



**Public Health Association**  
AUSTRALIA

# Public Health Association of Australia submission on Legalising Cannabis Bill 2023

**Contact for recipient:**

Senate Legal and Constitutional Affairs Committee  
A: PO Box 6100, Parliament House, Canberra ACT 2600  
E: [legcon.sen@aph.gov.au](mailto:legcon.sen@aph.gov.au)  
T: (02) 6277 3560

**Contact for PHAA:**

Terry Slevin – Chief Executive Officer  
A: 20 Napier Close, Deakin ACT 2600  
E: [phaa@phaa.net.au](mailto:phaa@phaa.net.au) T: (02) 6285 2373

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# Contents

<b>Overview</b>	<b>4</b>
<b>Details of the Legalising Cannabis Bill 2023</b>	<b>5</b>
Further research is needed before recreational use of cannabis should be legalised .....	5
The proposed Cannabis Australia National Agency (CANA).....	5
Restriction on advertising .....	6
Prevention of political influence of a ‘cannabis sector’ .....	6
Monitoring of epidemiological evidence .....	7
Formal review of the legislation.....	7
<b>Conclusion</b>	<b>8</b>
<b>References</b>	<b>8</b>



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The **Public Health Association of Australia** (PHAA) is Australia's peak body on public health. We advocate for the health and well-being of all individuals in Australia.

**We believe** that health is a human right, a vital resource for everyday life, and a key factor in sustainability. The health status of all people is impacted by the social, commercial, cultural, political, environmental and economic determinants of health. Specific focus on these determinants is necessary to reduce the root causes of poor health and disease. These determinants underpin the strategic direction of PHAA. Our focus is not just on Australian residents and citizens, but extends to our regional neighbours. We see our well-being as connected to the global community, including those people fleeing violence and poverty, and seeking refuge and asylum in Australia.

**Our mission** is to promote better health outcomes through increased knowledge, better access and equity, evidence informed policy and effective population-based practice in public health.

**Our vision** is for a healthy population, a healthy nation and a healthy world, with all people living in an equitable society, underpinned by a well-functioning ecosystem and a healthy environment.

**Traditional custodians** - we acknowledge the traditional custodians of the lands on which we live and work. We pay respect to Aboriginal and Torres Strait Islander elders past, present and emerging and extend that respect to all other Aboriginal and Torres Strait Islander people.

## Overview

PHAA welcomes the opportunity to provide input to the *Legalising Cannabis Bill 2023*. Drug usage is a complex policy space in which legislatures, governments and regulators seek multiple goals, including:

- balancing the benefits and harms to both individuals and wider society that result from policy choices
- encouraging and supporting ongoing medical and other scientific research to improve the evidence base behind policy decisions
- remaining open to emerging evidence and policy developments
- keeping regulatory regimes under review, and reforming regulation in appropriate circumstances.

PHAA has not adopted any policy stance on personal recreational use of cannabis. We therefore do not take a fixed position in this Bill.

But acknowledging the political support for possible legalisation, our view is to warn that **if such cannabis reform is to happen, it should be legislated and regulated with great care.**

However, PHAA does support the *medicinal* use of cannabis, under appropriate regulation, in specific circumstances in which cannabis has been proven through rigorous independent research, to be of therapeutic benefit.

Where the consumption and circulation of cannabis products have actual or potential harmful impacts on either the cannabis user or other people, we urge that an evidence-based approach to evaluating the facts and determining a well-balanced regulatory response is taken.

With regard to the suggested economic benefits of the legalisation of cannabis however, it remains our position that the health and safety of Australians should be the paramount priority. PHAA therefore calls for careful consideration of the evidence regarding the short and long-term risks and benefits of recreational use of cannabis in the course of examining this Bill.

PHAA acknowledges the legislative design of the proposed Cannabis Australian National Agency, which presents as a potentially very sound model for responsible regulation of cannabis products.

PHAA urges that the following issues be addressed in considering the proposed *Legalising Cannabis Bill 2023*. These include the need for:

- (1) very firm regulatory arrangements, including amendments to the bill, to prevent cannabis industry interference in government policy decision making
- (2) provision for very strong oversight by any regulatory body to control marketing and access of cannabis products
- (3) rigorous ongoing collection of epidemiological data so as monitor and to make clear the benefits of a revised cannabis regulator model (eg reduced incarceration, impact on justice system etc), any harms from use of cannabis, and the effectiveness and broader impact of regulatory arrangements.

