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Board of Trustees for the MCCURTAIN County Higher Education		Board of Regents of SEMINOLE State College (<i>exempted</i>	
Program (<i>exempted</i> 11-1-98)	430	11-1-98)	665
Office of MANAGEMENT and Enterprise Services (Formerly: Office		SHEEP and Wool Commission	670
of State FINANCE) - See Title 260		State Board of Licensed SOCIAL Workers	675
Commission on MARGINALLY Producing Oil and Gas Wells	432	SOUTHERN Growth Policies Board	680
State Board of MEDICAL Licensure and Supervision	435	Oklahoma SOYBEAN Commission (<i>abolished</i> 7-1-97)	685
MEDICAL Technology and Research Authority of Oklahoma	440	Board of Examiners for SPEECH-LANGUAGE Pathology and	
Board of MEDICOLEGAL Investigations	445	Audiology (Formerly: Board of Examiners for SPEECH	
Department of MENTAL Health and Substance Abuse Services	450	Pathology and Audiology)	690
MERIT Protection Commission	455	STATE Employee Charitable Contributions, Oversight	
MILITARY Planning Commission, Oklahoma Strategic	457	Committee for (Formerly: STATE Agency	
Department of MINES	460	Review Committee)	695
Oklahoma MOTOR Vehicle Commission	465	STATE Use Committee (Formerly: Committee on Purchases of Products	
Board of Regents of MURRAY State College (<i>exempted</i> 11-1-98)	470	and Services of the Severely HANDICAPPED) - See Title 304	
Oklahoma State Bureau of NARCOTICS and Dangerous Drugs		Oklahoma STUDENT Loan Authority	700
Control	475	TASK Force 2000	705
Board of Regents of NORTHERN Oklahoma College (<i>exempted</i>		Oklahoma TAX Commission	710
11-1-98)	480	Oklahoma Commission for TEACHER Preparation (<i>merged under</i>	
Oklahoma Board of NURSING	485	<i>Office of Educational Quality and Accountability</i> 7-1-14 - See Title	
Oklahoma State Board of Examiners for LONG-TERM Care		218)	712
Administrators (Formerly: Oklahoma State Board of Examiners		TEACHERS' Retirement System	715
for NURSING Home Administrators)	490	State TEXTBOOK Committee	720
Board of Regents of OKLAHOMA City Community College (<i>exempted</i>		TOBACCO Settlement Endowment Trust Fund	723
11-1-98)	495	Oklahoma TOURISM and Recreation Department	725
Board of Regents of OKLAHOMA Colleges (<i>exempted</i> 11-1-98)	500	Department of TRANSPORTATION	730
Board of Examiners in OPTOMETRY	505	Oklahoma TRANSPORTATION Authority (<i>Name changed to</i>	
State Board of OSTEOPATHIC Examiners	510	Oklahoma TURNPIKE Authority 11-1-05) - See Title 731	
PARDON and Parole Board	515	Oklahoma TURNPIKE Authority (Formerly: Oklahoma	
Oklahoma PEANUT Commission	520	TRANSPORTATION Authority AND Oklahoma TURNPIKE	
Oklahoma State PENSION Commission	525	Authority) - See also Title 745	731
State Board of Examiners of PERFUSIONISTS	527	State TREASURER	735
Office of PERSONNEL Management (<i>consolidated under</i> Office		Board of Regents of TULSA Community College (<i>exempted</i>	
of Management and Enterprise Services 8-26-11 - See Title		11-1-98)	740
260)	530	Oklahoma TURNPIKE Authority (<i>Name changed to</i> Oklahoma	
Board of Commercial PET Breeders (<i>abolished</i> 7-1-12 - See Title		TRANSPORATION Authority 11-1-99 - no rules enacted in this	
35)	532	Title - See Title 731)	745
Oklahoma State Board of PHARMACY	535	Oklahoma UNIFORM Building Code Commission	748
PHYSICIAN Manpower Training Commission	540	Board of Trustees for the UNIVERSITY Center at Tulsa (<i>exempted</i>	
Board of PODIATRIC Medical Examiners	545	11-1-98)	750
Oklahoma POLICE Pension and Retirement System	550	UNIVERSITY Hospitals Authority	752
State Department of POLLUTION Control (<i>abolished</i> 1-1-93)	555	UNIVERSITY Hospitals Trust	753
POLYGRAPH Examiners Board	560	Board of Regents of the UNIVERSITY of Oklahoma (<i>exempted</i>	
Oklahoma Board of PRIVATE Vocational Schools	565	11-1-98)	755
State Board for PROPERTY and Casualty Rates		Board of Regents of the UNIVERSITY of Science and Arts	
(<i>abolished</i> 7-1-06; see also Title 365)	570	of Oklahoma (<i>exempted</i> 11-1-98)	760
State Board of Examiners of PSYCHOLOGISTS	575	Oklahoma USED Motor Vehicle and Parts Commission	765
Department of CENTRAL Services (Formerly: Office of PUBLIC		Oklahoma Department of VETERANS Affairs	770
Affairs; <i>consolidated under</i> Office of Management and Enterprise		Board of VETERINARY Medical Examiners	775
Services 8-26-11 - See Title 260)	580	Statewide VIRTUAL Charter School Board	777

Agency/Title Index – *continued*

Agency	Title	Agency	Title
Oklahoma Department of CAREER and Technology Education (Formerly: Oklahoma Department of VOCATIONAL and Technical Education)	780	Oklahoma WHEAT Commission	795
Oklahoma WATER Resources Board	785	Department of WILDLIFE Conservation	800
Board of Regents of WESTERN Oklahoma State College (<i>exempted</i> <i>11-1-98</i>)	790	WILL Rogers and J.M. Davis Memorials Commission	805
		Oklahoma WORKERS' Compensation Commission	810

Notices of Rulemaking Intent

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

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

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

TITLE 10. OKLAHOMA ACCOUNTANCY BOARD CHAPTER 15. LICENSURE AND REGULATION OF ACCOUNTANCY

[OAR Docket #19-815]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 18. Computer-Based Examination

10:15-18-1. [AMENDED]

10:15-18-3. [AMENDED]

Subchapter 21. Reciprocity

10:15-21-1. [AMENDED]

Subchapter 23. Registration

10:15-23-1. [AMENDED]

Subchapter 25. Permits

10:15-25-3. [AMENDED]

Subchapter 27. Fees

10:15-27-16. [NEW]

Subchapter 37. Enforcement Procedures

10:15-37-11. [AMENDED]

SUMMARY:

The proposed revision to 10:15-18-1(b) is to take out the "good moral character" requirement for exam applicants in keeping with the removal of the same requirement for qualification applicants under House Bill 1373 ("HB 1373"), which became effective November 1, 2019. The removal of 10:15-18-3(b)(3) allows for continuous CPA exam testing. The proposed revisions to 10:15-21-1, 10:15-23-1, and 10:15-25-3, assists in compliance with the Military Service Occupation, Education, and Credentialing Act under Senate Bill 670 (2019). These changes require the application of an active duty military personnel or their spouse to be processed expeditiously and also waives the application fee. The proposed revisions also grant a waiver of the first year registration and permit fees for those same military personnel applicants. The addition of 10:15-27-16 allows the Board to charge a \$95.00 fee, as authorized under HB 1373, for an "initial determination of eligibility request" for those applicants with criminal history. The proposed revisions to 10:15-37-11 are to set out the framework to effectuate the requirements under HB 1373. Under the new law, the Board must maintain and make available to the public a list of criminal

offenses that would disqualify an individual from holding a license or certificate.

AUTHORITY:

Oklahoma Accountancy Board; 59 O.S. Section 15.5(B)(6)

COMMENT PERIOD:

Written and oral comments will be accepted through close of business January 3, 2020. Comments can be submitted directly through the Oklahoma Accountancy Board (OAB) website at www.ok.gov/oab. Comments can also be submitted to Randy Ross, Executive Director, or LaLisa Semrad, Rules Committee Liaison, Oklahoma Accountancy Board, 201 NW 63rd Street, Suite 210, Oklahoma City, Oklahoma 73116. Telephone: 405-521-2397, E-mail: lsemrad@oab.ok.gov or FAX: 405-521-3118.

PUBLIC HEARING:

A public hearing will be held at 2:00 p.m. on Thursday, January 9, 2020, at the OAB Boardroom located at 201 NW 63rd Street, Suite 210, Oklahoma City, OK 73116. Anyone wishing to speak must sign in by 2:10 p.m.

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Randy Ross or LaLisa Semrad at the above address through close of the comment period on January 3, 2020.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the OAB website at www.ok.gov/oab or from the Oklahoma Accountancy Board, 201 NW 63rd Street, Suite 210, Oklahoma City, OK 73116.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., §303(D), a rule impact statement will be prepared and will be available by December 2, 2019 on the OAB website or from the OAB at the address and contact numbers listed above.

CONTACT PERSONS:

Randy Ross or LaLisa Semrad, (405) 521-2397, lsemrad@oab.ok.gov.

[OAR Docket #19-815; filed 11-5-19]

Notices of Rulemaking Intent

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 100. AIR POLLUTION CONTROL

[OAR Docket #19-821]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 17. Incinerators

Part 9. Commercial and Industrial Solid Waste Incineration Units

252:100-17-60 [AMENDED]

252:100-17-62 [AMENDED]

252:100-17-63 [AMENDED]

252:100-17-74 [AMENDED]

SUMMARY:

The Department of Environmental Quality (DEQ) is proposing to amend Oklahoma Administrative Code (OAC) 252:100-17, Incinerators, to clarify the applicability of Part 9, Commercial and industrial solid waste incineration units (CISWI), to existing air curtain incinerators and to modify the State 111(d)/129 plan for CISWI. The gist of the proposed rulemaking is to update the rule and state plan in accordance with recent changes to the federal emission guidelines.

AUTHORITY:

Environmental Quality Board; 27A Okla. Stat. (O.S.) Sections 2-2-101, 2-2-201, and 2-5-106.

Air Quality Advisory Council; 27A O.S. Sections 2-2-201 and 2-5-107.

Oklahoma Clean Air Act; 27A O.S. Sections 2-5-101 through -117.

COMMENT PERIOD:

Written comments may be submitted to the contact person from December 2, 2019, through January 6, 2020. Oral comments may be made at the January 15, 2020 hearing (or on the alternate date of January 22, 2020 in the event of inclement weather) and at the February 21, 2020 Environmental Quality Board hearing.

PUBLIC HEARING:

Before the Air Quality Advisory Council at 9:00 a.m. on Wednesday, January 15, 2020, at the DEQ Headquarters, 707 N. Robinson Avenue, Oklahoma City, OK 73102. In case of inclement weather, an alternate date is scheduled for Wednesday, January 22, 2020 at the same location. In the event the alternate date is needed, the comment period will extend to include that date.

If due to inclement weather the public hearing scheduled for January 15, 2020 is canceled, notice announcing the hearing cancellation will be posted on the DEQ web site (<https://www.deq.ok.gov/council-meeting-single/?meetingid=MTA5NjQ=>) at least 24 hours prior to the scheduled time for the hearing. Interested parties may call (405) 702-4100 to find out if the hearing has been canceled.

If the Council recommends adoption, the proposed rules will be considered by the Environmental Quality Board at its

meeting scheduled for 9:30 a.m. on Friday, February 21, 2020, at the DEQ Headquarters, 707 N. Robinson Avenue, Oklahoma City, OK 73102.

The Air Quality Advisory Council hearing shall also serve as the public hearing to receive comments on the proposed revisions to the State Implementation Plan (SIP) under the requirements of 40 CFR Section 51.102 and 27A O.S. Section 2-5-107(6)(c); to the CISWI State Plan under the requirements of the federal Clean Air Act, Sections 111(d) and 129, 40 CFR Part 60, Subparts B and DDDD, and 27A O.S. Section 2-5-107; and to the State Title V (Part 70) Implementation Plan under the requirements of 40 CFR Part 70 and 27A O.S. Section 2-5-112(B)(9).

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

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

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the contact person, reviewed at the DEQ Headquarters, 707 N. Robinson Avenue, Oklahoma City, OK 73102, or reviewed online at <https://www.deq.ok.gov/council-meeting-single/?meetingid=MTA5NjQ=>.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. Section 303(D), a rule impact statement will be prepared and available on and after December 2, 2019, on the DEQ Air Quality Division website at <https://www.deq.ok.gov/council-meeting-single/?meetingid=MTA5NjQ=>. Copies may also be obtained from the Department by calling the contact person listed below.

CONTACT PERSON:

The contact person for this proposal is Melanie Foster, Environmental Programs Manager, who can be reached by phone at (405) 702-4100. Please email written comments to AQDRuleComments@deq.ok.gov. Mail should be addressed to Department of Environmental Quality, Air Quality Division, P.O. Box 1677, Oklahoma City, OK 73101-1677, ATTN: Melanie Foster. The Air Quality Division fax number is (405) 702-4101.

PERSONS WITH DISABILITIES:

Should you desire to attend the public hearing but have a disability and need an accommodation, please notify the Air Quality Division three (3) days in advance at (405) 702-4177. For the hearing impaired, the TDD relay number is 1-800-522-8506 or 1-800-722-0353, for TDD machine use only.

[OAR Docket #19-821; filed 11-6-19]

**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 710. WATERWORKS AND WASTEWATER WORKS OPERATOR CERTIFICATION**

[OAR Docket #19-823]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- Subchapter 1. General Provisions
 - 252:710-1-1. [AMENDED]
 - 252:710-1-2. [AMENDED]
 - 252:710-1-3. [AMENDED]
 - 252:710-1-4. [AMENDED]
 - 252:710-1-5. [AMENDED]
 - 252:710-1-6. [AMENDED]
 - 252:710-1-7. [AMENDED]
 - 252:710-1-8. [AMENDED]
 - 252:710-1-9. [AMENDED]
 - 252:710-1-12. [AMENDED]
- Subchapter 3. Certification
 - 252:710-3-31. [AMENDED]
 - 252:710-3-32. [AMENDED]
 - 252:710-3-34. [AMENDED]
 - 252:710-3-35. [AMENDED]
 - 252:710-3-36. [AMENDED]
 - 252:710-3-37. [AMENDED]
 - 252:710-3-38. [NEW]
- Subchapter 5. Duties and Responsibilities
 - 252:710-5-53. [AMENDED]
 - 252:710-5-54. Temporary operator
 - 252:710-5-55. [AMENDED]
 - 252:710-5-56. [AMENDED]
- Subchapter 7. Shared Operators for Small Systems
 - 252:710-7-2. [AMENDED]
- Appendix B Certificate Requirements (252:710-3-35) [REVOKED]
- Appendix B Certificate Requirements (252:710-3-35) [NEW]
- Appendix C Number Of Professional Development Hours (PDHs) Needed Per Certificate Level For Operators And Laboratory Operators [NEW]

SUMMARY:

The gist of this rulemaking is to enhance the professional development of operators in Oklahoma by increasing training requirements for certification renewal. This rulemaking will allow DEQ to approve a variety of training opportunities that minimize the financial impact on operators and employers and help rural operators to achieve the required training hours. Furthermore, this rulemaking will allow environmental professionals, such as DEQ environmental specialists, to obtain a special non-operational certification in order to demonstrate a fundamental understanding of operator knowledge. This rulemaking will also modify language

to change the time of approval and review for training courses from 30 to 42 days. Furthermore, this rulemaking will incorporate the language of Senate Bill No. 670 that provides for certification reciprocity for military personnel being transferred to Oklahoma. Lastly, this rulemaking will promote consistency with relevant statutory language and clarify existing language by adding definitions and modifying unclear rule text.

The Department is also proposing to add Appendix C that clarifies the number of Professional Development Hours need for each certificate level.

AUTHORITY:

Environmental Quality Board; 27A O.S. § 2-2-101; Water Quality Management Advisory Council; 27A O.S. § 2-2-201; and 27A O.S. §§ 2-6-103, 2-6-203, 2-6-402 and 2-6-501

COMMENT PERIOD:

Written comments may be submitted to the contact person from December 2, 2019 through January 2, 2020. Oral comments may be made at the January 7, 2020 Water Quality Management Advisory Council hearing and at the February 21, 2020 Environmental Quality Board hearing.

PUBLIC HEARING:

Before the Water Quality Management Advisory Council on January 7, 2020, at 2:00 p.m. in the Multi-Purpose Room on the first floor of the Department of Environmental Quality, 707 N. Robinson, Oklahoma City, Oklahoma 73102.

Before the Environmental Quality Board on February 21, 2020, at 9:30 a.m. in the Multi-Purpose Room on the first floor of the Department of Environmental Quality, 707 N. Robinson, Oklahoma City, Oklahoma 73102.

REQUESTS FOR COMMENTS:

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

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the contact person, reviewed at the Department of Environmental Quality, 707 N. Robinson, Oklahoma City, Oklahoma, during normal business hours (8:00 am - 4:30 pm Monday through Friday) or reviewed online at <http://www.deq.state.ok.us/wqdnew/index.htm>.

RULE IMPACT STATEMENT:

Copies of the rule impact statement may be obtained from the contact person or may be reviewed online at <http://www.deq.state.ok.us/wqdnew/index.htm>.

CONTACT PERSON:

The contact person is Mark Hildebrand. Mark may be contacted at: Mark.Hildebrand@deq.ok.gov (e-mail), (405) 702-8100 (phone) or (405) 702-8101 (fax). The DEQ is located at 707 N. Robinson, Oklahoma City, Oklahoma 73102.

Notices of Rulemaking Intent

The DEQ's mailing address is P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677.

ADDITIONAL INFORMATION:

Persons with disabilities who desire to attend the rulemaking hearing and need an accommodation should notify the contact person three (3) days in advance of the hearing. For hearing impaired, the TDD relay number is 1-800-522-8506 or 1-800-722-0353, for TDD machine use only.

[OAR Docket #19-823; filed 11-8-19]

TITLE 715. TEACHERS' RETIREMENT SYSTEM CHAPTER 1. ADMINISTRATIVE OPERATIONS

[OAR Docket #19-803]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

715:1-1-5. Executive Director [AMENDED]

SUMMARY:

715:1-1-5 is being amended per 2019 legislation (SB 772) which removed the position of "Secretary-Treasurer" from the System and to update current position title for Teachers' Retirement System Staff.

AUTHORITY:

70 O.S. Section 17-101, et seq., especially Section 17-106(10); Board of Trustees.

COMMENT PERIOD:

Written comments may be made from December 3, 2019, through January 2, 2020, filed and available for inspection in the Office of the Executive Director, Teachers' Retirement System of Oklahoma, 5th Floor, Oliver Hodge Building, 2500 N. Lincoln Blvd., Oklahoma City, Oklahoma, from 8:30 a.m. until 5:00 p.m., Monday through Friday, excluding holidays, or by mailing same to the Executive Director, Teachers' Retirement System of Oklahoma, P.O. Box 53524, Oklahoma City, OK 73152.

PUBLIC HEARING:

A public hearing will be held from 9:00 a.m. to 10:00 a.m. on January 6, 2020, at the offices of the Teachers' Retirement System, 5th Floor, Oliver Hodge Building, 2500 N. Lincoln Blvd., Oklahoma City, OK. Written notice of intent to make oral comments is encouraged. Individuals who file a written notice to comment will be scheduled to speak before comments are accepted from the audience. Written notice may be filed with the Executive Director, Teachers' Retirement System of Oklahoma, 5th Floor, Oliver Hodge Building, 2500 N. Lincoln Blvd., Oklahoma City, OK 73105, until 5:00 p.m. on December 30, 2019.

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained for review from the Teachers' Retirement System of Oklahoma, 5th Floor, Oliver Hodge Building, 2500 N. Lincoln Blvd., Oklahoma City, Oklahoma 73105, and also will be available on the TRS website (www.ok.gov/TRS).

RULE IMPACT STATEMENT:

The Teachers' Retirement System will issue a rule impact statement. Copies of the statement will be available on the TRS website (www.ok.gov/TRS) or may be obtained from the Teachers' Retirement System of Oklahoma, 5th Floor, Oliver Hodge Building, 2500 N. Lincoln Blvd., Oklahoma City, Oklahoma 73105, beginning October 25, 2019, between 8:30 a.m. and 5:00 p.m., Monday through Friday, excluding holidays.

CONTACT PERSON:

Phyllis Bennett, Rules Liaison (405) 521-4745.

[OAR Docket #19-803; filed 10-28-19]

TITLE 715. TEACHERS' RETIREMENT SYSTEM CHAPTER 10. GENERAL OPERATIONS

[OAR Docket #19-804]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. Membership Provisions

715:10-1-6. Date of Membership [AMENDED]

Subchapter 5. Establishing Other Service Credits

715:10-5-7. Credit for service in other Oklahoma Retirement Systems [AMENDED]

Subchapter 9. Survivor Benefits

715:10-9-3. Monthly annuity in lieu of death benefit [AMENDED]

Subchapter 13. Contributions for Membership Service

715:10-13-15. Board waiver of employer late fees [AMENDED]

Subchapter 15. Service Retirement

715:10-15-3. Date of retirement; making application [AMENDED]

Subchapter 17. Post-Retirement Employment

715:10-17-5. Permissible employment [AMENDED]

715:10-17-16. Post retirement employment with the State Department of Education [NEW]

SUMMARY:

715:10-1-6 is being amended to clarify that only members who join the System prior to July 1, 1996, may be considered an "eligible participant" under O.A.C. 715:10-15-27.

715:10-5-7 is being amended to clarify that only members who join the System prior to July 1, 1996, may be considered an "eligible participant" under O.A.C. 715:10-15-27.

715:10-9-3 is being amended pursuant to amendments to 70 O.S. §17-120 in the 2016 legislative session (HB 2263) providing that a member's spouse, another person, or the beneficiary of a Special Needs Trust may select Option 2 retirement in lieu of death benefits under certain specific circumstances.

715:10-13-15 is being amended pursuant to amendments to 70 O.S. §17-120 in the 2019 legislative session (SB 772) which now allows the System, rather than the Board of Trustees, to waive employer late fees for good cause shown.

715:10-5-25 is being amended to clarify the documentation necessary to establish credit for out-of-state service.

715:10-15-3 is being amended to reflect the first retirement benefit payment is to be made on the first day of the month following the effective retirement date to be consistent with all companion rules and statutes.

715:10-17-5 is being amended to reflect an exception to post retirement earnings limitations for retired members who become State Department of Education employees on or after November 1, 2019, granted by an amendment to 70 O.S. §17-103 in the 2019 legislative session (HB 1246).

715:10-17-16 is being added to establish guidelines for the application of the exception to post retirement earnings limitations for retired members who become State Department of Education employees on or after November 1, 2019, granted by an amendment to 70 O.S. §17-103 in the 2019 legislative session (HB 1246).

AUTHORITY:

70 O.S. Section 17-101, et seq., especially Section 17-106(10); Board of Trustees

COMMENT PERIOD:

Written comments may be made from December 3, 2019, through January 2, 2020, filed and available for inspection in the Office of the Executive Director, Teachers' Retirement System of Oklahoma, 5th Floor, Oliver Hodge Building, 2500 N. Lincoln Blvd., Oklahoma City, Oklahoma, from 8:30 a.m. until 5:00 p.m., Monday through Friday, excluding holidays, or by mailing same to the Executive Director, Teachers' Retirement System of Oklahoma, P.O. Box 53524, Oklahoma City, OK 73152.

PUBLIC HEARING:

A public hearing will be held from 9:00 a.m. to 10:00 a.m. on January 6, 2020, at the offices of the Teachers' Retirement System, 5th Floor, Oliver Hodge Building, 2500 N. Lincoln Blvd., Oklahoma City, Oklahoma. Written notice of intent to make oral comments is encouraged. Individuals who file a written notice to comment will be scheduled to speak before comments are accepted from the audience. Written notice may be filed with the Executive Director, Teachers' Retirement System of Oklahoma, 5th Floor, Oliver Hodge Building, 2500 N. Lincoln Blvd., Oklahoma City, Oklahoma 73105, until 5:00 p.m. on December 30, 2019.

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained for review from the Teachers' Retirement System of Oklahoma, 5th Floor, Oliver Hodge Building, 2500 N. Lincoln Blvd., Oklahoma City, Oklahoma 73105, and also will be available on the TRS website (www.ok.gov/TRS).

RULE IMPACT STATEMENT:

The Teachers' Retirement System will issue a rule impact statement. Copies of the statement will be available on the TRS website (www.ok.gov/TRS) or may be obtained from the Teachers' Retirement System of Oklahoma, 5th Floor, Oliver Hodge Building, 2500 N. Lincoln Blvd., Oklahoma City, Oklahoma 73105, beginning October 25, 2019, between 8:30 a.m. and 5:00 p.m., Monday through Friday, excluding holidays.

CONTACT PERSON:

Phyllis Bennett, Rules Liaison (405) 521-4745.

