

3796:6-1-01

Definitions.

- (A) “Abandoned application” means an application for a dispensary provisional license where the applicant fails to complete all application requirements within five calendar days after being notified by the state board of pharmacy, subject to the factors that would otherwise remove the applicant from consideration under Chapter 3796. of the Revised Code or this division. An applicant forfeits all fees associated with an abandoned application. The state board of pharmacy shall not be required to act on any abandoned application and the application may be destroyed by the board staff. If the application is abandoned, the applicant shall be required to reapply for licensure in accordance with Chapter 3796. of the Revised Code and this division, in effect at the time of reapplication.
- (B) “Business day” means any day other than Saturday, Sunday or a holiday recognized by the state of Ohio on which the state board of pharmacy is not open for business.
- (C) “Designated representative” means the dispensary key employee responsible for acting in compliance with rule 3796:6-3-05 of the Administrative Code.
- (D) “Dispensary department” means a building, room or other area under the control of a dispensary and upon the licensed premises with access limited to patients, caregivers, dispensary employees or service professionals conducting business with the dispensary and who are escorted and supervised by a dispensary employee, and other persons authorized by Chapter 3796.05 of the Revised Code and this division.
- (E) “Dispensary district” or “district” means a geographic region, established by the state board of pharmacy, in accordance with division (B)(3) of section 3796.05 of the Revised Code.
- (F) “Dispensary employee” means an any or all of the following:
- (1) “Dispensary associated key employee” means an owner or prospective owner, officer or board member or prospective board member of the entity seeking a dispensary license.
 - (2) “Dispensary key employee” means an administrator or other person responsible for the daily operation of a licensed dispensary.
 - (3) “Dispensary support employee” means an employee who works within a dispensary but who does not have authority to make operational decisions.
- (G) “Place on probation” means to take action against a license suspending some or all of the sanctions imposed by the state board of pharmacy against that license. The terms of the probation shall state the period of time covered by the probation and may include other conditions as determined by the state board of pharmacy.
- (H) “Positive identification” means a method of identifying an individual who receives, dispenses, or destroys medical marijuana. A method may not rely solely on the use

of a private personal identifier such as a password, but must also include a secure means of identification such as the following:

(1) A manual signature on a hard copy record;

(2) A magnetic card reader;

(3) A barcode reader;

(4) A biometric method;

(5) A proximity badge reader;

(6) A state board of pharmacy-approved system of randomly generated personal questions;

(7) A printout of every transaction that is verified and manually signed within a reasonable period, but no more than forty-eight hours, by the by the responsible individual. The printout must be maintained for three years and made available on request to those individuals authorized by law to review such records; or

(8) Other effective methods for identifying individuals that have been approved by the state board of pharmacy.

(I) "Refuse to grant or renew" means to deny original or continued licensure for a period of at least twelve months. After twelve months or such period of time as the individual board order may require, an employee or dispensary, or a facility that desires to attain such status by licensure, and whose license the state board of pharmacy has refused to grant or renew, may make application to the board for issuance of a new license in accordance with Chapter 3796, of the Revised Code and this division. An individual who desires to attain employee status by licensure, whose license the state board of pharmacy has refused to grant or renew must meet any requirements established by the board.

(J) "Restricted access area" means a building, room or other contiguous area under control of a dispensary and upon the licensed premises with access limited to only dispensary employees, where medical marijuana inventory, all records related to the dispensing of medical marijuana and all other items that require the personal supervision of a dispensary key employee are maintained behind a physical barrier with suitable locks and an electronic barrier to detect entry during any time when a dispensary key employee is not present.

(K) "Revoke" means to take action against a license rendering such license void and such license may not be reissued. "Revoke" is an action that is permanent against the license and licensee.

(L) "Suspend" means to take action against a license rendering such license without force and effect for a period of time as determined by the state board of pharmacy.

3796:6-2-01

Requests for application to operate medical marijuana dispensaries.

- (A) The state board of pharmacy will provide notice of a request for applications to operate a dispensary by posting at www.medicalmarijuana.ohio.gov, and such other places as the board deems appropriate, that the board is requesting applicants to submit their applications.
- (B) When the board issues a request for applications pursuant to this rule, the board will include in the request:
- (1) The scoring procedure that will be used to evaluate completed applications, including point values that will be allocated to each applicable portion of the application;
 - (2) Information on how to obtain an application;
 - (3) Acceptable methods for submitting applications;
 - (4) The maximum number of licenses to be awarded;
 - (5) Preferred geographic distribution of dispensary sites; and
 - (6) Any additional information deemed necessary by the state board of pharmacy.
- (C) The board will accept completed applications in response to a request for applications issued pursuant to this rule for ten business days beginning on the date which is forty-five business days after the date on which the board issued the request for applications, unless otherwise provided by the state board of pharmacy.
- (D) The board shall have the right to cancel a request for applications prior to the award of a dispensary provisional license. If a request for applications is canceled prior to the award of a dispensary provisional license, all application fees paid to the state board of pharmacy pursuant to the request for applications which was canceled shall be returned to the applicant who remitted the fee.
- (E) If the board receives an application in response to a request for applications issued pursuant to this rule on a date other than the dates set forth in this rule, the board shall not consider the application and shall return the application, including any remitted fees, to the entity or person who submitted the application.

3796:6-2-02

Applications to operate medical marijuana dispensaries.

(A) Only a dispensary that 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) To be considered complete, items submitted in response to a request for applications issued pursuant to rule 3796:6-2-01 of the Administrative Code shall include:

(1) 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 dispensary, as reflected in the articles of incorporation or other documents filed with the secretary of state;

(b) The type of business organization of the applicant, such as individual, corporation, partnership, limited-liability company, association or cooperative, joint venture or any other business organization;

(c) Confirmation that the applicant has registered with the Ohio secretary of state as the applicable type of business;

(d) A copy of the applicant's articles of incorporation, articles of organization or partnership or joint venture document of the 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 mailing address of the applicant;

(g) The telephone number of the applicant;

(h) The electronic mail address of the 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 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 license is issued;

- (k) A 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.
- (l) Evidence that the applicant is in compliance with any local ordinances, rules, or regulations adopted by the locality in which the applicant's property is located, which are in effect at the time of the application, including:

 - (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) The notarized signature of a natural person for the proposed medical marijuana establishment 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 dispensary license is true and correct at the time of signing.
- (3) 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) A financial plan which includes:

 - (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:

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) 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; and

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

(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 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. If the withdrawal of an application is granted due to a change in federal, state, or local rules or regulations, the applicant for whom the withdrawal was granted shall be refunded any remitted application fees.

3796:6-2-03

Medical marijuana dispensary ownership and ownership requirements.

(A) Unless otherwise provided, when an entity is required pursuant to this division to provide information, sign documents or ensure actions are taken, a person identified in this paragraph, and who is twenty-one years of age or older, shall comply with the requirement on behalf of the medical marijuana establishment:

(1) If a natural person is applying for a dispensary license, the natural person:

(2) If a corporation is applying for a dispensary license, a natural person who is an officer of the corporation;

(3) If a partnership is applying for a dispensary license, a natural person who is a partner;

(4) If a limited-liability company is applying for a dispensary license, a manager or, if the limited-liability company does not have a manager a natural person who is a member of the limited-liability company;

(5) If an association or cooperative is applying for a dispensary license, a natural person who is a member of the governing board of the association or cooperative;

(6) If a joint venture is applying for a dispensary license, a natural person who signed the joint venture agreement; and

(7) If a business organization other than those described in paragraphs (A)(1) to (A)(7) of this rule, inclusive, is applying for a dispensary license, a natural person who is a member of the business organization.

(B) For purposes of this division, the following persons must comply with the provisions governing owners, officers and board members of a dispensary and are considered associated key employees:

(1) If a natural person is applying for a dispensary license, the natural person:

(2) If a corporation is applying for a dispensary license, the officers of the corporation;

(3) If a partnership is applying for a dispensary license, the partners;

(4) If a limited-liability company is applying for a dispensary license, the members of the limited-liability company;

(5) If an association or cooperative is applying for a dispensary license, the members of the association or cooperative;

- (6) If a joint venture is applying for a dispensary license, the natural persons who signed the joint venture agreement; and
- (7) If a business organization other than those described in paragraphs (B)(2) to (B)(6) of this rule, inclusive, is applying for a dispensary license, the members of the business organization.
- (C) Except as otherwise required in this rule, the requirements concerning owners of medical marijuana dispensaries only apply to a person with an aggregate ownership interest of ten percent or more in a dispensary.
- (D) The state board of pharmacy may, in its discretion, require an owner or person who exercises substantial control over a prospective or licensed dispensary, but who has less than a ten percent ownership interest in the prospective or licensed dispensary, to comply with any of the provisions of this division concerning owners of medical marijuana dispensaries. The state board of pharmacy will notify the individual required to comply with the ownership provisions of this division when such a determination is made.
- (E) All owners shall be associated key employees and must be licensed in accordance with rule 3796:6-2-07 of the Administrative Code.

3796:6-2-04

Medical marijuana dispensary license application evaluation.

(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 dispensary licenses on a competitive basis using the criteria set out in the notice for applications. The burden of proving an applicant's qualifications rests with the applicant.

(B) Incomplete applications shall not be evaluated.

(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 business day after the request has been received by the applicant;

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

(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 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;

(E) Prior to scoring 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; or

(4) Fails to pay applicable fees.

(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 dispensary provisional licenses in the applicable district.

(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

(c) 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)–(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) 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. If the security score is tied, the provisional license will be issued to the applicant with the highest patient education score. If the patient education score is tied, the provisional license will be issued to the applicant that will be located the greatest distance from another dispensary.
- (I) Within ten business days of the board’s decision, the board shall notify applicants who will be awarded a provisional license.
- (J) 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.
- (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.
- (K) A provisional license issued under this rule is exclusive to the entity and location identified in the application and is non-transferrable.

3796:6-2-05

Number of dispensary provisional licenses.

- (A) Until September 8, 2018 and in consideration of ranking of the applicants in accordance with section 3796.10 of the Revised Code and this chapter, the state board of pharmacy may issue up to sixty dispensary provisional licenses.
- (B) After September 8, 2018 and in accordance with division (B) of section 3796.05 of the Revised Code, the state board of pharmacy shall consider the population of this state, the number of patients seeking to use medical marijuana and the geographic distribution of dispensary sites in an effort to ensure patient access to medical marijuana. The state board of pharmacy shall consider these factors at least once each biennial licensing term to determine whether a sufficient number of medical marijuana dispensaries exist.
- (C) If additional licenses are deemed necessary, the state board of pharmacy will follow the procedures to issue a request for applications under rule 3796:6-2-01 of the Administrative Code.

3796:6-2-06

Final inspection and certificate of operation for medical marijuana dispensaries.

- (A) A dispensary with a provisional license shall notify the board once it is capable of operating in accordance with Chapter 3796. of the Revised Code and this division, and before dispensing any medical marijuana. A dispensary must name a designated representative, in compliance with rule 3796:6-3-05 of the Administrative Code and attest that fingerprint impressions for a criminal background check pursuant to rule 3796:6-2-07 of the Administrative Code have been submitted, before such notification.
- (B) Within fourteen calendar days of notification an inspection of the dispensary shall be conducted in order to confirm that the dispensary is capable of operating in accordance with Chapter 3796. of the Revised Code and this division.
- (C) After receiving notice of a satisfactory final inspection from the state board of pharmacy, the dispensary shall submit to the state board of pharmacy:
- (1) An intent to operate form in accordance with section 3796.04 of the Revised Code;
 - (2) A copy of the dispensary's final inspection; and
 - (3) Payment of the fee for a two-year certificate of operation.
- (D) A dispensary may begin dispensing medical marijuana only after receipt of a medical marijuana dispensary license issued by the state board of pharmacy.
- (E) If a satisfactory final inspection is not issued by the state board of pharmacy, the dispensary will be notified of necessary corrective actions. Such corrections must be made within thirty calendar days of receipt of notification of necessary corrections. Failure to correct within thirty calendar days may result in forfeiture of a provisional license.
- (F) A certificate of operation shall allow the licensed dispensary to operate at a single location. No owner, as defined under rule 3796:6-2-03 of the Administrative Code, shall be issued more than five dispensary certificates of operation at any time, unless authorized by the state board of pharmacy after an analysis supporting the licensing of greater than sixty dispensaries pursuant to rule 3796:6-2-05 of the Administrative Code.
- (G) A dispensary certificate of operation is valid only for the collective owners, as defined under rule 3796:6-2-03 of the Administrative Code, premises and name designated on the certificate of operation and location for which it is issued. A dispensary licensee may not transfer or assign a certificate of operation, except as otherwise provided in this division.

3796:6-2-07

Licensing of medical marijuana dispensary associated key employees and dispensary key employees.

(A) An applicant for a dispensary associated key employee license shall submit, with the dispensary license application or renewal application, a completed associated key employee application form in accordance with section 3796.12 of the Revised Code, which can be accessed by visiting www.medicalmarijuana.ohio.gov.

(B) Each person seeking to be licensed as a dispensary key employee shall submit a completed dispensary key employee application form in accordance with section 3796.12 of the Revised Code, which can be accessed by visiting www.medicalmarijuana.ohio.gov.

(C) The following must be included with a dispensary associated key employee or key employee license application:

(1) A head and shoulders photograph captured within the previous six months, which shall be two inches tall by two inches wide;

(2) The name of the dispensary employing the applicant;

(3) A copy of the applicant's unexpired driver's license, identification card issued by the Ohio bureau of motor vehicles (BMV) or the equivalent issued by another state, or United States passport or United States passport card;

(4) The applicant's full residential address;

(5) A sworn, notarized statement that the applicant has not been convicted of a disqualifying offense in any jurisdiction;

(6) The applicant's social security number;

(7) Required fee. Any person applying for an initial associated key employee license, shall pay the required fee no later than thirty days after the award of a provisional license to the dispensary applicant to which the person is associated; and

(8) Any additional information required by the state board of pharmacy in the licensing process.

(D) Pursuant to division (B)(1) of section 3796.12 of the Revised Code, prospective dispensary associated key employees and prospective dispensary key employees must submit fingerprint impressions to the bureau of criminal identification and investigation (BCI&I) for a criminal records check of the applicant.

(E) Pursuant to division (B)(2) of section 3796.12 of the Revised Code, the person subject to the criminal records check shall submit both a BCI&I criminal records check and a federal bureau of investigation (FBI) criminal records check.

(F) BCI&I shall send the results of the BCI&I and FBI criminal records checks directly to the state board of pharmacy. The state board of pharmacy requires that the criminal records check:

(1) Be based on electronic fingerprint impressions that are submitted directly to BCI&I from a "WebCheck" provider agency located in Ohio. The state board of pharmacy may accept the results of a criminal records check based on ink impressions from a "WebCheck" provider agency only if readable electronic fingerprint impressions cannot be obtained, or if submission of ink impressions is otherwise authorized by BCI&I.

(2) Results will only be considered valid if the fingerprint impressions were obtained within the twelve-month period immediately preceding the application date.

(G) An applicant may submit fingerprint impressions for a criminal records check any time after he or she has submitted a licensure application on a form in accordance with section 3796.12 of the Revised Code and paid the requisite fee to the state board of pharmacy.

(H) After the board receives the results from both required criminal records checks, the licensing process will proceed. Criminal records check results received by the state board of pharmacy within three months after the submission of a completed application will not be considered abandoned.

(I) If a dispensary associated key employee or key employee license has lapsed, the applicant shall submit to a criminal records check that meets the criteria prescribed in this rule.

(J) Every applicant for a dispensary associated key employee license shall comply with Chapter 3796. of the Revised Code and this division and be included on the dispensary license application or renewal application. A dispensary wishing to add a dispensary associated key employee who is not included in the dispensary license application or renewal application, or who did not submit with the dispensary application the required items under this rule, shall apply for a change of ownership pursuant to rule 3796:6-2-12 of the Administrative Code and remit the required fee.

(K) Applicants acting in compliance with this rule who meet the requirements of Chapter 3796. of the Revised Code and this division, who do not have a disqualifying offense on their record, and who remit the required fee will be issued the applicable dispensary associated key or dispensary key employee card.

