Volume 41
Number 1
September 15, 2023
Pages 1 - 24

The Oklahoma Register

Oklahoma
Secretary of State
Office of Administrative Rules

Kevin Stitt, Governor
Josh Cockroft,
Secretary of State
Chris Coffman, Editor-in-Chief

THE OKLAHOMA REGISTER is an official publication of the State of Oklahoma. It is published semi-monthly on the first working day of the month and on the first working day following the 14th day of the month under the authority of 75 O.S., Sections 250 et seq. and OAC 655:10-15-1. The rules of the State of Oklahoma are codified and published in the *Oklahoma Administrative Code*.

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INFORMATION ABOUT THIS PUBLICATION may be obtained by contacting the OAR by mail at Oklahoma Secretary of State, Office of Administrative Rules, 421 NW 13th Street, Suite 210, Oklahoma City, OK 73103, by email at oar@sos.ok.gov, or by phone at (405) 521-4911. Information may also be obtained by visiting the OAR's office, located in Suite 220, Colcord Center, 421 NW 13th Street, Oklahoma City, between 8:00 a.m. and 5:00 p.m., Monday through Friday.

This publication is issued and printed by the Secretary of State as authorized by 75 O.S., Section 255. 27 copies have been prepared and distributed at a cost of $77.28. Copies have been deposited with the Oklahoma Department of Libraries, Publications Clearinghouse.
ISSN 0030-1728

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[Assigned as of 9-15-23]

Notices of Rulemaking Intent

Prior to adoption and gubernatorial/legislative review of a proposed PERMANENT rulemaking action, an agency must publish a Notice of Rulemaking Intent in the *Register.* In addition, an agency may publish a Notice of Rulemaking Intent in the *Register* prior to adoption of a proposed EMERGENCY or PREEMPTIVE rulemaking action.

A Notice of Rulemaking Intent announces a comment period, or a comment period and public hearing, and provides other information about the intended rulemaking action as required by law, including where copies of proposed rules may be obtained.

For additional information on Notices of Rulemaking Intent, see 75 O.S., Section 303.

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 205. HAZARDOUS WASTE MANAGEMENT

[OAR Docket #23-730]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 3. Incorporation by Reference

252:205-3-1. [AMENDED]

SUMMARY:

The gist of this rulemaking is to make DEQ's hazardous waste rules consistent with the federal regulations by incorporating by reference the regulations found in Title 40 of the Code of Federal Regulations Parts 124 and 260 through 279, revised as of July 1, 2023. The rule change for this incorporation by reference allows the use of EPA Method 23 as an alternative to SW-846 Method 0023A when determining emission rates of tetra-octa congeners of chlorinated dibenzo-p-dioxins and dibenzofurans while conducting a required site-specific risk assessment of boilers and industrial furnaces operating under certain conditions. Additionally, this rule modification makes a conforming change to 40 CFR Part 266 Appendix IX. DEQ does not anticipate that this rule change will have a major impact on Oklahoma facilities.

AUTHORITY:

Environmental Quality Board: 27A O.S. §§ 2-2-101 and 2-2-104.

Hazardous Waste Management Advisory Council: § 2-2-201.

Oklahoma Hazardous Waste Management Act: §§ 2-7-105 and 2-7-106.

COMMENT PERIOD:

Written comments on the proposed rules may be submitted to the contact person from September 15, 2023, through October 26, 2023.

PUBLIC HEARINGS:

Before the Hazardous Waste Management Advisory Council on Thursday, October 26, 2023, at 10:00 a.m. at the Department of Environmental Quality, first floor, 707 N. Robinson, Oklahoma City, OK 73101. If the Council recommends adoption, the proposed rules will be considered by the Environmental Quality Board at the regularly scheduled meeting to be held in February 2024 at the Department of Environmental Quality, first floor, 707 N. Robinson, Oklahoma City, OK 73101.

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

The Department of Environmental Quality requests that business entities or any other members affected by these modifications submit to DEQ, within the comment period and in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, record keeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity due to compliance with the proposed rules.

COPIES OF PROPOSED RULES:

A copy of the proposed rules may be obtained from the contact person, reviewed at the Department of Environmental Quality, 707 N. Robinson, Oklahoma City, OK 73102, or reviewed online at https://www.deq.ok.gov/land-protection-division/land-protection-division-proposed-rules/.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303(D), a rule impact statement for the proposed rules will be on file at the DEQ and may be requested from the contact person listed below.

CONTACT PERSON:

Mike Edwards, Hazardous Waste Compliance and Enforcement Section, Department of Environmental Quality, P.O. Box 1677, Oklahoma City, OK 73101 - 1677, e-mail at mike.edwards@deq.ok.gov, phone 405-702-5226, or fax 405-702-5101.

ADDITIONAL INFORMATION:

Persons with disabilities who desire to attend a public hearing and need assistance should notify the contact person three days in advance of the meeting during business hours at 405-702- 5226 or by using TDD relay number 1-800-522-8506.

[OAR Docket #23-730; filed 8-14-23]

"If an agency finds that a rule is necessary as an emergency measure, the rule may be promulgated" if the Governor approves the rules after determining "that the rule is necessary as an emergency measure to do any of the following:

a. protect public health, safety or welfare,
b. comply with deadlines in amendments to an agency's governing law or federal programs,
c. avoid violation of federal law or regulation or other state law,
d. avoid imminent reduction to the agency's budget, or
e. avoid serious prejudice to the public interest." [75 O.S., Section 253(A)]

An emergency rule is considered promulgated immediately upon approval by the Governor, and effective immediately upon the Governor's approval or a later date specified by the agency in the emergency rule document. An emergency rule expires on September 15 following the next regular legislative session after its promulgation, or on an earlier date specified by the agency, if not already superseded by a permanent rule or terminated through legislative action as described in 75 O.S., Section 253(H)(2).

Emergency rules are not published in the *Oklahoma Administrative Code*; however, a source note entry, which cites to the *Register* publication of the emergency action, is added to the *Code* upon promulgation of a superseding permanent rule or expiration/termination of the emergency action.

For additional information on the emergency rulemaking process, see 75 O.S., Section 253.

TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY
CHAPTER 30. MEDICAL PROVIDERS-FEE FOR SERVICE

[OAR Docket #23-719]

RULEMAKING ACTION:
EMERGENCY adoption
RULES:
Subchapter 3. General Provider Policies
Part 1. General Scope and Administration
317:30-3-35 [AMENDED]
(Reference APA WF # 23-17)
AUTHORITY:
The Oklahoma Health Care Authority Act, Section 5007 (C)(2) of Title 63 of Oklahoma Statutes; The Oklahoma Health Care Authority Board; and Senate Bill 1369
ADOPTION:
July 17, 2023
EFFECTIVE:
Immediately upon Governor's approval
APPROVED BY GOVERNOR:
August 3, 2023
EXPIRATION:
Effective through September 14, 2024, unless superseded by another rule or disapproved by the Legislature
SUPERSEDED EMERGENCY ACTIONS:
N/A
INCORPORATIONS BY REFERENCE:
N/A
FINDING OF EMERGENCY:
The Agency requests emergency approval of rule revisions to implement changes in state law at 63 O.S. 2021, Section 1-133 due to passage of Oklahoma Senate Bill No. 1369, in order to implement changes to the Oklahoma statewide Health Information Exchange (HIE). The proposed revisions specify that participation in the HIE is not required for providers who do not currently own or subscribe to an EHR or providers who are classified as substance abuse treatment facilities. In addition, the proposed revisions include assurances that all providers that register an exemption from reporting data to or utilizing data from the HIE shall be granted such exemption and shall not be subject to pay subscription fees and/or connection fees. The proposed revisions also include information about how providers may find information on how to apply for a grant to cover connection fees, subject to the availability of grant funds.
GIST/ANALYSIS:
These emergency revisions are necessary for the benefit of the citizens of Oklahoma and all participating health care providers as defined within the rule, by the coordination of member care, and the efficiency of health care delivery.
CONTACT PERSON:
Kasie McCarty, Director of Policy, 405-522-7048, kasie.mccarty@okhca.org

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):

SUBCHAPTER 3. GENERAL PROVIDER POLICIES

PART 1. GENERAL SCOPE AND ADMINISTRATION

317:30-3-35. Oklahoma ~~State Health Information Network and Exchange (OKSHINE)~~Statewide Health Information Exchange

(a) **Authority.** This rule is promulgated under the authority granted in Title 63 of the Oklahoma Statutes Section 1-133 (63 O.S. § 1-133). This Section is intended to be read in conjunction with applicable Oklahoma statutes and federal law.

(b) **Applicability and purpose.**

(1) **Applicability.** This section shall apply to and govern the establishment and operation of the statewide health information exchange (HIE)~~, herein referred to as OKSHINE~~.

(2) **Purpose.** ~~OKSHINE is the state-designated organization that facilitates the exchange of health information to and from authorized individuals and health care organizations in the state for the purpose of improving health outcomes, as per 63 O.S. § 1-133.~~The Office of the State Coordinator for HIE is the office within the Oklahoma Health Care Authority (OHCA) that holds the power and duty to oversee the state-designated entity (SDE) for HIE.

(c) **Definitions.** The following words and terms, when used in this Section, shall have the following meaning, unless the context clearly indicates otherwise:

~~(1) **"OKSHINE"** means an organization that oversees, governs, and facilitates health information exchange among health care providers that are not related health care organizations as defined in the Oklahoma Statutes, to~~

~~improve the security of patient information, coordination of patient care, and the efficiency of health care delivery.~~

~~(2) **"Participant"** means an organization, health care practitioner or institution, health plan, or health care clearinghouse who has executed a written participation agreement (PA) and business associate agreement (BAA) with OKSHINE.~~

~~(3) **"Participant agreement"** means the agreement between OKSHINE and a participant which authorizes the participant to have access to OKSHINE and outlines the policies and procedures for access, protection, and use of the electronic protected health information.~~

~~(4) **"Oklahoma Statewide Health Information Exchange (OKHIE)"** means a certified HIE as referenced in 63 O.S. ' 1-133 whose primary business activity is health information exchange.~~

(1) **"Health care provider"** means any public or private organization, corporation, authority, partnership, sole proprietorship, association, agency, network, joint venture, or other entity that is established and licensed, certified, or otherwise authorized by the laws of this state to administer health care in the ordinary course of business or practice of a profession and/or employs licensed health care workers in the State of Oklahoma. Health care provider includes but is not limited to facilities such as: ambulatory surgery centers, clinics, home care agencies, hospices, hospitals, intermediate care facilities, laboratories, long-term care agencies, medical centers, mental health and substance use disorder treatment centers, nursinghomes, PACE centers, pharmacies, physicians' offices, psychiatric hospitals, public health clinics, and rehabilitation centers.

(2) **"Health Information Exchange (HIE)"** means the electronic movement of health-related information among organizations according to nationally recognized standards for purposes including, but not limited to payment, treatment, and administration.

(3) **"Health information exchange organization"** means an entity whose primary business activity is health information exchange and which is governed by its stakeholders.

(4) **"OKSHINE"** means the Oklahoma Statewide Health Information Network and Exchange, a collective effort of the Office of the State Coordinator and SDE in support of statewide health information exchange.

