

LOUISIANA STATE BOARD OF MEDICAL EXAMINERS

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January 10, 2017

RE: Cannabidiol (CBD)

Dear :

During its most recent meeting, the Louisiana State Board of Medical Examiners considered your inquiry relative to cannabidiol ("CBD") oil. As we understand from your letter,¹ one of your patients obtained and has used hemp oil (CBD oil) for the treatment of oral ulcerations. You understand that CBD oil contains no psychoactive elements and believe it may be legally available without a prescription as a nutritional supplement. However, because CBD oil may trigger a low level positive cannabinoid test result, the patient is requesting a written statement that he is taking it on your recommendation. You have asked whether providing such a recommendation would run afoul of the laws or rules administered by the Board. The Board has asked that I acknowledge your inquiry, apologize for the delay in responding, and relay its advice.

Initially, the Board noted that if CBD oil which your patient has obtained is legally available for purchase and use by consumers as a nutritional supplement, then a physician's order or recommendation for its use would be unnecessary. That said, the Board would not consider it inappropriate for a physician to concur in or even recommend a nutritional supplement that is legally available for purchase in the United States for the treatment or care of his or her patient.

We would note, however, that in December 2016, the United States Drug Enforcement Administration ("DEA") adopted a final rule for purposes of tracking marijuana extracts constituents for consistency with international treaty controls for marijuana. Under the rule, any extract containing one or more cannabinoids derived from *Cannabis* remains a Schedule I controlled substance under federal law. The rule would include CBD oils and other types of CBD extracts from the *Cannabis* plant.² It would not, however, include CBD oils and other extracts derived from hemp, which is produced

¹Corr., to La. St. Bd. Med. Exam. (Oct. 11, 2016).

²According to the final rule *Marihuana Extract* means '[a]n extract containing one or more cannabinoids that has been derived from any plant of the genus *Cannabis*, other than the separated resin (whether crude or purified) obtained from the plant.' *Federal Register*, Vol. 81, No. 240, pp. 90194-90196; 21 CFR § 1308.11.d(58) (Dec. 14, 2016). The amendment takes effect on January 13, 2017. Further, in responding to comments on the proposed rule, the DEA noted that 'For practical purposes, all extracts that contain CBD will also contain at least small amounts of other cannabinoids.' See: 81 FR 90195.

from the mature stalks of such plant (which comply with federal production requirements) produced for industrial purposes.³

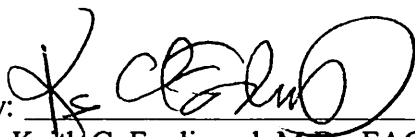
Therefore, it would be important to confirm that the CBD oil your patient has obtained (and you are considering recommending) is produced from hemp, rather than Cannabis. This is so because the former is excluded from federal regulation if compliant with federal production requirements, whereas the latter is a Scheduled I controlled substance which could not, in conformity with Louisiana law and Board regulation, be recommended to patients in this state for treatment of the medical condition you have described.⁴

In summary, the Board would not consider it inappropriate for a physician to concur in or even recommend a nutritional supplement that is legally available for purchase and use by consumers in the United States for the treatment or care of his or her patient. Conversely, a physician would run afoul of the laws administered by the Board (and perhaps federal law as well) were he or she to recommend marijuana (or an extract) for the treatment or care of a condition outside of those debilitating medical conditions provided for in Louisiana law.⁵

I trust this reply is responsive to your inquiry. If not, please let us know.

Very truly yours,

**LOUISIANA STATE BOARD OF
MEDICAL EXAMINERS**

By: 
Keith C. Ferdinand, M.D., FACC, FAHA
Interim Executive Director

³Under federal regulation, *Marihuana* is defined as '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. Such term does not include the mature stalks of such plant, fiber produced from such stalks, oil or cake made from the seeds of such plant, or 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 CFR 802(16).

⁴La. Rev. Stat. §40:1046; LAC 46:XLV.7701 *et seq.*

⁵Recommending therapeutic marijuana in a manner inconsistent with Louisiana law could constitute a violation of La. Rev. Stat. §40:1046; and the Board's rules governing therapeutic marijuana, LAC 46:XLV.7723A; as well as La. Rev. Stat. §37:1285A(30) which prohibits '[V]iolation of any rules and regulations of the board, or any provisions of this Part.'