SENATE FLOOR VERSION
February 26, 2018

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 1120 By: Yen

[medical marijuana - codification - contingent effective date - effective date]

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1248 of Title 21, unless there is created a duplication in numbering, reads as follows:

A. For the purposes of this section:

1. "Medical marijuana" means medical marijuana as defined in Section 2 of this act; and

2. "Certification" means a certification, as defined in Section 2 of this act.

B. The provisions of this section shall not apply to:

1. A practitioner authorized to issue a certification who acted in good faith in the lawful course of his or her profession;

2. A registered organization as defined in Section 2 of this act who acted in good faith in the lawful course of the practice of pharmacy; or

3. A person who acted in good faith seeking treatment for a medical condition or assisting another person to obtain treatment for a medical condition.

C. 1. A person is guilty of criminal diversion of medical marijuana in the first degree when he or she is a practitioner, as defined in this act, who issues a certification with knowledge of reasonable grounds to know that:

a. the recipient has no medical need for the marijuana, or

b. the marijuana is for a purpose other than to treat a serious condition as defined in Section 2 of this act;

2. Criminal diversion of medical marijuana in the first degree shall be punishable by imprisonment of not less than one year and not more than five (5) years and a fine not to exceed Twenty Thousand Dollars ($20,000.00). Second and subsequent offenses may be punishable by not less than one year and not more than ten (10) years for each subsequent offense.

D. A person is guilty of criminal diversion of medical marijuana in the second degree when he or she sells, trades, delivers or otherwise provides medical marijuana to another with knowledge or reasonable grounds to know that the recipient is not registered pursuant to this act. Criminal diversion of medical marijuana in the second degree shall be a felony punishable by imprisonment of not less than one year and not more than two (2)

years and a fine not to exceed Ten Thousand Dollars ($10,000.00). Second and subsequent offenses may be punishable by not less than one year and not more than five (5) years for each subsequent offense.

E. A person is guilty of criminal retention of medical marijuana when, being a certified patient or designated caregiver, as those terms are defined in Section 2 of this act, he or she knowingly obtains, possesses, stores or maintains an amount of marijuana in excess of the amount he or she is authorized to possess pursuant to the provisions of this act. Criminal retention of medical marijuana is a misdemeanor subject to imprisonment of not more than one year and a fine of not more than Five Thousand Dollars ($5,000.00).

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-2801 of Title 63, unless there is created a duplication in numbering, reads as follows:

As used in this act:

1. "Applicant" means a for-profit entity or not-for-profit corporation and includes board members, officers, managers, owners, partners, principal stakeholders and members who submit an application to become a registered organization;

2. "Caring for" means treating a patient, in the course of which the practitioner has completed a full assessment of the patient's medical history and current medical condition;

3. "Certification" means a certification, made pursuant to Section 4 of this act;

4. "Certified medical use" means the acquisition, possession, use or transportation of medical marijuana by a certified patient, or the acquisition, possession, delivery, transportation or administration of medical marijuana by a designated caregiver, for use as part of the treatment of the patient's serious condition, as authorized in a certification pursuant to Section 3 of this act including enabling the patient to tolerate treatment for the serious condition. A certified medical use does not include smoking;

5. "Certified patient" means a patient who is a resident of Oklahoma or receiving care and treatment in Oklahoma, and is certified pursuant to Section 3 of this act;

6. "Designated caregiver" means the individual designated by a certified patient in a registry application. A certified patient may designate up to two (2) designated caregivers;

7. "Form of medical marijuana" means characteristics of the medical marijuana recommended or limited for a particular certified patient, including the method of consumption and any particular strain, variety and quantity or percentage of marijuana or particular active ingredient;

8. "Individual dose" means a single measure of raw medical marijuana or non-infused concentrates to be determined and clearly identified by a patient's practitioner for the patient's specific

certified condition. For ingestible or sublingual medical marijuana products, no individual dose may contain more than ten (10) milligrams of tetrahydrocannabinol;

9. "Medical marijuana" means marijuana intended for a certified medical use as addressed in this act;

10. "Practitioner" means a practitioner who:

a. is a physician licensed by the State Board of Medical Licensure and Supervision or the State Board of Osteopathic Examiners and practicing within this state,

b. by training or experience is qualified to treat a serious condition as defined in this section, and

c. has completed a two (2) to four (4) hour course as determined by the Commissioner of Health and registered with the State Department of Health. Such course may count toward board certification requirements;

11. "Public place" means a public place as defined in regulation by the State Board of Health;

12. "Registry application" means an application properly completed and filed with the State Department of Health by a certified patient pursuant to Section 6 of this act;

13. "Registry identification card" means a document that identifies a certified patient or designated caregiver pursuant to Section 4 of this act;

14. "Registered organization" means an organization registered pursuant to Sections 6 and 7 of this act;

15. "Serious condition" means:

a. neuropathic pain,

b. persistent muscle spasms due to multiple sclerosis or paraplegia,

c. intractable nausea or vomiting due to chemotherapy, or

d. loss of weight or appetite due to cancer or HIV/AIDS; and

16. "Terminally ill" means an individual has a medical prognosis that the individual's life expectancy is approximately one year or less if the illness runs its normal course.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-2802 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. A patient certification may only be issued if:

a. a practitioner has been registered with the State Department of Health pursuant to this act to issue a certification as determined by the Commissioner of Health,

b. the patient has a serious condition, as defined in Section 2 of this act, which shall be specified in the patient's health care record,

c. the practitioner, by training or experience, is qualified to treat the serious condition,

d. the patient is under the practitioner's continuing care for the serious condition, and

e. in the practitioner's professional opinion and review of past treatments, the patient is likely to receive therapeutic or palliative benefit from the primary or adjunctive treatment with medical use of marijuana for the serious condition. The State Board of Medical Licensure and Supervision and the State Board of Osteopathic Examiners shall promulgate rules to carry out the provisions of this subparagraph.

