



Ohio Administrative Code Rule 3796:6-3-11 Duty to report.

Effective: July 11, 2022

(A) A person licensed under this chapter is responsible to monitor for suspicious recommendations, unusual usage, or questionable disposition of medical marijuana.

(B) Each person licensed under this chapter shall notify the following upon discovery of the theft or loss of any medical marijuana or medical marijuana device, including medical marijuana in transit that was either shipped from or to the dispensary:

(1) The state board of pharmacy, by telephone immediately upon discovery of the theft or loss;

(2) Law enforcement authorities with jurisdiction over the location where the theft or loss occurred pursuant to section 2921.22 of the Revised Code.

(C) Medical marijuana thefts or unexplained losses must be reported to the state board of pharmacy in writing irrespective of whether the medical marijuana is recovered and/or the responsible parties are identified and action taken against them. Written reports must be provided to the state board of pharmacy within forty-eight hours following the discovery of such theft or loss.

(1) The written report must include:

(a) The name, address, and license number of the dispensary;

(b) The amount and type of medical marijuana lost or stolen;

(c) The circumstances surrounding the loss or theft;

(d) The date the loss or theft was discovered;

(e) The person who discovered the loss or theft;



(f) The person responsible for the loss or theft if known; and

(g) Any other information that the reporter believes might be helpful in establishing the cause of the loss or theft.

(2) An exemption may be obtained upon sufficient cause if written notification cannot be completed within five calendar days.

(3) A request for waiver of the five calendar day limit must be requested in writing prior to the passing of the fifth business day.

(D) Each person licensed under this chapter, immediately upon discovery of any fraudulent or otherwise unlawful recommendation, shall notify the state board of pharmacy and law enforcement authorities. Upon receiving such notice, the state board of pharmacy shall notify the state medical board of all suspected fraudulent recommendations.

(E) Each dispensary, through its designated representative, who knows or should know that a prohibited facility or an opioid treatment program as defined in rule 4729:5-21-01 of the Administrative Code, has been established within five hundred feet of the dispensary shall notify the state board of pharmacy, for purposes of assessing the adequacy of existing security measures.

(F) A person licensed under this chapter who has knowledge, from direct observation or objective evidence, of violations described in paragraph (G) of this rule shall report such conduct to the state board of pharmacy, in a manner specified by the board, within ten days of learning or witnessing the alleged violations.

(G) The following shall be reported to the board:

(1) Except as provided in paragraph (G)(1)(a) of this rule, conduct indicating a dispensary employee is addicted to or is suspected to be abusing alcohol, drugs or other chemical substances or impaired physically or mentally to such a degree as to render the individual unfit to carry out their professional duties.



(a) A dispensary employee shall not be required to report in accordance with this rule if the dispensary employee becomes aware of any condition described in paragraph (G)(1) of this rule as a result of either:

(i) The employee's treatment of the individual for the condition; or

(ii) The employee having access to the individual's protected health information.

(2) Violations, attempts to violate, or aiding and abetting in the violation of any of the provisions of Chapter 3796. of the Revised Code, or any rule adopted by the board under that chapter, by an individual or entity licensed or registered under chapter 3796:6 and chapter 3796:7 of the Revised Code.

(3) Conduct by a dispensary employee that constitutes unprofessional conduct or dishonesty as defined in this rule.

(H)

(1) Pursuant to section 4729.23 of the Revised Code, the identity of the person licensed under this chapter making a report in accordance with this rule shall remain confidential.

(2) Notwithstanding the confidentiality provided in accordance with paragraph (H)(1) of this rule, a dispensary employee may be required to testify in a disciplinary proceeding as to the conduct or violations listed in paragraph (G) of this rule without disclosing the person licensed under this chapter was the reporting individual.

(I) A dispensary employee shall notify the board of any of the following:

(1) Any criminal conviction within ten days after the date of conviction, 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.



(2) The employee is convicted of, pled guilty to, is subject to a judicial finding of eligibility for intervention in lieu of conviction in this state under section 2951.041 of the Revised Code or the equivalent thereof in another jurisdiction within ten days after the individual is deemed eligible.

(3) The employee is granted entry into a diversion program, deferred prosecution program, or the equivalent thereof within ten days after the individual is granted entry into a program.

(4) Any arrest for a felony within ten days after the arrest.

(J) A dispensary employee shall notify the board of any disciplinary licensing or registration action taken by another state against the licensee within ten days of the notice action. This includes, but is not limited to, a disciplinary action that is stayed pending appeal.

(K) Reporting required in accordance with this rule shall be made in writing, either by mail or using the board's online complaint form (available on the board's web site: www.pharmacy.ohio.gov).

(L) "Unprofessional conduct" means conduct that is detrimental to the best interests of the public, including conduct that endangers the health, safety or welfare of a patient or client. Such conduct shall include, but not be limited to, the following acts: coercion, intimidation, harassment, sexual harassment, improper use of private health information, threats, degradation of character, indecent or obscene conduct, and theft.

(M) "Dishonesty" means any action by a licensee or applicant to include, but is not limited to, making any statement that deceives, misrepresents or misleads, or be a party to or an accessory to any fraudulent or deceitful practice or transaction in the dispensation of medical marijuana or in the operation or conduct of a dispensary.