



# Medical Marijuana Program Advertising Guide



Phone: (860) 713-6066 • E-mail: [dcp.mmp@ct.gov](mailto:dcp.mmp@ct.gov) • Website: [www.ct.gov/dcp/mmp](http://www.ct.gov/dcp/mmp)

This Medical Marijuana Advertising Guide (“Guide”) issued by the Connecticut Department of Consumer Protection (“Department”) sets forth the general principles that the Department will use in evaluating certain advertising practices to confirm their compliance with the Department’s regulations. This Guide does not cover every possible advertising practice but does provide answers to some frequently asked questions. Whether a particular advertising practice is prohibited will depend on the specific factual circumstances of the advertisement at issue. It is the sole responsibility of each licensee to ensure that their advertising complies with the state’s laws and regulations.

## Advertising Generally

### **1. What constitutes “advertising” or an “advertisement” under the regulations?**

The Department’s regulations define advertisements broadly to include all representations disseminated in any manner or by any means, other than labeling, for the purpose of inducing, or which are likely to induce, directly or indirectly, the purchase of marijuana.<sup>1</sup>

*Example - Advertising:* Announcements of a new marijuana product, special price deals, and/or new services.

*Example – Not Advertising:* Representations that do not promote marijuana or paraphernalia such as announcements of an employee’s birthday, holiday wishes, or a change in hours.<sup>2</sup>

### **2. Do the advertising regulations only apply to representations targeting patients and caregivers?**

No. The regulations are not limited to representations where the target audience is a patient or caregiver. Representations are considered advertising if they are disseminated for the purpose of inducing, or are likely to induce, directly or indirectly, the purchase of marijuana.

*Example - Advertising:* An announcement by a producer to dispensary facilities of a new product where the announcement describes the product’s benefits and encourages dispensary facilities to market it to their patients.

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<sup>1</sup> See §21a-408-1(5) of the Regulations of Connecticut State Agencies.

<sup>2</sup> Dispensary facilities still must adhere to, and meet, all obligations with respect to hours outlined in §21a-408-34 of the Regulations of Connecticut State Agencies.

*Example – Not Advertising:* Standard order requests or inquiries as to product availability.

**3. Could materials meant to provide educational information to patients, such as videos describing how to use a type of paraphernalia, be considered advertising?**

Yes, if such materials are intended or likely to induce, directly or indirectly, the purchase of marijuana. This will largely depend on factual circumstances and the unique content of each item. Materials containing references to specific product brand names are more likely to be considered advertising.

*Example – Advertising:* A video describing the health benefits of a specific brand name product or the best way to use a specific marijuana brand name product.

*Example – Not Advertising:* A video describing how to use a type of paraphernalia that does not specify any particular marijuana product. A company's brand logo may be included in such an educational video.

### **Prohibitions Generally**

**4. What types of advertisements are prohibited?**

Advertisements for marijuana or any product containing marijuana that:

- contain statements that are false or misleading;
- contain statements that falsely disparage a competitor's product;
- include obscene or indecent statements, designs, representations, pictures, and/or illustrations;
- contain statements, designs, representations, pictures, or illustrations that encourage or represent the use of marijuana for a condition other than a debilitating medical condition;
- contain statements, designs, representations, pictures, or illustrations that encourage or represent the recreational use of marijuana;
- contain statements, designs, representations, pictures or illustrations that are related to the safety or efficacy of marijuana (unless supported by substantial evidence or substantial clinical data);
- contain statements, designs, representations, pictures, or illustrations portraying anyone under the age of eighteen, objects suggestive of the presence of anyone under the age of eighteen, or containing the use of a figure, symbol or language that is customarily associated with anyone under the age of eighteen;

- include the offer of a prize, award or inducement to a qualifying patient, primary caregiver, or physician related to the purchase of marijuana or certification for the use of marijuana; or
- include statements that indicate or imply that the product or entity in the advertisement has been approved or endorsed by the Commissioner, Department, the State of Connecticut or any person or entity associated with the state of Connecticut.<sup>3</sup>

**5. What types of representations might be considered obscene or indecent?**

Advertisements that contain curse words, sexual language, images that are sexual or offensive in nature (such as scantily clad individuals or an image of a middle finger) are likely to be considered obscene or indecent.

