

Dear Administrator Heidi Clark and Director Jamin Grantham,

I am writing to protect the voice and free speech of the Montana Medical Marijuana Program and everyone that is a part of it because I believe they are under attack. You, the Department of Public Health and Human Services released your *Proposed Rules Package*, meant to clarify the Advertising Prohibition, that adds new rules that would make it impossible for individuals with a medical marijuana card and providers of medical marijuana to use any language, imagery, or descriptions relating to medical marijuana under any context; your new rules even go as far as to place a rule against using words that may lead a “reasonable person to believe that the term... used identifies or describes marijuana...” as if that is enforceable. Because the medical marijuana program is a state-sanctioned legal program, business and individuals that are apart of the program are entitled to the same rights as any other legally-established industry.

Reasons not to pursue these proposed rules;

1. These rules are a breach of business’ right to free speech, known as “Commercial Speech”, as well as individual rights to free speech. This is protected by the First Amendment.
2. Given the broad context of the law, it will be more difficult to enforce these laws given the expansive amount of discretion from inspectors to determine what a “reasonable person” would assume is advertising.
3. The proposed rules go beyond prohibiting advertising and would pose a risk to the general public’s ability to access accurate information regarding marijuana, marijuana-related compounds, and the greater MT MMJ Program from an educated source, a provider or patient legally participating in this medical program.
4. Additionally, the proposed rule changes pose a risk of contradicting existing law found in MCA 50-46-314; the law reads, “A listing in a directory of businesses authorized under this part is not advertising...” How would a “reasonable person” believe that a business listed in a marijuana directory was not involved in the cultivation and sale of medical marijuana?

As a concerned resident of Montana, I write to ask you to stop this strangulation of this community’s First Amendment rights to Commercial Speech and this attempt to adopt unenforceable rules. There is a difference between advertising and publicly-accessible information. *Rule 1* should be reworded with language focused on protecting minors and mitigating the potential harm of abuse as well as misdirection or false claims about marijuana. Having a more focused language that targets specific areas of concern vs. a blanket ban is ultimately more sustainable for both the legal and social longevity of this program.

Please stand with me and the Montana medical marijuana community in defending our constitutional rights from the impacts of unduly burdensome rules and regulations.

Sincerely,