Common Sense Initiative

Mike DeWine, *Governor*
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Business Impact Analysis

Agency, Board, or Commission Name: Ohio Department of Commerce, Division of Cannabis Control

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Regulation/Package Title (a general description of the rules' substantive content):

Ownership, Dispensary Security and Operations

Rule Number(s): 1301:18-1-01 (Amended); 1301:18-3-01 (New); 1301:18-3-03 (New); 1301:18-3-04 (New); 1301:18-3-05 (New); 1301:18-3-06 (New); 1301:18-3-07 (New); 1301:18-3-08 (New); 1301:18-3-15 (New); 1301:18-3-16 (New); 1301:18-7-01 (New); 1301:18-7-02 (New); 1301:18-7-03 (New); 1301:18-7-05 (New); 3796:2-1-05 (Rescind); 3796:2-2-03 (Rescind); 3796:3-2-03 (Rescind); 3796:6-2-01 (Rescind); 3796:6-2-02 (Rescind); 3796:6-2-11 (Rescind); 3796:6-2-12 (Rescind); 3796:6-3-02 (Rescind); 3796:6-3-03 (Rescind); 3796:6-3-05 (Rescind); 3796:6-3-14(Rescind); 3796:6-3-16 (Rescind)

Date of Submission for CSI Review: 4/3/24

Public Comment Period End Date: 4/17/24

Rule Type/Number of Rules:

New/13 rules — No Change/____ rules (FYR? ___)

Amended/1 rules (FYR? N) — Rescinded/12 rules (FYR? Y)

The Common Sense Initiative is established in R.C. 107.61 to eliminate excessive and duplicative rules and regulations that stand in the way of job creation. Under the Common Sense Initiative, agencies must balance the critical objectives of regulations that have an adverse impact on business with the costs of compliance by the regulated parties. Agencies should promote transparency, responsiveness, predictability, and flexibility while developing

regulations that are fair and easy to follow. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

Reason for Submission

1. **R.C. 106.03 and 106.031 require agencies, when reviewing a rule, to determine whether the rule has an adverse impact on businesses as defined by R.C. 107.52. If the agency determines that it does, it must complete a business impact analysis and submit the rule for CSI review.**

   Which adverse impact(s) to businesses has the agency determined the rule(s) create?

   The rule(s):

   a. ☒ **Requires a license, permit, or any other prior authorization to engage in or operate a line of business.**

   b. ☐ **Imposes a criminal penalty, a civil penalty, or another sanction, or creates a cause of action for failure to comply with its terms.**

   c. ☒ **Requires specific expenditures or the report of information as a condition of compliance.**

   d. ☐ **Is likely to directly reduce the revenue or increase the expenses of the lines of business to which it will apply or applies.**

Regulatory Intent

2. **Please briefly describe the draft regulation in plain language.**
   Please include the key provisions of the regulation as well as any proposed amendments.

The Division is proposing several new rules pursuant to O.R.C. 3780; however, they will replace other rules currently in effect under O.R.C. 3796, which were specific to the regulation of the Medical Marijuana Control Program. The new rules apply to both medical and non-medical cannabis.

OAC 1301:18-1-01 DEFINITIONS (Amended)

- The Division is adding definitions related to the rules in this package for church, control, facility visitor, financial interest, ownership, person, prohibited facility, public library, public park, public playground, and school.

OAC 1301:18-3-01 CANNABIS ENTITY DISTANCE FROM PROHIBITED FACILITIES (New)

- Cannabis facilities must be at least 500 feet away from a prohibited facility, pursuant to O.R.C. 3796 and 3780. The distance is measured linearly and the measurement shall occur at the shortest distance between the property line of the prohibited facility and the physical structure under the control of the cannabis facility.

OAC 1301:18-3-03 OWNERSHIP, FINANCIAL INTEREST, CONTROL (New)

- This rule provides that no person may own, control, or have financial interest in more than one cultivator, more than one processor, more than one testing lab, or more than eight dispensaries.

OAC 1301:18-3-04 DISCLOSURE OF OWNERSHIP, FINANCIAL INTEREST, CONTROL (New)

- Prior to the issuance of a provisional license and the issuance or renewal of a certificate of operation, each applicant or licensee must submit records to the Division regarding their ownership, control, and financial interest.

OAC 1301:18-3-05 NOTICE OF INTENT (New)

- This rule requires a licensee to notify the Division prior to entering into any agreement that would make certain modifications that must be reported to the Division.

OAC 1301:18-3-06 CHANGE OF OWNERSHIP (New)

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

OAC 1301:18-3-07 CHANGE OF ENTITY NAME OR REGISTERED TRADE NAME (New)

- A licensee must obtain prior approval from the Division before modifying its entity name or registered trade name.

OAC 1301:18-3-08 FINANCIAL RESPONSIBILITY (New)

- The rule establishes the evidence of financial responsibility required by the Division. This is initially a bond or escrow in the amount of $750,000 for level I cultivators, $75,000 for level II cultivators, $250,000 for processors, testing laboratories $75,000, and dispensaries $50,000. Licensees may request to reduce their bond or escrow in increments over a few years of the rule requirements to do so are met and may ultimately be able to cancel the bond or escrow account.

OAC 1301:18-3-15 FACILITY VISITORS (New)

- This rule requires that visitors to a facility who are going to access areas other than the public retail floor be signed in on a visitor log and escorted in those non-public areas by an employee.

OAC 1301:18-3-16 WASTE DISPOSAL (New)

- This rule sets out the requirements of disposing cannabis waste, including that it be rendered unusable, as well as how it must be tracked in the state's seed-to-sale tracking system.

OAC 1301:18-7-01 DISPENSARY CERTIFICATE OF OPERATION (New)

- This rule lays out the permissible activities of a dispensary with a certificate of operation.

OAC 1301:18-7-02 OPERATING PROCEDURES AND QUALITY ASSURANCE (New)

- Dispensaries are required to establish, maintain, and comply with written policies and procedures for the daily operation and distribution of cannabis. Any major modifications must be submitted to the Division for review and approval. Dispensaries must establish areas in the facility that are compartmentalized based upon function, which at a minimum include the designated retail space and the secure limited access area. The rule also establishes permissible hours of operation, points of sale requirements, and standards for drive-through windows and curbside pick-up.

OAC 1301:18-7-03 DISPENSARY DESIGNTED RESPONSIBLE PARTY (New)

- Dispensaries must designate between 1-3 responsible parties. At least one of the designated responsible parties must be on the premises at least 20 hours per week.

OAC 1301:18-7-05 MINIMUM SECURITY AND SURVEILLANCE REQUIREMENTS (New)

- Each dispensary must establish, maintain, and comply with written policies and procedures that ensure adequate security, surveillance, and control of the licensed premises that prevent diversion, theft, or loss and meet the minimum requirements outlined under this rule.

The Division is also proposing to rescind several of the current medical marijuana rules under Chapter 3796 which the new rules under Chapter 1301 in this package will replace. Those include 3796 rules regarding waste disposal, financial responsibility, dispensary designated representatives, dispensary surveillance, and dispensary change of ownership.

3. **Please list the Ohio statute(s) that authorize the agency, board or commission to adopt the rule(s) and the statute(s) that amplify that authority.**

   Authorized By: R.C. 3780.03, 3780.20
   Amplifies: R.C. 3780.03, 3780.07, 3780.15, 3780.20

4. **Does the regulation implement a federal requirement? Is the proposed regulation being adopted or amended to enable the state to obtain or maintain approval to administer and enforce a federal law or to participate in a federal program?**
   If yes, please briefly explain the source and substance of the federal requirement.

   No

5. **If the regulation implements a federal requirement, but includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.**

   n/a

6. **What is the public purpose for this regulation (i.e., why does the Agency feel that there needs to be any regulation in this area at all)?**

In November 2023, Ohio voters approved a citizen-initiated statute to legalize the use, possession, and sale of non-medical cannabis. The statute charges the Division of Cannabis Control with adopting rules to regulate the non-medical cannabis market.

The rules proposed in this package aim to ensure that the ownership of licensed cannabis facilities is in compliance with program expectations and limits on the number of licensees an individual or entity can own or control. The rules also establish financial responsibility requirements, which are substantially the same as what is currently required of medical marijuana licensees.

Waste disposal is addressed in these rules, ensuring that cannabis waste is disposed of safely and rendered unusable.

The rules address who can enter a dispensary and ensure that only individuals over the age of 21 are allowed access to a facility (with the exception of medical marijuana patients).

The rules also address dispensary operating procedures, quality assurance, security, and surveillance. The public purpose for all of these regulations is to prevent theft or other potential security concerns coming into the facility, and to prevent diversion of product out of the facility. Additionally, the rules aim to ensure that individuals under 21 years of age do not access a dispensary and are not sold non-medical cannabis.

7. **How will the Agency measure the success of this regulation in terms of outputs and/or outcomes?**

   The success of the regulations will be measured by compliance and the prevention of theft, diversion, sales to ineligible consumers, or other security concerns.

8. **Are any of the proposed rules contained in this rule package being submitted pursuant to R.C. 101.352, 101.353, 106.032, 121.93, or 121.931?**
   If yes, please specify the rule number(s), the specific R.C. section requiring this submission, and a detailed explanation.
   No

Development of the Regulation

9. **Please list the stakeholders included by the Agency in the development or initial review of the draft regulation.**
   If applicable, please include the date and medium by which the stakeholders were initially contacted.

   All current medical marijuana licensees were included. Additionally, the proposed rules were posted on the Division's public website.

