



Cultivators and Processors Impacted Most by Proposed Ohio Medical Marijuana Rule Changes

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The Ohio State Board of Pharmacy (the “Board”) has filed amended rule changes to the [Ohio Medical Marijuana Program](#) (the “Program”) for consideration by the public. Comments on the proposed rules may be submitted to the [Common Sense Initiative Office](#) (CSIPublicComments@governor.ohio.gov) and to the Board (RuleComments@pharmacy.ohio.gov) until the close of business on May 25, 2020. The announcement specifically requests that all comments go to both email addresses. Stakeholders interested in modifying or eliminating any of the proposals are encouraged to make comments before the deadline for consideration.

The Board identifies broad swaths of persons involved in the Program as impacted by its proposed rule changes – patients and caregivers, dispensaries, cultivators and processors. However, it seems cultivators and processors are to be most impacted. Cultivators and processors who market plant material will be required to make modifications to their labeling and package sizes, as the size of plant material packaging will change from 2.83 grams to 2.52 grams. This change is reflected in Ohio Administrative Code (“O.A.C.”) 3796:8-2-04. Also, cultivators and processors will have to make sure that all packaging contains the universal symbol for marijuana. This change is reflected in O.A.C. 3796:8-2-03.

In addition, cultivators and processors may have to adjust processes to allow for the additional flexibility for target THC and CBD requirements. This change is reflected in OAC 3796:8-2-06. Finally, under the existing [rules](#), certain medical marijuana products are prohibited because they are attractive to children. The proposed rules seek to add medical marijuana products that resemble commercially available cookies, candies, or other confections as considered attractive to children, thus prohibiting those items as well. This change is reflected in O.A.C. 3796:8-2-03.

The Board does expect that changes to plant material packaging requirements will result in increased, one-time monetary and staff training costs for cultivators and processors complying with the new package size and labeling requirements for plant material products. Additionally, the Board expects to see compliance costs for dispensaries in order to re-train staff on the new days' supply calculations and other changes to the rules. However, to lessen the burden on the modifications to packaging sizes for plant material, the Board has implemented a 90-day grace period where plant material in the current package size (2.83 grams) may still be sold by dispensaries.

The Board's stated goal is to allow for a transition period for the new packaging to reduce the overall costs to the Program's licensees. The Board expects that because plant material will no longer be sold in two separate tiers, the resulting rule change may reduce some costs to cultivators and processors.

Below is a list of some other proposed rule changes:

- **O.A.C. 3796:7-2-01:** Provides for a process for medical marijuana patient registration. The rule is being amended to require patients with court-appointed legal guardians to obtain the consent for treatment from their court-appointed legal guardians. Further, the rule removes the requirement that terminally ill patients are recertified as terminal every six months. The amended rule provides terminally ill patients the same registration period as other patients (i.e., one year).
- **O.A.C. 3796:7-2-04:** Establishes the process for the purchase of medical marijuana. The amended rule removes the option to present a passport to register and also gives the Board permission to approve new forms of identification. This amended rule codifies existing Board policy on how to calculate a patient's 90-day supply.
- **O.A.C. 3796:7-3-01:** Establishes the fee structure for patients and caregivers. The amended rule adds individuals who are receiving disability benefits from a state retirement system as qualifying for indigent registration status. It also adds state

veteran cards as a method for registering a veteran.

- **O.A.C. 3796:8-2-03:** Defines forms and methods of medical marijuana that may be attractive to children. The rule is being amended to require all medical marijuana packaging to include a universal symbol denoting that it contains marijuana. It also states that medical marijuana resembling commercially available cookies, candies, or other confections is also considered attractive to children.
- **O.A.C. 3796:8-2-04:** Establishes the maximum 90-day supply for all approved forms of medical marijuana and consolidates plant material into a single category (i.e., removes tier I and tier II medical marijuana). The rule also makes modifications to the whole day units in which medical marijuana must be sold.
- **O.A.C. 3796:8-2-06:** Provides the requirements for portions, dosing, and units of medical marijuana sold at a dispensary. This rule is being amended to require that patches be labeled with total target THC and CBD content. Additionally, this rule provides additional flexibility to cultivators and processors by permitting a product to be within 10 percent of the total target THC and CBD (as opposed to the current 5 percent requirement). The rule also incorporates current Board policy about products containing trace amounts of THC/CBD in certain medical marijuana products.

Finally, the Board expressly reminds commenters that it cannot change any provisions relating to an employee's use of medical marijuana, specifically the following provisions of Ohio law:

- Nothing in the law requires an employer to accommodate an employee's use of medical marijuana; and
- The law does NOT prohibit an employer from refusing to hire, discharging, or taking an adverse employment action because of a person's use of medical marijuana.

Thus, those provisions of the rule will remain unchanged by this proposed rulemaking.

Again, those involved in the Ohio medical marijuana industry are encouraged to comment before the deadline to change anything with which they disagree.

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