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To: Medical Cannabis Policy Advisory Board

From: J. D. Lauritzen and Blake Smith, MCPAB Members

Subject: **Memo - Advertising Changes**

Introduction

In Utah, medical cannabis businesses face certain restrictions when it comes to their ability to advertise to the general public (and even to patients already participating in the program). Unlike the general advertising freedoms that other Utah businesses enjoy, medical cannabis licensees in Utah as well as the healthcare providers that recommend medical cannabis face everything from an outright ban on advertising and targeted marketing (cultivators), a ban on general, non-age gated advertising (processors), and enumerated restrictions on advertising and targeted marketing (pharmacies and medical providers). The foregoing licensees and providers, along with any “person,” are also prohibited from generally advertising around things like promotional discounts or incentives; particular medical cannabis products, devices, brands, or medicinal dosage forms; or an assurance of a medical outcome related to a medical cannabis treatment.

Over time, Utah lawmakers have made changes to the medical cannabis advertising laws. These changes have included things like allowing processors and pharmacies to engage in targeted marketing, but only under very specific circumstances. Pharmacies have also seen their ability to advertise to the general public expand. That said, licensed medical cannabis businesses and providers/clinics/offices still do not enjoy the same ability to advertise like other Utah businesses, including those businesses selling hemp-derived products. The inability to advertise like other businesses presents real challenges for Utah patients, industry, and the program at large.

This memo will explore how Utah governs advertising with respect to medical cannabis and will offer several recommendations from the industry to strategically expand the advertising laws and regulations. The recommendations that will follow are not meant to allow producers, retailers, and medical providers to advertise products, devices, discounts, incentives, or other things that could appeal to children or which could suggest that adult-use cannabis is legal in Utah. Instead, the recommendations are aimed at incremental changes that will increase awareness, promote patient access, and provide licensees with additional avenues to educate patients about medical cannabis in the context of the state’s

program. They will also better position Utah for what is to come with the advent of Schedule III.

Background

General Advertising

Utah Code section [4-41a-109\(1\)](#) provides general parameters around the advertising of medical cannabis in Utah, applying to all “persons” and encompassing medical cannabis recommendations, sales, dispensing, and transportation (i.e., home delivery):

(1) Except as provided in this chapter, a person may not advertise regarding the recommendation, sale, dispensing, or transportation of medical cannabis, including:

- (a) a promotional discount or incentive;
- (b) a particular medical cannabis product, medical cannabis device, medical cannabis brand, or medicinal dosage form; or
- (c) an assurance of a medical outcome related to a medical cannabis treatment.

Producer Advertising

Utah cultivators and processors are subject to the greatest restrictions under the law when it comes to advertising. Utah Code section [4-41a-403](#) authorizes producers to maintain a website that “contains information about the establishment and employees ... and does not advertise any medical cannabis, cannabis products, or medical cannabis devices.” Processors may further maintain a website, so long as the “website has age verification mechanisms that effectively prevent access by individuals under 21 years old,” that provides “educational information regarding medical cannabis produced by the cannabis processing facility, including the certificate of analysis that is created by an independent cannabis testing facility ... and where medical cannabis produced by the cannabis processing facility may be purchased in the state.”

Processors (but not cultivators) may engage in “targeted marketing ... for advertising a particular medical cannabis product, medical cannabis device, or medical cannabis brand,” as defined by the Utah Department of Agriculture and Food (“UDAF”) in rule. “Targeted marketing” under the law “means the promotion of medical cannabis, a medical cannabis brand, or a medical cannabis device” through “electronic communication to an individual who is at least 21 years old and has requested to receive promotional information,” at “an in-person marketing event that is ... held inside a medical cannabis

pharmacy ... in an area where only a medical cannabis cardholder may access the event,” or in “other marketing material that is physically available or digitally displayed in a medical cannabis pharmacy ... or a leaflet a medical cannabis pharmacy places in the opaque package or box that is provided to an individual when obtaining medical cannabis.”