10. **What input was provided by the stakeholders, and how did that input affect the draft regulation being proposed by the Agency?**

    The Division has received feedback from current medical marijuana licensees on many of these topics over the past few years. Many of these rules are updated versions of the

regulations in place currently under the Medical Marijuana Control Program, with the industry feedback incorporated where appropriate.

For example, stakeholders have requested the ability to manage their dispensary floorplans where appropriate, improvements to the curbside pick-up and drive-through window regulations, expanded hours of operation, additional designated responsible parties, and ownership threshold updates, among other improvements that the Division has incorporated in these proposed rules.

Following early stakeholder outreach, the Division updated the proposed rules to allow photographs/videos of secure limited access areas in limited circumstances. Additionally, the Division modified the drive-through window language to ensure that a drive-through area is acceptable if the dispensary has express written consent of the property owner.

11. **What scientific data was used to develop the rule or the measurable outcomes of the rule? How does this data support the regulation being proposed?**

    Other state cannabis markets and regulations were studied and identified best practices were used to help develop these rules.

12. **What alternative regulations (or specific provisions within the regulation) did the Agency consider, and why did it determine that these alternatives were not appropriate? If none, why didn't the Agency consider regulatory alternatives?** ***Alternative regulations may include performance-based regulations, which define the required outcome, but do not dictate the process the regulated stakeholders must use to comply.***
    The Division is establishing standard-based, performance-based regulations, with the goal of allowing businesses the flexibility in how they meet the Division's standards set in the rules.

13. **What measures did the Agency take to ensure that this regulation does not duplicate an existing Ohio regulation?**

    The initiated statute approved by voters in O.R.C. 3780 places sole regulatory authority over the non-medical cannabis industry with the Division of Cannabis Control.

    Of the areas of potential overlap, the Division has authority over ownership rules and reviews, but will coordinate with the Department of Taxation on any necessary tax reviews. Additionally, the Division has worked to eliminate requirements that have caused concern in the past from a building code perspective.

14. **Please describe the Agency's plan for implementation of the regulation, including any measures to ensure that the regulation is applied consistently and predictably for the regulated community.**

    All licensees must comply with the Division's rules. The Division regularly issues industry guidance documents to communicate rule requirements and how to maintain compliance, emails those updates out to licensees, and posts them on the Division's website.

Adverse Impact to Business

15. **Provide a summary of the estimated cost of compliance with the rule(s). Specifically, please do the following:**
    a. **Identify the scope of the impacted business community, and**
    b. **Quantify and identify the nature of all adverse impact (e.g., fees, fines, employer time for compliance, etc.).**
    The adverse impact can be quantified in terms of dollars, hours to comply, or other factors; and may be estimated for the entire regulated population or for a representative business. Please include the source for your information/estimated impact.

The impacted business community includes currently licensed medical marijuana entities who, pursuant to the initiated statute, are the first businesses eligible to operate in the non-medical market, as well as any other businesses who may become licensed in the future.

The rules require an application and fee to request approval of a change of ownership. The application fee is not established in this rule and the fee rule for non-medical cannabis has not yet been proposed; however, the fee under the medical program rules for cultivators, processors, and testing labs is $1,000 and $5,000 for dispensaries. There's also an application required for licensees changing their legal entity name or tradename; however, there is no associated fee.

Licensees also must notify the Division prior to entering into any agreement that would modify its ownership or officers and board members. There's no fee associated with this notice of intent.

The rules establish a financial responsibility requirement for all licensees. This is initially a bond or escrow in the amount of $750,000 for Level I cultivators, $75,000 for Level II cultivators, $250,000 for processors, testing laboratories $75,000, and dispensaries $50,000. Licensees may request to reduce their bond or escrow in increments over a few years of the rule requirements to do so are met and may ultimately be able to cancel the bond or escrow account.

The rules require dispensaries to adopt standard operating procedures to prevent diversion, theft, and loss. Any major modifications made to those procedures requires the dispensary to request approval from the Division. Additionally, dispensaries must notify the Division of any long-term changes in their hours of operation or a change to their designated responsible parties. There's no application fee for those notifications.

Dispensaries are required to meet the Division's standards for security and surveillance, which include, at a minimum, things like an alarm system with point of entry alarms, motion detectors, and silent alarm, and a video surveillance system which must be accessible remotely in real time by the Division and all video must be stored for at least 45 days. The cost of these systems can vary depending on the size of the facility, and the vendor, software, and equipment the licensee has chosen.

16. **Are there any proposed changes to the rules that will <u>reduce</u> a regulatory burden imposed on the business community? Please identify. *(Reductions in regulatory burden may include streamlining reporting processes, simplifying rules to improve readability, eliminating requirements, reducing compliance time or fees, or other related factors).*** The rules proposed here are new pursuant to O.R.C. 3780; however, they will replace the rules adopted under O.R.C. 3796, which were specific to the regulation of the Medical Marijuana Control Program. The new rules apply to both medical and non-medical cannabis.

    There are some major regulatory burdens that were part of the 3796 rules that are eliminated in these rules. Mainly, the new rules aim to set the standards which licensees must meet, and things like mantraps and "secured delivery bays" are no longer specifically required in these rules.

    The Division has also proposed to increase the ownership threshold for all licensees to 10%. This means that any ownership changes under 10% in the aggregate do not need to be submitted on the change of ownership application for approval from the Division. Rather those minor changes require a notice of intent be submitted.

    The Division has also proposed expanding the acceptable hours of operation from ending at 9:00pm to ending at 11:00pm.

    Regarding waste destruction, the Division made some updates to what is considered cannabis waste and what is not, which will save licensees some time and resources when completing waste destruction.

17. **Why did the Agency determine that the regulatory intent justifies the adverse impact to the regulated business community?**

    The adverse impacts created by the proposed rules mostly include the report of information or certain expenditures. All of the rules associated with these impacts seek to balance fair regulations for business while protecting public health and safety.

Regulatory Flexibility

18. **Does the regulation provide any exemptions or alternative means of compliance for small businesses? Please explain.**

    The amount of financial responsibility that must be obtained is relative to the license type and size. For example, Level I cultivators must obtain financial responsibility in the amount of $750,000, while Level II cultivators must have $75,000.

    Otherwise, these rules are largely focused on public health and safety, and the requirements that must be met to ensure that priority are intended to create a level playing field for all licensees.

19. How will the agency apply Ohio Revised Code section 119.14 (waiver of fines and penalties for paperwork violations and first-time offenders) into implementation of the regulation?

The DCC works diligently to ensure that all licensees understand all applications, forms, and compliance requirements. The Division does not fine licensees for simple paperwork violations, but does work with licensees who encounter challenges to ensure they have the information necessary to comply with all laws and rules.

20. What resources are available to assist small businesses with compliance of the regulation?

The DCC regularly issues guidance to licensees and posts those documents and other helpful information on its website: www.com.ohio.gov/cannabiscontrol. Additionally, the DCC has a team of inspectors who work closely with all licensees to ensure they are able to achieve and maintain compliance with program regulations.

Ohio Division of Cannabis Control Rules Language: Ownership; Dispensary Security and Operations

(Section numbers and citations subject to change)

Chapter 3780 Initial Applications

(All section numbers and citations subject to change)

1301:18-1-01 Definitions:

- **(A) <u>For purposes of this chapter, the following definitions shall apply:</u>**
- **(1) "Abandoned Application"** means an application submitted pursuant to this chapter which does not meet the minimum eligibility requirements for review, or is otherwise deemed abandoned pursuant to this chapter, and is removed from the application process.
- **<u>(2) "Church"</u>** <u>means a church as defined by section 1710.01 of the Revised Code.</u>
- **<u>(3) "Control"</u>** <u>means the ability to make or significantly influence the strategic policies or management decisions ordinarily reserved for the majority owners or board of directors of a "person" as defined under this chapter. Control may be established through ownership, contract, or otherwise; provided control will not be imputed on a bank or licensed lending institution that holds a mortgage or other lien on the person acquired in the ordinary course of business.</u>
    - **<u>(a)</u>** <u>When determining whether a person is exercising control, or has the ability to exercise control, over another, the division may consider, among other factors, whether, and to what extent, the person has any power to do the following on behalf of another:</u>
        - **<u>(i)</u>** <u>Adopt or amend governance documents, including articles of incorporation, articles of organization, bylaws, operating agreements, or buy-sell agreements.</u>
        - **<u>(ii)</u>** <u>Cause or prevent a merger, dissolution, equity sale, or asset sale.</u>
        - **<u>(iii)</u>** <u>Elect or remove directors or officers; or elect or remove other positions that exercise authority similar to those of a director or an officer in an Ohio corporation.</u>
        - **<u>(iv)</u>** <u>Exercise voting power similar to a shareholder in an Ohio corporation.</u>
        - **<u>(v)</u>** <u>Exercise voting power similar to a director in an Ohio corporation.</u>
        - **<u>(vi)</u>** <u>Call meetings of the directors or owners.</u>
        - **<u>(vii)</u>** <u>Regulate the authority of the owners, directors, or officers.</u>
        - **<u>(viii)</u>** <u>Issue shares, membership interest, or similar equity.</u>
        - **<u>(ix)</u>** <u>Declare dividends or distributions.</u>
        - **<u>(x)</u>** <u>Enter into contractually binding agreements.</u>
        - **<u>(xi)</u>** <u>Authorize a mortgage, pledge, lien or deed of trust on any real property or personal property.</u>
        - **<u>(xii)</u>** <u>Hire or fire organizations that manage day-to-day operations.</u>
    - **<u>(b)</u>** <u>In addition to the listed factors, the division may consider any other factors listed under paragraph (3)(a) it deems relevant. Control may be established whether one, any or none of the factors listed are present.</u>
- **~~(2)~~ <u>(4)</u> "Disqualifying offense"** means a conviction or plea of guilty, including conspiracy to commit, attempt to commit, or aiding and abetting another in committing, the following:
    - **(a)** Any offense set forth in Chapters 2925, 3719, or 4729 of the Revised Code, the violation of which constitutes a felony or a misdemeanor of the first degree;
    - **(b)** Any theft offense set forth under division (K) in section 2913.01 of the Revised Code, the violation of which constitutes a felony;

