

3796:2-1-06 Cultivator certificate of operation.

(A) A provisional licensee is prohibited from operating as a licensed cultivator and performing any cultivation or production activities until a certificate of operation is issued by the department. The information and plan submitted by a provisional licensee shall become mandatory conditions that must be met before a certificate of operation can be awarded.

(B) A provisional licensee shall have nine months from the date they are notified of selection for a provisional license to obtain a certificate of operation. A certificate of operation shall be issued once all applicable inspections are passed, a certificate of occupancy issued by the building department having jurisdiction for such use is obtained, and the provisional licensee demonstrates that it conforms to the specifications of the application, as well as the requirements imposed by law and rules. Cultivation activities shall not be agriculture for purposes of section 3781.061 of the Revised Code. If a certificate of operation is issued, the provisional license becomes null and void.

(C) The department shall not award a certificate of operation to a provisional licensee if the provisional licensee has not met all of the specifications in the application and passed all applicable inspections under rule [3796:2-3-01](#) of the Administrative Code within nine months of written or electronic notification of the applicant's selection for a provisional license. If the provisional licensee fails to remedy the deficiencies in accordance with rule [3796:2-3-01](#) of the Administrative Code or otherwise satisfy the nine month time period established under paragraph (B) of this rule, the director, at his or her discretion, may extend the time period for the cultivator to obtain a certificate of operation or take action pursuant to rule [3796:5-6-01](#) of the Administrative Code.

(D) In addition to entities authorized to purchase medical marijuana pursuant to Chapter 3796. of the Revised Code from a cultivator possessing a certificate of operation, medical marijuana may be sold to a laboratory licensed under Chapter 4729-13 of the Administrative Code, to possess dangerous drugs and controlled substances for scientific and clinical purposes.

(E) The certificate of operation, along with a copy of the current certificate of occupancy for the facility and any other certificate, business license, or other authorization required to conduct production activities, shall be posted in a conspicuous place within the facility and made available to the department and all fire code and building officials upon request.

3796:2-2-03 Cultivator waste disposal.

(A) A cultivator shall dispose of undesired, excess, unauthorized, obsolete, adulterated, misbranded or deteriorated medical marijuana waste ~~in the following manner:~~

~~(1) By disposal executed~~ in accordance with the cultivator's disposal plan under the supervision of a type 1 key employee, as defined in paragraph (H)(1) of rule [3796:5-2-01](#) of the Administrative Code, and in such a manner as to render the medical marijuana waste unusable; ~~or~~

~~(2) By surrender without compensation of such medical marijuana to the director or the director's designee, at the director's discretion.~~

(B) The disposal procedures established by the cultivator and submitted as part of the application process shall be sufficient to render medical marijuana waste unusable. Medical marijuana waste that is rendered unusable shall be discarded into a locked dumpster or other approved, locked container for removal from the facility by a waste removal company selected by the cultivator, or may be composted in a secured area at the cultivation site for future use at the facility. Medical marijuana waste shall be rendered unusable by grinding and incorporating the medical marijuana waste with one or more of the non-consumable, solid wastes listed below, such that the resulting mixture is at least fifty-one per cent non-marijuana waste:

- (1) Paper waste;
- (2) Cardboard waste;
- (3) Food waste;
- (4) Yard or garden waste;
- (5) Grease or other compostable oil waste;
- (6) Bokashi, or other compost activators;
- (7) Soil or other used growth media; or
- (8) Other wastes approved by the department.

(C) The disposal of medical marijuana shall be performed by a type 1 ~~key~~ employee in the designated destruction area identified in the cultivator's plans and specifications submitted to the department. The disposal shall be performed under video surveillance from the time the destruction begins to when it is placed in a locked dumpster or other approved, locked container and removed from the facility.

