

Agenda / Discussion Guide

- 11:00am Call to Order and Introductions, Sub-Committee on Public Health
- 11:05am Review submitted written public comments received
- 11:10am Overview of Act 164 and Act 62 Requirements for Advertising & Marketing
- 11:15am Review and Discuss Tasks & Recommendations Required for Deliverables for Advertising & Marketing
- 11:50am Public Comments
- 12:00pm Adjourn

Public Health

SUB-COMMITTEE MEMBERS

NACB

- Deneka Scott
- Mark Gorman

Advisory Committee

- Tim Wessel
- Dr. Mark Levine
- Ingrid Jonas

CCB

- Julie Hulburd

- Advertising & Marketing
 - *(Point of Sale flyer for retailers)*
- Packaging & Labeling, including standard cannabis symbol
 - *Dates/shelf-life*
 - *Data we could present*
- Edibles & DOH oversight

MILESTONE

- **OCTOBER 20, 2021**
Assist the Board in the development of:
 - Regulations regarding advertising and marketing that limit youth exposure.
 - Packaging & Labeling
 - Consideration of dispensary as food manufacturing establishment

Public Comments

- In Professor Villanti's slides it appears that the rate of harm perception declines as the experience rate goes up. Vermont youth sees less risk than youth from states with lower use rates in the population. Truth works. Scare programs succeed or fail when youth get educated in reality. DARE did not work. "Cannabis is terrible for health" will not work. **"Cannabis with alcohol is very dangerous" can work.** Nicotine is extremely addictive. Of all the drugs youth may experiment with, cannabis (vaped, not smoked) is the safest way - except for those with family history of psychosis or other mental health problems. Even caffeine can kill.*

Joe Richmond

Public Comments

- Thank you CCB for a meeting yesterday dedicated to **public health policy that will allow an adult retail market while maintaining best practice strategies for youth prevention of underage use.**
 - Someone asked Ms. Morehouse about what types of Marijuana youth are using smoking or edibles. While we don't have specific data on this, we know that edibles are not in play because they are not in the state. However, we do know that youth are vaping THC containing products as well as CBD oils. Also, there is a term called dabbing where youth are inhaling high concentrate THC called shatter. ***This all speaks to the importance of strict regulation around edibles, youth access, and potency.***
 - A recent study from Canada shows the following:
 - Legalization of recreational cannabis in Canada was associated with increased rates of severe intoxication in children (Median age was 1)
 - Edible ingestion was a predictor of ICU admission (OR: 4.1; 95% CI: 1.2-13.7)
 - Also on edibles, Accidental poisoning of infants and children are up nationally. The Northern New England Poison Control Center, since adult-use marijuana was legalized in 2016, has seen a 160% increase in related calls.
 - I would like to underscore that the legal THC limits of 30% THC for flower and 60% THC for concentrates are too high if we are to maintain a public health approach to cannabis regulation. As prevention works pointed out studies show that >15% THC in flower = 3x risk of psychosis and 5x if daily use. And, the study referenced does not address the concentrates issue.
 - Also pointed out was that Colorado is currently debating this topic in the legislature because of the mental health impacts that they are seeing.
 - Please consider a 50% reduction in currently established THC limits for flower and concentrates
- On Canada intoxication trends
 - <https://doi.org/10.1080/15563650.2021.1939881>
 - On poisoning increases:
 - <https://wgme.com/news/marijuana-in-maine/poison-control-calls-up-160-since-recreational-marijuana-legalization>
 - On risk of psychosis:
 - https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6312155/#b11-ms115_p048
 - On CO potency debate:
 - <https://www.denverpost.com/2021/05/14/marijuana-cannabis-concentrate-regulation-thc-colorado-legislature/>

Melanie Sheehan

9/9/21

Submit Public Comments to:

<https://ccb.vermont.gov/form/publicinputform>

Key Requirements of Recommendations to CCB

- **Phase 1**

- Advertising & Marketing rules and guidelines
 - Guidelines, including warning statements for packaging/labeling/advertising
 - Licensee material approvals

