

THE OKLAHOMA MARIJUANA REGULATION AND RIGHT TO USE ACT

SECTION 1. Safeguarding Medical Marijuana

- (1) Nothing in this Article shall be construed to limit or abrogate any privilege, right, immunity or defense of medical marijuana patient licensees, caregiver licensees, or medical marijuana business licensees.

SECTION 2. Personal Rights and Protections

Possession Rights

- (1) It shall be lawful for all persons twenty-one (21) years of age and older to grow, purchase, transport, receive, prepare and consume marijuana and marijuana products. It shall be lawful for all persons twenty-one (21) years of age and older to possess up to: twelve (12) marijuana plants and the marijuana harvested therefrom; one (1) ounce of concentrated marijuana; seventy-two (72) ounces of topical marijuana; seventy-two (72) ounces of edible marijuana; eight (8) ounces of suppository marijuana; and eight (8) ounces of commercially sold marijuana. These amounts are cumulative. The legislature is permitted to increase these quantities as well as permit other forms of marijuana.
- (2) It shall be lawful for all persons twenty-one (21) years of age and older to purchase, possess and use marijuana paraphernalia.
- (3) Growing or processing amounts in excess of what this section permits for personal possession, or the distribution in any amount with consideration, shall require a business license issued by the agency responsible for regulating marijuana.

General Protection Language

- (4) No person shall be subject to arrest, prosecution or penalty in any manner under state law or municipal or county ordinance or resolution including without limitation a civil penalty or disciplinary action by a business, occupational or professional licensing board or bureau solely on the basis of conduct permitted under this Article.
- (5) No person shall be denied any form of healthcare, housing, employment, public assistance, public benefit, parental right, educational opportunity, extracurricular activity, licensure or licensed activity including but not limited to firearm use, firearm ownership and driving a motor vehicle solely on the basis of conduct permitted under this Article unless failure to do so would result in substantial imminent harm under federal law or regulations.
- (6) A bank, credit union, or other person or entity providing financial services to a licensed marijuana business in the State of Oklahoma shall not be liable pursuant to any state law or regulation solely for providing said financial services.
- (7) No person providing professional services to a marijuana business shall be subject to arrest, prosecution, disciplinary action, or penalty in any manner or denied any right or privilege under Oklahoma state, municipal or county statute, ordinance or resolution, including without limitation a civil penalty or disciplinary action by any business, occupation or professional licensing board or bureau, solely for providing services to businesses whose conduct is permitted under this Article.

Privacy

- (8) The handling of any records maintained by the agency responsible for regulating marijuana or by businesses licensed by or contracted with the agency responsible for regulating marijuana shall comply with all applicable state and federal privacy laws.

Impairment Testing

- (9) The mere presence of THC metabolites in a person's blood, urine, hair, hair follicle, or other body fluids or tissues carries no evidentiary weight with regards to current impairment or intoxication. No test which identifies the presence of THC metabolites in a person's blood, urine, hair, hair follicle, or other body fluids or tissues shall be used as evidence of impairment or intoxication for the purposes of denying any form of healthcare, housing, employment, public assistance, license or licensed activity, public benefit, parental right, educational opportunity, or extracurricular activity.
- (10) No test which identifies the presence of THC metabolites or active THC in a person's blood, urine, hair, hair follicle, or other body fluids or tissues shall be used as dispositive for the determination of any violation of federal or state law or local ordinance.
- (11) There is no presumption of impairment or intoxication solely on the basis of the use of marijuana, including the presence of active THC or THC metabolites. Proof of impairment requires confirmation of impairment through the use of cognitive, kinetic and/or behavioral evaluations.

Employment

- (12) No employer may refuse to hire, discipline, discharge or otherwise penalize an applicant or employee solely on the basis of conduct permitted under this Article. However, nothing in this Article shall be construed to exclude workplace policies which prohibit the use or being under the influence of marijuana during a work shift; and nothing in this Article shall prohibit the use of tests assessing the presence of active THC for the purpose of determining impairment.

Medical Care

- (13) For the purposes of medical care, including organ transplants, marijuana use does not constitute the use of an illicit substance or otherwise disqualify a marijuana user from medical care.
- (14) No medical practitioner shall deny or alter the treatment of a patient, including the prescribing of scheduled medications such as opioids or benzodiazepines, solely on the basis of conduct permitted under this Article, unless that denial or alteration is medically indicated.
- (15) It is within the standard of care for a medical practitioner with appropriate prescriptive authority to prescribe scheduled medications, including opioids and benzodiazepines, to patients without having to modify the patient's treatment solely on the basis of conduct permitted under this Article.

Parental Rights

- (16) For the purposes of assessing child endangerment, abuse or neglect, marijuana use does not constitute the use of an illicit substance. There is no presumption of endangerment, abuse or neglect solely on the basis of conduct permitted under this Article.
- (17) No person shall be denied custody of or visitation or parenting time with a minor solely on the basis of conduct permitted under this Article. There is no presumption of child endangerment, neglect or abuse solely for conduct permitted under this Article.
- (18) The mere presence of active THC or THC metabolites in birthing-related tissues is not solely in itself dispositive of child endangerment, abuse or neglect.

Licensure Rights (Firearms, Motor Vehicles, etc)

- (19) No conduct permitted under this Article shall be the basis for the denial, revocation or suspension of any state-issued license, including drivers' licenses, concealed carry permits, occupational or professional licensing.
- (20) Nothing in this Article shall be construed to permit operating a motor vehicle while impaired. Nothing in this Article shall be construed to prohibit testing for active THC as part of a determination of impairment. Nothing in this Article shall be construed to prohibit the use of breathalyzers, blood tests or other technologies for assessing the presence of active THC. Nothing in this Article shall prohibit the use of cognitive, kinetic or behavioral tests for the purpose of determining impairment.
- (21) No licensee of the agency responsible for regulating marijuana shall be denied the right to own, purchase, possess or use a firearm, ammunition, or firearm accessory solely based upon conduct permitted under this Article.
- (22) No state or local agency, municipal or county governing authority shall restrict, revoke, suspend or otherwise infringe upon the right of a person to own, purchase or possess a firearm, ammunition, or firearm accessory or any related firearm license or certification based solely on conduct permitted under this Article.
- (23) No state or local agency, municipal or county governing authority shall enforce a federal law that prohibits or restricts firearm use or ownership solely on the basis of conduct permitted under this Article.

Due Process and Equal Protection Rights

- (24) No person currently under parole, probation, or other state supervision, or released awaiting trial or other hearing shall be punished, have their parole, probation or bail revoked, or otherwise be penalized solely on the basis of conduct permitted under this Article.
- (25) No conduct permitted under this Article shall constitute a reasonable articulable suspicion of any civil infraction or criminal act or be the sole basis for detention, search, or arrest; notwithstanding when law enforcement is investigating with a reasonable articulable suspicion that a person is operating a motor vehicle, motorboat, or other motorized form of transport while impaired.
- (26) Marijuana and marijuana products permitted for possession under this Article are not subject to seizure. This shall not be construed to prohibit law enforcement from such seizures on grounds outside the scope of conduct permitted under this Article.
- (27) No person shall be subject to increased punishment for any crime or civil infraction on the basis of any conduct permitted under this Article.

Local and Homegrow Rights

- (28) There shall be no additional licensing or fees related to homegrows. No municipal or county governing body or agency may charge any additional fees or require any additional licensing for homegrows.
- (29) No ordinance, regulation or statute relating to homegrows shall be unduly burdensome.
- (30) Municipal and county governing bodies shall not require additional licensing, permits or fees, or otherwise restrict or interfere with the rights of persons twenty-one (21) and older to possess, purchase, transport, prepare, consume, cultivate or homegrow marijuana within the quantities permitted under this Article.
- (31) Nothing in this Article shall be construed to prohibit landlords from restricting homegrows or indoor smoking or vaping of marijuana and marijuana products in a private residence, except that a lease agreement shall not prohibit a tenant from lawfully

- possessing and consuming marijuana or marijuana products by means other than smoking or vaping. Nothing in this Article shall be construed to restrict business owners from prohibiting smoking or vaping of marijuana and marijuana products on their premises.
- (32) No ordinance, regulation or statute relating to the vaporization or smoking of cannabis shall be more restrictive than those relating to tobacco use.