B. The certification shall include:

a. the name, date of birth and address of the patient,

b. a statement that the patient has a serious condition and is under the practitioner's care for the serious condition,

c. a statement attesting that all requirements of subsection A of this section have been satisfied,

d. the date, and

e. the name, address, federal registration number, telephone number and the handwritten signature of the certifying practitioner. The Commissioner of Health may require, by rule, that the certification shall be on a form provided by the State Department of Health. The practitioner shall state in the certification that, in the practitioner's professional opinion, the patient would benefit from medical marijuana only until a specified date. The practitioner shall state in the certification that, in the practitioner's professional opinion, the patient is terminally ill and that the certification shall not expire until the patient dies.

C. In making a certification, the practitioner shall consider the form of medical marijuana the patient should consume, including the method of consumption and any particular strain, variety and quantity or percentage of marijuana or particular active ingredient, and appropriate dosage. The practitioner shall state in the certification any recommendation or limitation the practitioner makes, in his or her professional opinion, concerning the appropriate form or forms of medical marijuana and dosage.

D. Every practitioner shall consult the central repository as required by Section 2-309D of Title 63 of the Oklahoma Statutes prior to making or issuing a certification, for the purpose of

reviewing a patient's controlled substance history. For purposes of this section, a practitioner may authorize a designee to consult the central repository on his or her behalf, provided that such designation is in accordance with Section 6 of this act.

E. The practitioner shall give the certification to the certified patient, and place a copy in the patient's health care record.

F. No practitioner shall issue a certification pursuant to this section for himself or herself.

G. A registry identification card based on a certification shall expire one year after the date the certification is signed by the practitioner.

H. 1. If the practitioner states in the certification that, in the practitioner's professional opinion, the patient would benefit from medical marijuana only until a specified earlier date, then the registry identification card shall expire on that date.

2. If the practitioner states in the certification that, in the practitioner's professional opinion, the patient is terminally ill and that the certification shall not expire until the patient dies, then the registry identification card shall state that the patient is terminally ill and that the registration card shall not expire until the patient dies.

3. If the practitioner reissues the certification to terminate the certification on an earlier date, then the registry

identification card shall expire on that date and shall be promptly returned by the certified patient to the State Department of Health.

4. If the certification so provides, the registry identification card shall state any recommendation or limitation by the practitioner as to the form or forms of medical marijuana or dosage for the certified patient.

5. The State Board of Health shall promulgate rules to carry out the provisions of this section.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-2803 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. The possession, acquisition, use, delivery, transfer, transportation or administration of medical marijuana by a certified patient or designated caregiver possessing a valid registry identification card, for certified medical use, shall be lawful pursuant to this act; provided that:

1. The marijuana that may be possessed by a certified patient shall not exceed a thirty (30) calendar day supply of the dosage as determined by the practitioner, consistent with any guidance and regulations issued by the State Board of Health, provided that during the last seven days (7) calendar days of any thirty (30) calendar day period, the certified patient may also possess up to such amount for the thirty (30) calendar day period;

2. The marijuana that may be possessed by designated caregivers does not exceed the quantities allowed pursuant to this subsection for each certified patient for whom the caregiver possesses a valid registry identification card, up to two (2) certified patients;

3. The form or forms of medical marijuana that may be possessed by the certified patient or designated caregiver pursuant to a certification shall be in compliance with any recommendation or limitation by the practitioner as to the form or forms of medical marijuana or dosage for the certified patient in the certification; and

4. The medical marijuana shall be kept in the original package in which it was dispensed pursuant to Section 6 of this act, except for the portion removed for immediate consumption for certified medical use by the certified patient.

B. Notwithstanding subsection A of this section:

1. Possession of medical marijuana shall not be lawful pursuant to this act if it is consumed, vaporized or grown in a public place, regardless of the form of medical marijuana stated in the patient's certification; and

2. A person possessing medical marijuana pursuant to this act shall possess his or her registry identification card at all times when in immediate possession of medical marijuana.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-2804 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. The State Department of Health may specify a form for a registry application, in which case the Department shall provide the form on request. Reproductions of the form may be used, and the form shall be available for downloading from the Department's website.

B. To obtain, amend or renew a registry identification card, a certified patient or designated caregiver shall be at least twenty-one (21) years of age and shall file a registry application with the State Department of Health. The registry application or renewal application shall include:

1. In the case of a certified patient:

a. the patient's certification issued by a registered practitioner as defined in Section 3 of this act, provided a new written certification shall be provided with a renewal application,

b. the name, address and date of birth of the patient,

c. the date of the certification,

d. if the patient has a registry identification card based on a current valid certification, the registry identification number and expiration date of that registry identification card,

e. the specified date until which the patient would benefit from marijuana, if the certification states such a date,

f. the name, address, federal registration number and telephone number of the certifying practitioner,

g. any recommendation or limitation by the practitioner as to the form or forms of medical marijuana or dosage for the certified patient, and

h. other individual identifying information required by the State Department of Health;

2. In the case of a certified patient, if the patient designates a designated caregiver, the name, address and date of birth of the designated caregiver, and other individual identifying information required by the State Department of Health;

3. In the case of a designated caregiver:

a. the name, address and date of birth of the designated caregiver,

b. if the designated caregiver has a registry identification card, the registry identification number and expiration date of that registry identification card, and

c. other individual identifying information required by the State Department of Health;

4. A false statement made in the application is punishable pursuant to the Section 1 et seq. of Title 22 of the Oklahoma Statutes;

5. The date of the application and the signature of the certified patient or designated caregiver, as applicable;

6. An application fee of Fifty Dollars ($50.00), provided that the State Department of Health may waive or reduce the fee in cases of financial hardship; and

7. Any other requirements determined by the Commissioner of Health as approved by the State Board of Health.

Upon approval of the certification, the State Department of Health shall issue registry identification cards for certified patients and designated caregivers. A registry identification card shall expire as provided in Section 3 of this act. The State Department of Health shall begin issuing registry identification cards as soon as practicable after the certifications required by Section 3 of this act are granted.

