

STATE OF OKLAHOMA

2nd Session of the 57th Legislature (2020)

SENATE BILL 1948

By: Daniels of the Senate

and

Kannady of the House

AS INTRODUCED

An Act relating to multiple versions of statutes; amending, merging, consolidating and repealing multiple versions of statutes; amending 10A O.S. 2011, Section 1-1-105, as last amended by Section 1, Chapter 250, O.S.L. 2019 (10A O.S. Supp. 2019, Section 1-1-105); repealing 10A O.S. 2011, Section 1-1-105, as last amended by Section 1, Chapter 297, O.S.L. 2019 (10A O.S. Supp. 2019, Section 1-1-105); repealing 21 O.S. 2011, Section 1277, as last amended by Section 2, Chapter 1, O.S.L. 2019 (21 O.S. Supp. 2019, Section 1277); amending 22 O.S. 2011, Section 991c, as last amended by Section 2, Chapter 453, O.S.L. 2019 (22 O.S. Supp. 2019, Section 991c); repealing 22 O.S. 2011, Section 991c, as last amended by Section 4, Chapter 459, O.S.L. 2019 (22 O.S. Supp. 2019, Section 991c); amending Section 3, Chapter 366, O.S.L. 2016, as last amended by Section 1, Chapter 322, O.S.L. 2019 (37A O.S. Supp. 2019, Section 1-103); repealing 37A O.S. 2011, Section 1-103, as last amended by Section 20, Chapter 25, O.S.L. 2019 (37A O.S. Supp. 2019, Section 1-103); repealing 37A O.S. 2011, Section 1-103, as last amended by Section 1, Chapter 353, O.S.L. 2019 (37A O.S. Supp. 2019, Section 1-103); amending Section 13, Chapter 366, O.S.L. 2016, as last amended by Section 2, Chapter 185, O.S.L. 2019 (37A O.S. Supp. 2019, Section 2-101); repealing Section 13, Chapter 366, O.S.L. 2016, as last amended by Section 2, Chapter 420, O.S.L. 2019 (37A O.S. Supp. 2019, Section 2-101); amending Section 30, Chapter 366, O.S.L. 2016, as amended by Section 1, Chapter 307, O.S.L. 2019 (37A O.S. Supp.

2019, Section 2-118); repealing Section 30, Chapter 366, O.S.L. 2016, as amended by Section 2, Chapter 102, O.S.L. 2019 (37A O.S. Supp. 2019, Section 2-118); repealing Section 31, Chapter 366, O.S.L. 2016, as amended by Section 2, Chapter 307, O.S.L. 2019 (37A O.S. Supp. 2019, Section 2-119); amending Section 32, Chapter 366, O.S.L. 2016, as amended by Section 6, Chapter 322, O.S.L. 2019 (37A O.S. Supp. 2019, Section 2-120); repealing Section 32, Chapter 366, O.S.L. 2016, as amended by Section 1, Chapter 189, O.S.L. 2019 (37A O.S. Supp. 2019, Section 2-120); amending Section 33, Chapter 366, O.S.L. 2016, as last amended by Section 2, Chapter 189, O.S.L. 2019 (37A O.S. Supp. 2019, Section 2-121); repealing Section 33, Chapter 366, O.S.L. 2016, as last amended by Section 1, Chapter 225, O.S.L. 2019 (37A O.S. Supp. 2019, Section 2-121); amending Section 60, Chapter 366, O.S.L. 2016, as last amended by Section 10, Chapter 322, O.S.L. 2019 (37A O.S. Supp. 2019, Section 2-148); repealing Section 60, Chapter 366, O.S.L. 2016, as last amended by Section 1, Chapter 340, O.S.L. 2019 (37A O.S. Supp. 2019, Section 2-148); amending Section 142, Chapter 366, O.S.L. 2016, as amended by Section 1, Chapter 421, O.S.L. 2019 (37A O.S. Supp. 2019, Section 6-102); repealing Section 142, Chapter 366, O.S.L. 2016, as amended by Section 1, Chapter 291, O.S.L. 2019 (37A O.S. Supp. 2019, Section 6-102); amending Section 148, Chapter 366, O.S.L. 2016, as last amended by Section 1, Chapter 306, O.S.L. 2019 (37A O.S. Supp. 2019, Section 6-108); repealing Section 148, Chapter 366, O.S.L. 2016, as last amended by Section 4, Chapter 431, O.S.L. 2019 (37A O.S. Supp. 2019, Section 6-108); amending 47 O.S. 2011, Section 583, as last amended by Section 5, Chapter 79, O.S.L. 2019 (47 O.S. Supp. 2019, Section 583); repealing 47 O.S. 2011, Section 583, as last amended by Section 1, Chapter 221, O.S.L. 2019 (47 O.S. Supp. 2019, Section 583); amending 47 O.S. 2011, Section 11-314, as last amended by Section 1, Chapter 391, O.S.L. 2019 (47 O.S. Supp. 2019, Section 11-314); repealing 47 O.S. 2011, Section 11-314, as last amended by Section 1, Chapter 372, O.S.L. 2019 (47 O.S. Supp. 2019, Section 11-314); amending 56 O.S. 2011, Section 2002, as last amended by Section 39, Chapter 475, O.S.L. 2019 (56 O.S. Supp. 2019, Section 2002); repealing 56 O.S. 2011, Section 2002, as last amended by Section 2,

Chapter 489, O.S.L. 2019 (56 O.S. Supp. 2019, Section 2002); amending 59 O.S. 2011, Section 148, as amended by Section 7, Chapter 363, O.S.L. 2019 (59 O.S. Supp. 2019, Section 148); repealing 59 O.S. 2011, Section 148, as amended by Section 2, Chapter 428, O.S.L. 2019 (59 O.S. Supp. 2019, Section 148); amending 59 O.S. 2011, Section 328.24, as last amended by Section 6, Chapter 397, O.S.L. 2019 (59 O.S. Supp. 2019, Section 328.24); repealing 59 O.S. 2011, Section 328.24, as last amended by Section 10, Chapter 363, O.S.L. 2019 (59 O.S. Supp. 2019, Section 328.24); amending 59 O.S. 2011, Section 328.32, as last amended by Section 7, Chapter 397, O.S.L. 2019 (59 O.S. Supp. 2019, Section 328.32); repealing 59 O.S. 2011, Section 328.32, as last amended by Section 3, Chapter 428, O.S.L. 2019 (59 O.S. Supp. 2019, Section 328.32); amending 59 O.S. 2011, Section 509, as last amended by Section 8, Chapter 492, O.S.L. 2019 (59 O.S. Supp. 2019, Section 509); repealing 59 O.S. 2011, Section 509, as last amended by Section 6, Chapter 428, O.S.L. 2019 (59 O.S. Supp. 2019, Section 509); amending 59 O.S. 2011, Section 567.8, as last amended by Section 28, Chapter 363, O.S.L. 2019 (59 O.S. Supp. 2019, Section 567.8); repealing 59 O.S. 2011, Section 567.8, as last amended by Section 9, Chapter 428, O.S.L. 2019 (59 O.S. Supp. 2019, Section 567.8); amending 59 O.S. 2011, Section 585, as amended by Section 1, Chapter 427, O.S.L. 2019 (59 O.S. Supp. 2019, Section 585); repealing 59 O.S. 2011, Section 585, as amended by Section 10, Chapter 428, O.S.L. 2019 (59 O.S. Supp. 2019, Section 585); amending 59 O.S. 2011, Section 637, as amended by Section 12, Chapter 428, O.S.L. 2019 (59 O.S. Supp. 2019, Section 637); repealing 59 O.S. 2011, Section 637, as amended by Section 31, Chapter 363, O.S.L. 2019 (59 O.S. Supp. 2019, Section 637); amending Section 5, Chapter 477, O.S.L. 2019 (63 O.S. Supp. 2019, Section 420); repealing Section 2, Chapter 509, O.S.L. 2019 (63 O.S. Supp. 2019, Section 420); amending Section 3, Chapter 509, O.S.L. 2019 (63 O.S. Supp. 2019, Section 425); repealing Section 2, Chapter 378, O.S.L. 2019, (63 O.S. Supp. 2019, Section 425); amending Section 2, Chapter 11, O.S.L. 2019, as last amended by Section 1, Chapter 390, O.S.L. 2019 (63 O.S. Supp. 2019, Section 427.2); repealing Section 2, Chapter 11, O.S.L. 2019, as last amended by Section 5, Chapter 337, O.S.L. 2019 (63

O.S. Supp. 2019, Section 427.2); repealing Section 7, Chapter 11, O.S.L. 2019, as amended by Section 8, Chapter 477, O.S.L. 2019 (63 O.S. Supp. 2019, Section 427.7); amending Section 14, Chapter 11, O.S.L. 2019, as amended by Section 6, Chapter 509, O.S.L. 2019 (63 O.S. Supp. 2019, Section 427.14); repealing Section 14, Chapter 11, O.S.L. 2019, as amended by Section 9, Chapter 477, O.S.L. 2019 (63 O.S. Supp. 2019, Section 427.14); amending 63 O.S. 2011, Section 1-324.1, as amended by Section 3, Chapter 305, O.S.L. 2019 (63 O.S. Supp. 2019, Section 1-324.1); repealing 63 O.S. 2011, Section 1-324.1, as amended by Section 2, Chapter 184, O.S.L. 2019 (63 O.S. Supp. 2019, Section 1-324.1); amending 63 O.S. 2011, Section 1-1925.2, as amended by Section 3, Chapter 489, O.S.L. 2019 (63 O.S. Supp. 2019, Section 1-1925.2); repealing 63 O.S. 2011, Section 1-1925.2, as amended by Section 3, Chapter 489, O.S.L. 2019 (63 O.S. Supp. 2019, Section 1-1925.2); amending 63 O.S. 2011, Section 2-302, as last amended by Section 36, Chapter 25, O.S.L. 2019 (63 O.S. Supp. 2019, Section 2-302); repealing 63 O.S. 2011, Section 2-302, as last amended by Section 17, Chapter 428, O.S.L. 2019 (63 O.S. Supp. 2019, Section 2-302); amending 63 O.S. 2011, Section 2-309D, as last amended by Section 18, Chapter 428, O.S.L. 2019 (63 O.S. Supp. 2019, Section 2-309D); repealing 63 O.S. 2011, Section 2-309D, as last amended by Section 38, Chapter 25, O.S.L. 2019 (63 O.S. Supp. 2019, Section 2-309D); amending 68 O.S. 2011, Section 1004, as last amended by Section 2, Chapter 168, O.S.L. 2019 (68 O.S. Supp. 2019, Section 1004); repealing 68 O.S. 2011, Section 1004, as last amended by Section 1, Chapter 266, O.S.L. 2019 (63 O.S. Supp. 2019, Section 1004); repealing 68 O.S. 2011, Section 2357.32A, as last amended by Section 1, Chapter 287, O.S.L. 2019 (68 O.S. Supp. 2019, Section 2357.32A); amending 70 O.S. 2011, Section 3-104.4, as last amended by Section 1, Chapter 488, O.S.L. 2019 (70 O.S. Supp. 2019, Section 3-104.4); repealing 70 O.S. 2011, Section 3-104.4, as last amended by Section 1, Chapter 373, O.S.L. 2019 (70 O.S. Supp. 2019, Section 3-104.4); amending 70 O.S. 2011, Section 3311.5, as last amended by Section 2, Chapter 339, O.S.L. 2019 (70 O.S. Supp. 2019, Section 3311.5); repealing 70 O.S. 2011, Section 3311.5, as last amended by Section 1, Chapter 334, O.S.L. 2019 (70 O.S. Supp. 2019, Section 3311.5); repealing

1 Section 2, Chapter 392, O.S.L. 2019 (72 O.S. Supp.
2 2019, Section 63.22); amending 74 O.S. 2011, Section
3 150.2, as last amended by Section 1, Chapter 371,
4 O.S.L. 2019 (74 O.S. Supp. 2019, Section 150.2);
5 repealing 74 O.S. 2011, Section 150.2, as last
6 amended by Section 1, Chapter 323, O.S.L. 2019 (74
7 O.S. Supp. 2019, Section 150.2); and declaring an
8 emergency.

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

10 SECTION 1. AMENDATORY 10A O.S. 2011, Section 1-1-105, as
11 last amended by Section 1, Chapter 250, O.S.L. 2019 (10A O.S. Supp.
12 2019, Section 1-1-105), is amended to read as follows:

13 Section 1-1-105. When used in the Oklahoma Children's Code,
14 unless the context otherwise requires:

15 1. "Abandonment" means:

- 16 a. the willful intent by words, actions, or omissions not
17 to return for a child, or
- 18 b. the failure to maintain a significant parental
19 relationship with a child through visitation or
20 communication in which incidental or token visits or
21 communication are not considered significant, or
- 22 c. the failure to respond to notice of deprived
23 proceedings;

24 2. "Abuse" means harm or threatened harm to the health, safety,
or welfare of a child by a person responsible for the child's
health, safety, or welfare, including but not limited to

1 nonaccidental physical or mental injury, sexual abuse, or sexual
2 exploitation. Provided, however, that nothing contained in the
3 Oklahoma Children's Code shall prohibit any parent from using
4 ordinary force as a means of discipline including, but not limited
5 to, spanking, switching, or paddling.

6 a. "Harm or threatened harm to the health or safety of a
7 child" means any real or threatened physical, mental,
8 or emotional injury or damage to the body or mind that
9 is not accidental including but not limited to sexual
10 abuse, sexual exploitation, neglect, or dependency.

11 b. "Sexual abuse" includes but is not limited to rape,
12 incest, and lewd or indecent acts or proposals made to
13 a child, as defined by law, by a person responsible
14 for the health, safety, or welfare of the child.

15 c. "Sexual exploitation" includes but is not limited to
16 allowing, permitting, encouraging, or forcing a child
17 to engage in prostitution, as defined by law, by any
18 person eighteen (18) years of age or older or by a
19 person responsible for the health, safety, or welfare
20 of a child, or allowing, permitting, encouraging, or
21 engaging in the lewd, obscene, or pornographic, as
22 defined by law, photographing, filming, or depicting
23 of a child in those acts by a person responsible for
24 the health, safety, and welfare of the child;

1 3. "Adjudication" means a finding by the court that the
2 allegations in a petition alleging that a child is deprived are
3 supported by a preponderance of the evidence;

4 4. "Adjudicatory hearing" means a hearing by the court as
5 provided by Section 1-4-601 of this title;

6 5. "Age-appropriate or developmentally appropriate" means:

- 7 a. activities or items that are generally accepted as
8 suitable for children of the same age or level of
9 maturity or that are determined to be developmentally
10 appropriate for a child, based on the development of
11 cognitive, emotional, physical, and behavioral
12 capacities that are typical for an age or age group,
13 and
14 b. in the case of a specific child, activities or items
15 that are suitable for that child based on the
16 developmental stages attained by the child with
17 respect to the cognitive, emotional, physical, and
18 behavioral capacities of the specific child.

19 In the event that any age-related activities have implications
20 relative to the academic curriculum of a child, nothing in this
21 paragraph shall be construed to authorize an officer or employee of
22 the federal government to mandate, direct, or control a state or
23 local educational agency, or the specific instructional content,
24

1 academic achievement standards and assessments, curriculum, or
2 program of instruction of a school;

3 6. "Assessment" means a comprehensive review of child safety
4 and evaluation of family functioning and protective capacities that
5 is conducted in response to a child abuse or neglect referral that
6 does not allege a serious and immediate safety threat to a child;

7 7. "Behavioral health" means mental health, substance abuse, or
8 co-occurring mental health and substance abuse diagnoses, and the
9 continuum of mental health, substance abuse, or co-occurring mental
10 health and substance abuse treatment;

11 8. "Child" means any unmarried person under eighteen (18) years
12 of age;

13 9. "Child advocacy center" means a center and the
14 multidisciplinary child abuse team of which it is a member that is
15 accredited by the National Children's Alliance or that is completing
16 a sixth year of reaccreditation. Child advocacy centers shall be
17 classified, based on the child population of a district attorney's
18 district, as follows:

- 19 a. nonurban centers in districts with child populations
20 that are less than sixty thousand (60,000), and
- 21 b. midlevel nonurban centers in districts with child
22 populations equal to or greater than sixty thousand
23 (60,000), but not including Oklahoma and Tulsa
24 counties;

1 10. "Child with a disability" means any child who has a
2 physical or mental impairment which substantially limits one or more
3 of the major life activities of the child, or who is regarded as
4 having such an impairment by a competent medical professional;

5 11. "Child-placing agency" means an agency that arranges for or
6 places a child in a foster family home, family-style residential
7 program, group home, adoptive home, or a successful adulthood
8 program;

9 12. "Children's emergency resource center" means a community-
10 based program that may provide emergency care and a safe and
11 structured homelike environment or a host home for children
12 providing food, clothing, shelter and hygiene products to each child
13 served; after-school tutoring; counseling services; life-skills
14 training; transition services; assessments; family reunification;
15 respite care; transportation to or from school, doctors'
16 appointments, visitations and other social, school, court or other
17 activities when necessary; and a stable environment for children in
18 crisis who are in custody of the Department of Human Services if
19 permitted under the Department's policies and regulations, or who
20 have been voluntarily placed by a parent or custodian during a
21 temporary crisis;

22 13. "Community-based services" or "community-based programs"
23 means services or programs which maintain community participation or
24 supervision in their planning, operation, and evaluation.

1 Community-based services and programs may include, but are not
2 limited to, emergency shelter, crisis intervention, group work, case
3 supervision, job placement, recruitment and training of volunteers,
4 consultation, medical, educational, home-based services, vocational,
5 social, preventive and psychological guidance, training, counseling,
6 early intervention and diversionary substance abuse treatment,
7 sexual abuse treatment, transitional living, independent living, and
8 other related services and programs;

9 14. "Concurrent permanency planning" means, when indicated, the
10 implementation of two plans for a child entering foster care. One
11 plan focuses on reuniting the parent and child; the other seeks to
12 find a permanent out-of-home placement for the child with both plans
13 being pursued simultaneously;

14 15. "Court-appointed special advocate" or "CASA" means a
15 responsible adult volunteer who has been trained and is supervised
16 by a court-appointed special advocate program recognized by the
17 court, and when appointed by the court, serves as an officer of the
18 court in the capacity as a guardian ad litem;

19 16. "Court-appointed special advocate program" means an
20 organized program, administered by either an independent, not-for-
21 profit corporation, a dependent project of an independent, not-for-
22 profit corporation or a unit of local government, which recruits,
23 screens, trains, assigns, supervises and supports volunteers to be
24 available for appointment by the court as guardians ad litem;

1 17. "Custodian" means an individual other than a parent, legal
2 guardian or Indian custodian, to whom legal custody of the child has
3 been awarded by the court. As used in this title, the term
4 "custodian" shall not mean the Department of Human Services;

5 18. "Day treatment" means a nonresidential program which
6 provides intensive services to a child who resides in the child's
7 own home, the home of a relative, group home, a foster home or
8 residential child care facility. Day treatment programs include,
9 but are not limited to, educational services;

10 19. "Department" means the Department of Human Services;

11 20. "Dependency" means a child who is homeless or without
12 proper care or guardianship through no fault of his or her parent,
13 legal guardian, or custodian;

14 21. "Deprived child" means a child:

- 15 a. who is for any reason destitute, homeless, or
16 abandoned,
- 17 b. who does not have the proper parental care or
18 guardianship,
- 19 c. who has been abused, neglected, or is dependent,
- 20 d. whose home is an unfit place for the child by reason
21 of depravity on the part of the parent or legal
22 guardian of the child, or other person responsible for
23 the health or welfare of the child,

- 1 e. who is a child in need of special care and treatment
2 because of the child's physical or mental condition,
3 and the child's parents, legal guardian, or other
4 custodian is unable or willfully fails to provide such
5 special care and treatment. As used in this
6 paragraph, a child in need of special care and
7 treatment includes, but is not limited to, a child who
8 at birth tests positive for alcohol or a controlled
9 dangerous substance and who, pursuant to a drug or
10 alcohol screen of the child and an assessment of the
11 parent, is determined to be at risk of harm or
12 threatened harm to the health or safety of a child,
- 13 f. who is a child with a disability deprived of the
14 nutrition necessary to sustain life or of the medical
15 treatment necessary to remedy or relieve a life-
16 threatening medical condition in order to cause or
17 allow the death of the child if such nutrition or
18 medical treatment is generally provided to similarly
19 situated children without a disability or children
20 with disabilities; provided that no medical treatment
21 shall be necessary if, in the reasonable medical
22 judgment of the attending physician, such treatment
23 would be futile in saving the life of the child,
24

- 1 g. who, due to improper parental care and guardianship,
2 is absent from school as specified in Section 10-106
3 of Title 70 of the Oklahoma Statutes, if the child is
4 subject to compulsory school attendance,
5 h. whose parent, legal guardian or custodian for good
6 cause desires to be relieved of custody,
7 i. who has been born to a parent whose parental rights to
8 another child have been involuntarily terminated by
9 the court and the conditions which led to the making
10 of the finding, which resulted in the termination of
11 the parental rights of the parent to the other child,
12 have not been corrected, or
13 j. whose parent, legal guardian, or custodian has
14 subjected another child to abuse or neglect or has
15 allowed another child to be subjected to abuse or
16 neglect and is currently a respondent in a deprived
17 proceeding.

18 Nothing in the Oklahoma Children's Code shall be construed to
19 mean a child is deprived for the sole reason the parent, legal
20 guardian, or person having custody or control of a child, in good
21 faith, selects and depends upon spiritual means alone through
22 prayer, in accordance with the tenets and practice of a recognized
23 church or religious denomination, for the treatment or cure of
24 disease or remedial care of such child.

1 Nothing contained in this paragraph shall prevent a court from
2 immediately assuming custody of a child and ordering whatever action
3 may be necessary, including medical treatment, to protect the
4 child's health or welfare;

5 22. "Dispositional hearing" means a hearing by the court as
6 provided by Section 1-4-706 of this title;

7 23. "Drug-endangered child" means a child who is at risk of
8 suffering physical, psychological or sexual harm as a result of the
9 use, possession, distribution, manufacture or cultivation of
10 controlled substances, or the attempt of any of these acts, by a
11 person responsible for the health, safety or welfare of the child,
12 as defined in this section. This term includes circumstances
13 wherein the substance abuse of the person responsible for the
14 health, safety or welfare of the child interferes with that person's
15 ability to parent and provide a safe and nurturing environment for
16 the child;

17 24. "Emergency custody" means the custody of a child prior to
18 adjudication of the child following issuance of an order of the
19 district court pursuant to Section 1-4-201 of this title or
20 following issuance of an order of the district court pursuant to an
21 emergency custody hearing, as specified by Section 1-4-203 of this
22 title;

23 25. "Facility" means a place, an institution, a building or
24 part thereof, a set of buildings, or an area whether or not
25

1 enclosing a building or set of buildings used for the lawful custody
2 and treatment of children;

3 26. "Failure to protect" means failure to take reasonable
4 action to remedy or prevent child abuse or neglect, and includes the
5 conduct of a non-abusing parent or guardian who knows the identity
6 of the abuser or the person neglecting the child, but lies, conceals
7 or fails to report the child abuse or neglect or otherwise take
8 reasonable action to end the abuse or neglect;

9 27. "Family-style living program" means a residential program
10 providing sustained care and supervision to residents in a home-like
11 environment not located in a building used for commercial activity;

12 28. "Foster care" or "foster care services" means continuous
13 twenty-four-hour care and supportive services provided for a child
14 in foster placement including, but not limited to, the care,
15 supervision, guidance, and rearing of a foster child by the foster
16 parent;

17 ~~28.~~ 29. "Foster family home" means the private residence of a
18 foster parent who provides foster care services to a child. Such
19 term shall include a nonkinship foster family home, a therapeutic
20 foster family home, or the home of a relative or other kinship care
21 home;

22 ~~29.~~ 30. "Foster parent eligibility assessment" includes a
23 criminal background investigation including, but not limited to, a
24 national criminal history records search based upon the submission
25

1 of fingerprints, home assessments, and any other assessment required
2 by the Department of Human Services, the Office of Juvenile Affairs,
3 or any child-placing agency pursuant to the provisions of the
4 Oklahoma Child Care Facilities Licensing Act;

5 ~~30.~~ 31. "Guardian ad litem" means a person appointed by the
6 court pursuant to the provisions of Section 1-4-306 of this title
7 having those duties and responsibilities as set forth in that
8 section. The term "guardian ad litem" shall refer to a court-
9 appointed special advocate as well as to any other person appointed
10 pursuant to the provisions of Section 1-4-306 of this title to serve
11 as a guardian ad litem;

12 ~~31.~~ 32. "Guardian ad litem of the estate of the child" means a
13 person appointed by the court to protect the property interests of a
14 child pursuant to Section 1-8-108 of this title;

15 ~~32.~~ 33. "Group home" means a residential facility licensed by
16 the Department to provide full-time care and community-based
17 services for more than five but fewer than thirteen children;

18 ~~33.~~ 34. "Harm or threatened harm to the health or safety of a
19 child" means any real or threatened physical, mental, or emotional
20 injury or damage to the body or mind that is not accidental
21 including, but not limited to, sexual abuse, sexual exploitation,
22 neglect, or dependency;

23 ~~34.~~ 35. "Heinous and shocking abuse" includes, but is not
24 limited to, aggravated physical abuse that results in serious

1 bodily, mental, or emotional injury. "Serious bodily injury" means
2 injury that involves:

- 3 a. a substantial risk of death,
- 4 b. extreme physical pain,
- 5 c. protracted disfigurement,
- 6 d. a loss or impairment of the function of a body member,
- 7 organ, or mental faculty,
- 8 e. an injury to an internal or external organ or the
- 9 body,
- 10 f. a bone fracture,
- 11 g. sexual abuse or sexual exploitation,
- 12 h. chronic abuse including, but not limited to, physical,
- 13 emotional, or sexual abuse, or sexual exploitation
- 14 which is repeated or continuing,
- 15 i. torture that includes, but is not limited to,
- 16 inflicting, participating in or assisting in
- 17 inflicting intense physical or emotional pain upon a
- 18 child repeatedly over a period of time for the purpose
- 19 of coercing or terrorizing a child or for the purpose
- 20 of satisfying the craven, cruel, or prurient desires
- 21 of the perpetrator or another person, or
- 22 j. any other similar aggravated circumstance;

23 ~~35.~~ 36. "Heinous and shocking neglect" includes, but is not
24 limited to:

- 1 a. chronic neglect that includes, but is not limited to,
2 a persistent pattern of family functioning in which
3 the caregiver has not met or sustained the basic needs
4 of a child which results in harm to the child,
5 b. neglect that has resulted in a diagnosis of the child
6 as a failure to thrive,
7 c. an act or failure to act by a parent that results in
8 the death or near death of a child or sibling, serious
9 physical or emotional harm, sexual abuse, sexual
10 exploitation, or presents an imminent risk of serious
11 harm to a child, or
12 d. any other similar aggravating circumstance;

13 ~~36.~~ 37. "Individualized service plan" means a document written
14 pursuant to Section 1-4-704 of this title that has the same meaning
15 as "service plan" or "treatment plan" where those terms are used in
16 the Oklahoma Children's Code;

17 ~~37.~~ 38. "Infant" means a child who is twelve (12) months of age
18 or younger;

19 ~~38.~~ 39. "Institution" means a residential facility offering
20 care and treatment for more than twenty residents;

21 ~~39.~~ 40. a. "Investigation" means a response to an
22 allegation of abuse or neglect that involves a serious
23 and immediate threat to the safety of the child,
24 making it necessary to determine:
25

- (1) the current safety of a child and the risk of subsequent abuse or neglect, and
- (2) whether child abuse or neglect occurred and whether the family needs prevention- and intervention-related services.

b. "Investigation" results in a written response stating one of the following findings:

- (1) "substantiated" means the Department has determined, after an investigation of a report of child abuse or neglect and based upon some credible evidence, that child abuse or neglect has occurred. When child abuse or neglect is substantiated, the Department may recommend:

- (a) court intervention if the Department finds the health, safety, or welfare of the child is threatened, or

- (b) child abuse and neglect prevention- and intervention-related services for the child, parents or persons responsible for the care of the child if court intervention is not determined to be necessary,

- (2) "unsubstantiated" means the Department has determined, after an investigation of a report of child abuse or neglect, that insufficient

evidence exists to fully determine whether child abuse or neglect has occurred. If child abuse or neglect is unsubstantiated, the Department may recommend, when determined to be necessary, that the parents or persons responsible for the care of the child obtain child abuse and neglect prevention- and intervention-related services, or

(3) "ruled out" means a report in which a child protective services specialist has determined, after an investigation of a report of child abuse or neglect, that no child abuse or neglect has occurred;

~~40.~~ 41. "Kinship care" means full-time care of a child by a kinship relation;

~~41.~~ 42. "Kinship guardianship" means a permanent guardianship as defined in this section;

~~42.~~ 43. "Kinship relation" or "kinship relationship" means relatives, stepparents, or other responsible adults who have a bond or tie with a child and/or to whom has been ascribed a family relationship role with the child's parents or the child; provided, however, in cases where the Indian Child Welfare Act applies, the definitions contained in 25 U.S.C., Section 1903 shall control;

1 ~~43.~~ 44. "Mental health facility" means a mental health or
2 substance abuse treatment facility as defined by the Inpatient
3 Mental Health and Substance Abuse Treatment of Minors Act;

4 ~~44.~~ 45. "Minor" means the same as the term "child" as defined
5 in this section;

6 ~~45.~~ 46. "Minor in need of treatment" means a child in need of
7 mental health or substance abuse treatment as defined by the
8 Inpatient Mental Health and Substance Abuse Treatment of Minors Act;

9 ~~46.~~ 47. "Multidisciplinary child abuse team" means any team
10 established pursuant to Section 1-9-102 of this title of three or
11 more persons who are trained in the prevention, identification,
12 investigation, prosecution, and treatment of physical and sexual
13 child abuse and who are qualified to facilitate a broad range of
14 prevention- and intervention-related services and services related
15 to child abuse. For purposes of this definition, "freestanding"
16 means a team not used by a child advocacy center for its
17 accreditation;

18 ~~47.~~ 48. "Near death" means a child is in serious or critical
19 condition, as certified by a physician, as a result of abuse or
20 neglect;

21 ~~48.~~ 49. "Neglect" means:

- 22 a. the failure or omission to provide any of the
23 following:
24

- (1) adequate nurturance and affection, food, clothing, shelter, sanitation, hygiene, or appropriate education,
- (2) medical, dental, or behavioral health care,
- (3) supervision or appropriate caretakers, or
- (4) special care made necessary by the physical or mental condition of the child,

b. the failure or omission to protect a child from exposure to any of the following:

- (1) the use, possession, sale, or manufacture of illegal drugs,
- (2) illegal activities, or
- (3) sexual acts or materials that are not age-appropriate, or

c. abandonment.

Nothing in this paragraph shall be construed to mean a child is abused or neglected for the sole reason the parent, legal guardian or person having custody or control of a child, in good faith, selects and depends upon spiritual means alone through prayer, in accordance with the tenets and practice of a recognized church or religious denomination, for the treatment or cure of disease or remedial care of such child. Nothing contained in this paragraph shall prevent a court from immediately assuming custody of a child, pursuant to the Oklahoma Children's Code, and ordering whatever

1 action may be necessary, including medical treatment, to protect the
2 child's health or welfare;

3 ~~49.~~ 50. "Permanency hearing" means a hearing by the court
4 pursuant to Section 1-4-811 of this title;

5 ~~50.~~ 51. "Permanent custody" means the court-ordered custody of
6 an adjudicated deprived child when a parent-child relationship no
7 longer exists due to termination of parental rights or due to the
8 death of a parent or parents;

9 ~~51.~~ 52. "Permanent guardianship" means a judicially created
10 relationship between a child, a kinship relation of the child, or
11 other adult established pursuant to the provisions of Section 1-4-
12 709 of this title;

13 ~~52.~~ 53. "Person responsible for a child's health, safety, or
14 welfare" includes a parent; a legal guardian; custodian; a foster
15 parent; a person eighteen (18) years of age or older with whom the
16 child's parent cohabitates or any other adult residing in the home
17 of the child; an agent or employee of a public or private
18 residential home, institution, facility or day treatment program as
19 defined in Section 175.20 of Title 10 of the Oklahoma Statutes; or
20 an owner, operator, or employee of a child care facility as defined
21 by Section 402 of Title 10 of the Oklahoma Statutes;

22 ~~53.~~ 54. "Plan of safe care" means a plan developed for an
23 infant with Neonatal Abstinence Syndrome or a Fetal Alcohol Spectrum
24 Disorder upon release from the care of a health care provider that

1 addresses the health and substance use treatment needs of the infant
2 and mother or caregiver;

3 ~~54.~~ 55. "Protective custody" means custody of a child taken by
4 a law enforcement officer or designated employee of the court
5 without a court order;

6 ~~55.~~ 56. "Putative father" means an alleged father as that term
7 is defined in Section 7700-102 of Title 10 of the Oklahoma Statutes;

8 ~~56.~~ 57. "Qualified residential treatment program" means a
9 program that:

- 10 a. has a trauma-informed treatment model that is designed
11 to address the needs including clinical needs as
12 appropriate, of children with serious emotional or
13 behavioral disorders or disturbances and, with respect
14 to a child, is able to implement the treatment
15 identified for the child from a required assessment,
- 16 b. has registered or licensed nursing staff and other
17 licensed clinical staff who:
 - 18 (1) provide care within the scope of their practice
19 as defined by the laws of this state,
 - 20 (2) are on-site according to the treatment model
21 referred to in subparagraph a of this paragraph,
22 and
 - 23 (3) are available twenty-four (24) hours a day and
24 seven (7) days a week,

- 1 c. to the extent appropriate, and in accordance with the
2 child's best interest, facilitates participation of
3 family members in the child's treatment program,
4 d. facilitates outreach to the family members of the
5 child including siblings, documents how the outreach
6 is made including contact information, and maintains
7 contact information for any known biological family of
8 the child,
9 e. documents how family members are integrated into the
10 treatment process for the child including post-
11 discharge, and how sibling connections are maintained,
12 f. provides discharge planning and family-based aftercare
13 support for at least 6 months post-discharge, and
14 g. is licensed and accredited by any of the following
15 independent, not-for-profit organizations:
16 (1) The Commission on Accreditation of Rehabilitation
17 Facilities (CARF),
18 (2) The Joint Commission on Accreditation of
19 Healthcare Organizations (JCAHO),
20 (3) The Council on Accreditation (COA), or
21 (4) any other federally approved independent, not-
22 for-profit accrediting organization;

23 ~~57.~~ 58. "Reasonable and prudent parent standard" means the
24 standard characterized by careful and sensible parental decisions
25

1 that maintain the health, safety, and best interests of a child
2 while at the same time encouraging the emotional and developmental
3 growth of the child. This standard shall be used by the child's
4 caregiver when determining whether to allow a child to participate
5 in extracurricular, enrichment, cultural, and social activities.
6 For purposes of this definition, the term "caregiver" means a foster
7 parent with whom a child in foster care has been placed, a
8 representative of a group home where a child has been placed or a
9 designated official for a residential child care facility where a
10 child in foster care has been placed;

11 ~~58.~~ 59. "Relative" means a grandparent, great-grandparent,
12 brother or sister of whole or half blood, aunt, uncle or any other
13 person related to the child;

14 ~~59.~~ 60. "Residential child care facility" means a twenty-four-
15 hour residential facility where children live together with or are
16 supervised by adults who are not their parents or relatives;

17 ~~60.~~ 61. "Review hearing" means a hearing by the court pursuant
18 to Section 1-4-807 of this title;

19 ~~61.~~ 62. "Risk" means the likelihood that an incident of child
20 abuse or neglect will occur in the future;

21 ~~62.~~ 63. "Safety threat" means the threat of serious harm due to
22 child abuse or neglect occurring in the present or in the very near
23 future and without the intervention of another person, a child would
24

1 likely or in all probability sustain severe or permanent disability
2 or injury, illness, or death;

3 ~~63.~~ 64. "Safety analysis" means action taken by the Department
4 in response to a report of alleged child abuse or neglect that may
5 include an assessment or investigation based upon an analysis of the
6 information received according to priority guidelines and other
7 criteria adopted by the Department;

8 ~~64.~~ 65. "Safety evaluation" means evaluation of a child's
9 situation by the Department using a structured, evidence-based tool
10 to determine if the child is subject to a safety threat;

11 ~~65.~~ 66. "Secure facility" means a facility which is designed
12 and operated to ensure that all entrances and exits from the
13 facility are subject to the exclusive control of the staff of the
14 facility, whether or not the juvenile being detained has freedom of
15 movement within the perimeter of the facility, or a facility which
16 relies on locked rooms and buildings, fences, or physical restraint
17 in order to control behavior of its residents;

18 ~~66.~~ 67. "Sibling" means a biologically or legally related
19 brother or sister of a child. This includes an individual who
20 satisfies at least one of the following conditions with respect to a
21 child:

- 22 a. the individual is considered by state law to be a
23 sibling of the child, or
24

1 b. the individual would have been considered a sibling
2 under state law but for a termination or other
3 disruption of parental rights, such as the death of a
4 parent;

5 ~~67.~~ 68. "Specialized foster care" means foster care provided to
6 a child in a foster home or agency-contracted home which:

- 7 a. has been certified by the Developmental Disabilities
8 Services Division of the Department of Human Services,
9 b. is monitored by the Division, and
10 c. is funded through the Home- and Community-Based Waiver
11 Services Program administered by the Division;

12 ~~68.~~ 69. "Successful adulthood program" means a program
13 specifically designed to assist a child to enhance those skills and
14 abilities necessary for successful adult living. A successful
15 adulthood program may include, but shall not be limited to, such
16 features as minimal direct staff supervision, and the provision of
17 supportive services to assist children with activities necessary for
18 finding an appropriate place of residence, completing an education
19 or vocational training, obtaining employment, or obtaining other
20 similar services;

21 ~~69.~~ 70. "Temporary custody" means court-ordered custody of an
22 adjudicated deprived child;

23 ~~70.~~ 71. "Therapeutic foster family home" means a foster family
24 home which provides specific treatment services, pursuant to a
25

1 therapeutic foster care contract, which are designed to remedy
2 social and behavioral problems of a foster child residing in the
3 home;

4 ~~71.~~ 72. "Trafficking in persons" means sex trafficking or
5 severe forms of trafficking in persons as described in Section 7102
6 of Title 22 of the United States Code:

7 a. "sex trafficking" means the recruitment, harboring,
8 transportation, provision, obtaining, patronizing or
9 soliciting of a person for the purpose of a commercial
10 sex act, and

11 b. "severe forms of trafficking in persons" means:

12 (1) sex trafficking in which a commercial sex act is
13 induced by force, fraud, or coercion, or in which
14 the person induced to perform such act has not
15 attained eighteen (18) years of age, or

16 (2) the recruitment, harboring, transportation,
17 provision, obtaining, patronizing or soliciting
18 of a person for labor or services, through the
19 use of force, fraud, or coercion for the purpose
20 of subjection to involuntary servitude, peonage,
21 debt bondage, or slavery;

22 ~~72.~~ 73. "Transitional living program" means a residential
23 program that may be attached to an existing facility or operated
24 solely for the purpose of assisting children to develop the skills

1 and abilities necessary for successful adult living. The program
2 may include, but shall not be limited to, reduced staff supervision,
3 vocational training, educational services, employment and employment
4 training, and other appropriate independent living skills training
5 as a part of the transitional living program; and

6 ~~73.~~ 74. "Voluntary foster care placement" means the temporary
7 placement of a child by the parent, legal guardian or custodian of
8 the child in foster care pursuant to a signed placement agreement
9 between the Department or a child-placing agency and the child's
10 parent, legal guardian or custodian.

