



# MEMORANDUM

<b>DATE</b>	January 30, 2020
<b>TO</b>	Veterinary Medical Board
<b>FROM</b>	Jessica Sieferman, Executive Officer
<b>SUBJECT</b>	<b>Agenda Item 8. Update, Discussion, and Possible Action on the Board’s Guidelines for Veterinarian Discussion of Cannabis Within the Veterinarian-Client-Patient Relationship</b>

## Background

[Assembly Bill \(AB\) 2215](#) (Kalra, Chapter 819, Statutes of 2018) established provisions under the Veterinary Medicine Practice Act for veterinarian discussion of the use of cannabis on an animal for medicinal purposes. AB 2215 required the Veterinary Medical Board (Board) to adopt guidelines for veterinarians to follow when discussing cannabis within the veterinarian-client-patient relationship (VCPR) (Guidelines). During several public meetings, the Board’s Multidisciplinary Advisory Committee (MDC) developed the Guidelines, which were discussed and adopted by the Board at its October 2019 Board meeting.

The Guidelines are meant to serve the veterinary community and provide clarification as to the statutory ability of a veterinarian to discuss cannabis within the confines of a VCPR and the conflicts of interest provisions of AB 2215. The Board reiterated in the Guidelines the importance of establishing a VCPR prior to discussing cannabis use on animal patients and the requirements for patient evaluation and record keeping. The Board also provided advice about potential risks of the medical use of cannabis.

The Guidelines note that AB 2215 does not pertain to industrial hemp products. At stakeholder request, the Board clarified in the Guidelines the different laws applicable to administering, dispensing, furnishing, recommending, or discussing industrial hemp, which is not tested or regulated in the same manner as cannabis.

## Update

The Guidelines were posted to the Board’s [website](#) on November 15, 2019. Shortly thereafter, a stakeholder requested that the Board clarify the Guidelines “to make them consistent with federal law.” Specifically, it was requested that the Board remove the following words in the last sentence of the Guidelines: “and should only do so after the industrial hemp product has been approved by the FDA for use in animals.”

Notably, AB 2215 did not require the Board to provide any distinctions between cannabis and industrial hemp. Rather, the Board included the Industrial Hemp provision in the Guidelines at the request of stakeholders for clarity. Further, the provision in question was added to address a

concern raised by the California Veterinary Medical Association (CVMA) at the October 8, 2019 MDC meeting about the use of industrial hemp to treat animal patients and the need to provide a sufficient statement to veterinarians about the safe and lawful use of industrial hemp.

To address the latest concern, the Board could revise the Industrial Hemp provision in the Guidelines to remove from the second paragraph the phrase as requested. To maintain CVMA's request for clarity regarding the safe and lawful use of industrial hemp, two sentences contained in the first paragraph could be moved to the second paragraph, so that all statements regarding the safe use of industrial hemp are maintained in the second paragraph. The second paragraph could also remind veterinarians of the definition of a "drug" as applied to industrial hemp. The proposed revisions are attached hereto for your review.

**Action Requested**

Please review, discuss, and determine whether to adopt the attached proposed revisions to the Guidelines.

**Attachments**

1. Proposed Revisions to the Board's "Guidelines for Veterinarian Discussion of Cannabis Within the Veterinarian-Client-Patient Relationship"

State of California  
Department of Consumer Affairs  
Veterinary Medical Board's  
**Guidelines for Veterinarian Discussion of Cannabis  
Within the Veterinarian-Client-Patient Relationship**  
Effective January 1, 2020

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**PREAMBLE**

Pursuant to Business and Professions Code (BPC) section 4884, subdivision (b), a California licensed veterinarian will not be disciplined by the Veterinary Medical Board (VMB) solely for discussing the use of cannabis in an animal for medicinal purposes. As required by statute, the Board has developed these guidelines for veterinarians to follow when discussing cannabis within the veterinarian-client-patient relationship (VCPR).<sup>1</sup>

**BACKGROUND**

On September 27, 2018, California Governor Edmund G. Brown, Jr. signed into law AB 2215 (Kalra, Chapter 819, Statutes of 2018). AB 2215 became effective January 1, 2019. This bill amends section 4883 of, and adds section 4884 to, the BPC, relating to veterinarians.

The bill prohibits the VMB from disciplining, or denying, revoking, or suspending the license of, a licensed veterinarian solely for discussing the use of cannabis on an animal for medicinal purposes, absent negligence or incompetence. The bill also prohibits a veterinarian from dispensing or administering cannabis or cannabis products. The bill does not pertain to industrial hemp.

Under both the federal Controlled Substances Act (CSA)<sup>2</sup> and the California Uniform Controlled Substances Act (CUCSA)<sup>3</sup>, cannabis is listed as a Schedule I drug, characterized as having a high potential for abuse, have no currently accepted medical use in treatment in the United States, and lack accepted safety for use under medical supervision. A veterinarian is prohibited from prescribing a Schedule I drug.

