

SUBCHAPTER 1. GENERAL PROVISIONS

310:681-1-1. Purpose

The purpose of this Chapter is to ensure the health and safety of all Oklahomans and provide reasonable and orderly regulation of medical marijuana as authorized by the lawful passage of State Question 788, codified as 63 O.S. § 420 et seq.; 63 O.S. § 427; the Oklahoma Medical Marijuana and Patient Protection Act, 63 O.S. § 427.1 et seq.; and the Oklahoma Medical Marijuana Waste Management Act, 63 O.S. § 427a et seq. This regulatory authority shall be known as the "Oklahoma Medical Marijuana Authority" ("OMMA") and shall be a division of the Oklahoma State Department of Health.

310:681-1-2. Regulatory program established

(a) A regulatory program is hereby established under the Oklahoma State Department of Health in the OMMA, and the initiation, administration, regulation, and enforcement of such program shall be the responsibility of the OMMA or its designee. (b) All license applications, inquiries, and other correspondence shall be directly electronically submitted to and received and processed by the Oklahoma State Department of Health by the OMMA division or its designee, except as is otherwise required by law or expressly permitted in writing by the Department.

(c) All applications and forms provided for under this Chapter are available on the Oklahoma State Department of Health's Oklahoma Medical Marijuana Authority website at <http://omma.ok.gov/>.

(d) The Oklahoma State Department of Health is located at 1000 N.E. 10 Street, Oklahoma City, Oklahoma, 73117.

310:681-1-3. Limitations of licenses

All medical marijuana licenses and rights granted under Oklahoma law and this Chapter shall only be valid in the State of Oklahoma, excluding any tribal trust or tribal restricted land or federal lands in the state.

310:681-1-4. Definitions

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

"Advertising" means the act of providing consideration for the publication, dissemination, solicitation, or circulation of visual, oral, or written communication to induce directly or indirectly any person to patronize a particular medical marijuana business or to purchase any particular medical marijuana or medical marijuana products. "Advertising" includes marketing but does not include packaging and labeling.

"Applicant" means the natural person or entity in whose name a license would be issued.

"Application status" means the status of a submitted application and includes the following:

(A) "Submitted" means the application has been submitted but a review is not yet complete;

(B) "Rejected" means the application has been reviewed but contains one or more errors requiring correction by the applicant at no additional fee before a final determination on the application can be made. "Rejected" does not mean the application is denied;

(C) "Approved" means the application has been approved and that a license will be issued and mailed to the applicant; and

(D) "Denied" means the applicant does not meet the qualifications under Oklahoma law and this Chapter for a license.

"Authority" or **"OMMA"** means the Oklahoma Medical Marijuana Authority, a division of the Oklahoma State Department of Health.

"Batch number" means a unique numeric or alphanumeric identifier assigned prior to any testing to allow for inventory tracking and traceability.

"Cannabinoid" means any of the chemical compounds that are active principles of marijuana.

"Caregiver" means a family member or assistant who regularly looks after a licensed patient whom a physician certifies is homebound or needs assistance.

"Child-resistant" means packaging that is:

(A) Designed or constructed to be significantly difficult for children under five (5) years of age to open and not difficult for normal adults to use properly as defined by 16 C.F.R. 1700.15 (1995) and 16 C.F.R. 1700.20 (1995);

(B) Opaque so that the outermost packaging does not allow the product to be seen without opening the packaging material; and

(C) Resealable to maintain its child-resistant effectiveness for multiple openings for any product intended for more than a single use or containing multiple servings.

"Clone" means a non-flowering plant cut from a mother plant that is capable of developing into a new plant and has shown no signs of flowering.

"Commercial establishment" ("**Establishment**"), "**Commercial licensee**", or "**Medical Marijuana Business**" means an individual or entity licensed by the Department as a medical marijuana dispensary, grower, processor, or transporter.

"Commercial license" or "**Business license**" means a license issued by the department to a medical marijuana dispensary, grower, processor, or transporter.

"Commissioner" means the Commissioner of Health of the Oklahoma State Department of Health.

"Complete(d) application" means a document prepared in accordance with Oklahoma law, these Rules, and the forms and instructions provided by the Department, including any supporting documentation required by the Department and the license fee.

"Department" means the Oklahoma State Department of Health or its agent or designee.

"Dispense" means the retail selling of medical marijuana or medical marijuana products that are packaged and labeled in accordance with the law to a licensed patient, the licensed patient's parent(s) or legal guardian(s) if licensed patient is a minor, or a licensed caregiver.

"Dispensary" or "**Commercial Dispensary**" means an individual or

entity that has been issued a medical marijuana commercial license by the Department, which allows the dispensary to purchase medical marijuana or medical marijuana products from a licensed processor, grower, or dispensary; to sell medical marijuana and medical marijuana products to a licensed patient, to the licensed patient's parent(s) or legal guardian(s) if licensed patient is an minor, and a licensed caregiver; and to sell, transfer, and transport or contract with a commercial transporter to transport medical marijuana or medical marijuana products to another licensed dispensary.

"Dispose" or **"Disposal"** means the final disposition of medical marijuana waste by either a process which renders the waste unusable through physical destruction or a recycling process

"Disqualifying criminal conviction" means:

(A) Any non-violent felony conviction within last two (2) years of submitting an application to the Department;

(B) Any violent felony conviction for an offense listed in 57 O.S. § 571(2) within last five (5) years of submitting an application to the Department; or

(C) Incarceration for any reason during submission of application to the Department.

"Entity" means an individual, sole proprietorship, a general partnership, a limited partnership, a limited liability company, a trust, an estate, an association, a corporation, or any other legal or commercial entity.

"Entrance to a private or public school" means an opening, such as a door, passage, or gate, that allows access to any public or private schools, including school buildings, facilities, or other indoor and outdoor properties utilized for classes or school activities.

"Flower" means the reproductive organs of the marijuana or cannabis plant referred to as the bud or parts of the plant that are harvested and used to consume in a variety of medical marijuana products.

"Flowering" means the reproductive state of the marijuana or cannabis plant in which there are physical signs of flower or budding out of the nodes of the stem.

"Food" has the same meaning as set forth in 63 O.S. § 1-1101 and the Oklahoma Administrative Code ("OAC") 310:257-1-3 ("'food' means (1) articles used for food or drink for man, (2) chewing gum, and (3) articles used for components of any such article") and set forth in OAC 310:260-1-6 ("'food' means any raw, cooked, or processed edible substance, ice, beverage or ingredient used or intended for use or for sale in whole or in part for human consumption").

"Grower" or **"Commercial grower"** means an individual or entity that has been issued a medical marijuana commercial license by the Department, which allows the grower to grow, harvest, dry, cure, package, sell, transfer, and transport or contract with a commercial transporter for the transport of medical marijuana in accordance with Oklahoma law and this Chapter to a dispensary, processor, grower or testing laboratory.

"Harvest Batch" means a specifically identified quantity of usable medical marijuana, no greater than ten (10) pounds, that is uniform in strain, cultivated utilizing the same cultivation

practices, harvested at the same time from the same location, and dried or cured under uniform conditions.

"Immature plant" means a nonflowering marijuana plant that has not demonstrated signs of flowering.

"Inventory tracking system" means a required tracking system that accounts for the entire life span of medical marijuana, from either the seed or immature plant stage until the medical marijuana or medical marijuana product is consumed, used, disposed of or otherwise destroyed.

"Information panel" has the same definition as set forth in 21 CFR § 101.2 and means "that part of the label immediately contiguous and to the right of the principal display panel as observed by an individual facing the principal display panel."

"Label" carries the same definition as set forth in 63 O.S. § 1-1101 and "means a display of written, printed, or graphic matter upon the immediate container of any article; and a requirement made by or under authority of this article that any word, statement, or other information appearing on the label shall not be considered to be complied with unless such word, statement, or other information also appears on the outside container or wrapper, if there be any, of the retail package of such article, or is easily legible through the outside container or wrapper."

"License" means a state issued license or other state issued documentation proving the holder of such license is a member of a state- regulated medical marijuana program.

"License number" means the unique multi-character identifier issued and printed upon each license.

"Licensee" means any natural born person or entity that holds a medical marijuana license provided for in this Chapter, excluding inmates of any local, county, state, or federal correctional facility or jail.

"Licensed Packager" means as used in 63 O.S. § 422A(C) a processor.

"Licensed Premises" means the premises specified in an application for a medical marijuana commercial establishment that is owned or in lawful possession of the licensee and within which the licensee is authorized to operate.

"Lot" means the food produced during a period of time indicated by a specific code.

"Marijuana" means the same as the term that is defined in 63 O.S. § 2-101.

"Mature plant" means harvestable female marijuana plant that is flowering.

"Medicaid" means the federal program that is also commonly known in Oklahoma as "SoonerCare."

"Medical marijuana" means marijuana that is grown, processed, dispensed, tested, possessed, or used for a medical purpose.

"Medical marijuana concentrate" ("Concentrate") means a substance obtained by separating cannabinoids from any part of the marijuana plant by physical or chemical means, so as to deliver a product with a cannabinoid concentration greater than the raw plant material from which it is derived. Categories of concentrate include water-based medical marijuana concentrate, food-based medical marijuana

concentrate, solvent-based concentrate, and heat- or pressure-based medical marijuana concentrate as those terms are defined in the Oklahoma Medical Marijuana and Patient Protection Act, 63 O.S. § 427.1 et seq.

"Medical marijuana product" means a product that contains cannabinoids that have been extracted from plant material or the resin therefrom by physical or chemical means and is intended for administration to a licensed patient, including but not limited to concentrates, oils, tinctures, edibles, pills, topical forms, gels, creams, and other derivative forms, except that this term does not include live plant forms.

"Medical marijuana waste" means unused, surplus, returned or out-of-date marijuana; recalled marijuana; unused marijuana; plant debris of the plant of the genus cannabis, including dead plants and all unused plant parts, except the term shall not include roots, stems, stalks and fan leaves.

"Minor" means any natural person younger than eighteen (18) years of age.

"Mother plant" means a marijuana plant that is grown or maintained for the purpose of generating clones, and that will not be used to produce plant material for sale to a processor or dispensary.

"Municipality" shall have the same definition as set forth in the Oklahoma Municipal Code, 11 O.S. § 1-102, and "means any incorporated city or town."

"Officer of a corporate entity" or **"Principal officer"** means an officer identified in the corporate bylaws, articles of organization or other organizational documents, or in a resolution of the governing body.

"Officer of a municipality" shall have the same definition as set forth in the Oklahoma Municipal Code, 11 O.S. § 1-102, and "means any person who is elected to an office in municipal government or is appointed to fill an unexpired term of an elected office, and the clerk and the treasurer whether elected or appointed."

"Oklahoma resident" or **"Resident"** means an individual who can provide proof of residency as required by OAC 310:681-1-6 (relating to proof of residency) or OAC 310:681-5-3.1 (relating to proof of residency for commercial licensees).

"Oklahoma uniform symbol" or **"Universal symbol"** means the image, established by the Department and made available to commercial licensees through the OMMA website, which indicates the package contains medical marijuana or medical marijuana products with THC and must be printed at least one-half inch in size by one-half inch in size in color.

"Out-of-state medical marijuana patient license" means an unexpired medical marijuana patient license issued by another U.S. state, which is the substantial equivalent of the Oklahoma medical marijuana patient license issued pursuant to OAC 310:681-2-1 and OAC 310:681-2-2.

"Owner" means, except where the context otherwise requires, a direct beneficial owner, including, but not limited to, all persons or entities as follows:

- (A) All shareholders owning an interest of a corporate entity and all officers of a corporate entity;

- (B) All partners of a general partnership;
- (C) All general partners and all limited partners that own an interest in a limited partnership;
- (D) All members that own an interest in a limited liability company;
- (E) All beneficiaries that hold a beneficial interest in a trust and all trustees of a trust;
- (F) All persons or entities that own interest in a joint venture;
- (G) All persons or entities that own an interest in an association;
- (H) The owners of any other type of legal entity; and
- (I) Any other person holding an interest or convertible note in any entity which owns, operates, or manages a licensed medical marijuana facility.

"Package" or **"Packaging"** means any container or wrapper that a commercial establishment may use for enclosing or containing medical marijuana or medical marijuana products, except that "package" or "packaging" shall not include any carry-out bag or other similar container.

"Patient" or **"Licensed patient"** means a person that has been properly issued a medical marijuana license pursuant to Oklahoma law and these Rules.