11 SECTION 2. REPEALER 10A O.S. 2011, Section 1-1-105, as
12 last amended by Section 1, Chapter 297, O.S.L. 2019 (10A O.S. Supp.
13 2019, Section 1-1-105), is hereby repealed.

14 SECTION 3. REPEALER 21 O.S. 2011, Section 1277, as last
15 amended by Section 2, Chapter 1, O.S.L. 2019 (21 O.S. Supp. 2019,
16 Section 1277), is hereby repealed.

17 SECTION 4. AMENDATORY 22 O.S. 2011, Section 991c, as
18 last amended by Section 2, Chapter 453, O.S.L. 2019 (22 O.S. Supp.
19 2019, Section 991c), is amended to read as follows:

20 Section 991c. A. Upon a verdict or plea of guilty or upon a
21 plea of nolo contendere, but before a judgment of guilt, the court
22 may, without entering a judgment of guilt and with the consent of
23 the defendant, defer further proceedings upon the specific
24 conditions prescribed by the court not to exceed a seven-year

1 period, except as authorized under subsection B of this section.

2 The court shall first consider restitution among the various
3 conditions it may prescribe. The court may also consider ordering
4 the defendant to:

5 1. Pay court costs;

6 2. Pay an assessment in lieu of any fine authorized by law for
7 the offense;

8 3. Pay any other assessment or cost authorized by law;

9 4. Engage in a term of community service without compensation,
10 according to a schedule consistent with the employment and family
11 responsibilities of the defendant;

12 5. County jail confinement for a period not to exceed ninety
13 (90) days or the maximum amount of jail time provided for the
14 offense, if it is less than ninety (90) days;

15 6. Pay an amount as reimbursement for reasonable attorney fees,
16 to be paid into the court fund, if a court-appointed attorney has
17 been provided to defendant;

18 7. Be supervised in the community for a period not to exceed
19 eighteen (18) months, unless a petition alleging violation of any
20 condition of deferred judgment is filed during the period of
21 supervision. As a condition of any supervision, the defendant shall
22 be required to pay a supervision fee of Forty Dollars (\$40.00) per
23 month. The supervision fee shall be waived in whole or part by the
24 supervisory agency when the accused is indigent. Any fees collected

1 by the district attorney pursuant to this paragraph shall be
2 deposited in the General Revenue Fund of the State Treasury. No
3 person shall be denied supervision based solely on the inability of
4 the person to pay a fee;

5 8. Pay into the court fund a monthly amount not exceeding Forty
6 Dollars (\$40.00) per month during any period during which the
7 proceedings are deferred when the defendant is not to be supervised
8 in the community. The total amount to be paid into the court fund
9 shall be established by the court and shall not exceed the amount of
10 the maximum fine authorized by law for the offense;

11 9. Make other reparations to the community or victim as
12 required and deemed appropriate by the court;

13 10. Order any conditions which can be imposed for a suspended
14 sentence pursuant to paragraph 1 of subsection A of Section 991a of
15 this title; or

16 11. Any combination of the above provisions.

17 However, unless under the supervision of the district attorney,
18 the offender shall be required to pay Forty Dollars (\$40.00) per
19 month to the district attorney during the first two (2) years of
20 probation to compensate the district attorney for the costs incurred
21 during the prosecution of the offender and for the additional work
22 of verifying the compliance of the offender with the rules and
23 conditions of his or her probation. The district attorney may waive
24 any part of this requirement in the best interests of justice. The

1 court shall not waive, suspend, defer or dismiss the costs of
2 prosecution in its entirety. However, if the court determines that
3 a reduction in the fine, costs and costs of prosecution is
4 warranted, the court shall equally apply the same percentage
5 reduction to the fine, costs and costs of prosecution owed by the
6 offender. Any fees collected by the district attorney pursuant to
7 this paragraph shall be deposited in the General Revenue Fund of the
8 State Treasury.

9 B. When the court has ordered restitution as a condition of
10 supervision as provided for in subsection A of this section and that
11 condition has not been satisfied, the court may, at any time prior
12 to the termination or expiration of the supervision period, order an
13 extension of supervision for a period not to exceed three (3) years.

14 C. In addition to any conditions of supervision provided for in
15 subsection A of this section, the court shall, in the case of a
16 person before the court for the offense of operating or being in
17 control of a motor vehicle while the person was under the influence
18 of alcohol, other intoxicating substance, or a combination of
19 alcohol and another intoxicating substance, or who is before the
20 court for the offense of operating a motor vehicle while the ability
21 of the person to operate such vehicle was impaired due to the
22 consumption of alcohol, require the person to participate in an
23 alcohol and drug substance abuse evaluation program offered by a
24 facility or qualified practitioner certified by the Department of

1 Mental Health and Substance Abuse Services for the purpose of
2 evaluating the receptivity to treatment and prognosis of the person.
3 The court shall order the person to reimburse the facility or
4 qualified practitioner for the evaluation. The Department of Mental
5 Health and Substance Abuse Services shall establish a fee schedule,
6 based upon the ability of a person to pay, provided the fee for an
7 evaluation shall not exceed Seventy-five Dollars (\$75.00). The
8 evaluation shall be conducted at a certified facility, the office of
9 a qualified practitioner or at another location as ordered by the
10 court. The facility or qualified practitioner shall, within
11 seventy-two (72) hours from the time the person is assessed, submit
12 a written report to the court for the purpose of assisting the court
13 in its determination of conditions for deferred sentence. No
14 person, agency or facility operating an alcohol and drug substance
15 abuse evaluation program certified by the Department of Mental
16 Health and Substance Abuse Services shall solicit or refer any
17 person evaluated pursuant to this subsection for any treatment
18 program or alcohol and drug substance abuse service in which the
19 person, agency or facility has a vested interest; however, this
20 provision shall not be construed to prohibit the court from ordering
21 participation in or any person from voluntarily utilizing a
22 treatment program or alcohol and drug substance abuse service
23 offered by such person, agency or facility. Any evaluation report
24 submitted to the court pursuant to this subsection shall be handled

1 in a manner which will keep the report confidential from review by
2 the general public. Nothing contained in this subsection shall be
3 construed to prohibit the court from ordering judgment and sentence
4 in the event the defendant fails or refuses to comply with an order
5 of the court to obtain the evaluation required by this subsection.
6 As used in this subsection, "qualified practitioner" means a person
7 with at least a bachelor's degree in substance abuse treatment,
8 mental health or a related health care field and at least two (2)
9 years of experience in providing alcohol abuse treatment, other drug
10 abuse treatment, or both alcohol and other drug abuse treatment who
11 is certified each year by the Department of Mental Health and
12 Substance Abuse Services to provide these assessments. However, any
13 person who does not meet the requirements for a qualified
14 practitioner as defined herein, but who has been previously
15 certified by the Department of Mental Health and Substance Abuse
16 Services to provide alcohol or drug treatment or assessments, shall
17 be considered a qualified practitioner provided all education,
18 experience and certification requirements stated herein are met by
19 September 1, 1995. The court may also require the person to
20 participate in one or both of the following:

- 21 1. An alcohol and drug substance abuse course, pursuant to
22 Sections 3-452 and 3-453 of Title 43A of the Oklahoma Statutes; and
- 23 2. A victims impact panel program, as defined in subsection H
24 of Section 991a of this title, if such a program is offered in the

1 county where the judgment is rendered. The defendant shall be
2 required to pay a fee of not less than Fifteen Dollars (\$15.00) nor
3 more than Sixty Dollars (\$60.00) as set by the governing authority
4 of the program and approved by the court to the victims impact panel
5 program to offset the cost of participation by the defendant, if in
6 the opinion of the court the defendant has the ability to pay such
7 fee.

8 D. Upon completion of the conditions of the deferred judgment,
9 and upon a finding by the court that the conditions have been met
10 and all fines, fees, and monetary assessments have been paid as
11 ordered, the defendant shall be discharged without a court judgment
12 of guilt, and the court shall order the verdict or plea of guilty or
13 plea of nolo contendere to be expunged from the record and the
14 charge shall be dismissed with prejudice to any further action. The
15 procedure to expunge the record of the defendant shall be as
16 follows:

17 1. All references to the name of the defendant shall be deleted
18 from the docket sheet;

19 2. The public index of the filing of the charge shall be
20 expunged by deletion, mark-out or obliteration;

21 3. Upon expungement, the court clerk shall keep a separate
22 confidential index of case numbers and names of defendants which
23 have been obliterated pursuant to the provisions of this section;
24

1 4. No information concerning the confidential file shall be
2 revealed or released, except upon written order of a judge of the
3 district court or upon written request by the named defendant to the
4 court clerk for the purpose of updating the criminal history record
5 of the defendant with the Oklahoma State Bureau of Investigation;
6 and

7 5. Defendants qualifying under Section 18 of this title may
8 petition the court to have the filing of the indictment and the
9 dismissal expunged from the public index and docket sheet. This
10 section shall not be mutually exclusive of Section 18 of this title.

11 Records expunged pursuant to this subsection shall be sealed to
12 the public but not to law enforcement agencies for law enforcement
13 purposes. Records expunged pursuant to this subsection shall be
14 admissible in any subsequent criminal prosecution to prove the
15 existence of a prior conviction or prior deferred judgment without
16 the necessity of a court order requesting the unsealing of such
17 records.

18 E. The provisions of subsection D of this section shall be
19 retroactive.

20 F. Whenever a judgment has been deferred by the court according
21 to the provisions of this section, deferred judgment may not be
22 accelerated for any technical violation unless a petition setting
23 forth the grounds for such acceleration is filed by the district
24 attorney with the clerk of the sentencing court and competent

1 evidence justifying the acceleration of the judgment is presented to
2 the court at a hearing to be held for that purpose. The hearing
3 shall be held not more than twenty (20) days after the entry of the
4 plea of not guilty to the petition, unless waived by both the state
5 and the defendant. Any acceleration of a deferred sentence based on
6 a technical violation shall not exceed ninety (90) days for a first
7 acceleration or five (5) years for a second or subsequent
8 acceleration.

9 G. Upon any violation of the deferred judgment, other than a
10 technical violation, the court may enter a judgment of guilt and
11 proceed as provided in Section 991a of this title or may modify any
12 condition imposed. Provided, however, if the deferred judgment is
13 for a felony offense, and the defendant commits another felony
14 offense, the defendant shall not be allowed bail pending appeal.

15 H. The deferred judgment procedure described in this section
16 shall apply only to defendants who have not been previously
17 convicted of a felony offense and have not received more than one
18 deferred judgment for a felony offense within the ten (10) years
19 previous to the commission of the pending offense.

20 Provided, the court may waive this prohibition upon written
21 application of the district attorney. Both the application and the
22 waiver shall be made a part of the record of the case.

23 I. The deferred judgment procedure described in this section
24 shall not apply to defendants found guilty or who plead guilty or
25

1 nolo contendere to a sex offense required by law to register
2 pursuant to the Sex Offenders Registration Act.

3 J. All defendants who are supervised pursuant to this section
4 shall be subject to the sanction process as established in
5 subsection ~~B~~ D of Section 991b of this title.

6 K. Notwithstanding the provisions of subsections F and G of
7 this section, a person who is being considered for an acceleration
8 of a deferred judgment for an offense where the penalty has
9 subsequently been lowered to a misdemeanor shall only be subject to
10 a judgment and sentence that would have been applicable had he or
11 she committed the offense after July 1, 2017.

12 SECTION 5. REPEALER 22 O.S. 2011, Section 991c, as last
13 amended by Section 4, Chapter 459, O.S.L. 2019 (22 O.S. Supp. 2019,
14 Section 991c), is hereby repealed.

15 SECTION 6. AMENDATORY Section 3, Chapter 366, O.S.L.
16 2016, as last amended by Section 1, Chapter 322, O.S.L. 2019 (37A
17 O.S. Supp. 2019, Section 1-103), is amended to read as follows:

18 Section 1-103. As used in the Oklahoma Alcoholic Beverage
19 Control Act:

20 1. "ABLE Commission" or "Commission" means the Alcoholic
21 Beverage Laws Enforcement Commission;

22 2. "Alcohol" means and includes hydrated oxide of ethyl, ethyl
23 alcohol, ethanol or spirits of wine, from whatever source or by
24 whatever process produced. It does not include wood alcohol or
25

1 alcohol which has been denatured or produced as denatured in
2 accordance with Acts of Congress and regulations promulgated
3 thereunder;

4 3. "Alcoholic beverage" means alcohol, spirits, beer and wine
5 as those terms are defined herein and also includes every liquid or
6 solid, patented or not, containing alcohol, spirits, wine or beer
7 and capable of being consumed as a beverage by human beings;

8 4. "Applicant" means any individual, legal or commercial
9 business entity, or any individual involved in any legal or
10 commercial business entity allowed to hold any license issued in
11 accordance with the Oklahoma Alcoholic Beverage Control Act;

12 5. "Beer" means any beverage of alcohol by volume and obtained
13 by the alcoholic fermentation of an infusion or decoction of barley,
14 or other grain, malt or similar products. "Beer" may or may not
15 contain hops or other vegetable products. "Beer" includes, among
16 other things, beer, ale, stout, lager beer, porter and other malt or
17 brewed liquors, but does not include sake, known as Japanese rice
18 wine;

19 6. "Beer keg" means any brewer-sealed, single container that
20 contains not less than four (4) gallons of beer;

21 7. "Beer distributor" means and includes any person licensed to
22 distribute beer for retail sale in the state, but does not include a
23 holder of a small brewer self-distribution license or brewpub self-
24 distribution license. The term "distributor", as used in the

Oklahoma Alcoholic Beverage Control Act, shall be construed to refer to a beer distributor;

8. "Bottle club" means any establishment in a county which has not authorized the retail sale of alcoholic beverages by the individual drink, which is required to be licensed to keep, mix and serve alcoholic beverages belonging to club members on club premises;

9. "Brand" means any word, name, group of letters, symbol or combination thereof, that is adopted and used by a licensed brewer to identify a specific beer, wine or spirit and to distinguish that product from another beer, wine or spirit;

10. "Brand extension" means:

a. after October 1, 2018, any brand of beer or cider introduced by a manufacturer in this state which either:

(1) incorporates all or a substantial part of the unique features of a preexisting brand of the same licensed brewer, or

(2) relies to a significant extent on the goodwill associated with the preexisting brand, or

b. any brand of beer that a brewer, the majority of whose total volume of all brands of beer distributed in this state by such brewer on January 1, 2016, was distributed as low-point beer, desires to sell,

1 introduces, begins selling or theretofore has sold and
2 desires to continue selling a strong beer in this
3 state which either:

- 4 (1) incorporates or incorporated all or a substantial
5 part of the unique features of a preexisting low-
6 point beer brand of the same licensed brewer, or
7 (2) relies or relied to a significant extent on the
8 goodwill associated with a preexisting low-point
9 beer brand;

10 11. "Brewer" means and includes any person who manufactures for
11 human consumption by the use of raw materials or other ingredients
12 any beer or cider upon which a license fee and a tax are imposed by
13 any law of this state;

14 12. "Brewpub" means a licensed establishment operated on the
15 premises of, or on premises located contiguous to, a small brewer,
16 that prepares and serves food and beverages, including alcoholic
17 beverages, for on-premises consumption;

18 13. "Cider" means any alcoholic beverage obtained by the
19 alcoholic fermentation of fruit juice, including but not limited to
20 flavored, sparkling or carbonated cider. For the purposes of the
21 manufacture of this product, cider may be manufactured by either
22 manufacturers or brewers. For the purposes of the distribution of
23 this product, cider may be distributed by either wine and spirits
24 wholesalers or beer distributors;

1 14. "Convenience store" means any person primarily engaged in
2 retailing a limited range of general household items and groceries,
3 with extended hours of operation, whether or not engaged in retail
4 sales of automotive fuels in combination with such sales;

5 15. "Convicted" and "conviction" mean and include a finding of
6 guilt resulting from a plea of guilty or nolo contendere, the
7 decision of a court or magistrate or the verdict of a jury,
8 irrespective of the pronouncement of judgment or the suspension
9 thereof;

10 16. "Designated products" means the brands of wine or spirits
11 offered for sale by a manufacturer that the manufacturer has
12 assigned to a designated wholesaler for exclusive distribution;

13 17. "Designated wholesaler" means a wine and spirits wholesaler
14 who has been selected by a manufacturer as a wholesaler appointed to
15 distribute designated products;

16 18. "Director" means the Director of the ABLE Commission;

17 19. "Distiller" means any person who produces spirits from any
18 source or substance, or any person who brews or makes mash, wort or
19 wash, fit for distillation or for the production of spirits (except
20 a person making or using such material in the authorized production
21 of wine or beer, or the production of vinegar by fermentation), or
22 any person who by any process separates alcoholic spirits from any
23 fermented substance, or any person who, making or keeping mash, wort
24 or wash, has also in his or her possession or use a still;

1 20. "Distributor agreement" means the written agreement between
2 the distributor and brewer as set forth in Section 3-108 of this
3 title;

4 21. "Drug store" means a person primarily engaged in retailing
5 prescription and nonprescription drugs and medicines;

6 22. "Dual-strength beer" means a brand of beer that,
7 immediately prior to April 15, 2017, was being sold and distributed
8 in this state:

9 a. as a low-point beer pursuant to the Low-Point Beer
10 Distribution Act in effect immediately prior to
11 October 1, 2018, and

12 b. as strong beer pursuant to the Alcoholic Beverage
13 Control Act in effect immediately prior to October 1,
14 2018,

15 and continues to be sold and distributed as such on October 1, 2018.
16 Dual-strength beer does not include a brand of beer that arose as a
17 result of a brand extension as defined in this section;

18 23. "Fair market value" means the value in the subject
19 territory covered by the written agreement with the distributor or
20 wholesaler that would be determined in an arm's length transaction
21 entered into without duress or threat of termination of the
22 distributor's or wholesaler's rights and shall include all elements
23 of value, including goodwill and going-concern value;

24 24. "Good cause" means:

- 1 a. failure by the distributor to comply with the material
2 and reasonable provisions of a written agreement or
3 understanding with the brewer, or
4 b. failure by the distributor to comply with the duty of
5 good faith;

6 25. "Good faith" means the duty of each party to any
7 distributor agreement and all officers, employees or agents thereof
8 to act with honesty in fact and within reasonable standards of fair
9 dealing in the trade;

10 26. "Grocery store" means a person primarily engaged in
11 retailing a general line of food, such as canned or frozen foods,
12 fresh fruits and vegetables, and fresh and prepared meats, fish and
13 poultry;

14 27. "Hotel" or "motel" means an establishment which is licensed
15 to sell alcoholic beverages by the individual drink and which
16 contains guestroom accommodations with respect to which the
17 predominant relationship existing between the occupants thereof and
18 the owner or operator of the establishment is that of innkeeper and
19 guest. For purposes of this section, the existence of other legal
20 relationships as between some occupants and the owner or operator
21 thereof shall be immaterial;

22 28. "Legal newspaper" means a newspaper meeting the requisites
23 of a newspaper for publication of legal notices as prescribed in
24 Sections 101 through 114 of Title 25 of the Oklahoma Statutes;

1 29. "Licensee" means any person holding a license under the
2 Oklahoma Alcoholic Beverage Control Act, and any agent, servant or
3 employee of such licensee while in the performance of any act or
4 duty in connection with the licensed business or on the licensed
5 premises;

6 30. "Low-point beer" shall mean any beverages containing more
7 than one-half of one percent (1/2 of 1%) alcohol by volume, and not
8 more than three and two-tenths percent (3.2%) alcohol by weight,
9 including but not limited to, beer or cereal malt beverages obtained
10 by the alcoholic fermentation of an infusion by barley or other
11 grain, malt or similar products;

12 31. "Manufacturer" means a distiller, winemaker, rectifier or
13 bottler of any alcoholic beverage (other than beer) and its
14 subsidiaries, affiliates and parent companies;

15 32. "Manufacturer's agent" means a salaried or commissioned
16 salesperson who is the agent authorized to act on behalf of the
17 manufacturer or nonresident seller in the state;

18 33. "Meals" means foods commonly ordered at lunch or dinner and
19 at least part of which is cooked on the licensed premises and
20 requires the use of dining implements for consumption. Provided,
21 that the service of only food such as appetizers, sandwiches, salads
22 or desserts shall not be considered "meals";
23
24
25

1 34. "Mini-bar" means a closed container, either refrigerated in
2 whole or in part, or nonrefrigerated, and access to the interior of
3 which is:

- 4 a. restricted by means of a locking device which requires
- 5 the use of a key, magnetic card or similar device, or
- 6 b. controlled at all times by the licensee;

7 35. "Mixed beverage cooler" means any beverage, by whatever
8 name designated, consisting of an alcoholic beverage and fruit or
9 vegetable juice, fruit or vegetable flavorings, dairy products or
10 carbonated water containing more than one-half of one percent (1/2
11 of 1%) of alcohol measured by volume but not more than seven percent
12 (7%) alcohol by volume at sixty (60) degrees Fahrenheit and which is
13 packaged in a container not larger than three hundred seventy-five
14 (375) milliliters. Such term shall include but not be limited to
15 the beverage popularly known as a "wine cooler";

16 36. "Mixed beverages" means one or more servings of a beverage
17 composed in whole or part of an alcoholic beverage in a sealed or
18 unsealed container of any legal size for consumption on the premises
19 where served or sold by the holder of a mixed beverage, beer and
20 wine, caterer, public event, charitable event or special event
21 license;

22 37. "Motion picture theater" means an establishment which is
23 licensed by Section 2-110 of this title to sell alcoholic beverages
24

1 by the individual drink and where motion pictures are exhibited, and
2 to which the general public is admitted;

3 38. "Nondesignated products" means the brands of wine or
4 spirits offered for sale by a manufacturer that have not been
5 assigned to a designated wholesaler;

6 39. "Nonresident seller" means any person licensed pursuant to
7 Section 2-135 of this title;

8 40. "Retail salesperson" means a salesperson soliciting orders
9 from and calling upon retail alcoholic beverage stores with regard
10 to his or her product;

11 41. "Occupation" as used in connection with "occupation tax"
12 means the sites occupied as the places of business of the
13 manufacturers, brewers, wholesalers, beer distributors, retailers,
14 mixed beverage licensees, on-premises beer and wine licensees,
15 bottle clubs, caterers, public event and special event licensees;

16 42. "Original package" means any container of alcoholic
17 beverage filled and stamped or sealed by the manufacturer or brewer;

18 43. "Package store" means any sole proprietor or partnership
19 that qualifies to sell wine, beer and/or spirits for ~~off-premise~~
20 off-premises consumption and that is not a grocery store,
21 convenience store or drug store, or other retail outlet that is not
22 permitted to sell wine or beer for ~~off-premise~~ off-premises
23 consumption;

1 44. "Patron" means any person, customer or visitor who is not
2 employed by a licensee or who is not a licensee;

3 45. "Person" means an individual, any type of partnership,
4 corporation, association, limited liability company or any
5 individual involved in the legal structure of any such business
6 entity;

7 46. "Premises" means the grounds and all buildings and
8 appurtenances pertaining to the grounds including any adjacent
9 premises if under the direct or indirect control of the licensee and
10 the rooms and equipment under the control of the licensee and used
11 in connection with or in furtherance of the business covered by a
12 license. Provided that the ABLE Commission shall have the authority
13 to designate areas to be excluded from the licensed premises solely
14 for the purpose of:

15 a. allowing the presence and consumption of alcoholic
16 beverages by private parties which are closed to the
17 general public, or

18 b. allowing the services of a caterer serving alcoholic
19 beverages provided by a private party.

20 This exception shall in no way limit the licensee's concurrent
21 responsibility for any violations of the Oklahoma Alcoholic Beverage
22 Control Act occurring on the licensed premises;

23 47. "Private event" means a social gathering or event attended
24 by invited guests who share a common cause, membership, business or
25

1 task and have a prior established relationship. For purposes of
2 this definition, advertisement for general public attendance or
3 sales of tickets to the general public shall not constitute a
4 private event;

5 48. "Public event" means any event that can be attended by the
6 general public;

7 49. "Rectifier" means any person who rectifies, purifies or
8 refines spirits or wines by any process (other than by original and
9 continuous distillation, or original and continuous processing, from
10 mash, wort, wash or other substance, through continuous closed
11 vessels and pipes, until the production thereof is complete), and
12 any person who, without rectifying, purifying or refining spirits,
13 shall by mixing (except for immediate consumption on the premises
14 where mixed) such spirits, wine or other liquor with any material,
15 manufactures any spurious, imitation or compound liquors for sale,
16 under the name of whiskey, brandy, rum, gin, wine, spirits, cordials
17 or any other name;

18 50. "Regulation" or "rule" means a formal rule of general
19 application promulgated by the ABLE Commission as herein required;

20 51. "Restaurant" means an establishment that is licensed to
21 sell alcoholic beverages by the individual drink for on-premises
22 consumption and where food is prepared and sold for immediate
23 consumption on the premises;

1 52. "Retail container for spirits and wines" means an original
2 package of any capacity approved by the United States Bureau of
3 Alcohol, Tobacco and Firearms;

4 53. "Retailer" means a package store, grocery store,
5 convenience store or drug store licensed to sell alcoholic beverages
6 for ~~off-premise~~ off-premises consumption pursuant to a Retail
7 Spirits License, Retail Wine License or Retail Beer License;

8 54. "Sale" means any transfer, exchange or barter in any manner
9 or by any means whatsoever, and includes and means all sales made by
10 any person, whether as principal, proprietor or as an agent, servant
11 or employee. The term "sale" is also declared to be and include the
12 use or consumption in this state of any alcoholic beverage obtained
13 within or imported from without this state, upon which the excise
14 tax levied by the Oklahoma Alcoholic Beverage Control Act has not
15 been paid or exempted;

16 55. "Short-order food" means food other than full meals
17 including but not limited to sandwiches, soups and salads. Provided
18 that popcorn, chips and other similar snack food shall not be
19 considered "short-order food";

20 56. "Small brewer" means a brewer who manufactures less than
21 sixty-five thousand (65,000) barrels of beer annually pursuant to a
22 validly issued Small Brewer License hereunder;

1 57. "Small farm wine" means a wine that is produced by a small
2 farm winery with seventy-five percent (75%) or more Oklahoma-grown
3 grapes, berries, other fruits, honey or vegetables;

4 58. "Small farm winery" means a wine-making establishment that
5 does not annually produce for sale more than fifteen thousand
6 (15,000) gallons of wine as reported on the United States Department
7 of the Treasury, Alcohol and Tobacco Tax and Trade Bureau, Report of
8 Wine Premises Operations (TTB Form 5120.17);

9 59. "Sparkling wine" means champagne or any artificially
10 carbonated wine;

11 60. "Special event" means an entertainment, recreation or
12 marketing event that occurs at a single location on an irregular
13 basis and at which alcoholic beverages are sold;

14 61. "Spirits" means any beverage other than wine or beer, which
15 contains more than one-half of one percent (1/2 of 1%) alcohol
16 measured by volume, and obtained by distillation, whether or not
17 mixed with other substances in solution and includes those products
18 known as whiskey, brandy, rum, gin, vodka, liqueurs, cordials and
19 fortified wines and similar compounds, but shall not include any
20 alcohol liquid completely denatured in accordance with the Acts of
21 Congress and regulations pursuant thereto;

22 62. "Strong beer" means beer which, prior to October 1, 2018,
23 was distributed pursuant to the Oklahoma Alcoholic Beverage Control
24 Act, Section 501 et seq. of Title 37 of the Oklahoma Statutes;

1 63. "Successor brewer" means a primary source of supply, a
2 brewer, a cider manufacturer or an importer that acquires rights to
3 a beer or cider brand from a predecessor brewer;

4 64. "Tax Commission" means the Oklahoma Tax Commission;

5 65. "Territory" means a geographic region with a specified
6 boundary;

7 66. "Wine and spirits wholesaler" or "wine and spirits
8 distributor" means and includes any sole proprietorship or
9 partnership licensed to distribute wine and spirits in the state.
10 The term "wholesaler", as used the Oklahoma Alcoholic Beverage
11 Control Act, shall be construed to refer to a wine and spirits
12 wholesaler; ~~and~~

13 67. "Wine" means and includes any beverage containing more than
14 one-half of one percent (1/2 of 1%) alcohol by volume and not more
15 than twenty-four percent (24%) alcohol by volume at sixty (60)
16 degrees Fahrenheit obtained by the fermentation of the natural
17 contents of fruits, vegetables, honey, milk or other products
18 containing sugar, whether or not other ingredients are added, and
19 includes vermouth and sake, known as Japanese rice wine;

20 68. "Winemaker" means and includes any person or establishment
21 who manufactures for human consumption any wine upon which a license
22 fee and a tax are imposed by any law of this state; and

23 69. "Satellite tasting room" means a licensed establishment
24 operated off the licensed premises of the holder of a small farm

winery or winemaker license, which serves wine for on-premises or off-premises consumption.

Words in the plural include the singular, and vice versa, and words imparting the masculine gender include the feminine, as well as persons and licensees as defined in this section.

SECTION 7. REPEALER 37A O.S. 2011, Section 1-103, as last amended by Section 20, Chapter 25, O.S.L. 2019 (37A O.S. Supp. 2019, Section 1-103), is hereby repealed.

SECTION 8. REPEALER 37A O.S. 2011, Section 1-103, as last amended by Section 1, Chapter 353, O.S.L. 2019 (37A O.S. Supp. 2019, Section 1-103), is hereby repealed.

SECTION 9. AMENDATORY Section 13, Chapter 366, O.S.L. 2016, as last amended by Section 2, Chapter 185, O.S.L. 2019 (37A O.S. Supp. 2019, Section 2-101), is amended to read as follows:

Section 2-101. A. Except as otherwise provided in this section, the licenses issued by the ABLE Commission, and the annual fees therefor, shall be as follows:

1. Brewer License..... \$1,250.00
2. Small Brewer License..... \$125.00
3. Distiller License..... \$3,125.00
4. Winemaker License..... \$625.00
5. Small Farm Winery License..... \$75.00
6. Rectifier License..... \$3,125.00
7. Wine and Spirits Wholesaler License..... \$3,000.00

| | | | |
|----|-----|--|------------|
| 1 | 8. | Beer Distributor License..... | \$750.00 |
| 2 | 9. | The following retail spirits license fees shall be | |
| 3 | | determined by the latest Federal Decennial Census: | |
| 4 | a. | Retail Spirits License for cities and | |
| 5 | | towns from 200 to 2,500 population..... | \$305.00 |
| 6 | b. | Retail Spirits License for cities and | |
| 7 | | towns from 2,501 to 5,000 population..... | \$605.00 |
| 8 | c. | Retail Spirits License for cities and | |
| 9 | | towns over 5,000 population..... | \$905.00 |
| 10 | 10. | Retail Wine License..... | \$1,000.00 |
| 11 | 11. | Retail Beer License..... | \$500.00 |
| 12 | 12. | Mixed Beverage License..... | \$1,005.00 |
| 13 | | (initial license) | |
| 14 | | | \$905.00 |
| 15 | | (renewal) | |
| 16 | 13. | Mixed Beverage/Caterer Combination License..... | \$1,250.00 |
| 17 | 14. | On-Premises Beer and Wine License..... | \$500.00 |
| 18 | | (initial license) | |
| 19 | | | \$450.00 |
| 20 | | (renewal) | |
| 21 | 15. | Bottle Club License..... | \$1,000.00 |
| 22 | | (initial license) | |
| 23 | | | \$900.00 |
| 24 | | (renewal) | |

| | | | |
|----|--------------|---|------------|
| 1 | 16. | Caterer License..... | \$1,005.00 |
| 2 | | (initial license) | |
| 3 | | \$905.00 | |
| 4 | | (renewal) | |
| 5 | 17. | Annual Special Event License..... | \$55.00 |
| 6 | 18. | Quarterly Special Event License..... | \$55.00 |
| 7 | 19. | Hotel Beverage License..... | \$1,005.00 |
| 8 | | (initial license) | |
| 9 | | \$905.00 | |
| 10 | | (renewal) | |
| 11 | 20. | Airline/Railroad/Commercial Passenger Vessel Beverage | |
| 12 | License..... | \$1,005.00 | |
| 13 | | (initial license) | |
| 14 | | \$905.00 | |
| 15 | | (renewal) | |
| 16 | 21. | Agent License..... | \$55.00 |
| 17 | 22. | Employee License..... | \$30.00 |
| 18 | 23. | Industrial License..... | \$23.00 |
| 19 | 24. | Carrier License..... | \$23.00 |
| 20 | 25. | Private Carrier License..... | \$23.00 |
| 21 | 26. | Bonded Warehouse License..... | \$190.00 |
| 22 | 27. | Storage License..... | \$23.00 |
| 23 | 28. | Nonresident Seller License or Manufacturer's | |
| 24 | License..... | \$750.00 | |

| | | |
|-----|---|-----------------|
| 29. | Manufacturer's Agent License..... | \$55.00 |
| 30. | Sacramental Wine Supplier License..... | \$100.00 |
| 31. | Charitable Auction License..... | \$1.00 |
| 32. | Charitable Alcoholic Beverage License..... | \$55.00 |
| 33. | Winemaker Self-Distribution License..... | \$750.00 |
| 34. | Annual Public Event License..... | \$1,005.00 |
| 35. | One-Time Public Event License..... | \$255.00 |
| 36. | Small Brewer Self-Distribution License..... | \$750.00 |
| 37. | Brewpub License..... | \$1,005.00 |
| 38. | Brewpub Self-Distribution License..... | \$750.00 |
| 39. | Complimentary Beverage License..... | \$75.00 |
| 40. | <u>Satellite Tasting Room License.....</u> | <u>\$100.00</u> |

B. 1. There shall be added to the initial or renewal fees for a Mixed Beverage License an administrative fee, which shall not be deemed to be a license fee, in the amount of Five Hundred Dollars (\$500.00), which shall be paid at the same time and in the same manner as the license fees prescribed by paragraph 12 of subsection A of this section; provided, this fee shall not be assessed against service organizations or fraternal beneficiary societies which are exempt under Section 501(c)(19), (8) or (10) of the Internal Revenue Code.

