

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

**"Unofficial Publication"**

**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. This regulatory authority shall be known as the "Oklahoma Medical Marijuana Authority" and shall be a division of the Oklahoma State Department of Health. Only the powers enumerated under this Chapter shall be proper. Any power not specifically enumerated is prohibited.

**310:681-1-2. Regulatory program established**

(a)All license applications, inquiries, and other correspondence shall be directly electronically received, processed, and regulated by the Oklahoma State Department of Health by the "Oklahoma Medical Marijuana Authority" division or its designee.

(b)All applications 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/>

(c)The Oklahoma State Department of Health is located at 1000 N.E. 10<sup>th</sup> 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 licenses and rights granted under this Chapter and under Title 63 O.S. § 420 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:

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

"Batch" means, with regard to usable marijuana, a homogenous, identified quantity of usable marijuana, no greater than ten (10) pounds, that is harvested during a specified time period from a specified cultivation area; and with regard to oils, vapors, and waxes derived from usable marijuana, means an identified quantity that is uniform, that is intended to meet specifications for identity, strength, and composition, and that is manufactured or processed, packaged, and labeled during a specified time period according to a single manufacturing, packaging, and labeling protocol.

"Batch Number" means a unique numeric or alphanumeric identifier assigned prior to testing 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.

"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.

"Commercial Establishment" ("Establishment") or "Commercial Licensee" means an entity licensed under this Chapter as a medical marijuana dispensary, grower, processor, or researcher.

"Commercial License" means a license issued to a medical marijuana dispensary, grower, processor, or researcher.

"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. § 420 et seq., these rules, and the forms and instructions provided by the Department, including any supporting documentation required by the Department and the license fee.

"Control Number" means the tracking number issued with a license to purchase medical marijuana.

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

"Dispense" means the selling of medical marijuana or a medical marijuana product to a qualified patient or the patient's designated caregiver that is packaged in a suitable container appropriately labeled for subsequent administration to or use by a qualifying patient.

"Dispensary" means an entity that has been licensed by the Department pursuant to Title 63 O.S. § 421 and this Chapter, which allows the entity to purchase medical marijuana from a processor licensee or grower licensee and sell medical marijuana only to qualified patients, or their parents or legal guardian(s) if applicable, and caregivers.

"Disqualifying Criminal Conviction" means:

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

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

"Entity" means an individual, 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.

"Grower" or "Commercial Grower" means an entity that has been licensed by the Department pursuant to Title 63 O.S. § 422, which allows the entity to grow, harvest, and package medical marijuana according to this Chapter for the purpose of selling medical marijuana to a dispensary, processor, or researcher.

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

"Manufacture" means the process of converting harvested plant material into medical marijuana concentrate by physical or chemical means for use as an ingredient in a medical marijuana product.

"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, fiber produced from the stalks, oils 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, or the sterilized seed of the plant that is incapable of germination.

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

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

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

"Medical Marijuana Concentrate ("Concentrate")" means a substance obtained by separating cannabinoids from any part of the marijuana plant by physical or chemical means, so as to deliver a product with a cannabinoid concentration greater than the raw plant material from which it is derived, intended to be refined for use as an ingredient in a medical marijuana product and not for administration to a qualified patient.

"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 patient, including but not limited to oils, tinctures, edibles, pills, topical forms, gels, creams, forms medically appropriate for administration by vaporization or a nebulizer, patches, tinctures, and liquids excluding live plant forms.

"Medical Marijuana Waste" means unused, surplus, returned or out-of-date marijuana; recalled marijuana; unused marijuana; plant debris of the plant of the genus cannabis, including dead plants and all unused plant parts and roots; and any wastewater generated during growing and processing.

"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.

"Oklahoma Resident ("Resident")" means an individual who resides in the State of Oklahoma and can provide proof of residency as required by 63 O.S. § 420 et seq. and OAC 310:681-1-6.

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

"Package" or "Packaging" means any container or wrapper that a grower or processor may use for enclosing or containing medical marijuana.

"Packager" means a processor as defined in this Chapter. Packager is a term used in Title 63 O.S. § 422(C), relating to processors.

"Patient" or "Qualified patient" means a person that has been properly issued a medical marijuana license pursuant to Title 63 O.S. § 420 et seq. and these rules.

