

# Medical Cannabis – Medico-legal Issues

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# Navigating the Legal Framework

- TGA access schemes and State based prescription and monitoring requirements
- Consequences of failing to obtain approvals
- Queensland Health Guidelines\*
- **If you are considering prescribing medicinal cannabis you should consult your Medical Indemnity Insurer**

# Personal Views – Conscientious Objectors

- Your decisions about patients' access to medical care must be free from bias and discrimination
  - You have a right not to provide treatment to which you conscientiously object (Code of Conduct 2.4.6)
  - Inform your patients and, if relevant, colleagues, of your objection and do not allow your objection to impede access to treatments that are legal (Code of Conduct 2.4.7)

# Duty to Exercise Reasonable Care and Skill

- Code of Conduct\* 2.2 “Good patient care”
- Recognise and work within limits of competence and scope of practice (Code of Conduct 2.2.1)
- Ensure that you have adequate knowledge and skills to provide safe clinical care (Code of Conduct 2.2.2)
- Consider the need for specialist referral
- Queensland Health Guidelines

\* Good Medical Practice: A Code of Conduct for Doctors in Australia

# Obtaining an Appropriate Medical History

- The Queensland Health Guidelines suggest:
  - Presenting symptoms
  - Medical history including cardiovascular disease, liver disease and renal disease and history of conventional treatments that have been trialed
  - Psychological and psychiatric history
  - Risk behaviours associated with drug dependence, e.g. nicotine, alcohol, illicit drugs
  - Family mental health history
  - Social history
  - Review of medications which might interact with medicinal cannabis

# Consent

- The TGA\* suggests obtaining informed consent in writing including:
  - The condition, consequences, alternative treatment options, likelihood of recovery, long-term prognosis
  - That medicinal cannabis products have not been approved by the TGA
  - That the quality, safety and efficacy has not been assessed by the TGA
  - About the possible benefits of treatment and any risks and side effects that are known
  - About the possibility of unknown risks and late side effects
- Obtain detailed consent in writing. Consider a cooling off period.

# Monitor, Review and Document

- Monitor to ensure efficacy and manage adverse events.
- The Queensland Guidelines suggest
  - Daily monitoring if necessary to begin with and then monthly once on an established dose
  - Review should cover symptom control, adverse events aberrant behaviour (e.g. on-selling the product)
- Document

# Record Keeping

- This is more important than ever when prescribing medicinal cannabis. Records should:
  - Reflect that it is appropriate to prescribe medicinal cannabis in accordance with the guidelines
  - Document monitoring, review, dosage changes, adverse events
  - Document compliance with TGA requirements
  - Facilitate continuity of care



# Potential Disciplinary Action

- Complaint by a patient or carer around a perception that they haven't been fully informed, monitoring, dosage, failure to involve a specialist
- Breach of TGA requirements
- Mandatory reporting of a practice which constitutes a significant departure from accepted professional standards

# Potential Claims for Damages

- Side effects which were not explained/warned/consented  
e.g. schizophrenia
- Failure to warn not to drive
- Failure to monitor/review
- Negligence in dosage, type
- We don't yet know what the long term side effects might be

# Thank you

Questions & comments are welcome



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