(L) Except as authorized under paragraph (B) of rule 3796:6-2-09 of the Administrative Code, dispensary associated key employee and dispensary key employee licenses are non-transferrable and shall expire upon the occurrence of any of the following conditions:

(1) At the conclusion of the biennial term indicated on the dispensary certificate of operation;

(2) When the key employee is no longer employed by the licensed dispensary identified on the key employee's application; or

(3) When the licensed dispensary ceases to maintain its certificate of operation.

(M) Dispensary associated key employees seeking to renew their license shall include all applicable information requested as part of the dispensary renewal application under rule 3796:6-2-10 of the Administrative Code. The following must be included with the renewal application:

(1) A head and shoulders photograph captured within the previous six months, which shall be two inches tall by two inches wide;

(2) The applicant's full residential address;

(3) A sworn, notarized statement that the applicant has not been convicted of a disqualifying offense in any jurisdiction;

(4) The required fee; and

(5) Any additional information required by the state board of pharmacy in the licensing process.

(N) At least thirty calendar days before the expiration of a dispensary key employee's biennial license, the key employee shall request, on a form in accordance with division (B)(2) of section 3796.12 of the Revised Code, the state board of pharmacy renew the key employee license. The following must be included with the renewal application:

(1) A head and shoulders photograph captured within the previous six months;

(2) The applicants full residential address;

(3) A sworn, notarized statement that the applicant has not been convicted of a disqualifying offense in any jurisdiction;

(4) The required fee; and

(5) Any additional information required by the state board of pharmacy in the licensing process.

3796:6-2-08

Licensing of medical marijuana dispensary support employees.

(A) Each person seeking to licensed as a dispensary support employee shall submit a completed dispensary support employee application form in accordance with section 3796.13 of the Revised Code, which can be accessed by visiting www.medicalmarijuana.ohio.gov.

(B) The following must be included with a dispensary support employee license application:

(1) A head and shoulders photograph captured within the previous six months;

(2) The name and license number of the dispensary employing the applicant;

(3) The printed name, license number, and signature of the designated representative for the dispensary employing the applicant;

(4) A copy of the applicant's unexpired driver's license, identification card issued by the Ohio bureau of motor vehicles (BMV) or the equivalent issued by another state, or United States passport or United States passport card;

(5) The applicant's full residential address;

(6) A sworn, notarized statement that the applicant has not been convicted of a disqualifying offense in any jurisdiction;

(7) The applicant's social security number; and

(8) Any additional information required by the state board of pharmacy in the licensing process.

(C) Pursuant to section 3796.13 of the Revised Code, prospective dispensary support employees must submit fingerprint impressions to the bureau of criminal identification and investigation (BCI&I) for a criminal records check of the applicant.

(D) Pursuant to section 4776.02 of the Revised Code, the criminal records check performed by BCI&I shall consist of both a BCI&I criminal records check and a federal bureau of investigation (FBI) criminal records check. BCI&I shall send the results of the BCI&I and FBI criminal records checks directly to the state board of pharmacy.

(E) The state board of pharmacy requires that the criminal records check:

(1) Be based on electronic fingerprint impressions that are submitted directly to BCI&I from a "WebCheck" provider agency located in Ohio. The state board of pharmacy may accept the results of a criminal records check based on ink impressions from a "WebCheck" provider agency only if readable electronic

fingerprint impressions cannot be obtained, or if submission of ink impressions is otherwise authorized by BCI&I.

- (2) Results will only be considered valid if the fingerprint impressions were obtained within the twelve-month period immediately preceding the application date.
- (F) An applicant may submit fingerprint impressions for a criminal records check any time after he or she has submitted a licensure application on a form in accordance with section 3796.13 of the Revised Code and paid the requisite fee to the state board of pharmacy.
- (G) After the board receives the results from both required criminal records checks, the licensing process will proceed. Criminal records check results received by the state board of pharmacy within three months after the submission of a completed application will not be considered abandoned.
- (H) If a dispensary support employee license has lapsed, the applicant shall submit to a criminal records check that meets the criteria prescribed in this rule.
- (I) Applicants under this rule who meet the requirement of Chapter 3796. of the Revised Code and this division, who do not have a disqualifying offense on their record, and who submit the required fee will be issued a dispensary support employee card.
- (J) Except as authorized under paragraph (B) of rule 3796:6-2-09 of the Administrative Code, a dispensary support employee license is non-transferrable and shall expire upon the occurrence of any of the following conditions:
- (1) At the conclusion of the biennial term as indicated on the support employee's identification card;
 - (2) When the support employee is no longer employed by the licensed dispensary identified on the support employee's application; or
 - (3) When the licensed dispensary identified on the support employee's application ceases to maintain its certificate of operation.
- (K) At least thirty calendar days before the expiration of a dispensary support employee's biennial license, the dispensary identified on the support employee's application shall request, on a form in accordance with division section 3796.13 of the Revised Code, the state board of pharmacy renew the support employee license. The following must be included with the renewal application:
- (1) A head and shoulders photograph captured within the previous six months;
 - (2) The applicant's full residential address;

(3) A sworn, notarized statement that the applicant has not been convicted of a disqualifying offense in any jurisdiction;

(4) The required fee; and

(5) Any additional information required by the state board of pharmacy in the licensing process.

3796:6-2-09

Medical marijuana dispensary employees generally.

- (A) All dispensary associated key employees, key employees and support employees are employees of a dispensary and shall hold an employee license issued by the state board of pharmacy. No licensed dispensary shall allow a person to begin work at the dispensary before receiving an employee license by the state board of pharmacy. No person with a lapsed employee license shall work at a dispensary.
- (B) A dispensary employee license issued by the state board of pharmacy shall authorize the dispensary employee to work at any dispensary issued a certificate of operation to the same collective owners. For purposes of this paragraph, "owner" has the same meaning as defined under rule 3796:6-2-03 of the Administrative Code.
- (C) Every applicant for a dispensary employee license shall comply with Chapter 3796. of the Revised Code and this division and be twenty-one years of age or older.
- (D) It is the responsibility of each dispensary employee to notify the state board of pharmacy of an employee's change in address and/or change in name with thirty calendar days of that change.
- (E) A licensed dispensary employee shall receive written or electronic notice ninety days before the expiration of the individual's dispensary employee license.
- (F) Before dispensing any medical marijuana, dispensary employees who are permitted, pursuant to division (A)(15) of section 4729.80 of the Revised Code to obtain information from the drug database and whose responsibilities require drug database access must:
- (1) Complete a request form giving such information as required by the board of pharmacy;
 - (2) Submit the completed form to the board of pharmacy in person, by mail, or by other board approved means.
- (G) Upon termination of employment or when a dispensary employee otherwise ceases to be employed with a dispensary, the employee identification card issued by the state board of pharmacy shall be immediately returned to the dispensary. The dispensary shall ensure the return of the dispensary employee identification card to the state board of pharmacy within ten business days of the termination or when the dispensary employee otherwise ceases to be employed by the dispensary.
- (H) All dispensary employee applicants must consent to be enrolled in the Ohio attorney general's retained applicant fingerprint database ("Rapback"), if available for dispensary employees.
- (I) A dispensary shall not employ any person who has been convicted of a felony relating to controlled substances, or who, at any time, has had a drug enforcement administration registration or any license or registration from a licensing agency

under Chapter 4776. of the Revised Code, denied, revoked, or surrendered for cause. "For cause" means surrendering a registration in lieu of, or as a consequence of, any federal or state administrative, civil, or criminal action resulting from an investigation of the individual's handling of controlled substances.

(J) The reporting by an employee of a concern about compliance with or suspected violations of any state or federal regulation, including Chapter 3796. of the Revised Code and this division, shall not constitute independent cause for revoking or denying an employee license. An applicant who had his or her employee license revoked or suspended due to his or her employer's revocation or suspension of a provisional license or certificate of operation shall not be prohibited from obtaining an employee license authorizing employment by another medical marijuana entity, if the suspension or revocation of the provisional license or certificate of operation was a result of the applicant reporting an incident or violation of any state or federal law, including Chapter 3796. of the Revised Code and this division.

(K) A dispensary employee shall report to the state board of pharmacy a conviction of any offense and/or any arrest or charges pending of a felony or misdemeanor, other than a traffic violation or disqualifying offense in any jurisdiction, within fourteen calendar days of the conviction or arrest.

(L) A dispensary employee shall promptly report, within five calendar days, to the dispensary designated representative and to the state board of pharmacy:

(1) An arrest and any subsequent conviction of a disqualifying offense;

(2) Any change in information provided in a pending application for an employee identification card or renewal;

(3) Knowledge that an employee dispensary identification card has been lost or stolen. Such employee shall submit or cause to be submitted a request for a replacement identification card and required fee.

3796:6-2-10

Medical marijuana dispensary certificate of operation renewal.

(A) Every dispensary certificate of operation issued pursuant to this division shall expire on the date identified on the certificate.

(B) A licensed medical marijuana dispensary shall receive written or electronic notice ninety days before the expiration of its certificate of operation.

(C) Every dispensary issued a certificate of operation pursuant to this division shall submit the following to the state board of pharmacy at least forty-five days prior to the date the existing certificate expires:

(1) A medical marijuana dispensary renewal application;

(2) A roster that includes all the dispensary's dispensary employees' names and dispensary employee license number; and

(3) The applicable fees and;

(4) Any additional information required by the state board of pharmacy in the licensing process.

(D) If the premises on which the dispensary operates are leased, the renewal application must include an attestation that the premises identified on the application have been leased for the following two-year licensing term and is not subject to any contractual restrictions that would prevent it from operating in compliance with Chapter 3796. of the Revised Code and this division.

(E) If the dispensary is operated in compliance with Chapter 3796. of the Revised Code and this division, and the renewal fee is paid, the state board of pharmacy shall renew the certificate of operation within forty-five days after the renewal application is received. Upon receipt of a renewal application, the state board of pharmacy shall consider:

(1) The dispensary's history of compliance with regulations promulgated under this division of the Administrative Code;

(2) The number and severity of any violations;

(3) The correction of violations, penalties, or other enforcement actions; and

(4) Any additional criteria deemed necessary by the state board of pharmacy.

(F) The state board of pharmacy may deny a dispensary certificate of operation renewal application due to:

(1) Failure to pay the renewal fee;

(2) Poor compliance history;

(3) Criminal violations with a nexus to the dispensary's operation;

(4) Discipline issued for violations of Chapter 3796. of the Revised Code or this division; or

(5) Any additional criteria deemed applicable by the state board of pharmacy.

(G) If a dispensary certificate of operation renewal application is not filed prior to the expiration date of the dispensary's certificate, the certificate shall be suspended for a maximum of thirty days. A dispensary shall not purchase, receive, sell, or dispense any medical marijuana while under a suspended certificate of operation. After thirty days, the certificate will be deemed expired if the dispensary has not successfully renewed the certificate of operation, including the payment of all applicable fees and the state board of pharmacy shall not renew the certificate of operation.

(H) A dispensary shall not purchase, receive, possess, sell, or dispense any medical marijuana without a valid, unexpired certificate of operation issued by the state board of pharmacy. Such activity is unlicensed and may subject the dispensary to discipline under this division.

(I) If a renewal application and all applicable fees are submitted to the board after a suspension period pursuant to paragraph (G) of this rule, the board shall not renew such certificate. A dispensary that allowed its license to lapse and wishes to again operate as a licensed dispensary under Chapter 3796. of the Revised Code and this division shall apply for a license in accordance with rules 3796:6-2-01 and 3796:6-2-02 of the Administrative Code.

3796:6-2-11

Medical marijuana dispensary – license bond.

(A) For the purposes of this rule, a bond is a requirement for the issuance of a dispensary license, the maintenance of a certificate, or reactivation of a license. The bond shall be used to guarantee that the dispensary complies with state tax requirements and conducts the dispensary operations in accordance with Chapter 3796. of the Revised Code and this division.

(B) Evidence of financial responsibility shall be provided by one of the following:

(1) Establishing and maintaining an escrow or surety account in an Ohio financial institution in the amount of fifty thousand dollars, with escrow terms, approved by the state board of pharmacy, that it shall be payable to the treasurer, state of Ohio, in the event of circumstances provided in paragraph (A) of this rule. A financial institution may not return money in an escrow or surety account to the dispensing organization that established the account or a representative of the organization unless the organization or representative presents a statement issued by the state board of pharmacy indicating that the account may be released.

(2) Providing a surety bond in the amount of fifty thousand dollars, naming the dispensing organization as principal of the bond, with terms, approved by the state board of pharmacy, that the bond defaults to the state board of pharmacy in the event of circumstances outlined in paragraph (A) of this rule. Bond terms include:

(a) The bond must be written by a surety company authorized and licensed through the state of Ohio;

(b) The business name and registration number on the bond must correspond exactly with the business name and registration number in the state board of pharmacy's records;

(c) The bond must be written on a form approved by the state board of pharmacy;

(d) A copy of the bond must be received by the state board of pharmacy within ninety days after the effective date of the provisional license;

(e) The state board of pharmacy shall receive written notice within thirty calendar days of when a dispensary knows a bond will be canceled. If a bond is canceled and the licensee fails to file a new bond with the state board of pharmacy in the required amount on or before the effective date of cancellation, the license may be revoked. The total and aggregate liability of the surety on the bond is limited to the amount specified by the bond.

(3) The provisions of this rule shall be operative at all times during which a bond,

*** DRAFT - NOT YET FILED ***

[3796:6-2-11](#)

2

[escrow account, or surety account are available in the market place.](#)

3796:6-2-12

Change in dispensary ownership.

(A) Only a dispensary that has engaged in medical marijuana dispensing under a certificate of operation for a continuous twelve-month period is eligible to apply for a change of ownership.

(B) All prospective new owners must be included in the change of ownership application, on a form in accordance with section 3796.10 of the Revised Code, and comply with record check requirements set forth in paragraphs (D) to (G) of rule 3796:6-2-07 of the Administrative Code and remit the required fee to become licensed as an associated key employee.

(C) Any change in ownership, business or tradename of a medical marijuana dispensary requires a new application, required fee and a license. The new application and required fee shall be submitted within thirty calendar days of any change in the ownership, business, or tradename. A change of ownership includes any of the following:

(1) A change of controlling interest of ten percent or more of a licensed corporation's outstanding shares of voting stock;

(2) Any business entity change from its original form as licensed to a sole proprietor ownership, partnership, limited liability company, corporation, or any other business entity;

(3) An existing corporation ceases to exist and a new corporation or other business entity is formed;

(4) An existing corporation continues and there is a one hundred percent stock purchase by another corporation or other business entity;

(5) Two wholly-owned subsidiaries of a parent company are merged;

(6) A currently licensed dispensary is purchased or operated by a different business entity than what is listed on the original application, even if the location maintains the original "doing business as" (DBA); or

(7) Any partnership change other than that which was originally licensed.

(a) A partnership change is deemed to have occurred when:

(i) There is an addition or removal of one or more partners in a partnership to which a license is issued.

(ii) The entity is sold and the sale becomes final.

(b) For partnerships, a transfer of a proportion of ownership among existing partners is not a change of ownership, if there is no addition or removal

of a partner.

(D) If any change in ownership in accordance with paragraph (C) of this rule results in a new or different DBA, or a new or different employer identification number (EIN), a new application fee, new certificate of operation fee and new license number are required.

(E) Any change of ownership set forth in paragraphs (C)(2), (C)(3), and (C)(4) of this rule or as otherwise determined by the state board of pharmacy, shall require the state board of pharmacy to issue a new license number and shall require the submission of a new application fee and new certificate of operation fee.

(F) In evaluating an application submitted under this chapter, the state board of pharmacy may consider as evidence and may deny issuance of such licensure, if:

(1) The ownership has been transferred from a licensee whose license was revoked or disciplined by the state board of pharmacy or any other professional licensing agency to the spouse or other family member; or

(2) The ownership has been transferred from a licensee whose license has been revoked or disciplined by the state board of pharmacy or any other licensing board to another who employs the former owner or who allows the former owner to remain associated with the dispensary.

3796:6-2-13

Request to relocate a dispensary.

(A) A dispensary may relocate in the district where the dispensary is licensed. To relocate a dispensary, the dispensary must submit an application requesting the change and the relocation fee to the state board of pharmacy. Pursuant to division (B) of section 3796.05 of the Revised Code, the state board of pharmacy shall consider the following in evaluating a dispensary's request to relocate:

(1) The population of this state;

(2) The number of patients seeking to use medical marijuana; and

(3) The geographic distribution of dispensary sites to ensure patient access to medical marijuana.

