



Ohio Administrative Code

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

Effective: September 10, 2021

(A) The board may award provisional dispensary licenses via competitive scoring, a drawing, or a combination of competitive scoring and drawing, as determined by the board, and described in a request for applications issued by the board pursuant to rule 3796:6-2-01 of the Administrative Code.

(B) Provisional dispensary licenses shall only be awarded after final approval by the board, which shall include an evaluation of the application and the applicant for the following:

(1) Compliance with Chapter 3796. of the Revised Code and the rules adopted thereunder;

(2) Compliance with the relevant request for applications issued by the board; and

(3) All license limitations, set forth in paragraph (C)(1) of this rule or otherwise specified by the board.

(C) If the board utilizes a drawing component in awarding provisional dispensary licenses:

(1) Provisional dispensary applicants may submit an unlimited number of applications except:

(a) Applications are site-specific and provisional dispensary applicants with any common ownership may not submit more than one application for the same parcel or any adjoining parcels;

(b) No owner, as defined in rule 3796:6-2-03 of the Administrative Code, may be issued more than five dispensary certificates of operation and/or provisional dispensary licenses at any time;

(c) No owner, as defined in rule 3796:6-2-03 of the Administrative Code, may be issued more than sixty-six per cent of the total number of dispensary certificates of operation and/or provisional dispensary licenses in a multi-license district; and



(d) Provisional dispensary applicants shall only be awarded the total number of provisional dispensary licenses for which they have adequate liquid assets, as demonstrated in the applications submitted to the board, pursuant to rule 3796:6-2-02 of the Administrative Code.

(2) If the number of provisional dispensary license applications submitted in a district is equal to or less than the number of available provisional dispensary licenses for that district, as described in the relevant request for applications, no drawing will be held and all provisional dispensary applications submitted for that district will be awarded a provisional dispensary license, subject to paragraph (B) of this rule.

(3) If the number of provisional dispensary license applications submitted in a district is greater than the number of available provisional dispensary licenses for that district, a drawing will be held in order to produce a randomly-ranked order list of all provisional dispensary license applications submitted for that district.

(a) The list shall include all provisional dispensary applications submitted for that district, subject to any automatic disqualifications as outlined in the relevant request for applications. Disqualified applications will not be included in the drawing.

(b) The order in which the district drawings will occur shall be listed in the relevant request for applications.

(c) The ranked order lists shall be used to award provisional dispensary licenses for each district, subject to paragraph (B) of this rule, until all available provisional dispensary licenses for that district are awarded.

(d) If, during the evaluation described in paragraph (B) of this rule, a provisional dispensary license application or applicant is found not to be eligible for licensure, the board will proceed to review the next provisional dispensary license application in the ranked order list. The evaluation process will continue until as many provisional dispensary license applications have been found eligible for licensure as provisional dispensary licenses are available for that district, subject to the board-approval described in paragraph (B) of this rule.



(D) If the board determines an owner will be limited in the number of provisional dispensary licenses pursuant to paragraph (C)(1) of this rule, the provisional dispensary licenses will be issued in the order in which they were drawn, or would have been drawn if a drawing had been held, consistent with paragraphs (C)(2) and (C)(3) of this rule.

(E) If more than one application identifies the same parcel for a proposed dispensary location, the highest ranked provisional dispensary application found to be eligible for licensure shall be awarded a provisional dispensary license.

(F) The burden of proving an applicant's qualifications rests with the applicant.

(G) 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 tenth calendar day after the request has been received by the applicant;

(2) If the applicant does not provide the requested information within ten calendar days, the board shall consider the application to be an abandoned application and will cease evaluation of the application.

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

(1) Submits an application containing one or more associated key employees who has a conviction for, judicial finding of guilt of, or plea of guilty to 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.

(I) The state board of pharmacy may deny a provisional dispensary 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 an opioid treatment program as defined in rule 4729:5-21-01 of the Administrative Code; or

(4) Fails to pay applicable fees.

(J) The state board of pharmacy shall review for a provisional dispensary 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 provisional dispensary licenses in the applicable district.

(K) Within ten calendar days of the board's decision, the board shall notify applicants who will be awarded a provisional dispensary license.

(L) Unless the provisional dispensary license holder has requested and received a variance in accordance with rule 3796:6-4-10 of the Administrative Code, the provisional dispensary licensee shall commence operations within two hundred and seventy days after the provisional dispensary



licensee was issued a provisional dispensary license. Failure to commence operations within the requisite timeframe may result in the commencement of administrative action pursuant to Chapter 119. of the Revised Code, up to and including revocation of the provisional dispensary license.

(M) Every applicant awarded a provisional dispensary license shall provide a written report to the board of pharmacy no later than the first day of every month following the month the applicant was awarded a provisional dispensary license. The reports shall detail the progress of the applicant to become operational and shall be submitted until the medical marijuana dispensary receives a certificate of operation or the applicant receives a notice pursuant to section 119.07 of the Revised Code.

(N) An applicant awarded a medical marijuana dispensary license shall be deemed to have commenced operations if the medical marijuana dispensary is capable of operating in accordance with the information contained in the application and the licensee passes a final inspection by the state board of pharmacy in accordance with rule 3796:6-2-06 of the Administrative Code.

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