(5) **"Report data to"** means that health care providers shall establish a direct, secure connection to the state designated entity for HIE and submit data according to the United States Core Date for Interoperability (USCDI) standard. The form and format are further defined in the specifications on the OKSHINE website. Providers shall transmit data types they collect within their Electronic Health Record, with the exception of any data that: 1) the provider determines to be sensitive patient information that is to be suppressed from transmission to the SDE; 2) is subject to a patients' request for exclusion, consistent with a provider-implemented policy; or 3) such transmission would violate state or federal law or regulation.

(6) **"State designated entity (SDE)"** means the health information exchange organization designated by the State of Oklahoma. The name and contact information for the state designated entity for HIE is found on the OKSHINE website.

(7) **"Utilize"** means to actively use the HIE services to securely access records during and/or in support of patient treatment or health care operations.

~~(d) **OKHIE Certification.** Per 63 O.S. ' 1-133, an initial certification and an annual recertification will be required for health information exchanges to qualify as an OKHIE. In order to receive certification, the applying HIE must submit an application to the Oklahoma Health Care Authority (OHCA) and provide all requested documentation. The application and standards for certification shall be posted on the OHCA OKSHINE public website.~~

~~(1) The OHCA shall establish a health information exchange certification with input from stakeholders.~~

~~(2) Until such time as the health information exchange certification is established by the OHCA, an OKSHINE or an HIE organization that was previously certified by the Oklahoma Health Information Exchange Trust (OHIET) shall be deemed an OKHIE.~~

~~(3) An HIE must provide documentation of certification from OHIET to OHCA in order to receive initial OKHIE certification.~~

~~(e) **Fees.**~~

~~(1) **Certification fees.** Each health information exchange which applies for certification, will be required to pay annual certification/recertification fees. The OHCA will develop the certification criteria and will publish the criteria and associated fees, when available, on the OHCA OKSHINE public website.~~

~~(2) **Participant fees.** Each participant, as defined in this section, will be required to pay an annual participation fee as outlined in the participant agreement. The OHCA will develop the criteria for the fees and will publish the criteria when available. The participant agreement and fee schedule will be posted on the OHCA OKSHINE public website.~~

(d) **Required participation.**

(1) All health care providers as defined above and who are licensed by and located in the state of Oklahoma and are not otherwise exempted, shall submit an application to report data to and utilize the SDE. Providers may register for an exemption from required participation as specified in paragraph (f) of this Section.

(2) Paragraph (d) of this Section shall not apply to:

(A) A health care provider that does not currently own or subscribe to an electronic health records technology system or service.

(B) Health care providers classified as substance abuse treatment facilities covered by 42 Code of Federal Regulations (CFR) Part 2.

(3) Patient-specific protected health information requiring patient consent prior to disclosure, shall only be disclosed in compliance with relevant state or federal privacy laws, rules, regulations, or policies including,

but not limited to, the Health Insurance Portability and Accountability Act of 1996, and any laws that require patient consent prior to sharing health information.

(4) The state acknowledges that establishing the connection to the HIE can take substantial time to complete. A health care provider will be considered to have met the requirement to report data to the SDE as long as the provider is actively engaged with the HIE in the onboarding process of connecting to the HIE, and as reported by the SDE.

(5) In order to meet the requirement to utilize the SDE, each health care provider shall secure access to HIE services by the following:

(A) Completing and maintaining an active participation agreement with the SDE for HIE;

(B) Executing annually an order form electing at a minimum the set of core services relevant to the provider practice or organization; and

(C) Maintaining good standing as a participating organization in the SDE for HIE by remaining compliant with the terms and conditions, network policies and procedures, and paying all fees associated with the services elected on the order form.

(e) **Fees.**

(1) **Subscription fees.** Health care providers as defined in this section are required to subscribe and to pay a subscription fee directly to the SDE on a monthly or annual basis. Subscription fees are determined based on the organization type and size. Subscription fee schedule is established by the SDE based on network operating costs as approved by the SDE board and can be obtained upon request to the SDE. The Office of the State Coordinator for HIE shall receive notice from the SDE of the established subscription fee schedule or changes to the fee schedule no later than ninety (90) days prior to the effective date.

(2) **Connection fees.** Health care providers as defined in this section are required to connect their electronic health record to the SDE to securely report data to the HIE. This is a variable one-time fee paid to the SDE. The Office of the State Coordinator for HIE shall receive notice of connection fees established by the SDE no later than thirty (30) days of being established.

(3) **Grant funds.** Health care providers may apply for a grant to cover connection fees subject to the availability of funds. Grant fees for connection will be paid directly to the SDE on behalf of the provider. Information on grant eligibility can be found on OKSHINE website.

(f) **Exemptions.**

(1) Any health care provider as defined in paragraph (c) of this section may register an exemption from reporting data to the SDE and/or utilizing the HIE on the OKSHINE website by registering an exemption with the Office of the State Coordinator for HIE.

(2) All providers that register an exemption shall be granted such exemption and shall not be subject to pay subscription fees and/or connection fees.

(3) The exemption will automatically renew annually unless the provider withdraws their exemption and elects to participate.

[OAR Docket #23-719; filed 8-10-23]

TITLE 475. OKLAHOMA STATE BUREAU OF NARCOTICS AND DANGEROUS DRUGS CONTROL
CHAPTER 1. ADMINISTRATIVE OPERATIONS

[OAR Docket #23-721]

RULEMAKING ACTION:
EMERGENCY adoption
RULES:
Subchapter 1. General Provisions
475:1-1-2. Definitions [NEW]
Subchapter 5. Administrative Actions
475:1-5-1. Purpose [AMENDED]
475:1-5-2. Burden of proof [AMENDED]
475:1-5-9. Report and record [AMENDED]
475:1-5-11. Surrender of Registration in Lieu of Administrative Action [AMENDED]
475:1-5-12. Service in Administrative Proceedings [NEW]
475:1-5-13. Request for Hearing and Default [NEW]
475:1-5-14. Discovery in Administrative Proceedings [NEW]
AUTHORITY:
The Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control; 63 O.S. §§ 2-301, 2-309H
ADOPTION:
July 17, 2023
EFFECTIVE:
Immediately upon Governor's approval
APPROVED BY GOVERNOR:
August 10, 2023
EXPIRATION:
Effective through September 14, 2024, unless superseded by another rule or disapproved by the Legislature
SUPERSEDED EMERGENCY ACTIONS:
n/a
INCORPORATIONS BY REFERENCE:
n/a
FINDING OF EMERGENCY:
The most recent legislative session made changes to statute that conflict with current existing rules. It was found necessary to make changes to existing rules to match statute. Additionally, confusion about administrative procedures exists. There was confusion on how service is to be provided to entities because some rural businesses do not receive mail at the location of the business. Furthermore, we did not have a discovery procedure outlined so registrants and their legal counsel were unsure what could be considered discoverable in administrative hearings. These changes should address all those and without these changes, administrative rules would be in conflict with statute as well as the administrative procedures would be inefficient and confusing.
GIST/ANALYSIS:
The additions to subchapter 1 provide clarity to the registrants by adding definitions and clarifying existing definitions. The changes in subchapter 5 make the administrative rules match the statutory changes that were made during the most recent legislative session. An addition to the rules details what happens when a registrant does not make an appearance for a show cause. The agency will consider the failure to appear as a default. Another modification clarifies who has the ability to surrender a registration. A final addition to subchapter 5 is a procedure for discovery during administrative hearings.
CONTACT PERSON:
Jessica McGuire, Manager of Professional Regulation Services, OBNDD, 419 NE 38th Terrace, Oklahoma City, OK, 73105, (405) 521-2885, jmcguire@obn.ok.gov

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):

SUBCHAPTER 1. GENERAL PROVISIONS

475:1-1-2. Definitions

The following words and terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Agent" means a peace officer appointed by and who acts on behalf of the Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control or an authorized person who acts on behalf of or at the direction of a person who manufactures, distributes, dispenses, prescribes, administers or uses for scientific purposes controlled dangerous substances but does not include a common or contract carrier, public warehouser or employee thereof, or a person required to register under the Uniform Controlled Dangerous Substances Act. With regard to an authorized person who acts on behalf of or at the direction of a person who manufactures, distributes, dispenses, prescribes, administers, or uses for scientific purposes controlled dangerous substances, the term "agent" does not include contractors, subcontractors, or their employees.

"Applicant" means the person(s) seeking registration with the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control and includes all beneficial owners of any legal entity where ownership disclosure is a legal requirement or condition to any licensing or registration.

"Beneficial Owner" means the natural person(s) who ultimately own or control a legal entity, as well as the natural person(s) on whose behalf a business is conducted including those natural persons who exercise ultimate effective control over a legal entity or arrangement. This includes, but is not limited to, all natural persons:

(A) Who contribute cash, property, or services to receive a membership or ownership interest in a legal entity;

(B) Who becomes a member of the legal entity without acquiring a membership or ownership interest;

(C) Who are managers of the legal entity;

(D) Who have voting rights in the legal entity;

(E) Who receive profits, losses, or distributions of the legal entity;

(F) Who make capital contributions to the legal entity; or

(G) Who receive capital interest from the legal entity.

"Registrant" means a person, persons, corporation or other entity who has been issued by the Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control a registration pursuant to Section 2-302 of Title 63 of the Oklahoma Statutes and includes all beneficial owners of any legal entity where ownership disclosure is a legal requirement or condition to any licensing or registration.

SUBCHAPTER 5. ADMINISTRATIVE ACTIONS

475:1-5-1. Purpose

The rules of this Subchapter explain the administrative hearing process at the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control when said agency seeks to limit, condition, suspend, revoke or deny the renewal of an OBN registration and/or impose a fine.

475:1-5-2. Burden of proof

At any hearing for the limitation, conditioning, denial of renewal application, suspension or revocation of a registration, or the assessing of a fine the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control shall have the burden of proving by clear and convincing evidence, except where statute has expressly provided for a different burden of proof, that the requirements for such registration are not satisfied pursuant to Title 63 O.S. §§ 2-302 through 2-304.

475:1-5-9. Report and record

(a) As soon as practicable after the time for the parties to file proposed findings of fact and conclusions of law has expired, the hearing officer shall prepare a report containing the following:

(1) His/Her findings of fact and conclusions of law with the reasons therefor.

(2) His/Her recommendation.

(b) The hearing officer shall certify to the Director the record, which shall contain the recording of the testimony, exhibits, the findings of fact and conclusions of law proposed by the parties, and his/her report. Upon receipt of the certified record, the Director shall cause one (1) copy of the report of the hearing officer to be delivered to each party to the hearing.

(c) The hearing officer may announce his/her decision orally at the close of the hearing without requesting that the parties file proposed findings of fact and conclusions of law. The hearing officer shall prepare a written report containing his/her findings and recommendation to the Director in the same manner as above.

475:1-5-11. Surrender of Registration in Lieu of Administrative Action

(a) Any registrant of the OBN may surrender the registration in lieu of or in addition to administrative action at any time before such action is taken. In such a case, the registrant will waive the right to reapply for an OBN registration for a period of six (6) months from the effective date of the surrender. In such case, the OBN Director may approve or deny any application from the registrant following this six (6) month period based on the impact issuing the requested registration may have on the general public safety. A surrender of an OBN registration made in lieu of further administrative action shall

be reported to the National Practitioner Data Bank pursuant to *45 CFR §60.1 et seq*, if required.

