

## **Alert** | Health Care & FDA Practice



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### **Update on Cannabis (marijuana) regulations in Mexico.**

Read in Spanish/Leer en Español.

Below are updates on the legal provisions and initiatives regarding the use of cannabis for both medicinal purposes and recreational use in Mexico, a follow-up to our [January 2019 GT Alert](#) .

#### **Guidelines Revocation.**

On March 27, 2019, the Federal Commission for the Protection Against Sanitary Risks (COFEPRIS) published on its website the official letter number SOO/134/2019 (Official Letter) dated March 26, 2019, revoking the “Guidelines for the Sanitary Control of Cannabis and its Derivatives” (Guidelines), published through its website Oct. 30, 2018.

Through the Official Letter, COFEPRIS required all its Administrative Units to review all documents issued based on the Guidelines, to determine their validity within the applicable legal framework.

COFEPRIS stated, through its commissioner, that revocation of the Guidelines is mainly due to the following:

1. By authorizing the marketing of different products derived from cannabis for uses other than medical and scientific, the Guidelines exceeded their purpose. The intent of the resolution that

amends several provisions of the General Health Law (*Ley General de Salud*), published in the Federal Official Gazette (*Diario Oficial de la Federación*) June 19, 2017 (Resolution), was only intended to regulate the medicinal use of cannabis.

2. Publication of the Guidelines did not comply with the provisions set forth in article 4 of the Federal Law of Administrative Proceedings (*Ley Federal de Procedimiento Administrativo*), which states that general administrative acts, such as guidelines, must be published in the Federal Official Gazette to be legally effective. The Guidelines were never published in the Federal Official Gazette, only published on the COFEPRIS website.
3. The Guidelines were not submitted for audit by the National Commission for Regulatory Improvement (CONAMER), contravening the provisions of article 71 of the General Law on Regulatory Improvement (*Ley General de Mejora Regulatoria*).
4. The Guidelines contravene the provisions of the General Import and Export Duties Law (*LIGIE*), since they authorize the import of merchandise prohibited under this law.

In accordance with the Resolution's transitory articles, the Ministry of Health (*Secretaría de Salud*) was obliged to reconcile all regulations and standards to reflect the agreed amendments. However, the Ministry of Health's choice to publish the Guidelines through the COFEPRIS created an origination problem, since it contravened the Resolution's transitory article provisions.

Although revoking the Guidelines was the correct thing to do legally, as it preemptively annuls regulations that could later be challenged for origination defects and publication process errors, the lack of regulation regarding the use of cannabis derivatives remains undefined, prolonging and exacerbating the uncertainty surrounding this growing market. The Ministry of Health should already have drafted public policies to regulate cannabis use for medical and scientific purposes. While the General Health Law allows for the possibility of using cannabis for medical and research purposes, there is no formal legal framework to proceed with implementation.

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