## Details of the Legalising Cannabis Bill 2023

### Further research is needed before recreational use of cannabis should be legalised

PHAA supports the use of cannabis in a medicinal context where there is conclusive evidence showing health benefits that outweigh any harms.

Research and case reports indicate a range of health conditions for which cannabis may have demonstrated therapeutic benefit against symptoms of serious illness, or the adverse side-effects of their treatment. These include – but are not limited to – cancer, HIV infection, multiple sclerosis, and epilepsy.<sup>1, 2, 3, 4</sup>

Current evidence suggests that adverse effects of short-term use of cannabis products for medical indications include included asthenia, balance problems, confusion, dizziness, disorientation, diarrhoea, drowsiness, dry mouth, fatigue, hallucination, nausea, somnolence and vomiting.<sup>5</sup>

PHAA therefore calls for careful consideration of the evidence regarding the short and long-term risks and benefits of *recreational* use of cannabis in the course of examining this Bill. Legalisation of recreational use is a political question, and it is apparent that Parliament and/or the state and territory jurisdictions will seek to move towards such a legal regime. If so, PHAA's position is that this be done with very careful consideration of public health issues.

There are also a wide range of benefits from reducing the prospect that occasional or recreational cannabis users will become caught up in the criminal justice system, for which reason PHAA supports reform.

Whether recreational use is legalised or not, there is a clear need to develop the evidence base on all adverse effects of long-term use of cannabis, including risk of dependence, exacerbation of cardiovascular disease and precipitation of psychotic disorder, especially in younger people.<sup>6</sup>

The challenge in creating sound public policy is captured well by this recent meta analysis review on the use of cannabis and cannabinoid products published in the British Medical Journal which concluded:

*“Convincing or converging evidence supports avoidance of cannabis during adolescence and early adulthood, in people prone to or with mental health disorders, in pregnancy and before and while driving. Cannabidiol is effective in people with epilepsy. Cannabis based medicines are effective in people with multiple sclerosis, chronic pain, inflammatory bowel disease, and in palliative medicine but not without adverse events”.*<sup>7</sup>

### The proposed Cannabis Australia National Agency (CANA)

PHAA acknowledges the legislative design of the proposed Cannabis Australian National Agency, which presents as a potentially very sound model for responsible regulation of cannabis products, including oversight and regulation of cannabis marketing in Australia.

In regard to a medicinal cannabis industry, which has already emerged in Australia, PHAA would wish to see the current regulatory arrangements under the Therapeutic Goods Act continue. However in regard to wider 'recreational' and other use of cannabis, we would support some model like the CANA proposal rather than see the emergence of a cannabis retail sector without special regulation. The difficulty may be, since a barrier between 'medicinal' and 'recreational' retail industries may not be realistic, how to manage those competing models of regulation. This requires very careful consideration.

## Restriction on advertising

PHAA endorses the Bill's proposed restrictions on advertising by a potential legalized cannabis sector.

There has and continues to be widespread marketing of unhealthy products in Australia such as unhealthy food, alcohol, tobacco and vaping products. Especially of concern is how these industries often target young people. Should a wider cannabis industry become legal, legislatures and regulators should ensure that it is not given the unfettered opportunity to market products, especially towards younger individuals, in which negative effects are more likely to occur. Since most forms of product marketing lean heavily into attracting consumption uptake by people early in life, this will be very problematic.

Further, the current law prohibiting health benefit claims that are not substantiated by scrutiny as set out in the Therapeutic Goods Act should certainly be applied to any cannabis sector. Given the clear attitudes that cannabis has a role as a form of complementary medicines, if not primary medicine, this must be absolutely enforced from the start of any legalization regime.

## Prevention of political influence of a 'cannabis sector'

PHAA is strongly concerned about the role and influence of an 'industry' whether for medicinal cannabis, and all the more so in a recreational use legalization regime.