"Pesticide" means

- (A) any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest, or
- (B) any substance or mixture of substances intended for use as a plant regulator, defoliant or desiccant. "Pesticide" shall not include any article that is a "new animal drug" as designated by the United States Food and Drug Administration.

"Physician" or **"Oklahoma Physician"** means a doctor of medicine, a doctor of osteopathic medicine, or a doctor of podiatric medicine who holds a valid, unrestricted and existing license to practice in the State of Oklahoma.

"Plant material" means the leaves, stems, buds, and flowers of the marijuana plant, and does not include seedlings, seeds, clones, stalks, or roots of the plant or the weight of any non-marijuana ingredients combined with marijuana.

"Political subdivision" means any county or municipal governments.

"Preschool" means a public early childhood education program offered under 70 O.S. §§11-103.7 and 1-114 (B) or similar program offered by a private school whose primary purpose is to offer educational (or academic) instruction. Preschool does not include a homeschool, daycare, or child care facility licensed under the Oklahoma Child Care Facilities Licensing Act, 10 O.S. § 401 et seq.

"Principal display panel" has the same definition as set forth in 21 CFR § 101.1 and "means the part of a label that is most likely to be displayed, presented, shown, or examined under customary conditions of display for retail sale."

"Private school" means a preschool, elementary, middle, or high school maintained by private individuals, religious organizations, or corporations, funded, at least in part, by fees or tuition, and open only to pupils selected and admitted based on religious affiliations

or other particular qualifications. "Private school" shall not include a homeschool, daycare, or childcare facility licensed under the Oklahoma Child Care Facilities Licensing Act, 10 O.S. § 401 et seq.

"Process" means to distill, extract, manufacture, prepare, or otherwise produce a medical marijuana product.

"Processor" or Commercial Processor" means an individual or entity that has been issued a medical marijuana commercial license by the Department, which allows the processor to: purchase medical marijuana or medical marijuana products from a grower or processor; process, package, and sell, transfer, transport or contract with a commercial transporter to transport medical marijuana or medical marijuana products that they processed to a licensed dispensary, ~~or~~ processor, or testing laboratory in accordance with Oklahoma law and this Chapter; and process medical marijuana received from a licensed patient into a medical marijuana concentrate, for a fee.

"Production batch" means

(A) Any amount of medical marijuana concentrate, not to exceed ten (10) pounds, of the same category and produced using the same extraction methods, standard operating procedures, and an identical group of harvest batch of medical marijuana; and

(B) Any amount of finished medical marijuana product, not to exceed ten (10) pounds, of the same exact type, produced using the same ingredients, standard operating procedures, and same production batch of medical marijuana concentrate or same harvest batch of medical marijuana.

"Public school" means a preschool, elementary, middle, or high school established under state law, regulated by the local state authorities in the various political subdivisions, funded and maintained by public taxation, and open and free to all children of the particular district where the school is located.

"Registered to conduct business" means any individual or entity that is required under Oklahoma law to register with the Oklahoma Secretary of State and/or the Oklahoma Tax Commission and has provided sufficient proof to the Department of its good standing with such.

"Retailer" or "Retail marijuana establishment" as used in 63 O.S. § 420 et seq. means an entity licensed by the State Department of Health as a medical marijuana dispensary.

"Revocation" means the Department's final decision in accordance with the Oklahoma Administrative Procedures Act, 75 O.S. § 250 et seq., that any license issued by the Department pursuant to Oklahoma law and this Chapter is rescinded.

"Rules" means, unless otherwise indicated, the rules as adopted and set forth in OAC 310:681.

"Seedling" means a marijuana plant that has no flowers.

"Shipping container" means a hard-sided container with a lid or other enclosure that can be secured into place. A shipping container is used solely for the transport of medical marijuana, medical marijuana concentrate, or medical marijuana products between medical marijuana businesses, a medical marijuana research facility, or a medical marijuana education facility.

"Strain" means the classification of marijuana or cannabis plants in either pure sativa, indica, afghanica, ruderalis, or hybrid varieties.

"**State question**" means Oklahoma State Question No. 788 and Initiative Petition Number 412.

"**Terpenoids**" means isoprenes that are the aromatic compounds found in cannabis, including, but not limited to: limonene, myrcene, pinene, linalool, eucalyptol, Δ -terpinene, β -caryophyllene, caryophyllene oxide, nerolidol and phytol.

"**THC**" means tetrahydrocannabinol, which is the primary psychotropic cannabinoid formed by decarboxylation of naturally tetrahydrocannabinolic acid, which generally occurs by exposure to heat.

"**Transporter**" or "**Commercial Transporter**" means an individual or entity issued a medical marijuana commercial license by the Department, which allows the transporter to transport, store, and distribute medical marijuana and medical marijuana products to and from the licensed premises of commercial establishments and testing laboratories. As used in this Chapter, "Transporter" or "Commercial Transporter" does not mean licensed commercial growers, processors, and dispensaries who are automatic holders of transporter licenses.

"**Transporter Agent**" means an agent, employee, officer, or owner of commercial transporter, grower, processor, or dispensary who has been issued a transporter agent license by the Department to transport medical marijuana and medical marijuana products on behalf of the said commercial transporter, grower, processor, or dispensary.

"**Transporter license**" means a medical marijuana commercial license issued by the Department either (A) automatically to commercial growers, processors, and dispensaries upon approval of a commercial license, or (B) to commercial transporters solely for the transportation, storage, and distribution of medical marijuana and medical marijuana products.

"**Usable medical marijuana**" means the dried leaves, flowers, oils, vapors, waxes, and other portions of the marijuana plant and any mixture or preparation thereof, excluding seed, roots, stems, stalks, and fan leaves.

310:681-1-5. Criminal history screening

(a) **Parties subject to screening.** Prior to issuance of any dispensary, grower, processor, transporter, or transporter agent license, the following shall undergo an Oklahoma state criminal history background check within thirty (30) days prior to the application for the license:

- (1) Individual applicants applying on their own behalf;
- (2) Individuals applying on behalf of an entity;
- (3) All principal officers of an entity;
- (4) All owners of an entity; and
- (5) For corporations seeking a commercial license, all officers, directors, and stockholders.

(b) **Disqualifying Criminal Conviction.** Any commercial applicant with a disqualifying criminal conviction is not qualified to receive or renew a commercial license.

(c) **OBND Registration.** Any commercial licensee issued a license authorized by this Chapter, is required to obtain an Oklahoma State Bureau of Narcotics and Dangerous Drugs Control ("OBND") registration prior to possessing or handling any marijuana or marijuana product

pursuant to 63 O.S. §§ 2-302 & 2-303, 63 O.S. § 2-101, and OAC 475:10-1-10.

(d) **Fees.** All applicable fees, including those charged by the Oklahoma State Bureau of Investigation vendor or OBND, are the responsibility of the applicant.

310:681-1-6. Proof of residency

(a) Applicants shall establish their current Oklahoma residency through submission of an electronic copy or digital image in color of one of the following unexpired documents:

- (1) An Oklahoma issued driver's license;
- (2) An Oklahoma Identification Card;
- (3) An Oklahoma voter identification card;
- (4) A utility bill for the calendar month preceding the date of application, excluding cellular telephone, television, and internet bills;
- (5) A residential property deed to property in the State of Oklahoma;
- (6) A current rental agreement for residential property located in the State of Oklahoma; or
- (7) Other documentation that the Department deems sufficient to establish residency.

(b) Documents submitted should provide a valid residential address. Documents listing addresses of P.O. Boxes are not sufficient proof of residency and will be rejected.

310:681-1-7. Proof of identity

(a) All Applicants for non-commercial licenses shall establish their identity through submission of an electronic copy or digital image in color of one of the following unexpired documents:

- (1) An Oklahoma issued driver's license;
- (2) An Oklahoma Identification Card;
- (3) A United States Passport or other photo identification issued by the United States government;
- (4) A tribal identification card approved for identification purposes by the Oklahoma Department of Public Safety; or
- (5) Other documentation that the Department deems sufficient to establish identity.

(b) All commercial license applicants shall establish their identity through submission of an electronic copy or digital image in color of one of the following unexpired documents:

- (1) Front and back of an Oklahoma issued driver's license;
- (2) Front and back of an Oklahoma Identification Card;
- (3) A United States Passport or other photo identification issued by the United States government;
- (4) A tribal identification card approved for identification purposes by the Oklahoma Department of Public Safety; or
- (5) Other documentation that the Department deems sufficient to establish identity.

310:681-1-8. Applicant photograph

(a) The digital photograph to be submitted with an application shall:

- (1) Be a clear, color photograph of the head and top of the

shoulders;

(2) Be an image file in a .jpg, png or .gif digital image format no larger than 3 MB in size;

(3) Be in one of the following approved formats:

(A) A scanned photograph shall be scanned at a resolution of 300 pixels per inch from a 2 x 2 inch image with dimensions in a square aspect ratio (the height must be equal to the width).

(B) A captured image must have minimum acceptable pixel dimensions of 600 x 600 pixels and maximum acceptable pixel dimensions of 1200 x 1200 pixels.

(4) Be taken within the last six (6) months to reflect the applicant's appearance;

(5) Be taken in front of a plain white or off-white background;

(6) Be taken in full-face view directly facing the camera at eye level with nothing obscuring the face, such as a hat or eyewear:

(A) If a hat or head covering is worn for religious purposes, submit a signed statement that verifies the hat or head covering in the photo is part of recognized, traditional religious attire that is customarily or required to be worn continuously in public.

(B) If a hat or head covering is worn for medical purposes, submit a signed doctor's statement verifying the hat or head covering in the photo is used daily for medical purposes.

(C) Applicant's full face must be visible and your hat or head covering cannot obscure your hairline or cast shadows on your face.

(7) Be taken with a neutral facial expression (preferred) or a natural smile with the mouth closed, and with both eyes open;

(8) Not be digitally enhanced or altered to change the appearance in any way; and

(9) Sufficiently resemble the photograph included in any identification provided for proof of identity or residence.

310:681-1-9. Recommending physician registration

(a) A physician may file a registration with the Department as a recommending physician on a form prescribed by the Department if the physician holds a valid, unrestricted and existing license to practice in the State of Oklahoma

(b) If a physician chooses to register with the Department, a registration must include, at a minimum, all of the following:

(1) The physician's full name, business address, professional email address, telephone numbers and, if the physician owns or is affiliated with a medical practice, the name of the medical practice;

(2) The physician's medical license number; and

(3) A certification by the physician that states that the physician's Oklahoma license to practice medicine is active and in good standing.

310:681-1-9.1. Recommending physician standards

(a) Any Physician, before making a recommendation for medical

marijuana under these provisions, shall be in "good standing" with their licensure board. Physicians in residency or other graduate medical training do not meet the definition of Physician under this Subchapter and any recommendation for a patient medical marijuana license will be rejected by the Department.

(b) When recommending a medical marijuana license, a physician shall use the accepted standards a reasonable and prudent physician would follow when recommending any medication to a patient.

(c) A physician shall not be located at the same physical address of a dispensary.

SUBCHAPTER 2. MEDICAL MARIJUANA LICENSES

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

(a) The application for a patient license shall be on the Department issued form and shall include at a minimum:

- (1) The applicant's first name, middle name, last name and suffix, if applicable;
- (2) The applicant's valid mailing address;
- (3) The applicant's date of birth;
- (4) The applicant's telephone number and email address;
- (5) The signature of the applicant attesting the information provided by the applicant is true and correct; and
- (6) The date the application was signed.

(b) An application must be submitted within thirty (30) days of signature or it will be rejected by the Department.

(c) A complete application shall include the following documentation or the application will be rejected:

- (1) Documents establishing the applicant is an Oklahoma resident as established in OAC 310:681-1-6 (relating to proof of residency).
- (2) Documents establishing proof of identity as established in OAC 310:681-1-7 (relating to proof of identity).
- (3) A digital photograph as established in OAC 310:681-1-8 (relating to applicant photograph).
- (4) A certification and recommendation from an Oklahoma Physician dated within thirty (30) days of the date of submission of the application to the Department, on the form provided by the Department, which includes the following:
 - (A) The physician's name and medical license number including an identification of the physician's license type;
 - (B) Office address on file with the physician's licensing board;
 - (C) Telephone number on file with the physician's licensing board;
 - (D) The patient/applicant's date of birth;
 - (E) The physician's signed and dated attestation of the following:
 - (i) The physician has established a medical record and has a bona fide physician-patient relationship;
 - (ii) The physician has determined the presence of a medical condition(s) for which the patient/applicant is likely to receive therapeutic or palliative benefit

from use of medical marijuana;

(iii) The patient/applicant is recommended a medical marijuana license according to the accepted standards a reasonable and prudent physician would follow for recommending or approving any medication as described at OAC 310:681-1-9.1 (relating to recommending physician standards);

(iv) If applicable, the patient/applicant is homebound and unable to ambulate sufficiently to allow them to regularly leave their residence; and the physician believes the patient/applicant would benefit from having a caregiver with a caregiver's license designated to manage the patient's medical marijuana on the patient's behalf;

(v) The information provided by the physician in the certification is true and correct; and

(vi) Stating the method by which the physician verified the patient's identity as provided in OAC 310:681-1-7 (relating to proof of identity).