2. There shall be added to the fee for a Mixed Beverage/Caterer Combination License an administrative fee, which shall not be deemed to be a license fee, in the amount of Two Hundred Fifty Dollars

1 (\$250.00), which shall be paid at the same time and in the same
2 manner as the license fee prescribed by paragraph 13 of subsection A
3 of this section.

4 C. Notwithstanding the provisions of subsection A of this
5 section:

6 1. The license fee for a mixed beverage or bottle club license
7 for those service organizations or fraternal beneficiary societies
8 which are exempt under Section 501(c)(19), (8) or (10) of the
9 Internal Revenue Code shall be Five Hundred Dollars (\$500.00) per
10 year; and

11 2. The renewal fee for an airline/railroad/commercial passenger
12 vessel beverage license held by a railroad described in 49 U.S.C.,
13 Section 24301, shall be One Hundred Dollars (\$100.00).

14 D. An applicant may apply for and receive both an on-premises
15 beer and wine license and a caterer license.

16 E. All licenses, except as otherwise provided, shall be valid
17 for one (1) year from date of issuance unless revoked or
18 surrendered. Provided, all employee licenses shall be valid for two
19 (2) years.

20 F. The holder of a license, issued by the ABLE Commission, for
21 a bottle club located in a county of this state where the sale of
22 alcoholic beverages by the individual drink for on-premises
23 consumption has been authorized, may exchange the bottle club
24 license for a mixed beverage license or an on-premises beer and wine

1 license and operate the licensed premises as a mixed beverage
2 establishment or an on-premises beer and wine establishment subject
3 to the provisions of the Oklahoma Alcoholic Beverage Control Act.
4 There shall be no additional fee for such exchange and the mixed
5 beverage license or on-premises beer and wine license issued shall
6 expire one (1) year from the date of issuance of the original bottle
7 club license.

8 G. In addition to the applicable licensing fee, the following
9 surcharge shall be assessed annually on the following licenses:

- 10 1. Nonresident Seller or Manufacturer License..... \$2,500.00
- 11 2. Wine and Spirits Wholesaler License..... \$2,500.00
- 12 3. Beer Distributor..... \$1,000.00
- 13 4. Retail Spirits License for cities and towns
14 over 5,000 population..... \$250.00
- 15 5. Retail Spirits License for cities and towns
16 from 2,501 to 5,000 population..... \$200.00
- 17 6. Retail Spirits License for cities and towns
18 from 200 to 2,500 population..... \$150.00
- 19 7. Retail Wine License..... \$250.00
- 20 8. Retail Beer License..... \$250.00
- 21 9. Mixed Beverage License..... \$25.00
- 22 10. Mixed Beverage/Caterer Combination License..... \$25.00
- 23 11. Caterer License..... \$25.00
- 24 12. On-Premises Beer and Wine License..... \$25.00

- 1 13. Annual Public Event License..... \$25.00
2 14. Small Farm Winery License..... \$25.00
3 15. Small Brewer License..... \$35.00
4 16. Complimentary Beverage License..... \$25.00

5 The surcharge shall be paid concurrent with the licensee's
6 annual licensing fee and, in addition to Five Dollars (\$5.00) of the
7 employee license fee, shall be deposited in the Alcoholic Beverage
8 Governance Revolving Fund established pursuant to Section 5-128 of
9 this title.

10 H. Any license issued by the ABLE Commission under this title
11 may be relied upon by other licensees as a valid license, and no
12 other licensee shall have any obligation to independently determine
13 the validity of such license or be held liable solely as a
14 consequence of another licensee's failure to maintain a valid
15 license.

16 SECTION 10. REPEALER Section 13, Chapter 366, O.S.L.
17 2016, as last amended by Section 2, Chapter 420, O.S.L. 2019 (37A
18 O.S. Supp. 2019, Section 2-101), is hereby repealed.

19 SECTION 11. AMENDATORY Section 30, Chapter 366, O.S.L.
20 2016, as amended by Section 1, Chapter 307, O.S.L. 2019 (37A O.S.
21 Supp. 2019, Section 2-118), is amended to read as follows:

22 Section 2-118. A. An airline/railroad/commercial passenger
23 vessel beverage license shall authorize the holder thereof:

1 1. To sell or serve alcoholic beverages in or from any size
2 container on a commercial passenger airplane, vessel or railroad
3 operated in compliance with a valid license, permit or certificate
4 issued under the authority of the United States or this state or its
5 instrumentality, even though the airplane, vessel or train, in the
6 course of its travel, may cross an area in which the sale of
7 alcoholic beverages by the individual drink is not authorized; and

8 2. To store alcoholic beverages in sealed containers of any
9 size at any airport, facility or station regularly served by the
10 licensee, in accordance with rules promulgated by the ABLE
11 Commission.

12 B. Alcoholic beverages purchased by the holder of an
13 airline/railroad/commercial passenger vessel license from the holder
14 of a wholesaler license or beer distributor license shall be
15 presumed to be purchased for consumption outside the State of
16 Oklahoma or in interstate commerce, and shall be exempt from the
17 excise tax provided in Section 5-101 of this title. A commercial
18 vessel operating solely on the waterways within this state shall
19 purchase alcoholic beverages from the holder of a wholesaler license
20 or beer distributor license and shall not be exempt from the excise
21 tax provided in Section 5-101 of this title.

22 SECTION 12. REPEALER Section 30, Chapter 366, O.S.L.
23 2016, as amended by Section 2, Chapter 102, O.S.L. 2019 (37A O.S.
24 Supp. 2019, Section 2-118), is hereby repealed.

SECTION 13. REPEALER Section 31, Chapter 366, O.S.L.

2016, as amended by Section 2, Chapter 307, O.S.L. 2019 (37A O.S. Supp. 2019, Section 2-119), is hereby repealed.

SECTION 14. AMENDATORY Section 32, Chapter 366, O.S.L.

2016, as amended by Section 6, Chapter 322, O.S.L. 2019 (37A O.S. Supp. 2019, Section 2-120), is amended to read as follows:

Section 2-120. A wholesaler's agent license shall authorize the holder thereof:

1. To represent only the holders of licenses within this state, other than retailers, authorized to sell wine and spirits to licensed retailers in Oklahoma; and

2. To solicit and to take orders for the purchase of wine and spirits from retailers including licensees authorized to sell wine and spirits in Oklahoma.

Such license shall be issued only to agents and employees of the holder of a license under the Oklahoma Alcoholic Beverage Control Act, but no such license shall be required of an employee making sales of wine and spirits on licensed premises of the employee's principal or of an employee of a beer distributor licensee regardless of that employee's job responsibilities. No applicant for a wholesaler's agent license shall also hold a manufacturer's agent license.

1 SECTION 15. REPEALER Section 32, Chapter 366, O.S.L.
2 2016, as amended by Section 1, Chapter 189, O.S.L. 2019 (37A O.S.
3 Supp. 2019, Section 2-120), is hereby repealed.

4 SECTION 16. AMENDATORY Section 33, Chapter 366, O.S.L.
5 2016, as last amended by Section 2, Chapter 189, O.S.L. 2019 (37A
6 O.S. Supp. 2019, Section 2-121), is amended to read as follows:

7 Section 2-121. A. An employee license shall authorize the
8 holder thereof to work in a licensed package store, retail spirits,
9 retail wine or retail beer establishment, brewpub, mixed beverage
10 establishment, beer and wine establishment, bottle club, public
11 event or any establishment where alcohol or alcoholic beverages are
12 sold, mixed or served. Persons employed by a mixed beverage, on-
13 premises beer and wine, retail wine, retail beer, public event or a
14 bottle club licensee who do not participate in the service, mixing
15 or sale of mixed beverages shall not be required to have an employee
16 license. Provided, however, that a manager employed by a mixed
17 beverage licensee, public event licensee or a bottle club shall be
18 required to have an employee license whether or not the manager
19 participates in the service, mixing or sale of mixed beverages.
20 Applicants for an employee license must be at least eighteen (18)
21 years of age and have a health card issued by the county in which
22 they are employed, if the county issues such a card; provided, the
23 provisions of this section shall not be construed to permit any
24 person under twenty-one (21) years of age to be employed to sell

1 spirits. Employees of a special event, caterer, unless catering a
2 mixed beverage-licensed premises, or airline/railroad beverage
3 licensees shall not be required to obtain an employee license;
4 further, employees of beer distributors and other licensees holding
5 licenses issued by the ABLE Commission shall not be required to
6 obtain an employee license if such employee only sells alcohol or
7 alcoholic beverages to establishments holding licenses issued by the
8 ABLE Commission and not to the public. Persons employed by a hotel
9 licensee who participate in the stocking of hotel room mini-bars or
10 in the handling of alcoholic beverages to be placed in such devices
11 shall be required to have an employee license. As a prerequisite to
12 the issuance of an employee license, not later than fourteen (14)
13 days after initial licensure, the first-time applicant shall be
14 required to have successfully completed a training program conducted
15 by the ABLE Commission, or by another entity approved by the ABLE
16 Commission, including an in-house training program conducted by the
17 employer. Proof of training completion shall be made available for
18 inspection by the ABLE Commission at the business location employing
19 the licensee. The failure of an employee licensee to comply with
20 this section may constitute a revocable offense.

21 B. In the event the ABLE Commission denies an application for
22 an employee license, the Commission shall provide written notice to
23 the applicant's employer, if any. The notice shall be given at the
24 time notice is provided to the applicant.

SECTION 17. REPEALER Section 33, Chapter 366, O.S.L.

2016, as last amended by Section 1, Chapter 225, O.S.L. 2019 (37A O.S. Supp. 2019, Section 2-121), is hereby repealed.

SECTION 18. AMENDATORY Section 60, Chapter 366, O.S.L.

2016, as last amended by Section 10, Chapter 322, O.S.L. 2019 (37A O.S. Supp. 2019, Section 2-148), is amended to read as follows:

Section 2-148. A. Any license issued pursuant to the provisions of the Oklahoma Alcoholic Beverage Control Act by the ABLE Commission, after due notice and hearing, may be revoked or suspended if the ABLE Commission finds or has grounds to believe that the licensee has:

1. Violated any rule promulgated by the ABLE Commission;

2. Procured a license through fraud, or misrepresentation, or concealment of a material fact;

3. Made any false representation or statement to the ABLE Commission or the Oklahoma Tax Commission in order to prevent or induce action by the ABLE Commission or the Tax Commission;

4. Maintained an unsanitary establishment or has supplied impure or otherwise deleterious beverages or food;

5. Stored, possessed, mixed or served on the premises of a bottle club any alcoholic beverage upon which the tax levied by Section 5-101 of this title has not been paid as provided for in the Oklahoma Alcoholic Beverage Control Act, in a county of this state

1 where the sale of alcoholic beverages by the individual drink for
2 on-premises consumption has not been authorized;

3 6. Misrepresented to a customer or the public any alcoholic
4 beverage sold by the licensee;

5 7. Had any permit or license issued by the Tax Commission and
6 required by the Oklahoma Alcoholic Beverage Control Act, suspended
7 or revoked by the Tax Commission; or

8 8. Is not in compliance with the tax laws of this state as
9 required in Article XXVIII-A of the Oklahoma Constitution.

10 B. The ABLE Commission may revoke or suspend the license of any
11 mixed beverage, caterer or bottle club licensee if the ABLE
12 Commission finds or has grounds to believe that such licensee:

13 1. Has acted as an agent of a manufacturer, brewer or
14 wholesaler of alcoholic beverages;

15 2. Is a manufacturer, brewer or wholesaler of alcoholic
16 beverages;

17 3. Has borrowed money or property or accepted gratuities or
18 rebates from a manufacturer, brewer or wholesaler of alcoholic
19 beverages;

20 4. Has obtained the use of equipment from any manufacturer,
21 brewer or wholesaler of alcoholic beverages or any agent thereof;

22 5. Has violated any of the provisions of the Oklahoma Alcoholic
23 Beverage Control Act for which mandatory revocation or suspension is
24 not required;

1 6. Has been convicted within the past twenty-five (25) years,
2 of a violation of any state or federal law relating to alcoholic
3 beverage for which mandatory revocation or suspension is not
4 required; or

5 7. Is not in compliance with the tax laws of this state as
6 required in Article XXVIII-A of the Oklahoma Constitution.

7 C. The ABLE Commission may revoke or suspend the license of any
8 retail, mixed beverage, caterer or bottle club licensee if the ABLE
9 Commission finds or has grounds to believe that such licensee has
10 borrowed money or property or accepted gratuities, discounts,
11 rebates, free goods, allowances or other inducements from a wine and
12 spirits wholesaler or beer distributor.

13 D. The ABLE Commission shall have the authority to revoke the
14 license of any licensee if the ABLE Commission finds:

15 1. That the licensee knowingly sold alcoholic beverages or
16 allowed such beverages to be sold, delivered or furnished to any
17 person under the age of twenty-one (21) years or to any person
18 visibly intoxicated or adjudged insane or mentally deficient;

19 2. That the licensee, any general or limited partner of the
20 licensee, or in the case of a corporation, an officer or director of
21 the corporation, has been convicted of a felony or is not in
22 compliance with the tax laws of this state as required in Article
23 XXVIII-A of the Oklahoma Constitution. Provided, an employee
24 license may be issued and held by a person who has been convicted of

1 a felony if such conviction was not for ~~an~~ a violent offense
2 specified in paragraph 2 of Section 571 of Title 57 of the Oklahoma
3 Statutes or an offense under the provisions of this title, ~~and if~~
4 ~~such conviction was more than five (5) years prior to the issuance~~
5 ~~of the license;~~

6 3. That, in the case of a wine and spirits wholesaler, beer
7 distributor, retail spirits, retail wine or retail beer licensee,
8 the holder of the license or any member of a general or limited
9 partnership which is the holder of such a license, has been
10 convicted of a prohibitory law relating to the sale, manufacture or
11 transportation of alcoholic beverages which constitutes a felony.

12 E. If the ABLE Commission shall find by a preponderance of the
13 evidence as in civil cases that a licensee has knowingly sold any
14 alcoholic beverage to any person under the age of twenty-one (21)
15 years, after a public hearing, the ABLE Commission shall revoke such
16 license and no discretion as to the revocation shall be exercised by
17 the ABLE Commission.

18 F. The ABLE Commission shall have the authority to promulgate
19 rules to establish a penalty schedule for violations of any
20 provision of the Oklahoma Alcoholic Beverage Control Act or any rule
21 of the ABLE Commission. The schedule shall provide for suspension
22 or revocation of any license for major and minor violations as
23 determined by the ABLE Commission. Penalties shall be increasingly
24 severe with each violation by a licensee.

1 Provided, that for a fourth major violation by a licensee within
2 a twenty-four-month period, the penalty shall be mandatory
3 revocation of license. The twenty-four-month period shall be
4 calculated from the date of the most recent violation as set forth
5 in an order signed by the Director or the designee of the Director.

6 G. The ABLE Commission or the Tax Commission may impose a
7 monetary penalty in lieu of or in addition to suspension of a
8 license. The amount of the fine for a major violation shall be
9 computed by multiplying the proposed number of days of the
10 suspension period by One Hundred Dollars (\$100.00). The amount of
11 the fine for a minor violation shall be computed by multiplying the
12 number of days of the proposed suspension period by Fifty Dollars
13 (\$50.00).

14 H. The failure of any licensee to pay a fine or serve a
15 suspension imposed by the ABLE Commission or the Tax Commission
16 shall result in the revocation of the license of the licensee.

17 I. If the ABLE Commission or the Tax Commission finds that
18 public health, safety or welfare require emergency action, and
19 incorporates a finding to that effect in its order, summary
20 suspension of a license may be ordered pending proceeding for
21 revocation or other action, pursuant to the provisions of Section
22 314 of Title 75 of the Oklahoma Statutes.

SECTION 19. REPEALER Section 60, Chapter 366, O.S.L.

2016, as last amended by Section 1, Chapter 340, O.S.L. 2019 (37A O.S. Supp. 2019, Section 2-148), is hereby repealed.

SECTION 20. AMENDATORY Section 142, Chapter 366, O.S.L.

2016, as amended by Section 1, Chapter 421, O.S.L. 2019 (37A O.S. Supp. 2019, Section 6-102), is amended to read as follows:

Section 6-102. A. No licensee of the ABLE Commission shall:

1. Receive, possess or sell any alcoholic beverage except as authorized by the Oklahoma Alcoholic Beverage Control Act and by the license or permit which the licensee holds;

2. Employ any person under eighteen (18) years of age in the selling of beer or wine or employ any person under twenty-one (21) years of age in the selling of spirits. Provided:

a. a mixed beverage, beer and wine, caterer, public event, special event, bottle club, retail wine or retail beer licensee may employ servers or sales clerks who are at least eighteen (18) years of age, except persons under twenty-one (21) years of age may not serve in designated bar or lounge areas, and

b. a mixed beverage, beer and wine, caterer, public event, special event or bottle club licensee may employ or hire musical bands who have musicians who are under eighteen (18) years of age if each such musician is either accompanied by a parent or legal

1 guardian or has on their person, to be made available
2 for inspection upon demand by any employee of the ABLE
3 Commission or law enforcement officer, a written,
4 notarized affidavit from the parent or legal guardian
5 giving the underage musician permission to perform in
6 designated bar or lounge areas;

7 3. Give any alcoholic beverage as a prize, premium or
8 consideration for any lottery, game of chance or skill or any type
9 of competition;

10 4. Use any of the following means or inducements to stimulate
11 the consumption of alcoholic beverages, including but not limited
12 to:

- 13 a. deliver more than two drinks to one person at one
14 time, except as provided for serving tasting flights
15 defined in Section 2 of this act,
- 16 b. sell or offer to sell to any person or group of
17 persons any drinks at a price that is less than six
18 percent (6%) below the markup of the cost to the mixed
19 beverage licensee; provided, a mixed beverage licensee
20 shall be permitted to offer these drink specials on
21 any particular hour of any particular day and shall
22 not be required to offer these drink specials for an
23 entire calendar week or from open to close,

- 1 c. sell or offer to sell to any person an unlimited
2 number of drinks during any set period of time for a
3 fixed price, except at private functions not open to
4 the public,
- 5 d. sell or offer to sell drinks to any person or group of
6 persons on any one day or portion thereof at prices
7 less than those charged the general public on that
8 day, except at private functions not open to the
9 public,
- 10 e. increase the volume of alcoholic beverages contained
11 in a drink without increasing proportionately the
12 price regularly charged for such drink during the same
13 calendar week, or
- 14 f. encourage or permit, on the licensed premises, any
15 game or contest which involves drinking or the
16 awarding of drinks as prizes.

17 Provided, that the provisions of this paragraph shall not
18 prohibit the advertising or offering of food or entertainment in
19 licensed establishments;

20 5. Permit or allow any patron or person to exit the licensed
21 premises with an open container of any alcoholic beverage.

22 Provided, this prohibition shall not be applicable to closed
23 original containers of alcoholic beverages which are carried from
24 the licensed premises of a bottle club by a patron, closed original

1 wine containers removed from the premises of restaurants, hotels and
2 motels, or to closed original containers of alcoholic beverages
3 transported to and from the place of business of a licensed caterer
4 by the caterer or an employee of the caterer;

5 6. Serve or sell alcoholic beverages with an expired license
6 issued by the ABLE Commission; or

7 7. Permit any person to be drunk or intoxicated on the
8 licensee's licensed premises.

9 B. A mixed beverage or beer and wine licensee shall not be
10 deemed to have violated the provisions of paragraph 5 of subsection
11 A of this section if it allowed a patron to leave the licensed
12 premises with an open container of beer or wine only and:

13 1. The otherwise prohibited act was committed during the hours
14 of 8 a.m. to midnight on the day of a scheduled home football game
15 of institutions within The Oklahoma State System of Higher
16 Education, and the establishment is located within two thousand
17 (2,000) feet of the institution;

18 2. The licensee is participating by invitation in a municipally
19 sanctioned art, music or sporting event within city limits when the
20 municipality has provided written notice of the event and a list of
21 invited licensees to the ABLE Commission at least five (5) days
22 prior to the event; or

23 3. The patron remains on the connected, physical property of
24 the licensee or in a public area adjacent to the physical property
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1 of the licensee with prior municipal approval; provided that written
2 notice of the use of the connected, physical property of the
3 licensee or public area shall be provided to the ABLE Commission at
4 least five (5) days prior to such use.

5 SECTION 21. REPEALER Section 142, Chapter 366, O.S.L.
6 2016, as amended by Section 1, Chapter 291, O.S.L. 2019 (37A O.S.
7 Supp. 2019, Section 6-102), is hereby repealed.

8 SECTION 22. AMENDATORY Section 148, Chapter 366, O.S.L.
9 2016, as last amended by Section 1, Chapter 306, O.S.L. 2019 (37A
10 O.S. Supp. 2019, Section 6-108), is amended to read as follows:

11 Section 6-108. No holder of a Retail Wine License or a Retail
12 Beer License shall:

13 1. Purchase or receive any alcoholic beverage other than from a
14 wine and spirits wholesaler, beer distributor, winery or small
15 brewer self-distribution licensee;

16 2. Suffer or permit any retail container to be opened, or any
17 alcoholic beverage to be consumed on the licensed premises, unless
18 otherwise permitted by law;

19 3. Sell any beer or wine at any hour other than between the
20 hours of 6:00 a.m. and 2:00 a.m. the following day, Monday through
21 Sunday. Retail wine and retail beer licensees shall be permitted to
22 sell beer and wine on the day of any General, Primary, Runoff
23 Primary or Special Election whether on a national, state, county or
24 city election;

1 4. Sell any beer and wine on credit; except as follows:

2 a. the acceptance by a grocery store, convenience store
3 or drug store of a cash or debit card, or a nationally
4 recognized credit card, in lieu of actual cash payment
5 does not constitute the extension of credit; provided,
6 further, as used in this section:

7 (1) "cash or debit card" means any instrument or
8 device whether known as a debit card or by any
9 other name, issued with or without fee by an
10 issuer for the use of the cardholder in
11 depositing, obtaining or transferring funds from
12 a consumer banking electronic facility, and

13 (2) "nationally recognized credit card" means any
14 instrument or device, whether known as a credit
15 card, credit plate, charge plate or by any other
16 name, issued with or without fee by an issuer for
17 the use of the cardholder in obtaining money,
18 goods, services or anything else of value on
19 credit which is accepted by over one hundred
20 retail locations, and

21 b. when the holder of a Retail Wine License, Retail Beer
22 License or Mixed Beverage License is a private
23 membership club, marina, golf course or country club
24 that normally charges food, drinks and other purchases

1 to the member's monthly dues account in the regular
2 course of business, in lieu of actual cash payment at
3 the time of purchase, such practice does not
4 constitute the extension of credit;

5 5. Offer or furnish any prize, premium, gift or similar
6 inducement to a consumer in connection with the sale of beer or
7 wine, except that goods or merchandise included by the manufacturer
8 in packaging with beer or wine or for packaging with beer or wine
9 shall not be included in this prohibition, nor shall a retail wine
10 or retail beer license holder selling wine or beer at a multiunit
11 discount be included in this prohibition; but no retail wine or
12 retail beer licensee shall sell any beer or wine prepackaged with
13 other goods or merchandise at a price which is greater than the
14 price at which the alcoholic beverage alone is sold; or

15 6. Pay for beer or wine by a check or draft which is dishonored
16 by the drawee when presented to such drawee for payment; and the
17 ABLE Commission may cancel or suspend the license of any retailer
18 who has given a check or draft, as maker or endorser, which is so
19 dishonored upon presentation.

20 SECTION 23. REPEALER Section 148, Chapter 366, O.S.L.
21 2016, as last amended by Section 4, Chapter 431, O.S.L. 2019 (37A
22 O.S. Supp. 2019, Section 6-108), is hereby repealed.
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1 SECTION 24. AMENDATORY 47 O.S. 2011, Section 583, as
2 last amended by Section 5, Chapter 79, O.S.L. 2019 (47 O.S. Supp.
3 2019, Section 583), is amended to read as follows:

4 Section 583. A. 1. It shall be unlawful and constitute a
5 misdemeanor for any person to engage in business as, or serve in the
6 capacity of, or act as a used motor vehicle dealer, wholesale used
7 motor vehicle dealer, manufactured home dealer, restricted
8 manufactured home park dealer, manufactured home installer, or
9 manufactured home manufacturer selling directly to a licensed
10 manufactured home dealer in this state without first obtaining a
11 license or following other requirements therefor as provided in this
12 section.

13 2. a. Any person engaging, acting, or serving in the
14 capacity of a used motor vehicle dealer, a
15 manufactured home dealer, restricted manufactured home
16 park dealer, a manufactured home installer, or a
17 manufactured home manufacturer, or having more than
18 one place where any such business, or combination of
19 businesses, is carried on or conducted shall be
20 required to obtain and hold a current license for each
21 such business, in which engaged.

22 b. If after a hearing in accordance with the provisions
23 of Section 585 of this title, the Oklahoma Used Motor
24 Vehicle and Parts Commission shall find any person

1 installing a mobile or manufactured home to be in
2 violation of any of the provisions of this act, such
3 person may be subject to an administrative fine of not
4 more than Five Hundred Dollars (\$500.00) for each
5 violation. Each day a person is in violation of this
6 act may constitute a separate violation. All
7 administrative fines collected pursuant to the
8 provisions of this subparagraph shall be deposited in
9 the fund established in Section 582 of this title.
10 Administrative fines imposed pursuant to this
11 subparagraph may be enforceable in the district courts
12 of this state.

13 3. Any person except persons penalized by administrative fine
14 violating the provisions of this section shall, upon conviction, be
15 punished by a fine not to exceed Five Hundred Dollars (\$500.00). A
16 second or subsequent conviction shall be punished by a fine not to
17 exceed One Thousand Dollars (\$1,000.00); provided that each day such
18 unlicensed person violates this section shall constitute a separate
19 offense, and any vehicle involved in a violation of this subsection
20 shall be considered a separate offense.

21 B. 1. Applications for licenses required to be obtained under
22 the provisions of the Oklahoma Used Motor Vehicle and Parts
23 Commission shall be verified by the oath or affirmation of the
24 applicant and shall be on forms prescribed by the Commission and

1 furnished to the applicants, and shall contain such information as
2 the Commission deems necessary to enable it to fully determine the
3 qualifications and eligibility of the several applicants to receive
4 the license or licenses applied for. The Commission shall require
5 in the application, or otherwise, information relating to:

- 6 a. the applicant's financial standing,
- 7 b. the applicant's business integrity,
- 8 c. whether the applicant has an established place of
9 business and is engaged in the pursuit, avocation, or
10 business for which a license, or licenses, is applied
11 for,
- 12 d. whether the applicant is able to properly conduct the
13 business for which a license, or licenses, is applied
14 for, and
- 15 e. such other pertinent information consistent with the
16 safeguarding of the public interest and the public
17 welfare.

18 2. All applications for license or licenses shall be
19 accompanied by the appropriate fee or fees in accordance with the
20 schedule hereinafter provided. In the event any application is
21 denied and the license applied for is not issued, the entire license
22 fee shall be returned to the applicant.

23 3. All bonds and licenses issued under the provisions of this
24 act shall expire on December 31, following the date of issue and
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1 shall be nontransferable. All applications for renewal of licenses
2 shall be submitted by November 1 of each year of expiration, and
3 licenses for completed renewals received by November 1 shall be
4 issued by January 10. If applications have not been made for
5 renewal of licenses, such licenses shall expire on December 31 and
6 it shall be illegal for any person to represent himself or herself
7 and act as a dealer thereafter. Tag agents shall be notified not to
8 accept dealers' titles until such time as licenses have been issued.
9 Beginning January 1, 2016, all licenses shall be issued for a period
10 of two (2) years and the appropriate fees shall be assessed. The
11 Commission shall adopt rules necessary to implement the two-year
12 licensing provisions.

13 C. The schedule of license fees to be charged and received by
14 the Commission for the licenses issued hereunder shall be as
15 follows:

16 1. For each used motor vehicle dealer's license and each
17 wholesale used motor vehicle dealer's license, Six Hundred Dollars
18 (\$600.00). If a used motor vehicle dealer or a wholesale used motor
19 vehicle dealer has once been licensed by the Commission in the
20 classification for which he or she applies for a renewal of the
21 license, the fee for each subsequent renewal shall be Three Hundred
22 Dollars (\$300.00); provided, if an applicant holds a license to
23 conduct business as an automotive dismantler and parts recycler
24 issued pursuant to Section 591.1 et seq. of this title, the initial

1 fee shall be Two Hundred Dollars (\$200.00) and the renewal fee shall
2 be Two Hundred Dollars (\$200.00). If an applicant is applying
3 simultaneously for a license under this paragraph and a license
4 under paragraph 1 of Section 591.5 of this title, the initial
5 application fee shall be Four Hundred Dollars (\$400.00). For the
6 reinstatement of a used motor vehicle dealer's license after
7 revocation for cancellation or expiration of insurance pursuant to
8 subsection F of this section, the fee shall be Two Hundred Dollars
9 (\$200.00);

10 2. For a used motor vehicle dealer's license, for each place of
11 business in addition to the principal place of business, Two Hundred
12 Dollars (\$200.00);

13 3. For each holder who possesses a valid new motor vehicle
14 dealer's license from the Oklahoma Motor Vehicle Commission, Two
15 Hundred Dollars (\$200.00) shall be the initial fee for a used motor
16 vehicle license and the fee for each subsequent renewal shall be Two
17 Hundred Dollars (\$200.00);

18 4. a. For each manufactured home dealer's license or a
19 restricted manufactured home park dealer's license,
20 Six Hundred Dollars (\$600.00), and for each place of
21 business in addition to the principal place of
22 business, Four Hundred Dollars (\$400.00), and

23 b. For each renewal of a manufactured home dealer's
24 license or a restricted manufactured home park
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dealer's license, and renewal for each place of business in addition to the principal place of business, Three Hundred Dollars (\$300.00);

5. a. For each manufactured home installer's license, Four Hundred Dollars (\$400.00), and

b. For each renewal of a manufactured home installer's license, Four Hundred Dollars (\$400.00); ~~and~~

6. a. For each manufactured home manufacturer selling directly to a licensed manufactured home dealer in this state, One Thousand Five Hundred Dollars (\$1,500.00), and

b. For each renewal of a manufactured home manufacturer's license, One Thousand Five Hundred Dollars (\$1,500.00);

7. Any manufactured home manufacturer who sells a new manufactured home to be shipped to or sited in the State of Oklahoma shall pay an installation inspection fee of Seventy-five Dollars (\$75.00) for each new single-wide manufactured home and One Hundred Twenty-five Dollars (\$125.00) for each new multi-floor manufactured home; and

8. A used manufactured home inspection fee of Seventy-five Dollars (\$75.00) shall be paid by the installer at or before the time of installation of any used manufactured home sited and installed in the State of Oklahoma.

1 D. 1. The license issued to each used motor vehicle dealer,
2 each wholesale used motor vehicle dealer, each restricted
3 manufactured home park dealer and each manufactured home dealer
4 shall specify the location of the place of business. If the
5 business location is changed, the Oklahoma Used Motor Vehicle and
6 Parts Commission shall be notified immediately of the change and the
7 Commission may endorse the change of location on the license. The
8 fee for a change of location shall be One Hundred Dollars (\$100.00),
9 and the fee for a change of name, Twenty-five Dollars (\$25.00). The
10 license of each licensee shall be posted in a conspicuous place in
11 the place or places of business of the licensee.

12 2. The license issued to each manufactured home installer, and
13 each manufactured home manufacturer shall specify the location of
14 the place of business. If the business location is changed, the
15 Oklahoma Used Motor Vehicle and Parts Commission shall be notified
16 immediately of the change and the Commission may endorse the change
17 of location on the license without charge. The license of each
18 licensee shall be posted in a conspicuous place in the place or
19 places of business of the licensee.

20 3. Every manufactured home installer shall have the license
21 available for inspection at the primary place of business of the
22 licensee. This license shall be valid for the licensee and all of
23 the employees of the licensee. Any person who is not an employee of
24 the licensee must obtain a separate manufactured home installer

1 license regardless of whether such person is acting in the capacity
2 of a contractor or subcontractor.

3 E. 1. a. Each applicant for a used motor vehicle dealer's
4 license shall procure and file with the Commission a
5 good and sufficient bond in the amount of Twenty-five
6 Thousand Dollars (\$25,000.00). Each new applicant for
7 a used motor vehicle dealer's license for the purpose
8 of conducting a used motor vehicle auction shall
9 procure and file with the Commission a good and
10 sufficient bond in the amount of Fifty Thousand
11 Dollars (\$50,000.00). An applicant who intends to
12 conduct a used motor vehicle auction who provides
13 proof that the applicant has check and title insurance
14 in an amount not less than Fifty Thousand Dollars
15 (\$50,000.00) shall only be required to have a bond in
16 the amount of Twenty-five Thousand Dollars
17 (\$25,000.00).

18 b. Each new applicant for a used motor vehicle dealer
19 license for the purpose of conducting a used motor
20 vehicle business which will consist primarily of non-
21 auction consignment sales which are projected to equal
22 Five Hundred Thousand Dollars (\$500,000.00) or more in
23 gross annual sales shall procure and file with the
24 Commission a good and sufficient bond in the amount of
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1 Fifty Thousand Dollars (\$50,000.00). The Commission
2 shall prescribe by rule the method of operation of the
3 non-auction consignment dealer in order to properly
4 protect the interests of all parties to the
5 transaction and to provide sanctions against dealers
6 who fail to comply with the rules.

7 c. Each applicant for a wholesale used motor vehicle
8 dealer's license shall procure and file with the
9 Commission a good and sufficient bond in the amount of
10 Twenty-five Thousand Dollars (\$25,000.00).

11 d. Any used motor vehicle dealer who, for the purpose of
12 being a rebuilder, applies for a rebuilder
13 certificate, as provided in Section 591.5 of this
14 title, whether as a new application or renewal, shall
15 procure and file with the Commission a good and
16 sufficient bond in the amount of Fifteen Thousand
17 Dollars (\$15,000.00), in addition to any other bonds
18 required.

