



## Ohio Medical Marijuana Control Program

### 2021 Request for Applications and Dispensary Application Instructions

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**I. Introduction**

**A. Background and Request for Applications**

The State of Ohio Board of Pharmacy (“Board”) is responsible for licensing all medical marijuana dispensaries in the State of Ohio. The Board issued the first request for applications (RFA I) in 2017 and awarded provisional dispensary licenses beginning in 2018. To date, a total of 58 provisional dispensary licenses have been issued.

Pursuant to Ohio Adm.Code 3796:6-2-05, the Board is required to conduct a review during each biennial licensing period to determine if there are an adequate number of licensed dispensaries to meet patient demand. In making this determination, the Board must consider the population of this state, the number of patients seeking to use medical marijuana, and the geographic distribution of dispensary sites. On April 19, 2021, the Board unanimously approved a second request for applications (RFA II) to issue up to 73 additional provisional dispensary licenses. The Board hereby requests applications for provisional dispensary licenses submitted in accordance with this request for applications.

**B. Relevant Legal Authority**

Applicants are advised to review and understand [Chapter 3796 of the Ohio Revised Code](#) as well as Chapter 3796 of the Ohio Administrative Code, including the following:

- o [3796:1](#) – Definitions
- o [3796:5-5](#) – Distance from Public Spaces
- o [3796:6](#) – Dispensaries
- o [3796:7](#) – Patients and Caregivers
- o [3796:8](#) – Forms and Methods of Administration

Applicants should also review [Resolution: Drive-Through Windows for Medical Marijuana Dispensaries](#) approved 9/14/2021.

**C. Timetable**

Event	Date
Publish RFA II	September 20, 2021
First Q & A Period	September 20 - October 6, 2021
Second Q&A Period	October 17 - October 21, 2021
Application Acceptance Period Begins	November 4, 2021 at 8:00 a.m.
Application Acceptance Period Concludes	November 18, 2021 at 2:00 p.m.

**D. Communication**

There will be two periods during which the Board will accept questions regarding RFA II. Questions may be submitted by emailing [rfaquestions@medicalmarijuana.ohio.gov](mailto:rfaquestions@medicalmarijuana.ohio.gov). The Board will make reasonable efforts to respond to all submitted questions and may combine a response to similar questions into a single response. Each person may submit a maximum of three questions during each Q&A period.

After the conclusion of the second Q&A period, any attempt on the part of an individual, an Applicant, an Applicant’s agent(s), or any party representing an Applicant, to initiate any communication to the Board that is not solicited by the Board as part of the evaluation process or any attempt to communicate with any member of the State regarding the evaluation process may be grounds for disqualification of the Applicant.



## **II. Application Process and Fees**

On Monday, September 20, 2021, the application and related forms will be available at [www.medicalmarijuana.ohio.gov](http://www.medicalmarijuana.ohio.gov).

On Thursday, November 4, 2021, the Board will begin accepting medical marijuana dispensary applications at 8 a.m. ET. Applications and all related materials must be submitted electronically through the web-based application available at [www.medicalmarijuana.ohio.gov/dispensaries](http://www.medicalmarijuana.ohio.gov/dispensaries).

To be considered for a provisional dispensary license, each medical marijuana dispensary application must include payment of the \$5,000 application fee. The application fee must be paid before 2:00 p.m. ET on Friday, November 18, 2021. The dispensary application fee must be remitted electronically either by credit card or automated clearing house (ACH).

Any applications, related documents, or fees submitted after 2:00 p.m. ET on Thursday, November 18, 2021 will not be accepted or considered.

## **III. Disclosure of Applicant Information**

Applications and related materials submitted to the Board may or may not be public records subject to disclosure under the Ohio Sunshine Laws (O.R.C. 149.43). While there are exceptions to production under Ohio law, federal law, or common law, the Board cannot guarantee that any or all data in the application will remain confidential at all times. Further, the Board may use or disclose information contained in the application submission to the extent provided by law. Applicants are strongly encouraged to review the applicable law prior to submitting an application as the Board is unable to provide legal advice.