(d) Payment of the application fee as established in 63 O.S. § 420 et seq. is required unless the applicant is insured by Medicaid or Medicare.

(1) If the applicant is insured by Medicaid or Medicare, the applicant must provide a copy of their insurance card or other acceptable verification.

(2) Upon receipt of this verification the Department may attempt to verify the applicant is currently insured by the insuring agency.

(3) If the Department is unable to verify the insurance, the application shall be rejected until verification is obtained.

(4) All applicants who are verified as being insured by Medicaid or Medicare shall pay a reduced application fee as established in 63 O.S. § 420 et seq.

(5) Application fees are nonrefundable.

(e) An applicant who can demonstrate his or her status as a one-hundred-percent-disabled veteran shall pay a reduced application fee of \$20.00 and shall have the opportunity to submit the license application and payment by means other than solely online and in a manner approved by the Department.

(1) In order to qualify, an applicant must submit with his or her application a letter or other official documentation from the U.S. Department of Veteran Affairs or an agency of the U.S. Department of Defense, signed within six (6) months of submission of the application, establishing that the applicant is a veteran with a service disability and stating the percent of the disability is one-hundred percent.

(f) An applicant who can meet the requirements for a patient license established in OAC 310:681-2-1 but whose physician recommendation for medical marijuana is only valid for sixty (60) days shall be issued a short-term medical marijuana license.

(1) A short-term medical marijuana license shall be valid for sixty (60) days. The initial license and renewal fee shall be \$100.00, unless the applicant can prove he or she is insured by

Medicaid or Medicare in accordance with OAC 310:681-2-1(d) or is a one-hundred-percent-disabled veteran in accordance with OAC 310:681-2-1(e), in which case applicant shall pay a reduced fee of \$20.00.

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

(a) The application for a patient license for persons under the age of eighteen (18) shall be on the Department issued form and shall include at a minimum:

- (1) The first name, middle name, last name and suffix, if applicable, of the applicant and of the applicant's parent(s) or legal guardian(s);
- (2) The mailing address of the applicant and of the applicant's parent(s) or legal guardian(s);
- (3) The date of birth of the applicant and of the applicant's parent(s) or legal guardian(s);
- (4) The telephone number and email address of the applicant and/or the applicant's parent(s) or legal guardian(s);
- (5) If the person submitting the application on behalf of a minor is the minor's legal guardian, a copy of documentation establishing the individual as the minor's legal guardian;
- (6) The signature and attestation by the parent(s) or legal guardian(s) that the information provided in the application is true and correct; and
- (7) The date the application was signed.

(b) An application must be submitted within thirty (30) days of signature or it will be rejected by the Department.

(c) A complete application shall include the following documentation or the application will be rejected:

- (1) Documents establishing the applicant's parent(s) or legal guardian(s) is an Oklahoma resident as established in OAC 310:681-1-6 (relating to proof of residency).
- (2) Documents establishing proof of identity as set forth in OAC 310:681-1-7 (relating to proof of identity) for the applicant and the applicant's parent(s) or legal guardian(s).
- (3) A digital photograph, as established in OAC 310:681-1-8 (relating to applicant photograph), of the applicant and the applicant's parent(s) or legal guardian(s).
- (4) Certifications and recommendations from two Oklahoma physicians dated within thirty (30) days of the date of submission of the application to the Department, on the forms provided by the Department, and including the information required under OAC 310:681-2-1(c) (4).

(d) Minor Patient Licenses are valid for a term of two (2) years, or until the minor turns age eighteen (18), whichever occurs first.

(e) Under no circumstances shall a minor patient license holder be authorized to smoke or vaporize any medical marijuana or medical marijuana products, unless both recommending physicians agree it is medically necessary. This Subsection does not prohibit minors from using nebulizers or other aerosolized medical devices.

(f) Payment of the application fee as established in 63 O.S. § 420 et seq. is required unless the applicant is insured by Medicaid or

Medicare.

(1) If the applicant is insured by Medicaid or Medicare, the applicant must provide a copy of their insurance card or other acceptable verification.

(2) Upon receipt of this verification the Department may attempt to verify the applicant is currently insured by the insuring agency.

(3) If the Department is unable to verify the insurance, the application shall be rejected until verification is obtained.

(4) All applicants who are verified as being insured by Medicaid or Medicare shall pay a reduced application fee as established in 63 O.S. § 420 et seq.

(5) Application fees are nonrefundable.

(g) An applicant who can meet the requirements for a minor patient license as established in OAC 310:681-2-2 but whose physician recommendations for medical marijuana are only valid for sixty (60) days shall be issued a short-term medical marijuana license.

(1) A short-term medical marijuana license shall be valid for sixty (60) days. The initial license and renewal fee shall be \$100.00, unless the applicant can prove he or she is insured by Medicaid or Medicare in accordance with OAC 310:681-2-2(f), in which case applicant shall pay a reduced fee of \$20.00.

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

(a) Applications for a caregiver's license for caregivers of a licensed patient may be made at any time during the term of the patient license.

(b) Only one caregiver's license shall be issued for each patient license, except in the case of a licensed patient under the age of eighteen (18) whereby two (2) parents and/or legal guardians may be recognized as the minor's caregivers, if such minor is homebound.

(c) A caregiver's application will be accepted for a patient who has a physician's attestation that the patient is homebound or does not have the capability to self-administer or purchase medical marijuana due to developmental disability or physical or cognitive impairment and would benefit by having a designated caregiver to manage medical marijuana on the behalf of the patient as provided in OAC 310:681-2-1(c) (4) (E) (iv).

(d) The caregiver's application shall be made on a form provided by the Department and shall include the following:

(1) All information and documentation for the caregiver provided for in OAC 310:681-2-1(a) and (c) except there shall be no medical certification from an Oklahoma Physician nor fee assessed for a caregiver's license;

(2) A signed and dated attestation from the patient license holder or patient applicant, or the patient's parent(s) or legal guardian(s) if patient is under eighteen (18) years of age, appointing the caregiver as their designee under this provision. If the patient license holder is incapacitated or subject to legal guardianship, a durable medical power of attorney or a court order for guardianship may be submitted and the person appointed to act under that document may execute the notarized statement; and

(3) The patient license number shall be included in the application.

(e) A caregiver issued and in possession of a valid, unexpired OMMA caregiver license may exercise the same rights as the medical marijuana patient license holder for whom he or she is designated caregiver, except that:

(1) A caregiver may not use medical marijuana or medical marijuana products; and

(2) A caregiver may only exercise cultivation rights on behalf of up to five (5) medical marijuana patient license holders.

(f) A caregiver shall immediately notify the Department in a manner prescribed by the Department if the marijuana patient license holder for whom he or she is designated caregiver is deceased.

310:681-2-3.1. Withdrawal of a caregiver's authorization

(a) A medical marijuana patient license holder may withdraw a caregiver's license at any time by providing written or electronic notification to the Department, on the Department provided form, and the Department shall immediately withdraw the license. This withdrawal shall not be subject to appeal.

(b) Upon notice from the Department that the caregiver's license has been withdrawn, the caregiver shall immediately return his or her license to the Department.

310:681-2-4. Application for temporary patient license

(a) Temporary patient license application shall be made on a form provided by the Department and shall include the following:

(1) All information provided for in OAC 310:681-2-1(a) (relating to patient license application);

(2) Electronic copy or digital image in color of applicant's unexpired out-of-state medical marijuana patient license;

(3) Electronic copy or digital image in color of one of the following unexpired documents:

(A) A valid state issued driver's license;

(B) A valid state issued Identification Card;

(C) A United States Passport or other photo identification issued by the United States government; or

(D) Other documentation that the Department deems sufficient to establish identity;

(4) A digital photograph as established in OAC 310:681-1-8 (relating to applicant photograph); and

(5) If a temporary patient applicant is under the age of eighteen (18), in addition to complying with paragraphs (1), (2), and (3) of this subsection, applicant shall also comply with OAC 310:681-2-2(a)(1)-(7).

(b) Digital images of the records required in this Section shall be of sufficient clarity that all text is legible. See the requirements specified in OAC 310:681-1-8 (relating to applicant photograph) for resolution guidance.

(c) The fee for a temporary patient license shall be the fee established in statute at 63 O.S. § 420 et seq.

(d) Application fees are nonrefundable.

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

(a) **Patient License Term.** Medical marijuana patient licenses issued under OAC 310:681-2-1 and OAC 310:681-2-2 shall be for a term of two (2) years from the date of issuance, unless the physician recommendation is terminated by the physician, the medical marijuana patient license holder is deceased, or the license is revoked by the Department or voluntarily surrendered by the patient.

(b) **Short-Term Patient License Term.** Short-term medical marijuana patient licenses issued under OAC 310:681-2-1(f) and OAC 310:681-2-2(g) shall be for a term of sixty (60) days from the date of issuance, unless the physician recommendation is terminated by the physician, the short-term patient license holder is deceased, or the license is revoked by the Department or voluntarily surrendered by the patient.

(c) **Caregiver License Term.** Caregiver's licenses may not extend beyond the expiration date of the underlying patient license regardless of the issue date.

(d) **Temporary Patient License Term.** Temporary patient licenses issued under OAC 310:681-2-4 shall be for a term of thirty (30) days from the date of issuance, unless the temporary patient license holder is deceased or the license is revoked by the Department or voluntarily surrendered by the patient; however, temporary patient licenses may not extend beyond the expiration date of the underlying out-of-state medical marijuana patient license.

(e) **Change in information.** All patient and caregiver licensees shall ensure that all information and records maintained in the licensee's online OMMA license account are complete, accurate, and updated in a timely manner.

(f) **Renewal.** It is the responsibility of the license holder to renew the license, with all applicable documentation, prior to the date of expiration of the license by following the procedures provided in OAC 310:681-2-1, 310:681-2-2, 310:681-2-3, and/or 310:681-2-4.

(g) **Renewal Fee.** The fee for renewal shall be the fee established in statute or under this Chapter for the license Application fees are nonrefundable.

(h) **Surrender of license.**

(1) A licensed patient or caregiver may voluntarily surrender a license to the Department at any time.

(2) If a licensee voluntarily surrenders a license, the licensee shall:

(A) Return the license to the Department;

(B) Submit a surrender license form provided by the Department; and

(C) Submit proof of the licensee's identity through submission of documentation identified in OAC 310:681-1-7 (relating to Proof of Identity).

(i) **Physician Termination.**

(1) A physician who determines the continued use of medical marijuana by the patient no longer meets the requirements for possession of a license may notify the Department of the physician's intent to terminate the physician recommendation by submitting a physician termination form provided by the Department signed within 30 days of submission.

(2) The Department shall then immediately terminate the patient

license. If the physician fails to comply with any further requests for information or documentation that the Department deems necessary to validate the physician termination, the Department may refuse to terminate the patient license.

(3) The Department shall not terminate a minor patient license unless both recommending physicians have submitted a physician termination form.

(4) Notice and a right to hearing shall be provided to the patient in accordance with the Oklahoma Medical Marijuana and Patient Protection Act, 63 O.S. § 427.1 et seq., and the Oklahoma Administrative Procedures Act, 75 O.S. § 250 et seq.

(j) **License revocation and suspension.** Except as otherwise provided in applicable Oklahoma law and these Rules, procedures for revocation and suspension of licenses are stated in the Oklahoma Administrative Procedures Act, 75 O.S. § 250 et seq. These procedures provide for the licensee to receive notice and to have the opportunity to be present at a hearing and to present evidence in his or her defense. The Commissioner of Health or his or her designee may promulgate an administrative order revoking or suspending the license, dismissing the matter, or providing for other relief as allowed by law. At any time after the action is filed against the licensee, the Department and the licensee may dispose of the matter by consent order or stipulation. Orders are appealable in accordance with the Oklahoma Administrative Procedures Act, 75 O.S. § 250 et seq.

