



Ohio Medical Marijuana Control Program



The State Board of Pharmacy reviewed and considered the questions submitted during the second of two Question and Answer Periods. Responses to the submitted questions are provided below. In certain circumstances, questions are summarized in order to provide relevant responses to a broader range of Applicants. Responses are provided below for all questions that were still under consideration when responses to the first Question and Answer Period were made available. The Board is providing this guidance to assist Applicants with the completion of an application for a dispensary license. These answers do not constitute legal advice, which should be sought from a licensed legal professional.

2021 RFA II - Second Round Question and Answer Responses

ID	Question	Response
210 (CORRECTED RESPONSE)	Are electronic fingerprints printouts for BCI and FBI from any Non-WebCheck provider outside of Ohio acceptable?	Yes.
75	With respect to the liquid assets requirement of C-5.5, can applicant issue promissory notes to investors who contributed to the \$250,000 assets required?	Yes.
104	Can an applicant use an approved line of credit from an established financial institution as an acceptable form of liquid assets for the application?	Yes.
112	If someone has convertible debt, is that considered common ownership for this section?	In most situations, the answer will be yes. This is a very complicated analysis that requires extensive review of the specific agreements with the lender. If an applicant is using convertible debt to finance their dispensary, the Applicant must list the holders of the convertible debt as owners in the application.
125	For purposes of Ohio Admin. Code. 3796:6-2-02(4)(b), does "sources" refer to the individual providing the funds, or the account from which the funds are provided? For example, if John Doe agrees to loan money to an Applicant from a Wright-Patt Credit Union account as part of the application, may the Applicant ultimately use funds from John Doe's Middlefield Bank account without needing prior Board approval?	The use of funds from sources not disclosed in the application is prohibited unless the applicant obtains approval from the board. See OAC 3796:6-2-02(B)(4)(b) . The "source" of the funds includes the individual's account and not just the individual themselves.



Ohio Medical Marijuana Control Program



ID	Question	Response
126	Question C-5.3 asks applicants to demonstrate that they have sufficient liquid assets by providing documentation. If an application is using a line of credit to meet their liquid asset requirement, does the board need an account statement showing the funds in the account or is a letter from the lender unconditionally committing the line of credit to the applicant sufficient?	If the source of the line of credit is a private individual or entity, the individual or entity must demonstrate sufficient liquid assets through an account statement dated no earlier than 30 days prior to the date of the application. If the source of the line of credit is a licensed financial institution or similar institutional lender, a letter confirming unconditional commitment of the funds is sufficient.
173	Can a lender commit funds to more than five applicants, and if so, is the applicant required to demonstrate that the lender has access to sufficient capital that would fund each applicant's proposed operations?	The five-license limit is inapplicable to lenders, absent an ownership interest.
174	Can one entity with \$10,000,000 in a bank account conditionally finance 20 different applicant entities without violating the common ownership or common affiliation prohibition in the case that all 20 applicant entities were selected in the lottery?	The Board of Pharmacy cannot respond to this question without additional information. However, the five-license limit is inapplicable to lenders, absent an ownership interest.
206	According to Section 3796:6-2-02(B)(4) of the Ohio Revised Code in order to open a dispensary, you must have initial working capital of \$250,000.00, which has to be "unencumbered and convertible to cash within 30 days." Our question is, if I am the owner of the business and I solicit funds from private investors that then get deposited into a bank account either in my name or under the businesses name which I own, can I then guarantee the investors a rate of return on their investment conditioned upon the business being profitable with an understanding that there is no guarantee to return the initial investment or any rate of return on the investment if the business is not profitable, would this be in compliance with this Section of the Ohio Revised Code?	<p>If the amount that an individual is to receive is tied to the amount of profit earned, then that individual will be considered to have an ownership interest and must be properly disclosed in the application. See OAC 3796:6-2-03 for medical marijuana dispensary ownership and ownership requirements and the Dispensary Control and Ownership Interest FAQ.</p> <p>Also, Applicants must have the <i>greater</i> of \$250,000 or the total of the amounts listed for buildout and operating costs in Question C-2 and C-3.</p>



Ohio Medical Marijuana Control Program



ID	Question	Response
218	Does a prospective associated key employee with no ownership in the applicant (e.g. Chief Operating Officer, CFO, etc.) who will be hired upon award of a PDL need to be identified in Section B-3.1 of the application prior to submitting the application or can the PAKE be hired post-award and the organization chart updated with the Board of Pharmacy at that time?	Any officers (such as a CEO or CFO) currently employed must be disclosed. If those officer positions are filled after the application is submitted, the applicant should notify the Board of Pharmacy of that change pursuant to OAC 3796:6-2-02(C) . All dispensary employees, including officers, must hold a Board-issued dispensary employee license.
219	Will the applicant be disqualified if they omit the EIN in Section A-3.5 of the application, if the Applicant intends to apply for the EIN number after award of the PDL?	No.
220	Can I submit screen shots of my online banking screens in lieu of submitting actual bank statements?	No.
221	I own other non-cannabis related businesses. Can I submit bank statements from those other non-cannabis related businesses unconditionally committing the unencumbered liquid assets to the applicant, which I solely own as well.	Yes, assets from an unrelated business account with the same owner may be relied upon for purposes of RFA II but only if the pledging entity signs the required unconditional pledge of assets including language to the effect that "if awarded a provisional dispensary license, the funds will be transferred to another account for use by the applicant."
222	Will there be a transaction fee to use a credit card to pay the \$5000 application fee and/or will there be a transaction fee to pay by ACH and what will be the procedure to pay by ACH?	No, there will not be a transaction fee to use a credit card. Applicants will be directed to a vendor's site for payment where they can enter their credit card or check account withdrawal information.
223	What is the definition of "exercise substantial control" because wouldn't a dispensary manager be exercising substantial control over the operating of the dispensary in fulfilling his/he duties?	For the purposes of the application, the Board is focusing on the eligibility of owners (with 10% or more ownership), officers, and board members. If an entity wins a provisional dispensary license, employees (including the dispensary manager) will have to be licensed by the Board before the entity can receive a certificate of operation.



Ohio Medical Marijuana Control Program



ID	Question	Response
224	With respect to C-2.1 and the requirement that the facility have a “day storage area with pass-thru window(s), is it permissible for an applicant’s day storage to be on the second floor of the dispensary facility and a chute from that day storage area to behind the sales counter be used as a “pass-thru window”? Behind the sales counter would be a restricted access area with access control devices.	A day-storage area with a pass-through window(s) is required. See OAC 3796:6-2-02(B)(7)(f) . Provisional dispensary licensees may work with their assigned agent to ensure adequate security measures are in place prior to any certificate of operation being issued.
225	<p>What if the physical address is different from the zoning jurisdiction (i.e. what if the zoning jurisdiction is Columbus, but the physical / mailing address is Westerville and not Columbus)?</p> <p>What is the proper address to put on the zoning form (certain zoning officials are refusing to sign the Notice of Proper zoning unless the physical address matches the zoning jurisdiction)?</p>	The Notice of Proper Zoning Form must be completed by the official from the jurisdiction that is responsible for zoning enforcement for the proposed dispensary location, regardless of the physical address of the location. The Board defers to the zoning official as to the address that should be listed on the form.
226	<p>Is it the Board’s position that standard contingencies such as due diligence, EPA assessments, etc. in a purchase agreement would not constitute establishing ownership and would disqualify an applicant?</p> <p>Put another way, must a purchase agreement literally have only 1 contingency (award of provisional license) and an applicant is required to conduct all due diligence and be willing to accept the property prior to submitting an application?</p>	The inclusion of “standard” real estate contingencies in a purchase agreement would not disqualify an Applicant. However, items such as purchase price must be included in the purchase agreement and not subject to further negotiation.
227	We have identified property in a high traffic area that could provide patient access to a large patient population, but it uses public parking garages and street parking as opposed to having its own parking lot. Thus, is public parking garages and street parking acceptable forms of parking for a dispensary location?	Yes. Applicants without an owned parking lot may demonstrate that parking is available at a nearby parking lot or that there is sufficient street parking nearby.



Ohio Medical Marijuana Control Program



ID	Question	Response
228	Can you please provide me with the official measurement tool allowing us to determine if our property site is in compliance with the 500 foot rule?	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 OAC 3796:6-2-02 and the external boundaries of the parcel on which the prospective dispensary would be situated. OAC 3796:6-2-02(B)(2)(l) .
229	Is real property that is unencumbered and outright owned by an applicant considered a liquid asset that may be used to meet this requirement when the assets can be guaranteed to be liquidated in the time frame required?	No.
230	In question C-2.2, what other evidence, specifically, is the Board looking for, other than the Notice of Proper Zoning form when zoning is in place for the dispensary address, please give examples?	The Applicant must submit evidence that it complies with any local ordinances, rules, or regulations adopted by the locality in which the Applicant's property is located, which are in effect at the time of the application. Include copies of any required local registration(s), license(s), or permit(s) of the locality in which the Applicant's property is located.
231	When proving sufficient liquid assets, if an Applicant has a joint account with a spouse, but the spouse is not part of the Applicant entity, will the spouse be required to be disclosed on the application?	The spouse is not required to be identified as a PAKE unless the spouse is also an owner, officer, or board member of the Applicant. Also see answer to Question 232.
232	When showing sufficient liquid assets, if a member of Applicant has a joint account with a spouse and the spouse is not part of the Applicant entity, will the state assume that some funds are not accessible by the Applicant member?	If only a portion of the joint account will be accessible, the Applicant must identify with specificity what portions of the joint account are being pledged. By unconditionally pledging an entire account, that member is attesting that they have authorization to use the entirety of the joint account. See OAC 3796:6-4-03(A)(13) (the Board can deny an application if there is fraud, misrepresentation or deception). Unless otherwise noted on the application, the Board will assume that any liquid assets identified in the application and unconditionally pledged are accessible to the pledgor. The use of funds from sources not disclosed in the application is prohibited unless the applicant obtains approval from the board. See OAC 3796:6-2-02(B)(4)(b) .



