



Ohio Medical Marijuana Control Program Dispensary Application Instructions

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**STATE OF
OHIO**
BOARD OF PHARMACY



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I. Introduction

A. Background

House Bill 523, effective on September 8, 2016, legalized medical marijuana in Ohio. The Ohio Medical Marijuana Control Program (MMCP) will allow people with certain medical conditions, upon the recommendation of an Ohio-licensed physician certified by the State Medical Board, to purchase and use medical marijuana from dispensaries licensed by the State of Ohio Board of Pharmacy. The program must be operational no later than September 8, 2018.

As one of three agencies responsible for developing, implementing, and overseeing the MMCP, the Board of Pharmacy is tasked with the oversight of medical marijuana dispensaries, including licensing of those entities. Accordingly, the Board of Pharmacy is issuing this Request for Dispensary Applications. In doing so, the primary focus is to establish a program that ensures:

1. The safety of the public;
2. Access to a safe medical product; and
3. Scalability to allow the program to respond to changes in demand.

B. Relevant Legal Authority

Applicants are advised to review and understand [Chapter 3796 of the Ohio Revised Code](#) as well as the following related Ohio Administrative Code Rules:

- o [3796:1](#) – Definitions
- o [3796:5-5](#) – Distance from Public Spaces
- o [3796:6](#) – Dispensaries
- o [3796:7](#) – Patients and Caregivers
- o [3796:8](#) – Forms and Methods of Administration

These instructions and any related guidance from the State Board of Pharmacy should be reviewed before beginning work on an application.

C. Timetable

Event	Date
Publish RFA	September 19 2017
Informational Webinar	October 3, 2017
First Q&A Period	September 19–October 5, 2017
Second Q&A Period	October 16–20, 2017
Application Acceptance Period Begins	November 3, 2017 by 8 a.m. EST
Application Acceptance Period Concludes	November 17, 2017 at 2 p.m. EST

D. Communication

There will be two periods during which the State Board of Pharmacy will accept questions regarding the dispensary application process. Questions may be submitted by visiting the MMCP contact page at <http://medicalmarijuana.ohio.gov/contactus>. On the contact page, select “Dispensary Application” as a topic. The State Board of Pharmacy will not be responsible for a delay in answering questions that are improperly routed due to incorrect topic selection. All fields must be completed before a question may be submitted. Each person may submit a maximum of three questions during each Q&A period.



After the conclusion of the second Q&A period, which ends October 20, 2017, any attempt on the part of the Applicant, the Applicant's agent(s), or any party representing the Applicant, to initiate any communication that is not solicited by the Board as part of the evaluation process or any attempt to communicate with any member of the State regarding the evaluation process may be grounds for disqualification of the Applicant.

II. Definitions

- A. Applicant: Refers to the business entity applying for a medical marijuana dispensary provisional license.
- B. Certificate of Operation: means a license authorizing a medical marijuana entity to begin operating pursuant to Chapter 3796. of the Revised Code.
- C. Infrastructure Record: Means any record that discloses the configuration of critical systems including, but not limited to, communication, computer, electrical, mechanical, ventilation, water, and plumbing systems, security codes, or the infrastructure or structural configuration of a building.

"Infrastructure record" includes a risk assessment of infrastructure performed by a state or local law enforcement agency at the request of a property owner or manager.

"Infrastructure record" does not mean a simple floor plan that discloses only the spatial relationship of components of the building.

- D. Patient Registry: Refers to the database maintained by the State Board of Pharmacy pursuant to [section 3796.08 of the Revised Code](#). The patient registry will be used by a dispensary to confirm that an individual has a valid patient or caregiver registration with the Board.
- E. Prospective Associated Key Employees: The State Board of Pharmacy requires that all dispensary owners, as defined under [Rule 3796:6-2-03 of the Administrative Code](#), be licensed as an Associated Key Employee. See also, [Ohio Adm. Code 3796:6-2-07](#). Generally, ownership requirements must be met only by those with at least a ten percent ownership interest in a dispensary. The State Board of Pharmacy, however, may require an owner or person who exercises substantial control over an Applicant, but who has less than a ten percent ownership interest, to comply with statutory and regulatory ownership requirements.