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

Licenses issued pursuant to Sections 310:681-2-1, 2, 3, and 4 of this Subchapter shall contain the following:

- (1) The digital photograph of the license holder;
- (2) The name and date of birth of the license holder;
- (3) The name of parent(s) or legal guardian(s) of minor license holder, if applicable;
- (4) The city and county of residence of the license holder;
- (5) The type of license;
- (6) The date the license expires; and
- (7) The unique 24-character license number assigned to the license holder and caregiver, if applicable.

310:681-2-7. Medical marijuana license verification system

The Department will make available on its website and via telephone a system by which authenticity and validity of medical marijuana patient and caregiver licenses may be verified.

310:681-2-8. Possession Limits

A patient who has been issued and is in possession of an OMMA medical marijuana license is legally authorized to:

- (1) Consume marijuana legally;
- (2) Legally possess up to three (3) ounces (84.9 grams) of marijuana on their person;
- (3) Legally possess six mature marijuana plants;
- (4) Legally possess six seedling plants;
- (5) Legally possess (1) ounce (28.3 grams) of concentrated marijuana;

- (6) Legally possess seventy-two (72) ounces (2,037.6 grams) of edible marijuana; and
- (7) Legally possess up to eight (8) ounces (226.4 grams) of marijuana in their residence.

These possession limits are cumulative and a licensed patient or caregiver may possess at one time the totality of the items listed in this Section.

310:681-2-9. Prohibited Acts and Penalties

(a) A licensed patient shall not sell or otherwise transfer any medical marijuana or medical marijuana products to another individual or entity. Intentional and impermissible diversion of medical marijuana or medical marijuana products by a licensed patient may result in, for a first offense, a fine of \$200.00, and for a second offense, a fine of \$500.00 and revocation of license upon a showing that the violation was willful or grossly negligent.

(b) A licensed caregiver shall not sell or otherwise transfer any medical marijuana or medical marijuana products to any individual other than the licensed patient on whose behalf the caregiver is lawfully authorized to grow, possess, purchase or otherwise obtain said medical marijuana or medical marijuana products. Intentional and impermissible diversion of medical marijuana or medical marijuana products by a licensed caregiver may result in, for a first offense, a fine of \$200.00, and for a second offense, a fine of \$500.00 and revocation of license upon a showing that the violation was willful or grossly negligent.

(c) All medical marijuana grown by medical marijuana patient license holders or caregivers may only be grown on real property owned by the patient license holder or on real property for which the patient license holder has the property owner's written permission to grow medical marijuana on the property. The growth of medical marijuana in locations not permitted under this Subsection is prohibited.

(d) Any and all medical marijuana grown by licensed patients or caregivers shall not be accessible to a member of the general public.

(e) Any and all medical marijuana grown by licensed patients or caregivers shall not be visible from any street adjacent to the property. Medical marijuana is "visible" if it is viewable by a normal person with 20/20 eyesight without the use of any device to assist in improving viewing distance or vantage point.

(f) No licensed patient or caregiver shall operate or otherwise use any extraction equipment or processes utilizing butane, propane, carbon dioxide or any potentially hazardous material in residential property.

310:681-2-10. [RESERVED]

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

All smokable, vaporized, vapable and e-cigarette medical marijuana and medical marijuana products smoked by a patient license holder are subject to the same restrictions for tobacco under Section 1-1521 et.seq. of Title 63 of Oklahoma statutes, commonly referred to as the " Smoking in Public Places and Indoor Workplaces Act."

310:681-2-12. [RESERVED]

310:681-2-13. [RESERVED]

SUBCHAPTER 3. TRANSPORTER LICENSE

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

(a) A medical marijuana transporter license shall be issued to qualifying applicants for grower, processor, or dispensary licenses at the time of approval. This license shall enable licensed growers, processors, and dispensaries through their licensed transporter agents to transport medical marijuana or medical marijuana products to other commercial licensees and testing laboratories. This license shall not authorize licensed growers, processors, or dispensaries to transport, store, or distribute medical marijuana or medical marijuana products on behalf of other medical marijuana licensees.

(b) A medical marijuana commercial transporter license shall be issued as an independent commercial license to applicants meeting the requirements set forth in OAC 310:681-5-3, OAC 310:681-5-3.1, and OAC 310:681-5-3.2. This license shall be subject to the same restrictions and obligations as any commercial licensee and shall enable the commercial transporter to:

- (1) transport, store, and distribute medical marijuana and medical marijuana products on behalf of other commercial licensees;
- (2) contract with multiple commercial licensees; and
- (3) maintain multiple warehouses at licensed premises that are approved by the Department for the purpose of temporarily storing and distributing medical marijuana and medical marijuana products.

(c) A commercial transporter applicant or licensee must obtain and submit to the Department for each warehouse location a certificate of compliance issued by the political subdivision where the licensed premises is to be located certifying compliance with zoning classifications; applicable municipal ordinances; and applicable safety, electrical, fire, plumbing, waste, construction, and building specification codes, and the licensed premises shall meet security requirements applicable to a medical marijuana business.

(d) A commercial transporter shall be responsible for any and all medical marijuana and medical marijuana products within its custody, control, or possession.

(e) No person or entity shall transport or otherwise transfer any medical marijuana or medical marijuana products without both a valid transporter license and a valid transporter agent license.

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

(a) All medical marijuana and medical marijuana products shall be transported:

- (1) In a locked shipping container, shielded from public view, and clearly labeled "Medical Marijuana or Derivative"; and
- (2) In a secured area of the vehicle that is not accessible by the driver during transit;

(b) All vehicles used to transport medical marijuana and medical

marijuana products shall be:

- (1) Equipped with active Global Positioning System (GPS) trackers, which shall not be mobile cellular devices and which shall be capable of storing and transmitting GPS data; and
 - (2) Insured at or above the legal requirements in Oklahoma.
- (c) Commercial transporters, growers, processors, and dispensaries shall maintain updated and accurate records and information on all vehicles engaged in the transport of medical marijuana or medical marijuana products, including GPS data and records. Such records and information shall be kept at the licensed premises and shall be readily accessible.
- (d) Licensed transporter agents shall carry a copy of the commercial transporter license or the grower, processor, or dispensary transportation only license, and the transporter agent's license while transporting medical marijuana.
- (e) Commercial licensees and transporter agents shall implement appropriate security measures to deter and prevent the theft and diversion of marijuana during transportation.
- (f) Commercial transporters and transporter agents shall comply with all applicable motor vehicle laws.
- (g) In addition to any other penalties established by law, the Department may revoke the transporter agent license of any transporter agent who knowingly violates any provision of 63 O.S. § 427.16.
- (h) In addition to any other penalties established by law, the Department may revoke or suspend the transporter license of any commercial transporter who knowingly aids or facilitates a transporter agent in the violation of any provision of 63 O.S. § 427.16.

310:681-3-3. Transporter agent license

- (a) **License required.** Only agents, employees, officers, or owners of commercial transporters, growers, processors, or dispensaries who are issued a transporter agent license by the Department shall be qualified to transport medical marijuana or medical marijuana products.
- (b) **Application fee.** Either the individual applicant for a transporter agent license or the commercial licensee employing the applicant shall submit the transporter agent license application or any renewal application to the Department on a form and in a manner prescribed by the Department, along with the annual application fee of \$100.00 as established in the Oklahoma Medical Marijuana and Patient Protection Act, 63 O.S. § 427.1 et seq.
- (c) **Submission.** The application for a transporter agent license shall be on the Department prescribed form and shall include at a minimum:
- (1) The applicant's first name, middle name, last name, and suffix, if applicable;
 - (2) The applicant's residential address and valid mailing address;
 - (3) The applicant's date of birth;
 - (4) The applicant's telephone number and email address;
 - (5) The applicant's Oklahoma driver license number and expiration date;
 - (6) An affidavit of lawful presence signed by the transporter agent applicant;

(7) An attestation that the transporter agent applicant shall not divert medical marijuana or medical marijuana products to any entity or individual that is not lawfully entitled to possess;

(8) An attestation that the transporter agent understands and/or has been notified that the commercial licensee identified as the employer in the application may terminate the transporter agent license at any time; and

(9) An attestation that the information provided in the application is true and correct.

(d) **Supporting Documentation.** A complete application shall include the following documentation:

(1) A copy of the applicant's valid, unexpired Oklahoma driver license;

(2) Documents establishing the applicant is an Oklahoma resident as established in OAC 310:681-5-3.1 (relating to proof of residency for commercial licensees);

(3) A digital photograph as established in OAC 310:681-1-8 (relating to applicant photograph).

(4) An employment verification form prescribed by the Department verifying the applicant's employment with a commercial transporter, grower, processor, or dispensary; and

(5) A criminal background check conducted by the Oklahoma State Bureau of Investigation establishing that the applicant does not have a disqualifying criminal conviction.

(e) **License Term.** A transporter agent license shall be valid for one year, unless the license is deactivated by the commercial licensee employing the transporter agent, voluntarily surrendered, or revoked by the Department.

310:681-3-4. Employer deactivation of transporter agent license

(a) Commercial transporters, growers, processors, or dispensaries employing a transporter agent shall notify the Department within fourteen (14) days in the manner and on the form prescribed by the Department when a transporter agent ceases to work as a transporter, and the transporter agent license shall be deactivated. This deactivation shall not be subject to appeal.

(b) The commercial transporter, grower, processor, or dispensary is responsible for destroying or returning to the Department any deactivated transporter agent license.

310:681-3-5. Information contained on a transporter agent license

(a) A qualifying applicant for a transporter agent license shall be issued a registry identification card, otherwise referred to as a transporter agent license.

(b) The transporter agent shall carry the transporter agent license and a copy of his or her employer's transporter license at all times during transportation of medical marijuana or medical marijuana products.

(c) The transporter agent license shall at a minimum contain the following information:

(1) The digital photograph of the license holder;

(2) The name and date of birth of the license holder;

- (3) The type of license;
 - (4) The date the license expires; and
 - (5) The unique license number assigned to the license holder.
- (d) Licensees shall not accept any medical marijuana or medical marijuana products from a transporter agent who is not in possession of a transporter agent license.

310:681-3-6. Inventory Manifests

(a) Commercial transporters, growers, processors, and dispensaries shall utilize an electronic inventory management system to create and maintain shipping manifests documenting all transport of medical marijuana and medical marijuana products throughout the State of Oklahoma.

(b) When transporting medical marijuana or medical marijuana products, commercial transporters, growers, processors, and dispensaries shall provide copies of the inventory manifests to each originating and receiving licensee at the time the product changes hands.

(1) The copy of the inventory manifest to be left with the originating licensee shall include, at a minimum:

- (A) The license number, business name, address, and contact information of the originating licensee;
- (B) The license number, business name, address, and contact information of the commercial transporter, grower, processor, or dispensary transporting the medical marijuana if such licensee is not the originating licensee;
- (C) A complete inventory of the medical marijuana and medical marijuana products to be transported, including the quantities by weight or unit of each type of medical marijuana and medical marijuana products and the batch number(s);
- (D) The date of transportation and the approximate time of departure;
- (E) Printed names, signatures, and transporter agent license numbers of personnel accompanying the transport;
- (F) Notation of the commercial transporter, grower, processor, or dispensary authorizing the transport; and
- (G) The license number(s), business name(s), address(es), and contact information for all end point recipients.

(2) The copy of the inventory manifest to be left with the receiving licensee shall include, at a minimum:

- (A) The license number, business name, address, and contact information for the receiving licensee;
- (B) The license number, business name, address, and contact information of the originating licensee;
- (C) The license number, business name, address, and contact information of the commercial transporter, grower, processor, or dispensary transporting the medical marijuana if such licensee is not the originating licensee;
- (D) A complete inventory of the medical marijuana and medical marijuana products delivered to the receiving licensee, including the quantities by weight or unit of each type of medical marijuana and medical marijuana products and the batch number(s);

- (E) The date and estimated time of arrival;
- (F) The printed names, signatures, and transporter agent license numbers of the personnel accompanying the transport; and
- (G) The printed names, titles, and signatures of any personnel accepting delivery on behalf of the receiving licensee.

(c) A separate inventory manifest shall be prepared for each licensee receiving the medical marijuana or medical marijuana products.

(d) Commercial transporters, processors, growers, and dispensaries shall also maintain copies of all inventory manifests in accordance with OAC 310:681-5-6(b).