Utah Admin Code [R66-2-17](#) defines the standards by which a processor must abide when engaging in targeted marketing. These standards address things like deceptive/false/misleading statements, health claims, excessive consumption, recreational imagery, appealing to children, and how statements that are related to benefits/safety/efficacy must be supported by evidence and data. Processors are authorized to include on the website described above a “sign up to receive targeted marketing electronically.”

Pharmacy Advertising

Medical cannabis pharmacies enjoy the greatest ability to advertise amongst licensees in Utah. Utah Code section [4-41a-1104\(2\)](#) authorizes a pharmacy to “advertise an employment opportunity at the medical cannabis pharmacy” and stand up signage that includes “the medical cannabis pharmacy’s name, logo, ... hours of operation ... and ... a green cross,” so long as the signage “complies with local ordinances regulating signage.” Pharmacies may also “advertise in any medium ... the pharmacy’s name and logo,” “the location and hours of operation,” “a service available at the medical cannabis pharmacy,” “personnel affiliated with the medical cannabis pharmacy,” “whether the medical cannabis pharmacy is licensed a home delivery medical cannabis pharmacy,” “best practices that the medical cannabis pharmacy upholds,” and “educational material related to the medical use of cannabis.” Additionally, pharmacies may “hold an educational event for the public or medical or medical providers,” “maintain on the ... pharmacy’s website non-promotional information regarding the medical cannabis pharmacy’s inventory,” or “engage in targeted marketing ... for advertising a particular medical cannabis product, medical cannabis device, or medical cannabis brand.” Educational events and educational materials are limited in scope, content, and who may attend an event, including that a pharmacy may not give away anything at an event like “gift items or merchandise.” Further, pharmacies do not presently enjoy the ability to advertise for educational events.

As alluded to above, medical cannabis pharmacies may engage in targeted marketing. Similar to the targeted marketing rules that apply to processors, Utah Admin code [R66-5-11](#) provides the guardrails for any targeted marketing that a pharmacy may engage in.

Pharmacies may also include on their website a “sign up to receive targeted marketing electronically.”

Courier Advertising

Medical cannabis couriers may also engage in some limited forms of advertising. Utah Code section 4-41-1202(15) allows a courier to advertise “a green cross,” “the pharmacy’s or courier’s name and logo,” and “that the pharmacy or courier is licensed to transport medical cannabis shipments.” Couriers may not engage in any form of targeted marketing.

While not explicitly related to advertising, no producer, pharmacy, or courier may sell or give away merchandise of any kind. The law even goes so far as to prohibit pharmacies, who are only allowed to sell medical cannabis products, devices, and educational material, from giving anything they may legally sell away free of charge. When taken together, no medical cannabis production licensee may sell or give away anything to patients, including merchandise to patients, and no pharmacy may sell or give away merchandise to patients even though they are authorized to engage in sales of branded medical cannabis products and devices. The only thing that a medical cannabis pharmacy may give away free of charge is educational material.

Medical Provider Advertising

Like medical cannabis pharmacies, a recommending medical provider (“RMP”) or a clinic/office that employs the RMP enjoys the ability to advertise, albeit on a limited basis, to the general public. Under Utah Code section [58-1-513\(2\)](#), RMPs may advertise using only the following: “a green cross”; “the provider’s or clinic’s name or logo”; “a qualifying condition that the individual treats”; “that the recommending medical provider, medical clinic, or medical office evaluates patients for medical cannabis recommendations”; “a scientific study regarding medical cannabis”; or “contact information.”