(D) The type 1 ~~key~~ employee overseeing the disposal of medical marijuana shall maintain and make available in accordance with this chapter a separate record of every disposal indicating the following:

- (1) The date and time of disposal;
- (2) The manner of disposal;

- (3) The volume and weight of the approved solid waste media used to render the medical marijuana unusable;
 - (4) The unique identification codes associated with the medical marijuana scheduled for destruction;
 - (5) The reasoning for and description of the disposal;
 - (6) The signature of the type 1 ~~key~~ employee overseeing the disposal of the medical marijuana; and
 - (7) If the medical marijuana waste for disposal contains plant material that was prepared for sale to a dispensary or processor, the batch number, strain, volume, and weight of the plant material being disposed of.
- (E) The disposal of other waste from the cultivator that does not include medical marijuana, including hazardous waste and liquid waste, shall be performed in a manner consistent with federal and state law.

3796:3-2-03 Processor waste disposal.

(A) A licensed processor shall dispose of undesired, excess, unauthorized, obsolete, adulterated, or deteriorated medical marijuana waste ~~in the following manner:~~

~~(1) By disposal executed in accordance with the processor's disposal plan under the supervision of a type 1 key employee, as defined in paragraph (H) of rule [3796:5-2-01](#) of the Administrative Code, and in such a manner as to render the medical marijuana waste unusable; or~~

~~(2) By surrender without compensation of such medical marijuana to the director or the director's designee, at the director's discretion.~~

(B) The disposal procedures established by the processor and submitted as part of the application process shall be sufficient to render the medical marijuana waste unusable. Medical marijuana waste that is rendered unusable shall be discarded into a locked dumpster or other approved, locked container for removal from the facility by a waste removal company selected by the processor. Medical marijuana waste shall be rendered unusable by grinding and incorporating the medical marijuana waste with one or more of the non-consumable, solid wastes listed below, such that the resulting mixture is at least fifty-one per cent non-marijuana waste:

- (1) Paper waste;
- (2) Cardboard waste;
- (3) Food waste;
- (4) Yard waste;
- (5) Soil or other growth media;
- (6) Other wastes approved by the department.

(C) The disposal of medical marijuana or medical marijuana products shall be performed by a type 1 key employee in the designated destruction area identified in the processor's plans and specifications submitted to the department. The disposal shall be performed under video surveillance from the time the destruction begins to when it is placed in a locked dumpster or other approved, locked container and removed from the facility.

(D) The type 1 key employee overseeing the disposal of medical marijuana shall maintain and make available in accordance with this chapter a separate record of every disposal indicating:

- (1) The date and time of disposal;
- (2) The manner of disposal;
- (3) The volume and weight of approved solid waste used to render the medical marijuana waste unusable;
- (4) The reasoning for and description of the disposal;

- (5) The signature of the type 1 employee overseeing the disposal of the medical marijuana;
 - (6) The batch number or numbers, volume, and weight of any medical marijuana extract or plant material being disposed of; and
 - (7) The lot number, registered product name, volume, weight, and unit count of any medical marijuana products being disposed of.
- (E) The disposal of other waste from the processor that does not include medical marijuana, including hazardous waste and liquid waste, shall be performed in a manner consistent with federal and state law.

3796:4-2-06 Testing laboratory waste disposal.

(A) Upon completion of the required analysis performed on any given sample, a testing laboratory shall immediately dispose of any medical marijuana waste or excess medical marijuana not used during the sample analysis in accordance with the testing laboratory's disposal plan and in such a manner as to render the medical marijuana unusable.

(B) The disposal procedures established by the testing laboratory and submitted as part of the application process shall be sufficient to render unusable any medical marijuana waste or excess medical marijuana not used during the sample analysis. Medical marijuana waste or excess medical marijuana that is rendered unusable shall be discarded into a locked dumpster or other approved, locked container for removal from the facility by a waste removal company selected by the testing laboratory. Medical marijuana waste or excess medical marijuana shall be rendered unusable by grinding and incorporating the medical marijuana waste with one or more of the non-consumable, solid wastes listed in this paragraph, such that the resulting mixture is at least fifty-one per cent non-marijuana waste:

- (1) Paper waste;
- (2) Cardboard waste;
- (3) Food waste;
- (4) Yard waste;
- (5) Soil or other growth media;
- (6) Other wastes approved by the department.