SECTION 3. No Further Regulatory Agency or Business Licenses Required

- (1) The same agency responsible for the regulation of medical marijuana is hereby authorized to regulate marijuana activities related to this Article.
- (2) All licensed marijuana dispensaries shall, sixty (60) days after the passage of this Article, be permitted to sell marijuana and marijuana products not only to all medical marijuana patient licensees and caregiver licensees, but also to all persons twenty-one (21) years of age and older.
- (3) Within one hundred and eighty (180) days of the passage of this Article, the agency responsible for regulating marijuana shall adopt regulations authorizing the residential delivery of marijuana and marijuana products.
- (4) Unless otherwise specified in this Article, there shall be no further licenses, fees or registrations required by a state agency, county or municipal government in order for medical marijuana business licensees to engage in business activities of the same business license type and at the same location for conduct related to this Article.

SECTION 4. Taxes and Expenditures

- (1) **The excise tax rate** for marijuana and marijuana products purchased by persons without a valid Oklahoma medical marijuana patient license or Oklahoma caregiver license **shall be fifteen percent (15%)**. This rate of fifteen percent (15%) may be lowered by the Oklahoma State Legislature. This tax shall be collected at the point of retail sale.
- (2) The Oklahoma Tax Commission shall be responsible for collecting this tax and for directing it to the fund managed by the agency responsible for regulating marijuana. Revenue in this fund shall first provide for the operational costs of the agency responsible for the regulation of marijuana in addition to the expenditures from the fund as specified in this section.
- (3) One hundred and eighty (180) days after the passage of this Article, the excise tax rate for marijuana and marijuana products purchased by an Oklahoma medical marijuana patient licensee or Oklahoma caregiver licensee shall be reduced from seven percent (7%) to five percent (5%).
- (4) Two hundred and seventy (270) days after the passage of this Article, the excise tax rate for marijuana and marijuana products purchased by an Oklahoma medical marijuana patient licensee or Oklahoma caregiver licensee shall be reduced from five percent (5%) to three percent (3%).
- (5) One (1) year after the passage of this Article, the excise tax rate for marijuana and marijuana products purchased by an Oklahoma medical marijuana patient licensee or Oklahoma caregiver licensee shall be reduced from three percent (3%) to zero percent (0%).
- (6) **Ten percent (10%)** of the gross collection of the excise tax on retail marijuana sales shall be made available to the **Oklahoma Water Resources Board** for infrastructure financing programs to foster water supply reliability and economic and environmental resiliency.

- (7) **Five percent (5%) of the gross collection** of the excise tax on retail marijuana sales shall be transferred to the Department of Human Services to provide for Home and Community-Based Services Waiver Programs for **the benefit of persons with physical and developmental disabilities**.
- (8) **Five percent (5%)** of the gross collection of the excise tax on retail marijuana sales shall be made available to agencies and not-for-profit organizations, whether government or community-based, to increase access to evidence-based **low-barrier drug addiction treatment** and to support job placement, housing, and counseling for those with substance use disorders.
- (9) Three percent (3%) of the gross collection of the excise tax on medical marijuana retail sales shall be set aside for the purpose of providing grants for prevention, treatment and recovery services related to addiction and mental health in the State of Oklahoma. Preference shall be given to those grant applications which directly provide benefits and services to honorably discharged members of the United States Military or the National Guard of any state. The OSCC may enter into an MOU with the Oklahoma Department of Mental Health and Substance Abuse Services for the purpose of overseeing this program. All such grants and any funding provided by the OSCC must be approved by the Board.
- (10) Three percent (3%) of the gross collection of the excise tax on medical marijuana retail sales shall be used to support mental health crisis training for law enforcement officers approved by the Oklahoma Department of Mental Health and Substance Abuse Services and administered by CLEET. This training shall be an annual mandatory minimum of eight (8) hours for all law enforcement officials certified by CLEET.
- (11) Three percent (3%) of the gross collection of the excise tax on medical marijuana retail sales shall be held in a fund for the purpose of providing grants to counties and municipalities for emergency mental health response programs. The OSCC shall make grant applications available within one (1) year of passage of this Article. All such allocation of funds authorized by the OSCC hereunder must be approved by the Board.
- (12) Three percent (3%) of the gross collection of the excise tax on medical marijuana retail sales shall be allotted and transferred into a Research Fund. These funds may be made available to Research or Education licensees for uses including but not limited to the research, study, production, development and testing of plant based medicinal, agricultural and industrial applications. The OSCC shall establish an application procedure and requirements for use of such funds by a research and/or educational licensee. All such allocation of funds authorized by the OSCC must be approved by the Board.
- (13) Three percent (3%) of the gross collection of the excise tax on medical marijuana retail sales shall be placed into a Rural Impact and Urban Waste Remediation Program Fund. The DEQ shall be responsible for administration of these funds through the Rural Impact and Waste Remediation Program as established in this Article and further directed by the Legislature.
- (14) Three percent (3%) of the gross collection of the excise tax on medical marijuana retail sales shall be placed into a fund to be established by the Department of Agriculture to provide mitigation support efforts and insurance related to crop damage caused by accidental overspray of pesticides, herbicide, and fungicides. The Department of Agriculture may enter into all necessary MOUs with any other state agency and the state

Insurance Commissioner necessary to carry out the intended purposes of this section. These funds shall remain part of the insurance and mitigation fund and shall not be swept into the Oklahoma General Revenue Fund unless approved by a super majority of the Oklahoma Legislature on a bill having originated in the Oklahoma House of Representatives.

- (15) **Three percent (3%) of the gross collection of the excise tax on retail marijuana sales shall be used to fund grants to pay for the expungement program** outlined in section 5 of this Article.
- (16) Any unused funding for the allocations set forth in this Article shall at the end of each fiscal year be transferred to the State General Revenue Fund.
- (17) All taxes and fees collected by the agency responsible for the regulation of marijuana not utilized for the purposes specified in this Article shall transfer to the State General Revenue Fund. Seventy-five percent (75%) of such transferred funds shall only be expended for common education, unless otherwise specified in this Article.
- (18) Should the interstate transport or international export of marijuana or marijuana products be permitted by federal or state action, there shall be a three percent (3%) wholesale tax on all marijuana and marijuana products exported to entities outside of Oklahoma.
- (19) Funds generated by the three percent (3%) wholesale tax shall be collected by the Oklahoma Tax Commission and shall be deposited in the State General Revenue Fund.
- (20) Counties and municipalities shall not impose any additional taxes, fees, permits, charges or restrictions specific to any business or consumer activities regulated hereunder, unless otherwise specified in this Article. Counties and Municipalities may impose an annual registration or certificate of compliance fee of up to one hundred dollars (\$100).
- (21) Neither the excise tax designated in this Article for retail sales or state, county or municipal sale taxes in the State of Oklahoma shall apply to wholesale sales taxed as specified in this section.

SECTION 5. Retroactivity

- (1) Within one hundred and eighty (180) days of the passage of this Article, the Oklahoma Department of Corrections shall make publicly available a list of all persons currently incarcerated for any marijuana-related convictions issued by an Oklahoma court. Unless records are otherwise sealed, that list shall include the case number, specific charges and duration of sentence. The Oklahoma Department of Corrections may request reimbursement for any costs related to this directive from the agency responsible for the regulation of marijuana.
- (2) A person currently serving a sentence for a conviction, whether by trial or by plea of guilty or nolo contendere, whose conduct would have been lawful had this Article been in effect at the time of the offense, may file a petition for resentencing, reversal of conviction and dismissal of case, or modification of judgment and sentence before the trial court that entered the judgment of conviction in the person's case to request resentencing, modification, or reversal in accordance with this Article.
- (3) A person who has completed his or her sentence for a conviction, whether by trial or plea of guilty or nolo contendere, whose conduct would have been lawful had this Article been in effect at the time of the offense, may file a petition before the trial court that entered the judgment of conviction in the person's case to have the conviction dismissed, expunged, and vacated as legally invalid in accordance with this Article.