"Prospective Associated Key Employees" include any and all natural persons who are owners, officers, board members of a dispensary Applicant; persons who have a financial interest in a dispensary Applicant; and/or persons who exercise substantial control over a dispensary Applicant. Exercising control includes the power to influence management and operational decision-making. For purposes of this application an individual is a "prospective associated key employee" irrespective of that individual's ownership interest.

- F. Provisional License: means a temporary license issued to a medical marijuana entity that establishes the conditions that must be met by the medical marijuana entity before the entity is issued a certificate of operation.
- G. Viable Applicant: Any Applicant that meets the minimum statutory requirements to operate a medical marijuana dispensary and that achieves the minimum requirements, as determined by the State Board of Pharmacy, in all sections of this application.



III. Application Process and Fees

A. Publish Request for Applications (RFA)

On September 19, 2017, applications, forms, and instructions will be available at www.medicalmarijuana.ohio.gov.

B. Informational Webinar

On October 3, 2017, the State Board of Pharmacy will make available an instructional webinar. The webinar will provide information related to applying for a dispensary license and give prospective Applicants an overview of the application process.

C. First Q&A Period

The first Q&A period during which the State Board of Pharmacy will accept questions regarding the dispensary application process will begin on September 19, 2017 and conclude October 5, 2017.

Responses to questions will be posted at www.medicalmarijuana.ohio.gov/dispensaries.

D. Second Q&A Period

The second period during which the State Board of Pharmacy will accept questions regarding the dispensary application process will begin October 16, 2017 and conclude October 20, 2017.

Responses to questions will be posted at www.medicalmarijuana.ohio.gov/dispensaries.

E. Application Acceptance Period Begins

On November 3, 2017, the State Board of Pharmacy will begin accepting medical marijuana dispensary applications at 8 a.m. ET. Applications and all related materials must be submitted electronically through a web-based application accessible at www.medicalmarijuana.ohio.gov/dispensaries.

F. Application Acceptance Period Concludes

To be considered for a provisional license, each medical marijuana dispensary application must include the \$5,000 application fee. The application fee must be paid before 2:00 p.m. ET on Friday, November 17, 2017. The dispensary application fee must be electronically remitted either by credit card or automated clearing house (ACH).

Any applications, related documents, or fees submitted after 2:00 p.m. ET on Friday, November 17, 2017 will not be accepted or considered.

IV. Disclosure of Applicant Information

Submitted applications are public records and subject to disclosure under Ohio public records law. Ohio public records law can be found at Ohio Revised Code [section 149.43 et seq.](#) The State Board of Pharmacy will use and disclose information contained in the application submission to the extent to which it is legally authorized. Applicants are encouraged to review applicable laws before applying. The Board is prohibited from providing legal advice to Applicants regarding Ohio public records law.



A. Responses Containing Trade Secrets

Applicants asserting that some or all of an application contains trade secrets, as defined under [Ohio Revised Code section 1333.61](#), and that do not want such information disclosed other than for purposes of medical marijuana dispensary application evaluation must:

- o Clearly mark every page of trade secret materials submitted as an attachment to the application with the words, "TRADE SECRET," in capitalized, underlined, and bold type of at least 20 point font;
- o Acknowledge that the State of Ohio does not assume liability for the use or disclosure of unmarked or unclearly marked trade secret information;
- o Fill out and attach the "Trade Secret Form" to Question F-1.1, specifying the question and / or attachment references of the application submission that are exempt from disclosure under Ohio public records law and articulate how the information meets the definition of "trade secret" under Ohio Revised Code section 1333.61(D). If no material is designated as trade secret information, a statement of "None" must be listed on the form.

The State Board of Pharmacy must independently assess the merits of any public records exception claims made by an Applicant. The Board may reject a claim that information in an application submission is trade secret information if it determines that the Applicant has not established that the content in question is trade secret information under Ohio law. Use of generic trade secret language encompassing substantial portions of the application submission or simple assertions of trade secret interest without substantive explanation of the basis therefore will not be sufficient to create a trade secret designation. Applicants should understand that the Board will err on the side of disclosure of information to comply with Ohio public records laws.

