

3796:6-2-02

Applications to operate medical marijuana dispensaries.

- (A) Only a ~~dispensary that~~ provisional dispensary licensee who has obtained a certificate of operation from the state board of pharmacy may sell or dispense medical marijuana to qualifying patients and designated caregivers who are registered with the board.
- (B) ~~The board will not consider an incomplete application submitted in response to a request for applications issued pursuant to rule 3796:6-2-01 of the Administrative Code. To be considered complete, an application submission~~ items submitted in response to a request for applications issued pursuant to rule 3796:6-2-01 of the Administrative Code shall include all the following:
- (1) The completed payment of the relevant application fee;
 - (2) An application on a form in accordance with section 3796.10 of the Revised Code. The application shall include:
 - (a) The name of the ~~proposed~~ provisional dispensary applicant, as reflected in the articles of incorporation or other documents filed with the secretary of state;
 - (b) The type of business organization of the provisional dispensary applicant, such as individual, corporation, partnership, limited-liability company, association or cooperative, joint venture or any other business organization;
 - (c) Confirmation that the provisional dispensary applicant has registered with the Ohio secretary of state as the applicable type of business;
 - (d) A copy of the provisional dispensary applicant's articles of incorporation, articles of organization or partnership or joint venture document of the provisional dispensary applicant;
 - (e) The physical address where the proposed dispensary will be located; ~~and the physical address of any co-owned or otherwise affiliated medical marijuana entities, including both licensed and prospective entities;~~
 - (f) The physical address of any co-owned or otherwise affiliated marijuana entities, including both licensed and prospective entities, including cultivators, processors, testing labs, dispensaries, or applicants for any other such license or certificate;

- ~~(f)~~(g) The mailing address of the provisional dispensary applicant;
- ~~(g)~~(h) The telephone number of the provisional dispensary applicant;
- ~~(h)~~(i) The electronic mail address of the provisional dispensary applicant;
- ~~(i) The proposed hours of operation during which the prospective dispensary plans to be available to dispense medical marijuana to patients who hold valid registry identification cards or to the designated caregivers of such patients;~~
- (j) Proof establishing that the provisional dispensary applicant owns or controls through a leasehold interest in all real property where marijuana will be dispensed, or a signed, notarized statement from the owner of such real property that the owner will grant a leasehold interest to the applicant if a provisional dispensary license is issued to the applicant;
- (k) A professionally prepared survey location area map of the area surrounding the prospective dispensary that establishes the facility is at least five hundred feet from the boundaries of a parcel of real estate having situated on it:
 - (i) A prohibited facility, pursuant to section 3796.30 of the Revised Code; or
 - (ii) ~~A community addiction services provider as defined under section 5119.01 of the Revised Code.~~An opioid treatment program as defined in rule 4729:5-21-01 of the Administrative Code.
- (l) Notwithstanding rule 3796:5-5-01 of the Administrative Code, five hundred feet will be measured using the shortest distance between the closest point of the external boundaries of a parcel of real estate having situated on it any facility described in paragraph (B)(2)(k) of this rule and the external boundaries of the parcel on which the prospective dispensary would be situated.
- ~~(m)~~(m) Evidence that the provisional dispensary applicant is in compliance with any all local ordinances, rules, or regulations adopted by the locality ~~in~~ which where the provisional dispensary applicant's property is located, which are in effect at the time of the application, including copies of any required local registration, license, or permit of the locality where the provisional dispensary applicant's property is located.