(C) The disposal of medical marijuana waste and excess medical marijuana not used during the sample analysis shall be performed by a type 1 key employee, as defined in paragraph (H) of rule [3796:5-2-01](#) of the Administrative Code, under video surveillance from the time the destruction begins to when it is placed in a locked dumpster or other approved, locked container and removed from the facility.

(D) The type 1 employee overseeing the disposal of excess medical marijuana shall maintain and make available in accordance with this chapter a separate record of every disposal indicating:

- (1) The date and time of disposal;
- (2) The manner of disposal;
- (3) The volume and weight of the excess medical marijuana;
- (4) The solid waste used to render the excess medical marijuana unusable; and
- (5) The signature of the type 1 employee overseeing the disposal of the medical marijuana.

(E) The disposal of other waste from the testing laboratory that does not include medical marijuana, including hazardous waste and liquid waste, shall be performed in a manner consistent with federal and state law.

3796:5-2-01 Employee identification cards.

(A) Every owner, principal officer, board member, employee, administrator, agent, or other person who may significantly influence or control the activities of a cultivator, processor, or testing laboratory must apply to the department for an employee identification card.

(1) The cultivator, processor, or testing laboratory with which a person listed under paragraph (A) of this rule is seeking employment shall submit the following information:

(a) A completed application;

(b) A copy of the applicant's valid driver's license or state issued identification card establishing that the individual is at least twenty-one years of age;

~~(c) A copy of the applicant's social security card;~~

(d) A recognizable headshot photograph of the applicant taken no more than six months before the date of application;

~~(e) A document verifying the applicant's principal place of residence that contains the full mailing address, such as a bank statement, canceled check, insurance policy, or other such documents;~~

(f) The name of the cultivator, processor, or testing laboratory that the applicant seeks to work for or otherwise be associated with;

~~(g) A sworn statement that the applicant has not been convicted of a disqualifying offense as defined in rule [3796:1-1-01](#) of the Administrative Code;~~

~~(h) Verification that the applicant's background checks have been conducted and the applicant has not been convicted of a disqualifying offense;~~

(i) The application fee; and

(j) Any additional information requested by the department in the application.

(2) An individual on whose behalf an application is submitted under this chapter or is issued an employee identification card under this chapter shall notify the department of any changes to the information provided on the application no later than five business days after such change.

(B) Upon receipt of an application and verification of the information specified in paragraph (A) of this rule, the department shall do the following:

(1) Approve or deny the application within thirty days after receipt;

(2) Issue an identification card that shall expire two years after the date of issuance; and

(3) Enter in its record system the name and any other identifying information on the cultivator, processor, or testing laboratory where the individual is employed.

(C) An employee identification card issued by the department shall contain, at a minimum, the following:

- (1) The name of the cardholder;
- (2) The license number of the cultivator, processor, or testing laboratory employing the cardholder;
- (3) The date of issuance and expiration;
- (4) A random ten-digit alphanumeric identification number with at least four numbers and four letters that is unique to the holder and assigned by the department; and
- (5) A photograph of the cardholder that was provided as part of the application.

(D) No person shall begin working at a cultivator, processor, or testing laboratory prior to receiving his or her employee identification card. A cardholder must keep his or her employee identification card visible at all times when on the property of a cultivator, processor, or testing laboratory and during the transportation of medical marijuana to another cultivator, processor, or testing laboratory. Any employee identification card that is lost, destroyed, or stolen shall be reported to the department immediately upon discovery of the loss, destruction, or theft, and the department may require a similar report to law enforcement. A cardholder that reports his or her employee identification card as lost, destroyed, or stolen shall apply for a replacement card with the department and pay a replacement employee identification card fee as specified in rule [3796:5-1-01](#) of the Administrative Code.

(E) A cardholder is not subject to prosecution, search, or penalty in any manner, and will not be denied any right or privilege, including, but not limited to, civil penalty or disciplinary action by a business licensing board or entity, for working at a cultivator, processor, or testing laboratory and performing the actions permitted under Chapter 3796. of the Revised Code and the rules promulgated in accordance with Chapter 3796. of the Revised Code.