"Physician" means a doctor of medicine or a doctor of osteopathic 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.

"Private School" means an 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.

"Processor" means an entity that has been licensed by the Department pursuant to Title 63 O.S. § 423, which allows the entity to: purchase marijuana from a commercial grower; prepare, manufacture, process, package, sell to, and deliver medical marijuana products to a dispensary licensee or other processor licensee; and may manufacture marijuana received from a qualified patient into a medical marijuana concentrate, for a fee.

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

"Retailer" means a dispensary. Retailer is used in Title 63 O.S. § 420 et seq., as it relates to dispensaries.

"Revocation" means the Department's final decision that any license issued pursuant to this Chapter is rescinded because the individual or entity does not comply with the applicable requirements in this Chapter.

"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.

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

### **310:681-1-5. Criminal history screening**

(a) **Parties subject to screening.** Prior to issuance of any dispensary, grower, processor, transportation, or researcher license authorized by this Chapter, 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 licenses; and
- (3) For research license applicants, all principal investigators involved in the research project.

(b) **OBND Registration.** Any dispensary, grower, processor, or researcher issued a license authorized by this Chapter, is required to obtain an Oklahoma State Bureau of Narcotics and Dangerous Drugs Control ("OBND") registration prior to possessing or handling any marijuana or marijuana product pursuant to 63 O.S. §§ 2-302 & 2-303, 63 O.S. § 2-101, and OAC 475:10-1-10.

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

### **310:681-1-6. Proof of residency**

Sufficient documentation of proof of residency shall include one of the following:

- (1) An unexpired 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 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.

### **310:681-1-7. Proof of identity**

Applicants shall establish their identity through submission of a color copy or digital image of one of the following unexpired documents:

- (1) Front and back of an Oklahoma 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) Certified copy of the applicant's birth certificate for applicants who do not possess a document listed in paragraph (1), (2), or (3) of this Section; or
- (5) A tribal identification card approved for identification purposes by the Oklahoma Department of Public Safety.

### **310:681-1-8. Applicant photograph**

The digital photograph to be submitted with an application shall:

- (1) Be a clear, color photograph of the head and top of the shoulders;
- (2) Be an image file in a .jpg, .png or .gif digital image format no larger than 3 MB in size;
- (3) Be in one of the following approved formats:
  - (A) A scanned photograph shall be scanned at a resolution of 300 pixels per inch from a 2 x 2 inch image with dimensions in a square aspect ratio (the height must be equal to the width).
  - (B) A captured image must have minimum acceptable pixel dimensions of 600 x 600 pixels and maximum acceptable pixel dimensions of 1200 x 1200 pixels.
- (4) Be taken within the last six (6) months to reflect the applicant's appearance;
- (5) Be taken in front of a plain white or off-white background;
- (6) Be taken in full-face view directly facing the camera at eye level with nothing obscuring the face, such as a hat or eyewear:
  - (A) If a hat or head covering is worn for religious purposes, submit a signed statement that verifies the hat or head covering in the photo is part of recognized, traditional religious attire that is customarily or required to be worn continuously in public.
  - (B) If a hat or head covering is worn for medical purposes, submit a signed doctor's statement verifying the hat or head covering in the photo is used daily for medical purposes.
  - (C) The applicant's full face must be visible and your hat or head covering cannot obscure your hairline or cast shadows on your face. (7) Be taken with a neutral facial expression (preferred) or a natural smile with the mouth closed, and with both eyes open;
- (8) Not be digitally enhanced or altered to change the appearance in any way; and
- (9) Sufficiently resemble the photograph included in any identification provided for proof of identity or residence.

### **310:681-1-9. Recommending physician registration**

(a) A physician may file a registration with the Department as a recommending physician on a form prescribed by the Department if the physician holds a valid, unrestricted and existing license to practice in the State of Oklahoma 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;
- (3) The physician's medical license number;
- (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 or medical marijuana products 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 not be processed 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.

## **SUBCHAPTER 2. MEDICAL MARIJUANA LICENSES**

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

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

- (1) The applicant's first name, middle name, last name and suffix, if applicable;
- (2) The applicant's residence address and mailing address. If the applicant proves Oklahoma residence, but does not have a fixed residential address, then the address where the applicant can receive mail;
- (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 310:681-1-6 (relating to proof of residency).
- (2) Documents establishing proof of identity as established in 310:681-1-7 (relating to proof of identity).