Ohio Medical Marijuana Control Program



ID	Question	Response
233	Question B-3 requires an answer for voting rights in Applicant’s business as a percentage. According to our Operating Agreement we will have some managers with voting rights in certain situations, but no vote in other situations. Should we list out the maximum possible percentages they can have?	Yes, the maximum percentage must be listed but additional relevant information should also be noted in the response.
234	Is any other evidence necessary to be complete and compliant assuming the remainder of the Notice of Proper Zoning Form is completed, signed, and dated?	The Applicant must submit evidence that it complies with any local ordinances, rules, or regulations adopted by the locality in which the Applicant’s property is located, which are in effect at the time of the application. Include copies of any required local registration(s), license(s), or permit(s) of the locality in which the Applicant’s property is located.
235	If I’m over 59 years old is my Roth IRA (that can be fully withdrawn without a penalty) which is in a brokerage account that can be converted to cash in a few days considered a liquid asset?	No.
236	Is a College 529 Plan in which I am the owner and can be converted to cash in under 30 days considered liquid assets?	No.
237	In reference to question #30 on the first round of questions, if I’m over 59 ½ years old and have a 401K in a brokerage account that can be turned into cash in a couple of days, is this considered a liquid asset?	No.
238	In reference to question #119 on the first round of questions. Would a completed and county engineer approved survey be considered a completed lot split or does it need to have its own parcel number?	The process for splitting the lot, as required by the locality where the property is located, must be fully completed (including the new parcel number) no later than at the time of application.
239	Do Applicants controlling property by a lease or lease option have to submit a lease or lease option plus the signed notarized statement, or can they submit just a signed notarized statement as permitted by OAC 3796:6-2-02(B)(2)(j)?	Applicants must provide proof they own or control 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. See OAC 3796:6-2-02(B)(2)(j) .



Ohio Medical Marijuana Control Program



ID	Question	Response
240	If a Trade Name or Fictitious Name has not been selected and A-1.2 is N/A or BLANK on the Application, would the Notice of Proper Zoning Form box #2 (just asking about that box #2 for this question) be complete and compliant if it only states a physical address on the Notice of Proper Zoning Form?	Yes.
251	Regarding the Notice of Proper Zoning Form (NPZ), assuming the Moratorium and Zoning sections are completed in favor of allowing a dispensary at that location, if in the Permit section the city checks only the box "No zoning approval was applied for and no permit was received at this time" AND provides a letter that a special use permit is not required or not required at this time – is that sufficient to favorably complete the NPZ form? If that same box is checked, but the city refuses to provide any information regarding a special use permit, is that sufficient to favorably complete the NPZ form.	Yes.
252	Considering there is no timetable for grading and picking lottery winners, how are we expected to make purchase or leasing agreements? It will be near impossible to have a landlord hold a property for more than 60 days. Can we expect provisional licenses to be awarded by February?	Applicants are permitted to sign conditional purchase or lease agreements. Some owners and landlords will charge a fee to hold the property pending application review. The Board will attempt to complete the review process as quickly as possible.
253	I have a piece of land that is zoned m2. I am in the process of getting a council variance to change it to m. I have every single piece of information, survey, site plan, building design etc to submit for approval. The variance will not be completed by the 11/18 deadline but will be in process. Am I able to check the box on form C2 that states it is in process but not completed or am I not able to even apply for the provisional license?	Yes. If a special use permit is required, the Applicant must demonstrate that the permit has been applied for or cannot yet be applied for at the time of the application submission.



Ohio Medical Marijuana Control Program



<p>254</p>	<p>In several of the questions, you mention “any” common ownership as it relates to multiple applications for the same parcel of land. Does any common ownership only apply to the actual dispensary location applications, or does it include common ownership of other Ohio Medical Marijuana Licenses (e.g. Cultivation, Processing or another already operating dispensary)? For example, a Processing ownership group, made up a 5 owners, could each owner (assuming they have the financial liquidity) submit a separate application for the same parcel of land?</p>	<p>Common ownership criteria, as relates to multiple applications for the same or adjacent parcels of land, is determined by the owners identified in the provisional dispensary license application.</p> <p>The purpose of the “common ownership” prohibition for applications on the same or adjacent parcels is to prevent people from submitting multiple applications for the same or adjoining parcels. The Board is aware that some Applicants may try creative work-arounds to multiply their chances of winning a license at a specific location (or at an adjacent location). The purpose of this RFA requirement is to ensure an equal chance for licensure for all Applicants. The Board will be carefully scrutinizing applications that are seeking the same or adjoining parcels in the following circumstances:</p> <ul style="list-style-type: none"> • Separate applications are received from people or entities that seem to have some sort of prior relationship (the separate applicants are spouses, siblings, co-own another business, etc.) • Applications that have identical (or nearly identical) budgets and site plans for the same or adjoining parcels • Option agreements between applicants seeking the same or an adjoining parcel • Management or consulting agreements between applicants seeking the same or an adjoining parcel • Pledged amounts are coming from the same banking or investment accounts • Multiple applicants are relying on the same pledged assets • There are any other indicia demonstrating an attempt to circumvent the single application per parcel/adjoining parcel requirement of the RFA <p>This scrutiny may not be limited to reviewing the four corners of the applications, and may involve Board investigators sending subpoenas and conducting interviews. If the Board concludes that two or more Applicants are attempting to circumvent the one-application-per-parcel rule, the Board <i>will</i> disqualify <i>all</i> applications from the Applicants (including applications for other unrelated parcels).</p>
------------	--	---



Ohio Medical Marijuana Control Program



ID	Question	Response
		NOTE: Additional application questions addressing multiple applications for the same or adjacent locations have been added to the application.
255	If applicant owners have recently had background checks (within the last 6 months) for other Licenses (re-upped the employee badge), do they have to resubmit another round of background checks for these new applications?	A PAKE who has had background checks provided to the Board of Pharmacy within the last 12 months of the date of the application does not need to undergo additional background checks for the application process.
256	The 'Request for Applications' states that the application would be posted here on Monday 9/20. All I see is the application preview link, not the application itself. Can you please direct me to the application?	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 . The web-based application will NOT be available until November 4 th . However, prospective applicants may review a Preview of the Application in order to begin preparing for submission.
257	What happens if an applicant (1) buys a facility in a municipality that has no legislation/resolutions pertaining to marijuana establishments (2) is then awarded a conditional license by the State for that facility and (3) then the municipality passes a resolution prohibiting marijuana establishments within its limits? Are there any "grandfather provisions" from the State that would offer guidance on this?	An Applicant may request to withdraw its application due to a change in federal, state, or local rules that would prohibit a proposed dispensary from operating in compliance with representations made in the application. If the request to withdraw is granted, the Applicant shall be granted a refund of any remitted application fees. See OAC 3796:6-2-02(D) . Applicants should contact the local municipality regarding any applicable "grandfather provisions."
258	If a lender issues a line of credit to an applicant, is that lender able to sell that obligation to a third party?	The use of funds from sources not disclosed in the application is prohibited unless the Applicant obtains approval from the board. See OAC 3796:6-2-02(B)(4)(b) . Therefore, a line of credit cannot be transferred or sold to a third party absent Board approval. Without additional information, the Board cannot provide a more detailed response.
259	If an individual or other non-applicant business entity forms a lender entity that provides a line of credit to an applicant entity, can the individual or other non-applicant business entity then sell that lender entity to a third party?	The use of funds from sources not disclosed in the application is prohibited unless the Applicant obtains approval from the board. See OAC 3796:6-2-02(B)(4)(b) . Therefore, a line of credit cannot be transferred or sold to a third party absent Board approval. Without additional information, the Board cannot provide a more detailed response.



Ohio Medical Marijuana Control Program



ID	Question	Response
260	Is it permissible for a property holding company, to enter into lease agreement, option to purchase or option to lease with the property owner, and in turn, assign that agreement to the applicant?	Notwithstanding the terms of a particular transaction, an Applicant must submit 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 or ownership interest to the applicant if a provisional dispensary license is issued to the applicant.
261	Is a money market account an acceptable source of funds to demonstrate liquid assets?	Yes.
262	May several accounts be combined to meet the requisite liquid capital asset amount?	Yes.
263	Is the primary contact for the application automatically a Prospective Associated Key Employees? Must an Applicant's primary contact also be a PAKE?	No.
264	Is an affidavit from an individual committing their liquid assets sufficient to show "evidence that the person has unconditionally committed" those assets to the use of the Applicant? Or would the Board like something else? If so, what?	Yes.
265	With respect to written responses with trade secret or infrastructure records, should the Applicant state: "TRADE SECRET" and/or "INFRASTRUCTURE RECORD," as appropriate, in capitalized letters? Or will there be an option to make that text underlined and bold type of at least 20 pt.?	For responses uploaded to the application, clearly mark every page of trade secret materials in the application submission at the time the proposal is submitted with the words "TRADE SECRET" and/or "INFRASTRUCTURE RECORD," as appropriate, in capitalized, underlined, and bold type of at least 20 pt. Text in text boxes cannot be formatted; therefore, the Applicant should add "TRADE SECRET" and/or "INFRASTRUCTURE RECORD," when applicable.