The Applicant must defend any action seeking release of the materials that it believes to be trade secret information, and indemnify and hold harmless the State, its agents, and employees, from any judgments against the State in favor of the party requesting the materials, and any and all costs connected with that defense. This indemnification survives the State's award of a license. In submitting an application, the Applicant agrees that this indemnification survives as long as the trade secret information is in the possession of the MMCP.

B. Responses Containing Security and Infrastructure

Applicants asserting that some or all of an application contains security and infrastructure information, as defined under [Ohio Revised Code section 149.433](#), and that do not want such information disclosed other than for purposes of medical marijuana dispensary application evaluation must:

- o Clearly mark every page of security and infrastructure materials submitted as an attachment to the application with the words, "SECURITY AND INFRASTRUCTURE," in capitalized, underlined, and bold type of at least 20 point font;
- o Acknowledge that the State of Ohio does not assume liability for the use or disclosure of unmarked or unclearly marked security and infrastructure information; and
- o Affirm, in question D-11.1, that all responses identified as containing security and infrastructure are voluntarily submitted to the State Board of Pharmacy in expectation of a protection from disclosure as provided by [section 149.433 of the Revised Code](#).



V. Dispensary Districts

The State Board of Pharmacy will award dispensary licenses through a competitive selection process. The Board is authorized to issue up to sixty dispensary licenses. As part of its obligation to consider geography when licensing medical marijuana dispensaries, the Board established thirty-one dispensary districts. The maximum number of dispensary licenses available in each district was determined upon consideration of the following:

- Established rules and regulations in other state medical marijuana programs
- Patient populations
- Consultation with regulators in other states
- Ohio's population
- Existing compliance resources for the State Board of Pharmacy
- Access to major Ohio roadways

The maximum number of provisional licenses available in each dispensary district can be viewed [here](#).

VI. Preparing and Submitting Applications

A. Application Package

The application package includes the following:

1. The electronic application for a medical marijuana dispensary provisional license; and
2. The Trade Secret Form, Zoning Form, Tax Authorization Form, and Release and Attestation, each of which must be completed as instructed and uploaded by the Applicant.

B. Completing Applications

Complete every section of the online application form. For sections that require a written answer, the response is limited to 5,000 characters per question, unless otherwise indicated.

All attachments must be saved as PDF files. All documents responding to a single question must be combined into a single document. A PDF file size must not exceed ten megabytes. Files exceeding ten megabytes cannot be uploaded and will not be received by the Board.

The contents of the attachment must be clearly labeled. Images may contain brief descriptive captions. Additional language responding to questions will not be considered, unless otherwise indicated in the application. All attachments must be saved in accordance with the following file naming format: *Question Number _Document Title.pdf*.

Examples:

- C-2.1a_Facility Plans and Specifications.pdf
- C-4.1_Table of Organization and Control.pdf

C. Submitting Applications

Applications and all supporting documents must be submitted electronically. JavaScript must be enabled to use the application webpage. During the ten-day application submission period, a link allowing for the electronic submission of applications will be available at



<http://www.medicalmarijuana.ohio.gov/dispensaries>. To be considered for a provisional dispensary license, all applications must be submitted using the provided link. There is no limit to the number of applications that may be submitted by an Applicant.

D. Personal Identifying Information

Applicants must omit personal identifying information from responses to the following: (1) Section C-3; (2) For Question C-5.5, submit two responses; one unredacted response and one response with identifying information redacted; (3) All sections of the Operations Plan; and (4) All sections of the Patient Care Plan. Identifying information is material that would reveal, or cause to reveal, the identity of the Applicant. Identifying information that must be excluded from the responses includes:

- Individual or entity names that could reveal the identity of the Applicant or the proposed facility;
- Personal addresses, business addresses, or individual components of an address, which includes numbers, cities, counties, municipalities, etc., which could reveal the identity of the Applicant or the proposed facility;
- Personal or entity identification numbers;
- Contact information;
- Company logos, trademarks, or other identifying marks;
- Location references that would make it possible for a reviewer to identify where the proposed facility will be located; and
- References to involvement in Ohio's marijuana legalization efforts.