(B) The new dispensary location shall be in the same dispensary district as the existing location and meet all the requirements set forth in Chapter 3796. of the Revised Code and this division of the Administrative Code.

(C) If the information and documents submitted by the dispensary comply with Chapter 3796. of the Revised Code and this rule, and the proposed location is acceptable to the state board of pharmacy, the state board of pharmacy will issue a provisional license to relocate. The dispensary may continue to operate at the existing location, until the new location receives its certificate of operation. The dispensary may not dispense medical marijuana in two locations under the same certificate of operation number.

(D) Once the new dispensary location is complete, the dispensary shall notify the state board of pharmacy and request an inspection to be completed in the same manner as described under rule 3796:6-2-06 of the Administrative Code.

(E) Prior to issuing a certificate of operation, the state board of pharmacy will inspect the dispensary to confirm compliance with Chapter 3796. of the Revised Code and this division. Final approval for the dispensary to operate will be issued by the state board of pharmacy only after the completion of a successful inspection.

(F) A dispensary shall not dispense medical marijuana at the new location until the state board of pharmacy approves the dispensary and issues an amended certificate of operation noting the new location. The amended certificate of operation will not be valid until the preceding certificate of operation is returned to the state board of pharmacy.

(G) Once the state board of pharmacy has issued an amended certificate of operation, the dispensary shall notify the state board of pharmacy of the dispensary opening date.

(H) The certificate of operation that includes the new address shall retain the expiration date of the previously issued certificate.

- (I) An application for a relocation of a dispensary may not be combined with an application for renewing a dispensary certificate of operation. The state board of pharmacy shall process each application separately.
- (J) Should the dispensary relocate, it shall inform its existing patients of the new dispensary location in writing at least ninety calendar days prior to the relocation.

3796:6-2-14

Procedure for discontinuing business as a medical marijuana dispensary.

(A) A dispensary that plans to discontinue business activities shall file a written notice with the board of pharmacy. The written notice shall be submitted to the board of pharmacy in person, by registered or certified mail, return receipt requested, or other means of communication approved by the state board of pharmacy, at least fourteen calendar days in advance of the proposed date of discontinuing business. This notice shall include the following information:

- (1) The name, address, and dispensary certificate of operation number of the licensee discontinuing business;
- (2) The time, date and licensed employees who will destroy the remaining stock of medical marijuana and medical marijuana products;
- (3) The name and address where the records of purchasing and dispensing will be kept in conformance with rule 3796:6-3-17 of the Administrative Code; and
- (4) The proposed date of discontinuing the business.

(B) A licensed dispensary that is discontinuing its business may negotiate with a licensed processor for a one-time transfer of remaining medical marijuana inventory to another licensed dispensary. Such transfer and sale must be appropriately reflected in the state inventory tracking system.

(C) Upon discontinuing a business, the licensee must return to the board of pharmacy, in person or by registered mail, return receipt requested, the medical marijuana dispensary certificate of operation and all dispensary employee cards for cancellation.

(D) Storage and transfer of records. If a dispensary closes due to insolvency, revocation, bankruptcy, or for any other reason, all records must be preserved at the expense of the dispensary for at least three years in a form and location in Ohio that is acceptable to the state board of pharmacy. The dispensary shall keep the records longer if requested by the state board of pharmacy. The dispensary shall notify the state board of pharmacy of the location where the dispensary records are stored or transferred

3796:6-3-01

Dispensary operations generally.

(A) A dispensary awarded a certificate of operation under this division shall:

- (1) Operate in accordance with the representations made in its application; and
- (2) Comply with Chapter 3796. of the Revised Code and this division.

(B) Only a dispensary with an active certificate of operation from the state board of pharmacy may authorize and engage in medical marijuana dispensary operations.

(C) A dispensary shall not dispense marijuana from, obtain marijuana from, or transfer marijuana to, a location outside of the state of Ohio.

(D) A dispensary shall not obtain, cultivate, deliver, transfer, transport, sell or dispense marijuana except:

- (1) It may acquire marijuana from a processor or cultivator holding a plant-only processor designation;
- (2) It may sell expired plant material to a processor licensed by the department of commerce, if all original tamper-resistant seals from the original cultivator's container remain intact;
- (3) Dispensary employees may dispense and sell marijuana only to a patient or caregiver, in a dispensary department, in accordance with Chapter 3796. of the Revised Code and this division; and
- (4) It may initiate a transfer of inventory over the course of discontinuing business pursuant to rule 3796:6-2-14 of the Administrative Code.

(E) No person at a dispensary shall provide free medical marijuana samples or engage in compounding as defined under rule 4729-16-01 of the Administrative Code.

(F) A dispensary shall sell medical marijuana only in the original, sealed containers or packaging as delivered by the processor or cultivator holding a plant-only processor designation.

(G) Upon a patient or caregiver's request, a dispensary may provide the patient or caregiver to whom medical marijuana has been dispensed by the dispensary, with a container that is intended to be used for the transport of medical marijuana aliquots. Such a container shall:

- (1) Meet the requirements in paragraph (A) of rule 3796:8-1-01 of the Administrative Code;
- (2) Have an affixed label containing:

- (a) The product name, form, dose, product identifier, and quantity for which the container was provided;
 - (b) The date and quantity dispensed, including the net weight measured in ounces and grams or by volume, as appropriate;
 - (c) The name and registry number of the patient and, if applicable, the name of his or her designated caregiver;
 - (d) The name, address and license number of the dispensary;
 - (e) A warning that states: "This product may cause impairment and may be habit-forming;"
 - (f) The statement: "This product may be unlawful outside of the State of Ohio;"
 - (g) If the product is in a form other than plant material, the following must be included:
 - (i) The date on which the product was manufactured and the name and license number of the processor that manufactured the product;
 - (ii) A list of all ingredients and all major food allergens as identified in 21 USC § 343; and
 - (iii) A warning that states: "Caution: When eaten or swallowed, the effects and impairment caused by this drug may be delayed."
- (3) All labels printed for the purposes of this paragraph shall be printed as a duplicate, auditable label in the dispensary's internal inventory control system.
- (4) A record of all containers provided to a patient or caregiver pursuant to this paragraph shall be kept for at least three years. This record shall include at least the following:
- (a) The product name, form, dose, product identifier, and quantity for which the container was provided;
 - (b) Positive identification of the employee responsible for providing the container; and
 - (c) Signature of the patient or caregiver who received the container and the date on which the container was received.

(H) A dispensary shall place all products sold to the qualifying patient or caregiver in an opaque package that shall not indicate the contents of the package, the originating facility or in any other way cause another person to believe that the package may contain marijuana.

(I) A dispensary shall not permit any person to enter the dispensary department unless:

(1) Such person is a licensed dispensary employee whose responsibilities necessitate access to the dispensary department;

(2) Such person is a registered patient or caregiver whose active registration is verified before entry into the dispensary department. Patients and caregivers shall not be permitted behind the service counter or in other restricted access areas; or

(3) Such person's responsibilities otherwise necessitate access to the dispensary department and then only for as long as necessity requires. Persons necessitating access may include authorized agents from the state board of pharmacy and local, state, or federal law enforcement authorities. All others who necessitate access shall be under direct personal supervision while on licensed dispensary premises.

(J) All dispensary employees shall at all times while on dispensary premises, wear above the waist, the employee identification card issued by the state board of pharmacy. The card shall clearly identify the employee to the public and contain, at a minimum:

(1) An image of the employee;

(2) The date on which the license expires;

(3) The employee's current name; and

(4) The name of the dispensary.

(K) A dispensary shall maintain a list of all third-party vendors. The third-party vendor list shall be provided to the state board of pharmacy upon request.

(L) A dispensary shall establish, maintain and comply with written policies and procedures as submitted in an operations and management practices plan, approved by the state board of pharmacy, for the safe handling, security, inventory and distribution of medical marijuana. Such policies and procedures shall include methods for identifying, recording and reporting diversion, theft or loss, for correcting errors and inaccuracies in inventories and any other required policy set forth in Chapter 3796. of the Revised Code and this division.

(M) A dispensary designated representative shall review dispensary organization policies and procedures at least once every twelve months from the issue date of the certificate of operation and update as needed or as requested by the state board of pharmacy. The time and date of such reviews shall be documented at the completion of each review.

(N) No medical marijuana requiring refrigeration or hot-holding or considered potentially hazardous food shall be possessed or sold by a dispensary.

3796:6-3-02

Dispensary premises generally.

- (A) The premises of a dispensary shall be located within Ohio.
- (B) Pursuant to section 3796.30 of the Revised Code, no dispensary shall be located within five hundred feet of the boundaries of a parcel of real estate having situated on it a school, church, public library, public playground, or public park.
- (C) In addition to the limitations on a dispensary location pursuant to paragraph (B) of this rule, a dispensary shall not be located within five hundred feet of a community addiction services provider as defined under section 5119.01 of the Revised Code.
- (D) The dispensary shall be equipped as to land, buildings, and equipment to properly carry on the business of a medical marijuana dispensary.
- (E) The dispensary certificate of operation shall be prominently displayed at the location where the licensee is authorized to operate.
- (F) The premises and operations of a licensee shall conform to all relevant fire codes, local zoning and planning requirements.
- (G) It is the responsibility of a dispensary's associated key employees to promptly notify the state board of pharmacy of any change of the principal place of business.
- (H) No major renovation or modification shall be undertaken without notification to and inspection and approval from the state board of pharmacy and submittal of the required fee. Such renovations include, but are not limited to:
 - (1) New facilities to be constructed or used for medical marijuana; and
 - (2) Work or storage areas to be constructed or used for medical marijuana.
- (I) All lighting outside and inside of a dispensary location must be maintained in good working order and wattage sufficient for clear security and surveillance.
- (J) A dispensary shall ensure that any building or equipment used by a dispensary for the storage or sale of medical marijuana is maintained in a clean and sanitary condition.
- (K) Each dispensary that sells edible medical marijuana products shall display a placard that states the following: "Edible medical marijuana products were produced in a kitchen, not subject to public health inspections, that may also process common food allergens."
 - (1) The placard shall be no smaller than twenty-four inches tall by thirty-six inches wide, with typed letters no smaller than two inches.
 - (2) The placard shall be clearly visible and readable by customers and shall be written in English.

(3) The signage shall be placed in the area where edible medical marijuana products are sold, and may be translated into additional languages as needed.

3796:6-3-03

Hours of operation.

(A) A dispensary shall:

- (1) Conspicuously post the hours of operation of the dispensary at all public entrances to the dispensary; and
- (2) Clearly state the hours of operation of the dispensary in all advertising for the dispensary.

(B) A dispensary shall not sell, serve, or dispense medical marijuana at any time other than between the hours of seven am EST and nine pm EST.

(C) A dispensary shall be open for qualifying patients and caregivers to purchase medical marijuana for a minimum of thirty-five hours a week, except as otherwise authorized by the state board of pharmacy.

(D) A dispensary that closes during its normal hours of operation shall implement procedures to notify qualifying patients and caregivers of when the dispensary will resume normal hours of operation. Such procedures may include, but are not limited to, telephone system messages and conspicuously posted signs. If the dispensary is, or will be, closed during its normal business hours for longer than two days, the dispensary shall immediately notify the state board of pharmacy.

(E) A dispensary location must have at least two employees physically present at the dispensary location during all hours that the dispensary is open. At least one of those employees shall be a dispensary key employee.

3796:6-3-04

Procedures when dispensary is closed.

(A) During times when a dispensary is closed, it shall be securely locked and equipped with an alarm system approved by the state board of pharmacy. Such alarm shall be activated and operated separately from any other alarm system at the dispensary and shall be able to immediately detect entrance to the dispensary at times when it is closed.

(1) Keys and access codes to the alarm system shall be controlled in such a manner so as to prevent access to the dispensary by anyone other than authorized dispensary key employees.

(2) Only a dispensary key employee shall have the authority to deactivate the alarm system.

(B) During times when a dispensary is closed, it shall have an operating surveillance system in accordance with rule 3796:6-3-16 of the Administrative Code.

(1) The surveillance system shall either collect and store video surveillance on a twenty-four-hour basis; or

(2) It shall live-stream on a twenty-four-hour basis and be capable of activation when the motion is detected and when the dispensary's security system detects an intrusion. All motion detection delay systems shall carry a filter time of no less than six seconds.

(C) A dispensary shall store medical marijuana in an approved safe or approved vault within a restricted access area.

(D) A dispensary shall not sell medical marijuana when the dispensary is closed.

(E) A designated representative shall notify the state board of pharmacy immediately upon discovery of any unauthorized access at the dispensary.

3796:6-3-05

Medical marijuana dispensary designated representative.

(A) Each dispensary shall have a designated representative at all times. The designated representative must hold a dispensary associated key or key employee license. Maintaining a designated representative is a continuing requirement for a certificate of operation.

(B) The designated representative shall be physically present at licensed dispensary premises at least twenty hours each week and must be able to be contacted by dispensary employees during a dispensary's hours of operation.

(C) A dispensary key employee shall be the designated representative for no more than one dispensary location.

(D) A designated representative for a licensed dispensary shall be responsible for:

(1) Oversight of the delivery and receipt of medical marijuana and medical marijuana products to a dispensary;

(2) The supervision and control of medical marijuana and medical marijuana products under the custody of a dispensary;

(3) Adequate safeguards of medical marijuana and medical marijuana products to assure that the sale or other distribution of medical marijuana and medical marijuana products will occur only by dispensary employees licensed by the state board of pharmacy;

(4) Notifying the state board of pharmacy within twenty-four hours of learning of a dispensary employee's arrest for disqualifying offense;

(5) Ensuring that prompt, written notice is provided to the state board of pharmacy, including the date of the event, when a dispensary employee no longer serves as an associated key or key employee or is no longer employed by the dispensary;

(6) Maintaining all required dispensary records;

(7) Ensuring that the state board of pharmacy is immediately notified of a known or suspected theft, diversion or loss of medical marijuana; and

(8) Maintaining a current and active medical marijuana key or associated key employee license.

(E) The designated representative and all licensed medical marijuana associated key, key, and support employees are responsible for compliance with all state laws, regulations and rules regulating the dispensing of medical marijuana.

(F) When there is a change of designated representative, the state board of pharmacy

shall be notified within ten business days of the effective date of the appointment of a new designated representative in a manner prescribed by the state board of pharmacy.

(1) A complete inventory shall be taken of the medical marijuana and medical marijuana products on hand with the new designated representative on the effective date of the change of designated representative.

(2) The new designated representative shall be responsible for completing and maintaining this inventory record at the site of the dispensary.

(3) Upon separation of a designated representative's employment, the dispensary shall reclaim the designated representative's key employee card and promptly return it to the state board of pharmacy.

(G) If advanced notification of a change of designated representative to the state board of pharmacy is impracticable due to such events as death, incapacity, or termination, the dispensary shall immediately notify the state board of pharmacy and request a temporary certificate of authority allowing the continuing operation.

(1) The request shall include the name of an interim designated representative until a replacement is identified, or shall include the name of the replacement. If an interim designated representative is named, the interim designated representative shall be a licensed dispensary employee.

(2) The state board of pharmacy shall issue the temporary certificate of authority promptly after it receives the request.

(3) If a dispensary fails to immediately notify the state board of pharmacy and request a temporary certificate of authority after the separation of the designated representative, its certificate of operation shall become ineffective until the state board of pharmacy approves the temporary certificate of authority or registers a new designated representative.

(4) No temporary certificate of authority shall be valid for more than ninety days.

(5) The succeeding designated representative shall register with the state board of pharmacy as a dispensary key employee under this division. Once the permanent designated representative replacement is licensed as a dispensary key employee, the temporary certificate of authority is void.

(H) No designated representative for a licensed medical marijuana dispensary shall:

(1) Have ever been denied a license to prescribe, dispense, administer, supply, or sell a controlled substance by the appropriate issuing body of any state or jurisdiction, based, in whole or in part, on the inappropriate prescribing, dispensing, administering, supplying or selling a controlled substance or other

dangerous drug other than medical marijuana dispensed.