Applicants that assert some or all of the application contains trade secrets, as defined in O.R.C. 1333.61, or who wish to submit an express statement to comply with O.R.C. 149.433(C) and that do not want such information used or disclosed other than for the evaluation of this proposal shall:

Clearly mark every page of trade secret materials in the application submission at the time it is submitted with the words "TRADE SECRET" and/or "INFRASTRUCTURE RECORD," as appropriate, in capitalized, underlined, and bold type font of at least 20 pt.

- A. Acknowledge that the State of Ohio does not assume liability for the use or disclosure of unmarked or unclearly marked trade secret information;
- B. Fill out and submit the attached "Trade Secret & Infrastructure Record Notification Form," specifying the pages or information contained in the application submission that is to be restricted and justifying the trade secret designation or infrastructure designation for each item. If no material is designated as trade secret information or as an infrastructure records, a statement of "None" should be listed on the form; and
- C. Satisfy the burden established by statute and legal precedent.

The Board may reject a claim that any particular information in an application submission is trade secret information if it determines that the Applicant has not met the burden of establishing the content to be trade secret information under any circumstance. Use of generic trade secret language encompassing substantial portions of the application submission or simple assertions of trade secret interest without substantive explanation of the basis therefore will not be sufficient to create a trade secret designation.



Applicants should understand that the Board will err on the side of disclosure of information to comply with O.R.C. 149.43.

The Applicant must defend any action seeking release of the materials that it believes to be trade secret information, and indemnify and hold harmless the State, its agents, and employees, from any judgments against the State in favor of the party requesting the materials, and any and all costs connected with that defense. This indemnification survives the State’s award of a license. In submitting an application, the Applicant agrees that this indemnification survives as long as the trade secret information is in the possession of the Board.

**IV. Dispensary Districts**

The State of Ohio Board of Pharmacy will award provisional dispensary licenses through a drawing process. The Board is authorized to issue up to 73 provisional dispensary licenses. The Board previously established thirty-one dispensary districts and those districts will be utilized for RFA II. The map of existing districts and the current number of dispensaries per district can be viewed [here](#).

Pursuant to Ohio Adm.Code 3796:6-2-04(C)(3)(b), the order in which the district drawings will occur is as follows:

District	Number of Available Provisional Dispensary Licenses
SW-3	2
NW-2	1
NW-1	1
SE-3	9
SW-1	8
NE-2	7
SW-5	6
SW-4	4
NE-6	4
SW-2	3
NE-5	3
NE-4	3
NE-1	3
SE-4	2
NE-3	2
SW-8	1
SE-8	1
NW-8	1
SW-7	1
SE-7	1
NW-7	1
SW-6	1
SE-6	1
NW-6	1
SE-5	1
NW-5	1
SE-2	1
NW-3	1
SE-1	1
NW-4	1



## V. Preparing and Submitting Applications

### A. Application Package

A complete application package submission includes the following:

1. The electronic application for a medical marijuana dispensary provisional license;
2. Payment of the application fee; and
3. Trade Secret Form, Zoning Form, Tax Authorization Form, and Release and Attestation, each of which must be completed as instructed and uploaded by the Applicant.

### B. Completing Applications

Complete every section of the online application. Character limitations and required attachments will be identified in the online application.

All attachments must be submitted as PDF files. All documents responding to a single question must be combined into a single PDF file. A PDF file size must not exceed ten megabytes (10MB). Files exceeding ten megabytes cannot be uploaded and will not be received by the Board.

The contents of attachments must be clear and visibly labeled. Images may contain brief descriptive captions. Additional language responding to questions will not be considered, unless otherwise indicated in the application. All attachments must be saved in accordance with the following file-naming format: *Question Number \_Document Title.pdf*.