Ohio Medical Marijuana Control Program



ID	Question	Response
266	<p>May an Applicant also enter into a management agreement to run the day-to-day operations of another Applicant's business? We would like to confirm a management agreement is not considered ownership in an applicant as long as the management company does not have any control or ownership interest in an applicant and the management company is paid only market rate fee for service to support the licensed applicant. We would also like to confirm whether the management company must also be listed as a PAKE and how to do that when it is a company. Should each of the management company's owners be listed on the application? Can we list the anticipated operation's manager only?</p>	<p>Management agreements will be carefully scrutinized to determine whether the management company exercises substantial control over a dispensary. See OAC 3796:6-2-03(D). Use of a management company could trigger a change of ownership pursuant to OAC 3796:6-2-12.</p>
267	<p>Item A-4.1 asks applicants to "Attach an organizational chart showing all owners, officers, and board members of the provisional dispensary applicant, irrespective of ownership interest." If the sole owner is a publicly traded company, is it sufficient to show that company as the only owner? If ownership must be disclosed to the level of individuals, the concern is that there are potentially hundreds of thousands of individual shareholders who could be considered owners, and those owners change daily as shares are purchased and sold.</p>	<p>If a publicly traded company is listed as the sole owner, officers, board members, and individuals owning more than 10% interest in the company must be identified in the organizational chart. Additionally, the Applicant must attach its 10-K (or identify a link thereto) filed with the U.S. Securities and Exchange Commission.</p>
268	<p>In addition to the dispensary restrictions on 5 license limit and no more than 66% ownership within a district, are there additional restrictions on cumulative # of licenses allowed as a single owner for cultivation and processing in addition to the 5 cap of retail?</p>	<p>Cultivation and processor ownership does not impact dispensary licensing.</p>
269	<p>With no race-identifying info on the application, how will the Program vet out qualifying applicants and when in the vetting or drawing process will this evaluation take place in order to meet the October release of 3796.10 that states no less than 15% of dispensary licenses will be awarded to disadvantaged groups?</p>	<p>A court has deemed RC 3796.10(C) unconstitutional. Therefore, it is void and may not be applied by the Board.</p>



Ohio Medical Marijuana Control Program



ID	Question	Response
270	Is there a proximity restriction between 2 dispensaries or between any type of marijuana facilities?	No. There is no proximity restriction between an <i>existing</i> dispensary and a proposed dispensary. Note: the answer is different if an applicant is submitting multiple applications on the same or adjoining parcels of land.
271	May applicants use a line of credit agreement to satisfy the liquid capital requirements contemplated in OAC 3796:6-2-02(B)(4)? If so—what documentation would the applicant need to provide to satisfy the “account statements” requirement contemplated in OAC 3796:6-2-02(B)(4)(a)(i) (e.g. a current statement from the lender/creditor’s account(s) that would be used to fund the line of credit)?	Yes. If the source of the line of credit is a private individual or entity, the individual or entity must demonstrate sufficient liquid assets through an account statement dated no earlier than 30 days prior to the date of the application. If the source of the line of credit is a licensed financial institution or similar institutional lender, a letter confirming unconditional commitment of the funds is sufficient.
272	If a provisional license recipient's build out happens to exceed the expected costs reported in the applicant's projected budget proposal (as submitted for application section C-3)—thus requiring the applicant to obtain funds from additional (and previously undisclosed) sources to complete its build-out—what will the process for obtaining the requisite Board approval for use of such funds (as contemplated in OAC 3796:6-2-02(B)(4)(b)) entail? I.e., what evaluative criteria (if any) will the Board consider when determining whether to approve a provisional license recipient's request for authorization to use additional (previously undisclosed) sources of funds to complete its build-out?	The Board will review such requests for compliance with Revised Code 3796, the administrative rules, and RFA II.
273	As part of the business plan (C-1.1), we are having trouble squaring the regulation (OAC 3796:6-2-02(B)(2)(j)) with the instructions from the application which states that evidence may include an option to purchase. Is it acceptable to provide evidence of an option to purchase the real estate? If so, must the applicant submit a signed, notarized statement from the property owner that the owner will grant an option to purchase to the Applicant on the proposed site?	Yes. Applicants may rely on an option to purchase the real estate. Applicants must provide proof they own or control 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. See OAC 3796:6-2-02(B)(2)(j) .
274	If an agent is submitting applications for more than one applicant, can they send an ACH for the total fee associated with all the applications and then indicate which applications the ACH is for?	No. Each payment must be made separately at the time of each application submission. Payments may also be made by credit card.



Ohio Medical Marijuana Control Program



ID	Question	Response
275	Does a secured delivery area require a roof? Does a secured delivery area require a perimeter area wall or fence? Does a secured delivery area require to be able to fully contain a delivery vehicle?	Delivery areas will be evaluated individually to ensure each location is sufficiently secured, after provisional dispensary licenses have been awarded. All areas where medical marijuana is delivered shall be secured and monitored with video surveillance. Access shall be limited to necessary licensed processor, cultivator, and dispensary employees. OAC 3796:6-3-06(D) .
276	In B-2.1 if we were not selected in the first round of licenses, NOT Disqualified, do we need to list that as being denied a license?	An Applicant does not need to disclose the denial of a license application if the application was denied solely for one or more of the following reasons: (1) your application was scored and the agency determined that your overall score was so low that you were categorically ineligible to be licensed; (2) an agency required passing scores on each question or each section, and the agency determined that you did not receive a passing grade on one question or section; (3) there was competitive scoring and other applicants had higher scores than your application; (4) you received one or more licenses, but one or more other applications were denied because of a license cap; or (5) the agency used a lottery or random drawing process and your application was not randomly selected.
277	If a person owns less than 10% on licenses issued the first round, can the same person own less than 10% on 5 additional licenses on RFAII?	Yes, as long as the person is not exerting substantial control over a licensed dispensary.
278	If the applicant is 20% owned by an LLC that has two members (Member A with 60% equity and Member B with 40% equity). Both members of the LLC will be listed as Prospective Key Employees on the applicant's application. Thus, what would be the ownership interest for Member A and Member B in the applying entity?	The Board of Pharmacy cannot respond to this question without additional information.
279	For purposes of the liquid asset requirement in OAC 3796:6-2-02(B)(4), may an applicant submit documentation showing an unconditional pledge of funds to the applicant from a person who is not an owner, officer, or board member of the applicant to satisfy the \$250,000 threshold? In other words, may someone not tied to the applicant unconditionally pledge funds to the applicant for purposes of satisfying this requirement?	Yes, an individual may pledge funds to the Applicant but must provide evidence that the individual has unconditionally committed such money to the use by the provisional dispensary Applicant and account statements from a qualifying institution dated no earlier than 30 days prior to the date the application is submitted. OAC 3796:6-2-02(B)(4)(a)(i) .



Ohio Medical Marijuana Control Program



ID	Question	Response
280	Can a dispensary transfer its location after a license is issued, and are there specific rules/restrictions for that?	A dispensary can request to relocate only after a certificate of operation is issued. For additional information related to relocation requests, see OAC 3796:6-2-13 .
281	For purposes of C-1.1, if the applicant is planning to sublease the property where the dispensary would be located, is a signed, notarized statement from the property owner sufficient proof of the applicant's future leasehold interest, or must the applicant also provide a comparable statement from the property management company with whom the sublease would be executed?	Notwithstanding the terms of a particular lease or sublease, an applicant must submit 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.
282	What does the Board mean in the definition of Prospective Associated Key Employees when it says that a "prospective owner" or "prospective board member" must also be listed and included in the application (Section B-3)? What is a prospective owner or board member? Is a prospective owner or board member someone who will have ownership if a provisional dispensary license is issued? Is a prospective owner or board member someone who will have ownership if a certificate of operation is received?	A prospective owner or prospective board member is an individual who will serve in that capacity only if a provisional dispensary license is awarded to the Applicant.
283	At what point can a change of location be submitted and approved (e.g., after being awarded a provisional license, after a certificate of occupancy is received and licensing fee paid, after the licensing fee is paid, but prior to certificate of occupancy).	A dispensary can request to relocate only after a certificate of operation is issued. Provisional dispensary licenses are specific to the location identified in the application and are non-transferable. OAC 3796:6-2-04(O) .
284	For purposes of C-1.1, does Applicant need to demonstrate that no ownership dispute exists from the perspective of the current owner of the proposed location? For purposes of C-1.1, will a statement submitted from and by the Applicant that no disputes of ownership that would prohibit Applicant from opening a dispensary at the identified location, after Applicant conducted a diligent search and analysis, be sufficient to satisfy C-1.1?	Applicant may submit a deed of ownership demonstrating they own the real estate. If additional clarification is needed, e.g. a resolved lawsuit regarding ownership, such information should be provided.



Ohio Medical Marijuana Control Program



ID	Question	Response
285	C-2.1 - Site Plan: States that we must provide a site specific plan interior and exterior to scale. Does this need to include a security overlay? Or just the elements listed in the Question (vault, waiting room, consult room, man traps, etc)? Basically in RFA I – we noticed there were interior security plans in addition to regular site plans – or do we show the security layout later once a provisional license is issued?	A security overlay does not need to be included in the application; however, security requirements will need to be met prior to the issuance of a certificate of operation.
286	C-1.1 – We have a real estate entity that holds a leasehold in the proposed property. This real estate entity has an affidavit that clearly lays out a sublease to the Dispensary entity. The affidavit also notates that both the Owner and Real Estate Entity are allowing application for a medical marijuana dispensary provisional license. Is the affidavit stating all of this enough, or does the state still need the entire lease agreements between all parties. Basically is the affidavit sufficient or does the State need all private lease agreements?	Both the owner and sub-lessor must submit a signed, notarized statement acknowledging that the sublease will be granted; however, the Applicant does not need to include the original lease agreement, only the sub-lease agreement.
287	C-2.1 & C-2.1a – One of our AKE is a licensed contractor and professional construction manager holding a contractor license in Ohio. Is there any reason this contractor cannot produce and prepare site plans and sign off on the proposed construction budget? Basically this person does this as a professional career; are they allowed to prepare and sign off on these documents? What is considered as “contractor certified”?	A contractor licensed by the Ohio Construction Industry Licensing Board who is also an associated key employee may prepare and sign off on the proposed construction budget if that individual is overseeing the construction or renovation.
288	If we happen to win the drawing and if we are approved how do we go about the county we get the licenses in? Can we pick and choose a county?	No. Applications are site-specific and dispensary locations must be specifically identified prior to applying. See OAC 3796:6-2-02(B)(2)(e),(j),(k), and (m) and 3796:6-2-04(O) .
289	Is it still allowed to form a medical advisory board for the application? If so where would you like us to indicate this?	Yes, a medical advisory board is allowed. Applicants should disclose this information under question C-4.1.



