

Law Office of James A. Dumont, Esq., P.C.

15 Main St., P.O. Box 229, Bristol VT 05443
Office 802-453-7011; Cell 802-349-7342; Fax 802-505-6290
email: jim@dumontlawvt.com; website: dumontlawvt.com

James A. Dumont, Esq.

Caroline F. Engvall, Legal Assistant

December 1, 2021

James Pepper, Esq.
Ms. Julie Hulburd
Kyle Harris, Esq.
Vermont Cannabis Control Board
89 Main St.
Montpelier, VT 05620-7001
CCB.Info@Vermont.gov

Re: Labelling and Advertising of Cannabis in Draft Rule 2 – Follow Up letter

Dear Chair Pepper and Members Hulburd and Karris:

I write again on behalf of Physicians, Families and Friends Education Fund to follow up on the letter I submitted to you on November 29 pertaining to Draft Rule 2's language on labelling and advertising of cannabis.

After I submitted to you the November 29 letter, I participated in and listened to all the other participants during the public comment session you hosted on November 30. Clearly, your plate is very full. There are many important, complex decision that you must make. The tasks before you may seem overwhelming.

However, one part of your tasks is very clear: where the statute uses the word "shall," you must obey that command. You have no discretion. This is true of health warnings in advertising. Section 864(d) of the Act states: "**All advertisements shall contain health warnings adopted by rule by the Board in consultation with the Department of Health.**"

The draft rule you have published contains no health warnings for advertising. It contains only health warnings for packaging. Use of the word "shall" in the statute means that **unless and until you adopt health warnings by rule, there can be no advertising.** Individual requests for approval of advertising may come across your desk, but you will lack the authority to approve of any advertising until you issue a rule setting forth health warnings for advertising.

If your intent is to disapprove of every proposed advertisement that is submitted to you, then the current draft makes sense. If you do not intend to reject all proposed advertisements, then you must first amend Rule 2 to comply with the statute.

The 2,400 physicians of the Vermont Medical Society have, by Resolution, provided their expert judgment about what those warnings should be. Their Resolution is founded upon the medical literature—not upon anecdote, wishful thinking or financial self-interest. The lives of a great many Vermonters are at stake.

To avoid unnecessary litigation, we ask that you amend Draft Rule 2 to state either that no advertising will be approved until a subsequent rule sets forth health warnings, or that the data-based health warnings urged by the VMS have been adopted. To reiterate, this is the language urged by the VMS:

WARNING: Cannabis/THC may cause:

- 1. Psychosis***
- 2. Impaired driving**
- 3. Addiction**
- 4. Suicide attempt***
- 5. Uncontrollable vomiting**
- 6. Harm to fetus/nursing baby**

*This can occur in individuals with no previous history of psychosis or mental illness.

Respectfully submitted,
/s/James A. Dumont
James A. Dumont, Esq.