        - **(i)** Any violation for which a penalty was imposed under section 3715.99 of the Revised Code;
        - **(ii)** A crime of moral turpitude as defined in section 4776.10 of the Revised Code; or
        - **(iii)** A violation of any former law of this state, any existing or former law of another state, any existing or former law applicable in a military court or Indian tribal court, or any existing or former law of any nation other than the United States that is or was substantially equivalent to any of the offenses listed in paragraphs (a)(iv) to (a)(iv) of this definition.
    - **(c)** Any first degree misdemeanor offense listed in paragraphs (a)(i) to (a)(v) of this definition will not automatically disqualify an applicant from licensure if the applicant was convicted of or pleaded guilty to the offense more than five years before the date the application for licensure is filed.
    - **(d)** Notwithstanding paragraph (1) or (2) of this definition, no misdemeanor offense, including misdemeanors of the first degree, related to cannabis possession, cannabis trafficking, illegal cultivation of cannabis, illegal use or possession of drug paraphernalia or cannabis drug paraphernalia, or other cannabis related crimes shall be considered a disqualifying offense.
- ~~**(3)**~~ **(5) "Dual-use license"** means a license issued by the division that allows:
    - **(a)** A cultivator to engage in all permissible activities outlined under sections 3796.18, 3780.12, and 3780.13 of the Revised Code.
    - **(b)** A processor to engage in all permissible activities outlined under sections 3796.19 and 3780.14 of the Revised Code.
    - **(c)** A testing laboratory to engage in all permissible activities outlined under sections 3796.21 and 3780.16 of the Revised Code.
    - **(d)** A dispensary to engage in all permissible activities outlined under sections 3796.20 and 3780.15 of the Revised Code.
- **(6) "Facility visitor"** means any individual seeking to enter the premises of a licensed entity who does not maintain a valid employee badge pursuant to [OAC Employee Badge] and is not a registered patient, caregiver, or adult-use consumer within a dispensary's retail area.
- **(7) "Financial interest"** means any actual or future right to ownership, or investment, with another person, either directly or indirectly, through business, investment, spouse, parent, or child, in licensed cannabis business. Financial interest does not include ownership of investment securities in a publicly-held corporation that is traded on a national securities exchange or over-the-counter market in the United States, provided the investment securities held by the person and the person's spouse, parent, or child, in the aggregate, do not exceed ten percent ownership in the licensed cannabis entity.
- **(8) "Ownership"** means a person's, direct or indirect, present ownership interest in a person, including membership interest in a limited liability company, shares of stock in a corporation, or similar equity interests in any other corporate person; or a person's beneficial interest or proprietary interest in an individual or group of individuals. The definition of ownership does not include passive equity interest of less than ten percent in a licensed cannabis business which is for investment purposes only.
- **(9) "Person"** includes, but is not limited to, an individual or a combination of individuals; a sole proprietorship, a firm, a company, a joint venture, a partnership of any type, a joint-stock company, a corporation of any type, a corporate subsidiary of any type, a limited liability company, a business trust, or any other business entity or organization; an assignee; a receiver; a trustee in bankruptcy; an unincorporated association, club, society, or other unincorporated

entity or organization; entities that are disregarded for federal income tax purposes; and any other nongovernmental, artificial, legal entity that is capable of engaging in business.

- **(10) "Prohibited facility"** means a school, church, public library, public playground, or public park, as defined by this rule.
- **(11) "Public library"** means a library provided for under chapter 3375 of the Revised Code.
- **(12) "Public park"** means a park established by the state or a political subdivision of the state including a county, township, municipal corporation, or park district.
- **(13) "Public playground"** means a playground established by the state or a political subdivision of the state including a county, township, municipal corporation, or park district.
- **(14) "School"** means a public or nonpublic primary school or secondary school and includes a childcare center as defined under section 5104.01 of the Revised Code, and a preschool, as defined section 2950.034 of the Revised Code.

1301:18-3-01: Cannabis Entity Distance from Prohibited Facilities

- (A) Unless otherwise authorized pursuant to this rule, no cultivator, processor, testing laboratory, or dispensary shall be located within five hundred feet of the end boundaries of a parcel of real estate having situated on it a prohibited facility, as defined by rule 1301:8-1-01.
- (B) To determine compliance with paragraph (A), the following applies:
    - (1) The distance shall be measured linearly; and
    - (2) The measurement shall occur at the shortest distance between the property line of the prohibited facility and the physical structure under the control of the cannabis facility.
- (C) Paragraph (A) of this rule does not apply to the following:
    - (1) Cannabis entities issued a certificate of operation pursuant to chapter 3796 of the Revised Code for the same licensed premises; and
    - (2) Any state university, academic medical center, or private research and development organization conducting research related to cannabis pursuant to research protocol approved by an institutional review board or equivalent entity.
- (D) The division shall deny a request for a change in location or a request for cultivation area expansion that violates this rule.
    - (1) A licensed entity that is issued a denial pursuant to this paragraph may submit a subsequent request for a change of location or cultivation area expansion that conforms with the mandates of this rule.
- (E) An entity licensed pursuant to this chapter may continue to operate in the event a prohibited facility is established within five hundred feet of the facility subsequent to the issuance of a provisional license or certificate of operation, provided the entity does the following:
    - (1) Notifies the division in writing; and
    - (2) Submits to the division any necessary modifications to ensure ongoing facility security and surveillance and public safety for review and approval.

1301:18-3-03: Ownership, Financial Interest, and Control

- (A) No person shall be issued more than:
    - (1) One cultivator provisional license or certificate of operation;
    - (2) One processor provisional license or certificate of operation; or
    - (3) Eight dispensary provisional licenses or certificates of operation.
- (B) No person shall maintain ownership or a financial interest in more than:
    - (1) One cultivator provisional license or certificate of operation;
    - (2) One processor provisional license or certificate of operation; or

    - (3) Eight dispensary provisional licenses or certificates of operation.
- (C) No person shall control more than:
    - (1) One cultivator provisional license or certificate of operation;
    - (2) One processor provisional license or certificate of operation; or
    - (3) Eight dispensary provisional licenses or certificates of operation.
- (D) With regard to testing laboratories:
    - (1) No person shall be issued more than one testing laboratory provisional license or certificate of operation;
    - (2) No person shall maintain ownership or a financial interest in more than one testing laboratory provisional license or certificate of operation;
    - (3) No person shall control more than one testing laboratory provisional license or certificate of operation;
    - (4) No person shall be issued a testing laboratory provisional license or certificate of operation, or maintain ownership, financial interest, or control in a testing laboratory provisional license or certificate of operation and do any of the following:
        - (a) Acquire a provisional license or certificate of operation for any other cannabis entity licensed pursuant to this chapter;
        - (b) Maintain ownership or financial interest in any other cannabis entity licensed pursuant to this chapter;
        - (c) Control any other cannabis entity licensed pursuant to this chapter; or
        - (d) Share any corporate officers or employees with any other cannabis entity licensed pursuant to this chapter.

1301:18-3-04: Disclosure of Ownership, Financial Interest, and Control

- (A) Pursuant to section 1301:18-2 of this chapter, each applicant shall submit to the division all of the following:
    - (1) Applicant's ownership list and capitalization table;
        - (a) Each applicant shall identify any person who has a ten percent or greater ownership interest within the applicant's ownership structure.
    - (2) An organizational chart identifying all owners, officers, and board members of the applicant;
    - (3) For each proposed owner, officer, and board member:
        - (a) Full legal name;
        - (b) Address;
        - (c) Date of birth, evidencing the individual is at least twenty-one years of age or older;
        - (d) The individual's proposed role with the applicant; and
        - (e) If applicable any ownership, financial interest, or control in any other cannabis entity.
    - (4) For any instance in which the applicant or any person associated with the applicant is currently or was previously licensed or authorized in another state or jurisdiction to cultivate, produce, test, dispense, or otherwise deal in the distribution of marijuana in any form, the following:
        - (a) A statement granting permission to contact the regulatory agency that granted the license, accompanied by the contact information, to confirm the information contained in the application; and
        - (b) If the license, authorization, or application was ever warned, fined, denied, suspended, revoked, or otherwise sanctioned, a copy of documentation so

indicating, or a statement that the applicant was so licensed and was never sanctioned.

- (5) A list of any person with a direct or indirect financial interest in, the applicant;
- (6) A list of any person with direct or indirect control over, the applicant;
  - (a) This applies to any current or future right to control.
- (7) A list of any of the following regardless of whether they meet the definition of ownership, financial interest, or control:
  - (a) Option agreement, debt conversion, or other agreement which creates a current or future right in equity in the applicant.
  - (b) Disclosure pursuant to this rule is mandatory regardless of whether such modification is contingent upon certain acts or omissions.
- (8) A copy of any pending or executed merger, sale, option to purchase, letter of intent, consulting, management, support, administrative services, or other similar agreements between applicant and any other person or that person's affiliates; and
- (9) Any other documentation evidencing the ownership structure, financial interest, or control of the applicant.