(2) Have held a license issued by the drug enforcement administration or a state licensing agency in any jurisdiction, under which the person may prescribe, dispense, administer, supply or sell a controlled substance, that has ever been restricted or surrendered, based, in whole or in part, on the prescriber's inappropriate prescribing, dispensing, personally furnishing, diverting, administering, supplying, or selling a controlled substance or other dangerous drug.

(3) Have been subject to disciplinary action by any licensing entity that was based, in whole or in part, on the prescribers inappropriate prescribing, dispensing, diverting, administering, personally furnishing, diverting, supplying or selling a controlled substance or other dangerous drug.

3796:6-3-06

Receipt of medical marijuana by a dispensary.

(A) Each dispensary shall:

(1) Establish a standard operating procedure for all aspects of the receipt, storage, packaging, labeling, handling, tracking and dispensing of products containing medical marijuana and medical marijuana waste;

(2) Use the state inventory tracking system, established pursuant to section 3796.07 of the Revised Code, to identify and track all information deemed necessary by the state board of pharmacy as it relates to the dispensary's stock of medical marijuana from the time it is received to the time it is dispensed to a patient or caregiver. All information related to the receipt, dispensing, and destruction of all medical marijuana, that the state board of pharmacy deems necessary, shall be transmitted electronically to the department of commerce through the inventory tracking system.

(3) Transmit electronically to the state board of pharmacy the information related to the dispensing of all medical marijuana as set forth in rules 3796:6-3-08 and 3796:6-3-10 of the Administrative Code; and

(4) Train each dispensary employee in the standard operating procedures related to the receipt, storage, dispensing, and disposal of medical marijuana and retain employee training attendance records.

(B) Before accepting a delivery of medical marijuana, a dispensary key employee must inspect and acknowledge that the delivery meets relevant packaging and labeling requirements. The delivery of any medical marijuana failing to adhere to relevant packaging and labeling requirements shall not be accepted by a dispensary and shall be immediately returned to the processor or cultivator holding a plant-only processor designation.

(C) A dispensary shall not accept expired, damaged, deteriorated, misbranded, or adulterated medical marijuana.

(D) All areas where medical marijuana is delivered shall be secured and monitored with video surveillance. Access shall be limited to necessary licensed processor, cultivator, and dispensary employees.

(E) All areas where medical marijuana and devices are stored must be dry, well-lighted, well-ventilated, and maintained in a clean and orderly condition. Storage areas shall be maintained at temperatures and under lighting conditions which will ensure the integrity of medical marijuana prior to its use.

(F) Only individuals authorized pursuant to Chapter 3796. of the Revised Code and this division may have unsupervised access to medical marijuana.

3796:6-3-07

Security, control, and storage of medical marijuana at a dispensary.

(A) Pursuant rule 3796:6-3-05 of the Administrative Code, a designated representative shall provide supervision and control of medical marijuana and medical marijuana products and adequate safeguards to ensure that such items are dispensed in accordance with Chapter 3796. of the Revised Code and this division, by the following procedures:

(1) A licensed dispensary key employee shall provide personal supervision of the medical marijuana and medical marijuana products, order forms, all records relating to the dispensing of medical marijuana and medical marijuana products, unless the state board of pharmacy has issued written approval to a dispensary allowing for the storage of records off-site.

(2) Whenever personal supervision of medical marijuana and medical marijuana products is not provided by a licensed dispensary key employee, physical or electronic security of such items must be provided according to the following requirements:

(a) The dispensary department, restricted access areas and stock of medical marijuana must each be secured by a physical barrier with suitable locks and an electronic barrier to detect entry at a time when licensed dispensary employees are not present. The physical barrier shall be constructed from floor to ceiling to separate the public entry area from the dispensary department. Such a barrier, before being put into use, must be approved by the state board of pharmacy.

(b) A restricted access area within the dispensary department must contain all medical marijuana, and if maintained on the licensed premises, all records relating to the dispensing of medical marijuana, and any other items required to be under personal supervision of a licensed dispensary employee.

(c) A dispensary maintaining records at a location other than the premises licensed by the state board of pharmacy or via a computerized recordkeeping system shall maintain an executed agreement with the company possessing or storing the records authorizing an agent of the state board of pharmacy access to the records maintained in accordance with this rule within three business days, excluding weekends and holidays. The dispensary is obligated to ensure the board receives the records in the timeframe specified in this rule.

(d) No item, product, record, or equipment that must be accessible to anyone other than a licensed dispensary employee may be stored in restricted access areas.

(e) No medical marijuana may be sold or otherwise dispensed at any time the dispensary department is closed.

(3) Areas designated for the dispensing and storage of medical marijuana shall meet the security requirements in rule 3796:6-3-16 of the Administrative Code. No person may be within the physical confines of the area designated for dispensing or storage of medical marijuana unless under the personal supervision of a licensed dispensary employee.

(B) A dispensary shall store inventory on the licensed premises. All inventory stored on the licensed premises must be secured in restricted access areas and tracked in the inventory tracking system.

(C) A dispensary shall maintain adequate lighting, ventilation, temperature, humidity control, and equipment. Required equipment includes, but is not limited to, adequate personal protective equipment for employees.

(D) Containers storing expired, damaged, deteriorated, misbranded, adulterated or opened medical marijuana shall be separated from other medical marijuana until they are destroyed in accordance with the dispensary's destruction policy. Expired, damaged, deteriorated, misbranded, or adulterated medical marijuana shall not be stored at the licensed dispensary for more than one week.

(E) The dispensary shall be maintained in a clean and orderly condition. It shall be free from infestation by insects, rodents, birds, or pests.

(F) Medical marijuana shall be stored at appropriate temperatures and under appropriate conditions to help ensure that its identity, strength, quality and purity are not adversely affected.

3796:6-3-08

Dispensing of medical marijuana.

(A) A dispensary is authorized to sell medical marijuana only to:

(1) Qualified patients, aged eighteen and older, and designated caregivers. No one other than employees of a dispensary shall sell medical marijuana to a patient or caregiver; and

(2) Laboratories licensed under Chapter 4729-13 of the Administrative Code to possess dangerous drugs and controlled substances for scientific and clinical purposes.

(B) A dispensary employee may exercise his or her judgment to determine whether to dispense medical marijuana to a patient or caregiver if the dispensary employee suspects that dispensing medical marijuana to the patient or caregiver may have negative health or safety consequences for the patient or for the public, or when the patient is exhibiting signs of potential abuse or diversion. Such a determination shall be reported to the state board of pharmacy within twenty-four hours.

(C) A dispensary employee shall require the presentation of a registry identification card together with another form of approved state-issued photographic identification belonging to a qualifying patient or caregiver, prior to selling medical marijuana to such qualifying patient or caregiver.

(D) A dispensary employee may dispense any portion of a patient's ninety-day supply of medical marijuana. The dispensary employee may dispense the remaining portion of the ninety-day supply of medical marijuana at any time except that no patient shall receive more than a ninety-day supply of medical marijuana in a ninety-day period. No caregiver shall receive more than the aggregate amount of medical marijuana authorized for each of the caregiver's patients.

(E) Each dispensary internal inventory system shall be compatible with and capable of integrating with the state inventory tracking system.

(F) Each dispensary shall use a scanner approved by the state board of pharmacy to retrieve patient registry data by scanning patient or caregiver registry identification cards and government issued photographic identification.

(G) A dispensary shall not dispense expired, damaged, deteriorated, misbranded, adulterated, or opened medical marijuana.

(H) When dispensing or selling medical marijuana all dispensaries shall comply with division (B) of section 3796.20 of the Revised Code including:

(1) Dispense or sell only upon a showing of a current, valid patient or caregiver registry identification card; and current and valid state photo identification. Medical marijuana may not be dispensed to a patient or caregiver who does not possess a registry identification card issued by the state board of

pharmacy, unless the dispensation is in accordance with a reciprocal agreement established pursuant to section 3796.16 of the Revised Code.

(2) A dispensary employee shall verify:

(a) The validity of the patient or caregiver's registration by scanning the patient or caregiver's state-issued identification, such as a driver's license, or United States passport. The identification number on the item presented by the patient or caregiver must be identical to the identification number included in the patient's or caregiver's registry record;

(b) Possession of a patient or caregiver registry card with the holder's name and state-issued identification card number that are identical to the name and state-issued identification card number on the state-issued identification card;

(c) That the individual is a patient the patient has not purchased more than a ninety-day supply of medical marijuana in the last ninety days. If the individual is a caregiver, that the caregiver has not purchased more than a ninety-day supply of medical marijuana for a single patient in the last ninety days;

(d) That the amount of medical marijuana that the patient or caregiver is requesting would not cause the patient to exceed a ninety-day supply of medical marijuana during any ninety-day calendar period, unless approved by the state board of pharmacy.

(3) A dispensary employee shall confirm that each recommendation is complete. A complete recommendation contains the following:

(a) Patient full name;

(b) Patient residential address;

(c) Patient telephone number;

(d) Patient date of birth;

(e) Patient qualifying condition;

(f) State-issued identification number (such as driver's license number), or United States passport number;

(g) Patient registration number issued by the state board of pharmacy;

(h) Recommending physician's full name (first name and last name);

- (i) Physician's drug enforcement administration identification number;
 - (j) Recommending physician's medical license number issued by the state medical board;
 - (k) Recommending physician's certificate to recommend identification issued by the state medical board;
 - (l) Date recommendation was issued by the recommending physician;
 - (m) Recommending physician's business address, telephone number, and email address;
 - (n) Indication whether the recommendation is new or a refill;
 - (o) Number of the refill being dispensed; and
 - (p) Date order written, which shall be the date the written recommendation was issued.
- (4) Update the patient record in the dispensary's internal inventory system with the following information:
- (a) Dispensary certificate of operation number, which shall be populated by a number provided by the board;
 - (b) Dispensary name;
 - (c) Dispensary address;
 - (d) Dispensary telephone number;
 - (e) Date order filled, which shall be the date medical marijuana is dispensed;
 - (f) Order number, which shall be the serial number assigned to each medical marijuana product dispensed to a patient;
 - (g) Quantity;
 - (h) Days' supply;
 - (i) Product identifier, which shall be assigned by the state board of pharmacy;
 - (j) Payment code for either cash or third-party provider; and
 - (k) Drug name, which shall be the brand name of the medical marijuana.

(I) A dispensary may sell medical marijuana to patients and caregivers only in a direct, face-to-face exchange without the assistance of any electronic or mechanical device (such as a vending machine or other automated dispensing unit). A dispensary must sell medical marijuana in whole day increments.

(J) A dispensary shall dispense medical marijuana in a manner consistent with any instructions for use as determined by the recommending physician.

(K) A dispensary must include the name of the dispensary on the packaging of any medical marijuana or medical marijuana product it sells. Each package sold must be placed in an unmarked, opaque bag before leaving the dispensary.

(L) All recommendations must be serially numbered when dispensed.

(1) There must be a complete accounting of all numbers used in the serial numbering system.

(2) All recommendations which are not refillable, either because of the dispensing of all refills or the length of time since issuance, shall be assigned a new serial number upon an authorization for additional dispensing by a recommending physician.

(M) A dispensary shall maintain a record of each sale, purchase and return of medical marijuana in the inventory tracking system established pursuant to section 3796.07 of the Revised Code.

(N) An order purporting to be a recommendation issued not in the usual course of professional treatment or in legitimate and authorized research is not a recommendation within the meaning and scope of Chapter 3796. of the Revised Code and the person who knowingly dispenses such a purported recommendation, as well as the person issuing it, shall be subject to the penalties provided for violations of the provisions of law relating to controlled substances. A dispensary employee is not required to dispense a recommendation of doubtful, questionable, or suspicious origin.

3796:6-3-09

Labeling requirements for medical marijuana sold at a dispensary and accompanying materials.

(A) A dispensary shall ensure that the following information is clearly provided on the outside of each container or package containing medical marijuana, prior to sale:

(1) The business or trade name and the license number of the cultivator that cultivated the marijuana;

(2) The product identifier;

(3) The date and quantity dispensed, including the net weight measured in ounces and grams or by volume, as appropriate;

(4) The name and registry number of the patient and, if applicable, the name of his or her designated caregiver;

(5) The name, address and license number of the dispensary;

(6) The cannabinoid profile and concentration levels and terpenoid profile as determined by the testing laboratory;

(7) A warning that states: "This product may cause impairment and may be habit-forming;"

(8) The statement: "This product may be unlawful outside of the State of Ohio;"

(9) The date on which the marijuana was harvested;

(10) If the product is in a form other than plant material, the following must be included:

(a) The date on which the product was manufactured and the name and license number of the processor that manufactured the product;

(b) A list of all ingredients and all major food allergens as identified in 21 USC § 343;

(c) A warning that states: "Caution: When eaten or swallowed, the effects and impairment caused by this drug may be delayed;" and

(d) If a marijuana extract was added to the product, a disclosure of the type of extraction process and any solvent, gas or other chemical used in the extraction process or any other compound added to the extract.

(B) The requirements set forth under paragraph (A) of this rule may be partially satisfied if required information is included on the cultivator or processor-created package. A dispensary shall include on its affixed label, any required information that is also

included on the cultivator or processor-created package if that information is obscured, in whole or in part, by the affixed label.

(C) A dispensary must provide with all medical marijuana dispensed, accompanying material that discloses any pesticide applied to the marijuana plants and growing medium during production and process and that contains the following warnings:

(1) “Warning: This product may cause impairment and may be habit-forming. Smoking medical marijuana is not permitted in the State of Ohio.”

(2) “There may be health risks associated with consumption of this product.”

(3) “Should not be used by women who are pregnant or breastfeeding.”

(4) “For use only by the person named on the label of the dispensed product. Keep out of reach of children.”

(5) “Marijuana can impair concentration, coordination and judgment. Do not operate a vehicle or machinery under the influence of this drug.”

(6) The toll-free telephone line established by the state board of pharmacy in accordance with section 3796.17 of the Revised Code

(7) The text used on all accompanying material must be printed in at least twelve-point font and may not be in italics.

(D) A dispensary shall include the following printed statement on the receipt or in the bag or other similar packaging in which dispensed medical marijuana is transferred from the dispensary to a patient or caregiver: “If you have a concern that an error may have occurred in the dispensing of your medical marijuana, you may contact the State of Ohio Board of Pharmacy, using the contact information found at medicalmarijuana.ohio.gov.” Such language shall be in a size and font that is easily readable by patients.

3796:6-3-10

Dispensary reporting into the prescription monitoring program.

(A) A dispensary shall transmit electronically to the state board of pharmacy, in a format suitable to the board, the information set forth below within five minutes of the dispensing of any and all medical marijuana:

(1) State license number, which shall be populated by a number provided by the board;

(2) Dispensary name;

(3) Dispensary address;

(4) Dispensary telephone number;

(5) Patient full name;

(6) Patient registry identification number;

(7) Patient residential address;

(8) Patient telephone number;

(9) Patient date of birth;

(10) Patient gender;

(11) Recommending physician's full name (first name and last name);

(12) Drug enforcement administration physician identification number;

(13) Date recommendation was issued by the recommending physician;

(14) Indication whether the recommendation is new or a refill;

(15) Number of the refill being dispensed;

(16) Date order filled, which shall be the date medical marijuana is dispensed;

(17) Order number, which shall be the serial number assigned to each medical marijuana product dispensed to a patient;

(18) Quantity;

(19) Days' supply;

(20) Product identifier, which shall be assigned by the board;

- (21) Date order written, which shall be the date the written recommendation was issued;
- (22) Payment code for either cash or third-party provider; and
- (23) Drug name, which shall be the brand name of the medical marijuana.
- (B) If a dispensary has no drug dispensing information required to be submitted to the board of pharmacy over any twenty-four-hour period, it must submit a “zero report.”
- (C) The dispensing report or the “zero report” shall be consecutive and inclusive from the last date and time that information was submitted and shall be reported no later than thirty-six hours after the last time reported on a previous report.
- (D) Any dispensary whose normal business hours are not seven days per week shall electronically indicate its normal business hours to the board and a “zero report” will be automatically submitted on the dispensary’s behalf on non-business days.
- (E) If a dispensary ceases to possess medical marijuana for dispensing, the designated representative shall notify the board of pharmacy electronically or in writing. The board shall be notified if the dispensary resumes dispensing.
- (F) All dispensing information required to be submitted to the board of pharmacy pursuant to paragraph (A) of this rule, must be transmitted in the format specified by the American Society for Automation in Pharmacy (“ASAP”), for prescription monitoring systems.
- (G) If a dispensary cannot electronically transmit the required information pursuant to paragraph (A), they must immediately contact the board of pharmacy to determine a mutually acceptable method of reporting. The dispensary must document in writing to the board of pharmacy the reasons for their inability to submit the required information.
- (H) A dispensary shall transmit the information required pursuant to this section in such a manner as to ensure the confidentiality of the information in compliance with all federal and state laws, including the federal Health Insurance Portability and Accountability Act of 1996, Public Law 104-191.
- (I) All medical marijuana dispensing information submitted to the drug database pursuant to this rule must be reported in an accurate and timely manner.
- (J) If the omission of dispensing information is discovered, the corrected information must be submitted to the board of pharmacy during the next reporting period after the discovery.