Ohio Medical Marijuana Control Program



ID	Question	Response
290	If an applicant has enough liquid assets for meeting the requirements but would rather use his other assets that you do not consider liquid, like he is selling assets that will not count as liquid (he would have of plenty of cash at the time of starting the dispensaries and would prefer not to liquidate his stocks) can the applicant disclose the non-liquid assets on application in addition to his “qualifying” liquid assets?	No. Disclosure of non-liquid assets is not required. Applicant should identify the available liquid assets and, if Applicant prefers to use funds from sources not disclosed in the Application upon award of a provisional dispensary license, Applicant must then obtain approval from the Board.
291	On question 129 in the first round of Q & A referring to Landlord providing tenant improvements and their need to show capital your answer was “Maybe.” Depending on terms of the agreement.” Could you please let us know what terms in the agreements would trigger the need to show Landlord’s available capital?	The extent to which the improvements provided by the landlord are related to those necessary for compliance with Revised Code Chapter 3796., the administrative rules adopted thereunder, and RFA II, may affect whether the terms of the agreement trigger the need to show the landlord’s available capital. If a landlord will be performing all or substantially all of the buildout, then the applicant will need to show the landlord’s available capital. If the landlord’s performance is incidental (e.g., landlord agrees to remove the previous tenant’s fixtures), then this showing is not necessary. Between these two extremes, the Board cannot give an answer without having more information.
292	The 2021 Request for Applications and Dispensary Application Instructions reference an application “link” but later states applications are submitted through an “account.” How does an Applicant establish an “account” prior to November 4 and where is the instruction guide for how to establish that specific account?	Applicants cannot establish an account to submit applications until November 4 th at 8:00 am. At that time, the “link” to access the application submission system will be posted on the website.
293	C2.1-on the interior site plans- how detailed do these need to be? Is labeling the room “dispensary department” sufficient? Or do we need to lay out the point of sales counter, and other fixtures? Do we need to include a copy of the security overlay as well, or will that be requested after provisional licensing?	All items specifically listed in the application must be included on the site plan. A security overlay does not need to be included in the application; however, security requirements will need to be met prior to the issuance of a certificate of operation.



Ohio Medical Marijuana Control Program



ID	Question	Response
294	Is there a process by which we can submit a notarized document from the landlord of the proposed dispensary location (or other appropriate entity) that one of the other current tenants of the strip mall (who operates a daycare) will be out of the location by March 2022 and therefore not disqualify the application under the 500ft requirement?	No. Applications must be compliant with all requirements at the time of application submission.
295	What is your definition of “equip a medical dispensary” regarding C-3.1 and C-3.1.1. We ask because we base this off of capital expenditures however from the certificate of operation to four months onwards there could be little costs to equip the medical dispensary.	<p>Question C-3.1 requires the budget from the time the Board awards the license until a certificate of operation is granted. During this time, the provisional dispensary awardee needs to include all expenses to take either a plot of land or an existing building and turn it into a dispensary that is fully ready to sell medical marijuana. The provisional dispensary awardee will also need to budget to hire and train a staff.</p> <p>Question C-3.1.1 requires the projected budget for the four months <i>after</i> the provisional dispensary awardee receives its certificate of operation. This will include the money necessary to purchase the provisional dispensary awardee’s initial inventory of medical marijuana from cultivators and processors.</p> <p>Applicants must include all ongoing costs to operate the dispensary, e.g., utilities, third-party vendor contracts, etc.</p>
296	Are locations required to be handicap accessible? i.e., 2nd floor location that does not have an existing tenant elevator but plans to install one.	All dispensaries must be compliant with all federal, state, and local requirements. Contact your local zoning or building department.
297	For A-4.1 do we need to list what the ownership percentage is for each person or is including the name sufficient?	Names of owners and percentages of ownership must be included.
298	A-4.1 Could you please confirm what qualifies as a Board, for example does an Advisory Board count?	For question A-4.1, a Board of Directors must be included in the organizational chart regardless of whether it is termed an “advisory board” or something else.



Ohio Medical Marijuana Control Program



ID	Question	Response
299	How can we account for ownership percentages change? For example, if someone has a 2% ownership and through the course of a business the individual's ownership increases to 3%, does the individual need to wait a certain period of time during the provisional dispensary license to increase ownership?	Applicants must notify the Board of any changes to their application pursuant to OAC 3796:6-2-02(C) . Any changes in ownership percentage could trigger a change of ownership pursuant to OAC 3796:6-2-12 .
300	Can the State provide clarification regarding the definition of "Churches". There are multiple examples of Churches that have now become Community Centers/Outreach Centers. Additionally, can the state provide clarification regarding "Church Property" and if these fall under the "Church" definition (i.e. A parking lot owned by a church with no church on site).	The General Assembly has defined "church." See R.C. 3796.30(C) . See also OAC 3796:6-2-02(B)(2)(k) .
301	Are publicly filed financial statements that show all liquid assets available to an applicant permissible for demonstrating adequate financial resources as required for items C-5.1A through C-5.3?	For all sources of capital, Applicants must provide documentation from the financial institution dated no earlier than 30 days prior to the date the application is submitted. OAC 3796:6-2-02(B)(4)(a)(i) .
302	If the zoning official checks the boxes "The area of HAS zoning in place at this time and applicant's proposed facility appears to be planned in accordance with complying with all local zoning laws and regulations in place at the time of completion of this application" and "No zoning approval was applied for and no permit was received at this time" is that sufficient evidence to meet the criteria? Or does an applicant have to provide additional evidence? And if so, what does the Board consider sufficient evidence that "the permit has been applied for or cannot yet be applied for at the time of the application submission." For example, a notarized affidavit from applicant?	The Applicant must submit a completed Notice of Proper Zoning Form and demonstrate: (1) that no moratorium is in effect that would prohibit the applicant from operating a medical marijuana dispensary at the proposed location; (2) confirmation that the proposed dispensary location is in compliance with any local zoning requirements; and (3) if a special use permit is required, the permit has been applied for or cannot yet be applied for at the time of the application submission. If the permit has been applied for, Applicant should attach a copy of the permit application. If the permit cannot yet be applied for, an affidavit providing that information would be sufficient.



Ohio Medical Marijuana Control Program



ID	Question	Response
303	What quality of services meets the definition of “community addiction services provider”? Does a call center with no on site patient activity meet the definition of a community addiction services provider? Does a drug detoxification service meet the definition of a community addiction service provider? Are only licensed facilities that are funded by federal, state, or local entities considered a community addiction services provider?	Dispensaries are no longer prohibited from being located within 500 feet of a “community addiction services provider.” However, dispensaries cannot be located within 500 feet of an opioid treatment program as defined in OAC 4729:5-21-01 . See OAC 3796:6-2-02(B)(2)(k)(ii) .
304	Can proof of assets/funds for one application come from two different sources?	Yes, Applicants may identify multiple funding sources.
305	May a REIT enter into a contingent purchase agreement for real property, commit to funding the improvements and build-out of a dispensary on that property, then enter into contingent lease agreements with three separate applicants for the same facility/property?	For purposes of OAC 3796:6-2-02(B)(2)(j) , “property owner” means the property owner at the time the application was submitted to the Board. Therefore, the REIT must own the property at the time of application.
306	Is there a residency requirement such that an owner, principal, or operator of an applicant are required to have resided, been a resident, and/or have been domiciled in Ohio for a minimum amount of time prior to the submission of the application? If so, please identify the statutory or administrative provision that imposes such a requirement and the minimum time requirement.	No.
307	Will an applicant be awarded bonus points or special consideration, for example priority ranking, for being a diverse applicant (i.e. more than 50% ownership held by diverse peoples) and/or demonstrating a commitment to employing a diverse workforce?	No. Applications will not be scored. Following the drawing, the Board will review the applications that were ranked high enough on the district drawing lists.



Ohio Medical Marijuana Control Program



ID	Question	Response
308	Will the applications be scored on a raw points basis (total points earned) or is there some weighed scoring process? Please provide the scoring rubric and/or scoring methodology.	Applications will not be scored. Following the drawing, the Board will review the applications that were ranked high enough on the district drawing lists. Any Applicant that ranks high enough in the drawing and can demonstrate compliance with Chapter 3796 of the Revised Code and the rules adopted thereunder, compliance with RFA II, and that it is not license limited, is eligible for issuance of a provisional dispensary license. See OAC 3796:6-2-04 .



Ohio Medical Marijuana Control Program



<p>309</p>	<p>Can three separate, single member limited liability companies (each with a different owner) have the same funding source and submit separate applications identifying the same parcel for a proposed dispensary location? If so, can those three limited liability companies have a legitimate option agreement to purchase an ownership interest in each other when permitted and authorized by the State of Ohio Board of Pharmacy in accordance with OAC 3796:6-2-12?</p>	<p>No. Identifying the same funding source for the same parcel of land means that there is common ownership. Even if there is not a common source of funding, having multiple applicants with overlapping option agreements seeking the same parcel of land will constitute having common ownership for the purposes of this RFA.</p> <p>The purpose of the “common ownership” prohibition for applications on the same or adjacent parcels is to prevent people from submitting multiple applications for the same or adjoining parcels. The Board is aware that some Applicants may try creative work-arounds to multiply their chances of winning a license at a specific location (or at an adjacent location). The purpose of this RFA requirement is to ensure an equal chance for licensure for all Applicants. The Board will be carefully scrutinizing applications that are seeking the same or adjoining parcels in the following circumstances:</p> <ul style="list-style-type: none"> • Separate applications are received from people or entities that seem to have some sort of prior relationship (the separate applicants are spouses, siblings, co-own another business, etc.) • Applications that have identical (or nearly identical) budgets and site plans for the same or adjoining parcels • Option agreements between applicants seeking the same or an adjoining parcel • Management or consulting agreements between applicants seeking the same or an adjoining parcel • Pledged amounts are coming from the same banking or investment accounts • Multiple applicants are relying on the same pledged assets • There are any other indicia demonstrating an attempt to circumvent the single application per parcel/adjoining parcel requirement of the RFA <p>This scrutiny may not be limited to reviewing the four corners of the applications, and may involve Board investigators sending subpoenas and conducting interviews. If the Board concludes that two or more Applicants are attempting to circumvent the one-application-per-</p>
------------	---	--



