



**August 2, 2024**

## **DISPENSARY DUAL-USE SALES GUIDANCE**

The Division of Cannabis Control is issuing the following guidance related to dispensary dual-use sales. The Division has not issued any dual-use certificates of operation at the time of this publishing; however, is providing guidance where possible for licensees to prepare for dual-use operations.

As a reminder, a dispensary is prohibited from selling non-medical cannabis prior to receiving a certificate of operation.

All licensees must comply with the medical marijuana rules established in O.A.C. 3796 and guidance provided by the Division. A violation of these rules or guidance may result in enforcement action by the Division.

### **Identification Required – Dispensary Access**

Dispensaries must maintain Standard Operating Procedures (SOPs) that ensure the prevention of sales of non-medical cannabis to or access by individuals under the age of 21, with the exception of medical marijuana patients.

### **Patient, Caregiver, or Customer Access to Dispensary Retail Area**

Non-Medical Consumer Access: Once a dispensary receives a dual-use certificate of operation, the dispensary retail sales floor becomes open to members of the public who are 21 years of age or over.

**No person under the age of 21 who is not a medical marijuana patient is permitted to access a dispensary's retail area. Dispensaries must have procedures in place to verify identification to prevent unauthorized access.**

Dispensaries must ensure all members of the public present valid, government-issued photographic identification containing the individual's date of birth prior to entering the designated retail area. A registered dispensary employee must review the individual's

identification and ensure the individual is at least 21 years of age or older.

Medical Marijuana Patient & Caregiver Access: Medical marijuana patients and caregivers may continue accessing the dispensary pursuant to O.A.C. 3796.

Registered patients who are under the age of 21 may enter the premises if they present valid patient identification and government-issued photographic identification or one of the other forms of identification provided [here](#). Registered patients under the age of 18 are to be accompanied by their registered caregiver. A registered dispensary employee must ensure the patient presents valid patient identification.

#### Access to Secure Limited Access Area

Visitor logs must be maintained by the dispensary for visitors who are going to access secure limited access areas that are only accessible by authorized badged dispensary employees. This does not apply to visitors in the dispensary's public retail area.

Upon entering the premises of a licensed entity, all facility visitors must:

1. Provide valid, government issued photographic identification evidencing that they are 21 years of age or older;
2. Obtain a visitor badge, to be visibly displayed at all times, and returned upon their departure; and
3. Escorted and monitored by an assigned registered employee at all times.

Each licensee shall maintain a visitor log memorializing all facility visitors that enter the licensed premises. The visitor log must include all of the following information for each visitor:

1. Full legal name of the visitor;
2. The date and time of the visitor's arrival and departure;
3. The employee assigned to escort visitor; and
4. The purpose of the facility visit.

All of the following applies to dispensary guests and visitors:

- Licensees must ensure confidentiality of all patients, caregivers, and adult-use consumers. No one is permitted to photograph or record patients or other dispensary visitors without their consent.
- No one is permitted to take photos or recordings of a secured limited access area, unless otherwise approved in writing by the Division.

#### **Identification Required – Point-of-Sale**

Dispensaries must maintain Standard Operating Procedures (SOPs) that ensure the prevention of sales of non-medical cannabis to or access by individuals under the age of 21, with the exception of medical marijuana patients

Dispensaries must report to the Division, immediately upon discovery, any sale to or access by unauthorized individuals under the age of 21. This must be submitted as an Incident Report within the DCC eLicense Portal.

#### Non-Medical Customer Identification

Prior to any sale, or the transfer of possession of any cannabis, a registered dispensary employee must review the customer's valid, government-issued photographic identification containing the customer's date of birth. The employee shall confirm:

- The individual is at least 21 years of age or older
- The information contained on the customer's identification matches the individual presenting the identification
- If applicable, the information contained on the customer's identification matches the information provided in the order.

#### Medical Marijuana Patient or Caregiver Identification

Dispensaries must comply with O.A.C. [3796:6-3-08](#) and the guidance provided below.