- (4) Upon receiving a petition, the court shall presume the petitioner satisfies the criteria for dismissal, expungement, vacatur, resentencing, modification, or reversal, as applicable, and without delay resentence or reverse the conviction as legally invalid, modify the judgment and sentence, or expunge and vacate the charges.
- (5) Nothing in this section shall be construed to diminish or abrogate any rights or remedies otherwise available to the petitioner or applicant. The provisions of this section shall apply equally to juvenile cases as if the juvenile had been of legal age at the time of the offense. A completed expungement shall automatically restore the person's rights to possess and use firearms. A completed expungement of marijuana related felony convictions shall also automatically restore the person's right to vote.
- (6) Nothing in this section shall be construed as limiting the authority of the Legislature to make the process for ensuring retroactive application of this Article less burdensome or automatic for persons currently serving sentences or under criminal justice supervision or who have been previously convicted for conduct now permitted or reclassified under this Article, or to reduce or eliminate civil or criminal penalties for any cannabis-related conduct beyond what is set forth in this Article.

SECTION 6. Relations to Federal Law

- (1) Should the federal government legalize marijuana, then the State of Oklahoma shall have no restrictions on such conduct greater than the restrictions set under federal law.
- (2) Should the federal government legalize marijuana, the possession quantities permitted in this Article shall be raised to the maximums permitted by federal law. Should the federal government legalize marijuana, but not set specific possession maximums, the legislature shall determine maximum limits but they shall not be below the maximums indicated in this Article.
- (3) Should the federal government legalize marijuana, the Oklahoma Bureau of Narcotics and Dangerous Drugs shall retain the authority to enforce marijuana laws in Oklahoma. The Legislature shall have the power to change the agency responsible for enforcing marijuana laws and regulations.
- (4) **Should federal action** be taken to allow for the interstate transfer of marijuana, or a relevant court precedent occurs limiting federal supremacy or expanding states' rights, or the United States Department of Justice issues an opinion or memorandum allowing or tolerating the interstate transfer of marijuana and marijuana products, then said transfer shall be permitted by the State of Oklahoma. Such transfers must be in compliance with the laws and regulations of both the origin and destination states. The Legislature by statute and the Governor by executive order are further authorized to permit the interstate transfer of marijuana and marijuana products.

SECTION 7. Judicial Review

- (1) Any rule or regulation adopted pursuant to this Article must comply with the Oklahoma Administrative Procedures Act. Any person aggrieved by a final agency order is entitled to seek judicial review in accordance with Oklahoma law. If the regulatory agency fails to timely promulgate rules required by this Article, any resident of the state may commence a mandamus action in district court to compel performance by the regulatory agency in accordance with this Article.

SECTION 8. Legislative Authority

- (1) In addition to the specific provisions indicated herein whereby the Legislature is authorized to enact laws that modify provisions of this Article by simple majority, the Legislature is further authorized to enact laws that modify the following provisions within this Article by way of a supermajority vote of seventy-five percent (75%) in both the House and Senate as well as the signature of the Governor: Section 4, paragraphs 6-11, 13-14 and 18-21.

SECTION 9. Severability

- (1) The provisions hereof are severable, and if any part or provision hereof shall be void, invalid, or unconstitutional, the decision of the court so holding shall not affect or impair any of the remaining parts or provision hereof, and the remaining provisions hereof shall continue in full force and effect.

SECTION 10. Effective Date

- (1) This Article shall become effective immediately upon its passage.

SECTION 11. Definitions

- (1) "Active THC" means unmetabolized tetrahydrocannabinol, as present in a person's body fluids or tissues, in contrast to its metabolites.
- (2) "Agency responsible for regulating marijuana" means the Oklahoma Medical Marijuana Authority or its successor(s) as established in law.
- (3) "Marijuana" means the flower of a female cannabis plant that contains more THC on a dry weight basis than does hemp as defined by federal law.
- (4) "Marijuana Product" means a product containing cannabinoids extracted from marijuana by physical or chemical means.
- (5) "Person" means a natural person and does not include any partnership, trust, estate, corporation, association, or any other non-natural person as created by operation of law.
- (6) "THC" means tetrahydrocannabinol, the principal psychoactive constituent of cannabis, along with its double bond isomers and stereoisomers. For the purposes of this Article, THC excludes tetrahydrocannabinols approved for medical use by the FDA.
- (7) "THC metabolite" means a substance formed through the metabolization of THC.
- (8) "Unduly burdensome" means that the measures necessary to comply with the rules or ordinances adopted pursuant to this Article subject persons, licensees or potential licensees to such a high investment of money, time, or any other resource or asset that a reasonably prudent person or business would not operate a marijuana business or engage in the personal use, storage or cultivation of marijuana.

THE OKLAHOMA MEDICAL MARIJUANA ENFORCEMENT AND ANTI-CORRUPTION ACT

SECTION 1. New State Agency

- (1) A new State Agency is hereby created called the **Oklahoma State Cannabis Commission** (hereinafter “OSCC”), which shall assume all administrative, regulatory, and appropriate adjudicative authority over cannabis, hemp and marijuana plants, the products derived therefrom, and the related services as established in the provisions set forth in this Article.
- (2) **Within one (1) year of passage** of this Article, all authority, funding and assets of the Oklahoma Medical Marijuana Authority (hereinafter “OMMA”) currently granted it by statute or other means, as well as all of its compliance, enforcement, and administrative responsibilities, shall become the sole jurisdiction and responsibility of the OSCC. At such time, **the OMMA as a division of the Oklahoma State Department of Health (hereinafter “OSDH”) shall cease to exist.** All commercial and individual licenses issued by the OMMA shall be transferred to the OSCC and shall continue to be valid after the establishment of the OSCC. Commercial and individual license renewals shall then be handled by the OSCC.
- (3) **The OSCC shall comply with the Oklahoma Administrative Procedures Act** for the purposes required under this Article. All final agency decisions may be appealed in accordance with the Oklahoma Administrative Procedures Act, and such decisions shall be reviewed on a de novo basis.
- (4) The OSCC is authorized to **create the OSCC General Fund** as well as any other accounts necessary for collection and receipt of fees, tax revenue, and all other funds specified under this Article that are collected by or on behalf of the OSCC.
- (5) Upon transfer of all authority regarding the cultivation, manufacture, processing, distribution, transport, sale and consumption of products derived from cannabis, hemp, and marijuana to the OSCC, **all funds previously generated and not yet expended** by the current medical marijuana program but held by any state agency on behalf of the OMMA shall be **transferred to the OSCC General Fund.**
- (6) **The State Auditor shall** within one hundred and fifty (150) days of the passage of this article **make publicly available a detailed audit,** report, and accounting for all collections and expenditures of revenue related to Oklahoma’s medical marijuana program by the OMMA, OSDH, and the Oklahoma State Tax Commission (hereinafter “OTC”) from June 26th, 2018 to the date of passage of this Article.
- (7) Any fees and tax **revenues found** by the State Auditor to have been collected prior to passage of this Article in relation to Oklahoma’s medical marijuana program **that have not been spent in a manner specified by law shall be returned to the OSCC General Fund** by the agency which expended the funds. If the Agency is no longer financially able to transfer said funds within thirty (30) days, the funds shall be transferred to the OSCC from the Oklahoma General Fund.

SECTION 2. Officers, Boards and Advisors

- (1) **The Governor shall appoint a Commissioner** to oversee and direct the operations of OSCC. The position shall be a cabinet level position in the state of Oklahoma. The Commissioner is responsible for the overall direction and leadership of the OSCC. The

Commissioner shall begin service upon the appointment by the Governor. However, such appointment must be approved by a two-thirds ($\frac{2}{3}$) majority of the Oklahoma House of Representatives by the end of next legislative session after such appointment or the Commissioner shall be deemed to be removed from office upon the recess of the House of Representatives without such consent.