Ohio Medical Marijuana Control Program



ID	Question	Response
		<p>parcel rule, the Board <i>will</i> disqualify <i>all</i> applications from the Applicants (including applications for other unrelated parcels).</p> <p>NOTE: Additional application questions addressing multiple applications for the same or adjacent locations have been added to the application.</p>
310	<p>Can a lender commit funds to an applicant for purposes of complying with OAC 3796:6-2-02(B)(4) and enter into an agreement with the applicant allowing for that debt to be converted to equity (in accordance with the approval and timing requirements set forth in OAC 3796:6-2-12)?</p>	<p>Convertible debt requires a very complicated analysis involving extensive review of the specific agreements with the lender.</p> <p>A convertible debt arrangement with an entity that already owns a dispensary may trigger the five-dispensary cap provision.</p> <p>If an applicant is using convertible debt to finance their dispensary, the Applicant must list the holders of the convertible debt as owners in the application.</p>
311	<p>To-date there are no fewer than 18 medical dispensary licenses reported available in districts that appear WITHOUT a city that has opted-in to host them. Will the state be re-allocating these available licenses to cities in other districts that have in fact <u>opted-in</u>?</p>	<p>Provisional dispensary licensees are allocated by district not to a particular municipality. The Board does not intend to reallocate or modify the allocations as listed in RFA II.</p>
312	<p>Is it possible to extend the application period to January or February of 2022?</p>	<p>No.</p>
313	<p>How will applications be confirmed once submitted, will a trace number or Id number be generated?</p>	<p>Yes, each application will be assigned a unique identifying number.</p>
314	<p>Can it be considered that a dumbwaiter be used as a pass through?</p>	<p>A day-storage area with a pass-through window(s) is required. See OAC 3796:6-2-02(B)(7)(f).</p>



Ohio Medical Marijuana Control Program



ID	Question	Response
315	<p>Question #146 from Q&A Round 1 asks: Is a site plan required or just a floorplan with the exterior view? Is it required for a new build? The Board Responded: Applicants must provide a site-specific plan for the proposed dispensary location showing the interior and exterior of the proposed facility, drawn to scale with square footage clearly illustrated. It is required for renovated locations as well as new builds.</p> <p>The Board's response is confusing. The question asks about a "site plan", which refers to a specific type of engineering drawing. The Board's response refers to a site specific plan, which merely implies that the layout needs to be specific to the actual building or site the applicant is proposing to use. Is a "site plan" required for the application?</p>	<p>A site-specific plan, not a "site plan" is required pursuant to question C-2.1.</p>
316	<p>The response to #146 says "Applicants must provide a site-specific plan for the proposed dispensary location showing the interior and exterior of the proposed facility" BUT the response to #5 says "exterior elevations are recommended but not required". These responses appear to contradict each other. Can the Board please clarify what it means by "exterior of the proposed facility". Is a photograph of the existing conditions sufficient since elevations are not required?</p>	<p>An "exterior elevation" shows how the exterior of a building will appear to a passer-by; it is a view from the side of the building.</p> <p>A site-specific plan must contain a birds-eye view of the property including the exterior.</p> <p>As the site-specific plan must be prepared by a licensed contractor or architect, they will understand the distinction between the two.</p> <p>Exterior components of the site-specific plan that must be demonstrated include the parking lot and the delivery bay.</p>
317	<p>Scenario: An applicant submits 2 applications and is willing to accept one. One of their applications is drawn in the top two in NE-1 but, upon review is found to be too close to a prohibited facility and is disqualified. Will their other application be ranked and considered for a provisional license or not ranked and not considered because the first application was already considered?</p>	<p>The Applicant's second application would be eligible for consideration if the first application was deemed ineligible due to a 500-foot rule violation.</p>



Ohio Medical Marijuana Control Program



ID	Question	Response
318	What if, unbeknownst to an applicant, an investor has used the same source of capital for another applicant, and those funds also were used on another application, would those be considered encumbered funds?	The Applicant must perform reasonable due diligence to ensure that sources of capital will be available in the event a provisional dispensary license is issued.
319	Pursuant to Question c-1.1, does an option to lease that is signed by the property owner and notarized count as 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,” or do we need to get a SEPARATE signed, notarized statement on top of our signed, notarized option to lease?	Yes, a signed and notarized option to lease is sufficient.
320	On page 6 of the 2021 RFA and dispensary application Instructions issued. Under review process B., 2 nd paragraph it states: 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. The question is, what if the provisional license is abandoned or pulled within the 270 days or after and if the next drawn applicant happened to be on the same parcel, why wouldn't a provisional applicant be granted at the same location if it was next in line? Is that the actual intent for the award process?	<p>The Board's intent is to announce a list of all awarded provisional dispensary license at one time, not to stretch the process over an extended period of time. This provides clarity to both successful and unsuccessful applicants.</p> <p>If a provisional dispensary licensee is unable to successfully open, the Board anticipates that – just as occurred after RFA I – the Board will make an additional license available at a later round.</p>



Ohio Medical Marijuana Control Program



ID	Question	Response
321	It is understood that a day storage area is a location outside of the vault. Is it therefore correct that a day storage area may be outside of the vault on a separate level? It is understood per OAC 3796:6-2-02(B)(7)(f), a day storage area with a pass-through window is required to pass product into the dispensary department. Is it therefore correct that there may be an additional day storage area without a pass-through window? [If so, may these separate day storage areas be interconnected by a [HA1]dumbwaiter?	A day-storage area with a pass-through window(s) is required. See OAC 3796:6-2-02(B)(7)(f) . Provisional dispensary licensees may work with their assigned agent to ensure adequate security measures are in place prior to any certificate of operation being issued.
322	Is it acceptable for product to move from the vault into a separate restricted access area before reaching the day-storage area?	Yes.
323	Does a university fall under the definition of secondary school and therefore be a prohibited facility?	The General Assembly has defined "school." See R.C. 3796.30(C) . See also OAC 3796:6-2-02(B)(2)(k) .
324	Can an individual loan money to an applicant and that loan be used as liquid asset requirement, if so, can one individual loan money to multiple applicants?	<p>Yes, however the individual must unconditionally commit the assets to the Applicant and may not loan more money than the individual has available or the same funds to multiple Applicants. If an applicant knows or should have known that the potential lender was allowing multiple applicants to rely on the same limited pool of funds, the Applicant runs the risk that the Board will find that the applicant does not have sufficient funding.</p> <p>If the Applicants are submitting applications for the same or an adjacent location, the response to this question may be different. See Response to Question 254.</p> <p>NOTE: The Board has added a question to the application requiring disclosure if the same funds have been committed for multiple applications.</p>



Ohio Medical Marijuana Control Program



ID	Question	Response
325	Can an individual who is an owner of an applicant loan to other applicants and that loan be counted toward liquid asset requirement- loan is not secured by ownership interest?	<p>Yes, however the individual must unconditionally commit the assets to the Applicant and may not loan more money than the individual has available or the same funds to multiple Applicants. If an applicant knows or should have known that the potential lender was allowing multiple applicants to rely on the same limited pool of funds, the Applicant runs the risk that the Board will find that the applicant does not have sufficient funding.</p> <p>If the Applicants are submitting applications for the same or an adjacent location, the response to this question may be different. See Response to Question 254.</p> <p>NOTE: The Board has added a question to the application requiring disclosure if the same funds have been committed for multiple applications.</p>
326	Question C-2.1A Asks the applicant to “Attach a detailed, site-specific construction or renovation budget and schedule demonstrating the applicant will commence dispensary operations in accordance with rule 3796:6-2-04. The budget and schedule shall be prepared by the contractor or architect for the project. The schedule must include a GANTT chart. The budget must use the 50 divisions of construction information found in the Construction Specifications Institute’s MasterFormat (2018 version).” If the landlord provides the tenant improvement, would the applicant submit the construction quotes obtained by the property owner?	Yes.



Ohio Medical Marijuana Control Program



ID	Question	Response
327	<p>B-3.10 asks to "Provide a short description of the role the person will serve in for the organization and the person's responsibilities" while C-4.1 asks for "a description of the duties, responsibilities, and roles of each employee"</p> <p>We understand that C-4.1 includes an organizational chart but can these sections reflect/mirror each other? Or are there inherent differences you can highlight between these two prompts?</p>	<p>B-3.10 must only be completed for PAKEs but C-4.1 must include all positions (including key employees, support employees, and third-party vendors). Therefore, C-4.1 should include all the information contained in B-3.10 but should also include additional information.</p>
328	<p>Are applicants required to request and obtain complete & comprehensive zoning verifications including a "professionally prepared survey" in advance, for inclusion in application submission, or is the "Notice of Proper Zoning Form" sufficient submission prior to provisional license award?</p>	<p>Everything listed in the application must be submitted at the time of application.</p>
329	<p>Does a board of directors need be in place at time of application?</p>	<p>If a board of directors exists, it must be disclosed on the application.</p>
330	<p>Does a pharmacist need be on the board and present at the facility?</p>	<p>No.</p>
331	<p>Does an applicant or PAKE under question B-3.25 have to disclose application for a license that were denied due to caps on license? And if so, do we answer NA if license wasn't awarded at question B-3.25.1?</p>	<p>An Applicant does not need to disclose the denial of a license application if the application was denied solely for one or more of the following reasons: (1) your application was scored and the agency determined that your overall score was so low that you were categorically ineligible to be licensed; (2) an agency required passing scores on each question or each section, and the agency determined that you did not receive a passing grade on one question or section; (3) there was competitive scoring and other applicants had higher scores than your application; (4) you received one or more licenses, but one or more other applications were denied because of a license cap; or (5) the agency used a lottery or random drawing process and your application was not randomly selected.</p>