C. No person under twenty-five (25) years of age may be a designated caregiver unless a sufficient showing is made that the person should be permitted to serve as a designated caregiver. The requirements for such a showing shall be determined by the State Department of Health.

D. No person may be a designated caregiver for more than two (2) certified patients at one time.

E. If a certified patient wishes to change or terminate his or her designated caregiver, for whatever reason, the certified patient shall notify the State Department of Health as soon as practicable. The State Department of Health shall issue a written notification to the designated caregiver that their registration card is invalid and shall be promptly returned to the State Department of Health. The newly designated caregiver must comply with all requirements set forth in this section. The State Department of Health shall immediately amend their records, both written and electronic, to indicate the termination of the designated caregiver card.

F. If the certification so provides, the registry identification card shall contain any recommendation or limitation by the practitioner as to the form or forms of medical marijuana or dosage for the certified patient.

G. The State Department of Health shall issue separate registry identification cards for certified patients and designated caregivers as soon as reasonably practicable after receiving a completed application pursuant to this section, unless it determines that the application is incomplete or factually inaccurate, in which case it shall promptly notify the applicant.

H. If the application of a certified patient designates an individual as a designated caregiver who is not authorized to be a designated caregiver, that portion of the application shall be

denied by the State Department of Health but shall not affect the approval of the balance of the application.

I. A registry identification card shall:

1. Display the name of the certified patient or the designated caregiver as the case may be;

2. Display the date of issuance and expiration date of the registry identification card;

3. Display a registry identification number for the certified patient or designated caregiver, as the case may be, and a registry identification number;

4. Display a photograph of the individual to whom the registry identification card is being issued, which shall be obtained by the State Department of Health in a manner specified by administrative rules promulgated by the State Board of Health; provided, if the State Department of Health requires certified patients to submit photographs for this purpose, there shall be a reasonable accommodation of certified patients who are confined to their homes due to their medical conditions and may therefore have difficulty procuring photographs;

5. Be a secure document as determined by the State Department of Health;

6. Plainly state any recommendation or limitation by the practitioner as to the form or forms of medical marijuana or dosage for the certified patient; and

7. State any other requirements determined by the Commissioner of Health with approval of the State Board of Health.

J. A certified patient or designated caregiver who has been issued a registry identification card shall notify the State Department of Health of any change in his or her name or address or, with respect to the patient, if he or she ceases to have the serious condition noted on the certification within ten (10) days of such change. The certified patient's or designated caregiver's registry identification card shall be deemed invalid and shall be returned promptly to the State Department of Health. Failure to return the registry identification card shall be subject to a fine as set forth in administrative rules pursuant to this section.

K. If a certified patient or designated caregiver loses his or her registry identification card, he or she shall notify the State Department of Health and submit a fee of Twenty-five Dollars ($25.00) within ten (10) business days of losing the card to maintain the registration. The State Department of Health may establish higher fees for issuing a new registry identification card for second and subsequent replacements for a lost card; provided, the State Department of Health may waive or reduce the fee in cases of financial hardship. The State Department of Health shall issue a new registry identification card as soon as practicable, which may contain a new registry identification number, to the certified patient or designated caregiver. The certified patient or

designated caregiver shall not be able to obtain medical marijuana until the certified patient receives a new card.

L. The State Department of Health shall maintain a confidential list of the persons to whom it has issued registry identification cards. Individual identifying information obtained by the State Department of Health pursuant to this act shall be confidential and exempt from disclosure pursuant to the Oklahoma Open Records Act. Notwithstanding this subsection, the State Department of Health may notify any appropriate law enforcement agency of information relating to any violation or suspected violation of this act.

M. The State Department of Health shall verify to law enforcement personnel in an appropriate case whether a registry identification card is valid.

N. If a certified patient or designated caregiver willfully violates any provision of this act, his or her registry identification card may be suspended or revoked. This is in addition to any other penalty that may apply.

O. The State Board of Health shall promulgate administrative rules to carry out the provisions of this section.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-2805 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. A registered organization shall be a for-profit business entity or not-for-profit corporation organized for the purpose of

acquiring, possessing, manufacturing, selling, delivering, transporting, distributing or dispensing marijuana for certified medical use. Each registered organization shall employ a pharmacist who is licensed by and in good standing with the State Board of Pharmacy. Such licensed pharmacist shall be on the premises during regular business hours of the registered organization and shall provide direct supervision of activities within the facility, including supervision of employees who handle or dispense medical marijuana.

B. The acquiring, possession, manufacture, sale, delivery, transporting, distributing or dispensing of marijuana by a registered organization pursuant to this act in accordance with all registration requirements set forth in Section 7 of this act or a renewal thereof shall be lawful pursuant to this act.

C. Each registered organization shall contract with an independent laboratory to test the medical marijuana produced by the registered organization. The Commissioner of Health shall approve the laboratory and require that the laboratory report testing results in a manner determined by the Commissioner of Health.

D. 1. A registered organization may lawfully and in good faith sell, deliver, distribute or dispense medical marijuana to a certified patient or designated caregiver upon presentation to the registered organization of a valid registry identification card for that certified patient or designated caregiver, and one other form

of a valid state-issued identification; provided, a registered organization that grows, manufactures or processes marijuana may not also sell, deliver, distribute or dispense medical marijuana. When presented with the registry identification card, the registered organization shall provide to the certified patient or designated caregiver a receipt which shall state the name, address and registry identification number of the registered organization, the name and registry identification number of the certified patient and the name of the designated caregiver if applicable, the date the marijuana was sold, any recommendation or limitation by the practitioner as to the form or forms of medical marijuana or dosage for the certified patient and the form and the quantity of medical marijuana sold. The registered organization shall retain a copy of the registry identification card and the receipt for six (6) years.

