

WEBINAR

How to Not Get Sued: Dispensary Marketing Compliance

Webinar Preview & Audio Available at:

<https://www.foottraffik.co/webinars/how-to-not-get-sued-dispensary-marketing-compliance/>

Slide 1

How to Not Get Sued: Dispensary Marketing Compliance
Avoid Fines & Keep Your License

Slide 2

Today, we'll be covering:

- Which federal regulations apply to your marketing
- How to create ads, emails, and texts that are compliant
- The highest-ROI compliant marketing solutions for dispensaries

Just a quick disclaimer: we aren't lawyers. If you want specific legal advice, speak to a cannabis attorney familiar with your state or province regulations.



How to Not Get Sued: Dispensary Marketing Compliance

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Slide 3	<p>My name is Eduardo Silva. I'm the VP of Sales here at Foottraffik, and I'm really excited to be sharing this information with you today.</p>
Slide 4	<p>Foottraffik is a digital advertising and analytics agency. We've been in business for over five years now, exclusively focused on dispensaries and delivery services within North America. We're really excited to be helping advance our industry forward.</p>
Slide 5	<p>A couple of housekeeping items before we get started.</p> <p>If you have your cell phones on you, please put them facing down on your desk or mute them. We are going to be covering a lot of information in a very short window of time and it helps to retain focus.</p> <p>Familiarize yourself with the Zoom interface. If you haven't become a master at Zoom yet, if you go to the bottom of your screen there is a Q&A button. We do have moderators with us today that will be addressing questions throughout the webinar.</p>
Slide 6	<p>As a dispensary owner or chief marketing officer, you know there's a long list of regulations you have to deal with. From where you can set up shop to what you have to report to your state or province, it's pretty easy to get</p>

How to Not Get Sued: Dispensary Marketing Compliance



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Slide 7

lost in the weeds.

These regulations differ across state lines and even between cities in the same state, which can easily trip up a multi-location dispensary. At the same time, you need to ensure that your dispensary's digital presence is also compliant.

Here's the thing—while cannabis is prohibited at the federal level, there are still federal marketing and patient privacy laws that you need to comply with. We're going to dive into those first.

First up, HIPAA. The Health Insurance Portability and Accounting Act governs the collection and use of protected health information. And if you're a medical dispensary or serve patients, you need to abide by it.

If you aren't HIPAA-compliant, you may be fined from \$100 to \$50,000 per violation, with a maximum penalty of \$1.5 million per year for the same violations. Violations can also carry criminal charges that can result in jail time. Patient privacy is super important, and the penalties prove that it's something that you need to be proactive about.

According to the CDC, to be compliant, you must:

- Ensure the confidentiality, integrity, and availability of all electronic protected health information
- Detect and safeguard against anticipated threats to the security of the information
- Protect against anticipated impermissible uses or disclosures



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- Certify compliance by your workforce

So how do you do this? Basically, make sure the computer you use to check-in patients, verify their prescription or recommendation, and catalog their purchases is secure.

Install anti-virus software and run regular checks on your system to mitigate the chance of a data breach.

Anything that has personal identifying info should only be accessible to personnel trained in HIPAA.

Teach staff to close out of windows immediately so no one encounters data they shouldn't have access to.

What about marketing? Well, you can certainly talk about medical conditions in your blogs and newsletters and even highlight patient stories. Just don't share personally identifiable information unless a patient has given you permission to do so. Even then, an alias is a good idea.

Here's a quick tip: be careful with segmentation. While your state's database may give you info on a patient's medical condition or symptoms, don't use this as a tool for segmenting them into different groups. Instead, ask patients to identify what they're interested in using cannabis for and segment them that way. That way, you're not disclosing medical information through your segmentation, you're simply allowing your customers to share their area of interest. For example, they can choose from general topics, such as anxiety, nausea, sleep, and pain relief.

Slide 8

So HIPAA is really just a priority for medical dispensaries.



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The rest of the laws I'll be covering are for all dispensaries.

Let's turn to the CAN-SPAM Act of 2003. And yes, the spam in the name refers to those annoying emails that clog your inbox.

Most email providers have processes in place to protect themselves, and to some extent, to protect you. However, you still need to be mindful when creating email campaigns so that you stay within CAN-SPAMs regulations.