- (2) The OSCC shall have a board consisting of twenty (20) members as detailed in this section. The OSCC Board shall have decision-making authority regarding all emergency and permanent rules and regulations of the OSCC. The Commissioner of the OSCC shall serve as Chairman of the Board, but the Commissioner shall not have a vote. All rules and regulations of the OSCC must be approved by at least fourteen (14) members of the Board in order to be advanced as an emergency and/or permanent rule/regulation of the agency pursuant to the Oklahoma Administrative Procedures Act. No rules or regulations may be adopted without prior Board approval. The Board is further empowered to investigate matters deemed necessary by a two-thirds ($\frac{2}{3}$) majority of the Board, including but not limited to, the investigation of actions of any member of the OSCC, including but not limited to the Commissioner and any member of the Board. Prior to calling a meeting of the Board, the OSCC shall provide five (5) days advance notice of such meeting to all licensees via email, and shall also post notice on its website and social media accounts. This notice requirement shall be in addition to and not a replacement of the requirements of the Oklahoma Open Meetings Act.
- (3) The OSCC Board shall be comprised of seven (7) representatives appointed by the head of each of the following agencies: the Oklahoma State Department of Health (hereinafter "OSDH"), the Oklahoma Bureau of Narcotics and Dangerous Drugs (hereinafter "OBND"), the Oklahoma Department of Agriculture Food and Forestry (hereinafter "ODAFF"), the Oklahoma Department of Environmental Quality (hereinafter "DEQ"), the Oklahoma Tax Commission (hereinafter the "OTC"), the Oklahoma State Fire Marshal, and the Office of the Attorney General. Two (2) additional members shall be appointed by the Speaker of the House, and one (1) additional member shall be appointed the Senate Pro Tempore.
- (4) The final nine (9) members of the Board shall include one (1) representative from each of the following categories: OSCC patient licensee, OSCC caregiver licensee, ODAFF certified hemp grower licensee, OSCC grower licensee, OSCC processor licensee, OSCC dispensary licensee, OSCC transporter licensee, and two (2) At-large representatives. License representatives shall be appointed in the following manner: The Governor shall appoint the patient, caregiver, and one (1) At-Large representative; the Senate Pro Tempore shall appoint the OSCC dispensary, ODAFF certified hemp grower and one (1) At-Large representative; the Speaker of the House shall appoint representatives for the OSCC grower licensee, OSCC processor licensee, and two (2) At-Large representatives.
- (5) License representatives must be selected from applications submitted to the OSCC Executive Director. Applicants shall only be required to include their resume, proof of licensure and voluntary background information. Application forms must be made available by the OMMA or OSCC within thirty (30) days of passage of this Article. Appointments shall be made within ninety (90) days of passage of this Article. Licensee representative terms shall begin the effective date of selection and run to December 31st in the same year and continue from that point for two (2) calendar years. Thereafter, each Board term shall run two (2) calendar years from December 31st of the year the Board

term ends. Board members may be appointed to successive terms, but no member may serve more than three (3) consecutive terms on the Board. In the event of a vacancy on the Board for any reason, and at the end of each term, the OSCC shall, sixty (60) days prior to the expiration of any term and within thirty (30) days of any vacancy, make applications for the Board position available on the OSCC website. The OSCC shall keep such application period open for fifteen days, and upon the closing of such period forward a list of all applicants and information submitted by the applicant to the person and/or agency charged with appointing power for that position. Only persons who submitted an application may be considered for appointment. A list of all applicants, along with information submitted by them, shall be prepared by the OSCC within ten (10) days of the closing of the application window and forwarded to the person and/or agency with appointment power for that Board position. A list of all applicants along with the resume they submitted with their application shall be made available on the OSCC website. All other submitted applicant information shall be treated in accordance with the Oklahoma Open Records Act. Appointments shall be made before the expiration of the current term and take effect upon expiration of the current Board term. In the event of a vacancy during an existing term, such appointment shall be made within ten (10) days upon receipt of applicant information by the person and/or agency charged with appointing the position, and such person shall take office immediately upon appointment.

- (6) Upon the establishment of the OSCC Board, it shall become the advisory board for the OMMA and replace any existing Board within the OMMA, and subsequently for the OSCC upon the transfer of authority from the OMMA to the OSCC.
- (7) The OSCC Board shall meet a minimum of four (4) times within a calendar year. The Board shall meet at least once each in the months of February, May, August and November.
- (8) At or before the November meeting, the OSCC Board shall be responsible for providing and directing the Commissioner, both verbally and in writing, with all legislative recommendations for the upcoming legislative session. The OSCC shall provide all support and resources necessary for the Board to prepare such recommendations. No member of the Board or OSCC shall pursue a legislative agenda contrary to that of the Board's recommendation. In the event that the Commissioner believes a change in direction is necessary, the Commissioner may call a meeting of the Board for consideration of any proposed changes.
- (9) Every November, the Oklahoma State Legislature shall convene a bipartisan, bicameral committee hearing to receive the legislative recommendation from the OSCC Commissioner as directed by the OSCC Board.
- (10) The Commissioner shall hire an Executive Director authorized to provide executive leadership, oversight and accountability for operations as well as departmental divisions and boards, and shall be responsible for the hiring of staffing sufficient to operate the OSCC and fulfill the duties set forth in this Article. This shall include but not be limited to a Director of Growers, Director of Processors, Director of Dispensaries, Director of Compliance, and Director of Special Programs.
- (11) The Executive Director shall provide an operational and budget report at each mandated Board meeting.
- (12) Each of the four (4) Directors specified in this Article shall have a Director Advisory Board of five (5) members who shall be appointed by the Executive Director with the

advice and consent of the OSCC Board, in compliance with a set of requirements and procedures developed by the OSCC Board.

- (13) Each Director may call meetings of their respective boards in compliance with the Open Meetings Act as needed to ensure substantial input into policy recommendations by the Director to either the Executive Director or OSCC Board. All meetings of the Board or Director Advisory Board shall be live streamed via the internet as well as following all other requirements of the Oklahoma Open Meetings Act. Additionally, prior to any meeting of the Board, a full agenda shall be posted at least forty-eight (48) hours in advance. The agenda items shall be sufficiently detailed so as to provide actual public notice of the items to be considered and matters upon which a vote shall occur.

SECTION 3. Relationship to other State Agencies

- (1) The OSCC may enter into a Memorandum of Agreement/Understanding (hereinafter “MOU”) with the following state agencies to provide sufficient funding, for the purpose of regulation, support and enforcement of cannabis, marijuana and hemp programs as authorized in this Article. These agencies shall execute the following responsibilities and may assume additional scope of authority through agreement in writing with the OSCC. All such MOUs must be approved by fifteen (15) OSCC Board members before they become effective, and a vote of fifteen (15) OSCC Board members may terminate any MOU upon sixty (60) days notice to the agency with which the MOU is entered. Such MOUs must also be adopted in accordance with all currently existing laws of the State of Oklahoma as of the date this Article is adopted.
- (2) The OSCC may enter into MOUs with the OSDH, and OSDH may receive funding for costs associated with any MOUs for the purposes of food safety inspections and/or permitting. Absent a MOU, all food safety permits and inspections related to the production, manufacture and sales of any products regulated herein shall be conducted by the OSCC, and the OSDH shall have no authority regardless of existing Oklahoma law.
- (3) The OSCC may enter into MOUs with the ODAFF, and ODAFF may receive funding for costs associated with any MOUs related to administration of a compliant United States Department of Agriculture (hereinafter “USDA”) hemp program that are not covered by revenue from that program. These costs may include, but are not limited to inspections, testing and inventory tracking systems. ODAFF shall maintain authority to regulate Oklahoma’s USDA State Hemp Program and fulfill its obligations to that federal program or they may choose to delegate that full or partial authority to the OSCC and may enter into such agreements with OSCC necessary to carry out that purpose. Upon formation of the OSCC Board, any changes to regulation of the State Hemp Program shall only be submitted to the USDA with the advice and consent of the OSCC Board.
- (4) The OSCC may enter into MOUs with the OBNDD for purposes of facilitating the OBNDD’s assistance and support related to the investigation, inspection, and when necessary, criminal prosecution in cases arising from compliance investigations by the OSCC, or through OBNDD initiated investigations conducted pursuant to existing OBNDD authority. The OBNDD shall receive funding from the OSCC for related activities, including the establishment of a special unit dedicated to the aforementioned efforts, in accordance with any MOUs entered into between the agencies. The OSCC may also provide adequate funding to support the following activities of the OBNDD, should the OBNDD elect to undertake them:

