

Summary of Proposed Revisions to OAC 310:681 Medical Marijuana Control Program

Below is a summary of the proposed substantive revisions.

310:681-1-4. Definitions

- Defined terms “Acquire” and “Proper Identification” have been removed because these terms are not used in the text of the rules.
- Definition of “Applicant” is modified. The prior definition excluded an applicant for a patient license, which conflicted with the actual use of the term in some of the rules.
- “Dispensary Manager,” and the requirements for a licensed pharmacist, have been removed.
- Subsection (D) of “Disqualifying Criminal Conviction” has been modified so that it is not limited to “misdemeanors” and would include incarcerations occurring during the term of the license, if already granted, and not just at the time the application is made.
- “Licensee” has been modified to exclude inmates of “any local, county, state, or federal correctional facility or jail.” Prior definition just excluded inmates of the Department of Corrections.
- Definitions for public and private schools have been added. These definitions have been taken from Black’s Law Dictionary. When terms are not defined in statutes, their plain meaning applies.

310:681-1-5. Criminal History Screening (for commercial applicants only)

- Removes background checks for principal officers.
- Retains background checks for all individual applicants and all owners of an entity (excluding researchers).
- Adds background checks for research applicants and all principal investigators involved in the research project.
- Makes clear that commercial applicants are required under existing law to register with the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control (“OBNDD”).
- Makes clear that OBNDD fees are the responsibility of applicant.

310:681-1-9. Recommending physician registration

- Makes physician registration optional.
- Removes requirement that a registering physician disclose any disciplinary action but retains certification that physician is in good standing with his or her licensure board.
- Removes language requiring physician registration with OBNDD.

310:681-1-9.1. Recommending physician standards

- Requires a bona fide physician-patient relationship but no longer requires a physician to have ongoing responsibility for the care of the individual.
- Removes requirement for annual assessment of medical need for marijuana and related provisions. Statutory language grants 2-year license.

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- Requires a physician determination, rather than a screening, relating to risk of substance abuse.
- Requires that a physician ascertain whether a patient is pregnant or likely to become pregnant during term of license and, in such case, mandates discussion of adverse risks of marijuana use. Removes requirement for pregnancy test.

310:681-2-1. Application for patient license

- Requires a bona fide physician-patient relationship but no longer requires a physician to have ongoing responsibility for the care of the individual.

310:681-2-2. Application for patient license for persons under age eighteen (18)

- Requires two physician recommendations within thirty days of each other but removes requirement that physicians be pediatricians or pediatric subspecialists who state same medical diagnosis and do not work together.

310:681-2-3. Application for caregiver's license

- Clarifies that parents or legal guardians may only be caregivers when a minor is homebound.

310:681-2-5. Term and renewal of medical marijuana license

- Removes revocation based on physician withdrawal of recommendation.
- Adds requirement that patient and caregiver license holders must notify the Department of any changes in their contact information.

310:681-2-6. Information contained on patient and caregiver license

- Adds name of parent or legal guardian to minor patient license.

310:681-2-10. Grounds for sanctions

- Removes sanctions on a licensed patient or caregiver for failing to report knowledge of conduct violating the medical marijuana control program.
- Removes revocation of a license based on withdrawal of a physician recommendation.

310:681-2-11. Restrictions on smokable medical marijuana and medical marijuana products

- Removes subsections (c) and (d), which limit the forms of medical marijuana and prohibit the dispensing of marijuana in flower, dry leaf, or plant form.

310:681-3-1. License for transportation of medical marijuana

- Makes issuance of transportation license automatic upon approval of commercial license.
- Removes requirement that transportation licenses be issued in name of individual employees.

310:681-3-2. Requirements for transportation of marijuana

- Revised to reflect the changes to 310:681-3-1.

310:681-4-2. Standards

- Removes requirement that a licensed researcher would also need a grower's license in order to grow for research purposes.
- Revised to reflect the revisions to 310:681-1-5 (Criminal history screening).
- Removes provision that would allow the Department to assign or contract out the review of research applications.