- **Phase 2**

- Packaging & Labeling rules & guidelines
 - Standard cannabis symbol
 - Dates/shelf-life
 - Warning labels

- **Phase 3**

- Edibles & Department of Health oversight

Overview of Act 164 and 62 Requirements for Advertising

Act 164 – RE: Advertising

- **Act 164**
- **Sec. 5. (f) page 18 regarding ADVERTISING**
- The Executive Director of the Cannabis Control Board, in consultation with the Office of the Attorney General and the Department of Health, shall ***develop a proposal for advertising for both the adult-use and medical cannabis programs established in this act.***
- The proposal shall reflect the General Assembly’s priorities:
 - **not promoting cannabis use**
 - **limiting exposure of cannabis advertising to persons under 21 years of age**
 - **ensuring consumer protection and public safety**
- The proposal shall take the following into consideration:
 - **constitutional protections for commercial speech that may exist regarding the cannabis market**

Act 62: Definitions

- **Act 62**
- § 861. **DEFINITIONS** As used in this chapter:
 - (1) “Advertise” means the publication or dissemination of an advertisement.
 - (2) “Advertisement” means any written or verbal statement, illustration, or depiction that is calculated to induce sales of cannabis or cannabis products, including any written, printed, graphic, or other material, billboard, sign, or other outdoor display, other periodical literature, publication, or in a radio or television broadcast, the Internet, or in any other media.
- The term *does not include*:
 - (A) any label affixed to any cannabis or cannabis product, or any individual covering, carton, or other wrapper of that container that constitutes a part of the labeling under provisions of these standards
 - (B) any editorial or other reading material, such as a news release, in any periodical or publication or newspaper for the publication of which no money or valuable consideration is paid or promised, directly or indirectly, by any cannabis establishment, and that is not written by or at the direction of the licensee
 - (C) any educational, instructional, or otherwise noncommercial material that is not intended to induce sales and that does not propose an economic transaction, but that merely provides information to the public in an unbiased manner; or
 - (D) a sign attached to the premises of a cannabis establishment that merely identifies the location of the cannabis establishment