Ohio Medical Marijuana Control Program



ID	Question	Response
332	<p>In the application instructions, Section VII.C states (i) that if the number of applicants for any given district are less than the number the Board has allocated then each applicant for that district will obtain provisional licensing and (ii) if the number of applicants for any one district exceeds the number of permits available in said district, then “a drawing will be held to produce a <u>randomly</u>-ranked order list of <u>all</u> applications submitted for that district” will occur. Does this mean that in District 1234, which has been allocated 2 permits but has 3 applicants: ABC, DEF, and GHI, Applicant GHI which received a lower score (200) than both ABC (225) and DEF (215) could win a permit because in the randomly-ranked drawing the rankings of this District were ABC, GHI, DEF?</p>	<p>There is not a threshold or qualifying score that applications must meet or a scoring rubric. Any Applicant that ranks high enough in the drawing and can demonstrate compliance with Chapter 3796 of the Revised Code and the rules adopted thereunder, compliance with RFA II, and that it is not license limited, is eligible for issuance of a provisional dispensary license. See OAC 3796:6-2-04.</p>
333	<p>In regards to the question 122 asked in the First Period Q&A Responses posted on October 15, 2021– the state responded YES for purposes of questions B-2.1, B-3.21, B-3.22, B-3.24, and B-3.25 that an Applicant or PAKE must disclose instances where marijuana license applications were denied by state regulators as part of a state’s regular application process. Is the department stating applicants / PAKE’s need to disclose every application they applied for and did not win or every application they applied for and was denied after being awarded a provisional license? Is there a differentiation between not being awarded a license after submission (example: not high enough score to qualify) and being a denied (example: after being awarded a provisional license, having that license be revoked). If the applicant or PAKE was not awarded an actual license but need to disclose that information, how should that be presented on the application without having a provisional or operational license number?</p>	<p>An Applicant does not need to disclose the denial of a license application if the application was denied solely for one or more of the following reasons: (1) your application was scored and the agency determined that your overall score was so low that you were categorically ineligible to be licensed; (2) an agency required passing scores on each question or each section, and the agency determined that you did not receive a passing grade on one question or section; (3) there was competitive scoring and other applicants had higher scores than your application; (4) you received one or more licenses, but one or more other applications were denied because of a license cap; or (5) the agency used a lottery or random drawing process and your application was not randomly selected.</p>
334	<p>If an architect creates the proximity location map demonstrating distance of 500 ft from prohibited facilities do they need to stamp the map?</p>	<p>The map must be stamped or certified by the preparing architect.</p>



Ohio Medical Marijuana Control Program



ID	Question	Response
335	Is the intent of the mantrap to prevent the general public, minors and non-patients from accessing the dispensary department directly from the “street” (exterior of the building)? If so, can the waiting area which is the only ingress/egress point from the “street” serve as the mantrap assuming the ingress/egress door is interlocked with only door to the dispensary department? Technically this would comply with OAC 3796:6-2-02 B.7.G.	The mantrap must be a double-door entry and exit system that contains different locks on each door and will not permit a person to pass through the second door until the first door is securely locked. The mantrap must be located at the ingress/egress to the dispensary department. See OAC 3796:6-2-02(B)(7)(g) . The waiting area itself cannot serve as a mantrap.
336	If we are dispensing product directly from the vault through a pass-through window, is a day storage area still required? Additionally, if a day storage area is required, does a lockable cabinet suffice to store product in the day storage area?	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 a day-storage area with pass-through window(s) are required. See OAC 3796:6-2-02(B)(7) . Provisional dispensary licensees may work with their assigned agent to ensure adequate security measures are in place prior to any certificate of operation being issued.
337	If an applicant’s owners, board members, and officers are currently licensed as Associated Key Employees of existing/operating Ohio dispensaries, do such individuals need to get additional background checks?	A PAKE who has had background checks provided to the Board of Pharmacy within the last 12 months of the date of the application does not need to undergo additional background checks for the application process.
338	If an applicant’s owners, board members, and officers are currently licensed as Associated Key Employees of existing/operating Ohio dispensaries, do such individuals need to sign tax authorizations for this application?	An Applicant or PAKE who has had a taxation check provided to the Board of Pharmacy within the last 12 months of the date of the application does not need to undergo an additional taxation check for the application process.
339	If a dispensary applicant has provided a third party an option to purchase whereby the right to purchase its ownership interest does not trigger unless/until (1) the board approves a change of ownership application), (2) the dispensary is built and operational for at least 1 year, and (3) the price is built into the option, our interpretation is that such third party is NOT an owner for purposes of the application. Does the BoP agree with this interpretation?	<p>This is an oversimplification of how the Board treats option agreements regarding ownership. The Board has not yet had the opportunity to address the specific fact pattern where an applicant is seeking to sell a license that it has not yet even applied for.</p> <p>The Board cannot opine as to whether any specific option agreement would constitute an ownership interest without reviewing the specific documents.</p> <p>Because it will be impossible for the Board to review such documents prior to the application deadline, the Board urges applicants to use great caution in signing option agreements to sell licenses that they have not yet even applied for.</p>



Ohio Medical Marijuana Control Program



ID	Question	Response
340	Is there a BoP or application rule that prohibits spouses from using the same financial information and source of finances under C-5 if the aggregate amount of finances available is adequate to cover the total costs needed for the number of licenses they are both willing to accept?	<p>Yes, however the individual must unconditionally commit the assets to the Applicant and may not loan more money than the individual has available or the same funds to multiple Applicants. If an applicant knows or should have known that the potential lender was allowing multiple applicants to rely on the same limited pool of funds, the Applicant runs the risk that the Board will find that the applicant does not have sufficient funding.</p> <p>If the Applicants are submitting applications for the same or an adjacent location, the response to this question may be different. See Response to Question 254.</p> <p>NOTE: The Board has added a question to the application requiring disclosure if the same funds have been committed for multiple applications.</p>
341	Does the BoP consider a "financial interest" to include financial ownership of investment securities in a publicly-held corporation that is traded on the Canadian Stock Exchange if the investment securities held by the person and the person's spouse, parent, or child, in the aggregate, do not exceed one per cent ownership in the medical marijuana entity?	No.



Ohio Medical Marijuana Control Program



ID	Question	Response
342	<p>It two entity applicants apply on the same property, and one individual owns less than a 10% equity interest in one of the applicants and more than a 10% equity interest in the other applicant, will either of the two applicants be disqualified or otherwise ineligible as a result?</p>	<p>The purpose of the “common ownership” prohibition for applications on the same or adjacent parcels is to prevent people from submitting multiple applications for the same or adjoining parcels. The Board is aware that some Applicants may try creative work-arounds to multiply their chances of winning a license at a specific location (or at an adjacent location). The purpose of this RFA requirement is to ensure an equal chance for licensure for all Applicants. The Board will be carefully scrutinizing applications that are seeking the same or adjoining parcels in the following circumstances:</p> <ul style="list-style-type: none"> • Separate applications are received from people or entities that seem to have some sort of prior relationship (the separate applicants are spouses, siblings, co-own another business, etc.) • Applications that have identical (or nearly identical) budgets and site plans for the same or adjoining parcels • Option agreements between applicants seeking the same or an adjoining parcel • Management or consulting agreements between applicants seeking the same or an adjoining parcel • Pledged amounts are coming from the same banking or investment accounts • Multiple applicants are relying on the same pledged assets • There are any other indicia demonstrating an attempt to circumvent the single application per parcel/adjoining parcel requirement of the RFA <p>This scrutiny may not be limited to reviewing the four corners of the applications, and may involve Board investigators sending subpoenas and conducting interviews. If the Board concludes that two or more Applicants are attempting to circumvent the one-application-per-parcel rule, the Board <i>will</i> disqualify <i>all</i> applications from the Applicants (including applications for other unrelated parcels).</p> <p>NOTE: Additional application questions addressing multiple applications for the same or adjacent locations have been added to the application.</p>



Ohio Medical Marijuana Control Program



ID	Question	Response
343	Is there any BoP or application rule that prohibits the spouse of an applicant from using the same site plan or proposed budget for the spouse's own application?	<p>The purpose of the "common ownership" prohibition for applications on the same or adjacent parcels is to prevent people from submitting multiple applications for the same or adjoining parcels. The Board is aware that some Applicants may try creative work-arounds to multiply their chances of winning a license at a specific location (or at an adjacent location). The purpose of this RFA requirement is to ensure an equal chance for licensure for all Applicants. The Board will be carefully scrutinizing applications that are seeking the same or adjoining parcels in the following circumstances:</p> <ul style="list-style-type: none"> • Separate applications are received from people or entities that seem to have some sort of prior relationship (the separate applicants are spouses, siblings, co-own another business, etc.) • Applications that have identical (or nearly identical) budgets and site plans for the same or adjoining parcels • Option agreements between applicants seeking the same or an adjoining parcel • Management or consulting agreements between applicants seeking the same or an adjoining parcel • Pledged amounts are coming from the same banking or investment accounts • Multiple applicants are relying on the same pledged assets • There are any other indicia demonstrating an attempt to circumvent the single application per parcel/adjoining parcel requirement of the RFA <p>This scrutiny may not be limited to reviewing the four corners of the applications, and may involve Board investigators sending subpoenas and conducting interviews. If the Board concludes that two or more Applicants are attempting to circumvent the one-application-per-parcel rule, the Board <i>will</i> disqualify <i>all</i> applications from the Applicants (including applications for other unrelated parcels).</p> <p>NOTE: Additional application questions addressing multiple applications for the same or adjacent locations have been added to the application.</p>



Ohio Medical Marijuana Control Program



ID	Question	Response
344	The sample application states "If the Applicant is relying on liquid assets from an individual, provide evidence that the person has unconditionally committed such liquid assets to the use of the Applicant in the event that a dispensary license(s) is awarded to the Applicant." How does the Department define 'unconditionally committed'?	The individual agrees that, in the event a provisional dispensary license is awarded to the Applicant, the identified funds will be made available to the Applicant for purposes of constructing, renovating, opening or otherwise making the dispensary operational.
345	Per the application, statute, and regulations, fingerprints are required for all officers, board members, and prospective owners with at least a 10% ownership interest in an applicant. If an applicant entity is partially owned by another entity (in an amount greater than 10%), would the officers and board members of that entity also need to be fingerprinted, or just the officers/board members of the applicant entity?	Yes.
346	Based on the Board's response to Question 81 in FAQ Round #1, would it be correct to say that only the individual natural person implicated by OAC 3796:6-2-03 must be fingerprinted for the application, even if individual owners of the non-applicant ownership entity have an ownership interest of greater than 10%? For example, if the applicant entity is 75% owned by ABC, LLC, would only the manager of the LLC, or a natural person who is a member of the LLC if the LLC does not have a manager, be required to be fingerprinted? Or, would any individual of the LLC who holds more than 10% interest in the applicant entity be required to be fingerprinted?	Any individual of the LLC that holds more than 10% interest in the applicant entity must be fingerprinted.