(F) An employee identification card remains the property of the department and the department may order the return or seizure of an employee identification card if the registration is revoked or expires. The employee identification card shall be immediately returned to the cultivator, processor, or testing laboratory upon termination or completion of services provided.

(1) Following the revocation or expiration of an employee identification card, the cultivator, processor, or testing laboratory shall do the following:

(a) Notify the department of the circumstances around the termination or expiration within one business day in a manner determined by the department;

(b) Ensure the employee identification card is returned to the cultivator, processor, or testing laboratory; and

(c) Return the employee identification card to the department within fifteen calendar days of the employee's termination or completion of services.

(2) The department shall revoke an employee identification card upon receiving notification that the individual is no longer associated with the cultivator, processor, or testing laboratory. If the employee

identification card is not returned within thirty days of the termination, the department may take action under rule [3796:5-6-01](#) of the Administrative Code.

(G) An individual arrested for activities that, if convicted, would constitute a disqualifying offense shall immediately notify the department. If an employer has knowledge of such arrest, the employer shall notify the department.

(H) A cultivator, processor, or testing laboratory shall designate the level of access granted to an applicant for an employee identification card. A cultivator, processor, or testing laboratory may choose to implement additional access restrictions, but at a minimum, the access levels shall be designated as follows:

(1) A type 1 designation is an owner, administrator, or individual that has control and management over the day-to-day activities that significantly impact the operations of the cultivator, processor, or testing laboratory. Type 1 access permits the cardholder to enter every area of the medical marijuana entity facility. A cultivator, processor, or testing laboratory shall designate one and may designate up to three type 1 cardholders as a key employee. A key employee shall be responsible for all activities at the facility and will serve as the point of contact for the facility with the department.

(2) A type 2 designation is a board member, officer, employee, or agent permitted to enter the production and non-production areas of the facility designated in the facility plans and specifications submitted by a cultivator, processor, or testing laboratory under rule [3796:2-1-02](#) of the Administrative Code. A type 2 cardholder shall not be permitted to access the areas containing the vault, security equipment, and other equipment related to the facility's surveillance operations.

(I) A person that is not a holder of a valid employee identification card of a cultivator, processor, or testing laboratory is prohibited from accessing a facility, unless they receive authorization and obtain a visitor identification badge from the cultivator, processor, or testing laboratory. To obtain a visitor identification badge, the visitor must provide a valid, government issued identification with a photograph.

(1) A person who obtains a visitor identification badge must do the following:

(a) Be escorted and monitored by an assigned registered employee of the facility at all times he or she is on the premises and has access to medical marijuana;

(b) Visibly display his or her visitor identification badge at all times he or she is on the premises; and

(c) Return the visitor identification badge upon leaving the premises.

(2) A cultivator, processor, or testing laboratory shall maintain a visitor log, which includes the name of the visitor, the date and time of arrival and departure, the assigned registered employee of the facility, and the purpose of the visit. The cultivator, processor, or testing laboratory shall make its visitor log available to the department upon request.

(3) Notwithstanding the requirements of paragraph (I) of this rule, employees of the department, law enforcement, emergency medical personnel, in the event of an emergency, or other federal, state of Ohio, or local government officials may enter a cultivator, processor, or testing laboratory if necessary to perform their official duties.

3796:5-6-01 Scope of enforcement and enforcement powers.

Rules set forth in this chapter establish standards for the oversight and enforcement of the cultivation, processing, and testing of medical marijuana. Division 3796:5 of the Administrative Code also establish legal standards for the denial, suspension, or revocation of licenses issued by the department under Chapter 3796. of the Revised Code. If any portion of the rules is found to be invalid, the remaining portion of the rules shall remain in force and effect.

