



Modern Marijuana

Understanding CBD and the Effects on the Insurance Industry

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In recent years, a lot of attention has been paid to the various forms of marijuana (cannabis, in particular cannabidiol or CBD, for its medicinal and therapeutic properties. Thirty-seven states have legalized use of marijuana or its components for various purposes. As of spring 2020, New York has only approved marijuana for medical use, through legislation that was put into place in 2014. The state continues to heavily explore the legalization of recreational marijuana but legislation has yet to be passed.

Additional research is important, since the potential effects of CBD use, both beneficial and detrimental, are not yet fully known. The explosive growth of the industry, with expected sales of \$16 billion by 2025, represents a substantial untapped market for the insurance industry, with both opportunities and challenges

for insurers. While many of the exposures seen in CBD business, such as property, liability, automobile and workers' compensation, are the same as other businesses, the nature of the product and its potential regulatory issues make the CBD industry unique from an insurance standpoint.

Many people may know about the effect of smoking marijuana, or "getting high," but they may not know that some components of cannabis and hemp are purported to have therapeutic and medicinal benefits. One of the more popular components is CBD.

In recent years, use of CBD oil has been touted for treatment in combatting anxiety, convulsions and inflammation, among other uses. An August 2019 Gallup survey showed that 1 in 7 adults have used CBD, with younger adults more likely to do so.



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What is CBD?

For starters, CBD is one of over 100 chemical compounds found in cannabis or hemp plants. It does not have the psychoactive properties responsible for the "high" of another cannabis compound, tetrahydrocannabinol (THC). Pure CBD does not contain THC. CBD is purported to be useful for a variety of conditions, including anxiety, pain management and treatment of acne. It is known to have anti-inflammatory properties.

Since Congress passed the Agriculture Improvement Act of 2018, hemp and hemp-derived products, including CBD, can legally be sold in all 50 states, as they are no longer considered controlled substances. To be legal, the CBD however, must contain less than .3% of THC.

CBD can be derived from both cannabis and hemp. Hemp and cannabis, although similar, have different chemical properties. Both plants belong to the same genus and species: *cannabis sativa*. Hemp plants contain .3% or less of THC, where marijuana has more than .4%.

CBD is classified according to the amount of processing it has undergone. Full Spectrum CBD has been extracted from the plant with all the other compounds and cannabinoids.

CBD isolate is the purest form of CBD, from which all other plant materials and cannabinoids have been removed. Broad Spectrum is the form of CBD that includes all other compounds and cannabinoids other than THC.

How Does CBD Work?

CBD works with the human endocannabinoid system (ECS) which is the system that helps the body to regulate the brain, endocrine and immune systems, maintaining stability or homeostasis.

The function of the ECS is simply to maintain balance between the body and the brain. Endocannabinoids are produced by the human body. However, the body also reacts to the plant-produced phytocannabinoids such as CBD.

How is CBD Use Regulated?

For years, states have promulgated their own rules for the usage of CBD. On a federal level, cannabis, since it contains levels of THC of .3% or more, is classified by the Drug Enforcement Agency as a Schedule I drug, meaning it has no proven medicinal use.

CBD products derived from cannabis are illegal on a federal level, even if they contain no THC. On a state level, cannabis-derived CBD is available from licensed dispensaries. Most states have a medical cannabis program in place. Recreational cannabis is also legal in a number of states.

As of December 2019, only one CBD drug has been approved by the FDA. Epidiolex, a highly purified form of CBD, has been shown in clinical trials to reduce seizures in children who have a rare form of epilepsy. Conversely, the trials brought to light some side effects that were concerning. Side effects include diarrhea, tiredness, liver issues and decreased appetite.

CBD has not been proven to be safe in food. In November 2019, the FDA issued a warning to 25 companies that were selling CBD products illegally. They warned about the safety of CBD, specifically food containing CBD. Foods and dietary supplements cannot legally include cannabinoids. This is also the case for products containing CBD that are marketed as having therapeutic usage. CBD may be used in products



labeled as cosmetics, but only if the percentage of THC is less than 0.3%. As of October 2019, there were 50 clinical trials in progress or recruiting candidates to test use of CBD for a wide range of conditions. The process to get approval is lengthy.

Insurance Coverage Related to CBD Producers and Sellers

CBD growers, manufacturers and sellers face the same exposures as other businesses, compounded by the uncertain legal status of the industry. Product liability is especially important. In addition to federal insurance programs, a number of innovative carriers have begun to offer coverage for CBD businesses.

Insurance for CBD manufacturers and sellers is available. One area of possible confusion is that any products that include THC are not covered, when in fact, CBD oil may contain up to .3% THC.

The United States Department of Agriculture introduced a new crop insurance program in 2020. Going forward, hemp will be federally regulated, and the crop will be studied. Crop losses due to such perils as disease, drought and flood are covered.

Multi-Peril Crop Insurance Program for hemp producers is a pilot program announced in February 2020. Producers must have at least one year of experience and a contract of sale for the hemp. Minimum acreage requirements apply for the program: 5 acres for CBD and 20 acres for grain and fiber.

Does Health Insurance Cover CBD Usage?

Since CBD is used in the treatment of medical issues, people may think that their health insurance will provide coverage. This is not the case. Even though the classification of hemp has been downgraded to an agricultural product, CBD oil, like medical marijuana, is still considered a Schedule 1 controlled substance and not yet approved by the FDA.

According to the FSA Store, an online marketplace for "guaranteed FDA-eligible products," CBD oil and other CBD products cannot be purchased with Healthcare

Savings Accounts (HSA) or Flexible Savings Accounts (FSA), Limited Care Flexible Spending Accounts (LCFSA) or Dependent Care Flexible Spending Accounts (DCFSA).

What Does It All Mean?

CBD use is growing in popularity. Companies who grow, process, manufacture and sell CBD products represent a potential major new market for insurers. However, years of testing may be required before more products can be approved by the FDA and there is still some uncertainty with the laws in place at the federal level.

Insurance is a data-based industry, so while CBD is further along than some marijuana and hemp products there are still many evolving parts to be considered. Given that the modern uses of marijuana continue to be in demand from the general public, this is an issue that the insurance industry will undoubtedly continue to face.

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