



# Potential Risks and Liabilities for CBD Suppliers:

## An Insurance Perspective



Due to new research and the rapidly growing number of personal testimonials surrounding the medical benefits of CBD use, the market for CBD oil has expanded significantly. According to The Hemp Business Journal, the CBD market is estimated to grow to \$2.5 billion in consumer sales by 2022.

And, while CBD products are becoming a natural addition to the product mix of many home medical equipment, homecare and health and wellness businesses, those supplying CBD should be aware of the potential risks and liabilities associated.

We've outlined some important risk management considerations below to help providers that are currently selling CBD products (or are considering doing so in the future) to minimize their risk and protect their businesses from future claims.

## **Legal Issues and Compliance**

With the passing of the 2018 Farm Bill, CBD oil derived from industrial hemp containing less than 0.3% THC is federally legal to sell in the United States. However, it's important to note that federal, state and local laws may differ greatly, so it's vital to ensure that you research and are aware of and in compliance with the laws of your area. Meeting with your business's legal counsel and insurance provider can ensure that you are operating in compliance with the law and meeting the necessary standards and regulations.

## **Wholesale Sourcing and Quality Control:**

A 2017 study by researchers at Johns Hopkins School of Medicine and University of Pennsylvania Perelman School of Medicine found that more than two-thirds of the products they purchased online were mislabeled, containing more CBD than listed on the label, less of it, or none at all. There are currently no federal testing requirements for legal, hemp-derived CBD, so it can be difficult for providers to determine whether products contain what they claim to or aren't laced with other substances.

It is therefore vital to ensure you are providing a quality CBD product to your customers from a wholesale source you trust. You should look for the following in a CBD wholesaler:

- **Source:** The hemp that CBD oil is sourced from is directly related to its ultimate quality. CBD oil sourced from farmers who have had years of experience growing hemp is ideal. If a wholesaler grows their own hemp, be sure to research their farming practices to confirm that they are performing at or above standard practices.

- Extraction method: There are several ways to extract CBD oil from hemp. The highest standard of extraction is CO<sub>2</sub> extraction, which is a safe and clean method. However, some methods use harsh chemicals that can be difficult to fully remove from the final product.
- Price: When it comes to CBD oil, you get what you pay for. Be wary of products that are available from wholesalers at an incredibly low price.
- Certificate of analysis (COA): A COA is a report that confirms the levels of CBD, THC, and other compounds in a CBD product. This report will ensure that your customers are receiving a pure product that contains exactly what is on the label. As Hemp oil is legal to sell and purchase in the United States only if it contains less than 0.3% THC, it is important to confirm the levels of THC in the products you carry by sending it to a certified third-party laboratory for testing to confirm its purity, potency and safety. Spend the money and send it to the lab yourself instead of trusting a COA that a potential supplier provides up front. It is worth the peace of mind and ensures that the test results are valid and current.

## **Security and Inventory Management:**

Physical security in your facility is extremely important to deter and prevent theft of your CBD product. Security cameras, alarms and restricted access should be the first line of defense. Providers should also consider back-room security measures such as safes or vaults to avert criminal action and protect inventory supplies. A reputable inventory auditing software can also assist with monitoring inventory levels and keeping product safe.

## **Hiring and Background Checks:**

Background checks are an indispensable tool for any business. Bad hires pose unique hazards to the health and welfare of your HME business – namely property loss, customer dissatisfaction, litigation and damage to your company's professional reputation. Due to the additional risk that accompanies the product, HME providers supplying CBD products must take extra precaution when hiring employees. The responsibility lies with you to maintain a safe environment for your employees, customers and guests. In order to hire the qualified, talented people who will help your business thrive, background screening must be an integral part of the hiring process.

## **Product Knowledge and Education:**

As an HME provider, you know the importance of understanding the product you are selling. Gather as much knowledge about CBD as possible, and spend ample time training your sales staff. Be sure the information you are relaying is from a reputable source, as it is vital your business is providing accurate information to your customers. Some CBD wholesalers offer great resources and training opportunities to suppliers for this purpose.

It is important to note that businesses selling CBD oil do not have the authority to make claims that CBD can prevent, treat, diagnose, or cure diseases. Making statements like this will put your business at risk for claims. Be extremely cautious with the language you use with customers - avoid making any medical claims and stray from using terminology that would typically be used for medication.

Another key way to inform customers about your CBD product is to create informational signage or education pieces that customer can take away. During peak hours, it is not always possible to speak with each customer. Informational signage will help to fill this potential gap and educate the customer, allowing them to make an informed purchase. These kinds of pieces may be available through your wholesaler, but if not, always ensure you are careful to provide true and accurate information.

## **Advertising:**

Although there is research that supports the benefits of CBD, as a supplier you cannot make medical claims about CBD oil, which could be considered false advertising. Even if the wholesale company you source your CBD product from makes health claims about their product, be aware that these claims are not supported by the FDA. The FDA's disclaimer should be visible in your retail store, as well as on your website if you are selling CBD product online.

## **Insurance Considerations:**

Having the proper insurance coverage is essentially protecting your business from the risks associated with supplying CBD products. Meeting with your insurance provider to understand the coverages you have, as well as the additional coverages you may need, will give you peace of mind that will allow you to focus on growing and scaling your business. Due to the complex laws and regulations surrounding CBD and hemp, working with an insurance provider that understands both the HME industry, as well as the cannabis space, is essential to making sure your business is protected.

Factors that drive the type of coverage needed, and the cost of the policies for businesses carrying CBD products, vary based on the policy type, limits needed, type of operations and revenue of the business. However, at the core, businesses providing hemp and CBD products would benefit from, at minimum, four key lines of coverage:

- Commercial General Liability - Protects against the risks nearly all providers supplying CBD products face. It covers third-party liability claims such as property damage, bodily injury, or personal injury.
- Product Liability - Provides coverage in the case that your company's product causes bodily injury or damage to your customers. For the cannabis and hemp industry, this is

a complicated and constantly evolving issue due to the variations of businesses involved in the industry. Any CBD business that touches products, no matter where they are in the supply chain, needs proper Product Liability coverage.

- Commercial Property - Protects property such as buildings, contents, equipment, and personal property used for business from perils of fire, theft, and natural disasters. Additionally, commercial property insurance often provides coverage for losses of income caused by these perils, referred to as business interruption. This coverage is especially critical for companies supplying CBD products that have physical stores and considerable stocks of product.
- Cyber Liability Insurance - One of the most popular areas of growth for CBD businesses is direct to consumer and e-commerce – an area many HME providers are already heavily involved in. Customer information that is collected during the e-commerce process requires protection and is often looked at as sensitive data, which your business is legally liable to protect. A Cyber Liability policy will help mitigate the risk of losses from data breaches or cyberattacks.

Additional coverages recommended for providers supplying CBD products include:

- Professional Liability
- Crime Coverage
- Excess Coverage
- Surety Bonds
- Compensation
- Management Liability

Be sure to consult with your insurance provider before incorporating CBD products into your product mix to ensure you have the correct coverages and risk management strategies in place to protect your business.

## **In Conclusion:**

CBD is an emerging product category that, while offering enormous potential for HME providers in terms of revenue and business growth, also offers a unique set of challenges and risks. It is important for providers to understand these risk factors, and take the steps needed to prepare and protect their business from future claims.

For more information about managing the risk of CBD for your business, or to learn more about the coverages you need, contact your VGM Account Manager, or reach out the VGM Insurance team today at 800-362-3362 or [info@vgminsurance.com](mailto:info@vgminsurance.com).