E. Background Checks

Pursuant to [section 3796.12 of the Revised Code](#) and [Rule 3796:6-2-07 of the Administrative Code](#), all Prospective Associated Key Employees, with at least a ten percent ownership interest in an Applicant, must submit fingerprints to the Ohio Bureau of Criminal Identification and Investigation (BCI&I) for a BCI&I and Federal Bureau of Investigation (FBI) criminal records check. Please note that the State Board of Pharmacy may require an owner or person who exercises substantial control over an Applicant to, but who has less than a ten percent ownership interest, to comply with statutory and regulatory ownership requirements. Criminal records checks may be submitted in one of two ways:

1. In Ohio, submit your electronic fingerprint impressions at a [WebCheck provider](#) which must be located in Ohio. The appropriate code to be entered by a WebCheck vendor is "3796.12." Alternatively, the vendor may select, "other," and enter, "3796.12."
2. Only if out-of-state, a Prospective Associated Key Employee may request fingerprint cards (each individual will need two—one for BCI&I and one for FBI) and take them to your local law enforcement agency to submit ink fingerprint impressions. Fingerprint cards may be ordered from BCI&I by calling (877) 224-0043. Please note that the submission of fingerprint cards by individuals who are out-of-state may cause the background check process to take up to eight weeks. All individuals are encouraged to submit electronic fingerprint impressions at a WebCheck provider when possible.

All fingerprint cards and two checks (one \$22.00 check for the BCI&I check and one \$24.00 check for the FBI check), both written to "Treasurer, State of Ohio," must be mailed to:

**Ohio Bureau of Criminal Identification and Investigation
PO Box 365
London, Ohio 43140**



If an individual has submitted fingerprints to BCI&I for an Ohio background check within the past twelve months of the date of application submission, an updated copy of the individual's background check may be requested by submitting [this form](#) to BCI&I.

All background check results must be received by the State Board of Pharmacy before dispensary provisional licenses are awarded; if they are not received prior to the award of provisional licenses, the application will be considered abandoned. The Board is not responsible for delays in receiving background checks or errors in submitting fingerprints. The Board recommends submitting fingerprints for BCI&I and FBI background checks as early as possible.

VII. After Submitting Applications

After applications are submitted, all correspondence regarding provisional licensing from the Board will be directed to the Primary Contact or Registered Agent identified in section A-2 of the application.

If an application is deemed complete and acceptable for evaluation, but the State Board of Pharmacy needs additional information, the Board will request, in writing, the information and documentation it requires. The Applicant will have five business days from the date that the Notice to Respond is sent. Failure to provide the requested information to the Board by the deadline may constitute abandonment of the application. An abandoned application will not be considered by the Board and the associated application fee is non-refundable.

During the application process, while the application is under evaluation, the Applicant must notify the Board, in writing, of any change in facts or circumstances reflected in the application, or any newly discovered or occurring fact or circumstance which the Board requires to be included in the application, including a change in ownership or control.

VIII. Application Evaluation and License Allocation

A. Minimum Application Requirements

The State Board of Pharmacy will only review and score applications that:

- Are submitted during the designated submission period with the application fee;
- Fully respond to all required portions of this application;
- Meet the minimum statutory qualifications under [Ohio Revised Code section 3796.10](#); and
- Contain all required signatures.

The Board reserves the right to request clarifications, modifications, or amendments to an application if the Board believes that doing so does not result in an unfair advantage to the Applicant. After applications are submitted, all correspondence regarding provisional licensing from the Board will be directed to the Primary Contact or Registered Agent identified in section A-2 of the application.

B. Review Process

Applicants meeting the criteria described in Section VIII.A. of these instructions will be scored by an evaluation committee. After evaluation is complete, all Viable Applicants will be ranked and awarded provisional licenses by district based on highest score.