(K) If the omission of data or erroneous data is the result of a computer programming error, the dispensary must notify the board of pharmacy immediately by telephone and submit written documentation. The documentation shall fully describe the error and propose a date for submitting the corrected dispensing information. The board will review the written documentation to assure compliance with paragraph (A) of this rule.

(L) Except as noted in paragraph (E) of this rule, all data must be submitted or corrected electronically unless prior permission for an alternate method is approved by the board of pharmacy.

3796:6-3-11

Duty to report.

(A) Each dispensary employee is responsible to monitor for suspicious recommendations, unusual usage, or questionable disposition of medical marijuana.

(B) Each dispensary employee shall notify the following upon discovery of the theft or loss of any medical marijuana or medical marijuana device, including medical marijuana in transit that was either shipped from or to the dispensary:

(1) The state board of pharmacy, by telephone immediately upon discovery of the theft or loss;

(2) Law enforcement authorities with jurisdiction over the location where the theft or loss occurred pursuant to section 2921.22 of the Revised Code.

(C) Medical marijuana thefts or unexplained losses must be reported to the state board of pharmacy in writing irrespective of whether the medical marijuana is recovered and/or the responsible parties are identified and action taken against them. Written reports must be provided to the state board of pharmacy within forty-eight hours following the discovery of such theft or loss.

(1) The written report must include:

(a) The name, address, and license number of the dispensary;

(b) The amount and type of medical marijuana lost or stolen;

(c) The circumstances surrounding the loss or theft;

(d) The date the loss or theft was discovered;

(e) The person who discovered the loss or theft;

(f) The person responsible for the loss or theft if known; and

(g) Any other information that the reporter believes might be helpful in establishing the cause of the loss or theft.

(2) An exemption may be obtained upon sufficient cause if written notification cannot be completed within five business days.

(3) A request for waiver of the five business day limit must be requested in writing.

(D) Each dispensary employee, immediately upon discovery of any fraudulent or otherwise unlawful recommendation shall notify the state board of pharmacy and law enforcement authorities. Upon receiving such notice, the state board of pharmacy shall notify the state medical board of all suspected fraudulent recommendations.

- (E) Each designated representative who knows or should know that a prohibited facility or a community addiction services provider as defined under section 5119.01 of the Revised Code, has been established within five hundred feet of the dispensary shall notify the state board of pharmacy, for purposes of assessing the adequacy of existing security measures.
- (F) All dispensary employees must report all known violations of state drug laws, including all rules adopted pursuant to Chapter 3796. of the Revised Code, to the state board of pharmacy immediately.
- (G) Serious adverse events related to security and administration of medical marijuana, that a dispensary employee knows or should know, shall be reported to the state board of pharmacy within twenty-four hours.
- (H) Any adverse action taken against the employee by any licensing authority in any state or any territory of the United States or any foreign jurisdiction, any governmental agency, any law enforcement agency or any court, shall be reported to the state board of pharmacy within five business days.

3796:6-3-12

Dispensing error reporting.

(A) A dispensary shall display a sign concerning the reporting of dispensing errors in a conspicuous location visible to qualifying patients and caregivers. The sign shall:

(1) Measure a minimum of eight inches in height and ten inches in width and the lettering shall be in a size and style that allows such sign to be read without difficulty;

(2) Read: "If you have a concern that an error may have occurred in the dispensing of your medical marijuana, you may contact the state of Ohio board of pharmacy, using the contact information found at medicalmarijuana.ohio.gov."

(B) A dispensary designated representative shall implement and comply with a quality assurance program that describes, in writing, policies and procedures to detect, identify and prevent dispensing errors. A dispensary shall:

(1) Provide to the state board of pharmacy a written copy of such quality assurance program;

(2) Distribute it to all dispensary employees; and

(3) Make it readily available on the premises of the dispensary.

(C) A dispensary's quality assurance program shall include:

(1) Directions for communicating the details of a dispensing error to the physician who recommended a qualifying patient, the patient's caregiver, or appropriate family member if the patient is deceased or is unable to fully comprehend communication. Such communication shall describe methods of correcting the dispensing error or reducing the negative impact of the error on the qualifying patient; and

(2) A process to document and assess dispensing errors to determine the cause of the error and the appropriate response.

(D) A dispensary shall use the findings of its quality assurance program to develop dispensary systems and workflow processes designed to prevent dispensing errors.

(E) A dispensary designated representative shall inform dispensary employees of changes to dispensary policy, procedure, systems, or processes made as a result of recommendations generated by the quality assurance program.

3796:6-3-13

Review of dispensing errors.

- (A) A dispensary designated representative shall notify all dispensary employees that the discovery or reporting of a dispensing error shall be relayed immediately to a dispensary designated representative.
- (B) A dispensary designated representative shall ensure that a quality assurance review for each dispensing error is completed and that such review is commenced as soon as is reasonably possible, but no later than two business days from the date the dispensing error is discovered.
- (C) A dispensary shall create a record of every quality assurance review. This record must contain, but is not limited to, the following:
- (1) The date or dates of the quality assurance review;
 - (2) The pertinent data and other information relating to the dispensing error reviewed;
 - (3) Documentation of contact with the qualifying patient, caregiver where applicable, and the recommending physician;
 - (4) The findings and determinations generated by the quality assurance review; and
 - (5) Recommended changes to dispensary policy, procedure, systems or processes if any.

3796:6-3-14

Destruction and disposal of medical marijuana.

(A) Medical marijuana products must be destroyed by rendering it unusable following the methods set forth in this rule.

(B) At least seven days prior to rendering medical marijuana unusable and disposing of it, the dispensary shall notify the state board of pharmacy. Notification shall include the date and time the marijuana will be rendered unusable and disposed. If the dispensary designates the destruction of medical marijuana on the same day and time weekly, communication of that day and time shall be sufficient to comply with this paragraph. Any change in the date and time must be communicated to the state board of pharmacy.

(C) Unless otherwise required by local, state, or federal waste management authorities, the allowable method for rendering marijuana waste unusable is by grinding and incorporating the marijuana waste with other ground material so the resulting mixture is at least fifty percent non-marijuana waste. Other methods to render marijuana waste unusable must be approved by the state board of pharmacy before implementation. Material used to grind with the marijuana falls into two categories, compostable waste and non-compostable waste.

(1) Compostable mixed waste: Marijuana waste to be disposed as compost feedstock or in another organic waste method (for example, anaerobic digester) may be mixed with the following type of waste materials:

(a) Food waste;

(b) Yard waste;

(c) Vegetable based grease or oils; or

(d) Other wastes as approved by the state board of pharmacy (e.g., agricultural material, biodegradable products and paper, clean wood, fruits and vegetables, plant material).

(2) Non-compostable mixed waste: Marijuana waste to be disposed in a landfill or by another disposal method may be mixed with the following types of waste materials:

(a) Paper waste;

(b) Cardboard waste;

(c) Plastic waste;

(d) Soil; or

(e) Other wastes as approved by the state board of pharmacy (e.g.,

non-recyclable plastic, broken glass, leather).

(3) Marijuana waste rendered unusable following the methods described in this rule can be disposed. Disposal of the marijuana waste rendered unusable may be delivered to a permitted solid waste facility for final disposition. Examples of acceptable permitted solid waste facilities include:

(a) Compostable mixed waste: Compost, anaerobic digester or other facility.

(b) Non-compostable mixed waste: Landfill, incinerator or other facility.

(4) All waste and unusable product shall be weighed, recorded and entered into the inventory tracking system prior to rendering it unusable. The destruction of medical marijuana by a dispensary employee shall be witnessed by a key employee and the event shall be conducted in a designated area with fully functioning video surveillance.

(5) Electronic documentation of destruction and disposal shall be maintained for a period of at least three years.

(6) All external refuse containers shall be maintained in a locked condition.

(D) A dispensary may offer as a service to its patients and caregivers, the ability to return unused medical marijuana for purposes of destroying the medical marijuana. Any dispensary that chooses to offer such services to its patients and caregivers shall develop a policy describing its buyback policies and that policy must be approved by the state board of pharmacy before any medical marijuana may be accepted by a dispensary pursuant to this paragraph.

(1) All medical marijuana returned pursuant to this paragraph shall be entered into the state inventory tracking system; and

(2) Prices for such services shall be publicly available.

3796:6-3-15

Dispensary patient and caregiver educational materials.

(A) Each dispensary shall develop and maintain a policy regarding patient and caregiver education and support.

(B) A patient and caregiver education and support policy shall include:

(1) Updated information about the purported effectiveness of various forms and methods of medical marijuana administration;

(2) Updated information about the purported effectiveness of strains of medical marijuana for specific conditions;

(3) Information regarding the signs and symptoms of substance abuse, including tolerance, dependency, and withdrawal;

(4) Whether possession of medical marijuana is illegal under federal law;

(5) Information about possible side effects and contraindications for medical marijuana including possible impairment with use and operation of a motor vehicle or heavy machinery, when caring for children, or of job performance;

(6) Guidelines for contacting the recommending physician if side effects or contraindications occur;

(7) A warning that smoking of medical marijuana is not permitted per Ohio law;

(8) Information on drug-to-drug interactions, including interactions with alcohol, prescription drugs, non-prescription drugs, and supplements; and

(9) Offer any other appropriate patient education or support materials.

(C) A dispensary shall make available information to patients and caregivers regarding the possession and use of marijuana. All such information shall be submitted to the state board of pharmacy for approval prior to being provided to qualifying patients and caregivers and shall include:

(1) Limitations on the right to possess and use marijuana pursuant to Chapter 3796. of the Revised Code;

(2) Safe techniques for the proper use of medical marijuana and medical marijuana paraphernalia;

(3) Prohibition against and dangers associated with medical marijuana extractions;

(4) Alternative methods and forms of consumption or inhalation by which one can use medical marijuana;

- (5) Instruction for patients and caregivers with medical marijuana-related inquiries or reports of adverse reactions to the toll-free telephone line established by the state board of pharmacy in accordance with section 3796.17 of the Revised Code;
- (6) Signs and symptoms of substance abuse; and
- (7) Opportunities to participate in substance abuse programs.
- (D) No dispensary shall include in its education policy, instruction for patients or caregivers to cut or otherwise partition medical marijuana patches as appropriate preparation for transdermal administration.
- (E) A dispensary shall make publicly available the price of all medical marijuana products offered by the dispensary to prospective qualifying patients and caregivers. Such disclosure may include posting information on the dispensary internet website.
- (F) A dispensary shall post a sign directing patients and caregivers with medical marijuana-related inquiries or reports of adverse reactions to the toll-free telephone line established by the state board of pharmacy in accordance with section 3796.17 of the Revised Code. Such sign shall be clearly visible and unobstructed.

3796:6-3-16

Monitoring, surveillance, and security requirements.

(A) All licensed dispensaries shall maintain security policies and procedures that include, but are not limited to:

- (1) A security plan with protocols for patient, caregiver, and employee safety and management and security of medical marijuana and currency;
- (2) Restricted access to the areas in the dispensary that contain medical marijuana to authorized employees;
- (3) Identification of authorized employees through means including current employee identification card in the employee's immediate possession whenever the employee is present at the dispensary;
- (4) Controlled access and prevention of loitering both inside and outside of the facility; 5. Conducting electronic monitoring; 6. Use of a panic button; and 7. Prepares for, protects against, and addresses how to handle any crisis that affects the security or operation of a dispensary in the event of strike, fire, flood or other natural disaster, or other situations of local, state or national emergency.

(B) All licensed dispensaries shall implement security measures to protect the premises, patients, caregivers and employees, including the following measures:

- (1) The dispensary department shall be accessible to patients and caregivers, dispensary employees, service professionals conducting business with the dispensary and who are escorted and supervised by a dispensary employee, and other persons authorized by Chapter 3796. of the Revised Code and this division. To prevent unauthorized access to the dispensary department, establish a locked door or barrier between the facility's entrance and the dispensary department.
- (2) Post a sign at all entry ways into any area of the dispensary containing medical marijuana, including a room with an approved vault, which sign shall be a minimum of twelve inches in height and twelve inches in width and shall state: "Do Not Enter – Restricted Access Area – Access Restricted to Authorized Employees Only." In lettering no smaller than one-half inch in height.
- (3) Maintenance of a supply of medical marijuana that is not more than the quantity required for normal, efficient operation;
- (4) Prevent individuals from remaining on the premises if they are not engaging in authorized activities under Chapter 3796. of the Revised Code or this division;
- (5) Develop a policy that addresses the maximum capacity and patient flow in the

waiting rooms, dispensary department, and patient care areas;

- (6) Dispose of medical marijuana in accordance with this division;
 - (7) During hours of operation, store all medical marijuana in established restricted access areas accessible only to authorized employees. The minimum number of dispensary employees necessary for efficient operations shall be in the restricted access area;
 - (8) Keep all safes, vaults and any other equipment or medical marijuana storage areas securely locked and protected from unauthorized entry;
 - (9) Keep a daily log of dispensary employees with access to the safe or vault and knowledge of the access code or combination;
 - (10) Keep all locks and security equipment in good working order. All security equipment must be inspected and tested at regular intervals, not to exceed thirty calendar days from the previous inspection and test to ensure the systems remain functional. A dispensary must maintain a log documenting such inspections and tests;
 - (11) Prohibit keys, if applicable, from being left in locks or stored or placed in a location accessible to persons other than specifically authorized personnel;
 - (12) Prohibit accessibility of security measures, including combination numbers, passwords or electronic or biometric security systems to persons other than persons specifically authorized in accordance with this division;
 - (13) Ensure that trees, bushes and other foliage outside of the dispensary do not allow for a person to conceal themselves from sight;
 - (14) Develop emergency policies and procedures for securing all product and currency following any instance of diversion, theft or loss of medical marijuana, and conduct an assessment to determine whether additional safeguards are necessary; and
 - (15) Develop sufficient additional safeguards in response to any special security concerns, or as required by the state board of pharmacy.
- (C) The state board of pharmacy may request or approve alternate security provisions that it determines are an adequate substitute for a security measure specified in this rule. Any additional protections may be considered by the state board of pharmacy in evaluating overall security measures.
- (D) When physical security controls become inadequate because of such items as a significant increase in the quantity of medical marijuana, the physical controls shall be expanded and extended accordingly.

(E) All licensed dispensaries shall have a security system that is operational at all times and that uses commercial grade equipment to prevent and detect diversion, theft, or loss of medical marijuana, including:

(1) A perimeter alarm;

(2) Motion detectors;

(3) Video cameras in all areas, unless prohibited by law, including all points of entry and exit from the dispensary, the dispensary department, and restricted access areas which shall be appropriate for the normal lighting conditions of the area under surveillance, so as to allow for the capture of clear and certain identification of any person located in the surveillance area. Such surveillance shall be sufficient to distinctly view the entire area under surveillance;

(4) A video camera or cameras recording at each point of sale location allowing for the identification of the dispensary employee dispensing the medical marijuana and any patient or caregiver purchasing the medical marijuana. The camera or cameras shall capture the sale, the individuals and the computer monitors used for the sale;

(5) In accordance with rule 3796:6-3-04 of the Administrative Code, a minimum of constant streaming from all video cameras during hours when a dispensary is closed;

(6) Recording from all video cameras during hours of operation, which the dispensary shall make available for immediate viewing by the state board of pharmacy or the board's authorized representative upon request and shall be retained for at least six months.

(a) Unaltered copies of such recordings shall be made available upon request;

(b) If a dispensary knows or should know of a pending criminal, civil, or administrative investigation or legal proceeding for which a recording may contain relevant information, the registered organization shall retain an unaltered copy of the recording until the investigation or proceeding is closed or the entity conducting the investigation or proceeding notifies the dispensary that it is not necessary to retain the recording.

