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Guidance Document for CBD Use on Companion Animals: United States

As recommended by the AAVSB Regulatory Policy Task Force in September 2021 and approved by the AAVSB Board of Directors in September 2021

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Introductory Report and Guidance

The American Association of Veterinary State Boards (AAVSB) provides programs and services to its Member Boards through many vehicles. One such mechanism is through the development and continued review of model documents and language, including model statutes and regulations/rules. This, of course, includes the AAVSB Practice Act Model (PAM). As a collective voice and with respect to the Jurisdiction's rights, the AAVSB promotes uniformity where appropriate and provides model language based upon the collective input and consensus achieved through AAVSB committee and task force efforts. The Regulatory Policy Task Force (RPTF) was originally asked to explore potential amendments to the PAM related to the use and/or recommendation of Cannabidiol (CBD) products in veterinary practice. After much research and due to the inconsistency between U.S. federal law and policy and jurisdiction laws along with the criminality aspects of the topic, the RPTF elected to submit this guidance document rather than to continue to explore proposed amendments to the PAM. The RPTF specifically notes that this topic remains fluid and will likely be ripe for model regulatory language in the future. But at this time, the Task Force deemed it to be prudent to provide guidance to its Member Boards on how to address questions from licensees about CBD products.

In a 2013 memo, the Department of Justice (DOJ) clearly stated that legalized marijuana sales remained illegal under federal law, but it advised federal prosecutors to make marijuana enforcement a low priority unless states failed to provide "robust" regulation by failing to prevent sales to minors and diversion to other states. While this memo had no legal binding force, and while marijuana remains illegal under federal law, numerous states responded by enacting legislation to legalize both medical and recreational marijuana. However, in 2018, and under a new administration, the Attorney General effectively rescinded the 2013 memo and reiterated that U.S. Attorneys must enforce federal law. That being said, it does not appear that the change in policy necessarily resulted in more criminal prosecutions.

Furthermore, a draft Senate bill introduced in late July 2021 (Cannabis Administration and Opportunity Act) follows a similar bill that passed the United States House of Representatives in December 2020. It proposes removing federal penalties for marijuana, expunging criminal records for nonviolent offenders of federal cannabis laws, earmarking funding for restorative justice programs, establishing tax rates for cannabis products and formally allowing states to decide whether to legalize marijuana, instilling great deference to the states.

In the meantime, marijuana has been either decriminalized or fully legalized for recreational use in nearly two dozen states and territories, and for medical use in a vast majority of jurisdictions. The state regulations differ from one another in many ways that represent a lack of consensus in how and when cannabis and cannabis products can be lawfully used both privately and in commerce. Each state's approach to this topic ranges from silence to marijuana remaining illegal, to medicinal control and regulation of the products, to complete legalization of both medicinal and recreational use under significant regulation of growth and distribution.

More specific to the charge of the RPTF, the Task Force members discussed and considered the need for model language related to the use and/or recommendation of CBD products in a veterinary practice. RPTF members, with the assistance of assigned AAVSB staff, undertook research and engaged in discussions related to CBD products.

CBD means Cannabidiol, a cannabinoid produced by the cannabis plant. CBD is produced both by hemp and marijuana plants and its legality is dependent on the THC content of the plant it was extracted from. In the U.S. Agriculture Improvement Act of 2018 (Farm Bill), industrial hemp was removed as a Schedule 1 drug. (Industrial) Hemp is federally defined in the United States as cannabis plants producing less than or equal to 0.3 percent tetrahydrocannabinol (THC).

The usual CBD formulation is oil, but CBD is also sold as an extract, a vaporized liquid and an oil-based capsule. Food, drinks, and beauty products are among the many CBD-infused products available online. CBD products are not approved by the Federal Food and Drug Administration (FDA) (with the exception of a prescription oil called Epidiolex approved for human use only). There is currently no drug containing CBD that has been approved by the FDA for animal use.

Federal laws passed in 2018 made it legal to sell hemp and hemp products in the United States. Thus, Hemp-derived CBD products with less than 0.3% THC are legal federally but still illegal under some state laws. On the other hand, Cannabis-derived CBD products are illegal federally but legal under some state laws. It is this difference between THC levels found in hemp and cannabis that has caused so many legal complications. The unregulated nature of CBD and lack of knowledge of its origins contributes to the uncertainty and conclusions of the RPTF.

While the purpose of the PAM and the development of model language generally is to provide leadership, promote uniformity, and instill best practices and language for the benefit of the AAVSB Member Boards and regulatory community, the uncertainty of the legal aspects of this topic was cause for concern for the Task Force. The patchwork of state-by-state approaches to marijuana resulted in the RPTF electing to file this guidance document, rather than recommend amendments to the AAVSB PAM. Task Force members agreed that with the Federal law prohibition and the inconsistent approaches by the states, recommended statutory and/or regulatory language is premature.

However, because many consumers are utilizing CBD products for their animals or asking Veterinarians about the efficacy of CBD products, the RPTF offers the following guidelines to clarify the role of a licensee when being questioned by consumers about CBD use:

Guidelines

When in the interest of fulfilling the statutory mandate of protecting health, safety and welfare of the public and its companion animals through the regulation of the practice of veterinary medicine, the following guidelines for the use of CBD products in the practice of veterinary medicine are provided. Licensees, clients, patients and the public must understand that these Guidelines are not legally binding and compliance with them is not a safe-harbor and does not necessarily constitute safe practice within applicable standards. Licensees must at all times adhere to the applicable standards of practice in their Jurisdiction. The intent of these Guidelines is to act as a resource for licensees and clients to refer to as a basis for the use of CBD products in a defined treatment plan.

1. A Veterinarian who prescribes, dispenses, or administers any CBD product not approved by the FDA shall inform the client of such and document in the medical record.
2. Veterinarian-client discussions regarding the use of CBD must be undertaken as part of a treatment plan documented in the medical record and within the veterinarian-client-patient-relationship (VCPR). All relevant treatment options must be considered as part of any discussion contemplating the use of CBD.
3. The Veterinarian should explain possible adverse effects, including the symptoms of an overdose or toxicity.
4. If a Veterinarian is recommending a specific CBD product it is the responsibility of the Veterinarian to verify that the product has been tested for safety and accuracy of the label and quality of the product being within allowable limits of contaminants, such as pesticides and heavy metals by an independent third-party laboratory accredited by the state/province/federal government if available.

Commentary

All CBD products are not manufactured using the same processes; a Veterinarian remains responsible for the safety of any product they are recommending for their patients. If a Veterinarian is recommending a specific CBD product it is the responsibility of the Veterinarian to verify that the product has been tested for safety and accuracy of the label and quality of the product being within allowable limits of contaminants, such as pesticides and heavy metals by an independent third-party laboratory accredited by the state/province/federal government if available.

If the Veterinarian is not recommending a specific CBD product, the Client should be encouraged to

verify that the product they are using has been tested by an independent third-party laboratory accredited by the state/province/federal government if available to test for accuracy of labeling and quality of the product being within allowable limits of contaminants, such as pesticides and heavy metals. Under the *Cannabis Act*, a law which legalized recreational cannabis use nationwide in Canada, Veterinarians in Canada are permitted to prescribe, and dispense Health Canada approved drugs containing phytocannabinoids, whether human or veterinary label.

In discussions regarding the use of CBD on companion animals, the Veterinarian should warn the Client about side effects and inappropriate dosage forms such as sugar-free (xylitol) gummies, brownies (chocolate), etc., and of the importance of safe storage and handling to ensure human and animal safety.