
 <b>West Virginia</b> Department of <b>HEALTH</b>	<i>Bureau for Public Health</i> <b>Office of Medical Cannabis</b>  <b>Marketing Approval Policy</b>	<b>Pg. 1 of 7</b>
<b>Effective Date:</b> February 22, 2024	<b>Doc Number: OMC-012-2024</b>	<b>Revision Date:</b>

## POLICY

### Table of Contents

<b>PURPOSE</b>	<b>2</b>
<b>SCOPE</b>	<b>2</b>
<b>DEFINITIONS</b>	<b>2-3</b>
<b>POLICY</b>	<b>3-7</b>
<b>DIRECTOR SIGNATURE</b>	<b>7</b>

	<p style="text-align: center;"><i>Bureau for Public Health</i></p> <p style="text-align: center;"><b>Office of Medical Cannabis</b></p> <p style="text-align: center;"><b>Marketing Approval Policy</b></p>	<p style="text-align: center;">Pg. 2 of 7</p>
<p><b>Effective Date:</b> February 22, 2024</p>	<p><b>Doc Number: OMC-012-2024</b></p>	<p><b>Revision Date:</b></p>

## PURPOSE


The purpose of this document is to establish guidelines for the Office of Medical Cannabis to follow when approving advertising and marketing materials submitted by permittees, as outlined in the Medical Cannabis Act, Chapter 16A of the West Virginia Code and associated legislative rules.

## SCOPE

The scope of this policy is to outline the rules, restrictions, and guidelines for advertising by any medical cannabis organization or practitioner to ensure compliance with all applicable requirements set forth in W.Va. Code §16A-1-1 *et. seq.*, the West Virginia Office of Medical Cannabis (OMC) and all other local, state and federal laws and statutes.

## DEFINITIONS

- Act – The West Virginia (WV) Medical Cannabis Act and the provisions contained in W. Va. Code §16A-1-1 *et seq.*
- Advertising - The publication, dissemination, solicitation, or circulation, for a fee, that is visual, oral, written, or electronic to induce directly or indirectly an individual or patronize a particular dispensary or to purchase particular medical cannabis.
- Bureau – The Bureau for Public Health within the West Virginia Department of Health.
- Dispensary – A person who holds a permit issued by the bureau to dispense medical cannabis. The term does not include a health care medical cannabis organization as defined by W. Va. Code §16A-13-1 *et. seq.*
- Marketing – For the purposes of this document, promotions, advertisements, and marketing will be referred to as marketing.
- Medical Cannabis – Cannabis for certified medical use as set forth in this act.
- Medical Cannabis Organization (MCO) – A grower, processor, or dispensary. The term does not include a health care medical cannabis organization as defined in W. Va. Code §16A-13-1.
- Medical Cannabis Program – Program authorized under the Act and implemented by the Bureau.
- Minor – Someone under the age of 18.

	<p style="text-align: center;"><i>Bureau for Public Health</i></p> <p style="text-align: center;"><b>Office of Medical Cannabis</b></p> <p style="text-align: center;"><b>Marketing Approval Policy</b></p>	<p style="text-align: center;">Pg. 3 of 7</p>
<p><b>Effective Date:</b> February 22, 2024</p>	<p><b>Doc Number: OMC-012-2024</b></p>	<p><b>Revision Date:</b></p>


- OMC – West Virginia Office of Medical Cannabis, which is the governing body within the Bureau responsible for the oversight and regulation of the growing, processing, and dispensing of medical cannabis in accordance with the Act.
- Physician – Doctor of allopathic or osteopathic medicine who is fully licensed pursuant to the provisions of either §30-3-1 et seq or §30-14-1 et seq. of the Medical Cannabis Act to practice medicine and surgery in this state.
- Practitioner – Physician who is registered with the bureau under W.Va. Code §16A-4-1.
- Regulate – Control by means of rules.
- Patient – Individual who has a serious medical condition; has met the requirements for certification under the Act; and is a resident of the State of West Virginia.
- Requirement – Specific rules and/or regulations that must be met to acquire a desired outcome.

## POLICY

### Section 1. Overview

The WV Office of Medical Cannabis, herein referred to as the “Bureau” or “OMC”, is mandated by W. Va. Code §16A-3-1 to develop restrictions and guidelines for advertising by all MCOs or practitioners to ensure compliance with W.Va. Code §16A-1-1 *et. seq.*; OMC policies; and all other local, state and federal laws. This section does not apply to information provided by a grower/processor to a dispensary listing various medical cannabis items that the grower/processor is offering for sale to the dispensary.

