House Health Committee Public Hearing on the Pennsylvania Medical Marijuana Program and Cannabidiol Products
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Testimony of:

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Good morning Chairwoman Rapp, Chairman Frankel, and members of the House Health Committee. I am very pleased to be with you this morning to discuss the Department of Health’s Medical Marijuana program and Cannabidiol, or CBD, products on behalf of the Department of Health.

As you know, since the passage of Act 16 of 2016, the department has aggressively worked to operationalize our medical marijuana program by creating temporary regulations to guide the operations of the program and its participants from the grower through the supply chain to the dispensing of the product to patients. Additionally, the program approved the operation of 22 grower/processors and 77 dispensaries, registered 250,000 patients, and registered over 1,800 physicians. Through the authority of the act and our temporary regulations, we have worked tirelessly to ensure product that is brought to patients within our medical marijuana program is rigorously tested for safety and is dispensed properly for medical purposes. Additionally, the department recently approved seven clinical registrants, who have contracted with seven academic clinical research centers, to begin research on the medical benefits of medical marijuana. It is our belief that Pennsylvania’s medical marijuana program is the gold-standard compared to its peers across the country.

While our medical marijuana program is still new and growing, the deregulation of hemp by the federal Agriculture Improvement Act of 2018, commonly known as the federal Farm Bill, has allowed for new hemp-derived CBD products to be introduced to markets outside the parameters of our medical marijuana program. You can find these products in convenience stores, grocery stores, or virtually any retail setting. Often, their marketing alludes to specific health benefits such as muscle and pain relief, sleep assistance, stress relief, or other such benefits.

I must note that there is a specific difference between marijuana-derived CBD products within our medical marijuana program and hemp-derived CBD products sold on the open market. Marijuana and hemp are both cannabis sativa plants. They are closely related, but dissimilar mainly in the amount of Tetrahydrocannabinol, or THC. THC is the main chemical that provides for most of marijuana’s psychoactive effects. Hemp, unlike marijuana, naturally contains almost no THC, but still contains CBD.

The process by which medical marijuana and hemp products reach market differs. In our medical marijuana program, the supply chain is regulated from seed to sale. Our supply chain process begins at the grower/processor level, where seeds and immature plants are grown to mature plants and harvested. At that point, harvested plants are sent for laboratory testing to ensure there are no contaminants such as mold or regulatorily unallowable pesticides. Following testing, products that meet regulatory guidelines are then processed into the various forms of allowable medical marijuana such as oils, tinctures, etc. Products are again tested for purity at a laboratory before reaching the dispensary where it is available to cardholding patients.

Since hemp-derived CBD products are unregulated in their production and processing to market, they do not follow the same regulatorily required supply chain and are outside of the scope of the medical marijuana program. While the Department of Agriculture provides permits for the growing of hemp, it is the responsibility of those growers to ensure that they are providing products to market that meet the appropriate federal & state laws & regulations. In Pennsylvania, there are no such regulations for hemp-derived CBD outside of the farm. Unlike our medical marijuana
program, there are currently no testing requirements for hemp-based CBD products in Pennsylvania. Additionally, it is unclear if these CBD marketed products are labelled appropriately or even contain any CBD at all. According to a study by the University of Pennsylvania, nearly 70 percent of CBD extracts sold online are mislabeled. That mislabeling may lead to adverse effects for patients. Further, a study by the Journal of the American Medical Association noted that of the products tested, 26 percent contained less CBD than labeled. Further risks include the use of synthetic CBD, which can have harmful side-effects for some consumers. In all, research has shown that the lack of regulation in this space leads to great concern.

We have seen different approaches taken by states regarding hemp-derived CBD. For some examples, New York recently passed legislation regulating the manufacture and sale of hemp-derived CBD products. That law provides for labelling requirements along with stringent testing like that of medical marijuana, however the law left unclear the issue of CBD inclusion in food & beverages. Other states like California and Illinois have contemplated similar legislation which would provide for testing and regulations. Colorado’s approach allowed for CBD as a food product. Some states such as Idaho, Iowa, & South Dakota do not allow for CBD sale.

Federally, the FDA has worked to create parameters for CBD in the open marketplace. The FDA website states that, “Despite the 2018 Farm Bill removing hemp — defined as cannabis and cannabis derivatives with very low concentrations (no more than 0.3% on a dry weight basis) of THC — from the definition of marijuana in the Controlled Substances Act, CBD products are still subject to the same laws and requirements as FDA-regulated products that contain any other substance.” CBD products in the marketplace have not been subject to FDA evaluations. Further, while some food products and dietary supplements are marketed as containing CBD, the FDA’s position is that it is illegal to market CBD in this fashion.

As you can see, this is a national issue with many different components. In Pennsylvania, we have worked with the Department of Agriculture through an internal Hemp Workgroup to contemplate the numerous policy and regulatory questions that have existed since the passage of the federal Farm Bill. This workgroup’s goal is to offer recommendations on Pennsylvania’s approach to CBD products in the open marketplace. That work is still ongoing, but we are happy to provide an update to you at the end of those discussions to include the legislature as a partner in our collective path forward.

Again, we appreciate your interest in this issue and we look forward to working with you on this going forward. I am happy to take any questions you may have at this time.

2 JAMA — Labeling Accuracy of Cannabinoid Extracts Sold Online Are Mislabeled - https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5818782/?report=classic
3 The Dangers of Synthetic Cannabinoids in CBD Oil - https://cbdoilusers.com/dangers-of-synthetic-cannabinoids-cbd-oil/