- (B) At least thirty calendar days prior to the issuance or renewal of a certificate of operation, each licensee shall review all documentation provided under paragraph (A) of this rule.
  - (1) Each licensee shall ensure all information remains true, accurate, and complete as of the date of the review.
  - (2) Each licensee shall submit to the division evidence of compliance with this paragraph and include the following:
    - (a) The date of the review;
    - (b) Updated documentation containing all information mandated under paragraph (A) of this rule; and
    - (c) Certification by a third-party, independent licensed auditor or certified public accountant attesting all documentation propounded is true, accurate, and complete representation of the information contained therein.

1301:18-3-05: Notice of Intent

- (A) Except as mandated under rules 1301:18-3-06 and 1301:18-3-07 of this chapter, a licensee may modify its ownership, financial interest, or control with out prior approval by the division.
- (B) Prior to entering into any agreement, a licensee shall provide written notice to the division of its intent to create or modify the following:
  - (1) Licensee's ownership list and capitalization table as outlined under 1301:18-3-04(A)(1);
  - (2) Licensee's organizational chart identifying all owners, officers, and board members of the applicant as outlined under 1301:18-3-04(A)(2);
  - (3) The list of any person with a direct or indirect financial interest in, the licensee as outlined under 1301:18-3-04(A)(5).
  - (4) The list of any person with direct or indirect control over, the licensee 1301:18-3-04(A)(6);
  - (5) The list of any of the following regardless of whether they meet the definition of ownership, financial interest, or control:
    - (a) Option agreement, debt conversion, or other agreement which creates a current or future right in equity in the applicant.

        - (b) Disclosure pursuant to this rule is mandatory regardless of whether such modification is contingent upon certain acts or omissions.
- (C) Each licensee shall submit to the division any accompanying documentation evidencing any modification as outlined under this rule.

1301:18-3-06: Change of Ownership

- (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.
    - (1) For purposes of this rule, all changes of ownership that occur in 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:
    - (1) The licensee's current:
        - (a) Ownership list and capitalization table;
            - (i) Each applicant shall identify any person who owns ten percent or greater ownership interest within the applicant's ownership structure;
        - (b) Ownership structure;
        - (c) Organizational chart identifying all owners, officers, and board members of the applicant; and
        - (d) Any supporting documentation evidencing the mandates outlined under this paragraph.
    - (2) The licensee's proposed:
        - (a) Ownership list and capitalization table;
            - (i) Each applicant shall identify any person who owns ten percent or greater ownership interest within the applicant's ownership structure.
        - (b) Ownership structure;
        - (c) Organizational chart identifying all owners, officers, and board members of the applicant; and
        - (d) Any supporting documentation evidencing the mandates outlined under this paragraph.
    - (3) Every proposed owner has submitted one of the following:
        - (a) Verification of an active employee badge pursuant to [OAC Employee Rule]; or
        - (b) Both of the following:
            - (i) An application for an employee badge pursuant to [OAC Employee Rule]; and
            - (ii) Evidence showing that the proposed owner has submitted fingerprints to the Ohio bureau of criminal identification and investigation for an Ohio and federal criminal records check within the past sixty calendar days.
    - (4) For any instance in which a proposed owner, or any person associated with the proposed owner, is currently or was previously licensed or authorized in another state or jurisdiction to cultivate, produce, test, dispense, or otherwise deal in the distribution cannabis in any form, the following:
        - (a) A statement granting permission to contact the regulatory agency that granted the license, accompanied by the contact information, to confirm the information contained in the application; and

        - (b) If the license, authorization or application was ever warned, fined, denied, suspended, revoked or otherwise sanctioned, a copy of documentation so indicating, or a statement that the applicant was so licensed and was never sanctioned.
        - (c) This paragraph does not apply to proposed owners who are all of the following:
            - (i) An active employee badged pursuant to [OAC Employee Rule];
            - (ii) A current owner, as outlined in the documentation submitted pursuant to paragraph (B)(1) of this rule; and
            - (iii) A proposed owner, as outlined in the documentation submitted pursuant to paragraph (B)(2) of this rule.
    - (5) Any proposed owner meets all ownership, financial interest, and control requirements under rule 1301:18-3-04;
    - (6) The licensee shall remain in compliance with all other licensure mandates outlined under this chapter; and
    - (7) Payment of the requisite fee pursuant to [OAC fees].
- (C) A proposed change of ownership shall not be effective unless and until approved in writing by the division.

1301:18-3-07: Change of Entity Name or Registered Trade Name

- (A) A licensee shall not use an entity name or registered trade name without prior written approval from the division.
- (B) Prior to any proposed change, a licensee is to apply on a form prescribed by the division and demonstrate all of the following:
    - (1) The proposed entity name or registered trade name, and any supporting documentation evidencing the licensee's registered use of the name;
    - (2) That the proposed entity name or registered trade name change does not constitute a change of ownership; and
    - (3) Any other supporting documentation evidencing compliance with this chapter.

1301:18-3-08: Financial Responsibility

- (A) Prior to the issuance or renewal of a certificate of operation, each licensee shall acquire and maintain evidence of financial responsibility as outlined under this rule.
- (B) Financial responsibility maintained pursuant to this rule may be payable to the division in the event a licensee fails to comply with any mandates under this chapter.
- (C) Each licensee shall evidence financial responsibility by acquiring and maintaining both of the following:
    - (1) Commercial general liability insurance covering products liability through an insurance company authorized to conduct business within the state of Ohio; and
    - (2) One of the following:
        - (a) An escrow account with a chartered financial institution within the state of Ohio acting as the escrow agent, in the amount as follows:
            - (i) Level One cultivators: seven hundred fifty thousand dollars
            - (ii) Level Two cultivators: seventy-five thousand dollars
            - (iii) Processors: two hundred fifty thousand dollars
            - (iv) Testing Laboratories: seventy-five thousand dollars
            - (v) Dispensaries: fifty thousand dollars

- (vi) The escrow terms shall include the following:
    - (A) The licensee's business name and license number issued by the division; and
    - (B) Preclusion of the financial institution to release or return any escrow funds maintained pursuant to this rule without prior written authorization by the division.
- (b) A surety bond executed by a corporate surety company licensed by the state of Ohio and authorized to execute surety bonds pursuant to chapter 3929 of the Revised Code naming the dispensary as the principal of the bond, in the amount as follows:
    - (i) Level One cultivators: seven hundred fifty thousand dollars
    - (ii) Level Two cultivators: seventy-five thousand dollars
    - (iii) Processors: two hundred fifty thousand dollars
    - (iv) Testing Laboratories: seventy-five thousand dollars
    - (v) Dispensaries: fifty thousand dollars
    - (vi) The bond terms shall include the following:
        - (A) The dispensary's business name and license number issued by the division; and
        - (B) Preclusion of the surety to cancel a bond maintained pursuant to this rule without prior written authorization by the division.
- (c) In the event that a licensee's escrow funds are released, or a bond is cancelled, the licensee shall immediately submit evidence of financial responsibility to the division on or before the effective date of cancellation.

- (D) A licensee may petition the division to reduce its financial responsibility maintained pursuant to paragraph (C) of this rule in the amount as follows:
    - (1) Level One cultivators: two hundred fifty thousand dollars
    - (2) Level Two cultivators: twenty-five thousand dollars
    - (3) Processors: seventy-five thousand dollars
    - (4) Testing Laboratories: twenty-five thousand dollars
    - (5) Dispensaries: fifteen thousand dollars
- (E) The division will approve a licensee to reduce its financial responsibility in the amount outlined in paragraph (D) if all of the following are met:
    - (1) A determination by the division that for a period of one calendar year, the licensee:
        - (a) Remained fully operational without substantial interruption; and
        - (b) Demonstrated compliance with all mandates of this chapter and chapter 3780 of the Revised Code.
- (F) The division will approve a licensee to further reduce its financial responsibility in the amount outlined in paragraph (D) of this rule if all of the following are met:
    - (1) A determination by the division that for a period of two consecutive calendar years, the licensee:
        - (a) Remained fully operational without substantial interruption; and
        - (b) Demonstrated compliance with all mandates of this chapter and chapter 3780 of the Revised Code.
- (G) A licensee may petition the division to terminate its financial responsibility. The division will approve a request pursuant to this paragraph if it determines that that for a period of three consecutive calendar years, the licensee:
    - (1) Remained fully operational without substantial interruption; and

- (2) Demonstrated compliance with all mandates of this chapter and chapter 3780 of the Revised Code.

1301:18-3-15: Facility Visitors

- (A) Upon entering the premises of a licensed entity, all facility visitors must:
  - (1) Provide valid, government issued photographic identification evidencing that they are twenty-one years of age or older;
  - (2) Obtain a visitor badge, to be visibly displayed at all times, and returned upon their departure; and
  - (3) Escorted and monitored by an assigned registered employee at all times.
- (B) Each licensee shall maintain a visitor log memorializing all facility visitors that enter the licensed premises. The visitor log will include all of the following information for each visitor:
  - (1) Full legal name of the visitor;
  - (2) The date and time of the visitor's arrival and departure;
  - (3) The employee assigned to escort visitor; and
  - (4) The purpose of the facility visit.

