

Prescribing cannabis medicines to children



This fact sheet assists medical practitioners in NSW who are considering prescribing a cannabis medicine to patients who do not have the capacity to give informed consent to treatment.

In NSW there are laws to protect people who are unable to give informed consent to the use of experimental or addictive medicines. Most cannabis medicines are largely considered experimental and their effects are being studied.

Doctors should be aware of their responsibilities under the law regarding the prescription of cannabis medicines to children. A child is defined as a person under the age of 16 years.

Children and Young Persons (Care and Protection) Act 1998

Section 175 of the *Children and Young Persons (Care and Protection) Act 1998* (the Act) sets out medical practitioners' legal obligations when carrying out a special medical treatment on a child.

Special medical treatment

The definition of *special medical treatment* includes:

“any medical treatment that involves the administration of a drug of addiction within the meaning of the Poisons and Therapeutic Goods Act 1966 over a period or periods totalling more than 10 days in any period of 30 days.” (s 175(5)(c1))

A *drug of addiction* is a substance specified in Schedule 8 of the Poisons List. Cannabis medicines classified as Schedule 8 substances are considered a *special medical treatment* under s 175 of the Act.

Most cannabis medicines are Schedule 8 substances. One exception is cannabidiol products containing 2% or less in total of other cannabinoids found in cannabis. Such medicines are classified under Schedule 4 of the Poisons List and are not considered a *special medical treatment* under the Act.

When considering prescribing a Schedule 8 cannabis medicine to a child, medical practitioners must comply with s 175 of the Act. The penalty for non-compliance is imprisonment for 7 years.

Process for prescribing a Schedule 8 cannabis medicine for a child

A medical practitioner in NSW can legally prescribe a Schedule 8 cannabis medicine for a child only if an exemption is granted by the Secretary of the NSW Department of Communities and Justice (DCJ) on the written request of the Secretary, NSW Health.

To apply for an exemption, the treating medical practitioner must make an application to the Secretary, NSW Health. The process for doing so will depend on the type of cannabis medicine they are seeking to prescribe.

- If the cannabis medicine is unregistered, they must apply to the Therapeutic Goods Administration (TGA) using the online portal to obtain the necessary authority. Further information is available at: www.tga.gov.au/special-access-scheme-and-authorized-prescriber-online-system
- If the cannabis medicine is registered, they must apply to NSW Health. Currently the only product registered in Australia is Sativex® (nabiximols). Further information is available at: www.health.nsw.gov.au/pharmaceutical/cannabismedicines/Pages/default.aspx

If an application is made to prescribe a Schedule 8 cannabis medicine to a child, NSW Health will manage the prescriber's application as per the process outlined below.

- 1) NSW Health will assess whether sufficient information, evidence and justification has been provided for the purposes of seeking an exemption under the Act.
- 2) If NSW Health is satisfied with the information provided, the Secretary, NSW Health (or delegate) will make a written request to the Secretary of the DCJ (or delegate) for an exemption in relation to the administration of a Schedule 8 cannabis medicine.
- 3) The DCJ may provide notice of the decision to the Secretary, NSW Health. If they are not notified within the 21 day period after the request was made, the exemption will be taken to have been granted. NSW Health will advise the medical practitioner applying for exemption of the outcome.

Exceptions

There is a general exemption to s 175(1) of the Act which allows medical practitioners to carry out special medical treatment in particular circumstances (e.g. during treatment of cancer). Information about the situations in which a general exemption may apply can be found here:

www.facs.nsw.gov.au/download?file=595820

Further information

The NSW Poisons List adopts the Schedules of the Poisons Standard under the *Poisons and Therapeutic Goods Act 1966*.

Guidance for the use of medicinal cannabis in the treatment of epilepsy in paediatric and young adult patients in Australia can be found on the TGA website: www.tga.gov.au/publication/guidance-use-medicinal-cannabis-treatment-epilepsy-paediatric-and-young-adult-patients-australia

For NSW Health employees:

[Consent to treatment](#)

Medical Practitioners should seek advice from their Medical Defence Organisation for further guidance regarding specific scenarios.

For practitioners:

General practitioners, community pharmacists and rural health practitioners considering the use of a cannabis medicine as a treatment for their patient may contact the John Hunter Hospital Pharmacy Department for guidance, via HNELHD-JHHPharmacy@health.nsw.gov.au.

For patients:

Email the Centre for Medicinal Cannabis Research and Innovation MOH-CannabisTrial@health.nsw.gov.au