

## Title 15: Mississippi State Department of Health

### Part 22: Medical Cannabis Program

#### Subpart 3: Advertising and Marketing

#### Chapter 1 REGULATIONS FOR ADVERTISING AND MARKETING

##### Subchapter 1 General Provisions

Rule 3.1.1 Legal Authority: This regulation has been promulgated under the authority of and pursuant to Mississippi Medical Cannabis Act, S.B. 2095, Mississippi Legislature Regular Session 2022, Section 21.

*Source: Mississippi Medical Cannabis Act, S.B. 2095, Mississippi Legislature Regular Session 2022, Section 21*

Rule 3.1.2 Definitions. The following terms shall have the meaning hereinafter respectively ascribed to them as they relate to licensed medical cannabis establishments participating in the Mississippi Medical Cannabis Program:

1. **Advertising** – The terms “advertising” and “advertisement” shall mean 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 medical cannabis. Advertising does not include labeling as required by the regulations of the Medical Cannabis Program.
2. **Brand** – The term “brand” shall mean a name, term, design or symbol or any other feature that identifies one seller’s goods or services as distinct from those of other sellers. For the purposes of these regulations, a company logo is considered a brand.
3. **Branding** – The term “branding” shall mean the process of giving a meaning to a specific medical cannabis establishment’s business by publicizing the business’s name and logo.
4. **Cannabis** – The term "cannabis" means all parts of the plant of the genus cannabis, the flower, the seeds thereof, the resin extracted from any part of the plant and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or its resin, including whole plant extracts. Such term shall not mean cannabis-derived products approved by the federal Food and Drug Administration under Section 505 of the Federal Food, Drug, and Cosmetic Act.
5. **Cannabis products** – The term “cannabis products” means cannabis flower, concentrated cannabis, cannabis extracts and products that are infused with cannabis or an extract thereof and are intended for use or consumption by

humans. The term includes, without limitation, edible cannabis products, beverages, topical products, ointments, oils, tinctures and suppositories that contain tetrahydrocannabinol (THC) and/or cannabidiol (CBD) except those products excluded from control under Sections 41-29-113 and 41-29-136 of the MS Code.

6. **Marketing** – The term “marketing” shall mean the activity, set of institutions, and processes for creating, communicating, delivering, and exchanging offerings that have value for customers, clients, partners, and society at large. The term also includes 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 medical cannabis.
7. **Media** – The term “media” shall mean the communication channels through which we disseminate news, movies, education, promotional messages, and other data. It includes, but is not limited to, physical and online newspapers and magazines, television, radio, billboards, telephone, internet, fax, social media and billboards.
8. **Medical Cannabis Establishments** – The term “medical cannabis establishments” shall mean a cannabis cultivation facility, cannabis processing facility, cannabis testing facility, cannabis dispensary, cannabis transportation entity, cannabis disposal entity, cannabis research facility licensed and registered by MS State Department of Health (the Department) or Mississippi Department of Revenue (MDOR). Medical Cannabis Establishments may also be known as licensed entities or licensees.
9. **Practitioner** – The term “practitioner” means a physician, certified nurse practitioner, physician assistant or optometrist who is licensed to prescribe medicine under the licensing requirements of their respective occupational boards and the laws of this state.

*Source: Mississippi Medical Cannabis Act, S.B. 2095, Mississippi Legislature Regular Session 2022, Section 21*

## **Subchapter 2 Prohibition Against Advertising and Marketing**

Rule 3.2.1 Medical Cannabis Establishments participating in the Medical Cannabis Program, or entities acting on their behalf, are prohibited from advertising and marketing in any media, including but not limited to:

1. Broadcast or electronic media:
  - A. Radio
  - B. Television
  - C. Unsolicited internet pop-up advertising
  - D. Social media

2. Print media:
  - A. Newspaper
3. Other forms:
  - A. Mass text/messaging communications
  - B. Mass email communications
  - C. Medical cannabis or medical cannabis products shall not be displayed in windows or public view.
  - D. Advertisement in any manner that can be viewable or otherwise perceived as a public space, including, but not limited to, adopt a highway signs, and electronic interstate signs.
  - E. Solicited/paid patient and/or caregiver reviews/ testimonies/ endorsements.
  - F. Solicited/paid practitioner reviews/ testimonies/ endorsements.

