Dispensary Licensee Newsletter - February 2020

Editor's Note: This month we bring you a review of application statuses in eLicense, a reminder on pesticide disclosures, and a list of approved vaporizing devices.

- Board of Pharmacy's MMCP Staff

IMPORTANT UPDATES

Expired Registrations

Now that it has been over one year since the activation of the Patient & Caregiver Registry, we are beginning to see patients and caregivers whose registrations are expiring. Please make sure to check the expiration date on a registrant's card in the Registry when they enter a dispensary. If the expiration date on their card has passed, they are **not** authorized to purchase medical marijuana.

Individuals Active Under Two Roles

The Board has been notified of some confusion when a registrant is registered as both a patient & a caregiver, but has only paid the registration fee for one role. The registrant's Registry card will state which role(s) they have activated.

For example: a Registrant comes to your dispensary claiming to be a patient & a caregiver. They have an active recommendation, but their card only says "Caregiver." In that case, they can only purchase as a caregiver, and not as a patient, because they haven't activated the patient portion of their registration.

LICENSING

eLicense Statuses

As a reminder, please review the eLicense application status definitions below to better understand the stages of submission/review of an application. Any application in Pending or Generate Fee status is not considered a public record of the Board and therefore we cannot review it.

- Pending: applicant has created application in eLicense but has not finished it.
- Generate Fee: applicant has finished application but has not paid for it.
- Submitted: applicant has finished application and paid but app has not been reviewed by Licensing.
- In Review: licensing has reviewed application and app is incomplete or needs further review.
    - Incomplete submissions, background checks, enforcement review, etc.
- Active
- Closed: license was never issued by the Board.
- Inactive
    - Expired: reinstatement eligible – licensee can regain license status once new employer has been established.
    - Suspended: Summarily Suspended by the Board, or the licensee has received a Board Order suspending their license as the outcome of a 119 Hearing.

COMPLIANCE

Pesticide Disclosures at Dispensaries

Ohio Administrative Code 3796:6-3-09 requires a dispensary to "provide with all medical marijuana dispensed, accompanying material that discloses any pesticide applied to the marijuana plants and growing medium during production." In order for dispensaries to provide this material to patients, it is necessary for cultivators and processors to provide information to dispensaries regarding the pesticides that are used in their facilities. Pesticide disclosures do not have to be submitted to the Ohio Department of Commerce as an "advertisement." Therefore, there is no fee associated with providing dispensaries this information. If a licensee utilizes its pesticide practices as a method to encourage sales, it would then become an advertisement and required to be reviewed by the Department.

Dispensaries have indicated to the Board that cultivators and processors have not provided this information. If the pesticide information required by rule is not provided to a dispensary, the dispensary shall not accept the shipment of a given product or dispense it to patients. The dispensary must make arrangements with the cultivator and/or processor to obtain the required documentation.

Electronic Signature Reminder

The Board has been notified that some dispensaries are utilizing electronic signatures and/or pre-signed forms when submitting requests through the compliance portal. The forms specifically list one of the following statements:

"Electronic or digital signatures are not acceptable"
"This form must be manually signed in ink. Digital signatures will NOT be accepted."

It is important to remember the attestation at the bottom of these forms, which require the signee to attest to the authenticity and authorization of each submission. The request forms may NOT be pre-signed (in ink) or signed with an electronic or digital signature. The designated representative and/or otherwise authorized signee shall review each submission to ensure compliance and accuracy prior to signing & submitting each request. Future submissions determined to be pre-signed or containing a digital signature will be denied as fraudulent. Please contact your designated Board compliance agent with any questions.

DISPENSARY OPERATIONS

Continuing Education Material Submission Reminder

Pursuant to OAC 3796-6-3-19, all dispensary employees are required to receive a minimum of 16 hours of continuing education for each two-year licensing period. Foundational Training does not count towards continuing education. Similar to Foundational Training, dispensaries are required to submit continuing education materials for approval 60 days prior to the date of intended training. Dispensaries may independently develop content or work with a third party.

For more information regarding submitting, please review the following:

- Dispensary Training & Continuing Education Submission Guidance Document
- Dispensary Training & Continuing Education FAQ
- Dispensary Training & Continuing Education Submission Form
- Dispensary Training & Continuing Education Submission Form - CE Attachment

Active Ingredient Threshold Questions

When is it acceptable to not calculate the 5% variance and to consider the THC or CBD content zero?

- **For processed products:** the Board has set a minimum threshold of 0.1% for CBD content, below which products are considered to have 0% CBD content and therefore not subject to the 95% - 105% range rules. There is no zero threshold for THC % in processed products at this time. For example, if a processed product's CBD content is 0.09% then the product can be considered as having zero percent, but if the product's CBD% is .1% then the +/-5% variance must be considered.

- **For Plant-based products:** the Board has set a minimum threshold of 0.3% for THC and CBD content, below which plant material products are considered to have 0% content and therefore is not subject to the 95% - 105% range rules. For example, if a processed product's THC content is 0.29% then the product can be considered zero, but if the products THC % .3% then the 5% variance must be considered.

Can a product's Unit THC Content exceed the 1-day supply?

- The Unit THC Content may exceed the maximum THC amount for a 1-day supply, if the

product's THC content per dose is within +/- 5% of the Target THC Content per dose. For example, if the Product ID's Target THC Content is 110 mg, the Target THC Content per dose is 11 mg and the lab testing results show the Unit THC Content to be 114.4 mg and the THC Content per dose to be 11.44 mg, then the product would be compliant. On the other hand, if the lab results showed the THC Content to be 116.6 mg and the THC Content per dose to be 11.66 mg, the product would not be compliant and would then need to be associated with a separate Product ID. Since the Unit THC Content exceeds a 1-day supply, the Product ID's Unit THC Content would need to be registered in increments of 110.

Does the +/- 5% apply to products that have a THC per dose maximum of 50 mg?

- Edibles, oils, tinctures for oral administration and patches for transdermal administration still shall not exceed 50 mg of THC per dose, regardless if the product is within 5% of the Target THC Content per dose.

Vape Device List

The MMCP recently published a list of vaporizing devices that have been determined to be compliant. This document identifies devices that have been submitted to the MMCP for review and — based on representations made at the time of submission — were determined to be compliant with Program rules. Devices were determined to be compliant based on the information the submitter provided and their representation of the device. If additional information contrary to the representations made by the submitter are discovered and that information indicates a device on this list is not complaint, the MMCP reserves the right to remove relevant devices from the list.

For steps on how to submit a device to be reviewed by the MMCP please see the Vaporizing Devices Submission Guidance Document.