Prior to any sale, or the transfer of possession of any cannabis, a registered dispensary employee must review the patient or caregiver's valid, government-issued photographic

identification and the patient or caregiver medical marijuana registration card. The employee shall confirm:

- The individual is a registered patient at least 18 years of age or older or a registered caregiver 21 years of age or older
- The information contained on the customer's identification matches the individual presenting the identification
- The name and date of birth on the patient or caregiver registry record and card matches the information provided on the identification presented.
  - For new patients and caregivers, the identification number on the item presented by the patient or caregiver must be identical to the identification number included in the patient or caregiver's registry record.
  - For returning patients and caregivers, the identification presented by the patient or caregiver is no longer required to be the same identification listed in the registry.
- If applicable, the information contained on the customer's identification matches the information provided in the order
- If applicable, the registered employee must also confirm the patient's veteran or indigent status in the Medical Marijuana Patient & Caregiver Registry.

In lieu of a valid, government-issued photographic identification, a patient or caregiver may present one of the other forms of identification listed [here](#) provided it matches the identification number in the patient or caregiver's registry record.

### **Online Orders**

Dispensaries must comply with the medical rules established in O.A.C. 3796 regarding online and pre-orders. Online payment is not yet permitted.

### **Transaction Limits**

Dispensaries are responsible for preventing sales that exceed eligible transaction limits.

#### Non-Medical Consumers

- Non-medical consumers may not purchase more than ten whole day units of cannabis combined across all forms pursuant to O.A.C. [3796:8-2-04](#) per day.
  - For example, a non-medical consumer may purchase 1.0 ounces of plant material for vaporization OR ten units of oil for vaporization containing 590mg of THC each OR ten packages of edibles totaling not more than 1100mg of THC total.

#### Medical Marijuana Patients & Caregivers

- For medical marijuana patients, the 90-day supply and whole day unit amounts remain the same under O.A.C. [3796:8-2-04](#), until updated rules are effective.

In addition to operating procedures to appropriately calculate and dispense days' supply without exceeding a medical marijuana patient's supply limit, the dispensary must have operating procedures in place to not exceed transaction limits for non-medical consumers, as prescribed in the paragraph above.

### **Taxes**

Sales tax must be assessed on both medical and non-medical sales.

An additional 10% adult-use excise tax must be assessed on non-medical consumer sales only.

The taxes must be calculated independently, each based on the sale price.

- For example, if the sale price is \$154.00 and the sales tax is 7.00% while the excise tax is 10.00%, the total is \$180.18.
- The sales tax on \$154 is \$10.78 and the excise tax on \$154 is \$15.40 so the total

charged to the customer is \$180.18.

The Department of Taxation has an FAQ regarding applying Sales and Use Tax available [here](#).

## **Metrc & OARRS Sales Reporting**

### Medical Marijuana Patient & Caregiver Sales

- The dispensary must transmit sales to Metrc, including each item sold (price and product identifier), and sales total (after discount and before taxes), and patient identification. Inventory must be correctly deducted from Metrc following a sale.
- The dispensary must ensure that dispensation is properly transmitted to the Prescription Monitoring Program (PMP) Clearinghouse. Ohio's PMP is the Ohio Automated Rx Reporting System (OARRS).

### Non-Medical Consumer Sales

- The dispensary must transmit sales to Metrc, including each item sold (price and product identifier), and sales total (after discount and before taxes). No consumer identification is transmitted to Metrc. Inventory must be correctly deducted from Metrc following a sale.
- A sale to a non-medical consumer is NOT transmitted to the PMP Clearinghouse.

## **Dispensary Labels**

This dispensary must ensure the following information is clearly provided on the outside of each container or package of cannabis prior to sale:

- For medical marijuana patients and caregivers, the information required pursuant to O.A.C. [3796:6-3-09](#).
- For non-medical consumers, the dispensary's business name or tradename (i.e., DBA) and the dispensary's license number.

## **Receipts**

Each sales receipt must provide, at a minimum, the following:

- Notation that it is a medical or non-medical sale.
- Description of each item sold and the sale price.
- Any discounts credited, list separately.
- Sales tax, listed separately.
- Excise tax, if applicable, listed separately.

## **Returns & Refunds**

The following requirements must be met by each dispensary for accepting returns from both medical marijuana patients and caregivers, and non-medical consumers.