**6. What are some examples of representations that might be viewed as promoting the recreational use of marijuana?**

Images or terminology from popular culture to describe marijuana or its affects are likely to be seen as promoting recreational use. Examples of recreational representations include references to:

- getting “high” or “stoned”;
- movies or popular songs that promote the recreational use of marijuana; or
- non-department approved street names.

Additionally, sales or promotions tied to a holiday are deemed by the Department to encourage recreational use and are not permitted.

**7. Is it permissible to include product descriptions in my price list, in addition to the approved brand name, so that patients might better understand the type of product they are receiving?**

Price lists must use the exact Department approved brand name when describing, or referring to, a specific marijuana product. A description of the type of product, however, may also be included in the price list. Additionally, products may be grouped under general categories to provide clarification to patients about the product. Any descriptive information must be displayed in such a way as to not appear to be part of the brand name.

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<sup>3</sup> See §21a-408-66 (b) (1)-(9) of the Regulations of Connecticut State Agencies.



Example - Acceptable Price List Descriptions:

Product Name: Flora XGC (Hybrid Indica Flower)

Product Description: This hybrid indica flower contains....

**8. May I include information about how marijuana will alleviate the side effects of an approved condition in my advertisement?**

Yes, advertisements may discuss common symptoms and the effectiveness of marijuana in alleviating symptoms of approved conditions, such as the dissuasion of nausea for cancer patient, provided such representations are supported by substantial evidence or substantial clinical data. All citations for evidence and data must be contained in the advertisement. Citations are permitted to be included by footnote or end note. Advertisements may not refer to non-approved conditions.

**9. What type of evidence or clinical data is needed to support claims of efficacy in my advertising?**

Competent and reliable scientific evidence is needed. This includes tests, analyses, research, studies, or other evidence based upon the expertise of professionals in the relevant area and that has been conducted and evaluated in an objective manner by persons qualified to do so, using procedures generally accepted in the profession to yield accurate and reliable results.

Example – Sufficient Evidence: Studies conducted by a reputable organization such as the Food and Drug Administration (“FDA”) or the American Cancer Society or in connection with a Department approved research program.

Note: references and citations made in advertising materials should be specific enough to lead the reader directly to a cited study. For example, a citation to an FDA study should include the full web address where the study can be found and not simply ww.fda.gov.

Example – Insufficient Evidence: Anecdotal evidence from customers or newspaper articles.

**10. May I advertise a marijuana product if I receive information indicating that the product may cause fatalities or serious damage to a patient?**

This will be a fact-specific inquiry. Public information that you become aware of on the internet such as public news stories, op-eds, blogs, or websites would most likely not be considered information that would prevent you from advertising your product, particularly if the information is general and does not refer to a specific brand or strain of marijuana. However, non-public

information, such as the results of internal studies or internal knowledge of product contamination, would prevent advertising of such product.<sup>4</sup>

*Example - Acceptable Advertising:* Promotion of a product, consistent with the regulations and these guidelines, despite the existence of public information or news stories that generally discuss the negative consequences of marijuana use.

*Example - Unacceptable Advertising:* Promotion of a specific medical marijuana product despite patient feedback indicating the product at issue has serious, negative side-effects.

### **11. Can I provide information about the Department in my advertising?**

Advertisements may include contact information for the Department such as its telephone number, address, and website information. However, images associated with the Department, such as its emblem, its building or the Commissioner are prohibited as such images improperly suggest that a product or entity is endorsed or approved by the Department.

### **12. How does the Department determine when an advertisement is false or misleading?**

The Department looks at the advertisement from the point of view of the reasonable person or the typical person. Rather than focusing on certain words or pictures, the Department looks at the advertisement in context to determine the overall message it conveys.

