

Medical Marijuana (Limited Use of Low THC-High CBD Marijuana Products) (Note)

In contrast to broad, comprehensive laws authorizing the general use of marijuana for medical purposes, several states have recently enacted laws authorizing the limited use of “Low THC-High CBD” marijuana products to treat specific illnesses or symptoms. The laws commonly (1) use a very specific and limited definition of the authorized marijuana products; (2) limit the types of illnesses and symptoms subject to treatment at the direction of a physician; (3) limit the approved distributors of the marijuana product; (4) create a specific legal defense to criminal prosecution for the use of the sanctioned marijuana products; and (5) require patients or physicians to register with a particular state entity or obtain an identification/registration card prior to obtaining the marijuana product. Some of the laws were created as pilot study programs or clinical trials, while others are general authorizations for the limited use of certain marijuana products to treat specific illnesses and symptoms.

Most of these laws contain a very specific definition of the authorized marijuana products, with the amount of THC limited to a very low content percentage. For example, Florida Chapter No. 2014-157 (Fla. [SB 1030](#)) authorizes the use of “low-THC cannabis,” defined as containing no more than 0.8 percent of THC and more than 10 percent of cannabidiol (CBD). Mississippi Chapter No. 2014-501 (Miss. [HB 1231](#)) authorizes the use of “CBD oil,” described as processed cannabis plant extract, oil, or resin that contains more than 15 percent cannabidiol, or a dilution of the resin that contains at least 50 milligrams of cannabidiol per milliliter, but not more than 0.5 percent of THC. The 2014 Missouri Laws 935 (Mo. [HB 2238](#)) authorizes the use of “hemp extract,” defined as an extract from a cannabis plant or a mixture or preparation containing cannabis plant material that is no more than 0.3 percent THC, at least 5 percent CBD by weight, and contains no other psychoactive substance.

Another common feature of these laws is that most specifically limit the use of the Low THC-High CBD marijuana products to treat only specific illnesses, with most limited to epileptic-related disorders. Alabama Act 2014-277 (Ala. [SB 174](#)) limits the use of CBD oil to treat only “debilitating epileptic conditions,” defined as epilepsy or another neurological disorder, or the treatment of epilepsy or other neurological disorder that, as diagnosed by a board-certified neurologist, produces serious, debilitating, or life-threatening seizures. The Missouri law limits use of the products to treat “intractable epilepsy,” as determined by a neurologist for a person who does not respond to three or more treatment options as overseen by the neurologist. South Carolina 2014 Act No. 221 ([S.C. S. 1035](#)) allows state board certified physicians practicing in an academic medical center in the state to treat clinical study cannabidiol patients with severe forms of epilepsy.

Most of these laws also limit who or what entity may distribute the marijuana product. For example, Kentucky 2014 Acts, Ch. 112 (Ky. [SB 124](#)) precludes the distribution of cannabidiol except by a physician or hospital or associated clinic affiliated with a public university, the Alabama Act prohibits the distribution of CBD oil except by the Department of Neurology at the University of Alabama at Birmingham, and the Mississippi law only authorizes the use of CBD oil that is obtained from or tested by the National Center for Natural Products Research at the

University of Mississippi and dispensed by the Department of Pharmacy Services at the University of Mississippi Medical Center. Unlike states that couple distribution with state universities, the Florida law provides for the creation of one to four regional distributors of low-THC cannabis for medical purposes. The Missouri law creates cannabidiol oil care centers and cultivation and production facilities to oversee distribution of the oil. The 2013 Wisconsin Act 267 (Wisc. [AB 726](#)) allows a pharmacy or physician to dispense cannabidiol in a form without a psychoactive effect as a treatment for a seizure disorder. Iowa 2014 Acts, Ch. 1125 (Ia. [SF 2360](#)) and North Carolina Session Law 2014-53 (N.C. [HB 1220](#)) are silent as to who or what entity is responsible for distribution of the marijuana product.

Most of these laws are also crafted to provide a legal defense to prosecution for possession of the marijuana product. The Iowa Act creates an affirmative defense for the possession of cannabidiol if a patient has been diagnosed with intractable epilepsy and has used or possessed cannabidiol pursuant to a recommendation by a neurologist. Similarly, the Mississippi law provides that it is an affirmative and complete defense to prosecution for unlawful possession of marijuana if the defendant suffered from a debilitating epileptic condition or related illness and the use or possession of CBD oil was pursuant to the order of a physician or if the defendant is a parent or guardian of an individual who suffered from a debilitating epileptic condition or related illness and the use or possession by the minor was pursuant to an order by a physician.

Requiring patients or prescribing physicians to register with a state entity or obtain a particular identification/registration card is also a recurrent feature in these laws. The 2014 Utah Session Law Ch. 025 (Ut. [HB 105](#)) requires users of the authorized hemp extract to apply for and obtain a “hemp extraction registration card” from the Utah Department of Agriculture prior to medical use of the extract. Under the law, the registration cards are subject to a fee, are valid for one year, and are renewable under certain conditions. The North Carolina law requires the North Carolina Department of Public Safety to issue a caregiver registration card to be issued to individuals who have provided a statement signed by a neurologist that he or she is providing care to a person who suffers from intractable epilepsy who may benefit from treatment with hemp extract. The Iowa act requires the issuance of cannabidiol registration cards to sanctioned users of cannabidiol and requires the Iowa Department of Transportation to maintain a confidential file of the names of each patient to or for whom the department issues a registration card. In contrast, the Florida law requires a physician ordering the use of low-THC cannabis to register with the “compassionate use registry” maintained by the Department of Health.