(3) A digital photograph as established in 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 bonafide 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 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; and

(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 310:681-1-7 (relating to proof of identity).

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

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

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

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

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

(5) Application fees are nonrefundable.

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

(a) Patient licenses may be issued for applicants under the age of eighteen

(18) by submitting the same documentation as is required by 310:681-2-1 (relating to application for patient license), and the following:

(1) The application shall require the recommendation by two (2) physicians, dated within thirty (30) days of each other;

(2) The application must be completed listing the minor as the applicant, but shall also include the same information as is required in 310:681-2-1(a) for the minor's parent(s) or legal guardian(s);

(3) The proof of residency information required shall be provided for the minor's parent(s) or legal guardian(s);

(4) Identification and residency documents shall be provided for the parent(s) or legal guardian(s);

(5) A digital photograph, as established in 310:681-1-8 (relating to applicant photograph), shall also be included of the minor's parent(s) or legal guardian(s);

(6) 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 must be submitted;

(7) The signature and date of each parent or legal guardian must be included on the application. In the event one of the parents or legal guardians has abandoned the minor or is otherwise unavailable a notarized affidavit stating the reasons the parent or legal guardian cannot sign (except in the case of refusal or disagreement) is sufficient if approved by the Department;

(8) An attestation by the parent or legal guardian that the information provided in the application is true and correct must be included on the application; and

(9) The minor applicant is not required to submit any documents listed in 310:681-1-6 (relating to proof of residency).

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

(c) 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.

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

(a) Applications for a caregiver's License for caregivers of a patient may accompany the original applications in 310:681-2-1 and 310:681-2-2 or 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 issued except in the case of a patient/applicant 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 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 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 appointing the caregiver as their designee under this provision. If the patient license holder is incapacitated, 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) If the patient is a license holder, the patient control number shall be included in the application.

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

A Caregiver's license for a specific patient shall be withdrawn for any patient that provides written or electronic notification to the Department, on the Department provided form, of their wish to withdraw the caregiver's authorization. This withdrawal shall not be subject to appeal.

### **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 310:681-2-1(a) (relating to patient license application);

(2) Color copy or digital image file of the front and back of applicant's unexpired out-of-state medical marijuana patient license;

(3) Color copy or digital image file of one of the following unexpired documents:

(A) Front and back of a valid state issued Driver's License;

(B) Front and back of valid state issued Identification Card;

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

(D) Certified copy of the applicant's birth certificate for applicants who do not possess a document listed in Subsections (A), (B), or (C) of this paragraph.

(4) A digital photograph as established in 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 310:681-2-2(a)(2), (5), (6), (7), and (8).

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

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

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

(a) Medical marijuana patient licenses issued under 310:681-2-1 and 310:681-2-2 shall be for a term of two (2) years from the date of issuance, unless revoked by the Department.

(b) Caregiver's Licenses may not extend beyond the expiration date of

the underlying Patient license regardless of the issue date.

(c) Temporary patient licenses issued under 310:681-2-4 shall be for a term of thirty (30) days from the date of issuance; however, temporary patient licenses may not extend beyond the expiration date of the underlying out-of-state medical marijuana patient license.

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

(e) 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 310:681-2-1, 310:681-2-2, 310:681-2-3, and/or 310:681-2-4.

(f) The fee for renewal shall be the fee established in statute for the license at 63 O.S. § 420 et seq.

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

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

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

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

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

**310:681-2-8. [RESERVED]**

**310:681-2-9. [RESERVED]**

**310:681-2-10. [RESERVED]**

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

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

**310:681-2-12. [RESERVED]**

**310:681-2-13. [RESERVED]**

## **SUBCHAPTER 3. TRANSPORTATION LICENSE**

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

(a) A marijuana transportation license will be issued to qualifying applicants for a commercial license at the time of approval.

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

(c) Licensed research establishments with an approved transportation license may only transport for the purpose of transporting marijuana purchased from a licensed dispensary, licensed grower or licensed processor back to their approved research site.

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

All medical marijuana shall be transported in a locked container, shielded from public view, and clearly labeled "Medical Marijuana or Derivative."