*Note:* For more information about what the Department might consider misleading, please see the Federal Trade Commission's Policy Statement on Deception ([https://www.ftc.gov/system/files/documents/public\\_statements/410531/831014deception\\_stmt.pdf](https://www.ftc.gov/system/files/documents/public_statements/410531/831014deception_stmt.pdf)) and the Federal Trade Commission's Advertising FAQ's: A Guide for Small Business <https://www.ftc.gov/tips-advice/business-center/guidance/advertising-faqs-guide-small-business>

## **Advertisements for Discounts, Sales or Rebates**

### **13. What types of promotional advertisements are prohibited?**

Advertisements that contain any offer of a prize, award or inducement to a qualifying patient, primary caregiver or physician related to the purchase of marijuana or a certification for the use of marijuana is prohibited.<sup>5</sup>

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<sup>4</sup> See §21a-408-67 (e) of the Regulations of Connecticut State Agencies.

<sup>5</sup> See §21a-408-66 (b)(8) of the Regulations of Connecticut State Agencies.



**14. Are advertisements for price discounts, rebates, and/or sales of marijuana products and/or products containing marijuana permitted?**

The regulations prohibit advertisements for marijuana or marijuana products that induce (i.e. encourage) an individual to buy a particular item. Advertisements targeting patients, caregivers and/or physicians containing offers of price discounts, rebates and/or sales that are expressly for marijuana products or categories of products are not permitted.

*Example - Acceptable Advertising:* Sales, rebates, or discounts that are not specific to a marijuana product or the purchase of marijuana products such as across the board discounts (e.g. 10% off your purchase of \$150.00, 15% or \$5 off at X dispensary facility, 15% or \$5 off all X producer's products).

*Example - Unacceptable Advertising:* An advertisement offering a discount for X product or all edibles.

**15. Can a producer offer coupons or rebates?**

Rebates may be offered by producers directly to patients so long as the advertised offer is not for a specific marijuana product and the rebate information is returned to the producer for processing. Forms for such rebates may be obtained at the dispensary facility, doctor's office or directly from the producer. Rebate offers must be provided in the form prescribed in Section 42-110b-19(e) of the Regulations of Connecticut State Agencies.

*Example of Acceptable Rebate:* Enjoy \$10 back when patient spends X amount of dollars on any of X producer's products.

**16. Are advertisements for price discount programs for low-income patients permitted?**

Yes. Advertisements of a price discount for veterans, senior citizens, or other compassionate care programs are permitted.

*Note:* All advertisements for sales, discounts, and rebates must comply with the Connecticut Unfair Trade Practices Act and advertising regulations some of which can be found here: <https://eregulations.ct.gov/eRegsPortal/Browse/RCSA/%7BA6D6808D-8176-4293-A8D3-9381397A41A1%7D>

## Advertisements for Prizes, Contests, and Giveaways

### **17. Are advertisements for BOGO (Buy One Get One Free) sales for marijuana or marijuana products permitted?**

No, marijuana and marijuana products cannot be given away for free. For example, an advertisement distributed to patients that states that if the patient buys three marijuana brownie bites the patient gets a fourth brownie bite free is not permissible.

### **18. Are advertisements for BOGO (Buy One Get One Free) sales for non-marijuana products permitted?**

Yes. For example, an advertisement that states that if the patient buys two vape pens a third vape pen is free is permissible.

### **19. Am I permitted to publish an advertisement offering a gift with purchase of marijuana or a marijuana product?**

No, neither a dispensary facility nor a producer may advertise the offer of a gift with the purchase of a marijuana product to a qualifying patient or primary caregiver.

*Example - Unacceptable Offer:* An advertisement offering qualifying patients a free vaporizer pen with the purchase of marijuana brownie bites.

### **20. Are advertisements for contests or special drawings permitted?**

Producers and dispensary facilities may not advertise contest offers or drawings if such offer is expressly for a marijuana product and offered to patients, caregivers or physicians, even if the prize offered is not marijuana or a marijuana product. Furthermore, contests and drawings held at dispensary facilities are discouraged.

*Example - Acceptable Contest or Drawing:* A contest at a health fair booth in which patrons are allowed to enter a drawing for a non-marijuana product.

*Example - Unacceptable Contest or Drawing:* A drawing for all patients to win a free television with the purchase of a marijuana product.