(e) Inventory manifests should reflect a complete chain of custody of any and all medical marijuana and medical marijuana products being transported, including all instances in which the medical marijuana and medical marijuana products are stored at a commercial transporter warehouse.

(f) Originating and receiving licensees shall maintain copies of inventory manifests and inventory records logging the quantity of medical marijuana or medical marijuana products received for at least three (3) years from the date of receipt.

(g) An inventory manifest shall not be altered after departing from the originating licensee's premises, except for the addition of the printed names, titles, and signatures of any personnel accepting delivery on behalf of the receiving licensee.

(h) A receiving licensee shall refuse to accept any medical marijuana or medical marijuana products that are not accompanied by an inventory manifest.

(i) If a receiving licensee refuses to accept delivery of any medical marijuana and/or medical marijuana product or if delivery of the medical marijuana or medical marijuana is impossible:

(1) The medical marijuana and/or medical marijuana products shall be immediately returned to originating licensee who retains legal ownership of the products; and

(2) The refusal shall be fully documented in the inventory manifests, which should include, at a minimum:

(A) The license number, business name, address, and contact information of the licensee to which the medical marijuana or medical marijuana products were to be delivered;

(B) A complete inventory of the medical marijuana or medical marijuana products being returned, including batch number;

(C) The date and time of the refusal; and

(D) Documentation establishing the medical marijuana or medical marijuana products were returned in accordance with OAC 310:681-3-6(i)(1).

SUBCHAPTER 4. MEDICAL RESEARCH LICENSE [RESERVED]

310:681-4-1. [RESERVED]

310:681-4-2. [RESERVED]

310:681-4-3. [RESERVED]

SUBCHAPTER 5. COMMERCIAL ESTABLISHMENTS

310:681-5-1. License required

(a) No person or entity shall operate a medical marijuana business without first obtaining a license from the Department pursuant to 63 O.S. § 420 et seq., the Oklahoma Medical Marijuana and Patient Protection Act, 63 O.S. § 427.1 et seq., other applicable Oklahoma law, and the Rules in this Chapter. Only a person who is in compliance with the requirements of Oklahoma law and these Rules shall be entitled to receive or retain such a license.

(b) All commercial license applications shall be complete and accurate in every detail, shall include all attachments or supplemental information required by the forms supplied by the Department, and shall be accompanied by full remittance of the entire application fee. Any misstatements, omissions, misrepresentations, or untruths made in the application shall be grounds for administrative action against the licensee by the Department.

(c) All commercial licenses shall be on forms prescribed by the Department.

(d) Application fees are nonrefundable.

310:681-5-1.1. Responsibilities of the license holder

(a) Upon acceptance of the license issued by the Department, the license holder in order to retain the license shall:

- (1) Post the license or permit in a location in the licensed premises that is conspicuous;
- (2) Comply with the provisions in this Chapter;
- (3) Allow representatives of the Department access to the commercial establishment as specified under OAC 310:681-5-4 and OAC 310:681-5-6 (e);
- (4) Comply with directives of the Department including time frames for corrective actions specified in inspection reports, audit reports, notices, orders, warnings, and other directives issued by the Department in regard to the license holder's commercial establishment or in response to community emergencies;
- (5) Accept notices issued and served by the Department according to law;
- (6) Be subject to the administrative, civil, injunctive, and criminal remedies authorized in law for failure to comply with this Chapter or a directive of the Department, including time frames for corrective actions specified in inspection reports, audit reports, notices, orders, warnings, and other directives;
- (7) Ensure that all information and records maintained in the licensee's online OMMA license account—including the hours of operation for all licensed premises and a valid mailing address, if applicable—are complete, accurate, and updated in a timely manner in accordance with these Rules; and
- (8) If applicable, submit the annual renewal application and pay all renewal license and late fees, if any.

310:681-5-2. Licenses

(a) **Timeframe.** A commercial establishment license shall be issued for a twelve (12) month period expiring one (1) year from the date of issuance. The license may be issued upon receipt of a completed application, payment of application fee, and verification by the Department the individual or entity complies with the requirements set forth in Oklahoma law and this Chapter.

(b) **Location.** A commercial license issued to a grower, processor, or dispensary shall only be valid for a single location at the address listed on the application. A transporter license shall only be valid at the physical locations that have been submitted to and approved by the Department and are listed on the application.

(c) **Renewal of license.**

(1) It is the responsibility of the license holder to renew the license, with all applicable documentation, prior to the date of expiration of the license by following the procedures provided in OAC 310:681-5-3.

(2) Before renewing a license, the Department may require further information and documentation and may require additional background checks to determine the licensee continues to meet the requirements set forth in Oklahoma law and these Rules.

(3) Upon the determination that a licensee has not met the requirements for renewal, the Department shall provide written notice to the licensee. The notice shall provide an explanation for the denial of the renewal application.

(d) **Liquidation of products:** A commercial establishment licensee whose license is not renewed, or whose license is revoked, suspended, or voluntarily surrendered, shall cease all operations immediately upon expiration of the license.

(1) A commercial establishment has thirty (30) days from date of expiration, revocation, suspension, or surrender of a commercial license to liquidate and transfer all medical marijuana or medical marijuana products to another commercial establishment that (1) the commercial establishment may lawfully sell to and (2) is licensed to possess such medical marijuana or medical marijuana products.

(2) Any medical marijuana or medical marijuana products not liquidated in accordance with OAC 310:681-5-2(d)(1) shall be disposed of as specified under OAC 310:681-5-10.

(e) **Change in information.**

(1) Licensees shall notify the Department in writing within fourteen (14) days of any changes in contact information by electronically submitting a change request in accordance with the Department's instructions.

(2) Licensees shall obtain Department approval prior to any changes that effect the licensee's qualifications for licensure. Licensees shall notify the Department in writing in advance of any change that may affect the licensee's qualifications for licensure by electronically submitting a change request, along with any relevant documentation, in accordance with the Department's instructions. Except as is otherwise authorized by the Department, licensees are limited to one location change request and one ownership change request per year of licensure.

(f) **Transfer of license.**

(1) Commercial licenses may not be assigned or otherwise transferred from one person to another person, from one commercial establishment to another, or from one legal entity to another.

(2) Licenses may not be changed from one license type to another.

(g) **Surrender of license.**

(1) A licensee may voluntarily surrender a license to the Department at any time.

(2) If a licensee voluntarily surrenders a license, the licensee shall:

(A) Return the license to the Department;

(B) Submit on a form prescribed by the Department a report to the Department including the reason for surrendering the license; contact information following the close of business; the person or persons responsible for the close of the business; and where business records will be retained;

(C) Submit proof of the licensee's identity through submission of documentation identified in OAC 310:681-1-7 (relating to Proof of Identity); and

(D) Liquidate or dispose of any medical marijuana or medical marijuana products remaining in the possession of the licensee in accordance with OAC 310:681-5-2(d) and OAC 310:681-5-10.

310:681-5-3. Applications

(a) **Application fee.** An applicant for a commercial establishment license, or renewal thereof, shall submit to the Department a completed application on a form and in a manner prescribed by the Department, along with the application fee as established in 63 O.S. § 420 et seq. and the Oklahoma Medical Marijuana and Patient Protection Act, 63 O.S. § 427.1 et seq.

(b) **Submission.** Applications for a commercial license will be accepted by the Department no earlier than sixty (60) days from the date that the State Question is approved by the voters of the State of Oklahoma. The application shall be on the Department prescribed form and shall include the following information about the establishment:

(1) Name of the establishment;

(2) Physical address of the establishment, including the county in which any licensed premises will be located;

(3) GPS coordinates of the establishment;

(4) Phone number and email of the establishment;

(5) Hours of operation for any licensed premises.

(c) **Individual applicant.** The application for a commercial license made by an individual on his or her own behalf shall be on the Department prescribed form and shall include at a minimum:

(1) The applicant's first name, middle name, last name and suffix if applicable;

(2) The applicant's residence address and valid mailing address;

(3) The applicant's date of birth;

(4) The applicant's telephone number and email address;

(5) An attestation that the information provided by the applicant

is true and correct; ~~and~~

(6) An attestation that any licensed premises shall not be located on tribal lands;

(7) An attestation that the business has obtained all applicable local licenses and permits for all licensed premises;

(8) An attestation that no individual with ownership interest in the business is a sheriff, deputy sheriff, police officer, prosecuting officer, an officer or employee of OMMA, or an officer or employee of a municipality in which the commercial entity is located; and

(9) A statement signed by the applicant pledging not to divert marijuana to any individual or entity that is not lawfully entitled to possess marijuana.

(d) **Application on behalf of an entity.** In addition to requirements of Subsection (c), an application for a commercial license made by an individual on behalf of an entity shall include:

(1) An attestation that applicant is authorized to make application on behalf of the entity:

(2) Full name of organization;

(3) Trade name, if applicable;

(4) Type of business organization;

(5) Mailing address;

(6) Telephone number and email address; and

(7) The name, residence address, and date of birth of each owner and each member, manager, and board member, if applicable.

(e) **Supporting documentation.** Each application shall be accompanied by the following documentation:

(1) A list of all owners and principal officers of the commercial applicant and supporting documentation, including, but not limited to: certificate of incorporation, bylaws, articles of organization, operating agreement, certificate of limited partnership, resolution of a board of directors, or other similar documents;

(2) If applicable, a certificate of good standing from the Oklahoma Secretary of State issued within thirty(30)days of submission of the application;

(3) If applicable, an electronic copy or digital image in color of a sales tax permit issued by the Oklahoma Tax Commission;

(4) An Affidavit of Lawful Presence for each owner;

(5) If a licensed dispensary, proof that the location of the dispensary is at least one thousand (1,000) feet from a public or private school. The distance specified shall be measured in a straight line from any entrance of any public and private school to the nearest point of the location of the dispensary; and

(6) Documents establishing the applicant; and the members, managers, and board members if applicable; and seventy-five percent (75%) of the commercial applicant's ownership interests are Oklahoma residents as required in the Oklahoma Medical Marijuana and Patient Protection Act, 63 O.S. § 427.1 et seq.

(A) Applicants seeking to renew a commercial license issued prior to the enactment of the Oklahoma Medical Marijuana and Patient Protection Act, 63 O.S. § 427.1 et seq., shall submit documentation establishing proof of residency in

accordance with OAC 310:681-1-6 (relating to Proof of residency);

(B) All other applicants shall submit documentation establishing proof of residency in accordance with OAC 310:681-5-3.1.

(7) A certificate of compliance on a form prescribed or otherwise authorized by the Department that is issued by the political subdivision where the licensed premises is to be located certifying compliance with zoning classifications; applicable municipal ordinances; and applicable safety, electrical, fire, plumbing, waste, construction, and building specification codes;

(8) Any further documentation the Department determines is necessary to ensure the commercial applicant is qualified under Oklahoma law and this Chapter to obtain a commercial license.

(f) **Incomplete application.** Failure to submit a complete application with all required information and documentation shall result in a rejection of the application. The Department shall notify the applicant via email through the electronic application account of the reasons for the rejection, and the applicant shall have thirty (30) days from the date of notification to correct and complete the application without an additional fee. If the applicant fails to correct and complete the application within the thirty (30) day period, the application shall expire.

(g) **Status update letter.** If a delay in processing has occurred, the Department shall notify the applicant via email of the delay and the reason for the delay.

310:681-5-3.1. Proof of residency for commercial licensees

(a) Applicants shall provide sufficient documentation establishing either:

(1) Oklahoma residency for at least two (2) years immediately preceding the application submission date; or

(2) five (5) years continuous Oklahoma residency during the twenty-five (25) years immediately preceding the application submission date.

(b) Applicants shall establish residency through submission of electronic copies or digital images in color of a combination of the following documents establishing residency for the entire span of the applicable time period:

(1) An unexpired Oklahoma-issued driver license;

(2) An Oklahoma identification card;

(2) An Oklahoma voter identification card;

(3) Utility bills, excluding cellular telephone and Internet bills;

(4) Residential property deeds or other official documentation establishing proof of ownership of Oklahoma residential property;

(5) Rental agreements for residential property located in the State of Oklahoma; and

(6) Other documentation the Department deems necessary and/or sufficient to establish residency.

310:681-5-3.2. Persons Prohibited From Holding a Commercial License

(a) A medical marijuana commercial license shall not be issued to or held by:

(1) An applicant who has failed to pay the required application or renewal fee;

(2) A corporation, if the criminal history of any its officers, directors, or stockholders has a disqualifying criminal conviction;

(3) An owner under twenty-five (25) years of age;

(4) An owner of any commercial licensee who, during a period of licensure or at the time of any commercial license application, has failed to:

(A) File any taxes, interest, or penalties due related to a medical marijuana business; or

(B) Pay any taxes, interest, or penalties due related to a medical marijuana business.

