

**Medical marijuana dispensary license application**

(A) The board shall evaluate each complete application submitted in accordance with paragraph (C) of rule 3796:6-2-01 of the Administrative Code and award provisional dispensary licenses on a competitive basis via competitive scoring, a lottery, or a combination of competitive scoring and lottery, as determined by the board. If the board utilizes a lottery component in awarding provisional dispensary licenses:

(1) The board shall ensure that provisional dispensary licenses are awarded only to applicants who have satisfactorily submitted the items listed in paragraph (B) of rule 3796:6-2-02 and whose submissions meet all standards or scores contained using in the in the notice request for applications; and

(2) If an applicant has not submitted all items listed in paragraph (B) of rule 3796:6-2-02 or has not met the requisite standards or scores contained in the request for applications, the applicant will not be awarded a license and the next applicant from the ranked lottery list who has submitted the items and met the requisite standards or scores shall be awarded the license.

Regardless of the system used to award dispensary licenses, the burden of proving an applicant's qualifications rests with the applicant.

~~(A)~~(B) Incomplete applications shall not be evaluated.

~~(B)~~(C) The board may request additional information the board determines is necessary to process and fully investigate an application;

(1) The applicant shall provide requested additional information by the close of business of the ~~fifth~~tenth business calendar day after the request has been received by the applicant;

(2) If the applicant does not provide the requested information within ~~five calendar~~ten calendar days, the board shall consider the application to be an abandoned application.

~~(C)~~(D) Pursuant to division (B) of section 3796.10 of the Revised Code, the state board of pharmacy shall not consider any applicant for a provisional dispensary ~~provisional~~ license that:

(1) Submits an application containing one or more associated key employees who pleaded guilty to or were convicted of a disqualifying offense. A dispensary may disassociate with a prospective associated key employee for failure to comply with Chapter 3796. of the Revised Code and this division only upon approval from the state board of pharmacy;

(2) Has an ownership interest or investment interest in a testing laboratory, an applicant for a license as a testing laboratory; or shares any corporate officers or employees with a testing laboratory or applicant for a testing laboratory;

(3) Is a physician with a certificate to recommend medical marijuana or such a physician has an ownership or investment interest in or a compensation arrangement with the applicant;

(4) Will be located within five hundred feet of a prohibited facility; or

(5) Is not in compliance with the applicable tax laws of this state or its political subdivisions;  
~~or is not in compliance with the applicable tax laws of any jurisdiction where the applicant has operated and conducted business within the last three years;~~

~~(D)~~(E) Prior to ~~seeing~~ or during the evaluation of the applications for a provisional license, the state board of pharmacy may deny a provisional license to any applicant who:

(1) Submits an incomplete, inaccurate, false, or misleading application;

(2) Knowingly employs a person who has been disciplined by the state board of pharmacy or any professional licensing board;

(3) Will be located within five hundred feet of ~~a community addiction services provider under section 5119.01 of the Revised Code~~ an opioid treatment program as defined in rule 3796:6-1-01 of the Administrative Code; or

(4) Fails to pay applicable fees.

~~(E)~~(F) The state board of pharmacy shall review for a provisional license, the submitted applications consistent with this division of the Administrative Code, for each designated dispensary district established by the board. If there are an insufficient number of qualified applicants to award all the dispensary licenses available through the open application, the board may republish, in accordance with rule 3796:6-2-01 of the Administrative Code, a request for applications for provisional dispensary ~~provisional~~ licenses in the applicable district.