2. The proprietor of a registered organization shall file or cause to be filed any receipt and certification information with the central repository set forth in the Anti-Drug Diversion Act by electronic means on a real-time basis. When filing receipt and certification information electronically pursuant to this paragraph, the proprietor of the registered organization shall dispose of any electronically-recorded prescription information in such manner as the State Board of Health shall require by rule.

3. A registered organization shall complete a training program as prescribed by the State Board of Health by rule, to assist

registered organizations and their employees, partners and stakeholders with the knowledge and skills to help them serve or sell medical marijuana responsibly and fulfill the legal requirements of medical marijuana service.

E. 1. No registered organization may sell, deliver, distribute or dispense to any certified patient or designated caregiver a quantity of medical marijuana larger than that individual would be allowed to possess pursuant to this act.

2. In dispensing medical marijuana to a certified patient or designated caregiver, the registered organization shall not dispense an amount greater than a thirty (30) calendar day supply to a certified patient until the certified patient has exhausted all but a seven (7) day supply provided pursuant to a previously issued certification, and shall verify the information required by this paragraph by checking the central repository pursuant to the requirements set forth in this act and as required by the Anti-Drug Diversion Act.

3. Medical marijuana dispensed to a certified patient or designated caregiver by a registered organization shall conform to any recommendation or limitation by the practitioner as to the form or forms of medical marijuana or dosage for the certified patient.

F. When a registered organization sells, delivers, distributes or dispenses medical marijuana to a certified patient or designated caregiver, the registered organization shall provide to that

individual a safety insert, which shall be developed and approved by the Commissioner of Health and shall include, but not be limited to, information regarding:

1. Methods for administering medical marijuana in individual doses;

2. Any potential dangers stemming from the use of medical marijuana;

3. How to recognize what may be problematic usage of medical marijuana and obtain appropriate services or treatment for problematic usage; and

4. Other information as determined by the Commissioner of Health.

G. Registered organizations shall not be managed by or employ anyone who has been convicted of any felony within the ten (10) years prior to employment for the sale or possession of drugs, narcotics or controlled dangerous substances; provided, no person who has been convicted of trafficking in illegal drugs pursuant to Section 2-415 of Title 63 of the Oklahoma Statutes shall be employed by or manage a registered organization, regardless of whether that person comes into contact or handles marijuana and regardless of the amount of time that has lapsed between conviction and employment. This subsection shall only apply to managers or employees who come into contact with or handle medical marijuana.

H. Manufacturing of medical marijuana by a registered organization shall only be done in an indoor, enclosed, secure facility located in the State of Oklahoma, which may include a greenhouse. The State Board of Health shall promulgate rules establishing requirements for such facilities.

I. Dispensing of medical marijuana by a registered organization shall only be done in an indoor, enclosed, secure facility located in the state of Oklahoma, which may include a greenhouse. The State Board of Health shall promulgate administrative rules establishing requirements for such facilities.

J. A registered organization shall determine the quality, safety and strength of medical marijuana manufactured or dispensed by the registered organization, and shall provide documentation of that quality, safety and clinical strength to the State Department of Health on a quarterly basis, or upon request by the Department, and to any person or entity to which the medical marijuana is sold or dispensed.

K. A registered organization shall not both grow, manufacture or process marijuana and dispense medical marijuana products.

L. Medical cannabis containers must be:

1. Plain;

2. Designed to maximize the shelf life of contained medical cannabis;

3. Tamper-evident; and

4. Child-resistant.

M. 1. Medical cannabis packaging shall not bear a reasonable resemblance to any commercially available product.

2. Medical cannabis packaging shall be packaged to minimize its appeal to children and shall not depict images other than the medical cannabis manufacturer's business name logo.

3. The medical cannabis manufacturer's medical cannabis trade names are subject to approval by the Commissioner of Health and shall comply with the following standards:

a. names are limited to those which clearly reflect the product's medical cannabis nature,

b. any name that is identical to, or confusingly similar to, the name of an existing noncannabis product is prohibited,

c. any name that is identical to, or confusingly similar to, the name of an unlawful product or substance is prohibited, and

d. any name that contains language that suggests using medical cannabis for recreational purposes or for a condition other than a qualifying medical condition is prohibited.

N. A registered organization must ensure that all medical cannabis that is distributed is labeled with the following information:

1. The patient's registry identification number, name and date of birth;

2. The name and date of birth of the designated registered caregiver, if applicable;

3. The name of the patient's parent or legal guardian, if listed on the registry verification, if applicable;

4. The patient's address;

5. The name and address of the medical cannabis manufacturer where the medical cannabis was manufactured;

6. The medical cannabis's chemical composition;

7. The recommended dosage;

8. Directions for use of the product;

9. All ingredients of the product shown with common or usual names, including any colors, artificial flavors and preservatives; listed in descending order by predominance of weight;

10. The date of manufacture and batch number;

11. A notice with the statement, including capitalization, which states: "This medical cannabis is for therapeutic use only. Diversion of this product is unlawful and may result in the revocation of the patient's registration. This product has not been analyzed or approved by the United States Food and Drug Administration. There is limited information on the side effects of using this product, and there may be associated health risks. Do not drive or operate heavy machinery while under the influence of

this product. Women should not consume during pregnancy or while breastfeeding except on the advice of the certifying health care practitioner, and in the case of breastfeeding mothers, including the infant's pediatrician. This product may impair the ability to drive. Keep out of reach of children.";

12. The information required to be included in the receipt provided to the certified patient or designated caregiver by the registered organization;

13. The packaging date;

14. Any applicable date by which the medical marijuana should be used;

15. The amount of individual doses contained within; and

16. A warning that the medical marijuana must be kept in the original container in which it was dispensed.

Labeling text shall not include any false or misleading statements regarding health or physical benefits to the patient. A package may contain multiple labels if the information required by this part is not obstructed.

