

Rule Summary and Fiscal Analysis

Part A - General Questions

Rule Number: 1301:18-3-06

Rule Type: New

Rule Title/Tagline: Change of Ownership.

Agency Name: Department of Commerce

Division: Division of Cannabis Control

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I. Rule Summary

1. **Is this a five year rule review?** No
 - A. **What is the rule's five year review date?**
2. **Is this rule the result of recent legislation?** No
3. **What statute is this rule being promulgated under?** 119.03
4. **What statute(s) grant rule writing authority?** 3780.03, 3796.03
5. **What statute(s) does the rule implement or amplify?** 3780.03, 3780.10, 3780.11, 3796.03, 3796.09, 3796.10
6. **Does the rule implement a federal law or rule in a manner that is more stringent or burdensome than the federal law or regulation requires?** No
 - A. **If so, what is the citation to the federal law or rule?** Not Applicable
7. **What are the reasons for proposing the rule?**

To ensure compliance with statutory and rule promulgated restrictions on cannabis entity ownership.
8. **Summarize the rule's content, and if this is an amended rule, also summarize the rule's changes.**

A licensee must obtain prior approval from the Division before modifying its ownership, provided modifications involving less than ten percent of the ownership in a licensee do not require prior approval.

9. **Does the rule incorporate material by reference? Yes**
10. **If the rule incorporates material by reference and the agency claims the material is exempt pursuant to R.C. 121.75, please explain the basis for the exemption and how an individual can find the referenced material.**

The referenced materials are citations of the Ohio Administrative Code and are therefore exempt under Ohio Revised Code 121.75(A)(1)(d). These materials can be found at www.codes.ohio.gov.

11. **If revising or re-filing the rule, please indicate the changes made in the revised or re-filed version of the rule.**

Not Applicable

II. **Fiscal Analysis**

12. **Please estimate the increase / decrease in the agency's revenues or expenditures in the current biennium due to this rule.**

This will have no impact on revenues or expenditures.

N/A

This rule will not have an impact on the agency's revenues or expenditures.

13. **What are the estimated costs of compliance for all persons and/or organizations directly affected by the rule?**

The licensee is asked to provide documents that are already in existence as a result of the modification they are making (e.g., updated cap table, updated organizational chart, option agreement). The costs to comply with the application requirements, though, will vary based on the entity's organizational structure, number of investors, financing, and more. There is a \$1,000 application fee associated in a separate rule.

14. **Does the rule increase local government costs? (If yes, you must complete an RSFA Part B). No**

15. Does the rule regulate environmental protection? (If yes, you must complete an RSFA Part C). No
16. If the rule imposes a regulation fee, explain how the fee directly relates to your agency's cost in regulating the individual or business.

Not Applicable.

III. Common Sense Initiative (CSI) Questions

17. Was this rule filed with the Common Sense Initiative Office? Yes
18. Does this rule have an adverse impact on business? Yes
- A. Does this rule require a license, permit, or any other prior authorization to engage in or operate a line of business? No
- B. Does this rule impose a criminal penalty, a civil penalty, or another sanction, or create a cause of action, for failure to comply with its terms? No
- C. Does this rule require specific expenditures or the report of information as a condition of compliance? Yes
- A licensee must obtain prior approval from the Division before modifying its ownership.
- D. Is it likely that the rule will directly reduce the revenue or increase the expenses of the lines of business of which it will apply or applies? No

IV. Regulatory Restriction Requirements under S.B. 9. Note: This section only applies to agencies described in R.C. 121.95(A).

19. Are you adding a new or removing an existing regulatory restriction as defined in R.C. 121.95? Yes
- A. How many new regulatory restrictions do you propose adding to this rule? 8
- (A) A licensee shall not modify its ownership without prior approval from the division, provided modifications involving less than ten percent of the ownership in a licensee do not mandate prior approval.

(A)(1) For purposes of this rule, all changes of ownership that occur within a given calendar year shall be calculated in the aggregate.

- (B) Prior to any proposed change, a licensee shall apply on a form prescribed by the division and demonstrate all of the following:

- o (1) The licensee's current:

- # (a) Ownership list and capitalization table;

(B)(1)(a)(i) Each applicant shall identify any person who owns ten percent or greater ownership interest within the applicant's ownership structure;

- (B) Prior to any proposed change, a licensee shall apply on a form prescribed by the division and demonstrate all of the following: o (2) The licensee's proposed:

- # (a) Ownership list and capitalization table;

(B)(2)(a)(i) Each applicant shall identify any person who owns ten percent or greater ownership interest within the applicant's ownership structure.

(B)(6) The licensee shall remain in compliance with all other licensure mandates outlined under these rules; and

- (C) A proposed change of ownership shall not be effective unless and until approved in writing by the division.

B. How many existing regulatory restrictions do you propose removing from this rule? 17

(A) Medical marijuana products must be destroyed by:

(1) Rendering it unusable following the methods set forth in this rule; or

(2) Rendering it non-retrievable in accordance with methods of destruction under 21 CFR 1317.90 (as of 4/1/2019).

(B) At least seven days prior to rendering medical marijuana unusable and disposing of it, the dispensary shall notify the state board of pharmacy.

(B) Notification shall include the date and time the marijuana will be rendered unusable or non-retrievable 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.

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(B) 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.

(C) 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.

(C)(4) All external refuse containers shall be maintained in a locked condition and secured to prevent unauthorized access.

(D) All external refuse containers shall be maintained in a locked condition and secured to prevent unauthorized access.

(D) The destruction of medical marijuana shall require at least two employees and include at least one key employee serving as a witness to the destruction to the medical marijuana.

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(D) The destruction of medical marijuana shall be conducted in a designated area with fully functioning video surveillance

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

(E) 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, which must be approved by the state board of pharmacy before any medical marijuana may be accepted by a dispensary pursuant to this paragraph.

(E) 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, which 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

(E)(2) Prices for such services, if any, shall be publicly available.

C. If you are not removing existing regulatory restrictions from this rule, please list the rule number(s) from which you are removing restrictions.

OAC 3796:6-3-14 and OAC 3796:6-2-11

D. Please justify the adoption of the new regulatory restriction(s).

The restrictions adopted in this rule require the report of information and Division approval prior to an ownership change to help ensure compliance with statutory and rule promulgated restrictions on cannabis entity ownership.