310:681-4-3. Inventory tracking, records, reports, and audits (formerly "Inspections")

- Removes inspections by the Department prior to approval of research license applications.
- Requires research licensees to submit monthly consumption reports to the Department as set forth in SQ 788.
- Requires research licensees to maintain certain records and an inventory tracking system.
- Provides that the Department may conduct audits and inspect the books and records to ensure the accuracy of the monthly reports.

310:681-5-3. Applications

- No longer requires applicants to provide hours of operation. Submission of this information is optional.
- Requires contact and residence information from each owner, member, manager, and board member, rather than principal officer, per SQ 788.
- Requires commercial applicants to provide a certificate of good standing from the Oklahoma Secretary of State to prove they are registered to do business in Oklahoma as required in SQ 788.
- No longer requires commercial establishments to provide the following: a list of creditors; a list of persons with management authority; a surety bond; or designation of a successor-in-interest/designee.

310:681-5-4. Inspections

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- Removes inspections by the Department prior to approval of research license applications.
- Limits inspections to processors to determine compliance with food safety/preparation standards.

310:681-5-6. Inventory Tracking, records, reports, and audits

- Provides that the Department may conduct audits and inspect the books and records to ensure the accuracy of the monthly reports.
- Requires commercial licensees to provide the Department access to their books and records in a reasonable amount of time not to exceed 15 days.
- Provides that the Department will send commercial licensees written notice of violations of 63 O.S. § 420 et seq. or these rules.
- Requires the Department to disclose criminal activity discovered during an audit to law enforcement.

310:681-5-6.1. Penalties.

- Provides for revocation of a commercial license should the licensee wholly fail to submit a monthly report required under SQ 788.
- Adjusts the age restriction on employees from 21 to 18.
- No longer allows revocation of commercial license for the failure to post a surety bond or the sale of products above certain THC levels.

310:681-5-8. Composition of medical marijuana industry expert board/food safety standards board

- Clarifies the qualifications of the food safety standards board.
- Adds that the selection of qualified candidates is not limited to the specified organizations.
- Adds designee of any Oklahoma public health agency to the list of organizations.
- Changes the deadline for the promulgation of the food safety standards to August 27, 2018, as required by SQ 788.

310:681-5-12. Marijuana transaction limitations (formerly Marijuana servings and transaction limitations)

- Removes limitations on THC content.
- Adds 6 mature plants and 6 seedling plants to the approved transaction amount.

310:681-5-13. Loss and theft

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- Still requires that commercial licensees report loss, theft, or diversion of medical marijuana to the Department and law enforcement but no longer requires disclosure to the Board of Pharmacy.

310:681-5-14. Dispensing medical marijuana

- Removes all references to a dispensary manager.
- Places the responsibilities of the dispensary manager upon the dispensary as a whole.

310:681-5-16. Hours of Operation

- Limitations on hours of operation are removed entirely.

310:681-5-17. Entry to commercial establishments

- Clarifies that parents or legal guardians of minor patient license holders may enter dispensaries.

310:681-5-18. Prohibited acts

- Removes prohibition on dispensaries co-locating with other business entities or commercial establishments.
- Removes limitation that commercial establishments may only sell medical marijuana and medical marijuana products.
- Removes limitation on sale of items bearing a symbol of or referencing marijuana or medical marijuana products.

310:681-5-19. Surety Bond

- Removed entirely

310:681-6-2. Construction of premises

- Removes requirement that commercial establishments be enclosed and other additional requirements. Provides instead that the construction of commercial establishments must meet the standards of any applicable state and local electrical, fire, plumbing, waste, and building specification codes.

310:681-7-1. Labeling

- No longer requires labels to contain patient name, directions of use for patient, name of recommending physician, and initials of person dispensing the medical marijuana.

310:681-7-2. Prohibited products

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- Still prohibits commercial establishments from manufacturing or selling medical marijuana and medical marijuana products that are intentionally attractive to children or minors but revises the language of that prohibition.
- Allows licensed dispensaries to sell marijuana seedlings and mature plants.