allow food products that contain an added substance that is an active ingredient in an approved drug or a substance for which substantial clinical investigations have been instituted and for which the existence of such investigations has been made public. (21 USC § 331(II).) The FDA has concluded that it is a prohibited act to introduce or deliver for introduction into interstate commerce any food, including hemp products, containing THC or CBD. (U.S. Food & Drug Administration, *FDA Regulation of Cannabis and Cannabis-Derived Products, Including Cannabidiol (CBD)*, <https://www.fda.gov/news-events/public-health-focus/fda-regulation-cannabis-and-cannabis-derived-products-including-cannabidiol-cbd#food> [as of Mar. 29, 2022].)

California has since enacted AB 45 (Aguiar-Curry, Chapter 576, Statutes of 2021), which allows hemp CBD products to be added to pet foods.

This year, AB [1885](#) (Kalra, 2022) was introduced and is still moving through the California State Legislature. If enacted, AB 1885 would prohibit the Board from disciplining a Board licensed veterinarian for discussing or recommending the use of cannabis on an animal for potential therapeutic effect or health supplementation purposes. The bill also would require the Board, by January 1, 2024, to adopt guidelines for veterinarians to follow when recommending cannabis within the veterinarian-client-patient relationship and post those guidelines on the Board’s website.

During the Board’s January 19-20, 2022 meeting, the Board asked the MDC to update the cannabis Guidelines to specifically allow veterinarians to recommend and administer hemp derived products.

Subcommittee Recommendation

After reviewing the history of this issue and reading the material supplied, including the relevant laws, the Subcommittee made the following recommendations to the MDC.

1. Since hemp CBD is an over-the-counter (OTC) product, there is no need or legal precedent requiring the Board to establish guidelines for it. If a client files a complaint against a licensee about a recommendation for the use of a hemp CBD product, the Board will approach the case as it would any other OTC product.
2. The Subcommittee reviewed AB [1885](#), which is still moving through the California State Legislature, and believes that it is premature to write guidelines related to this

bill. The bill also states that if passed, the Board has until January 21, 2024, to write guidelines.

Therefore, it was the recommendation of the Subcommittee that currently there is no need for the MDC, or subsequently the Board, to do anything.

During the April 2022 MDC meeting, the MDC agreed with the Subcommittee and passed a motion to recommend the Board *not* update its Guidelines at this time to include guidelines for hemp CBD products.

Action Requested

Given the MDC's recommendation that the Board should not update its Guidelines at this time, there is no action requested.