1301:18-3-16: Waste Disposal

- (A) All licensees shall destroy and dispose of all excess, unwanted, outdated, deteriorated, adulterated, or misbranded cannabis under video surveillance and in a manner as to render the cannabis unusable and non-retrievable.
- (B) All cannabis intended for destruction shall be weighed and recorded into the state inventory tracking system, separated from other viable inventory intended for distribution, and maintained in a secure location.
- (C) Cannabis intended for disposal shall be weighed and recorded into the statewide inventory tracking system.
- (D) Pursuant to paragraph (A) of this rule, cannabis shall be rendered unusable and non-retrievable by grinding and incorporating the waste with one or more of the following materials such that the resulting mixture is at least fifty-one percent non-cannabis waste:
  - (1) Paper waste;
  - (2) Cardboard waste;
  - (3) Food waste;
  - (4) Yard or garden waste;
  - (5) Grease or other compostable oil waste;
  - (6) Bokashi, or other compost activators; or
  - (7) Any other waste as approved by the division.
- (E) Licensed entities shall conduct all cannabis destruction and disposal in a secure, limited access area that is surveilled and accessible only to registered employees.
- (F) In addition to paragraph (C), all licensed entities shall maintain records of all cannabis destruction and disposal in accordance with [OAC records rule] and memorialize the following information for each occurrence:
  - (1) Manner of destruction;
  - (2) Rationale for destruction;
  - (3) Date and time of disposal;
  - (4) Assigned statewide inventory tracking information, if applicable; and
  - (5) The volume or weight of the associated waste.

- (G) Licensed entities shall ensure that all other non-cannabis waste, including hazardous materials, is disposed of in a manner consistent with state and federal law. For purposes of this rule, non-cannabis waste includes the following:
    - (1) Stalks, stems, fan leaves, or roots of the cannabis plant.

Dispensary Specific Rules

1301:18-7-01: Dispensary Certificate of Operation

- (A) Unless otherwise authorized by the division, each dispensary is precluded from distributing or selling cannabis as authorized under this chapter until the division issues the dispensary a certificate of operation.
- (B) The division will not issue a provisional dispensary a certificate of operation unless and until the dispensary meets all mandates outlined under this chapter.
- (C) Each dispensary shall have twelve months from the date the dispensary is issued a provisional license pursuant to this chapter to obtain a certificate of operation.
- (D) Upon receipt of its certificate of operation, a dispensary may engage in the following activities:
    - (1) Obtain cannabis from a cultivator, processor, or other dispensary licensed pursuant to this chapter;
    - (2) Distribute, transfer, and sell cannabis to a cultivator, processor, or other dispensary licensed pursuant to this chapter;
    - (3) Transfer cannabis for research and development or laboratory testing to a laboratory licensed pursuant to this chapter; and
    - (4) Deliver cannabis and cannabis paraphernalia pursuant to [OAC delivery rule].
- (E) A certificate of operation shall be issued to, and valid only for, the designated business entity, owners, and licensed premises specified within the dispensary's initial application for licensure pursuant to rule 1301:18-2-02.

1301:18-7-02: Operating Procedures and Quality Assurance

- (A) Each dispensary shall establish, maintain, and comply with written policies and procedures for the daily operation and distribution of cannabis. The dispensary's standard operating policies and procedures shall mitigate the risk of diversion, theft, or loss and ensure compliance with all mandates under this chapter.
- (B) Unless otherwise authorized, a dispensary shall only distribute cannabis, cannabis paraphernalia, or other inventory at the licensed premises.
- **(C) Major Modifications**
    - (1) Any proposed major renovation or modification of the licensed premises shall be submitted to the division at least sixty calendar days prior to implementation.
    - (2) The division will review the proposed modification and may do any of the following:
        - (a) Approve the submission;
        - (b) Deny the submission; or
        - (c) Mandate updates to the submission to ensure compliance with this chapter.
    - (3) The division may inspect the licensed premises pursuant to any proposed major renovation or modification.
- (D) Each dispensary shall ensure the licensed premises:
    - (1) Conforms with all relevant local ordinances, zoning and planning requirements, and fire codes;

- (2) Does not exceed maximum building capacity and prevents the presence of individuals not engaged in activities authorized pursuant to this chapter;
- (3) Prominently displays its certificate of operation and license seal issued by the division;
- (4) Maintains proper cleanliness, ventilation, temperature control, and sanitation to ensure safe and consistent inventory;
- (5) Contains sufficient lighting to ensure visibility, security, and proper surveillance;
- (6) A dispensary licensed as a dual-use facility pursuant to rule 1301:18-2-05 shall ensure the facility:
    - (a) Serves and accommodates medical patients and caregivers and adult-use consumers alike;
    - (b) Maintains ongoing inventory sufficient to maintain an adequate supply of medical cannabis to meet the current demand and projected patient and caregiver population;
    - (c) Provides accommodations to medical cannabis patients and caregivers that may include, but is not limited to:
        - (i) Dedicated hours of operation limited to medical-only patients and caregivers during which adult-use consumers are precluded from the facility.
        - (ii) Expanded options for medical cannabis delivery and online ordering.
        - (iii) Efficient point-of-sale accommodations that similarly and expeditiously serve medical patients and caregivers and adult-use consumers.

- (E) Each dispensary shall designate areas within the facility that are compartmentalized based upon function.
    - (1) Each dispensary shall maintain designated secure, limited access areas that are accessible only by authorized registered employees.
        - (a) Each dispensary's designated secure, limited access areas shall include the following:
            - (i) A storage area for all cannabis, cannabis paraphernalia, and any other inventory;
            - (ii) A security area for all security and surveillance systems and equipment;
            - (iii) A cannabis destruction and disposal area that complies with rule 1301:18-3-16 of this chapter**;**
            - (iv) An area for receipt of all deliveries to the facility.
        - (b) All secure, limited access areas shall be constantly monitored, video surveilled, and meet all requirements under rule 1301:18-7-05 of this chapter.
        - (c) Each dispensary shall post conspicuous signage at all secure, limited access areas stating: "Do not enter- Restricted Access Area – Access Restricted to Authorized Employees Only."
        - (d) Unless otherwise authorized by the division, no dispensary shall create or allow photographs, videos, or other media depicting any secure, limited access area.
    - (2) Each dispensary shall maintain a designated retail area.
        - (a) Pursuant to rule 1301:18-7-04, the retail area shall be secure and video surveilled to prevent diversion, theft, loss, or unauthorized access by the public.

        - (b) Except as outlined under paragraph (E)(2)(c) of this rule, cannabis, cannabis paraphernalia, and other inventory may not be maintained in the designated retail area.
        - (c) Within the retail area, each dispensary shall establish a secure, limited access area that is physically separated from the remainder of the retail area and is accessible only by authorized registered employees. This secure, limited access area shall:
            - (i) Maintain all cash registers or other points of sale; and
            - (ii) Ensure any cannabis, cannabis paraphernalia, or other inventory maintained in this area is limited in quantity, separately secured to prevent theft, and not visible from outside the facility.
- **(F) Employees**
    - (1) Prior to commencing employment, each dispensary shall ensure all employees are registered with the division pursuant to [OAC employee badge] and receive adequate education and training on standard operating procedures and as mandated by [OAC Employee Education Specifications].
    - (2) All registered employees are to display their employee badge at all times during working hours.
    - (3) A registered responsible party as outlined by rule 1301:18-7-03 of this chapter is to be present at the licensed premises at least twenty hours per week.
- **(G) Hours of Operation**
    - (1) A dispensary may operate between the hours of 7:00 AM and 11:00 PM.
    - (2) Each dispensary shall maintain reasonable hours of operation and conspicuously post such hours of operation at the licensed premises.
    - (3) Each dispensary shall establish, maintain, and comply with written procedures for facility closure.
        - (a) Each dispensary shall include in its written closure procedures a method to notify patients and caregivers of when the dispensary will resume normal hours of operation and conspicuously post such information at the licensed premises.
    - (4) Each dispensary shall notify the division in advance of any permanent, long-term modifications to its hours of operation.
- **(H) Daily Operations**
    - (1) Each dispensary shall mandate all members of the public to present valid, government-issued photographic identification containing the individual's date of birth prior to each of the following events:
        - (a) Entering the designated retail area;
        - (b) Executing any sale conducted at the licensed premises; and
        - (c) Transferring possession of any purchased materials to a customer.
    - (2) Unless otherwise authorized under this chapter, no person under the age of twenty-one shall be granted access to the dispensary's licensed premises.
        - (a) Registered patients who are under the age of twenty-one may enter the premises if they present valid patient identification.
        - (b) Registered patients under the age of eighteen are to be accompanied by their registered caregiver.
    - (3) Prior to entering the dispensary's retail area, all members of the public shall be mandated to present valid, government-issued photographic identification containing the individual's date of birth.

        - (a) A registered dispensary employee is to review the individual's identification and ensure the following:
            - (i) The individual is at least twenty-one years of age or older; or
            - (ii) For registered patients:
                - (A) The individual is eighteen years of age or older or accompanied by the patient's registered caregiver; and
                - (B) The dispensary employee will also mandate presentation of valid patient identification.