### Business regulation

We support the provisions of the Bill which would control registration of businesses involved in a cannabis sector. However, we must be concerned that an emerging sector would not fall into the hands of a small number of market-dominant operators. Current anti-competition law may be inadequate to ensure that such an outcome does not emerge, as it historically has in many similar business sectors. The Bill may require significant strengthening of competition law with specific application to this emerging sector.

Specifically, we strongly support the proposition that businesses which are already engaged in the tobacco and alcohol sectors should be barred from becoming or owning cannabis businesses under the proposed regimes. These sectors have demonstrated over many decades a predominant commitment to profit, market share, and market domination where possible, and have engaged in practices of influence over government that have been seriously damaging to public health. It is a paramount policy goal that the culture of these industries not be imported into any legalized cannabis industry.

The same broadly applies to the pharmaceutical sector, with the obvious exception that the development of a medicinal cannabis industry in Australia inherently involves the involvement of businesses which belong to this sector, and should be regulated as such. In this case, very strong control under Australia's therapeutic goods law should remain in place.

### Political influence

Should this Bill be enacted, steps need to be taken to ensure that the resulting cannabis industry does not develop undue influence over public policy decisions, as has happened historically with other sectors such as tobacco, alcohol and unhealthy foods. There is a clear risk of advocacy by the cannabis products industry to promote its own interests overrunning public policy development, as has occurred in California.<sup>8</sup>

Two possible amendments to the Bill may be proposed here, with a view to curbing industry influence:

- (1) We note that government relations towards tobacco industries are regulated through the *WHO Framework Convention on Tobacco Control 2003* treaty, limiting the industry's ability to influence political decision making. The terms of that article 5.3 of the FCTC are as follows:

*In setting and implementing their public health policies with respect to tobacco control, Parties shall act to protect these policies from commercial and other vested interests of the tobacco industry in accordance with national law.*

While alterations to the FCTC to include a cannabis sector are beyond the scope of the present debate, we would propose that an equivalent to Article 5.3 of the FCTC should be specifically enacted in the Bill, binding government agencies to observing constraints relating to cannabis industry lobbying and influence. The Department of Health has produced guidelines for government agencies in applying FCTC responsibilities, which may be taken into account in crafting appropriate amendments to the Bill.

- (2) PHAA's Unhealthy Political Influence policy position statement (2021) calls for political donations to be banned from several sectors responsible for unhealthy products, harmful energy and defence sectors, and others. An emergent cannabis sector should be added to this list. Appropriate prohibitions on such donations should be enacted in the Commonwealth Electoral Act and in the relevant state and territory electoral legislation.

### **Monitoring of epidemiological evidence**

If this or any similar cannabis legalization is enacted, PHAA strongly believes that additional epidemiological data must be collected in order to determine the impacts of changing consumption of cannabis across the population. Epidemiological data should include prevalence and frequency of cannabis use amongst users and critically monitoring of any cannabis related side-effects. Collection of this data should be used to determine trends in use of cannabis, negative side effects and possible benefits.

### **Formal review of the legislation**

If enacted, the *Legalising Cannabis Bill 2023* should be reviewed after 4 years, and perhaps at regular future intervals. At such reviews epidemiological data should be analysed and evidence-based policy decisions should be made with the continuing goal of protecting the health of Australians.

## Conclusion

PHAA has not adopted any policy stance on personal recreational use of cannabis. We therefore do not take a fixed position in this Bill. But acknowledging the political support for possible legalisation, our view is to warn that if such cannabis reform is to happen, it should be legislated and regulated with great care.

PHAA does support the *medicinal* use of cannabis, under appropriate regulation, in specific circumstances in which cannabis has been proven to be of therapeutic benefit.

PHAA therefore supports aspects of the *Legalising Cannabis Bill 2023* that take steps towards strong and effective regulation. However, we are concerned to ensure there is enough long-term scrutiny of recreational use of cannabis to ensure that it does not have a net increased adverse impact on public health. And we again emphasise our points above about the need to curb the political influence of any emerging industry.

The PHAA appreciates the opportunity to make this submission. Please do not hesitate to contact me should you require additional information or have any queries in relation to this submission.



Terry Slevin  
Chief Executive Officer  
Public Health Association of Australia

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