19 e. Each applicant for a manufactured home dealer's
20 license or a restricted manufactured home park
21 dealer's license shall procure and file with the
22 Commission a good and sufficient bond in the amount of
23 Thirty Thousand Dollars (\$30,000.00).

1 f. Each manufactured home manufacturing facility selling
2 directly to a licensed manufactured home dealer in
3 this state shall procure and file with the Commission
4 a good and sufficient bond in the amount of Thirty
5 Thousand Dollars (\$30,000.00). In addition to all
6 other conditions and requirements set forth herein,
7 the bond shall require the availability of prompt and
8 full warranty service by the manufacturer to comply
9 with all warranties expressed or implied in connection
10 with each manufactured home which is manufactured for
11 resale in this state. A manufacturer may not sell,
12 exchange, or lease-purchase a manufactured home to a
13 person in this state who is not a licensed
14 manufactured home dealer.

15 g. The bond shall be approved as to form by the Attorney
16 General and conditioned that the applicant shall not
17 practice fraud, make any fraudulent representation, or
18 violate any of the provisions of this act in the
19 conduct of the business for which the applicant is
20 licensed. One of the purposes of the bond is to
21 provide reimbursement for any loss or damage suffered
22 by any person by reason of issuance of a certificate
23 of title by a used motor vehicle dealer, a wholesale
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1 used motor vehicle dealer, a restricted manufactured
2 home park dealer or a manufactured home dealer.

3 2. The bonds as required by this section shall be maintained
4 throughout the period of licensure. Should the bond be canceled for
5 any reason, the license shall be revoked as of the date of
6 cancellation unless a new bond is furnished prior to such date.

7 F. Any used motor vehicle dealer or wholesale used motor
8 vehicle dealer is required to furnish and keep in force a minimum of
9 Twenty-five Thousand Dollars (\$25,000.00) of single liability
10 insurance coverage on all vehicles offered for sale or used in any
11 other capacity in demonstrating or utilizing the streets and
12 roadways in accordance with the financial responsibility laws of
13 this state.

14 G. Any manufactured home dealer or restricted manufactured home
15 park dealer is required to furnish and keep in force a minimum of
16 One Hundred Thousand Dollars (\$100,000.00) of garage liability or
17 general liability with products and completed operations insurance
18 coverage.

19 H. Any manufactured home installer is required to furnish and
20 keep in force a minimum of Twenty-five Thousand Dollars (\$25,000.00)
21 of general liability with products and completed operations
22 insurance coverage.

1 SECTION 25. REPEALER 47 O.S. 2011, Section 583, as last
2 amended by Section 1, Chapter 221, O.S.L. 2019 (47 O.S. Supp. 2019,
3 Section 583), is hereby repealed.

4 SECTION 26. AMENDATORY 47 O.S. 2011, Section 11-314, as
5 last amended by Section 1, Chapter 391, O.S.L. 2019 (47 O.S. Supp.
6 2019, Section 11-314), is amended to read as follows:

7 Section 11-314. A. The driver of a motor vehicle, upon
8 approaching a stationary authorized emergency vehicle, a Department
9 of Transportation maintenance vehicle, a Turnpike Authority
10 maintenance vehicle, a stationary vehicle that is displaying
11 flashing lights or a licensed wrecker that is displaying a flashing
12 amber light, a combination red or blue light or any combination of
13 amber, red or blue lights, shall:

14 1. If traveling on a highway that consists of two or more lanes
15 that carry traffic in the same direction of travel as that of the
16 driver, the driver shall proceed with due caution and shall, if
17 possible and with due regard to the road, weather, and traffic
18 conditions, change lanes into a lane that is not adjacent to the
19 stationary authorized emergency vehicle, a Department of
20 Transportation maintenance vehicle, a Turnpike Authority maintenance
21 vehicle, or licensed wrecker; or if the driver is not able to change
22 lanes or if to do so would be unsafe, the driver shall proceed with
23 due caution and reduce the speed of the motor vehicle to a safe
24 speed for the existing road, weather, and traffic conditions; and

1 2. If traveling on a highway other than a highway described in
2 paragraph 1 of this subsection, the driver shall proceed with due
3 caution and reduce the speed of the motor vehicle to a safe speed
4 for the existing road, weather, and traffic conditions.

5 B. This section does not relieve the operator of a stationary
6 authorized emergency vehicle, a Department of Transportation
7 maintenance vehicle, a Turnpike Authority maintenance vehicle, or
8 licensed wrecker from the consequences of reckless disregard for the
9 safety of all persons and property upon the highway.

10 SECTION 27. REPEALER 47 O.S. 2011, Section 11-314, as
11 last amended by Section 1, Chapter 372, O.S.L. 2019 (47 O.S. Supp.
12 2019, Section 11-314), is hereby repealed.

13 SECTION 28. AMENDATORY 56 O.S. 2011, Section 2002, as
14 last amended by Section 39, Chapter 475, O.S.L. 2019 (56 O.S. Supp.
15 2019, Section 2002), is amended to read as follows:

16 Section 2002. A. For the purpose of providing quality care
17 enhancements, the Oklahoma Health Care Authority is authorized to
18 and shall assess a Nursing Facilities Quality of Care Fee pursuant
19 to this section upon each nursing facility licensed in this state.
20 Facilities operated by the Oklahoma Department of Veterans Affairs
21 shall be exempt from this fee. Quality of care enhancements
22 include, but are not limited to, the purposes specified in this
23 section.
24

1 B. As a basis for determining the Nursing Facilities Quality of
2 Care Fee assessed upon each licensed nursing facility, the Authority
3 shall calculate a uniform per-patient day rate. The rate shall be
4 calculated by dividing six percent (6%) of the total annual patient
5 gross receipts of all licensed nursing facilities in this state by
6 the total number of patient days for all licensed nursing facilities
7 in this state. The result shall be the per-patient day rate.
8 Beginning July 15, 2004, the Nursing Facilities Quality of Care Fee
9 shall not be increased unless specifically authorized by the
10 Legislature.

11 C. Pursuant to any approved Medicaid waiver and pursuant to
12 subsection N of this section, the Nursing Facilities Quality of Care
13 Fee shall not exceed the amount or rate allowed by federal law for
14 nursing home licensed bed days.

15 D. The Nursing Facilities Quality of Care Fee owed by a
16 licensed nursing facility shall be calculated by the Authority by
17 adding the daily patient census of a licensed nursing facility, as
18 reported by the facility for each day of the month, and by
19 multiplying the ensuing figure by the per-patient day rate
20 determined pursuant to the provisions of subsection B of this
21 section.

22 E. Each licensed nursing facility which is assessed the Nursing
23 Facilities Quality of Care Fee shall be required to file a report on
24 a monthly basis with the Authority detailing the daily patient
25

1 census and patient gross receipts at such time and in such manner as
2 required by the Authority.

3 F. 1. The Nursing Facilities Quality of Care Fee for a
4 licensed nursing facility for the period beginning October 1, 2000,
5 shall be determined using the daily patient census and annual
6 patient gross receipts figures reported to the Authority for the
7 calendar year 1999 upon forms supplied by the Authority.

8 2. Annually the Nursing Facilities Quality of Care Fee shall be
9 determined by:

- 10 a. using the daily patient census and patient gross
11 receipts reports received by the Authority for the
12 most recent available twelve (12) months, and
13 b. annualizing those figures.

14 Each year thereafter, the annualization of the Nursing
15 Facilities Quality of Care Fee specified in this paragraph shall be
16 subject to the limitation in subsection B of this section unless the
17 provision of subsection C of this section is met.

18 G. The payment of the Nursing Facilities Quality of Care Fee by
19 licensed nursing facilities shall be an allowable cost for Medicaid
20 reimbursement purposes.

21 H. 1. There is hereby created in the State Treasury a
22 revolving fund to be designated the "Nursing Facility Quality of
23 Care Fund".
24
25

1 2. The fund shall be a continuing fund, not subject to fiscal
2 year limitations, and shall consist of:

- 3 a. all monies received by the Authority pursuant to this
4 section and otherwise specified or authorized by law,
5 b. monies received by the Authority due to federal
6 financial participation pursuant to Title XIX of the
7 Social Security Act, and
8 c. interest attributable to investment of money in the
9 fund.

10 3. All monies accruing to the credit of the fund are hereby
11 appropriated and shall be budgeted and expended by the Authority
12 for:

- 13 a. reimbursement of the additional costs paid to
14 Medicaid-certified nursing facilities for purposes
15 specified by Sections 1-1925.2, ~~5022.1~~ and 5022.2 of
16 Title 63 of the Oklahoma Statutes,
17 b. reimbursement of the Medicaid rate increases for
18 intermediate care facilities for individuals with
19 intellectual disabilities (ICFs/IID),
20 c. nonemergency transportation services for Medicaid-
21 eligible nursing home clients,
22 d. eyeglass and denture services for Medicaid-eligible
23 nursing home clients,
24

- e. ~~ten additional~~ fifteen ombudsmen employed by the Department of Human Services,
- f. ten additional nursing facility inspectors employed by the State Department of Health,
- g. pharmacy and other Medicaid services to qualified Medicare beneficiaries whose incomes are at or below one hundred percent (100%) of the federal poverty level; provided however, pharmacy benefits authorized for such qualified Medicare beneficiaries shall be suspended if the federal government subsequently extends pharmacy benefits to this population,
- h. costs incurred by the Authority in the administration of the provisions of this section and any programs created pursuant to this section,
- i. durable medical equipment and supplies services for Medicaid-eligible elderly adults, and
- j. personal needs allowance increases for residents of nursing homes and Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICFs/IID) from Thirty Dollars (\$30.00) to Fifty Dollars (\$50.00) per month per resident.

4. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by

1 law with the Director of the Office of Management and Enterprise
2 Services for approval and payment.

3 5. The fund and the programs specified in this section funded
4 by revenues collected from the Nursing Facilities Quality of Care
5 Fee pursuant to this section are exempt from budgetary cuts,
6 reductions, or eliminations.

7 6. The Medicaid rate increases for intermediate care facilities
8 for individuals with intellectual disabilities (ICFs/IID) shall not
9 exceed the net Medicaid rate increase for nursing facilities
10 including, but not limited to, the Medicaid rate increase for which
11 Medicaid-certified nursing facilities are eligible due to the
12 Nursing Facilities Quality of Care Fee less the portion of that
13 increase attributable to treating the Nursing Facilities Quality of
14 Care Fee as an allowable cost.

15 7. The reimbursement rate for nursing facilities shall be made
16 in accordance with Oklahoma's Medicaid reimbursement rate
17 methodology and the provisions of this section.

18 8. No nursing facility shall be guaranteed, expressly or
19 otherwise, that any additional costs reimbursed to the facility will
20 equal or exceed the amount of the Nursing Facilities Quality of Care
21 Fee paid by the nursing facility.

22 I. 1. In the event that federal financial participation
23 pursuant to Title XIX of the Social Security Act is not available to
24 the Oklahoma Medicaid program, for purposes of matching expenditures
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1 from the Nursing Facility Quality of Care Fund at the approved
2 federal medical assistance percentage for the applicable fiscal
3 year, the Nursing Facilities Quality of Care Fee shall be null and
4 void as of the date of the nonavailability of such federal funding,
5 through and during any period of nonavailability.

6 2. In the event of an invalidation of this section by any court
7 of last resort under circumstances not covered in subsection J of
8 this section, the Nursing Facilities Quality of Care Fee shall be
9 null and void as of the effective date of that invalidation.

10 3. In the event that the Nursing Facilities Quality of Care Fee
11 is determined to be null and void for any of the reasons enumerated
12 in this subsection, any Nursing Facilities Quality of Care Fee
13 assessed and collected for any periods after such invalidation shall
14 be returned in full within sixty (60) days by the Authority to the
15 nursing facility from which it was collected.

16 J. 1. If any provision of this section or the application
17 thereof shall be adjudged to be invalid by any court of last resort,
18 such judgment shall not affect, impair or invalidate the provisions
19 of the section, but shall be confined in its operation to the
20 provision thereof directly involved in the controversy in which such
21 judgment was rendered. The applicability of such provision to other
22 persons or circumstances shall not be affected thereby.

23 2. This subsection shall not apply to any judgment that affects
24 the rate of the Nursing Facilities Quality of Care Fee, its

1 applicability to all licensed nursing homes in the state, the usage
2 of the fee for the purposes prescribed in this section, ~~and/or~~ or
3 the ability of the Authority to obtain full federal participation to
4 match its expenditures of the proceeds of the fee.

5 K. The Authority shall promulgate rules for the implementation
6 and enforcement of the Nursing Facilities Quality of Care Fee
7 established by this section.

8 L. The Authority shall provide for administrative penalties in
9 the event nursing facilities fail to:

- 10 1. Submit the Quality of Care Fee;
- 11 2. Submit the fee in a timely manner;
- 12 3. Submit reports as required by this section; or
- 13 4. Submit reports timely.

14 M. As used in this section:

15 1. "Nursing facility" means any home, establishment or
16 institution, or any portion thereof, licensed by the State
17 Department of Health as defined in Section 1-1902 of Title 63 of the
18 Oklahoma Statutes;

19 2. "Medicaid" means the medical assistance program established
20 in Title XIX of the federal Social Security Act and administered in
21 this state by the Authority;

22 3. "Patient gross revenues" means gross revenues received in
23 compensation for services provided to residents of nursing
24 facilities including, but not limited to, client participation. The

1 term "patient gross revenues" shall not include amounts received by
2 nursing facilities as charitable contributions; and

3 4. "Additional costs paid to Medicaid-certified nursing
4 facilities under Oklahoma's Medicaid reimbursement methodology"
5 means both state and federal Medicaid expenditures including, but
6 not limited to, funds in excess of the aggregate amounts that would
7 otherwise have been paid to Medicaid-certified nursing facilities
8 under the Medicaid reimbursement methodology which have been updated
9 for inflationary, economic, and regulatory trends and which are in
10 effect immediately prior to the inception of the Nursing Facilities
11 Quality of Care Fee.

12 N. 1. As per any approved federal Medicaid waiver, the
13 assessment rate subject to the provision of subsection C of this
14 section is to remain the same as those rates that were in effect
15 prior to January 1, 2012, for all state-licensed continuum of care
16 facilities.

17 2. Any facilities that made application to the State Department
18 of Health to become a licensed continuum of care facility no later
19 than January 1, 2012, shall be assessed at the same rate as those
20 facilities assessed pursuant to paragraph 1 of this subsection;
21 provided, that any facility making the application shall receive the
22 license on or before September 1, 2012. Any facility that fails to
23 receive such license from the State Department of Health by
24

1 September 1, 2012, shall be assessed at the rate established by
2 subsection C of this section subsequent to September 1, 2012.

3 O. If any provision of this section, or the application
4 thereof, is determined by any controlling federal agency, or any
5 court of last resort to prevent the state from obtaining federal
6 financial participation in the state's Medicaid program, such
7 provision shall be deemed null and void as of the date of the
8 nonavailability of such federal funding and through and during any
9 period of nonavailability. All other provisions of the bill shall
10 remain valid and enforceable.

11 SECTION 29. REPEALER 56 O.S. 2011, Section 2002, as last
12 amended by Section 2, Chapter 489, O.S.L. 2019 (56 O.S. Supp. 2019,
13 Section 2002), is hereby repealed.

14 SECTION 30. AMENDATORY 59 O.S. 2011, Section 148, as
15 amended by Section 7, Chapter 363, O.S.L. 2019 (59 O.S. Supp. 2019,
16 Section 148), is amended to read as follows:

17 Section 148. A. The following acts or occurrences by a
18 podiatric physician shall constitute grounds for which the penalties
19 specified in Section 147 of this title may be imposed by order of
20 the Board of Podiatric Medical Examiners:

21 1. Willfully making a false and material statement to the
22 Board, either before or after the issuance of a license;
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1 2. Pleading guilty or nolo contendere to, or being convicted
2 of, a felony crime that substantially relates to the practice of
3 podiatric medicine and poses a reasonable threat to public safety;

4 3. Using alcohol, any drug, or any other substance which
5 impairs the licensee to a degree that the licensee is unable to
6 practice podiatric medicine with safety and benefit to the public;

7 4. Being mentally or physically incapacitated to a degree that
8 the licensee is unable to practice podiatric medicine with safety
9 and benefit to the public;

10 5. Making any advertisement, statement, or representation which
11 is untrue or improbable and calculated by the licensee to deceive,
12 defraud or mislead the public or patients;

13 6. Practicing fraud by omission or commission in the
14 examination given by the Board, or in obtaining a license, or in
15 obtaining renewal or reinstatement of a license;

16 7. Failing to pay or cause to be paid promptly when due any fee
17 required by the Podiatric Medicine Practice Act or the rules of the
18 Board;

19 8. Practicing podiatric medicine in an unsafe or unsanitary
20 manner or place;

21 9. Performing, or attempting to perform, any surgery for which
22 the licensee has not had reasonable training;

23 10. Gross and willful neglect of duty as a member or officer of
24 the Board;

1 11. Dividing with any person, firm, corporation, or other legal
2 entity any fee or other compensation for services as a podiatric
3 physician, except with:

- 4 a. another podiatric physician,
- 5 b. an applicant for a license who is observing or
6 assisting the licensee as an intern, preceptee or
7 resident, as authorized by the rules of the Board, or
- 8 c. a practitioner of another branch of the healing arts
9 who is duly licensed under the laws of this state or
10 another state, district or territory of the United
11 States,

12 who has actually provided services, directly or indirectly, to the
13 patient from or for whom the fee or other compensation is received,
14 or at the time of the services is an active associate of the
15 licensee in the lawful practice of podiatric medicine in this state;

16 12. Violating or attempting to violate the provisions of the
17 Podiatric Medicine Practice Act, the Code of Ethics, or the rules of
18 the Board; and

19 13. Prescribing, dispensing or administering opioid drugs in
20 excess of the maximum limits authorized in Section 2-309I of Title
21 63 of the Oklahoma Statutes.

22 B. Commitment of a licensee to an institution for the mentally
23 ill shall constitute prima facie evidence that the licensee is
24

1 mentally incapacitated to a degree that the licensee is unable to
2 practice podiatric medicine with safety and benefit to the public.

3 C. As used in this section:

4 1. "Substantially relates" means the nature of criminal conduct
5 for which the person was convicted has a direct bearing on the
6 fitness or ability to perform one or more of the duties or
7 responsibilities necessarily related to the occupation; and

8 2. "Poses a reasonable threat" means the nature of criminal
9 conduct for which the person was convicted involved an act or threat
10 of harm against another and has a bearing on the fitness or ability
11 to serve the public or work with others in the occupation.

12 SECTION 31. REPEALER 59 O.S. 2011, Section 148, as
13 amended by Section 2, Chapter 428, O.S.L. 2019 (59 O.S. Supp. 2019,
14 Section 148), is hereby repealed.

15 SECTION 32. AMENDATORY 59 O.S. 2011, Section 328.24, as
16 last amended by Section 6, Chapter 397, O.S.L. 2019 (59 O.S. Supp.
17 2019, Section 328.24), is amended to read as follows:

18 Section 328.24. A. No person shall practice as a dental
19 assistant or oral maxillofacial surgery assistant for more than one
20 (1) day in a calendar year without having applied for a permit as a
21 dental assistant or oral maxillofacial surgery assistant from the
22 Board of Dentistry within thirty (30) days of beginning employment.
23 During this time period, the dental assistant shall work under the
24 direct visual supervision of a dentist at all times.

1 B. The application shall be made to the Board in writing and
2 shall be accompanied by the fee established by the Board, together
3 with satisfactory proof that the applicant÷

4 ~~1. Is of good moral character; and~~

5 ~~2. Passes~~ passes a background check with criteria established
6 by the Board.

7 C. Beginning January 1, 2020, every dental assistant receiving
8 a permit shall complete a class on infection control as approved by
9 the Board within one (1) year from the date of receipt of the
10 permit. Any person holding a valid dental assistant permit prior to
11 January 1, 2020, shall complete an infection-control class as
12 approved by the Board before December 31, 2020. Failure to complete
13 the class shall be grounds for discipline pursuant to Section
14 328.29a of this title.

15 D. There shall be five types of expanded duty permits available
16 for dental assistants upon completion of a program approved by the
17 Commission on Dental Accreditation (CODA) or a course that has been
18 approved by the Board:

19 1. Radiation safety;

20 2. Coronal polishing and topical fluoride;

21 3. Sealants;

22 4. Assisting in the administration of nitrous oxide; or
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24
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1 5. Assisting a dentist who holds a parenteral or pediatric
2 anesthesia permit; provided, only the dentist may administer
3 anesthesia and assess the patient's level of sedation.

4 E. The training requirements for all five expanded duty permits
5 shall be set forth by the Board. A program that is not CODA-
6 certified must meet the standards set forth and be approved by the
7 Board.

8 F. An applicant for a dental assistant permit who has graduated
9 from a dental assisting program accredited by CODA and has passed
10 the jurisprudence test shall receive all five expanded duty permits
11 provided for in subsection D of this section if the course materials
12 approved by the Board are covered in the program.

13 G. A dental assistant who holds an out-of-state dental
14 assistant permit with expanded duties may apply for credentialing
15 and reciprocity for a dental assistant permit including any expanded
16 duty by demonstrating the following:

17 1. The dental assistant has had a valid dental assistant permit
18 in another state for a minimum of two (2) years and is in good
19 standing;

20 2. The dental assistant has had a valid expanded duty in
21 another state for a minimum of one (1) year; and

22 3. The dental assistant provides a certificate or proof of
23 completion of an educational class for the expanded duty and that
24 the dental assistant has been providing this treatment to dental
25

1 patients while working as a dental assistant in a dental office for
2 one (1) year.

3 H. Any person having served in the military as a dental
4 assistant shall receive credentialing and reciprocity for expanded
5 functions by demonstrating the following:

6 1. Proof of military service in excess of two (2) years with
7 any certifications or training in the expanded function areas; and

8 2. Verification from the commanding officer of the medical
9 program or the appropriate supervisor stating that the dental
10 assistant provided the expanded functions on patients in the
11 military dental facility for a minimum of one (1) year within the
12 past five (5) years.

13 SECTION 33. REPEALER 59 O.S. 2011, Section 328.24, as
14 last amended by Section 10, Chapter 363, O.S.L. 2019 (59 O.S. Supp.
15 2019, Section 328.24), is hereby repealed.

16 SECTION 34. AMENDATORY 59 O.S. 2011, Section 328.32, as
17 last amended by Section 7, Chapter 397, O.S.L. 2019 (59 O.S. Supp.
18 2019, Section 328.32), is amended to read as follows:

19 Section 328.32. A. The following acts or occurrences by a
20 dentist shall constitute grounds for which the penalties specified
21 in Section 328.44a of this title may be imposed by order of the
22 Board of Dentistry or be the basis for denying a new applicant any
23 license or permit issued by the Board:

1 1. Pleading guilty or nolo contendere to, or being convicted
2 of, a felony, a misdemeanor involving moral turpitude, any crime in
3 which an individual would be required to be a registered sex
4 offender under Oklahoma law, any violent crime, Medicaid fraud,
5 insurance fraud, identity theft, embezzlement or a violation of
6 federal or state controlled dangerous substances laws;

7 2. Presenting to the Board a false diploma, license, or
8 certificate, or one obtained by fraud or illegal means, or providing
9 other false information on an application or renewal;

10 3. Being, by reason of persistent inebriety or addiction to
11 drugs, incompetent to continue the practice of dentistry;

12 4. Publishing a false, fraudulent, or misleading advertisement
13 or statement;

14 5. Authorizing or aiding an unlicensed person to practice
15 dentistry, to practice dental hygiene, or to perform a function for
16 which a permit from the Board is required;

17 6. Authorizing or aiding a dental hygienist to perform any
18 procedure prohibited by the State Dental Act or the rules of the
19 Board;

20 7. Authorizing or aiding a dental assistant or oral
21 maxillofacial surgery assistant to perform any procedure prohibited
22 by the State Dental Act or the rules of the Board;

23 8. Failing to pay fees as required by the State Dental Act or
24 the rules of the Board;

1 9. Failing to complete continuing education requirements;

2 10. Representing himself or herself to the public as a
3 specialist in a dental specialty without holding a dental specialty
4 license therefor;

5 11. Representing himself or herself to the public as a
6 specialist whose practice is limited to a dental specialty, when
7 such representation is false, fraudulent, or misleading;

8 12. Endangering the health of patients by reason of having a
9 highly communicable disease and continuing to practice dentistry
10 without taking appropriate safeguards;

11 13. Practicing dentistry in an unsafe or unsanitary manner or
12 place, including but not limited to repeated failures to follow
13 Centers for Disease Control and Prevention (CDC) or Occupational
14 ~~Health~~ Safety and Health Administration (OSHA) guidelines;

15 14. Being shown to be mentally unsound;

16 15. Being shown to be grossly immoral and that such condition
17 represents a threat to patient care or treatment;

18 16. Being incompetent to practice dentistry while delivering
19 care to a patient;

20 17. Committing gross negligence in the practice of dentistry;

21 18. Committing repeated acts of negligence in the practice of
22 dentistry;

1 19. Offering to effect or effecting a division of fees, or
2 agreeing to split or divide a fee for dental services with any
3 person, in exchange for the person bringing or referring a patient;

4 20. Being involuntarily committed to an institution for
5 treatment for substance abuse, until recovery or remission;

6 21. Using or attempting to use the services of a dental
7 laboratory or dental laboratory technician without issuing a
8 laboratory prescription, except as provided in subsection C of
9 Section 328.36 of this title;

10 22. Aiding, abetting, or encouraging a dental hygienist
11 employed by the dentist to make use of an oral prophylaxis list, or
12 the calling by telephone or by use of letters transmitted through
13 the mails to solicit patronage from patients formerly served in the
14 office of any dentist formerly employing such hygienist;

15 23. Having more than the equivalent of three full-time dental
16 hygienists for each dentist actively practicing in the same dental
17 office;

18 24. Allowing a person not holding a permit or license issued by
19 the Board to assist in the treatment of a patient without having a
20 license or permit issued by the Board;

21 25. Knowingly patronizing or using the services of a dental
22 laboratory or dental laboratory technician who has not complied with
23 the provisions of the State Dental Act and the rules of the Board;

1 26. Authorizing or aiding a dental hygienist, dental assistant,
2 oral maxillofacial surgery assistant, dental laboratory technician,
3 or holder of a permit to operate a dental laboratory to violate any
4 provision of the State Dental Act or the rules of the Board;

5 27. Willfully disclosing information protected by the Health
6 Information Portability and Accountability Act, P.L. 104-191;

7 28. Writing a false, unnecessary, or excessive prescription for
8 any drug or narcotic which is a controlled dangerous substance under
9 either federal or state law, or prescribing, dispensing or
10 administering opioid drugs in excess of the maximum limits
11 authorized in Section 2-309I of Title 63 of the Oklahoma Statutes;

12 29. Prescribing or administering any drug or treatment without
13 having established a valid dentist-patient relationship;

14 30. Using or administering nitrous oxide gas in a dental office
15 in an inappropriate or unauthorized manner;

16 31. Engaging in nonconsensual physical contact with a patient
17 which is sexual in nature, or engaging in a verbal communication
18 which is intended to be sexually demeaning to a patient;

19 32. Practicing dentistry without displaying, at the dentist's
20 primary place of practice, the license issued to the dentist by the
21 Board to practice dentistry and the current renewal certificate;

22 33. Being dishonest in a material way with a patient;

23 34. Failing to retain all patient records for at least seven
24 (7) years from the date of the last treatment, except that the

1 failure to retain records shall not be a violation of the State
2 Dental Act if the dentist shows that the records were lost,
3 destroyed, or removed by another, without the consent of the
4 dentist;

5 35. Failing to retain the dentist's copy of any laboratory
6 prescription for at least three (3) years, except that the failure
7 to retain records shall not be a violation of the State Dental Act
8 if the dentist shows that the records were lost, destroyed, or
9 removed by another, without the consent of the dentist;

10 36. Allowing any corporation, organization, group, person, or
11 other legal entity, except another dentist or a professional entity
12 that is in compliance with the registration requirements of
13 subsection B of Section 328.31 of this title, to direct, control, or
14 interfere with the dentist's clinical judgment. Clinical judgment
15 shall include, but not be limited to, such matters as selection of a
16 course of treatment, control of patient records, policies and
17 decisions relating to pricing, credit, refunds, warranties and
18 advertising, and decisions relating to office personnel and hours of
19 practice. Nothing in this paragraph shall be construed to:

- 20 a. limit a patient's right of informed consent, or
- 21 b. prohibit insurers, preferred provider organizations
22 and managed care plans from operating pursuant to the
23 applicable provisions of the Oklahoma Insurance Code
24 and the Public Health Code;

1 37. Violating the state dental act of another state resulting
2 in a plea of guilty or nolo contendere, conviction or suspension or
3 revocation or other sanction by another state board, of the license
4 of the dentist under the laws of that state;

5 38. Violating or attempting to violate the provisions of the
6 State Dental Act or the rules of the Board, a state or federal
7 statute or rule relating to scheduled drugs, fraud, a violent crime
8 or any crime for which the penalty includes the requirement of
9 registration as a sex offender in Oklahoma as a principal, accessory
10 or accomplice;

11 39. Failing to comply with the terms and conditions of an order
12 imposing suspension of a license or placement on probation issued
13 pursuant to Section 328.44a of this title;

14 40. Failing to cooperate during an investigation or providing
15 false information, verbally or in writing, to the Board, the Board's
16 investigator or an agent of the Board;

17 41. Having multiple administrative or civil actions reported to
18 the National Practitioner Databank; or

19 42. Failing to complete an approved two-hour course on opioid
20 and scheduled drug prescribing within one (1) year of obtaining a
21 license or a violation of a law related to controlled dangerous
22 substances including prescribing laws pursuant to Section 2-309D of
23 Title 63 of the Oklahoma Statutes.

1 B. The provisions of the State Dental Act shall not be
2 construed to prohibit any dentist from displaying or otherwise
3 advertising that the dentist is also currently licensed, registered,
4 certified, or otherwise credentialed pursuant to the laws of this
5 state or a nationally recognized credentialing board, if authorized
6 by the laws of the state or credentialing board to display or
7 otherwise advertise as a licensed, registered, certified, or
8 credentialed dentist.

9 SECTION 35. REPEALER 59 O.S. 2011, Section 328.32, as
10 last amended by Section 3, Chapter 428, O.S.L. 2019 (59 O.S. Supp.
11 2019, Section 328.32), is hereby repealed.

12 SECTION 36. AMENDATORY 59 O.S. 2011, Section 509, as
13 last amended by Section 8, Chapter 492, O.S.L. 2019 (59 O.S. Supp.
14 2019, Section 509), is amended to read as follows:

15 Section 509. The words "unprofessional conduct" as used in
16 Sections 481 through 518.1 of this title are hereby declared to
17 include, but shall not be limited to, the following:

- 18 1. Procuring, aiding or abetting a criminal operation;
- 19 2. The obtaining of any fee or offering to accept any fee,
20 present or other form of remuneration whatsoever, on the assurance
21 or promise that a manifestly incurable disease can or will be cured;
- 22 3. Willfully betraying a professional secret to the detriment
23 of the patient;

1 4. Habitual intemperance or the habitual use of habit-forming
2 drugs;

3 5. Conviction or confession of, or plea of guilty, nolo
4 contendere, no contest or Alford plea to a felony or any offense
5 involving moral turpitude;

6 6. All advertising of medical business in which statements are
7 made which are grossly untrue or improbable and calculated to
8 mislead the public;

9 7. Conviction or confession of, or plea of guilty, nolo
10 contendere, no contest or Alford plea to a crime involving violation
11 of:

- 12 a. the antinarcotic or prohibition laws and regulations
- 13 of the federal government,
- 14 b. the laws of this state,
- 15 c. State Board of Health rules, or
- 16 d. a determination by a judge or jury;

17 8. Dishonorable or immoral conduct which is likely to deceive,
18 defraud, or harm the public;

19 9. The commission of any act which is a violation of the
20 criminal laws of any state when such act is connected with the
21 physician's practice of medicine. A complaint, indictment or
22 confession of a criminal violation shall not be necessary for the
23 enforcement of this provision. Proof of the commission of the act
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1 while in the practice of medicine or under the guise of the practice
2 of medicine shall be unprofessional conduct;

3 10. Failure to keep complete and accurate records of purchase
4 and disposal of controlled drugs or of narcotic drugs;

5 11. The writing of false or fictitious prescriptions for any
6 drugs or narcotics declared by the laws of this state to be
7 controlled or narcotic drugs;

8 12. Prescribing or administering a drug or treatment without
9 sufficient examination and the establishment of a valid physician-
10 patient relationship and not prescribing in a safe, medically
11 accepted manner;

12 13. The violation, or attempted violation, direct or indirect,
13 of any of the provisions of the Oklahoma Allopathic Medical and
14 Surgical Licensure and Supervision Act, either as a principal,
15 accessory or accomplice;

16 14. Aiding or abetting, directly or indirectly, the practice of
17 medicine by any person not duly authorized under the laws of this
18 state;

19 15. The inability to practice medicine with reasonable skill
20 and safety to patients by reason of age, illness, drunkenness,
21 excessive use of drugs, narcotics, chemicals, or any other type of
22 material or as a result of any mental or physical condition. In
23 enforcing this section the State Board of Medical Licensure and
24 Supervision may, upon probable cause, request a physician to submit

1 to a mental or physical examination by physicians designated by it.
2 If the physician refuses to submit to the examination, the Board
3 shall issue an order requiring the physician to show cause why the
4 physician will not submit to the examination and shall schedule a
5 hearing on the order within thirty (30) days after notice is served
6 on the physician, exclusive of the day of service. The physician
7 shall be notified by either personal service or by certified mail
8 with return receipt requested. At the hearing, the physician and
9 the physician's attorney are entitled to present any testimony and
10 other evidence to show why the physician should not be required to
11 submit to the examination. After a complete hearing, the Board
12 shall issue an order either requiring the physician to submit to the
13 examination or withdrawing the request for examination. The medical
14 license of a physician ordered to submit for examination may be
15 suspended until the results of the examination are received and
16 reviewed by the Board;

- 17 16. a. Prescribing, dispensing or administering of controlled
18 substances or narcotic drugs in excess of the amount
19 considered good medical practice,
20 b. prescribing, dispensing or administering controlled
21 substances or narcotic drugs without medical need in
22 accordance with pertinent licensing board standards,
23 or

1 c. prescribing, dispensing or administering opioid drugs
2 in excess of the maximum ~~dosage authorized under~~
3 limits authorized in Section 2-309I of Title 63 of the
4 Oklahoma Statutes;

5 17. Engaging in physical conduct with a patient which is sexual
6 in nature, or in any verbal behavior which is seductive or sexually
7 demeaning to a patient;

8 18. Failure to maintain an office record for each patient which
9 accurately reflects the evaluation, treatment, and medical necessity
10 of treatment of the patient;

11 19. Failure to provide necessary ongoing medical treatment when
12 a doctor-patient relationship has been established, which
13 relationship can be severed by either party providing a reasonable
14 period of time is granted; or

15 20. Failure to provide a proper and safe medical facility
16 setting and qualified assistive personnel for a recognized medical
17 act, including but not limited to an initial in-person patient
18 examination, office surgery, diagnostic service or any other medical
19 procedure or treatment. Adequate medical records to support
20 diagnosis, procedure, treatment or prescribed medications must be
21 produced and maintained.

22 SECTION 37. REPEALER 59 O.S. 2011, Section 509, as last
23 amended by Section 6, Chapter 428, O.S.L. 2019 (59 O.S. Supp. 2019,
24 Section 509), is hereby repealed.