(5) A sheriff, deputy sheriff, police officer, prosecuting officer, officer or employee OMMA, or officer or employee of a municipality in which the commercial licensee is located; and

(6) A person whose authority to be a caregiver as defined in this Chapter is revoked by the Department for violations of Oklahoma law or these Rules. For purposes of this Subsection, revoked by the Department shall not include termination of a caregiver license based solely on a patient's withdrawal of caregiver designation.

(b) Any license issued to an individual or entity listed above shall be subject to revocation.

310:681-5-4. Inspections

(a) Submission of an application for a medical marijuana commercial license constitutes permission for entry to and inspection of any licensed premises and any vehicles on the licensed premises used for the transportation of medical marijuana and medical marijuana products during hours of operation and other reasonable times. Refusal to permit or impeding such entry or inspection shall constitute grounds for the nonrenewal, suspension, or revocation of a license.

(b) The Department may perform two on-site inspections per calendar year of the licensed premises to determine, assess, and monitor compliance with applicable Oklahoma law and these Rules.

(c) The Department may conduct additional inspections to ensure correction of or investigate violations of applicable Oklahoma law and these Rules. Such inspections may be unannounced if the Department believes notice will result in the destruction of evidence.

(d) The Department shall refer all complaints alleging criminal activity or other violations of Oklahoma law that are made against a licensee to appropriate Oklahoma state or local law enforcement or regulatory authorities.

(e) If the Department discovers what it reasonably believes to be criminal activity or other violations of Oklahoma law during an inspection, the Department may refer the matter to appropriate Oklahoma state or local law enforcement or regulatory authorities for further investigation.

(f) The Department may review any and all records of a licensee and may require and conduct interviews with such persons or entities and

persons affiliated with such entities, for the purpose of determining compliance with Department rules and applicable laws. Licensees shall be afforded at least twenty-four hours' notice to secure legal representation prior to any interviews. Failure to make documents or other requested information available to the Department and/or refusal to appear or cooperate with an interview shall constitute grounds for nonrenewal, suspension, or revocation of a license, or any other remedy or relief available under law. All records shall be kept on-site and readily accessible.

(g) If the Department identifies a violation of 63 O.S. § 420 et seq., the Oklahoma Medical Marijuana and Patient Protection Act, 63 O.S. § 427.1 et seq.; and these Rules during an inspection of the licensed processor, the Department shall take administrative action in accordance with Oklahoma law, including the Oklahoma Administrative Procedures Act, 75 O.S. §§ 250 et seq.

(h) Except as otherwise provided in Oklahoma law or these Rules, correctable violation identified during an inspection shall be corrected within thirty (30) days of receipt of a written notice of violations.

(i) If a licensee fails to correct violations within thirty (30) days, the licensee will be subject to a fine of \$500.00 for each deficiency and any other administrative action and penalty authorized by law.

310:681-5-5. [RESERVED]

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

(a) **Monthly reports.** Licensed growers, processors, and dispensaries shall complete a monthly report on a form and in a manner prescribed by the Department. These reports shall be deemed untimely if not received by the Department by the fifteenth (15th) of each month for the preceding month.

(1) Dispensary reports shall include:

- (A) The amount of marijuana purchased in pounds;
- (B) The amount of marijuana sold or otherwise transferred in pounds;
- (C) The amount of marijuana waste in pounds;
- (D) If necessary, a detailed explanation of why any medical marijuana product purchased by the licensee cannot be accounted for as having been sold or still remaining in inventory;
- (E) Total dollar amount of all sales to medical marijuana patients and caregivers;
- (F) Total dollar amount of all taxes collected from sales to medical marijuana patients and caregivers; and
- (G) Any information the Department determines is necessary to ensure that all marijuana grown in Oklahoma is accounted for as required under 63 O.S. § 420 et seq. and the Oklahoma Medical Marijuana and Patient Protection Act, 63 O.S. § 427.1 et seq.

(2) Grower reports shall include:

- (A) The amount of marijuana harvested in pounds;
- (B) The amount of marijuana purchased in pounds;
- (C) The amount of marijuana sold or otherwise transferred

in pounds;

- (D) The amount of drying or dried marijuana on hand;
- (E) The amount of marijuana waste in pounds;
- (F) If necessary, a detailed explanation of why any marijuana cannot be accounted for as having been sold, disposed of, or maintained in current inventory;
- (G) Total dollar amount of all sales; and
- (H) Any information the Department determines is necessary to ensure that all marijuana grown in Oklahoma is accounted for as required under 63 O.S. § 420 et seq. and the Oklahoma Medical Marijuana and Patient Protection Act, 63 O.S. § 427.1 et seq.

(3) Processor reports shall include:

- (A) The amount of marijuana purchased in pounds;
- (B) The amount of marijuana sold or otherwise transferred in pounds;
- (C) The amount of medical marijuana manufactured or processed in pounds;
- (D) If necessary, a detailed explanation of why any marijuana cannot be accounted for as having been purchased, sold, processed, or maintained in current inventory;
- (E) The amount of marijuana waste in pounds; and
- (F) Any information the Department determines is necessary to ensure that all marijuana grown in Oklahoma is accounted for as required under 63 O.S. § 420 et seq. and the Oklahoma Medical Marijuana and Patient Protection Act, 63 O.S. § 427.1 et seq.

(b) **Records.** Pursuant to the Department's audit and inspection responsibilities, commercial establishments shall keep onsite and readily accessible, either in paper or electronic form, a copy of the following records:

(1) Business records, which may include but are not limited to employee records, organizational documents or other records relating to the governance and structure of the licensee, manual or computerized records of assets and liabilities, monetary transactions, tax records, journals, ledgers, and supporting documents, including agreements, checks, invoices, receipts, and vouchers.

(2) As applicable, any documents related to the processing, preparation, and/or testing of medical marijuana and medical marijuana products, including but not limited to lab reports, testing records, equipment inspections, training materials, and standard operating procedures.

(3) Documentation of every instance in which medical marijuana was sold or otherwise transferred to or purchased or otherwise obtained from another licensee, which shall include, but is not limited to:

- (A) The name, license number, address, and phone number of all licensees involved in each transaction; and
- (B) The quantity and type of medical marijuana or medical marijuana products involved in each transaction;
- (C) The batch number of the medical marijuana or medical marijuana products involved in each transaction;

- (D) The date of each transaction;
- (E) The monetary value of the medical marijuana or medical marijuana products involved in each transaction, including the total sale or purchase amounts;
- (F) All point-of-sale and tax records; and
- (G) All inventory manifests and other documentation relating to the transport of medical marijuana and medical marijuana products.

(4) Any and all documents relating to the disposal or destruction of medical marijuana, medical marijuana products, and medical marijuana waste.

Except as otherwise specifically provided in Oklahoma law and this Chapter, all records shall be maintained for at least seven (7) years from the date of creation.

(c) **Patient Information.** Records containing private patient information shall not be retained by a commercial establishment for more than sixty (60) days without the patient's or caregiver's consent. "Private patient information" means personally identifiable information, such as the patient name, address, date of birth, social security number, telephone number, email address, photograph, and financial information. This term does not include the patient's medical marijuana license number, which shall be retained by the business and provided to the Department upon request for compliance and public health purposes, including the verification of lawful sales or patient traceability in the event of product recall.

(d) **Inventory.** Each commercial licensee shall obtain and maintain an electronic inventory management system that:

- (1) Documents the chain of custody of all medical marijuana and medical marijuana products, including every transaction with another commercial licensee, patient, or caregiver;
- (2) Establishes ongoing inventory controls and procedures for the conduct of inventory reviews and comprehensive inventories of medical marijuana and medical marijuana products for traceability which shall enable the licensee to detect any diversion, theft, or loss in a timely manner;
- (3) Identifies and allows for tracking and documentation of the entire life span of a licensee's stock of medical marijuana and medical marijuana products, including, at a minimum:
 - (A) when medical marijuana seeds are planted;
 - (B) when medical marijuana plants are harvested and/or destroyed;
 - (C) when medical marijuana is transported, sold, stolen, diverted, or lost;
 - (D) a complete inventory of all medical marijuana; seeds; plant tissue; clones; usable marijuana; trim; leaves; other plant matter; and medical marijuana products;
 - (E) all samples sent to a testing laboratory or used for internal quality testing or other purposes;
- (4) In event of a serious adverse event or recall, is capable of tracking medical marijuana or medical marijuana product from a patient back to the source of the medical marijuana or medical marijuana product; and
- (5) Tracks medical marijuana using an assigned batch number and

bar code.

(e) **Audits.** The Department may perform on-site audits of all commercial licensees to ensure the accuracy of the monthly reports and to ensure that all marijuana grown in Oklahoma is accounted for. Submission of an application for a medical marijuana commercial license constitutes permission for entry to any licensed premises and auditing of the commercial licensee during hours of operation and other reasonable times. Refusal to permit the Department entry or refusal to permit the Department to inspect all books and records shall constitute grounds for the nonrenewal, suspension, or revocation of a license.

(1) The Department may review any and all records and information of a commercial licensee and may require and conduct interviews with such persons or entities and persons affiliated with such licensees, for the purpose of determining compliance with Department rules and applicable laws. Failure to make documents or other requested information available to the Department and/or refusal to appear or cooperate with an interview shall constitute grounds for nonrenewal, suspension, or revocation of a license or any other remedy or relief provided under law. All records shall be kept on-site and readily accessible.

(2) Commercial licensees shall comply with all written requests from the Department to produce or provide access to records and information within ten (10) business days.

(3) If the Department identifies a violation of 63 O.S. § 420 et seq., the Oklahoma Medical Marijuana and Patient Protection Act, 63 O.S. § 427.1 et seq.; or these Rules during an audit of the commercial licensee, the Department shall take administrative action against the licensee in accordance with the Oklahoma law, including the Oklahoma Administrative Procedures Act, 75 O.S. § 250 et seq.

(4) The Department may refer all complaints alleging criminal activity or other violations of Oklahoma law that are made against a commercial licensee to appropriate Oklahoma state or local law enforcement or regulatory authorities.

(5) If the Department discovers what it reasonably believes to be criminal activity or other violations of Oklahoma law during an audit, the Department may refer the matter to appropriate Oklahoma state or local law enforcement or regulatory authorities for further investigation.

(6) Except as is otherwise provided in Oklahoma law or these Rules, correctable violations identified during an audit shall be corrected within thirty (30) days of receipt of a written notice of violation.

(7) If a licensee fails to correct violations within thirty (30) days, the licensee will be subject to a fine of \$500.00 for each violation and any other administrative action and penalty authorized by law.

310:681-5-6.1. Penalties

(a) **Failure to file timely reports.** If a commercial licensee wholly fails to submit a required monthly report and fails to correct such deficiency within thirty (30) days of the Department's written notice,

the licensee shall be subject to a fine of \$500.00 and any other administrative action and penalty authorized by law.

(b) **Inaccurate reports.** Within any two (2) year period of time, if the a licensee has submitted one (1) or more reports containing gross errors that cannot reasonably be attributed to normal human error, the following penalties shall be imposed:

(1) First inaccurate report(s): Five thousand dollar (\$5,000.000) fine. If said fine is not paid to the Department within thirty (30) calendar days of licensee receiving notice of the fine, the license shall be revoked.

(2) Any additional inaccurate report(s): Revocation of license.

(c) **Unlawful purchase and sale.** Within any two year period of time, if the licensee has made an unlawful purchase or sale of medical marijuana, the following penalties shall be imposed:

(1) First unlawful purchase(s) or sale(s): One thousand dollar (\$1,000.00) fine. If said fine is not paid to the Department within thirty (30) calendar days after licensee receives notice of the fine, the license shall be revoked.

(2) Any additional unlawful purchase(s) or sale(s): Five thousand dollar (\$5,000.00) fine.

The Department may revoke the license at any time regardless of the number of the offense upon a showing that the violation was willful or grossly negligent.

(d) **Noncompliance and criminal activity.** Commercial licenses and transporter agent licenses shall be subject to revocation, suspension, monetary penalties, and any other penalty authorized by law upon a determination by the Department that the licensee has not complied with applicable Oklahoma law or this Chapter, or upon official notification to the Department that the licensee has engaged in criminal activity in violation of Oklahoma law.