[OAR Docket #19-804; filed 10-28-19]

TITLE 785. OKLAHOMA WATER RESOURCES BOARD CHAPTER 5. FEES

[OAR Docket #19-811]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- Subchapter 1. General Provisions
- 785:5-1-6. Stream water permit application and administration fees [AMENDED]
- 785:5-1-10. Groundwater application and administration fees [AMENDED]
- 785:5-1-11. Well driller and pump installer licensing fees [AMENDED]
- 785:5-1-16. Fees required in other matters [AMENDED]
- 785:5-1-21. Documentation Reviews Related Water Trapped in Producing Mines [NEW]

SUMMARY:

Staff proposes that the Oklahoma Water Resources Board ("Board") amend the following sections of Title 785 of the Oklahoma Administrative Code:

Amend 785:5-1-6(d) to increase existing annual maintenance fees for surface water permits. The \$25 increase will help offset rising costs to Information Technology the agency has experienced over the last several years.

Amend 785:5-1-10 to increase existing amounts for filing fees of groundwater applications over sensitive sole-source groundwater basins. Groundwater applications over sensitive sole-source groundwater basins require a higher level of analyses and scrutiny, which increases the amount of time required to process the application.

Amend 785:5-1-11 to increase the existing amounts for filing fees in the Well Driller and Pump Installer Licensing

Notices of Rulemaking Intent

Program. The Well Driller Program has increasingly relied on General Revenue funding since the last fee increase in 2010. The proposed fee increases would generate revenue for the program to be approximately 75% self-funded. In addition, HB2933 was passed in 2019 that allowed a waiver for low-income individuals. The proposed addition (785:5-1-11(q)) implements statutorily-required language in the Board's rules.

Remove the fee in 785:5-1-16(a), which is a fee to make a streamflow measurement. The Board no longer provides these services or historically has not needed to implement this fee.

Add 785:5-1-21, which would amend the rules to include review fees for documentation submitted to the Board related to water trapped in producing mines in sensitive sole-source groundwater basins. Such documents include requests for de minimis determination, annual mine reports, Augmentation and Management Plans, and requests to determine if a mine is within a sensitive sole-source groundwater basin. In 2011, SB597 was passed requiring the Board to develop rules relating to the management of water trapped in producing mines in sensitive sole-source groundwater basins. However the amount of staff time required reviewing documents was unknown and has been at a significant cost since formalizing those rules. The proposed fees would cover staff time reviewing documents and would allow for a dedicated employee to focus a portion of their work to this task.

AUTHORITY:

Oklahoma Water Resources Board; 82 O.S. § 1085.2; 82 O.S. § 1085.4.

COMMENT PERIOD:

Persons wishing to present data, views, or arguments orally or in writing may do so to Chrystal Krittenbrink at 3800 North Classen, Oklahoma City, Oklahoma 73118, or by email to chrystal.krittenbrink@owrb.ok.gov. Comments must be received by the OWRB no later than the close of the public hearing on January 21, 2020.

PUBLIC HEARING:

A public hearing will be held January 21, 2020 during the monthly meeting of the Board which will begin at 9:30 A.M. in the Board Room of the OWRB's offices located at 3800 North Classen, Oklahoma City, Oklahoma, 73118.

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

The OWRB requests that any business entities affected by these proposed rules provide the Board, in dollar amounts if possible, the increase in the level of direct costs such as fees, and indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity due to compliance with the proposed rules. Business entities may submit this information in writing to Chrystal Krittenbrink at 3800 North Classen, Oklahoma City, Oklahoma before the close of the comment period.

COPIES OF PROPOSED RULES:

Copies of the proposed amendments may be reviewed at the Board's office location at 3800 North Classen, Oklahoma

City, Oklahoma 73118, or may be obtained from the "Contact Person" identified below upon prepayment of the copying charge. The proposed rules may also be viewed on the Board web site at <http://www.owrb.ok.gov>.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., § 303(D), a Rule Impact Statement is available for review at the OWRB's office, 3800 North Classen, Oklahoma City, Oklahoma. The Rule Impact Statement may also be viewed on the OWRB web site at <http://www.owrb.ok.gov>.

CONTACT PERSON:

Chrystal Krittenbrink, Legal Secretary, 405-530-8800 or chrystal.krittenbrink@owrb.ok.gov.

[OAR Docket #19-811; filed 11-4-19]

TITLE 785. OKLAHOMA WATER RESOURCES BOARD CHAPTER 25. DAMS AND RESERVOIRS

[OAR Docket #19-812]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. General Provisions

785:25-1-3. Violations and penalties [AMENDED]

Subchapter 3. Responsibility, Classification and Design Standards

785:25-3-2. Owner's responsibility [AMENDED]

785:25-3-6. Minimum spillways performance standards [AMENDED]

Subchapter 5. Applications and Approval of Construction

785:25-5-4. Additional report information [AMENDED]

Subchapter 7. Post Approval Actions

785:25-7-7. Emergency action plans [AMENDED]

Subchapter 9. Actions after Construction

785:25-9-1. Inspections of dams [AMENDED]

785:25-9-3. Correction of deficiencies (not creating imminent peril) [AMENDED]

785:25-9-5. Correction of deficiencies creating imminent peril [AMENDED]

Appendix A. Jurisdiction of Board by Size and Hazard Classification [REVOKED]

Appendix A. Jurisdiction of Board by Size and Hazard Classification [NEW]

Appendix B. Minimum Spillway Performance Standards [NEW]

SUMMARY:

The staff of the Oklahoma Water Resources Board ("OWRB") is proposing to amend various provisions of Oklahoma Administrative Code ("OAC") 785:25 as follows:

OAC 785:25-3-6(d) is proposed to be amended by replacing a reference to an older hydrometeorological study (HMR No. 51, National Weather Service, 1978) that was previously used

in determining design floods for dams in Oklahoma with a reference to a newer, regional study for probable maximum precipitation in Oklahoma. The proposed change also provides reference to an updated version of OWRB guidelines for acceptable methods to be used for the determination of the design flood.

OAC 785:25-9-1 is proposed to be amended to clarify the requirements for the inspection of dams. Several minor amendments are proposed to move language from their current sub-sections to more appropriate sub-sections based on their content. The review of Emergency Action Plans and operations manuals was moved from sub-section (b) *Periodic inspections* to a new sub-section (g) *Minimum standards*. The proposed changes clarify the required scheduling of periodic inspections and the training and experience requirements for dam inspectors. The time requirement for the submittal of inspection reports after the inspection has been completed was moved from sub-section (c) *Expense of periodic inspections* to sub-section (g) *Minimum requirements*.

Other amendments are proposed to correct spelling or grammatical errors and to improve clarity.

AUTHORITY:

Oklahoma Water Resources Board; 82 O.S. § 1085.2; 82 O.S. § 110.1 and following; 82 O.S. § 105.20 and 105.27.

COMMENT PERIOD:

Persons wishing to present data, views, or arguments orally or in writing may do so to Chrystal Krittenbrink at 3800 North Classen, Oklahoma City, Oklahoma 73118, or by email to chrystal.krittenbrink@owrb.ok.gov. Comments must be received by the OWRB no later than the close of the public hearing on January 21, 2020.

PUBLIC HEARING:

A public hearing will be held January 21, 2020 during the monthly meeting of the Board which will begin at 9:30 A.M. in the Board Room of the OWRB's offices located at 3800 North Classen, Oklahoma City, Oklahoma, 73118.

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

The OWRB requests that any business entities affected by these proposed rules provide the Board, in dollar amounts if possible, the increase in the level of direct costs such as fees, and indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity due to compliance with the proposed rules. Business entities may submit this information in writing to Chrystal Krittenbrink at 3800 North Classen, Oklahoma City, Oklahoma before the close of the comment period.

COPIES OF PROPOSED RULES:

Copies of the proposed amendments may be reviewed at the Board's office location at 3800 North Classen, Oklahoma City, Oklahoma 73118, or may be obtained from the "Contact Person" identified below upon prepayment of the copying charge. The proposed rules may also be viewed on the Board web site at <http://www.owrb.ok.gov>.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., § 303(D), a Rule Impact Statement is available for review at the OWRB's office, 3800 North Classen, Oklahoma City, Oklahoma. The Rule Impact Statement may also be viewed on the OWRB web site at <http://www.owrb.ok.gov>.

CONTACT PERSON:

Chrystal Krittenbrink, Legal Secretary, 405-530-8800 or chrystal.krittenbrink@owrb.ok.gov.

[OAR Docket #19-812; filed 11-4-19]

**TITLE 785. OKLAHOMA WATER RESOURCES BOARD
CHAPTER 30. TAKING AND USE OF GROUNDWATER**

[OAR Docket #19-813]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 3. Permit Application Requirements and Processing

785:30-3-1. General application requirements [AMENDED]

Subchapter 5. Groundwater Permits

785:30-5-5. Contents of permits [AMENDED]

785:30-5-7. Cancellation or suspension of permits [AMENDED]

785:30-5-9. Annual reports of water use [AMENDED]

785:30-5-10. Marginal water permits [NEW]

Appendix D. Identified Springs that Emanate From a Sensitive Sole Source Groundwater Basin [REVOKED]

Appendix D. Identified Springs that Emanate From a Sensitive Sole Source Groundwater Basin [NEW]

SUMMARY:

Staff proposes that the Oklahoma Water Resources Board ("Board") amend the following provisions of Title 785, Chapter 30 of the Oklahoma Administrative Code:

The addition of a new section in 785:30-5-10, relating to marginal water permits. This new section is necessary to conform the administrative rules to recent statutory changes authorizing the Board to monitor and regulate marginal water wells.

An amendment to 785:30-3-1 to remove a limitation to the number of wells per 100 acre feet of water requested. The proposed amendment is intended to remove language not required by statute regarding the number of wells per 100 acre feet of water requested.

A recommendation is also proposed to amend 785:30-5-5, 785:30-5-7, and 785:30-5-9 to include marginal water permits in the list of permits covered by these sections.

A recommendation is also proposed to amend Chapter 30, Appendix D to update coordinates and legal descriptions of some springs that discharge 50 gallons per minute or more and

Notices of Rulemaking Intent

emanate from a Sensitive Sole Source Groundwater Basin. Upon staff review, it was found that a number of these springs were not listed in the correct area in the current version of Appendix D.

AUTHORITY:

Oklahoma Water Resources Board; 82 O.S. § 1085.2; 82 O.S. § 1020.7, 82 O.S. § 1021.1a

COMMENT PERIOD:

Persons wishing to present data, views, or arguments orally or in writing may do so to Chrystal Krittenbrink at 3800 North Classen, Oklahoma City, Oklahoma 73118, or by email to chrystal.krittenbrink@owrb.ok.gov. Comments must be received by the OWRB no later than the close of the public hearing on January 21, 2020.

PUBLIC HEARING:

A public hearing will be held January 21, 2020, during the monthly meeting of the Board which will begin at 9:30 A.M. in the Board Room of the OWRB's offices located at 3800 North Classen, Oklahoma City, Oklahoma, 73118.

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

The OWRB requests that any business entities affected by these proposed rules provide the Board, in dollar amounts if possible, the increase in the level of direct costs such as fees, and indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity due to compliance with the proposed rules. Business entities may submit this information in writing to Chrystal Krittenbrink at 3800 North Classen, Oklahoma City, Oklahoma before the close of the comment period.

COPIES OF PROPOSED RULES:

Copies of the proposed amendments may be reviewed at the Board's office location at 3800 North Classen, Oklahoma City, Oklahoma 73118, or may be obtained from the "Contact Person" identified below upon prepayment of the copying charge. The proposed rules may also be viewed on the Board web site at <http://www.owrb.ok.gov>.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., § 303(D), a Rule Impact Statement is available for review at the OWRB's office, 3800 North Classen, Oklahoma City, Oklahoma. The Rule Impact Statement may also be viewed on the OWRB web site at <http://www.owrb.ok.gov>.

CONTACT PERSON:

Chrystal Krittenbrink, Legal Secretary, 405-530-8800 or chrystal.krittenbrink@owrb.ok.gov.

[OAR Docket #19-813; filed 11-4-19]

TITLE 785. OKLAHOMA WATER RESOURCES BOARD CHAPTER 35. WELL DRILLER AND PUMP INSTALLER LICENSING

[OAR Docket #19-814]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 3. Licensing and Certifications

785:35.1.2. Military service occupation, education and credentialing [NEW]

Subchapter 11. Plugging and Capping Requirements for Wells and Test Holes

785:35-11-1. Plugging and capping requirements for groundwater wells, fresh water observation wells, heat exchange wells and water well test holes [AMENDED]

SUMMARY:

Staff proposes that the Oklahoma Water Resources Board ("Board") amend 785:35-3-1.2 to fulfill requirements of Senate Bill 670 that directs agencies granting occupational licenses to promulgate rules allowing military personnel and their spouses to receive expedited, reciprocal occupational licenses.

A recommendation is also proposed to amend 785:35-11-1(c)(5) to provide an alternate, more efficient method for plugging and abandoning of contaminated groundwater wells and test holes. The current rules require that the upper twenty feet of well casing be completely removed. Stakeholders have submitted that, if the well meets current standards for grouting and annular seal, complete removal of the upper twenty feet of casing is unnecessary. Additionally, the presence of grout and annular seals increase the difficulty and cost of plugging and abandoning a well. In many cases, such as if the casing material is steel, removal or over-drilling of the casing material is not possible and results in a situation where a plugging variance from the Board is required. The processing of a variance adds additional cost and administrative overhead to plugging and abandoning a well and stands at odds with the Board's emphasis on plugging unused and abandoned wells.

AUTHORITY:

Oklahoma Water Resources Board; 82 O.S. § 1085.2; 82 O.S. § 1020.16.

COMMENT PERIOD:

Persons wishing to present data, views, or arguments orally or in writing may do so to Chrystal Krittenbrink at 3800 North Classen, Oklahoma City, Oklahoma 73118, or by email to chrystal.krittenbrink@owrb.ok.gov. Comments must be received by the OWRB no later than the close of the public hearing on January 21, 2020.

PUBLIC HEARING:

A public hearing will be held January 21, 2020 during the monthly meeting of the Board which will begin at 9:30 A.M. in the Board Room of the OWRB's offices located at 3800 North Classen, Oklahoma City, Oklahoma, 73118.

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

The OWRB requests that any business entities affected by these proposed rules provide the Board, in dollar amounts if possible, the increase in the level of direct costs such as fees, and indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity due to compliance with the proposed rules. Business entities may submit this information in writing to Chrystal Krittenbrink at 3800 North Classen, Oklahoma City, Oklahoma before the close of the comment period.

COPIES OF PROPOSED RULES:

Copies of the proposed amendments may be reviewed at the Board's office location at 3800 North Classen, Oklahoma City, Oklahoma 73118, or may be obtained from the "Contact Person" identified below upon prepayment of the copying charge. The proposed rules may also be viewed on the Board web site at <http://www.owrb.ok.gov>.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., § 303(D), a Rule Impact Statement is available for review at the OWRB's office, 3800 North Classen, Oklahoma City, Oklahoma. The Rule Impact Statement may also be viewed on the OWRB web site at <http://www.owrb.ok.gov>.

CONTACT PERSON:

Chrystal Krittenbrink, Legal Secretary, 405-530-8800 or chrystal.krittenbrink@owrb.ok.gov.

[OAR Docket #19-814; filed 11-4-19]

**TITLE 800. DEPARTMENT OF WILDLIFE CONSERVATION
CHAPTER 10. SPORT FISHING RULES**

[OAR Docket #19-817]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. Harvest and Possession Limits
[AMENDED]

Subchapter 5. Area Restriction and Special Fees
[AMENDED]

SUMMARY:

These rules will remove minimum length limit for Blue and Channel catfish at Lake Texoma, define the reporting requirements for the harvest of Alligator Gar, and allow antlerless deer harvest during deer gun seasons and deer muzzleloader season on certain Department lakes. These rules also reduce the Rainbow Trout bag limit, increase the Rainbow Trout and brown Trout minimum length limits, eliminate bait restrictions while adding a barbless hooks restriction, and expand the area boundaries of the lower Mountain Fork River trout area.

AUTHORITY:

Title 29 O.S., Section 3-103, 5-401; Article XXVI, Section 1 and 3 of the Constitution of Oklahoma; Department of Wildlife Conservation Commission.

COMMENT PERIOD:

Persons wishing to present their views in writing may do so on or before 4:30 p.m., January 3, 2020, at the following address: Oklahoma Department of Wildlife Conservation, 1801 N. Lincoln Blvd., Oklahoma City, Oklahoma 73105 (PO Box 53465, Oklahoma City, OK 73152) or online at www.wildlifedepartment.com.

PUBLIC HEARINGS:

Date: January 2, 2020

Time: 7:00 p.m.

Oklahoma City - OK Department of Wildlife Conservation, 1801 N. Lincoln Blvd., Oklahoma City, OK

Date: January 2, 2020

Time: 7:00 p.m.

Broken Bow Public Library, 404 N. Broadway, Broken Bow, OK

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

Copies of the proposed rules will be available to the public at 1801 N. Lincoln Blvd., Oklahoma City, OK 73105.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., 303(D), a rule impact statement is being prepared and will be available for review after December 10, 2019 at the above address for the Oklahoma Department of Wildlife Conservation.

CONTACT PERSON:

Barry Bolton, Chief of Fisheries Division, 405/521-3721 or Rhonda Hurst, APA Liaison, 405/522-6279.

[OAR Docket #19-817; filed 11-6-19]

**TITLE 800. DEPARTMENT OF WILDLIFE CONSERVATION
CHAPTER 25. WILDLIFE RULES**

[OAR Docket #19-818]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 3. Hunting on Corps of Engineers Land
[AMENDED]

Subchapter 5. Migratory Bird Hunting Season
[AMENDED]

Subchapter 7. General Hunting Seasons [AMENDED]

Subchapter 24. Import of Cervids [AMENDED]

Subchapter 26. Scientific Collector Permits [AMENDED]

Subchapter 37. Nuisance Wildlife Control Program
[AMENDED]

Notices of Rulemaking Intent

Subchapter 41. Three-Day Special Use Permits [NEW]

SUMMARY:

Subchapter 3 - These rules will restrict small portions of Corps of Engineers land at Lake Texoma to shotgun with pellets and archery only due to safety concerns, and correct descriptive wording of property.

Subchapter 5 - Clarify language for waterfowl blind construction (seasonal and daily) and drawing process on select Corps of Engineers and Bureau of Reclamation Reservoirs, increase minimum age to 18 to participate in drawing, and define when unoccupied blinds can be used by other hunters.

Subchapter 7 - Open all of Osage County to pheasant hunting, increase deer gun season to 23 days; allow the Commission by resolution to set deer bag limits for muzzleloader and gun season and extend the holiday antlerless season; open several Wildlife Management Areas (WMA's) to archery turkey and deer seasons to same as the statewide season dates; reduce the bag limit of spring turkey to 1 tom on Black Kettle and Ellis County WMA's; open several WMA's to limited antlerless hunting opportunity; reduce days of antlerless harvest on Hickory Creek WMA; standardize quail season to match other open small game seasons on Okmulgee GMA/PHA, and open deer gun season to same as statewide season dates on Okmulgee PMA; open several National Wildlife Refuges to controlled hunts for deer and turkey, and other hunting opportunities; establish hunting seasons on the new Sans Bois WMA.

Subchapter 24 - Prohibit importation of cervid carcasses or carcass parts from other states, with a few exceptions, to help prevent spreading Chronic Wasting Disease into Oklahoma; and update rules for live cervid imports for commercial hunting areas to align with ODAFF rules since under their jurisdiction.

Subchapter 26 - Allows exemption for Scientific Collectors Permit for Department funded research, clarifies reporting requirements, and other housekeeping wording changes.

Subchapter 37 - Remove reference to 16 day deer gun season to allow flexibility to match current regular gun season for feral swine night shooting regulation.

Subchapter 41 - Rules for application process and requirements for the newly created 3-day special use permit for charity events.

AUTHORITY:

Title 29 O.S., Section 3-103, 5-401, 4-113.2 and 4-135; Article XXVI, Section 1 and 3 of the Constitution of Oklahoma; Department of Wildlife Conservation Commission.

COMMENT PERIOD:

Persons wishing to present their views in writing may do so on or before 4:30 p.m. on January 3, 2020, at the following address: Oklahoma Department of Wildlife Conservation, 1801 N. Lincoln Blvd., Oklahoma City, Oklahoma 73105 (PO Box 53465, Oklahoma City, OK 73152) or online at www.wildlifedepartment.com.

PUBLIC HEARINGS:

Date: January 2, 2020

Time: 7:00 p.m.

Oklahoma City - OK Department of Wildlife Conservation, 1801 N. Lincoln Blvd., Oklahoma City, OK

Date: January 2, 2020

Time: 7:00 p.m.

Broken Bow Public Library, 404 N. Broadway, Broken Bow, OK

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

Copies of the proposed rules will be available to the public at 1801 N. Lincoln Blvd., Oklahoma City, OK 73105.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., 303(D), a rule impact statement is being prepared and will be available for review after December 10, 2019 at the above address for the Oklahoma Department of Wildlife Conservation.

CONTACT PERSON:

Bill Dinkines, Assistant Chief of Wildlife Division, 405/521-2739 or Rhonda Hurst, APA Liaison, 405/522-6279.

[OAR Docket #19-818; filed 11-6-19]

TITLE 800. DEPARTMENT OF WILDLIFE CONSERVATION CHAPTER 30. DEPARTMENT OF WILDLIFE LANDS MANAGEMENT

[OAR Docket #19-819]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. Use of Department Managed Lands
[AMENDED]

SUMMARY:

These rule changes will allow hunter and fisherman camping in designated areas on Drummond Flats and Sans Bois Wildlife Management Areas (WMA's); remove the motor displacement restriction for Three Rivers and Honobia Creek WMA's; delete reference to low point beer restriction; define safety zones and restrictions; close Sans Bois WMA to all non-hunting activity from Oct 1-Jan 31 and during spring turkey season; require name and hunting license or customer identification numbers on any equipment (such as tree stands, ground blinds, trail cameras, etc.) while being used on a WMA.

AUTHORITY:

Title 29 O.S., Section 3-103, 5-401; Article XXVI, Section 1 and 3 of the Constitution of Oklahoma; Department of Wildlife Conservation Commission.

COMMENT PERIOD:

Persons wishing to present their views in writing may do so on or before 4:30 p.m., January 3, 2020, at the following address: Oklahoma Department of Wildlife Conservation, 1801 N. Lincoln Blvd., Oklahoma City, Oklahoma 73105

(PO Box 53465, Oklahoma City, OK 73152) or online at www.wildlifedepartment.com.

PUBLIC HEARINGS:

Date: January 2, 2020

Time: 7:00 p.m.

Oklahoma City - OK Department of Wildlife Conservation,
1801 N. Lincoln Blvd., Oklahoma City, OK

Date: January 2, 2020

Time: 7:00 p.m.

Broken Bow Public Library, 404 N. Broadway, Broken
Bow, OK

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

Copies of the proposed rules will be available to the public at 1801 N. Lincoln Blvd., Oklahoma City, OK 73105.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., 303(D), a rule impact statement is being prepared and will be available for review after December 10, 2019 at the above address for the Oklahoma Department of Wildlife Conservation.

CONTACT PERSON:

Bill Dinkines, Assistant Chief of Wildlife Division,
405/521-2739 or Rhonda Hurst, APA Liaison, 405/522-6279.

[OAR Docket #19-819; filed 11-6-19]

Submissions to Governor and Legislature

Within 10 calendar days after adoption by an agency of proposed PERMANENT rules, the agency must submit the rules to the Governor and the Legislature. A "statement" of such submission must subsequently be published by the agency in the *Register*.
For additional information on submissions to the Governor/Legislature, see 75 O.S., Section 303.1 and 308.

**TITLE 38. OKLAHOMA BOARD OF
LICENSED ALCOHOL AND DRUG
COUNSELORS
CHAPTER 10. LICENSURE AND
CERTIFICATION OF ALCOHOL AND
DRUG COUNSELORS**

[OAR Docket #19-820]

RULEMAKING ACTION:

Submission to Governor and Legislature

RULES:

Subchapter 3. Rules of Professional Conduct [AMENDED]

Subchapter 7. Application [AMENDED]

Subchapter 11. Schedule of Fees [AMENDED]

Subchapter 13. Continuing Education Requirements
[AMENDED]

**SUBMISSION OF ADOPTED RULES TO GOVERNOR
AND LEGISLATURE:**

November 6, 2019

[OAR Docket #19-820; filed 11-6-19]

Emergency Adoptions

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

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

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

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

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

TITLE 10. OKLAHOMA ACCOUNTANCY BOARD CHAPTER 15. LICENSURE AND REGULATION OF ACCOUNTANCY

[OAR Docket #19-816]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 27. Fees

10:15-27-16 [NEW]

Subchapter 37. Enforcement Procedures

10:15-37-11 [AMENDED]

AUTHORITY:

Oklahoma Accountancy Board; 59 O.S., § 15.5(B)(6)

ADOPTION:

September 20, 2019

EFFECTIVE:

Immediately upon Governor's approval or November 1, 2019, whichever is later

APPROVED BY GOVERNOR:

October 25, 2019

EXPIRATION:

Effective through September 14, 2020, unless superseded by another rule or disapproved by the Legislature

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

FINDING OF EMERGENCY:

The proposed emergency rules are to set out the framework to effectuate the requirements under House Bill 1373 (HB 1373), which becomes effective November 1, 2019. Under HB 1373, the Oklahoma Accountancy Board (OAB) must maintain and make available to the public a list of criminal offenses that would disqualify an individual from holding a license or certificate.