- Establish, maintain, and comply with written policies and procedures to accept returned cannabis.
- Each dispensary must accept the following cannabis returned by a patient or consumer:
  - Defective product, which must be destroyed and disposed of by the dispensary in accordance with O.A.C. [3796:6-3-14](#).
  - Product that does not match the item stated on the purchase receipt.
  - Cannabis mislabeled by the cultivator or processor of the product.
    - All cannabis returned to a dispensary due to mislabeling by a cultivator or processor must be reported to the Division via email to [DCCCompliance@com.ohio.gov](mailto:DCCCompliance@com.ohio.gov).
- A dispensary may accept returns for other reasons so long as the dispensary establishes, maintains, and complies with written policies and procedures for such returns.
- Each dispensary must provide the patient, caregiver, or consumer a refund of the

purchase price of the product contemporaneously with the return, and, if applicable, revise the patient's days' supply to reflect the returned product.

- The dispensary's return policy must either be printed on each sales receipt or conspicuously posted at each point-of-sale.

## Medical Marijuana Patient Accommodations

A dispensary licensed as a dual-use facility shall ensure the facility:

- Serves and accommodates medical patients and caregivers and adult-use consumers alike.
- Maintains ongoing inventory sufficient to maintain an adequate supply of medical cannabis to meet the current demand and projected patient and caregiver population.
- Provides accommodations to medical cannabis patients and caregivers. The following are examples of how a dispensary may choose to provide accommodations to medical patients and caregivers. While a dispensary is required to provide accommodations, these examples are not specifically required. A dispensary may choose to provide other accommodations.
  - Dedicated hours of operation limited to medical-only patients and caregivers during which adult-use consumers are precluded from the facility.
  - Expanded options for medical cannabis delivery and online ordering.
  - Efficient point-of-sale accommodations that similarly and expeditiously serve medical patients and caregivers and adult-use consumers.

## Discounts

Any discounts provided must comply with the following:

- A dispensary may offer discounts in accordance with a written discount policy and ensure any discount offered to an adult-use consumer or a registered employee of a licensed entity must also be offered to the following individuals:
  - All individuals who are veteran or indigent status; and
  - All registered patients and caregivers.

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## METRC RENUMBERING REMINDER

As a reminder of the [guidance issued on June 19](#), Metrc history from your medical marijuana license will be maintained under the new dual-use license number. The entity's existing MMCP license number will be changed in Metrc to the newly issued dual-use license number.

The order in which the renumbering is completed is important to ensure uninterrupted integration between Metrc and your third-party vendors. The sequence of events, including your responsibilities, is as follows:

1. The Division will issue licensee their new dual-use license number upon issuance of their provisional license.
2. **Licensee** must communicate with their third-party vendors to ensure they are prepared for the implementation of new license numbers for API transactions. **No re-numbering will occur at this step.**
3. The Division will notify licensee at least two business days prior to issuance of their Certificate of Operation.
4. **Licensee** must make third-party vendors aware of the date of COO issuance.
5. **Licensee** must ensure the third-party vendor implements the new license number after the close of business the day before COO issuance and before licensee opens for business under the dual-use license on the date of COO issuance. **Failure to properly update third-party systems will result in breakage of the integration.**

Metrc API Keys will not change.

Once you receive your dual-use certificate of operation, if you encounter any integration issues please first ensure you have completed the steps above. If you have, then contact your third-party vendor and submit a Metrc ticket with the subject line "OH POS Failure." Your third-party vendor should also contact Metrc API Support. Following that, notify your assigned compliance inspector.

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## ELICENSE PORTAL MAINTENANCE

The DCC eLicense Portal will be unavailable for scheduled updates beginning 5:30pm Monday, August 5 to 12:00am Tuesday, August 6 **and** from 9:00pm Friday, August 9 to 12:00am Saturday, August 10.

Please ensure you are logged out of the portal during this time. Transactions attempted during a planned portal outage may not process successfully and may require rework by the licensee at a later time.

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**Applicant Resources**

**Know additional recipients who should receive this message? [Click here.](#)**