(7) A duress alarm, which for purposes of this rule means a silent security alarm system signal generated by the entry of a designated code into an arming station to signal that the alarm user is being forced to turn off the system;

(8) A panic alarm, which for purposes of this section, means an audible security alarm system signal generated by the manual activation of a device intended

to signal a life threatening or emergency requiring a law enforcement response;

(9) A holdup alarm, which for purposes of this section, means a silent alarm signal generated by the manual activation of a device intended to signal a robbery in progress;

(10) An automatic voice dialer, which for purposes of this section means any electrical, electronic, mechanical, or other device capable of being programmed to send a prerecorded voice message, when activated, over a telephone line, radio or other communication system, to a law enforcement, public safety or emergency services agency requesting dispatch;

(11) A failure notification system that provides an audible, text or visual notification of any failure in the surveillance system. The failure notification system shall provide an alert to the dispensary within five minutes of the failure, either by telephone, email, or text message;

(12) The ability to immediately produce a clear color still photo that is a minimum of ninety-six hundred dpi from any camera image, either live or recorded. All cameras shall be capable of capturing at least thirty frames per second;

(13) A date and time stamp embedded on all recordings. The date and time shall be synchronized and set correctly and shall not significantly obscure the picture;

(14) The ability to remain operational during a power outage and ensure that all access doors are not solely controlled by an electronic access panel to ensure that locks are not released during a power outage; and

(15) All video surveillance equipment shall allow for the exporting of still images in an industry standard image format, including .jpg, .bmp, and .gif. Exported video shall have the ability to be archived in a proprietary format that ensures authentication of the video and guarantees that no alteration of the recorded image has taken place. Exported video shall also have the ability to be in an industry standard file format that can be played on a standard computer operating system. All recordings shall be erased or destroyed prior to disposal.

(F) A surveillance system at a dispensary shall have electronic monitoring capacity including:

(1) Monitors that are each at least nineteen inches or greater;

(2) A video printer capable of immediately producing a clear still photo from any video image; and

(3) A failure notification system that provides an audible and visual notification of

any failure in the electronic monitoring system.

- (G) All surveillance systems at a dispensary shall comply with the requirements herein and shall provide secure access and secure override access for the system to the state board of pharmacy in a manner suitable to the board. At any time and without notice, the dispensary surveillance system, and its component parts, shall be subject to testing by the state board of pharmacy. Each surveillance camera must be programed with a defined home position that remains consistent when a surveillance system is restarted. The defined home position feature must remain enabled at all times and allow for automatic return to the home position.
- (H) If dispensary premises present special security issues, such as an extremely large stock of medical marijuana, exposed handling or unusual vulnerability to diversion, theft or loss, the state board of pharmacy may require additional safeguards, including, but not limited to, a supervised watchman service.
- (I) If diversion, theft or loss of medical marijuana has occurred from a dispensary, the state board of pharmacy shall review and approve the improvements in the appropriate storage and security requirements for all medical marijuana in such dispensary and may require additional safeguards to ensure security of the medical marijuana.
- (J) Preventative maintenance must be performed on a dispensary's surveillance system at least annually by a vendor approved by the state board of pharmacy.

3796:6-3-17

Record keeping requirements.

(A) Dispensary records may be maintained electronically and be available for inspection by the state board of pharmacy upon request. The dispensary shall develop recordkeeping policies and procedures consistent with this division.

(B) Any dispensary that uses an electronic system for the storage and retrieval of patient information or other medical marijuana records, shall use a system that:

(1) Guarantees the confidentiality of the information contained within;

(2) Can be accessed by the state board of pharmacy in accordance with this division;

(3) Can provide safeguards against erasures and unauthorized changes in data after the information has been entered and verified by the dispensary;

(4) Contains a true audit trail that indicates and dates any edits or deletions to a patient record; and

(5) Is capable of being reconstructed or retrieved within three business days, in the event of a computer malfunction or accident resulting in the destruction of the database.

(C) Each dispensary shall keep a record of all medical marijuana received, dispensed, sold, destroyed, or used. The acts of dispensing and destroying of a controlled substance must be documented with the positive identification of the responsible individual. These records may be kept electronically if the method is approved by the state board of pharmacy and the records are backed-up each business day.

(D) Any dispensary intending to maintain records at a location other than the licensed dispensary premises must first send a written request to the state board of pharmacy. The request shall contain the dispensary name and license number of the requestor and the name and address of the alternate location. The state board of pharmacy will send written notification to the dispensary documenting the approval or denial of the request. A copy of the board's approval shall be maintained with the medical marijuana records located on the licensed dispensary premises. Any alternate location shall be secured and accessible only to authorized dispensary employees.

(E) Documentation maintained and organized by a dispensary in the normal course of business must include, but is not limited to:

(1) Background checks for employees

(2) Operating procedures;

(3) Inventory records;

(4) Audit records;

(5) Staffing plan;

(6) Business records that include:

(a) Assets and liabilities;

(b) Third party vendor list;

(c) Monetary transactions;

(d) Written or electronic accounts that shall include bank statements, journals, ledgers, and supporting documents, agreements, checks, invoices and vouchers; and

(e) Any other financial accounts reasonably related to dispensary operations.

(7) Surveillance records;

(8) Attendance logs;

(9) Employee training records;

(10) Quality assurance review logs;

(11) All other records required under Chapter 3796. of the Revised Code and this division.

(F) All records relating to the purchase or return, dispensing, distribution, destruction, and sale of medical marijuana shall be maintained under appropriate supervision and control to restrict unauthorized access.

3796:6-3-18

Confidentiality of patient records.

(A) Pursuant to division (B) of section 3796.08 of the Revised Code and division (C) of section 4729.80 of the Revised Code, patient-specific dispensary transactions are confidential and not a public record. A person having custody of, or access to, such records shall not divulge the contents thereof, or provide a copy thereof, to anyone except:

(1) The patient for whom the recommendation or medical marijuana order was issued or that patient's designated caregiver;

(2) The certified physician who issued the recommendation;

(3) Certified and or licensed health care personnel who are responsible for the care of the patient;

(4) A member, inspector, agent, or other investigator of the state board of pharmacy or any federal, state, county, or municipal officer whose duty is to enforce the laws of this state or the United States relating to drugs and who is engaged in a specific investigation involving a designated person or drug;

(5) A government agent charged with the responsibility of providing medical care for the patient upon a written request by an authorized representative of the agency requesting such information;

(6) If applicable, an agent of a medical insurance company who provides insurance coverage for medical marijuana upon authorization and proof of insurance by the patient or proof by the insurance company for those medications requested;

(7) An agent who contracts with the dispensary as a "business associate" in accordance with the regulations promulgated by the secretary of the United States department of health and human services pursuant to the federal standards for the privacy of individually identifiable health information;

(8) Any person, other than those listed in paragraphs (A)(1) to (A)(7) of this rule, only when the patient has given consent for such disclosure in writing, except where a patient is unable to deliver written consent, in which case, written consent must be provided by the patient's caregiver.

(a) Any consent must be signed by the patient or caregiver and dated;

(b) Any consent for disclosure is valid until rescinded by the patient or caregiver.

(c) In an emergency, a dispensary may disclose the recommendation information when it is deemed to be in the best interest of the patient. A dispensary employee making an oral disclosure in an emergency must

prepare a written statement showing the patient's name, the date and time the disclosure was made, and the nature of the emergency, and the names of the individuals by whom and to whom the information was disclosed.

(B) Patient-specific information related to the dispensing of medical marijuana which may be required as evidence of a violation of Chapter 3796. of the Revised Code or of this division shall be released to a member, inspector, agent, or investigator of the state board of pharmacy, state medical board or any state, county, or municipal officer whose duty is to enforce the laws of this state or the United States relating to drugs and who is engaged in a specific investigation involving a designated person or drug upon his request. Such person shall furnish a receipt to the person having legal custody of the records. If the record is a recommendation, the receipt shall list the following information:

(1) Recommendation identification number;

(2) The name of the patient;

(3) The quantity of the medical marijuana or medical marijuana product dispensed;

(4) Name of the recommending physician; and

(5) Date, name and address of the agency, and signature of the person removing the records.

(C) All patient-specific information related to the dispensing of medical marijuana, including consents, written statements of emergency disclosures, and written requests pursuant to paragraph (A)(8) of this rule, shall be kept on file at the dispensary for a period of three years in a readily retrievable manner.

3796:6-3-19

Employee training requirements.

(A) A dispensary designated representative shall establish and oversee a dispensary employee training program.

(B) Each dispensary shall maintain evidence of all training provided for every dispensary employee in its files. Such records are subject to inspection and audit by the state board of pharmacy. Acceptable forms of evidence are:

(1) Transcripts;

(2) Certificates of completion; or

(3) Other form of documentation which includes:

(a) The participant's name;

(b) Course title;

(c) Course content;

(d) Date(s) of training;

(e) Provider's name(s); and

(f) Signature of the course instructor.

(C) All dispensary employees shall receive foundational training regarding the dispensing of medical marijuana before dispensing any medical marijuana. Training received in accordance with this paragraph does not qualify as continuing education described in paragraphs (D) and (E) of this rule. Mandatory training for dispensary employees before the employee may begin dispensing medical marijuana includes:

(1) Relevant training on the drug database established pursuant to section 4729.75 of the Revised Code;

(2) Relevant training on the inventory tracking system established pursuant to section 3796.07 of the Revised Code;

(3) Responsible use training, which shall include specific instruction on:

(a) Use of the toll-free telephone line established pursuant to section 3796.17 of the Revised Code; and

(b) Learning to recognize signs of medicine abuse or adverse events in the medical use of marijuana by a patient.

(4) The proper use of security measures and controls that have been adopted by the

dispensary for the prevention of diversion, theft or loss of medical marijuana;

(5) Confidentiality requirements of a dispensary;

(6) Instruction on the different forms, methods of administration, and strains of medical marijuana;

(7) Instruction on qualifying conditions for medical marijuana patients;

(8) Authorized uses of medical marijuana in the treatment of qualifying conditions;

(9) Instruction regarding regulatory inspection preparedness and law enforcement interaction;

(10) Awareness of the legal requirements for maintaining status as a licensed dispensary employee; and

(11) Other topics as specified by the state board of pharmacy.

(D) Dispensary employees shall receive a minimum of sixteen hours of continuing education, on topics described in paragraph (E) of this rule, for each two-year licensing period. Continuing education hours shall not be carried over from one licensing period to another. A dispensary employee who is licensed within six months of a dispensary employee biennial renewal cycle shall be exempt from continuing education requirements.

(E) The designated representative shall be responsible for ensuring that each dispensary key and support employee receives continuing education on the following subjects during each biennial licensing period:

(1) Guidelines for providing information to patients and caregivers related to the risks associated with medical marijuana, including possible drug interactions;

(2) Guidelines for providing support to patients related to the patients' symptoms;

(3) Recognizing signs and symptoms of substance abuse;

(4) Guidelines for refusing to provide medical marijuana to an individual who appears to be impaired or abusing medical marijuana;

(5) The safe handling of medical marijuana, including an overview of common industry hazards, current health and safety standards, and dispensary best practices;

(6) Legal updates training pertaining to the Ohio medical marijuana control program; and

(7) Other topics as specified by the state board of pharmacy.

(F) Before any training in paragraphs (C) and (E) of this rule may be provided to dispensary employees for credit, a designated representative shall submit, in a manner determined by the board, all of the following items to the state board of pharmacy and obtain approval:

(1) Names and qualifications of the persons responsible for training content;

(2) The primary objective of the training and how it is intended to improve the participants' competency as dispensary employees;

(3) The number of intended trainings for the next twelve-month period and the number of participants for each training;

(4) Any brochures describing the activity;

(5) The method or manner of presenting materials;

(6) The agenda with a detailed time schedule;

(7) A set of training materials, if requested; and

(8) Any other items requested by the state board of pharmacy.

(G) Before training may be provided to dispensary employees for credit under paragraphs (C)(3)(b), (C)(7), and (E)(1) to (E)(4) of this rule, a designated representative shall submit, in a manner determined by the board, all of the following to the state board of pharmacy:

(1) A signed attestation by the person responsible for training content that the person or persons responsible for the content of the educational materials is a pharmacist licensed under Chapter 4729. of the Revised Code, or any of the following professionals authorized to prescribe under division (I) of section 4729.01 of the Revised Code:

(a) A clinical nurse specialist or certified nurse practitioner;

(b) A physician; or

(c) A physician assistant;

(2) The professional license number of the person or persons identified in paragraph (G)(1) of this rule; and

(3) That the person or persons approve of the content.

- (H) All training materials submitted for approval pursuant to this rule shall be submitted a minimum of sixty days prior to the date of presentation of the intended training. Any representation that the training has been approved for dispensary employee credit is prohibited until such approval is received by the designated representative who submitted the application for approval.
- (I) Training approved for credit by the state board of pharmacy pursuant to paragraphs (F) and (G) of this rule, shall be valid for dispensary employee continuing education credit for remainder of the two-year licensing period in which the continuing education credit will be offered. Approved training shall be available to any licensed dispensary employee.
- (J) Before or at the time of training, each participant shall be provided with course materials in the form of written, electronic, or other format that are of such quality and quantity to indicate that adequate time has been devoted to their preparation and that they will be of value to participants. Any presentation materials, electronic or otherwise, shall be subject to the same criteria as other materials.
- (K) Training credit shall not be awarded for breaks or opening or closing remarks. Only time of actual instruction shall count toward a credit hour. Partial hours shall be rounded to the nearest one-quarter of an hour and should be expressed in decimals.
- (L) The state board of pharmacy, upon receipt of evidence that any approved training program or training provider is not conforming to the requirements developed pursuant to this rule, may revoke or otherwise limit the scope of the board's prior approval.
- (M) An attendee at an out-of-state training may seek post-program approval if such approval is sought within sixty days after the program is presented. An application for out-of-state training shall be made on a completed form, developed in accordance with section 3796.04 of the Revised Code.
- (N) A designated representative shall, in cooperation with the individual or individuals described in paragraph (O) of this rule, provide oversight for the development and dissemination of:
- (1) Educational materials for patients and caregivers in accordance with paragraphs (C)(6) and (C)(7) of rule 3796:6-3-15 of the Administrative Code;
 - (2) A system for a patient or caregiver to document the patient's symptoms related to a qualifying condition that includes:
 - (a) A log book, maintained by the patient and/or caregiver, in which the patient or the caregiver may track the use and effects of medical marijuana;

- (b) A rating scale for symptoms associated with a qualifying condition;
 - (c) Guidelines for the patient's self-assessment, or if applicable, assessment of the patient by the caregiver; and
 - (d) Guidelines for reporting usage and symptoms to the recommending physician and any other treating physicians.
 - (3) Policies and procedures for refusing to provide medical marijuana to an individual who appears to be impaired or abusing medical marijuana.
- (O) A designated representative shall maintain all of the following records regarding the educational materials outlined in paragraph (N) of this rule:
- (1) A signed attestation by the person or persons responsible for content described in paragraph (N) of this rule is a pharmacist licensed under Chapter 4729. of the Revised Code, or any of the following professionals authorized to prescribe under division (I) of section 4729.01 of the Revised Code:
 - (a) A clinical nurse specialist or certified nurse practitioner;
 - (b) A physician; or
 - (c) A physician assistant;
 - (2) The professional license number of the person or persons identified in paragraph (O)(1) of this rule; and
 - (3) That the person or persons approve of the content.

3796:6-3-20

Medical marijuana dispensary internal inventory control system.