GIST/ANALYSIS:

The emergency rule amendment requires the OAB to maintain the disqualifying crimes list described under HB 1373 and lays out the process for an applicant to submit an initial determination request of whether criminal history would disqualify the applicant from obtaining or holding a certificate or license. The amendment also inserts language that allows the OAB to approve applications despite criminal history based upon the nature of the crime, elapsed time period since the crime was committed, and other relevant factors. The addition of 10:15-27-16 allows the OAB to charge the \$95.00 fee, as authorized under HB 1373, for an "initial determination of eligibility request".

CONTACT PERSON:

Randall A. Ross, CPA, Executive Director, or LaLisa Semrad, Staff Liaison to the OAB Rules Committee, Oklahoma Accountancy Board, 201

NW 63rd Street, Suite 210, Oklahoma City, OK 73116, (405) 521-2397, rross@oab.ok.gov or lsemrad@oab.ok.gov

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 253(F), AND EFFECTIVE UPON APPROVAL BY THE GOVERNOR OR NOVEMBER 1, 2019, WHICHEVER IS LATER:

SUBCHAPTER 27. FEES

10:15-27-16. Initial determination of eligibility

Each request for an initial determination of eligibility due to criminal history record shall be accompanied by an administrative fee of Ninety-Five Dollars (\$95.00).

SUBCHAPTER 37. ENFORCEMENT PROCEDURES

10:15-37-11. Felony convictions Convictions and pleas

(a) The provisions of this section shall be applicable, except where indicated, to applicants for the examination, examination candidates, and applicants for certificates and licenses, and registrants including registrants seeking renewal of certificates and licenses (applicants).

(b) When an applicant has been convicted of or plead guilty or nolo contendere to a felony crime included on the Board's list of disqualifying crimes, the applicant shall be required to furnish to the Board documentation of the charges and the final judgment of the Court in the form of certified documents from the Court file. Failure by an applicant for the examination to furnish adequate documentation no later than sixty (60) days prior to the commencement of the examination applied for shall result in denial of the application.

(c) Failure of any applicant to cooperate with an investigation conducted by the Board shall result in denial of the application.

Emergency Adoptions

(d) ~~The Enforcement Committee shall review all documents pertaining to the applicant's conviction or plea and may further require that an investigation be conducted in accordance with Subchapter 37 of the Oklahoma Administrative Code.~~

(e) ~~The Board may obtain from the Oklahoma State Bureau of Investigation or other sources a criminal record check of any applicant.~~

(e) The Board shall maintain and make available to the public a list of criminal offenses that would disqualify an individual from obtaining or holding a license or certificate. This list shall be periodically reviewed, at least annually, and updated, if necessary, by the Board.

(f) A person with a criminal history record may at any time, including before obtaining any required education or training, request an initial determination of whether his or her criminal history would potentially disqualify the individual from obtaining a license or certificate. The request shall be in writing and shall include either a copy of the person's criminal history record with explanation of each conviction mentioned in the criminal history record or a statement describing each criminal conviction including the date of each conviction, the court of jurisdiction and the sentence imposed. The person may include a statement with his or her request describing additional information for consideration by the Board including, but not limited to, information about his or her current circumstances, the length of time since conviction and what has changed since the conviction, evidence of rehabilitation, testimonials or personal reference statements and his or her employment aspirations.

(g) Upon receipt of a written request for consideration of a criminal history record, the Board shall evaluate the request and make an initial determination based upon the information provided in such request whether the stated conviction is disqualifying. A notice of initial determination shall be issued to the petitioner within sixty (60) days from the date such request was received by the Board and shall contain the following statements:

(1) Whether the person appears eligible for licensure or certification at the current time based upon the information submitted by the requestor;

(2) Whether there is a disqualifying offense prohibiting the person's licensure or certification at any time and a statement identifying such offense in the criminal history record or information submitted for consideration;

(3) Any actions the person may take to remedy what appears to be a temporary disqualification, if any;

(4) The earliest date the person may submit another request for consideration, if any; and

(5) A statement that the notice of initial determination is only an initial determination for eligibility for licensure or certification based upon the information provided by the requestor.

~~(hf) The Enforcement Committee shall make a preliminary determination of whether the applicant satisfies the requirement of good moral character as set forth in Sections 15.8 and 15.9 of the Act. The Enforcement Committee shall consider, but not be limited to, the nature of the felony conviction or plea and the time period which has elapsed since the offense~~

~~was committed or judgement was entered. The Board may approve applications disclosing criminal history based upon the nature of the crime, the time period which has elapsed since the offense was committed, and any other factors which the Board deems relevant. When, in the opinion of the Board, public protection requires conditional approval of an applicant, the Enforcement Committee may negotiate a consent order with the applicant. The consent order shall set forth the terms and conditions proposed by the Enforcement Committee for approving the application. All consent orders must be either approved or disapproved by the Board.~~

~~(g) When, in the opinion of the Enforcement Committee, public protection requires conditional approval of an applicant, the Enforcement Committee may negotiate a consent order with the applicant. The consent order shall set forth the terms and conditions proposed by the Enforcement Committee for approving the application. All consent orders must be either approved or disapproved by the Board.~~

~~(h) If the Enforcement Committee is unable to negotiate a consent order with an applicant, or if the Board does not approve the consent order, a hearing may be held to determine whether the application may be approved and to determine conditions for such approval which may be imposed by the Board as a result of the hearing.~~

~~(i) A list of all applicants having criminal histories, with information describing each felony conviction or plea and the penalty imposed for each, shall be presented to the Vice Chair. Board approval must be granted, or a hearing, as ordered by the Board, must be held in conjunction with each application presented to the Board.~~

~~(j) Individual registrants who have a felony conviction or plea are subject to the provisions of the Act and the enforcement procedures set forth in this Subchapter.~~

[OAR Docket #19-816; filed 11-5-19]

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 681. MEDICAL MARIJUANA CONTROL PROGRAM

[OAR Docket #19-810]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

- Subchapter 1. General Provisions [AMENDED]
- Subchapter 2. Medical Marijuana Licensures [AMENDED]
- Subchapter 3. ~~Transportation~~Transporter License [AMENDED]
- Subchapter 4. ~~Medical Research Facilities and Education Facilities License~~ [AMENDED]
- Subchapter 5. Commercial Establishments [AMENDED]
- Subchapter 7. Packaging, ~~and Labeling,~~ and Advertising [AMENDED]
- Subchapter 8. Laboratory Testing [NEW]
- Subchapter 9. Waste Disposal Facilities [NEW]
- Subchapter 10. Receivership [NEW]

AUTHORITY:

Oklahoma State Commissioner of Health; Title 63 O.S. Section 1-104, and Title 63 O.S. § 420 *et seq.*

ADOPTION:

October 17, 2019

APPROVED BY GOVERNOR:

October 31, 2019

EFFECTIVE:

Immediately upon Governor's approval or November 1, 2019, whichever is later.

EXPIRATION:

Effective through September 14, 2020, unless superseded by another rule or disapproved by the Legislature.

SUPERSEDED EMERGENCY ACTIONS:

These new and amended emergency rules at OAC 310:681 supersede the emergency rules adopted August 20, 2019 and approved by the Governor August 21, 2019.

Superseded rules:

Subchapter 1. General Provisions

310:681-1-1 [AMENDED]

310:681-1-2 [AMENDED]

310:681-1-3 [AMENDED]

310:681-1-4 [AMENDED]

310:681-1-5 [AMENDED]

310:681-1-6 [AMENDED]

310:681-1-7 [AMENDED]

310:681-1-9 [AMENDED]

310:681-1-9.1 [AMENDED]

Subchapter 2. Medical Marijuana Licenses

310:681-2-1 [AMENDED]

310:681-2-2 [AMENDED]

310:681-2-3 [AMENDED]

310:681-2-3.1 [AMENDED]

310:681-2-4 [AMENDED]

310:681-2-5 [AMENDED]

310:681-2-8 [NEW]

310:681-2-9 [NEW]

Subchapter 3. ~~Transportation~~ Transporter License

310:681-3-1 [AMENDED]

310:681-3-2 [AMENDED]

310:681-3-3 [NEW]

310:681-3-4 [NEW]

310:681-3-5 [NEW]

310:681-3-6 [NEW]

Subchapter 5. Commercial Establishments

310:681-5-1 [AMENDED]

310:681-5-1.1 [AMENDED]

310:681-5-2 [AMENDED]

310:681-5-3 [AMENDED]

310:681-5-3.1 [NEW]

310:681-5-3.2 [AMENDED]

310:681-5-4 [AMENDED]

310:681-5-6 [AMENDED]

310:681-5-6.1 [AMENDED]

310:681-5-8 [AMENDED]

310:681-5-8.1 [AMENDED]

310:681-5-9 [AMENDED]

310:681-5-10 [AMENDED]

310:681-5-12 [AMENDED]

310:681-5-18 [AMENDED]

Subchapter 7. Packaging, and Labeling, and Advertising

310:681-7-1 [AMENDED]

310:681-7-2 [AMENDED]

310:681-7-3 [NEW]

Subchapter 8. Laboratory Testing

310:681-8-1 [NEW]

Gubernatorial approval:

August 21, 2019

Register publication:

37 OK Reg 13

Docket number:

19-731

INCORPORATIONS BY REFERENCE:**Incorporated standards:**

Title 21, part 101 of the Code of Federal Regulations ("CFR"), as of August 22, 2018

Incorporating rules:

310:681-5-8.1

Availability:

8:00 a.m. to 5:00 p.m., Monday through Friday, Oklahoma State Department of Health, 1000 NE 10th St., Oklahoma City, OK 73117.

FINDING OF EMERGENCY:

Pursuant to Title 75 O.S. Section 253, the Department seeks Emergency adoption of the proposed rules. Emergency rulemaking is sought pursuant to the passage of, SB162, HB2612, SB 532, HB2601, SB882, HB2613, and SB1030 and as codified at 63 O.S. § 420 *et seq.*

This Emergency rulemaking action is necessary to promulgate rules to implement the provisions in the new law pertaining to regulations on medical marijuana products, and individual and commercial licensees.

GIST/ANALYSIS:

The proposed emergency rules were prepared to provide procedures and processes necessary to implement legislative changes mandated by SB162, HB2612, SB532, HB2601, SB882, HB2613, and SB1030. The Oklahoma Medical Marijuana Authority (OMMA) patient license changes include the removal of board certification as a requirement for physicians recommending medical marijuana, as well as the addition of physicians licensed by the Board of Podiatric Medical Examiners as physicians that can provide recommendations. The processing time for patient licenses changed from 14 calendar days to 14 business days, and a reduced application fee for 100% disabled veterans is established. Medical marijuana business changes that are addressed in the proposed emergency rules include the increased application processing timeline, renewal application process, new residency documentation requirements, and approved waste disposal method to destroy root balls, stems, fan leaves, and seeds. Additionally, medical marijuana businesses will need to provide a certificate of compliance with zoning classifications, municipal ordinances, and all applicable safety, electrical, fire, plumbing, waste, construction, and building specification codes. The definition of school is modified to now include preschools for the purposes of the 1,000 feet requirement for dispensaries. The proposed set of emergency rules establish new business compliance components that include the authority for certain business types to sell to other business types, the requirement to participate in a seed to sale inventory tracking system, to test harvest and product batches, and to comply with packaging and labeling requirements. Finally, the proposed emergency rules address three new license categories: transporter, transporter agent, and short-term patient. Additionally, the proposed emergency rules address four new license categories: testing laboratory, research facility, education facility, and waste disposal facility (including waste disposal permits). The emergency rules include operating requirements, including sampling requirements, for laboratory testing of medical marijuana and medical marijuana products. These emergency rules also include provisions related to the surveillance laboratory for oversight of licensed testing laboratories and inventory management for current and new license categories. Additionally, the emergency rules address requirements and procedures for receivership in accordance with SB532.

CONTACT PERSON:

Audrey C. Talley, Agency Rules Liaison, Oklahoma State Department of Health, 1000 N.E. 10th Street, Oklahoma City, OK 73117-1207; phone (405) 271-9444 ext. 56535 e-mail: AudreyT@health.ok.gov.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 253(F), AND EFFECTIVE UPON APPROVAL BY THE GOVERNOR OR NOVEMBER 1, 2019, WHICHEVER IS LATER:

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

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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) Pursuant to ~~63 O.S. § 420A(C)~~, 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. ~~All approval and rejection letters shall be sent to the applicant through U.S. Mail.~~

310:681-1-3. Limitations of licenses

All medical marijuana licenses and rights granted under Oklahoma law and this Chapter and ~~under 63 O.S. § 420A et seq.~~ 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) ~~"Pending—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.

OMMA has 14 days to review the submission of any corrections to a rejected application;

(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 ~~63 O.S. § 420A~~ Oklahoma law and this Chapter for a license.

"Batch" means a specifically identified quantity of marijuana, no greater than ten (10) pounds, that is uniform in strain, cultivated using the same growing practices, and harvested at the same time at the same location, and dried or cured under uniform conditions; and with regard to medical marijuana concentrate and medical marijuana products, means an identified quantity that is uniform, that is intended to meet specifications for identity, strength, and composition, and that is processed, packaged, and labeled during a specified time period according to a single manufacturing, packaging, and labeling protocol.

"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 ~~or sale~~ to allow for inventory tracking and traceability.

"Cannabinoid" means any of the diverse chemical compounds that can act on cannabinoid receptors in cells and alter neurotransmitter release in the brain, including phytocannabinoids that are produced naturally by marijuana and some other plants 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 no taller than eight inches and is capable of developing into a new plant and has shown no signs of flowering.

"Commercial establishment" ("Establishment"), or "Commercial licensee", or "Medical Marijuana Business" means an individual or entity licensed ~~under this Chapter~~ by the Department as a medical marijuana dispensary, grower, processor, testing laboratory or ~~researcher~~ transporter.

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

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

"Complete(d) application" means a document prepared in accordance with 63 O.S. § 420A et seq., 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 ~~saleselling~~ of medical marijuana, ~~medical marijuana concentrate~~, or a medical marijuana product that are packaged and labeled in accordance with the law to a ~~qualified~~ licensed patient, the ~~qualified~~ licensed patient's parent(s) or legal guardian(s) if ~~qualified~~ licensed patient is a minor, ~~and~~ or a licensed caregiver.

"Dispensary" or "Commercial Dispensary" means an individual or entity that has been ~~issued a medical marijuana commercial licensed license~~ by the Department ~~pursuant to 63 O.S. § 421A and this Chapter~~, which allows the dispensary to purchase medical marijuana or medical marijuana products from a ~~licensed processor, or grower, or dispensary; and~~ to sell medical marijuana and medical marijuana products ~~only~~ to a ~~qualified~~ licensed patient, to the ~~qualified~~ licensed patient's parent(s) or legal guardian(s) if ~~qualified~~ licensed patient is an minor, and a licensed caregiver, a research facility, and an education facility; and to sell, transfer, and transport or contract with a commercial transporter to transport medical marijuana or medical marijuana products to another licensed dispensary, and to transfer to testing laboratories.

"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.

"Education facility" means an individual or entity that has been issued a license by the Department to operate a facility providing training and education to individuals involving the cultivation, growing, harvesting, curing, preparing, packaging, or testing of medical marijuana, or the production, manufacture, extraction, processing, packaging, or creation of medical-marijuana-infused products or medical marijuana products for the limited education and research purposes permitted under state and federal law and these Rules; to transfer, by sale or donation, medical marijuana grown within its operation to licensed research licensees; and to transfer to licensed testing laboratories.

"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 licensed license~~ by the Department ~~pursuant to 63 O.S. § 422A~~, which allows the grower to grow, harvest, dry, cure, ~~and~~ package, sell, transfer, and transport or contract with a commercial transporter for the transport of medical marijuana ~~in accordance with Oklahoma law and to this Chapter for the purpose of selling to a dispensary, or processor, grower, research facility, education facility, 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.

"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."

"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.

"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."

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"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, research facility, education facility, or waste disposal facility 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 ~~all parts of a plant of the genus cannabis, whether growing or not; the seeds of a plant of that type; the resin extracted from a part of a plant of that type; and every compound, manufacture, salt, derivative, mixture, or preparation of a plant of that type or of its seeds or resin. "Marijuana" does not include the mature stalks of the plant or fiber produced from the stalks; oil or cake made from the seeds of the plant; or any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, except the resin extracted from the mature stalks, fiber, oil or cake; the sterilized seed of the plant that is incapable of germination; or industrial hemp, from the plant Cannabis sativa L. and any part of such plant, whether growing or not, with a delta 9 tetrahydrocannabinol concentration of not more than three tenths of one percent (0.3%) on a dry weight basis 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, ~~and includes medical marijuana concentrate and medical marijuana products.~~

"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 qualified 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 research" means research on medical marijuana and medical marijuana products for public purposes, including the advancement of:

- (A) Public health policy and public safety policy;
- (B) Agronomic and horticultural best practices; and
- (C) Medical and pharmacopoeia best practices.
- (D) Biomedical and clinical research that is subject to federal regulations and institutional oversight shall not be subject to Department oversight.

"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 and roots; and any wastewater generated during growing and processing.

"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 ~~resides in the State of Oklahoma and can provide proof of residency as required by 63 O.S. § 420A et seq. and 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 ~~indicating~~ 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 state~~ Medical medical Marijuana mar- ijuana Patient patient License 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 grower or processor-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 **"Qualified Licensed patient"** means a person that has been properly issued a medical marijuana license pursuant to 63 O.S. § 420A et seq. 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, or 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 and meets the definition of "board certified" under rules established by either the Oklahoma Board of Medical Licensure or the Oklahoma Board of Osteopathic Examiners.

"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 ~~an~~ 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 ~~medical marijuana concentrate.~~

"Processor" or **"Commercial Processor"** means an individual or entity that has been issued a medical marijuana commercial license by the Department pursuant to 63 O.S. § 423A, 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 may process medical marijuana received from a qualified 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 institution" means any entity established or controlled by the federal government, state government, or a local government or municipality, including, but not limited, institutions of higher education and related research institutions.

"Public money" means any funds or money obtained from any governmental entity, including, but not limited to, research grants.

"Public school" means ~~an~~ preschool, elementary, middle, or high school established under state law a, 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.

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"Research project" means a discrete scientific endeavor to answer a research question or a set of research questions related to medical marijuana and is required for a medical marijuana research license.

"Research facility" means an individual or entity that has been issued a license by the Department to grow, cultivate, possess, and transfer to testing laboratories, and to transfer by sale or donation to other licensed research facilities, medical marijuana for the limited research purposes permitted under state and federal law and these Rules.

"Retailer" or "Retail marijuana establishment" as used in 63 O.S. § 420A-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 63 O.S. § 420A et seq. 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.

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

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

"Surveillance laboratory" means a laboratory designated by the Department to conduct surveillance of testing laboratories for compliance purposes.

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

"Testing laboratory" or "Laboratory" means a public or private laboratory licensed pursuant to state law and these Rules to conduct testing and research on medical marijuana and medical marijuana products.

"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.

"Transportation-Transporter license" means a medical marijuana commercial license issued by the Department either

(A) automatically to commercial licensees 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 which allows growers, processors, or dispensaries, or their authorized agent(s), to deliver medical marijuana from their licensed locations to the licensed locations of other growers, processors, or dispensaries.

"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.

"Waste disposal facility" means an individual or entity that has been issued a medical marijuana waste disposal facility license by the Department to dispose of medical marijuana waste as authorized in Oklahoma law and these Rules.

"Waste disposal facility license" means a license issued by the Department to possess, transport, and dispose of medical marijuana waste. The waste disposal facility license shall be issued to the location submitted by the applicant that is first approved by the Department.

"Waste disposal facility permit" means a permit issued by the Department to a waste disposal licensee to possess, transport, and dispose of medical marijuana waste at the location submitted on the permit application. Waste disposal facility permits shall be required for each approved facility operated by a waste disposal facility licensee.

310:681-1-5. Criminal history screening

(a) **Parties subject to screening.** Prior to issuance of any dispensary, grower, processor, ~~transportation transporter, or transporter agent~~ ~~researcher license~~ authorized by 63 O.S. § 420A et seq. and this Chapter, testing laboratory, waste disposal facility, research facility, or education facility 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) All owners of any applicant for a dispensary, grower, processor, or transportation licensee; and individuals applying on behalf of an entity;
- (3) For research license applicants, all principal investigators involved in the research project. All principal officers of an entity;
- (4) All owners of an entity;
- (5) For corporations seeking a commercial license, all officers, directors, and stockholders; and

(6) For public institutions seeking a research facility license, all principal investigators and co-principal investigators.

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

(c) **OBNDD Registration.** Any ~~dispensary, grower, processor, or researcher~~ commercial licensee, research facility, education facility, waste disposal facility, or permitted waste disposal facility locations issued a license authorized by this Chapter; that is required under Oklahoma law to obtain an Oklahoma State Bureau of Narcotics and Dangerous Drugs Control ("OBND") registration shall do so 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 OBNDD, 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.

310:681-1-9. 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 ~~and meets the definition of "board certified" under rule established by either the Oklahoma Board of Medical Licensure or the Oklahoma Board of Osteopathic Examiners.~~

(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 area of board certification and sufficient documentation proving the physician's unexpired board certification;~~
- ~~(3) The physician's medical license number; and~~
- ~~(4) 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;

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- (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 Board-Certified 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 or board certification number including an identification of the physician's license type and area of board certification;
 - (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. §420A-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. §420A-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. 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. 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 ~~Board-Certified~~ 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. §~~420A~~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. §~~420A~~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. 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 ~~Board-Certified~~ 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 the medical marijuana or medical marijuana products obtained on behalf of the medical marijuana patient license holder; 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.

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

(a) A medical marijuana patient license holder may withdraw a caregiver's license shall be withdrawn for any patient that at any time by provides providing written or electronic notification to the Department, on the Department provided form, and the Department shall immediately withdraw the license of their wish to withdraw the caregiver's authorization. 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. § 420A.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.

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

(ed) **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.

(de) **Change in information.** ~~It is the responsibility of the license holder to notify the Department in writing within thirty (30) days of any changes in contact 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.

(ef) **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.

(fg) **Renewal Fee.** The fee for renewal shall be the fee established in statute or under this Chapter for the licensee at 63 O.S. § 420A et seq. Application fees are nonrefundable.

(gh) **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; ~~and~~
- (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.

(h~~j~~) **License revocation and suspension.** Except as otherwise provided in applicable Oklahoma law and these Rules, Proceduresprocedures 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 ~~be receive notified~~notice of alleged violation(s) of the Department rules and applicable law. ~~These procedures also provide for the licensee 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 ~~compliance~~ 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.

310:681-2-8. Possession Limits

(a) 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.

(b) 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 or on residential property.

**SUBCHAPTER 3.
TRANSPORTATIONTRANSPORTER LICENSE**

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

(a) A medical marijuana ~~transportation~~transporter license willshall be issued to qualifying applicants for a ~~commercial~~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, research facilities, and education facilities;
- (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.

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(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.

~~(b) A transportation license shall enable the holder to transport marijuana from an Oklahoma dispensary, grower, or processor, to an Oklahoma dispensary, grower, or processor.~~

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.

~~(bd) Commercial licensees or their authorized agents or employees shall~~ 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 and transportation license while transporting medical marijuana.

~~(ee) 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.

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(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 FACILITIES AND EDUCATION FACILITIES LICENSE

310:681-4-1. License required

(a) No person or entity shall operate a research facility or education facility 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. All research and development conducted by a medical marijuana research facility or education facility shall be conducted in furtherance of an approved research project. 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 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 research facility and education facility licenses shall be on forms prescribed by the Department.

(d) Application fees are nonrefundable.

(e) A medical marijuana research facility license may be issued for the following purposes, with the exception that biomedical and clinical research subject to federal regulations and institutional oversight is not subject to licensure or regulation by the Department:

(1) To test chemical potency and composition levels;

(2) To conduct clinical investigations of marijuana-derived medicinal purposes;

(3) To conduct research on the efficacy and safety of administering marijuana as part of a medical treatment;

(4) To conduct genomic, horticultural, or agricultural research; and

(5) To conduct research on marijuana-affiliated products or systems.