(b) In the event a registration is revoked, suspended, or surrendered, either voluntarily or following administrative action, the registrant may not, at any time, utilize the registration of another individual and/or institution. Any effort to utilize the registration of another may be considered an unlawful dispensation, administration, distribution, and/or prescription of a controlled dangerous substance as set forth under Title 63 of the Oklahoma Statutes.

(c) For registered businesses, any owner, manager, board member, officer, legal counsel, or other specifically designated and disclosed representative may surrender the applicable registration on behalf of the registered business.

475:1-5-12. Service in administrative proceedings

(a) Any written order or notice of hearing, other than an immediate suspension order, shall be primarily served by one of the following methods:

(1) Personal delivery to the respondent at the last known registered address provided to the Bureau or to the registered agent of the respondent or to the attorney of record of the respondent, in any manner authorized by the law of this State for the personal service of summons.

(2) Certified mail, return receipt requested, to the last known mailing address of the respondent or to the registered agent of the respondent or to the attorney of record of the respondent.

(b) In addition to one of the above methods, the OBN may effectuate service by electronic mail to the respondent at the last known electronic mail address provided to the Bureau or by publication to the Bureau's public website or by publication to the public OBN Registrant Verification website.

(c) Service shall be deemed effective either on the date of personal service or on the date of receipt of certified mail or if refused, on the date of refusal.

(1) Registrants are required to keep information current and up to date with the Bureau. If either primary method fails and service cannot be made following a diligent search, service shall also be deemed effective when the Bureau attempts at least one of the primary methods and effectuates service via both electronic mail and publication to one of the online sites above.

(2) Service of notice shall be reasonably calculated, under all circumstances, to apprise the interested parties of the pendency of the action and to afford them an opportunity to present their objections.

(d) Service of subsequent pleadings, as prescribed herein, upon a respondent shall be deemed adequate upon mailing, by regular mail, postage prepaid, to the last known residential or business address of the party to be served or his or her representative of record or by electronic mail when the party has consented to service by electronic mail.

475:1-5-13. Request for hearing and default

(a) A request for a hearing shall be submitted in writing, on a form prescribed by the OBN. This form is available at the Bureau's principal place of business located at 419 NE 38th Terrace, Oklahoma City, OK 73105 or online at www.obndd.ok.gov. Hearing requests may only be submitted in person or by mail to the Bureau's principal place of business. Hearing requests submitted other than in person or by mail on the prescribed form shall not be accepted. Hearing requests must be made within thirty (30) calendar days of the date of issuance of the written order, not inclusive of the day of issuance of the written order. Hearing requests made or postmarked after the deadline for requesting a hearing will not be granted. The Request for Hearing Form shall be addressed to the Oklahoma Bureau of Narcotics, Legal Division, 419 NE 38th Terrace, Oklahoma City, OK 73105.

(b) Any respondent who fails to appear, after requesting a hearing, will be determined to have waived the right to appear and present a defense. All allegations of fact shall be deemed admitted and the written order providing notice of the violations shall become the Final Order by default. Notice of taking default shall not be required.

(c) Respondents who are entities must appear in any administrative proceeding through an attorney licensed to practice law in the State of Oklahoma. Any timely request for hearing by an entity shall be accompanied by an Entry of Appearance by a licensed attorney of the State of Oklahoma. A template Entry of Appearance Form is available online at www.obndd.ok.gov for download but is not required to be used. If no attorney enters their appearance in the administrative proceeding within ten (10) business days following the request for hearing, the respondent will be determined to have waived the right to a hearing and present a defense. Any respondent who fails to appear, after requesting a hearing, will be determined to have waived the right to appear and present a defense. All allegations of fact shall be deemed admitted and the written order providing notice of the violations shall become the Final Order by default. Notice of taking default shall not be required.

(d) Only the registrant or the registrant's legal representative may request a hearing on behalf of the registrant. For registered businesses, only the owner(s), manager(s), board member(s), officer(s), legal counsel(s), or other specifically designated and disclosed representative(s) may request a hearing on behalf of the registered business.

475:1-5-14. Discovery in administrative proceedings

(a) Disclosure of Evidence by the Bureau.

(1) Upon written request of the respondent, the Bureau shall disclose the following:

(A) The name and addresses of witnesses which the prosecuting attorney intends to call at the hearing, together with a statement identifying which allegations of fact each witness may possess relevant knowledge.

(B) Any books, papers, documents, photographs, or tangible objects which the prosecuting attorney intends to use in the hearing.

(C) Administrative reports made for the enforcement of regulatory functions. The Bureau, in its discretion, may not include criminal investigative reports associated with the administrative action.

(b) Disclosure of Evidence by the Respondent.

(1) Upon written request of the Bureau, the respondent shall disclose the following:

(A) The name and addresses of witnesses which the respondent intends to call at the hearing, together with a statement identifying which allegations of fact of which each witness may possess relevant knowledge.

(B) Any books, papers, documents, photographs, or tangible objects which the respondent intends to use in the hearing.

(c) Continuing Duty to Disclose.

(1) If, prior to or during the hearing, a party discovers additional evidence or material previously requested or ordered, such party shall promptly notify the other party, and the hearing officer of the existence of the additional evidence or material.

(2) The hearing officer may determine what evidence is necessary and proper for the purposes of the proceeding.

(d) Time of Discovery.

(1) Any request of motions for discovery may be made at any time after the respondent has filed a Request for Hearing, including an Entry of Appearance for any entity, in the case and requested a hearing provided that the Bureau may request discovery in the Order to Show Cause. The hearing officer may specify the time, place, and manner of taking the discovery and may prescribe such terms and conditions as are just.

(2) All discovery shall be completed no less than three (3) business days prior to the scheduled hearing unless otherwise ordered by the hearing officer. Any exhibit or discovery not turned over shall not be admitted at the hearing without compelling reason. This provision does not apply to any hearing on immediate suspension resulting in revocation.

(e) Subpoenas:

(1) The Bureau may require the furnishing of such information, the attendance of such witnesses, and the production of such books, records, papers or other objects as may be necessary and proper for the purposes of the proceeding or investigation. The Hearing Officer does not have authority to quash any subpoena or subpoena duces tecum issued by the Director.

(2) The Bureau, or any party to a proceeding before it, may take the depositions of witnesses in the same manner as is provided by law for the taking of depositions in civil actions in courts of record.

(A) Witnesses must have knowledge of the facts necessary and proper for adjudication of the proceeding, or be designated as an expert witness, to be deposed. The hearing officer shall determine whether a witness is necessary and proper.

(B) Any requested depositions of Bureau personnel shall take place at an OBN designated location by non-video means unless the hearing officer finds a compelling reason to order otherwise. This shall be construed strictly to protect the health, safety, and welfare of Bureau personnel and their identities.

(C) Any witness, other than a named party, may testify in the administrative hearing via telephone or videoconference at the discretion of the hearing officer with notice provided to all parties at least three (3) business days prior to the scheduled hearing.

(3) At the request of the respondent, or any other party, the hearing officer shall:

(A) Issue subpoenas for the attendance of witnesses with knowledge of facts necessary and proper for adjudication.

(B) Issue subpoenas duces tecum to compel the production of books, records, papers, or other things necessary and proper for adjudication.

(C) Quash a subpoena or subpoena duces tecum so issued with notice to all parties. The hearing officer may not quash a subpoena or subpoena duces tecum if any party objects. This does not limit the hearing officer's authority to exclude or deny requests for irrelevant, immaterial, or unduly repetitious evidence considering the scope of the administrative hearing and the seriousness of the violations.

(D) All witnesses and evidence sought must be necessary and proper for the purposes of the proceeding. The hearing officer shall determine what is necessary and proper and will receive, admit, limit, or exclude evidence accordingly. All evidence which is irrelevant, immaterial, or unduly repetitious may not be admitted.

(f) Regulation of Discovery:

(1) Upon motion of either party, the hearing officer may at any time order that specified disclosures be restricted or make any other protective order. If the hearing officer enters an order restricting specified disclosures, the entire text of the material restricted shall be sealed and preserved in the records of the Bureau to be made available to the appellate court in the event of an appeal.

(2) If at any time during the course of the proceedings it is brought to the attention of the hearing officer that a party has failed to comply with discovery, the court may order such party to permit the discovery or inspection, grant continuance, or it may enter such other order as it deems just under the circumstances including admission or denial of the evidence.

(3) Any discovery order shall not include discovery of legal work product of either attorney which is deemed to include legal research or those portions of records, correspondence, reports, or memoranda which are only the opinions, theories, or conclusions of the attorney or the attorney's legal staff.

[OAR Docket #23-721; filed 8-14-23]

TITLE 475. OKLAHOMA STATE BUREAU OF NARCOTICS AND DANGEROUS DRUGS CONTROL
CHAPTER 10. REQUIREMENTS FOR REGISTRATION

[OAR Docket #23-722]

RULEMAKING ACTION:
EMERGENCY adoption
RULES:
475:10-1-4. Separate registration [AMENDED]
475:10-1-5. Exemptions of agents and employees [AMENDED]
475:10-1-9. Application for registration pursuant to Title 63 Okl.St.Ann § 2-302 [AMENDED]
475:10-1-10. Application notices for registration and re-registration [AMENDED]
475:10-1-12. Filing of application [AMENDED]
475:10-1-13. Acceptance of filing [AMENDED]
475:10-1-14. Additional information [AMENDED]
475:10-1-15. Amendments to and withdrawal of applications [AMENDED]
475:10-1-17. Applications for scientific research in Schedule I substances [AMENDED]
475:10-1-18. Certificate of Registration [AMENDED]
475:10-1-19. Surrender of certificate of registration [REVOKED]
475:10-1-20. Modification of registration [AMENDED]
475:10-1-21. Change to registrant details [AMENDED]
475:10-1-22. Termination of registration [AMENDED]
AUTHORITY:
The Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control; 63 O.S. §§ 2-301, 2-309H
ADOPTION:
July 17, 2023
EFFECTIVE:
Immediately upon Governor's approval
APPROVED BY GOVERNOR:
August 10, 2023
EXPIRATION:
Effective through September 14, 2024, unless superseded by another rule or disapproved by the Legislature
SUPERSEDED EMERGENCY ACTIONS:
n/a
INCORPORATIONS BY REFERENCE:
n/a
FINDING OF EMERGENCY:
The most recent legislative session made changes to statute that conflict with current existing rules. It was found necessary to make changes to existing rules to match statute. Additionally, confusion existed on who can surrender a registration and withdraw an application. The most confusion, that can result in non-compliance, deals with medical marijuana businesses being able to transfer their occupational license but not their OBN. These changes should address all those and without these changes administrative rules would be in conflict with statute as well as the rules would be inefficient and confusing. The confusion could result in noncompliance and administrative and possible criminal charges for the registrants. Additionally, licensing boards have made changes to their administrative codes and this updates those references.
GIST/ANALYSIS:
The emergency rules make changes to the registration requirements including removing staff physicians from the list of exempted agents and employees; updating how registrations can be applied for; and clarifying when and how to update a registration. The changes also remove the requirement to surrender the certificate. The addition to and modification of some rules provides more clarity on warehousing requirements and ownership changes. Finally, there are changes that update rules to match statute due to statutory changes that occurred during the most recent legislative session. Some of those changes include limiting the number of medical marijuana grows that can exist at one location and what steps to take upon an ownership or business name change.
CONTACT PERSON:
Jessica McGuire, Manager of Professional Regulation Services, OBNDD, 419 NE 38th Terrace, Oklahoma City, OK, 73105, (405) 521-2885, jmcguire@obn.ok.gov

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):

475:10-1-4. Separate registration

(a) Every person or entity who engages in, or who proposes to engage in, more than one group of independent activities shall obtain a separate registration for each group of activities, except as provided by this subsection. Any person or entity, when registered to engage in the group of activities described in each paragraph of this subsection, shall be authorized to engage in the coincident activities described in that subparagraph without obtaining a registration to engage in such coincident activities; provided that, unless specifically exempted, the registrant complies with all requirements and duties prescribed by law for persons or entities registered to engage in such coincident activities.