(A) Whenever it appears to the department that a medical marijuana entity issued a provisional license or certificate of operation by the department or a person possessing an employee identification card issued by the department has engaged in, is engaged in, or is about to engage in any act or practice declared to be prohibited by Chapter 3796. of the Revised Code or the rules promulgated in accordance with Chapter 3796. of the Revised Code, or when the department believes that it is necessary for the program's administration, implementation and enforcement, the department may do the following:

(1) Investigate activities which are, or are suspected to be, prohibited and charge an investigation assessment;

(2) Serve all summonses, subpoenas, administrative orders, notices, or other processes concerning the enforcement of laws regulating medical marijuana and medical marijuana products;

(3) Issue either administrative subpoenas ad testificandum or subpoenas duces tecum, or both, to compel the testimony of witnesses or the production of any books and records, in paper or electronic format, to be served by personal service or by certified mail, return receipt requested;

(a) If the subpoena is returned because of inability to deliver, or if no return is received within thirty days of the date of mailing, the subpoena may be served by ordinary mail. If no return of ordinary mail is received within thirty days after the date of mailing, service shall be deemed to have been made. If the subpoena is returned because of inability to deliver, the department may designate a person or persons to effect either personal or residence service upon the witness.

(b) The person designated to effect personal or residence service under this paragraph may be the sheriff of the county in which the witness resides or may be found or may be any other duly designated person.

(c) The fees and mileage of the person serving the subpoena shall be the same as those allowed by the courts of common pleas in criminal cases, and shall be paid from the funds of the department.

(4) Inspect, examine, or investigate any premises or vehicle where medical marijuana or medical marijuana products are grown, stored, cultivated, transported, processed, or tested, and any books and records in any way connected with any such activity;

(5) Require any cultivator, processor, or testing laboratory, or other person, upon demand, to permit an inspection of premises or vehicles during business hours or at any time of apparent operation; to permit inspection of marijuana equipment, ~~and~~ marijuana accessories, or books and records; and to permit the testing of or examination of medical marijuana or medical marijuana products;

(6) Suspend, suspend without prior hearing, revoke, or refuse to renew a license or registration issued under Chapter 3796. of the Revised Code or the rules promulgated in accordance with Chapter 3796. of the Revised Code;

- (7) Refuse to issue a provisional license or certificate of operation;
- (8) Issue a cease and desist order;
- (9) Impose a civil penalty in an amount not to exceed fifty thousand dollars for each violation, for any violation of Chapter 3796. of the Revised Code or the rules promulgated in accordance with Chapter 3796. of the Revised Code;
- (10) Place conditions on an applicant, license, licensee, or registrant; and
- (11) Exercise any other power or duty authorized by Chapter 3796. of the Revised Code or the rules promulgated in accordance with Chapter 3796. of the Revised Code.
- (B) A cultivator, processor, or testing laboratory whose certificate of operation has been suspended shall not sell, offer for sale, transport, or conduct any operations outside the facility related to medical marijuana. Employees of the facility may enter the premises of the facility for the necessary care and maintenance of the premises and any medical marijuana and medical marijuana products. The removal of medical marijuana from a cultivator, processor, or testing laboratory is strictly prohibited during an active suspension under this chapter.
- (C) The revocation of a provisional license or certificate of operation shall immediately terminate the employee identification cards of persons employed by the licensee. A cultivator, processor, or testing laboratory whose certificate of operation has been revoked shall close the facility and prohibit anyone from entering the facility, other than employees with the department, law enforcement, or other individuals carrying out official duties related to the revocation of the certificate of operation.
- ~~(D) Information obtained by the department shall be kept confidential and only disclosed to department employees, law enforcement, and persons deemed by the department to have a valid reason for access. Unauthorized disclosure shall be cause for discipline, including dismissal, if disclosure was by a department employee; and shall be grounds for disciplinary action against a cultivator, processor, or testing laboratory or any employee.~~
- (E) Department employees will not serve as expert witnesses in private litigation. In addition, the department may move to quash any subpoena that seeks fact testimony from department employees in private litigation. The department may certify as to the status of any person as a licensee or registered employee of a licensee. Such certification shall be admissible in any court as prima-facie evidence as to the status of the person.

3796:5-6-04 Variances. (New)

(A) The director may grant variances from rules promulgated in accordance with Chapter 3796. of the Revised Code in cases in which:

(1) Granting the variance is in the public interest;

(2) The applicable provision is not statutorily mandated; and

(3) The rule from which the variance is granted would, in the particular case, be unreasonable or unnecessarily burdensome.