(f) A medical marijuana education facility license may be issued for the following purposes, with the exception that biomedical and clinical research subject to federal regulations and institutional oversight is not subject to licensure or regulation by the Department:

(1) To test cultivation techniques, strategies, infrastructure, mediums, lighting, and other related technology;

(2) To demonstrate cultivation techniques, strategies, infrastructure, mediums, lighting, and other related technology;

(3) To demonstrate the application and use of product manufacturing technologies;

(4) To conduct genomic, horticultural, or agricultural research; and

(5) To conduct research on marijuana-affiliated products or systems.

310:681-4-1.1. Responsibilities of the license holder

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 licensed premises 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 facility 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.

310:681-4-2. Licenses

(a) **Timeframe.** Research facility and education facility licenses 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.** Research facility and education facility licenses shall only be valid for a single location at the address listed on the application. If a single research project will occur in multiple locations, a separate research facility or education facility license shall be required for each location.

(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 310:681-4-3.

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

(3) If the research conducted by a research facility licensee includes a public institution or public money, the Department shall review any reports made by the licensee to determine if the research continues to meet qualifications in state law and these Rules.

(4) 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 research facility or education facility 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 and shall liquidate or dispose of all medical marijuana and medical marijuana products in accordance with OAC 310:681-5-2(d).

(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 affect 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.

(3) Licensees shall notify the Department prior to any changes that affect the initial research project and/or curriculum, including funding, in a manner prescribed by the Department.

(f) **Transfer of license.**

(1) Research facility and education facility licenses shall not be assigned or otherwise transferred from one person to another person or from one legal entity to another.

(2) Licensees shall not be changed from one license type to another.

(3) Licensees are limited to the research project(s) approved by the Department and shall not be transferred to any other research project, research, or curriculum.

(g) **Surrender of license.** A research facility or education facility licensee may voluntarily surrender a license to the Department at any time in accordance with 310:681-5-2(g).

310:681-4-3. Applications

(a) **Application fee.** An applicant for a research facility or education facility 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.** 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 research facility or education facility 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) Indication of the type of research to be conducted;
- (6) Indication of any public money involved in the research and/or curriculum, if applicable;
- (7) An attestation that the information provided by the applicant is true and correct;
- (8) An attestation that any licensed premises shall not be located on tribal lands;
- (9) An attestation that the research project does not involve biomedical or clinical research subject to federal regulations and institutional oversight, which is exempt

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from Department regulations, and that research facility and education facility licenses granted by the Department are only issued for the research and/or curriculum described and approved in the application;

(10) An attestation that the use of any public funds or involvement of any public institution for research purposes must be disclosed at the time of application and that additional information and documentation regarding the research and/or curriculum may be required to be submitted during and after the application submission;

(11) An attestation that the applicant adheres to 45 CFR § 46 (Protection of Human Subjects under United States Law) regulations; and

(12) 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 research facility or education facility 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;

(7) The name, residence address, and date of birth of each owner, if applicable; and

(8) The name and residence address of each principal investigator or principal officer, if applicable.

(e) **Supporting documentation for research facility applicants.** Each application for a research facility shall be accompanied by the following documentation:

(1) 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; and

(2) Documents establishing the applicant; and the members, managers, and board members; and seventy-five percent (75%) of the applicant's ownership interests are Oklahoma residents as required in accordance with OAC 310:681-1-6. This requirement shall not apply to research facility applicants that are public institutions or Oklahoma non-profit entities registered with the Oklahoma Secretary of State.

(3) The applicant shall submit a full description of the research including the following:

(A) Defined protocol;

(B) Clearly articulated goals;

(C) Defined methods and outputs;

(D) Defined start and end date; and

(E) Funding source(s)

(4) Any further documentation or information the Department determines is necessary to ensure the applicant

is qualified under Oklahoma law and these Rules to obtain a research facility license.

(f) **Supporting documentation for education facility applicants.** Each application for an education facility license shall be accompanied by the following documentation:

(1) 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;

(2) An application for an education facility must include non-profit registration with the Oklahoma Secretary of State;

(3) If research is being conducted the applicant shall submit a full description of the research including the following:

(A) Defined protocol;

(B) Clearly articulated goals;

(C) Defined methods and outputs;

(D) Defined start and end date; and

(E) Funding source

(4) If applicable, the education facility applicant must submit the curriculum and/or a description of the curricula that will be used; and

(5) Any further documentation or information the Department determines is necessary to ensure the applicant is qualified under Oklahoma law and these Rules to obtain an education facility license.

(g) **Supporting documentation for research involving public institutions or public money.**

(1) Research facility and education facility licensees may contract to perform research in conjunction with a public higher education research institution. If the research will be conducted with a public institution or public money, the Department shall review the research project and/or curriculum of the applicant to determine if it meets additional requirements in accordance with the Oklahoma Medical Marijuana and Patient Protection Act, 63 O.S. § 427.1 et seq. The applicant shall supply all relevant information and documentation to establish that the research meets these additional requirements. The Department shall review the research project to assess:

(A) The quality, study design, value, or impact of the project;

(B) Whether the applicant has the appropriate personnel, expertise, facilities, infrastructure, funding, and human, animal, or other approvals in place to successfully conduct the project; and

(C) Whether the amount of marijuana to be grown by the applicant is consistent with the scope and goals of the project.

(2) To assess these criteria, research facility and education facility applications for research involving public institutions or public money shall include:

(A) A description of how public institutions and public funds will be utilized in the research;

(B) A full description of the research project to include:

- (i) Abstract;
- (ii) Study problem;
- (iii) Rationale, including identification of the need, gaps, benefits, advance best practices, public policy or safety
- (iv) Literature review, including a bibliography of all referenced materials;
- (v) Study objectives;
- (vi) Research method; and
- (vii) Ethical considerations

(C) An overview of the amount of marijuana to be purchased, grown, or cultivated, and an explanation for the amount to be purchased or grown;

(D) Contract(s) and agreement(s) with public institutions involved in the research and sources of public funds supporting the research;

(E) Documentation of applicant's ability to successfully implement the research project and/or curriculum to include:

- (i) Curriculum vitae or resumes for all principal investigators and co-principal investigators;
- (ii) Organizational chart; and
- (iii) Description of the funding source(s)

(F) Any further documentation or information the Department determines is necessary to ensure the applicant is qualified under Oklahoma law and these Rules.

(h) **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.

(i) **Review process.** Research facility and education facility license approval shall be assessed by a procedural review process as determined by the Department.

(j) **Application denial.** If the Department determines that the research or education project does not meet the requirements of state law or these Rules, the application shall be denied.

310:681-4-4. Inspections

(a) Submission of an application for a medical marijuana research license and educational facility license constitutes permission for entry to and inspection of any licensed premises 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 research facility or education facility 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.

(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. 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.; or these Rules during an inspection of the licensee, 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 violations 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.

310:681-4-5. Inventory tracking, records, and reports

(a) **Monthly reports.** Research facility licensees shall submit monthly reports to the Department, which shall include:

- (1) The amount of marijuana purchased from commercial establishments and research facilities in pounds;
- (2) The amount of medical marijuana grown and used for research in pounds;
- (3) The amount of marijuana waste in pounds;
- (4) If necessary, a detailed explanation of why any marijuana cannot be accounted for as having been purchased, used for research, or maintained in current inventory; and
- (5) 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. the Oklahoma Medical Marijuana and Patient Protection Act, 63 O.S. § 427.1 et seq.

(b) **Transfer or sale.** A research facility licensee and an educational facility licensee may only transfer, by sale or donation, marijuana grown within its operation to medical marijuana research licensees. Research facility and education facility licensees shall keep records for every transaction related to the donation or sale of marijuana. Records related to the donation or sale shall include at a minimum the following:

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- (1) The name and license number of the medical marijuana researcher licensee that purchased or received the medical marijuana;
 - (2) The address and phone number of each recipient;
 - (3) The type of marijuana donated or sold;
 - (4) The amount of marijuana donated or sold in pounds; and
 - (5) The date of the donation or sale.
- (c) **Records.** Pursuant to the Department's audit and inspection responsibilities, research facility and education facility licensees 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;
 - (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 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.
- (d) **Inventory.** Each research facility and education facility shall use the seed-to-sale tracking system established by the Department or a seed-to-sale tracking system that integrates with the Department-established system at the time of its implementation. The system utilized by each licensee shall be a system that:
- (1) Documents the chain of custody of all medical marijuana and medical marijuana products, including every transaction with another 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 research facility and education facility licensees to ensure the accuracy of the research facility's monthly reports and to ensure that all marijuana grown in Oklahoma is accounted for. Submission of an application for a research facility or education facility license constitutes permission for entry to any licensed premises and auditing of the 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 non-renewal, suspension, or revocation of a license.
- (1) The Department may review any and all records and information of a research facility or education facility 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) 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 licensee, the Department shall take administrative action against the licensee in accordance with 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 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.

310:681-4-6. Penalties

(a) **Failure to file timely reports.** If a research facility 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) **Fraudulent 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 fraudulent report(s): One thousand dollar (\$1,000.000) 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 fraudulent 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.

(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. 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.

(d) **Noncompliance and criminal activity.** A research facility or education facility 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 research facility or education facility 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.

SUBCHAPTER 5. COMMERCIAL ESTABLISHMENTS

310:681-5-1. License required

(a) No person or entity shall operate a medical marijuana ~~dispensary, grower operation, processor, or research project~~business without first obtaining a license from the Department pursuant to 63 O.S. §~~420A~~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 ~~63 O.S. § 420A et seq.~~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.

(ed) Application fees are nonrefundable.

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

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 ~~commercial establishment~~licensed premises that is conspicuous to consumers;
- (2) Comply with the provisions in this Chapter;

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- (3) Allow representatives of the Department access to the commercial establishment as specified under OAC 310:681-5-4 and OAC 310:681-5-~~(4)~~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; ~~and~~
- (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
- ~~(7)~~ 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 of ~~63 O.S. § 420A et seq. set forth in Oklahoma law~~ and this Chapter.
- (b) **Location.** A ~~business establishment~~ commercial license issued to a grower, processor, ~~or dispensary~~, or testing laboratory 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 of ~~63 O.S. § 420A et seq. set forth in Oklahoma law~~ and these ~~rules~~ 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.
- ~~(3d)~~ **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.

- ~~(A1)~~ 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.
 - ~~(B2)~~ Any medical marijuana or medical marijuana products not liquidated in accordance with OAC 310:681-5-2(d)(1) ~~still in possession after date of expiration, revocation, suspension, or surrender, or medical marijuana products not liquidated after thirty (30) days,~~ shall be disposed of as specified under OAC 310:681-5-10.
 - ~~(4) 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.~~
- (~~e~~) **Change in information.**
- (1) ~~The commercial licensee~~ 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. ~~The licensee~~ Licensees shall notify the Department in writing ~~no less than fourteen (14) days~~ 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.
 - (3) ~~In the event of a change for which a licensee does not have prior notice that may affect the licensee's qualifications for licensure, the licensee shall notify the Department immediately upon learning of the change.~~
- (~~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 ~~business~~ 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; ~~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); and
~~(D) Liquidate or dispose of Any-any medical marijuana or medical marijuana products remaining in the possession of the licensee shall be disposed of 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. §~~420A~~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; ~~and~~
- (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 ~~their~~ 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

~~(69) 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) An attestation that the commercial entity will not be located on tribal lands;~~
- ~~(76) Telephone number and email address; and~~
- ~~(87) The name, residence address, and date of birth of each owner and each member, manager, and board member, if applicable.~~

(e) **Supporting documentation.** ~~For a determination that a commercial applicant meets the requirements of 63 O.S. § 420A et seq., each~~ Each application shall be accompanied by the following documentation:

- (1) A list of all persons and/or entities that have an ownership interest in the 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, if applicable;
- (3) If applicable, an electronic copy or digital image in color of a sales tax permit issued by the Oklahoma Tax Commission;
- ~~(34) An Affidavit of Lawful Presence for each owner;~~
- ~~(45) 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~~
- ~~(56) 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 established required in 63 O.S. § 420A et seq. the Oklahoma Medical Marijuana and Patient Protection Act, 63 O.S. § 427.1 et seq. and OAC 310:681-1-6 (relating to proof of residency); and~~

(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);

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(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) Accreditation documentation, including documentation of enrollment in analyte-specific proficiency testing results, showing applicants meet requirements stated in OAC 310:681-8-2(a); and

(69) Any further documentation the Department determines is necessary to ensure the commercial applicant is qualified under 63 O.S. § 420A et seq. 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;

(3) An Oklahoma voter identification card;

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

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

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

(7) 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 ~~processing commercial~~ license constitutes permission for entry to and inspection of ~~the processing licensee's premises~~ 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 an annual unannounced on-site inspection~~ inspections per calendar year of a licensed processor's operations each licensed grower, processor, dispensary, or commercial transporter to determine, assess, and monitor compliance with 63 O.S. § 420A et seq. applicable Oklahoma law and these Rules and, if applicable, food safety/preparation standards.

(c) The Department shall conduct one on-site inspection of a testing laboratory applicant prior to initial licensure and one on-site inspection annually thereafter. The inspection prior to initial licensure may include proficiency testing, and shall be conducted to ensure all application materials are accurate and the applicant meets all requirements in 63 O.S. § 427.17 and these Rules.

~~(e-d)~~ 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. If the Department receives a complaint concerning a licensed processor's noncompliance with 63 O.S. § 420A et seq. and this Chapter, the Department may conduct additional unannounced, on-site inspections beyond an annual inspection.

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

~~(df)~~ 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.

~~(eg)~~ The Department may review any and all records of a licensed processor 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.

~~(f)~~ All commercial licensees shall provide the Department access to any material and information necessary in a reasonable amount of time not to exceed fifteen (15) days for determining compliance with 63 O.S. § 420A et seq. and this Chapter.

~~(gh)~~ If the Department identifies a violation of 63 O.S. § 420A-420 et seq., the Oklahoma Medical Marijuana and Patient Protection Act, 63 O.S. § 427.1 et seq.; and these Rules or this Chapter during an inspection of the licensed processor, the Department shall take administrative action in accordance with 63 O.S. § 423A and the Oklahoma law, including the Oklahoma Administrative Procedures Act, 75 O.S. §§ 250 et seq.

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

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

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

~~(a)~~ Monthly reports. Each commercial licensee shall utilize an inventory management system to maintain records and 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 from a licensed processor in pounds;

~~(B)~~ The amount of marijuana purchased from a licensed grower in pounds;

~~(CB)~~ The amount of marijuana sold or otherwise transferred to licensees and the type of licensee in pounds;

~~(DC)~~ The amount of marijuana waste in pounds;

~~(ED)~~ 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;

~~(FE)~~ Total dollar amount of all sales to medical marijuana patients and caregivers;

~~(GF)~~ Total dollar amount of all taxes collected from sales to medical marijuana patients and caregivers; and

~~(HG)~~ Any information the Department determines is necessary to ensure that all marijuana grown in Oklahoma is accounted for as required under 63 O.S. § 420A-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;

~~(BC)~~ The amount of marijuana sold or otherwise transferred to processor licensees in pounds;

~~(C)~~ The amount of marijuana sold to researcher, dispensary, and processor licensees 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 to processor, dispensary, and researcher licensees; 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. § 420A-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 from grower licensees in pounds;

~~(B)~~ The amount of marijuana sold or otherwise transferred to dispensary, processor, and researcher licensees 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

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- 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. §420A420 et seq. and the Oklahoma Medical Marijuana and Patient Protection Act, 63 O.S. § 427.1 et seq.
- (4) Researcher reports shall include:
- (A) The amount of marijuana purchased from commercial establishments in pounds;
- (B) The amount of medical marijuana used for research;
- (C) The amount of marijuana waste in pounds;
- (D) If necessary, a detailed explanation of why any marijuana cannot be accounted for as having been purchased, used for research, or maintained in current inventory; and
- (E) Any information the Department determines is necessary to ensure that all marijuana grown in Oklahoma is accounted for as required under 63 O.S. § 420A et seq.
- (b) **Records.** Pursuant to the Department's audit and inspection responsibilities, commercial establishments shall keep on-site and readily accessible, either in paper or electronic form, a copy of the following records for at least seven (7) years from the date of creation:
- (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) ~~If~~ As applicable, documents relating to the processing and preparation of medical marijuana products, which may include but is not limited to 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 identification number associated with the receiving license.~~ 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; sold.
- (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. Documentation of every instance in which marijuana was purchased, which shall include:
- (A) The license number of the selling commercial establishment; and
- (B) The quantity and type of medical marijuana purchased.
- (5) ~~If researcher, documentation of every instance in which medical marijuana was used for research, including the quantity and type of medical marijuana used.~~
- (5) 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.
- (ed) **Inventory.** Each commercial licensee shall use the seed-to-sale tracking system established by the Department or a seed-to-sale tracking system that integrates with the Department-established system at the time of its implementation. The system utilized by each licensee shall be a system 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 track tracking and documentation of the entire life span of a licensee's stock of medical marijuana and medical marijuana products, from the time the medical marijuana is propagated at the time it is sold to a patient or caregiver; 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.

~~(d)~~ **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.

~~(2) All commercial licensees shall provide the Department access to any material and information necessary in a reasonable amount of time not to exceed fifteen (15) days for determining compliance with 63 O.S. § 420A et seq. and this Chapter.~~

(3) If the Department identifies a violation of 63 O.S. § ~~420A~~420 et seq., the Oklahoma Medical Marijuana and Patient Protection Act, 63 O.S. § 427.1 et seq.; or these ~~rules~~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) ~~If the Department receives a complaint concerning a commercial license holder's noncompliance with 63 O.S. § 420A et seq. or these rules, the Department may conduct additional unannounced, on-site audits. 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)~~ (30) days of the Department's written notice, the ~~licensee~~licensee shall be subject to a fine of \$500.00 and any other administrative action and penalty authorized by law~~revoked subject to Subsection (d).~~

(b) **Inaccurate reports.** Within any two (2) year period of time, if the ~~Department makes a finding the~~ 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 ~~finding of~~ 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 ~~finding by the Department of~~ inaccurate report(s): Revocation of license.

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

(1) First ~~finding of~~ unlawful purchase(s) or sale(s): ~~Five~~One thousand dollar (\$~~5,000.000~~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 ~~finding by the Department of~~ unlawful purchase(s) or sale(s): ~~Revocation of license~~ Five thousand dollar (\$5,000.00) fine.

(3) 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 ~~may~~shall be subject to revocation, ~~or~~ suspension, monetary penalties, and any other penalty authorized by law upon a determination by the Department that the ~~commercial establishment licensee~~ has not complied with 63 O.S. § 420A et seq. applicable Oklahoma law or this Chapter, or upon official notification to the Department that the ~~commercial establishment licensee~~ has engaged in criminal activity in violation of Oklahoma law.

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(e) ~~License revocation and suspension~~**Administrative penalties.** Procedures for ~~revocation and suspension of licenses~~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 ~~be notified receive notice of alleged violation(s) of the Department rules and applicable law.~~ These procedures also provide for the licensee 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 ~~compliance~~ 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.

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

(a) ~~The Medical Marijuana Industry Expert Board~~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 Medical Marijuana Industry Expert Board~~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. ~~By every July 1 thereafter,~~the Board shall review, and submit if necessary, recommendations regarding rule promulgation ~~and standards~~ 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. ~~§420A420~~ 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. ~~§420A420~~ et seq. or these rules.

(d) **Board meetings.** ~~The Medical Marijuana Industry Expert Board~~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. ~~§420A420~~.

(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. ~~§420A420~~ 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) **Required testing procedures.** In light of the medical nature of marijuana authorized under 63 O.S. § 420A et seq. and to ensure the suitability and safety for human consumption of food products containing medical marijuana, processors are required to test food products containing medical marijuana for microbials, solvent and chemical residue, metals, pesticide residue, potency, and contaminants and filth in accordance with the following standards and thresholds:
 - (1) **Frequency.** Processors shall on a quarterly basis test one lot of each type of edible medical marijuana product.
 - (2) **Allowable thresholds.** Products that fail to meet the thresholds as set forth below must be rejected and/or recalled immediately. In the event of recall, processors shall immediately notify the Department and all commercial establishments to which the recalled product was or may have been sold or transferred of the recall. Upon notification of the recall, the Department should work with dispensaries to notify patients who received the recalled product.
 - (3) **Retention of test results and records.** Processors shall retain all test results and related records for three (3) years.
 - (4) **Microbiological testing.**

- (A) All products shall be tested for aerobic plate count.
- (B) Product 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 or the product shall be rejected and/or recalled.
- (C) Products shall be tested for the presence of yeast and molds. Product test results shall validate less than 10⁴ CFU or the product shall be rejected and/or recalled.
- (D) Test reports shall include method reference.
- (5) **Solvent and chemical residue.**
 - (A) Food products containing medical marijuana 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) Test reports shall provide specific data for all listed and detected solvents.
 - (C) The test report 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.
- (6) **Metals.**
 - (A) Testing for heavy metals shall include but is not limited to lead, arsenic, cadmium, and mercury.
 - (B) Test results shall meet the following thresholds:
 - (i) Lead—max limit < 1ppm
 - (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.
- (7) **Pesticide residue.**
 - (A) Processors shall test all product batches for pesticides; 0.1 ppm or a positive result at the Limit of Detection (equipment's lowest possible detection

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~~amount) will be considered to exceed safe residue limits.~~

~~(B) Pesticide residue testing shall analyze samples for the presence of chlorinated hydrocarbons, organophosphates, carbamates, pyrethroids, neonicotinoids, acaricides, fungicides, and bactericides to the maximum extent practical.~~

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

(8) **Potency.** Processors shall test products for and provide results for levels of total THC.

(9) **Contaminants and filth.** Processors shall inspect all products for contaminants and filth.

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

~~(B) 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.~~

(hg) **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. § ~~420A420~~ 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~~ 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., including but not limited to the waste and disposal standards set forth under the Uniform Controlled and Dangerous Substances Act, 63 O.S. § 2-101 et seq., and the Department of Environmental Quality rules, OAC Title 252.

(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.

310:681-5-12. 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. § ~~420A420~~ 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).

310:681-5-18. 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 ~~patient license holders or caregiver's~~ caregivers ~~license holders~~.

(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, as prohibited under 63 O.S. §§ 1-1102 & 1-1402.~~

- (ef) No commercial establishment shall sell or offer to sell medical marijuana products by means of any advertisement or promotion that includes including 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.

SUBCHAPTER 7. PACKAGING, AND 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, and packages, and containers shall may 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 packages 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."
 - (5) Labels for edible medical marijuana products shall also meet the requirements set forth in OAC 310:681-5-8.1.

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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) **Department required testing.** The Department may require a medical marijuana commercial licensee to submit a sample of medical marijuana, medical marijuana concentrate, or medical marijuana product to a licensed testing laboratory upon demand. The costs for all sampling and tests conducted pursuant to these rules shall be the financial responsibility of the commercial licensee.

(e) **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.

(f) **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 at least two (2) years.

(g) **Allowable thresholds.**

(1) **Microbiological testing.**

(A) All harvest batch and production samples shall be tested for bacteria and fungus count.

(B) A sample passes testing if less than one colony forming unit (CFU) per gram of tested material is present for E. coli, Salmonella species, or Staphylococcus aureus.

(C) Samples shall be tested for the presence of yeast and molds. A sample passes testing if less than 10 to the fourth power CFU per gram is present.

(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:

- (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 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 < 0.4 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.** All harvest batch samples shall be tested for the following pesticides, and shall not exceed the associated limits:
- (A) Spiromesifen < 0.5 ppm
 - (B) Spirotetramat < 0.5 ppm
 - (C) Tebuconazole < 0.5 ppm
 - (D) Etoxadazole < 0.5 ppm
 - (E) Imazalil < 0.5 ppm
 - (F) Imidacloprid < 0.5 ppm
 - (G) Malathion < 0.5 ppm
 - (H) Myclobutanil < 0.5 ppm
 - (I) Azoxystrobin < 0.5 ppm
 - (J) Bifenazate < 0.5 ppm
 - (K) Abamectin (Avermectins: B1a & B1b) < 0.5 ppm
 - (L) Permethrin (mix of isomers) < 0.5 ppm
 - (M) 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) There must be no visual evidence of mammalian excreta, bugs, animal parts, or any other material not intentionally added.
- (C) 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.
- (D) Inspection records shall indicate a continual process of physical inspection has taken place for all batches.

