

ALABAMA MEDICAL CANNABIS COMMISSION
ADMINISTRATIVE CODE

CHAPTER 538-X-4
LICENSEE REQUIREMENTS - GENERALLY

538-X-4-.17 Marketing And Advertising.

(1) For purposes of this rule, "advertisement" means any written or verbal statement, illustration, or depiction created to induce sales through the use of or a combination of letters, pictures, objects, sounds, lighting effects, illustrations, or other similar means. An "advertisement" includes but is not limited to brochures, promotional and other marketing materials. Any advertisement likely to reach or appeal to minors is prohibited.

(2) The state of Alabama has a compelling interest in ensuring that any advertising or marketing campaign related to or involving medical cannabis does not encourage, promote, or otherwise create any impression that cannabis is legal, therapeutic, or beneficial, except as specifically authorized by the Act and these Rules.

(3) A licensee shall not use a name, logo, sign, advertisement, or other marketing campaign or program unless the same, including all related materials, have been submitted to the Commission Materials that must be submitted to the Commission shall include, but are not limited to, the following:

(a) To the extent possible, the name, logo, sign, advertisement or other marketing campaign or program proposed for use;

(b) A brief description of the format, medium, and length of the distribution;

(c) A verification that an actual patient is not being used on the advertisement;

(d) Verification that an official translation of a foreign language advertisement is accurate; and

(e) A final copy of the advertisement, including a video where applicable, in a format acceptable to the Commission.

(4) Review by Commission

(a) The Commission shall have 14 days to review materials submitted under paragraph 3 of this Rule.

(b) After the Commission has reviewed the proposed advertisement submitted in accordance with paragraph 3 of this

Rule, the Commission may, in its discretion, do any of the following:

1. Require a specific disclosure be made in the advertisement in a clear and conspicuous manner if the advertisement would be false or misleading without such disclosure;
2. Require changes as necessary to protect the public health, safety, and welfare; or
3. Prohibit the use of the advertisement.

(c) The initial decision as to the acceptability of a proposed name, logo, sign, advertisement or other marketing campaign or program, as well as any requirements that may be imposed, shall be made by AMCC staff. If a licensee aggrieved by the initial decision submits through the AMCC website a notice of appeal electronically in writing, the Commission as a whole shall hear and decide the appeal by majority vote at the next duly called meeting more than fifteen (15) days after the initial decision. The appealing licensee may be requested to appear and give information and oral argument. The Commission's decision on the appeal shall be final and is not subject to further review.

(d) If the Commission does not complete one of the actions permitted under subparagraph 4.b. of this rule within the applicable review period, the submitted materials may be used in accordance with these Rules. However, failure by the Commission to act within the applicable review period does not constitute a waiver of its authority to undertake any of the actions permitted by the Act and these Rules, if it is subsequently determined that the submitted material violates any provision of the Act or these Rules.

(5) No licensee shall place or maintain, or cause to be placed or maintained, an advertisement of medical cannabis or any related product, in any of the following ways:

(a) Within 500 feet of the perimeter of a prohibited facility or any business or organization where, in the opinion of the Commission, the placement of the advertisement targets or is attractive to minors;

(b) On a billboard;

(c) On a radio or television broadcast, including a system for transmitting visual images and sound that are reproduced on screens, and includes broadcast, cable, on-demand, satellite, cinema, social media, or another internet-based platform;

(d) On any handheld or other portable sign;