- ~~(i) Copies of any required local registration, license or permit of the locality in which the applicant's property is located;~~
 - ~~(ii) If a local government in which a proposed dispensary will be located has not enacted zoning restrictions or the applicant is not required to secure approval that the applicant is in compliance with any such restrictions, a professionally prepared survey which demonstrates that the applicant has satisfied all the requirements of division (A) of section 3796.30 of the Revised Code.~~
 - ~~(m)~~(n) The ~~notarized~~ signature of ~~an~~ an authorized natural person ~~for~~ on behalf of the ~~proposed medical marijuana establishment~~ provisional dispensary applicant as described in rule 3796:6-2-03 of the Administrative Code, attesting that the information provided to the board in the application for a provisional dispensary license is true and correct at the time of signing.
- (3) A tax authorization form on behalf of the business, any owner as defined in rule 3796:6-2-03 of the Administrative Code, and any other associated key employee as determined by the board of pharmacy; Documentation sufficient to establish that the applicant is in compliance with the applicable tax laws of this state and any jurisdiction where the applicant has operated and conducted business within the last three years;
- (4) Financial statements demonstrating the provisional dispensary applicant has adequate liquid assets to cover all expenses and costs identified in paragraphs (B)(8) and (B)(9) of this rule, but no less than two hundred fifty thousand dollars, whichever is higher, for each license the provisional dispensary applicant is willing to accept. A financial plan which includes:
- (a) Such liquid assets shall be unencumbered and capable of being converted to cash within thirty days after a request to liquidate such assets. To demonstrate liquidity, the application shall include the following:
 - (i) Account statements dated no earlier than thirty days prior to the date the application was submitted, from an institution in this state, or any other state in the United States, United States territory, or the District of Columbia.
 - (ii) If the applicant is relying on money from an owner, officer, or board member, evidence that the person has unconditionally committed such money to the use of the provisional dispensary applicant in the event that a dispensary license is awarded to the applicant.

(b) The use of funds from sources not disclosed in the application is prohibited unless the applicant obtains approval from the board.

~~(a) Financial statements showing the resources of the applicant;~~

~~(b) If the applicant is relying on money from an owner, officer or board member, evidence that the person has unconditionally committed such money to the use of the applicant in the event that a dispensary license is awarded to the applicant;~~

~~(c) Documentation from an institution in this state, or any other state in the United States or the District of Columbia, which demonstrates:~~

~~(i) That the applicant has adequate liquid assets to cover all expenses and costs of the first year of operation for all licenses the applicant is willing to accept, but no less than two hundred fifty thousand dollars, as indicated under the dispensary's current business plan. Such liquid assets shall be unencumbered and capable of being converted within thirty days after a request to liquidate such assets; and~~

~~(ii) The source of those assets.~~

(5) ~~A~~ The description of the proposed organizational structure of the proposed provisional dispensary applicant, including, without limitation both of the following:

(a) An organizational chart showing all owners, officers, and board members of the proposed provisional dispensary applicant, irrespective of ownership interest; and

(b) A list of all owners, officers and board members of the proposed provisional dispensary applicant that contains the following information for each person:

(i) The current title of that person;

(ii) ~~A short description of the~~ The role the person will serve in for the provisional dispensary applicant, if different from the person's current title; ~~for the organization and person's responsibilities;~~

(iii) Whether the person has served or is currently serving as an owner, officer or board member for another ~~medical~~ marijuana entity;

- (iv) Whether the person has previously had a dispensary employee license revoked, disciplined or the equivalent thereof, in this state or any other jurisdiction;
 - (v) Whether a ~~medical~~-marijuana entity with which the owner, officer, or board member is or was previously associated has had a license revoked, disciplined or the equivalent thereof, in this state or any other jurisdiction;
 - (vi) The ownership interest that person has in the ~~prospective~~provisional dispensary applicant; and
 - (vii) Whether the person has an ownership interest or financial interest in any other ~~medical~~-marijuana entity.
- (6) ~~For each~~Each owner, officer and board member of the ~~proposed~~provisional dispensary applicant must submit to a criminal records check in accordance with rule 3796:6-2-07 of the Administrative Code.:
- ~~(a) An attestation signed, notarized, and dated by the owner, officer or board member that he or she has not been convicted of a disqualifying offense and that the information provided to support the application to operate a dispensary is true and correct;~~
 - ~~(b) If an individual has been convicted of any offense in any record of arrest or charges pending or have a conviction of a felony or misdemeanor other than a traffic violation in any jurisdiction~~
 - ~~(c) Submit to a criminal records check as prescribed in rule 3796:6-2-07 of the Administrative Code;~~
 - ~~(d) A narrative description, not to exceed one thousand five hundred words, demonstrating:~~
 - ~~(i) Any previous experience at operating other businesses or nonprofit organizations; and~~
 - ~~(ii) Any demonstrated knowledge or expertise with respect to the medical use of marijuana to treat qualifying conditions.~~
- (7) Site-specific plans showing the interior and exterior of the proposed medical marijuana dispensary, drawn to scale with square footage clearly illustrated. The site-specific plans shall be prepared and certified by the contractor or architect responsible for the project. The site-specific plans shall include and