### **21. Can I advertise an offer where my first ten patients of the day will receive something for free or at a special discount?**

Yes, as long as the offer is not for a specific marijuana product.

*Example - Acceptable Offer:* A 5% discount on any purchase or a free vape pen to the first ten patients.

*Example - Unacceptable Offer:* A free edible by X producer to the first ten patients.

## **22. Can free samples of marijuana products be given out to patients or caregivers?**

No. Samples of products are strictly prohibited.<sup>6</sup> Notwithstanding the foregoing, free marijuana products associated with research programs approved by the Department may be distributed to approved research subjects.

### **Submission to Department**

## **23. When must advertising be submitted?**

Advertising must be submitted either at the same time as, or prior to, the dissemination of the advertisement.<sup>7</sup>

## **24. What advertising must be submitted?**

All representations disseminated in any manner or by any means, other than labeling (written, printed or graphic matter upon the immediate container of any product containing marijuana), for the purpose of inducing, or which are likely to induce, directly or indirectly, the purchase of marijuana. If you are not sure whether a particular representation constitutes advertising under the regulations, you should consult with your attorney.

## **25. Where do I submit advertising?**

Advertising should be submitted to the Department of Consumer Protection at [DCP.MMPads@ct.gov](mailto:DCP.MMPads@ct.gov). If the Commissioner requests changes or inclusions pursuant to the Department's regulations, the Department will contact you following submission.

## **26. Do I have to submit website changes to the Department?**

Substantive website changes must be submitted to the Department.

*Examples - substantive website changes:* New pages or new content to your website.

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<sup>6</sup> See §21a-408-34 (d) of the Regulations of Connecticut State Agencies.

<sup>7</sup> See §21a-408-66 (c) of the Regulations of Connecticut State Agencies.



*Examples - non-substantive website changes:* Minor edits that don't impact the message of what is on the site or changes necessary for the website to be accurate with regard to your business (e.g. updated "Contact Us" information, change of hours of operation, updated price lists, and correction of spelling or grammar mistakes, or other scrivener's errors).

**27. If I submitted my advertising and the Department subsequently requested changes, is there a safe harbor provision such that I will not be subject to Department action for advertisements that were disseminated prior to the Department's request that the advertisement be changed?**

No. It is the responsibility of the dispensary facility and producer to ensure all advertisements comply with the state's regulations and statutes. Submission to the Department does not relieve you of that obligation. While the Department will not preapprove advertising, it may be prudent to submit advertisements to the Department prior to dissemination if you are concerned that the advertisement does not satisfy the Department's regulations.

**28. When do I need to resubmit advertising materials to the Department?**

- Resubmission is required when:
  - material changes (i.e. changes to content) are made; or
  - previously submitted advertising will be used in a forum not initially delineated in the initial submission packet.
- Non-material changes that do not require resubmission include such things as change in font type, font color, background color, margins, the switching of one previously approved stock photograph to another, correction of spelling or grammar mistakes, or other scrivener's errors.

**29. Does a dispensary facility have to submit a producer's advertisement to DCP before circulating it?**

No, as long as the producer submitted the advertisement for review and you do not make changes to the advertisement.

**30. If the Department has reviewed my advertising and has not made changes, or requested changes that I have made, can I include in my advertising that such advertisement has been issued with the approval of the Department?**

No, statements giving the indicia of approval by the Department are prohibited.

## Social Media

### **31. Are social media or internet platforms subject to advertising regulations?**

Yes, advertisements appearing on all media platforms, whether they have been around for decades (e.g. television and magazines) or are relatively new (e.g. blogs and social media), are subject to the Department's advertising regulations.

### **32. Do I have to submit all my social media posts to the Department?**

Advertisements appearing on social media platforms selected by a dispensary facility or producer in the Social Media Advertising Acknowledgement (Attached as Appendix A) will not require formal submission to the Department provided the Department is given the appropriate approval through the social media forum such that it can access and periodically monitor those forums as outlined in the Social Media Advertising Acknowledgement Form. If such access is not granted, formal submission of each advertisement appearing on that platform would be required.