*Source: Mississippi Medical Cannabis Act, S.B. 2095, Mississippi Legislature Regular Session 2022, Section 21*

Rule 3.2.2 No Medical Cannabis Establishment shall engage in advertising that contains any statement or illustration that:

1. Depicts the actual consumption of cannabis or cannabis products;
2. Promotes the overconsumption of cannabis or cannabis products;
3. Makes any health, medicinal, or therapeutic claims about cannabis or cannabis-infused products;
4. Makes safety claims of any type;
5. Includes the image of a cannabis leaf or bud; or
6. Includes any image designed or likely to appeal to minors, including cartoons, toys, animals, or children or any other likeness, images, characters, or phrases that are designed in any manner to be appealing to children and/or youth.

*Source: Mississippi Medical Cannabis Act, S.B. 2095, Mississippi Legislature Regular Session 2022, Section 21*

### **Subchapter 3 Branding Requirements**

Rule 3.3.1 Medical Cannabis Establishments are permitted to participate in branding activities as described in Rules 3.3.2. and 3.3.5 in order to publicize their businesses. Additionally, the business name, location(s), and contact information of all licensed

medical cannabis establishments will be made available by the Department through a public website.

*Source: Mississippi Medical Cannabis Act, S.B. 2095, Mississippi Legislature Regular Session 2022, Section 21*

Rule 3.3.2 Permissible branding activities include:

1. Establishment of a website and/or social media presence that provides general information on the licensed entity’s contact information, retail dispensing locations, and a list of products available.
2. Listings in business directories (inclusive of phone books, cannabis-related or medical publications).
3. Sponsorships of health or not-for-profit charity or advocacy events.

*Source: Mississippi Medical Cannabis Act, S.B. 2095, Mississippi Legislature Regular Session 2022, Section 21*

Rule 3.3.3 Branding must not target minors, pregnant women, breastfeeding women, or promote non-medical use of cannabis.

*Source: Mississippi Medical Cannabis Act, S.B. 2095, Mississippi Legislature Regular Session 2022, Section 21*

Rule 3.3.4 Branding, in the form of business signage, for all medical cannabis establishments is subject to local zoning and permitting requirements.

*Source: Mississippi Medical Cannabis Act, S.B. 2095, Mississippi Legislature Regular Session 2022, Section 21*

#### **Subchapter 4 Use of Inducements**

Rule 3.4.1 Medical Cannabis Establishments may utilize inducements to assist qualified patients. Inducements must not persuade or influence the use of medical cannabis outside of practitioner recommendations and/or limitations or the amounts allowed by the Mississippi Medical Cannabis Act. Examples of inducements include, but are not limited to:

1. The use of discount cards;
2. The use of coupons;
3. The use of “punch cards” to offer discounts/free products;

4. Promotion of sales/discounts on medical cannabis of any type;
5. The use of “buy one, get one” discount approaches; and,
6. The use of any type of “daily deal”, “weekly deal”, “monthly deal”, etc.;

*Source: Mississippi Medical Cannabis Act, S.B. 2095, Mississippi Legislature Regular Session 2022, Section 21*

Rule 3.4.2 Any and all medical cannabis and/or medical cannabis products that are part of an inducement program as defined in Rule 3.4.1, remain subject to seed to sale tracking requirements, any practitioner limitation included on the qualified patient’s written certification, and MS Medical Cannabis Equivalency Unit limitations of the Mississippi Medical Cannabis Act.

*Source: Mississippi Medical Cannabis Act, S.B. 2095, Mississippi Legislature Regular Session 2022, Section 21*

### **Subchapter 5 Education Regarding the Risks and Benefits of Use of Medical Cannabis**

Rule 3.5.1 Education on the risks and benefits of the use of medical cannabis between a registered practitioner and/or medical cannabis establishment and a qualified patient, caregiver, parent, or legal guardian is permissible. This education is not considered advertising or marketing.

*Source: Mississippi Medical Cannabis Act, S.B. 2095, Mississippi Legislature Regular Session 2022, Section 21*

Rule 3.5.2 Education on the risks and benefits of the use of medical cannabis between a registered practitioner and/or medical cannabis establishment and a qualified patient, caregiver, parent, or legal guardian can also include written or video educational materials that are inclusive of the medical cannabis establishment’s brand.

*Source: Mississippi Medical Cannabis Act, S.B. 2095, Mississippi Legislature Regular Session 2022, Section 21*

Rule 3.5.3 Education provided to a qualified patient, caregiver, parent, or legal guardian by a registered practitioner and/or medical cannabis establishment that includes instruction/direction on the safe use of medical cannabis and/or medical cannabis products is permissible.

*Source: Mississippi Medical Cannabis Act, S.B. 2095, Mississippi Legislature Regular Session 2022, Section 21*