- (a) OBNDD may establish research and education support programs to provide marijuana, marijuana products and related assets seized by the OBNDD to be utilized by research and education licensees for research and education purposes. This program shall be done in cooperation with the OSCC Special Programs Board;
 - (b) OBNDD shall provide a quarterly report to the OSCC Board detailing assets seized and division of proceeds through sale of assets seized by any enforcement agency, office, force or district attorney's office in the State of Oklahoma;
 - (c) OBNDD shall provide a curriculum and classes required for all law enforcement officers certified through the Council on Law Enforcement Education and Training (hereinafter "CLEET") to provide a mandatory minimum of eight (8) hours education and training in proper protocols regarding enforcement and understanding of patient rights and protections.
- (5) The OSCC may enter into MOUs with the State Fire Marshal for inspection, enforcement and other relevant actions related to the Program.
 - (6) The DEQ shall be responsible for administration of the Rural Impact and Waste Remediation Program as established in section 4 of this Article.
 - (7) Agencies empowered in this section shall be required to provide the OSCC Board at each mandated quarterly meeting with an update on all activities, and such updates must include a report of fees, taxes, any other revenue collected, and any expenditure of funds

SECTION 4. Taxation and Direction of Expenditure by the Commission

- (1) An excise tax rate of seven percent (7%) on retail medical marijuana and medical marijuana product sales shall be established, replacing the current excise tax on medical marijuana and medical marijuana product sales. Such excise tax shall only be imposed at the point of retail sales of a product to the consumer. Revenue from this fund shall be collected by the OTC and directed to the OSCC General Fund. Revenue in this fund shall first provide for the operational costs of the OSCC as budgeted by the Commissioner in addition to the following expenditures from the fund. The Legislature is authorized to lower the excise tax rate stated herein.
- (2) Three percent (3%) of the gross collection of the excise tax on medical marijuana retail sales shall be allotted and transferred into a Research Fund. These funds may be made available to Research or Education licensees for uses including but not limited to the research, study, production, development and testing of plant based medicinal, agricultural and industrial applications. The OSCC shall establish an application procedure and requirements for use of such funds by a research and/or educational licensee. All such allocation of funds authorized by the OSCC must be approved by the Board.
- (3) Three percent (3%) of the gross collection of the excise tax on medical marijuana retail sales shall be placed into a Rural Impact and Urban Waste Remediation Program Fund. The DEQ shall be responsible for administration of these funds through the Rural Impact and Waste Remediation Program as established in this Article and further directed by the Legislature.
- (4) Three percent (3%) of the gross collection of the excise tax on medical marijuana retail sales shall be placed into a fund to be established by the Department of Agriculture to

provide mitigation support efforts and insurance related to crop damage caused by accidental overspray of pesticides, herbicide, and fungicides. The Department of Agriculture may enter into all necessary MOUs with any other state agency and the state Insurance Commissioner necessary to carry out the intended purposes of this section. These funds shall remain part of the Insurance and Mitigation Fund and shall not be swept into the Oklahoma General Revenue Fund unless approved by a super majority of the Oklahoma Legislature on a bill having originated in the Oklahoma House of Representatives.

- (5) Three percent (3%) of the gross collection of the excise tax on medical marijuana retail sales shall be held in a fund for the purpose of providing grants to counties and municipalities for emergency mental health response programs. The OSCC shall make grant applications available within one (1) year of passage of this Article. All such allocation of funds authorized by the OSCC hereunder must be approved by the Board.
- (6) Three percent (3%) of the gross collection of the excise tax on medical marijuana retail sales shall be set aside for the purpose of providing grants for prevention, treatment and recovery services related to addiction and mental health in the State of Oklahoma. Preference shall be given to those grant applications which directly provide benefits and services to honorably discharged members of the United States Military or the National Guard of any state. The OSCC may enter into an MOU with the Oklahoma Department of Mental Health and Substance Abuse Services for the purpose of overseeing this program. All such grants and any funding provided by the OSCC must be approved by the Board.
- (7) Three percent (3%) of the gross collection of the excise tax on medical marijuana retail sales shall be used to support mental health crisis training for law enforcement officers approved by the Oklahoma Department of Mental Health and Substance Abuse Services and administered by CLEET. This training shall be an annual mandatory minimum of eight (8) hours for all law enforcement officials certified by CLEET.
- (8) All marijuana businesses that are legally operating under this Article shall be allowed to claim an Oklahoma state income tax deduction in an amount equal to any expenditure otherwise allowable as a federal income tax deduction but disallowed for federal purposes because marijuana is a Schedule I controlled substance under federal law. This shall include any costs of compliance with regulations and/or requirements set forth by the OSCC or the OBNDD.
- (9) Certified Hemp licensees under the ODAFF administered USDA Hemp program shall be granted a tax credit for the cost of investment into physical infrastructure and equipment utilized for the processing of certified hemp and certified hemp products. The use of this infrastructure or equipment for the purpose of processing marijuana or marijuana products shall not disqualify the licensee from eligibility for this tax credit, provided that the majority of annual use of said infrastructure or equipment is for the purpose of processing certified hemp or hemp products. Tax credits granted hereunder may be transferred, assigned, or sold and shall be valid for a period of seven (7) years from the date such credit was earned. This credit shall be available for five (5) years from the date of passage of this Article. The Legislature has the authority to extend the duration of availability of this credit by simple majority.
- (10) Counties and municipalities shall not impose any additional taxes, fees, permits, charges or restrictions specific to any business or consumer activities regulated hereunder, unless

- otherwise specified in this Article. Counties and Municipalities may impose an annual registration or certificate of compliance fee of up to one hundred dollars (\$100).
- (11) No plants, plant material, processed goods and/or products regulated hereunder shall be considered to have value for the purpose of ad valorem taxation.
 - (12) Certified hemp and products made from certified hemp shall be exempt from the excise tax on marijuana sales specified in this Article.
 - (13) Upon citizen or legislative action which legalizes the possession and sale of marijuana in the state of Oklahoma without the need for a patient, caregiver or other license issued by the OSCC, the excise tax specified in this Article will be eliminated and may be replaced by a tax rate of up to fifteen percent (15%) on marijuana and marijuana products sold to persons other than patient and caregiver licensees. Such tax is only collected from the consumer at the time of retail sales and is not collected at any other time during the stream of commerce.
 - (14) The OTC shall issue to businesses licensed hereunder a sales tax exemption to purchase all materials, products, and other items used by them in the cultivation, manufacture, processing, distribution, packaging, or retail sales of any product regulated hereunder.
 - (15) Unless otherwise specified, funds not utilized for the purposes specified in this Article shall transfer to the State General Revenue Fund at the end of each fiscal year. Seventy-five percent (75%) of such transferred funds shall only be expended for common education.

SECTION 5. OSCC Commercial and Patient Licensing

- (1) **The OSCC shall issue licenses** with no limit on the number of licenses issued.
- (2) Commercial licensees are authorized to purchase and sell cannabis, marijuana, and certified hemp to any other Commercial licensees unless otherwise specified in this Article.
- (3) **Marijuana Grower** - There shall be no restriction on the amount of marijuana grown, sold or transferred to marijuana grower, processor, dispensary, researcher, education, or distributor licensees by marijuana grower licensees. A separate license is required to grow hemp for certification through the USDA approved and ODAFF administered Oklahoma State Hemp Program. Marijuana grower licenses shall be good for one (1) year and cost twenty-five hundred dollars (\$2500).
- (4) **Marijuana Processor** - There shall be no restrictions on the amount of marijuana or marijuana products, certified hemp or certified hemp products a marijuana processor licensee may buy, sell, process or distribute to marijuana processor, researcher, education, dispensary, or distributor licensees. A separate license is required to process hemp for certification through the USDA approved and ODAFF administered Oklahoma State Hemp Program. Marijuana processor licenses shall be good for one year and cost twenty-five hundred dollars (\$2500).
- (5) **Marijuana Dispensary** - Dispensaries shall be authorized to sell marijuana to medical marijuana patient and caregiver licensees, as well as deliver marijuana and marijuana products to said licensees at private residences. Within one hundred and eighty (180) days of the passage of this Article, regulations shall be adopted authorizing the residential delivery of marijuana and marijuana products. Marijuana dispensary licenses shall be good for one (1) year and cost twenty-five hundred dollars (\$2500).

