

## **RULE IMPACT STATEMENT**

### **TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH**

#### **CHAPTER 681. MEDICAL MARIJUANA REGULATIONS**

##### **1. DESCRIPTION:**

###### **OAC 310:681-1-4. Definitions**

- Adds definition of “actively operating” or “actively conducting business operations.”
- Adds definition of “error in measurement.”
- Adds definition of “error in measurement allowance.”
- Adds definition of “integration” or “integrated.”
- Revises definition of “inventory tracking system” or “State inventory tracking system” to be consistent with the definition in 63 O.S. § 427.2.
- Revises definition of “marijuana” to reflect changes made to the statutory definition in 63 O.S. § 427.2.
- Revises definition of “medical marijuana waste” to reflect changes made to the statutory definition in 63 O.S. § 427.2.
- Adds definition of “nonoperational.”
- Adds definition of “openly in existence.”
- Adds definition of “publicly traded company.”
- Adds definition of “RFID.”
- Adds definition of “seed-to-sale tracking system.”
- Adds definition of “wholesale package.”
- Adds definition of “working towards operation status.”

###### **OAC 310:681-2-3. Applications for caregiver’s license**

- Subsection (e)(2): Adds language that caregivers “shall not charge a medical marijuana patient licensee for cultivating medical marijuana in excess of actual costs incurred in cultivating the medical marijuana.”

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

- Subsection (d): Adds language requiring each warehouse location of a commercial transporter applicant or licensee to be inspected and approved by the Department prior to use.

###### **OAC 310:681-3-6. Inventory manifests**

- Subsection (a): Replaces “an electronic inventory management system” with the “State’s inventory tracking system in accordance with OAC 310:681-5-6(d)” to be consistent with 63 O.S. § 427.16(H).

###### **OAC 310:681-4-2 Licenses**

- Subsection (f)(1): Removes language prohibiting research and education facilities from transferring licenses.

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

- Subsection (a)(6): adds language clarifying that data submitted to the Department through the State's inventory tracking system will satisfy monthly reporting requirements.
- Subsection (c)(5): adds language requiring commercial licensees to maintain written standard operating procedures.
- Subsection (d)(1)-(3): Adds language and requirements for reporting of required data and information into the State's inventory tracking system pursuant to 63 O.S. § 427.3(D)(8) and § 427.13(B).
- Subsection (e): Adds language requiring commercial licensees use a seed to sale tracking system or integrate their seed to sale tracking system with the State's inventory tracking system. Clarifies that if the commercial licensee's seed to sale system does not integrate or share all required information with the State's inventory tracking system, the commercial license is required to ensure all required information is reported directly to the State's inventory tracking system.
- Subsection (f)(1)-(8): Adds new language for reporting of required data and information into the State's inventory tracking system, including requirements related to the purchase and use of RFID tags in order to track medical marijuana and medical marijuana product through all stages of the life span of the plant and product. Adds requirement relating to the use of RFID tags in the context of wholesale packages.
- Subsection (g)(1)-(8): Adds new language and requirements for commercial licensees' inventory tracking system administrators and employee users to access the State's inventory tracking system.
- Subsection (h): Creates a new provision governing reporting requirements in the context of loss of access to the State's inventory tracking system both due to circumstances beyond and within commercial licensees' control.
- Subsection (i): Clarifies audits conducted by the Department ensure the accuracy of information and data reported to the Department.

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

- Subsection (9): Clarifies that commercial licensees are financially responsible for the costs of compliance and inventory tracking and that the Department will not contribute to, fund or subsidize compliance or tracking expenses incurred by commercial licensees.

#### **OAC 310:681-5-2. Licenses.**

- Subsection (e)(C)(i)-(vii): Creates new provision allowing a medical marijuana grower, processor, and commercial transporter to submit a request and required documentation to the Department to add a publicly traded company as an owner of up to forty percent (40%) of the equity interest of an existing medical marijuana grower, processor, or commercial transporter that has been licensed for at least eighteen (18) months and is operating in good standing pursuant to 63 O.S. § 427.15a.
- Subsection (f): removes language prohibiting business licensees from transferring licenses.

#### **OAC 310:681-5-2.1. Objection by municipality.**

- Subsection (a)(1)-(2): Creates new provisions allowing municipal governments to object prior to an initial renewal or transfer of ownership of a medical marijuana dispensary that the municipality determines is operating contrary to the required setback distance from a school pursuant to 63 O.S. § 426.1(E)(2)-(5).