When choosing an email platform, make sure that it:

- Has an obvious opt-in box or text, preferably with express consent.
- Collect your opt-outs and remove them from your mailing list.
- Has an easy-to-see unsubscribe link.

Not having these things in your email could lead to huge fines. You could be fined up to \$16,000 for every email you send that isn't compliant. So if you have a list of 5,000 people, that could mean a fine of up to \$80 million if you send them all a non-compliant email.

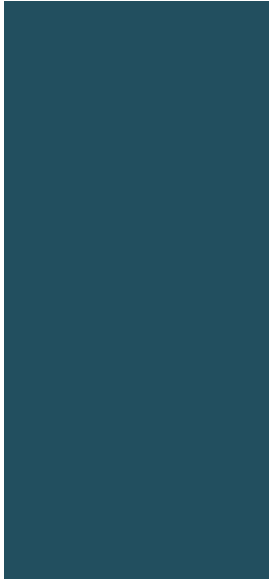
Beyond the email platform, you should stick to these best practices to avoid getting in trouble.

- Only email people who have opted to receive messages from you. Don't buy an email list.
- Remove contacts who ask to be removed from your list.
- During the opt-in process, be clear about how often you send messages and what will be in them—and then stick to that.
- Send emails with clear subject lines. Misleading

How to Not Get Sued: Dispensary Marketing Compliance



<https://www.foottraffik.co/webinars/how-to-not-get-sued-dispensary-marketing-compliance/>



- ones will get you in trouble.
- Always identify yourself or your company in the “from” line.
 - Have an accurate business address in your email.
 - Control who has access to your email list. You don’t want someone else to send a non-compliant email.
 - Set a strong password for your email account so you don’t get in trouble for a hacker’s actions.

Even if you’re headquartered outside of the US, if you’re using a US-based email marketing company or are primarily sending emails to US addresses, you need to comply with CAN-SPAM or you face large fines.



Slide 9

For Canadian dispensaries, The Fighting Internet and Wireless Spam Act, also known as CASL, is the equivalent of the CAN-SPAM Act in the US.

If you’re located in Canada or are thinking of expanding there, you should follow our CAN-SPAM best practices in order to protect yourself. CASL essentially requires all of the same things. And to be honest, if you want to build a lasting relationship with your email subscribers, following our best practices is just the best way to build trust and provide value.



Slide 10

In addition to federal marketing and privacy laws, US dispensaries must also abide by state dispensary marketing laws.



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<https://www.foottraffik.co/webinars/how-to-not-get-sued-dispensary-marketing-compliance/>

Each state has its own laws that govern cannabis. Some states treat it like tobacco or alcohol, others restrict it even more.

Depending on your state, you may have to add your dispensary license number to your digital ads, steer clear of stating the benefits of cannabis in any of your marketing, and refrain from certain types of advertising.

For example, some states don't allow you to use billboards, while others are fine with it.

Most states do ask that your ads only appear to audiences where at least 72% of the members are 21 or over.

Several states have restrictions on how you can talk about cannabis. For example, Washington state doesn't want you to discuss the benefits of cannabis. Other states caution against spreading misinformation or making cannabis appealing to children.

Before creating an ad campaign, make sure to check it against your state or province's requirements to avoid putting your license in jeopardy.

Slide 11

In Canada, the Cannabis Act lays out strict marketing prohibitions for dispensaries across the country.

Currently, cannabis retailers cannot:

- Use celebrities to endorse their products
- Feature customer testimonials
- Make false, misleading, or deceptive statements or statements about the quality or efficacy of their



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<https://www.foottraffik.co/webinars/how-to-not-get-sued-dispensary-marketing-compliance/>

- products
- Use people, characters, or animal mascots to market their products
- Print advertisements
- Advertise using foreign media
- Sponsor events
- Offer “inducements” with purchase (no raffle tickets with purchase, for example)
- Have window displays or other displays that may be seen by kids

So what is allowed? Swag that doesn't appeal to kids (think of brand logos on a t-shirt, maybe) and informational promotion.

How, then, can dispensaries market themselves in Canada? I mean, Business 101 is all about differentiating yourself from the competition. If you can't advertise in “regular” ways, how can you build a loyal customer base?

The focus really needs to be on informational promotion. That means that you should strive to educate your target audience without overtly promoting your products.

