



M E M O R A N D U M

TO: ALL MAJOR LEAGUE CLUBS

FROM: Dan Halem

DATE: February 19, 2020

RE: **POLICY GOVERNING THE USE, POSSESSION AND DISTRIBUTION OF NATURAL CANNABINOIDS BY PLAYERS AND CLUB PERSONNEL**

The Commissioner's Office recently made a number of changes to its various drug programs that include the removal of natural cannabinoids (*e.g.*, tetrahydrocannabinol (THC), cannabidiol (CBD) and marijuana) from the list of prohibited Drugs of Abuse. These changes should not be construed, however, as promoting or recommending the use of natural cannabinoids by players or Club personnel. To the contrary, while natural cannabinoids will no longer be considered Prohibited Substances under MLB's Drug Programs, there are still restrictions on, and risks associated with, the use, possession and distribution of marijuana and other natural cannabinoids. Most importantly, players and Club personnel need to be aware that marijuana and other natural cannabinoids remain governed by U.S. federal, state and local laws. **Players and Club personnel may be subject to discipline by the Commissioner's Office or their Club for engaging in certain cannabinoid-related conduct, including violations of federal, state or local laws governing natural cannabinoids** (including, for example, illegal possession or distribution of marijuana, or driving under the influence). In addition to the expectation that players and Club personnel will comply with the law, this memorandum summarizes additional rules and regulations that will apply to all players and Club personnel.

I. Use or Possession of Cannabinoids at Club Facilities or While Performing Services on Behalf of the Club

The smoking of marijuana or any other cannabinoids (including by e-cigarette or vaping) in or around any Club facility or while performing services on behalf of the Club is currently prohibited conduct under certain of MLB's Tobacco Policies. Accordingly, all prohibitions that apply to the use of smokable tobacco products shall apply equally to the smoking of marijuana or any other cannabinoid. In addition, most Club facilities have smoking bans in place that prohibit the smoking of any substances (including marijuana) on the premises, and players and Club personnel are expected to comply with those restrictions.

If players or Club personnel appear under the influence of marijuana or any other cannabinoid during any of the Club's games, practices, workouts, meetings or otherwise during the course and within the scope of their employment, they will be referred for a mandatory evaluation under the applicable cannabinoid and alcohol treatment program.

With respect to travel, the U.S. federal government still classifies cannabinoids, including medical marijuana and cannabis-derived CBD, as Schedule I Controlled Substances. Accordingly, anyone travelling with a Controlled Substance across state lines can be charged with a federal crime. Certain states may also have separate criminal laws that could apply to such conduct. Internationally, fines and punishment for cannabinoid possession can be even harsher, and travelling to the U.S. with cannabinoids can result in being denied entry, arrest and/or deportation (depending on one's immigration status).

II. Providing Cannabinoids to Players and Storing Cannabinoids in Club facilities

The Drug Enforcement Administration (DEA) still considers THC and certain forms of CBD as Schedule I Controlled Substances, and these products are subject to stringent DEA requirements that govern the storage, inventory and dispensing of Controlled Substances. In addition, the U.S. Food and Drug Administration (FDA) takes the position that it is illegal to market or sell any food or supplement claiming to contain THC or CBD, and has recently sent warning letters to companies for illegally including CBD in their products.

Further, MLB has a longstanding policy of only permitting Clubs to provide players with dietary supplements and other fortified nutritional products that are NSF Certified for Sport. The basis for this well-established policy is that Clubs should not provide or recommend any substance that could potentially be contaminated and unintentionally result in a positive drug test. Experts have advised that, like dietary supplements, cannabinoid products (*e.g.*, products containing cannabis, hemp or CBD) also have a high likelihood of contamination with harmful or prohibited ingredients.

As a result of the requirements imposed by the DEA, the position of the FDA and the lack of regulation and unclear legal status of these products, Clubs are prohibited from providing cannabinoid products to players and from storing such products in Club facilities (including any Clubhouse or athletic training room).

However, because certain hemp-based CBD products may be lawful and contaminant free in certain circumstances, MLB and the MLBPA are working closely with NSF International to develop an independent testing and certification process for such products. This process will confirm the legal status of the product and verify that the product does not present any contamination risks to players. MLB will continue to monitor and provide updates as certain hemp-based CBD products are tested and verified by NSF International.

III. Club Medical Personnel Prescribing, Dispensing or Recommending Cannabinoids for the Treatment of Players (Including in States in which Medical Marijuana is Legal)

Although a number of state laws permit medical marijuana for the treatment of certain medical conditions, natural cannabinoids remain Schedule I Controlled Substances. This classification

means that these substances are considered by the DEA to have “no currently accepted medical use and a high potential for abuse.” Because Clubs are required to comply with all DEA regulations that apply to Controlled Substances, Club medical personnel are prohibited from prescribing, dispensing or recommending the use of marijuana or any other cannabinoid to any player or Club personnel.

There is one limited exception to the Controlled Substance Act that applies to certain forms of CBD. If CBD is extracted fully from hemp (as opposed to cannabis), and the hemp contains less than 0.3% THC, it is exempted from the Act and not considered a Controlled Substance. Unfortunately, there are no independent or reliable regulatory procedures in place to monitor and confirm the source or concentration of THC in hemp-based CBD products. However, as described above, MLB and the MLBPA are working with NSF International to identify CBD products that are contaminant free and fully exempt from the Controlled Substance Act.

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A separate bulletin will be issued to address MLB’s rules regarding investments in, and commercial arrangements with, companies that produce, market, sell and/or distribute natural cannabinoids. Until such guidance is issued, any such investments or commercial arrangements are still considered to be prohibited in accordance with current practices.

Please ensure that all players and Club personnel receive a copy of this memorandum. To the extent that this memorandum does not address a question that you have, or you would like additional assistance or guidance on MLB’s cannabis policy, please contact Jon Coyles at 212-931-7859 or jon.coyles@mlb.com.

cc: Patrick Houlihan
Jon Coyles