**SUBCHAPTER 4. MEDICAL RESEARCH LICENSE [RESERVED]**

**310:681-4-1. [RESERVED]**

**310:681-4-2. [RESERVED]**

**310:681-4-3. [RESERVED]**

**SUBCHAPTER 5. COMMERCIAL ESTABLISHMENTS**

**310:681-5-1. License required**

(a) No entity shall operate a medical marijuana dispensary, grower operation, processor, or research project without first obtaining a license from the Department pursuant to 63 O.S. § 420 et seq. and the rules in this Chapter.

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

(c) Application fees are nonrefundable.

**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 entity complies with the requirements of 63 O.S. § 420 et seq. and this Chapter.

(b) **Location.** A business establishment license shall only be valid for a single location at the address 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 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. § 420 et seq. and these rules.

(3) A commercial establishment licensee whose license is not renewed shall cease all operations immediately upon expiration of the license.

(A) A commercial establishment has thirty (30) days from date of expiration to liquidate and transfer all medical marijuana products to another commercial establishment that is licensed to possess such medical marijuana products.

(B) Any medical marijuana still in possession after date of expiration, revocation 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.

(d) **Change in information.**

(1) The commercial licensee shall notify the Department in writing within fourteen (14) days of any changes in contact information.

(2) The licensee 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, and submit to the Department a new application as provided for in 310:681-5-3.

(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.

(e) **Transfer of license.**

(1) Commercial licenses may not be transferred.

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

(f) **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 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) Any medical marijuana remaining in the possession of the licensee shall be disposed of in accordance with 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 Title 63 O.S. § 420 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;
- (3) GPS coordinates of the establishment; and
- (4) Phone number and if available, email of the establishment.

(c) **Individual applicant.** The application for a commercial license made by an individual on their 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 mailing address;
- (3) The applicant's date of birth;
- (4) The applicant's preferred telephone number and email address;
- (5) The applicant's telephone number and email address;
- (6) An attestation that the information provided by the applicant is true and correct; and
- (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 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;
- (7) Telephone number and email address; and
- (8) 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 an entity meets the requirements of Title 63 O.S. § 420 et seq., 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) If a licensed dispensary, proof that the proposed location of the dispensary 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 dispensary; and
- (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 310:681-1-6 (relating to proof of residency).

#### **310:681-5-4. Inspections**

(a) Submission of an application for a medical marijuana processing license constitutes permission for entry to and inspection of the processing licensee's premises during hours of operation and other reasonable times. Refusal to permit such entry or inspection shall constitute grounds for the nonrenewal, suspension, or revocation of a license.

(b) The Department may perform an annual unannounced on-site inspection of a licensed processor's operations to determine compliance with these rules and food safety/preparation standards.

(c) If the Department receives a complaint concerning a licensed processor's noncompliance with this Chapter, the Department may conduct additional unannounced, on-site inspections beyond an annual inspection. The Department shall refer all complaints alleging criminal activity that are made against a licensed processor to appropriate Oklahoma state or local law enforcement authorities.

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

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

(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 this Chapter.

(g) If the Department identifies a violation of Title 63 O.S. § 420 et seq. or this Chapter during an inspection of the licensed processor, the Department shall provide an inspection report or a written notice of violation to the commercial licensee that includes the rule or statute violated.

(h) Violations shall be corrected within thirty (30) days of receipt of a written notice of deficiencies.

(i) If processor fails to correct the violations within thirty (30) days, the processor will be subject to a fine of \$500.00 for each deficiency.

#### **310:681-5-5. [RESERVED]**

#### **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 shall complete a monthly report on a form 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;

(C) The amount of marijuana sold to licensees and the type of

licensee;

(D) If necessary, a detailed explanation of why any medical marijuana product purchased by the licensee cannot be accounted for as having been sold or still remaining in inventory;

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

(F) Total dollar amount of all taxes collected from sales to medical marijuana patients and caregivers.

(2) Grower reports shall include:

(A) The amount of marijuana harvested in pounds;

(B) The amount of marijuana sold 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; and

(G) Total dollar amount of all sales to processor, dispensary, and researcher licensees.

(3) Processor reports shall include:

(A) The amount of marijuana purchased from grower licensees in pounds;

(B) The amount of marijuana sold 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 purchased, sold, processed, or maintained in current inventory; and

(E) The amount of marijuana waste in pounds.

(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.