- (A) A dispensary designated representative shall have primary oversight of the dispensary's medical marijuana inventory control system. The inventory control system shall be real-time, web-based, backed-up at least daily and accessible by the state board of pharmacy immediately upon request.
- (B) A dispensary's inventory control system shall allow for tracking so that the oldest stock of medical marijuana is distributed first. A dispensary may deviate from this requirement, if such deviation is temporary and appropriate.
- (C) A dispensary shall establish and implement an inventory control system for its medical marijuana that documents an exact accounting of:
- (1) Each transaction and each day's beginning inventory, acquisitions, sales, disposal and ending inventory.
 - (2) Acquisitions of medical marijuana from a licensed processor or cultivator holding a plant-only processor designation, including:
 - (a) A description of the products including the quantity, strain, variety and batch number of each product received;
 - (b) For each product, the finished form, number of units or volume of each finished form in each container, the number of commercial containers of each finished form;
 - (c) The name and license number of each of the processors and cultivators providing the medical marijuana;
 - (d) The name and license number of the licensed processor and cultivator agents delivering the medical marijuana;
 - (e) The name and license number of the licensed dispensary employee receiving the medical marijuana;
 - (f) The date of acquisition; and
 - (g) Any other information deemed appropriate by the state board of pharmacy.
 - (3) Records of the sale or dispensing of medical marijuana and denials of such sales, which shall contain:
 - (a) A description of the products including the quantity, strain, variety and batch number of each product dispensed;

- (b) The name and license number of the licensed dispensary employee selling, dispensing, or denying the sale or dispensing of the medical marijuana;
 - (c) The date of dispensing; and
 - (d) The name and registration number of the patient and, if applicable, the caregiver.
- (4) The disposal of medical marijuana, including:
 - (a) A description of the products, including quantity, strain, variety, batch number and cause for the medical marijuana being destroyed;
 - (b) The name and license number of the dispensary employee destroying the medical marijuana or medical marijuana product;
 - (c) The name and license number of the dispensary key employee verifying the destruction of the medical marijuana or medical marijuana product;
 - (d) The method of disposal and the name, address and telephone number of the disposal company; and
 - (e) The date of disposal.
- (D) The designated representative shall conduct and document an audit of the dispensary's daily inventory according to generally accepted accounting principles at least once weekly.
 - (1) If the audit identifies a reduction in the amount of medical marijuana in the dispensary's inventory not due to documented causes, the dispensary shall determine where the loss occurred and immediately take and document corrective action. The dispensary shall immediately inform the state board of pharmacy of the loss by telephone and provide written notice of the loss and the corrective action taken within two business days after first discovery.
 - (2) If the reduction in the amount of medical marijuana in the inventory is due to criminal activity or suspected criminal activity, the dispensary shall immediately make a report identifying the circumstances surrounding reduction to the state board of pharmacy and law enforcement with jurisdiction where the suspected criminal acts occurred.
 - (3) If the audit identifies an increase in the amount of medical marijuana in the dispensary's inventory not due to documented causes, the dispensary shall determine where the increase occurred and take and document corrective action.

(4) The dispensary shall submit quarterly financial audit statements in a format and medium approved by the state board of pharmacy. Quarterly audits may include, but are not limited to, an income statement, balance sheet and weekly medical marijuana inventory, including marijuana acquisition, wholesale cost and sales, prepared in accordance with generally accepted accounting principles. Annually, the dispensary shall submit an audit including the same information, compiled and certified by an auditor or certified public accountant. Both such quarterly and annual submissions shall be in a format and medium approved by the state board of pharmacy.

(E) A dispensary shall:

(1) Maintain the documentation required of this rule in a secure, locked location for three years from the date on the document. These records may be kept electronically if the method is approved by the state board of pharmacy and the records are backed-up each business day;

(2) Provide any documentation required to be maintained in this rule to the state board of pharmacy for review upon request; and

(3) If maintaining a bank account, retain for a period of three years a record of each deposit or withdrawal from the account.

(F) A dispensary shall not accept returns of medical marijuana, unless the return is pursuant to a program offered under paragraph (D) of rule 3796:6-3-14 of the Administrative Code, a recall, or the consequence of an error in dispensing. If medical marijuana is abandoned at the dispensary, it shall be accounted for and destroyed. All returned or abandoned medical marijuana shall be destroyed in compliance with rule 3796:6-3-14 of the Administrative Code. A dispensary shall notify the state board of pharmacy in writing of any returned or abandoned medical marijuana.

(G) All records of each day's beginning inventory, acquisitions, sales, disposal and ending inventory shall be kept for a period of three years at the place where the medical marijuana and medical marijuana products are located. Any dispensary intending to maintain such records at a location other than this place must first send a written request to the state board of pharmacy. The request shall contain the dispensary name and license number and the name and address of the alternate location. The state board of pharmacy will send written notification to the dispensary documenting the approval or denial of the request. A copy of the state board of pharmacy's approval shall be maintained with the other records of medical marijuana. Any such alternate location shall be secured and accessible only to authorized dispensary employees.

3796:6-3-21

Recall procedures.

- (A) A dispensary shall establish policies and procedures to conduct mandatory and voluntary recalls of medical marijuana. The procedure shall be adequate to deal with recalls due to any action initiated at the request of the department of commerce or the state board of pharmacy and any voluntary action by the dispensary to remove defective or potentially defective medical marijuana from the market or any action undertaken to promote public health and safety by replacing existing medical marijuana with improved products or packaging.
- (B) A dispensary's policy must establish a plan for communicating a recall of medical marijuana. The communication plan should include:
- (1) A mechanism to contact all customers who have, or likely have, obtained the product from the dispensary. The communication must include information on the process for return of the recalled product;
 - (2) A mechanism to contact the processor or cultivator that manufactured the recalled product;
 - (3) Communication with the state board of pharmacy, the department of commerce, and the state medical board within twenty-four hours; and
 - (4) Outreach via media, as necessary and appropriate.
- (C) Any recalled medical marijuana or medical marijuana product returned to the dispensary because of the recall must be destroyed by the dispensary, in a manner consistent with rule 3796:6-3-14 of the Administrative Code.

3796:6-3-22

Prohibitions.

(A) No dispensary employee may share office space with, compensate, receive compensation from, or refer patients to a physician holding a certificate to recommend issued by the state medical board under section 4731.30 of the Revised Code.

(B) A dispensary shall not allow a physician holding a certificate to recommend issued by the state medical board under section 4731.30 of the Revised Code to conduct a physical examination of a patient or any follow up care for purposes of diagnosing or treating a qualifying medical condition at the dispensary.

(C) No dispensary shall be open or in operation, and no person shall be in the dispensary department, unless a designated representative is actively employed by the dispensary and available for consultation by any dispensary employee. At all other times, the dispensary shall be closed and properly secured, in accordance with standard operating security procedures and in compliance with this division.

(D) No dispensary shall be left unattended by dispensary employees during hours of operation.

(E) No dispensary shall sell anything other than authorized medical marijuana, medical marijuana products, medical marijuana devices, and advertising materials authorized pursuant to rule 3796:6-3-24 of the Administrative Code.

(F) No dispensary shall offer coupons except in the case of coupons intended to benefit patients registered as indigent or as a veteran.

(G) No medical marijuana or medical marijuana products shall be consumed on the premises of a dispensary.

(H) No food or beverages shall be consumed on the premises of a dispensary, except that complimentary non-alcoholic beverages may be available for patients and caregivers who are at the dispensary. Licensed dispensary employees shall be authorized to consume food and non-alcoholic beverages in designated employee break areas. No medical marijuana shall be accessed, stored, possessed, or administered in designated employee break areas.

(I) A dispensary shall not produce or manufacture medical marijuana or medical marijuana products without being licensed pursuant to this division by the department of commerce.

(J) No dispensary shall operate a drive through window (pickup unit).

(K) No dispensary shall transport medical marijuana or medical marijuana products to residences of patients or caregivers.

(L) A dispensary shall not operate if its surveillance equipment is inoperable. If the

3796:6-3-22

2

surveillance equipment is partially inoperable, that matter should be immediately reported to the state board of pharmacy to determine whether the dispensary may continue to operate in any fashion.

3796:6-3-23

Dispensary access.

(A) Except as provided under this division, no person, except a dispensary employee, or a cultivator or processor employee who is delivering medical marijuana, shall be allowed in the dispensary department without an active qualifying patient or caregiver registration issued by the state board of pharmacy.

(B) In addition to authorized dispensary employees, cultivator employees, and processor employees, the following may be granted access to a dispensary so long as presence is maintained in the dispensary visitor log and obtain a visitor identification badge from the dispensary, prior to entering the dispensary:

(1) One individual accompanying each patient or caregiver who shall remain in the waiting area. Such visitors shall remain under supervision of a dispensary employee while on dispensary premises;

(2) Third party service personnel, such as technicians, utility workers, and employee representatives, may access portions of the premises that do not contain medical marijuana without prior written notice, provided that such visitors are entered in the visitor log and are accompanied at all times by a dispensary employee. Such visitors may only enter non-restricted areas, such as employee break rooms or restrooms, and may not have access to areas containing medical marijuana without prior approval or in the event of an emergency in accordance with paragraph (C) of this rule; and

(3) Local, state or federal law enforcement or government officials if necessary to perform civil or administrative governmental duties.

(C) Upon prior written request, the state board of pharmacy may authorize persons who are otherwise prohibited from being on dispensary premises, temporary access to a dispensary.

(1) All persons not expressly permitted to be on the premises of a dispensary under this rule, but who have been authorized, in writing, to enter the dispensary by the state board of pharmacy, shall obtain a visitor identification badge from the dispensary, prior to entering the dispensary.

(2) A dispensary employee shall escort and supervise such visitors at all times that the visitor is on dispensary premises. Visitors shall visibly display the visitor identification badge at all times that the visitor is on dispensary premises and shall return the visitor identification badge to a dispensary employee upon exiting the dispensary.

(3) All visitors shall log in and out. The dispensary shall maintain the visitor log, which shall include the date, time and purpose of the visit and which shall be available to the state board of pharmacy.

(4) If an emergency requires the presence of a visitor and makes it impracticable for

the dispensary to obtain a waiver pursuant to this section, the dispensary shall provide written notice to the state board of pharmacy as soon as practicable after the onset of the emergency. Such notice shall include the name and company affiliation of the visitor, the purpose of the visit, and the date and time of the visit. The dispensary shall monitor and maintain a log of such visit.

(D) No medical marijuana shall be sold, dispensed, or distributed to a patient or caregiver via a delivery service or any other manner outside of a dispensary, except that a caregiver may deliver medical marijuana to the caregiver's qualified patient.

3796:6-3-24

Advertising, marketing, and signage.

(A) For purposes of this rule “advertisement” means any written or verbal statement, illustration, or depiction created to induce sales through a combination of letters, pictures, objects, lighting effects, illustrations, or other similar means. An “advertisement” includes brochures, promotional material and other marketing materials. An advertisement that renders medical marijuana or medical marijuana products attractive to children is prohibited.

(B) The state of Ohio has a compelling interest in ensuring that any advertisement or marketing campaigns related to or involving medical marijuana does not encourage, promote, or otherwise create any impression that marijuana is legal or acceptable to use in a manner except as specifically authorized under Chapter 3796. of the Revised Code, or the rules promulgated in accordance with Chapter 3796. of the Revised Code, or that recreational marijuana use has any potential health or therapeutic benefits, or that recreational marijuana use or possession is somehow legal.

(C) A dispensary shall not use a name, logo, sign or advertisement unless the name, logo, sign or advertisement has been submitted to the state board of pharmacy and the applicable advertising approval fee has been paid. Materials submitted to the board shall include, but are not limited to:

(1) A brief description of the format, medium and length of the distribution;

(2) Verification that an actual patient is not being used on the advertisement;

(3) Verification that an official translation of a foreign language advertisement is accurate;

(4) Annotated references to support statements related to effectiveness of treatment; and

(5) A final copy of the advertisement, including a video where applicable, in a format acceptable to the board.

(D) Until September 8, 2019, the state board of pharmacy shall have fifteen business days to review materials submitted under paragraph (C) of this rule. Beginning September 9, 2019, the board shall have ten business days to review materials submitted under paragraph (C) of this rule.

(1) After the state board of pharmacy reviews the proposed advertisement, the board may:

(a) Require a specific disclosure be made in the advertisement in a clear and conspicuous manner if the advertisement would be false or misleading without such a disclosure;

- (b) Make recommendations with respect to changes that are necessary to protect the public health, safety, and welfare; or
 - (c) Prohibit the use of the advertisement.
- (2) If the state board of pharmacy does not complete one of the actions permitted under paragraph (D)(1) of this rule within the applicable review period, the submitted materials may be used in accordance with this division. Failure by the board to act within the applicable review period, however, does not constitute a waiver of its authority to undertake any of the actions permitted by this rule and the rules promulgated pursuant to Chapter 3796. of the Revised Code, if it is subsequently determined that the submitted material violates any provision of this Chapter 3796. of the Revised Code or this division.
- (E) No dispensary shall place or maintain, or cause to be placed or maintained, an advertisement of medical marijuana or medical marijuana products, including paraphernalia, in any form or through any medium:
 - (1) Within five hundred feet of the perimeter of a prohibited facility, a community addiction services provider as defined under section 5119.01 of the Revised Code, a game arcade admission to which is not restricted to persons aged twenty-one years or older, or any other location where the placement of the advertisement targets or is attractive to children, as determined by the state board of pharmacy;
 - (2) On a billboard;
 - (3) On a radio or television broadcast:
 - (a) A radio or television broadcast includes a system for transmitting sound alone or visual images and sound; and
 - (b) Includes broadcast, cable, on-demand, satellite, or internet programming;
 - (4) On any handheld or other portable sign;
 - (5) With respect to public places, on a handbill, leaflet, or flyer directly handed, deposited, fastened, thrown, scattered, cast, or otherwise distributed to any person;
 - (6) Left upon any private property without the consent of the property owners;
 - (7) On or in a public transit vehicle or public transit shelter; or
 - (8) On or in a publicly-owned or operated property.

(F) An advertisement for a dispensary, regardless of the medium, shall not:

- (1) Include any image bearing a resemblance to a cartoon character, fictional character whose target audience is children or youth, or pop culture icon;
- (2) Market, distribute, offer, sell, license or cause to be marketed, distributed, offered sold or licensed, any apparel or other merchandise related to the sale of marijuana, to an individual under eighteen years of age.
- (3) Contain any statement, design, representation, picture or illustration that is:
 - (a) False or misleading;
 - (b) A departure from the medical marijuana registered name, including, marijuana leaves, slang terms, and similar references;
 - (c) Disparaging to a competitor's products;
 - (d) Obscene or indecent; or
 - (e) Related to the safety or efficacy of marijuana, unless supported by substantial evidence or substantial clinical data.
- (4) Suggest or otherwise indicate that the product or entity in the advertisement has been approved or endorsed by the department of commerce, the state board of pharmacy, the state of Ohio or any person or entity associated with the state of Ohio; or
- (5) Encourage the use of medical marijuana for a condition other than a qualifying medical condition.

(G) A dispensary may develop a website or otherwise establish a web presence advertising the name, business address, contact information, and services provided by a dispensary. A dispensary operating a website shall require age affirmation of at least eighteen years of age by the user before access to the website is granted. A dispensary that establishes any type of web presences shall not:

- (1) Allow for direct engagement between consumers or user-generated content or reviews;
- (2) Provide a medium for website users to transmit website content to individuals under the age of eighteen;
- (3) Display or otherwise post content that has not been submitted to the state board of pharmacy pursuant to paragraph (C) of this rule;

(4) Facilitate sales transactions to any patient, caregiver, or medical marijuana entity;

(5) Target a consumer audience under the age of eighteen; or

(6) Maintain a web presence in violation of Chapter 3796. of the Revised Code or this division;

(H) A dispensary shall not:

(1) Display external signage larger than sixteen inches in height by eighteen inches in width that is not attached to the entity's permanent structure;

(2) Illuminate a sign advertising medical marijuana at any time;

(3) Sell or otherwise distribute clothing, apparel, or wearable accessories, unless such sale or distribution is to an employee for purposes of identification while working for the licensed entity;

(4) Advertise medical marijuana brand names or use graphics related to medical marijuana on the exterior of the building in which the dispensary is operating; and

(5) Display medical marijuana or paraphernalia that is visible from the exterior of the dispensary.

(I) I. No dispensary shall license or otherwise expressly authorize any third party to use or advertise in a manner prohibited by this division.

(J) J. This rule, as it pertains to advertisements, does not apply to a noncommercial message.

*** DRAFT - NOT YET FILED ***

3796:6-4-01

Enforcement generally.

Pursuant to section 3796.15 of the Revised Code, the state board of pharmacy shall regulate activities and enforce compliance with activities as they relate to the dispensing of medical marijuana and medical marijuana products to registered patients and designated caregivers. The state board of pharmacy shall investigate all activities related to Chapters 2925., 3715., 3719., and 3796. of the Revised Code as they relate to dispensing operations.