Act 62: Advertising Rules

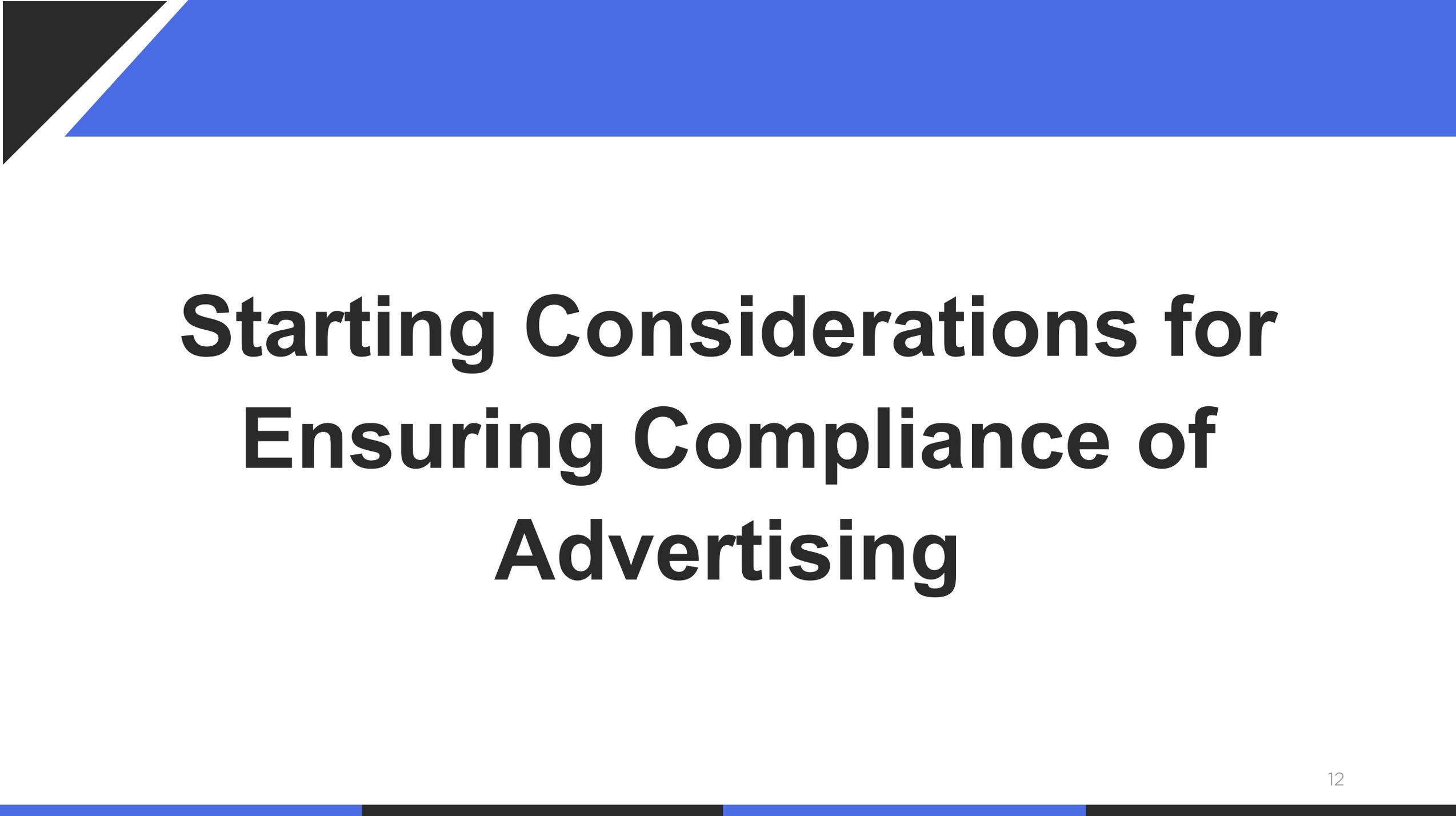
More specifically, Act 62 stipulates the following rules:

- § 864. ADVERTISING

- (b) A cannabis establishment advertisement shall not contain any statement or illustration that:
 - (1) is deceptive, false, or misleading
 - (2) promotes overconsumption
 - (3) represents that the use of cannabis has curative effects
 - (4) offers a prize, award, or inducement for purchasing cannabis or a cannabis product, except that price discounts are allowed
 - (5) offers free samples of cannabis or cannabis products
 - (6) depicts a person under 21 years of age consuming cannabis or cannabis products; or
 - (7) is designed to be or has the effect of being particularly appealing to persons under 21 years of age

Act 62: Advertising Rules

- (c) Cannabis establishments shall not advertise their products via any medium unless the licensee can show that not more than 15 percent of the audience is reasonably expected to be under 21 years of age. **(85% over 21)**
- (d) All advertisements shall contain **health warnings** adopted by rule by the Board in consultation with the Department of Health.
- (e) All advertisements **shall be submitted to the Board** on a form or in a format prescribed by the Board, prior to the dissemination of the advertisement. The Board may:
 - (1) **require a specific disclosure be made in the advertisement in a clear and conspicuous manner if the Board determines that the advertisement would be false or misleading without such a disclosure; or**
 - (2) **require changes that are necessary to protect the public health, safety, and welfare or consistent with dispensing information for the product under review**



Starting Considerations for Ensuring Compliance of Advertising

Discussion with an Advertising Exec...

Would it be helpful to your team if you were given branding requirements (at least legal disclaimers required) that were issued by the state?

“That would be super helpful. To be honest, we've seen different attorneys have different opinions in the same state in the past.”