- 1.1 A MCO must comply with the federal regulations governing prescription drug advertising and marketing in 21 C.F.R. § 202.1 (Prescription-drug advertisements).
- 1.2 This section does not apply to information provided by a grower/processor to a dispensary listing various medical cannabis items that the grower/processor is offering for sale to the dispensary.
- 1.3 Promotional, advertising, and marketing materials must be approved by the Bureau prior to their use (64CSR109-23.5).

	<p style="text-align: center;"><i>Bureau for Public Health</i></p> <p style="text-align: center;"><b>Office of Medical Cannabis</b></p> <p style="text-align: center;"><b>Marketing Approval Policy</b></p>	<p style="text-align: center;"><b>Pg. 4 of 7</b></p>
<p><b>Effective Date:</b> February 22, 2024</p>	<p><b>Doc Number: OMC-012-2024</b></p>	<p><b>Revision Date:</b></p>


- 1.4 Marketing must be submitted for approval exactly the way it will appear when published. Submissions must be completed using an electronic form designated by OMC at least two weeks prior to the publication date to allow OMC adequate time for review.
  - a. Templates may be submitted for one-time approval. The only details that may change upon repeat use are date(s)/time(s), location(s), product/product line(s) being promoted, and sale details (% off, etc.). The general purpose of the template must remain the same with each use. Color schemes, graphics, or fonts may not be changed and nothing else may be added.
- 1.5 Approved submissions will be assigned an approval number, which must be displayed for the duration of publication.

## **Section 2. Practitioners**


- 2.1 A practitioner may not advertise as a practitioner who can certify a patient to receive medical cannabis. (W. Va. Code §16A-4-2-(3))

## **Section 3. Advertising by Medical Cannabis Organizations (64CSR109-23)**

- 3.1 Medical cannabis advertising may not:
  - a. Contain statements that are deceptive, false, or misleading;
  - b. Contain any content that can reasonably be considered to target individuals under the age of 21, including but not limited to images of minors, cartoons, toys, or similar images and items typically marketed towards minors, or references to products that are commonly associated with minors or marketed by minors;
  - c. Specifically encourage the transportation of medical cannabis items across state lines or otherwise encourage illegal activity;
  - d. Display consumption of medical cannabis items;
  - e. A MCO may not make any deceptive, false, or misleading assertions or statements on any informational material, any sign, or any document provided to a consumer.
- 3.2 When considering submissions, OMC will evaluate the manner, location, type, and context in which the advertising will be used.

	<p style="text-align: center;"><i>Bureau for Public Health</i></p> <p style="text-align: center;"><b>Office of Medical Cannabis</b></p> <p style="text-align: center;"><b>Marketing Approval Policy</b></p>	<p style="text-align: right;">Pg. 5 of 7</p>
<p><b>Effective Date:</b> February 22, 2024</p>	<p><b>Doc Number: OMC-012-2024</b></p>	<p><b>Revision Date:</b></p>

- 3.3 The OMC will not approve any submission it determines may be attractive to minors.
- 3.4 References to traditional holidays must not include symbols, figures, cartoons, activities, or characters typically marketed toward minors, even if it does not explicitly reference minors.
  - a. Examples include but are not limited to trick-or-treating, Santa, Easter eggs, and animals or symbols, figures, cartoons, activities, and characters peripheral to those previously mentioned.
  - b. Marketing will not be approved if it references products that are traditionally marketed toward minors.
- 3.5 The OMC will not approve any marketing that references the illicit or recreational drug market.
  - a. Any marketing containing marijuana leaves, references to smoking products, and counterculture symbols, figures, or characters related to the illicit or recreational drug market will be rejected.
  - b. Any non-cannabis items featured, displayed, sold, or distributed at a dispensary or dispensary event must meet this standard.
  - c. Any marketing that references a form of illegal cannabis will be denied.
  - d. Any event sponsored or hosted by a licensee must meet this standard, as well as any vendor at the event.
- 3.6 Non-cannabis items offered for free or for sale in a dispensary, or at an event where a dispensary is represented, must be approved in advance of any item being distributed or sold.
  - a. Such items include, but are not limited to, marketing a specific medical cannabis product or licensee.
  - b. Swag, giveaway, or promotional items that may be displayed or distributed at a vendor booth set up at a public event must be approved.
  - c. Such items include but are not limited to: hand sanitizer, fans, pens, pins/buttons, stickers, lip balm, towels, t-shirts, hats, gum/mints, and other promotional items.
- 3.7 Prior approval is not required for non-commercial or generic business posts on social media where no product marketing occurs.
  - a. Prior approval is not required when posting about store hours, staffing opportunities, or communicating general issues within the market.


