

MJBiz™



# Hemp + CBD Forum

# Say What? Decoding the Regulations Around CBD and Other Cannabinoid Claims

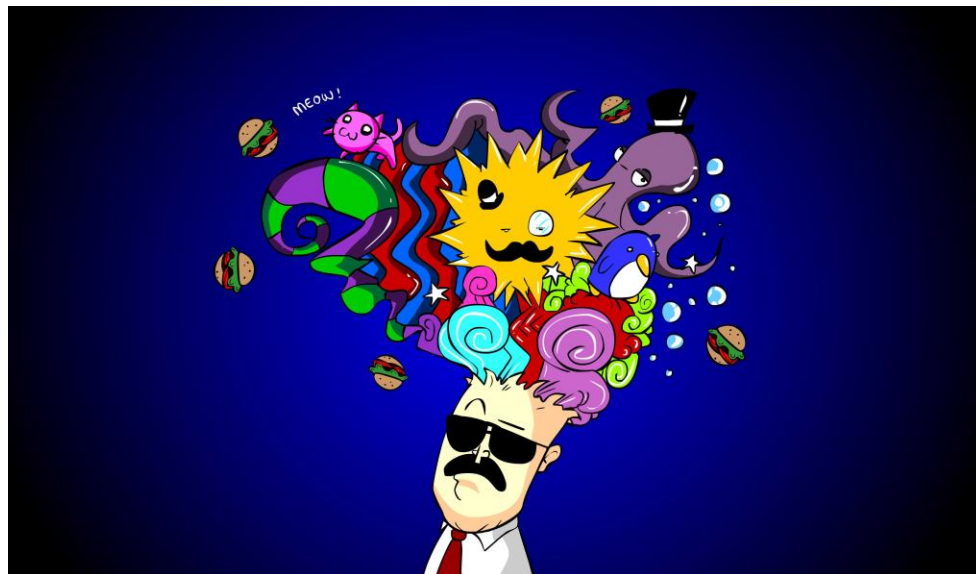


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**AHPA Cannabis Committee Chair**

# The line between effective marketing & non-compliance is confusing



# CBD Disease Claims Enforcement

~350% Warning Letter Increase Over 2021!

33%

Mention  
animal  
products

45%

Mention  
“anxiety” &  
“depression”

47%

Claims in  
blogs

54%

Involve Social  
Media

# CBD + Animal Products = High Risk

Higher scrutiny than human products



# “Anxiety” & “Depression” = **Very High Risk**

These two words greatly elevate risk



# Claims in Blogs= **Very Common**

Almost half of the 2022 warning letters include claims in blogs



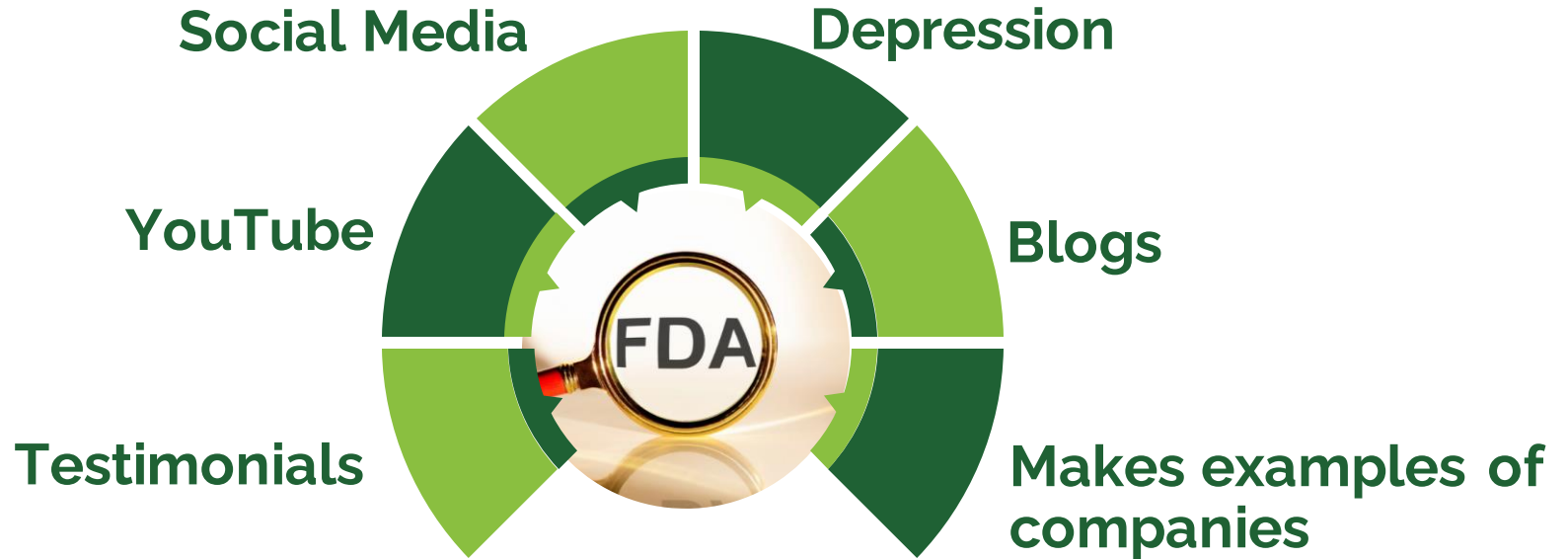
# What Are Repercussions of Not Complying?

