

3796:5-6-01

Scope of enforcement and enforcement powers.

Rules set forth in this chapter establish standards for the oversight and enforcement of the cultivation, processing, and testing of medical marijuana. Division 3796:5 of the Administrative Code also establish legal standards for the denial, suspension, or revocation of licenses issued by the department under Chapter 3796. of the Revised Code. If any portion of the rules is found to be invalid, the remaining portion of the rules shall remain in force and effect.

(A) Whenever it appears to the department that a medical marijuana entity issued a provisional license or certificate of operation by the department or a person possessing an employee identification card issued by the department has engaged in, is engaged in, or is about to engage in any act or practice declared to be prohibited by Chapter 3796. of the Revised Code or the rules promulgated in accordance with Chapter 3796. of the Revised Code, or when the department believes that it is necessary for the program's administration, implementation and enforcement, the department may do the following:

- (1) Investigate activities which are, or are suspected to be, prohibited and charge an investigation assessment;
- (2) Serve all summonses, subpoenas, administrative orders, notices, or other processes concerning the enforcement of laws regulating medical marijuana and medical marijuana products;
- (3) Issue either administrative subpoenas ad testificandum or subpoenas duces tecum, or both, to compel the testimony of witnesses or the production of any books and records, in paper or electronic format, to be served by personal service or by certified mail, return receipt requested;
 - (a) If the subpoena is returned because of inability to deliver, or if no return is received within thirty days of the date of mailing, the subpoena may be served by ordinary mail. If no return of ordinary mail is received within thirty days after the date of mailing, service shall be deemed to have been made. If the subpoena is returned because of inability to deliver, the department may designate a person or persons to effect either personal or residence service upon the witness.
 - (b) The person designated to effect personal or residence service under this paragraph may be the sheriff of the county in which the witness resides or may be found or may be any other duly designated person.

- (c) The fees and mileage of the person serving the subpoena shall be the same as those allowed by the courts of common pleas in criminal cases, and shall be paid from the funds of the department.
 - (4) Inspect, examine, or investigate any premises or vehicle where medical marijuana or medical marijuana products are grown, stored, cultivated, transported, processed, or tested, and any books and records in any way connected with any such activity;
 - (5) Require any cultivator, processor, or testing laboratory, or other person, upon demand, to permit an inspection of premises or ~~vehicle~~ vehicles during business hours or at any time of apparent operation; to permit inspection of marijuana equipment, ~~and~~ marijuana accessories, or books and records; and to permit the testing of or examination of medical marijuana or medical marijuana products;
 - (6) Suspend, suspend without prior hearing, revoke, or refuse to renew a license or registration issued under Chapter 3796. of the Revised Code or the rules promulgated in accordance with Chapter 3796. of the Revised Code;
 - (7) Refuse to issue a provisional license or certificate of operation;
 - (8) Issue a cease and desist order;
 - (9) Impose a civil penalty in an amount not to exceed fifty thousand dollars for each violation, for any violation of Chapter 3796. of the Revised Code or the rules promulgated in accordance with Chapter 3796. of the Revised Code;
 - (10) Place conditions on an applicant, license, licensee, or registrant; and
 - (11) Exercise any other power or duty authorized by Chapter 3796. of the Revised Code or the rules promulgated in accordance with Chapter 3796. of the Revised Code.
- (B) A cultivator, processor, or testing laboratory whose certificate of operation has been suspended shall not sell, offer for sale, transport, or conduct any operations outside the facility related to medical marijuana. Employees of the facility may enter the premises of the facility for the necessary care and maintenance of the premises and any medical marijuana and medical marijuana products. The removal of medical marijuana from a cultivator, processor, or testing laboratory is strictly prohibited during an active suspension under this chapter.
- (C) The revocation of a provisional license or certificate of operation shall immediately terminate the employee identification cards of persons employed by the licensee. A cultivator, processor, or testing laboratory whose certificate of operation has been

revoked shall close the facility and prohibit anyone from entering the facility, other than employees with the department, law enforcement, or other individuals carrying out official duties related to the revocation of the certificate of operation.

~~(D) Information obtained by the department shall be kept confidential and only disclosed to department employees, law enforcement, and persons deemed by the department to have a valid reason for access. Unauthorized disclosure shall be cause for discipline, including dismissal, if disclosure was by a department employee; and shall be grounds for disciplinary action against a cultivator, processor, or testing laboratory or any employee.~~

~~(E)~~(D) Department employees will not serve as expert witnesses in private litigation. In addition, the department may move to quash any subpoena that seeks fact testimony from department employees in private litigation. The department may certify as to the status of any person as a licensee or registered employee of a licensee. Such certification shall be admissible in any court as prima-facie evidence as to the status of the person.

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Certification

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Date

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