

Suzie Trigg, Steve Armstrong, Joanna Pearce in FDLI Magazine: 'Sourcing Cannabis Lawfully for CBD Consumer Products and Clinical Research: Challenges and Opportunities'

March 11, 2021 Suzie Trigg

PRACTICES CBD and Hemp, FDA Regulatory and Compliance, Healthcare and Life Sciences

The decriminalization of industrial hemp (“hemp”) under the Agriculture Improvement Act of 2018 (the “2018 Farm Bill”) and the liberalization of related state laws stirred an intense interest in the use of cannabidiol (“CBD”) in consumer products, medicines, and commercial applications. CBD is just one of over 100 chemical compounds—known as “cannabinoids”—that are found in *Cannabis sativa* L. Unlike another well-known cannabinoid, delta-9-tetrahydrocannabinol (“?-9 THC” or “THC”), CBD does not cause the “high” commonly associated with marijuana. CBD is purported to have a variety of benefits, and CBD compounds are, in fact, already being used in a diverse range of products, including foods, cosmetics, and dietary supplements, to name but a few. While CBD has potential therapeutic properties, FDA has, so far, limited its approval of CBD to a single prescription treatment for epilepsy. FDA has repeatedly called for information to help it consider the safety of CBD in the other products under its jurisdiction. For companies seeking to market CBD products to consumers, regardless of the specific FDA regulatory classification, obtaining a continuing source of quality, lawful cannabis materials for research, development, and subsequent distribution is nothing short of essential.

Sourcing the materials to produce CBD products requires informed diligence. Hemp, the source of CBD in consumer products, must be cultivated, sampled, tested, and ultimately harvested under carefully managed, well-regulated plans approved by USDA or state or Tribal regulators. Marijuana remains an illegal Schedule I drug under the federal Controlled Substances Act (the “CSA”), and its production for medical research purposes remains subject to strict federal controls that, to date, have limited the supply of available research-grade cannabis to that produced by a single, registered grower. Under the current framework, securing lawful cannabis, i.e., “hemp” and its higher-?-9 THC sibling, marijuana, for testing and research is a painstaking process. Companies seeking to convert hemp into consumer products or to research new medical uses of cannabis will need to rely on skilled growers and knowledgeable distributors to secure a continuing source of supply without veering into unlawful territory. In addition, such companies should carefully document their sources of supply and obtain contractual commitments regarding the lawfulness of their sources of supply.

Excerpted from the Food and Drug Law Institute’s *Update Magazine*. To read the full article, click [here](#).