

Medical cannabis processor advertising and targeted marketing

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Presentation outline

What is advertising?

Advertising is information provided in any medium to the general public.

- Cannabis production establishments can't advertise to the general public.
- Medical cannabis pharmacies are allowed to advertise the following:
 - the pharmacy's name and logo;
 - the location and hours of operation;
 - a service available at the pharmacy;
 - personnel affiliated with the pharmacy;
 - whether the pharmacy is licensed as a home delivery pharmacy;
 - best practices that the pharmacy upholds; and
 - educational material related to the medical use of cannabis, as defined by the department.
- Pharmacies can't advertise a medical cannabis product, device, or brand.

What is targeted marketing?

- Targeted marketing is:
 - electronic communication to an individual over 21 years old and has requested to receive promotional information from a company;
 - an in-person marketing event that is held inside a medical cannabis pharmacy; and
 - other marketing material that is physically available or digitally displayed in a medical cannabis pharmacy.
- Medical cannabis pharmacies are allowed to do targeted marketing.
- [UCA 26B-4-201\(55\)](#) has a definition of targeted marketing that only applies to a medical cannabis pharmacy.

Laws in other states

- Some states prohibit medical cannabis advertising in any medium. Others allow for advertising if the majority of the audience is reasonably expected to be above a certain age.
- At least 4 of 14 medical-only states require that advertising/marketing materials be approved by the state regulator.
- Some states prohibit health-related claims or product descriptions that include medical advice, while others allow descriptions with limitations, such as not being able to reference specific medical conditions.
- At least 3 states explicitly require all advertising/marketing materials to comply with [21 CFR 202.1](#), a federal law governing prescription drug advertising.
- At least 4 states require that any digital targeted marketing, such as an email list, must have a clearly accessible and easy opt-out feature.

Arguments against advertising and targeted marketing

- To some, targeted marketing appears to facilitate industry access to patients, rather than patient access to medicine.
- The program may appear more recreational rather than medical.
- Advertising and targeted marketing may minimize the role of a pharmacist, the medically-trained professional who consults with and recommends products to patients at medical cannabis pharmacies.
- Processors may make inaccurate or unverifiable claims about their products that misleads patients and over-promises desirable outcomes.
- Processors may heavily market their best-selling products and pull patients away from products that may be a better treatment option. May lead patients to be “deal-seeking” rather than “medicine-seeking.”

Arguments for advertising and targeted marketing

- Allowing processors to do targeted marketing may make it easier for patients to discover where a medical cannabis product they depend on may be found.
- Pharmacies are allowed to market specific products to patients. For the sake of fairness and competition to independent processors with no pharmacy license, processors should be allowed to do this as well.
- Processors can't rely on pharmacists to adequately explain their products' intended use to patients, and want the ability to do so in their own words.
- Allowing processors to advertise or engage in targeted marketing aligns Utah with most other states. Of the 14 medical-only states, 10 allow for some form of processor advertising or targeted marketing.

Medical claims and potential benefits

R383-7-18(4)

(4) Targeted marketing may not include:

- (a) unsubstantiated health claims and other claims that are not supported by substantial evidence or substantial clinical data;
- (b) claims that cannabis cures any medical condition; and
- (c) content that has a recreational disposition.

R383-1-2(29)

(29) "Substantial evidence" or "substantial clinical data" means evidence that two or more clinical studies support. The clinical studies shall meet the following criteria:

- (a) were conducted under a study approved by an IRB;
- (b) were conducted or approved by the federal government;
- (c) are cited by the Department in educational materials posted on its website; or
- (d) are of reasonable scientific rigor as determined by the Department.

Make a vote to recommend to:

1. Allow processor advertising and targeted marketing.
2. Allow processor targeted marketing, but not advertising.
3. Prohibit processor advertising and targeted marketing (status quo).

If **yes** to (1) or (2), consider the following:

- A. Processor targeted marketing content requirements:
 - a. Shipments to pharmacies?
 - b. Specific products at pharmacies?
 - c. Prices and discounts?
 - d. Medical claims and potential benefits?
 - i. Must cite academic literature; OR
 - ii. Must comply with existing targeted marketing rule, R383-7-18?
- B. Card verification requirements?

Recommendation options