(1) A person or entity registered to manufacture any controlled dangerous substance or basic class of controlled dangerous substances shall be authorized to distribute that substance or class, but is not authorized to distribute any substance or class which the registrant is not registered to manufacture.

(2) A person or entity registered to manufacture any controlled dangerous substance listed in Schedules I through V shall be authorized to conduct chemical analysis and preclinical research (including quality control analysis) with narcotic and non-narcotic controlled dangerous substances listed in those schedules which the registrant is authorized to manufacture.

(3) A registrant authorized to conduct analytical laboratory activities with controlled dangerous substances shall be authorized to manufacture such substances for analytical or instructional purposes, to distribute such substances to other registrants authorized to conduct analytical laboratory activities, institutional instructional activities, or scientific research with such substances and to persons or entities exempted from registration provided such distribution is made in conformance with state law.

(4) A person registered or authorized to conduct scientific research with controlled dangerous substances listed in Schedules I through V shall be authorized to conduct analytical laboratory activities with controlled dangerous substances listed in those schedules in which he/she is authorized to conduct scientific research, to manufacture such substances if and to the extent that such manufacturing is set forth in the protocol filed with the application for registration, to distribute such substances to other persons or entities registered or authorized to conduct analytical laboratory activities, institutional instructional activities, or scientific research with such substances, and to persons

or entities exempted from registration provided such distribution is made in conformance with state law, and to conduct instructional activities with controlled dangerous substances.

(5) Physicians, dentists, podiatrists, veterinarians, optometrists and other qualified persons who are authorized to carry on their respective activities under the laws of the State of Oklahoma and who are registered with the OBN to dispense, prescribe, and/or administer controlled dangerous substances shall be authorized to conduct instructional activities with those substances. Practitioners authorized to administer and/or dispense controlled dangerous substances are authorized to order the controlled dangerous substances for dispensation and administration.

(6) Trainers or handlers of a canine controlled dangerous substance detector who, in the ordinary course of their profession, desire to possess any controlled dangerous substance for training said canine.

(7) A single registration to engage in any group of independent activities may include one or more controlled dangerous substances listed in the schedules authorized in that group of independent activities. A person registered to conduct scientific research with controlled dangerous substances listed in Schedule I may conduct scientific research with any substance listed in Schedule I for which the registrant has filed and had approved a scientific research protocol.

(b) The following locations shall not be deemed to be principal places where controlled dangerous substances are manufactured, distributed, dispensed, and/or prescribed:

(1) A warehouse where controlled dangerous substances are stored by or on behalf of a ~~registered person, unless such substances are distributed directly from such warehouse to registered locations, other than the registered location from which the substances were delivered, or to persons~~registrant, but not used as a distribution point, does not require a separate registration. The warehouse location shall be included on the registration application but may be fee exempt at the discretion of the Director. If a warehouse location is added at any later time after the application has been submitted, the registrant shall notify OBN of such location within one (1) business day. Warehouse locations shall meet all applicable state and local laws and have the same physical security requirements as specified in Chapter 20 of this Title.

(2) An office used by agents of a registrant where sales of controlled dangerous substances are solicited, made, or supervised but which neither contain such substances (other than substances for display purposes or lawful distribution as samples only) nor serves as a distribution point for filling sales orders.

(3) An office used by a practitioner (who is registered at another location) where controlled dangerous substances are prescribed but neither administered nor otherwise dispensed as a regular part of the professional practice of the practitioner at such office, and where no supplies of controlled dangerous substances are maintained.

(c) No more than one medical marijuana manufacturing registration for growing medical marijuana shall be issued per location. Location is the entire real property identified by the parcel identification number and any corresponding address on file with the County Assessor. A registrant or applicant may, in writing, request that the OBN waive the above requirement, by submitting on a form provided by the OBN for OBN approval. The OBN may in its discretion and on a case- by-case basis, approve the waiver if it finds that the safeguard proposed by the registrant meets the goals of the security requirements. Registrant grow operations must be clearly separate and distinct from other registrant grow operations. Approved waivers expire at the same time as the underlying registration. The approved waiver shall be displayed in a conspicuous manner near the associated Certificate of Registration.

475:10-1-5. Exemptions of agents and employees

The following persons shall not be required to register and may lawfully possess controlled dangerous substances in the performance of their official duties under the provisions of the Act:

(1) An agent, or employee thereof, of any registered manufacturer, distributor, dispenser and/or user for scientific purposes of any controlled dangerous substances if such agent is acting in the usual course of his/her business or employment.

~~(2) An individual physician who is a resident or staff physician of a licensed or otherwise authorized hospital shall not be required to register in order to administer, prescribe, or dispense controlled dangerous substances in the usual course of his/her professional practice, while acting within the scope of his/her employment in the hospital, provided that:~~

~~(A) Such resident or staff physician is authorized to carry on the respective activities under the laws of the State of Oklahoma by their appropriate State of Oklahoma licensing board.~~

~~(B) The hospital by whom he/she is employed has verified that the individual physician is so licensed by the appropriate State of Oklahoma licensing board.~~

~~(C) Such administering, prescribing, and/or dispensing is confined solely to inpatients or outpatients of the hospital by which the individual physician is employed.~~

~~(D) All prescriptions and records relating to controlled dangerous substances administered, dispensed, or prescribed to inpatients or outpatients shall reflect the designated specific internal hospital code number given to each resident or staff physician so authorized by the hospital pursuant to 475:25-1-18 and Title 21 Code of Federal Regulations, § 1301.22(C)(5) and (6).~~

(~~3~~2) Interns or residents of teaching hospitals shall not be required to register and may administer, dispense, and/or prescribe controlled dangerous substances ~~in accordance with paragraph (2) of this Section,~~ provided that:

(A) All prescriptions issued by such interns or residents for outpatients shall be countersigned by a physician licensed by the physician's appropriate State of Oklahoma licensing board and shall bear such physician's personal designated hospital code number.

(B) Such intern or resident is so authorized by the hospital and is acting only within the scope of his/her employment within the teaching hospital.

(~~4~~3) An individual physician, dentist, podiatrist, or veterinarian, as defined in 63 Okl.St.Ann. § 2-101, who is a resident or foreign-trained, whose practice is, for any reason, limited solely to federal, state, or local government institutions, shall dispense, administer and/or prescribe controlled dangerous substances under the authority of the license of the institutional hospital by whom he/she is employed in lieu of being registered himself/herself, provided that:

(A) Such dispensing, administering, and/or prescribing is done in the usual course of his/her professional practice.

(B) Such individual practitioner is authorized to carry on the respective activities under the laws of the State of Oklahoma by the appropriate State of Oklahoma licensing board.

(C) The hospital or other institution by which he/she is employed has verified that the individual practitioner is so permitted to dispense, administer, and/or prescribe drugs within the jurisdiction.

(D) Such individual practitioner is acting only within the scope of his/her employment in the hospital or institution.

(E) Records relating to controlled dangerous substances that are prescribed by such residents, foreign-trained physicians, or physicians limited to federal, state, or local government institutions, shall be kept pursuant to Title 21 Code of Federal Regulations §1304.04 and 475:25-1-18.

(~~5~~4) An individual practitioner, as defined in ~~(4)~~(3) of this Section, who is limited solely to federal, state, or local government institutional practice, may obtain individual fee-exempt registration in the event that such institution by which he/she is employed does not maintain a hospital as defined by the appropriate State of Oklahoma licensing authority and the institution is not so registered with the OBN.

(A) Such limited practitioners shall be required to maintain records of all controlled dangerous substances administered, dispensed, and prescribed by such practitioner.

(B) Such limited practitioners shall be authorized to dispense, administer, and/or prescribe controlled dangerous substances in the course of their professional practice only within such institution as designated by their appropriate State of Oklahoma licensing boards.

(C) Prior to being authorized to dispense, administer, and/or prescribe controlled dangerous substances at any new or additional location, such limited practitioners shall be required to report to the OBN each change of location or addition of institutional employment.

(D) Such limited practitioners shall be held individually responsible for safeguards, record keeping, inventories, transferring, and disposing of controlled dangerous substances in accordance with this Chapter.

475:10-1-9. Application for registration pursuant to Title 63 Okl. St.Ann § 2-302

(a) Any person or entity who is required to be registered and who is not so registered may apply for registration at any time unless otherwise provided in this Title. No person or entity required to be registered shall engage in any activity for which registration is required until the application for registration is granted and a Certificate of Registration is issued by the Director to such person or entity.

(b) After any person or entity is first registered, the person or entity shall thereafter be required to be registered no later than the first day of November of each year.

(c) Any person or entity who fails to register shall be in violation of the Uniform Controlled Dangerous Substances Act and subject to penalties as provided therein.

(d) Applications for registration of new principal places of business and new ~~personal~~ registration requests received after July 1st of each year will, if accepted for registration, be registered for the forthcoming registration period and, therefore, will not be required to pay the registration fee for the remaining four (4) months of the registration period in which the application is made.

(e) A thirty (30) day grace period from the registration expiration date may be given before a registration is inactivated.

(f) All medical marijuana applicants and registrants, and all medical facilities required to register under 63 O.S. § 2-302(C), shall disclose to OBN all beneficial owners and all other entities or natural persons that have an ownership interest in the business.

475:10-1-10. Application notices for registration and re-registration

(a) Any person or entity required to be registered under Title 63 may register by ~~contacting the OBN to obtain the registration application, downloading the registration application on the official OBN website, or~~ applying on the official OBN website.

(b) Any person or entity desiring to professionally handle controlled dangerous substances for the purpose of canine drug detector handling and/or training, manufacturing, distributing, conducting scientific research, or performing analytical laboratory activities of controlled dangerous substances listed in the Uniform Controlled Dangerous Substances Act, Schedules I through V, shall apply for registration as follows:

(1) A canine drug detector handler/trainer or scientific researcher shall be registered with the OBN as an individual.

(2) Applicants for scientific research, analytical laboratory activities, or institutional instructional activities shall attach one (1) copy of the proposed operational protocol to the application.