Examples:

- C-2.1a\_Facility Plans and Specifications.pdf
- C-4.1\_Table of Organization and Control.pdf

### C. Submitting Applications

Applications and all supporting documents must be submitted electronically. JavaScript must be enabled to use the application webpage. During the fourteen-day application submission period, a link allowing for the electronic submission of applications will be available at <http://www.medicalmarijuana.ohio.gov/dispensaries>. To be considered for a provisional dispensary license, all applications must be submitted using the provided link. Applications will not be accepted through any other form of submission. There is no limit to the number of applications that may be submitted by an Applicant, except as discussed in the paragraph below; however, each account can have a maximum of twenty (20) concurrent unpaid/incomplete applications at any time.

Applications are site-specific and Applicants with any common ownership may not submit more than one application for the same parcel or any adjoining parcels. If the Board determines an Applicant with any common ownership submitted more than one application for the same parcel or any adjoining parcels, all applications submitted by Applicant will be disqualified.

Additionally, no owner, as defined in Ohio Adm.Code 3796:6-2-03, may possess more than five dispensary certificates of operation and/or provisional dispensary licenses at any time. No owner, as defined in Ohio Adm.Code 3796:6-2-03, may be issued more than sixty-six percent (66%) of the total number of dispensary certificates of operation and/or provisional dispensary licenses. 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. See Ohio Adm.Code 3796:6-2-04(C)(1).



#### D. Criminal Records Checks

Pursuant to [section 3796.12 of the Revised Code](#) and [Rule 3796:6-2-07 of the Administrative Code](#), all officers, board members, and prospective owners with at least a ten percent ownership interest in an Applicant must submit fingerprints to the Ohio Bureau of Criminal Investigation (BCI) for a BCI and Federal Bureau of Investigation (FBI) criminal records check. Criminal records checks may be submitted in one of two ways:

1. **Electronic** - Individuals can visit a [WebCheck provider in Ohio to submit electronic fingerprint impressions](#). Individuals do not need to be Ohio residents to submit electronic fingerprints. When at a WebCheck provider, the individual submitting fingerprint impressions should provide the following information:
  - Request both a BCI and FBI criminal records check.
  - Request **electronic/direct copy** results be directed to the State of Ohio Board of Pharmacy – 77 S. High Street, 17<sup>th</sup> Floor, Columbus, Ohio 43215
  - Indicate the reason code is **ORC 3796.12**.
  - Indicate agency code is **1AB002**.
2. **Manual/Inked** – If the individual is unable to personally visit a WebCheck provider in Ohio, they may complete manual/inked fingerprint impressions utilizing the appropriate BCI and FBI fingerprint cards. Many local law enforcement agencies offer a service to ink and roll an individual's fingerprints onto the appropriate cards. Please note, these local agencies may charge a processing fee. Fingerprint cards may be printed directly from BCI's website here – [BCI card](#) and [FBI card](#). Each individual submitting manual/inked fingerprint cards is strongly encouraged to complete multiple cards in the event the fingerprint impressions are of poor or insufficient quality to complete a criminal records check.

All fingerprint cards and two checks (one \$22.00 check for the BCI check and one \$25.25 check for the FBI check), both written to "Treasurer, State of Ohio," must be mailed to: **Ohio Bureau of Criminal Investigation, P.O. Box 365, London, Ohio 43140**.

**IMPORTANT – Fingerprint cards and payments should not be sent to the Board of Pharmacy. Any fingerprint cards sent directly to the Board must be destroyed immediately upon receipt and the individual will be required to complete new fingerprint cards.**

**Please note that the submission of fingerprint cards by individuals who are out-of-state may cause the background check process to take over eight weeks. All individuals are strongly encouraged to submit electronic fingerprint impressions in-person at a WebCheck provider when possible.**

**The Board is not responsible for errors in submitting fingerprints or delays in receiving criminal records check results. The Board urges individuals to submit fingerprints for BCI and FBI criminal records checks as early as possible, maintain proof of submission, and appear in person at a WebCheck provider to avoid delay.**

#### **VI. After Submitting Applications**

After applications are submitted, all correspondence regarding provisional licensing from the Board will be directed to the Primary Contact or Registered Agent identified in section A-2 of the application.