Aid licensees in knowing “rules of the road” for advertising

Advertising Mediums

Groupings for this purpose are (included) but not limited to:

- **Print** - *any advertising in a printed format including POS flyers/brochures/posters/etc, newspaper, magazine*
- **Digital** – *email, online, SEO – paid and organic (key words), sponsored ads, social media – which is both static/video*
 - *Instagram*
 - *Facebook* Subject to each platform’s “terms & conditions”
 - *Tik Tok*
 - *Twitter*
 - *YouTube*
- **Direct** – *direct mail (postcards, letters, leaflets) LSM/guerilla (handouts, flyers), in-person*
- **Broadcast** – *TV, radio, online channels (i.e. YouTube)*
- **Sponsorships**

Enacted Language

While not necessarily advertising, this provides language guidance:

- 7 VSA 907 (d) – enacted with requirements
 - (d) A retailer shall display a safety information flyer at the point of purchase and offer a customer a copy of the flyer with each purchase. A retailer shall inform the customer that if the customer elects not to receive the flyer, the information contained in the flyer is available on the website for the Board. The flyer shall be developed by the Board in consultation with the Department of Health, posted on the Board's website, and supplied to the retailer free of charge. At a minimum, the flyer or flyers shall contain information concerning the methods for administering cannabis, the amount of time it may take for cannabis products to take effect, the risks of driving under the influence of cannabis, the potential health risks of cannabis use, the symptoms of problematic usage, how to receive help for cannabis abuse, and a warning that cannabis possession is illegal under federal law.

Specific Recommendations to Ensure Compliance with Advertising Rules

*For sub-committee discussion purposes to support requirements – **starting points/considerations/recommendations** to the Vermont CCB the following actions to ensure compliance by cannabis licensees:*

- **Create Vermont Cannabis Advertising & Marketing Guidelines/Requirements** with (self-audit) checklist for licensees to ensure understanding of requirements in development of advertising/marketing materials (prior to submission for approvals). (See below for specific content considerations – #2-5)
 - Create a form and format to be used by licensees in submitting advertisements for review by the CCB
 - Establish a fee for advertisement review by the Board
- **Draft a health warning label for cannabis packages**; consider additional for types of cannabis packages (i.e., edibles)
- **Specify means of assuring** that advertising audience contains no more than 15% under 21 y/o (**85% audience must be over 21**)
- **Require “age-gating” for social media sites and related advertising pages** to limit underage access to commercial cannabis messaging

Specific Recommendations to Ensure Compliance with Advertising Rules

Continued: For sub-committee discussion purposes to support requirements – starting points/considerations/recommendations to the Vermont CCB the following actions to ensure compliance by cannabis licensees:

- ***Draft* language for medicinal cannabis advertising** which alerts licensees of requirements and/or prohibited language regarding medicinal use and health claims
- ***Develop* possible sanctions for non-compliance with advertising rules and what the process is to rectify violations;** consider alternative actions for “repeat offenders”
- ***Develop* educational website for parents and guardians** to use in “talking to your kids about marijuana” (expands upon current: <https://www.healthvermont.gov/alcohol-drugs/lets-talk-cannabis/cannabis-and-youth>)
- ***Draft* initiatives that would clearly distinguish** between commercial messages for adult-use and medical cannabis

Next Step Tasks

- Language Development:
 - *Draft* a health warning label for cannabis packages (will help drive packaging and labeling)
 - *Draft* language for medicinal cannabis advertising (distinguish between advertising for adult-use and medicinal)
 - *Draft* any general disclosures for advertising (new or summation of any requirements into a unified advertising statement)
 - 7 VSA 907 (d) – enacted with requirements
 - (d) A retailer shall display a safety information flyer at the point of purchase and offer a customer a copy of the flyer with each purchase. A retailer shall inform the customer that if the customer elects not to receive the flyer, the information contained in the flyer is available on the website for the Board. The flyer shall be developed by the Board in consultation with the Department of Health, posted on the Board's website, and supplied to the retailer free of charge. At a minimum, the flyer or flyers shall contain information concerning the methods for administering cannabis, the amount of time it may take for cannabis products to take effect, the risks of driving under the influence of cannabis, the potential health risks of cannabis use, the symptoms of problematic usage, how to receive help for cannabis abuse, and a warning that cannabis possession is illegal under federal law.

- **In-Room Public Comments**

- **Submit in writing to:**

<https://ccb.vermont.gov/form/publicinputform>