310:681-8-2. General operating requirements and procedures

- (a) **Laboratory accreditation.** A laboratory that submits an application to become a licensed testing laboratory prior to January 1, 2020 must have made application for accreditation to ANSI/ASQ National Accreditation Board, American Association for Laboratory Accreditation (A2LA), Perry Johnson Laboratory Accreditation (PJLA), or any other accrediting entity using the ISO/IEC Standard 17025, at the time of application. Application for accreditation must be made to one of these entities in both chemistry and biology, or cannabis. A laboratory that submits an application to become a licensed testing laboratory on or after January 1, 2020 must be accredited by ANSI/ASQ National Accreditation Board, American Association for Laboratory Accreditation (A2LA), Perry Johnson Laboratory Accreditation (PJLA), or any other accrediting entity using the ISO/IEC Standard 17025. The accreditation must be from one of these entities in both chemistry and biology, or cannabis.
- (b) **Proficiency testing.** The laboratory shall be subject to proficiency testing by the Department or its designee at a frequency and at times to be determined by the Department or its designee.
 - (1) The laboratory shall cooperate with the Department or its designee for purposes of conducting proficiency testing. The Department or its designee may require submission of samples from the licensed laboratory for purposes of proficiency testing.
 - (2) The surveillance laboratory shall obtain reserve samples from licensed laboratories for the purposes of proficiency testing, which shall occur at a minimum of three (3) times per year for regular monitoring. The Department or the surveillance laboratory may require additional proficiency tests to ensure correction of or investigate violations of Oklahoma law and these Rules.
 - (3) If the Department determines on the basis of a proficiency testing that the laboratory has not satisfactorily identified the presence, quantity, or other relevant factor(s) pertaining to a given analyte, the Department may revoke the license, require additional tests, and/or require remedial actions to be taken by the laboratory.
 - (4) If a laboratory fails its proficiency testing for an analyte, the batch testing results since the last proficiency test for that analyte must be re-evaluated. The laboratory

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director shall assess and implement necessary procedures to ensure risks to public safety are mitigated following failed proficiency testing results.

(c) **Conflict of interest.** A person who is a direct beneficial owner or an indirect beneficial owner of a licensed dispensary, commercial grower, or processor shall not be an owner of a licensed laboratory. A licensed testing laboratory shall establish policies to prevent the existence of or appearance of undue commercial, financial, or other influences that may diminish the competency, impartiality, and integrity of the testing processes or results of the laboratory. At a minimum, employees, owners, or agents of a licensed laboratory who participate in any aspect of the analysis and results of a sample are prohibited from improperly influencing the testing process, improperly manipulating data, or improperly benefiting from any ongoing financial, employment, personal, or business relationship with the commercial licensee that provided the sample.

(d) **Safety standards.** Licensed laboratories must comply with Occupational Safety and Health Administration (OSHA) Standard 29 CFR 1910.1450.

(e) **Personnel.** A licensed laboratory shall not operate unless a medical laboratory director is on site during operational hours. Personnel of a licensed laboratory shall meet the following minimum requirements:

(1) A medical laboratory director must possess a bachelor's degree in the chemical, environmental, biological sciences, physical sciences or engineering, with at least twenty-four (24) college semester credit hours in chemistry and at least two (2) years of experience in the environmental analysis of representative inorganic and organic analytes for which the laboratory will be performing. A master's degree or doctoral degree in one of the above disciplines may be substituted for one (1) year of experience. The medical laboratory director shall be responsible for the development of and adherence to all pre-analytic, analytic, and post-analytic procedures, and the implementation of a quality system that assures reliable test results and regulatory compliance.

(2) Testing personnel must possess a bachelor's degree applicable to a laboratory testing environment, with a minimum of two (2) years of experience, or an associate's degree and five (5) years of applicable experience.

(3) Ancillary personnel must possess a high school diploma or equivalent.

(f) **Equipment.**

(1) Equipment used for analysis must have a Limit of Detection (LOD) of at least 50% of the thresholds listed in OAC 310:681-8-1(h).

(2) Equipment used for the analysis of test samples shall be adequately inspected, cleaned, and maintained. Equipment used for the generation or measurement of data shall be adequately tested and calibrated on an appropriate schedule, as applicable.

(3) Laboratory operations shall document procedures setting forth in sufficient detail the methods and schedules to be used in the routine inspection, cleaning, maintenance, testing, and calibration of equipment, and shall specify, as appropriate, remedial action to be taken in the

event of failure or malfunction of equipment. The procedures shall designate the personnel responsible for the performance of each operation.

(4) Records shall be maintained of all inspection, maintenance, testing, and calibrating operations. These records shall include the date of the operation, the person who performed it, the written procedure used, and any deviations from the written procedure. All deviations must be reviewed and approved by the medical laboratory director. Records shall be kept of non-routine repairs performed on equipment. Such records shall document the nature of the repair, how and when the need for the repair was discovered, and any remedial action taken in response to the repair. A written assessment of the validity of the results obtained previous to the failure must be made. Documentation of any repeat testing performed must also be maintained. Any non-routine repair must be reported to and reviewed by the surveillance laboratory.

(5) Computer systems used for the analysis of samples, retention of data, sample tracking, calibration scheduling, management of reference standards, or other critical laboratory management functions shall ensure that electronic records, electronic signatures, and handwritten signatures executed to electronic records are trustworthy, reliable, and generally equivalent to paper records and handwritten signatures executed on paper.

(g) **Data storage.**

(1) The laboratory shall ensure that all raw data, documentation, protocols, and final reports associated with analysis of a test sample are retained for at least two (2) years from the date of completion of analysis.

(2) The laboratory shall designate an individual as responsible for records maintenance. Only authorized personnel may access the maintained records.

(3) The laboratory shall maintain the records identified in this section:

(A) In a manner that allows retrieval, as needed;

(B) Under conditions of storage that minimize deterioration throughout the retention period; and

(C) In a manner that prevents unauthorized alteration.

(h) **Materials to be maintained on premises.** The laboratory shall maintain on its premises, and shall promptly present to the Department upon request:

(1) Personnel documentation including, but not limited to employment records, job descriptions, education, and training requirements of the laboratory, and documentation of education and training provided to staff for the purpose of performance of assigned functions;

(2) Policies concerning laboratory operations, business licensing, and security procedures;

(3) Any policies, protocol, or procedures for receipt, handling, and disposition of samples of usable marijuana;

(4) Equipment information detailing the type of equipment used, inspection policies and practices, testing and calibration schedules and records, and standards for cleaning and maintenance of equipment;

(5) Reagents, solutions, and reference policies including, but not limited to standards for labeling, storage, expiration, and re-qualification dates and records;

(6) Reference standards, acquired or internally produced, including the certificate of analysis;

(7) Sample analysis procedures including, but not limited to procedures for the use of only primary or secondary standards for quantitative analyses;

(8) Documentation demonstrating that the analytical methods used by the laboratory are appropriate for their intended purpose; that staff is competent in the process; and that deviations from approved standards of practice do not occur without proper authorization;

(9) Policies for data recording, review, storage, and reporting that include, but are not limited to standards to ensure that:

(A) Data are recorded in a manner consistent with applicable Oklahoma law and these Rules, and are reviewed to verify that applicable standards of practice, equipment calibration, and reference standards were applied before reporting;

(B) All data, including raw data, documentation, protocols, and reports are retained in accordance with applicable Oklahoma law and these rules; and

(C) Reports are the property of the business or individual who provided the sample, and reports meet the requirements of this rule.

(10) Documentation showing the laboratory complies with Occupational Safety and Health Administration (OSHA) Standard 29 CFR 1910.1450; and

(11) Such other materials as the Department may require.

(i) **Department access to materials and premises.** The laboratory shall promptly provide the Department or the Department's designee access to a report of a test, and any underlying data, that is conducted on a sample. The laboratory shall also provide access to the Department or the Department's designee to laboratory premises, and to any material or information requested by the Department, for the purpose of determining compliance with the requirements of applicable Oklahoma law and these rules.

310:681-8-3. Sampling requirements and procedures

(a) **General requirements.** Samples must be collected in accordance with OAC 310:681-8-3(c). Individuals collecting samples are called "Samplers".

(1) Samplers must:

(A) Follow the laboratory's approved sampling policies and procedures. Copies of sampling policies and procedures shall be available to samplers in the field; and

(B) Follow inventory manifest procedures listed in OAC 310:681-3-6.

(2) Samplers shall collect samples at the location of the grower or processor. A licensed laboratory must either utilize a licensed commercial transporter to transport samples or obtain a commercial transporter license in order to transport samples from the grower or processor to

the laboratory. All commercial transporters transporting to a laboratory shall be prohibited from storing samples at any location other than the laboratory facility. All samples must be delivered the day of collection.

(3) The laboratory may obtain and analyze samples only from harvest batches and production batches in final form.

(4) The sampler shall collect both a primary sample and a reserve sample from each harvest batch and production batch. The primary sample and reserve sample shall be stored and analyzed separately. The reserve sample is used for quality control purposes only.

(5) The sampler shall ensure that the sample is transported and subsequently stored at the laboratory in a manner that prevents degradation, contamination, and tampering. If the medical marijuana or medical marijuana product specifies on the label how the product shall be stored, the laboratory shall store the sample as indicated on the label.

(6) The sampler shall use a sample field log to record the following information for each sampled batch:

(A) Laboratory's name, address, and license number;

(B) Sampler's name(s) and title(s) and the names of others onsite;

(C) Date and time sampling started and ended;

(D) Grower's or processor's name, address, and license number;

(E) Batch number of the batch from which the sample was obtained;

(F) Sample matrix;

(G) Total batch size, by weight or unit count;

(H) Total weight or unit count of the primary sample;

(I) Total weight or unit count of the reserve sample;

(J) The unique sample identification number for each sample;

(K) Name, business address, and license number of the person who transports the samples to the laboratory;

(L) Requested analyses;

(M) Sampling conditions, including temperature;

(N) Problems encountered and corrective actions taken during the sampling process, if any; and

(O) Any other observations from sampling, including major inconsistencies in the medical marijuana color, size, or smell.

(7) The laboratory shall maintain inventory manifest documentation listed in OAC 310:681-3-6 and utilize an electronic inventory management system that meets the requirements set forth in OAC 310:681-5-6(d) for each sample that the laboratory collects, transports, and analyzes.

(8) A laboratory must maintain the documentation required in these rules for at least two (2) years and must provide that information to the Department upon request.

(b) **Sample size.** The primary sample and reserve sample must each weigh a minimum of 0.5% of the total harvest batch

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or production batch weight. A sampler may collect greater than 0.5% of a harvest batch or production batch per primary sample and reserve sample if necessary to perform the required testing or to ensure that the samples obtained are representative. A reserve sample shall be stored by the testing laboratory for ninety (90) days.

(c) **Sampling standard operating procedures.** Samples collected must be representative of the entire batch to assure accurate microbiological analysis and foreign material assessments. Sample protocol shall be approved by the laboratory director. The laboratory shall develop and implement written sampling policies and procedures that are appropriate for each test method and each type of matrix to be tested and that are consistent with these regulations. Sampling procedures must describe the laboratory's method for collection, preparation, packaging, labeling, documentation, and transport of samples from each matrix type the laboratory tests. The sampling standard operating procedures (SOP) shall include at least the following information:

- (1) A step-by-step guide for obtaining samples from each matrix type the laboratory samples;
- (2) Accepted test sample types;
- (3) Minimum test sample size;
- (4) Recommended test sample containers;
- (5) Test sample labeling;
- (6) Transport and storage conditions, such as refrigeration, as appropriate to protect the physical and chemical integrity of the sample;
- (7) Other requirements, such as use of preservatives, inert gas, or other measures designed to protect sample integrity;
- (8) Chain-of-custody documentation for each sample in OAC 310:681-5-6;
- (9) The sampler must:
 - (A) Follow the laboratory's sampling SOP;
 - (B) Ensure that the sampling area is free of contaminants;
 - (C) Sanitize sampling tools and equipment between each batch or use disposable sampling tools;
 - (D) Wear the following items during the entire sampling process:
 - (i) Disposable protective coveralls or disposable lab coat or apron;
 - (ii) Disposable, powder-free, nitrile gloves;
 - (iii) Filtering dust mask;
 - (iv) Safety goggles;
 - (v) Hair net.
 - (E) Shall change gloves between each batch;
 - (F) Weigh samples to within 0.1 gram of accuracy using a calibrated balance;
 - (G) Collect both a primary and a reserve sample from each batch;
 - (H) Place the sample in a container capable of preventing degradation or contamination and seal the sample container with tamper evident material;
 - (I) Assign a unique sample identifier to both the primary and reserve samples;

(J) Record on the sample field log the conditions under which the sample is transported and stored; and

(K) Follow chain of custody protocols;

(10) The sampling SOP shall be signed and dated by the laboratory director and shall include the revision dates and authors. The laboratory director's signature denotes approval of the plan.

(11) The laboratory shall retain a controlled copy of the sampling SOP on the laboratory premises and ensure that the sampling SOP is accessible to the sampler in the field during sampling.

(d) **Sample handling, storage and disposal.** A laboratory shall establish sample handling procedures for the tracking of test samples through the analytical process (by weight, volume, number, or other appropriate measure) to prevent diversion.

(1) The laboratory shall store each test sample under the appropriate conditions appropriate to protect the physical and chemical integrity of the sample.

(2) Analyzed test samples consisting of medical marijuana or medical marijuana products shall be held in a controlled access area pending destruction or other disposal.

(3) Any portion of a medical marijuana or medical marijuana product test sample that is not destroyed during analysis shall be:

(A) Returned to the licensed individual or entity that provided the sample after the required retention period for reserve samples;

(B) Transported to a state or local law enforcement office; or

(C) Disposed of in accordance with OAC 310:681-5-10 (relating to medical marijuana waste disposal).

(e) **Data reporting.**

(1) The laboratory shall generate a certificate of analysis (COA) for each primary sample that the laboratory analyzes.

(2) The laboratory shall issue the COA to the requester within two(2) business days after technical and administrative review of analysis has been completed.

(3) The COA shall contain, at minimum, the following information:

(A) The name, address, license number, and contact information of the laboratory that conducted the analysis;

(B) The name, address, and license number of the requester;

(C) The description of the type or form of the test sample (leaf, flower, powder, oil, specific edible product, etc.) and its total primary sample weight in grams, reported to the nearest gram;

(D) The unique sample identifier;

(E) Batch number of the batch from which the sample was obtained;

(F) Sample history, including the date collected, the date received by the laboratory, and the date(s) of sample analyses and corresponding testing results, including units of measure where applicable;

- (G) The analytical methods used, including at a minimum identification of the type of analytical equipment used (e.g., GC, HPLC, UV, etc.);
 - (H) The reporting limit for each analyte tested;
 - (I) Any compounds detected during the analyses of the sample that are not among the targeted analytes and are unknown, unidentified, tentatively identified or known and injurious to human health if consumed, if any; and
 - (J) The identity of the supervisory or management personnel who reviewed and verified the data and results and ensured that data quality, calibration, and other applicable requirements were met.
- (4) The laboratory shall report test results for each primary sample on the COA as follows:
- (A) When reporting quantitative results for each analyte, the laboratory shall use the appropriate units of measurement as required under this chapter;
 - (B) When reporting qualitative results for each analyte, the laboratory shall indicate "pass" or "fail";
 - (C) When reporting results for any analytes that were detected below the analytical method limit of quantitation (LOQ), indicate "<LOQ";
 - (D) Indicate "NT" for not tested for any test that the laboratory did not perform.
- (5) Laboratories shall notify the Department upon receipt of a report of tentatively identified compounds from a grower or processor. The Department may require a processor or grower to submit samples for additional testing, including testing for analytes that are not required by these Rules, at the licensee's expense.

- (B) Laboratory organization and employee training and responsibilities;
 - (C) LQA criteria for acceptable performance;
 - (D) Traceability of data and analytical results;
 - (E) Instrument maintenance, calibration procedures, and frequency;
 - (F) Performance and system audits;
 - (G) Steps to change processes when necessary;
 - (H) Record retention;
 - (I) Test procedure standardization; and
 - (J) Method validation.
- (2) The laboratory director shall annually review, amend if necessary, and approve the LQA program and manual when:
- (A) The LQA program and manual are created;
 - (B) There is a change in methods, laboratory equipment, or the supervisory or management laboratory employee overseeing the LQA program.
- (b) **Laboratory quality control samples.**
- (1) The laboratory shall use laboratory quality control (LQC) samples in the performance of each analysis according to the specifications in this section.
 - (2) The laboratory shall analyze LQC samples in the same manner as the laboratory analyzes samples of medical marijuana and medical marijuana products.
 - (3) The laboratory shall use negative and positive controls for microbial testing.
 - (4) The following quality control samples must be run every 20 samples in an analytic run:
 - (A) Method blank;
 - (B) Continuing calibration verification (CCV);
 - (C) Laboratory replicate sample; and
 - (D) Matrix spike sample or matrix spike duplicate sample.
 - (5) If the result of the analyses is outside the specified acceptance criteria in the chart below, the laboratory shall determine the cause and take steps to remedy the problem until the result is within the specified acceptance criteria. Samples after the last acceptable run must be re-tested.
 - (6) The laboratory shall generate a LQC sample report for each analytical run that includes LQC parameters, measurements, analysis date, and matrix.

310:681-8-4. Laboratory quality assurance and quality control

(a) **Laboratory Quality Assurance (LQA) program.** The medical laboratory director shall develop and implement an LQA program to assure the reliability and validity of the analytical data produced by the laboratory.

- (1) The LQA program shall, at minimum, include a written LQA manual that addresses the following:
 - (A) Quality control procedures, including remedial actions;

<u>Laboratory Quality Control Sample</u>	<u>Acceptance Criteria</u>
<u>Method blank sample for chemical analysis</u>	<u>Not to exceed LOQ</u>
<u>Reference material and certified reference material for chemical analysis</u>	<u>The laboratory shall establish the 99% confidence interval for control performance. If insufficient historical data exists to establish the 99% confidence interval, the laboratory will use 80%-120% as an interim limit.</u>
<u>Laboratory replicate sample</u>	<u>Relative % difference (RPD) no greater than 20%</u>
<u>Matrix spike or matrix spike duplicate sample for chemical analysis</u>	<u>The laboratory shall establish the 99% confidence interval for control performance. If insufficient historical data exists to establish the 99% confidence interval, the laboratory will use 80%-120% as an interim limit.</u>

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<u>CCV for chemical analysis</u>	<u>% recovery between 85% to 115%</u>
<u>Marijuana-derived product reserve sample</u>	<u>RPD no greater than 20%</u>
<u>Marijuana reserve sample</u>	<u>RPD no greater than 30%</u>

(c) **Reagents, solutions, and reference standards.**

(1) Reagents, solutions, and reference standards shall be:

(A) Secured in accordance with the laboratory's storage policies; labeled to indicate identity, date received or prepared, and expiration or requalification date; and, where applicable, concentration or purity, storage requirements, and date opened;

(B) Stored under appropriate conditions to minimize degradation or deterioration of the material; and

(C) Used only within the item's expiration or requalification date.

(2) Deteriorated or outdated reagents and solutions shall be properly disposed, in compliance with all federal, state and local regulations.

(3) The laboratory may acquire commercial reference standards for cannabinoids and other chemicals or contaminants, for the exclusive purpose of conducting testing for which the laboratory is approved. The laboratory may elect to produce reference standards in-house (internally). When internally produced, the laboratory shall utilize standard analytical techniques to document the purity and concentration of the internally produced reference standards. The laboratory is authorized to obtain marijuana or marijuana-derived product from a licensed non-profit producer for this purpose.

(4) The laboratory shall obtain or, for internally-produced standards, shall create a certificate of analysis (COA) for each lot of reference standard. Each COA shall be kept on-file and the lot number of the reference standard used shall be recorded in the documentation for each analysis, as applicable.

310:681-8-5. Surveillance laboratory

(a) **Purpose.** The Department is authorized to contract with a private laboratory for the purpose of evaluating the day-to-day operations of licensed laboratories. Any such contracted laboratory is prohibited from conducting any other commercial medical marijuana testing in this state.

(b) **Accreditation.** The surveillance laboratory must be accredited by or have made application for accreditation to ANSI/ASQ National Accreditation Board, American Association for Laboratory Accreditation (A2LA), Perry Johnson Laboratory Accreditation (PJLA), or any other accrediting entity using the ISO/IEC Standard 17025. Accreditation or application for accreditation must be from one of these entities in both chemistry and biology or cannabis.

(b) **Duties.** On behalf of the Department, a contracted private laboratory shall have the authority to:

(1) Conduct Inter-Laboratory Control Testing of laboratory licensees and applicants in a manner and frequency approved by the Department;

(2) Inspect and assess testing equipment of licensed testing laboratories;

(3) Access and test LQC samples;

(4) Inspect and obtain copies of all laboratory documents and records, including but not limited to SOPs, COAs, testing reports, policies, and manuals;

(5) Interview laboratory employees, owners, and agents for the purpose of evaluating compliance with Oklahoma law and these Rules;

(6) Other actions as deemed appropriate by the Department to ensure compliance with Oklahoma law and these Rules.

SUBCHAPTER 9. WASTE DISPOSAL FACILITIES

310:681-9-1. License or permit required

(a) No person or entity shall operate a medical marijuana waste disposal facility without first obtaining a license from the Department pursuant to the Oklahoma Medical Marijuana Waste Management Act, 63 O.S. § 427a et seq., other applicable Oklahoma law, including regulations of the Oklahoma Department of Environmental Quality, 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 or permit.

(b) The Department shall not, for the first year of the licensure program, issue more than ten (10) waste disposal facility licenses. The Department shall have the authority to develop and utilize criteria, standards, and preferred qualifications for the selection of licensees and timing of licensure as it deems appropriate and reasonable.

(c) All license and permit 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.

(d) All licenses and permits shall be on forms prescribed by the Department.

(e) Application fees are nonrefundable.

(f) Upon issuance of a waste disposal facility license, each waste disposal facility licensee shall automatically receive a waste disposal transportation license. Medical marijuana waste disposal facility licensees shall ensure that a copy of the waste disposal transportation license is inside any vehicles used for transporting medical marijuana waste during transportation.

310:681-9-1.1. Responsibilities of the license or permit holder

Upon acceptance of the license or permit issued by the Department, the license holder in order to retain the license shall comply with the provisions in OAC 310:681-5-1.1.

310:681-9-2. Licenses and permits

(a) **Timeframe.** Waste disposal facility licenses and permits shall be issued for a twelve (12) month period expiring one (1) year from the date of issuance. The license or permit 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.** Waste disposal facility licenses and permits shall only be valid for a single location at the address listed on the application.

(c) **Renewal of license or permit.**

(1) It is the responsibility of the license holder to renew the license and any associated permits, with all applicable documentation, prior to the date of expiration of the license or permit by following the procedures provided in OAC 310:681-9-3 and OAC 310:681-9-4.

(2) Before renewing a license or permit, the Department may require further information and documentation to determine if 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) **Disposal of Waste upon termination of license/permit.**

(1) A waste disposal facility licensee whose license is not renewed, or whose license is revoked, suspended, or voluntarily surrendered, shall immediately cease all operations at all licensed and permitted locations upon expiration of the license and shall immediately either dispose of any medical marijuana waste remaining in its possession or transfer such medical marijuana waste to another licensed medical marijuana waste disposal facility licensee.

(2) A waste disposal facility licensee whose permit is not renewed, or whose permit is revoked, suspended, or voluntarily surrendered, shall cease all operations at the permitted location immediately upon expiration of the permit and shall immediately take one of the following actions:

(A) Dispose of any medical marijuana waste remaining in its possession at the permitted location;

(B) Transfer such medical marijuana waste to another permitted location belonging to the same licensed medical marijuana waste disposal facility licensee; or

(C) Transfer such medical marijuana waste to another licensed medical marijuana waste disposal facility licensee.

(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 affect 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 or permit.**

(1) Waste disposal facility licenses and permits may not be assigned or otherwise transferred from one person to another person or from one legal entity to another.

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

(g) **Surrender of license or permit.** A waste disposal facility licensee may voluntarily surrender a license or permit to the Department at any time in accordance with OAC 310:681-5-2(g). If a waste disposal facility license is surrendered, all associated permitted locations will be surrendered.

(h) **Revocation of license or permit.** If a waste disposal facility license is revoked, all associated permitted locations will be revoked.

310:681-9-3. License applications

(a) **Application fee.** An applicant for a waste disposal facility 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 Waste Management Act, 63 O.S. § 427 et seq.

(b) **Submission.** 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;
- (6) Type of waste facility; and
- (7) Proposed number and location of additional waste disposal facilities associated with the applicant.