O. 1. The state of Oklahoma limits each retail licensed premises to a maximum of two (2) separate signs identifying the retail outlet by the licensee's business name or trade name. Both signs shall be affixed to the building or permanent structure and each sign shall be limited to sixteen hundred (1,600) square inches.

2. All marijuana advertising and labels of usable marijuana, marijuana concentrates and marijuana-infused products sold in this state shall not contain any statement or illustration that:

a. is false or misleading,

b. promotes overconsumption,

c. represents that the use of marijuana has curative or therapeutic effects, or

d. depicts a child or other person under legal age to consume marijuana, or includes:

(1) objects such as toys, cartoon or other characters suggesting 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 consume marijuana, or

(2) any manner or design that would be especially appealing to children or other persons under twenty-one (21) years of age.

3. No licensed marijuana producer, processor or retailer shall place or maintain, or cause to be placed or maintained, an advertisement of marijuana, marijuana concentrates, usable marijuana or a marijuana-infused product in any form or through any medium whatsoever:

a. within one thousand (1,000) feet of the perimeter of a school grounds, playground, recreation center or

facility, child care center, public park, library or a game arcade admission to which is not restricted to persons aged twenty-one (21) or older,

b. on or in a public transit vehicle or public transit shelter, or

c. on or in a publicly owned or operated property.

Promotional items such as giveaways, coupons and distribution of branded or unbranded merchandise are banned. Registered organizations shall not advertise "free" or "donated" product.

4. All advertising must contain the following warnings:

a. "This product has intoxicating effects and may be habit forming.",

b. "Marijuana can impair concentration, coordination and judgment. Do not operate a vehicle or machinery while under the influence of this drug.",

c. "There may be health risks associated with consumption of this product.", and

d. "For use only by adults twenty-one (21) years and older. Keep out of the reach of children.".

P. The State Board of Health shall promulgate rules as necessary to carry out the provisions of this section.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-2806 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. 1. An applicant for registration as a registered organization pursuant to Section 6 and this section of this act shall include such information prepared in such manner and detail as the State Board of Health may require, including but not limited to:

a. a description of the activities in which it intends to engage as a registered organization,

b. that the applicant:

(1) is of good moral character,

(2) possesses or has the right to use sufficient land, buildings and other premises which shall be specified in the application and equipment to properly and safely carry on the activity described in the application, or in the alternative, posts a bond of not less than Two Million Dollars ($2,000,000.00),

(3) is able to maintain effective security and control to prevent diversion, abuse and other illegal conduct relating to the marijuana,

(4) is able to comply with all applicable state laws and regulations relating to the activities in which it intends to engage pursuant to the registration,

(5) has been a resident of the State of Oklahoma for at least five consecutive (5) years, and

(6) has not, in addition to his or her partner or spouse, been convicted of a felony in the previous ten (10) years; provided, any applicant who has been convicted of trafficking in illegal drugs pursuant to Section 2-415 of Title 63 of the Oklahoma Statutes shall not be eligible to own any interest in a registered organization,

c. the applicant's status pursuant to Section 5 of this act, and

d. the name, residence address and title of each of the officers and directors and the name and residence address of any person or entity that is a member of the organization. Each person, if an individual, or lawful representative if a legal entity, shall submit an affidavit with the application stating:

(1) any position of management or ownership during the preceding ten (10) years of a ten percent (10%) or greater interest in any other business, located in or outside this state, manufacturing or distributing controlled dangerous substances,

(2) whether such person or any such business has been convicted of a felony or had a registration or license suspended or revoked in any administrative or judicial proceeding, and

(3) such other information as the State Board of Health may reasonably require.

2. No person may own any interest in more than two (2) registered organizations. For the purpose of establishing whether or not a person owns an interest in more than one registered organization, any person having a beneficial interest in any registered organization shall be deemed to be a partner in the registered organization except that the spouse of any person who owns an interest in a registered organization shall not be deemed to be a partner or have a beneficial interest in a registered organization unless his or her name appears on the license. A beneficial interest shall be any interest that benefits from any sales or profits of the registered organization.

B. Subject to administrative penalties, the applicant shall be under a continuing duty to report to the State Department of Health any change in facts or circumstances reflected in the application or any newly discovered or occurring fact or circumstance which is required to be included in the application.

C. 1. The State Board of Health shall grant a registration or amendment to a registration pursuant to this section if it is satisfied that:

a. the applicant will be able to maintain effective control against diversion of marijuana,

b. the applicant will be able to comply with all applicable state laws,

c. the applicant and its officers are ready, willing and able to properly carry on the manufacturing or distributing activity for which a registration is sought,

d. the applicant possesses or has the right to use sufficient land, buildings and equipment to properly carry on the activity described in the application,

e. it is in the public interest that such registration be granted. The Commissioner of Health may consider whether the number of registered organizations in an area will be adequate or excessive to reasonably serve the area,

f. the applicant and its managing officers are of good moral character, and

g. the applicant satisfies any other conditions as determined by the State Board of Health.

2. If the State Board of Health is not satisfied that the applicant should be issued a registration, he or she shall notify the applicant in writing of those factors upon which further evidence is required. Within thirty (30) calendar days of the receipt of such notification, the applicant may submit additional material to the State Board of Health or demand a hearing, or both.

3. The fee for a registration pursuant to this section shall be a reasonable amount determined by the State Department of Health as set forth by administrative rule; provided, if the registration is issued for a period greater than two (2) years, the fee shall be increased, pro rata, for each additional month of validity.