(3) A detailed description, diagram, and/or photographs of all security measures proposed for the safe storage of all controlled dangerous substances shall be attached to the application.

(c) Any person or entity licensed by the appropriate State of Oklahoma licensing authority who desires to professionally handle controlled dangerous substances in their practice of medicine, retail pharmacy, hospital, teaching institution, or institutional drug department shall apply for registration.

(d) Registrants will be notified by renewal notice approximately ninety (90) days before the expiration date of October 31 of each year; if any registrant does not receive such notice within thirty (30) days prior to the expiration date of the registration, the registrant must give notice of such omission and request such notice either by personal contact with, or in writing to, the OBN. It shall be the registrant's responsibility to maintain a valid registration.

(e) Each application shall include all information called for in the application, unless the item is not applicable, in which case this fact shall be indicated, and the application with comments shall be required to be returned to the OBN. The address of the registrant shall be the business address. A post office box will not be considered a sufficient business address. If the business address contains no physical street address, then a PO Box or route number may be listed, however, directions to the registrant's business location must be included with the application.

(f) Each application, attachment, or other document filed as a part of any application shall be signed by the applicant or by an officer or official of the applicant. Those applications with questions left unanswered or without proper signature will not be accepted.

475:10-1-12. Filing of application

(a) All applications for registration shall be submitted for filing with the OBN and shall be accompanied by the appropriate registration fee and any required attachments.

(b) Any person or entity required to obtain more than one registration ~~may~~shall submit all applications ~~in one (1) package~~individually. Each application must be complete and should not refer to any accompanying application for required information.

475:10-1-13. Acceptance for filing

(a) Applications submitted for filing are dated upon receipt. If found to be complete, the application will be accepted for filing. Applications failing to comply with the requirements of this Chapter will not generally be accepted for filing. A defective application will be rejected and returned to the applicant with a statement of the reason for not accepting the application for filing. ~~A defective application shall be corrected and re-submitted for filing prior to acceptance of application.~~

(b) Accepting an application for filing does not preclude any subsequent request for additional information and has no bearing on whether the application will be granted.

(c) All information requested within the application, as well as any requests for additional or supplemental information, are deemed material information for purposes of the application and enforcement of the Uniform Controlled Dangerous Substances Act.

475:10-1-14. Additional information

The Director may require an applicant to submit such documents or written statements of fact relevant to the application as he/she deems necessary to determine whether the application should be granted. The failure of the applicant to provide such documents or statements within a reasonable time after being requested to do so shall be deemed to be a waiver by the applicant of an opportunity to present such documents or facts for consideration by the Director in granting or denying the application and may result in an application being rejected as incomplete.

475:10-1-15. Amendments to and withdrawal of applications

(a) An application may be ~~amended or~~ withdrawn without permission of the Director at any time before the date on which the applicant receives an order to show cause why the registration should not be denied, revoked or suspended pursuant to Title 63 Okl.St.Ann. § 2-305. ~~An application may be amended with permission of the Director at any time where good cause is shown by the applicant or where the amendment is in the public interest.~~

(b) After an application has been accepted for filing, the request by the applicant that it be returned or the failure of the applicant to respond to official correspondence regarding the application shall be deemed to be a withdrawal of the application.

(c) If an application is withdrawn after the application and payment have been submitted, no refund shall be given.

(d) For registered businesses, any owner, manager, board member, officer, legal counsel, or other specifically designated and disclosed representative may withdraw the application on behalf of the business.

475:10-1-17. Applications for scientific research in Schedule I substances

(a) In the case of an application to conduct scientific research with controlled dangerous substances listed in Schedule I, the Director may process the application and protocol and forward a copy of each to an independent expert selected by the Director within seven (7) days after receipt. The independent expert shall promptly advise the Director concerning the qualification of the applicant.

(b) An applicant whose protocol is defective shall be notified by the Director within seven (7) days after receipt of such protocol from the independent expert, and he/she shall be required to correct the existing defects before consideration shall be given to his/her submission.

(c) After the independent expert finds that the applicant is qualified and competent and the protocol meritorious, the Director shall be notified. The Director shall issue a Certificate of Registration within ten (10) days after receipt of this notification unless he/she determines that the application should be denied pursuant to the Uniform Controlled Dangerous Substances Act or OAC 475.
(d) If the independent expert finds that the protocol is not meritorious and/or the applicant is not qualified or competent, said designated authority shall notify the Director. The Director shall notify the applicant of said findings and his/her final decision~~, after which time the applicant may submit written request to the Director within thirty (30) days for a hearing to show cause why the application should not be denied~~.
(e) Except, Schedule I medical marijuana researchers shall submit the documentation, with their application, as required by 63 O.S. §427.19 et seq and 63 O.S. § 427.20 et seq.

475:10-1-18. Certificate of registration form

(a) The Certificate of Registration shall contain the name, business address, and registration number of the registrant, the schedules of controlled dangerous substances which the registrant is authorized to handle, any limitation or condition placed on the registration, and the expiration date of the registration. The registrant shall maintain the Certificate of Registration at the registered location, displayed in a conspicuous manner, and shall permit inspection of the Certificate by a peace officer or agency official in the enforcement of laws relating to controlled dangerous substances.
(b) Medical marijuana manufacturers shall post a sign at the entrance of the medical marijuana manufacturing location. The sign shall include, at a minimum, business name, business address, contact phone number, and OBN registration number. This information may be placed on other existing signs of a similar nature if otherwise allowed by law.

475:10-1-19. Surrender of certificate of registration [REVOKED]

~~(a) Upon the revocation, suspension, or retirement of the registrant's Certificate of Registration, the Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control shall require that the registrant immediately deliver the assigned Certificate of Registration to an officer of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control and shall further require the registrant to surrender, destroy, or provide the security deemed necessary by the Director for all stocks of controlled dangerous substances in control of the registrant.~~
~~(b) In the event of limitation of a registrant's authority to handle controlled dangerous substances ordered by the Director or the authorized appropriate State of Oklahoma professional licensing board which may limit the registrant's professional services regarding controlled dangerous substances, the registrant shall be issued a new Certificate of Registration. No fee shall be required to be paid for the new Certificate of Registration.~~

475:10-1-20. Modification of registration

(a) Any registrant may apply to modify the registration to authorize the handling of additional controlled dangerous substances by submitting a ~~letter of~~ request to the Registration Division of the OBN. The ~~letter~~request shall contain the registrant's name, address, state and federal registration numbers as printed on the registrant's State of Oklahoma and Federal Certificates of Registration, the substances and/or schedules to be added to the registration, and shall be s~~igned~~certified by the registrant. If the registrant is seeking to handle additional controlled dangerous substances listed in Schedule I of the Uniform Controlled Dangerous Substances Act for the purpose of analytical laboratory activities, scientific research, or institutional instructional activities, the registrant shall attach one (1) copy of the protocol describing each anticipated activity involved with the additional substances or, in the event of institutional instructional activities, a statement describing the nature, extent, and duration of such institutional instructional activity, as appropriate. No fee shall be required to be paid for the modification.
(b) Change of name or ownership shall require a new registration for all businesses. Notice shall be submitted in writing on a form prescribed by OBN at least fourteen (14) days prior to the proposed change.
(1) A change of ownership occurs when:
(A) Any new beneficial owner, not previously recorded on the registration, is added to the business; or
(B) A change in the form of ownership occurs (for example, from a sole proprietor ownership to a partnership, limited liability company, or corporation).
(2) For publicly traded corporations, a routine sale of stock is not a change of ownership. (Note: a publicly traded corporation is a corporation owned by stockholders who are members of the general public and who trade shares publicly, often through a listing on a stock exchange. Publicly traded corporations do not include any entity engaged in activities involving federally prohibited substances.)
(3) A change to the registered business name as a result of government entities making changes to the name or to correct typographical errors does not require a new registration.
(c) Any change in the existing ownership percentage of a registered business shall be reported to the OBN within one (1) business day, if ownership disclosure is a legal requirement or condition to any licensing or registration.
(d) OBN registrations are only valid for the individual or entity to which the registration is issued including all beneficial owners of a registered entity or business. An OBN registration shall never be utilized by another individual or entity unless specifically authorized to do so by this Title or the Uniform Controlled Dangerous Substances Act. This provision shall be strictly construed to guard against theft and diversion of controlled dangerous substances.

475:10-1-21. Change to registrant details

The registrant shall notify the Registration Division of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control~~, in writing, sent via U.S. certified mail, return receipt requested, or~~ through the registrant's online account, within ~~fourteen (14) calendar days~~one (1) business day of any change to information on the current registration. This includes, but is not limited to, changes in contact information, ownership information, or changes to the registered premises where physical security controls are impacted such as the addition of, expansion of, or destruction of structures on the registered premises.

475:10-1-22. Termination of registration

(a) The registration of any person or entity shall terminate if and when such registrant dies, ceases legal existence, or discontinues business or professional practice including, but not limited to, full retirement. Any registrant who discontinues business or professional practice and/or no longer holds a valid Oklahoma license of the profession or occupation shall notify the ~~Director within fourteen (14) calendar days~~ OBN within one (1) business day of such fact.

(b) Pursuant to 63 O.S. § 2-302(L), failure to maintain an active, valid professional or occupational license, will result in automatic termination of the OBN registration.

(c) For registered businesses, any owner, manager, board member, officer, legal counsel, or other specifically designated and disclosed representative may terminate or discontinue the applicable OBN registration on behalf of the registered business.

[OAR Docket #23-722; filed 8-14-23]

TITLE 475. OKLAHOMA STATE BUREAU OF NARCOTICS AND DANGEROUS DRUGS CONTROL
CHAPTER 15. IMMINENT DANGER SUSPENSION

[OAR Docket #23-723]

RULEMAKING ACTION:
EMERGENCY adoption
RULES:
475:15-1-2. Immediate suspension of registration [AMENDED]
475:15-1-3. ~~Hearing~~Process following immediate suspension [AMENDED]
AUTHORITY:
The Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control; 63 O.S. §§ 2-301, 2-309H
ADOPTION:
July 17, 2023
EFFECTIVE:
Immediately upon Governor's approval
APPROVED BY GOVERNOR:
August 10, 2023
EXPIRATION:
Effective through September 14, 2024, unless superseded by another rule or disapproved by the Legislature
SUPERSEDED EMERGENCY ACTIONS:
n/a
INCORPORATIONS BY REFERENCE:
n/a
FINDING OF EMERGENCY:
Statute was changed and now conflict exists in administrative rules. It was found that emergencies changes need to be adopted to eliminate the conflict quickly and reduce the amount of confusions that exists because of the conflict.
GIST/ANALYSIS:
The emergency rule changes modify when the hearing must be held after an immediate suspension of a registration. The change now puts rule in alignment with statute.
CONTACT PERSON:
Jessica McGuire, Manager of Professional Regulation Services, OBNDD, 419 NE 38th Terrace, Oklahoma City, OK, 73105, (405) 521-2885, jmcguire@obn.ok.gov

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):

475:15-1-2. Immediate suspension of registration

If the Director finds there is imminent danger to the public health or safety, he/she may immediately suspend any registration ~~simultaneously with the institution of show cause proceedings~~.