If the Board needs additional information, the Board may request, in writing, the information and documentation it requires. See Ohio Adm.Code 3796:6-2-04(G). The Applicant will have ten calendar days to provide the requested information. See Ohio Adm.Code 3796:6-2-04(G)(1). Failure to provide the requested information to the Board by the deadline may constitute abandonment of the application. An



abandoned application will not be considered by the Board and the associated application fee is non-refundable. Ohio Adm.Code 3796:6-2-04(G)(2).

Once the application has been submitted, the Applicant must notify the Board in writing of any change in information included in the application or accompanying documents. Any correction, or any newly discovered information, including a change in ownership or control, must be provided to the Board within fourteen days of the change. Ohio Adm.Code 3796:6-2-02(C).

## **VII. Application Evaluation and License Allocation**

### **A. Minimum Application Requirements**

The State Board of Pharmacy will only review and evaluate applications that:

- Are submitted during the Application Acceptance period with the application fee;
- Fully respond to all portions of this application;
- Meet the minimum statutory qualifications under [Ohio Revised Code section 3796.10](#); and
- Contain all required signatures.

The Board reserves the right to request clarifications, modifications, or amendments to an application.

### **B. Review Process**

Applications meeting the criteria described in Section VII.A. will be reviewed by the Board of Pharmacy for compliance with [Chapter 3796 of the Revised Code](#) and the rules adopted thereunder, compliance with this request for applications, and all license limitations set forth in Ohio Adm.Code 3796:6-2-04(C)(1).

A single owner, as defined in Ohio Adm.Code 3796:6-2-03, may be awarded no more than five provisional licenses. No more than sixty-six percent of available licenses in a dispensary district will be awarded to a single Applicant. If more than one applicant identifies the same parcel for a proposed dispensary location, the highest ranked application on the ranked order list from the drawing that is found to be eligible for licensure shall be awarded a provisional dispensary license and any lower-ranked applications identifying the same parcel shall be ineligible for licensure at the identified location.

There is no limit to the number of applications that may be submitted by any Applicant. By submitting more than five applications, an Applicant acknowledges that the Board will award licenses in the district order set forth in Section IV of this request for applications subject to all license limitations previously set forth.

### **C. Drawing Process**

If the number of applications submitted in a district is equal to or less than the number of provisional dispensary licenses available for that district, no drawing will be held and all applications submitted for that district will be awarded a provisional dispensary license, subject to Ohio Adm.Code 3796:6-2-04(B).

If the number of applications submitted in a district is greater than the number of provisional dispensary licenses available for that district, a drawing will be held to produce a randomly-ranked order list of all applications submitted for that district, excluding any applications that have been automatically disqualified from the drawing. Applications shall be automatically disqualified if the Applicant violates Ohio Adm.Code 3796:6-2-04(C)(1)(a) and submits multiple applications for the same or adjoining parcels. Such a violation shall result in the disqualification of ALL applications related to that parcel and/or adjoining parcels and these applications will not be included in the drawing for that district. (NOTE: In determining whether an Applicant has violated Ohio Adm.Code 3796:6-2-04(C)(1)(a), the Board will examine whether even a single common owner, as defined in Ohio Adm.Code 3796:6-2-03, is identified in multiple applications.)

The drawings shall occur in the order identified in Section IV of these instructions. The ranked order lists



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shall be used to award provisional dispensary licenses, subject to Ohio Adm.Code 3796:6-2-04(B), until all available provisional dispensary licenses for that district are awarded. If, during the evaluation described in Ohio Adm.Code 3796:6-2-04(B), an application or Applicant is found to be ineligible for licensure, the Board will proceed to review the next application in the ranked order list. The evaluation process will continue until as many applications have found eligible for licensure as licenses are available for that district.

The Board may issue additional guidance specifying the drawing procedures that will be used. If such guidance is issued, it will be issued no less than twenty-one (21) calendar days prior to the drawings.