

**TITLE 475. OKLAHOMA STATE BUREAU OF NARCOTICS AND DANGEROUS
DRUGS CONTROL
CHAPTER 20. SECURITY REQUIREMENTS**

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

475:20-1-3. Physical security controls for nonpractitioners; storage areas [AMENDED]

475:20-1-4. Physical security controls for nonpractitioners; manufacturing areas
[AMENDED]

475:20-1-5. Other security controls for nonpractitioner registrants [AMENDED]

AUTHORITY:

The Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control,
63 O.S §§ 2-301, 2-309H.

ADOPTION:

December 11, 2018

EFFECTIVE:

Immediately upon Governor's approval

EXPIRATION:

Effective through September 14, 2019, unless superseded by another rule or disapproved
by the Legislature.

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

FINDING OF EMERGENCY:

On July 26, 2018, new laws codified at 63 O.S. §420A et seq., went into effect concerning medical marijuana. Pursuant to 63 O.S. §2-204(C)(12), marijuana is a Schedule I controlled dangerous substance and therefore before any person/entity may manufacture, process, grow, distribute, retail, or use it for scientific purposes, a registration must first be obtained from the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control (OBND). *See* 63 O.S. §2-302. The amendments to OBND rules are an effort to protect the public health, safety, and welfare by providing a framework in which those with OBND Schedule I medical marijuana registrations can function while guarding against diversion.

GIST/ANALYSIS:

The proposed rule amendments provide the required physical security controls for Schedule I medical marijuana retail storage areas, growers, processors, packagers, and manufacturers. As it does for controlled dangerous substances (CDS) Schedules II through V, the rules changes also prohibit Schedule I medical marijuana commercial growers, processors, and manufacturers from distributing samples of Schedule I medical marijuana unless certain requirements are met. The amendments also provide that Schedule I medical marijuana transit shall be in conformance with the rules set forth by the Oklahoma State Department of Health (*see* OAC 310:681-3). The proposed rule amendments subject Schedule I medical marijuana registrants, employees, and agents to the criminal history requirements set forth in 63 Okl.St. Ann. §420A et seq. This rule interprets 63 O.S. §§2-301, 2-302, and 2-303.

CONTACT PERSON:

Sunne Riedel Day, 405-521-2885

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED AND EFFECTIVE UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 253(F):

475:20-1-3. Physical security controls for nonpractitioners; storage areas

Physical security controls for nonpractitioners and storage areas shall comply with Title 21 Code of Federal Regulations §1301.72-, except physical security controls for medical marijuana retailers shall, at a minimum, meet the following requirements for each retail storage area:

- (1) Each registered premises shall have a Security Alarm System which upon unauthorized entry shall transmit a signal directly to a central station protection agency or a local state or state police agency, each having a legal duty to respond, or to a 24-hour control station operated by the registrant, or to such other source of protection as the Director may approve.
- (2) All retail storage areas shall be equipped with self-closing, self-locking doors constructed of substantial material commensurate with the type of building construction, provided, however, a door which is kept closed and locked at all times when not in use and when in use is kept under direct observation of a responsible employee or agent of the registrant is permitted in lieu of a self-closing, self-locking door. Doors may be sliding or hinged. If doors hinges are mounted on the outside, such hinges shall be sealed, welded or otherwise constructed to inhibit removal. Locking devices for such doors shall be either of the multiple-position combination, keyless entry, or key lock type and;
 - (A) In the case of key locks, shall require key control which limits access to a limited number of employees, or;
 - (B) In the case of multiple-position combination or keyless entry systems, the system shall be limited to a minimum number of employees and can be changed upon termination of employment of an employee having knowledge of the combination.
- (3) The retail storage areas shall be accessible only to an absolute minimum number of authorized employees. When it is necessary for employee maintenance personnel, nonemployee maintenance personnel, business guests, or visitors to be present in or pass through controlled substances storage areas, the registrant shall provide for adequate observation of the area by an employee specifically authorized in writing.

475:20-1-4. Physical security controls for nonpractitioners; manufacturing areas

Physical security controls for nonpractitioners and manufacturing areas shall be in compliance with Title 21 Code of Federal Regulations §1301.73-, except physical security controls for medical marijuana commercial growers, processors, packagers, and manufacturers shall, at a minimum, meet the following requirements:

- (1) All in-process medical marijuana shall be returned to the storage area at the termination of the process. If the process is not terminated at the end of a workday (except where a continuous process or other normal manufacturing operation should not be interrupted), the processing area or tanks, vessels, bins or bulk containers containing medical marijuana shall be securely locked, with adequate security for the area or building.
- (2) Each building shall require an alarm, that upon unauthorized entry, shall transmit a signal directly to a central station protection company, or local or state police agency that has a legal duty to respond, or a 24-hour control station operated by the registrant, or to such other source of protection as the Director may approve.
- (3) Each building shall be equipped with self-closing, self-locking doors constructed of substantial material commensurate with the type of building construction, provided, however, a door which is kept closed and locked at all times when not in use and when in use is kept under direct observation of a responsible employee or agent of the registrant is permitted in lieu of a

self-closing, self-locking door. Doors may be sliding or hinged. If doors hinges are mounted on the outside, such hinges shall be sealed, welded or otherwise constructed to inhibit removal. Locking devices for such doors shall be either of the multiple-position combination, keyless entry, or key lock type and;

(A) In the case of key locks, shall require key control which limits access to a limited number of employees, or;

(B) In the case of multiple-position combination or keyless entry systems, the system shall be limited to a minimum number of employees and can be changed upon termination of employment of an employee having knowledge of the combination.