### **33. If I share a post, retweet something, or provide links to websites, videos or social media postings of others am I still subject to advertising regulations and responsible for the content of the post?**

Yes, if the content of what is posted, shared, or linked, etc. meets the definition of an advertisement (i.e. if it has the purpose of inducing, or is likely to induce, directly or indirectly, the purchase of marijuana). Likewise, you are responsible for monitoring and, when appropriate, removing comments and postings from others on the social media platforms that you control.

## Branding

### **34. Do I have to submit promotional items, such as T-shirts, batteries and hats that have my company logo on them for Department review?**

Producers and dispensary facilities are generally not required to submit non-marijuana promotional items that solely bear the company's logo. However, changes to a company's logo must be submitted to the Department. Additionally, if the logo appears in conjunction with, or if there is any type of representation on the logo itself that has the purpose of inducing, or which is likely to induce, directly or indirectly, the purchase of marijuana, then submission to the Department and compliance with the advertising regulations would be required. For example, a vape pen bearing a producer's logo that has language running across it that said "X product from

X producer has the best effects! Call this number to find out more” would be considered advertising requiring submission and compliance.

**35. Can I give away T-shirts and other branded materials?**

Yes, T-shirts and other branded materials may be given away. However, an advertised offer of a free t-shirt or other branded materials would not be permissible if advertised as part of an offer expressly for a marijuana product.

*Examples - acceptable give-away:* A booth at a health fair where a producer or dispensary facility is handing out branded materials to patrons of the event. Also, an offer of a free t-shirt when a patron spends X amount of dollars at a dispensary facility.

*Example - unacceptable give-away:* An offer of free hat when you purchase X producer’s cookie.

**36. Can a producer or dispensary facility sell branded materials?**

Yes, so long as they are not sold in the dispensary department of a dispensary facility.

**Testimonials and Reviews**

**37. Are patient, caregiver, or physician reviews or testimonials regarding marijuana and/or marijuana product considered advertising?**

Yes.

**38. A patient has created their own webpage, blog, or YouTube channel providing reviews of products, dispensary facilities, and producers; is this considered advertising for which I am responsible?**

No, so long as they are done by the patient on their own accord, using their own forum and without any incentive or compensation from the producer or dispensary facility.

**39. A patient posts reviews on their own blog, webpage and YouTube channel, however, I have offered them incentives to do so such as payment; is this considered advertising?**

Yes, in this situation the patient would essentially be acting as your agent.



*Note:* For more information on endorsements and testimonials, please see the Federal Trade Commission Guides Concerning Use of Endorsements and Testimonials in Advertising (<https://www.ftc.gov/sites/default/files/attachments/press-releases/ftc-publishes-final-guides-governing-endorsements-testimonials/091005revisedendorsementguides.pdf>) and The FTC's Endorsement Guides: What People Are Asking ([https://www.ftc.gov/system/files/documents/plain-language/pdf-0205-endorsement-guides-faqs\\_0.pdf](https://www.ftc.gov/system/files/documents/plain-language/pdf-0205-endorsement-guides-faqs_0.pdf))

## **Cooperation between Producers and Dispensary Facilities in Advertising**

### **40. What is prohibited?**

A producer, production facility employee, producer backer, dispensary facility employee, dispensary facility backer or physician, in any combination, shall not cooperate, directly or indirectly, in any advertising if such advertising has the purpose or effect of steering or influencing patient or caregiver choice with regard to the selection of a physician, dispensary, or marijuana product.

### **41. Can a producer place advertisements at a dispensary facility?**

Yes, at the discretion of the dispensary facility so long as the dispensary facility does not directly or indirectly receive a benefit from the producer on the basis of patients purchasing the product(s) that are the subject of the advertising. Such prohibition shall not prohibit a dispensary facility from charging an appropriate fee for the advertising space, provided the dispensary facility does not discriminate in price between different producers that are purchasing the same or comparable advertising space.

### **42. Can a dispensary facility advertise offers of special discounts for a particular producer at the dispensary facility?**

Yes at the discretion of the dispensary facility so long as the dispensary facility does not directly or indirectly receive a benefit from the producer on the basis of patients purchasing the product(s) that are the subject of the advertising. Such prohibition shall not prohibit a dispensary facility from charging an appropriate fee for the advertising space, provided the dispensary facility does not discriminate in price between different producers that are purchasing the same or comparable advertising space. Please see page 5 for a discussion of the particular types of permissible discounts.