(1) **Method.** The registrant shall be notified of such suspension through an ~~imminent danger letter~~immediate suspension order identifying an imminent danger to the public health or safety signed by the Director.

(2) **Notice and surrender of controlled dangerous substances.** The ~~imminent danger letter~~immediate suspension order shall be personally served on the registrant by an Agent of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control at which time the registrant shall be required to surrender to the Agent all controlled dangerous substances in his/her possession. In the event the registrant cannot be located by the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control Agent, the Agent shall deliver the ~~imminent danger letter~~immediate suspension order to the ~~address listed on the registrant's most current registration application~~registered address on file with the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control at which time the Agent shall take possession of all controlled dangerous substances located at such address.

(3) **Additional violations.** Where there is a reasonable belief that a registrant has committed a new violation of OBN's rules or applicable law while serving a term of probation with OBN, the registrant's OBN registration may be immediately suspended ~~until a hearing can be had, which shall be within fourteen (14) calendar days, unless otherwise agreed to by the parties~~.

475:15-1-3. ~~Hearing~~Process following immediate suspension

~~A show-cause hearing shall be held within fourteen (14) calendar days, unless waived by the parties, following the suspension of a registration suspended without a hearing.~~An immediate suspension order takes effect upon the Director's signature and shall be governed by the administrative proceeding process outlined by the Uniform Controlled Dangerous Substances Act. Failure to comply with the immediate suspension order may result in administrative penalties not to exceed Ten Thousand Dollars ($10,000.00) per day of noncompliance. If the registrant makes a timely request for hearing, the Director shall serve formal notice of a hearing to be held within thirty (30) days of the formal notice, unless waived by the parties.

[OAR Docket #23-723; filed 8-14-23]

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

[OAR Docket #23-724]

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]
475:20-1-8. Other security controls for registrants [AMENDED]
AUTHORITY:
The Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control; 63 O.S. §§ 2-301, 2-309H
ADOPTION:
July 17, 2023
EFFECTIVE:
Immediately upon Governor's approval
APPROVED BY GOVERNOR:
August 10, 2023
EXPIRATION:
Effective through September 14, 2024, unless superseded by another rule or disapproved by the Legislature
SUPERSEDED EMERGENCY ACTIONS:
n/a
INCORPORATIONS BY REFERENCE:
n/a
FINDING OF EMERGENCY:
We have received reports of loss of medical marijuana from dispensaries and upon inspection by agents, we found that medical marijuana is oftentimes stored in unsecure containers. In order to prevent diversion of controlled substances and protect public safety, we have made changes to the security requirements for storing medical marijuana.
GIST/ANALYSIS:
The emergency rule amendments provide more information on security requirements to help guard against theft and diversion. It also adds more information on how registrants can ensure they are adhering to the criminal history requirements of themselves and their employees.
CONTACT PERSON:
Jessica McGuire, Manager of Professional Regulation Services, OBNDD, 419 NE 38th Terrace, Oklahoma City, OK, 73105, (405) 521-2885, jmcguire@obn.ok.gov

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

(a) 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:~~

(b) Physical security controls for all medical marijuana businesses (dispensaries, growers, processors, etc.) shall, at a minimum, meet the following requirements for each medical marijuana storage area:

(1) Each registered premise shall have a security alarm system which upon unauthorized entry shall transmit a signal directly to a central station protection agency or a local 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~~controlled dangerous substance 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 door 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~~controlled dangerous substance 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 a controlled dangerous substance storage area, the registrant shall provide for adequate observation of the area by an employee specifically authorized in writing.

(c) All finished, processed, or packaged medical marijuana must be stored in a secure, locked storage area, such as a closet, cabinet, safe, or vault, and in such a manner as to prevent diversion, theft, or loss. All safes and cabinets must be made

of substantially constructed steel. If the safe or cabinet weighs less than 750 pounds, it must be bolted or cemented to the floor in such a way that it cannot be removed. Hinges and locks on the cabinets and safes must meet the requirements set forth in subsection (b) of this section.

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

(a) 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:~~

(b) 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 a security alarm system, 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. Acceptable fencing shall be a metal chain link fence with a wire diameter at least nine (9) gauge or larger, or another similarly secure material or wood. The fence shall measure at least eight (8) feet from the ground to the top of the fence. The fence may be at least six (6) feet of acceptable fencing with a top guard of fencing wire with sharp edges or points, such as barbed wire, to enhance the overall height of the fence to the minimum of eight (8) feet. 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 acceptable fencing. The entry gate may be at least six (6) feet of acceptable fencing with a top guard of fencing wire with sharp edges or points, such as barbed wire, to enhance the overall height of the entry gate to the minimum of eight (8) feet. All entry gates shall be kept closed and securely locked at all times when not in use and when in use shall be kept under direct observation of a responsible employee or agent of the registrant.

(C) The fence and entry gates shall be in good repair and obscure the outdoor or greenhouse facility so that it is not easily viewed from outside the fence or entry gates.

(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 areas where controlled dangerous substances are present, the registrant shall provide for adequate observation of the area by an employee specifically authorized in writing.

(6) A registrant may, in writing, request that the OBN waive one or more of the security requirements described in subsection (4) of this rule, by submitting on a form provided by the OBN a security waiver request for OBN approval. The OBN may in its discretion and on a case-by-case basis, approve the security waiver if it finds that the alternative safeguard proposed by the registrant meets the goals of the above security requirements. Approved security waivers expire at the same time as the underlying registration. The registrants request for a waiver shall include:

(A) The specific portion(s) of subsection (4) that is requested to be waived;

(B) The reason for the waiver; and,

(C) A description of an alternative safeguard the registrant will implement in lieu of the requirement that is the subject of the waiver.

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 OBN ~~or~~and with the Federal Drug Enforcement Administration, or when applicable, the Oklahoma Medical Marijuana Authority, to determine that the person is registered to possess the controlled dangerous 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 OBN 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 OBN 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.) shall distribute samples of controlled dangerous substances to a practitioner without first having been registered (no fee required) with the OBN.

(1) To register with the OBN to distribute samples of controlled dangerous substances a form must be completed and submitted to the Registration Division. Such forms may be obtained ~~through the OBN website or~~ by calling the Registration Division.

(2) A new form shall be completed and submitted to the Registration Division each time the list of items to be distributed changes.

(3) A copy of the form submitted to the OBN 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 who 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~~by the OMMA. 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. Except 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.

475:20-1-8. Other security controls for registrants

(a) All registrants shall immediately notify the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control of any theft or significant loss of any state or federal registration certificates, D.E.A. Form 222 order blanks, prescription blanks or other materials used in purchasing, distributing, prescribing or transferring controlled dangerous substances.

(b) All registrants shall immediately notify the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control ~~or~~and the local law enforcement agency having jurisdiction of any information the registrant receives concerning any violations of the Oklahoma Controlled Dangerous Substances Act and/or federal statutes and regulations related to controlled dangerous substances.

(c) All registrants shall ensure that every person, with access to controlled dangerous substances, keep and maintain a valid government-issued photo identification card on their person at all times when on the registered premises.

(d) All registrants shall notify the OBN within one (1) business day of the discovery of any charge, arrest, or conviction of any beneficial owner, agent, employee, contractor, or subcontractor.

[OAR Docket #23-724; filed 8-14-23]

TITLE 475. OKLAHOMA STATE BUREAU OF NARCOTICS AND DANGEROUS DRUGS CONTROL
CHAPTER 25. RECORDS AND REPORTS OF REGISTRANTS

[OAR Docket #23-725]

RULEMAKING ACTION:
EMERGENCY adoption
RULES:
475:25-1-2. General information [AMENDED]
475:25-1-3. Persons required to keep records and file reports [AMENDED]
475:25-1-5. General requirements for inventories [AMENDED]
475:25-1-9. Inventories of manufacturers [AMENDED]
475:25-1-10. Inventories of distributors [AMENDED]
475:25-1-20. Reports for manufacturers and distributors [AMENDED]
AUTHORITY:
The Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control; 63 O.S. §§ 2-301, 2-307, 2-309H
ADOPTION:
July 17, 2023
EFFECTIVE:
Immediately upon Governor's approval
APPROVED BY GOVERNOR:
August 10, 2023
EXPIRATION:
Effective through September 14, 2024, unless superseded by another rule or disapproved by the Legislature
SUPERSEDED EMERGENCY ACTIONS:
n/a
INCORPORATIONS BY REFERENCE:
n/a
FINDING OF EMERGENCY:
The current administrative code references are no longer correct and registrants are being confused by what they need to do to comply with all the rules and regulations.
GIST/ANALYSIS:
The emergency rule amendments change references to administrative code for medical marijuana registrants. The OMMA administrative code changes title numbers and places that refer to their rules were no longer correct. The changes also specify which employment records need to be kept onsite.
CONTACT PERSON:
Jessica McGuire, Manager of Professional Regulation Services, OBNDD, 419 NE 38th Terrace, Oklahoma City, OK, 73105, (405) 521-2885, jmcguire@obn.ok.gov

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):

475:25-1-2. General information

Registrants shall be required to maintain records, reports, and inventory in accordance with this Chapter and pursuant to Title 21 Code of Federal Regulations, and Title 63 Okl.St.Ann. §2-307, except Schedule I medical marijuana registrants shall be required to maintain readily-retrievable inventory tracking, records, and reports in the format set forth ~~in OAC 310:681-5-6~~by the OMMA.

475:25-1-3. Persons required to keep records and file reports

(a) Each registrant shall maintain the readily-retrievable records and inventories and shall file the reports required by this Chapter, except as exempted by this Section. Any registrant who is authorized to conduct other activities without being registered to conduct those activities pursuant to 475:10-1-7 shall maintain the records and inventories and shall file the reports required for persons registered to conduct such activities. This latter requirement should not be construed as requiring stocks of controlled dangerous substances being used in various activities under one registration to be stored separately, nor that separate records are required for each activity. The intent of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control (OBN) is to permit the registrant to keep one set of records which are adapted by the registrant to account for controlled dangerous substances used in any activity. Also, the Director does not wish to require separate stocks of the same substance to be purchased and stored for separate activities. Otherwise, there is no advantage gained by permitting several activities under one registration. Thus, when a researcher manufactures a controlled dangerous substance, he/she must keep a record of the quantity manufactured; when he/she distributes a quantity of the item, he/she must use and keep invoices or order forms as required by Title 21 Code of Federal Regulations, to document the transfer. When substances are used in chemical analysis, he/she need not keep a record of this because such record would not be required of him/her under a registration to do chemical analysis. All of these records may be maintained in one consolidated record system. Similarly, the researcher may store all of his/her controlled dangerous substances in one place and every two (2) years take inventory of all items on hand, regardless of whether the substances were manufactured by him/her, purchased domestically by him/her, or whether the substances will be administered to subjects, distributed to other researchers, or destroyed during chemical analysis. This may be accomplished by keeping a log for administering similar to that kept for dispensing.
(b) A registered individual practitioner is required to keep readily-retrievable records with respect to all controlled dangerous substances listed in Schedules II through V which he/she prescribes, administers, or dispenses in the lawful course of his/her professional practice. Practitioners shall keep a suitable book, file, or record in which information pertaining to controlled dangerous substances dispensed by the practitioner shall be preserved for a period of at least two (2) years and be available to designated law enforcement officers for their inspection and copying. These records will be maintained separate and apart from all other records.
(c) A registered individual practitioner is required to maintain patient records for any individual receiving controlled dangerous substances whether by prescribing, administering, or dispensing. Such record will contain as a minimum the patient's full legal name, date of birth, residence address, last physician seen and when, chief complaint, and notations of date, amount, and type of controlled dangerous substance for each occasion the patient receives a controlled dangerous substance, and diagnostic and medical procedure reports.