**GUIDELINES**

The VMB has adopted the following guidelines for the discussion with veterinary clients of cannabis within the VCPR.

**Veterinarian-Client-Patient Relationship:** The VCPR is fundamental to the provision of acceptable veterinary medical care. The veterinarian should document that an appropriate VCPR is established prior to discussions of cannabis with the animal owner client.<sup>4</sup>

**Patient Evaluation and Record Keeping:** A documented physical examination and collection of relevant clinical history is required. This history should include both subjective and objective data and must be obtained prior to discussion of cannabis for a medical purpose. Medical records must meet the accepted minimum requirements for record keeping as defined by the Veterinary Medicine Practice Act.<sup>5</sup>

Documentation of discussions should include the indication and safety of the use of cannabis. The discussions should be evaluated in accordance with accepted standards of practice as they evolve over time. This documentation may include advice about potential risks of the medical use of cannabis, including, but not limited to, the following:

The variability of quality, source, safety, and testing of cannabis products (pesticide contamination, potentially harmful co-ingredients, e.g., xylitol, chocolate, butter).

No federal or state agency oversees standardization of animal cannabis product concentrations.

Research to-date is lacking conclusions regarding dose, toxicity, and efficacy.

The side effects and signs of overdose or toxicity (e.g., ataxia, depression, vomiting, urinary incontinence, bradycardia, hyperthermia, tremors, anorexia, adipsia, hypothermia, seizure, stupor, tachycardia, weakness).

Safeguarding of cannabis products from other pets and human exposures.

Use in service animals that may place human handler safety in jeopardy.

Possible interactions with other treatments and prescribed medications.

Reminder to the client that cannabis is not being recommended or prescribed by the veterinarian.

The importance of periodic re-evaluation of the patient in accordance with good veterinary practice.

**Conflicts of Interest:** A veterinarian, registered veterinary technician (RVT), or veterinary assistant controlled substance permit (VACSP) holder may be disciplined for the offer, delivery, receipt, or acceptance of any rebate, refund, commission, preference, patronage dividend, discount, or other consideration as compensation or inducement for referring patients, clients, or customers to a cannabis licensee.<sup>6</sup> In addition, the Board is authorized to discipline a veterinarian who accepts, solicits, or offers any form of remuneration from or to a cannabis licensee<sup>7</sup> if the veterinarian or his or her immediate family have a financial interest with the cannabis licensee.<sup>8</sup> “Financial interest” includes, but is not limited to, any type of ownership interest, debt, loan, lease compensation, remuneration, discount, rebate, refund, dividend, distribution, subsidy, or other form of direct or indirect payment, whether in money or otherwise, between a licensee and a person or entity to whom the licensee refers a person for a good or service.<sup>9</sup> Further, discussing medicinal cannabis with a client while the veterinarian is employed by, or has an agreement with, a cannabis licensee is prohibited.<sup>10</sup>

Thus, a veterinarian should not have a professional office located at a dispensary or cultivation center or receive financial compensation from or hold a financial interest in a cannabis licensee. Nor should the veterinarian be a director, officer, member, principal, employee, or a retailer of a cannabis product. A cannabis licensee may not directly or indirectly employ a veterinarian to discuss cannabis with clients.

**Advertising:** The Board is authorized to discipline a veterinarian, RVT, or VACSP holder if he or she distributes any form of advertising for cannabis in California.<sup>11</sup>

**Industrial Hemp:** Under federal and state law,<sup>12</sup> 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).<sup>13</sup> Rather, industrial hemp is regulated by the federal Department of Agriculture and the California Department of Food and Agriculture.<sup>14</sup> ~~Further, the federal Food and Drug Administration has not approved the use of industrial hemp products for treatment in animals.~~ Thus, if a veterinarian administers, dispenses, furnishes, recommends, or discusses the use of industrial hemp in 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.<sup>15</sup> ~~In addition, a veterinarian who manufactures, markets, or sells drugs not approved by the FDA is in violation of federal law.~~

Industrial hemp is not tested or regulated in the same manner as cannabis, so the veterinarian should use caution when administering, dispensing, furnishing, recommending, or discussing industrial hemp and ensure the product to be used is industrial hemp and not cannabis. ~~and should only do so after the industrial hemp product has been approved by the FDA for use in animals. Further, any industrial hemp product intended for use in the diagnosis, cure, mitigation, treatment, or prevention of a disease or intended to affect the structure or any function of the body of an animal is a drug.~~<sup>16</sup> There are no FDA-approved drugs containing industrial hemp for use in animals. A veterinarian who manufactures, markets, or sells drugs not approved by the FDA is in violation of federal law.<sup>17</sup>

## Definitions, Abbreviations, Acronyms

**California Uniform Controlled Substances Act (CUCSA)** – regulates the manufacture, importation, possession, use, and distribution of certain substances. (Cal. Health & Saf. Code, § 11000 et seq.)