1 SECTION 38. AMENDATORY 59 O.S. 2011, Section 567.8, as
2 last amended by Section 28, Chapter 363, O.S.L. 2019 (59 O.S. Supp.
3 2019, Section 567.8), is amended to read as follows:

4 Section 567.8. A. The Oklahoma Board of Nursing shall have the
5 power to take any or all of the following actions:

6 1. To deny, revoke or suspend any:

- 7 a. licensure to practice as a Licensed Practical Nurse,
8 single-state or multistate,
- 9 b. licensure to practice as a Registered Nurse, single-
10 state or multistate,
- 11 c. multistate privilege to practice in Oklahoma,
- 12 d. licensure to practice as an Advanced Practice
13 Registered Nurse,
- 14 e. certification to practice as an Advanced Unlicensed
15 Assistant,
- 16 f. authorization for prescriptive authority, or
- 17 g. authority to order, select, obtain and administer
18 drugs;

19 2. To assess administrative penalties; and

20 3. To otherwise discipline applicants, licensees or Advanced
21 Unlicensed Assistants.

22 B. The Board shall impose a disciplinary action against the
23 person pursuant to the provisions of subsection A of this section
24 upon proof that the person:

1 1. Is guilty of deceit or material misrepresentation in
2 procuring or attempting to procure:

3 a. a license to practice registered nursing, licensed
4 practical nursing, ~~and/or~~ or a license to practice
5 advanced practice registered nursing with or without
6 either prescriptive authority recognition or
7 authorization to order, select, obtain and administer
8 drugs, or

9 b. certification as an Advanced Unlicensed Assistant;

10 2. Is guilty of a felony, or any offense substantially related
11 to the qualifications, functions or duties of any licensee or
12 Advanced Unlicensed Assistant, or any offense an essential element
13 of which is fraud, dishonesty, or an act of violence, whether or not
14 sentence is imposed, or any conduct resulting in the revocation of a
15 deferred or suspended sentence or probation imposed pursuant to such
16 conviction. For the purposes of this paragraph, "substantially
17 related" means the nature of criminal conduct for which the person
18 was convicted has a direct bearing on the fitness or ability to
19 perform one or more of the duties or responsibilities necessarily
20 related to the occupation;

21 3. Fails to adequately care for patients or to conform to the
22 minimum standards of acceptable nursing or Advanced Unlicensed
23 Assistant practice that, in the opinion of the Board, unnecessarily
24 exposes a patient or other person to risk of harm;

1 4. Is intemperate in the use of alcohol or drugs, which use the
2 Board determines endangers or could endanger patients;

3 5. Exhibits through a pattern of practice or other behavior
4 actual or potential inability to practice nursing with sufficient
5 knowledge or reasonable skills and safety due to impairment caused
6 by illness, use of alcohol, drugs, chemicals or any other substance,
7 or as a result of any mental or physical condition, including
8 deterioration through the aging process or loss of motor skills,
9 mental illness, or disability that results in inability to practice
10 with reasonable judgment, skill or safety; provided, however, the
11 provisions of this paragraph shall not be utilized in a manner that
12 conflicts with the provisions of the Americans with Disabilities
13 Act;

14 6. Has been adjudicated as mentally incompetent, mentally ill,
15 chemically dependent or dangerous to the public or has been
16 committed by a court of competent jurisdiction, within or without
17 this state;

18 7. Is guilty of unprofessional conduct as defined in the rules
19 of the Board;

20 8. Is guilty of any act that jeopardizes a patient's life,
21 health or safety as defined in the rules of the Board;

22 9. Violated a rule promulgated by the Board, an order of the
23 Board, or a state or federal law relating to the practice of
24 registered, practical or advanced practice registered nursing or
25

1 advanced unlicensed assisting, or a state or federal narcotics or
2 controlled dangerous substance law including, but not limited to
3 prescribing, dispensing or administering opioid drugs in excess of
4 the maximum limits authorized in Section 2-309I of Title 63 of the
5 Oklahoma Statutes;

6 10. Has had disciplinary actions taken against the individual's
7 registered or practical nursing license, advanced unlicensed
8 assistive certification, or any professional or occupational
9 license, registration or certification in this or any state,
10 territory or country;

11 11. Has defaulted ~~and/or~~ or been terminated from the peer
12 assistance program for any reason;

13 12. Fails to maintain professional boundaries with patients, as
14 defined in the Board rules; ~~and/or~~ or

15 13. Engages in sexual misconduct, as defined in Board rules,
16 with a current or former patient or key party, inside or outside the
17 health care setting.

18 C. Any person who supplies the Board information in good faith
19 shall not be liable in any way for damages with respect to giving
20 such information.

21 D. The Board may cause to be investigated all reported
22 violations of the Oklahoma Nursing Practice Act. Information
23 obtained during an investigation into possible violations of the
24 Oklahoma Nursing Practice Act shall be kept confidential, but may be

1 introduced by the state in administrative proceedings before the
2 Board, whereupon the information admitted becomes a public record.
3 Public records maintained by the agency are administrative records,
4 not public civil or criminal records.

5 Confidential investigative records shall not be subject to
6 discovery or subpoena in any civil or criminal proceeding, except
7 that the Board may give such information to law enforcement and
8 other state agencies as necessary and appropriate in the discharge
9 of the duties of that agency and only under circumstances that
10 ensure against unauthorized access to the information.

11 E. The Board may authorize the Executive Director to issue a
12 confidential letter of concern to a licensee when evidence does not
13 warrant formal proceedings, but the Executive Director has noted
14 indications of possible errant conduct that could lead to serious
15 consequences and formal action.

16 F. All individual proceedings before the Board shall be
17 conducted in accordance with the Administrative Procedures Act.

18 G. At a hearing the accused shall have the right to appear
19 either personally or by counsel, or both, to produce witnesses and
20 evidence on behalf of the accused, to cross-examine witnesses and to
21 have subpoenas issued by the designated Board staff. If the accused
22 is found guilty of the charges the Board may refuse to issue a
23 renewal of license to the applicant, revoke or suspend a license, or
24 otherwise discipline a licensee.

1 H. A person whose license is revoked may not apply for
2 reinstatement during the time period set by the Board. The Board on
3 its own motion may at any time reconsider its action.

4 I. Any person whose license is revoked or who applies for
5 renewal of registration and who is rejected by the Board shall have
6 the right to appeal from such action pursuant to the Administrative
7 Procedures Act.

8 J. 1. Any person who has been determined by the Board to have
9 violated any provisions of the Oklahoma Nursing Practice Act or any
10 rule or order issued pursuant thereto shall be liable for an
11 administrative penalty not to exceed Five Hundred Dollars (\$500.00)
12 for each count for which any holder of a certificate or license has
13 been determined to be in violation of the Oklahoma Nursing Practice
14 Act or any rule promulgated or order issued pursuant thereto.

15 2. The amount of the penalty shall be assessed by the Board
16 pursuant to the provisions of this section, after notice and an
17 opportunity for hearing is given to the accused. In determining the
18 amount of the penalty, the Board shall include, but not be limited
19 to, consideration of the nature, circumstances, and gravity of the
20 violation and, with respect to the person found to have committed
21 the violation, the degree of culpability, the effect on ability of
22 the person to continue to practice, and any show of good faith in
23 attempting to achieve compliance with the provisions of the Oklahoma
24 Nursing Practice Act.

1 K. The Board shall retain jurisdiction over any person issued a
2 license, certificate or temporary license pursuant to the Oklahoma
3 Nursing Practice Act, regardless of whether the license, certificate
4 or temporary license has expired, lapsed or been relinquished during
5 or after the alleged occurrence or conduct prescribed by the
6 Oklahoma Nursing Practice Act.

7 L. In the event disciplinary action is imposed, any person so
8 disciplined shall be responsible for any and all costs associated
9 with satisfaction of the discipline imposed.

10 M. In the event disciplinary action is imposed in an
11 administrative proceeding, the Board shall have the authority to
12 recover the monies expended by the Board in pursuing any
13 disciplinary action, including but not limited to costs of
14 investigation, probation or monitoring fees, administrative costs,
15 witness fees, attorney fees and court costs. This authority shall
16 be in addition to the Board's authority to impose discipline as set
17 out in subsection A of this section.

18 N. The Executive Director shall immediately suspend the license
19 of any person upon proof that the person has been sentenced to a
20 period of continuous incarceration serving a penal sentence for
21 commission of a misdemeanor or felony. The suspension shall remain
22 in effect until the Board acts upon the licensee's written
23 application for reinstatement of the license.
24

1 O. When a majority of the officers of the Board, which
2 constitutes the President, Vice President and Secretary/Treasurer,
3 find that preservation of the public health, safety or welfare
4 requires immediate action, summary suspension of licensure or
5 certification may be ordered before the filing of a sworn complaint
6 or at any other time before the outcome of an individual proceeding.
7 The summary suspension of licensure or certification may be ordered
8 without compliance with the requirements of the Oklahoma Open
9 Meeting Act. Within seven (7) days after the summary suspension,
10 the licensee shall be notified by letter that summary suspension has
11 occurred. The summary suspension letter shall include notice of the
12 date of the proposed hearing to be held in accordance with Oklahoma
13 Administrative Code 485:10-11-2 and the Administrative Procedures
14 Act, within ninety (90) days of the date of the summary suspension
15 letter, and shall be signed by one of the Board officers.

16 P. In any proceeding in which the Board is required to serve an
17 order on an individual, the Board may send such material to the
18 individual's address of record with the Board. If the order is
19 returned with a notation by the United States Postal Service
20 indicating that it is undeliverable for any reason, and the records
21 of the Board indicate that the Board has not received any change of
22 address since the order was sent, as required by the rules of the
23 Board, the order and any subsequent material relating to the same
24 matter sent to the most recent address on file with the Board shall

1 be deemed by the court as having been legally served for all
2 purposes.

3 SECTION 39. REPEALER 59 O.S. 2011, Section 567.8, as
4 last amended by Section 9, Chapter 428, O.S.L. 2019 (59 O.S. Supp.
5 2019, Section 567.8), is hereby repealed.

6 SECTION 40. AMENDATORY 59 O.S. 2011, Section 585, as
7 amended by Section 1, Chapter 427, O.S.L. 2019 (59 O.S. Supp. 2019,
8 Section 585), is amended to read as follows:

9 Section 585. A. The Board of Examiners in Optometry shall have
10 the power to revoke or suspend any certificate granted by it
11 pursuant to the provisions of this chapter, for fraud, conviction of
12 crime, unprofessional and unethical conduct, alcohol or narcotic
13 impairment, exorbitant charges, false representation of goods, gross
14 incompetency, contagious disease, any violation of any rule or
15 regulation promulgated by the Board pursuant to the provisions of
16 this chapter or any violation of this chapter. The following acts
17 shall be deemed by the Board as unprofessional and unethical
18 conduct:

19 1. Employment by an Oklahoma-licensed optometrist of any person
20 to solicit from house to house the sale of lenses, frames,
21 spectacles, or optometric services or examinations; ~~and~~

22 2. Selling, advertising, or soliciting the sale of spectacles,
23 eyeglasses, lenses, frames, mountings, eye examinations, or
24

1 optometric services by house-to-house canvassing either in person or
2 through solicitors; ~~and~~

3 3. Acceptance of employment, either directly or indirectly, by
4 an Oklahoma-licensed optometrist from an unlicensed optometrist or
5 person engaged in any profession or business or owning or operating
6 any profession or business to assist it, him or her, or them in
7 practicing optometry in this state; provided that renting a separate
8 area or room within or adjacent to a retail store pursuant to
9 Section 944 of this title shall not be considered as direct or
10 indirect employment, but any signage and advertisement of the
11 optometric practice shall conform with Section 943.1 of this title;
12 ~~and~~

13 4. Publishing or displaying, or knowingly causing or permitting
14 to be published or displayed by newspaper, radio, television, window
15 display, poster, sign, billboard, or any other advertising media any
16 statement or advertisement of any price or fee offered or charged by
17 an optometrist for any optometric services or materials including
18 lenses, frames, eyeglasses, or spectacles or parts thereof,
19 including statements or advertisements of discount, premium, or
20 gifts, if the statements or advertisements are fraudulent,
21 deceitful, misleading or in any manner whatsoever tend to create a
22 misleading impression or are likely to mislead or deceive because in
23 context the statements or advertisements make only a partial
24 disclosure of relevant facts; ~~and~~

1 5. ~~No person shall practice~~ Practicing optometry under any name
2 other than the proper name of the person ~~and it, which~~ shall be the
3 same name as used in the license issued by the Board ~~of Examiners~~ to
4 the person; provided that renting a separate area or room and
5 practicing optometry within or adjacent to a retail store pursuant
6 to Section 944 of this title shall not be considered a violation of
7 this section; and

8 6. Prescribing, dispensing or administering opioid drugs in
9 excess of the maximum limits authorized in Section 2-309I of Title
10 63 of the Oklahoma Statutes.

11 B. Before any certificate is revoked or suspended, the holder
12 thereof shall be provided with notice and hearing as provided for in
13 the Administrative Procedures Act, Sections 301 through 326 of Title
14 75 of the Oklahoma Statutes. The Board, after the expiration of the
15 period of three (3) months after the date of the revocation, may
16 entertain application for the reissuance of the revoked certificate
17 and may reissue the certificate upon payment of a reinstatement fee
18 not to exceed three times the annual renewal fee. The Board shall
19 have the right to promulgate such rules and regulations as may be
20 necessary to put into effect the provisions of this chapter. The
21 rules may prescribe which acts are detrimental to the general public
22 health or welfare and may prescribe a minimum standard of
23 sanitation, hygiene, and professional surroundings, and which acts
24 constitute unprofessional or unethical conduct. The conduct shall

1 be grounds for revocation or suspension of the license or
2 certificate issued pursuant to the provisions of Section 584 of this
3 title.

4 ~~B.~~ C. If an out-of-state license or certificate of an
5 optometrist who also holds an Oklahoma license or certificate is
6 suspended or revoked for any reason, ~~his~~ the optometrist's Oklahoma
7 license may come under review by the Board. Should the out-of-state
8 suspension or revocation be on grounds the same or similar to
9 grounds for suspension or revocation in Oklahoma, the Board, after
10 notice and hearing pursuant to the provisions of this section, may
11 suspend or revoke the certificate of the optometrist to practice in
12 Oklahoma.

13 ~~C.~~ D. The following acts shall not be deemed by the Board as
14 unprofessional and unethical conduct:

15 1. An optometrist practicing optometry within or adjacent to a
16 retail store pursuant to Section 944 of this title, regardless of
17 whether the retail store derives income from the sale of
18 prescription optical goods and materials; and

19 2. An optometrist renting a separate area or room within a
20 retail store pursuant to Section 944 of this title to practice
21 optometry.

22 SECTION 41. REPEALER 59 O.S. 2011, Section 585, as
23 amended by Section 10, Chapter 428, O.S.L. 2019 (59 O.S. Supp. 2019,
24 Section 585), is hereby repealed.

1 SECTION 42. AMENDATORY 59 O.S. 2011, Section 637, as
2 amended by Section 12, Chapter 428, O.S.L. 2019 (59 O.S. Supp. 2019,
3 Section 637), is amended to read as follows:

4 Section 637. A. The State Board of Osteopathic Examiners may
5 refuse to admit a person to an examination or may refuse to issue or
6 reinstate or may suspend or revoke any license issued or reinstated
7 by the Board upon proof that the applicant or holder of such a
8 license:

9 1. Has obtained a license, license renewal or authorization to
10 sit for an examination, as the case may be, through fraud,
11 deception, misrepresentation or bribery; or has been granted a
12 license, license renewal or authorization to sit for an examination
13 based upon a material mistake of fact;

14 2. Has engaged in the use or employment of dishonesty, fraud,
15 misrepresentation, false promise, false pretense, unethical conduct
16 or unprofessional conduct, as may be determined by the Board, in the
17 performance of the functions or duties of an osteopathic physician,
18 including but not limited to the following:

19 a. obtaining or attempting to obtain any fee, charge,
20 tuition or other compensation by fraud, deception or
21 misrepresentation; willfully and continually
22 overcharging or overtreating patients; or charging for
23 visits to the physician's office which did not occur
24 or for services which were not rendered,

- b. using intimidation, coercion or deception to obtain or retain a patient or discourage the use of a second opinion or consultation,
- c. willfully performing inappropriate or unnecessary treatment, diagnostic tests or osteopathic medical or surgical services,
- d. delegating professional responsibilities to a person who is not qualified by training, skill, competency, age, experience or licensure to perform them, noting that delegation may only occur within an appropriate doctor-patient relationship, wherein a proper patient record is maintained including, but not limited to, at the minimum, a current history and physical,
- e. misrepresenting that any disease, ailment, or infirmity can be cured by a method, procedure, treatment, medicine or device,
- f. acting in a manner which results in final disciplinary action by any professional society or association or hospital or medical staff of such hospital in this or any other state, whether agreed to voluntarily or not, if the action was in any way related to professional conduct, professional competence, malpractice or any other violation of the Oklahoma Osteopathic Medicine Act,

- 1 g. signing a blank prescription form; or dispensing,
2 prescribing, administering or otherwise distributing
3 any drug, controlled substance or other treatment
4 without sufficient examination or the establishment of
5 a physician-patient relationship, or for other than
6 medically accepted therapeutic or experimental or
7 investigational purpose duly authorized by a state or
8 federal agency, or not in good faith to relieve pain
9 and suffering, or not to treat an ailment, physical
10 infirmity or disease, or violating any state or
11 federal law on controlled dangerous substances
12 including, but not limited to, prescribing, dispensing
13 or administering opioid drugs in excess of the maximum
14 limits authorized in Section 2-309I of Title 63 of the
15 Oklahoma Statutes,
- 16 h. engaging in any sexual activity within a physician-
17 patient relationship,
- 18 i. terminating the care of a patient without adequate
19 notice or without making other arrangements for the
20 continued care of the patient,
- 21 j. failing to furnish a copy of a patient's medical
22 records upon a proper request from the patient or
23 legal agent of the patient or another physician; or
24

1 failing to comply with any other law relating to
2 medical records,

3 k. failing to comply with any subpoena issued by the
4 Board,

5 l. violating a probation agreement or order with this
6 Board or any other agency, and

7 m. failing to keep complete and accurate records of
8 purchase and disposal of controlled drugs or narcotic
9 drugs;

10 3. Has engaged in gross negligence, gross malpractice or gross
11 incompetence;

12 4. Has engaged in repeated acts of negligence, malpractice or
13 incompetence;

14 5. Has been finally adjudicated and found guilty, or entered a
15 plea of guilty or nolo contendere in a criminal prosecution, for any
16 offense reasonably related to the qualifications, functions or
17 duties of an osteopathic physician, ~~or for any offense involving~~
18 ~~moral turpitude~~, whether or not sentence is imposed, and regardless
19 of the pendency of an appeal;

20 6. Has had the authority to engage in the activities regulated
21 by the Board revoked, suspended, restricted, modified or limited, or
22 has been reprimanded, warned or censured, probated or otherwise
23 disciplined by any other state or federal agency whether or not
24 voluntarily agreed to by the physician including, but not limited

1 to, the denial of licensure, surrender of the license, permit or
2 authority, allowing the license, permit or authority to expire or
3 lapse, or discontinuing or limiting the practice of osteopathic
4 medicine pending disposition of a complaint or completion of an
5 investigation;

6 7. Has violated, or failed to comply with provisions of any act
7 or regulation administered by the Board;

8 8. Is incapable, for medical or psychiatric or any other good
9 cause, of discharging the functions of an osteopathic physician in a
10 manner consistent with the public's health, safety and welfare;

11 9. Has been guilty of advertising by means of knowingly false
12 or deceptive statements;

13 10. Has been guilty of advertising, practicing, or attempting
14 to practice under a name other than one's own;

15 11. Has violated or refused to comply with a lawful order of
16 the Board;

17 12. Has been guilty of habitual drunkenness, or habitual
18 addiction to the use of morphine, cocaine or other habit-forming
19 drugs;

20 13. Has been guilty of personal offensive behavior, which would
21 include, but not be limited to obscenity, lewdness, and molestation
22 ~~and other acts of moral turpitude~~; and
23
24
25

1 14. Has been adjudicated to be insane, or incompetent, or
2 admitted to an institution for the treatment of psychiatric
3 disorders.

4 B. The State Board of Osteopathic Examiners shall neither
5 refuse to renew, nor suspend, nor revoke any license, however, for
6 any of these causes, unless the person accused has been given at
7 least twenty (20) days' notice in writing of the charge against him
8 or her and a public hearing by the Board provided, three-fourths
9 (3/4) of a quorum present at a meeting may vote to suspend a license
10 in an emergency situation if the licensee affected is provided a
11 public hearing within thirty (30) days of the emergency suspension.

12 C. The State Board of Osteopathic Examiners shall have the
13 power to order or subpoena the attendance of witnesses, the
14 inspection of records and premises and the production of relevant
15 books and papers for the investigation of matters that may come
16 before them. The presiding officer of the Board shall have the
17 authority to compel the giving of testimony as is conferred on
18 courts of justice.

19 D. Any osteopathic physician in the State of Oklahoma whose
20 license to practice osteopathic medicine is revoked or suspended
21 under this section shall have the right to seek judicial review of a
22 ruling of the Board pursuant to the Administrative Procedures Act.

23 E. The Board may enact rules and regulations pursuant to the
24 Administrative Procedures Act setting out additional acts of
25

unprofessional conduct; which acts shall be grounds for refusal to issue or reinstate, or for action to condition, suspend or revoke a license.

SECTION 43. REPEALER 59 O.S. 2011, Section 637, as amended by Section 31, Chapter 363, O.S.L. 2019 (59 O.S. Supp. 2019, Section 637), is hereby repealed.

SECTION 44. AMENDATORY Section 5, Chapter 477, O.S.L. 2019 (63 O.S. Supp. 2019, Section 420), is amended to read as follows:

Section 420. A. A person in possession of a state-issued medical marijuana license shall be able to:

1. Consume marijuana legally;
 2. Legally possess up to three (3) ounces of marijuana on their person;
 3. Legally possess six mature marijuana plants;
 4. Legally possess six seedling plants;
 5. Legally possess one (1) ounce of concentrated marijuana;
 6. Legally possess seventy-two (72) ounces of edible marijuana;
- and
7. Legally possess up to eight (8) ounces of marijuana in their residence.

B. Possession of up to one and one-half (1.5) ounces of marijuana by persons who can state a medical condition, but are not in possession of a state-issued medical marijuana license, shall

1 constitute a misdemeanor offense ~~with~~ punishable by a fine not to
2 exceed Four Hundred Dollars (\$400.00) and shall not be subject to
3 imprisonment for the offense. Any law enforcement officer who comes
4 in contact with a person in violation of this subsection and who is
5 satisfied as to the identity of the person, as well as any other
6 pertinent information the law enforcement officer deems necessary,
7 shall issue to the person a written citation containing a notice to
8 answer the charge against the person in the appropriate court. Upon
9 receiving the written promise of the alleged violator to answer as
10 specified in the citation, the law enforcement officer shall release
11 the person upon personal recognizance unless there has been a
12 violation of another provision of law.

13 C. A regulatory office shall be established under the State
14 Department of Health which shall receive applications for medical
15 marijuana license recipients, dispensaries, growers, and packagers
16 within sixty (60) days of the passage of this initiative.

17 D. The State Department of Health shall, within thirty (30)
18 days of passage of this initiative, make available on its website,
19 in an easy-to-find location, an application for a medical marijuana
20 license. The license shall be good for two (2) years, ~~and the~~ . The
21 application fee shall be One Hundred Dollars (\$100.00), or Twenty
22 Dollars (\$20.00) for individuals on Medicaid, Medicare, ~~or~~
23 SoonerCare. The methods of payment shall be provided on the website
24 of the Department.

1 E. A short-term medical marijuana license application shall
2 also be made available on the website of the State Department of
3 Health. A short-term medical marijuana license shall be granted to
4 any applicant who can meet the requirements for a two-year medical
5 marijuana license, but whose physician recommendation for medical
6 marijuana is only valid for sixty (60) days. Short-term medical
7 marijuana licenses shall be issued for sixty (60) days. The fee for
8 a short-term medical marijuana license and the procedure for
9 extending or renewing the license shall be determined by the
10 Department.

11 F. A temporary license application shall also be made available
12 on the website of the Department. A temporary medical marijuana
13 license shall be granted to any medical marijuana license holder
14 from other states, provided that the state has a state-regulated
15 medical marijuana program, and the applicant can prove he or she is
16 a member of such program. Temporary licenses shall be issued for
17 thirty (30) days. The cost for a temporary license shall be One
18 Hundred Dollars (\$100.00). Renewal shall be granted with
19 resubmission of a new application. No additional criteria shall be
20 required.

21 G. Medical marijuana license applicants shall submit ~~their~~ his
22 or her applications to the State Department of Health for approval.
23 The applicant shall be an Oklahoma state resident and shall prove
24

1 residency by a valid driver license, utility bills, or other
2 accepted methods.

3 H. The State Department of Health shall review the medical
4 marijuana application, approve or reject the application, and mail
5 the approval or rejection letter stating any reasons for rejection
6 to the applicant within fourteen (14) business days of receipt of
7 the application. Approved applicants shall be issued a medical
8 marijuana license which shall act as proof of ~~their~~ his or her
9 approved status. Applications may only be rejected based on the
10 applicant not meeting stated criteria or improper completion of the
11 application.

12 I. The State Department of Health shall only keep the following
13 records for each approved medical marijuana license:

- 14 1. A digital photograph of the license holder;
- 15 2. The expiration date of the license;
- 16 3. The county where the card was issued; and
- 17 4. A unique 24-character identification number assigned to the
18 license.

19 J. The State Department of Health shall make available, both on
20 its website and through a telephone verification system, an easy
21 method to validate the authenticity of the medical marijuana license
22 by the unique 24-character ~~identifier~~ identification number.

1 K. The State Department of Health shall ensure that all
2 application records and information are sealed to protect the
3 privacy of medical marijuana license applicants.

4 L. A caregiver license shall be made available for qualified
5 caregivers of a medical marijuana license holder who is homebound.

6 ~~The~~ As provided in Section 11 of Enrolled House Bill No. 2612 of the
7 1st Session of the 57th Oklahoma Legislature, the caregiver license
8 shall ~~give~~ provide the caregiver the same rights as the medical
9 marijuana ~~license holder~~ patient licensee, including the ability to
10 possess marijuana, marijuana products and mature and immature plants
11 pursuant to the Oklahoma Medical Marijuana and Patient Protection
12 Act, but excluding the ability to use marijuana or marijuana
13 products unless the caregiver has a medical marijuana patient
14 license. An applicant for a caregiver license shall submit proof of
15 the license status and homebound status of the medical marijuana
16 patient and proof that the applicant is the designee of the medical
17 marijuana patient. The applicant shall also submit proof that he or
18 she is eighteen (18) years of age or older and proof of his or her
19 Oklahoma residency. This shall be the only criteria for a caregiver
20 license.

21 M. All applicants shall be eighteen (18) years of age or older.
22 A special exception shall be granted to an applicant under the age
23 of eighteen (18); however, these applications shall be signed by two
24 physicians and the parent or legal guardian of the applicant.

1 N. All applications for a medical marijuana license ~~must~~ shall
2 be signed by an Oklahoma ~~Board-certified~~ physician. There are no
3 qualifying conditions. A medical marijuana license must be
4 recommended according to the accepted standards a reasonable and
5 prudent physician would follow when recommending or approving any
6 medication. No physician may be unduly stigmatized or harassed for
7 signing a medical marijuana license application.

8 O. Counties and cities may enact medical marijuana guidelines
9 allowing medical marijuana license holders or caregivers to exceed
10 the state limits set forth in subsection A of this section.

11 SECTION 45. REPEALER Section 2, Chapter 509, O.S.L. 2019
12 (63 O.S. Supp. 2019, Section 420), is hereby repealed.

13 SECTION 46. AMENDATORY Section 3, Chapter 509, O.S.L.
14 2019 (63 O.S. Supp. 2019, Section 425), is amended to read as
15 follows:

16 Section 425. A. No school or landlord may refuse to enroll or
17 lease to and may not otherwise penalize a person solely for his or
18 her status as a medical marijuana license holder, unless failing to
19 do so would cause the school or landlord the potential to lose a
20 monetary or licensing-related benefit under federal law or
21 regulations.

22 B. Unless a failure to do so would cause an employer the
23 potential to lose a monetary or licensing-related benefit under
24 federal law or regulations, an employer may not discriminate against
25

1 a person in hiring, termination or imposing any term or condition of
2 employment or otherwise penalize a person based upon either:

3 1. The status of the person as a medical marijuana license
4 holder; or

5 2. Employers may take action against a holder of a medical
6 marijuana license if the holder uses or possesses marijuana while in
7 his or her place of employment or during the hours of employment.

8 Employers may not take action against the holder of a medical
9 marijuana license solely based upon the status of an employee as a
10 medical marijuana license holder or the results of a drug test
11 showing positive for marijuana or its components.

12 C. For the purposes of medical care, including organ
13 transplants, the authorized use of marijuana by a medical marijuana
14 license holder shall be considered the equivalent of the use of any
15 other medication under the direction of a physician and does not
16 constitute the use of an illicit substance or otherwise disqualify a
17 registered qualifying patient from medical care.

18 D. No medical marijuana license holder may be denied custody of
19 or visitation or parenting time with a minor, and there is no
20 presumption of neglect or child endangerment for conduct allowed
21 under this law, unless the behavior of the person creates an
22 unreasonable danger to the safety of the minor.

23 E. No person holding a medical marijuana license may unduly be
24 withheld from holding a state-issued license by virtue of their

1 being a medical marijuana license holder including, but not limited
2 to, a concealed carry permit.

3 F. 1. No city or local municipality may unduly change or
4 restrict zoning laws to prevent the opening of a retail marijuana
5 establishment.

6 2. For purposes of this subsection, an undue change or
7 restriction of municipal zoning laws means an act which entirely
8 prevents retail marijuana establishments from operating within
9 municipal boundaries as a matter of law. Municipalities may follow
10 their standard planning and zoning procedures to determine if
11 certain zones or districts would be appropriate for locating
12 marijuana-licensed premises, medical marijuana businesses or any
13 other premises where marijuana or its by-products are cultivated,
14 grown, processed, stored or manufactured.

15 3. For purposes of this section, "retail marijuana
16 establishment" means an entity licensed by the State Department of
17 Health as a medical marijuana dispensary. Retail marijuana
18 establishment does not include those other entities licensed by the
19 Department as marijuana-licensed premises, medical marijuana
20 businesses or other facilities or locations where marijuana or any
21 product containing marijuana or its by-products are cultivated,
22 grown, processed, stored or manufactured.

1 G. The location of any retail marijuana establishment is
2 specifically prohibited within one thousand (1,000) feet of any
3 public or private school entrance.

4 H. Research shall be provided for under this law. A researcher
5 may apply to the State Department of Health for a special research
6 license. The license shall be granted, provided the applicant meets
7 the criteria listed under subsection B of Section 421 of this title.
8 Research license holders shall be required to file monthly
9 consumption reports to the State Department of Health with amounts
10 of marijuana used for research. Biomedical and clinical research
11 which is subject to federal regulations and institutional oversight
12 shall not be subject to State Department of Health oversight.