#### **OAC 310:681-5-3. Applications.**

- Subsection (e)(5): Adds new language reflecting the change in measurement of the distance between a medical marijuana dispensary and a school pursuant to 63 O.S. § 425(G).

- Subsection (e)(9): Adds reference to additional documents required under OAC 310:681-5-2(e)(2)(c) for a medical marijuana grower, processor or transporter to add a publicly traded company as an owner.

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

- Subsection (d): Creates new provisions requiring the Department conduct on-site inspections of warehouse locations owned by medical marijuana transporter applicants and licensees prior to use of the warehouse location pursuant to 63 O.S. § 427.16.

**OAC 310:681-5-4.1. Operational status visit.**

- Subsection (a)(1)-(3): Creates new provisions requiring the Department conduct on-site visits at licensed growers, processors and dispensaries to verify operational status and providing an 180 day grace period pursuant to 63 O.S. § 427.6(K).
- Subsection (b): Creates new provisions requiring the Department to conduct follow up on-site visits at licensed growers, processors and dispensaries to verify operational status if the licensee was not operational at the initial visit pursuant to 63 O.S. § 427.6(K). Adds language allowing discretionary second grace period and requiring the Department move for revocation if licensee is non-operational and second grace period is not granted.

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

- Subsection (a)(4): Adds language clarifying that submission of information and data to the State's inventory tracking system is required and will satisfy the monthly reporting requirements upon implementation.
- Subsection (b)(5): Creates a new provision adding written standard operating procedures to the list of records commercial licensees are required to keep onsite and maintained for seven (7) years.
- Subsection(d)(1)-(3): Adds language and requirements for reporting required data and information into the State's inventory tracking system pursuant to 63 O.S. § 427.3(D)(8) and § 427.13(B).
- Subsection(e): Adds language requiring commercial licensees use a seed to sale tracking system or integrate their seed to sale tracking system with the State's inventory tracking system. Clarifies that if the commercial licensee's seed to sale system does not integrate or share all required information with the State's inventory tracking system, the commercial license is required to ensure all required information is reported directly to the State's inventory tracking system.
- Subsection(f)(1)-(8): Adds new language and requirements for reporting required data and information into the State's inventory tracking system, including requirements related to the purchase and use of RFID tags in order to track medical marijuana and medical marijuana products through all stages of the life span of the plant and product. Adds requirement relating to the use of RFID tags in the context of wholesale packages.
- Subsection (g)(1)-(8): Adds new language and requirements for commercial licensees' inventory tracking system administrators and employee users to access the State's inventory tracking system.
- Subsection (h): Creates a new provision governing reporting requirements in the context of loss of access to the State's inventory tracking system both due to circumstances beyond and within commercial licensees' control.
- Subsection (i): Clarifies audits conducted by the Department ensure the accuracy of information and data reported to the Department.

**OAC 310:681-5-11. Attestation confirming or denying foreign financial interest.**

- Subsection (a)-(c): Creates new requirements for medical marijuana businesses to submit an attestation to the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control disclosing the existence of any foreign financial interests pursuant to 63 O.S. § 427.15.

**OAC 310:681-5-18. Prohibited Acts.**

- Subsection (l): Adds prohibition on the transfer, purchase, sale of medical marijuana or medical marijuana products not properly inputted or tracked in the State’s inventory tracking system after implementation.

**OAC 310:681-7-1. Labeling and Packaging.**

- Subsection (e)(3): Creates new requirement that RFID tags not obscure required label and packaging requirements.

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

- Subsection (d)(3)-(4): Adds requirement that laboratories maintain and properly store reserve samples for at least thirty (30) days.

**OAC 310:681-9-1. Waste disposal.**

- Subsection (b): Adds language reflecting that as of November 1, 2021 there will be no limit to the number of medical marijuana waste disposal licenses pursuant to 63 O.S. §430(A).

**OAC 310:681-9-2. Licenses and permits.**

- Subsection (f): Removes prohibition on transfer of waste disposal facility licenses and permits.

**OAC 310:681-9-3. License applications.**

- Subsection (e)(4): Changes distance measurement between waste disposal facility and school from “property line” to “front entrance” in the context of supporting documentation that must be submitted with applications for waste disposal facility licenses.

**OAC 310:681-9-4. Permit applications.**

- Subsection (c)(1): Changes distance measurement between waste disposal facility and school from “property line” to “front entrance” in the context of supporting documentation that must be submitted with applications for waste disposal facility permit.