(4) Any outdoor or greenhouse facilities shall provide adequate security measures for the area or building including the following:

(A) The entire outdoor or greenhouse facility shall be surrounded by a fence and entry gates. The fence shall measure at least eight (8) feet from the ground to the top of the fence and shall be constructed of at least six (6) gauge or higher metal chain link fence or another similarly secure material or wood. All support posts shall be steel and securely anchored.

(B) All entry gates shall measure at least eight (8) feet from the ground to the top of the entry gate and shall be constructed of six (6) gauge or higher metal chain link fence or a similarly secure material or wood.

(C) The fence shall be in good repair and obscure the Limited Access Area so that it is not easily viewed from outside the fence.

(5) The medical marijuana commercial growing, processing, packaging, and manufacturing areas shall be accessible only to an absolute minimum number of authorized employees. When it is necessary for employee maintenance personnel, nonemployee maintenance personnel, business guests, or visitors to be present in or pass through controlled substances storage areas, the registrant shall provide for adequate observation of the area by an employee specifically authorized in writing.

475:20-1-5. Other security controls for nonpractitioner registrants

(a) Before distributing a controlled dangerous substance to any person whom the registrant does not know to be registered to possess the controlled dangerous substance, the registrant shall make a good-faith inquiry either with the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control or with the Drug Enforcement Administration, or when applicable, the Oklahoma Medical Marijuana Authority, to determine that the person is registered to possess the controlled substance.

(b) The registrant shall design and operate a system to disclose to the registrant suspicious orders of controlled dangerous substances. The registrant shall inform the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control of suspicious orders when discovered by the registrant. Suspicious orders include orders of unusual size, orders deviating substantially from a normal pattern, and orders of unusual frequency.

(c) All registrants shall notify the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control of any theft or significant loss of any controlled dangerous substances upon discovery of such theft or loss. Notification shall be made in writing and shall contain a list of the substances stolen or diverted by their trade name, quantities, descriptions, amount lost or stolen, and any cost code marks utilized. Thefts must be reported whether or not the controlled dangerous substances are subsequently recovered and/or the responsible parties are identified and action taken against them.

(d) No person acting as an agent of a registered controlled dangerous substances manufacturer or distributor (i.e., detailman, salesman, etc.), or a medical marijuana commercial grower, processor, or manufacturer, shall distribute samples of controlled dangerous substances to a practitioner without first having been registered (no fee required) with the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control.

- (1) To register with the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control to distribute samples of controlled dangerous substances a form must be filled out and submitted to the Registration Department. Such forms may be obtained through the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control website or by calling the Registration Department.
 - (2) A new form shall be completed and submitted to the registration department each time the list of items to be distributed changes.
 - (3) A copy of the form submitted to the Oklahoma State Bureau of Narcotics shall be retained by the distributor.
 - (4) The practitioner receiving the samples shall keep a record each time he/she receives or distributes samples of controlled dangerous substances.
- (e) When shipping controlled dangerous substances, a registrant is responsible for selecting common or contract carriers which provide adequate security to guard against in-transit losses. When storing controlled dangerous substances in a public warehouse, a registrant is responsible for selecting a warehouseman which will provide adequate security to guard against storage losses; wherever possible, the registrant shall store controlled dangerous substances in a public warehouse which complies with the requirements set forth in this Chapter. In addition, the registrant shall employ precautions (e.g., assuring that shipping containers do not indicate that contents are controlled dangerous substances except in the case of medical marijuana) to guard against storage or in-transit losses and comply with all current Federal regulations, except medical marijuana transit shall comply with rules set forth in OAC 310:681-3. Reporting the loss of in-transit shipments is the responsibility of the registrant shipping the controlled dangerous substances.
- (f) When distributing controlled dangerous substances through agents (e.g., detailmen), a registrant is responsible for providing and requiring adequate security to guard against theft and diversion while the controlled dangerous substances are being stored or handled by the agent(s).
- (g) No registrant shall knowingly employ as an agent or employee any person who will have access to controlled dangerous substances if such person has been convicted, pled guilty or nolo contendere or otherwise ordered to complete a period of probation or supervision for a misdemeanor or felony relating to any controlled dangerous substances as defined by the Uniform Controlled Dangerous Substances Act in this state, any other state, or the United States, or any person convicted, pled guilty or nolo contendere or otherwise ordered to complete a period of probation or supervision for any felony of this state, any other state, or the United States, unless, after full review of the circumstances, the Director waives this requirement in writing with respect to each person on a case-by-case basis. However, Schedule I medical marijuana registrants, employees, and agents shall be subject to the criminal history requirements pursuant to Title 63 Okl.St. Ann. §420A et seq., unless, after full review of the circumstances, the Director waives this requirement in writing with respect to each person on a case-by-case basis.
- (h) The registrant shall immediately notify OBN and seek authorization to employ any individual as specified above.

ATTESTATION

I, the undersigned, do hereby attest that the copy enclosed herewith is a true and correct copy of amendments to Chapter 20, Security Requirements, which was adopted by the Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control on December 11, 2018, under emergency rulemaking provisions of the Administrative Procedures Act, 75 O.S., Sections 250 et seq.

I, the undersigned, do hereby attest that such rule was adopted in substantial compliance with the Administrative Procedures Act.

s/Sunne Riedel Day_____

Sunne Riedel Day

Deputy General Counsel

Oklahoma State Bureau of Narcotics and Dangerous Drugs Control

December 11, 2018