13 SECTION 47. REPEALER Section 2, Chapter 378, O.S.L. 2019
14 (63 O.S. Supp. 2019, Section 425), is hereby repealed.

15 SECTION 48. SECTION 50. AMENDATORY Section 2,
16 Chapter 11, O.S.L. 2019, as last amended by Section 1, Chapter 390,
17 O.S.L. 2019 (63 O.S. Supp. 2018, Section 427.2), is amended to read
18 as follows:

19 Section 427.2. As used in this act:

20 1. "Advertising" means the act of providing consideration for
21 the publication, dissemination, solicitation, or circulation, of
22 visual, oral, or written communication, to induce directly or
23 indirectly any person to patronize a particular medical marijuana
24 business, or to purchase particular medical marijuana or a medical
25

1 marijuana product. Advertising includes marketing, but does not
2 include packaging and labeling;

3 2. "Authority" means the Oklahoma Medical Marijuana Authority;

4 3. "Batch number" means a unique numeric or alphanumeric
5 identifier assigned prior to testing to allow for inventory tracking
6 and traceability;

7 4. "Cannabinoid" means any of the chemical compounds that are
8 active principles of marijuana;

9 5. "Caregiver" means a family member or assistant who regularly
10 looks after a medical marijuana license holder whom a physician
11 attests needs assistance;

12 6. "Child-resistant" means special packaging that is:

13 a. designed or constructed to be significantly difficult
14 for children under five (5) years of age to open and
15 not difficult for normal adults to use properly as
16 defined by 16 C.F.R. 1700.15 (1995) and 16 C.F.R.
17 1700.20 (1995),

18 b. opaque so that the outermost packaging does not allow
19 the product to be seen without opening the packaging
20 material, and

21 c. resealable to maintain its child-resistant
22 effectiveness for multiple openings for any product
23 intended for more than a single use or containing
24 multiple servings;

1 7. "Clone" means a nonflowering plant cut from a mother plant
2 that is capable of developing into a new plant and has shown no
3 signs of flowering;

4 8. "Commissioner" means the State Commissioner of Health;

5 9. "Complete application" means a document prepared in
6 accordance with the provisions set forth in this act, rules
7 promulgated pursuant thereto, and the forms and instructions
8 provided by the Department, including any supporting documentation
9 required and the applicable license application fee;

10 10. "Department" means the State Department of Health;

11 11. "Director" means the Executive Director of the Oklahoma
12 Medical Marijuana Authority;

13 12. "Dispense" means the selling of medical marijuana or a
14 medical marijuana product to a qualified patient or the designated
15 caregiver of the patient that is packaged in a suitable container
16 appropriately labeled for subsequent administration to or use by a
17 qualifying patient;

18 13. "Dispensary" means a medical marijuana dispensary, an
19 entity that has been licensed by the Department pursuant to this act
20 to purchase medical marijuana or medical marijuana products from a
21 licensed medical marijuana commercial grower or medical marijuana
22 processor, sell medical marijuana or medical marijuana products to
23 patients and caregivers as defined under this act, or sell or
24 transfer products to another dispensary;

1 14. "Edible medical marijuana product" means any medical-
2 marijuana-infused product for which the intended use is oral
3 consumption including, but not limited to, any type of food, drink
4 or pill;

5 15. "Entity" means an individual, general partnership, limited
6 partnership, limited liability company, trust, estate, association,
7 corporation, cooperative, or any other legal or commercial entity;

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

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

15 18. "Food-based medical marijuana concentrate" means a medical
16 marijuana concentrate that was produced by extracting cannabinoids
17 from medical marijuana through the use of propylene glycol,
18 glycerin, butter, olive oil, coconut oil or other typical food-safe
19 cooking fats;

20 19. "Good cause" for purposes of an initial, renewal or
21 reinstatement license application, or for purposes of discipline of
22 a licensee, means:

- 23 a. the licensee or applicant has violated, does not meet,
24 or has failed to comply with any of the terms,

- 1 conditions or provisions of the act, any rules
2 promulgated pursuant thereto, or any supplemental
3 relevant state or local law, rule or regulation,
4 b. the licensee or applicant has failed to comply with
5 any special terms or conditions that were placed upon
6 the license pursuant to an order of the State
7 Department of Health, Oklahoma Medical Marijuana
8 Authority or the municipality, or
9 c. the licensed premises of a medical marijuana business
10 or applicant have been operated in a manner that
11 adversely affects the public health or welfare or the
12 safety of the immediate vicinity in which the
13 establishment is located;

14 20. "Harvest batch" means a specifically identified quantity of
15 medical marijuana that is uniform in strain, cultivated utilizing
16 the same cultivation practices, harvested at the same time from the
17 same location and cured under uniform conditions;

18 21. "Harvested marijuana" means post-flowering medical
19 marijuana not including trim, concentrate or waste;

20 22. "Heat- or pressure-based medical marijuana concentrate"
21 means a medical marijuana concentrate that was produced by
22 extracting cannabinoids from medical marijuana through the use of
23 heat or pressure;
24

1 23. "Immature plant" means a nonflowering marijuana plant that
2 has not demonstrated signs of flowering;

3 24. "Inventory tracking system" means the required tracking
4 system that accounts for medical marijuana from either the seed or
5 immature plant stage until the medical marijuana or medical
6 marijuana product is sold to a patient at a medical marijuana
7 dispensary, transferred to a medical marijuana research facility,
8 destroyed by a medical marijuana business or used in a research
9 project by a medical marijuana research facility;

10 25. "Licensed patient" or "patient" means a person who has been
11 issued a medical marijuana patient license by the State Department
12 of Health or Oklahoma Medical Marijuana Authority;

13 26. "Licensed premises" means the premises specified in an
14 application for a medical marijuana business license, medical
15 marijuana research facility license or medical marijuana education
16 facility license pursuant to this act that are owned or in
17 possession of the licensee and within which the licensee is
18 authorized to cultivate, manufacture, distribute, sell, store,
19 transport, test or research medical marijuana or medical marijuana
20 products in accordance with the provisions of this act and rules
21 promulgated pursuant thereto;

22 27. "Manufacture" means the production, propagation,
23 compounding or processing of a medical marijuana product, excluding
24 marijuana plants, either directly or indirectly by extraction from
25

1 substances of natural or synthetic origin, or independently by means
2 of chemical synthesis, or by a combination of extraction and
3 chemical synthesis;

4 28. "Marijuana" shall have the same meaning as such term is
5 defined in Section 2-101 of Title 63 of the Oklahoma Statutes;

6 29. "Material change" means any change that would require a
7 substantive revision to the standard operating procedures of a
8 licensee for the cultivation or production of medical marijuana,
9 medical marijuana concentrate or medical marijuana products;

10 30. "Mature plant" means a harvestable female marijuana plant
11 that is flowering;

12 31. "Medical marijuana business (MMB)" means a licensed medical
13 marijuana dispensary, medical marijuana processor, medical marijuana
14 commercial grower, medical marijuana laboratory, medical marijuana
15 business operator, or a medical marijuana transporter;

16 32. "Medical marijuana concentrate" or "concentrate" means a
17 specific subset of medical marijuana that was produced by extracting
18 cannabinoids from medical marijuana. Categories of medical
19 marijuana concentrate include water-based medical marijuana
20 concentrate, food-based medical marijuana concentrate, solvent-based
21 medical marijuana concentrate, and heat- or pressure-based medical
22 marijuana concentrate;

23 33. "Medical marijuana commercial grower" or "commercial
24 grower" means an entity licensed to cultivate, prepare and package
25

1 medical marijuana and transfer or contract for transfer medical
2 marijuana to a medical marijuana dispensary, medical marijuana
3 processor, any other medical marijuana commercial grower, medical
4 marijuana research facility, medical marijuana education facility
5 and pesticide manufacturers. A commercial grower may sell seeds,
6 flower or clones to commercial growers pursuant to this act;

7 34. "Medical marijuana education facility" or "education
8 facility" means a person or entity approved pursuant to this act to
9 operate a facility providing training and education to individuals
10 involving the cultivation, growing, harvesting, curing, preparing,
11 packaging or testing of medical marijuana, or the production,
12 manufacture, extraction, processing, packaging or creation of
13 medical-marijuana-infused products or medical marijuana products as
14 described in this act;

15 35. "Medical-marijuana-infused product" means a product infused
16 with medical marijuana including, but not limited to, edible
17 products, ointments and tinctures;

18 36. "Medical marijuana product" or "product" means a product
19 that contains cannabinoids that have been extracted from plant
20 material or the resin therefrom by physical or chemical means and is
21 intended for administration to a qualified patient including, but
22 not limited to, oils, tinctures, edibles, pills, topical forms,
23 gels, creams, vapors, patches, liquids, and forms administered by a
24

1 nebulizer, excluding live plant forms which are considered medical
2 marijuana;

3 37. "Medical marijuana processor" means a person or entity
4 licensed pursuant to this act to operate a business including the
5 production, manufacture, extraction, processing, packaging or
6 creation of concentrate, medical-marijuana-infused products or
7 medical marijuana products as described in this act;

8 38. "Medical marijuana research facility" or "research
9 facility" means a person or entity approved pursuant to this act to
10 conduct medical marijuana research. A medical marijuana research
11 facility is not a medical marijuana business;

12 39. "Medical marijuana testing laboratory" or "laboratory"
13 means a public or private laboratory licensed pursuant to this act,
14 to conduct testing and research on medical marijuana and medical
15 marijuana products;

16 40. "Medical marijuana transporter" or "transporter" means a
17 person or entity that is licensed pursuant to this act. A medical
18 marijuana transporter does not include a medical marijuana business
19 that transports its own medical marijuana, medical marijuana
20 concentrate or medical marijuana products to a property or facility
21 adjacent to or connected to the licensed premises if the property is
22 another licensed premises of the same medical marijuana business;

23 41. "Medical marijuana waste" or "waste" means unused, surplus,
24 returned or out-of-date marijuana, plant debris of the plant of the

1 genus Cannabis, including dead plants and all unused plant parts and
2 roots, except the term shall not include roots, stems, stalks and
3 fan leaves;

4 42. "Medical use" means the acquisition, possession, use,
5 delivery, transfer or transportation of medical marijuana, medical
6 marijuana products, medical marijuana devices or paraphernalia
7 relating to the administration of medical marijuana to treat a
8 licensed patient;

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

13 44. "Oklahoma physician" or "physician" means a physician
14 licensed by and in good standing with the State Board of Medical
15 Licensure and Supervision, the State Board of Osteopathic Examiners
16 or the Board of Podiatric Medical Examiners;

17 45. "Oklahoma resident" means an individual who can provide
18 proof of residency as required by this act;

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

- 22 a. all shareholders owning an interest of a corporate
23 entity and all officers of a corporate entity,
- 24 b. all partners of a general partnership,

- c. all general partners and all limited partners that own an interest in a limited partnership,
- d. all members that own an interest in a limited liability company,
- e. all beneficiaries that hold a beneficial interest in a trust and all trustees of a trust,
- f. all persons or entities that own interest in a joint venture,
- g. all persons or entities that own an interest in an association,
- h. the owners of any other type of legal entity, and
- i. any other person holding an interest or convertible note in any entity which owns, operates or manages a licensed facility;

47. "Package" or "packaging" means any container or wrapper that may be used by a medical marijuana business to enclose or contain medical marijuana;

48. "Person" means a natural person, partnership, association, business trust, company, corporation, estate, limited liability company, trust or any other legal entity or organization, or a manager, agent, owner, director, servant, officer or employee thereof, except that "person" does not include any governmental organization;

1 49. "Pesticide" means any substance or mixture of substances
2 intended for preventing, destroying, repelling or mitigating any
3 pest or any substance or mixture of substances intended for use as a
4 plant regulator, defoliant or desiccant, except that the term
5 "pesticide" shall not include any article that is a "new animal
6 drug" as designated by the United States Food and Drug
7 Administration;

8 50. "Production batch" means:

- 9 a. any amount of medical marijuana concentrate of the
10 same category and produced using the same extraction
11 methods, standard operating procedures and an
12 identical group of harvest batch of medical marijuana,
13 or
14 b. any amount of medical marijuana product of the same
15 exact type, produced using the same ingredients,
16 standard operating procedures and the same production
17 batch of medical marijuana concentrate;

18 51. "Public institution" means any entity established or
19 controlled by the federal government, state government, or a local
20 government or municipality including, but not limited to,
21 institutions of higher education or related research institutions;

22 52. "Public money" means any funds or money obtained by the
23 holder from any governmental entity including, but not limited to,
24 research grants;

1 53. "Recommendation" means a document that is signed or
2 electronically submitted by a physician on behalf of a patient for
3 the use of medical marijuana pursuant to this act;

4 54. "Registered to conduct business" means a person that has
5 provided proof that the business applicant is in good standing with
6 the Oklahoma Secretary of State and Oklahoma Tax Commission;

7 55. "Remediation" means the process by which the medical
8 marijuana flower or trim, which has failed microbial testing, is
9 processed into solvent-based medical marijuana concentrate and
10 retested as required by this act;

11 56. "Research project" means a discrete scientific endeavor to
12 answer a research question or a set of research questions related to
13 medical marijuana and is required for a medical marijuana research
14 license. A research project shall include a description of a
15 defined protocol, clearly articulated goals, defined methods and
16 outputs, and a defined start and end date. The description shall
17 demonstrate that the research project will comply with all
18 requirements in this act and rules promulgated pursuant thereto.
19 All research and development conducted by a medical marijuana
20 research facility shall be conducted in furtherance of an approved
21 research project;

22 57. "Revocation" means the final decision by the Department
23 that any license issued pursuant to this act is rescinded because
24 the individual or entity does not comply with the applicable

1 requirements set forth in this act or rules promulgated pursuant
2 thereto;

3 58. "School" means a public or private preschool or a public or
4 private elementary or secondary school used for school classes and
5 instruction. A homeschool, daycare or child-care facility shall not
6 be considered a "school" as used in this act;

7 59. "Shipping container" means a hard-sided container with a
8 lid or other enclosure that can be secured in place. A shipping
9 container is used solely for the transport of medical marijuana,
10 medical marijuana concentrate, or medical marijuana products between
11 medical marijuana businesses, a medical marijuana research facility,
12 or a medical marijuana education facility;

13 60. "Solvent-based medical marijuana concentrate" means a
14 medical marijuana concentrate that was produced by extracting
15 cannabinoids from medical marijuana through the use of a solvent
16 approved by the Department;

17 61. "State Question" means Oklahoma State Question No. 788,
18 Initiative Petition No. 412, approved by a majority vote of the
19 citizens of Oklahoma on June 26, 2018;

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

23 63. "THC" means tetrahydrocannabinol, which is the primary
24 psychotropic cannabinoid in marijuana formed by decarboxylation of
25

1 naturally tetrahydrocannabinolic acid, which generally occurs by
2 exposure to heat;

3 64. "Test batch" means with regard to usable marijuana, a
4 homogenous, identified quantity of usable marijuana by strain, no
5 greater than ten (10) pounds, that is harvested during a seven-day
6 period from a specified cultivation area, and with regard to oils,
7 vapors and waxes derived from usable marijuana, means an identified
8 quantity that is uniform, that is intended to meet specifications
9 for identity, strength and composition, and that is manufactured,
10 packaged and labeled during a specified time period according to a
11 single manufacturing, packaging and labeling protocol;

12 65. "Transporter agent" means a person who transports medical
13 marijuana or medical marijuana products for a licensed transporter
14 and holds a transporter agent license pursuant to this act;

15 66. "Universal symbol" means the image established by the State
16 Department of Health or Oklahoma Medical Marijuana Authority and
17 made available to licensees through its website indicating that the
18 medical marijuana or the medical marijuana product contains THC;

19 67. "Usable marijuana" means the dried leaves, flowers, oils,
20 vapors, waxes and other portions of the marijuana plant and any
21 mixture or preparation thereof, excluding seed, roots ~~and, stems,~~
22 stalks and fan leaves; and
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24
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1 68. "Water-based medical marijuana concentrate" means a
2 concentrate that was produced by extracting cannabinoids from
3 medical marijuana through the use of only water, ice, or dry ice.

4 SECTION 49. REPEALER Section 2, Chapter 11, O.S.L. 2019,
5 as last amended by Section 5, Chapter 337, O.S.L. 2019 (63 O.S.
6 Supp. 2019, Section 427.2), is hereby repealed.

7 SECTION 50. REPEALER Section 7, Chapter 11, O.S.L. 2019,
8 as amended by Section 8, Chapter 477, O.S.L. 2019 (63 O.S. Supp.
9 2019, Section 427.7), is hereby repealed.

10 SECTION 51. AMENDATORY Section 14, Chapter 11, O.S.L.
11 2019, as amended by Section 6, Chapter 509, O.S.L. 2019 (63 O.S.
12 Supp. 2019, Section 427.14), is amended to read as follows:

13 Section 427.14. A. There is hereby created the medical
14 marijuana business license, which shall include the following
15 categories:

- 16 1. Medical marijuana commercial grower;
- 17 2. Medical marijuana processor;
- 18 3. Medical marijuana dispensary;
- 19 4. Medical marijuana transporter; and
- 20 5. Medical marijuana testing laboratory.

21 B. The Oklahoma Medical Marijuana Authority, with the aid of
22 the Office of Management and Enterprise Services, shall develop a
23 website for medical marijuana business applications.

1 C. The Authority shall make available on its website ~~or the~~
2 ~~website of the Oklahoma Medical Marijuana Authority~~ in an easy-to-
3 find location, applications for a medical marijuana business.

4 D. The nonrefundable application fee for a medical marijuana
5 business license shall be Two Thousand Five Hundred Dollars
6 (\$2,500.00).

7 E. All applicants seeking licensure as a medical marijuana
8 business shall comply with the following general requirements:

9 1. All applications for licenses and registrations authorized
10 pursuant to this section shall be made upon forms prescribed by the
11 Authority;

12 2. Each application shall identify the city or county in which
13 the applicant seeks to obtain licensure as a medical marijuana
14 business;

15 3. Applicants shall submit a complete application to the
16 Department before the application may be accepted or considered;

17 4. All applications shall be complete and accurate in every
18 detail;

19 5. All applications shall include all attachments or
20 supplemental information required by the forms supplied by the
21 Authority;

22 6. All applications shall be accompanied by a full remittance
23 for the whole amount of the application fees. Application fees are
24 nonrefundable;

1 7. All applicants shall be approved for licensing review that,
2 at a minimum, meets the following criteria:

- 3 a. all applicants shall be age twenty-five (25) years of
4 age or older,
- 5 b. any applicant applying as an individual shall show
6 proof that the applicant is an Oklahoma resident
7 pursuant to paragraph 11 of this subsection,
- 8 c. any applicant applying as an entity shall show that
9 seventy-five percent (75%) of all members, managers,
10 executive officers, partners, board members or any
11 other form of business ownership are Oklahoma
12 residents pursuant to paragraph 11 of this subsection,
- 13 d. all applying individuals or entities shall be
14 registered to conduct business in the State of
15 Oklahoma,
- 16 e. all applicants shall disclose all ownership interests
17 pursuant to this act, and
- 18 f. applicants shall not have been convicted of a
19 nonviolent felony in the last two (2) years, and any
20 other felony conviction within the last five (5)
21 years, shall not be current inmates, or currently
22 incarcerated in a jail or corrections facility;

23 8. There shall be no limit to the number of medical marijuana
24 business licenses or categories that an individual or entity can
25

1 apply for or receive, although each application and each category
2 shall require a separate application and application fee. A
3 commercial grower, processor and dispensary, or any combination
4 thereof, are authorized to share the same address or physical
5 location, subject to the restrictions set forth in this act;

6 9. All applicants for a medical marijuana business license,
7 research facility license or education facility license authorized
8 by this act shall undergo an Oklahoma criminal history background
9 check conducted by the Oklahoma State Bureau of Investigation (OSBI)
10 within thirty (30) days prior to the application for the license,
11 including:

- 12 a. individual applicants applying on their own behalf,
- 13 b. individuals applying on behalf of an entity,
- 14 c. all principal officers of an entity, and
- 15 d. all owners of an entity as defined by this act;

16 10. All applicable fees charged by OSBI are the responsibility
17 of the applicant and shall not be higher than fees charged to any
18 other person or industry for such background checks;

19 11. In order to be considered an Oklahoma resident for purposes
20 of a medical marijuana business application, all applicants shall
21 provide proof of Oklahoma residency for at least two (2) years
22 immediately preceding the date of application or five (5) years of
23 continuous Oklahoma residency during the preceding twenty-five (25)
24 years immediately preceding the date of application. Sufficient

1 documentation of proof of residency shall include a combination of
2 the following:

- 3 a. an unexpired Oklahoma-issued driver license,
- 4 b. an Oklahoma voter identification card,
- 5 c. a utility bill preceding the date of application,
- 6 excluding cellular telephone and Internet bills,
- 7 d. a residential property deed to property in the State
- 8 of Oklahoma, and
- 9 e. a rental agreement preceding the date of application
- 10 for residential property located in the State of
- 11 Oklahoma.

12 Applicants that were issued a medical marijuana business license
13 prior to the enactment of the Oklahoma Medical Marijuana and Patient
14 Protection Act are hereby exempt from the two-year or five-year
15 Oklahoma residence requirement mentioned above;

16 12. All license applicants shall be required to submit a
17 registration with the Oklahoma State Bureau of Narcotics and
18 Dangerous Drugs Control as provided in Sections ~~2-202~~ 2-302 through
19 ~~2-204~~ 2-304 of Title 63 of the Oklahoma Statutes;

20 13. All applicants shall establish their identity through
21 submission of a color copy or digital image of one of the following
22 unexpired documents:

- 23 a. front and back of an Oklahoma driver license,
- 24 b. front and back of an Oklahoma identification card,

- c. a United States passport or other photo identification issued by the United States government,
- d. certified copy of the applicant's birth certificate for minor applicants who do not possess a document listed in this section, or
- e. a tribal identification card approved for identification purposes by the Oklahoma Department of Public Safety; and

14. All applicants shall submit an applicant photograph.

F. The Authority shall review the medical marijuana business application, approve or reject the application and mail the approval, rejection or status-update letter to the applicant within ninety (90) business days of receipt of the application.

G. 1. The Authority shall review the medical marijuana business applications and conduct all investigations, inspections and interviews before approving the application.

2. Approved applicants shall be issued a medical marijuana business license for the specific category applied under which shall act as proof of their approved status. Rejection letters shall provide a reason for the rejection. Applications may only be rejected based on the applicant not meeting the standards set forth in the provisions of this section, improper completion of the application, or for a reason provided for in this act. If an application is rejected for failure to provide required information,

1 the applicant shall have thirty (30) days to submit the required
2 information for reconsideration. No additional application fee
3 shall be charged for such reconsideration.

4 3. Status-update letters shall provide a reason for delay in
5 either approval or rejection should a situation arise in which an
6 application was submitted properly, but a delay in processing the
7 application occurred.

8 4. Approval, rejection or status-update letters shall be sent
9 to the applicant in the same method the application was submitted to
10 the Department.

11 H. A medical marijuana business license shall not be issued to
12 or held by:

13 1. A person until all required fees have been paid;

14 2. A person who has been convicted of a nonviolent felony
15 within two (2) years of the date of application, or within five (5)
16 years for any other felony;

17 3. A corporation, if the criminal history of any of its
18 officers, directors or stockholders indicates that the officer,
19 director or stockholder has been convicted of a nonviolent felony
20 within two (2) years of the date of application, or within five (5)
21 years for any other felony;

22 4. A person under twenty-five (25) years of age;
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1 5. A person licensed pursuant to this section who, during a
2 period of licensure, or who, at the time of application, has failed
3 to:

4 a. file taxes, interest or penalties due related to a
5 medical marijuana business, or

6 b. pay taxes, interest or penalties due related to a
7 medical marijuana business;

8 6. A sheriff, deputy sheriff, police officer or prosecuting
9 officer, or an officer or employee of the Authority or municipality;
10 or

11 7. A person whose authority to be a caregiver as defined in
12 this act has been revoked by the Department;~~or~~

13 ~~8. A publicly traded company.~~

14 I. In investigating the qualifications of an applicant or a
15 licensee, the Department, Authority and municipalities may have
16 access to criminal history record information furnished by a
17 criminal justice agency subject to any restrictions imposed by such
18 an agency. In the event the Department considers the criminal
19 history record of the applicant, the Department shall also consider
20 any information provided by the applicant regarding such criminal
21 history record, including but not limited to evidence of
22 rehabilitation, character references and educational achievements,
23 especially those items pertaining to the period of time between the
24

1 last criminal conviction of the applicant and the consideration of
2 the application for a state license.

3 J. The failure of an applicant to provide the requested
4 information by the Authority deadline may be grounds for denial of
5 the application.

6 K. All applicants shall submit information to the Department
7 and Authority in a full, faithful, truthful and fair manner. The
8 Department and Authority may recommend denial of an application
9 where the applicant made misstatements, omissions,
10 misrepresentations or untruths in the application or in connection
11 with the background investigation of the applicant. This type of
12 conduct may be considered as the basis for additional administrative
13 action against the applicant. Typos and scrivener errors shall not
14 be grounds for denial.

15 L. A licensed medical marijuana business premises shall be
16 subject to and responsible for compliance with applicable provisions
17 for medical marijuana business facilities as described in the most
18 recent versions of the Oklahoma Uniform Building Code, the
19 International Building Code and the International Fire Code, unless
20 granted an exemption by the Authority or municipality.

21 M. All medical marijuana business licensees shall pay the
22 relevant licensure fees prior to receiving licensure to operate a
23 medical marijuana business, as defined in this act for each class of
24 license.

1 SECTION 52. REPEALER Section 14, Chapter 11, O.S.L.

2 2019, as amended by Section 9, Chapter 477, O.S.L. 2019 (63 O.S.
3 Supp. 2019, Section 427.14), is hereby repealed.

4 SECTION 53. AMENDATORY 63 O.S. 2011, Section 1-324.1, as
5 amended by Section 3, Chapter 305, O.S.L. 2019 (63 O.S. Supp. 2019,
6 Section 1-324.1), is amended to read as follows:

7 Section 1-324.1. A. It shall be unlawful for any person to
8 commit any of the following specified acts in relation to birth,
9 death or stillbirth certificates issued by this state:

10 1. Create, issue, present or possess a fictitious birth, death
11 or stillbirth certificate;

12 2. Apply for a birth, death or stillbirth certificate under
13 false pretenses;

14 3. Alter information contained on a birth, death or stillbirth
15 certificate;

16 4. Obtain, display or represent a birth certificate of any
17 person as one's own by any person, other than the person named on
18 the birth certificate;

19 5. Obtain, display or represent a fictitious death or
20 stillbirth certificate for the purpose of fraud;

21 6. Make a false statement or knowingly conceal a material fact
22 or otherwise commit fraud in an application for a birth, death or
23 stillbirth certificate; or

24 7. Knowingly present a false or forged certificate for filing.

1 B. Except as otherwise provided in this subsection, it is a
2 felony for any employee or person authorized to issue or create a
3 birth, death or stillbirth certificate or related record under this
4 title to knowingly issue such certificate or related record to a
5 person not entitled thereto, or to knowingly create or record such
6 certificate bearing erroneous information thereon. A certifier who
7 knowingly omits to list a lethal agent or improperly states manner
8 of death in violation of subsection E of Section 1-317 of this title
9 shall be deemed to have engaged in unprofessional conduct as
10 described in paragraph 8 of Section 509 of Title 59 of the Oklahoma
11 Statutes.

12 C. Except as otherwise provided in subsection B of this
13 section, a violation of any of the provisions of this section shall
14 constitute a felony.

15 D. Notwithstanding any provision of this section, the State
16 Commissioner of Health or a designated agent, upon the request of a
17 chief administrator of a health or law enforcement agency, may
18 authorize the issuance, display or possession of a birth, death or
19 stillbirth certificate, which would otherwise be in violation of
20 this section, for the sole purpose of education with regard to
21 public health or safety; provided, however, any materials used for
22 such purposes shall be marked "void".

23 E. The provisions of this section shall not apply to any
24 request made to the State Department of Health pursuant to

1 subsection E of Section 1550.41 of Title 21 of the Oklahoma
2 Statutes.

3 SECTION 54. REPEALER 63 O.S. 2011, Section 1-324.1, as
4 amended by Section 2, Chapter 184, O.S.L. 2019 (63 O.S. Supp. 2019,
5 Section 1-324.1), is hereby repealed.

6 SECTION 55. AMENDATORY 63 O.S. 2011, Section 1-1925.2,
7 as amended by Section 3, Chapter 489, O.S.L. 2019 (63 O.S. Supp.
8 2019, Section 1-1925.2), is amended to read as follows:

9 Section 1-1925.2. A. The Oklahoma Health Care Authority shall
10 fully recalculate and reimburse nursing facilities and Intermediate
11 Care Facilities for Individuals with Intellectual Disabilities
12 (ICFs/IID) from the Nursing Facility Quality of Care Fund beginning
13 October 1, 2000, the average actual, audited costs reflected in
14 previously submitted cost reports for the cost-reporting period that
15 began July 1, 1998, and ended June 30, 1999, inflated by the
16 federally published inflationary factors for the two (2) years
17 appropriate to reflect present-day costs at the midpoint of the July
18 1, 2000, through June 30, 2001, rate year.

19 1. The recalculations provided for in this subsection shall be
20 consistent for both nursing facilities and Intermediate Care
21 Facilities for Individuals with Intellectual Disabilities
22 (ICFs/IID).

23 2. The recalculated reimbursement rate shall be implemented
24 September 1, 2000.

1 B. 1. From September 1, 2000, through August 31, 2001, all
2 nursing facilities subject to the Nursing Home Care Act, in addition
3 to other state and federal requirements related to the staffing of
4 nursing facilities, shall maintain the following minimum direct-
5 care-staff-to-resident ratios:

- 6 a. from 7:00 a.m. to 3:00 p.m., one direct-care staff to
7 every eight residents, or major fraction thereof,
- 8 b. from 3:00 p.m. to 11:00 p.m., one direct-care staff to
9 every twelve residents, or major fraction thereof, and
- 10 c. from 11:00 p.m. to 7:00 a.m., one direct-care staff to
11 every seventeen residents, or major fraction thereof.

12 2. From September 1, 2001, through August 31, 2003, nursing
13 facilities subject to the Nursing Home Care Act and Intermediate
14 Care Facilities for Individuals with Intellectual Disabilities
15 (ICFs/IID) with seventeen or more beds shall maintain, in addition
16 to other state and federal requirements related to the staffing of
17 nursing facilities, the following minimum direct-care-staff-to-
18 resident ratios:

- 19 a. from 7:00 a.m. to 3:00 p.m., one direct-care staff to
20 every seven residents, or major fraction thereof,
- 21 b. from 3:00 p.m. to 11:00 p.m., one direct-care staff to
22 every ten residents, or major fraction thereof, and
- 23 c. from 11:00 p.m. to 7:00 a.m., one direct-care staff to
24 every seventeen residents, or major fraction thereof.

1 3. On and after October 1, 2019, nursing facilities subject to
2 the Nursing Home Care Act and Intermediate Care Facilities for
3 Individuals with Intellectual Disabilities (ICFs/IID) with seventeen
4 or more beds shall maintain, in addition to other state and federal
5 requirements related to the staffing of nursing facilities, the
6 following minimum direct-care-staff-to-resident ratios:

- 7 a. from 7:00 a.m. to 3:00 p.m., one direct-care staff to
8 every six residents, or major fraction thereof,
- 9 b. from 3:00 p.m. to 11:00 p.m., one direct-care staff to
10 every eight residents, or major fraction thereof, and
- 11 c. from 11:00 p.m. to 7:00 a.m., one direct-care staff to
12 every fifteen residents, or major fraction thereof.

13 4. Effective immediately, facilities shall have the option of
14 varying the starting times for the eight-hour shifts by one (1) hour
15 before or one (1) hour after the times designated in this section
16 without overlapping shifts.

- 17 5. a. On and after January 1, 2020, a facility may implement
18 twenty-four-hour-based staff scheduling; provided,
19 however, such facility shall continue to maintain a
20 direct-care service rate of at least two and nine
21 tenths (2.9) hours of direct-care service per resident
22 per day, the same to be calculated based on average
23 direct care staff maintained over a twenty-four-hour
24 period.

1 b. At no time shall direct-care staffing ratios in a
2 facility with twenty-four-hour-based staff-scheduling
3 privileges fall below one direct-care staff to every
4 fifteen residents or major fraction thereof, and at
5 least two direct-care staff shall be on duty and awake
6 at all times.

7 c. As used in this paragraph, "twenty-four-hour-based-
8 scheduling" means maintaining:

9 (1) a direct-care-staff-to-resident ratio based on
10 overall hours of direct-care service per resident
11 per day rate of not less than two and ninety one-
12 hundredths (2.90) hours per day,

13 (2) a direct-care-staff-to-resident ratio of at least
14 one direct-care staff person on duty to every
15 fifteen residents or major fraction thereof at
16 all times, and

17 (3) at least two direct-care staff persons on duty
18 and awake at all times.

19 6. a. On and after January 1, 2004, the State Department of
20 Health shall require a facility to maintain the shift-
21 based, staff-to-resident ratios provided in paragraph
22 3 of this subsection if the facility has been
23 determined by the Department to be deficient with
24 regard to:

- (1) the provisions of paragraph 3 of this subsection,
- (2) fraudulent reporting of staffing on the Quality of Care Report, or
- (3) a complaint or survey investigation that has determined substandard quality of care as a result of insufficient staffing.

b. The Department shall require a facility described in subparagraph a of this paragraph to achieve and maintain the shift-based, staff-to-resident ratios provided in paragraph 3 of this subsection for a minimum of three (3) months before being considered eligible to implement twenty-four-hour-based staff scheduling as defined in subparagraph c of paragraph 5 of this subsection.

c. Upon a subsequent determination by the Department that the facility has achieved and maintained for at least three (3) months the shift-based, staff-to-resident ratios described in paragraph 3 of this subsection, and has corrected any deficiency described in subparagraph a of this paragraph, the Department shall notify the facility of its eligibility to implement twenty-four-hour-based staff-scheduling privileges.

7. a. For facilities that utilize twenty-four-hour-based staff-scheduling privileges, the Department shall

1 monitor and evaluate facility compliance with the
2 twenty-four-hour-based staff-scheduling staffing
3 provisions of paragraph 5 of this subsection through
4 reviews of monthly staffing reports, results of
5 complaint investigations and inspections.

6 b. If the Department identifies any quality-of-care
7 problems related to insufficient staffing in such
8 facility, the Department shall issue a directed plan
9 of correction to the facility found to be out of
10 compliance with the provisions of this subsection.

11 c. In a directed plan of correction, the Department shall
12 require a facility described in subparagraph b of this
13 paragraph to maintain shift-based, staff-to-resident
14 ratios for the following periods of time:

15 (1) the first determination shall require that shift-
16 based, staff-to-resident ratios be maintained
17 until full compliance is achieved,

18 (2) the second determination within a two-year period
19 shall require that shift-based, staff-to-resident
20 ratios be maintained for a minimum period of
21 twelve (12) months, and

22 (3) the third determination within a two-year period
23 shall require that shift-based, staff-to-resident
24 ratios be maintained. The facility may apply for
25

1 permission to use twenty-four-hour staffing
2 methodology after two (2) years.

3 C. Effective September 1, 2002, facilities shall post the names
4 and titles of direct-care staff on duty each day in a conspicuous
5 place, including the name and title of the supervising nurse.

6 D. The State Commissioner of Health shall promulgate rules
7 prescribing staffing requirements for Intermediate Care Facilities
8 for Individuals with Intellectual Disabilities serving six or fewer
9 clients (ICFs/IID-6) and for Intermediate Care Facilities for
10 Individuals with Intellectual Disabilities serving sixteen or fewer
11 clients (ICFs/IID-16).

12 E. Facilities shall have the right to appeal and to the
13 informal dispute resolution process with regard to penalties and
14 sanctions imposed due to staffing noncompliance.

15 F. 1. When the state Medicaid program reimbursement rate
16 reflects the sum of Ninety-four Dollars and eleven cents (\$94.11),
17 plus the increases in actual audited costs over and above the actual
18 audited costs reflected in the cost reports submitted for the most
19 current cost-reporting period and the costs estimated by the
20 Oklahoma Health Care Authority to increase the direct-care, flexible
21 staff-scheduling staffing level from two and eighty-six one-
22 hundredths (2.86) hours per day per occupied bed to three and two-
23 tenths (3.2) hours per day per occupied bed, all nursing facilities
24 subject to the provisions of the Nursing Home Care Act and

1 Intermediate Care Facilities for Individuals with Intellectual
2 Disabilities (ICFs/IID) with seventeen or more beds, in addition to
3 other state and federal requirements related to the staffing of
4 nursing facilities, shall maintain direct-care, flexible staff-
5 scheduling staffing levels based on an overall three and two-tenths
6 (3.2) hours per day per occupied bed.

7 2. When the state Medicaid program reimbursement rate reflects
8 the sum of Ninety-four Dollars and eleven cents (\$94.11), plus the
9 increases in actual audited costs over and above the actual audited
10 costs reflected in the cost reports submitted for the most current
11 cost-reporting period and the costs estimated by the Oklahoma Health
12 Care Authority to increase the direct-care flexible staff-scheduling
13 staffing level from three and two-tenths (3.2) hours per day per
14 occupied bed to three and eight-tenths (3.8) hours per day per
15 occupied bed, all nursing facilities subject to the provisions of
16 the Nursing Home Care Act and Intermediate Care Facilities for
17 Individuals with Intellectual Disabilities (ICFs/IID) with seventeen
18 or more beds, in addition to other state and federal requirements
19 related to the staffing of nursing facilities, shall maintain
20 direct-care, flexible staff-scheduling staffing levels based on an
21 overall three and eight-tenths (3.8) hours per day per occupied bed.

22 3. When the state Medicaid program reimbursement rate reflects
23 the sum of Ninety-four Dollars and eleven cents (\$94.11), plus the
24 increases in actual audited costs over and above the actual audited

1 costs reflected in the cost reports submitted for the most current
2 cost-reporting period and the costs estimated by the Oklahoma Health
3 Care Authority to increase the direct-care, flexible staff-
4 scheduling staffing level from three and eight-tenths (3.8) hours
5 per day per occupied bed to four and one-tenth (4.1) hours per day
6 per occupied bed, all nursing facilities subject to the provisions
7 of the Nursing Home Care Act and Intermediate Care Facilities for
8 Individuals with Intellectual Disabilities (ICFs/IID) with seventeen
9 or more beds, in addition to other state and federal requirements
10 related to the staffing of nursing facilities, shall maintain
11 direct-care, flexible staff-scheduling staffing levels based on an
12 overall four and one-tenth (4.1) hours per day per occupied bed.

13 4. The ~~Board~~ Commissioner shall promulgate rules for shift-
14 based, staff-to-resident ratios for noncompliant facilities denoting
15 the incremental increases reflected in direct-care, flexible staff-
16 scheduling staffing levels.

17 5. In the event that the state Medicaid program reimbursement
18 rate for facilities subject to the Nursing Home Care Act, and
19 Intermediate Care Facilities for Individuals with Intellectual
20 Disabilities (ICFs/IID) having seventeen or more beds is reduced
21 below actual audited costs, the requirements for staffing ratio
22 levels shall be adjusted to the appropriate levels provided in
23 paragraphs 1 through 4 of this subsection.

24 G. For purposes of this subsection:
25

1 1. "Direct-care staff" means any nursing or therapy staff who
2 provides direct, hands-on care to residents in a nursing facility;

3 2. Prior to September 1, 2003, activity and social services
4 staff who are not providing direct, hands-on care to residents may
5 be included in the direct-care-staff-to-resident ratio in any shift.
6 On and after September 1, 2003, such persons shall not be included
7 in the direct-care-staff-to-resident ratio, regardless of their
8 licensure or certification status; and

9 3. The administrator shall not be counted in the direct-care-
10 staff-to-resident ratio regardless of the administrator's licensure
11 or certification status.

12 H. 1. The Oklahoma Health Care Authority shall require all
13 nursing facilities subject to the provisions of the Nursing Home
14 Care Act and Intermediate Care Facilities for Individuals with
15 Intellectual Disabilities (ICFs/IID) with seventeen or more beds to
16 submit a monthly report on staffing ratios on a form that the
17 Authority shall develop.

18 2. The report shall document the extent to which such
19 facilities are meeting or are failing to meet the minimum direct-
20 care-staff-to-resident ratios specified by this section. Such
21 report shall be available to the public upon request.

