



WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

2015 Assembly Bill 228

Assembly Amendment 1

Memo published: February 25, 2016

Contact: Melissa Schmidt, Senior Staff Attorney (266-2298)
Michael Queensland, Staff Attorney (266-3810)

BACKGROUND

Chapter 961, Stats., is the state's Controlled Substances Act. Controlled substances 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 controlled substances is generally prohibited.

Schedule I substances have the highest potential for abuse and the least usage medically. 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.

Under federal law, marijuana and THCs 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 cannabidiol (CBD) in a form without a psychoactive effect, but only if it is dispensed or documented by a pharmacy or physician approved by the Controlled Substances Board as authorized under current law. Specifically, state statutes provide 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 applies:

- 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 seizure disorder.

- 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.

With respect to Controlled Substances Board approval, Wisconsin law also 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 seizure disorder.

2015 ASSEMBLY BILL 228

Assembly Bill 228 (the bill) eliminates the requirement that, to be excluded from the definition of THC, CBD must be either: (1) dispensed by a pharmacy or physician approved by the Controlled Substances Board, as described above; or (2) possessed by an individual with documentation from a physician that it is possessed to treat a seizure disorder, as described above. Under the bill, CBD in a form without a psychoactive effect is excluded from the definition of THC, and therefore is not a Schedule I substance under state law.

ASSEMBLY AMENDMENT 1

Assembly Amendment 1 (AA 1) amends current law related to the documentation that may be provided by any physician stating that an individual possesses CBD to treat a seizure disorder if the CBD is in a form without a psychoactive effect, as described above. Specifically, AA 1 makes the following changes:

- Amends what type of documentation a physician may provide to an individual related to the possession of CBD, described above. AA 1 amends the provision under current law that allows **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 AA 1, 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 seizure disorder if the CBD is in a form without a psychoactive effect. AA 1 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:
 - The name, address, and telephone number of the physician.
 - The name and address of the patient who is issued the letter or document.
 - The date on which the letter or document is issued.

- 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 seizure disorder; (2) the certification has an issue date that is no more than two years prior to the possession; and (3) any expiration date provided by the physician in the certification has not passed.

AA 1 does not modify the part of the bill that removes CBD in a form without a psychoactive effect from the definition of THC.

BILL HISTORY

Representative Krug introduced Assembly Amendment 1 on February 11, 2016. On February 16, 2016, the Assembly voted to adopt Assembly Amendment 1, and the bill as amended, on voice votes.

MS:MQ:jal