Such records should contain additional identifying information when possible, including, but not limited to, social security number or driver's license number, telephone number, next-of-kin, and general physical description of the patient. This includes authorization of refills and the number of refills authorized on the original prescription.

(d) A registered person using any controlled dangerous substance in preclinical research or in teaching at a registered establishment which maintains records with respect to such substances is not required to keep records, unless so ordered by the Director for cause, if he/she notifies the OBN of the name, address, and registration number of the establishment maintaining such records.

(e) Schedule I medical marijuana registrants shall be required to maintain readily-retrievable, on-site, inventory tracking, records, and reports in the format set forth by the OMMA.

475:25-1-5. General requirements for inventories

(a) Each inventory shall contain a complete accurate record of all controlled dangerous substances on hand on the date the inventory is taken. Controlled dangerous substances shall be deemed to be "on hand" if they are in the possession of or under the control of the registrant, including substances returned by a customer, substances ordered by a customer but not yet invoiced, substances stored in a warehouse on behalf of the registrant, and substances in the possession of employees of the registrant and intended for distribution as complimentary samples.

(b) A separate inventory shall be made by a registrant for each registered location. In the event controlled dangerous substances in the possession or under the control of the registrant are at a location for which he/she is not registered, the substances shall be included in the inventory of the registered location to which they are subject to control or to which the person possessing the substance is responsible. Each inventory for a registered location shall be kept at the registered location.

(c) A separate inventory shall be made by a registrant for each independent activity for which he/she is registered.

(d) A registrant may take an inventory on a date that is within four (4) days of this biennial inventory date pursuant to 475:25-1-7 if he/she notifies in advance the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control of the date on which he/she will take the inventory. A registrant may take an inventory either as of the opening of business or as of the close of business on the inventory date. The registrant shall indicate on the inventory records whether the inventory is taken as of the opening or as of the close of business and the date the inventory is taken. The inventory shall be signed by the person taking said inventory.

(e) An inventory must be maintained in a written, typewritten or printed form. An inventory taken by use of an oral recording device must be promptly transcribed.

(f) Schedule I medical marijuana registrants shall take an inventory and maintain the inventory pursuant to the format set forth by the OMMA.

475:25-1-9. Inventories of manufacturers

Except for Schedule I medical marijuana registrants, inventories of manufacturers of controlled dangerous substances shall conform to Title 21 Code of Federal Regulations, §1304.11. Schedule I medical marijuana registrants required to register pursuant to Title 63 Okla.St.Ann §2-302 shall report in the format set forth by the OMMA.

475:25-1-10. Inventories of distributors

Except for Schedule I medical marijuana registrants, each person registered or otherwise authorized to distribute controlled dangerous substances shall include in his/her inventory the same information required of a manufacturer pursuant to Title 21 Code of Federal Regulations, §1304.11. Schedule I medical marijuana registrants required to register pursuant to Title 63 Okla.St.Ann §2-302 shall report in the format set forth by the OMMA.

475:25-1-20. Reports for manufacturers and distributors

(a) Except Schedule I medical marijuana registrants, manufacturers required to register pursuant to Title 63 Okla.St.Ann §2-302 shall provide the following data on every sale of any controlled dangerous substance in Schedules I, II, III, IV, and V.

(1) The manufacturer's or distributor's name, address, phone number, DEA registration number and controlled dangerous substance registration number issued by the Bureau;

(2) The name, address and DEA registration number of the entity to whom the controlled dangerous substance was sold;

(3) The date of the sale of the controlled dangerous substance

(4) The name and National Drug Code of the controlled dangerous substance sold; and

(5) The number of containers and the strength and quantity of controlled dangerous substances in each container sold.

(b) Except for Schedule I medical marijuana registrants, distributors required to register pursuant to Title 63 Okla.St.Ann §2-302 shall provide the following data on every sale of any controlled dangerous substance in Schedules I, II, III, IV, and V.

(1) The manufacturer's or distributor's name, address, phone number, DEA registration number and controlled dangerous substance registration number issued by the Bureau;

(2) The name, address and DEA registration number of the entity to whom the controlled dangerous substance was sold;

(3) The date of the sale of the controlled dangerous substance

(4) The name and National Drug Code of the controlled dangerous substance sold; and

(5) The number of containers and the strength and quantity of controlled dangerous substances in each container sold.

(c) Schedule I medical marijuana registrants required to register pursuant to Title 63 Okla.St.Ann §2-302 shall report in the format set forth ~~in OAC310:681-5-6~~by the OMMA or as required by the Director.

(d) Registrants shall maintain at the registered location a readily-retrievable, on-site, employment record for all employees or agents, or contract(s) with identifying information of each independent contractor or subcontractor, of the registrant that have access to controlled dangerous substances which include, at a minimum, the name, date of birth, address, phone number, hire date, and title/duties.

[OAR Docket #23-725; filed 8-14-23]

TITLE 475. OKLAHOMA STATE BUREAU OF NARCOTICS AND DANGEROUS DRUGS CONTROL
CHAPTER 30. LABELING REQUIREMENTS

[OAR Docket #23-726]

RULEMAKING ACTION:
EMERGENCY adoption
RULES:
475:30-1-4. Manner of issuance of prescriptions [AMENDED]
AUTHORITY:
The Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control; 63 O.S. §§ 2-301, 2-309H
ADOPTION:
July 17, 2023
EFFECTIVE:
Immediately upon Governor's approval
APPROVED BY GOVERNOR:
August 10, 2023
EXPIRATION:
Effective through September 14, 2024, unless superseded by another rule or disapproved by the Legislature
SUPERSEDED EMERGENCY ACTIONS:
n/a
INCORPORATIONS BY REFERENCE:
n/a
FINDING OF EMERGENCY:
We have received several questions from practitioners about how to issue prescriptions if they are under the OBN and DEA registration of the hospital. The current rules were amended so practitioners could issue prescriptions properly and patients could continue to receive their medications.
GIST/ANALYSIS:
The amendments clarify how practitioners exempted from registration are required to issue prescriptions.
CONTACT PERSON:
Jessica McGuire, Manager of Professional Regulation Services, OBNDD, 419 NE 38th Terrace, Oklahoma City, OK, 73105, (405) 521-2885, jmcguire@obn.ok.gov

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):

475:30-1-4. Manner of issuance of prescriptions

(a) The practitioner shall sign a prescription in the same manner he/she would sign a check or legal document and shall also type, stamp, or print the practitioner's name on the face of each prescription. Where an oral order is not permitted or an electronic prescription is not utilized, prescriptions shall be written with ink. All written prescriptions shall be manually signed by the practitioner. The prescriptions may be prepared by an agent for the signature of a practitioner, but the prescribing practitioner is responsible in the event the prescription does not conform in all essential respects to the Uniform Controlled Dangerous Substances Act and this Chapter.

(b) A ~~resident or staff practitioner, an intern of a teaching hospital, or a limited institutional practitioner of a federal, state, or local government hospital or institution,~~practitioner exempted from registration or registered in fee-exempt status with the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control (OBN), shall include on all prescriptions issued by him/her the hospital or institutional Federal Drug Enforcement Administration (DEA) registration number with the special internal code number assigned by the hospital or other institution; or include on all prescriptions he/she issues his/her personal DEA registration number. Such prescriptions issued by interns of a teaching hospital, if for outpatients, must be countersigned by a practitioner licensed by the practitioner's appropriate State of Oklahoma licensing board.

(c) A practitioner must state on a prescription for any controlled dangerous substance the name, address, and DEA registration number of the practitioner; the date of delivery of the prescription; the name, dosage, and strength per dosage unit of the controlled dangerous substance; the name and address of the patient, or if it is a veterinary prescription, the species of the animal and the name and address of the owner; the directions for use and any cautionary statements required; and if allowable, the number of times to be refilled.

(1) The face of a prescription must not be materially altered; if an error is made in filling out the prescription, a new prescription must be issued by the prescribing practitioner.

(A) A pharmacist may add to the prescription the patient's address or age, the prescribing practitioner's DEA registration number, or the generic drug name if used.

(B) After confirming with the prescribing practitioner, the pharmacist may add information indicating the strength, whether tablet or capsule form, and whether it is compounded if such additions would not materially alter the prescription.

(C) If omitted, the directions (Sig) or the quantity, may be added by the pharmacist after confirming with the prescribing practitioner.

(D) Documentation of contacting the prescribing practitioner will be noted on the back of the prescription regarding (B) and (C) above.

(2) A prescription for a controlled dangerous substance in Schedule II becomes invalid thirty (30) days after the earliest date on which a pharmacy may fill the prescription, with day one (1) of the thirty (30) day period being

the first day after the earliest date on which a pharmacy may fill the prescription. After issuing an initial prescription pursuant to Section 2-309I of Title 63, an individual practitioner may issue one (1) subsequent prescription for an immediate-release opioid drug in Schedule II in a quantity not to exceed seven (7) days if:

(A) The subsequent prescription is due to a major surgical procedure and/or "confined to home" status as defined in 42 U.S.C. 1395n(a);

(B) The practitioner provides the subsequent prescription on the same day as the initial prescription;

(C) The practitioner provides written instruction on the subsequent prescription indicating the earliest date on which the prescription may be filled (i.e. "do not fill until" date); and,

(D) The subsequent prescription is dispensed no more than five (5) days after the "do not fill until" date indicated on the prescription.

(3) Each scheduled drug shall be written on a single prescription form, and no other prescriptions (controlled or non-controlled) shall be written on the same prescription form.

(d) Upon receiving an oral prescription, the pharmacist must reduce the oral prescription to the form specified in (c) of this Section, including the typewritten name of the prescribing practitioner. The pharmacist filling any prescription for any controlled dangerous substance must enter the date of filling and handwrite the initials of the pharmacist on the prescription. If the practitioner is not known to the pharmacist, he/she must make a reasonable effort to determine that the oral authorization came from a registered practitioner.

(e) Upon receiving an oral prescription, the pharmacist may use a computer printout label if the label meets all requirements for a prescription as set out by the Uniform Controlled Dangerous Substances Act and this Chapter. On computer labeling for oral prescriptions, it is not necessary that the DEA registration number be on the label used as an oral prescription, but it must be recorded on the document prepared by the pharmacist.

(f) Written prescriptions may be transmitted by a practitioner to a dispensing pharmacy by facsimile. In such cases, the prescribing practitioner shall print "FAXED" on the face of the prescription, and the facsimile received must be on non-fading standard paper. Thermographic paper is not acceptable for any prescriptions for drugs in any Schedule.

(1) For drugs in Schedules III, IV, and V, a facsimile of a written, signed prescription transmitted directly by the prescribing practitioner to the pharmacy can serve as an original prescription.