- **(I) Points of Sale**
    - (1) Prior to any sale, or the transfer of possession of any cannabis, a registered dispensary employee will review the customer's valid, government-issued photographic identification containing the customer's date of birth. The employee shall confirm the individual is:
        - (a) A customer is at least twenty-one years of age or older or authorized to engage in activities pursuant to this chapter;
        - (b) The information contained on the customer's identification matches the individual presenting the identification;
        - (c) The information contained on the customer's identification matches the information provided in the order; and
        - (d) If applicable, the registered employee will also review documentation evidencing the individual is:
            - (i) A registered patient or caregiver; or
            - (ii) Veteran or indigent status.
    - (2) A dispensary may accept orders and payment for cannabis and cannabis paraphernalia via the internet.
        - (a) A dispensary that accepts orders and payment pursuant to this paragraph shall ensure a registered dispensary employee mandates the customer to present all identifying information outlined under paragraph (I)(1) of this rule prior to transferring possession of any purchased materials to the customer.
    - (3) A dispensary may utilize a self-serve ordering kiosk located within the physical premises of the facility.
        - (a) The dispensary shall ensure that the kiosk and surrounding area are secure and surveilled to prevent diversion, theft, and loss.
        - (b) A self-serve ordering kiosk may not automatically or directly dispense cannabis to individuals.
    - (4) Each dispensary shall maintain at each point-of-sale:
        - (a) Educational materials in compliance with section 3780.30 of the Revised Code on substance abuse and access to addiction services;
        - (b) Contact information for the division's toll-free telephone line in compliance with section 3796.17 of the Revised Code; and
        - (c) Any other information mandated by the division.
- **(J) Drive-Up Window:**
    - (1) A dispensary may petition the division to distribute inventory via a drive-up window affixed to the physical premises of the facility.
    - (2) The dispensary shall ensure that the drive-up window, and the area immediately surrounding, is secure, video surveilled, and meet all mandates outlined under rule 1301:18-7-05 of this chapter.

    - (3) The area immediately surrounding the drive-up window, must be possessed or controlled by the dispensary or authorized for use of the area via express written consent by the property owner.
- **(K) Curbside Pickup:**
    - (1) A dispensary may petition the division to distribute purchased inventory via curbside pickup.
    - (2) The dispensary shall ensure the area designated for curbside pickup, and the immediately surrounding area, is secure, video surveilled, and meets all mandates under rule 1301:18-7-05 of this chapter.
    - (3) Any area designated for curbside pickup, and the immediately surrounding area, must be possessed or controlled by the dispensary or authorized for use of the area via express written consent by the property owner.
    - (4) The dispensary shall assign a registered dispensary employee who meets the mandates outlined under rule 1301:18-7-05(B) of this chapter to monitor and assist with any curbside pickup distribution.
    - (5) A registered dispensary employee shall mandate presentation of the individual's identification as outlined under paragraph (I)(1) of this rule prior to transferring possession of the purchased inventory.

1301:18-7-03: Dispensary Designated Responsible Party

- (A) Prior to the issuance or renewal of a certificate of operation, each dispensary shall designate at least one, but not more than three individuals to serve as the licensee's responsible party as defined by [OAC Employee rule].
- (B) A dispensary's designated responsible party will manage the facility's daily operations and ensure compliance with all standard operating procedures.
- (C) A responsible party is to be physically present at the licensed premises at least twenty hours per week and be immediately available to communicate with dispensary staff or the division during any operating hours when they are not physically present. The responsible party will ensure the following:
    - (1) The licensed premises remain secure, surveilled, and in compliance with rule 1301:18-7-05 of this chapter;
    - (2) All inventory is maintained in the facility's secure, limited access storage area;
    - (3) All inventory is properly recorded and tracked in the state inventory tracking system;
    - (4) All delivery and receipt of cannabis occurs in a secure, limited access area;
    - (5) All dispensing errors are immediately remedied and reported to the division;
    - In the event of any diversion, theft, or loss the dispensary complies with [OAC theft/loss].
- (D) Each dispensary shall notify the division in writing of a change of a designated responsible party within ten calendar days of the effective date of the appointment of a new designated responsible party.

1301:18-7-05: Minimum Security and Surveillance Requirements

- (A) Each dispensary shall establish, maintain, and comply with written policies and procedures that ensure adequate security, surveillance, and control of the licensed premises that prevent diversion, theft, or loss and meet the minimum requirements outlined under this rule.
    - (1) Pursuant to rule 1301:18-7-02(C) each dispensary shall petition the division prior to implementing any major modification to the facility's security procedures, systems, or equipment.

- (B) Prior to the commencement of business, each dispensary shall meet the following security and surveillance requirements that ensure compliance with all standards established by the division:
    - (1) Designate a secure, limited access area for all equipment maintained pursuant to this rule that is accessible only by authorized registered dispensary employees with foundational training in security and surveillance;
    - (2) Install a security alarm system with commercial grade equipment that includes the following:
        - (a) An access alarm on all entry points and windows;
        - (b) Motion detectors that identify unauthorized access into the facility; and
        - (c) A silent alarm, which may be utilized during instances of duress that sends a pre-recorded voice message to the facility's designated security personnel and law enforcement, public safety, or emergency services requesting dispatch, which includes the capability to enter a designated code into an arming station to signal that the alarm user is being forced to turn off the system.
    - (3) Install a video surveillance system that complies with the following:
        - (a) Capable of electronic monitoring of the facility and real-time access by the division;
        - (b) Collects twenty-four-hour live video feed with motion-activated recording capabilities for all video cameras that record in at least fifteen frames per second;
        - (c) Archives and retains recordings for at least forty-five calendar days;
        - (d) Contains a display monitor with a minimum screen size of nineteen inches;
        - (e) Exports still images in an industry standard format that guarantees authentication and prevents alteration of the recorded images;
        - (f) Produces clear color still photographs that are a minimum of 9600 dpi from any camera image, live or recorded;
        - (g) Embeds a date and time stamp on all recordings; and
        - (h) Includes a failure notification system that provides an audible and visual notification of any failure in the electronic monitoring system.
    - (4) Install unobstructed, tamper-evident cameras that capture the entirety of the facility premises and clearly identify all individuals and activities within the surveilled area;
    - (5) Camera placement at all the following locations:
        - (a) All points of ingress and egress;
        - (b) All secure, limited access areas;
        - (c) Any area that stores cannabis or facility inventory;
        - (d) The facility's cannabis destruction and disposal area;
        - (e) All areas where sales proceeds are stored or transferred; and
        - (f) Each point of sale.
    - (6) Document all entry and exit with time in and time out of secure, limited access areas;
    - (7) Develop emergency policies and procedures for securing all inventory and currency in the event of diversion, theft, or loss; and
    - (8) Any other requirements the division deems necessary to maintain proper security and surveillance and ensure public safety.
- (C) Each dispensary shall inspect and test all security and surveillance equipment at least once per thirty calendar days to ensure functionality.
    - (1) Pursuant to [OAC Records], each dispensary shall record and maintain of all security and surveillance equipment tests.
    - (2) Each dispensary shall notify the division of any failure in the facility's security or surveillance system or equipment.

        - (a) Any necessary repair or replacement shall occur within twenty-four hours of identification.
- (D) In the event a dispensary is made aware of any pending criminal, civil, or administrative investigations or legal proceedings for which a video recording may contain relevant information, the dispensary 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.

*** TO BE RESCINDED ***

OAC 3796:2-1-05 Cultivator financial responsibility

~~(A) A provisional licensee shall provide evidence of financial responsibility before a certificate of operation can be issued, which may be payable to the department for any of the following reasons:~~

~~(1) A cultivator fails to adhere to the security plan approved by the department or otherwise operates the facility in a manner that allows for or results in theft, loss, or diversion of medical marijuana;~~

~~(2) A cultivator engages in activities prohibited under rule 3796:2-2-07 of the Administrative Code; or~~

~~(3) A cultivator has its certification of operation fined, suspended or revoked resulting from activities prohibited under rule 3796:5-6-02 of the Administrative Code.~~

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

~~(1) Providing and maintaining at its own expense any insurance coverage and terms of insurance required and approved by the department, including, but not limited to, products liability and general liability, prior to the issuance of a certificate of operation, if such products are in existence at the time of issuance or the time of renewal for the certificate of operation; and~~

~~(2) Establishing and maintaining an escrow account in a chartered financial institution in Ohio in the amount of seven hundred fifty thousand dollars for level I cultivators and seventy-five thousand dollars for level II cultivators, with escrow terms, approved by the department, that it shall be payable to the department in the event of circumstances outlined in paragraph (A) of this rule. A financial institution may not return money in an escrow or surety account to the cultivator that established the account or representative of the cultivator unless the cultivator or representative presents a statement issued by the department indicating that the account may be released; or~~

~~(3) Providing a surety bond naming the cultivator as principal of the bond, upon terms approved by the department, in the amount of seven hundred fifty thousand dollars for level I cultivators and seventy five thousand dollars for level II cultivators payable to the department in the event of circumstances outlined in paragraph (A) of this rule. Bond terms include the following:~~

~~(a) The business name and registration number on the bond must correspond exactly with the business name and registration number in the department's records.~~

~~(b) A copy of the bond must be received by the department before a certificate of operation is issued.~~

~~(c) The bond shall not be canceled by a surety on less than thirty days' notice in writing to the department. If a bond is canceled and the cultivator fails to file a new bond with the department in the required amount on or before the effective date of cancellation, the cultivator's license shall be revoked. The total and aggregate liability of the surety on the bond is limited to the amount specified on the bond.~~

~~(4) The department shall permit a cultivator to reduce the escrow or surety bond by two hundred fifty thousand dollars for level I cultivators and twenty-five thousand dollars for level II cultivators upon the successful achievement of each of the following milestones, resulting in a potential elimination of the escrow account or surety bond:~~

(a) A determination by the department that the cultivator remained fully operational without substantial interruption and was able to provide and maintain an uninterrupted supply of medical marijuana, in accordance with rule 3796:2-1-07 of the Administrative Code, and demonstrates an ability to comply with the requirements of Chapter 3796. of the Revised Code and the rules promulgated in accordance with Chapter 3796. of the Revised Code, as determined by the department, for a period of one year;

(b) A determination by the department that the cultivator remained fully operational without substantial interruption and was able to provide and maintain an uninterrupted supply of medical marijuana, in accordance with rule 3796:2-1-07 of the Administrative Code, and demonstrates an ability to comply with the requirements of Chapter 3796. of the Revised Code and the rules promulgated in accordance with Chapter 3796. of the Revised Code, as determined by the department, for two consecutive years; and

(c) A determination by the department that the cultivator remained fully operational without substantial interruption and was able to provide and maintain an uninterrupted supply of medical marijuana, in accordance with rule 3796:2-1-07 of the Administrative Code, and demonstrates an ability to comply with the requirements of Chapter 3796. of the Revised Code and the rules promulgated in accordance with Chapter 3796. of the Revised Code, as determined by the department, for three consecutive years.