- **Warning Letter**
  - Requires legal resources to respond
  - Public record
  - Scares away investors/brand partners (e.g., Whole Foods)
  - Alerts class action attorneys



**Making Risky Claims  
Doesn't Help The Bottom  
Line –  
Effective Marketing Does**

# Why Do Some Companies Receive FDA/FTC Scrutiny?



# The Art of Wordsmithing

Make your point without high risk “buzzwords”

- Replace high-risk words like lower risk alternatives



# Possible Alternatives to “Anxiety”

## Be truthful and not misleading

- Balanced state of mind
- Happy mood support
- #SmilesForDays

# Possible Alternatives to “Inflammation and Pain”



**Be truthful and not misleading**

- Discomfort
- Recover
- Relief or Soothe

# Possible Alternatives to “Insomnia”

## Be truthful and not misleading

- Feel refreshed in the morning
- Slumber support
- Helps you get the sleep you deserve
- Supports restful sleep

# Five Important Enforcement Trends & Best Practices



# Discussing Ingredient Benefits Are Marketing Claims

FDA Warning Letter: The Elderberry Fairy & Co., LLC

## Elderberry 101

- “Many clinical research studies have shown that supplementing with the flowers and berries of the Elder plant can have the ability to lessen the severity and duration of colds and flu.”



# Testimonials & Product Reviews Are Claims



## Anxiety relief

*I've been taking this for over a month and I've seen a huge improvement with my anxiety. I highly recommend anyone living with anxiety to try this.*



# Citing Studies Are Marketing Claims

## Includes Study Names & URLs

FDA/FTC Warning Letter: FluxxLab LLC

“Researchers have very recently discovered that CBDa, and CBGa bind to the spike protein of SARS-CoV-2, the virus that causes Covid-19.”

# Clean up old social media posts!



- The FDA and FTC look at a multi-year-old tweet or post in the same manner as a current post
- Old Facebook and Twitter posts are referenced all the time in warning letters

# Hashtags are Claims



- A normally compliant post can be made non-compliant by the use of a hashtag  
e.g. #CBDCures, #Arthritis, #FluSeason



# Hashtags are Claims

From Haniel Concepts, Inc. DBA Free State Oils, LLC FDA Warning Letter

- "On a May 12, 2019 post on Instagram states, "What can #CBD do for #animals and our #furbabies ~ #anxiety #inflammation #arthritis #pain #seizures #cancer #cbdOil #health"

# No Such Thing as “Too Small to Be On FDA’s Radar”

All online marketing is “fair game” for enforcement



- On an August 29, 2020 post on your Facebook, Instagram, and Twitter with a graphic that includes a photograph of your Snoop’s Drops states, “BENEFITS OF HEMP OIL FOR DOGS” and includes, “Relieves Inflammation,” “Reduces Anxiety & Stress,” and “Reduces Muscle Spasms.”

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# Thank you!



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Let's connect!