Ohio Medical Marijuana Control Program



ID	Question	Response
347	Question A-4.1 asks applicants to submit an organizational chart showing all owners, officers, and board members of the provisional dispensary applicant, irrespective of ownership interest. If an applicant entity is partially owned by another entity, must applicants simply disclose the entity which holds the interest, or must applicants provide ownership interest down to the individual level (including less than 10% ownership) for each individual of the entity which partially owns the applicant entity? For example, if applicant entity is 75% owned by ABC, LLC, should applicants only disclose that 75% share, or must applicants list each individual owner of ABC, LLC? If yes, must applicants list each individual owner only above 10%, or which hold ANY ownership interest in the applicant?	Yes, all individual owners holding ANY ownership interest in the Applicant must be listed in A-4.1. This does not include individuals who own less than 10% of a publicly traded company.
348	Is it possible to receive an example of a completed survey to make sure we are providing what is needed?	No specific type of survey is required. However, the survey must contain all required information, be clearly legible and labeled, and may be divided into 8.5 by 11 inch sections.
349	Can a brokerage account be used to show proof of liquid capital, so long as an account statement with proof of funds within 30 days of the application is provided?	For purposes of RFA II, publicly traded securities and stocks can be considered as liquid assets; however, securities and stock from closely held corporations will not be considered liquid assets.
350	Does funding need to come from an owner, officer, or board member or can it be from an outside private source (that is not a bank), such as an individual outside of the organization lending the money?	If a person is providing their own money for an equity stake of the business, they are an owner. An applicant may also rely on a loan from an individual or a financial institution for some or all funding.
351	Is there any format for upload attachments aside from being less than 10 MB in size, such as font requirements or a requirement for labeling the attachments in a certain manner?	Any labeling requirements are within the application or required forms.
352	For questions A-3.10 and A-3.10.1, if applicants are owned or affiliated with unsuccessful marijuana business applications, can an Applicant indicate the application was applied for without receiving a license, or does the Board require an application number?	The application number of unsuccessful applications is not required.



Ohio Medical Marijuana Control Program



ID	Question	Response
353	Are properties considered adjoining if they are located diagonally across from each other. For example, if there are four equally sized parcels arranged in a square, would it be acceptable for the same entity to apply in both the upper left and lower right quadrants?	Properties are considered adjoining if the boundary lines of one parcel touch those of another parcel.
354	Is there an automatic presumption of "common ownership" if two applicants are affiliated for purposes of Question B-3.21?	There is not an "automatic presumption" of common ownership; however, this information may be relevant to determining common ownership.



Ohio Medical Marijuana Control Program



<p>355</p>	<p>Can a single bank account be used to fund multiple applications at the same property, provided those applications are submitted by different applicants who are not commonly controlled?</p>	<p>No. When applying for the same or adjoining parcels, the applicants <i>must</i> use separate sources of liquid assets in totally separate accounts. Otherwise, all applications from all involved applicants will be disqualified.</p> <p>The purpose of the “common ownership” prohibition for applications on the same or adjacent parcels is to prevent people from submitting multiple applications for the same or adjoining parcels. The Board is aware that some Applicants may try creative work-arounds to multiply their chances of winning a license at a specific location (or at an adjacent location). The purpose of this RFA requirement is to ensure an equal chance for licensure for all Applicants. The Board will be carefully scrutinizing applications that are seeking the same or adjoining parcels in the following circumstances:</p> <ul style="list-style-type: none"> • Separate applications are received from people or entities that seem to have some sort of prior relationship (the separate applicants are spouses, siblings, co-own another business, etc.) • Applications that have identical (or nearly identical) budgets and site plans for the same or adjoining parcels • Option agreements between applicants seeking the same or an adjoining parcel • Management or consulting agreements between applicants seeking the same or an adjoining parcel • Pledged amounts are coming from the same banking or investment accounts • Multiple applicants are relying on the same pledged assets • There are any other indicia demonstrating an attempt to circumvent the single application per parcel/adjoining parcel requirement of the RFA <p>This scrutiny may not be limited to reviewing the four corners of the applications, and may involve Board investigators sending subpoenas and conducting interviews. If the Board concludes that two or more Applicants are attempting to circumvent the one-application-per-parcel rule, the Board <i>will</i> disqualify <i>all</i> applications from the Applicants (including applications for other unrelated parcels).</p>
------------	---	---



Ohio Medical Marijuana Control Program



ID	Question	Response
		<p>NOTE: Additional application questions addressing multiple applications for the same or adjacent locations have been added to the application.</p>
356	<p>Regarding question B-3.23: Do traffic violations such as speeding tickets need to be disclosed? Regarding question B-3.23: Does a charge that was dismissed need to be disclosed?</p>	<p>If there is any doubt about whether a criminal, civil, or administrative action should be reported, individuals should err on the side of caution and disclose the information. If the Board reviews the information and determines it does not apply, it will not be considered as a factor against the Applicant. The Board would rather have the Applicant disclose the information than to discover it as a potential falsification in the Application.</p> <p>A speeding violation does not need to be disclosed.</p>
357	<p>What documentation will the Board accept to demonstrate a property within 500ft is no longer operating as a prohibited facility?</p>	<p>Any documentation the Applicant feels is relevant may be submitted to demonstrate distance from a prohibited facility.</p>
358	<p>Will an applicant be disadvantaged if they do not include optional documentation, such as elevation plans or lighting plans?</p>	<p>No.</p>
359	<p>Question B-3.21.1 asks Applicants to provide the entity Name and Address, if they selected “Yes” to B-3.21 on whether the individual served, or if they are currently serving as an owner, officer, board member, employee or consultant of, or otherwise affiliated with, another marijuana entity in Ohio or elsewhere in the United States. However, Applicants are asked to upload a single PDF document less than 10 MB in size in response, as opposed to filling in the information in a text box as for other similarly situated questions. What document or what information is the Board looking for regarding question B-3.21.1?</p>	<p>A list of all marijuana entities in which the individual had or has an ownership or financial interest, including the name and address of all entities.</p>
360	<p>For the purposes of creating a GANTT chart timeline, is the certificate of operations issued from the Board of Pharmacy the final approval in the process? Or, are the additional inspections or approvals thereafter required to commence operations?</p>	<p>Inspections and approvals will occur prior to the issuance of a certificate of operation; therefore, the issuance of the certificate of operation may be considered the “final approval” in the process.</p>



Ohio Medical Marijuana Control Program



361	<p>Can you please define “other relations” as it was used in response to Question 177 regarding common control in the previous Q&A Round?</p>	<p>The answer to question 177 did not just apply to spouses, but any time that two or more people jointly own an asset and submit multiple applications for the same or adjoining parcels. The individuals do not have to have a blood relationship.</p> <p>The purpose of the “common ownership” prohibition for applications on the same or adjacent parcels is to prevent people from submitting multiple applications for the same or adjoining parcels. The Board is aware that some Applicants may try creative work-arounds to multiply their chances of winning a license at a specific location (or at an adjacent location). The purpose of this RFA requirement is to ensure an equal chance for licensure for all Applicants. The Board will be carefully scrutinizing applications that are seeking the same or adjoining parcels in the following circumstances:</p> <ul style="list-style-type: none"> • Separate applications are received from people or entities that seem to have some sort of prior relationship (the separate applicants are spouses, siblings, co-own another business, etc.) • Applications that have identical (or nearly identical) budgets and site plans for the same or adjoining parcels • Option agreements between applicants seeking the same or an adjoining parcel • Management or consulting agreements between applicants seeking the same or an adjoining parcel • Pledged amounts are coming from the same banking or investment accounts • Multiple applicants are relying on the same pledged assets • There are any other indicia demonstrating an attempt to circumvent the single application per parcel/adjoining parcel requirement of the RFA <p>This scrutiny may not be limited to reviewing the four corners of the applications, and may involve Board investigators sending subpoenas and conducting interviews. If the Board concludes that two or more Applicants are attempting to circumvent the one-application-per-parcel rule, the Board <i>will</i> disqualify <i>all</i> applications from the Applicants (including applications for other unrelated parcels).</p>
-----	---	--



Ohio Medical Marijuana Control Program



ID	Question	Response
		<p>NOTE: Additional application questions addressing multiple applications for the same or adjacent locations have been added to the application.</p>
362	Is a cemetery considered a public park?	Any questions about whether a certain “park” has been established by a state or political subdivision should be directed to the state or political subdivision where the park, trail, or towpath in question is located.
363	How is rank order determined for multiple applications on a single site?	Rank order is determined by a drawing 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
364	In response to Question 187 on RFA II Q & A Round 1, the Board indicated that all third-party vendors who provide services after issuance of the certificate of operation must be disclosed on the organizational chart. Does this include third-party vendors who are badged as employees?	C-4.1 requires that all positions held by employees be identified.