# **Appendix A:**

## **Social Media Advertising Acknowledgement**





# Medical Marijuana Program

Phone: (860) 713-6066 • E-mail: [dcp.mmp@ct.gov](mailto:dcp.mmp@ct.gov) • Website: [www.ct.gov/dcp/mmp](http://www.ct.gov/dcp/mmp)



## Social Media Advertising Acknowledgement

1. Legal Name of Applicant:		
2. Trade Name of Applicant:		
3. Applicant's Business Address:		
4. City:	5. State:	6. Zip Code:
7. Name of Primary Contact:		8. Primary Contact Title:
9. Primary Contact E-mail Address:		10. Primary Contact Telephone: (     )     -

Check below any social media platforms ("Platforms") you are using or intend to use for advertising your business or medical marijuana associated product, including any blogs:

<input type="checkbox"/> Facebook Username: _____	<input type="checkbox"/> Twitter Username: _____	<input type="checkbox"/> Instagram Username: _____
<input type="checkbox"/> LinkedIn Username: _____	<input type="checkbox"/> MySpace Username: _____	<input type="checkbox"/> YouTube Username: _____
<input type="checkbox"/> Pinterest Username: _____	<input type="checkbox"/> Snapchat Username: _____	<input type="checkbox"/> Vine Username: _____
<input type="checkbox"/> Other: _____	<input type="checkbox"/> Other: _____	<input type="checkbox"/> Other: _____

This Acknowledgement pertains to social media advertising submissions by medical marijuana dispensaries and producers required by § 21a-408-66(c)-(e) of the Regulations of Connecticut State Agencies. Execution of this Acknowledgement by a representative of your organization shall serve as notice to the Department of Consumer Protection ("Department") of your organization's intent to advertise on the selected Platforms. Execution of this acknowledgement shall also constitute compliance with the submission requirements contained in § 21a-408-66(c) and (d) and shall serve in lieu of individual medical marijuana advertisement submissions for each advertisement posted on the selected Platform by the Applicant. By executing this Acknowledgment, the Applicant agrees and acknowledges that it will ensure that the Department

is provided the requisite access to review all such selected Platforms and all advertisements posted on such selected Platforms. The Applicant understands that notwithstanding the foregoing, marketing and advertisements published on Platforms shall not be considered approved by the Department and remain subject to the review and modification of the Commissioner of the Department pursuant to § 21a-408-66 (f). Further, the Applicant must notify and provide copies of any advertisement appearing on the selected Platform if that advertisement will be utilized in any forum other than and in addition to the selected Platform. Please note that “sharing”, “re-tweeting”, and other similar methods whereby you repost information initially shared by another are considered advertisements initiated by your organization and shall be reviewed accordingly.

The Applicant agrees and acknowledges that it will abide by all Connecticut General Statutes and Regulations governing the marketing and advertisement of medical marijuana, including C.G.S 21a-408 and § 21a-408-66 through § 21a-408-68 of the Regulations of Connecticut State Agencies with respect to the selected Platforms. The Applicant also acknowledges and understands that said Acknowledgment applies only to the selected Platforms and does not relieve the applicant of its submission obligations under § 21a-408-66 (c) & (d) of the Regulations of Connecticut State Agencies for non-selected Platforms and all other advertising materials, including but not limited to website advertisements, electronic newsletters, emails, other internet-based advertising, print advertising, and television or radio broadcast advertising. The Applicant understands that this Acknowledgement pertains solely to § 21a-408-66(c)-(e) of the Regulations of Connecticut State Agencies as it relates to the selected Platforms and does not relieve the Applicant of its obligations under all other applicable statutes and regulations relating to medical marijuana.

Acknowledged and agreed to on this \_\_\_\_ day of \_\_\_\_\_ 2016 by:

\_\_\_\_\_  
Name:  
Title:

\_\_\_\_\_  
Name:  
Title: