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## **Ohio Division of Cannabis Control Rules Package 5**

### **Chapter 3780**

(All section numbers and citations subject to change)

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## Rules Applicable to All Cannabis Entities

### 1301:18-2-08 Cannabis Entity License Renewals

- **(A)** A certificate of operation issued pursuant to this chapter shall expire as follows:
  - **(1)** Cultivators: annually on the date of issuance
  - **(2)** Processors: annually on the date of issuance
  - **(3)** Testing Laboratories: biannually on the date of issuance
  - **(4)** Dispensaries: biannually on the date of issuance
- **(B)** At least thirty calendar days prior to the expiration of its certificate of operation, each licensee shall:
  - **(1)** Submit the following in a manner prescribed by the division:
    - **(a)** A complete renewal application;
    - **(b)** Evidence of compliance with all applicable tax laws;
    - **(c)** The non-refundable renewal fee as outlined under [OAC fees]; and
  - **(2)** Pursuant to rule 1301:18-9-01, pass a full inspection within each licensee's respective renewal period as outlined under paragraph (A) of this rule.
- **(C)** Upon receipt and completion of all requirements outlined under paragraph (B) of this rule, the division will review all associated materials.
  - **(1)** After confirmation that nothing warrants the denial of renewal pursuant to rule 1301:18-9-01, the division will grant the license renewal.
- **(D)** In the event a licensee fails to meet all requirements outlined under paragraph (B) of this rule prior to the expiration date of the certificate of operation, the certificate of operation shall be suspended for a maximum of thirty days.
  - **(1)** In the event a licensee fails to meet all requirements under paragraph (B) during its mandatory suspension, the certificate of operation shall be deemed revoked.
  - **(2)** Upon revocation of a certificate of operation, the division shall not renew the certificate of operation.
    - **(a)** The licensee shall:
      - **(i)** Permanently cease all operations;
      - **(ii)** Not engage in any activities authorized under this chapter; and
      - **(iii)** Destroy the certificate of operation and all affiliated employee badges.

### 1301:18-3-02: Change of Location

- **(A)** A licensee shall not change the location of its licensed premises without prior approval from the division.
- **(B)** Prior to any proposed change, a licensee shall submit the following to the division:
  - **(1)** A complete and accurate application on a form prescribed by the division evidencing the following:
    - **(a)** The proposed location of the licensed premises;
      - **(i)** For licensed dispensaries, any proposed location must be located within the same dispensary district as the existing location.
    - **(b)** The associated plans and specifications for the proposed location;
    - **(c)** Evidence the proposed location meets all applicable requirements under [OAC Operations rules];
    - **(d)** The licensee will remain in compliance with this chapter at the proposed location;

- **(e)** Any supporting documentation evidencing the requirements outlined under this paragraph; and
    - **(f)** The non-refundable change of location fee as outlined under [OAC fees].
  - **(2)** After review of the application for a change of location, the division may:
    - **(a)** Approve the application;
    - **(b)** Deny the application; or
    - **(c)** Advise the licensee in writing that the applicant failed to meet all application requirements.
  - **(3)** Upon receipt of written approval, the licensee may construct and prepare the new location.
- **(C)** Once the new location is fully constructed and prepared to commence all business, the licensee shall submit in a manner prescribed by the division a proposed transition plan outlining the following:
  - **(1)** A proposed procedure for the safe and secure transfer all inventory and other materials maintained at the original location to the proposed location within ninety calendar days as outlined under paragraph (E) of this rule;
  - **(2)** Confirmation that the licensee's transition plan will ensure proper security and surveillance of the original location and the proposed location during the transition period that mitigate the risk of theft, loss, and diversion; and
  - **(3)** Assurance the licensee will maintain ongoing compliance with all requirements outlined under this chapter.
- **(D)** Upon receipt of a licensee's proposed transition plan, the division will:
  - **(1)** Review the proposed transition plan and advise of any necessary modifications; and
  - **(2)** Conduct a change of location inspection pursuant to rule 1301:18-9-01.
- **(E)** Unless otherwise authorized by the division, the licensee shall have ninety calendar days from the date the licensee passes the change of location inspection pursuant to paragraph (D) of this rule to transfer all inventory.
  - **(1)** No inventory may be transferred prior to the beginning date of the approved transition period;
  - **(2)** Any cannabis remaining at the original location past the ninety-day transition period shall be destroyed in accordance with rule 1301:18-3-12 of this chapter;
  - **(3)** The licensee shall notify the division once the transfer of inventory is complete and business may commence at the new location.
  - **(4)** Pursuant to rule 1301:18-9-01, the division may conduct an inspection at the original location and proposed location to ensure compliance with all requirements outlined under this chapter.
- **(F)** After verification by the division that the new location is in full compliance with this chapter, the division will issue a modified certificate of operation reflecting the new location.
  - **(1)** The licensee shall not operate at the new location until the division approves and issues an amended certificate of operation outlining the new location.
  - **(2)** A licensee's modified certificate of operation has the same expiration date as the previously issued license.
- **(G)** Upon receipt of the modified certificate of operation, the licensee may commence business.
  - **(1)** Unless otherwise authorized by the division, a licensee shall not operate in two locations pursuant to the same certificate of operation.

### Transportation of Cannabis to Another Licensed Entity

- **(A)** Each licensee shall establish, maintain, and comply with written policies and procedures for the transportation of cannabis and ensure the following:
  - **(1)** Implementation of proper security protocols to mitigate the risk of diversion, theft, or loss and safety measures for possible emergency scenarios.
  - **(2)** Real-time knowledge of the location of all motor vehicles while in transit.
  - **(3)** Pursuant to the [OAC inventory control] the originating licensee transporting cannabis creates a transfer manifest within the state inventory tracking system and ensure all information contained within the transfer manifest is transmitted to the recipient entity and the division.
  - **(4)** All individuals transporting cannabis shall:
    - **(a)** Be registered pursuant to 1301:18-3-09 and issued a badge certificate.
    - **(b)** Maintain and display their registered badge during transportation.
    - **(c)** Ensure no transportation vehicle containing cannabis is left unattended;
    - **(d)** Maintain visibility at all times of all product contained within the transportation vehicle;
    - **(e)** Ensure delivery times vary and routes are randomized;
    - **(f)** Maintain a physical copy of the transfer manifest completed pursuant to paragraph (A)(3) of this rule for the duration of the transportation;
    - **(g)** Notify the originating cannabis entity when the delivery has reached the recipient entity and the delivery is completed;
    - **(h)** Report the following:
      - **(1)** Any vehicle accident that occurs during the transportation to a person designated by the transporting cannabis entity to receive such reports within two hours after the accident occurs;
      - **(2)** Any loss or theft of cannabis that occurs during the transportation of cannabis in accordance with rule [OAC theft rule] of the Administrative Code; and
      - **(3)** In the event of an emergency, immediately notify law enforcement through the 911 emergency system and to the cannabis entities, which will immediately notify the division, unless the notification is impractical under the circumstances.
- **(B)** The vehicle transporting the cannabis shall:
  - **(1)** Be registered in the state of Ohio and insured as required by the law.
  - **(2)** Store the cannabis in a locked, safe, and secure storage compartment affixed to the motor vehicle, or in a locked storage container that has a separate key or combination pad;
  - **(3)** Ensure all product is not visible from the outside of the vehicle;
  - **(4)** Have access to a secure form of communication with personnel at the cannabis entity and the ability to contact law enforcement through the 911 emergency system at all times that the vehicle contains cannabis, unless notification is impractical under the circumstances; and
  - **(5)** Not contain any marks, logos, brands, or other illustrations on the exterior of the vehicle, other than those affixed to the vehicle by the vehicle manufacturer or dealership.

### **1301:18-3-15: Discontinuing Business**

- **(A)** In the event a licensed entity permanently ceases all business operations, the licensed entity shall provide written notice to the division at least ninety days prior to the effective date of the closure.
- **(B)** A licensed entity that intends to permanently cease all business operations under paragraph (A) of this rule shall submit a written closure plan to the division at least sixty days prior to the effective date of the closure, and include, at a minimum, the following:
  - **(1)** The sale of cannabis inventory at market rate;
  - **(2)** The destruction of cannabis on hand at the facility on the effective date of the closure;
  - **(3)** The sale or removal of equipment and products ancillary to the business;
  - **(4)** The retention of all records required to be maintained in accordance with the applicable records retention schedules;
  - **(5)** The steps that will be taken to maintain compliance with this chapter, and any other conditions required by the division until the approved closure date; and
  - **(6)** The closure and intended use of the premises in which the licensed entity was located.
- **(C)** Within thirty days of receipt of a licensee's closure plan, the division will review the plan and may:
  - **(1)** Approve the plan;
  - **(2)** Deny the plan; or
  - **(3)** Advise the licensee in writing that additional information is needed for review.
- **(D)** Upon discontinuing business, the division shall not renew the certificate of operation.
  - **(1)** The licensee shall:
    - **(a)** Permanently cease all operations;
    - **(b)** Not engage in any activities authorized under this chapter; and
    - **(c)** Destroy the certificate of operation and all affiliated employee badges.
- **(E)** If the closure is the result of an eviction notice, the licensed entity shall immediately notify the division of the eviction notice and the effective date of the notice.
  - **(1)** This notice shall be provided prior to the licensed entity taking any steps to wind down and discontinue business operations.

## **Cultivator Rules**

### **1301:18-4-01 Cultivator Certificate of Operation**

- **(A)** Unless otherwise authorized by the division, each cultivator shall not engage in any activity authorized under this chapter until the division issues the cultivator a certificate of operation.
- **(B)** The division shall not issue a provisional cultivator a certificate of operation unless and until the cultivator meets all requirements outlined under this chapter.
- **(C)** Each cultivator shall have twelve months from the date the cultivator is issued a provisional license pursuant to this chapter to obtain a certificate of operation.
- **(D)** Upon receipt of its certificate of operation, a cultivator may engage in the following activities:
  - **(1)** Cultivate cannabis;
  - **(2)** Distribute, transfer, and sell cannabis to a cultivator, processor, or dispensary licensed pursuant to this chapter; and
  - **(3)** Transfer cannabis for research and development or laboratory testing to a laboratory licensed pursuant to this chapter.

- **(E)** A certificate of operation shall be issued to, and valid only for, the designated business entity, owners, and licensed premises specified within the cultivator's initial application for licensure pursuant to rule 1301:18-2-02.

#### **1301:18-4-02 Cultivator Uninterrupted Supply of Cannabis**

- **(A)** Each cultivator shall conduct its daily business and cultivation activities in a manner that ensures a consistent supply of cannabis plant material is available for sale to consumers.
  - **(1)** Evidence of a cultivator's consistent supply pursuant to this rule is shown by not more than one hundred twenty days elapsing between both of the following:
    - **(a)** Harvests totaling at least fifteen pounds of cannabis plant material; and
    - **(b)** Sale or transfer totaling at least twenty pounds of cannabis plant material for level I cultivators and ten pounds of cannabis plant material for level II cultivators.
- **(B)** A cultivator may petition the division to toll computation of the timeframes provided in paragraph (A) of this rule. Such a petition shall be in writing and provide:
  - **(1)** An explanation of the facts and circumstances that prevent the cultivator's compliance with paragraph (A) of this rule; and
  - **(2)** A written plan, outlined in specific detail with the cultivator's intended actions and projected timeline, to ensure the cultivator complies with this rule.
  - **(3)** Upon receipt of a petition under this paragraph, the division may stay the requirement of paragraph (A) of this rule for the cultivator. A division order staying the requirement of paragraph (A) of this rule will state the date upon which the stay is lifted.

#### **1301:18-4-05: Cultivator Minimum Security and Surveillance Requirements**

- **(A)** Each cultivator shall establish, maintain, and comply with written policies and procedures that ensure adequate security, surveillance, and control of the licensed premises that prevent diversion, theft, or loss and meet the minimum requirements outlined under this rule.
  - **(1)** Pursuant to rule [OAC cultivator operations] each cultivator shall petition the division prior to implementing any major modification to the facility's security procedures, systems, or equipment.
- **(B)** Prior to the commencement of business, each cultivator shall meet the following security and surveillance requirements that ensure compliance with all standards established by the division:
  - **(1)** Designate a secure, limited access area for all equipment maintained pursuant to this rule that is accessible only by authorized registered cultivator employees with foundational training in security and surveillance;
  - **(2)** Maintain or construct fencing to prevent unauthorized entry or access to waste disposal containers, disposal areas or compost areas located outside the facility;
  - **(3)** Install a security alarm system with commercial grade equipment that includes the following:
    - **(a)** An access alarm on all entry points and windows;
    - **(b)** Motion detectors that identify unauthorized access into the facility; and
    - **(c)** A silent alarm, which may be utilized during instances of duress that sends a pre-recorded voice message to the facility's designated security personnel and law enforcement, public safety, or emergency services requesting dispatch, which includes the capability to enter a designated code into an arming station to signal that the alarm user is being forced to turn off the system.
  - **(4)** Install a video surveillance system that complies with the following:
    - **(a)** Capable of electronic monitoring of the facility and real-time access by the division;

- **(b)** Collects twenty-four-hour live video feed with motion-activated recording capabilities for all video cameras that record in at least fifteen frames per second;
  - **(c)** Archives and retains recordings for at least forty-five calendar days;
  - **(d)** Contains a display monitor with a minimum screen size of twelve inches;
  - **(e)** Exports still images in an industry standard format that guarantees authentication and prevents alteration of the recorded images;
  - **(f)** Produces clear color still photographs that are a minimum of 600 x 600 dpi from any camera image, live or recorded;
  - **(g)** Embeds a date and time stamp on all recordings; and
  - **(h)** Includes a failure notification system that provides an audible and visual notification of any failure in the electronic monitoring system.
- **(5)** Install unobstructed, tamper-evident cameras that capture the entirety of the licensed premises and clearly identify all individuals and activities within the surveilled area;
- **(6)** Camera placement at all the following locations:
  - **(a)** All points of ingress and egress;
  - **(b)** All secure, limited access areas;
  - **(c)** Any area where cannabis is cultivated, harvested, stored, or handled;
  - **(d)** Any area that stores cannabis or facility inventory;
  - **(e)** The facility's cannabis destruction and disposal area; and
  - **(f)** All areas where sales proceeds are stored or transferred;
- **(7)** Daily records of all registered employees' access to any secure, limited access areas;
- **(8)** Develop emergency policies and procedures for securing all inventory and currency in the event of diversion, theft, or loss; and
- **(9)** Any other requirements the division deems necessary to maintain proper security and surveillance and ensure public safety.
- **(C)** Each cultivator shall inspect and test all security and surveillance equipment at least once per thirty calendar days to ensure functionality.
  - **(1)** Pursuant to [OAC Records], each cultivator shall record and maintain of all security and surveillance equipment tests.
  - **(2)** Each cultivator shall immediately notify the division of any failure in the facility's security or surveillance system or equipment.
    - **(a)** Any necessary repair or replacement shall occur within twenty-four hours of identification.
  - **(3)** Each cultivator shall keep all security equipment in good-working order and the systems shall be inspected and all devices tested on an annual basis by a third party.
- **(D)** In the event a cultivator is made aware of any pending criminal, civil, or administrative investigations or legal proceedings for which a video recording may contain relevant information, the cultivator shall retain an unaltered copy of the recording until the investigation or proceeding is closed or the entity conducting the investigation or proceeding notifies the cultivator that it is not necessary to retain the recording.

## **Processor Rules**

### **1301:18-5-01: Processor Certificate of Operation**

- **(A)** Unless otherwise authorized by the division, each processor is prohibited from engaging in any activity authorized under this chapter until the division issues the processor a certificate of operation.

- **(B)** The division shall not issue a provisional processor a certificate of operation unless and until the processor meets all requirements outlined under this chapter.
- **(C)** Each processor shall have twelve months from the date the processor is issued a provisional license pursuant to this chapter to obtain a certificate of operation.
- **(D)** Upon receipt of its certificate of operation, a processor may engage in the following activities:
  - **(1)** Obtain cannabis from a cultivator, processor, or dispensary licensed pursuant to this chapter;
  - **(2)** Process cannabis into a form authorized under [OAC forms rule];
  - **(3)** Distribute, transfer, and sell cannabis to a cultivator, processor, or other dispensary licensed pursuant to this chapter; and
  - **(4)** Transfer cannabis for research and development or laboratory testing to a laboratory licensed pursuant to this chapter.
- **(E)** A certificate of operation shall be issued to, and valid only for, the designated business entity, owners, and licensed premises specified within the processor's initial application for licensure pursuant to rule 1301:18-2-02.

#### **1301:18-5-02: Processor Uninterrupted Supply of Cannabis**

- **(A)** Each processor shall conduct its daily business and manufacturing activities in a manner that ensures a consistent supply of cannabis is available for sale to consumers.
  - **(1)** Evidence of a processor's consistent supply pursuant to this rule is shown by:
    - **(a)** Not more than thirty days elapsing without extracting or manufacturing at least two hundred fifty grams of extract; or
    - **(b)** Not more than thirty days elapsing between sale or transfer of at least one lot of cannabis products to a dispensary.
- **(B)** A processor may petition on a form prescribed by the division to toll computation of the timeframes provided in paragraph (A) of this rule and include the following:
  - **(1)** An explanation of the facts and circumstances that prevent the processor's compliance with paragraph (A) of this rule; and
  - **(2)** A written plan, outlined in specific detail with the processor's intended actions and projected timeline, to ensure the processor complies with this rule.
  - **(3)** Upon receipt of a petition under this paragraph, the division may stay the requirement of paragraph (A) of this rule for the processor. A division order staying the requirement of paragraph (A) of this rule will state the date upon which the stay is lifted.

#### **1301:18-5-04: Processor Minimum Security and Surveillance Requirements**

- **(A)** Each processor shall establish, maintain, and comply with written policies and procedures that ensure adequate security, surveillance, and control of the licensed premises that prevent diversion, theft, or loss and meet the minimum requirements outlined under this rule.
  - **(1)** Pursuant to rule [OAC processor operations] each processor shall petition the division prior to implementing any major modification to the facility's security procedures, systems, or equipment.
- **(B)** Prior to the commencement of business, each processor shall meet the following security and surveillance requirements that ensure compliance with all standards established by the division:
  - **(1)** Designate a secure, limited access area for all equipment maintained pursuant to this rule that is accessible only by authorized registered processor employees with foundational training in security and surveillance;

- **(2)** Maintain or construct fencing to prevent unauthorized entry or access to waste disposal containers, disposal areas or compost areas located outside the facility.
- **(3)** Install a security alarm system with commercial grade equipment that includes the following:
  - **(a)** An access alarm on all entry points and windows;
  - **(b)** Motion detectors that identify unauthorized access into the facility; and
  - **(c)** A silent alarm, which may be utilized during instances of duress that sends a pre-recorded voice message to the facility's designated security personnel and law enforcement, public safety, or emergency services requesting dispatch, which includes the capability to enter a designated code into an arming station to signal that the alarm user is being forced to turn off the system.
- **(4)** Install a video surveillance system that complies with the following:
  - **(a)** Capable of electronic monitoring of the facility and real-time access by the division;
  - **(b)** Collects twenty-four-hour live video feed with motion-activated recording capabilities for all video cameras that record in at least fifteen frames per second;
  - **(c)** Archives and retains recordings for at least forty-five calendar days;
  - **(d)** Contains a display monitor with a minimum screen size of twelve inches;
  - **(e)** Exports still images in an industry standard format that guarantees authentication and prevents alteration of the recorded images;
  - **(f)** Produces clear color still photographs that are a minimum of 600 x 600 dpi from any camera image, live or recorded;
  - **(g)** Embeds a date and time stamp on all recordings; and
  - **(h)** Includes a failure notification system that provides an audible and visual notification of any failure in the electronic monitoring system.
- **(5)** Install unobstructed, tamper-evident cameras that capture the entirety of the licensed premises and clearly identify all individuals and activities within the surveilled area;
- **(6)** Camera placement at all the following locations:
  - **(a)** All points of ingress and egress;
  - **(b)** All secure, limited access areas;
  - **(c)** Any area where cannabis is manufactured, processed, extracted, stored, or handled;
  - **(d)** Any area that stores cannabis or facility inventory;
  - **(e)** The facility's cannabis destruction and disposal area; and
  - **(f)** All areas where sales proceeds are stored or transferred.
- **(7)** Daily records of all registered employees' access to any secure, limited access areas;
- **(8)** Develop emergency policies and procedures for securing all inventory and currency in the event of diversion, theft, or loss;
- **(9)** Any other requirements the division deems necessary to maintain proper security and surveillance and ensure public safety.
- **(C)** Each processor shall inspect and test all security and surveillance equipment at least once per thirty calendar days to ensure functionality.
  - **(1)** Pursuant to [OAC Records], each processor shall record and maintain of all security and surveillance equipment tests.
  - **(2)** Each processor shall immediately notify the division of any failure in the facility's security or surveillance system or equipment.
    - **(a)** Any necessary repair or replacement shall occur within twenty-four hours of identification.

- **(3)** Each processor shall keep all security equipment in good-working order and the systems shall be inspected and all devices tested on an annual basis by a third party.
- **(D)** In the event a processor is made aware of any pending criminal, civil, or administrative investigations or legal proceedings for which a video recording may contain relevant information, the processor shall retain an unaltered copy of the recording until the investigation or proceeding is closed or the entity conducting the investigation or proceeding notifies the processor that it is not necessary to retain the recording.

## **Testing Laboratory Rules**

### **1301:18-6-01: Testing Laboratory Certificate of Operation**

- **(A)** Unless otherwise authorized by the division, each testing laboratory shall not engage in any activity authorized under this chapter until the division issues the testing laboratory a certificate of operation.
- **(B)** The division shall not issue a provisional testing laboratory a certificate of operation unless and until the testing laboratory meets all requirements outlined under this chapter.
- **(C)** Each testing laboratory shall have twelve months from the date the testing laboratory is issued a provisional license pursuant to this chapter to obtain a certificate of operation.
- **(D)** Upon receipt of its certificate of operation, a testing laboratory may engage in the following activities:
  - **(1)** Obtain cannabis from a cultivator, processor, or dispensary licensed under this chapter for testing purposes only; and
  - **(2)** Conduct laboratory testing, and development in accordance with this chapter.
- **(E)** A certificate of operation shall be issued to, and valid only for, the designated business entity, owners, and licensed premises specified within the testing laboratory's initial application for licensure pursuant to rule 1301:18-2-02.

## **Dispensary Rules**

### **1301:18-7-07: Dispensary Patient Confidentiality**

- **(A)** Each dispensary shall ensure the confidentiality of all records related to patient transactions. Except as authorized under paragraph (B) of this rule, patient records may only be released via written authorization and consent by the patient.
  - **(1)** Any consent must be signed by the patient and dated.
    - **(a)** If a patient is unable to provide written consent, consent may only be provided by the patient's caregiver or legal guardian.
  - **(2)** Any consent for disclosure is valid until rescinded by the patient.
- **(B)** A dispensary may release patient records to the following individuals:
  - **(1)** The patient;
  - **(2)** The patient's designated caregiver;
  - **(3)** The certified physician who issued the recommendation to the patient;
  - **(4)** Certified or licensed health care personnel responsible for the care of the patient;
  - **(5)** Any person that the dispensary is legally required to release the information to, including upon issuance of a valid subpoena, court order, or other similar document only in a criminal matter or an equivalent juvenile matter;

- **(6)** An agent who contracts with the dispensary as a "business associate" in accordance with the regulations promulgated by the secretary of the United States department of health and human services pursuant to the federal standards for the privacy of individually identifiable health information;
- **(7)** If applicable, an agent of a medical insurance company who provides insurance coverage for medical cannabis upon authorization and proof of insurance by the patient or proof by the insurance company for those medications requested; and
- **(8)** The division of cannabis control.
- **(C)** In an emergency, a dispensary may disclose the recommendation information when it is deemed to be in the best interest of the patient.
  - **(1)** A dispensary employee that orally discloses patient information pursuant to an emergency must prepare a written statement outlining the following:
    - **(a)** The name of the dispensary employee who disclosed the information;
    - **(b)** The patient's name;
    - **(c)** The date and time of disclosure;
    - **(d)** The nature of the emergency; and
    - **(e)** The names of the individuals to whom the information was disclosed.

## **Cannabis Entity Enforcement**

### **1301:18-9-01: Cannabis Facility Inspections**

- **(A)** The division may, at any time, with or without notice, conduct an inspection to ensure compliance with all representations made to the division, state and local law, Chapters 3780 and 3796. of the Revised Code, and the rules promulgated in accordance with Chapters 3780 and 3796. of the Revised Code.
- **(B)** Notwithstanding the requirements of this chapter nothing shall prohibit the division, the division's designee, law enforcement, or other federal, state, or local government officials from entering any area of a cannabis entity's licensed premises if necessary to perform their governmental duties.
- **(C)** The submission of an application that results in the issuance of a provisional license or certificate of operation irrevocably gives the division consent to conduct all inspections necessary to ensure compliance with, state and local law, Chapters 3780 and 3796. of the Revised Code, and the rules promulgated in accordance with Chapters 3780 and 3796. of the Revised Code.
  - **(1)** The division may conduct the inspection independently, or may work with other divisions, state agencies, or local authorities, including the Ohio division of agriculture, the division of industrial compliance, and the division of state fire marshal, to ensure compliance with, state and local law, Chapters 3780 and 3796. of the Revised Code, and the rules promulgated in accordance with Chapters 3780 and 3796. of the Revised Code.
  - **(2)** An inspection of a licensee may include, without limitation, investigation of standards for safety from fire on behalf of the division by the local fire protection agency.
    - **(a)** If a local fire protection agency is not available, the division of state fire marshal may conduct the inspection after the licensee pays the appropriate fee to the division of state fire marshal for such inspection.
- **(D)** Pursuant to an inspection, the division may do any of the following:
  - **(1)** Access and inspect:
    - **(a)** The licensed premises, including any off-site facilities;
    - **(b)** Any area within the licensed premises;

- **(c)** Any secure, limited access area or other locked area of the licensed premises;
  - **(d)** Facility motor vehicles;
  - **(e)** All inventory; and
  - **(f)** All equipment, instruments, tools, containers, materials, machinery, or any other resource utilized at the licensed premises;
- **(2)** Obtain samples for testing of any cannabis maintained at the facility, media used to grow cannabis, chemicals and ingredients used in any cultivation, manufacturing, and extracting process, any labels or containers for cannabis, or any raw packaged cannabis.
- **(3)** Question and interview registered responsible parties, owners, officers, board members, and all other employees or agents of the licensee; and
- **(4)** Review any and all policies and procedures; and
- **(5)** Make and obtain copies of any and all records pursuant to [OAC records].
- **(E)** Prior to the issuance or renewal of a certificate of operation or change of location each licensee must pass a pre-approval inspection to ensure the licensed premises comply with all of the following:
  - **(1)** All representations made to the division;
  - **(2)** All specifications outlined in written policies and procedures as required by these rules;
  - **(3)** All requirements outlined under Chapters 3780 and 3796. of the Revised Code, and the rules promulgated in accordance with Chapters 3780 and 3796. of the Revised Code.
  - **(4)** The pre-approval inspection will occur at a mutually agreeable time.
  - **(5)** Upon the completion of the pre-approval inspection, the division may issue either of the following:
    - **(a)** A certificate of operation in accordance with this chapter; or
    - **(b)** A written statement listing the deficiencies identified during the inspection that must be remedied before a certificate of operation will be issued by the division.
- **(F)** Following an inspection conducted pursuant to this rule, the division will issue an inspection report that documents the following:
  - **(1)** The observations and findings of the inspections;
  - **(2)** The outcome of the inspection;
  - **(3)** Any suggestions for the licensee to take into consideration; and
  - **(4)** If applicable, a written statement listing the deficiencies identified during the inspection.
- **(G)** Deficiencies
  - **(1)** Upon receipt of a statement of deficiencies, the licensee shall develop a plan of correction for each deficiency and submit the plan in writing to the division for approval within ten business days after receipt of the statement of deficiencies, unless a written extension is issued by the division.
    - **(a)** The plan of correction must include specific requirements for corrective action that will be performed within thirty calendar days after the division's acceptance of the plan of correction
    - **(b)** If the plan of correction submitted is not acceptable to the division, the division may either direct the licensee to resubmit a plan of correction or the division may develop a directed plan of correction with which the licensee must comply.
  - **(2)** Upon acceptance of the written plan of correction, the licensee shall sign the plan of correction, binding the licensee to the terms under which the licensee may be issued a certificate of operation.

- **(a)** If the licensee and the division are unable to come to terms on the written plan of correction, the division may take action in accordance with rule [OAC enforcement] of the Administrative Code.
- **(3)** The division will re-inspect a licensee upon the completion of the written plan of correction.
  - **(a)** If the corrective measures meet the division's satisfaction, the division will issue a certificate of operation.
  - **(b)** If the corrective measures do not meet the requirements of the written plan of correction, the division may take action in accordance with rule [OAC enforcement] of the Administrative Code.
- **(H)** If an inspector finds evidence of operational failures or conditions that create a likelihood of diversion, contamination, risk to public health, or a violation of any representation made to the division, state and local law, Chapters 3780 and 3796. of the Revised Code, and the rules promulgated in accordance with Chapters 3780 and 3796. of the Revised Code, the division may take action authorized under rule [OAC Enforcement] of the Administrative Code.
- **(I)** To prevent destruction of evidence, diversion, or other threats to public safety, the division may order an administrative hold of cannabis or cannabis product or any books and records of any licensee. The division may assess the costs of an investigation, including travel and the time of any and all division employees, to a licensee.

#### **1301:18-9-06: Variances**

- **(A)** The division may grant variances from rules promulgated in accordance with chapters 3796 and 3780 of the Revised Code when:
  - **(1)** The applicable provision is not statutorily mandated;
  - **(2)** The proposed variance is within public interest;
  - **(3)** Individuals will not be injured by the proposed variance; and
  - **(4)** The applicable provision would, in the particular case, be unreasonable or unnecessarily burdensome.

## **Patients and Caregivers**

#### **1301:18-10-01 Procedure for Patient Registration**

- **(A)** An individual is mandated to register with the division in accordance with this rule prior to purchasing, possessing, or administering medical cannabis.
- **(B)** To qualify for placement on the registry, a prospective patient is to meet the following mandates:
  - **(1)** Establish and maintain a bona fide physician-patient relationship with a recommending physician;
  - **(2)** Receive a diagnosis or confirmation of a qualifying condition from the recommending physician;
  - **(3)** Submit a complete registration as outlined under paragraph (C) of this rule; and
  - **(4)** Unless otherwise provided pursuant to a reciprocal agreement under division (A) of section 3796.16 of the Revised Code, be an Ohio resident.
- **(C)** Registration Submission.
  - **(1)** The recommending physician shall submit the following to the division on behalf of the patient:
    - **(a)** All of the following patient information:

- (i) For a patient who is eighteen years of age or older:
  - (A) Patient's full name;
  - (B) Residential address;
  - (C) Telephone number;
  - (D) Electronic mail address;
  - (E) Qualifying condition(s);
  - (F) A copy of the prospective patient's valid, unexpired government issued photographic identification evidencing establishing that the individual is at least eighteen years of age; and
  - (G) The following patient attestations:
    - (1) The physician has explained to the individual the possible risks and benefits associated with the use of medical marijuana;
    - (2) The individual consents to treatment with medical marijuana; and
    - (3) The individual agrees to comply with Chapters 2925., 3780, and 3796. of the Revised Code and this division.
- (ii) For a patient who is a minor or an individual with a court-appointed legal guardian:
  - (A) In addition to the information outlined above:
    - (1) The prospective patient's parent or legal representative consent to treatment with medical marijuana; and
    - (2) A caregiver registration submission in accordance with rule 1301:18-10-02 of the Administrative Code.
- (iii) Patients who become eighteen years of age during the time period in which their registration is valid may apply for a new registration either immediately or in accordance with the renewal process under paragraph (H) of this rule.
- (b) The date the recommending physician issued the recommendation;
- (c) Indication whether the recommendation is new or a renewal;
- (d) The recommending physician's:
  - (i) Full legal name;
  - (ii) Drug enforcement administration physician identification number;
  - (iii) Medical license number issued by the state medical board;
  - (iv) Business address;
  - (v) Telephone number;
  - (vi) Electronic mail address;
  - (vii) And the following attestation(s) if applicable:
    - (A) An attestation in accordance with division (A)(2) of section 3796.08 of the Revised Code; and
    - (B) For a patient diagnosed with a terminal illness as defined under rule 1301:18-1-01 of the Administrative Code, the recommending physician shall execute and submit an attestation the patient has a terminal illness.
- (e) Any other information the division mandates.

- **(D)** A complete patient registration submission must be received by the division within ninety calendar days of the date the recommending physician issued the recommendation.
  - **(1)** If a registration submission is determined to be inaccurate or incomplete, the division will send the patient notice of the deficiency.
  - **(2)** If the deficiency is not corrected within ninety calendar days from the date that the registration was submitted by a physician, the submission shall be considered a stale registration as defined by rule 1301:18-1-01 of the Administrative Code
- **(E)** Patient registrations are non-transferrable.
  - **(1)** Patients shall not permit another individual to use their patient registration.
  - **(2)** Before purchasing medical cannabis, patients must provide the dispensary employee the following:
    - **(a)** Their registry identification card; and
    - **(b)** A copy of the patient's valid, unexpired government issued photographic identification.
  - **(3)** Patients shall carry their registry identification with them whenever they are in possession of medical cannabis.
- **(F)** Except as authorized under rule 1301:18-10-02 of the Administrative Code, a patient may not designate more than two caregivers.
- **(G)** If a patient requests permission to change a caregiver before renewal, the patient is to do the following:
  - **(1)** Submit a change of caregiver request the recommending physician, or, subject to the limitations under section 3796.08 of the Revised Code, the physicians delegate, who shall set forth the reasons the patient seeks to change caregivers and conform with the caregiver registration mandates under rule 1301:18-10-02 of the Administrative Code.
  - **(2)** The division will approve a new caregiver if the individual meets the mandates of Chapter 3796. of the Revised Code and this division.
- **(H)** A patient registration shall be valid from the date of issuance and expire one year later, on the last day of the month it was issued.
  - **(1)** At any time, a patient may voluntarily relinquish their patient medical cannabis registration by notifying the division in writing.
  - **(2)** The division will send a notification to each patient forty-five calendar days before the expiration date on the patient's registry identification card.
  - **(3)** Renewal submissions and required documentation may be submitted up to thirty calendar days before the registration will expire.
  - **(4)** Failure to renew a patient registration will result in an automatic expiration of the registration card.
  - **(5)** Patients shall dispose of all medical cannabis within seven calendar days of the expiration of their registration.

#### **1301:18-10-02 Procedure for Caregiver Registration**

- **(A)** An individual is mandated to register with the division in accordance with this rule prior to serving as a caregiver for a registered patient.
- **(B)** To qualify for placement on the registry, a prospective caregiver is mandated to:
  - **(1)** Be all of the following:
    - **(a)** A natural person;
    - **(b)** At least twenty-one years of age or older; and
    - **(c)** A resident of the state of Ohio.

- **(d)** Notwithstanding the age limitation in paragraph (B)(1)(b) of this rule, the parent of a minor patient who is eighteen years of age or older and who otherwise meets the requirements of Chapter 3796. of the Revised Code and this division, may serve as the minor patient's caregiver.
  - **(2)** Not be outlined in one or more of the following databases:
    - **(a)** The internet-based database of department of rehabilitation and correction inmates established under section 5120.66 of the Revised Code; or
    - **(b)** The Ohio medicaid provider exclusion and suspension list found at: <http://medicaid.ohio.gov>.
  - **(3)** Identify a registered patient for whom the individual intends to serve as a caregiver; and
  - **(4)** Submit a complete caregiver registration outlined under paragraph (C) of this rule.
- **(C)** Registration Submission.
  - **(1)** The recommending physician is to submit the following to the division on behalf of the caregiver:
    - **(a)** The date the recommending physician issued the recommendation;
    - **(b)** Indication whether the recommendation is new or a renewal;
    - **(c)** The recommending physician's:
      - **(1)** Full legal name;
      - **(2)** Drug enforcement administration physician identification number;
      - **(3)** Medical license number issued by the state medical board;
      - **(4)** Business address;
      - **(5)** Telephone number; and
      - **(6)** Electronic mail address.
    - **(d)** All of the following caregiver information:
      - **(1)** For a patient who is eighteen years of age or older:
        - **(a)** Patient's full name;
        - **(b)** Residential address;
        - **(c)** Telephone number;
        - **(d)** Electronic mail address; and
        - **(e)** A copy of the prospective caregiver's valid, unexpired government issued photographic identification evidencing that the individual is at least twenty-one years of age;
        - **(f)** The following caregiver attestations:
          - **(i)** The physician has explained to the individual the possible risks and benefits associated with the use of medical cannabis;
          - **(ii)** The individual agrees to serve as the caregiver for the patient identified in the application;
          - **(iii)** The individual agrees to control the dosage and frequency of use of medical cannabis in accordance with the physician's recommendation; and
          - **(iv)** The individual agrees to comply with Chapters 2925. and 3796. of the Revised Code and this division.
      - **(2)** For a caregiver whose prospective patient is younger than eighteen years of age:
        - **(a)** In addition to the information outlined above:

- (i) The prospective caregiver is the parent or legal representative of the individual under eighteen years of age; and
    - (ii) The parent or legal representative understands the information provided by the recommending physician and knowingly consent to use of medical cannabis by the individual under eighteen years of age.
  - (e) Any other information the division mandates.
- (D) A patient's recommending physician shall not serve as the patient's caregiver.
- (E) A registered caregivers may purchase, possess, and administer medical cannabis to any patient associated with the caregiver's registration.
  - (1) Before purchasing medical cannabis, caregivers must provide the dispensary employee the following:
    - (a) Their registry identification card; and
    - (b) A copy of the caregiver's valid, unexpired government issued photographic identification.
  - (2) Caregivers shall carry their registry identification with them whenever they are in possession of medical cannabis.
- (F) Caregiver registrations are non-transferrable.
- (G) A caregiver shall not
  - (1) Allow another individual to use their caregiver registration.
  - (2) Purchase medical cannabis without an associated active registered patient.
  - (3) Receive payment or other compensation for services provided as a caregiver other than reimbursement for reasonable expenses incurred in the provision of services as a caregiver.
    - (a) In the case of an employee of a hospice provider, nursing facility, or medical facility, or a visiting nurse, personal care attendant, or home health aide serving as a caregiver, the individual shall not receive payment or compensation above or beyond his or her regular wages.
  - (4) Except as outlined under this rule, serve as a caregiver for more than two registered patients.
    - (a) Upon a written request on a form in accordance with section 3796.04 of the Revised Code, the division may, in its discretion, permit an individual to serve as a caregiver for more than two patients, permit a patient to designate more than two caregivers, and permit an individual who is not a resident of the state of Ohio to serve as a caregiver pursuant to the following requirements:
      - (i) In order to avoid unnecessary hardship to the patient or patients;
      - (ii) Where the patients care is being provided in a hospice program licensed under Chapter 3712. of the Revised Code; or
      - (iii) Where the caregiver is simultaneously caring for multiple patients who reside in the same household as the caregiver.
      - (iv) Should a hospice provider wish to obtain an exception as outlined under this paragraph, it shall do the following:
        - (A) Register as caregivers all employees who will possess or administer medical cannabis in accordance with this rule; and
        - (B) Notify the state board of pharmacy when a patient with an active medical cannabis registration issued by the board is

admitted to hospice pursuant to rule 3701-19-20 of the Administrative Code.

- **(H)** A caregiver registration is valid from the date of issuance and expires one year later, on the last day of the month it was issued.
  - **(1)** At any time, a caregiver may voluntarily relinquish their caregiver medical cannabis registration by notifying the division in writing.
  - **(2)** The division will send a notification to each caregiver forty-five calendar days before the expiration date on the caregiver's registry identification card.
  - **(3)** Renewal submissions and necessary documentation may be submitted up to thirty calendar days before the expiration.
  - **(4)** Failure to renew a caregiver registration will result in an automatic expiration of the registration card.
  - **(5)** Caregivers shall dispose of all medical cannabis within seven calendar days of the expiration of their registration.

#### **1301:18-10-04 Patient and Caregiver Notification Requirements**

- **(A)** Unless otherwise required by this rule, a patient or caregiver is to notify the division of any changes of information outlined in their registration within thirty calendar days.
- **(B)** A patient or caregiver is to notify the division within ten calendar days of determination any of the following:
  - **(1)** The patient or caregivers registry identification card has been used fraudulently.
  - **(2)** The patient or caregivers registry was accessed without authorization.
  - **(3)** After notification pursuant to this section, the division may issue a new registry identification card with a new registry number.
- **(C)** A patient is to report to the division a conviction of any offense and/or any arrest or charges pending of a felony or misdemeanor offense under Chapter 2925. or 4729. of the Revised Code, or of an arrest or conviction in another jurisdiction that is substantially the same as a felony or misdemeanor offense under Chapter 2925. or 4729. of the Revised Code, within ten calendar days of the conviction or arrest.
- **(D)** A caregiver is to report to the division a violation of any state or federal law or rule, regardless of jurisdiction in which such acts were committed, except for minor traffic violations such as parking violations, speeding tickets and violations such as failure to obey a red light, failure to use a turn signal or expired registration which do not need to be reported unless the offense involved operating vehicle under the influence of alcohol or a controlled substance.
- **(E)** Upon determination by a recommending physician that a patient no longer has a diagnosis of a qualifying condition, the following mandates apply:
  - **(1)** The patient or caregiver is to notify the division in writing within fourteen calendar days of such determination.
  - **(2)** If the patient seeks to maintain an active patient registration, request in writing, a hearing in accordance with Chapter 119. of the Revised Code, seeking authorization to maintain an active patient registration.
  - **(3)** If the caregiver seeks to maintain active caregiver registration, request in writing, a hearing in accordance with Chapter 119. of the Revised Code, seeking authorization to maintain an active caregiver registration.
- **(F)** If a patient has a caregiver, that caregiver may provide any required notification to the division on behalf of the patient.