ID	Question	Response
365	<p>This question is being asked to clarify the Board's response to Question 180. For purposes of Ohio Admin. Code 3796:6-2-02(B)(2)(j) and application question C-1.1, may an Applicant satisfy the application requirements by agreeing to lease the property from an entity that is purchasing the real estate from the current owner, if the Applicant submits all of the following:</p> <p>A copy of the purchase agreement between the current owner and the purchasing entity;</p> <ul style="list-style-type: none"> a. A signed, notarized statement from the current owner, acknowledging that the purchasing entity will lease the property to the Applicant if a license is awarded <i>and</i> stating that the current owner agrees to sell the property so that it may be leased to the Applicant in the event the Applicant is issued a dispensary license; b. A copy of a lease or lease option between the Applicant and the purchasing entity; and c. A signed, notarized statement from the purchasing entity whereby the purchasing entity agrees to grant a leasehold interest to the Applicant in the event a license is issued to the Applicant. 	<p>For purposes of OAC 3796:6-2-02(B)(2)(j), "property owner" means the property owner at the time the application was submitted to the Board. Applicant must submit a signed, notarized statement from the property owner that the owner will grant a leasehold interest to the Applicant on the proposed site.</p>



Ohio Medical Marijuana Control Program



ID	Question	Response
366	Where the local zoning authority requires a special use permit and will accept applications for zoning approval without a state-issued provisional license, are applicants required to have <i>at minimum</i> applied for a special use permit with the local jurisdiction <i>in advance</i> of submitting their medical marijuana dispensary application to the Board of Pharmacy, and then expected to expend the resources of receiving local zoning approval without first receiving a state-issued provisional license while their dispensary application in the drawing remains pending?	Yes. Additionally, the Notice of Proper Zoning Form must be completed by the official from the jurisdiction and submitted with the application.
367	If the local jurisdiction does not accept applications for zoning approval without the zoning applicant having received a state-issued provisional license, is written email communication from the local zoning authority indicating that the jurisdiction will not accept zoning applications from medical marijuana entities without having first received a state-issued provisional license sufficient to demonstrate that the permit <i>cannot yet be applied for at the time of submission</i> ?	The Notice of Proper Zoning Form must be completed by the official from the jurisdiction. Additionally, Applicant may submit any additional evidence (including but not limited to communications with the local zoning authority) indicating the status of any special use permit at the time of application.
368	The Notice of Proper Zoning Form itself has an option for the local zoning authority to attest that no moratorium on medical dispensaries exists within the jurisdiction. Does the zoning official checking this box suffice to demonstrate that no moratorium exists, or is supplemental documentation or evidence of the same required?	The Notice of Proper Zoning Form signed by the official and indicating that no moratorium exists is sufficient. Additional evidence may be submitted if relevant.
369	If multiple applicants use a specific outside company to provide a line of credit for the liquid assets requirement, is that considered common ownership?	If the line of credit is provided by a licensed financial institution or similar institutional lender, multiple applicants may rely on the same lender without triggering the “common ownership” prohibition. However, if the lender is a private individual or entity, the “common ownership” prohibition may be violated depending on other factors.
370	If Applicant A and Applicant B are two cannabis companies and have a joint venture partnership on only one license. Is that considered common ownership?	Yes.



Ohio Medical Marijuana Control Program



ID	Question	Response
371	<p>If a parent company is unconditionally committing the liquid capital to multiple different applicants (different subsidiaries that it owns) submitting more than five applications combined, how would those different applicant entities demonstrate that the company has sufficient liquid assets for the purposes of question C.5.3? For example, could each of the different subsidiary applicants relying on the Parent Company state in its response that (i) the Parent Company is able to accept/be an indirect owner of five (5) licenses among Applicant 1, 2 and 3 pursuant to OAC 3796:6-2(F), and (ii) demonstrate that the Parent Company has unconditionally committed sufficient liquid capital to fund the five (5) highest totaling construction and operations budgets (as shown on Questions C.2 and C.4) applied for by Applicant 1, 2 and 3 combined?</p>	<p>Each Applicant should demonstrate the total capital available from the parent company and source(s) of all funding as required by OAC 3796:6-2-02(B)(4). Additionally, each Applicant should identify the total number of applications the parent company is funding and the highest total budgets that the parent company could ultimately be required to fund.</p>
372	<p>Can proof of funds be provided via a financial statement from an Australian-based bank? May proof of funds be denominated in AUD (Australian Dollars) showing USD equivalent at current exchange rate?</p>	<p>Yes.</p>
373	<p>For A-4.1, is it acceptable for the dispensary applicant to be a single member LLC with one owner/officer and no board members?</p>	<p>Yes.</p>
374	<p>For C-3.1.1, may revenue be included to offset costs so that the budget is based upon <u>net</u> cash outflow?</p>	<p>No.</p>
375	<p>Is a public bathroom for patients a requirement in the dispensary facility plan? (C-2.1)</p>	<p>All dispensaries must be compliant with all federal, state, and local requirements. Contact your local zoning or building department.</p>



Ohio Medical Marijuana Control Program



ID	Question	Response
376	<p>Entity A submits 10 applications for 10 locations. Entity A then gives all of its Section C application materials to Entities B, C, D, and E in order for each to apply on the same 10 sites using the exact same application materials for the sites (other than the ownership and entity names that are unique to the applicant entity in Application Sections A & B). All 5 entities have 100% distinct current ownership, with zero current overlapping ownership, board members or officers at the time of application submission. The only formal relationship between any of the entities is that Entity A has entered into an option agreement with each of Entities B, C, D, and E to purchase the license if those entities win a license on the properties that Entity A sourced. The option agreements between Entity A and the other entities are drafted to fully comply with BOP's "Dispensary Control and Ownership FAQ" Dated August 2019 (e.g. the option exercise is subject to BOP approval, 12 month post-COO waiting period, no cash exchanged prior to BOP approval, etc.). Would such an option agreement be deemed to be "common ownership" and disqualify all applications for all entities, or is this arrangement permissible given that there is no overlapping ownership among the entities, and the option agreement follows BOP's guidance for not violating the change of ownership restrictions.</p>	<p>The Board has not yet had the opportunity to address the specific fact pattern where an applicant is seeking to sell a license that it has not yet even applied for.</p> <p>The Board cannot opine as to whether any specific option agreement would constitute an ownership interest without reviewing the specific documents.</p> <p>Because it will be impossible for the Board to review such documents prior to the application deadline, the Board urges applicants to use great caution in signing option agreements to sell licenses that they have not yet even applied for.</p>
377	<p>Per BOP's response to Question #209 in the Q&A dated October 15, 2021, it appears consulting success fees are allowed. In the above hypothetical, if options are not permissible, would it be permissible for Entity A to enter into consulting agreements with each of Entities B, C, D, and E that require such entities to pay a success fee to Entity A if they are successful in winning a license on the properties that Entity A sourced?</p>	<p>The Board has not yet had the opportunity to address the specific fact pattern where an applicant is seeking to sell a license that it has not yet even applied for.</p> <p>The Board cannot opine as to whether any specific option agreement would constitute an ownership interest without reviewing the specific documents.</p> <p>Because it will be impossible for the Board to review such documents prior to the application deadline, the Board urges applicants to use great caution in signing option agreements to sell licenses that they have not yet even applied for.</p>



Ohio Medical Marijuana Control Program



ID	Question	Response
378	Assuming such consulting agreements are permissible as stated in Question #209, (a) are there any limits on how large the success fee can be; and (b) can you confirm our understanding that these consulting relationships do NOT need to be disclosed in the application? BOP's response to Question #187 states that only consultants who will be providing services after license award need to be disclosed, which suggests that this type of pre-application sharing of materials in exchange for back-end success fee would not be required to be disclosed and could be of unlimited amount.	<p>The Board has not yet had the opportunity to address the specific fact pattern where an applicant is seeking to sell a license that it has not yet even applied for.</p> <p>The Board cannot opine as to whether any specific option agreement would constitute an ownership interest without reviewing the specific documents.</p> <p>Because it will be impossible for the Board to review such documents prior to the application deadline, the Board urges applicants to use great caution in signing option agreements to sell licenses that they have not yet even applied for.</p>
379	What is the list of documents that must be notarized? Is it just the tax authorization form?	Those documents that must be notarized are clearly marked.
380	Is there a preferred technology source, PC or Mac, and is there a preferred browser (Google Chrome, Safari, Internet Explorer, Firefox) that works most effectively within the State's Application Portal?	Chrome is the preferred browser. There is no preference for use of a PC or a Mac.
381	For purposes of questions B-2.1, B-3.21, B-3.22, B-3.24, and B-3.25, would a marijuana license application (there can be hundreds of these applications) that was not selected by governmental regulators through a lottery process (meaning a complete and compliant application qualified into a final lottery but ultimately was not selected by a randomly generated system such as bingo ball or computer in a limited license jurisdiction) considered "action" and require disclosure?	An Applicant does not need to disclose the denial of a license application if the application was denied solely for one or more of the following reasons: (1) your application was scored and the agency determined that your overall score was so low that you were categorically ineligible to be licensed; (2) an agency required passing scores on each question or each section, and the agency determined that you did not receive a passing grade on one question or section; (3) there was competitive scoring and other applicants had higher scores than your application; (4) you received one or more licenses, but one or more other applications were denied because of a license cap; or (5) the agency used a lottery or random drawing process and your application was not randomly selected.



Ohio Medical Marijuana Control Program



ID	Question	Response
382	If an owner submitting for a dispensary has a juvenile record from 9 years ago that has been approved to be expunged but might still show up on a live scan, does this disqualify them from the application?	If there is any doubt about whether a criminal, civil, or administrative action should be reported, individuals should err on the side of caution and disclose the information. If the Board reviews the information and determines it does not apply, it will not be considered as a factor against the Applicant. The Board would rather have the Applicant disclose the information than to discover it as a potential falsification in the Application.
383	I plan on seeking a loan from a private individual if I win multiple provisional dispensary licenses. If that person is willing to sign an unconditional commitment of such money to the use for the provisional dispensary applicant in the event that I win a provisional dispensary license. Plus we are able to show a statement 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 plus shall be unencumbered and capable of being converted to cash within thirty days after a request to liquidate such assets. Is there anything else the Board of Pharmacy would need to approve these funds?	<p>The individual must unconditionally commit the assets to the Applicant and may not loan more money than the individual has available or the same funds to multiple Applicants. If an applicant knows or should have known that the potential lender was allowing multiple applicants to rely on the same limited pool of funds, the Applicant runs the risk that the Board will find that the applicant does not have sufficient funding.</p> <p>NOTE: The Board has added a question to the application requiring disclosure if the same funds have been committed for multiple applications.</p> <p>See, also, Answer to Question 254.</p>
384	On the budget section of C-3.1 and C-3.1.1 would the Board of Pharmacy be comfortable estimating loan payments since we can't confirm the details until next year.	Yes.