



## WISCONSIN LEGISLATIVE COUNCIL ACT MEMO

<b>2017 Wisconsin Act 4</b> [2017 Senate Bill 10]	<b>Possession of Cannabidiol (CBD)</b>
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2017 Wisconsin Act 4 relates to the definition of tetrahydrocannabinols (THC) and the use of cannabidiol (CBD).

### **BACKGROUND**

Chapter 961, Stats., is the state's Controlled Substances Act. Controlled substances are placed on a schedule numbering I to V based on the substance's potential for abuse and medical uses. Possession, distribution, and manufacture of these substances is generally prohibited.

The Controlled Substances Board must add a substance to Schedule I upon finding that the substance: (1) has a high potential for abuse; (2) has no currently accepted medical use in treatment in the United States; and (3) lacks accepted safety for use in treatment under medical supervision. If a substance is designated, rescheduled, or deleted as a controlled substance under federal law, the Controlled Substances Board must similarly treat the substance under state law within 30 days unless there is an objection, in which case other procedures must be followed.

Under federal law, marijuana and THC are classified as Schedule I controlled substances. "Cannabimimetic agents," which are synthetic cannabinoids that mimic the effects of marijuana are also listed as Schedule I controlled substances under federal law.

With one exception, the Wisconsin statutes list as a Schedule I substance, "tetrahydrocannabinols," commonly known as "THC," in any form including tetrahydrocannabinols contained in marijuana, obtained from marijuana, or chemically synthesized. The exception is for CBD in a form without a psychoactive effect, but only if certain conditions are met.

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This memo provides a brief description of the Act. For more detailed information, consult the text of the law and related legislative documents at the Legislature's Web site at: <http://www.legis.wisconsin.gov>.

## PRIOR LAW

Prior law provided that CBD is not included in the definition of THC, and therefore not a Schedule I substance under state law, if either of the following apply:

- **Documented by a physician.** Any physician provides an individual with a hard copy of a letter or other official documentation stating that the individual possesses CBD to treat a **seizure disorder** if the CBD is in a form without a psychoactive effect.
- **Dispensed by a pharmacy or physician approved by the Controlled Substances Board.** A pharmacy or physician, who is approved by the Controlled Substances Board, dispenses CBD in a form without a psychoactive effect as a treatment for a **seizure disorder**.

With respect to Controlled Substances Board approval, Wisconsin law provides that upon the request of any physician, the board must aid the physician in applying for and processing an investigational drug permit from the federal Food and Drug Administration (FDA) for CBD as treatment for a seizure disorder. If the FDA issues an investigational drug permit to a physician, the Controlled Substances Board must approve which pharmacies and physicians may dispense CBD to patients. Also, if CBD is removed from the list of controlled substances, or if CBD is determined not to be a Schedule I controlled substance under federal law, the Controlled Substances Board must approve which pharmacies and physicians may dispense CBD to patients as treatment for a seizure disorder.

## 2017 WISCONSIN ACT 4

### Physician Certification to Possess CBD

2017 Wisconsin Act 4 replaces the prior law exception to the definition of THC for an individual with a hard copy of a letter or other official documentation stating that the individual possesses CBD to treat a seizure disorder. Instead, the Act provides that an individual may possess CBD in a form without a psychoactive effect if: (1) the individual has certification stating that the individual possesses CBD to treat a **medical condition**; (2) the certification has an issue date that is no more than one year prior to the possession; and (3) any expiration date provided by the physician in the certification has not passed.

The Act changes the type of documentation a physician may provide to an individual related to the possession of CBD. The Act amends the provision under prior law that allowed **any** physician to provide an individual with a **hard copy of a letter or other documentation** stating that the individual possesses CBD to treat a seizure disorder if the CBD is in a form without a psychoactive effect. Under the Act, a physician who is **licensed by the Medical Examining Board** may issue an individual a **certification** stating that the individual possesses CBD to treat a medical condition if the CBD is in a form without a psychoactive effect. The Act defines "certification" to mean a letter or other official document issued by a physician licensed by the Medical Examining Board that contains all of the following: (1) the name, address, and telephone number of the physician; (2) the name and address of the patient who is issued the letter or document; and (3) the date on which the letter or document is issued.

**CBD Dispensed by a Pharmacy or Physician Approved by the Controlled Substances Board**

The Act expands the exception to the definition of THC for CBD dispensed by a pharmacy or physician approved by the Controlled Substances Board. Under the Act, an approved pharmacy or physician may dispense CBD without a psychoactive effect as a treatment for a **medical condition**.

**Controlled Substances Board Requirements**

The Act provides that if CBD is rescheduled or deleted as a controlled substance under federal law, the Controlled Substances Board must similarly treat CBD under state law as soon as practically possible, but no later than 30 days from the date of publication in the federal register of the federal order.

*Effective date:* The Act took effect on April 19, 2017.

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