**Cannabis** – 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. (Cal Health & Saf. Code, § 11018.)

**CBD** – abbreviation for Cannabidiol, which is one out of 60 naturally occurring compounds present in cannabis. It is the second most prevalent cannabinoid in both hemp and marijuana and is non-psychoactive. CBD oil is mostly extracted from hemp and not marijuana. When extracted from hemp, this type of extract has less than 0.3% of THC.

**CSA** – The federal Controlled Substances Act (21 USCA § 801 et seq.).

**Dronabinol, Marinol, Nabilone** – synthetic cannabinoids.

**Epidiolex** – CBD product approved in June 2018 by the U.S. Food and Drug Administration (FDA) for controlling seizures in people with difficult-to-treat childhood-onset epilepsy.

**Industrial Hemp** – (a) Industrial hemp means a crop that is limited to types of the plant *Cannabis sativa* L. having no more than three-tenths of 1 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. (b) Industrial hemp shall not be subject to the provisions of this division or of Division 10 (commencing with Section 26000) of the Business and Professions Code, but instead shall be regulated by the Department of Food and Agriculture in accordance with the provisions of Division 24 (commencing with Section 81000) of the Food and Agriculture Code, inclusive. (Cal Health & Saf. Code, § 11018.5.)

**Marijuana** – (A) Subject to subparagraph (B), the term “marijuana” 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.

(B) The term “marijuana” does not include:

- (i) hemp, as defined in section 297A of the Agricultural Marketing Act of 1946 [7 USCS § 1639o]; or
- (ii) 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. [21 USCS § 802]

**Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA) –**

establishes a comprehensive system to control and regulate the cultivation, distribution, transport, storage, manufacturing, processing, and sale of both of the following:

- (1) Medicinal cannabis and medicinal cannabis products for patients with valid physician’s recommendations.
- (2) Adult-use cannabis and adult-use cannabis products for adults 21 years of age and over. MAUCRSA also defines the power and duties of the state agencies responsible for controlling and regulating the commercial medicinal and adult-use cannabis industry. (BPC §, 26000 et seq.)

**Oils** – Cannabis oil, whether CBD, THC, or both, is extracted from the flowers, leaves, and stalk mainly using different solvents. Hemp oil is made only from pressed seeds.

**Terpenes** – aromatic metabolites found in the oils of all plants (i.e., flavor or fragrance). Terpenes work together to modulate cannabinoids resulting in the so-called “entourage effect.” Terpenes have their own medical effects, for example, interacting with neurotransmitters.

**THC** – delta-9 tetrahydrocannabinol, the primary psychoactive ingredient in marijuana, is one of at least 113 cannabinoids identified in cannabis.

**Veterinarian-Client-Patient Relationship (VCPR)** – a fundamental provision to acceptable veterinary medical care. A VCPR shall be established by the following:

- (1) The client has authorized the veterinarian to assume responsibility for making medical judgments regarding the health of the animal, including the need for medical treatment,
- (2) The veterinarian has sufficient knowledge of the animal(s) to initiate at least a general or preliminary diagnosis of the medical condition of the animal(s). This means that the veterinarian is personally acquainted with the care of the animal(s) by virtue of an examination of the animal or by medically appropriate and timely visits to the premises where the animals are kept, and 3) The veterinarian has assumed responsibility for making medical judgments regarding the health of the animal and has communicated with the client a course of treatment appropriate to the circumstance. (CCR, tit. 16, § 2032.1.)

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<sup>1</sup> BPC, § 4884(c).

<sup>2</sup> 21 USCA § 801 et seq.

<sup>3</sup> Cal. Health & Saf. Code, § 11000 et seq.

<sup>4</sup> California Code of Regulations (CCR), title 16, section 2032.1, Veterinarian-Client-Patient Relationship.

<sup>5</sup> CCR, tit. 16, § 2032.3, Record Keeping; Records; Contents; Transfer.

<sup>6</sup> BPC, § 650 et seq.

<sup>7</sup> BPC, § 26001

<sup>8</sup> BPC, § 4883(p).

<sup>9</sup> BPC, § 650.01.

<sup>10</sup> BPC, § 4883(q).

<sup>11</sup> BPC, § 4883(r).

<sup>12</sup> 21 USCA § 802(16); and Cal. Health & Saf. Code, § 11018.5.

<sup>13</sup> BPC, § 26000 et seq.

<sup>14</sup> 7 USCA § 1639o; Cal. Food & Agr. Code, § 81000.

<sup>15</sup> BPC, § 4826(b), (c).

<sup>16</sup> 21 USCA § 321(g); BPC, § 4025.

<sup>17</sup> 21 USCA § 360b.