(b) **Records.** Pursuant to the Department's audit responsibilities, commercial establishments shall keep a copy of the following records for at least seven (7) years from the date of creation:

(1) Business records, such as manual or computerized records of assets and liabilities, monetary transactions, journals, ledgers, and supporting documents, including agreements, checks, invoices, and vouchers;

(2) Documentation of every instance in which medical marijuana was sold, which shall include:

(A) The identification number associated with the receiving license; and

(B) The quantity and type of medical marijuana sold;

(3) Documentation of every instance in which marijuana was

purchased, which shall include:

(A) The license number of the selling entity; and

(B) The quantity and type of medical marijuana purchased.

(4) If researcher, documentation of every instance in which medical marijuana was used for research, including the quantity and type of medical marijuana used.

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

(1) Documents the chain of custody of all medical marijuana and medical marijuana products;

(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 tracks 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;

(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. 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 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.

(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 these rules.

(3) If the Department identifies a violation of Title 63 O.S. § 420 et seq. or these rules during an inspection of the commercial licensee, the Department shall provide a written notice of violation to the commercial licensee that includes the rule or statute violated.

(4) If the Department receives a complaint concerning a research license holder's noncompliance with these rules, the Department may conduct additional unannounced, on-site audits. The Department shall refer all complaints alleging criminal activity that are made against a commercial licensee to appropriate Oklahoma state or local law enforcement authorities.

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



**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 30 days of the Department's written notice, the license shall be 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 thousand dollar (\$5,000.000) 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.

(d) Right to hearing. The Department shall notify the licensee in writing of the Department's intent to take remedial action, to impose a fine, or to take action against the license issued; and of the rights of the licensee under this Section, including the right to a hearing.

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

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

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

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

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

(e) The report shall contain the following information:

(1) Dispensary name, address, telephone number and dispensary license number;

(2) Reporting month and year;

- (3) Total gross receipts for the preceding month from sales of medical marijuana or any medical marijuana product;
- (4) The amount of tax due as described in (a) of this Section; and
- (5) Such other reasonable information as the Tax Commission may require.

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

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

**310:681-5-8. Composition of 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.

**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 310:240, to the extent they are applicable and do not conflict with 63 O.S. § 420 et seq.

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

All medical marijuana waste generated during production, processing and testing must be stored, managed, and disposed of in accordance with these rules and any other applicable Oklahoma statutes and rules, 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 OAC 252:205.

**310:681-5-11. [RESERVED]**

**310:681-5-12. Marijuana transaction limitations**

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

**310:681-5-13. Loss and theft**

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

**310:681-5-14. [RESERVED]**

**310:681-5-15. [RESERVED]**

**310:681-5-16. [RESERVED]**

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

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

**310:681-5-18. Prohibited acts**

(a) No commercial establishment shall allow the consumption of alcohol, 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 patient license holders or caregiver's license holders.

(d) No commercial establishment shall engage in false advertising, as prohibited under 63 O.S. §§ 1-1102 & 1-1402.

(e) No commercial establishment shall sell or offer to sell medical marijuana products by means of any advertisement or promotion 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.

**310:681-5-19.** [RESERVED]

**SUBCHAPTER 6. COMMERCIAL FACILITIES**

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

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

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

**310:681-6-2. Construction of premises**

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

**310:681-6-3.** [RESERVED]

**310:681-6-4.** [RESERVED]

**310:681-6-5.** [RESERVED]

**310:681-6-6.** [RESERVED]

**310:681-6-7.** [RESERVED]

**310:681-6-8.** [RESERVED]

**310:681-6-9.** [RESERVED]

**310:681-6-10.** [RESERVED]

310:681-6-11. [RESERVED]

**SUBCHAPTER 7. PACKAGING AND LABELING**

**310:681-7-1. Labeling**

The following general label and packaging requirements, prohibitions and exceptions apply:

- (1) Labels and packages may not be attractive to minors.
- (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.
- (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."

**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 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.

**SUBCHAPTER 8. LABORATORY TESTING [RESERVED]**

310:681-8-1. [RESERVED]

310:681-8-2. [RESERVED]

310:681-8-3. [RESERVED]

310:681-8-4. [RESERVED]

310:681-8-5. [RESERVED]

310:681-8-6. [RESERVED]

310:681-8-7. [RESERVED]

APPENDIX A. [RESERVED]