(c) **Individual applicant.** The application for a waste disposal facility 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;

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- (4) The applicant's telephone number and email address;
 - (5) An attestation that the information provided by the applicant is true and correct;
 - (6) An attestation that any licensed premises shall not be located on tribal lands;
 - (7) 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 waste facility 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 persons and/or entities that have an ownership interest in the entity;
 - (2) A certificate of good standing from the Oklahoma Secretary of State, if applicable;
 - (3) An Affidavit of Lawful Presence for each owner;
 - (4) Proof that the proposed location of the waste disposal facility is a least one thousand (1,000) feet from a public or private school. The distance specified shall be measured from any entrance of the school to the nearest property line point of the facility;
 - (5) Documents establishing the applicant, the members, managers, and board members, if applicable, and seventy-five percent (75%) of the ownership interests are Oklahoma residents as established in 63 O.S. § 420 et seq., and OAC 310:681-1-6 (relating to proof of residency);
 - (6) Proof of sufficient liability insurance. Liability insurance shall be provided by the applicant and shall apply to sudden and nonsudden bodily injury and property damage on, below, and above the surface of the facility. Such insurance shall be maintained for the period of operation of the facility during operation and after closing. Sufficient liability insurance means that the licensee shall maintain at all times insurance coverage with at least the following minimum limits:
 - (A) Commercial General Liability: \$5,000,000 each occurrence;
 - (B) Pollution Legal Liability: \$5,000,000 each occurrence;
 - (7) Relevant waste permit(s) from the Oklahoma Department of Environmental Quality; and

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

310:681-9-4. Permit applications

- (a) **Application fee.** An applicant for a waste disposal facility permit, 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 Waste Management Act, 63 O.S. § 427 et seq. A waste disposal facility permit application shall be submitted after and associated with an approved waste disposal facility license application.
- (b) **Submission.** The application shall be on the Department prescribed form and shall include the following information about the establishment:
- (1) Name and license number of the waste disposal facility licensee associated with the permit;
 - (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 of the establishment.
 - (6) Mailing address of the establishment;
 - (7) An attestation that the information provided by the applicant is true and correct;
 - (8) An attestation that any licensed premises shall not be located on tribal lands;
 - (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.
 - (10) An attestation that applicant is authorized to make application on behalf of the entity
- (c) **Supporting documentation.** Each application shall be accompanied by the following documentation:
- (1) Proof that the proposed location of the waste disposal facility is a least one thousand (1,000) feet from a public or private school. The distance specified shall be measured from any entrance of the school to the nearest property line point of the facility;
 - (2) Proof of sufficient liability insurance. Liability insurance shall be provided by the applicant and shall apply to sudden and nonsudden bodily injury and property damage on, below, and above the surface of the facility. Such insurance shall be maintained for the period of operation of the facility and shall provide coverage for damages resulting from operation of the facility during operation and after closing. Sufficient liability insurance means that the licensee shall maintain at all times insurance coverage with at least the following minimum limits:
 - (A) Commercial General Liability: \$5,000,000;

(B) Pollution Legal Liability: \$5,000,000 each occurrence;

(3) Relevant waste permit(s) from the Oklahoma Department of Environmental Quality; and

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

(d) **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.

310:681-9-5. Inspections

(a) Submission of an application for a medical marijuana waste disposal facility license or permit 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 one annual unannounced on-site inspection of each licensed and/or permitted premises to determine, assess, and monitor compliance of applicable Oklahoma law and these Rules.

(c) The Department shall conduct one on-site inspection of a waste disposal facility license or permit applicant prior to approving the application to determine if the proposed site and facility are physically and technically suitable, and that all application information and documentation is true and correct. The inspection shall also ensure the applicant meets all requirements in OAC 310:681-9-6.

(d) The Department may conduct additional inspections to ensure correction of or investigate violations of applicable Oklahoma law and these Rules.

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

(f) 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.

(g) The Department may review any and all records of a waste disposal facility and may require and conduct interviews with such persons or entities and persons affiliated with the facility, 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 available under law. All records shall be kept on-site and readily accessible.

(h) 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., the Oklahoma Medical Marijuana Waste Management Act, 63 O.S. § 427 et seq., and these Rules. During an inspection of the waste disposal facility, the Department shall take administrative action in accordance with Oklahoma law, including the Oklahoma Administrative Procedures Act, 75 O.S. §§ 250 et seq.

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

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

(k) A waste disposal facility permit that has been revoked shall be reinstated upon correction of each deficiency and remittance of a reinstatement fee of five hundred dollars (\$500.00).

310:681-9-6. Security requirements

(a) **General requirements.** All licensed entities shall provide effective controls and procedures to guard against theft and diversion of medical marijuana and medical marijuana products. In order to determine whether a registrant has provided effective controls against diversion, the licensee shall adhere to the security requirements as set forth by these Rules.

(b) **Storage.** OMMA licensed entities shall dispose of medical marijuana waste using an approved medical marijuana waste disposal facility. The licensee shall dispose of all medical marijuana waste in a secure waste receptacle. The receptacle shall be kept in a safe and secure location with limited access. All limited access areas must be identified by the posting of a sign which shall be a minimum of 12" X 12" and which shall state in the English language "Do Not Enter - Limited Access Area - Access limited to licensed owners, employees and contractors only" in lettering no smaller than 1/2 inch in height. All access areas shall be secured with commercial-grade II non-residential locks. Locks are required at all points of ingress and egress to the limited access area. The secure container must be not easily movable and must be locked using the minimum lock standards of the container itself.

(c) **Transport.** Each container shall be packaged and weighed prior to leaving the origination location. Each container shall be sealed by tamperproof tape. When determining and reporting the route to take, waste disposal facility licensees should select the best direct route that provides efficiency and safety. During transport, the waste facility disposal licensee must ensure adequate security to guard against in-transit losses and is responsible for providing and requiring adequate security to guard against theft and diversion while in transit or prior to destruction and disposal. Medical marijuana waste shall be stored in a securely locked, substantially constructed receptacle during transit.

(d) **Documentation.** The licensed entity disposing of medical marijuana waste is responsible for documenting all

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waste placed in the secure container in the electronic inventory system and on the waste disposal inventory manifest prior to transport. The inventory manifest for transport of medical marijuana waste shall adhere to all rules in section OAC 310:681-3-6. The inventory manifest must be signed by the receiver and the licensed entity disposing prior to leaving the origination location. Each person authorized by the waste facility licensee to transport to a waste disposal facility shall maintain records before and during transport and at the waste disposal facility. Electronic inventory should match the inventory manifest form prior to travel and upon arrival at the disposal facility. The manifest shall include the following:

- (1) Name of the licensed entity;
- (2) Date completed;
- (3) Name, location and license number of the origination location;
- (4) Name, location and license number of the destination(s) location(s);
- (5) Products and quantities being delivered to each location if more than one;
- (6) Date and approximate time of departure;
- (7) Date and estimated time of arrival;
- (8) Route to be traveled;
- (9) Vehicle make and model, together with license plate number;
- (10) Name and signature of the person(s) providing (licensee disposing-of) the medical marijuana waste and the waste disposal employee transporting waste the waste disposal facility; and
- (11) Date.

(e) **Records and reporting.** Reporting the loss of in-transit shipments is the responsibility of the waste disposal facility licensee. Any losses shall be reported to the Department immediately in writing and through the electronic inventory system. Every inventory and other record required shall be kept by the licensee available for at least two (2) years from the date of such inventory or record, for inspecting and copying.

310:681-9-7. Audits and inventory

(a) **Audits.** The Department may perform on-site audits of all waste disposal facility licensees and permitted locations to ensure that all marijuana grown in Oklahoma is accounted for. Submission of an application for a medical marijuana waste disposal facility license constitutes permission for entry to any licensed premises and auditing of the 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 waste disposal facility 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) Waste disposal facility 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 the Oklahoma Medical Marijuana Waste Management Act, 63 O.S. § 427a et seq., other applicable Oklahoma law, or these Rules during an audit of the 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 waste disposal 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.

(b) **Inventory.** Each waste disposal facility shall use the seed-to-sale tracking system established by the Department or a seed-to-sale tracking system that integrates with the Department-established system at the time of its implementation. The system utilized by each licensee shall be a system that:

(1) Documents the chain of custody of all medical marijuana and medical marijuana products, including every transaction with another commercial licensee;

(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) Tracks medical marijuana using an assigned batch number and bar code.

310:681-9-8. Penalties

(a) **Unlawful transfer.** Within any two year period of time, if a waste disposal facility licensee has engaged in unlawful transfer of medical marijuana, the following penalties shall be imposed:

(1) First unlawful transfer(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 transfer(s): Five thousand dollar (\$5,000.00) 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. 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.

(b) **Noncompliance and criminal activity.** Waste disposal facility licenses and permits 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.

(c) **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.

SUBCHAPTER 10. RECEIVERSHIP

310:681-10-1. Certificate of Authority

(a) In the event that a licensed dispensary, grower, or processor is foreclosed, is the subject of an order appointing a receiver, becomes insolvent or bankrupt, or otherwise ceases operations, a temporary Certificate of Authority may be issued to a secured party, court-appointed receiver, trustee, court-appointed personal representative, or other individual determined

by the Department to have legal authority over the operation and/or disposition of the assets of the licensee. The temporary Certificate of Authority shall authorize the holder to continue operation, without obtaining a separate license, at a licensed dispensary, grower, or processor for a reasonable period of time for the orderly disposition of the business.

(b) A secured party, court-appointed receiver, trustee, personal representative, or other person requesting a Certificate of Authority must meet the requirements set forth in OAC 310:681-5-3 and OAC 310:681-5-3.2. A party that is issued a Certificate of Authority is subject to the same restrictions and obligations as any commercial licensee.

(c) A person requesting a temporary Certificate of Authority shall submit the form documentation provided by the Department in a manner prescribed by the Department.

(d) There shall be no additional fee for a Certificate of Authority to operate a grower, processor, or dispensary.

(e) A request for Certificate of Authority shall include the following documentation:

(1) Documents establishing proof of identity as established in OAC 310:681-1-7(b) (relating to proof of identity);

(2) If applicable, a list of all owners and principal officers of the applicant and supporting documentation, including, but not limited to: certificate of incorporation, by-laws, articles of organization, operating agreements, certificate of limited partnership, resolution of a board of directors, or other similar documents;

(3) Documents establishing the applicant, the members, managers, and board members, if applicable, and seventy-five percent (75%) of the ownership interests are Oklahoma residents as established in 63 O.S. § 420 et seq., and OAC 310:681-1-6 (relating to proof of residency);

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

(5) A receiver, personal representative, or trustee must provide the Department with the following information:

(A) Official documentation proving that the person is the legal trustee, receiver, or personal representative for the business, or otherwise has legal authority over the operation and/or disposition of assets of the licensee, such as a court order, letters of administration, or other official documentation the Department deems sufficient.

(B) Any further documentation the Department determines is necessary to ensure the secured party is qualified under Oklahoma law and this Chapter.

(6) A secured party must provide the Department with the following information and documents:

(A) Proof of a security interest in the licensed business;

(B) Proof of the licensee's default on the secured debt;

(C) Proof of legal access to the real property; and

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(D) Any further documentation the Department determines is necessary to ensure the secured party is qualified under Oklahoma law and this Chapter.

310:681-10-2. Term and renewal of Certificate of Authority

(a) A Certificate of Authority shall be valid for sixty (60) days. The Department may renew the Certificate of Authority upon proof that more time is necessary to allow for the orderly disposition of the business.

(b) A Certificate of Authority may not extend beyond the expiration date of the underlying grower, processor, or dispensary license regardless of the issue date.

(c) A Certificate of Authority does not replace a grower, processor, or dispensary license, which remains in effect and subject to renewal requirements.

(d) Upon termination or expiration of the Certification of Authority, all medical marijuana or medical marijuana products in the custody or possession of the holder of the Certificate of Authority must be disposed of or liquidated.

310:681-10-3. Responsibilities of the Certificate of Authority holder

The holder of a Certificate of Authority shall comply with the provisions stated in 310:681-5-1.1.

310:681-10-4. Revocation of Certificate of Authority

The Department may revoke or refuse to issue or extend a Certificate of Authority for any of the reasons that the Department may revoke or refuse to issue or renew a license under Oklahoma law or these Rules.

[OAR Docket #19-810; filed 10-31-19]

TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY CHAPTER 2. GRIEVANCE PROCEDURES AND PROCESS

[OAR Docket #19-807]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

317:2-1-17 [NEW]

(Reference APA WF # 19-13A)

AUTHORITY:

The Oklahoma Health Care Authority Act, Section 5007 (F)(1) and (3) of Title 63 of Oklahoma Statutes; Section 5003 through 5016 of Title 63 of Oklahoma Statutes; The Oklahoma Health Care Authority Board; Senate Bill 280

ADOPTION:

September 18, 2019

EFFECTIVE:

Immediately upon Governor's approval

APPROVED BY GOVERNOR:

October 25, 2019

EXPIRATION:

Effective through September 14, 2020, unless superseded by another rule or disapproved by the Legislature

SUPERSEDED EMERGENCY ACTIONS:

N/A

INCORPORATIONS BY REFERENCE:

N/A

FINDING OF EMERGENCY:

The agency requests emergency approval of rule revisions to its SoonerCare grievance procedures and process policies in order to avoid violation of federal law or regulation or other state law.

GIST/ANALYSIS:

These emergency revisions are necessary in order to comply with Oklahoma Senate Bill 280 (SB 280) which amended Oklahoma Statutes (O.S.) 56, Section 2002 (Nursing Facilities Quality of Care Fee) and 63 O.S. Section 1-1925.2 (Reimbursements from Nursing Facility Quality of Care Fund). This bill will restructure the Pay-for Performance program, formally known as the Focus on Excellence program, aimed at improving quality measures. The required changes to policy will address funding for nursing facilities, change in staffing ratios, cost reporting, and outlining the administrative appeals process. There are approximately 22,579 long-term care facilities in the state that will be affected by this rule change and would be able to immediately start implementing these changes upon approval of this rule.

CONTACT PERSON:

Sandra Puebla, 405-522-7270, Sandra.Puebla@okhca.org.

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

317:2-1-17. Long-term care facility cost report appeals

This rule describes a long-term facility's rights to administratively appeal any cost adjustment(s) made by the Oklahoma Health Care Authority (OHCA) to the facility's annual cost report, in accordance with the Oklahoma Administrative Code (OAC) 317:30-5-132, or any cost report reconsideration, in accordance with 317:30-5-132.1.

(1) The following are appealable issues of the program:

(A) Any disputed adjustment(s) that are made by the OHCA to the facility's annual cost report, in accordance with OAC 317:30-5-132(5); or

(B) Any disputed cost report adjustment reconsideration decision, made by OHCA's chief financial officer or his/her designee in accordance with OAC 317:30-5-132.1.

(2) Appeals are heard by the OHCA administrative law judge (ALJ).

(3) To file an appeal, the provider shall submit an LD-2 form within thirty (30) days of the date of the written notice of the OHCA's report adjustment(s) that resulted from an on-site audit, or a cost report reconsideration decision, as applicable.

(4) The LD-2 shall only be filed by the provider or the provider's attorney in accordance with five (5) below.

(5) Consistent with Oklahoma rules of practice, the provider shall be represented by an attorney licensed to practice within the State of Oklahoma. Attorneys not licensed to practice in Oklahoma shall comply with Article II, Section (§) 5 of Title 5 of the Oklahoma Statutes (O.S.), and rules of the Oklahoma Bar Association.

- (6) Parties who fail to appear at a hearing, after notification of said hearing date, will have their cases dismissed for failure to prosecute.
- (7) The long-term care facility has the burden of proof by the preponderance of the evidence standard as defined by the Oklahoma Supreme Court.
- (8) The docket clerk will send the long-term care facility and any other necessary party a notice which states the hearing location, date, and time.
- (9) The ALJ may:
 - (A) Identify and rule on issues being appealed which will be determined at the administrative hearing;
 - (B) Require the parties to state their positions concerning appeal issue(s);
 - (C) Require the parties to produce for examination those relevant witnesses and documents under their control;
 - (D) Rule on whether witnesses have knowledge of the facts at issue;
 - (E) Establish time limits for the submission of motions or memoranda;
 - (F) Rule on relevant motions, requests, and other procedural items, limiting all decisions to procedural matters and issues directly related to the contested determination resulting from OAC 317:30-5-132 and/or 317:30-5-132.1;
 - (G) Rule on whether discovery requests are relevant;
 - (H) Strike or deny witnesses, documents, exhibits, discovery requests, and other requests or motions which are cumulative, not relevant, not material, or used as a means of harassment, unduly burdensome, or not timely filed;
 - (I) Schedule pre-hearing conferences to settle, simplify, or identify issues in a proceeding or to consider other matters that may end the appeal;
 - (J) Impose appropriate sanctions against any party failing to obey an order of the ALJ;
 - (K) Rule on any requests for extension of time;
 - (L) Dismiss an issue or appeal if:
 - (i) It is not timely filed or is not within the OHCA's jurisdiction or authority; and/or
 - (ii) It is moot or there is insufficient evidence to support the allegations; and/or
 - (iii) The appellant fails or refuses to appear for a scheduled meeting, conference, or hearing; and/or
 - (iv) The appellant refuses to accept a settlement offer which affords the relief the party could reasonably expect if the party prevailed in the appeal; and/or
 - (M) Set and/or limit the time frame for the hearing.
- (10) After the hearing:
 - (A) The ALJ should attempt to make the final hearing decision within ninety (90) days from the date of the hearing and send a copy of the ALJ's decision to

- both parties outlining their rights to appeal the decision. Any appeal of the final order pursuant to 12 Oklahoma Statute (O.S.) § 951 shall be filed with the District Court of Oklahoma County within thirty (30) days.
- (B) It shall be the duty of the appellant in any District Court appeal to order a written transcript of proceedings to be used on appeal, as required by 12 O.S. § 951.
- (11) All orders and settlements are non-precedential decisions.
- (12) The hearing shall be digitally recorded.

[OAR Docket #19-807; filed 10-31-19]

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

[OAR Docket #19-806]

RULEMAKING ACTION:
EMERGENCY adoption

RULES:
Subchapter 3. General Provider Policies
Part 1. General Scope and Administration
317:30-3-27 [AMENDED]
(Reference APA WF # 19-08)

AUTHORITY:
The Oklahoma Health Care Authority Act, Section 5007 (C)(2) of Title 63 of Oklahoma Statutes; The Oklahoma Health Care Authority Board; and 25 Oklahoma Statutes, Sections 2004 and 2005

ADOPTION:
September 18, 2019

EFFECTIVE:
Immediately upon Governor's approval

APPROVED BY GOVERNOR:
October 25, 2019

EXPIRATION:
Effective through September 14, 2020, unless superseded by another rule or disapproved by the Legislature

SUPERSEDED EMERGENCY ACTIONS:
N/A

INCORPORATIONS BY REFERENCE:
N/A

FINDING OF EMERGENCY:
The agency requests emergency approval of rule revisions to its SoonerCare general provider policies in order to avoid violation of federal law or regulation or other state law.

GIST/ANALYSIS:
These emergency revisions are necessary in order to comply with Oklahoma Senate Bill (SB) 575 which amended Oklahoma Statutes Title 25, Sections 2004 and 2005. The changes to the Oklahoma Health Care Authority's telehealth policy allow certain designated telehealth services to be provided in a primary or secondary school setting whenever requirements are met, including, but not limited to, advance parental consent for minors, notification of parents/legal guardians and/or primary care providers, confidentiality and security, and program coverage and limitations.

CONTACT PERSON:
Sandra Puebla, 405-522-7270, Sandra.Puebla@okhca.org.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED AND EFFECTIVE

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UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 253(F):

SUBCHAPTER 3. GENERAL PROVIDER POLICIES

PART 1. GENERAL SCOPE AND ADMINISTRATION

317:30-3-27. Telehealth

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

(1) **"Remote patient monitoring"** means the use of digital technologies to collect medical and other forms of health data (e.g. vital signs, weight, blood pressure, blood sugar) from individuals in one location and electronically transmit that information securely to health care providers in a different location for assessment and recommendations.

(2) **"School-based services"** means medically necessary health-related and rehabilitative services that are provided by a qualified school provider to a student under the age of twenty-one (21), pursuant to an Individualized Education Program (IEP), in accordance with the Individuals with Disabilities Education Act. See Oklahoma Administrative Code (OAC) 317:30-5-1020.

(23) **"Store and forward"** means the acquisition (storing) of clinical information (e.g. data, document, image, sound, video) that is then electronically transmitted (forwarded to or retrieved by) to another site for clinical evaluation transmission of a patient's medical information from an originating site to the health care provider at the distant site; provided, photographs visualized by a telecommunications system shall be specific to the patient's medical condition and adequate for furnishing or confirming a diagnosis or treatment plan. Store and forward technologies shall not include consultations provided by telephone audio-only communication, electronic mail, text message, instant messaging conversation, website questionnaire, nonsecure video conference, or facsimile transmission.

(34) **"Telehealth"** means the ~~mode of delivering healthcare services via information and communication technologies to facilitate the diagnosis, consultation, treatment, education, care management, and self management of patients, at a distance from health care providers~~ practice of health care delivery, diagnosis, consultation, evaluation and treatment, transfer of medical data or exchange of medical education information by means of a two-way, real-time interactive communication, not to exclude store and forward technologies, between a patient and a health care provider with access to and reviewing the patient's relevant clinical information prior to the telemedicine visit. Telehealth shall not include

consultations provided by telephone audio-only communication, electronic mail, text message, instant messaging conversation, website questionnaire, nonsecure video conference, or facsimile transmission.

(5) **"Telehealth medical service"** means, for the purpose of the notification requirements of OAC 317:30-3-27(d)(2), telehealth services that expressly do not include physical therapy, occupational therapy, and/or speech and hearing services.

(b) **Applicability and scope.** The purpose of this Section is to implement telehealth policy that improves access to health care services, while complying with all applicable ~~Federal and State~~ Federal laws and regulations. Telehealth services are not an expansion of ~~SoonerCare covered~~ SoonerCare-covered services, but an option for the delivery of certain covered services. However, if there are technological difficulties in performing an objective, thorough medical assessment, or problems in the member's understanding of telehealth, hands-on-assessment and/or ~~in-person~~ in-person care must be provided for the member. Any service delivered using telehealth technology must be appropriate for telehealth delivery and be of the same quality and otherwise on par with the same service delivered in person. A telehealth encounter must ~~comply with the Health Information Portability and Accountability Act (HIPAA)~~ maintain the confidentiality and security of protected health information in accordance with applicable State and Federal law, including, but not limited to, 42 Code of Federal Regulations (CFR) Part 2, 45 CFR Parts 160 and 164, and 43A Oklahoma Statutes (O.S.) § 1-109. For purposes of SoonerCare reimbursement, telehealth is the use of interactive audio, video, or other electronic media for the purpose of diagnosis, consultation, or treatment that ~~occurs~~ occurs in real-time and when the member is actively participating during the transmission. ~~Telehealth does not include the use of audio-only telephone, electronic mail or facsimile transmission.~~

(c) **Conditions Requirements.** The following ~~conditions~~ requirements apply to all services rendered via telehealth.

(1) Interactive audio and video telecommunications must be used, permitting encrypted, real-time communication between the physician or practitioner and the SoonerCare member. The telecommunication service must be secure and adequate to protect the confidentiality and integrity of the telehealth information transmitted. As a condition of payment the member must actively participate in the telehealth visit.

(2) The telehealth equipment and transmission speed and image must be technically sufficient to support the service billed. If a peripheral diagnostic scope is required to assess the member, it must provide adequate resolution or audio quality for decision making. Staff involved in the telehealth visit need to be trained in the use of the telehealth equipment and competent in its operation.

(3) The medical or behavioral health related service must be provided at an appropriate site for the delivery of telehealth services. An appropriate telehealth site is one that has the proper security measures in place; the

appropriate administrative, physical, and technical safeguards should be in place that ensures the confidentiality, integrity, and security of electronic protected health information. The location of the room for the encounter at both ends should ensure comfort, privacy, and confidentiality. Both visual and audio privacy are important, and the placement and selection of the rooms should consider this. Appropriate telehealth equipment and networks must be used considering factors such as appropriate screen size, resolution, and security. Providers and/or members may provide or receive telehealth services outside of Oklahoma when medically necessary; however, prior authorization may be required, per OAC 317:30-3-89 through 317:30-3-91.

(4) The provider must be contracted with SoonerCare and appropriately licensed for the service to be provided or certified, in good standing. Services that are provided must be within the scope of the practitioner's license or certification. If the provider is outside of Oklahoma, the provider must comply with all laws and regulations of the provider's location, including health care and telehealth requirements.

(5) If the member is a minor—~~child~~, a ~~parent/guardian~~parent or legal guardian must present the minor ~~child~~—for telehealth services unless otherwise exempted by State or Federal law. The ~~parent/guardian~~parent or legal guardian need not attend the telehealth session unless attendance is therapeutically appropriate. The requirements of subsection OAC 317:30-3-27(c)(5), however, do not apply to telehealth services provided in a primary or secondary school setting.

(6) The member retains the right to withdraw at any time.

(7) All telehealth activities must comply with ~~the HIPAA Security Standards, OHCA~~Oklahoma Health Care Authority (OHCA) policy, and all other applicable State and Federal laws and regulations, including, but not limited to, 59 O.S. § 478.1.

(8) The member has access to all transmitted medical information, with the exception of live interactive video as there is often no stored data in such encounters.