RMPs also have the ability to engage in targeted marketing “for advertising of medical cannabis recommendation services.” Utah Code section [26B-4-201\(52\)](#) defines targeted marketing as:

(52) ... the promotion by a recommending medical provider, medical clinic, or medical office that employs a recommending medical provider of a medical cannabis recommendation service using any of the following methods:

- (a) electronic communication to an individual who is at least 21 years old and has requested to receive promotional information;
- (b) an in-person marketing event that is held in an area where only an individual who is at least 21 years old may access the event;
- (c) other marketing material that is physically or digitally displayed in the office of the medical clinic or office that employs a recommending medical provider; or
- (d) a leaflet that a recommending medical provider, medical clinic, or medical office that employs a recommending medical provider shares with an individual who is at least 21 years old.”

Akin to medical cannabis processors and pharmacies, RMPs and/or the clinics or offices that employ them are limited in what they may include in any targeted marketing. Utah Admin Code [R383-16-3](#) sets forth the rules by which targeted marketing for recommending providers is governed.

Discussion

From the outset of the program, medical cannabis businesses, and now any person, have been restricted in the way they may advertise and market around medical cannabis recommendations, sales/dispensing, and transportation. Some of these restrictions, like the prohibition against appealing to children or ensuring any statements are accurate or backed by appropriate scientific data, make great sense. However, not being able to inform patients or would-be-patients where they can seek a medical cannabis recommendation or where and when they can attend an educational event, presents a barrier to entry for patients. Similarly, not being able to include a website or a QR code on packaging that may guide a patient to a processor’s website, creates a challenge for processors seeking to educate patients regarding products. This is especially true for processors that do not have a pharmacy license, as these licensees do not have a built in patient base that they can interact with and cannot advertise to the general public the same way a pharmacy can. Finally, producers, pharmacies, and couriers cannot sell (or give away free of charge) merchandise that would otherwise constitute advertising. Although it might make sense to prevent producers and couriers from selling or giving away merchandise, it seems that pharmacies should be allowed to do so under reasonable circumstances.

Increasing Awareness/Access

In a recent [analysis](#) of the Utah medical cannabis program performed by UDAF in conjunction with the Center for Medical Cannabis Research at the University of Utah, 21% of non-registered cannabis users who were using cannabis to treat one or medical conditions reported a lack of awareness as a reason for not enrolling in the Utah medical cannabis program. Outside of the cost to enroll in the program (25%), non-registered users reported a lack of awareness as the second most likely reason that they had not chosen to obtain their cannabis through Utah's legal program.

The market survey also sought data from no-cannabis users. When asked either why they had not used medical cannabis or had chosen not to participate in the Utah program, 15% of respondents stated that they had not used medical cannabis because they did not know it was available, while 40% of respondents listed a complete lack of awareness of Utah's medical cannabis program as a reason for not enrolling. Additionally, amongst non-users, 41% of respondents further reported that they had not yet chosen to use medical cannabis because their medical provider had not recommended it.

Based on the survey results above, it is clear that there is an awareness problem when it comes to the Utah medical cannabis program. Some of this is at least tied to medical providers not presenting this as a treatment option to their patients, but it is also almost certainly tied to the fact that there are limitations on the ability to advertise and market medical cannabis. This lack of awareness presents an access issue to medical cannabis. 21% of those persons using cannabis for medical purposes not knowing Utah even has a program is problematic. Those are persons, who if they knew medical cannabis was legal in Utah, could be enrolled as patients and obtain their cannabis from a legal, well-regulated source. Likewise, the fact that 40% of non-users reported a lack of awareness as a reason for not enrolling in Utah's program is equally troubling. This means that even if these non-users were interested in medical cannabis as a treatment, they would not know it was an option for them.

Those seeking to participate in Utah's medical cannabis program have increasingly opted to obtain or renew their medical cannabis recommendation through events held at medical cannabis pharmacies or other places outside a traditional medical cannabis setting. Despite this fact, UDAF has taken the position that pharmacies cannot advertise regarding these events, even though it is squarely a "service" the pharmacy provides. Compounding this problem, medical providers recommending cannabis can only advertise the fact that

they evaluate patients for medical cannabis recommendations, and while they may engage in targeted marketing, such marketing is limited to electronic communications, in-person events, and marketing materials available at the provider's business.