- (6) **Marijuana Handling License** - Within ninety (180) days of passage of this Article, the OSCC shall make available a marijuana handling license for employees of marijuana dispensaries who shall be required to have a minimum of two (2) hours of cannabis related education every two (2) years. Applicants will receive a temporary sixty (60) day handling license upon application and must complete their education requirement, the cost of which shall be covered by the license fee, before receiving their two (2) year license. This license shall be good for two (2) years and cost thirty dollars (\$30). The education and license requirements stated in this paragraph shall not take effect until one hundred and eighty (180) days after the OSCC assumes authority for the regulation of the program outlined herein.
- (7) **Marijuana Distributor** - There shall be no limit on the amount of marijuana or marijuana products bought or sold by marijuana distributor licenses to marijuana grower, processor, researcher, education, or dispensary licensees. Marijuana broker and distributor licenses shall be good for one (1) year and cost twenty-five hundred dollars (\$2500).
- (8) **Laboratory License** - A medical marijuana laboratory license may be issued to a person or entity who performs testing on marijuana and marijuana products for other marijuana licensees. The laboratory license shall be good for one (1) year and cost twenty-five hundred dollars (\$2500). Laboratory licensees are not authorized to buy or sell marijuana or marijuana products.
- (9) **Marijuana Transport** - Marijuana transport licenses shall be good for one (1) year and cost twenty-five hundred dollars (\$2500). Marijuana transport licensees are not authorized to buy or sell marijuana or marijuana products.
- (10) **Transporter Agent** - The annual fee for a transporter agent license shall be good for one year and cost one hundred dollars (\$100.00). Transport agents are not authorized to buy or sell marijuana or marijuana products.
- (11) **Waste Disposal** - Marijuana waste disposal licenses shall be good for one (1) year and cost twenty-five hundred dollars (\$2500). Waste disposal licensees are not authorized to buy or sell marijuana or marijuana products, unless otherwise authorized by the Legislature.
- (12) **Researcher** - Research licensees may research all aspects of the cultivation, production, use, sales, effects, medical value or any other relevant aspect of any plant, item, medicine or related product regulated by this Article. Research licensees may apply for grants from the OSCC to support public or private research projects. Licensees may participate in an OBNDD research support program. Licensees may partner with state and/or private institutions of higher education, who may adopt requirements and procedures necessary for entering into such research partnerships. The State of Oklahoma may not impose any penalty or undue burden on any state institution of higher learning related to any research conducted in accordance with this Article. The research license shall cost five hundred dollars (\$500) and is good for two (2) years. Research licensees are not authorized to sell marijuana or marijuana products, unless otherwise authorized by the Legislature.
- (13) **Education** - In cooperation with the Special Programs Board, education license holders may develop materials and curricula for medical, legal and any other professional licensees providing service to licensees of the OSCC. This may include curriculum and material to satisfy requirements for marijuana recommendation licensees as well as general public education and awareness programs. Education licensees may apply for grants from the OSCC to support public or private education programs. Licensees may

participate in an OBNDD education support program. Licensees may partner with state and/or private institutions of higher education, who may adopt requirements and procedures necessary for entering into such education partnerships. A medical education license shall cost five hundred dollars (\$500) and is good for two (2) years. Education licensees are not authorized to sell marijuana or marijuana products, unless otherwise authorized by the Legislature.

- (14) **Medical Recommender** - All Oklahoma licensed medical practitioners with prescriptive authority shall be eligible for a medical recommender license. Practitioners must be in good standing with their licensing board and must complete at least four (4) hours of program education, the cost of which shall be covered by the license fee, as approved or developed by the Special Programs Board and approved by the OSCC Board. A medical recommender license shall cost five hundred dollars (\$500) and is good for two (2) years. All Oklahoma licensed medical practitioners with prescriptive authority may sign up to one hundred (100) licenses without a medical recommender license or the required program education. Medical recommender licenses are not authorized to sell marijuana or marijuana products, unless otherwise authorized by the Legislature. The OSCC shall adopt regulations which allow recommender licensees to possess certain products and materials for demonstration and education purposes with their patients. The education and license requirements stated in this paragraph shall not take effect until one hundred and eighty (180) days after the OSCC assumes authority for the regulation of marijuana.
- (15) The OSCC may adopt regulations which allow any business license type outlined above in this section to **renew their license for a five (5) year period**. Such renewals shall be contingent on said businesses agreeing to any inspections and/or other restrictions imposed by the OSCC related to the five (5) year license, and the fee for such a license shall **not exceed the aggregated five-year cost** of the license. Nothing herein shall be deemed as prohibiting a business from continuing to renew annually.
- (16) **Patient** - Oklahoma Patient licenses shall be issued to **any resident of the United States** who can provide state or federally issued personal identification. There shall be **no qualifying medical conditions** for a patient license or for the rights to which the patient licensee is entitled in accordance with this Article. Patient licenses issued by the OSCC shall **require a recommendation** from an Oklahoma licensed medical practitioner with prescriptive authority. Marijuana patient licenses, marijuana prescriptions, or other forms of proof of enrollment in a medical marijuana program **issued by states or other subdivisions of the United States** other than Oklahoma **shall be recognized** as equivalent to an Oklahoma issued patient license for the purpose of possessing, purchasing and consuming marijuana and marijuana products, except that only holders of Oklahoma patient licenses shall be afforded the homegrow provision or allowance. The OSCC shall not charge any fee to marijuana patients from other states for their use of out-of-state medical marijuana licenses, medical marijuana prescriptions, or related instruments. Patient license applications shall be approved, rejected or denied within fourteen (14) business days of receipt. Applications may only be rejected or denied based on the applicant not meeting stated criteria or improper completion of the application. Patient licenses shall be good for two (2) years unless indicated otherwise by the recommending medical practitioner, and shall cost one hundred dollars (\$100). Persons on Medicare, Medicaid, Soonercare, active duty military or veterans of any branch of armed services of the United States shall pay only twenty dollars (\$20). The **Legislature**

has the authority to reduce these costs and to expand the discounted rate to additional groups. The OSCC shall adopt regulations for the issuance of a temporary thirty (30) day patient license. This license shall be made available immediately at the time of the practitioner recommendation, is non-renewable, and shall cost ten dollars (\$10). It shall be free for persons on Medicare, Medicaid, Soonercare, active duty military or veterans of any branch of armed services of the United States.

- (17) **Caregiver** - Caregiver licenses shall be issued to persons over the age of eighteen (18) on behalf of patients who need assistance with the purchase, cultivation or administration of marijuana or marijuana products. The parents or legal guardians of a minor patient shall be automatically issued a caregiver license upon approved application for the minor patient licensee. A caregiver license is good for two (2) years. There shall be no cost for a caregiver license. Caregiver licenses issued by states other than Oklahoma shall be recognized as equivalent to an Oklahoma issued caregiver license, except that only holders of Oklahoma caregiver licenses may participate in the homegrow provision.
- (18) **All commercial licensees, except recommender, marijuana handling, and transporter agent licensees** shall be required to pay an annual registration fee of no more than five hundred dollars (**\$500**) to the **OBND**.

SECTION 6. Federally Based Exemptions, Exclusions, Contingencies, Boundaries of Authority, Retention and Direction of State Authority under Circumstance

- (1) Certified Hemp produced in Oklahoma under any USDA Program shall not be regulated within the State of Oklahoma to a degree more restrictive than current federal guidelines, with the exception that the State of Oklahoma shall maintain the authority to impose additional protections and/or taxes for certified hemp consumer products sold in the State of Oklahoma as allowed for under this Act.
- (2) Should the federal government legalize marijuana, then the State of Oklahoma shall have no restrictions on such conduct greater than the restrictions set under federal law.
- (3) Should the federal government legalize marijuana, the possession quantities permitted in this Article shall be raised to the maximums permitted by federal law.
- (4) Should the federal government legalize marijuana, but not set specific possession maximums, the Legislature shall determine maximum limits but they shall not be below the maximums indicated in this Article.
- (5) **The OBND shall retain the authority to enforce** cannabis and marijuana law in Oklahoma on behalf of the OSCC.
- (6) **Should federal action** be taken to allow for the interstate transfer of marijuana, or a relevant court precedent occurs limiting federal supremacy or expanding states' rights, or the United States Department of Justice issues an opinion or memorandum allowing or tolerating the interstate transfer of marijuana and marijuana products, then said transfer shall be permitted by the State of Oklahoma. Such transfers must be in compliance with the laws and regulations of both the origin and destination states. The Legislature by statute and the Governor by executive order are further authorized to permit the interstate transfer of marijuana and marijuana products.