(e) **Administrative penalties.** Procedures for administrative penalties against a licensee are stated in the Oklahoma Administrative Procedures Act, 75 O.S. § 250 et seq. These procedures provide for the licensee to receive notice and to have the opportunity to be present at a hearing and to present evidence in his or her defense. The Commissioner of Health or his or her designee may promulgate an administrative order revoking or suspending the license, dismissing the matter, or providing for other relief as allowed by law. At any time after the action is filed against the commercial licensee, the Department and the licensee may dispose of the matter by consent order or stipulation. Orders are appealable in accordance with the Oklahoma Administrative Procedures Act, 75 O.S. § 250 et seq.

310:681-5-7. Tax on retail medical marijuana sales

(a) The tax on retail medical marijuana sales by a dispensary is established at seven percent (7%) of the gross dollar amount received by the dispensary for the sale of any medical marijuana or medical marijuana product. This tax will be collected by the dispensary from the customer who must be a licensed medical marijuana patient or caregiver.

(b) A dispensary shall either hold or obtain an Oklahoma sales tax permit from the Oklahoma Tax Commission in compliance with OAC 710:65-19-216.

(c) Reports and payments on gross sales, tax collected, and tax due shall be remitted to the Oklahoma Tax Commission by every dispensary on a monthly basis. No additional reporting regarding gross sales, tax collected, and tax due shall be made to the Department.

(d) Dispensary reporting and remittance shall be made to the Oklahoma Tax Commission on a monthly basis. Reports and remittances are due to the Oklahoma Tax Commission no later than the 20th day of the month following the month for which the report and remittances are made.

(e) All dispensaries required to report and remit medical marijuana tax shall remit the tax and file their monthly tax report in accordance with the manner prescribed by the Tax Commission.

(f) The report shall contain the following information:

- (1) Dispensary name, address, telephone number and dispensary license number;
- (2) Reporting month and year;
- (3) Total gross receipts for the preceding month from sales of medical marijuana or any medical marijuana product;
- (4) The amount of tax due as described in (a) of this Section; and
- (5) Such other reasonable information as the Tax Commission may require.

(g) If a due date for the tax reporting and remittance falls on a Saturday, Sunday, a holiday, or dates when the Federal Reserve Banks are closed, such due date shall be considered to be the next business date.

(h) Pursuant to 63 O.S. § 426, proceeds from the sales tax levied shall first be distributed to the Oklahoma State Department of Health for the annual budgeted amount for administration of the Oklahoma Medical Marijuana Authority Program. All distributions will be made monthly to the Department until full reimbursement is reached for the annual budgeted cost of the program. If tax levies are not sufficient to reimburse the Department for the full annual budgeted cost, then all tax levies collected during the fiscal shall be remitted to the Department.

310:681-5-8. Composition of food safety standards board

(a) The Food Safety Standards Board shall be comprised of 12 Oklahoma residents appointed by the Commissioner of Health and shall serve at the pleasure of the Commissioner of Health. Each member should be a marijuana industry expert with unique qualifications related to food safety standards for processing and handling of medical marijuana and may be appointed from areas including, but not limited to, the following:

- (1) State marijuana industry association representation;
- (2) Laboratory scientist or representative;
- (3) Director or designee of the Oklahoma Department of Mental Health and Substance Abuse Services;
- (4) Director or designee of the Oklahoma Department of Agriculture, Food and Forestry;
- (5) Director or designee of Oklahoma Center for Poison and Drug Information;
- (6) Director or designee of the Oklahoma ABLE Commission;
- (7) Director or designee of the Oklahoma Board of Pharmacy;

- (8) Director or designee of the Oklahoma State Medical Association or Physician;
- (9) Director or designee of the Oklahoma Board of Osteopathic Physicians;
- (10) Director or designee of the Department of Environmental Quality;
- (11) Director or designee Oklahoma Bureau of Narcotics and Dangerous Drugs;
- (12) Director or designee of the Oklahoma Board of Medical Licensure;
- (13) Designee of any Oklahoma public health agency; or
- (14) Food processor/manufacturer.

(b) The Food Safety Standards Board (the "Board") shall by August 27, 2018 submit, and the Department shall make available, standards related to the handling and processing of medical marijuana and medical marijuana products. The Board shall review, and submit if necessary, recommendations regarding rule promulgation related to the handling and processing of medical marijuana and medical marijuana products and all aspects of the cultivation and manufacture of medical marijuana products.

310:681-5-8.1. Food safety standards for processors

(a) **Purpose.** This Section sets forth the food safety standards that processors must comply with in the preparation, production, manufacturing, processing, handling, packaging, and labeling of edible medical marijuana products.

(b) **Existing law.** This Section does not relieve licensed processors of any obligations under existing laws, rules, and regulations, including 63 O.S. § 1-1101 et seq., OAC 310:257, and OAC 310:260, to the extent they are applicable and do not conflict with 63 O.S. § 420 et. seq.

(1) The sale, offer to sell, dispense or release into commerce of any food or confection under a name, label, or brand when the name, label, or brand either precisely or by slang term or popular usage, is the name, label, or brand of marijuana is not prohibited.

(2) Marijuana used in food shall be considered an additive, a component, and/or an edible substance.

(3) Marijuana shall not be considered a deleterious, poisonous, or nonnutritive substance, and the use of marijuana, alone, in food shall not make such food adulterated or misbranded.

(c) **Updated law.** In the event the Oklahoma Board of Health or the Commissioner of Health amends OAC 310:257 or OAC 310:260, adopts new food safety rules, or incorporates into Oklahoma law updated federal food safety standards, including Title 21 of the Code of Federal Regulations, licensed processors shall comply with such rules to the extent they are applicable and do not conflict with 63 O.S. § 420 et seq. or these rules.

(d) **Board meetings.** The Food Safety Standards Board shall meet as regularly as its members deem necessary to review Oklahoma food safety laws and these rules and to take action, including amending and/or adding recommended standards to the Oklahoma Board of Health or the Commissioner of Health.

(e) **Labeling and packaging.** Labels and packages for food containing

marijuana shall comply with all applicable requirements in existing Oklahoma law, rules, and regulations, and any laws incorporated therein by reference, to the extent they do not conflict with 63 O.S. § 420.

(1) Title 21, part 101 of the Code of Federal Regulations ("CFR"), as of August 22, 2018, is hereby incorporated by reference into this Section to the extent it is applicable and does not conflict with 63 O.S. § 420 et seq.

(2) Existing requirements for principal display panels or information panels include:

- (A) Name and address of the business;
- (B) Name of the food;
- (C) Net quantity or weight of contents;
- (D) Ingredients list;
- (E) Food allergen information; and
- (F) Nutrition labeling, if required under 21 CFR § 101.9.

(3) In addition, principal display panels or information panels must contain:

- (A) List of cannabis ingredients;
- (B) The batch of marijuana;
- (C) The strain of marijuana (optional);
- (D) THC dosage in milligrams per unit; and
- (E) The lot code.

(4) Nutrient content, health, qualified health and structure/function claims must comply with the Food and Drug Administration ("FDA") Food Labeling Guide.

(5) Packaging must contain the statement, "For accidental ingestion call 1-800-222-1222."

(6) All packages and individually-packaged product units, including but not limited to those from bulk packaging, must contain the Oklahoma uniform symbol in clear and plain sight. The Oklahoma uniform symbol must be printed at least one-half inch by one-half inch in size in color.

(7) In order to comply with OAC 310:681-7-1(d)(4) and this Section, a label must contain a warning that states, "Women should not use marijuana or medical marijuana products during pregnancy because of the risk of birth defects or while breastfeeding."

(f) **Recommended HACCP.** A Hazard Analysis and Critical Control Plan ("HACCP"), as set forth under Title 21, Part 120 of the Code of Federal Regulations, shall be recognized as a standardized best practice to ensure that food is suitable for human consumption and that food-packaging materials are safe and suitable. Processors are encouraged to adopt a HACCP to help ensure compliance with existing Oklahoma food safety laws, particularly OAC 310:260-3-6.

(g) **Private homes; living or sleeping quarters.**

(1) A private home, a room used as living or sleeping quarters, or an area directly opening into a room used as living or sleeping quarters may not be used for conducting processing operations.

(2) Living or sleeping quarters located on the premises of a processor such as those provided for lodging registration clerks or resident managers shall be separated from rooms and areas used

for food establishment operations by complete partitioning and solid self-closing doors.

310:681-5-9. Standards for handling and processing medical marijuana and medical marijuana products

These rules do not relieve commercial licensees of any obligations under Oklahoma law, statutes, and rules, including 63 O.S. § 1-1101 et seq., 63 O.S. § 1-1401 et seq., the Oklahoma Administrative Code ("OAC") 310:257, and OAC 310:260, to the extent they are applicable and do not conflict with 63 O.S. § 420 et seq.

310:681-5-10. Medical marijuana waste disposal

(a) All medical marijuana plant material and waste generated during the cultivation, production, processing, handling, and testing of medical marijuana and medical marijuana products must be stored, managed, and disposed of in accordance with these Rules, the Oklahoma Medical Marijuana Waste Management Act, 63 O.S. § 427a et seq., and any other applicable Oklahoma statutes and rules, except that medical marijuana waste shall not be subject to the provisions of the Uniform Controlled Dangerous Substances Act, 63 O.S. § 2-101 et seq.

(b) Licensees may dispose of root balls, stems, fan leaves, seeds, and the mature stalks or fiber produced from such stalks at the license premises by open burning, incineration, burying, mulching, composting or any other technique approved by the Department of Environmental Quality.

310:681-5-11. [RESERVED]

310:681-5-12. Marijuana transaction limitations

(a) A single transaction by a dispensary with a patient, or the parent(s) or legal guardian(s) if patient is under eighteen (18) years of age, or caregiver shall be limited to three (3) ounces of marijuana, one (1) ounce of marijuana concentrate, seventy-two (72) ounces of edible medical marijuana products, six (6) mature plants, and/or six (6) seedling plants.

(b) A single transaction between a processor and patient, or the parent(s) or legal guardian(s) if patient is younger than eighteen (18) years of age, for the processing of medical marijuana concentrate shall be limited to one (1) ounce of medical marijuana concentrate.

(c) Commercial establishments shall verify and ensure that all medical marijuana transactions are conducted with medical marijuana patient, caregiver, or commercial license holders and shall take all reasonable steps necessary to prevent the sale or other transfer of medical marijuana to a person or entity who does not hold a valid, unexpired license issued by the Department under 63 O.S. §420 et seq. and this Chapter.

(1) Verification of all licenses shall include, at a minimum: name; valid, unexpired license number; and expiration date.

(2) Verification of individual licenses, in addition to the items required in Subsection (c)(1) above, shall include photo of the licensee.

(d) Any transaction not in accordance with this Section will constitute an unlawful purchase and sale as set forth in OAC 310:681-

5-6.1 (relating to penalties).

310:681-5-13. Loss and theft

If a commercial licensee has reason to believe that an actual loss, theft, or diversion of medical marijuana has occurred, the commercial licensee shall notify immediately the Department and law enforcement. The commercial licensee shall provide the notice by attaching and submitting electronically a signed statement that details the estimated time, location, and circumstances of the event, including an accurate inventory of the quantity and type of medical marijuana unaccounted for due to diversion or theft. The notice shall be provided no later than twenty-four hours after discovery of the event.

310:681-5-14. [RESERVED]

310:681-5-15. [RESERVED]

310:681.5-16 [RESERVED]

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

No minors under the age of eighteen(18) may enter commercial establishments unless the minor is a patient license holder accompanied by their parent or legal guardian.

310:681-5-18. Prohibited acts

(a) No commercial establishment shall allow the consumption of alcohol or the smoking or vaping of medical marijuana or medical marijuana products on the premises.

(b) No commercial establishment shall employ any person under the age of eighteen (18).

(c) No dispensary shall allow for or provide the delivery of medical marijuana or medical marijuana products to licensed patients or caregivers.

(d) No dispensary shall allow any physician to be located, maintain an office, write recommendations, or otherwise provide medical services to patients at the same physical address as a dispensary.

(e) No commercial establishment shall engage in false advertising.

(f) No commercial establishment shall sell or offer to sell medical marijuana products by means of any advertisement or promotion that includes any statement, representation, symbol, depiction, or reference, directly or indirectly, which would reasonably be expected to induce minors to purchase or consume marijuana or medical marijuana products.

(g) No commercial establishment shall falsify or misrepresent any documents, forms, or other materials or information submitted to the Department.