~~(F)~~(G) ~~The board shall consider, but is not limited to, the following criteria in evaluating dispensary license applications:~~

(1) ~~The character and fitness of the persons with an ownership interest in the dispensary, those with a financial interest and any other person who may have control or influence over the operation of the proposed dispensary;~~

(2) ~~The location for the proposed dispensary including, but not limited to:~~

~~(a) Its proximity to previously approved dispensaries or pending dispensary applications;~~

~~(b) Whether the registered patient population in the area proposed by the dispensary license applicant justifies the need for a dispensary or an additional dispensary in that area; and~~

- (e) ~~Whether the number of dispensaries in the locality is such that the granting of a license is detrimental to the public interest. In reaching a conclusion in this respect, the state board of pharmacy may consider the population of, the number of like licenses and number of all licenses existent in, the particular town or neighborhood.~~
- (3) ~~The applicant's ability to demonstrate adequate ability to detect and deter the diversion, theft and loss of marijuana;~~
- (4) ~~The applicant's ability to maintain the knowledge, understanding, judgment, procedures, security controls, work environment, and ethics to ensure optimal safety and accuracy in the dispensing and sale of marijuana;~~
- (5) ~~Whether, pursuant to division (C) of section 3796.10 of the Revised Code, at least fifty-one percent of those who own and control the prospective dispensary are Blacks or African Americans, American Indians, Hispanics or Latinos, or Asians. For purposes of this rule, the definitions under paragraphs (A)(6) to (A)(9) of rule 123:2-15-01 of the Administrative Code shall apply; and~~
- (6) ~~The extent to which the applicant or any of the applicant's dispensary backers have a financial interest in another licensee, registrant or applicant under Chapter 3796. of the Revised Code.~~

~~(H)(G) If there are more qualified applications than the number of licenses available and there is a numerical tie for the last provisional license to be issued, the last provisional license shall be awarded to the applicant with the highest score for security compliance and enforcement questions in the application. If the security compliance and enforcement score is tied, the provisional license will be issued to the applicant with the highest patient education care plan score. If the patient education care plan score is tied, the provisional license will be issued to the applicant that will be located the greatest distance from another dispensary.~~

~~(H)(H) Within ten business calendar days of the board's decision, the board shall notify applicants who will be awarded a provisional license.~~

~~(J)(I) If an applicant has been awarded a provisional license and has not commenced operation of such facility within one hundred eighty calendar days of being notified of the provisional license award, the board may, in its discretion, rescind such provisional license, unless the delay was caused by a force majeure. Unless the provisional dispensary license holder has requested and received a variance in accordance with rule 3796:6-4-10 of the Administrative Code, the provisional dispensary licensee must shall commence operations within two hundred and seventy days after the provisional dispensary licensee was issued a provisional dispensary license. Failure to commence operations within the requisite timeframe may result in the commencement of administrative action pursuant to Chapter 119 of the Revised Code, up to and including revocation of the provisional dispensary license. Any revoked provisional dispensary license will be awarded in the manner determined by the board and described in the related request for applications.~~

- ~~(1) A dispensary shall be deemed to have commenced operation if the dispensary is capable of operating in accordance with the dispensary applicant's approved application, as deemed appropriate by the state board of pharmacy, and passes final inspection by the state board of pharmacy in accordance with rule 3796:6-2-06 of the Administrative Code.~~
- ~~(2) In the event a provisional license is rescinded pursuant to this paragraph the board shall award a provisional license by selecting the highest scored applicant from among the qualified applicants who applied for the provisional license in the applicable district.~~
- ~~(3) If no other qualified applicant applied for such provisional license or satisfied the criteria for awarding a license, the board may republish, in accordance with this chapter, a request for applications for dispensary provisional licenses in the applicable district.~~
- (J) Every applicant awarded a provisional dispensary license shall provide a written report to the board of pharmacy no later than the first day of every month following the month the applicant was awarded a provisional dispensary license. The reports shall detail the progress of the applicant to become operational and shall be submitted until the medical marijuana dispensary receives a certificate of operation or the applicant receives a notice pursuant to section 119.07 of the Revised Code.
- (K) An applicant awarded a medical marijuana dispensary license shall be deemed to have commenced operations if the medical marijuana dispensary is capable of operating in accordance with the information contained in the application, and passes final inspection by the state board of pharmacy in accordance with rule 3796:6-2-06 of the Administrative Code.
- ~~(K)(L)~~ (L) A provisional dispensary license issued under this rule is exclusive to the entity and location identified in the application and is non-transferrable.