- **(G)** If a patient is deceased, the patient's caregiver, if applicable, legal representative, or recommending physician is to notify the division in writing. The division will deactivate a deceased patient's registration.

#### **1301:18-10-06 Patient and Caregiver Enforcement**

- **(A)** Upon determination that a patient or caregiver violated any mandates outlined under this chapter, the division may impose any one or more of the following sanctions:
  - **(1)** Revoke, suspend, restrict, limit, or refuse to grant or renew a registration; or
  - **(2)** Reprimand or place the registrant on probation.
- **(B)** Pursuant to division (B)(3) of section 3796.14 of the Revised Code, if the division determines that there is clear and convincing evidence that the continued dispensing or furnishing medical cannabis to the patient or caregiver or administration of medical cannabis to or by a patient, presents a danger of immediate and serious harm to oneself or to others, the division may suspend a patient or caregiver registration without a hearing.
  - **(1)** The division will follow the procedure for suspension without a prior hearing in section 119.07 of the Revised Code.
  - **(2)** The suspension shall remain in effect, unless removed by the division, until the divisions final adjudication order becomes effective.
- **(C)** If a patient's registration is suspended or revoked, the patient or caregiver shall dispose of all medical cannabis dispensed for the benefit of that patient within seven calendar days of the expiration of their registration.

#### **1301:18-10-07 Patient Confidentiality at Adjudication Hearings**

- **(A)** Notwithstanding any provision to the contrary in Chapter 119. of the Revised Code, all adjudication hearings related to a patient registration shall be closed to the public, in accordance with division (B) of section 3796.08 of the Revised Code.
- **(B)** Documents that contain patient-identifying information are confidential. Patient-identifying information includes, but is not limited to:
  - **(1)** Patient's name;
  - **(2)** Patient's social security number;
  - **(3)** Patient's date of birth;
  - **(4)** Patient's driver's license number;
  - **(5)** Patient's home address, telephone number, email address, or any other contact information;
  - **(6)** Patient's registry card number and related information; and
  - **(7)** Any other information that can be used to identify a patient or is required to be confidential under state or federal law.
- **(C)** For all proceedings associated with an adjudication hearing, whether related to a patient registration or not:
  - **(1)** Any confidential document, as described in paragraph (B) of this rule, may be provided to a representative of record or to a witness during the adjudication hearing but shall not be disseminated to any other person unless the patient-identifying information is redacted.
  - **(2)** Any confidential documents as described in paragraph (B) of this rule that is presented as an exhibit, whether admitted or proffered, shall either have all patient-identifying information redacted or be sealed prior to being made part of the adjudication hearing record.

- **(3)** Any portion of a transcript that contains patient-identifying information shall be sealed and made part of the adjudication hearing record. Sealed portions of transcripts shall only be provided to the parties or as otherwise necessary to conduct an adjudication hearing or related appeal pursuant to Chapter 119. of the Revised Code.
- **(D)** A patient may waive any of the provisions described in this rule.
- **(E)** Nothing in this rule prevents the dissemination of public records, as defined section 149.43 of the Revised Code, so long as they have been appropriately redacted to protect patient and other confidential information.

#### **1301:18-10-08 Release of Patient Information**

- **(A)** Pursuant to division (B) of section 3796.08 of the Revised Code and division (C) of section 4729.80 of the Revised Code, records related to registered patients are confidential and are not public records subject to disclosure under section 149.43 of the Revised Code.
- **(B)** Except as authorized under paragraph (C) of this rule, patient records may only be released via written authorization and consent by the patient.
  - **(1)** Any consent must be signed by the patient and dated.
    - **(a)** If a patient is unable to provide written consent, consent may only be provided by the patient's caregiver or legal guardian.
  - **(2)** Any consent for disclosure is valid until rescinded by the patient.
- **(C)** The division of cannabis control may provide information related to registered patients only as follows:
  - **(1)** The patient;
  - **(2)** The patient's designated caregiver;
  - **(3)** The certified physician who issued the recommendation to the patient;
  - **(4)** Certified or licensed health care personnel responsible for the care of the patient;
  - **(5)** Any state or local law enforcement agency conducting an investigation of a criminal violation of state or federal law;
  - **(6)** Any person that the division of cannabis control is legally required to, including upon issuance of a valid subpoena, court order, or other similar document only in a criminal matter or an equivalent juvenile matter; and
  - **(7)** A government entity responsible for the licensure, regulation, or discipline of health care professionals.
- **(D)** In an emergency, the division may disclose the registered patient information when it is deemed to be in the best interest of the patient.
- **(E)** Any person that receives patient information pursuant to this rule shall comply with the same requirements regarding confidentiality as those with which the division is mandated to comply, notwithstanding any conflicting provision of the Revised Code or agency procedure that applies when the agency is dealing with other information in its possession.

#### **1301:18-10-09 Suspension of Access to Patient Information**

- **(A)** Except as provided in paragraph (B) of this rule, after providing notice and affording an opportunity for a hearing in accordance with Chapter 119. of the Revised Code, the division of cannabis control may restrict a person from obtaining information from the registry established in accordance with section 3796.08 of the Revised Code if any of the following is the case:
  - **(1)** The person receives or releases registered patient information in violation of rule 1301:18-07-07 or 1301:18-10-08 of the Administrative Code or section 3796.08 of the Revised Code;

- **(2)** The person's actions in another state would have constituted a violation of 1301:18-07-07 or 1301:18-10-08 of the Administrative Code or section 3796.08 of the Revised Code;
- **(3)** The person fails to comply with rule 1301:18-07-07 or 1301:18-10-08 of the Administrative Code or section 3796.08 of the Revised Code, regardless of the jurisdiction in which the failure to comply occurred; and
- **(4)** The person creates, by clear and convincing evidence, a threat to the security of information contained in the registry.
- **(B)** If the division determines that allegations regarding a person's actions warrant restricting the person from obtaining further information from the registry established by the division in accordance with section 3796.08 of the Revised Code without a prior hearing, the division may summarily impose the restriction.
  - **(1)** The summary restriction will remain in effect, unless removed by the division, until the division's final adjudication order becomes effective.
- **(C)** The division will determine the extent to which the person is restricted from obtaining further information from the registry established by the division in accordance with section 3796.08 of the Revised Code.