



## Overview of States' Flawed High-CBD Laws

Between 2014 and 2018, at least 20 states enacted limited laws that were intended to allow patients with intractable seizure disorders — and, in some cases, other medical conditions — to use certain CBD-rich medical cannabis preparations. In more than half of the states, those CBD or low-THC laws were later replaced by or supplemented with comprehensive medical cannabis laws.<sup>[1]</sup>

Unlike the 40 states that have comprehensive medical marijuana laws,<sup>[2]</sup> these “low THC” laws only allow strains that are low in THC (which has medical value, including by relieving nausea) and rich in another beneficial compound of marijuana, cannabidiol (CBD). Low-THC laws vary widely in their scope.

These laws leave behind the vast majority of patients who could benefit from medical cannabis. Most of the low-THC laws exclude patients with chronic pain, cancer, or AIDS-related nausea or wasting, muscle spasms, or any condition other than seizure disorders. These limited laws also leave behind patients whose seizures respond only to strains of cannabis with greater quantities of THC.

Moreover, all but two of the low-THC laws — Georgia and Iowa’s — fail to allow for realistic, in-state access, apart from clinical trials for pharmaceutical drugs. With the 2018 federal Farm Bill’s legalization of hemp sales and production, the availability of low-THC products labeled as containing CBD increased nationwide.<sup>[3]</sup> Unfortunately, though, many of the “CBD” products available are untested and largely unregulated.<sup>[4]</sup> Some “CBD” products do not actually contain the amount of CBD that is listed on the label — or any at all — or they may also contain dangerous compounds such as heavy metals.<sup>[5]</sup>

| State | Condition(s) | Type of Cannabinoid Products | Means of Access | Workability Issues |
|-------|--------------|------------------------------|-----------------|--------------------|
|-------|--------------|------------------------------|-----------------|--------------------|

| State          | Condition(s)  | Type of Cannabinoid Products   | Means of Access   | Workability Issues  |
|----------------|---|--|---|---|
| <b>Georgia</b> | Seizure disorders, ALS, intractable pain, PTSD (for adults), cancer, MS, Crohn's, mitochondrial disease, Parkinson's, autism (for minors), Tourette's, epidermolysis bullosa, Alzheimer's, AIDS, peripheral neuropathy, and sickle cell disease | Cannabis oil with no more than 5% THC and with at least an equal amount of CBD   | Cannabis preparations are produced by six private producers. Patients may obtain the low-THC oil from licensed dispensaries or participating pharmacies | None. However, the program leaves behind patients who could benefit from more THC or raw, flower cannabis   |
| <b>Iowa</b>    | Chronic pain, cancer (in some cases), multiple sclerosis, autism, seizures, AIDS or HIV, Crohn's disease, amyotrophic lateral sclerosis, Parkinson's disease, or any terminal illness   | Extracts with a total of 4.5 grams of THC every 90 days. More THC is allowed if one's medical provider specifies a specific, greater quantity is needed. | Up to five dispensaries and two manufacturers are allowed.  | None, other than the financial challenges created by the limited types of cannabis allowed. In addition, the program leaves behind patients who could benefit from more THC or raw, flower cannabis..   |
| <b>Kansas</b>  | Not limited to patients; anyone may possess CBD   | Cannabidiol  | None, although limited CBD production might be allowed under the state's new hemp research program.   | Because CBD is simply excluded from the state's definition of "marijuana" — but THC remains illegal — any CBD product must contain no traces of THC. Without in-state access to laboratory- tested CBD products, patients are unable to verify THC content. |

| State                 | Condition(s)   | Type of Cannabinoid Products   | Means of Access  | Workability Issues   |
|-----------------------|--|--|--|--|
| <b>North Carolina</b> | Intractable epilepsy   | Hemp extracts with at least 5% CBD and less than 0.9% THC  | None, outside of hemp-derived products   | This program lacks in-state access to lab-tested cannabis oils. The program also leaves behind individuals with other conditions and needing more CBD. |
| <b>South Carolina</b> | Lennox Gastaut Syndrome, Dravet Syndrome, or “any other severe form of epilepsy that is not adequately treated by traditional medical therapies” | Cannabidiol or any “manufacture, salt, derivative, mixture, or preparation” of marijuana that contains 0.9% or less THC and over 15% CBD; extracts provided at trials must have at least 98% CBD and no more than 0.9% THC | Access via licensed industrial hemp production, which is defined as less than 0.3% THC. The law also allows for cannabis via federally approved sources for clinical trials.   | The law leaves behind patients needing additional amounts of THC and whose conditions do not qualify.  |
| <b>Tennessee</b>      | For individuals: intractable seizures<br>For clinical trials: any disease  | For individuals: cannabis oil with less than 0.9% of THC<br>For clinical trials: cannabis oil with less than 0.6% of THC   | Tennessee universities may cultivate marijuana, make oils, and dispense them to patients, but only as part of an approved research study. Patients may possess low-THC oils obtained pursuant to a “legal order or recommendation from the issuing state” if they or an immediate family member was diagnosed with epilepsy by a Tennessee doctor. | Participating universities would have to have approval from the “drug enforcement administration located in the state,” which has not materialized.    |

| State            | Condition(s)   | Type of Cannabinoid Products   | Means of Access  | Workability Issues   |
|------------------|--|--|--|--|
| <b>Wisconsin</b> | Not specifically listed  | Creates an exception to the definition of THC (which is illegal under state law) for patients who possess “cannabidiol in a form without a psychoactive effect” and a doctor’s certification | None other than hemp-derived products that are not well regulated. . | The program is limited to hemp/CBD and does not help patients needing preparations with THC. |
| <b>Wyoming</b>   | Intractable epilepsy that does not respond to other treatments and other seizure disorders | “Hemp extracts” with less than 0.3% THC and at least 5% CBD  | Wyoming has a hemp program, which was approved by the USDA.          | The law is limited to hemp, leaves behind patients needing more than 0.3% THC.               |

<sup>[1]</sup> Indiana replaced its low-THC, high CBD law with a low-THC hemp extracts law.

<sup>[2]</sup> For a list of those states and key provisions of the laws, see: <https://www.mpp.org/issues/medical-marijuana/state-by-state-medical-marijuana-laws/key-aspects-of-state-and-d-c-medical-marijuana-laws/>

<sup>[3]</sup> For more details, see the Brookings Institute’s “The Farm Bill, hemp legalization and the status of CBD: An explainer.” Available at: <https://www.brookings.edu/blog/fixgov/2018/12/14/the-farm-bill-hemp-and-cbd-explainer/>

<sup>[4]</sup> The possible exception would be if the products were made pursuant to a state-regulated hemp industrial program that includes lab testing and other regulations.

<sup>[5]</sup> See: Spindle TR, Sholler DJ, Cone EJ, et al. Cannabinoid Content and Label Accuracy of Hemp-Derived Topical Products Available Online and at National Retail Stores. *JAMA Netw Open*. 2022;5(7):e2223019. doi:10.1001/jamanetworkopen.2022.2301; . Will Maupin, "The FDA recently found that many CBD products aren't always truthful about what they contain," *Inlander*, July 16, 2020. Lisa Fletcher, "The risk of contaminants and false labeling in the exploding CBD industry," *CBS Austin*, May 15, 2019.