- (e) With respect to public places, on a brochure, handbill, pamphlet, leaflet, or flyer directly handed, deposited, fastened, thrown, scattered, cast, or otherwise distributed to any person;
 - (f) Left upon any private property without the consent of the property owners;
 - (g) On or in a vehicle, public transit vehicle, or public transit shelter; or
 - (h) On or in a publicly-owned or operated property.
- (6) Any name, logo, sign, advertisement, or other marketing campaign or program of or on behalf of a licensee, regardless of the medium, must not:
- (a) Include reference to, or be accompanied by, any image bearing a resemblance to a cartoon character or of any individual (actual or fictional) more than fifteen percent (15%) of whose audience is, or should be reasonably anticipated to be, composed of minors;
 - (b) Market, distribute, offer, sell, license, or cause to be marketed, distributed, offered, sold, or licensed, any apparel or other merchandise related to the sale of medical cannabis;
 - (c) Suggest, by direct or indirect reference, a relationship to edibles (including candy, cookies, brownies, cakes, and the like) or beverages;
 - (d) Include designs or other presentational effects that are commonly used to target minors;
 - (e) Suggest or otherwise indicate that the product or entity in the advertisement has been approved or endorsed by the Commission, the State of Alabama or any person, entity or agency associated with the State of Alabama;
 - (f) Advertise in a manner that is inconsistent with the medicinal and approved use of medical cannabis;
 - (g) Encourage the use of medical cannabis for a condition other than a qualifying medical condition;
 - (h) Contain any statement, design, representation, picture, or illustration that contains or communicates:
 - 1. False or misleading statements;
 - 2. Names other than the registered name of the licensee's registered business name or an approved d/b/a, or the registered name of medical cannabis or related products;

3. A depiction of cannabis plants or any part thereof, except with respect to:

(a) signs, displays and marketing material provided inside a dispensing site, including but not limited to brochures or other written materials provided directly to patients and caregivers within the sales area of a dispensing site, or

(b) on a website maintained by the licensee for the exclusive use of patients and caregivers.

4. Slang terms and similar references, including words or depictions directly or indirectly referring to, unlicensed uses of cannabis;

5. Disparagement of a competitor's products;

6. Obscene, indecent, or profane statements or depictions; or

7. Statements as to the health benefits or therapeutic benefits of cannabis or medical cannabis, and statements as to the safety or efficacy of cannabis or medical cannabis unless supported by substantial clinical data.

(7) A licensee may develop a website or otherwise establish a web presence advertising the name, business address, contact information, and services provided by the licensee. A licensee's website shall require each user's affirmation that the user is not a minor before access to the website is granted. A licensee that establishes any type of web presence shall not:

(a) Allow for direct engagement between or among consumers or consumer-generated content including but not limited to consumer reviews or testimonials; notwithstanding the foregoing, licensees are not prohibited from seeking or obtaining direct patient feedback or sharing actual unsolicited statements made by consumers to the licensee, so long as the content of the statement does not otherwise violate any prohibitions contained in this Rule.

(b) Provide a medium for website users to transmit website content to minors;

(c) Target a consumer group with a high likelihood of reaching or appealing to minors;

(d) Display or otherwise post content that has not been submitted to the Commission under paragraph 4 of this Rule, if such content has been created or produced within Alabama or is specifically targeted to or available only to Alabama residents;

(e) Transact business or otherwise facilitate a sales transaction to consumers or businesses; or

(f) Maintain a web presence that would otherwise violate the Act or these Rules.

(8) Licensees shall not do any of the following:

(a) Display external signage larger than sixteen inches in height by eighteen inches in width that is not attached to the entity's permanent structure or vehicle;

(b) Illuminate a sign advertising a medical cannabis product or strain at any time;

(c) Sell or otherwise distribute clothing, apparel, or wearable accessories, unless such sale or distribution is to an employee for purposes of identification while at the licensed facility;

(d) Advertise medical cannabis brand names or utilize graphics related to medical marijuana on the exterior of any building or vehicle operated by the licensee; and

(e) Display medical marijuana, medical marijuana products, or medical marijuana paraphernalia that is visible from the exterior of the facility.

(9) This Rule, as it pertains to advertisements, does not apply to noncommercial messages, i.e., the content of which is primarily for charitable, educational, or public service purposes and does not overtly seek profit or promote the licensee or its products.

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Statutory Authority: Code of Ala. 1975, §§20-2A-22, as amended.

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