22 3. The Authority may assess administrative penalties for the
23 failure of any facility to submit the report as required by the
24 Authority. Provided, however:

1 a. administrative penalties shall not accrue until the
2 Authority notifies the facility in writing that the
3 report was not timely submitted as required, and

4 b. a minimum of a one-day penalty shall be assessed in
5 all instances.

6 4. Administrative penalties shall not be assessed for
7 computational errors made in preparing the report.

8 5. Monies collected from administrative penalties shall be
9 deposited in the Nursing Facility Quality of Care Fund and utilized
10 for the purposes specified in the Oklahoma Healthcare Initiative
11 Act.

12 I. 1. All entities regulated by this state that provide long-
13 term care services shall utilize a single assessment tool to
14 determine client services needs. The tool shall be developed by the
15 Oklahoma Health Care Authority in consultation with the State
16 Department of Health.

17 2. a. The Oklahoma Nursing Facility Funding Advisory
18 Committee is hereby created and shall consist of the
19 following:

20 (1) four members selected by the Oklahoma Association
21 of Health Care Providers,

22 (2) three members selected by the Oklahoma
23 Association of Homes and Services for the Aging,
24 and
25

1 (3) two members selected by the State Council on
2 Aging.

3 The Chair shall be elected by the committee. No state
4 employees may be appointed to serve.

5 b. The purpose of the advisory committee will be to
6 develop a new methodology for calculating state
7 Medicaid program reimbursements to nursing facilities
8 by implementing facility-specific rates based on
9 expenditures relating to direct care staffing. No
10 nursing home will receive less than the current rate
11 at the time of implementation of facility-specific
12 rates pursuant to this subparagraph.

13 c. The advisory committee shall be staffed and advised by
14 the Oklahoma Health Care Authority.

15 d. The new methodology will be submitted for approval to
16 the Board of the Oklahoma Health Care Authority by
17 January 15, 2005, and shall be finalized by July 1,
18 2005. The new methodology will apply only to new
19 funds that become available for Medicaid nursing
20 facility reimbursement after the methodology of this
21 paragraph has been finalized. Existing funds paid to
22 nursing homes will not be subject to the methodology
23 of this paragraph. The methodology as outlined in
24 this paragraph will only be applied to any new funding

1 for nursing facilities appropriated above and beyond
2 the funding amounts effective on January 15, 2005.

3 e. The new methodology shall divide the payment into two
4 components:

5 (1) direct care which includes allowable costs for
6 registered nurses, licensed practical nurses,
7 certified medication aides and certified nurse
8 aides. The direct care component of the rate
9 shall be a facility-specific rate, directly
10 related to each facility's actual expenditures on
11 direct care, and

12 (2) other costs.

13 f. The Oklahoma Health Care Authority, in calculating the
14 base year prospective direct care rate component,
15 shall use the following criteria:

16 (1) to construct an array of facility per diem
17 allowable expenditures on direct care, the
18 Authority shall use the most recent data
19 available. The limit on this array shall be no
20 less than the ninetieth percentile,

21 (2) each facility's direct care base-year component
22 of the rate shall be the lesser of the facility's
23 allowable expenditures on direct care or the
24 limit,

1 (3) other rate components shall be determined by the
2 Oklahoma Nursing Facility Funding Advisory
3 Committee in accordance with federal regulations
4 and requirements,

5 (4) prior to July 1, 2020, the Authority shall seek
6 federal approval to calculate the upper payment
7 limit under the authority of CMS utilizing the
8 Medicare equivalent payment rate, and

9 (5) if Medicaid payment rates to providers are
10 adjusted, nursing home rates and Intermediate
11 Care Facilities for Individuals with Intellectual
12 Disabilities (ICFs/IID) rates shall not be
13 adjusted less favorably than the average
14 percentage-rate reduction or increase applicable
15 to the majority of other provider groups.

16 g. (1) Effective October 1, 2019, if sufficient funding
17 is appropriated for a rate increase, a new
18 average rate for nursing facilities shall be
19 established. The rate shall be equal to the
20 statewide average cost as derived from audited
21 cost reports for SFY 2018, ending June 30, 2018,
22 after adjustment for inflation. After such new
23 average rate has been established, the facility
24 specific reimbursement rate shall be as follows:

1 (a) amounts up to the existing base rate amount
2 shall continue to be distributed as a part
3 of the base rate in accordance with the
4 existing State Plan, and

5 (b) to the extent the new rate exceeds the rate
6 effective before the effective date of this
7 act, fifty percent (50%) of the resulting
8 increase on October 1, 2019, shall be
9 allocated toward an increase of the existing
10 base reimbursement rate and distributed
11 accordingly. The remaining fifty percent
12 (50%) of the increase shall be allocated in
13 accordance with the currently approved 70/30
14 reimbursement rate methodology as outlined
15 in the existing State Plan.

16 (2) Any subsequent rate increases, as determined
17 based on the provisions set forth in this
18 subparagraph, shall be allocated in accordance
19 with the currently approved 70/30 reimbursement
20 rate methodology. The rate shall not exceed the
21 upper payment limit established by the Medicare
22 rate equivalent established by the federal CMS.
23
24
25

- h. Effective October 1, 2019, in coordination with the rate adjustments identified in the preceding section, a portion of the funds shall be utilized as follows:
- (1) effective October 1, 2019, the Oklahoma Health Care Authority shall increase the personal needs allowance for residents of nursing homes and Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICFs/IID) from Fifty Dollars (\$50.00) per month to Seventy-five Dollars (\$75.00) per month per resident. The increase shall be funded by Medicaid nursing home providers, by way of a reduction of eighty-two cents (\$0.82) per day deducted from the base rate. Any additional cost shall be funded by the Nursing Facility Quality of Care Fund, and
 - (2) effective January 1, 2020, all clinical employees working in a licensed nursing facility shall be required to receive at least four (4) hours annually of Alzheimer's or Dementia training, to be provided and paid for by the facilities.

3. The Department of Human Services shall expand its statewide toll-free, Senior-Info Line for senior citizen services to include assistance with or information on long-term care services in this state.

1 4. The Oklahoma Health Care Authority shall develop a nursing
2 facility cost-reporting system that reflects the most current costs
3 experienced by nursing and specialized facilities. The Oklahoma
4 Health Care Authority shall utilize the most current cost report
5 data to estimate costs in determining daily per diem rates.

6 5. The Oklahoma Health Care Authority shall provide access to
7 the detailed Medicaid payment audit adjustments and implement an
8 appeal process for disputed payment audit adjustments to the
9 provider. Additionally, the Oklahoma Health Care Authority shall
10 make sufficient revisions to the nursing facility cost reporting
11 forms and electronic data input system so as to clarify what
12 expenses are allowable and appropriate for inclusion in cost
13 calculations.

14 J. 1. When the state Medicaid program reimbursement rate
15 reflects the sum of Ninety-four Dollars and eleven cents (\$94.11),
16 plus the increases in actual audited costs, over and above the
17 actual audited costs reflected in the cost reports submitted for the
18 most current cost-reporting period, and the direct-care, flexible
19 staff-scheduling staffing level has been prospectively funded at
20 four and one-tenth (4.1) hours per day per occupied bed, the
21 Authority may apportion funds for the implementation of the
22 provisions of this section.

23 2. The Authority shall make application to the United States
24 Centers for Medicare and Medicaid Service for a waiver of the
25

1 uniform requirement on health-care-related taxes as permitted by
2 Section 433.72 of 42 C.F.R.

3 3. Upon approval of the waiver, the Authority shall develop a
4 program to implement the provisions of the waiver as it relates to
5 all nursing facilities.

6 SECTION 56. REPEALER 63 O.S. 2011, Section 1925.2, as
7 amended by Section 48, Chapter 475, O.S.L. 2019 (63 O.S. Supp. 2019,
8 Section 1925.2), is hereby repealed.

9 SECTION 57. AMENDATORY 63 O.S. 2011, Section 2-302, as
10 last amended by Section 36, Chapter 25, O.S.L. 2019 (63 O.S. Supp.
11 2019, Section 2-302), is amended to read as follows:

12 Section 2-302. A. Every person who manufactures, distributes,
13 dispenses, prescribes, administers or uses for scientific purposes
14 any controlled dangerous substance within or into this state, or who
15 proposes to engage in the manufacture, distribution, dispensing,
16 prescribing, administering or use for scientific purposes of any
17 controlled dangerous substance within or into this state shall
18 obtain a registration issued by the Director of the Oklahoma State
19 Bureau of Narcotics and Dangerous Drugs Control, in accordance with
20 rules promulgated by the Director. Persons registered by the
21 Director under Section 2-101 et seq. of this title to manufacture,
22 distribute, dispense, or conduct research with controlled dangerous
23 substances may possess, manufacture, distribute, dispense, or
24 conduct research with those substances to the extent authorized by

1 their registration and in conformity with the other provisions of
2 the Uniform Controlled Dangerous Substances Act. Every wholesaler,
3 manufacturer or distributor of any drug product containing
4 pseudoephedrine or phenylpropanolamine, or their salts, isomers, or
5 salts of isomers shall obtain a registration issued by the Director
6 of the Oklahoma State Bureau of Narcotics and Dangerous Drugs
7 Control in accordance with rules promulgated by the Director and as
8 provided for in Section 2-332 of this title.

9 B. Out-of-state pharmaceutical suppliers who provide controlled
10 dangerous substances to individuals within this state shall obtain a
11 registration issued by the Director of the Oklahoma State Bureau of
12 Narcotics and Dangerous Drugs Control, in accordance with rules
13 promulgated by the Director. This provision shall also apply to
14 wholesale distributors who distribute controlled dangerous
15 substances to pharmacies or other entities registered within this
16 state in accordance with rules promulgated by the Director.

17 C. Every person who owns in whole or in part a public or
18 private medical facility for which a majority of patients are issued
19 on a reoccurring monthly basis a prescription for opioids,
20 benzodiazepines, barbiturates or carisoprodol, but not including
21 Suboxone or buprenorphine, shall obtain a registration issued by the
22 Director of the Oklahoma State Bureau of Narcotics and Dangerous
23 Drugs Control.

1 D. ~~Beginning January 1, 2019, every~~ Every manufacturer and
2 distributor required to register under the provisions of this
3 section shall provide all data required pursuant to ~~federal law,~~
4 ~~federal rules and regulations and~~ 21 U.S.C., Section 827(d)(1) on a
5 ~~quarterly~~ monthly basis to the Oklahoma State Bureau of Narcotics
6 and Dangerous Drugs Control. Controlled dangerous substances in
7 Schedule I shall be reported in accordance with rules promulgated by
8 the Director. Reporting of controlled dangerous substances pursuant
9 to 21 U.S.C., Section 827(d)(1) shall include, but not be limited
10 to:

11 1. The manufacturer's or distributor's name, address, phone
12 number, DEA registration number and controlled dangerous substance
13 registration number issued by the Bureau;

14 2. The name, address and DEA registration number of the entity
15 to whom the controlled dangerous substance was sold;

16 3. The date of the sale of the controlled dangerous substance;

17 4. The name and National Drug Code of the controlled dangerous
18 substance sold; and

19 5. The number of containers and the strength and quantity of
20 controlled dangerous substances in each container sold.

21 E. The information maintained and provided pursuant to
22 subsection D of this section shall be confidential and not open to
23 the public. Access to the information shall, at the discretion of
24 the Director, be limited to:

1 1. Peace officers certified pursuant to the provisions of
2 Section 3311 of Title 70 of the Oklahoma Statutes who are employed
3 as investigative agents of the Oklahoma State Bureau of Narcotics
4 and Dangerous Drugs Control or the Office of the Attorney General;

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

7 3. A multicounty grand jury properly convened pursuant to the
8 provisions of the Multicounty Grand Jury Act.

9 F. Manufacturers, distributors, home care agencies, hospices,
10 home care services, medical facility owners referred to in
11 subsection C of this section and scientific researchers shall obtain
12 a registration annually. Other practitioners shall obtain a
13 registration for a period to be determined by the Director that will
14 be for a period not less than one (1) year nor more than three (3)
15 years.

16 G. Every trainer or handler of a canine controlled dangerous
17 substances detector who, in the ordinary course of such trainer's or
18 handler's profession, desires to possess any controlled dangerous
19 substance, annually, shall obtain a registration issued by the
20 Director for a fee of Seventy Dollars (\$70.00). Such persons shall
21 be subject to all applicable provisions of Section 2-101 et seq. of
22 this title and such applicable rules promulgated by the Director for
23 those individuals identified in subparagraph a of paragraph 32 of
24 Section 2-101 of this title. Persons registered by the Director

1 pursuant to this subsection may possess controlled dangerous
2 substances to the extent authorized by their registration and in
3 conformity with the other provisions of the Uniform Controlled
4 Dangerous Substances Act.

5 H. The following persons shall not be required to register and
6 may lawfully possess controlled dangerous substances under the
7 provisions of Section 2-101 et seq. of this title:

8 1. An agent, or an employee thereof, of any registered
9 manufacturer, distributor, dispenser or user for scientific purposes
10 of any controlled dangerous substance, if such agent is acting in
11 the usual course of such agent's or employee's business or
12 employment;

13 2. Any person lawfully acting under the direction of a person
14 authorized to administer controlled dangerous substances under
15 Section 2-312 of this title;

16 3. A common or contract carrier or warehouseman, or an employee
17 thereof, whose possession of any controlled dangerous substance is
18 in the usual course of such carrier's or warehouseman's business or
19 employment;

20 4. An ultimate user or a person in possession of any controlled
21 dangerous substance pursuant to a lawful order of a practitioner;

22 5. An individual pharmacist acting in the usual course of such
23 pharmacist's employment with a pharmacy registered pursuant to the
24 provisions of Section 2-101 et seq. of this title;

1 6. A nursing home licensed by this state;

2 7. Any Department of Mental Health and Substance Abuse Services
3 employee or any person whose facility contracts with the Department
4 of Mental Health and Substance Abuse Services whose possession of
5 any dangerous drug, as defined in Section 353.1 of Title 59 of the
6 Oklahoma Statutes, is for the purpose of delivery of a mental health
7 consumer's medicine to the consumer's home or residence;

8 8. Registered nurses and licensed practical nurses; and

9 9. An assisted living facility licensed by the State of
10 Oklahoma.

11 I. The Director may, by rule, waive the requirement for
12 registration or fee for registration of certain manufacturers,
13 distributors, dispensers, prescribers, administrators, or users for
14 scientific purposes if the Director finds it consistent with the
15 public health and safety.

16 J. A separate registration shall be required at each principal
17 place of business or professional practice where the applicant
18 manufactures, distributes, dispenses, prescribes, administers, or
19 uses for scientific purposes controlled dangerous substances.

20 K. The Director is authorized to inspect the establishment of a
21 registrant or applicant for registration in accordance with rules
22 promulgated by the Director.

23 L. No person engaged in a profession or occupation for which a
24 license to engage in such activity is provided by law shall be
25

1 registered under the Uniform Controlled Dangerous Substances Act
2 unless such person holds a valid license of such person's profession
3 or occupation.

4 M. Registrations shall be issued on the first day of November
5 of each year. Registrations may be issued at other times, however,
6 upon certification of the professional licensing board.

7 N. The licensing boards of all professions and occupations to
8 which the use of controlled dangerous substances is incidental shall
9 furnish a current list to the Director, not later than the first day
10 of October of each year, of the persons holding valid licenses. All
11 such persons except persons exempt from registration requirements
12 under subsection H of this section shall be subject to the
13 registration requirements of Section 2-101 et seq. of this title.

14 O. The licensing board of any professional defined as a mid-
15 level practitioner shall notify and furnish to the Director, not
16 later than the first day of October of each year that such
17 professional holds a valid license, a current listing of individuals
18 licensed and registered with their respective boards to prescribe,
19 order, select, obtain and administer controlled dangerous
20 substances. The licensing board shall immediately notify the
21 Director of any action subsequently taken against any such
22 individual.

23 P. Beginning November 1, 2010, each registrant that prescribes,
24 administers or dispenses methadone shall be required to check the
25

1 prescription profile of the patient on the central repository of the
2 Oklahoma State Bureau of Narcotics and Dangerous Drugs Control.

3 SECTION 58. REPEALER 63 O.S. 2011, Section 2-302, as
4 last amended by Section 17, Chapter 428, O.S.L. 2019 (63 O.S. Supp.
5 2019, Section 2-302), is hereby repealed.

6 SECTION 59. AMENDATORY 63 O.S. 2011, Section 2-309D, as
7 last amended by Section 18, Chapter 428, O.S.L. 2019 (63 O.S. Supp.
8 2019, Section 2-309D), is amended to read as follows:

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

13 1. Peace officers certified pursuant to Section 3311 of Title
14 70 of the Oklahoma Statutes who are employed as investigative agents
15 of the Oklahoma State Bureau of Narcotics and Dangerous Drugs
16 Control;

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

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

21 a. Board of Podiatric Medical Examiners,

22 b. Board of Dentistry,

23 c. State Board of Pharmacy,

24 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
- l. 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, tribal, county or municipal law enforcement agencies, district attorneys and the Attorney General in furtherance of criminal, civil or administrative

1 investigations or prosecutions within their respective
2 jurisdictions, designated legal, communications, and analytical
3 employees of the Bureau, and to registrants in furtherance of
4 efforts to guard against the diversion of controlled dangerous
5 substances.

6 C. This section shall not prevent the disclosure, at the
7 discretion of the Director of the Oklahoma State Bureau of Narcotics
8 and Dangerous Drugs Control, of statistical information gathered
9 from the central repository to the general public which shall be
10 limited to types and quantities of controlled substances dispensed
11 and the county where dispensed.

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

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

22 F. Any unauthorized disclosure of any information collected at
23 the central repository provided by the Anti-Drug Diversion Act shall
24 be a misdemeanor. Violation of the provisions of this section shall
25

1 be deemed willful neglect of duty and shall be grounds for removal
2 from office.

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

8 2. a. Prior to prescribing or authorizing for refill, if one
9 hundred eighty (180) days have elapsed prior to the
10 previous access and check, of opiates, synthetic
11 opiates, semisynthetic opiates, benzodiazepine or
12 carisoprodol to a patient of record, registrants or
13 members of their medical or administrative staff shall
14 be required to access the information in the central
15 repository to assess medical necessity and the
16 possibility that the patient may be unlawfully
17 obtaining prescription drugs in violation of the
18 Uniform Controlled Dangerous Substances Act. The duty
19 to access and check shall not alter or otherwise amend
20 appropriate medical standards of care. The registrant
21 or medical provider shall note in the patient file
22 that the central repository has been checked and may
23 maintain a copy of the information.
24

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

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

7 (2) for a prescription of a controlled substance set
8 forth in subparagraph a of this paragraph that is
9 issued by a practitioner for a patient residing
10 in a nursing facility as defined by Section 1-
11 1902 of this title, provided that the
12 prescription is issued to a resident of such
13 facility.

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

18 4. The failure of a registrant to access and check the central
19 repository as required under state or federal law or regulation may,
20 after investigation, be grounds for the licensing board of the
21 registrant to take disciplinary action against the registrant.

22 H. The State Board of Podiatric Examiners, the State Board of
23 Dentistry, the State Board of Medical Licensure and Supervision, the
24 State Board of Examiners in Optometry, the State Board of Nursing,

1 the State Board of Osteopathic Examiners and the State Board of
2 Veterinary Medical Examiners shall have the sole responsibility for
3 enforcement of the provisions of subsection G of this section.
4 Nothing in this section shall be construed so as to permit the
5 Director of the State Bureau of Narcotics and Dangerous Drugs
6 Control to assess administrative fines provided for in Section 2-304
7 of this title.

8 I. The Director of the Oklahoma State Bureau of Narcotics and
9 Dangerous Drugs Control, or a designee thereof, shall provide a
10 monthly list to the Directors of the State Board of Podiatric
11 Examiners, the State Board of Dentistry, the State Board of Medical
12 Licensure and Supervision, the State Board of Examiners in
13 Optometry, the State Board of Nursing, the State Board of
14 Osteopathic Examiners and the State Board of Veterinary Medical
15 Examiners of the top twenty prescribers of controlled dangerous
16 substances within their respective areas of jurisdiction. Upon
17 discovering that a registrant is prescribing outside the limitations
18 of his or her licensure or outside of drug registration rules or
19 applicable state laws, the respective licensing board shall be
20 notified by the Bureau in writing. Such notifications may be
21 considered complaints for the purpose of investigations or other
22 actions by the respective licensing board. Licensing boards shall
23 have exclusive jurisdiction to take action against a licensee for a
24 violation of subsection G of this section.

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

11 K. The Director of the Oklahoma State Bureau of Narcotics and
12 Dangerous Drugs Control shall provide adequate means and procedures
13 allowing access to central repository information for registrants
14 lacking direct computer access.

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

1 M. The Oklahoma State Bureau of Narcotics and Dangerous Drugs
2 is authorized to provide unsolicited notification to the licensing
3 board of a pharmacist or practitioner if a patient has received one
4 or more prescriptions for controlled substances in quantities or
5 with a frequency inconsistent with generally recognized standards of
6 safe practice or if a practitioner or prescriber has exhibited
7 prescriptive behavior consistent with generally recognized standards
8 indicating potentially problematic prescribing patterns. An
9 unsolicited notification to the licensing board of the practitioner
10 pursuant to this section:

11 1. Is confidential;

12 2. May not disclose information that is confidential pursuant
13 to this section; and

14 3. May be in a summary form sufficient to provide notice of the
15 basis for the unsolicited notification.

16 SECTION 60. REPEALER 63 O.S. 2011, Section 2-309D, as
17 last amended by Section 38, Chapter 25, O.S.L. 2019 (63 O.S. Supp.
18 2019, Section 2-309D), is hereby repealed.

19 SECTION 61. AMENDATORY 68 O.S. 2011, Section 1004, as
20 last amended by Section 2, Chapter 168, O.S.L. 2019 (68 O.S. Supp.
21 2019, Section 1004), is amended to read as follows:

22 Section 1004. A. As used in this section:

23 1. "Moving five-year average amount for gas" means, for
24 purposes of the apportionments prescribed by this section, the
25

1 amount of gross production tax on natural gas collected for each of
2 the five (5) complete fiscal years, as computed by the State Board
3 of Equalization pursuant to Section 34.103 of Title 62 of the
4 Oklahoma Statutes; and

5 2. "Moving five-year average amount for oil" means, for
6 purposes of the apportionments prescribed by this section, the
7 amount of gross production tax on oil collected for each of the five
8 (5) complete fiscal years, as computed by the State Board of
9 Equalization pursuant to Section 34.103 of Title 62 of the Oklahoma
10 Statutes.

11 B. Beginning July 1, 2017, the gross production tax provided
12 for in Section 1001 of this title is hereby levied and shall be
13 collected and apportioned as follows:

14 1. For all monies collected from the tax levied on asphalt or
15 ores bearing uranium, lead, zinc, jack, gold, silver or copper:

16 a. eighty-five and seventy-two one-hundredths percent
17 (85.72%) shall be paid to the State Treasurer of the
18 state to be placed in the General Revenue Fund of the
19 state and used for the general expense of state
20 government, to be paid out pursuant to direct
21 appropriation by the Legislature,

22 b. seven and fourteen one-hundredths percent (7.14%) of
23 the sum collected from natural gas and/or casinghead
24 gas or asphalt or ores bearing uranium, lead, zinc,

1 jack, gold, silver or copper shall be paid to the
2 various county treasurers to be credited to the County
3 Highway Fund as follows: Each county shall receive a
4 proportionate share of the funds available based upon
5 the proportion of the total value of production from
6 such county in the corresponding month of the
7 preceding year, and

- 8 c. seven and fourteen one-hundredths percent (7.14%)
9 shall be allocated to each county as provided for in
10 subparagraph b of this paragraph and shall be
11 apportioned, on an average daily attendance per capita
12 distribution basis, as certified by the State
13 Superintendent of Public Instruction to the school
14 districts of the county where such pupils attend
15 school regardless of residence of such pupil, provided
16 the school district makes an ad valorem tax levy of
17 fifteen (15) mills for the current year and maintains
18 twelve (12) years of instruction;

19 2. For all monies collected from the tax levied on natural gas
20 and/or casinghead gas at a tax rate of seven percent (7%) pursuant
21 to the provisions of subsection B of Section 1001 of this title:

- 22 a. after the total revenue apportioned to the General
23 Revenue Fund as prescribed by subparagraph b of this
24 paragraph equals the moving five-year average amount
25

1 for gas as defined by paragraph 1 of subsection A of
2 this section, there shall be apportioned from the
3 gross production tax levy imposed pursuant to Section
4 1001 of this title on natural gas and/or casinghead
5 gas to the Revenue Stabilization Fund created by
6 Section 34.102 of Title 62 of the Oklahoma Statutes,
7 the amount of revenue, if any, which exceeds the
8 moving five-year average amount for gas as defined
9 pursuant to paragraph 1 of subsection A of this
10 section,

11 b. until the apportionment to the General Revenue Fund
12 equals the moving five-year average amount for gas as
13 prescribed by paragraph 1 of subsection A of this
14 section, eighty-five and seventy-two one-hundredths
15 percent (85.72%) shall be paid to the State Treasurer
16 of the state to be placed in the General Revenue Fund
17 of the state and used for the general expense of state
18 government, to be paid out pursuant to direct
19 appropriation by the Legislature,

20 c. before any other apportionment of revenue has been
21 made pursuant to this paragraph, seven and fourteen
22 one-hundredths percent (7.14%) of the sum collected
23 from natural gas and/or casinghead gas shall be paid
24 to the various county treasurers to be credited to the

1 County Highway Fund as follows: Each county shall
2 receive a proportionate share of the funds available
3 based upon the proportion of the total value of
4 production from such county in the corresponding month
5 of the preceding year, and

- 6 d. before any other apportionment of revenue has been
7 made pursuant to this paragraph, seven and fourteen
8 one-hundredths percent (7.14%) shall be allocated to
9 each county as provided for in subparagraph c of this
10 paragraph and shall be apportioned, on an average
11 daily attendance per capita distribution basis, as
12 certified by the State Superintendent of Public
13 Instruction to the school districts of the county
14 where such pupils attend school regardless of
15 residence of such pupil, provided the school district
16 makes an ad valorem tax levy of fifteen (15) mills for
17 the current year and maintains twelve (12) years of
18 instruction;

19 3. For all monies collected from the tax levied on natural gas
20 and/or casinghead gas at a tax rate of four percent (4%) pursuant to
21 the provisions of subsection B of Section 1001 of this title:

- 22 a. after the total revenue apportioned to the General
23 Revenue Fund as prescribed by subparagraph b of this
24 paragraph equals the moving five-year average amount
25

1 for gas as defined by paragraph 1 of subsection A of
2 this section, there shall be apportioned from the
3 gross production tax levy imposed pursuant to Section
4 1001 of this title on natural gas and/or casinghead
5 gas to the Revenue Stabilization Fund created pursuant
6 to Section 34.102 of Title 62 of the Oklahoma
7 Statutes, the amount of revenue, if any, which exceeds
8 the moving five-year average amount for gas as defined
9 pursuant to paragraph 1 of subsection A of this
10 section,

11 b. until the apportionment to the General Revenue Fund
12 equals the moving five-year average amount for gas as
13 prescribed by paragraph 1 of subsection A of this
14 section, seventy-five percent (75%) shall be paid to
15 the State Treasurer of the state to be placed in the
16 General Revenue Fund of the state and used for the
17 general expense of state government, to be paid out
18 pursuant to direct appropriation by the Legislature,

19 c. before any other apportionment of revenue has been
20 made pursuant to this paragraph, twelve and one-half
21 percent (12.5%) of the sum collected from natural gas
22 and/or casinghead gas shall be paid to the various
23 county treasurers to be credited to the County Highway
24 Fund as follows: Each county shall receive a

1 proportionate share of the funds available based upon
2 the proportion of the total value of production from
3 such county in the corresponding month of the
4 preceding year, and

- 5 d. before any other apportionment of revenue has been
6 made pursuant to this paragraph, twelve and one-half
7 percent (12.5%) shall be allocated to each county as
8 provided for in subparagraph c of this paragraph and
9 shall be apportioned, on an average daily attendance
10 per capita distribution basis, as certified by the
11 State Superintendent of Public Instruction to the
12 school districts of the county where such pupils
13 attend school regardless of residence of such pupil,
14 provided the school district makes an ad valorem tax
15 levy of fifteen (15) mills for the current year and
16 maintains twelve (12) years of instruction;

17 4. For all monies collected from the tax levied on natural gas
18 and/or casinghead gas at a tax rate of one percent (1%) pursuant to
19 the provisions of subsection B of Section 1001 of this title:

- 20 a. fifty percent (50%) of the sum collected from natural
21 gas and/or casinghead gas shall be paid to the various
22 county treasurers to be credited to the County Highway
23 Fund as follows: Each county shall receive a
24 proportionate share of the funds available based upon
25

1 the proportion of the total value of production from
2 such county in the corresponding month of the
3 preceding year, and

- 4 b. fifty percent (50%) shall be allocated to each county
5 as provided for in subparagraph a of this paragraph
6 and shall be apportioned, on an average daily
7 attendance per capita distribution basis, as certified
8 by the State Superintendent of Public Instruction to
9 the school districts of the county where such pupils
10 attend school regardless of residence of such pupil,
11 provided the school district makes an ad valorem tax
12 levy of fifteen (15) mills for the current year and
13 maintains twelve (12) years of instruction;

14 5. For all monies collected from the tax levied on natural gas
15 and/or casinghead gas at a tax rate of two percent (2%) pursuant to
16 the provisions of paragraph 3 of subsection B of Section 1001 of
17 this title:

- 18 a. after the total revenue apportioned to the General
19 Revenue Fund as prescribed by subparagraph b of this
20 paragraph equals the moving five-year average amount
21 for gas as defined by paragraph 1 of subsection A of
22 this section, there shall be apportioned from the
23 gross production tax levy imposed pursuant to Section
24 1001 of this title on gas to the Revenue Stabilization

1 Fund created by Section 34.102 of Title 62 of the
2 Oklahoma Statutes, the amount of revenue, if any,
3 which exceeds the moving five-year average amount for
4 natural gas and/or casinghead gas as defined pursuant
5 to paragraph 1 of subsection A of this section,

6 b. until the apportionment to the General Revenue Fund
7 equals the moving five-year average amount for gas as
8 prescribed by paragraph 1 of subsection A of this
9 section, fifty percent (50%) shall be paid to the
10 State Treasurer to be placed in the General Revenue
11 Fund of the state and used for the general expense of
12 state government, to be paid out pursuant to direct
13 appropriation by the Legislature,

14 c. before any other apportionment of revenue has been
15 made pursuant to this paragraph, twenty-five percent
16 (25%) of the sum collected from natural gas and/or
17 casinghead gas shall be paid to the various county
18 treasurers to be credited to the County Highway Fund
19 as follows: Each county shall receive a proportionate
20 share of the funds available based upon the proportion
21 of the total value of production from such county in
22 the corresponding month of the preceding year, and

23 d. before any other apportionment of revenue has been
24 made pursuant to this paragraph, twenty-five percent

1 (25%) shall be allocated to each county as provided
2 for in subparagraph c of this paragraph and shall be
3 apportioned on an average daily attendance per capita
4 distribution basis, as certified by the State
5 Superintendent of Public Instruction, to the school
6 districts of the county where such pupils attend
7 school regardless of residence of such pupil, provided
8 the school district makes an ad valorem tax levy of
9 fifteen (15) mills for the current year and maintains
10 twelve (12) years of instruction;

11 6. For all monies collected from the tax levied on oil at a tax
12 rate of seven percent (7%) pursuant to the provisions of subsection
13 B of Section 1001 of this title:

14 a. there shall be apportioned from the gross production
15 tax levy imposed pursuant to Section 1001 of this
16 title on oil to the Revenue Stabilization Fund created
17 by Section 34.102 of Title 62 of the Oklahoma
18 Statutes, after the applicable maximum amount
19 prescribed by subsection C of this section has been
20 deposited to the funds therein specified, the amount
21 of revenue, if any, which would otherwise be
22 apportioned to the General Revenue Fund and which
23 exceeds the moving five-year average amount for oil as
24

1 defined pursuant to paragraph 2 of subsection A of
2 this section,

3 b. before any other apportionment of revenue has been
4 made pursuant to this paragraph, twenty-five and
5 seventy-two one-hundredths percent (25.72%) shall be
6 paid to the State Treasurer to be placed in the Common
7 Education Technology Revolving Fund created in Section
8 34.90 of Title 62 of the Oklahoma Statutes,

9 c. before any other apportionment of revenue has been
10 made pursuant to this paragraph, twenty-five and
11 seventy-two one-hundredths percent (25.72%) shall be
12 paid to the State Treasurer to be placed in the Higher
13 Education Capital Revolving Fund created in Section
14 34.91 of Title 62 of the Oklahoma Statutes,

15 d. before any other apportionment of revenue has been
16 made pursuant to this paragraph, twenty-five and
17 seventy-two one-hundredths percent (25.72%) shall be
18 paid to the State Treasurer to be placed in the
19 Oklahoma Student Aid Revolving Fund created in Section
20 34.92 of Title 62 of the Oklahoma Statutes,

21 e. before any other apportionment of revenue has been
22 made pursuant to this paragraph, three and seven
23 hundred forty-five one-thousandths percent (3.745%)
24 shall be distributed to the various counties of the

1 state for deposit into the County Bridge and Road
2 Improvement Fund of each county based on a formula
3 developed by the Department of Transportation and
4 approved by the Department of Transportation County
5 Advisory Board created pursuant to Section 302.1 of
6 Title 69 of the Oklahoma Statutes to be used for the
7 purposes set forth in the County Bridge and Road
8 Improvement Act. The formula shall be similar to the
9 formula currently used for the distribution of monies
10 in the County Bridge Program funds, but shall also
11 take into consideration the effect of the terrain and
12 traffic volume as related to county road improvement
13 and maintenance costs,

14 f. before any other apportionment of revenue has been
15 made pursuant to this paragraph, four and twenty-eight
16 one-hundredths percent (4.28%) shall be paid to the
17 State Treasurer to be apportioned to:

18 (1) the following sources and in the following
19 amounts through the fiscal year ending ~~June 30,~~
20 ~~2019~~ June 30, 2022:

21 (a) thirty-three and one-third percent (33 1/3%)
22 to the Oklahoma Tourism and Recreation
23 Department Capital Expenditure Revolving
24

Fund created pursuant to Section 2254.1 of
Title 74 of the Oklahoma Statutes,

(b) thirty-three and one-third percent (33 1/3%)
to the Oklahoma Conservation Commission
Infrastructure Revolving Fund created
pursuant to Section 3-2-110 of Title 27A of
the Oklahoma Statutes, and

(c) thirty-three and one-third percent (33 1/3%)
to the Community Water Infrastructure
Development Revolving Fund created pursuant
to Section 1085.7A of Title 82 of the
Oklahoma Statutes, and

(2) the Oklahoma Water Resources Board Rural Economic
Action Plan Water Projects Fund for the fiscal
year beginning ~~July 1, 2019~~ July 1, 2022, and for
each fiscal year thereafter,

g. before any other apportionment of revenue has been
made pursuant to this paragraph, seven and fourteen
one-hundredths percent (7.14%) of the sum collected
from oil shall be paid to the various county
treasurers, to be credited to the County Highway Fund
as follows: Each county shall receive a proportionate
share of the funds available based upon the proportion

- 1 of the total value of production from such county in
2 the corresponding month of the preceding year,
3 h. before any other apportionment of revenue has been
4 made pursuant to this paragraph, seven and fourteen
5 one-hundredths percent (7.14%) shall be allocated to
6 each county as provided in subparagraph g of this
7 paragraph and shall be apportioned, on an average
8 daily attendance per capita distribution basis, as
9 certified by the State Superintendent of Public
10 Instruction, to the school districts of the county
11 where such pupils attend school regardless of
12 residence of such pupil, provided the school district
13 makes an ad valorem tax levy of fifteen (15) mills for
14 the current year and maintains twelve (12) years of
15 instruction, and
16 i. before any other apportionment of revenue has been
17 made pursuant to this paragraph, five hundred thirty-
18 five one-thousandths percent (0.535%) of the levy
19 shall be transmitted by the Oklahoma Tax Commission to
20 the Statewide Circuit Engineering District Revolving
21 Fund as created in Section 687.2 of Title 69 of the
22 Oklahoma Statutes;
23
24