We've found the best way for many Canadian cannabis dispensaries to reach their target audience is through digital marketing. By focusing on strong SEO practices and sharing reliable, useful information on your website that adds value to your customers' lives, you can help create a loyal following that will keep coming back when they're low on bud. With digital marketing, you can create an online presence that will draw your target audience to you and help you build brand loyalty.



How to Not Get Sued: Dispensary Marketing Compliance

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Slide 12

If you're confused about how to remember all of this, don't worry. We have some additional best practices for you.

Make Clear Processes: Have a process in place to help ensure compliance at every stage: data collection, data storage, and data use. Ensure that everyone that needs to have access to your processes can find it quickly and get the answers they need so their activities are in-line with company policy.

Use an Age Gate, Website Disclaimer & Privacy Policy: Make sure that you're doing what you can to limit underage visitors. Use an age gate and have a website disclaimer on the bottom of your homepage that indicates that your website should not be used by those who are not of age. If your state requires it, you'll also want to have your cannabis disclaimer in the footer as well.

Share your privacy policy on your website wherever you ask for information, like any opt-in forms. Let your customers know exactly how their info will be used. This isn't overkill—this is protecting yourself and making sure that you keep your license.

Get Express Consent: When collecting emails or phone numbers, make sure that the opt-in process is clear. For example, if you're collecting phone numbers, you can ask customers to send a text to your shortcode with a particular phrase to opt-in. This counts as "express consent". The first text they receive should let them know how many messages to expect from you and how to unsubscribe.

Make it Clear Who You Are: Your emails should have your



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<https://www.foottraffik.co/webinars/how-to-not-get-sued-dispensary-marketing-compliance/>

dispensary's name and address at the bottom. If you're sending a text, you should also identify your dispensary.

For example: Save \$10 on two Cresco cartridges when you stop by Herbology today. Reserve yours now!

Double-Check: Service providers can be a useful resource for identifying how your marketing can be compliant, but it's up to you to ensure that your messages meet any legal guidelines. For example, even if you've set your MailChimp to share your address and unsubscribe info, you need to verify this yourself. Ultimately, you'll be held responsible if it's missing, not the service provider.

Set Up a Google Alert: Stay on top of any changes to regulations by setting up a Google alert. For example, if you're following the status of the Illinois Data Transparency And Privacy Act, set an alert so you're notified of any changes to the law that may affect your dispensaries.

Slide 13

Let's jump into compliant ways to advertise your business online, starting with search engine optimization, or SEO.

Now, I'm starting with SEO not only because it's a crucial tool for getting your website in front of potential customers, but also because there are no regulations or restrictions against doing SEO. So whether you're in Orlando or Ontario, you can confidently start an SEO strategy to make your website easier to find and score more visitors.

SEO is the practice of increasing the quantity and quality of traffic to your website through organic search engine



How to Not Get Sued: Dispensary Marketing Compliance

<https://www.foottraffik.co/webinars/how-to-not-get-sued-dispensary-marketing-compliance/>

results. This is unpaid traffic that comes from Google.

When customers want to find a dispensary near them, they turn to search—and Google, in particular. If you want to show up in those search results, then you must have a robust SEO strategy and a team to implement it. Otherwise, searchers will go right to your competition.

When you have a good SEO strategy, two things will happen.

One, you'll show up higher in search results, and two, you'll get more organic traffic.

Right now, the top three results of a search tend to get 75% of all organic traffic. The lower you are on the search results, the less traffic you'll get.

Why does this matter? Because organic traffic is one of the most dependable sources of traffic and revenue for many businesses. Thanks to your optimization, your traffic will be relevant and high-quality. These are people who are already looking for you. They're already interested in what you're selling.

Our SEO clients see an incredible ROI on their investments. In fact, for many of them, it's the best performing marketing channel, amounting to nearly 70% of their e-commerce revenue with returns as high as \$93 for every dollar spent.

Again, this is a completely compliant way to increase your visibility and get more traffic to your website, and thus more sales. In addition to your age gate, we verify age for the data we collect via our Google Analytics installation.

How to Not Get Sued: Dispensary Marketing Compliance



<https://www.foottraffik.co/webinars/how-to-not-get-sued-dispensary-marketing-compliance/>

Slide 14

Geo-advertising is the use of display ads on mobile devices within a certain geographic area.

