



TO: Nebraska Law Enforcement Agencies and County Attorneys
RE: Nebraska Law Regarding Cannabidiol (“CBD”)
DATE: November 16, 2018

Recent reports of the potential sale of the controlled substance cannabidiol, commonly referred to as CBD, compels the Nebraska Attorney General’s Office to issue the following restatement of Nebraska law regarding cannabidiol. This memorandum follows a similar memorandum issued to law enforcement on September 1, 2017.

Cannabidiol has been and continues to be included in Nebraska’s Uniform Controlled Substances Act’s legal definition of “marijuana.” (See, Neb. Rev. Stat. § 28-401(13)). This means that, with two exceptions, cannabidiol is a Schedule I controlled substance.

The first exception is for cannabidiol obtained pursuant to Neb. Rev. Stat. §§28-463 to 28-468. This exception was enacted in 2015 pursuant to LB390, which authorized the University of Nebraska Medical Center (UNMC) to produce or possess cannabidiol for a limited, four-year medical study of seizures. The legislature’s authorization for the UNMC study presently will terminate on October 1, 2019.

The second exception is for cannabidiol “contained in a drug product approved by the federal Food and Drug Administration.” This exception was enacted in the 2017 legislative session, pursuant to LB 487 which prospectively reclassified cannabidiol in an FDA approved drug as a Schedule V controlled substance. (See, Neb. Rev. Stat. §28-405. LB487 took effect on August 24, 2017.)

On June 25, 2018 the U.S. FDA approved “Epidiolex (cannabidiol) [CBD] oral solution for the treatment of seizures associated with two rare and severe forms of epilepsy, Lennox-Gastaut syndrome and Dravet syndrome, in patients two years of age and older.”¹ Epidiolex is presently the only FDA approved drug product containing cannabidiol. Therefore, Epidiolex is a Schedule V controlled substance under Neb. Rev. Stat. §28-405.

Therefore, with the exception of Epidiolex oral solution, cannabidiol or any product containing cannabidiol, obtained by any means other than the authorized UNMC study, remains illegal to possess, manufacture, distribute, dispense, or possess with the intent to manufacture, distribute, or dispense. Such conduct is subject to prosecution for illegally possessing or trafficking a Schedule I controlled substance.

Any law enforcement agency with questions on this matter is encouraged to contact the Criminal Bureau of the Nebraska Attorney General’s Office.

¹ <https://www.fda.gov/newsevents/newsroom/pressannouncements/ucm611046.htm>).