4. Registrations issued pursuant to this section shall be effective only for the registered organization and shall specify:

a. the name and address of the registered organization,

b. which activities of a registered organization are permitted by the registration,

c. the land, buildings and facilities that may be used for the permitted activities of the registered organization, and

d. other information as the Commissioner of Health shall reasonably provide to assure compliance with this act.

5. Upon application of a registered organization, a registration may be amended to allow the registered organization to relocate within the State of Oklahoma or to add or delete permitted registered organization activities or facilities. The fee for such amendment shall be Two Hundred Fifty Dollars ($250.00) and subject to approval by the State Board of Health.

6. A registration issued pursuant to this section shall be valid for two (2) years from the date of issue, except that in order to facilitate the renewals of such registrations, the State Board of

Health may, upon the initial application for a registration, issue some registrations which may remain valid for a period of time greater than two (2) years, but not exceeding an additional eleven (11) months.

D. 1. An application for the renewal of any registration issued pursuant to this section shall be filed with the State Department of Health not more than six (6) months or less than four (4) months prior to the expiration thereof. A late-filed application for the renewal of a registration may, in the discretion of the State Board of Health, be treated as an application for an initial license.

2. The application for renewal shall include such information prepared in the manner and detail as the State Department of Health may require, including but not limited to:

a. any material change in the circumstances or factors listed in subsection A of this section, and

b. every known charge or investigation, pending or concluded during the period of the registration, by any governmental or administrative agency with respect to:

(1) each incident or alleged incident involving the theft, loss or possible diversion of marijuana manufactured or distributed by the applicant, and

(2) compliance by the applicant with the laws of this state with respect to any substance listed in the Uniform Controlled Dangerous Substances Act.

3. An applicant for renewal shall be under a continuing duty to report to the Department any change in facts or circumstances reflected in the application or any newly discovered or occurring fact or circumstance which is required to be included in the application.

4. If the State Board of Health is not satisfied that the applicant is entitled to a renewal of the registration, he or she shall, within a reasonably practicable time as set forth in administrative rule, serve upon the applicant or his or her attorney of record in person or by registered or certified mail, an order directing the applicant to show cause why his or her application for renewal should not be denied. The order shall specify in detail the respects in which the applicant has not satisfied the requirements of this section.

5. Within a reasonably practicable time, the applicant may submit additional material to the State Board of Health or demand a hearing, or both. If a hearing is demanded, the State Department of Health shall fix a date as soon as reasonably practicable. Such hearings shall be conducted in accordance with the Administrative Procedures Act of the Oklahoma Statutes.

E. 1. The State Board of Health shall renew a registration unless the Board determines that:

a. the applicant is unlikely to maintain or be able to maintain effective control against diversion,

b. the applicant is unlikely to comply with all state laws applicable to the activities in which it may engage pursuant to the registration, or

c. it is not in the public interest to renew the registration because the number of registered organizations in an area is excessive to reasonably serve the area.

2. For purposes of this section, proof that a registered organization, during the period of its registration, has failed to maintain effective control against diversion, violates any provision of this act or has knowingly or negligently failed to comply with applicable state laws relating to the activities in which it engages pursuant to the registration, shall constitute grounds for immediate suspension or termination of the registered organization's registration as determined by the State Board of Health. The registered organization shall also be under a continuing duty to report to the State Department of Health any material change or fact or circumstance to the information provided in the registered organization's application.

F. The State Board of Health may suspend or terminate the registration of a registered organization for failing to comply with the provisions of this act.

G. The State Board of Health shall begin issuing registrations for registered organizations as soon as practicable after the certifications required by Section 7 and this section of this act are given.

H. The State Board of Health shall approve no more than five (5) registered organizations that manufacture medical marijuana with no more than four (4) dispensing sites wholly owned and operated by such registered organization. The State Board of Health shall ensure that such registered organizations and dispensing sites are geographically distributed across this state. The State Board of Health may register additional registered organizations as it deems in the public interest.

I. The State Board of Health shall not approve an application of a registered organization if the proposed entity is within one thousand (1,000) feet of the perimeter of the grounds of any of the following entities:

1. Elementary or secondary school;

2. Playground;

3. Recreation center or facility;

4. Child care center;

5. Public Park;

6. Public transit center;

7. Library; or

8. Any game arcade where admission is not restricted to persons age twenty-one (21) or older.

J. Municipalities and counties are hereby authorized to create a new zoning classification to regulate the location of registered organizations. Such zoning classification may include but not be limited to reasonable parking, access regulations and other such zoning regulations as the local authorities may deem necessary for local control and public welfare.

K. 1. The State Board of Health shall send a notice to cities and counties, and may send a notice to tribal governments or port authorities regarding the registered organization application. The local authority has twenty (20) business days to respond with a recommendation to approve or an objection to the applicant, location or both.

2. Applicants for a new registered organization license and those who apply to change their location must display a sign provided by the State Department of Health on the outside of the premises to be licensed notifying the public that the premises is subject to an application to become a registered organization. Posting notices must occur within seven (7) business days of submitting the location confirmation form for new licenses or the change of location application for existing licensees. The State

Department of Health may check for compliance with this requirement at its discretion. The sign shall:

a. not be altered. The licensee must post the sign sent by the State Department of Health without changing, adding or subtracting from the text,

b. be conspicuously displayed on, or immediately adjacent to, the premises subject to the application and in the location that is most likely to be seen by the public,

c. be of a size sufficient to ensure that it will be readily seen by the public. At a minimum, the sign shall be eight and one-half by eleven (8 1/2 x 11) inches, and

d. be posted within seven (7) business days of the date the notice is sent to the applicant by the State Department of Health. In addition, the notice must be posted for fourteen (14) consecutive calendar days.

3. The State Department of Health shall use a priority system to determine the order that marijuana retailers are licensed.