When taken together, current law and regulation prevents pharmacies (and recommending providers) from communicating to the general public regarding events whereby an individual can obtain or renew their medical card. That is all left up to the patient or the prospective patient. By simply allowing pharmacies and recommending providers to advertise where and when a patient or would-be-patient can meet with a medical provider regarding a possible medical cannabis recommendation, lawmakers could both increase awareness of the program and improve access for those treating with or seeking to treat with medical cannabis. Lawmakers could also promote awareness and access by allowing pharmacies to sell or give away merchandise as a form of advertising licensees and the brands they produce.

Promoting Patient Education

Patients groups often cite a lack of education as a reason why individuals either leave the medical cannabis program or never access the program in the first place. The inability to educate patients presents two different challenges. First, producers and pharmacies, while they may host educational events, they cannot currently advertise for those events. When it comes to promoting education, pharmacies (not producers) can advertise educational materials that they may sell or give away for free. Outside of the website that a processor may maintain, producers may only supply educational materials through an educational event. Second, processors, although they may maintain a website and otherwise engage in targeted marketing, they cannot include a URL or QR code that takes a patient to their website where they are authorized to provide information to persons 21 and over regarding the medical cannabis products they produce. This disproportionately impacts non-vertically integrated processors, who unlike pharmacies, can engage in no advertising to the general public.

Allowing producers and pharmacies to advertise for educational events would not only be a good way to increase awareness of the program in general, but it would also allow producers and pharmacies to drive individuals to educational opportunities regarding the medicinal use of cannabis. These educational opportunities would fill the void that has seemingly been created by a lack of information from traditional medical providers, and being able to

advertise about these events is crucial to increasing awareness and participation in Utah's medical cannabis program.

In addition to allowing advertising for educational events, lawmakers should also consider authorizing processors to include a URL or QR code on their products' packaging and labeling that links to the processor's website. This would allow processors to drive interested patients to their website where they could obtain education regarding a processor's products and where to obtain those products. Not being able to connect a patient who has purchased a particular processor's products with education around those products directly from the processor is only limiting a patient's knowledgebase, thereby impeding a patient's decision making when it comes to their healthcare.

Normalizing Medical Cannabis in a Schedule III World

On April 22, 2026, then-acting Attorney General, Todd Blanche, issued a final order rescheduling FDA approved cannabis-containing drugs and cannabis products produced under valid state licenses to Schedule III of the federal Controlled Substances Act ("CSA"). While the broader rescheduling of cannabis is still making its way through the administrative rulemaking process, by moving "medical" cannabis to Schedule III, the federal government has removed the [categorical ban](#) on the advertising and marketing of cannabis (as it is no longer a Schedule I drug). While it is unclear how medical cannabis producers and dispensers will fit into the already established framework for advertising Schedule III substances, the fact that medical cannabis is no longer a Schedule I substance that enjoys no ability to be advertised or marketed to the general public warrants reconsideration of how Utah's medical cannabis advertising and marketing laws.

Recommendation

With the foregoing in mind, we ask the Board to make the following recommendations:

- Amend Utah Code section 4-41a-1104 to allow medical cannabis pharmacies to advertise for medical card and educational events.
- Amend Utah Code section 4-41a-403 to allow medical cannabis production establishments to advertise educational events.
- Amend Utah Code section 4-41a-602 and Utah Admin Code R66-2-13 to allow processors to include a URL or a QR code on a product's packaging or labeling that

links to a processor's website that the processor may maintain under Utah Code section 4-41a-403.

- Amend Utah Code sections 4-41a-1102 and 4-41a-1104 to allow medical cannabis pharmacies to sell or otherwise give away merchandise as part of an educational event or otherwise.
- Amend Utah Code section 58-1-513 to allow recommending medical providers to advertise for medical cannabis recommendation services, including medical card events at their clinic, a pharmacy, or other location.