1 7. For all monies collected from the tax levied on oil at a tax
2 rate of four percent (4%) pursuant to the provisions of subsection B
3 of Section 1001 of this title:

4 a. there shall be apportioned from the gross production
5 tax levy imposed pursuant to Section 1001 of this
6 title on oil to the Revenue Stabilization Fund created
7 by Section 34.102 of Title 62 of the Oklahoma
8 Statutes, after the applicable maximum amount
9 prescribed by subsection C of this section has been
10 deposited to the funds therein specified, the amount
11 of revenue, if any, which would otherwise be
12 apportioned to the General Revenue Fund and which
13 exceeds the moving five-year average amount for oil as
14 defined pursuant to paragraph 2 of subsection A of
15 this section,

16 b. before any other apportionment of revenue has been
17 made pursuant to this paragraph, twenty-two and one-
18 half percent (22.5%) shall be paid to the State
19 Treasurer to be placed in the Common Education
20 Technology Revolving Fund created in Section 34.90 of
21 Title 62 of the Oklahoma Statutes,

22 c. before any other apportionment of revenue has been
23 made pursuant to this paragraph, twenty-two and one-
24 half percent (22.5%) shall be paid to the State

1 Treasurer to be placed in the Higher Education Capital
2 Revolving Fund created in Section 34.91 of Title 62 of
3 the Oklahoma Statutes,

4 d. before any other apportionment of revenue has been
5 made pursuant to this paragraph, twenty-two and one-
6 half percent (22.5%) shall be paid to the State
7 Treasurer to be placed in the Oklahoma Student Aid
8 Revolving Fund created in Section 34.92 of Title 62 of
9 the Oklahoma Statutes,

10 e. before any other apportionment of revenue has been
11 made pursuant to this paragraph, three and twenty-
12 eight one-hundredths percent (3.28%) shall be
13 distributed to the various counties of the state for
14 deposit into the County Bridge and Road Improvement
15 Fund of each county based on a formula developed by
16 the Department of Transportation and approved by the
17 Department of Transportation County Advisory Board
18 created pursuant to Section 302.1 of Title 69 of the
19 Oklahoma Statutes to be used for the purposes set
20 forth in the County Bridge and Road Improvement Act.
21 The formula shall be similar to the formula currently
22 used for the distribution of monies in the County
23 Bridge Program funds, but shall also take into
24 consideration the effect of the terrain and traffic

1 volume as related to county road improvement and
2 maintenance costs,

3 f. before any other apportionment of revenue has been
4 made pursuant to this paragraph, three and seventy-
5 five one-hundredths percent (3.75%) shall be paid to
6 the State Treasurer to be apportioned to:

7 (1) the following sources and in the following
8 amounts through the fiscal year ending ~~June 30,~~
9 ~~2019~~ June 30, 2022:

10 (a) thirty-three and one-third percent (33 1/3%)
11 to the Oklahoma Tourism and Recreation
12 Department Capital Expenditure Revolving
13 Fund created pursuant to Section 2254.1 of
14 Title 74 of the Oklahoma Statutes,

15 (b) thirty-three and one-third percent (33 1/3%)
16 to the Oklahoma Conservation Commission
17 Infrastructure Revolving Fund created
18 pursuant to Section 3-2-110 of Title 27A of
19 the Oklahoma Statutes, and

20 (c) thirty-three and one-third percent (33 1/3%)
21 to the Community Water Infrastructure
22 Development Revolving Fund created pursuant
23 to Section 1085.7A of Title 82 of the
24 Oklahoma Statutes, and
25

1 (2) the Oklahoma Water Resources Board Rural Economic
2 Action Plan Water Projects Fund for the fiscal
3 year beginning ~~July 1, 2019~~ July 1, 2022, and for
4 each fiscal year thereafter,

5 g. before any other apportionment of revenue has been
6 made pursuant to this paragraph, twelve and one-half
7 percent (12.5%) of the sum collected from oil shall be
8 paid to the various county treasurers, to be credited
9 to the County Highway Fund as follows: Each county
10 shall receive a proportionate share of the funds
11 available based upon the proportion of the total value
12 of production from such county in the corresponding
13 month of the preceding year,

14 h. before any other apportionment of revenue has been
15 made pursuant to this paragraph, twelve and one-half
16 percent (12.5%) shall be allocated to each county as
17 provided in subparagraph g of this paragraph and shall
18 be apportioned on an average daily attendance per
19 capita distribution basis, as certified by the State
20 Superintendent of Public Instruction, to the school
21 districts of the county where such pupils attend
22 school regardless of residence of such pupil, provided
23 the school district makes an ad valorem tax levy of
24

1 fifteen (15) mills for the current year and maintains
2 twelve (12) years of instruction, and

- 3 i. before any other apportionment of revenue has been
4 made pursuant to this paragraph, forty-seven one-
5 hundredths percent (0.47%) of the levy shall be
6 transmitted by the Tax Commission to the Statewide
7 Circuit Engineering District Revolving Fund as created
8 in Section 687.2 of Title 69 of the Oklahoma Statutes;

9 8. For all monies collected from the tax levied on oil at a tax
10 rate of one percent (1%) pursuant to the provisions of subsection B
11 of Section 1001 of this title:

- 12 a. fifty percent (50%) of the sum collected shall be paid
13 to the various county treasurers, to be credited to
14 the County Highway Fund as follows: Each county shall
15 receive a proportionate share of the funds available
16 based upon the proportion of the total value of
17 production from such county in the corresponding month
18 of the preceding year, and

- 19 b. fifty percent (50%) shall be allocated to each county
20 as provided for in subparagraph a of this paragraph
21 and shall be apportioned on an average daily
22 attendance per capita distribution basis, as certified
23 by the State Superintendent of Public Instruction, to
24 the school districts of the county where such pupils

1 attend school regardless of residence of such pupil,
2 provided the school district makes an ad valorem tax
3 levy of fifteen (15) mills for the current year and
4 maintains twelve (12) years of instruction;

5 9. For all monies collected from the tax levied on oil at a tax
6 rate of two percent (2%) pursuant to the provisions of paragraph 3
7 of subsection B of Section 1001 of this title:

8 a. there shall be apportioned from the gross production
9 tax levy imposed pursuant to Section 1001 of this
10 title on oil to the Revenue Stabilization Fund created
11 by Section 34.102 of Title 62 of the Oklahoma
12 Statutes, the amount of revenue, if any, which exceeds
13 the moving five-year average amount for oil as defined
14 pursuant to paragraph 2 of subsection A of this
15 section,

16 b. until the apportionment to the General Revenue Fund
17 equals the moving five-year average amount for oil as
18 prescribed by paragraph 2 of subsection A of this
19 section, fifty percent (50%) shall be paid to the
20 State Treasurer to be placed in the General Revenue
21 Fund of the state and used for the general expense of
22 state government, to be paid out pursuant to direct
23 appropriation by the Legislature,
24

1 c. before any other apportionment of revenue has been
2 made pursuant to this paragraph, twenty-five percent
3 (25%) of the sum collected from oil shall be paid to
4 the various county treasurers, to be credited to the
5 County Highway Fund as follows: Each county shall
6 receive a proportionate share of the funds available
7 based upon the proportion of the total value of
8 production from such county in the corresponding month
9 of the preceding year, and

10 d. before any other apportionment of revenue has been
11 made pursuant to this paragraph, twenty-five percent
12 (25%) shall be allocated to each county as provided in
13 subparagraph c of this paragraph and shall be
14 apportioned on an average daily attendance per capita
15 distribution basis, as certified by the State
16 Superintendent of Public Instruction, to the school
17 districts of the county where such pupils attend
18 school regardless of residence of such pupil, provided
19 the school district makes an ad valorem tax levy of
20 fifteen (15) mills for the current year and maintains
21 twelve (12) years of instruction;

22 10. On or after June 28, 2018, the gross production tax levied
23 on natural gas or casinghead gas at the rate of five percent (5%)
24

1 provided for in paragraph 3 of subsection B of Section 1001 of this
2 title shall be apportioned as follows:

- 3 a. after the total revenue apportioned to the General
4 Revenue Fund as prescribed by subparagraph b of this
5 paragraph equals the moving five-year average amount
6 for gas as defined by paragraph 1 of subsection A of
7 this section, there shall be apportioned from the
8 gross production tax levy imposed pursuant to Section
9 1001 of this title on natural gas and/or casinghead
10 gas to the Revenue Stabilization Fund created pursuant
11 to Section 34.102 of Title 62 of the Oklahoma
12 Statutes, the amount of revenue, if any, which exceeds
13 the moving five-year average amount for gas as defined
14 pursuant to paragraph 1 of subsection A of this
15 section,
- 16 b. until the apportionment to the General Revenue Fund
17 equals the moving five-year average amount for gas as
18 prescribed by paragraph 1 of subsection A of this
19 section, eighty percent (80%) shall be paid to the
20 State Treasurer of the state to be placed in the
21 General Revenue Fund of the state and used for the
22 general expense of state government, to be paid out
23 pursuant to direct appropriation by the Legislature,

- 1 c. before any other apportionment of revenue has been
2 made pursuant to this paragraph, ten percent (10%) of
3 the sum collected from natural gas and/or casinghead
4 gas shall be paid to the various county treasurers to
5 be credited to the County Highway Fund as follows:
6 Each county shall receive a proportionate share of the
7 funds available based upon the proportion of the total
8 value of production from such county in the
9 corresponding month of the preceding year, and
- 10 d. before any other apportionment of revenue has been
11 made pursuant to this paragraph, ten percent (10%)
12 shall be allocated to each county as provided for in
13 subparagraph c of this paragraph and shall be
14 apportioned, on an average daily attendance per capita
15 distribution basis, as certified by the State
16 Superintendent of Public Instruction to the school
17 districts of the county where such pupils attend
18 school regardless of residence of such pupil, provided
19 the school district makes an ad valorem tax levy of
20 fifteen (15) mills for the current year and maintains
21 twelve (12) years of instruction; and

22 11. On or after June 28, 2018, the gross production tax on oil
23 levied at the rate of five percent (5%) provided for in paragraph 3
24

1 of subsection B of Section 1001 of this title shall be apportioned
2 as follows:

3 a. there shall be apportioned from the gross production
4 tax levy imposed pursuant to Section 1001 of this
5 title on oil to the Revenue Stabilization Fund created
6 by Section 34.102 of Title 62 of the Oklahoma
7 Statutes, after the applicable maximum amount
8 prescribed by subsection C of this section has been
9 deposited to the funds therein specified, the amount
10 of revenue, if any, which would otherwise be
11 apportioned to the General Revenue Fund and which
12 exceeds the moving five-year average amount for oil as
13 defined pursuant to paragraph 2 of subsection A of
14 this section,

15 b. before any other apportionment of revenue has been
16 made pursuant to this paragraph, twenty-three and
17 seventy-five one-hundredths percent (23.75%) shall be
18 paid to the State Treasurer to be placed in the Common
19 Education Technology Revolving Fund created in Section
20 34.90 of Title 62 of the Oklahoma Statutes,

21 c. before any other apportionment of revenue has been
22 made pursuant to this paragraph, twenty-three and
23 seventy-five one-hundredths percent (23.75%) shall be
24 paid to the State Treasurer to be placed in the Higher
25

- 1 Education Capital Revolving Fund created in Section
2 34.91 of Title 62 of the Oklahoma Statutes,
- 3 d. before any other apportionment of revenue has been
4 made pursuant to this paragraph, twenty-three and
5 seventy-five one-hundredths percent (23.75%) shall be
6 paid to the State Treasurer to be placed in the
7 Oklahoma Student Aid Revolving Fund created in Section
8 34.92 of Title 62 of the Oklahoma Statutes,
- 9 e. before any other apportionment of revenue has been
10 made pursuant to this paragraph, three and twenty-
11 eight one-hundredths percent (3.28%) shall be
12 distributed to the various counties of the state for
13 deposit into the County Bridge and Road Improvement
14 Fund of each county based on a formula developed by
15 the Department of Transportation and approved by the
16 Department of Transportation County Advisory Board
17 created pursuant to Section 302.1 of Title 69 of the
18 Oklahoma Statutes to be used for the purposes set
19 forth in the County Bridge and Road Improvement Act.
20 The formula shall be similar to the formula currently
21 used for the distribution of monies in the County
22 Bridge Program funds, but shall also take into
23 consideration the effect of the terrain and traffic
24

1 volume as related to county road improvement and
2 maintenance costs,

3 f. before any other apportionment of revenue has been
4 made pursuant to this paragraph, five percent (5%)
5 shall be paid to the State Treasurer to be apportioned
6 to:

7 (1) the following sources and in the following
8 amounts through the fiscal year ending ~~June 30,~~
9 ~~2019~~ June 30, 2022:

10 (a) thirty-three and one-third percent (33 1/3%)
11 to the Oklahoma Tourism and Recreation
12 Department Capital Expenditure Revolving
13 Fund created pursuant to Section 2254.1 of
14 Title 74 of the Oklahoma Statutes,

15 (b) thirty-three and one-third percent (33 1/3%)
16 to the Oklahoma Conservation Commission
17 Infrastructure Revolving Fund created
18 pursuant to Section 3-2-110 of Title 27A of
19 the Oklahoma Statutes, and

20 (c) thirty-three and one-third percent (33 1/3%)
21 to the Community Water Infrastructure
22 Development Revolving Fund created pursuant
23 to Section 1085.7A of Title 82 of the
24 Oklahoma Statutes, and

1 (2) the Oklahoma Water Resources Board Rural Economic
2 Action Plan Water Projects Fund for the fiscal
3 year beginning ~~July 1, 2019~~ July 1, 2022, and for
4 each fiscal year thereafter,

5 g. before any other apportionment of revenue has been
6 made pursuant to this paragraph, ten percent (10%) of
7 the sum collected from oil shall be paid to the
8 various county treasurers, to be credited to the
9 County Highway Fund as follows: Each county shall
10 receive a proportionate share of the funds available
11 based upon the proportion of the total value of
12 production from such county in the corresponding month
13 of the preceding year,

14 h. before any other apportionment of revenue has been
15 made pursuant to this paragraph, ten percent (10%)
16 shall be allocated to each county as provided in
17 subparagraph g of this paragraph and shall be
18 apportioned on an average daily attendance per capita
19 distribution basis, as certified by the State
20 Superintendent of Public Instruction, to the school
21 districts of the county where such pupils attend
22 school regardless of residence of such pupil, provided
23 the school district makes an ad valorem tax levy of
24

1 fifteen (15) mills for the current year and maintains
2 twelve (12) years of instruction, and

- 3 i. before any other apportionment of revenue has been
4 made pursuant to this paragraph, forty-seven one-
5 hundredths percent (0.47%) of the levy shall be
6 transmitted by the Tax Commission to the Statewide
7 Circuit Engineering District Revolving Fund as created
8 in Section 687.2 of Title 69 of the Oklahoma Statutes.

9 C. Provided, notwithstanding any other provision of this
10 section, the total amounts deposited to the Common Education
11 Technology Revolving Fund, the Higher Education Capital Revolving
12 Fund, the Oklahoma Student Aid Revolving Fund, the Rural Economic
13 Action Plan Water Projects Fund, the Oklahoma Tourism and Recreation
14 Department Capital Expenditure Revolving Fund, the Oklahoma
15 Conservation Commission Infrastructure Revolving Fund and the
16 Community Water Infrastructure Development Revolving Fund pursuant
17 to paragraphs 6, 7 and 11 of subsection B of this section shall not
18 exceed One Hundred Fifty Million Dollars (\$150,000,000.00) in any
19 fiscal year. Except as otherwise provided in this subsection, all
20 sums in excess of One Hundred Fifty Million Dollars
21 (\$150,000,000.00) in any fiscal year which would otherwise be
22 deposited in such funds shall be apportioned by the Oklahoma Tax
23 Commission to the General Revenue Fund of the state.

1 SECTION 62. REPEALER 68 O.S. 2011, Section 1004, as last
2 amended by Section 1, Chapter 266, O.S.L. 2019 (63 O.S. Supp. 2019,
3 Section 1004), is hereby repealed.

4 SECTION 63. REPEALER 68 O.S. 2011, Section 2357.32A, as
5 last amended by Section 1, Chapter 287, O.S.L. 2019 (68 O.S. Supp.
6 2019, Section 2357.32A), is hereby repealed.

7 SECTION 64. AMENDATORY 70 O.S. 2011, Section 3-104.4, as
8 last amended by Section 1, Chapter 488, O.S.L. 2019 (70 O.S. Supp.
9 2019, Section 3-104.4), is amended to read as follows:

10 Section 3-104.4. A. ~~On or before February 1, 1991, the~~ The
11 State Board of Education shall adopt standards for the accreditation
12 of the public schools in this state according to the requirements of
13 ~~this act~~ Section 3-104.3 et seq. of this title, to be effective as
14 set forth in ~~this act~~ Section 3-104.3 et seq. of this title. The
15 accreditation standards shall incorporate the curricular standards
16 established pursuant to Section 11-103.6 of this title. The
17 accreditation standards shall equal or exceed ~~the accreditation~~
18 ~~standards for schools promulgated by the North Central Association~~
19 ~~of Colleges and Schools~~ nationally recognized accreditation
20 standards to the extent that the standards are consistent with an
21 academic results oriented approach to accreditation, ~~excluding those~~
22 ~~standards which deal with affective behavior to the extent the~~
23 ~~adoption of the standards does not conflict with state statute.~~ The
24 accreditation adopted by the State Board shall encompass

1 accreditation for elementary schools, middle schools, junior high
2 schools, and high schools. The accreditation standards shall be
3 made available for public inspection at the offices of the State
4 Department of Education.

5 B. Standards for accreditation adopted by the State Board of
6 Education shall include standards relating to the provision of
7 school counselors to the public school children of this state. The
8 State Board of Education shall require each local school district to
9 provide information regarding the number of counselors serving each
10 school site, the duties of all such counselors including all
11 administrative duties, the number of students served by each
12 counselor, and information regarding the number of counselors
13 employed per elementary school, middle school, junior high school
14 and high school.

15 C. Except as otherwise provided ~~by subsection A of this section~~
16 ~~with regard to curricular standards, as a condition of receiving~~
17 ~~state accreditation pursuant to this act:~~

18 1. ~~High schools shall meet the accreditation standards not~~
19 ~~later than June 30, 1995; and~~

20 2. ~~Elementary, middle and junior high schools shall meet the~~
21 ~~accreditation standards not later than June 30, 1999.~~

22 Schools, schools shall ~~thereafter continue to~~ meet the
23 accreditation standards as a condition of continued accreditation.
24 Nothing herein shall be construed as preventing changes to the

1 adopted standards by the State Board of Education pursuant to the
2 Administrative Procedures Act. The accreditation standards shall
3 provide for warnings, probation or nonaccredited status for schools
4 that fail to meet the standards. The Department shall investigate a
5 complaint of failure to provide educational services or failure to
6 comply with accreditation standards within thirty (30) days of
7 receiving the complaint. If the Department determines that a school
8 has failed to comply with the accreditation standards, the
9 Department shall report the recommended warning, probation or
10 nonaccredited accreditation status to the State Board of Education
11 within ninety (90) days. If a school does not take action to comply
12 with the accreditation standards within ninety (90) days after a
13 report is filed by the Department, the Board shall withdraw
14 accreditation for the school. The State Board accreditation
15 regulations shall provide for warnings and for assistance to schools
16 and school districts whenever there is reason to believe a school is
17 in danger of losing its state accreditation.

18 D. If one or more school sites ~~fails~~ fail to receive
19 accreditation as required pursuant to this section ~~by the dates set~~
20 ~~forth in subsection C of this section~~ or subsequently ~~loses~~ lose
21 accreditation, the State Board of Education shall close the school
22 and reassign the students to accredited schools within the district
23 or shall annex the district to one or more other districts in which
24 the students can be educated in accredited schools.

1 E. Standards for accreditation adopted by the State Board of
2 Education shall include standards relating to the provision of
3 educational services provided in partial hospitalization programs,
4 day treatment programs, day hospital programs, residential treatment
5 programs and emergency shelter programs for persons between the ages
6 of three (3) and twenty-one (21) years of age. The accreditation
7 standards shall apply to onsite and offsite educational services
8 provided by public school districts or state-accredited private
9 schools. ~~The accreditation standards shall provide for warnings,~~
10 ~~probation or nonaccredited status for schools that fail to meet the~~
11 ~~standards.~~ Each school which is providing or is required to provide
12 educational services for students placed in a program as described
13 in this subsection shall be actively monitored by the State
14 Department of Education. The Department shall determine on an
15 ongoing basis if the educational program and services are in
16 compliance with the accreditation standards. ~~The Department shall~~
17 ~~investigate a complaint of failure to provide educational services~~
18 ~~within ten (10) days of receiving the complaint. If the Department~~
19 ~~determines that a school has failed to comply with the accreditation~~
20 ~~standards the Department shall report the recommended warning,~~
21 ~~probation or nonaccredited accreditation status to the State Board~~
22 ~~of Education within sixty (60) days. If a school does not take~~
23 ~~action to comply with the accreditation standards within ninety (90)~~

1 ~~days after a report is filed by the Department, the Board shall~~
2 ~~withdraw accreditation for the school.~~

3 ~~F. State Board accreditation regulations shall provide for~~
4 ~~warnings and for assistance to schools and school districts whenever~~
5 ~~there is reason to believe a school is in danger of losing its state~~
6 ~~accreditation.~~

7 ~~G. F.~~ The State Board shall provide assistance to districts in
8 considering the possibility of meeting accreditation requirements
9 through the use of nontraditional means of instruction. The State
10 Board shall also assist districts in forming cooperatives and making
11 arrangements for the use of satellite instruction or other
12 instructional technologies to the extent that use of such
13 instructional means meets accreditation standards.

14 ~~H. G.~~ 1. Accreditation shall not be withdrawn from or denied
15 nor shall a penalty be assessed against a school or school district
16 for failing to meet the media materials and equipment standards,
17 media program expenditure standards and media personnel standards as
18 set forth in the accreditation standards adopted by the Board.

19 2. The provisions of paragraph 1 of this subsection shall cease
20 to be effective during the fiscal year which begins on the July 1
21 immediately succeeding the legislative session during which the
22 measure appropriating monies to the State Board of Education for the
23 financial support of public schools is enacted as law and such
24 appropriation amount is at least Fifty Million Dollars

1 (\$50,000,000.00) greater than the amount of money appropriated to
2 the State Board of Education for the financial support of public
3 schools for the fiscal year ending June 30, 2019, pursuant to
4 Chapter 146, O.S.L. 2018. Provided, the Fifty Million Dollars
5 (\$50,000,000.00) shall not include any amount of appropriations
6 dedicated for support or certified employee salary increases.
7 Accreditation shall not be withdrawn from or denied nor shall a
8 penalty be assessed against a school or school district for failing
9 to meet the media personnel standards as set forth in accreditation
10 standards adopted by the Board.

11 ~~I.~~ H. 1. The State Board shall not assess a financial penalty
12 against any school district which is given a deficiency in
13 accreditation status during any fiscal year as provided for in this
14 subsection.

15 2. Beginning with the fiscal year which begins July 1, 2021, if
16 the amount of money appropriated to the State Board of Education for
17 the financial support of public schools is at least One Hundred
18 Million Dollars (\$100,000,000.00) greater than the amount of money
19 appropriated to the State Board of Education for the financial
20 support of public schools for the fiscal year ending June 30, 2019,
21 pursuant to Chapter 146, O.S.L. 2018, a financial penalty shall be
22 assessed against any school districts that do not comply with the
23 class size limitations for kindergarten as provided for in Section
24 18-113.2 of this title and class size limitations for grade one as

1 provided for in subsection A of Section 18-113.1 of this title.

2 Provided, the One Hundred Million Dollars (\$100,000,000.00) shall
3 not include any amount of appropriations dedicated for support or
4 certified employee salary increases.

5 3. The State Department of Education shall submit a report on
6 statewide classroom sizes to the President Pro Tempore of the
7 Oklahoma State Senate and the Speaker of the Oklahoma House of
8 Representatives no later than January 1, 2022.

9 ~~J. Accreditation shall not be withdrawn from or denied, nor~~
10 ~~shall a penalty be assessed against, a school district for complying~~
11 ~~with this section.~~

12 I. Except as provided for in subsection J of this section,
13 beginning with the 2019-2020 school year, evaluations of schools to
14 determine whether they meet the accreditation standards set forth in
15 accordance with this section shall occur once every four (4) years
16 on a schedule adopted by the State Board of Education. The Board
17 may interrupt the evaluation schedule provided in this subsection
18 for reasons including a change in the superintendent of the school
19 district; determination that one or more school district board
20 members have not met the continuing education requirements as
21 defined by this title; determination that the school district
22 falsified information submitted to any public city, county, state or
23 federal official or agency; initiation of an investigation by the
24 Board or a law enforcement agency; or other determination by the

1 Board that standards for accreditation are not being met by the
2 school district. The schedule adopted by the Board shall allow for
3 school districts receiving no deficiencies for two (2) consecutive
4 years to be reviewed for accreditation less than annually.

5 Provided, however, that schools shall be evaluated annually for the
6 purposes of:

7 1. Local, state and federal funding;

8 2. Health and safety;

9 3. Certification requirements for teachers, principals and
10 superintendents;

11 4. School board governance, including instructional and
12 continuing education requirements for school board members; and

13 5. Any other requirements under state or federal law.

14 J. Beginning with the 2019-2020 school year, if a public school
15 receives a deficiency on its accreditation report, the public school
16 shall be evaluated annually to determine if it meets the
17 accreditation standards set forth in accordance with this section.

18 If the public school receives no deficiencies for two (2)
19 consecutive years, the public school shall be subject to the
20 evaluation timeline established in subsection I of this section.

21 SECTION 65. REPEALER 70 O.S. 2011, Section 3-104.4, as
22 last amended by Section 1, Chapter 373, O.S.L. 2019 (70 O.S. Supp.
23 2019, Section 3-104.4), is hereby repealed.

1 SECTION 66. AMENDATORY 70 O.S. 2011, Section 3311.5, as
2 last amended by Section 2, Chapter 339, O.S.L. 2019 (70 O.S. Supp.
3 2019, Section 3311.5), is amended to read as follows:

4 Section 3311.5. A. On and after November 1, 2007, the Council
5 on Law Enforcement Education and Training (CLEET), pursuant to its
6 authority granted by Section 3311 of this title, shall include in
7 its required basic training courses for law enforcement
8 certification a minimum of four (4) hours of education and training
9 relating to recognizing and managing a person appearing to require
10 mental health treatment or services. The Council shall further
11 offer a minimum of four (4) hours of education and training on
12 specific mental health issues pursuant to Section 3311.4 of this
13 title to meet the annual requirement for continuing education in the
14 areas of mental health issues.

15 B. By January 1, 2008, CLEET, pursuant to its authority granted
16 by Sections 3311 and 3311.4 of this title, shall include in its
17 required courses of study for law enforcement certification a
18 minimum of six (6) hours of evidence-based sexual assault and sexual
19 violence training. A portion of the sexual assault and sexual
20 violence training shall include instruction presented by a certified
21 sexual assault service provider.

22 C. By January 1, 2012, every active full-time peace officer,
23 previously certified by CLEET pursuant to Section 3311 of this
24 title, shall be required to attend and complete the evidence-based
25

1 sexual assault and sexual violence training provided in subsection B
2 of this section.

3 D. CLEET shall promulgate rules to enforce the provisions of
4 subsections B and C of this section and shall, with the assistance
5 of certified sexual assault service providers, establish a
6 comprehensive integrated curriculum for the teaching of evidence-
7 based sexual assault and sexual violence issues.

8 E. The Council is required to update that block of training or
9 course materials relating to legal issues, concepts, and state laws
10 annually, but not later than ninety (90) days following the
11 adjournment of any legislative session.

12 F. By January 1, 2009, CLEET, pursuant to its authority granted
13 by Sections 3311 and 3311.4 of this title, shall include in its
14 required courses of study for law enforcement certification oil
15 field equipment theft training.

16 G. By January 1, 2012, CLEET, pursuant to its authority granted
17 by Sections 3311 and 3311.4 of this title, shall establish and
18 include in its required courses of study for law enforcement
19 certification a minimum of eight (8) hours of evidence-based
20 domestic violence and stalking investigation training. The training
21 should include, at a minimum, the importance of reporting domestic
22 violence incidents, determining the predominant aggressor, evidence-
23 based investigation of domestic violence and stalking, lethality
24 assessment, and personal safety planning necessary at the pretrial

1 stages of a potential criminal case. A portion of the training
2 shall include instruction presented by an expert victim advocate
3 selected from recommendations provided by the Office of the Attorney
4 General or the Domestic Violence Fatality Review Board. The
5 training shall be developed in collaboration with the Domestic
6 Violence Fatality Review Board, and where applicable, shall replace
7 existing domestic violence and stalking courses currently required.

8 H. By January 1, 2012, the evidence-based domestic violence and
9 stalking investigation curriculum developed in collaboration with
10 the Domestic Violence Fatality Review Board shall be submitted to
11 the Council for approval.

12 I. CLEET shall establish the training provided in subsection G
13 of this section as a part of CLEET's peace officer continuing
14 education program and develop a plan to train full-time peace
15 officers previously certified by CLEET pursuant to Section 3311 of
16 this title where applicable. The Office of the Attorney General
17 shall provide a list of expert victim advocates that are available
18 to assist in the training.

19 J. The Council is authorized to pay for and send training staff
20 and employees to one or more training and education courses in
21 jurisdictions outside this state for the purpose of expanding
22 curriculum, training skill development, and general knowledge within
23 the field of law enforcement education and training.

1 K. On and after November 1, 2013, CLEET, pursuant to its
2 authority granted by Section 3311 of this title, shall include in
3 its required basic training courses for law enforcement
4 certification a minimum of two (2) hours of education and training
5 relating to recognizing and managing a person experiencing dementia
6 or Alzheimer's disease.

7 L. By November 1, 2019, CLEET shall establish appropriate
8 training resources focused on protocol for handling and processing
9 sexual assault calls. The training shall include, but not be
10 limited to:

- 11 1. How to handle the sexual assault call upon first contact;
- 12 2. Determining when the assault occurred;
- 13 3. Where to take the victim;
- 14 4. Questioning witnesses and collecting evidence; and
- 15 5. Informing and assisting the victim in accessing resources,
16 help and information.

17 M. The Council shall promulgate rules to evaluate and approve
18 municipalities and counties that are deemed capable of conducting
19 separate basic law enforcement training academies in their
20 jurisdiction and to certify officers successfully completing such
21 academy training courses. Upon application to the Council, any
22 municipality with a population of sixty-five thousand (65,000) or
23 more or any county with a population of five hundred thousand
24 (500,000) or more shall be authorized to operate a basic law

1 enforcement academy. In addition, upon application and approval
2 from the Council, a municipality with a population under sixty-five
3 thousand (65,000) or a county with a population under five hundred
4 thousand (500,000) may be authorized to operate a basic law
5 enforcement academy; provided, however, the Council may approve no
6 more than two such applications per year. The Council shall approve
7 an application when the municipality or county making the
8 application meets the criteria for a separate training academy and
9 demonstrates to the satisfaction of the Council that the academy has
10 sufficient resources to conduct the training, the instructional
11 staff is appropriately trained and qualified to teach the course
12 materials, the curriculum is composed of comparable or higher
13 quality course segments to the CLEET academy curriculum, and the
14 facilities where the academy will be conducted are safe and
15 sufficient for law enforcement training purposes. Any municipality
16 or county authorized to operate a basic law enforcement academy
17 after November 1, 2007, shall not be eligible to receive funds
18 pursuant to subsection E of Section 1313.2 of Title 20 of the
19 Oklahoma Statutes. The Council shall not provide any funding for
20 the operation of any separate training academy authorized by this
21 subsection.

22 N. Any municipality or county that, prior to November 1, 2007,
23 was authorized to conduct a basic law enforcement academy shall
24
25

1 continue to receive funding pursuant to subsection E of Section
2 1313.2 of Title 20 of the Oklahoma Statutes.

3 SECTION 67. REPEALER 70 O.S. 2011, Section 3311.5, as
4 last amended by Section 1, Chapter 334, O.S.L. 2019 (70 O.S. Supp.
5 2019, Section 3311.5), is hereby repealed.

6 SECTION 68. REPEALER Section 2, Chapter 392, O.S.L. 2019
7 (72 O.S. Supp. 2019, Section 63.22), is hereby repealed.

8 SECTION 69. AMENDATORY 74 O.S. 2011, Section 150.2, as
9 last amended by Section 1, Chapter 371, O.S.L. 2019 (74 O.S. Supp.
10 2019, Section 150.2), is amended to read as follows:

11 Section 150.2. The Oklahoma State Bureau of Investigation shall
12 have the power and duty to:

13 1. Maintain a nationally accredited scientific laboratory to
14 assist all law enforcement agencies in the discovery and detection
15 of criminal activity;

16 2. Maintain fingerprint and other identification files
17 including criminal history records, juvenile identification files,
18 and DNA profiles;

19 3. Establish, coordinate and maintain the automated fingerprint
20 identification system (AFIS) and the deoxyribonucleic acid (DNA)
21 laboratory;

22 4. Operate teletype, mobile and fixed radio or other
23 communications systems;

1 5. Conduct schools and training programs for the agents, peace
2 officers, and technicians of this state charged with the enforcement
3 of law and order and the investigation and detection of crime;

4 6. Assist the Director of the Oklahoma State Bureau of
5 Narcotics and Dangerous Drugs Control, the Chief Medical Examiner,
6 and all law enforcement officers and district attorneys when such
7 assistance is requested, in accordance with the policy determined by
8 the Oklahoma State Bureau of Investigation Commission established in
9 Section 150.3 of this title;

10 7. Investigate and detect criminal activity when directed to do
11 so by the Governor;

12 8. Investigate, detect, institute and maintain actions
13 involving vehicle theft pursuant to Section 150.7a of this title or
14 oil, gas or oil field equipment theft pursuant to Sections 152.2
15 through 152.9 of this title;

16 9. Investigate any criminal threat made to the physical safety
17 of elected or appointed officials of this state or any political
18 subdivision of the state and forward the results of that
19 investigation to the Department of Public Safety, and provide
20 security to foreign elected or appointed officials while they are in
21 this state on official business;

22 10. Investigate and detect violations of the Oklahoma Computer
23 Crimes Act;

1 11. Investigate and enforce all laws relating to any crime
2 listed in Section 571 of Title 57 of the Oklahoma Statutes that
3 occurs on the turnpikes; ~~and~~

4 12. Investigate and detect criminal activity involving files,
5 records, assets, properties, buildings or employees of the Oklahoma
6 State Bureau of Investigation. Nothing in this paragraph shall
7 limit or prevent any criminal investigation of the matter by the
8 sheriff of the county or any law enforcement agency of competent
9 jurisdiction; and

10 13. Contract with municipal or county law enforcement agencies
11 to conduct administrative reviews of law enforcement use-of-force
12 investigations for compliance with current investigative procedures,
13 standards and law. All funds received as a result of the contract
14 will be deposited in the OSBI Revolving Fund. Any review of use-of-
15 force investigation shall be done by a certified police officer.

16 SECTION 70. REPEALER 74 O.S. 2011, Section 150.2, as
17 last amended by Section 1, Chapter 323, O.S.L. 2019 (74 O.S. Supp.
18 2019, Section 150.2), is hereby repealed.

19 SECTION 71. It being immediately necessary for the preservation
20 of the public peace, health or safety, an emergency is hereby
21 declared to exist, by reason whereof this act shall take effect and
22 be in full force from and after its passage and approval.
23