(2) For drugs in Schedule II, the original written prescription must still be presented and verified against the facsimile at the time the substance is actually dispensed and the original document must be properly annotated and retained for filing subject to the exceptions listed in (3) below.

(3) Exception to (2): A facsimile copy of a prescription for a Schedule II drug when sent by facsimile by the prescribing practitioner:

(A) To a Home Infusion Pharmacy.

(B) When the prescription is for a patient in a Long Term Care Facility (LTCF).

(C) When the prescription is for a patient in a Hospice program certified by Medicare under Title XVIII or licensed by the state.

(D) If the facsimile is sent from a LTCF or hospice instead of the prescribing practitioner's office, the original must be presented at the time any controlled dangerous substance is dispensed.

(g) The pharmacist still bears the responsibility for ensuring that prescriptions for controlled dangerous substances have been issued for a legitimate medical purpose by an individual practitioner acting in the usual course of his/her professional practice. This responsibility applies equally to an order transmitted by facsimile. Measures to be considered in authenticating prescriptions sent by facsimile equipment would include maintenance of a practitioner's facsimile number reference file, verification of the telephone number of the originating facsimile equipment, and/or telephone verification with the practitioner's office that the prescription was both written by the practitioner and transmitted by the practitioner or the practitioner's agent.

(h) Electronic prescriptions are permitted as provided by 21 CFR §§ 1311 et. seq.

[OAR Docket #23-726; filed 8-14-23]

TITLE 475. OKLAHOMA STATE BUREAU OF NARCOTICS AND DANGEROUS DRUGS CONTROL
CHAPTER 35. TRANSFER AND DISPOSAL OF CONTROLLED DANGEROUS DRUGS

[OAR Docket #23-727]

RULEMAKING ACTION:
EMERGENCY adoption
RULES:
475:35-1-3. Distribution upon discontinuance or transfer of business [AMENDED]
AUTHORITY:
The Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control; 63 O.S. §§ 2-301, 2-309H
ADOPTION:
July 17, 2023
EFFECTIVE:
Immediately upon Governor's approval
APPROVED BY GOVERNOR:
August 10, 2023
EXPIRATION:
Effective through September 14, 2024, unless superseded by another rule or disapproved by the Legislature
SUPERSEDED EMERGENCY ACTIONS:
n/a
INCORPORATIONS BY REFERENCE:
n/a
FINDING OF EMERGENCY:
The Oklahoma Medical Marijuana Authority made changes to its administrative codes, and this updates those references. There has also been a lot of confusion about what happens to controlled substances when someone discontinues business. We have seen medical marijuana left at a location after the business was closed and we have seen people transfer the marijuana to unregistered individuals. This is not authorized and opens the door to diversion.

GIST/ANALYSIS:
The emergency rule amendment provides further clarity as to how transfers of controlled substances can occur.
CONTACT PERSON:
Jessica McGuire, Manager of Professional Regulation Services, OBNDD, 419 NE 38th Terrace, Oklahoma City, OK, 73105, (405) 521-2885, jmcguire@obn.ok.gov

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):

475:35-1-3. Distribution upon discontinuance or transfer of business

(a) Any registrant desiring to discontinue business activities altogether or with respect to controlled dangerous substances (without transferring such business activities to another person) shall ~~return for cancellation of his/her Certificate of Registration~~notify the OBN. Any controlled dangerous substances in his/her possession shall be disposed of in accordance with Title 21 Code of Federal Regulations, part 1317. Schedule I medical marijuana shall be disposed pursuant to standards set forth in 63 Okla.St.Ann. §429.

(b) Any registrant desiring to discontinue business activities altogether or with respect to controlled dangerous substances (by transferring such business activities to another person) shall submit ~~in person or by registered or certified mail, return receipt requested,~~ to the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control (OBN) at least fourteen (14) days in advance of the date of the proposed transfer (unless the Director waives this time limitation in individual instances), the following information:

(1) The name, address, registration number, and authorized business activity of the registrant discontinuing the business (registrant-transferor).

(2) The name, address, registration number, and authorized business activity of the person acquiring the business (registrant-transferee).

(3) Whether the business activities will be continued at the location registered by the person discontinuing the business or moved to another location (if the latter, the address of the new location should be listed).

(4) Whether the registrant-transferor has a quota to manufacture or procure any controlled dangerous substance listed in Schedule I or II (if so, the basic class or classes of the substance should be indicated).

(5) The date on which the transfer of controlled dangerous substances will occur.

(c) Unless the registrant-transferor is informed by the OBN, before the date on which the transfer was stated to occur, that the transfer may not occur, the registrant-transferor may distribute (without being registered to distribute) controlled dangerous substances in his/her possession to the registrant-transferee in accordance with the following:

(1) On the date of transfer of the controlled dangerous substances, a complete inventory of all controlled dangerous substances being transferred shall be taken in accordance with 475:25-1-5 through 475:25-1-12, and OMMA rules where applicable. This inventory shall serve as the final inventory of the registrant-transferor and the initial inventory of the registrant-transferee, and a copy of the inventory shall be included in the records of each person. It shall be necessary to file a copy of the inventory with the OBN unless waived by the Director. Except for Schedule I medical marijuana, transfers of any substances listed in Schedule I or II require the use of order forms in accordance with Title 21 Code of Federal Regulations, § 1305.

(2) On the date of transfer of the controlled dangerous substances, all records required to be kept by the registrant-transferor with reference to the controlled dangerous substances being transferred, pursuant to this Chapter and Title 21 Code of Federal Regulations, § 1304, or ~~OAC 310:681-5-6~~OMMA rules where applicable, shall be transferred to the registrant-transferee. Responsibility for the accuracy of records prior to the date of transfer remains with the transferor, but responsibility for custody and maintenance shall be upon the transferee.

(d) OBN registrations are non-transferable and cannot be purchased, sold, or otherwise given to or utilized by any other person. The transferee must have a unique, active OBN registration prior to the transfer occurring. The transferor cannot transfer the OBN registration with the controlled dangerous substances and cannot transfer controlled dangerous substances to anyone lacking an active OBN registration. Change of name or ownership require a new OBN registration for all businesses. For any proposed transfer of controlled dangerous substances, the registrant-transferor shall remain in full control of all controlled dangerous substances unless and until the registrant-transferee's new OBN registration is approved and activated; after which, the registrant-transferor's OBN registration shall be inactivated.

[OAR Docket #23-727; filed 8-14-23]

TITLE 475. OKLAHOMA STATE BUREAU OF NARCOTICS AND DANGEROUS DRUGS CONTROL
CHAPTER 40. ENFORCEMENT AND ADMINISTRATIVE INSPECTIONS

[OAR Docket #23-728]

RULEMAKING ACTION:
EMERGENCY adoption
RULES:
475:40-1-2. Authority to make inspections [AMENDED]
AUTHORITY:
The Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control; 63 O.S. §§ 2-301, 2-309H
ADOPTION:
July 26, 2023
EFFECTIVE:
Immediately upon Governor's approval
APPROVED BY GOVERNOR:
August 10, 2023

EXPIRATION:
Effective through September 14, 2024, unless superseded by another rule or disapproved by the Legislature
SUPERSEDED EMERGENCY ACTIONS:
n/a
INCORPORATIONS BY REFERENCE:
n/a
FINDING OF EMERGENCY:
The Oklahoma Medical Marijuana Authority made changes to its administrative codes, and this updates those references.
GIST/ANALYSIS:
The emergency rule amendment updates the administrative reference for medical marijuana registrants due to the Oklahoma Medical Marijuana Authority changing its administrative code title. It also provides further clarity on what additional documents can be inspected.
CONTACT PERSON:
Jessica McGuire, Manager of Professional Regulation Services, OBNDD, 419 NE 38th Terrace, Oklahoma City, OK, 73105, (405) 521-2885, jmcguire@obn.ok.gov

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):

475:40-1-2. Authority to make inspections

Administrative inspections of OBN registrants shall include, but not be limited to, the following:

(1) Inspecting, copying, and verifying the correctness of records, reports, or other documents required to be kept or made, including, but not limited to, inventory, patient records, and other records required to be kept pursuant to the Uniform Controlled Dangerous Substances Act, this Title, the Code of Federal Regulations governing controlled dangerous substances, or ~~OAC 310:681 5-6~~OMMA; order form records required to be kept pursuant to Title 63 Okl.St.Ann. § 2-308 and other applicable state statutes and rules; prescriptions and distribution records required to be kept pursuant to Title 63 Okl.St.Ann. § 2-307 and other applicable state statutes and rules; shipping records identifying the name of each carrier used; and the date and quantity of each storage.

(2) Inspecting within reasonable limits and in a reasonable manner all pertinent equipment, finished and unfinished controlled dangerous substances, and other substances or materials, containers, and labeling found at the controlled premises relating to the Uniform Controlled Dangerous Substances Act and this Title.

(3) Making a physical inventory of all controlled dangerous substances on hand at the premises.

(4) Collecting samples of controlled dangerous substances or precursors (in the event any samples are collected during an inspection, the peace officer or officer so authorized shall issue a receipt for such samples to the owner, operator or agent in charge of the premises).

(5) Inspecting within reasonable limits and in a reasonable manner records containing the contact information all employees, agents, contractors, or subcontractors to include the name, address, and phone number of each.

[OAR Docket #23-728; filed 8-14-23]

TITLE 475. OKLAHOMA STATE BUREAU OF NARCOTICS AND DANGEROUS DRUGS CONTROL
CHAPTER 45. OKLAHOMA CONTROL REPORTING REQUIREMENTS

[OAR Docket #23-729]

RULEMAKING ACTION:
EMERGENCY adoption
RULES:
475:45-1-6. Failure to report [AMENDED]
AUTHORITY:
The Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control; 63 O.S. §§ 2-301, 2-309H
ADOPTION:
July 17, 2023
EFFECTIVE:
Immediately upon Governor's approval
APPROVED BY GOVERNOR:
August 10, 2023
EXPIRATION:
Effective through September 14, 2024, unless superseded by another rule or disapproved by the Legislature
SUPERSEDED EMERGENCY ACTIONS:
n/a
INCORPORATIONS BY REFERENCE:
n/a
FINDING OF EMERGENCY:
The statute was changed and now conflict exists in administrative rules. It was found that emergency changes need to be adopted to eliminate the conflict quickly and reduce the amount of confusion that exists because of the conflict.
GIST/ANALYSIS:
The emergency rule amendment aligns rule with statute. It updates the administrative fine from $2,000 to $5,000 per violation as specified in statute.
CONTACT PERSON:
Jessica McGuire, Manager of Professional Regulation Services, OBNDD, 419 NE 38th Terrace, Oklahoma City, OK, 73105, (405) 521-2885, jmcguire@obn.ok.gov

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):

475:45-1-6. Failure to report

Failure to accurately report the required information, or correct inaccuracies within reported information, according to the rules set forth in this Chapter may result in administrative action against the registration of the pharmacy or dispensing practitioner, including, but not limited to, fines not to exceed ~~Two~~Five Thousand Dollars ~~($2000)~~($5000) per violation.

[OAR Docket #23-729; filed 8-14-23]