SECTION 7. Product Tracking and Consumer Safety

- (1) Tracking, tracing, and accounting of the cultivation of marijuana by OSCC grower licensees shall be no more restrictive or burdensome than federal guidelines for hemp harvest batches.
- (2) The OSCC Commission Board shall develop a matrix to sufficiently track cannabis, marijuana, hemp and cannabis, marijuana and hemp product inventories within the specifications and limitations of this Article; and advertise an acquisition and Request for Proposal (RFP). The approval of this vendor shall be by the authority of the Board. The selected vendor shall not assess any additional costs to the OSCC licensees beyond fees paid directly to the OSCC, or provide services to OSCC licensees aside from what is required for regulatory compliance by the OSCC.
- (3) Data Report Mandate - At each quarterly meeting of the OSCC Board, the Executive Director shall provide a report on baseline statistics of the program including current license counts and statistics as well as enough data to provide an overview of the industry from the perspective of a market report. Additionally, the Executive Director shall provide Key Performance Metrics of the OSCC.
- (4) Data Security Protocol - Patient and caregiver data which contains personal identifying information shall not be shared outside of the collecting agencies with the exception that data may be shared between collecting agencies.
- (5) Proprietary Data Protection - Data that may be considered proprietary by OSCC commercial licensees as well as ODAFF certified hemp licensees shall not be required to be reported for the purpose of compliance with any provision of this Article.
- (6) A harvest batch of either marijuana or hemp that is not processed or concentrated and is intended for sale as a smokeable product shall be required to be tested for consumer safety for every twenty (20) pounds, on a dry weight basis within the harvest batch, or the entire weight of the harvest batch, whichever is less.
- (7) Production batches of solvent extracted concentrates shall be required to be tested for consumer safety for every 10,007 grams of solvent extracted concentrate or the entire weight of the production batch, whichever is less.
- (8) Production batches produced without use of solvents shall be tested for consumer safety for every 50 lbs for dry concentrate, or the entire weight of the production batch, whichever is less.
- (9) Regulation of the production of consumable products, goods and foodstuffs made utilizing harvest or production batches tested for consumer safety in accordance with this section shall, with the exception of cannabinoids and terpenes present, be no more stringent than federal Good Manufacturing Practices (GMP) for similar consumer products, goods or foodstuffs.
- (10) Certified hemp not intended for individual consumption shall not be subject to testing beyond that required for certification as hemp through the USDA approved Oklahoma State Hemp Program administered by ODAFF.
- (11) Batch sizes listed in this section may be increased by the Legislature or the OSCC.

SECTION 8. Professional Licensure Protections

- (1) A bank, credit union, or other person or entity providing financial services to a licensed marijuana business in the State of Oklahoma shall not be liable pursuant to any state law or regulation solely for providing said financial services.

- (2) No person providing professional services to a medical marijuana business shall be subject to arrest, prosecution, disciplinary action, or penalty in any manner or denied any right or privilege under Oklahoma state, municipal or county statute, ordinance or resolution, including without limitation a civil penalty or disciplinary action by any business, occupation or professional licensing board or bureau, solely for providing services to businesses whose conduct is permitted under this Article.
- (3) No medical practitioner shall be subject to arrest, prosecution, disciplinary action, or penalty in any manner or denied any right or privilege under Oklahoma state, municipal or county statute, ordinance or resolution, including without limitation a civil penalty or disciplinary action by the State Board of Medical Licensure and Supervision or the State Board of Osteopathic Examiners, or by any other business, occupational or professional licensing board or bureau solely for providing a medical marijuana recommendation for a patient or for monitoring, treating or prescribing scheduled medication to patients who are medical marijuana licensees. The provisions of this subsection shall not prevent the relevant professional licensing boards from sanctioning a medical practitioner for failing to properly evaluate the medical condition of a patient or for otherwise violating the applicable practitioner-patient standard of care.

SECTION 9. Patient and Caregiver Rights

Possession

- (1) It shall be lawful for all patient licensees to grow, purchase, transport, receive, prepare and consume marijuana and marijuana products. It shall be lawful for all patient licensees to possess up to: twelve (12) marijuana plants and the marijuana harvested therefrom; one (1) ounce of concentrated marijuana; seventy-two (72) ounces of topical marijuana; seventy-two (72) ounces of edible marijuana; eight (8) ounces of suppository marijuana; and eight (8) ounces of commercially sold marijuana. These amounts are cumulative. The Legislature is permitted to increase these quantities as well as permit other forms of marijuana.
- (2) It shall be lawful for patient licensees and caregiver licensees to purchase, possess and use marijuana paraphernalia.
- (3) Caregiver licensees shall have all the same rights and protections as patient licensees under this Article with the exception of the right to consume cannabis unless the caregiver licensee is also a patient licensee.
- (4) Growing or processing amounts in excess of what this section permits for personal possession, or the distribution in any amount with consideration, shall require a business license issued by the OSCC.
- (5) Until marijuana possession is legalized in Oklahoma for persons without a patient or caregiver license, possession up to one and one-half (1.5) ounces of marijuana, three (3) grams of concentrate, or eight (8) ounces of topical, suppository or edible marijuana, or marijuana paraphernalia without a valid medical marijuana patient or caregiver license shall constitute a civil infraction with a fine not to exceed four hundred dollars (\$400). If within forty-five (45) days of a citation for possession without a license the person is approved for a patient license, they may present their license or proof of license approval to the jurisdiction issuing the citation and have it vacated. There shall be no warrant issued for the unpaid fine indicated in this paragraph for a minimum of forty-five (45) days.

General Protection Language

- (6) No person shall be subject to arrest, prosecution or penalty in any manner under state law or municipal or county ordinance or resolution including without limitation a civil penalty or disciplinary action by a business, occupational or professional licensing board or bureau solely on the basis of conduct permitted under this Article.
- (7) No person shall be denied any form of healthcare, housing, employment, public assistance, public benefit, parental right, educational opportunity, extracurricular activity, licensure or licensed activity including but not limited to firearm use, firearm ownership and driving a motor vehicle solely on the basis of conduct permitted under this Article unless failure to do so would result in substantial imminent harm under federal law or regulations.

Privacy

- (8) All patient and caregiver licensees have the right to HIPAA and other relevant privacy protections under the law and in accordance with Health and Human Services guidelines as well as federal and state guidelines. No patient or caregiver records or information are allowed to be sold without the written approval of the patient. All software must contain HIPAA and privacy patient protections where patient data, personal identifiers or related medical information is used, accessed or maintained in a system of records or data.
- (9) The handling of any records maintained by the OSCC or by businesses licensed by or contracted with the OSCC shall comply with all applicable state and federal privacy laws.

Impairment Testing

- (10) The mere presence of THC metabolites in a patient licensee's blood, urine, hair, hair follicle, or other body fluids or tissues carries no evidentiary weight with regards to current impairment or intoxication. No test which identifies the presence of THC metabolites in a patient licensee's blood, urine, hair, hair follicle, or other body fluids or tissues shall be used as evidence of impairment or intoxication for the purposes of denying any form of healthcare, housing, employment, public assistance, license or licensed activity, public benefit, parental right, educational opportunity, or extracurricular activity.
- (11) No test which identifies the presence of THC metabolites or active THC in a patient licensee's blood, urine, hair, hair follicle, or other body fluids or tissues shall be used as dispositive for the determination of any violation of federal or state law or local ordinance.
- (12) There is no presumption of impairment or intoxication solely on the basis of the use of marijuana, including the presence of active THC or THC metabolites. Proof of impairment requires confirmation of impairment through the use of cognitive, kinetic and/or behavioral evaluations.