3796:6-4-02

Compliance and inspection of medical marijuana dispensaries.

(A) Dispensaries are subject to random and unannounced dispensary inspections and medical marijuana testing by the state board of pharmacy.

(B) The state board of pharmacy and its authorized representatives may:

(1) Enter any place, including a vehicle, in which medical marijuana is held, stored, dispensed, sold, produced, delivered, transported, manufactured, or disposed of;

(2) Inspect in a reasonable manner, the place and all pertinent equipment, containers, and labeling and all things including records, files, financial data, sales data, shipping data, pricing data, personnel data, research, papers, processes, controls, and facility, and inventory of any stock of medical marijuana; and

(3) Obtain any medical marijuana or medical marijuana product, any labels or containers for medical marijuana, or paraphernalia.

(C) The state board of pharmacy may investigate an applicant, application, a dispensary with under a provisional license, a licensed dispensary, principle officer, dispensary employee, third party vendor or any other party associated with a dispensary for an alleged violation of Chapter 3796. of the Revised Code or this division or to determine qualifications to be granted a license by the state board of pharmacy.

(D) The state board of pharmacy may require an applicant, a dispensary under a provisional license, or a licensed dispensary to produce documents, records or any other material pertinent to the investigation of an application or alleged violation of Chapter 3796. of the Revised Code or this division. Failure to provide the required material may be grounds for denial or discipline.

(E) Every person charged with preparation, obtaining or keeping records, logs, reports or other documents in connection with Chapter 3796. of the Revised Code or this division, and every person in charge, or having custody of those documents shall, upon request by the state board of pharmacy, make the documents immediately available for inspection and copying by the state board of pharmacy, the state board of pharmacy's authorized representative or others authorized by law to review the documents.

(F) All information collected by the state board of pharmacy in the course of an examination, inspection or investigation of a licensee or applicant, including, but not limited to, any complaint against a license filed with the state board of pharmacy and information collected to investigate a complaint, shall be maintained for the use of the state board of pharmacy and shall not be disclosed except as authorized by state or federal law.

3796:6-4-03

Grounds for discipline.

(A) The state board of pharmacy, after notice and hearing in accordance with Chapter 119. of the Revised Code, may revoke, suspend, limit, place on probation, or refuse to grant or renew a dispensary provisional license, certificate of operation, or a dispensary employee license, or may impose a monetary penalty or forfeiture if the board finds that the licensee:

- (1) Has violated any state or federal law or rule, regardless of jurisdiction in which acts were committed, except for minor traffic violations such as parking violations, speeding tickets and violations such as failure to obey a red light, failure to use a turn signal or expired registration. Acts in accordance to Chapter 3796. of the Revised Code and this division that constitute a violation of federal law shall not be considered as grounds for discipline;
- (2) Has committed a crime of moral turpitude, as defined in section 4776.10 of the Revised Code;
- (3) Demonstrates an absence of good moral character and habits;
- (4) Guilty of dishonesty or unprofessional conduct over the course of his or her dispensary duties;
- (5) Is addicted to or abusing alcohol or drugs or impaired physically or mentally to such a degree as to render the employee unfit to operate or work in a dispensary;
- (6) Has been convicted of a misdemeanor or felony related to, or committed in, any function related to the operation of a dispensary;
- (7) Violated, conspired to violate, attempted to violate, or aided and abetted the violation of any of the provisions of Chapter 2925., 3715., 3719., 3796., or 4729. of the Revised Code, or of any rule adopted by the board under those provisions;
- (8) Divided or agreed to divide remuneration made in the course of the cultivation, processing, dispensing, purchase or sale of medical marijuana with any licensed health professional certified to recommend medical marijuana;
- (9) Knowingly lent the employee's name to an illegal operator of a medical marijuana cultivating, processing, or dispensing facility or having professional connection with an illegal medical marijuana entity;
- (10) Allowed a physician with a certificate to recommend medical marijuana to obtain an ownership or investment interest in or a compensation arrangement with a licensed dispensary;
- (11) Allowed a recommending physician to conduct a physical examination or

follow up care on dispensary premises;

- (12) Allowed medical marijuana to be consumed on licensed dispensary premises or consumed medical marijuana on licensed dispensary premises;
- (13) Committed fraud, misrepresentation, or deception in furnishing information to the state board of pharmacy, including in applying for or securing a license, registration, or renewal issued under Chapter 3715., 3719., 3796., or 4729. of the Revised Code;
- (14) Failed to comply with an order of the board or a settlement agreement;
- (15) Engaged in a pattern of conduct that demonstrates incompetence;
- (16) Failed to respond to a written request for information by the state board of pharmacy within thirty days, unless otherwise provided in the written request from the state board of pharmacy;
- (17) Was arrested and/or convicted of a disqualifying offense;
- (18) Has a causal connection to a finding by the state board of pharmacy of a substantial discrepancy in a state board of pharmacy audit of medical marijuana;
- (19) Has a causal connection to a finding by the state board of pharmacy of a substantial discrepancy in a state board of pharmacy audit of capital or funds;
- (20) Has an inability to operate using reasonable judgment, skill or safety due to physical or mental illness or other impairment or disability, including without limitation, deterioration through the aging process or loss of motor skills or mental incompetence;
- (21) Has engaged in or permitted the fraudulent use of a dispensary employee identification card;
- (22) Tampered with, falsified, altered, modified, or duplicated a dispensary employee identification card;
- (23) Failed to report to the state board of pharmacy, within five calendar days of becoming aware, that an employee identification card has been lost, stolen, or destroyed;
- (24) Failed to report to the state board of pharmacy, within five calendar days, any arrest, charge, or conviction for a disqualifying offense;
- (25) Failed to report to the state board of pharmacy, within five calendar days, any adverse action taken against the employee by any licensing jurisdiction in any

state or any territory of the United States or any foreign jurisdiction, any governmental agency, any law enforcement agency or any court;

- (26) Failed to notify the state board of pharmacy of a change of address;
- (27) Disclosed customer names, personal information or protected health information in violation of any state or federal law;
- (28) Dispensed medical marijuana to any person other than a qualified patient or designated caregiver, or when otherwise prohibited under this division;
- (29) Is an entity that operated as a dispensary before obtaining a certificate of operation from the state board of pharmacy;
- (30) Is an associated key or key employee who failed to report to the state board of pharmacy when he or she knew or should have known that a dispensary employee was using medical marijuana when the employee does not have a qualifying patient registration;
- (31) Is subject to any fact or condition which, if it had existed at the time of the original application for the license, would have warranted the denial of the license;
- (32) Selling, distributing, transferring in any manner, or giving medical marijuana or medical marijuana products to any unauthorized persons;
- (33) Permitted a person without a valid dispensary employee license to be employed by a dispensary;
- (34) Failed to assign a designated representative as required under this division;
- (35) Failed to hire sufficient personnel or maintained employment of employees who were unqualified in training or experience to properly operate a dispensary;
- (36) Engaged in any pattern of activity that causes harm to the community;
- (37) Dispensed or allowed to be dispensed, medical marijuana with improper labeling or medical marijuana that did not meet the labeling requirements of this division;
- (38) Failed to provide appropriate education to a patient or caregiver in compliance with rule 3796:6-3-15 of the Administrative Code;
- (39) Knowingly provided inaccurate or inappropriate education to a patient or caregiver;

- (40) Has ever been denied a license to prescribe, dispense, administer, supply, or sell a controlled substance by the appropriate issuing body of any state or jurisdiction, based, in whole or in part, on the inappropriate prescribing, dispensing, administering, supplying or selling a controlled substance or other dangerous drug other than medical marijuana dispensed;
- (41) Has held a license issued by the drug enforcement administration or a state licensing agency in any jurisdiction, under which the person may prescribe, dispense, administer, supply or sell a controlled substance, that has ever been restricted, based, in whole or in part, on the prescriber's inappropriate prescribing, dispensing, personally furnishing, diverting, administering, supplying, or selling a controlled substance or other dangerous drug;
- (42) Has been subject to disciplinary action by any licensing entity that was based, in whole or in part, on the prescribers inappropriate prescribing, dispensing, diverting, administering, personally furnishing, diverting, supplying or selling a controlled substance or other dangerous drug;
- (43) Canceled a bond and the licensee failed to file a new bond with the state board of pharmacy in the required amount on or before the effective date of cancellation;
- (44) Placed or maintained, or caused to be placed or maintained, an unauthorized advertisement of medical marijuana or medical marijuana products; and
- (45) Failed to prevent diversion, theft, or loss of medical marijuana or to notify the state board of pharmacy thereof;
- (46) Engaged in any other conduct for which the board may impose discipline as set forth in rules adopted under Chapter 3796. of the Revised Code or this division.
- (B) A dispensary is responsible to the state or local governmental entity for all expenses incurred by the state or local governmental entity in the following:

 - (1) Cleaning up, mitigating or remedying any environmental damage caused by the dispensary; and
 - (2) Administrative costs for investigation and prosecution.
- (C) When considering disciplinary action against a dispensary employee, the state board of pharmacy shall consider compliance with rule 3796:6-3-20 of the Administrative Code as a mitigating factor.

3796:6-4-04

Revocation, suspension and termination of a medical marijuana dispensary certificate of operation or employee license.

(A) The state board of pharmacy, after notice and hearing in accordance with Chapter 119. of the Revised Code, may impose any one or more of the following sanctions on a dispensary or a dispensary employee if the board finds evidence of any of the conduct set forth in rule 3796:6-4-03 of the Administrative Code:

(1) Revoke, suspend, restrict, limit, or refuse to grant or renew a license, including a dispensary certificate of operation;

(2) Reprimand or place the license holder on probation;

(3) Impose a monetary penalty, not to exceed fifty thousand dollars for each finding, or forfeiture.

(B) Any licensee whose license is revoked, suspended, or refused, shall return his or her identification card to the offices of the state board of pharmacy within ten business days of receipt of notice of such action.

(C) If, the board has reasonable cause to believe that a dispensary employee is physically or mentally impaired, the board may require the employee to submit to a physical or mental examination, or both.

3796:6-4-05

Suspension of a dispensary employee license without a hearing.

(A) Pursuant to division (B)(3) of section 3796.14 of the Revised Code, the state board of pharmacy may suspend a dispensary employee license by using a telephone conference call to review the allegations and take a vote under the following circumstances:

(1) Upon a finding that a dispensary employee is abusing or becomes addicted to the use of controlled substances the dispensary employee's license shall be suspended by the board until the person offers satisfactory proof to the state board of pharmacy that the person no longer is addicted to the use of controlled substances;

(2) If the board determines that there is clear and convincing evidence that continuation of the dispensary employee's practice or method of dispensing, using or furnishing medical marijuana presents a danger of immediate and serious harm to oneself or to others, the state board of pharmacy shall suspend the person's license without a hearing;

(3) On receiving notification that a dispensary employee has been convicted of or pleaded guilty to a disqualifying offense, the state board of pharmacy shall suspend the person's license without a hearing;

(4) On receiving notification that a dispensary employee pleaded guilty to, was found guilty by a jury or court of, or was convicted of a felony drug abuse offense; a finding by a court of the dispensary employee's eligibility for intervention in lieu of conviction; a dispensary employee's plea of guilty to, or a finding by a jury or court of the employee's guilt of, or the employee's conviction of an offense in another jurisdiction that is substantially the same as a felony drug abuse offense; or a finding by a court of the employee's eligibility for treatment or intervention in lieu of conviction in another jurisdiction, the state board of pharmacy immediately shall suspend the license of that person.

(B) The board shall follow the procedure for suspension without a prior hearing in section 119.07 of the Revised Code. The suspension shall remain in effect, unless removed by the board, until the board's final adjudication order becomes effective, except that if the board does not issue its final adjudication order within ninety days after the hearing the suspension shall be void ninety-one days after the hearing.

*** DRAFT - NOT YET FILED ***

3796:6-4-06

Suspension of a dispensary provisional license or certificate of operation without a hearing.

Pursuant to division (B)(3) of section 3796.14 of the Revised Code, if the state board of pharmacy determines that there is clear and convincing evidence that the method used by a dispensary to possess or dispense medical marijuana presents a danger of immediate and serious harm to others, the board may suspend the dispensary's license without a hearing. Upon the suspension of a dispensary certificate of operation, all medical marijuana shall be placed under seal in accordance with division (C) of section 3796.15 of the Revised Code. The board shall follow the procedure for suspension without a prior hearing in section 119.07 of the Revised Code. The suspension shall remain in effect, unless removed by the board until the board's final adjudication order becomes effective, except that if the board does not issue its final judgment order within ninety days after the hearing, the suspension shall be void on the ninety-first day after the hearing.

3796:6-4-07

Failure to properly store medical marijuana.

(A) Any dispensary that does not store medical marijuana in compliance with this division, or that stores medical marijuana at a location other than that for which the dispensary license was issued, may have its license suspended or revoked. In such a case, all medical marijuana under the dispensary's control will be subject to being placed under seal by the state board of pharmacy in compliance with division (C) of section 3796.15 of the Revised Code.

(B) The state board of pharmacy may retrieve samples of dispensary inventory and submit such samples to a testing laboratory for appropriate testing upon reasonable suspicion that expired, damaged, deteriorated, misbranded or adulterated medical marijuana:

(1) Is being or has been dispensed to patients or caregivers; or

(2) Is intermingled with a dispensary's medical marijuana inventory until they are destroyed in accordance with the dispensary's destruction policy. Expired, damaged, deteriorated, misbranded or adulterated medical marijuana shall not be stored at the licensed dispensary for more than one week.

*** DRAFT - NOT YET FILED ***

3796:6-4-08

Restoration of license from discipline.

At any time after the successful completion of a term of probation or suspension of a license, the state board of pharmacy may reinstate the license to active status, if all conditions precedent are demonstrated and are determined by the board to be met.

*** DRAFT - NOT YET FILED ***

3796:6-4-09

Interagency cooperation.

Whenever the state board of pharmacy revokes or suspends a medical marijuana dispensary license, it shall notify the department of commerce, the medical board, local police departments and county sheriff's office whose jurisdiction includes the licensee's dispensing location.

3796:6-4-10

Variances.

(A) The state board of pharmacy may grant variances from this division in cases in which:

(1) The applicable provision is not statutorily mandated;

(2) Granting the variance will not be contrary to public interest;

(3) No party will be injured by the granting of the variance; and

(4) The rule from which the variance is granted would, in the particular case, be unreasonable or unnecessarily burdensome.

(B) An approval for a variance may be revocable, may be granted for a limited period or may be granted subject to the conditions as the state board of pharmacy may prescribe.

3796:6-5-01

Medical marijuana dispensary fee structure.

(A) The following non-refundable licensing fees are as follows:

- (1) The application fee for a dispensary license is five thousand dollars. One application fee must be submitted with each application.
- (2) The certificate of operation fee is seventy thousand dollars. One certificate of operation fee must be submitted for each certificate of operation.
- (3) In addition to the certificate of operation fee, the fee to file an untimely certificate of operation renewal is ten thousand dollars.
- (4) The application fee for a dispensary associated key employee is five hundred dollars. This fee includes the associated key employee identification card.
- (5) The application fee for a dispensary key employee is two hundred fifty dollars. This fee includes the key employee identification card.
- (6) The application fee for a dispensary support employee is one hundred dollars. This fee includes the support employee identification card.
- (7) The biennial renewal fee for a dispensary license is seventy thousand dollars.
- (8) The biennial renewal fee for a dispensary associated key employee card is five hundred dollars.
- (9) The biennial renewal fee for a dispensary key employee card is two hundred fifty dollars.
- (10) The biennial renewal fee for a dispensary support employee card is one hundred dollars.
- (11) The fee for a reissued dispensary certificate of operation or employee identification card is fifty dollars.

(B) The following non-refundable, change in description fees are as follows:

- (1) The fee for a change in ownership is five thousand dollars.
- (2) The fee for a relocation is five thousand dollars.
- (3) The fee for a major modification or renovation is five thousand dollars.

(C) The non-refundable advertising approval fee is one hundred dollars per advertisement.

(D) All fees required under this rule shall be paid to the state board of pharmacy by

*** DRAFT - NOT YET FILED ***

3796:6-5-01

2

check, or other method approved by the state board of pharmacy, made payable to the treasurer, State of Ohio.