(h) No commercial establishment shall threaten or harm a patient, medical practitioner, or an employee of the Department.

(i) No commercial establishment shall fail to adhere to any acknowledgment, verification, or other representation made to the Department.

(j) No licensee shall operate or otherwise use any extraction

equipment or processes utilizing butane, propane, carbon dioxide or any potentially hazardous material in residential property.

(k) Licensees shall only purchase, obtain, or otherwise accept the transfer of medical marijuana or medical marijuana products from an Oklahoma-licensed medical marijuana business. No licensee shall purchase medical marijuana or medical marijuana products from any unlicensed or out-of-state individual or entity.

310:681-5-19. [RESERVED]

SUBCHAPTER 6. COMMERCIAL FACILITIES

310:681-6-1. General security requirements for commercial establishment

(a) Commercial licensees shall implement appropriate security measures to deter and prevent the unauthorized entrance into areas containing marijuana and the theft and diversion of marijuana.

(b) Commercial licensees are responsible for the security of all marijuana items on the licensed premises or all marijuana items in their possession during transit.

310:681-6-2. Construction of premises

All commercial establishments shall meet the standards of any applicable state and local electrical, fire, plumbing, waste and building specification codes including but not limited to the codes adopted by the Oklahoma Uniform Building Code Commission as set forth in OAC Title 748, Chapter 20.

310:681-6-3. [RESERVED]

310:681-6-4. [RESERVED]

310:681-6-5. [RESERVED]

310:681-6-6. [RESERVED]

310:681-6-7. [RESERVED]

310:681-6-8. [RESERVED]

310:681-6-9. [RESERVED]

310:681-6-10. [RESERVED]

310:681-6-11. [RESERVED]

SUBCHAPTER 7. PACKAGING, LABELING, AND ADVERTISING

310:681-7-1. Labeling and Packaging

(a) **Prohibition on sale or transfer.** Commercial licensees shall not sell, distribute, or otherwise transfer medical marijuana and medical marijuana products that are not packaged and labeled in accordance with the Oklahoma Medical Marijuana and Patient Protection Act, 63

O.S. § 427.1 et seq., and these Rules.

(b) **Nonacceptance or Return.** A dispensary shall refuse to accept or shall return to the licensee transferring medical marijuana or medical marijuana products to the dispensary, any medical marijuana or medical marijuana products that are not packaged and labeled in accordance with the Oklahoma Medical Marijuana and Patient Protection Act, 63 O.S. § 427.1 et seq., and these Rules. The commercial licensee who sold or otherwise transferred the nonconforming medical marijuana or medical marijuana products shall accept such return. If circumstances are such that the dispensary cannot return or refuse to accept the nonconforming medical marijuana or medical marijuana products, the dispensary shall dispose of the nonconforming medical marijuana and medical marijuana products in accordance with the Oklahoma Medical Marijuana Waste Management Act, 63 O.S. § 427a et seq., and these Rules.

(c) **Documentation.** A dispensary shall document any such return, nonacceptance, or disposal, and such documentation shall include at a minimum:

(1) The license number, name, contact information, and address of the licensee who sold or otherwise transferred the nonconforming medical marijuana or medical marijuana products to the dispensary;

(2) A complete inventory of the medical marijuana and medical marijuana products to be returned or disposed, including the batch number;

(3) The reason for the nonacceptance, return, or disposal; and

(4) The date of the nonacceptance, return, or disposal.

(d) **General Requirements.** The following general label and packaging requirements, prohibitions, and exceptions shall apply to all medical marijuana and medical marijuana products:

(1) Labels, packages, and containers shall not be attractive to minors and shall not contain any content that reasonably appears to target children, including toys, cartoon characters, and similar images. Packages should be designed to minimize appeal to children and shall not depict images other than the business name logo of the medical marijuana producer and image of the product.

(2) Packaging must contain a label that reads: "Keep out of reach of children."

(3) All medical marijuana and medical marijuana products must be packaged in child-resistant containers at the point of sale or other transfer to a patient, a patient's parent or legal guardian if patient is a minor, or a caregiver.

(4) Label must contain a warning that states "Women should not use marijuana or medical marijuana products during pregnancy because of the risk of birth defects."

(5) Packages and labels shall not contain any false or misleading statements.

(6) No medical marijuana or medical marijuana products shall be intentionally or knowingly packaged or labeled so as to cause a reasonable patient confusion as to whether the medical marijuana or medical marijuana product is a trademarked product.

(7) No medical marijuana or medical marijuana products shall be packaged or labeled in a manner that violates any federal

trademark law or regulation.

(8) Packages and labels shall not shall not make any claims or statements that the medical marijuana or medical marijuana products provide health or physical benefits to the patient.

(e) **Label Requirements.** Medical marijuana and medical marijuana product labels shall contain, at a minimum, the following information:

- (1) The Oklahoma Uniform Symbol in the manner and form prescribed by the Department;
- (2) THC potency;
- (3) Terpenoid potency; and
- (4) The statement, "This product has been tested for contaminants."

Labels for edible medical marijuana products shall also meet the requirements set forth in OAC 310:681-5-8.1.

310:681-7-2. Prohibited products

(a) No commercial establishment shall manufacture, process, or offer for sale or consumption any medical marijuana product intended to be attractive to children or minors.

(b) No commercial establishment, other than a licensed dispensary, shall offer for retail sale any marijuana seedlings or mature plants. No mature plants are authorized in the possession of either a commercial establishment licensee or patient license holder until 60 days after August 27, 2018. No seedlings are authorized in the possession of a commercial establishment license holder until 7 days after August 27, 2018.

310:681-7-3. Advertising

(a) Commercial licensees shall not engage in, circulate, or otherwise cause the dissemination of advertising that contains any materials prohibited under Oklahoma law and these rules.

(b) Advertising for medical marijuana and medical marijuana products shall not contain any statements, illustrations, or other material that:

- (1) Is deceptive, false, or misleading;
- (2) Promotes overconsumption;
- (3) Represents that the use of marijuana has curative or therapeutic effects;
- (4) Depicts a child or other person under legal age to consume marijuana;
- (5) Depicts objects such as toys, cartoons, cartoon characters, or similar images, which suggest the presence of a child, or any other depiction designed in any manner to be especially appealing to children or other persons under legal age to consumer marijuana;
- (6) Has any manner or design that would be especially appealing to children or other persons under eighteen (18) years of age.

SUBCHAPTER 8. LABORATORY TESTING

310:681-8-1. Testing standards and thresholds

(a) **Purpose.** To ensure the suitability and safety for human consumption of medical marijuana and medical marijuana products,

growers and processors are required to test medical marijuana and medical marijuana products for microbials, mycotoxins, residual solvents, pesticides, THC and cannabinoid potency, terpenoid potency, heavy metals, and contaminants and filth in accordance with the following standards and thresholds.

(b) **Batches.** Growers shall separate all harvested medical marijuana into ten-pound harvest batches. Processors shall separate all medical marijuana product lots into ten-pound production batches.

(c) **Frequency.** Growers and processors shall ensure samples from each harvest batch and production batch are tested in accordance with the Oklahoma Medical Marijuana and Patient Protection Act, 63 O.S. § 427.1 et seq., and these Rules. Growers shall not sell or otherwise transfer any medical marijuana from any medical marijuana harvest batch until samples of the harvest batch have passed all tests in accordance with this Subchapter. Processors shall not process, sell, or otherwise transfer any medical marijuana products from any medical marijuana production batch until samples of the production batch have passed all tests in accordance with this Subchapter.

(d) **Prohibited Transfers.** Growers and processors shall dispose of and shall not use, sell, or otherwise transfer any medical marijuana or medical marijuana products that exceed any testing thresholds or fail to meet any other standards set forth in this Subchapter.

(e) **Recall.** In the event that any medical marijuana or medical marijuana products that exceed allowable testing thresholds or that otherwise fail to meet standards set forth in this Subchapter are sold or otherwise transferred, the following shall occur:

(1) Any commercial licensee with knowledge of such event shall immediately notify the Department;

(2) All such medical marijuana and medical marijuana products shall be immediately recalled; and

(3) Every commercial licensee who is in possession or has ever had possession of such medical marijuana or medical marijuana products shall assist in the immediate recall.

(f) **Retention of test results and records.** Processors and growers shall retain all test results and related records for three (3) years.

(g) **Allowable Thresholds.**

(1) **Microbiological testing.**

(A) All production batch Samples shall be tested for aerobic plate count.

(B) Sample test results shall validate that less than one colony forming unit (CFU) per gram of tested material is present for E. coli or Salmonella species.

(C) Samples shall be tested for the presence of yeast and molds. Sample test results shall validate less than 10 to the fourth power CFU per gram.

(D) Test reports shall include method reference.

(2) **Mycotoxins.**

(A) All production batch samples of concentrate shall be tested for aflatoxins (B1, B2, G1, and G2) and Ochratoxin A.

(B) The total of aflatoxins B1, B2, G1, and G2, and the level of ochratoxin A cannot exceed 20 parts per billion (ppb).

(3) **Residual solvents and chemical residue.**

(A) Production batch samples shall be tested for the following solvents to the maximum extent practical:

- (i) Acetone < 1,000 ppm
- (ii) Benzene < 2 ppm
- (iii) Butanes/ Heptanes < 1,000 ppm
- (iv) Hexane < 60 ppm
- (v) Isopropyl Alcohol < 1,000 ppm
- (vi) Pentane < 1,000 ppm
- (vii) Propane < 1,000 ppm
- (viii) Toluene < 180 ppm
- (ix) Total Xylenes (m, p, o-xylenes) < 430 ppm

(B) Sample test reports shall provide specific data for all listed and detected solvents.

(C) Sample test reports shall list any solvents listed above that could not be tested for.

(D) If the test equipment's Limit of Detection (lowest possible detection limit) is above the specified limit for a solvent, the equipment's Limit of Detection amount will be considered sufficient to exceed safe contamination limits.

(E) If the cannabis concentrate used to make an infused product was tested for solvents and chemical residue and test results indicate the lot was within established limits, then the infused product does not require additional testing for solvents and chemical residue.

(4) **Metals.**

(A) All harvest batch and production batch samples shall be tested for heavy metals, which shall include but is not limited to lead, arsenic, cadmium, and mercury.

(B) Test results shall meet the following thresholds:

- (i) Lead - max limit < 1 ppm
- (ii) Arsenic - max limit < 0.4 ppm
- (iii) Cadmium - max limit < 0.44 ppm
- (iv) Mercury - max limit < 0.2 ppm

(C) If the cannabis concentrate used to make an infused product was tested for metals and test results indicate the lot was within established limits, then the infused product does not require additional testing for metals.

(5) **Pesticide residue.**

(A) All harvest batch samples shall be tested for the following pesticides, and shall not exceed the associated limits:

- (i) Spiromesifen < 0.5 ppm
- (ii) Spirotetramat < 0.5 ppm
- (iii) Tebuconazole < 0.5 ppm
- (iv) Etoxazole < 0.5 ppm
- (v) Imazalil < 0.5 ppm
- (vi) Imidacloprid < 0.5 ppm
- (vii) Malathion < 0.5 ppm
- (viii) Myclobutanil < 0.5 ppm
- (ix) Azoxystrobin < 0.5 ppm
- (x) Bifenazate < 0.5 ppm

- (xi) Abamectin (Avermectins: B1a & B1b) < 0.5 ppm
- (xii) Permethrin (mix of isomers) < 0.5 ppm
- (xiii) Spinosad (Mixture of A and D) < 0.5 ppm

(6) **Potency.** Processors and growers shall test harvest batch and production batch samples for levels of total THC and terpenoid potency.

(7) **Contaminants and filth.** Growers and processors shall inspect all medical marijuana and medical marijuana products for contaminants and filth.

(A) Contaminants include any biological or chemical agent, foreign matter, or other substances not intentionally added to medical marijuana or medical marijuana products that may compromise safety or suitability.

(B) Growers and processors shall document allowable thresholds for physical contaminants as part of the product test plan. Inspection requirements should be included in the operation's product test plan for third party testing, if applicable.

(C) Inspection records shall indicate a continual process of physical inspection has taken place for all batches.

- 310:681-8-2. [RESERVED]
- 310:681-8-3. [RESERVED]
- 310:681-8-4. [RESERVED]
- 310:681-8-5. [RESERVED]
- 310:681-8-6. [RESERVED]
- 310:681-8-7. [RESERVED]

APPENDIX A. [RESERVED]