Employment

- (13) No employer may refuse to hire, discipline, discharge or otherwise penalize an applicant or employee solely on the basis of conduct permitted under this Article. However, nothing in this Article shall be construed to exclude workplace policies which prohibit the use or being under the influence of marijuana during a work shift; and nothing in this

Article shall prohibit the use of tests assessing the presence of active THC for the purpose of determining impairment.

Medical Care

- (14) For the purposes of medical care, including organ transplants, marijuana use does not constitute the use of an illicit substance or otherwise disqualify a marijuana user from medical care.
- (15) No medical practitioner shall deny or alter the treatment of a patient, including the prescribing of scheduled medications such as opioids or benzodiazepines, solely on the basis of conduct permitted under this Article, unless that denial or alteration is medically indicated.
- (16) It is within the standard of care for a medical practitioner with appropriate prescriptive authority to prescribe scheduled medications, including opioids and benzodiazepines, to medical marijuana patient licensees without having to modify the patient's treatment solely on the basis of conduct permitted under this Article.

Parental Rights

- (17) For the purposes of assessing child endangerment, abuse or neglect, marijuana use does not constitute the use of an illicit substance. There is no presumption of endangerment, abuse or neglect solely on the basis of conduct permitted under this Article.
- (18) No person shall be denied custody of or visitation or parenting time with a minor solely on the basis of conduct permitted under this Article. There is no presumption of child endangerment, neglect or abuse solely for conduct permitted under this Article.
- (19) The mere presence of active THC or THC metabolites in birthing-related tissues is not solely in itself dispositive of child endangerment, abuse or neglect.

Student Rights

- (20) No school or school board shall prohibit or penalize students from accessing, self-administering or administering with the aid of a licensed caregiver medical marijuana during school hours and on school premises in a manner consistent with the guidance of the student's healthcare provider(s). Until federal law determines otherwise, no school employee shall be required to assist any student in the storage or administration of marijuana on school premises. Schools and school boards shall determine further policy provisions consistent with this Article.
- (21) No school or school board shall deny or restrict access to extracurricular activities solely on the basis of a student's use of marijuana consistent with the guidance of the student's healthcare provider(s).

Licensure Rights (Firearms, Motor Vehicles, etc)

- (22) No conduct permitted under this Article shall be the basis for the denial, revocation or suspension of any state-issued license, including drivers' licenses, concealed carry permits, occupational and professional licensing.
- (23) Nothing in this Article shall be construed to permit operating a motor vehicle while impaired. Nothing in this Article shall be construed to prohibit testing for active THC as part of a determination of impairment. Nothing in this Article shall be construed to prohibit the use of breathalyzers, blood tests or other technologies for assessing the

presence of active THC. Nothing in this Article shall prohibit the use of cognitive, kinetic or behavioral tests for the purpose of determining impairment.

- (24) No licensee of the OSCC shall be denied the right to own, purchase, possess or use a firearm, ammunition, or firearm accessory solely based upon conduct permitted under this Article.
- (25) No state or local agency, municipal or county governing authority shall restrict, revoke, suspend or otherwise infringe upon the right of a person to own, purchase or possess a firearm, ammunition, or firearm accessory or any related firearm license or certification based solely on conduct permitted under this Article.
- (26) No state or local agency, municipal or county governing authority shall enforce a federal law that prohibits or restricts firearm use or ownership solely on the basis of conduct permitted under this Article.

Due Process and Equal Protection Rights

- (27) No person currently under parole, probation, or other state supervision, or released awaiting trial or other hearing shall be punished, have their parole, probation or bail revoked, or otherwise be penalized solely on the basis of conduct permitted under this Article.
- (28) No conduct permitted under this Article shall constitute a reasonable articulable suspicion of any civil infraction or criminal act or be the sole basis for detention, search, or arrest; notwithstanding when law enforcement is investigating with a reasonable articulable suspicion that a person is operating a motor vehicle, motorboat, or other motorized form of transport while impaired.
- (29) Marijuana and marijuana products permitted for possession under this Article are not subject to seizure. This shall not be construed to prohibit law enforcement from such seizures on grounds outside the scope of conduct permitted under this Article.
- (30) No person shall be subject to increased punishment for any crime or civil infraction on the basis of any conduct permitted under this Article.

Local and Homegrow Rights

- (31) There shall be no additional licensing or fees related to homegrows. No municipal or county governing body or agency may charge any additional fees or require any additional licensing for homegrows.
- (32) No ordinance, regulation or statute relating to homegrows shall be unduly burdensome.
- (33) Municipal and county governing bodies shall not require additional licensing, permits or fees, or otherwise restrict or interfere with the rights of patient licensees or caregivers to possess, purchase, transport, prepare, consume, cultivate or homegrow marijuana within the quantities permitted under this Article.
- (34) Nothing in this Article shall be construed to prohibit landlords from restricting homegrows or indoor smoking or vaping of marijuana and marijuana products in a private residence, except that a lease agreement shall not prohibit a tenant from lawfully possessing and consuming marijuana or marijuana products by means other than smoking or vaping. Nothing in this Article shall be construed to restrict business owners from prohibiting smoking or vaping of marijuana and marijuana products on their premises.
- (35) No ordinance, regulation or statute relating to the vaporization or smoking of cannabis shall be more restrictive than those relating to tobacco use.

SECTION 10. Judicial Review

- (1) Any rule or regulation adopted by the OSCC pursuant to this Article must comply with the Oklahoma Administrative Procedures Act. Any person aggrieved by a final agency order is entitled to seek judicial review in accordance with Oklahoma law. If the OSCC fails to timely promulgate rules required under this Article, any resident of the state may commence a mandamus action in district court to compel performance by the OSCC in accordance with this Article.

SECTION 11. Legislative Authority

- (1) In addition to the specific provisions indicated herein (4.1, 5.16, 6.4, 7.11, 9.1) whereby the Legislature is authorized to enact laws that modify provisions of this Article by simple majority, the Legislature is further authorized to enact laws that modify the following provisions within this Article by way of a supermajority vote of seventy-five percent (75%) in both the House and Senate as well as the signature of the Governor: Section 2, paragraphs 2-5, 10 and 12; and Section 4, paragraphs 4, 5, 6, 8, 9 and 10.

SECTION 12. Severability

- (1) The provisions hereof are severable, and if any part or provision hereof shall be void, invalid, or unconstitutional, the decision of the court so holding shall not affect or impair any of the remaining parts or provision hereof, and the remaining provisions hereof shall continue in full force and effect.

SECTION 13. Effective Date

- (1) This Article shall become effective upon passage.

SECTION 14. Definitions

- (1) "Cannabis" means a plant of the species *Cannabis Sativa* Linnaeus and all subspecies thereof that has not been determined to be marijuana or hemp based on THC content on a dry weight basis as defined by federal law.
- (2) "Marijuana" means the flower of a female cannabis plant that contains more THC on a dry weight basis than does hemp as defined by federal law.
- (3) "Marijuana Product" means a product containing cannabinoids extracted from marijuana by physical or chemical means.
- (4) "Hemp" means mature cannabis whose percentage of THC content on a dry weight basis is defined by federal law.
- (5) "Certified Hemp" means hemp that is produced in accordance with the USDA Industrial Hemp Program.
- (6) "Certified Hemp Product" means all products derived from certified hemp.
- (7) "Person" means a natural person and does not include any partnership, trust, estate, corporation, association, or any other non-natural person as created by operation of law.
- (8) "THC" means delta-9-tetrahydrocannabinol, the principal psychoactive constituent of cannabis, along with its double bond isomers and stereoisomers. For the purposes of this Article, THC excludes tetrahydrocannabinols approved for medical use by the FDA.
- (9) "Active THC" means unmetabolized tetrahydrocannabinol, as present in a person's body fluids or tissues, in contrast to its metabolites.

- (10) “THC metabolite” means a substance formed through the metabolization of THC.
- (11) “Unduly burdensome” means that the measures necessary to comply with the rules or ordinances adopted pursuant to this Article subject persons, licensees or potential licensees to such a high investment of money, time, or any other resource or asset that a reasonably prudent person or business would not operate a marijuana business or engage in the personal use, storage or cultivation of marijuana.