L. 1. All applicants and employees working in each registered organization must be at least twenty-one (21) years of age. No one under twenty-one (21) years of age is allowed to enter or remain on the premises.

2. "Minors restricted" signs must be posted at all retail establishments.

3. The State Board of Health shall not approve any application to become a registered organization for a location where law enforcement access, without notice or cause, is limited. This includes a personal residence.

4. The State Board of Health shall not approve any application to become a registered organization for a location within another business.

5. Every registered organization shall post and keep posted its permit to operate a medical marijuana retail establishment, and any additional correspondence containing conditions and restrictions imposed by this state in a conspicuous place on the premises.

6. Registered organizations and retail establishments shall not allow the consumption of marijuana or marijuana-infused products on the premises.

7. No retail establishment shall sell marijuana or marijuana-infused products outside the hours of 8:00 a.m. and 7:00 p.m.

8. No retail establishment shall offer free samples or products.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-2807 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. The State Board of Health shall promulgate rules requiring each registered organization to file reports regarding the activities of the registered organization during a particular

period. The State Board of Health shall determine the information to be reported and the forms, time and manner of the reporting.

B. The State Board of Health shall promulgate rules requiring each registered organization to adopt and maintain security, tracking, recordkeeping, record retention and surveillance systems, relating to all medical marijuana at every stage of acquiring, possession, manufacture, sale, delivery, transporting, distributing, or dispensing by the registered organization, subject to regulations of the Commissioner of Health.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-2808 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. The State Department of Health may provide for the analysis and evaluation of the operation of this act. The Commissioner of Health may authorize the State Department of Health to enter into agreements with one or more persons, not-for-profit corporations or other organizations, for the performance of an evaluation of the implementation and effectiveness of this act.

B. The State Department of Health may develop, seek any necessary federal approval for and carry out research programs relating to medical use of marijuana. Participation in any such research program shall be voluntary on the part of practitioners, patients and designated caregivers.

C. The State Department of Health shall report every two (2) years, beginning two (2) years after the effective date of this act, to the Governor, the President Pro Tempore of the Senate, and the Speaker of the Oklahoma House of Representatives on the medical use of marijuana pursuant to this act and make appropriate recommendations.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-2809 of Title 63, unless there is created a duplication in numbering, reads as follows:

Nothing in this act shall be construed to require an insurer or health plan to provide coverage for medical marijuana.

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-2810 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. Certified patients, designated caregivers, practitioners, registered organizations and the employees of registered organizations shall not be subject to arrest, prosecution or penalty in any manner or denied any right or privilege, including but not limited to civil penalty or disciplinary action by a business or occupational or professional licensing board or bureau, solely for the certified medical use or manufacture of marijuana or for any other action or conduct in accordance with this act.

B. Being a certified patient shall be deemed to be having a disability as described in Sections 1101 through 1706 of Title 25 of

the Oklahoma Statutes; provided, this subsection shall not bar the enforcement of a policy prohibiting an employee from performing his or her employment duties while impaired by a controlled dangerous substance. This section shall not require any person or entity to do any act that would put the person or entity in violation of federal law or cause it to lose a federal contract or funding.

C. The fact that a person is a certified patient or is acting in accordance with this act shall not be a consideration in a proceeding pursuant to divorce, custody, foster or adoption proceeding; provided, any evidence of risk of harm to the child as a result of impairment of the biological parent, current or prospective foster parent or current or prospective adoptive parent as a result of the use of marijuana or risk as a result of the child or children being exposed to marijuana products or consumption shall be admissible in such proceeding.

D. 1. Certification applications, certification forms, any certified patient information contained within a database and copies of registry identification cards shall be deemed exempt from public disclosure pursuant to the Oklahoma Open Records Act.

2. Registry identification cards or registered organization registrations shall be issued or become effective no later than eighteen (18) months from the signing of this act or until such time as the Commissioner of Health and the Commissioner of Public Safety

certify that this act can be implemented in accordance with public health and safety interests, whichever event comes later.

3. Based upon the recommendation of the Commissioner of Health and/or the Commissioner of Public Safety that there is a risk to the public health or safety, the Governor may issue an executive order immediately terminating all licenses issued to registered organizations.

E. 1. Every sale of medical marijuana shall be at the price determined by the State Board of Health. Every charge made or demanded for medical marijuana not in accordance with the price determined by the State Board of Health, is prohibited.

2. The State Board of Health is hereby authorized to set the per dose price of each form of medical marijuana sold by any registered organization. In setting the per dose price of each form of medical marijuana, the State Board of Health shall consider the fixed and variable costs of producing the form of marijuana and any other factor the Commissioner of Health, in his or her discretion, deems relevant to determining the per dose price of each form of medical marijuana.

F. The State Board of Health shall promulgate rules to carry out the provisions of this section.

SECTION 12. AMENDATORY 63 O.S. 2011, Section 2-309D, as last amended by Section 35, Chapter 210, O.S.L. 2016 (63 O.S. Supp. 2017, Section 2-309D), is amended to read as follows:

Section 2-309D. A. The information collected at the central repository pursuant to the Anti-Drug Diversion Act shall be confidential and shall not be open to the public. Access to the information shall be limited to:

1. Peace officers certified pursuant to Section 3311 of Title 70 of the Oklahoma Statutes who are employed as investigative agents of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control;

2. The United States Drug Enforcement Administration Diversion Group Supervisor;

3. The executive director or chief investigator, as designated by each board, of the following state boards:

a. Board of Podiatric Medical Examiners,

b. Board of Dentistry,

c. State Board of Pharmacy,

d. State Board of Medical Licensure and Supervision,

e. State Board of Osteopathic Examiners,

f. State Board of Veterinary Medical Examiners,

g. Oklahoma Health Care Authority,

h. Department of Mental Health and Substance Abuse Services,

i. Board of Examiners in Optometry,

j. Board of Nursing,

k. Office of the Chief Medical Examiner, and

1. State Board of Health;

4. A multicounty grand jury properly convened pursuant to the Multicounty Grand Jury Act;

5. Medical practitioners employed by the United States Department of Veterans Affairs, the United States Military, or other federal agencies treating patients in this state; and

6. At the discretion of the Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, medical practitioners and their staff, including those employed by the federal government in this state.

