

## **WORKERS' COMPENSATION SHOP TALK**

Recently, Dan Best and I attended a seminar presented by the Claims and Litigation Management (CLM) Institute in Chicago. Part of this seminar included a presentation on medical marijuana, including CBD products, and the high likelihood that these substances will become an increasing presence in the workers' compensation system in the years to come. Because issues surrounding medical marijuana and CBD are exploding nationwide, we decided to present this information to you to assist in claims handling. This information will be presented in three parts, beginning with today's entry: what CBD is (and isn't), its purported health benefits, and its legality.

### **What is CBD?**

Cannabis plants contain over a hundred types of "cannabinoids." These chemical compounds, which are secreted by cannabis (hemp and marijuana) flowers, affect the cannabinoid receptors in the human body in different ways. The most popular of these compounds are delta-9 tetrahydrocannabinol (THC) and cannabidiol (CBD). Small differences in the structure of these compounds lead to major differences on how each of these cannabinoids affects the body. In layman's terms, THC can produce a euphoric, "high" effect in most people, while CBD does not. Marijuana are the species of cannabis plants that contain more than .3% THC, with amounts typically ranging anywhere from 5% to 35%, or more. Hemp plants, on the other hand, contain .3% or lower amounts of THC. Both hemp and marijuana contain CBD, but plants can be engineered to contain high amounts of CBD and very low levels of THC.

### **What effect does CBD have?**

CBD, which attaches to different receptors in the brain, does not produce the psychoactive, euphoric effect common of products containing THC. However, it does interact with cannabinoid receptors, and is thought to have several beneficial effects. CBD is said to be a natural relaxant and healing agent. Some physicians and scientists have hypothesized that CBD may have health benefits, including relief of pain and inflammation, anxiety relief, and treating seizure disorders.

### **Does CBD have demonstrated health benefits?**

Advocates argue that the health benefits of CBD date as far back as 2737 B.C. when Emperor Shen Neng of China prescribed it for the treatment for malaria, memory issues, rheumatism, and gout. More recently, CBD has been advocated for in the treatment of seizures and other neurological disorders. The case of Charlotte Figi helped propel CBD to the mainstream. At two-and-a-half years old, Ms. Figi was diagnosed with Dravet Syndrome—a rare form of chronic epilepsy sometimes causing hundreds of seizures per week. After exhausting traditional

medicine, Charlotte's parents turned to CBD. After ingesting a high-strain formula now known and marketed as "Charlotte's Web," the frequency of Ms. Figi's seizures dropped immediately and precipitously, down to as few as 2 to 3 seizures per month. The label on "Charlotte's Web" notes that it contains 43 milligrams of hemp extract in a .5 milliliter serving of CBD oil. While the benefits of "Charlotte's Web" have not been evaluated by the Food and Drug Administration, in June, 2018, the FDA did approve Epidiolex, which is an oral solution containing CBD aimed to treat individuals with seizure disorders such as Lennox-Gastaut and Dravet syndrome.

As research continues, the use of CBD is expected to rise and the conditions for which it is prescribed have grown. Conditions for which CBD is thought to be (or argued to be) useful include pain relief, inflammation, nausea, seizure disorders, nerve weakness or nerve damage, generalized muscle soreness, to assist in the treatment of substance abuse, relief from certain eye diseases including glaucoma, and relief from the after-effects of cancer treatment, including chemotherapy. There have also been claims that CBD use can lead to increased metabolism, lead to younger and healthier-looking skin, prevent heart disease, and assist in cessation of smoking.

### **What does CBD look like? Is it legal?**

Legality of CBD products are inextricably linked to products containing THC. Both hemp and marijuana are nominally regulated under the Controlled Substance Act of 1970. Marijuana is currently classified as a "Schedule I" drug, subject to the same federal regulations as heroin and lysergic acid diethylamide (LSD). However, in recent years several states have legalized marijuana for recreational use, while many more states (including Ohio) have legalized use of marijuana for medical purposes. CBD, however is more opaque because of the Agricultural Improvement Act of 2018. Known as the "Farm Bill," the Act legalizes hemp and products derived from hemp by redefining hemp as:

"[T]he plant *Cannabis sativa* L. and any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis."

As you can see, the Farm Bill only legalizes CBD products derived from hemp, not marijuana because marijuana is defined as cannabis plants that contain more than .3% THC. In Ohio, the only "legal" place to purchase CBD products is at a medical marijuana dispensary, which would require a prescription, but these products can be found in numerous "alternative" stores.

Products containing CBD are as varied as one can expect to find in any health or vitamin store. In states where marijuana (i.e. THC) products are legal, CBD products can often be found being sold alongside such products in dispensaries. However, even in states where marijuana is illegal or restricted to medical purposes (such as Ohio) CBD products can be found in local health food

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stores and “alternative” locations., and of course the internet is a huge source of such products. CBD-infused products currently on the market include CBD-infused coffee, lotions, candies, candles, lip balm, and even bath salts.

The next *Shop Talk* will focus on how CBD and THC are affecting the world of workers’ compensation and the health care system as a whole, as well as how CBD could affect the ability of employers to drug test their employees.

If you would like to submit a question to Shop Talk, or would like to discuss this or any other workers’ compensation issues, please feel free to contact me.

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