 <b>West Virginia</b> Department of <b>HEALTH</b>	Bureau for Public Health <b>Office of Medical Cannabis</b>  <b>Marketing Approval Policy</b>	<b>Pg. 6 of 7</b>
<b>Effective Date:</b> February 22, 2024	<b>Doc Number: OMC-012-2024</b>	<b>Revision Date:</b>

- b. Prior approval is not required for informative posts that do not induce an individual to patronize a particular dispensary or purchase a particular medical cannabis product. For example, "DISPENSARY NAME is closed today due to an internet outage" does not require OMC approval. However, "DISPENSARY NAME is closed today due to an internet outage, but OTHER DISPENSARY is open and has 15% off vapes today!" requires OMC approval because it promotes a dispensary and/or product.
- c. Posts meant for audience engagement that do not pertain to medical cannabis whatsoever do not require OMC approval. For example, "In honor of the first day of summer, comment below with your favorite vacation spot!" does not require OMC approval.

#### **Section 4. Advertising Media, Coupons, and Promotions.**

- 4.1 Advertising through handbills that are passed out in public areas such as parking lots and publicly owned property is prohibited.
- 4.2 A MCO may not utilize television, radio, billboards, print media, or internet advertising unless the medical cannabis organization has reliable evidence that no more than 30 percent of the audience for the program, publication, or internet web site in or on which the advertising is to air or appear is reasonably expected to be under the age of 21.
  - (a) For billboards, the OMC requires the MCO to provide:
    1. Exact GPS coordinates of the proposed billboard;
    2. Reliable evidence that no more an 30% of the audience is reasonable expected to be under the age of 21;
    3. Photo/PDF of the proposed billboard exactly as it will appear if approved and displayed;
    4. List of all schools, daycares, and other locations where minors tend to congregate within 1.5 miles of the intended site of the proposed billboard;
    5. Date(s) or time frame during which the proposed billboard will be displayed.
- 4.3 A MCO that advertises via web page must utilize appropriate measures to ensure that individuals visiting the web page are over 21 years of age or older.
- 4.4 A MCO may not engage in advertising via marketing directed towards location-based devices, including but not limited to cellular phones, unless the marketing is a mobile device



	<p align="center"><i>Bureau for Public Health</i></p> <p align="center"><b>Office of Medical Cannabis</b></p> <p align="center"><b>Marketing Approval Policy</b></p>	<p align="center"><b>Pg. 7 of 7</b></p>
<p><b>Effective Date:</b> February 22, 2024</p>	<p><b>Doc Number: OMC-012-2024</b></p>	<p><b>Revision Date:</b></p>

application installed on the device by the owner of the device who is 21 years of age or older and includes a permanent and easy opt-out feature.

#### **Section 5. Removal of Objectionable and Non-Conforming Advertising.**

- 5.1 The Bureau will notify the MCO and specify a reasonable time period for the removal of any sign, display, or advertisement that the Bureau finds does not meet standards identified in this policy.
- 5.2 A medical cannabis organization must remove any sign, display, or advertisement if the bureau finds it violates these rules.
- 5.3 Pursuant to W. Va. Code §16A-12-8, advertising found to be in violation of the code or legislative rules may result in the imposition of administrative penalties without notice by the OMC.

#### **Section 6. Mandatory Inclusions**

- 6.1 A medical cannabis organization must include the following statements on all print, billboard, television, radio and internet advertising in font size legible to the viewer:
  - a. "Do not operate a vehicle or machinery under the influence of this drug."; and "Keep out of the reach of children."

Policy Name: Marketing Approval Policy

Doc. Number: OMC-012-2024

Effective Date: February 22, 2024

Reviewed and Authorized by:

  
Crystal Lowe, Interim Director

2/22/24  
Date Signed