



## Ohio Administrative Code

### Rule 3796:6-3-24 Advertising, marketing, and signage.

Effective: September 8, 2017

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(A) For purposes of this rule advertisement means any written or verbal statement, illustration, or depiction created to induce sales through a combination of letters, pictures, objects, lighting effects, illustrations, or other similar means. An advertisement includes brochures, promotional material and other marketing materials. An advertisement that renders medical marijuana or medical marijuana products attractive to children is prohibited.

(B) The state of Ohio has a compelling interest in ensuring that any advertisement or marketing campaigns related to or involving medical marijuana does not encourage, promote, or otherwise create any impression that marijuana is legal or acceptable to use in a manner except as specifically authorized under Chapter 3796. of the Revised Code, or the rules promulgated in accordance with Chapter 3796. of the Revised Code, or that recreational marijuana use has any potential health or therapeutic benefits, or that recreational marijuana use or possession is somehow legal.

(C) A dispensary shall not use a name, logo, sign or advertisement unless the name, logo, sign or advertisement has been submitted to the state board of pharmacy and the applicable advertising approval fee has been paid. Materials submitted to the board shall include, but are not limited to:

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

(2) Verification that an actual patient is not being used on the advertisement;

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

(4) Annotated references to support statements related to effectiveness of treatment; and

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



(D) Until September 8, 2019, the state board of pharmacy shall have fifteen business days to review materials submitted under paragraph (C) of this rule. Beginning September 9, 2019, the board shall have ten business days to review materials submitted under paragraph (C) of this rule.

(1) After the state board of pharmacy reviews the proposed advertisement, the board may:

(a) 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 a disclosure;

(b) Make recommendations with respect to changes that are necessary to protect the public health, safety, and welfare; or

(c) Prohibit the use of the advertisement.

(2) If the state board of pharmacy does not complete one of the actions permitted under paragraph (D)(1) of this rule within the applicable review period, the submitted materials may be used in accordance with this division. Failure by the board to act within the applicable review period, however, does not constitute a waiver of its authority to undertake any of the actions permitted by this rule and the rules promulgated pursuant to Chapter 3796. of the Revised Code, if it is subsequently determined that the submitted material violates any provision of this Chapter 3796. of the Revised Code or this division.

(E) No dispensary shall place or maintain, or cause to be placed or maintained, an advertisement of medical marijuana or medical marijuana products, including paraphernalia, in any form or through any medium:

(1) Within five hundred feet of the perimeter of a prohibited facility, a community addiction services provider as defined under section 5119.01 of the Revised Code, a game arcade admission to which is not restricted to persons aged twenty-one years or older, or any other location where the placement of the advertisement targets or is attractive to children, as determined by the state board of pharmacy;

(2) On a billboard;



(3) On a radio or television broadcast;

(a) A radio or television broadcast includes a system for transmitting sound alone or visual images and sound; and

(b) Includes broadcast, cable, on-demand, satellite, or internet programming;

(4) On any handheld or other portable sign;

(5) With respect to public places, on a handbill, leaflet, or flyer directly handed, deposited, fastened, thrown, scattered, cast, or otherwise distributed to any person;

(6) Left upon any private property without the consent of the property owners;

(7) On or in a public transit vehicle or public transit shelter; or

(8) On or in a publicly-owned or operated property.

(F) An advertisement for a dispensary, regardless of the medium, shall not:

(1) Include any image bearing a resemblance to a cartoon character, fictional character whose target audience is children or youth, or pop culture icon;

(2) 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 marijuana, to an individual under eighteen years of age.

(3) Contain any statement, design, representation, picture or illustration that is:

(a) False or misleading;

(b) A departure from the medical marijuana registered name, including, marijuana leaves, slang terms, and similar references;



- (c) Disparaging to a competitors products;
  - (d) Obscene or indecent; or
  - (e) Related to the safety or efficacy of marijuana, unless supported by substantial evidence or substantial clinical data.
- (4) Suggest or otherwise indicate that the product or entity in the advertisement has been approved or endorsed by the department of commerce, the state board of pharmacy, the state of Ohio or any person or entity associated with the state of Ohio; or
- (5) Encourage the use of medical marijuana for a condition other than a qualifying medical condition.
- (G) A dispensary may develop a website or otherwise establish a web presence advertising the name, business address, contact information, and services provided by a dispensary. A dispensary operating a website shall require age affirmation of at least eighteen years of age by the user before access to the website is granted. A dispensary that establishes any type of web presences shall not:
- (1) Allow for direct engagement between consumers or user-generated content or reviews;
  - (2) Provide a medium for website users to transmit website content to individuals under the age of eighteen;
  - (3) Display or otherwise post content that has not been submitted to the state board of pharmacy pursuant to paragraph (C) of this rule;
  - (4) Facilitate sales transactions to any patient, caregiver, or medical marijuana entity;
  - (5) Target a consumer audience under the age of eighteen; or
  - (6) Maintain a web presence in violation of Chapter 3796. of the Revised Code or this division;



(H) A dispensary shall not:

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

(2) Illuminate a sign advertising medical marijuana at any time;

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

(4) Advertise medical marijuana brand names or use graphics related to medical marijuana on the exterior of the building in which the dispensary is operating; and

(5) Display medical marijuana or paraphernalia that is visible from the exterior of the dispensary.

(I) I. No dispensary shall license or otherwise expressly authorize any third party to use or advertise in a manner prohibited by this division.

(J) J. This rule, as it pertains to advertisements, does not apply to a noncommercial message.