

As long as the DEA lists CBD as a controlled substance we recommend that NC Licensees adhere to the below legal rules/regulations/definitions.

The following is the current stance of the DEA regarding CBD:

“The Drug Enforcement Agency’s (“DEA”) stance is that CBD, and other cannabinoids derived from cannabis, are Schedule I substance under the Controlled Substances Act (“CSA”), regardless of their source. Last year the DEA created a rule defining “marihuana extract” as an extract “containing one or more cannabinoids derived from any plant of the genus Cannabis,” as marijuana, a Schedule I controlled substance. Use of “any” means it applies to any derivative of the cannabis plant including, CBD and other cannabinoids found in cannabis.”

The NC Veterinary Practice Act states that:

.0207 MINIMUM FACILITY AND PRACTICE STANDARDS

(11) The minimum standards for drug procedures shall be:

(A) All controlled substances shall be stored, maintained, administered, dispensed and prescribed in compliance with federal and state laws, rules and regulations.

- END OF LEGAL RULES/REGULATIONS/DEFINITIONS -

----- The article below is from DVM 360 on 01/16/2019 -----

Discussing and prescribing marijuana-based substances with clients: An attorney's take



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Marijuana: A “no-win” scenario

In Star Trek, the Kobayashi Maru was a battle training exercise at Starfleet Academy that tested cadets on how they would respond when placed in a set of tactical circumstances where no option would allow the examinee to win. That’s the state of cannabis law in this country today. But the stakes are higher than they were at Starfleet Academy. None of the cadets had to worry about prison or losing their license to practice. Veterinarians do.

It is illegal for anyone to possess drugs that are high risk for abuse or addiction, according to the Controlled Substance Act (CSA). But there is one exception. Qualified prescribers get a pass for a small number of substances that are federally recognized for medical utility.

Tramadol is OK. LSD is not. Marijuana is not. It's that simple. A federal agency has been given the authority to provide a license to a minute group of individuals (MD, DVM, DDS) who have the right to possess potentially addictive substances. Not only that, the agency has broad, regulatory authority to take away such licenses and put law-skirting license holders in jail.

Cannabis is on the federal prohibition list. But numerous states disagree. Several state legislatures have given the public (including DEA license holders) the right to possess cannabis.

It's a real Kobayashi Maru conundrum.

So do licensees become professionally involved with this state legal substance or do they follow federal law and steer clear of it?

How did we get here?

Contradictions between federal and state governments occur because of the Tenth Amendment to the U.S. Constitution. This amendment grants states authority, with exception to matters specifically granted by the Constitution of the United States.

Washington says weed is implied by the Constitution as being within its purview. The states say otherwise.

So what does that mean for the veterinary hospital at the corner of Sixth and Church St. that has clients wanting to discuss marijuana as potential treatment for separation anxiety? Veterinary clients who believe marijuana has medicinal value for their pets will likely engage DVMs in discussions about the Drug Enforcement Administration Schedule 1 substance. But by discussing, the practitioners may be violating the spirit or letter of the federal prohibition on their involvement in the use of a Schedule 1 product.

Things to think about

Here are a few things to consider when deciding whether or not to discuss, and potentially prescribe, cannabis prescriptions with clients.

- The DEA has its own prosecutors, investigators and its own judges. Overconfidence in state rights could potentially land you one year in federal prison.
- The small exception within federal law that allows certain professionals to purchase, prescribe and possess Schedule 2-5 drugs makes it possible for DVMs to earn a living. Losing access to valium, euthanasia solution, cough medicine and anesthetic products is an expensive price to pay for not complying with the law. So ask yourself, Is that a price you are willing to pay because you feel that your right to free expression is being infringed upon?
- Discussing the use of a Schedule 1 substance is not guaranteed protection by the First Amendment. The mere discussion of some topics can constitute professional malpractice, conspiracy and/or obstruction of justice. Don't forget, administrative agencies are not courts of law. These agencies have power over your professional rights which allow them to curtail your right to practice through their "reasonable discretion."

An attorney's take

I'm just a silly lawyer who wants to keep my clients in possession of all their hard-earned licenses, permits and authorizations.

It is highly unlikely that marijuana will be reclassified to Schedule 2 in the near future. Applications for re-characterization have been turned down twice, last time I checked. We're currently in a political environment where the federal government is not interested in deferring to the states on matters over which it feels it possesses jurisdiction.

My advice to practitioners ...

... is the same advice I give to my clients in all realms: Follow the most rigid guidelines, not the least rigid.

Regardless of whether you decide to discuss the use of cannabis in your exam room or not, I recommend that you expressly prohibit your team from entertaining the topic with clients. You don't want to vicariously be drawn into a conflict with the DEA. Should you decide to chat with your clients about how and when to use the Schedule 1 drug, discuss research information only. Above all, couch the discussion in terms that are "purely hypothetical." Hypothetical discussions tend to be swaddled in the warm, toasty blanket of the First Amendment—even when there's a battle raging outside over the Tenth.