



Ohio Administrative Code

Rule 3796:6-2-04 Medical marijuana dispensary license application evaluation.

Effective: September 8, 2017

(A) The board shall evaluate each complete application submitted in accordance with paragraph (C) of rule 3796:6-2-01 of the Administrative Code and award dispensary licenses on a competitive basis using the criteria set out in the notice for applications. The burden of proving an applicants qualifications rests with the applicant.

(B) Incomplete applications shall not be evaluated.

(C) The board may request additional information the board determines is necessary to process and fully investigate an application;

(1) The applicant shall provide requested additional information by the close of business of the fifth business day after the request has been received by the applicant;

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

(D) Pursuant to division (B) of section 3796.10 of the Revised Code, the state board of pharmacy shall not consider any applicant for a dispensary provisional license that:

(1) Submits an application containing one or more associated key employees who pleaded guilty to or were convicted of a disqualifying offense. A dispensary may disassociate with a prospective associated key employee for failure to comply with Chapter 3796. of the Revised Code and this division only upon approval from the state board of pharmacy;

(2) Has an ownership interest or investment interest in a testing laboratory, an applicant for a license as a testing laboratory; or shares any corporate officers or employees with a testing laboratory or applicant for a testing laboratory;



(3) Is a physician with a certificate to recommend medical marijuana or such a physician has an ownership or investment interest in or a compensation arrangement with the applicant;

(4) Will be located within five hundred feet of a prohibited facility; or

(5) Is not in compliance with the applicable tax laws of this state or its political subdivisions; or is not in compliance with the applicable tax laws of any jurisdiction where the applicant has operated and conducted business within the last three years;

(E) Prior to scoring applications for a provisional license, the state board of pharmacy may deny a provisional license to any applicant who:

(1) Submits an incomplete, inaccurate, false, or misleading application;

(2) Knowingly employs a person who has been disciplined by the state board of pharmacy or any professional licensing board;

(3) Will be located within five hundred feet of a community addiction services provider under section 5119.01 of the Revised Code; or

(4) Fails to pay applicable fees.

(F) The state board of pharmacy shall review for a provisional license, the submitted applications consistent with this division of the Administrative Code, for each designated dispensary district established by the board. If there are an insufficient number of qualified applicants to award all the dispensary licenses available through the open application, the board may republish, in accordance with rule 3796:6-2-01 of the Administrative Code, a request for applications for dispensary provisional licenses in the applicable district.

(G) The board shall consider, but is not limited to, the following criteria in evaluating dispensary license applications:

(1) The character and fitness of the persons with an ownership interest in the dispensary, those with a



financial interest and any other person who may have control or influence over the operation of the proposed dispensary;

(2) The location for the proposed dispensary including, but not limited to:

(a) Its proximity to previously approved dispensaries or pending dispensary applications;

(b) Whether the registered patient population in the area proposed by the dispensary license applicant justifies the need for a dispensary or an additional dispensary in that area; and

(c) Whether the number of dispensaries in the locality is such that the granting of a license is detrimental to the public interest. In reaching a conclusion in this respect, the state board of pharmacy may consider the population of, the number of like licenses and number of all licenses existent in, the particular town or neighborhood.

(3) The applicants ability to demonstrate adequate ability to detect and deter the diversion, theft and loss of marijuana;

(4) The applicants ability to maintain the knowledge, understanding, judgment, procedures, security controls, work environment, and ethics to ensure optimal safety and accuracy in the dispensing and sale of marijuana;

(5) Whether, pursuant to division (C) of section 3796.10 of the Revised Code, at least fifty-one percent of those who own and control the prospective dispensary are Blacks or African Americans, American Indians, Hispanics or Latinos, or Asians. For purposes of this rule, the definitions under paragraphs (A)(6) to (A)(9) of rule 123:2-15-01 of the Administrative Code shall apply; and

(6) The extent to which the applicant or any of the applicants dispensary backers have a financial interest in another licensee, registrant or applicant under Chapter 3796. of the Revised Code.

(H) If there are more qualified applications than the number of licenses available and there is a numerical tie for the last provisional license to be issued, the last provisional license shall be awarded to the applicant with the highest score for security. If the security score is tied, the



provisional license will be issued to the applicant with the highest patient education score. If the patient education score is tied, the provisional license will be issued to the applicant that will be located the greatest distance from another dispensary.

(I) Within ten business days of the boards decision, the board shall notify applicants who will be awarded a provisional license.

(J) If an applicant has been awarded a provisional license and has not commenced operation of such facility within one hundred eighty calendar days of being notified of the provisional license award, the board may, in its discretion, rescind such provisional license, unless the delay was caused by a force majeure.

(1) A dispensary shall be deemed to have commenced operation if the dispensary is capable of operating in accordance with the dispensary applicants approved application, as deemed appropriate by the state board of pharmacy, and passes final inspection by the state board of pharmacy in accordance with rule 3796:6-2-06 of the Administrative Code.

(2) In the event a provisional license is rescinded pursuant to this paragraph the board shall award a provisional license by selecting the highest scored applicant from among the qualified applicants who applied for the provisional license in the applicable district.

(3) If no other qualified applicant applied for such provisional license or satisfied the criteria for awarding a license, the board may republish, in accordance with this chapter, a request for applications for dispensary provisional licenses in the applicable district.

(K) A provisional license issued under this rule is exclusive to the entity and location identified in the application and is non-transferrable.