

# TGA Advertising and Medical Cannabis

Enforcement Activity Top 10 Trends

The TGA has a strict stance on medical cannabis advertising, particularly against claims about efficacy, safety, and endorsement.

In the last 2 years, the TGA has commenced 2 civil penalty proceedings and issued more than 165 infringement notices that total more than \$2.3 million in penalties to organisations and individuals on the basis of unlawful advertising of medicinal cannabis.

The TGA's enforcement actions and activities reveal some distinct trends which we discuss below.

### Top 10 issues and trends we are seeing

1. Website and social media use of phrases and terms such as “plant medicine”, “plant-based medicine”, “medical cannabis”, “medical marijuana”, “CBD oil” are to be avoided as all are likely to be viewed as *unlawful* as the TGA sees these as promoting the supply and use of cannabis.
2. Representations (whether expressed or implied) that medical cannabis could treat, cure or prevent anxiety, depression, post-traumatic stress disorder and/or autism are explicitly prohibited under the *Therapeutic Goods Regulations 1990* (Cth) (**TGA Regulations**) as *prohibited representations* under the TGA Act.
3. Representations or claims (whether expressed or implied) about cannabis treating serious medical conditions (e.g., fibromyalgia, epilepsy, autoimmune conditions, chronic pain, seizures, meningitis, and/or autism) require approval from the TGA prior to use as they are *restricted representations* and in the absence of such approval a person or entity making such claims is likely to be breaching the TGA Act.
4. Representations, statements or claims (whether expressed or implied) that medical cannabis is recommended, endorsed or approved by the TGA or some other government body are likely to be considered *misleading* under the TGA Act.
5. References to medical cannabis-related substances listed in Schedule 4 and Schedule 8 of the Poisons Standard (which requires compliance with TGA advertising restrictions) are likely to breach the TGA Act.

6. Advertisements which cite scientific research without proper attribution (e.g. no author, funding source, or links to full peer reviewed studies for consumers to access and read) are likely to contravene the *Therapeutic Goods Advertising Code* (**TGA Code**) and the TGA Act.
7. TGA guidelines caution against definitive statements on safety, efficacy, or risk-free consumption without robust scientific evidence.
8. Testimonials or endorsements about medical cannabis given by current or former “health practitioners” within the meaning of the TGA Act or a “health professional” within the meaning of the TGA Code, are likely to infringe the TGA Code.
9. Greater litigation and regulatory actions by the TGA. The TGA have already taken action to warn directors and representatives in writing and orally that their conduct was or might be advertising medical cannabis as a therapeutic good, in contravention of the TGA Act. When those warnings are ignored and the alleged breaches continue, the TGA are more likely to litigate.
10. Advertising restrictions extend to businesses not involved in the direct prescribing or distribution of product (as we have seen popular lifestyle websites owned by high profile media companies also fined for ‘medical cannabis advertising’).

### Conclusion

Given increased TGA focus on this area, it is no surprise that the [2025 United In Compassion \(UIC\) Australian Medicinal Cannabis Symposium](#) has chosen the theme for the 2025 event as “**optimising quality and compliance.**”

Advertising prescription-only medicines, such as medicinal cannabis, directly to consumers is prohibited, “*as it may create inappropriate demand and lead to unnecessary or harmful prescribing.*”

Clients often approach us to screen their strategy and approaches to advertising before they are undertaken. Getting this right at the outset is critical for corporate governance and to avoid civil and criminal penalties.

## HOW MCW CAN ASSIST

If you would like to discuss the implications of the TGAs enforcement approach for your business, please contact Andrew Proudfoot of McInnes Wilson lawyers for a discussion. Andrew will also be speaking at the 2025 UIC Symposium and looks forward to connecting if you are also attending. Our market leading commercial, litigation, health and aged care law practice areas are able to assist with the following and other issues:

- Dealing with regulators like TGA, ODC, Ahpra for cannabis businesses, doctors and pharmacists, including on advertising matters.
- Dealing with other regulations/regulators/topics relating to medical cannabis businesses, such as ASIC (greenwashing), ACCC (misleading and deceptive conduct), ATO (R&D, corporate and personal income tax, GST), Commonwealth and State/Territory Health Departments.
- Acting for employers on issues of conjecture related to cannabis ([Workcover](#), [Drug Driving](#), [Anti-discrimination policies](#), [Workplace Health & Safety](#), [Insurance](#)).



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