(9) There will be no dissemination of any member images or information to other entities without written consent from the member or member's parent or legal guardian, if the member is a minor.

(10) A telehealth service is subject to the same SoonerCare program restrictions, limitations, and coverage which exist for the service when not provided through telehealth; provided, however, that only certain telehealth codes are reimbursable by SoonerCare. For a list of the SoonerCare-reimbursable telehealth codes, refer to the OHCA's Behavioral Health Telehealth Services and Medical Telehealth Services, available on OHCA's website, www.okhca.org.

(d) Additional requirements specific to telehealth services in a school setting. In order for OHCA to reimburse

medically necessary telehealth services provided to SoonerCare members in a primary or secondary school setting, all of the requirements in (c) above must be met, with the exception of (c)(5), as well as all of the requirements shown below, as applicable.

(1) **Consent requirements.** Advance parent or legal guardian consent for telehealth services must be obtained for minors, in accordance with 25 O.S. §§ 2004 through 2005. Additional consent requirements shall apply to school-based services provided pursuant to an IEP, per OAC 317:30-5-1020.

(2) **Notification requirements.** For telehealth medical services provided in a primary or secondary school setting, the telehealth practitioner must provide a summary of the service, including, but not limited to, information regarding the exam findings, prescribed or administered medications, and patient instructions, to:

(A) The SoonerCare member, if he or she is an adult, or the member's parent or legal guardian, if the member is a minor; or

(B) The SoonerCare member's primary care provider, if requested by the member or the member's parent or legal guardian.

(3) **Requirements specific to physical therapy, occupational therapy, and/or speech and hearing services.** Even though physical therapy, occupational therapy, and/or speech and hearing services are not subject to the notification requirements of OAC 317:30-3-27(d)(2), said services must still comply with all other State and Federal Medicaid requirements, in order to be reimbursable by Medicaid. Accordingly, for those physical therapy, occupational therapy, and/or speech and hearing services that are provided in a primary or secondary school setting, but that are not school-based services (i.e., not provided pursuant to an IEP), providers must adhere to all State and Federal requirements relating to prior authorization and prescription or referral, including, but not limited to, 42 C.F.R. § 440.110, OAC 317:30-5-291, OAC 317:30-5-296, and OAC 317:30-5-676.

(de) Reimbursement.

(1) Health care services delivered by telehealth such as Remote Patient Monitoring, Store and Forward, or any other telehealth technology, must be compensable by OHCA in order to be reimbursed.

(2) Services provided by telehealth must be billed with the appropriate modifier.

(3) If the technical component of an X-ray, ultrasound or electrocardiogram is performed during a telehealth transmission, the technical component can be billed by the provider that provided that service. The professional component of the procedure and the appropriate visit code should be billed by the provider that rendered that service.

(4) The cost of telehealth equipment and transmission is not reimbursable by SoonerCare.

(ef) Documentation.

(1) Documentation must be maintained by the rendering provider to substantiate the services rendered.

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- (2) Documentation must indicate the services were rendered via telehealth, and the location of the services.
- (3) All other SoonerCare documentation guidelines apply to the services rendered via telehealth. Examples include but are not limited to:
- (A) Chart notes;
 - (B) Start and stop times;
 - (C) Service provider's credentials; and
 - (D) Provider's signature.

(fg) **Final authority.** The OHCA has discretion and the final authority to approve or deny any telehealth services based on agency and/or SoonerCare members' needs.

[OAR Docket #19-806; filed 10-31-19]

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

[OAR Docket #19-808]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 5. Individual Providers and Specialties

Part 9. Long-Term Care Facilities

317:30-5-132 [AMENDED]

317:30-5-132.1 [NEW]

317:30-5-132.2 [NEW]

317:30-5-136.1 [AMENDED]

(Reference APA WF # 19-13B)

AUTHORITY:

The Oklahoma Health Care Authority Act, Section 5007 (F)(1) and (3) of Title 63 of Oklahoma Statutes; Section 5003 through 5016 of Title 63 of Oklahoma Statutes; The Oklahoma Health Care Authority Board; Senate Bill 280

ADOPTION:

September 18, 2019

EFFECTIVE:

Immediately upon Governor's approval

APPROVED BY GOVERNOR:

October 25, 2019

EXPIRATION:

Effective through September 14, 2020, unless superseded by another rule or disapproved by the Legislature

SUPERSEDED EMERGENCY ACTIONS:

N/A

INCORPORATIONS BY REFERENCE:

N/A

FINDING OF EMERGENCY:

The agency requests emergency approval of rule revisions to its SoonerCare general provider policies in order to avoid violation of federal law or regulation or other state law.

GIST/ANALYSIS:

These emergency revisions are necessary in order to comply with Oklahoma Senate Bill 280 (SB 280) which amended Oklahoma Statutes (O.S.) 56, Section 2002 (Nursing Facilities Quality of Care Fee) and 63 O.S. Section 1-1925.2 (Reimbursements from Nursing Facility Quality of Care Fund). This bill will restructure the Pay-for Performance program, formally known as the Focus on Excellence program, aimed at improving quality measures. The required changes to policy will address funding for nursing facilities, change in staffing ratios, cost reporting, and outlining the administrative appeals process. There are approximately 22,579 long-term care facilities in the state that will be affected by this rule change and would be able to immediately start implementing these changes upon approval of this rule.

CONTACT PERSON:

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

SUBCHAPTER 5. INDIVIDUAL PROVIDERS AND SPECIALTIES

PART 9. LONG-TERM CARE FACILITIES

317:30-5-132. Cost reports

Each Medicaid-participating ~~long-term~~ long-term care facility is required to submit an annual uniform cost report, designed by ~~OHCA, the Oklahoma Health Care Authority (OHCA),~~ for the state fiscal year just completed. The state fiscal year is July 1 through June 30. The reports must be submitted to the OHCA on or before ~~the last day of~~ October of ~~the subsequent year.~~ 31. Cost reports are public records.

(1) The report must be prepared on the basis of generally accepted accounting principles and the accrual basis of accounting, except as otherwise specified in the cost report instructions. The OHCA's cost report instructions are publicly available on the OHCA's website, in the Nursing Home Cost Report Instruction Manual: A Guide for Entering Annual Nursing Home Cost Report Data via the OHCA Secure Site (hereinafter referred to as "Cost Report Instruction Manual").

(2) The cost report must be filed using the Secure Website. ~~The instructions and data entry screen simulations will be made available on the OHCA public website as set forth in the Cost Report Instruction Manual.~~

(3) When there is a change of operation or ownership, the selling or closing ownership is required to file a cost report for that portion of the fiscal year it was in operation. The successor ownership is correspondingly required to file a cost report for that portion of the fiscal year it was in operation. These "Partial Year Reports" must be filed on paper or electronically by e-mail (not on the ~~secure website~~ Secure Website system) to the Finance Division of the OHCA on the forms and by the instructions found ~~on the OHCA public website (see directions as noted above)~~ in the Cost Report Instruction Manual.

(4) ~~Normally, all ordinary and necessary expenses net of any offsets of credits incurred in the conduct of an economical and efficiently operated business are recognized as allowable. Allowable costs include all items of Medicaid-covered expense which nursing facilities incur in the provision of routine services. "Routine services" include, but are not limited to, regular room, dietary and nursing services, minor medical and surgical supplies,~~

~~over the counter medications, transportation, dental examinations, dentures and related services, eye glasses, routine eye examinations, and the use and maintenance of equipment and facilities essential to the provision of routine care. Allowable costs must be considered reasonable, necessary and proper, and shall include only those costs that are considered allowable for Medicare purposes and that are consistent with federal Medicaid requirements. (The guidelines for allowable costs in the Medicare program are set forth in the Medicare Provider Reimbursement Manual ("PRM"), HCFA Pub. 15.). Ancillary items reimbursed outside the nursing facility rate are not included in the cost report and are not allowable costs. A long-term care facility may request an extension of time to submit an annual cost report, not to exceed fifteen (15) calendar days. Extensions of time shall be requested by a letter addressed to the Finance Division or by email, as is set forth in the Cost Report Instruction Manual. Any such request must be received by October 1, and must explain the good faith reason for the extension. OHCA shall provide a written notice of any denial of a request for an extension, which shall become effective on the date it is sent to the long-term care facility. Decisions to deny requests for extensions are solely within the discretion of the OHCA and are not administratively appealable.~~

~~(5) All reports are may be subject to on-site audits and are deemed public records. An on-site audit may result in cost adjustment(s), by which the OHCA, or its designee, identifies and corrects for costs that were included in the cost report. The OHCA or its designee shall provide written notice of any cost adjustment(s) it makes to a cost report, to the long-term care facility affected by the cost adjustment(s). Such notice shall contain, but is not limited to, a written list of the audit findings with a summary explanation of why any cost is deemed non-allowable.~~

~~(6) In accordance with 63 Oklahoma Statute § 1-1925.2, a long-term care facility may contest any cost adjustment(s) it disagrees with by requesting reconsideration of the cost adjustment(s), and/or by requesting an administrative appeal of the cost adjustment(s), pursuant to Oklahoma Administrative Code (OAC) 317:30-5-132.1 and OAC 317:2-1-17, respectively.~~

317:30-5-132.1. Reconsideration of cost report adjustments

(a) A long-term care facility may request reconsideration of cost report adjustment(s)/finding(s) within thirty (30) calendar days of the date of notification of the cost adjustment(s) by submitting a request for reconsideration to the Oklahoma Health Care Authority (OHCA), Chief Financial Officer (CFO), Finance /NF Cost Reporting, 4345 North Lincoln Boulevard, Oklahoma City, Oklahoma 73105.

(b) Simultaneous with the request for reconsideration, the long-term care facility shall submit a statement as to why the request for reconsideration is being made and may submit any new or additional information that he or she wishes the CFO or his/her designee to consider. Any request for an informal

meeting according to subsection (c), below, must be made at the same time as the request for reconsideration.

(c) At the request of the long-term care facility, the reconsideration may be conducted by the CFO or his/her designee as:

(1) An informal meeting between the long-term care facility and the CFO or his/her designee; or

(2) A review by the CFO or his/her designee of the information described below:

(A) A review of all information submitted by the long-term care facility; and,

(B) A review of the cost report adjustments made by the OHCA, in order to determine the accuracy of the adjustments.

(d) The CFO or his/her designee shall send a written decision of the reconsideration to the long-term care facility within thirty (30) calendar days of the date of OHCA's receipt of the reconsideration request, or the date of any informal meeting, whichever occurs later.

(e) If the provider disagrees with the decision rendered by the CFO or his or her designee, the provider may utilize the administrative appeals process in accordance with Oklahoma Administrative Code 317:2-1-17.

317:30-5-132.2. Allowable costs

The Oklahoma Health Care Authority (OHCA) shall reimburse long-term care facilities in accordance with its federally-approved Oklahoma Medicaid Plan. According to the Oklahoma Medicaid Plan, per-diem rates for long-term care facilities are established on, among other things, analyses of annual uniform cost reports. These reports may only include allowable costs, as follows:

(1) To be allowable, the costs shall be reasonable and necessary for services related to resident care, and pertinent to the operation of the long-term care facility. More specifically:

(A) To be reasonable, costs shall be such as would ordinarily be incurred for comparable services provided by comparable facilities, for example, facilities of similar size and level of care; and

(B) To be necessary, costs related to patient care must be common and accepted occurrences; and,

(C) Allowable costs for services and items directly related to resident care include routine services, as established by Oklahoma Administrative Code (OAC) 317:30-5-133.1, and quality of care assessment fees, as established by OAC 317:30-5-131.2. Ancillary services, as established by OAC 317:30-5-133.2, are not allowable costs, but may be reimbursed outside the long-term care facility rate, unless reimbursement is available from Medicare or other insurance or benefit programs.

(2) The following costs shall not be allowable:

(A) Costs resulting from inefficient operations;

(B) Costs resulting from unnecessary or luxurious care;

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(C) Costs related to activities not common and accepted in a long-term care facility, as determined by OHCA or its designee;

(D) Costs that are not actually paid by the provider, including, but not limited to, costs that are discharged in bankruptcy; forgiven; or converted to a promissory note;

(E) Costs that are paid to a related party that has not been identified on the reports;

(F) Cost of services, facilities, and supplies furnished by organizations related to the provider, by common ownership or control, that exceed the price of comparable services, facilities, or supplies purchased by independent providers in Oklahoma, in accordance with 42 Code of Federal Regulations § 413.17; and,

(G) Costs or financial transactions used to circumvent OHCA's applicable reimbursement rules.

(3) Allowable costs shall include only those costs that are considered allowable for Medicare purposes and that are consistent with federal Medicaid requirements. The guidelines for allowable costs in the Medicare program are set forth in the Medicare Provider Reimbursement Manual, HCFA-Pub. 15.

317:30-5-136.1. Focus on Excellence Pay-for-Performance program

(a) Purpose. The Focus on Excellence (FOE) Pay-for-Performance (PFP) program was established through Oklahoma State Statute, Title 56, Section 56-1011.5, as amended. FOE's PFP's mission is to enhance the quality of life for target citizens by delivering effective programs and facilitating partnerships with providers and the community they serve. The program has a full commitment to the very best in quality, service and value which will lead to measurably improved quality outcomes, healthier lifestyles; greater satisfaction and confidence for our members.

(b) Eligible Providers. Any Oklahoma long-term care nursing facilities that are licensed and certified by the Oklahoma State Department of Health and accommodate SoonerCare members at their facility as defined in Oklahoma Administrative Code (OAC) 317:30-5-120.

(c) Quality measure care criteria. To maintain status in the FOE PFP program, each nursing facility must enter quality data either monthly, quarterly, annually for the following care criteria metrics. All metrics in detail can be found on the Oklahoma Health Care Authority's (OHCA) FOE website or on FOE/QOC (Quality of Care) Data Collection Portal shall submit documentation as it relates to program metrics (below) upon the request of the Oklahoma Health Care Authority (OHCA). The program metrics can be found on the OHCA's PFP website or on PFP/Quality of Care (QOC) data collection portal. For the period beginning October 1, 2019 and until changed by amendment, qualifying facilities participating in the PFP program have the potential to earn an average of the five dollars (\$5.00) quality incentive per Medicaid patient per day. Facility(s) baseline is calculated annually and will remain the same for the twelve (12) month period. Facility(s)

will meet or exceed five-percent (5%) relative improvement or the Centers for Medicare and Medicaid Services national average each quarter for the following metrics:

(1) Decrease of high risk pressure ulcers for long stay residents.

(2) Decrease percent of unnecessary weight loss for long stay residents.

(3) Decrease percent of use of anti-psychotic medications for long stay residents.

(4) Decrease percent of urinary tract infection for long stay residents.

(1) ~~Person-Centered Care.~~ Facility must meet six (6) out of ten (10) of the established measurement criteria for this metric to receive the points. This metric is measured quarterly and must be completed by the 15th of the month following the close of the quarter.

(2) ~~Direct Care Staffing.~~ Facility must maintain a direct care staffing ratio of three and a half (3.5) hours per patient day to receive the points for this metric. This metric must be completed monthly by the 15th of each month.

(3) ~~Resident/Family Satisfaction.~~ Facility must maintain a score of 76 of a possible 100 points on overall satisfaction to receive the points for this metric. This metric is collected in a survey format and must be completed once a year in the fall. Surveys are to be completed by the resident, power of attorney and/or with staff assistance.

(4) ~~Employee Satisfaction.~~ Facility must maintain a score of 70 points or higher in order to receive the points for this metric. Surveys are completed by FOE facility employees and must be completed once a year in the fall.

(5) ~~Licensed Nurse Retention.~~ Facility must maintain a one year tenure rate of 60 percent (60%) or higher of its licensed nursing staff to receive the points for this metric. This metric must be completed monthly by the 15th of the month.

(6) ~~Certified Nurse Assistant (CNA) Retention.~~ Facility must maintain a one year tenure rate of 50 percent (50%) or higher of its CNA staff to receive the points for this metric. This metric must be completed monthly by the 15th of the month.

(7) ~~Distance Learning Program Participation.~~ Facility must contract and use an approved distance learning vendor for its frontline staff in order to receive points for this metric. This metric is measured quarterly and must be completed by the 15th of the month following the close of the quarter.

(8) ~~Peer Mentoring.~~ Facility must establish a peer-mentoring program in accordance with OHCA guidelines. This metric is measured quarterly and must be completed by the 15th of the month following the close of the quarter.

(9) ~~Leadership Commitment.~~ Facility must meet six (6) out of ten (10) of the established measurement criteria for this metric to receive the points. This metric is measured quarterly and must be completed by the 15th of the month following the close of the quarter.

(d) ~~Payment.~~ The amount of eligible dollars is reimbursable based on the SoonerCare FOE nursing facility meeting the quality metric thresholds listed in (b). Facilities

must meet a minimal of 100 points to even be eligible for reimbursement. Payment to long-term care facilities for meeting the metrics will be awarded quarterly. A facility may earn a minimum of \$1.25 per Medicaid patient per day for each qualifying metric. A facility receiving a deficiency of "I" or greater related to a targeted quality measure in the program is disqualified from receiving an award related to that measure for that quarter.

(1) **Distribution of Payment.** OHCA will notify the ~~FOE/FPF~~ facility of the quality reimbursement amount on a quarterly basis.

(2) **Penalties.** ~~Facilities that do not submit on the appropriate due dates will not receive reimbursable dollars. Facilities that do not submit quality measures will not receive reimbursable dollars for those specific measures. Due dates can be found on the OHCA FOE webpage. shall have performance review(s) and provide documentation upon request from OHCA to maintain program compliance. Program payments will be withheld from facilities that fail to submit the requested documentation fifteen (15) business days after the submission due date.~~

(e) **Appeals.** Facilities can file an appeal with the Quality Review Committee and in accordance, with the grievance procedures found at OAC 317:2-1-2(c) and 317:2-1-16.

[OAR Docket #19-808; filed 10-31-19]

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

[OAR Docket #19-809]

RULEMAKING ACTION:
EMERGENCY adoption

RULES:
Subchapter 5. Individual Providers and Specialties
Part 21. Outpatient Behavioral Health Agency Services
317:30-5-241.6 [AMENDED]
(Reference APA WF # 19-16)

AUTHORITY:
The Oklahoma Health Care Authority Act, Section 5007 (C)(2) of Title 63 of Oklahoma Statutes; The Oklahoma Health Care Authority Board

ADOPTION:
September 18, 2019

EFFECTIVE:
Immediately upon Governor's approval

APPROVED BY GOVERNOR:
October 25, 2019

EXPIRATION:
Effective through September 14, 2020, unless superseded by another rule or disapproved by the Legislature

SUPERSEDED EMERGENCY ACTIONS:
N/A

INCORPORATIONS BY REFERENCE:
N/A

FINDING OF EMERGENCY:
The agency requests emergency approval of rule revisions to its current policy in order to protect the public health, safety, or welfare. The Oklahoma Department of Mental Health and Substance Abuse Services (ODMHSAS) seeks to amend OHCA behavioral health rules, in order to establish a new monthly targeted case management (TCM) limit due to appropriated funding from the State Legislature in SFY20. TCM services are comprehensive

services available to members diagnosed with serious mental illnesses and/or serious emotional disturbances who are in need of assistance with improving their quality of life and further enhancing their integration in the community.

GIST/ANALYSIS:

These emergency revisions are necessary in order to increase the targeted case management units from 16 units per member per year to 12 units per member per month. Other revisions are needed to correct outdated language.

CONTACT PERSON:

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

SUBCHAPTER 5. INDIVIDUAL PROVIDERS AND SPECIALTIES

PART 21. OUTPATIENT BEHAVIORAL HEALTH AGENCY SERVICES

317:30-5-241.6. Behavioral Health Case Management health case management

Payment is made for behavioral health case management services as set forth in this Section. The limitations set forth in this Section do not apply to case management provided in programs and service delivery models which are not reimbursed for case management on a fee-for-service basis.

(1) **Description of behavioral health case management services and targeted case management services.** Behavioral health case management services are provided to assist eligible individuals in gaining access to needed medical, social, educational and other services essential to meeting basic human needs. Services under behavioral health targeted case management are not comparable in amount, duration and scope. The target ~~group~~groups for behavioral health case management services are persons under age twenty-one (21) who are in imminent risk of out-of-home placement for psychiatric or substance abuse reasons or are in out-of-home placement due to psychiatric or substance abuse reasons, and chronically and/or severely mentally ill adults who are institutionalized or are at risk of institutionalization. All behavioral health case management services will be authorized for the target ~~group~~group based on established medical necessity criteria.

(A) ~~Behavioral health case management services are provided to assist eligible individuals in gaining access to needed medical, social, educational and other services essential to meeting basic human needs.~~ The behavioral health case manager provides assessment of case management needs, development of a case management care plan, referral, linkage, monitoring and advocacy on behalf of the member to gain access to appropriate community resources. The behavioral health case manager must monitor the progress in gaining access to services and continued

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appropriate utilization of necessary community resources. Behavioral case management is designed to promote recovery, maintain community tenure, and to assist individuals in accessing services for themselves following the case management guidelines established by Oklahoma Department of Mental Health and Substance Abuse Services (ODMHSAS). In order to be compensable, the service must be performed utilizing the Strengths Based model of case management. This model of case management assists individuals in identifying and securing the range of resources, both environmental and personal, needed to live in a normally interdependent way in the community. The focus for the helping process is on strengths, interests, abilities, knowledge and capacities of each person, not on their diagnosis, weakness or deficits. The relationship between the service member and the behavioral health case manager is characterized by mutuality, collaboration, and partnership. Assistive activities are designed to occur primarily in the community, but may take place in the behavioral health case manager's office, if more appropriate.

(B) The provider will coordinate transition services with the member and family (if applicable) by phone or face-to-face, to identify immediate needs for return to home/community no more than seventy-two (72) hours after notification that the member/family requests case management services. For members discharging from a higher level of care than outpatient, the higher level of care facility is responsible for scheduling an appointment with a case management agency for transition and post discharge services. The case manager will make contact with the member and family (if applicable) for transition from the higher level of care other than outpatient back to the community, within seventy-two (72) hours of discharge, and then conduct a follow-up appointment/contact within seven (7) days. The case manager will provide linkage/referral to physicians/medication services, psychotherapy services, rehabilitation and/or support services as described in the case management service plan.

(C) Case ~~Managers~~managers may also provide crisis diversion (unanticipated, unscheduled situation requiring supportive assistance, face-to-face or telephone, to resolve immediate problems before they become overwhelming and severely impair the individual's ability to function or maintain in the community) to assist member(s) from progression to a higher level of care. During the follow-up phase of these referrals or links, the behavioral health case manager will provide aggressive outreach if appointments or contacts are missed within two (2) business days of the missed appointments. Community/home based case management to assess the needs for services will be scheduled as reflected in the case management service plan, but not less than one time per month. The member/parent/guardian has the right to refuse

behavioral health case management and cannot be restricted from other services because of a refusal of behavioral health case management services.

(BD) An eligible member/parent/guardian will not be restricted and will have the freedom to choose a behavioral health case management provider as well as providers of other medical care.

(CE) In order to ensure that behavioral health case management services appropriately meet the needs of the member and family and are not duplicated, behavioral health case management activities will be provided in accordance with an individualized plan of care.

(DE) The individual plan of care must include general goals and objectives pertinent to the overall recovery of the member's (and family, if applicable) needs. Progress notes must relate to the individual plan of care and describe the specific activities to be performed. The individual plan of care must be developed with participation by, as well as, reviewed and signed by the member, the parent or guardian [if the member is under eighteen (18)], the behavioral health case manager, and a licensed behavioral health professional (LBHP) or licensure candidate as defined in OAC 317:30-5-240.3(a) and (b).

(EG) SoonerCare reimbursable behavioral health case management services include the following:

- (i) Gathering necessary psychological, educational, medical, and social information for the purpose of individual plan of care development.
- (ii) Face-to-face meetings with the member and/or the parent/guardian/family member for the implementation of activities delineated in the individual plan of care.
- (iii) Face-to-face meetings with treatment or service providers, necessary for the implementation of activities delineated in the individual plan of care.
- (iv) Supportive activities such as ~~non face-to-face~~non face-to-face communication with the member and/or parent/guardian/family member.
- (v) Non face-to-face communication with treatment or service providers necessary for the implementation of activities delineated in the individual plan of care.
- (vi) Monitoring of the individual plan of care to reassess goals and objectives and assess progress and or barriers to progress.
- (vii) Crisis diversion (unanticipated, unscheduled situation requiring supportive assistance, face-to-face or telephone, to resolve immediate problems before they become overwhelming and severely impair the individual's ability to function or maintain in the community) to assist member(s) from progression to a higher level of care.
- (viii) Behavioral ~~Health Case Management~~health targeted case management is available to individuals transitioning from institutions to the

community [except individuals ages twenty-two (22) to sixty-four (64) who reside in an institution for mental diseases (IMD) or individuals who are inmates of public institutions]. Individuals are considered to be transitioning to the community during the last thirty (30) consecutive days of a covered institutional stay. This time is to distinguish case management services that are not within the scope of the institution's discharge planning activities from case management required for transitioning individuals with complex, chronic, medical needs to the community. Transition services provided while the individual is in the institution are to be claimed as delivered on the day of discharge from the institution.

