



Ohio Administrative Code Rule 3796:6-4-03 Grounds for discipline.

Effective: September 8, 2017

(A) The state board of pharmacy, after notice and hearing in accordance with Chapter 119. of the Revised Code, may revoke, suspend, limit, place on probation, or refuse to grant or renew a dispensary provisional license, certificate of operation, or a dispensary employee license, or may impose a monetary penalty or forfeiture if the board finds that the licensee:

(1) Has violated any state or federal law or rule, regardless of jurisdiction in which acts were committed, except for minor traffic violations such as parking violations, speeding tickets and violations such as failure to obey a red light, failure to use a turn signal or expired registration. Acts in accordance to Chapter 3796. of the Revised Code and this division that constitute a violation of federal law shall not be considered as grounds for discipline;

(2) Has committed a crime of moral turpitude, as defined in section 4776.10 of the Revised Code;

(3) Demonstrates an absence of good moral character and habits;

(4) Guilty of dishonesty or unprofessional conduct over the course of his or her dispensary duties;

(5) Is addicted to or abusing alcohol or drugs or impaired physically or mentally to such a degree as to render the employee unfit to operate or work in a dispensary;

(6) Has been convicted of a misdemeanor or felony related to, or committed in, any function related to the operation of a dispensary;

(7) Violated, conspired to violate, attempted to violate, or aided and abetted the violation of any of the provisions of Chapter 2925., 3715., 3719., 3796., or 4729. of the Revised Code, or of any rule adopted by the board under those provisions;

(8) Divided or agreed to divide remuneration made in the course of the cultivation, processing,



dispensing, purchase or sale of medical marijuana with any licensed health professional certified to recommend medical marijuana;

(9) Knowingly lent the employees name to an illegal operator of a medical marijuana cultivating, processing, or dispensing facility or having professional connection with an illegal medical marijuana entity;

(10) Allowed a physician with a certificate to recommend medical marijuana to obtain an ownership or investment interest in or a compensation arrangement with a licensed dispensary;

(11) Allowed a recommending physician to conduct a physical examination or follow up care on dispensary premises;

(12) Allowed medical marijuana to be consumed on licensed dispensary premises or consumed medical marijuana on licensed dispensary premises;

(13) Committed fraud, misrepresentation, or deception in furnishing information to the state board of pharmacy, including in applying for or securing a license, registration, or renewal issued under Chapter 3715., 3719., 3796., or 4729. of the Revised Code;

(14) Failed to comply with an order of the board or a settlement agreement;

(15) Engaged in a pattern of conduct that demonstrates incompetence;

(16) Failed to respond to a written request for information by the state board of pharmacy within thirty days, unless otherwise provided in the written request from the state board of pharmacy;

(17) Was arrested and/or convicted of a disqualifying offense;

(18) Has a causal connection to a finding by the state board of pharmacy of a substantial discrepancy in a state board of pharmacy audit of medical marijuana;

(19) Has a causal connection to a finding by the state board of pharmacy of a substantial discrepancy



in a state board of pharmacy audit of capital or funds;

(20) Has an inability to operate using reasonable judgment, skill or safety due to physical or mental illness or other impairment or disability, including without limitation, deterioration through the aging process or loss of motor skills or mental incompetence;

(21) Has engaged in or permitted the fraudulent use of a dispensary employee identification card;

(22) Tampered with, falsified, altered, modified, or duplicated a dispensary employee identification card;

(23) Failed to report to the state board of pharmacy, within five calendar days of becoming aware, that an employee identification card has been lost, stolen, or destroyed;

(24) Failed to report to the state board of pharmacy, within five calendar days, any arrest, charge, or conviction for a disqualifying offense;

(25) Failed to report to the state board of pharmacy, within five calendar days, any adverse action taken against the employee by any licensing jurisdiction in any state or any territory of the United States or any foreign jurisdiction, any governmental agency, any law enforcement agency or any court;

(26) Failed to notify the state board of pharmacy of a change of address;

(27) Disclosed customer names, personal information or protected health information in violation of any state or federal law;

(28) Dispensed medical marijuana to any person other than a qualified patient or designated caregiver, or when otherwise prohibited under this division;

(29) Is an entity that operated as a dispensary before obtaining a certificate of operation from the state board of pharmacy;



- (30) Is an associated key or key employee who failed to report to the state board of pharmacy when he or she knew or should have known that a dispensary employee was using medical marijuana when the employee does not have a qualifying patient registration;
- (31) Is subject to any fact or condition which, if it had existed at the time of the original application for the license, would have warranted the denial of the license;
- (32) Selling, distributing, transferring in any manner, or giving medical marijuana or medical marijuana products to any unauthorized persons;
- (33) Permitted a person without a valid dispensary employee license to be employed by a dispensary;
- (34) Failed to assign a designated representative as required under this division;
- (35) Failed to hire sufficient personnel or maintained employment of employees who were unqualified in training or experience to properly operate a dispensary;
- (36) Engaged in any pattern of activity that causes harm to the community;
- (37) Dispensed or allowed to be dispensed, medical marijuana with improper labeling or medical marijuana that did not meet the labeling requirements of this division;
- (38) Failed to provide appropriate education to a patient or caregiver in compliance with rule 3796:6-3-15 of the Administrative Code;
- (39) Knowingly provided inaccurate or inappropriate education to a patient or caregiver;
- (40) Has 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 inappropriate prescribing dispensing, administering, supplying or selling a controlled substance or other dangerous drug other than medical marijuana dispensed;
- (41) Has 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, based, in whole or in part, on the prescriber's inappropriate prescribing, dispensing, personally furnishing, diverting, administering, supplying, or selling a controlled substance or other dangerous drug;

(42) Has been subject to disciplinary action by any licensing entity that was based, in whole or in part, on the prescribers inappropriate prescribing, dispensing, diverting, administering, personally furnishing, diverting, supplying or selling a controlled substance or other dangerous drug;

(43) Canceled a bond and the licensee failed to file a new bond with the state board of pharmacy in the required amount on or before the effective date of cancellation;

(44) Placed or maintained, or caused to be placed or maintained, an unauthorized advertisement of medical marijuana or medical marijuana products; and

(45) Failed to prevent diversion, theft, or loss of medical marijuana or to notify the state board of pharmacy thereof;

(46) Engaged in any other conduct for which the board may impose discipline as set forth in rules adopted under Chapter 3796. of the Revised Code or this division.

(B) A dispensary is responsible to the state or local governmental entity for all expenses incurred by the state or local governmental entity in the following:

(1) Cleaning up, mitigating or remedying any environmental damage caused by the dispensary; and

(2) Administrative costs for investigation and prosecution.

(C) When considering disciplinary action against a dispensary employee, the state board of pharmacy shall consider compliance with rule 3796:6-3-20 of the Administrative Code as a mitigating factor.