

12/09/2022

Industry Bulletin: 22-06

Subject: New laws applicable to medical cannabis pharmacy advertising, educational events, and targeted marketing

The purpose of this bulletin is to provide general information about new laws applicable to advertising, targeted marketing, and educational events of medical cannabis pharmacies in Utah. Official copies of applicable laws may be found online on the websites of the Utah Legislature (le.utah.gov) and the Utah Office of Administrative Rules (adminrules.utah.gov).

This bulletin is not intended to cover all laws and should not be used as legal advice. The Utah Department of Health and Human Services (DHHS) cannot legally interpret laws for external parties. However, you may contact the DHHS Center for Medical Cannabis compliance program at cannabiscompliance@utah.gov or (801) 538-6504 if you have general questions about the laws cited in this bulletin.

The information provided in this bulletin is current as of December 9, 2022.

Advertising

Advertising is defined as information that a medical cannabis pharmacy provides to the public that does not restrict access to any person younger than 18 and does not include a recreational disposition.¹ Medical cannabis pharmacies are only allowed to advertise:

- the name and logo of the medical cannabis pharmacy;
- the location and hours of operation of the medical cannabis pharmacy;
- a service available at the medical cannabis pharmacy;
- personnel affiliated with the medical cannabis pharmacy
- whether the medical cannabis pharmacy is licensed as a home delivery medical cannabis pharmacy;
- best practices that the medical cannabis pharmacy upholds;
- educational material related to the medical use of cannabis.²

¹ R383-7-2(1)

² UCA 26-61a-505(2)(c)

A medical cannabis pharmacy cannot advertise to the public using promotional discounts or incentives, nor can a pharmacy offer any assurance regarding an outcome related to medical cannabis treatment. Additionally, a medical cannabis pharmacy may not advertise a particular medical cannabis product, medical cannabis device, or medical dosage form.³

Educational events

An educational event is an organized event at which a medical cannabis pharmacy distributes, verbally presents, or displays educational material. The event may be held virtually or in-person.⁴ The educational event may be in a medical cannabis pharmacy cardholder-only area as long as the area does not display any form of targeted marketing as defined in R383-7-2(8).

Utah law⁵ only allows people ages 18 and older to participate in these educational events. People ages 18 to 20 must show proof of a valid form of photo identification and a valid Utah medical cannabis card to participate in the educational event. People 21 years and older must show proof of a valid form of photo identification to participate.⁶

Printed educational material can be provided at an educational event such as a placard, poster, fact sheet, book, pamphlet, flyer, or a business card.⁷ Merchandise like t-shirts, hats, or pens advertising the medical cannabis pharmacy's name and or logo are not allowed to be distributed.⁸ Educational materials must comply with standards established in R383-7-17 which include only making claims that are supported by substantial evidence or substantial clinical data. This means two or more clinical studies support the claim. The clinical studies must meet the following criteria:

- were conducted under a study approved by an IRB;
- were conducted or approved by the federal government;

³ UCA 26-61-116 (2)

⁴ R383-7-2(3)

⁵ UCA 26-61a-505(4)

⁶ R383-7-18(2)

⁷ R383-7-2(4), R383-7-17

⁸ R383-7-18(3)

- are cited by the Utah Department of Health and Human Services in educational materials posted at <https://medicalcannabis.utah.gov>; or
- are of reasonable scientific rigor as determined by the Utah Department of Health and Human Services.⁹

A medical cannabis pharmacy is prohibited from including the following in an educational event:

- any topic that conflicts with UCA 26-61a-101 et. seq., Utah Medical Cannabis Act or UCA 4-41a-101 et. seq., Cannabis Production Establishments;
- any gift items or merchandise other than educational material as that term is defined by the Utah Department of Health and Human Services in R383-7-2;
- any marketing for a specific product from the medical cannabis pharmacy or any other statement, claim, or information that would violate the federal [Food, Drug, and Cosmetic Act](#); and
- a presenter other than those who meet requirements established in UCA 26-61a-505(3)(d).¹⁰

Targeted marketing

Targeted marketing is the promotion of a medical cannabis product, medical cannabis brand, or a medical cannabis device by a medical cannabis pharmacy using the following methods:

- electronic communication that requires acknowledgment of the person receiving or accessing the communication that they are an adult age 18 or older;
- an in-person marketing event that is held inside the cardholder-only area of a medical cannabis pharmacy; or
- other marketing material that is physically available or digitally displayed in the cardholder-only area of a medical cannabis pharmacy.¹¹

Targeted marketing must comply with the standards established in R383-7-19 which include only making claims that are supported by substantial evidence or substantial

⁹ R383-7-2(7)

¹⁰ UCA 26-61a-505(3)

¹¹ R383-7-2(8)

clinical data. This means two or more clinical studies support the claim. The clinical studies must meet following criteria:

- were conducted under a study approved by an IRB;
- were conducted or approved by the federal government;
- are cited by the Utah Department of Health and Human Services in educational materials posted at <https://medicalcannabis.utah.gov>; or
- are of reasonable scientific rigor as determined by the Utah Department of Health and Human Services.¹²

Recreational disposition

No communication or material used in a medical cannabis pharmacy's advertising, educational event, educational material, or targeted marketing may include a recreational disposition. A recreational disposition means:

- slang words or phrasing associated with the recreational use of cannabis;
- an image of a celebrity or other person whose target audience is children or minors;
- content that encourages, promotes, or otherwise creates the impression that the recreational use of cannabis is legal or acceptable, or that the recreational use of cannabis has potential health or therapeutic benefits;
- content that promotes excessive consumption;
- content that is obscene or indecent; and
- content that a reasonable person knows or should know appeals to children.¹³

A medical cannabis pharmacy may reference a cannabis strain name or medicinal dosage form in an educational event, educational material, and targeted marketing even if that name or dosage meets the definition of a recreational disposition.¹⁴

¹² R383-7-2(7)

¹³ R383-7-2(6)

¹⁴ R383-7-17(5) and R383-7-19(5)