(5) A cultivator will not be held in default should the failure to comply be the direct result of an event or effect that cannot be reasonably anticipated or controlled, such as an act of God or nature and not the result of a lack of good faith effort.

(C) The required insurance policy and surety bond shall be written by an insurance company formed, licensed or eligible, and authorized or approved to write such insurance in the state of Ohio under Title XXXIX of the Revised Code.

(D) The department may waive any of the requirements of this rule on a temporary or permanent basis, if it is determined by the department that the financial responsibility instruments listed in this rule are not in existence in the insurance market.

OAC 3796: 2-2-03 Cultivator waste disposal

(A) A cultivator shall dispose of undesired, excess, unauthorized, obsolete, adulterated, misbranded or deteriorated medical marijuana waste in accordance with the cultivator's disposal plan under the supervision of a type 1 employee, as defined in paragraph (H)(1) of rule 3796:5-2-01 of the Administrative Code, and in such a manner as to render the medical marijuana waste unusable.

(B) The disposal procedures established by the cultivator and submitted as part of the application process shall be sufficient to render medical marijuana waste unusable. Medical marijuana waste that is rendered unusable shall be discarded into a locked dumpster or other approved, locked container for removal from the facility by a waste removal company selected by the cultivator, or may be composted in a secured area at the cultivation site for future use at the facility. Medical marijuana waste shall be rendered unusable by grinding and incorporating the medical marijuana waste with one or more of the non-consumable, solid wastes listed below, such that the resulting mixture is at least fifty-one per cent non-marijuana waste:

(1) Paper waste;

~~(2) Cardboard waste;~~

~~(3) Food waste;~~

~~(4) Yard or garden waste;~~

~~(5) Grease or other compostable oil waste;~~

~~(6) Bokashi, or other compost activators;~~

~~(7) Soil or other used growth media; or~~

~~(8) Other wastes approved by the department.~~

~~(C) The disposal of medical marijuana shall be performed by a type 1 employee in the designated destruction area identified in the cultivator's plans and specifications submitted to the department. The disposal shall be performed under video surveillance from the time the destruction begins to when it is placed in a locked dumpster or other approved, locked container and removed from the facility.~~

~~(D) The type 1 employee overseeing the disposal of medical marijuana shall maintain and make available in accordance with this chapter a separate record of every disposal indicating the following:~~

~~(1) The date and time of disposal;~~

~~(2) The manner of disposal;~~

~~(3) The volume and weight of the approved solid waste media used to render the medical marijuana unusable;~~

~~(4) The unique identification codes associated with the medical marijuana scheduled for destruction;~~

~~(5) The reasoning for and description of the disposal;~~

~~(6) The signature of the type 1 employee overseeing the disposal of the medical marijuana; and~~

~~(7) If the medical marijuana waste for disposal contains plant material that was prepared for sale to a dispensary or processor, the batch number, strain, volume, and weight of the plant material being disposed of.~~

~~(E) The disposal of other waste from the cultivator that does not include medical marijuana, including hazardous waste and liquid waste, shall be performed in a manner consistent with federal and state law.~~

OAC 3796:3-2-03 Processor waste disposal

~~(A) A licensed processor shall dispose of undesired, excess, unauthorized, obsolete, adulterated, or deteriorated medical marijuana waste in accordance with the processor's disposal plan under the supervision of a type 1 employee, as defined in paragraph (H) of rule 3796:5-2-01 of the Administrative Code, and in such a manner as to render the medical marijuana waste unusable.~~

~~(B) The disposal procedures established by the processor and submitted as part of the application process shall be sufficient to render the medical marijuana waste unusable. Medical marijuana waste that is~~

~~rendered unusable shall be discarded into a locked dumpster or other approved, locked container for removal from the facility by a waste removal company selected by the processor. Medical marijuana waste shall be rendered unusable by grinding and incorporating the medical marijuana waste with one or more of the non-consumable, solid wastes listed below, such that the resulting mixture is at least fifty-one per cent non-marijuana waste:~~

~~(1) Paper waste;~~

~~(2) Cardboard waste;~~

~~(3) Food waste;~~

~~(4) Yard waste;~~

~~(5) Soil or other growth media;~~

~~(6) Other wastes approved by the department.~~

~~(C) The disposal of medical marijuana or medical marijuana products shall be performed by a type 1 employee in the designated destruction area identified in the processor's plans and specifications submitted to the department. The disposal shall be performed under video surveillance from the time the destruction begins to when it is placed in a locked dumpster or other approved, locked container and removed from the facility.~~

~~(D) The type 1 employee overseeing the disposal of medical marijuana shall maintain and make available in accordance with this chapter a separate record of every disposal indicating:~~

~~(1) The date and time of disposal;~~

~~(2) The manner of disposal;~~

~~(3) The volume and weight of approved solid waste used to render the medical marijuana waste unusable;~~

~~(4) The reasoning for and description of the disposal;~~

~~(5) The signature of the type 1 employee overseeing the disposal of the medical marijuana;~~

~~(6) The batch number or numbers, volume, and weight of any medical marijuana extract or plant material being disposed of; and~~

~~(7) The lot number, registered product name, volume, weight, and unit count of any medical marijuana products being disposed of.~~

~~(E) The disposal of other waste from the processor that does not include medical marijuana, including hazardous waste and liquid waste, shall be performed in a manner consistent with federal and state law.~~

OAC 3796:6-2-01 Requests for applications 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.~~

~~(B) When the board issues a request for applications pursuant to this rule, the board will include in the request:~~

~~(1) The procedure that will be used to award provisional dispensary licenses;~~

~~(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 fourteen calendar days beginning on the date which is forty-five calendar days after the date on which the board issued the request for applications, unless otherwise determined 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 provisional dispensary license. If a request for applications is canceled prior to the award of a provisional dispensary 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.~~

OAC 3796:6-2-02 Applications to operate medical marijuana

~~(A) Only a provisional dispensary licensee who 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) The board will not consider an incomplete application submitted in response to a request for applications issued pursuant to rule 3796:6-2-01 of the Administrative Code. To be considered complete, an application submission shall include all the following:~~

~~(1) The completed payment of 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 provisional dispensary applicant, as reflected in the articles of incorporation or other documents filed with the secretary of state;~~

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

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

~~(d) A copy of the provisional dispensary applicants articles of incorporation, articles of organization or partnership or joint venture document of the provisional dispensary applicant;~~

~~(e) The physical address where the proposed dispensary will be located;~~

~~(f) The physical address of any co-owned or otherwise affiliated marijuana entities, including both licensed and prospective entities, including cultivators, processors, testing labs, dispensaries, or applicants for any other such license or certificate;~~

~~(g) The mailing address of the provisional dispensary applicant;~~

~~(h) The telephone number of the provisional dispensary applicant;~~

~~(i) The electronic mail address of the provisional dispensary applicant;~~

~~(j) Proof establishing that the provisional dispensary 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 dispensary license is issued to the applicant;~~

~~(k) A professionally prepared survey 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) An opioid treatment program as defined in rule 4729:5-21-01 of the Administrative Code.~~

~~(l) Notwithstanding rule 3796:5-5-01 of the Administrative Code, five hundred feet will be measured using the shortest distance between the closest point of the external boundaries of a parcel of real estate having situated on it any facility described in paragraph (B)(2)(k) of this rule and the external boundaries of the parcel on which the prospective dispensary would be situated.~~

~~(m) Evidence that the provisional dispensary applicant is in compliance with all local ordinances, rules, or regulations adopted by the locality where the provisional dispensary applicants property is located, which are in effect at the time of the application, including copies of any required local registration, license, or permit of the locality where the provisional dispensary applicant's property is located.~~

~~(n) The signature of an authorized natural person on behalf of the provisional dispensary applicant 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 provisional dispensary license is true and correct at the time of signing.~~

~~(3) A tax authorization form on behalf of the business, any owner as defined in rule 3796:6-2-03 of the Administrative Code, and any other associated key employee as determined by the board of pharmacy.~~

~~(4) Financial statements demonstrating the provisional dispensary applicant has adequate liquid assets to cover all expenses and costs identified in paragraphs (B)(8) and (B)(9) of this rule, but no less than two hundred fifty thousand dollars, whichever is higher, for each license the provisional dispensary applicant is willing to accept.~~

~~(a) Such liquid assets shall be unencumbered and capable of being converted to cash within thirty days after a request to liquidate such assets. To demonstrate liquidity, the application shall include the following:~~