(2) **Levels of Case Management.**

(A) ~~Resource coordination services are targeted to adults with serious mental illness and children and adolescents with mental illness or serious emotional disturbance, and their families, who need assistance in accessing, coordination, and monitoring of resources and services. Services are provided to assess an individual's strengths and meet needs in order to achieve stability in the community. Standard managers have caseloads of thirty (30) to thirty five (35) members. Basic case management/resource coordination is limited to sixteen (16) units per member per year. Additional units may be authorized up to twenty five (25) units per member per month if medical necessity criteria are met.~~

(B) ~~Intensive Case Management (ICM) is targeted to adults with serious and persistent mental illness in PACT programs and Wraparound Facilitation Case Management (WFCM) is targeted to children with serious mental illness and emotional disorders being treated in a System of Care Network who are deemed high risk and in need of more intensive CM services. It is designed to ensure access to community agencies, services, and people whose functions are to provide the support, training and assistance required for a stable, safe, and healthy community life, and decreased need for higher levels of care. To produce a high fidelity wraparound process, a facilitator can facilitate between eight (8) and ten (10) families. To ensure that these intense needs are met, case manager caseloads are limited between ten (10) to fifteen (15) caseloads. The ICM shall be a Certified Behavioral Health Case Manager, have a minimum of two (2) years Behavioral Health Case Management experience, crisis diversion experience, must have attended the ODMH-SAS six (6) hours ICM training, and twenty four (24) hour availability is required. ICM/WFCM is limited to fifty four (54) units per member per month.~~

(3) **Excluded Services.** SoonerCare reimbursable behavioral health case management does not include the following activities:

- (A) ~~physically escorting or transporting a member or family to scheduled appointments or staying with the member during an appointment;~~
- (B) ~~managing finances;~~
- (C) ~~providing specific services such as shopping or paying bills;~~
- (D) ~~delivering bus tickets, food stamps, money, etc.;~~
- (E) ~~counseling, rehabilitative services, psychiatric assessment, or discharge planning;~~
- (F) ~~filling out forms, applications, etc., on behalf of the member when the member is not present;~~
- (G) ~~filling out SoonerCare forms, applications, etc.;~~
- (H) ~~mentoring or tutoring;~~
- (I) ~~provision of behavioral health case management services to the same family by two separate behavioral health case management agencies;~~
- (J) ~~non face to face time spent preparing the assessment document and the service plan paperwork;~~
- (K) ~~monitoring financial goals;~~
- (L) ~~services to nursing home residents;~~
- (M) ~~psychotherapeutic or rehabilitative services, psychiatric assessment, or discharge; or~~
- (N) ~~services to members residing in ICF/IID facilities.~~
- (O) ~~leaving voice or text messages for clients and other failed communication attempts.~~

(4) **Excluded Individuals.** The following SoonerCare members are not eligible for behavioral health case management services:

- (A) ~~children/families for whom behavioral health case management services are available through Oklahoma Department of Human Services (OKDHS) and Oklahoma Office of Juvenile Affairs (OJA) staff without special arrangements with OKDHS, OJA, and the Oklahoma Health Care Authority (OHCA);~~
- (B) ~~members receiving Residential Behavior Management Services (RBMS) in a foster care or group home setting unless transitioning into the community;~~
- (C) ~~residents of Intermediate Care Facility for Individuals with Intellectual Disabilities (ICF/IID) and nursing facilities unless transitioning into the community;~~
- (D) ~~members receiving services under a Home and Community Based services (HCBS) waiver program; or~~
- (E) ~~members receiving services in the Health Home program.~~

(5) **Filing Requirements.** Case management services provided to Medicare eligible members should be filed directly with the fiscal agent.

(6) **Documentation requirements.** The service plan must include general goals and objectives pertinent to the overall recovery needs of the member. Progress notes must relate to the service plan and describe the specific activities performed. Behavioral health case management service plan development is compensable time if the time

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is spent communicating with the member and it must be reviewed and signed by the member, the behavioral health case manager, and a licensed behavioral health professional or licensure candidate as defined at OAC 317:30-5-240.3(a) and (b). All behavioral health case management services rendered must be reflected by documentation in the records. In addition to a complete behavioral health case management service, plan documentation of each session must include but is not limited to:

- (A) date;
 - (B) person(s) to whom services are rendered;
 - (C) start and stop times for each service;
 - (D) original signature of the service provider [original signatures for faxed items must be added to the clinical file within thirty (30) days];
 - (E) credentials of the service provider;
 - (F) specific service plan needs, goals and/or objectives addressed;
 - (G) specific activities performed by the behavioral health case manager on behalf of the child related to advocacy, linkage, referral, or monitoring used to address needs, goals and/or objectives;
 - (H) progress and barriers made towards goals, and/or objectives;
 - (I) member (family when applicable) response to the service;
 - (J) any new service plan needs, goals, and/or objectives identified during the service; and
 - (K) member satisfaction with staff intervention.
- (7) **Case Management Travel Time.** The rate for case management services assumes that the case manager will spend some amount of time traveling to the member for the face to face service. The case manager must only bill for the actual face to face time that they spend with the member and not bill for travel time. This would be considered duplicative billing since the rate assumes the travel component already.

(2) **Levels of case management.**

- (A) Standard case management/resource coordination services are targeted to adults with serious mental illness or children/adolescents with serious emotional disturbance, or who have or are at-risk for mental disorders, including substance use disorders (SUD), and their families, who need assistance in accessing, coordination, and monitoring of resources and services. Services are provided to assess an individual's strengths and meet needs in order to achieve stability in the community. Standard case managers have caseloads of thirty (30) to thirty-five (35) members. Standard case management/resource coordination is limited to twelve (12) units per member per month. Additional units may be authorized up to twenty-five (25) units per member per month if medical necessity criteria for transitional case management are met.
- (B) Intensive case management (ICM) is targeted to adults with serious and persistent mental illness in

PACT programs. To ensure that these intense needs are met, caseloads are limited to between ten (10) to fifteen (15) members. The ICM shall: be a certified behavioral health case manager II; have a minimum of two (2) years' behavioral health case management experience; have crisis diversion experience; have attended the ODMHSAS six (6) hour ICM training and be available twenty-four (24) hours a day. ICM is limited to fifty-four (54) units per member per month.

(C) Wraparound facilitation case management (WFCM) is targeted to children/adolescents with significant mental health conditions being treated in a System of Care (SOC) Network who are deemed at imminent risk of out-of-home placement due to psychiatric or SUD reasons and in need of more intensive case management services. It is designed to ensure access to community agencies, services, and people whose functions are to provide the support, training and assistance required for a stable, safe, and healthy community life, and decreased need for higher levels of care. To produce a high fidelity wraparound process, a facilitator can facilitate between eight (8) and ten (10) families. Staff providing WFCM must meet the requirements for the SOC/WF. WFCM is limited to fifty-four (54) units per member per month.

(3) **Excluded services.** SoonerCare reimbursable behavioral health case management does not include the following activities:

- (A) Physically escorting or transporting a member or family to scheduled appointments or staying with the member during an appointment;
- (B) Managing finances;
- (C) Providing specific services such as shopping or paying bills;
- (D) Delivering bus tickets, food stamps, money, etc.;
- (E) Counseling, rehabilitative services, psychiatric assessment, or discharge planning;
- (F) Filling out forms, applications, etc., on behalf of the member when the member is not present;
- (G) Filling out SoonerCare forms, applications, etc.;
- (H) Mentoring or tutoring;
- (I) Provision of behavioral health case management services to the same family by two separate behavioral health case management agencies;
- (J) Non-face-to-face time spent preparing the assessment document and the service plan paperwork;
- (K) Monitoring financial goals;
- (L) Leaving voice or text messages for clients and other failed communication attempts.

(4) **Excluded individuals.** The following SoonerCare members who are receiving similar services through another method are not eligible for behavioral health case management services without special arrangements with the Oklahoma Department of Human Services (OKDHS).

the Office of Juvenile Affairs (OJA), OHCA or ODMH-SAS as applicable, in order to avoid duplication in payment. Services/programs include, but may not be limited to:

- (A) Children/families for whom at-risk case management services are available through OKDHS and OJA staff
- (B) Children/youth in out-of-home placement and receiving targeted case management services through staff in a foster care or group home setting, unless transitioning into the community;
- (C) Residents of intermediate care facilities for individuals with intellectual disabilities (ICF/IIDs) and nursing facilities unless transitioning into the community;
- (D) Members receiving targeted case management services under a Home and Community Based Services (HCBS) waiver program; or
- (E) Members receiving services in the health home program; or
- (F) Members receiving case management through the ADvantage waiver program; or
- (G) Members receiving targeted case management available through a Certified Community Behavioral Health Center (CCBHC); or
- (H) Members receiving case management services through Programs of All-Inclusive Care for the Elderly (PACE); or
- (I) Children receiving Early Intervention case management (EICM); or
- (J) Children/youth receiving case management services through certified school providers (SBCM); or
- (K) Children/youth receiving partial hospitalization services; or
- (L) Children/youth receiving Multi-systemic Therapy (MST).

(5) **Filing requirements.** Case management services provided to Medicare eligible members should be filed directly with the fiscal agent.

(6) **Documentation requirements.** The service plan must include general goals and objectives pertinent to the overall recovery needs of the member. Progress notes must relate to the service plan and describe the specific activities performed. Behavioral health case management service plan development is compensable time if the time is spent communicating with the member and it must be reviewed and signed by the member, the behavioral health case manager, and a licensed behavioral health professional or licensure candidate as defined at OAC 317:30-5-240.3(a) and (b). All behavioral health case management services rendered must be reflected by documentation in the records. In addition to a complete behavioral health case management service, plan documentation of each session must include but is not limited to:

- (A) Date;
- (B) Person(s) to whom services are rendered;

- (C) Start and stop times for each service;
- (D) Original signature or the service provider [original signatures for faxed items must be added to the clinical file within thirty (30) days];
- (E) Credentials of the service provider;
- (F) Specific service plan needs, goals, and/or objectives addressed;
- (G) Specific activities performed by the behavioral health case manager on behalf of the child related to advocacy, linkage, referral, or monitoring used to address needs, goals, and/or objectives;
- (H) Progress and barriers made towards goals, and/or objectives;
- (I) Member (family when applicable) response to the service;
- (J) Any new service plan needs, goals, and/or objectives identified during the service; and
- (K) Member satisfaction with staff intervention.

(7) **Case management travel time.** The rate for case management services assumes that the case manager will spend some amount of time traveling to the member for the face-to-face service. The case manager must only bill for the actual face-to-face time that they spend with the member and not bill for travel time. This would be considered duplicative billing since the rate assumes the travel component already.

[OAR Docket #19-809; filed 10-31-19]

**TITLE 485. OKLAHOMA BOARD OF NURSING
CHAPTER 10. LICENSURE OF PRACTICAL AND REGISTERED NURSES**

[OAR Docket #19-822]

RULEMAKING ACTION:
EMERGENCY adoption

RULES:
Subchapter 11. Disciplinary Action
485:10-11-4 [NEW]
Subchapter 16. Requirements For Prescriptive Authority For Advanced Practice Registered Nurses
485:10-16-6 [AMENDED]

AUTHORITY:
Oklahoma Board of Nursing; 59 O.S., §§ 567.2 A, 567.4 F, 567.4a

ADOPTION:
September 24, 2019

APPROVED BY GOVERNOR:
October 25, 2019

EFFECTIVE:
Immediately upon Governor's approval or November 1, 2019, whichever is later.

EXPIRATION:
Effective through September 14, 2020, unless superseded by another rule or disapproved by the Legislature

SUPERSEDED EMERGENCY ACTIONS:
n/a

INCORPORATIONS BY REFERENCE:
n/a

FINDING OF EMERGENCY:
The proposed new rules in 485:10-11-4 are necessary to comply with the November 1, 2019 effective dates in amendments to the Oklahoma Nursing Practice Act (ONPA), 59 O.S. §§567.1 et seq. and new law codified in 59

Emergency Adoptions

O.S. § 4000.1 that occurred with the passage of H.B. 1373, signed by the Governor on May 8, 2019. S.B. 848, signed by the Governor on May 19, 2019 with an emergency clause, amended the ONPA prescriptive authority renewal requirements in 59 O.S. § 567.4a. The rule revisions in 485:10-16-6 are necessary to ensure the requirements are in place for the prescriptive authority renewal cycle that starts November 2019.

GIST/ANALYSIS:

The proposed new rules in 485:10-11-4 sets out a list of criminal offenses that disqualify one from becoming or remaining a licensed nurse or certified Advanced Unlicensed Assistant. In addition, it prescribes a method for a potential applicant with a criminal history to obtain an initial determination of eligibility for licensure or certification, including the required fee. The rule implements the requirements of 59 O.S. §§567.1 et seq. and new law codified in 59 O.S. § 4000.1 that become effective November 1, 2019.

The proposed new rules in 485-10-16-6 includes the additional two hours of education requirements for prescriptive authority for Advanced Practice Registered Nurses who hold a valid federal Drug Enforcement Administration registration number. S.B. 848, signed by the Governor on May 19, 2019 with an emergency clause, amended the ONPA prescriptive authority renewal requirements in 59 O.S. § 567.4a. The rule revisions in 485:10-16-6 are necessary to ensure the requirements are in place for the prescriptive authority renewal cycle that starts November 2019.

CONTACT PERSON:

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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 253(F), AND EFFECTIVE UPON APPROVAL BY THE GOVERNOR OR NOVEMBER 1, 2019, WHICHEVER IS LATER:

SUBCHAPTER 11. DISCIPLINARY ACTION

485:10-11-4. Licensure or certification of individuals with criminal history

(a) Purpose and Applicability. This section establishes the criteria utilized by the Board in determining the effect of criminal history on eligibility for nursing licensure or Advanced Unlicensed Assistant (AUA) certification and implements the requirements of Oklahoma Statutes Title 59 Sections 567.1. *et seq.* and 4000.1 (2019). This section applies to:

- (1) all currently licensed nurses and holders of an AUA certificate;
- (2) all individuals seeking to obtain a nursing license or AUA certificate; and
- (3) all individuals seeking an initial determination of their eligibility for nursing licensure or AUA certification.

(b) The felonies listed below in subsection (c) disqualify an individual from retaining licensure or becoming licensed as a nurse or retaining certification or becoming certified as an AUA in Oklahoma. However, subsection (c) is not an exhaustive or exclusive list of crimes, both felonies and misdemeanors resulting in a conviction or a deferred sentence, that may result in discipline from the Board of Nursing, up to and including revocation. The felonies listed in subsection (c) disqualify an individual because they substantially relate to the practice of nursing and pose a reasonable threat to public safety for the reasons stated below.

(1) **The practice of nursing is a unique profession.**

Licensees and certificate holders practice nursing autonomously in a wide variety of settings and provide care to patients who are, by virtue of their illness or injury, physically, emotionally, and/or financially vulnerable. These patients often include the elderly, children, those with mental or cognitive disorders, sedated or anesthetized patients, and/or disabled or immobilized individuals. Individuals who have engaged in criminal conduct place patients, healthcare employers and employees, and the public at risk of harm.

(2) **Crimes involving fraud and/or theft.** Licensees and certificate holders often have unfettered access to patients' privileged information, financial information, and valuables, including but not limited to medications, money, jewelry, credit cards/checkbook, and/or sentimental items. The practice of nursing continues 24 hours per day in all healthcare settings, including those where there is often no direct supervision of the individual. Patients in these healthcare settings are particularly vulnerable to the unethical, deceitful, and illegal conduct of a licensee or certificate holder. When an individual has engaged in criminal behavior involving fraud and/or theft, the Board is mindful that similar misconduct may be repeated in healthcare settings, thereby placing patients, healthcare employers and employees, and the public at risk. As such, crimes involving any type of fraud and/or theft are highly relevant to an individual's ability to provide safe nursing care.

(3) **Crimes involving sexual misconduct.** Licensees and certificate holders frequently provide nursing care to partially clothed or fully undressed patients, who are particularly vulnerable to exploitation. Due to the intimate nature of nursing care, professional boundaries in the practice of nursing are extremely important. When an individual has engaged in criminal behavior involving any type of sexual misconduct, the Board is mindful that similar misconduct may be repeated in healthcare settings. As such, crimes involving any type of sexual misconduct are highly relevant to an individual's ability to provide safe nursing care.

(4) **Crimes involving lying, falsification, and/or deception.** Licensees and certificate holders are required to accurately and honestly report and record information in a variety of places, such as medical records, pharmacy records, billing records, nursing notes, and plans of care, as well as to report errors in their own nursing practice. When an individual has engaged in criminal behavior involving lying, falsification, and/or deceptive conduct, the Board is mindful that similar misconduct may be repeated in healthcare settings, thereby placing patients, healthcare employers and employees, and the public at risk of harm. As such, crimes involving any type of lying, falsification and/or deception are highly relevant to an individual's ability to provide safe nursing care.

(5) **Crimes involving drugs and/or alcohol.** Licensees and certificate holders have a duty to their patients to provide safe, effective nursing care and to be

able to practice safely. Individuals who have a substance use disorder may have impaired judgment and motor skills and are at risk for harming their patients and/or the public. Licensees and certificate holders have access to many medications and drugs and those with substance use disorders may misuse or steal drugs. Individuals affected by a substance use disorder may be unable to accurately assess patients, make appropriate judgments, or intervene in a timely and appropriate manner, thus putting their patients at risk. This danger is heightened when the licensee or certificate holder works in an autonomous setting where other healthcare providers are not present to intervene for the patient or the public. As such, crimes related to the use or possession of drugs or alcohol are highly relevant to an individual's fitness to practice.

(6) Crimes involving violence and/or threatening behavior. Licensees and certificate holders provide care to the most vulnerable of populations, including patients who often have no voice of their own and cannot advocate for themselves. Further, patients are dependent on the caregiver-patient relationship for their daily care. When an individual has engaged in violent or threatening criminal behavior, the Board is mindful that patients may be at risk for similar behavior in a healthcare setting. As such, crimes involving violence and threatening behavior are highly relevant to an individual's fitness to practice.

(c) All crimes listed in this subsection are as described in Titles 21, 47 and 63 of the Oklahoma Statutes. In addition, the Board recognizes and gives similar treatment to similar offenses charged in other jurisdictions. Felony convictions that disqualify an individual from retaining licensure or becoming licensed as a nurse, or retaining certification or becoming certified as an AUA in Oklahoma include:

- (1) Crimes involving fraud, theft, lying and/or falsification.
 - (A) Robbery 21 O.S. § 791 et seq.
 - (B) Falsely personating another to gain money or property 21 O.S. § 1532.
 - (C) Identity theft 21 O.S. § 1533.1.
- (2) Crimes involving sexual misconduct.
 - (A) Human Trafficking 21 O.S. § 748.
 - (B) Trafficking in children 21 O.S. § 866.
 - (C) Incest 21 O.S. § 885.
 - (D) Forcible sodomy 21 O.S. § 888.
 - (E) Indecent exposure, indecent exhibitions, obscene material or child pornography, solicitation of minors 21 O.S. § 1021.
 - (F) Procure, cause the participation of a minor in any child pornography, buys, or knowingly possesses, procures, manufactures, or causes to be sold or distributed child pornography 21 O.S. §§ 1021.2 and 1024.2
 - (G) Commercial sale or distribution of pornography 21 O.S. § 1040.13.
 - (H) Soliciting/offering sex with minor 21 O.S. § 1040.13a.
 - (I) Offering or transporting one under 18 for sex 21 O.S. § 1087.

- (J) Child Prostitution - unlawful detainment in prostitution house 21 O.S. § 1088.
- (K) Lewd or indecent proposals to minor, sexual battery of minor 21 O.S. § 1123.
- (L) Knowingly engaging in acts likely to spread Human Immunodeficiency Virus 21 O.S. § 1192.1.
- (3) Crimes involving drugs and/or alcohol.
 - (A) Causing, aiding, abetting minor to commit controlled dangerous substance crimes 21 O.S. § 856.1.
 - (B) Drug trafficking 63 O.S. § 2-415.
- (4) Crimes involving threats, violence and/or harm to another individual.
 - (A) Assault, battery, or assault and battery with a dangerous weapon 21 O.S. § 645.
 - (B) Aggravated assault and battery 21 O.S. § 646.
 - (C) Aggravated assault and battery on a law officer 21 O.S. § 650.
 - (D) Aggravated assault and battery on medical personnel with firearm or other dangerous weapon 21 O.S. § 650.5.
 - (E) Murder, first or second degree 21 O.S. §§ 701.7 and 701.8.
 - (F) Manslaughter, first degree 21 O.S. § 711.
 - (G) Kidnapping 21 O.S. § 741.
 - (H) Extortionate kidnapping 21 O.S. § 745.
 - (I) Malicious intentional intimidation or harassment based on suspect classification 21 O.S. § 850.
 - (J) Desertion - abandonment of child under ten 21 O.S. § 851.
 - (K) Child endangerment by permitting child abuse 21 O.S. § 852.1.
 - (L) Rape first or second degree 21 O.S. §§ 1111 and 1114.
 - (M) Peeping Tom - personally or electronically 21 O.S. § 1171.
 - (N) Stalking 21 O.S. § 1173.
 - (O) Endangering or injuring a person during arson or attempt 21 O.S. § 1405.
 - (P) Failure to stop after fatal accident 47 O.S. § 10-102.1.
 - (Q) Mingling poison, drugs, or sharp objects with food, drink 21 O.S. § 832.
- (5) Crimes involving harm to property.
 - (A) Violation of Oklahoma Antiterrorism Act 21 O.S. §§ 1268 et seq.
 - (B) Arson, first, second or third degree 21 O.S. §§ 1401, 1402, and 1403.
 - (C) Burglary, first degree 21 O.S. § 1431.
- (d) To obtain an Initial Determination of Eligibility, the required form shall be completed and filed with the Board. The fee for an Initial Determination of Eligibility shall be \$95.00 and shall be submitted with the required form.
- (e) The Executive Director is authorized to close a file requesting initial determination of eligibility when the person seeking determination of eligibility for licensure has failed to respond to a written request from the Board for information, within sixty (60) days of the written request.

SUBCHAPTER 16. REQUIREMENTS FOR PRESCRIPTIVE AUTHORITY FOR ADVANCED PRACTICE REGISTERED NURSES

485:10-16-6. Renewal

The application for renewal of prescriptive authority shall:

(1) be concurrent with the two-year RN licensure renewal and renewal of advanced practice registered nurse licensure;

(2) include:

(A) a completed application containing such information as the Board may prescribe and required fee;

(B) documentation approved by the Board verifying a minimum of fifteen (15) contact hours, or one academic credit hour of education, or the equivalent, in pharmacotherapeutics, clinical application and use of pharmacological agents in the prevention of illness, and in the restoration and maintenance of health. ~~At least one hour of the fifteen (15) required hours shall be specific to proper prescribing of opioids, risks of opioids, and/or recognizing addiction and diversion.~~ All of the required hours shall be obtained in a program beyond basic registered nurse preparation, approved by the Board, within the two-year period immediately preceding the effective date of application for renewal of prescriptive authority, which is applicable to the scope of practice and specialty certification. This documentation requirement does not apply to individuals renewing within twenty-four (24) months of initial prescriptive authority approval.

(i) The following categories identify how this requirement may be met. No more than the identified percentage for each category may apply towards the contact hour/academic hour or the equivalent requirements for renewal of prescriptive authority;

(ii) Maximum number of units acceptable in continuing education categories:

(I) Category A: up to 100% of requirement (1 credit hour)

(II) Category B: up to 100% of requirement (15 contact hours)

(III) Category C: up to 100% of requirement (15 contact hours)

(IV) Category D: up to 20% of requirement (3 contact hours)

(V) Category E: up to 20% of requirement (3 contact hours)

(C) documentation approved by the Board verifying two (2) hours of education in pain management or two (2) hours of education in opioid use or addiction, unless the Advanced Practice Registered Nurse has demonstrated to the satisfaction of the Board that the Advanced Practice Registered Nurse does not currently hold a valid federal Drug Enforcement Administration registration number.

(D) A written statement signed by the physician supervising prescriptive authority that includes a method of assuring availability of the supervising physician through direct contact, telecommunications or other appropriate electronic means for consultation, assistance with medical emergencies, or patient referral. Applicants for renewal who have submitted a written statement signed by the physician supervising prescriptive authority prior to renewal but within ninety (90) days of the expiration date are not required to submit another written statement for renewal.

[OAR Docket #19-822; filed 11-7-19]