Geo-ads allow you to connect with new customers right where they are. With the record increase in internet use because of COVID, online display ads can help keep your dispensary front and center.

We have a network of compliant, cannabis-friendly sites and apps that allow us to share your display ads and drive sales. If you've tried getting ads on websites or apps before, you know how hard it can be to find cannabis-friendly sites that will host your ads.

You can use geo-ads to advertise directly to people within your delivery area or near your dispensary, targeting areas and groups of people who are most likely to be interested in your dispensary or delivery service. Once they enter one of the perimeters you've created for your ads, they'll see your ads if they use one of the mobile sites or apps in our network.

One of the biggest problems facing dispensaries is the lack of compliant ways to advertise. Our Geo-Ads service not only addresses this concern, but we make the whole process easy.

We can create the ads for you in a way that is compliant within your state or province. For example, display ads in California must include the dispensary's license number.

Each state has its own minimum requirement for the percentage of traffic on apps and websites that must be 21+ to deliver cannabis ads on that platform. We abide by age restriction regulations on a state-by-state basis, so that we are only delivering on age compliant apps and



How to Not Get Sued: Dispensary Marketing Compliance

<https://www.foottraffik.co/webinars/how-to-not-get-sued-dispensary-marketing-compliance/>

Slide 15

websites. Sites that do not meet the state's requirements are blacklisted.

On the consumer side, we cross-reference purchase data, census data, voter files, location visitation, and more to ensure the consumers we are delivering ads to meet the age requirement. This is all in addition to the fact that the majority of audiences we utilize target consumers who previously visited a dispensary or who purchased cannabis online.

The last digital advertising service I want to cover today is Google Ads.

Google Ads is pay-per-click advertising hosted on the world's most popular search engine. It lets you get your ad right above search results.

The number one question we get asked the most is: Can dispensaries advertise on Google Ads?

Thankfully, the answer is yes. Though it's not that clear cut. There are restrictions and it's crucial that you work with a team like Foottraffik that has a clear track record of leveraging Google Ads for its clients.

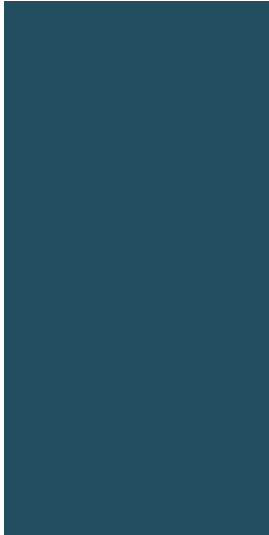
93% of internet searches in North America are done on Google, making this a valuable tool for your dispensary. It's the most used search tool in the world and the one that's most popular among your customers.

If you have your ads set upright, you can start appealing to potential customers who are looking for a dispensary near them and send them right to your menu.



How to Not Get Sued: Dispensary Marketing Compliance

<https://www.foottraffik.co/webinars/how-to-not-get-sued-dispensary-marketing-compliance/>



Part of the reason that Google Ads is such a high-ROI tool is that you're advertising to people who are already interested in your service.

Our customers have made on average \$48 for every \$1 they spend on Google Ads.

Foottraffik is the leader in Google Ads management for dispensaries in North America, managing north of \$1 million dollars annually. And we do this in a compliant fashion by targeting audiences who are of age using Google Ads targeting features.



Slide 16

Now, you may be wondering, what about social media marketing?

Well, unfortunately, you cannot use Facebook or Instagram ads to market your dispensary.

However, you can have a social media account that focuses on brand awareness. To avoid getting shut down, though, you have to be careful. We actually just did a webinar on the do's and don'ts of Instagram dispensary marketing last week. Go to [foottraffik.co/webinars](https://www.foottraffik.co/webinars) to check it out.



Slide 17

I hope this information helped you better understand the different regulations that affect dispensary digital marketing.



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<https://www.foottraffik.co/webinars/how-to-not-get-sued-dispensary-marketing-compliance/>

Slide 18

Questions?

Slide 19

Thank you for sticking with us.

Also, for sticking with us, you've qualified for your free yeti.

Let's get your shipping information and get one of those to you quickly. Schedule a call at foottraffik.me/call



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