



## Ohio Department of Commerce Medical Marijuana Control Program

### Advertising Frequently Asked Questions

#### **How do I submit advertising materials for review?**

Advertising may be submitted via eLicensing or via email at [mmcplicensing@com.state.oh.us](mailto:mmcplicensing@com.state.oh.us). Please submit the [advertising submission form](#) if submitting via email.

#### **Can a licensee make use of the Medical Marijuana Control Program or Board of Pharmacy seals in their marketing material?**

No. Advertising and marketing materials may not suggest or otherwise indicate that the product or entity in the advertisement has been approved or endorsed by the Department of Commerce, the Board of Pharmacy, the State of Ohio or any person or entity associated with the State of Ohio.

#### **Are materials that are only intended to be used for “business to business” purposes required to be reviewed?**

Yes. All materials used for advertising which includes materials that cultivators and processors may send to a dispensary are required to be submitted for review. This does include strain sheets.

#### **Will licensees be sited for non-compliance if advertising materials are not reviewed and approved by the Medical Marijuana Control program?**

Yes. The Ohio Department of Commerce intends to work with all licensees to ensure compliance. However, using materials that are not approved could result in enforcement action.

#### **How do licensees submit an attestation for an advertisement translated into a foreign language?**

A Designated Representative and the translator who undertook the work must complete the translation attestation confirming translation accuracy. This must be included with the submission.

#### **What can a licensee do if a third party is writing reviews on social media about the licensed facility?**

The licensee can ask for the third party to take down the review, however, the third party is not obligated to do so.

#### **Can an image or likeness of an actual patient be used in advertising/ marketing materials?**

No.

#### **What must a licensee do if a health claim is included in the advertising/ marketing materials?**

Definitive health claims are not permitted unless substantiated with supporting clinical data.

#### **What constitutes a portable sign and can they be used?**

Portable signs cannot be used. Examples include, but are not limited to, any hand-held signs or any sign not attached to the entity's permanent structure, such as bumper stickers.

#### **Is product packaging and labeling considered advertising, therefore requiring approval by the Ohio Department of Commerce and/or the Board of Pharmacy?**

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Yes. See O.A.C. 3796:6-3-24 (A) and O.A.C. 3796:5-7-01 (A) for the definition of advertisement. However, there is a separate packaging and labeling submission and review process. This process will be communicated soon. If you have questions on how to get your package and labeling approved now, please contact [MMCPlicensing@com.state.oh.us](mailto:MMCPlicensing@com.state.oh.us). Please note, language and graphics (e.g., logos) that are located on the packaging need to be approved via the advertising submission process.

#### **Can marijuana leaves or plant product be included in advertising?**

No. Marijuana leaves are prohibited per O.A.C. 3796:6-3-24. This includes images of bud.

#### **Can a licensee include multiple advertising materials in a single submission?**

Yes. All materials for a campaign can be included in one single PDF file. Be sure to include a cover page that outlines each item included in the submission. Separate campaigns should be submitted separately.

#### **Will a “mock-up” of a website be approved?**

Yes, but any new content added to the website will need to be approved prior to it being uploaded onto the website.

#### **Will advertising/ marketing materials be approved that represent the DBA instead of the official name of the licensee?**

Yes, if the DBA is submitted and approved prior to the advertising submission.

#### **Is there a cost associated with submitting advertising/ marketing materials?**

Yes. There is a \$100.00 fee.

#### **Are “news streams” permitted on websites?**

Yes. A news stream is defined as a section or page of a website that updates regularly with earned news content.

#### **Will the “strain” names be reviewed by the MMCP?**

Yes. The strain name is the proprietary name licensees associate with their product. Because the name can be used for promotional purposes, it will be reviewed during the advertisement process. The state of Ohio has a compelling interest in ensuring that any advertisement or marketing campaigns related to or involving medical marijuana do not encourage, promote or otherwise create any impression that marijuana is legal or acceptable to use in a manner except as specifically authorized by the Ohio Revised Code or the Ohio Administrative Code. Examples of rejected strain names have used language associated with recreational use like “dank” or “haze.”

#### **Are videos allowed on licensee websites?**

No. However, videos with sound that are not considered “earned news” are prohibited.

#### **Can a licensee sponsor a local event or fundraiser?**



## Ohio Department of Commerce Medical Marijuana Control Program

### Advertising Frequently Asked Questions

Yes. Because sponsorships are considered a form of advertising, the materials associated with the event will need to be reviewed for compliance with the Ohio Administrative Code.

#### **Are webinars permitted?**

Yes. The webinar materials will need to be submitted for review as an advertisement.

#### **Can a licensee send a mass text to potential consumers?**

Yes. However, sending text messages requires the licensee to demonstrate that the licensee obtained consent from recipients before sending a mass text.

#### **Is a survey considered an advertisement?**

Yes. A survey can be a form of advertisement and will need to be submitted for review.

#### **Is social media allowed?**

Social media is permitted. The form (Twitter, Facebook, YouTube, etc.) and content needs to be submitted for review. Social media is any website and/or application that enables users to create and share content or to participate in social networking. In the review, the licensee must include a screen shot that the social media account has enabled the restriction of users who are under the age of eighteen. For example, the [instructions on how to enable age restrictions for Facebook can be found here](#). If a social media platform does not have the ability to restrict users under the age of eighteen, the platform may not be used.

#### **What requirements do you have for social media use by employees?**

The use of social media by your licensed employees may be interpreted as advertising on behalf of the licensee and could therefore be subject to review. Examples of social media activity that could be interpreted as licensee activity:

- Promoting the company and/or specific products or strains.
- Posting pictures of the facility, products, logos etc.
- Posting during work hours.
- Encouraging followers to use the licensee's product or attend licensee events.

#### **If a licensee operates in another state, can that licensee use the same website or social media account for Ohio that is being used in other states?**

Yes. However, that website will have to comply with Ohio regulations. If websites or social media accounts reference Ohio facilities and appear to drive traffic to the sites, they will be reviewed and required to conform with Ohio standards. Multi-state licensees can use separate websites and accounts. For example, the Ohio operations can have a unique website not connected to the "national website." This requirement applies to social media accounts also.

#### **What content do I have to submit for review when using social media?**

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## Ohio Department of Commerce Medical Marijuana Control Program

### Advertising Frequently Asked Questions

Social media posts that are related to medical marijuana must be submitted for review. Once content is approved, it can be used multiple times. It is advisable that licensees submit multiple posts or content for review.

#### **Can the licensee interact with social media followers?**

Direct engagement between the licensee and social media users is prohibited.

#### **Can I provide merchandise to patients or “business-to-business”?**

Distribution of merchandise is permitted under certain circumstances. However, distributing merchandise at events that could be associated with recreational marijuana is not permitted. All proposed advertisements, which includes merchandise, must be submitted to the MMCP for approval.

#### **What are prohibited items of merchandise?**

- Clothing, apparel or wearable accessories.
  - Any item that could appeal to children. For example, footballs, yo-yos, frisbees, etc. are prohibited.
  - Any item that could be associated with recreational use of marijuana.
  - Any item that includes prohibited images like marijuana leaves or buds.
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