A single owner may be awarded no more than five provisional licenses. No more than sixty-six percent of available licenses in a dispensary district will be awarded to a single Applicant. If a sufficient number of applications are submitted by economically disadvantaged groups, as described in [section 3796.10 of the Revised Code](#), the Board of Pharmacy will award not less than fifteen percent of the dispensary licenses it issues to such groups.



There is no limit to the number of applications that may be submitted by any Applicant. By submitting more than five applications, an Applicant acknowledges that the Board, at its discretion, may award the Applicant’s provisional licenses in any of the dispensary districts in which it applied should the Applicant submit more than five Viable Applications. In determining where to award an Applicant’s licenses, the Board will consider geography and patient access to ensure maximum dispensary coverage across the state.

C. Evaluation Criteria

All application question responses—except for those marked as “Information Only”—will be evaluated. Evaluated questions will consist of both pass / fail questions as well as scorable questions. Pass / fail questions are those for which information needs to be submitted to achieve the mandatory requirements as articulated in statute and rule. These include responses that are Yes / No check boxes and other short form answers. Failure to answer such questions, may lead to the application being deemed abandoned. Furthermore, failure to check “Yes” to questions starting “By checking ‘Yes,’ you attest the Applicant,” may lead to an application being considered non-responsive.

The table below shows the application questions that will be scored.

Section of the Application	Section Reference	Sub-Section of the Application	Question Reference
Business Plan	C-2	Site and Facility Plan	C-2.1
	C-3	Business Startup Plan	C-3.1
			C-3.2
	C-4	Descriptions of Duties and Roles	C-4.1
	C-5	Capital Requirements	C-5.5
C-6	Business History and Experience	C-6.9	
Operations Plan	D-2	Security and Surveillance	D-2.2
	D-3	Receiving of Product	D-3.3
	D-4	Storage of Product	D-4.5
	D-5	Dispensing of Product	D-5.5
	D-6	Inventory Management of Product	D-6.1
			D-6.2
	D-7	Diversion Prevention of Product	D-7.1
	D-8	Sanitation and Safety	D-8.1
	D-9	Recordkeeping	D-9.2
	D-10	Other	D-10.1
D-10.2			
D-10.3			
Patient Care Plan	E-1	Staff Education and Training	E-1.1
			E-1.2
	E-2	Patient Care and Education	E-2.1
			E-2.2
	E-3	Patient Care Facilities	E-3.1

For scorable questions, a large text box, with a character limit will be provided in the online application form for the Applicant to complete, or the Applicant will be directed to provide an attachment. Scorable question responses will be evaluated using a standard 0-10 scoring framework as illustrated in the table below along with the evaluation criteria used to assign each score.



Score	Description
10	Applicant response substantially exceeds all requirements as stated in the question and associated statutes and rules; very strong supporting evidence with relevant examples where applicable; demonstrated approach shows additional value clearly linked to delivering desired MMCP outcomes.
8	Applicant response meets all requirements and in some areas exceeds requirements as stated in the question and associated statutes and rules; strong supporting evidence with examples where applicable; demonstrated approach shows some additional value that support desired MMCP outcomes.
6	Applicant response meets all requirements as stated in the question and associated statutes and rules; supported by evidence and examples relevant to the response. Limited additional value demonstrated.
4	Applicant response meets most, but not all requirements as stated in the question and associated statutes and rules; supported by some limited evidence or examples that may be somewhat applicable to the response; no additional value demonstrated.
2	Applicant response meets a limited number of requirements as stated in the question and associated statutes and rules; very limited evidence or examples to support statements, or with limited relevance.
0	Applicant response does not meet requirements as stated in the question and associated statutes and rules; no evidence or examples to support statements.

Each scorable question has an equal weighting in the evaluation of the application. For informational purposes, the number of scorable questions in each section of the application and the relative weighting of each application section is summarized in the table below:

Application Section	Scorable Questions	Weighting Percentages
Demographic	0	N/A
Compliance	0	N/A
Business Plan	6	26%
Operations Plan	12	52%
Patient Care Plan	5	22%