B. This section shall not prevent access, at the discretion of the Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, to investigative information by peace officers and investigative agents of federal, state, county or municipal law enforcement agencies, district attorneys and the Attorney General in furtherance of criminal, civil or administrative investigations or prosecutions within their respective jurisdictions, designated legal, communications, and analytical employees of the Bureau, and to registrants in furtherance of efforts to guard against the diversion of controlled dangerous substances.

C. This section shall not prevent the disclosure, at the discretion of the Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, of statistical information gathered from the central repository to the general public which shall be

limited to types and quantities of controlled substances dispensed and the county where dispensed.

D. This section shall not prevent the disclosure, at the discretion of the Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, of prescription-monitoring-program information to prescription-monitoring programs of other states provided a reciprocal data-sharing agreement is in place.

E. The Department of Mental Health and Substance Abuse Services and the State Department of Health may utilize the information in the central repository for statistical, research, substance abuse prevention, or educational purposes, provided that consumer confidentiality is not compromised.

F. Any unauthorized disclosure of any information collected at the central repository provided by the Anti-Drug Diversion Act shall be a misdemeanor. Violation of the provisions of this section shall be deemed willful neglect of duty and shall be grounds for removal from office.

G. 1. Registrants shall have access to the central repository for the purposes of patient treatment and for determination in prescribing or screening new patients. The patient's history may be disclosed to the patient for the purposes of treatment of information at the discretion of the physician.

2. a. Prior to prescribing or authorizing for refill, if one hundred eighty (180) days have elapsed prior to the

previous access and check, of opiates, synthetic opiates, semisynthetic opiates, benzodiazepine ~~or~~, carisoprodol, or medical marijuana when the patient holds a valid medical marijuana certification, to a patient of record, registrants or members of their medical or administrative staff shall be required until October 31, 2020, to access the information in the central repository to assess medical necessity and the possibility that the patient may be unlawfully obtaining prescription drugs in violation of the Uniform Controlled Dangerous Substances Act. The duty to access and check shall not alter or otherwise amend appropriate medical standards of care. The registrant or medical provider shall note in the patient file that the central repository has been checked and may maintain a copy of the information.

b. The requirements set forth in subparagraph a of this paragraph shall not apply:

(1) to medical practitioners who prescribe the controlled substances set forth in subparagraph a of this paragraph for hospice or end-of-life care, or

(2) for a prescription of a controlled substance set forth in subparagraph a of this paragraph that is

issued by a practitioner for a patient residing in a nursing facility as defined by Section 1-1902 of this title, provided that the prescription is issued to a resident of such facility.

3. Registrants shall not be liable to any person for any claim of damages as a result of accessing or failing to access the information in the central repository and no lawsuit may be predicated thereon.

H. The State Board of Podiatric Examiners, the State Board of Dentistry, the State Board of Medical Licensure and Supervision, the State Board of Examiners in Optometry, the State Board of Nursing, the State Board of Osteopathic Examiners and the State Board of Veterinary Medical Examiners shall have the sole responsibility for enforcement of the provisions of subsection G of this section. Nothing in this section shall be construed so as to permit the Director of the State Bureau of Narcotics and Dangerous Drugs Control to assess administrative fines provided for in Section 2-304 of this title.

I. The Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, or a designee thereof, shall provide a monthly list to the Directors of the State Board of Podiatric Examiners, the State Board of Dentistry, the State Board of Medical Licensure and Supervision, the State Board of Examiners in

Optometry, the State Board of Nursing, the State Board of Osteopathic Examiners and the State Board of Veterinary Medical Examiners of the top twenty prescribers of controlled dangerous substances within their respective areas of jurisdiction. Upon discovering that a registrant is prescribing outside the limitations of his or her licensure or outside of drug registration rules or applicable state laws, the respective licensing board shall be notified by the Bureau in writing. Such notifications may be considered complaints for the purpose of investigations or other actions by the respective licensing board. Licensing boards shall have exclusive jurisdiction to take action against a licensee for a violation of subsection G of this section.

J. Information regarding fatal and nonfatal overdoses, other than statistical information as required by Section 2-106 of this title, shall be completely confidential. Access to this information shall be strictly limited to the Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control or designee, the Chief Medical Examiner, state agencies and boards provided in subsection A of this section, and the registrant that enters the information. Registrants shall not be liable to any person for a claim of damages for information reported pursuant to the provisions of Section 2-105 of this title.

K. The Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control shall provide adequate means and procedures

allowing access to central repository information for registrants lacking direct computer access.

L. Upon completion of an investigation in which it is determined that a death was caused by an overdose, either intentionally or unintentionally, of a controlled dangerous substance, the medical examiner shall be required to report the decedent's name and date of birth to the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control. The Oklahoma State Bureau of Narcotics and Dangerous Drugs Control shall be required to maintain a database containing the classification of medical practitioners who prescribed or authorized controlled dangerous substances pursuant to this subsection.

M. An individual employed by a registered organization as defined in this act may access the central repository for the purpose of entering into the central depository information related to the sale to an individual for whom one or more certifications for marijuana is presented to that registered organization, as required by this act.

SECTION 13. This act shall only become effective upon certification of election returns favoring passage of State Question No. 788.

SECTION 14. This act shall become effective November 1, 2018.

COMMITTEE REPORT BY: COMMITTEE ON HEALTH AND HUMAN SERVICES
February 26, 2018 - DO PASS AS AMENDED