~~(i) Account statements dated no earlier than thirty days prior to the date the application was submitted, from an institution in this state, or any other state in the United States, United States territory, or the District of Columbia.~~

~~(ii) 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 provisional dispensary applicant in the event that a dispensary license is awarded to the applicant.~~

~~(b) The use of funds from sources not disclosed in the application is prohibited unless the applicant obtains approval from the board.~~

~~(5) The description of the proposed organizational structure of the provisional dispensary applicant, including both of the following:~~

~~(a) An organizational chart showing all owners, officers, and board members of the provisional dispensary applicant, irrespective of ownership interest; and~~

~~(b) A list of all owners, officers and board members of the provisional dispensary applicant that contains the following information for each person:~~

~~(i) The current title of that person;~~

~~(ii) The role the person will serve in for the provisional dispensary applicant, if different from the person's current title;~~

~~(iii) Whether the person has served or is currently serving as an owner, officer or board member for another marijuana entity;~~

~~(iv) Whether the person has previously had a dispensary employee license revoked, disciplined or the equivalent thereof, in this state or any other jurisdiction;~~

~~(v) Whether a marijuana entity with which the owner, officer, or board member is or was previously associated has had a license revoked, disciplined or the equivalent thereof, in this state or any other jurisdiction;~~

~~(vi) The ownership interest that person has in the provisional dispensary applicant; and~~

~~(vii) Whether the person has an ownership interest or financial interest in any other marijuana entity.~~

~~(6) Each owner, officer and board member of the provisional dispensary applicant must submit to a criminal records check in accordance with rule 3796:6-2-07 of the Administrative Code.~~

~~(7) Site-specific plans showing the interior and exterior of the proposed medical marijuana dispensary, drawn to scale with square footage clearly illustrated. The site-specific plans shall be prepared and certified by the contractor or architect responsible for the project. The site-specific plans shall include and identify all of the following:~~

~~(a) The dispensary department;~~

~~(b) Restricted access areas;~~

~~(c) Waiting room(s);~~

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

~~(e) An enclosed delivery bay or other equally secured delivery area as approved by the board where medical marijuana deliveries will be made pursuant to a standard operating procedure approved by the board;~~

~~(f) A day-storage area with pass-through window(s);~~

~~(g) A "mantrap" at any ingress/egress from the dispensary department;~~

~~(h) A vault in conformance with C.F.R. 1301.72(a)(3) (6/30/2021) and in a location not visible to the public; and~~

~~(i) Parking.~~

~~(8) A site-specific construction or renovation budget and schedule demonstrating the applicant will commence dispensary operations in accordance with rule 3796:6-2-04 of the Administrative Code. The budget and schedule shall be prepared by the contractor or architect responsible for the project.~~

~~(9) A budget for the proposed dispensary identifying the projected costs to staff, equip, and operate the medical marijuana dispensary for the following time periods:~~

~~(a) From an award of the provisional dispensary license until the issuance of the certificate of operation; and~~

~~(b) From the issuance of the certificate of operation until not less than four months after receipt of the certificate of operation.~~

~~(10) Any other documentation required by the board to determine the provisional dispensary 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 calendar 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. All requests to withdraw an application shall be submitted in writing. If the withdrawal of an application is granted due to a change in federal, state, or local rules or regulations that would prohibit the proposed dispensary from operating in compliance with representations made in the~~

provisional dispensary applications, the provisional dispensary applicant for whom the withdrawal was granted shall be refunded any remitted application fees.

OAC 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 pharmacys 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, escrow account, or surety account are available in the market place.

OAC 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 corporations 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.

OAC 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 boundary of a parcel of real estate having situated on it a proposed 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, public park, or an opioid treatment program as defined in rule 3796:6-1-01 of the Administrative Code.

(C) The dispensary shall be equipped as to land, buildings, and equipment to properly carry on the business of a medical marijuana dispensary.

(D) The dispensary certificate of operation shall be prominently displayed at the location where the licensee is authorized to operate.

(E) The premises and operations of a licensee shall conform to all relevant fire codes, local zoning and planning requirements.

(F) It is the responsibility of a dispensarys associated key employees to promptly notify the state board of pharmacy of any change of the principal place of business.

(G) 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.

(H) All lighting outside and inside of a dispensary location must be maintained in good working order and wattage sufficient for clear security and surveillance.

(I) 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.

(J) 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.~~

~~(K) A dispensary shall display a placard, meeting the specifications of the placard described in paragraph (J) of this rule, providing a warning specified by the state board of pharmacy if the board determines that the warning is necessary to avoid imminent harm to public health.~~

~~(L) A dispensary shall have an enclosed delivery bay or equally secured delivery area where medical marijuana deliveries will be made pursuant to a standard operating procedure to be approved by the board.~~

~~(M) A dispensary shall have a day storage area for medical marijuana product with pass-through window(s).~~

~~(N) A dispensary shall have an approved vault in conformance with C.F.R. 1301.72(a)(3)(6/30/2021) that is in a location not visible to the public.~~

~~(O) A dispensary shall have a "mantrap" at any ingress/egress from the dispensary department.~~

~~(P) A dispensary shall establish, maintain and comply with written policies and procedures 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.~~

~~(Q) Notwithstanding any other provision of this chapter of the administrative code, a dispensary may sell medical marijuana products to patients and caregivers outside the dispensary building in accordance with all the following:~~

~~(1) The purchase of product, including all monetary transactions, shall take place on the dispensary's property (i.e., parking lot or sidewalk of dispensary);~~

~~(2) Dispensaries shall not deliver medical marijuana to a patient or caregiver's home.~~

~~(3) The patient or caregiver's card must be verified prior to purchase.~~

~~(4) Any money collected shall be taken into the dispensary department after each transaction.~~

~~(5) Medical marijuana products, including those that are awaiting pick-up, shall be maintained in the dispensary department until the patient arrives.~~

~~(6) Security shall be present for outdoor transactions of medical marijuana products.~~

~~(7) Outdoor transactions may only occur between the hours of eight am and seven pm EST.~~

~~(8) A dispensary shall comply with all other dispensing requirements (labeling, reporting to OARRS, etc.) for medical marijuana.~~

OAC 3796:6-3-03 Hours of operation

~~(A) A dispensary shall conspicuously post the hours of operation of the dispensary at all public entrances to the dispensary and on the dispensary's website homepage if one is maintained by the dispensary.~~

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

~~(1) Changes in the dispensary hours of operation shall be submitted to and approved by the board prior to hours of operation being modified, except as provided in paragraph (D) of this rule.~~

~~(2) Requests for modification of hours of operation shall be submitted on a form determined by the board no less than seven days prior to the requested modification of hours of operation go into effect.~~

~~(3) The dispensary must maintain approved hours for no less than thirty days before submitting a request to change hours, unless approved due to unusual circumstances as determined by the board.~~

~~(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.~~

OAC 3796:6-3-05 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 will no longer serves as an associated key employee 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 employee or associated key employee license.~~

~~(E) The designated representative and all licensed medical marijuana associated key employees, key employees, 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 calendar 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 destroy the card.~~

~~(G) 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 person's inappropriate 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 person'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 person's inappropriate prescribing, dispensing, diverting, administering, personally furnishing, diverting, supplying or selling a controlled substance or other dangerous drug.

OAC 3796:6-3-14 Destruction and disposal of medical marijuana

(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. 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. 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

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

~~(D) All medical marijuana to be rendered non-retrievable or unusable following the methods described in this rule shall be weighed, recorded, and entered into the inventory tracking system prior to rendering it non-retrievable or unusable. 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. The destruction of medical marijuana shall be conducted in a designated area with fully functioning video surveillance. 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.~~

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

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

~~(F) The following products may be returned to a dispensary by a registered patient or registered caregiver for the exclusive purpose of being destroyed. A dispensary may provide the patient or caregiver to whom the product was dispensed a refund of the purchase price of the product or a coupon or credit for a replacement product, and revise the patient's days' supply to reflect the returned product:~~

~~(1) Defective product;~~

~~(2) Product that does not match the item stated on the purchase receipt; and~~

~~(3) Medical marijuana that is mislabeled by the cultivator or processor of the product. All medical marijuana returned to a dispensary due to mislabeling by a cultivator or processor must be reported in writing to state board of pharmacy in a format and medium approved by the board.~~

~~(G) Recalled products must be returned to the dispensary where they were purchased by a registered patient or registered caregiver for the exclusive purpose of being destroyed. The dispensary shall provide the patient or caregiver to whom the product was dispensed a refund if the product is returned within thirty days of the product recall notice.~~

OAC 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. The vault shall have dual authentication or biometric access with a unique code for each employee. A safe exclusively used for storage of currency, with separate access controls, shall be maintained in the product vault;

(9) Keep a daily log of dispensary employees with access to the safe or vault and knowledge of the access code or combination, and records of all employee access to any restricted access areas;

(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;

(15) Employ dedicated on-site security personnel during all operational hours who shall only perform tasks related to security operations and have foundational training specific to security; and

(16) 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) A minimum of one height strip camera at any public entrance or exit to the dispensary;

(6) 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;

(7) 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.

(8) 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;

(9) 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 event or emergency requiring a law enforcement response;

(10) 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;

(11) 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;

(12) 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;

(13) 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;

~~(14) 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;~~

~~(15) 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~~

~~(16) 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) Preventive maintenance must be performed on a dispensary's surveillance system at least annually by a vendor approved by the state board of pharmacy.~~