~~identify all of the following: Documentation describing the adequacy of the size of the proposed dispensary to serve the needs of patients and caregivers, including, without limitation, building and construction plans with supporting details. Such plans shall illustrate, at a minimum, the size and location of the following within the prospective dispensary location:~~

(a) The dispensary department;

(b) Restricted access areas;

(c) Waiting room(s);

(d) Patient care areas or other areas designated for patient and caregiver consultation and instruction;

(e) An enclosed delivery bay or other equally secured delivery area as approved by the board where medical marijuana deliveries will be made pursuant to a standard operating procedure approved by the board;

(f) A day-storage area with pass-through window(s);

(g) A "mantrap" at any ingress/egress from the dispensary department;

(h) A vault in conformance with C.F.R. 1301.72(a)(3) (6/30/2021) and in a location not visible to the public; and

(i) Parking.

~~(e) Waiting room; and~~

~~(d) Patient care areas or other areas designated for patient and caregiver consultation and instruction.~~

(8) A site-specific construction or renovation budget and schedule demonstrating the applicant will commence dispensary operations in accordance with rule 3796:6-2-04 of the Administrative Code. The budget and schedule shall be prepared by the contractor or architect responsible for the project.

(9) A budget for the proposed dispensary identifying the projected costs to staff, equip, and operate the medical marijuana dispensary for the following time periods:

(a) From an award of the provisional dispensary license until the issuance of the certificate of operation; and

- (b) From the issuance of the certificate of operation until not less than four months after receipt of the certificate of operation.
- (10) Any other documentation required by the board to determine the provisional dispensary applicant's suitability for licensure or to protect public health and safety.
- ~~(8) The plan of the proposed dispensary for the care, quality, and safekeeping of medical marijuana from delivery to sale, including, without limitation, procedures to ensure adequate security measures, building security and product security. Such plan shall include the dispensary's intended plan to detect and deter theft, diversion, or loss.~~
- ~~(9) A plan for the business which includes, without limitation, a description of the inventory control plans for the proposed dispensary.~~
- ~~(10) Evidence that the applicant has a plan to staff, educate, and manage the proposed dispensary on a daily basis, which must include, without limitation:~~
- ~~(a) A detailed budget for the proposed dispensary, including pre-opening, construction and first year operating expenses;~~
- ~~(b) An operations manual that demonstrates compliance with Chapter 3796. of the Revised Code and this division;~~
- ~~(c) Intended wage rates and benefits packages for all employees;~~
- ~~(d) An education plan which must include, without limitation, providing training materials to the staff of the proposed dispensary; and~~
- ~~(e) Efforts to minimize the environmental impact of the dispensary.~~
- ~~(11) A proposal demonstrating how the prospective dispensary will meet the needs of patients and caregivers.~~
- ~~(12) A detailed description of any other services or products to be offered by the proposed dispensary;~~
- ~~(13) Documents related to any program to assist veterans or the indigent in obtaining medical marijuana that the proposed dispensary intends to offer; and~~
- ~~(14) Such other documents and information reasonably required by the board to determine the applicant's suitability for licensure or to protect public health and safety.~~

- (C) If any information contained in the application or accompanying documents changes after being submitted to the state board of pharmacy, the applicant shall immediately notify the state board of pharmacy in writing and provide corrected information within fourteen calendar days of the change.
- (D) No application to operate a medical marijuana dispensary may be withdrawn without the approval of the state board of pharmacy. All requests to withdraw an application shall be submitted in writing. If the withdrawal of an application is granted due to a change in federal, state, or local rules or regulations that would prohibit the proposed dispensary from operating in compliance with representations made in the provisional dispensary applications, the provisional dispensary applicant for whom the withdrawal was granted shall be refunded any remitted application fees.

Effective:

Five Year Review (FYR) Dates: 2/2/2021

Certification

Date

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