**OAC 310:681-9-7. Audits and inventory.**

- Subsection(b)(1)-(3): Creates new requirements for reporting required data and information into the State’s inventory tracking system pursuant to 63 O.S. § 427.3(D)(8) and § 427.13(B).
- Subsection(c): Adds language requiring commercial licensees use a seed to sale tracking system or integrate their seed to sale tracking system with the State’s inventory tracking system. Clarifies that if the commercial licensee’s seed to sale system does not integrate or share all required information with the State’s inventory tracking system, the commercial license is required to ensure all required information is reported directly to the State’s inventory tracking system.
- Subsection(d)(1)-(8): Adds new language and requirements for reporting required data and information into the State’s inventory tracking system, including requirements related to the purchase and use of RFID tags in order to track medical marijuana and medical marijuana products through all stages of the life span of the plant and product. Adds requirement relating to the use of RFID tags in the context of wholesale packages.

- Subsection(e)(1)-(7): Adds new language and requirements for commercial licensees' inventory tracking system administrators and employee users to access the State's inventory tracking system.
- Subsection (f): Creates a new provision governing reporting requirements in the context of loss of access to the State's inventory tracking system both due to circumstances beyond and within commercial licensees' control.

**2. DESCRIPTION OF PERSONS AFFECTED AND COST IMPACT RESPONSE:**

The proposed emergency rules address changes and/or new requirements in statute under 63 O.S. § 420 et seq., 63 O.S. § 427.1 et seq., and 63 O.S. § 427a et seq. The proposed emergency rules also add in new requirements to implement the State inventory tracking system pursuant to 63 O.S. § 427.13. The emergency rules are intended to ensure the safety of medical marijuana and medical marijuana products sold to consumers and to prevent inversion and diversion and unlawful distribution of medical marijuana and medical marijuana products. The Department anticipates that the majority of persons impacted from the regulatory changes will be commercial licensees.

**3. DESCRIPTION OF PERSONS BENEFITING, VALUE OF BENEFIT AND EXPECTED HEALTH OUTCOMES:**

The classes of persons who are likely to benefit from the proposed rules include the population of patients consuming medical marijuana and medical marijuana products. In order to best protect the public health and the health of licensed patients, the proposed emergency rules set forth additional requirements for ensuring that all medical marijuana and medical marijuana products are properly tracked, accounted for, and tested before being sold to medical marijuana patients for consumption. Further, the additional requirements will assist commercial licensees in ensuring that they are only receiving tested and lawfully transferred medical marijuana and medical marijuana products.

**4. ECONOMIC IMPACT, COST OF COMPLIANCE AND FEE CHANGES:**

There are no fee changes. It is anticipated that some the changes will result in increased costs to businesses, including rules related to the implementation of the State's inventory tracking system. The full economic impact and costs will vary on the size of the business of a commercial licensee. The costs will be directly associated with the number of marijuana plants grown and/or the number of packages produced by each commercial licensee. The proposed emergency rules were drafted with consideration and intent to not create any unnecessary or burdensome costs. The Department will accept public comments from the persons who may potentially be impacted by costs as a result of compliance when the emergency rules are presented for permanent rule consideration.

**5. COST AND BENEFITS OF IMPLEMENTATION AND ENFORCEMENT TO THE AGENCY.**

There will be an increase in the cost of implementation and enforcement to the agency. There have been several statute changes that are being implemented through these proposed emergency rules that are expected to increase the number visits to commercial licensees, the number of enforcement actions, and thereby the cost of enforcement.

**6. IMPACT ON POLITICAL SUBDIVISIONS:**

There is not expected to be a significant impact on political subdivisions, but there will be some cooperation necessary with municipalities for the municipality to timely submit an objection to the Department regarding continued licensure of a medical marijuana dispensary that is within the prohibited setback distance.

**7. ADVERSE EFFECT ON SMALL BUSINESS:**

The full economic impact and costs of the proposed emergency rules will vary based on the size of the business of a commercial licensee. The costs will be directly associated with the number of marijuana plants grown and/or the number of packages produced by each licensee. The proposed emergency rules were drafted with consideration and intent to not create any unnecessary or burdensome costs. The Department will accept public comments from the persons who may potentially be impacted by costs as a result of compliance when the emergency rules are presented for permanent rule consideration.

**8. EFFORTS TO MINIMIZE COSTS OF RULE:**

The proposed emergency rules were drafted with consideration and intent to minimize unnecessary or burdensome costs while also implementing an inventory tracking system to best account for all medical marijuana and medical marijuana products in Oklahoma to protect the health of licensed patients.

**9. EFFECT ON PUBLIC HEALTH AND SAFETY**

These emergency rules seek to fulfill core public health functions of protecting Oklahomans from potential harms through known evidence-based policies and promising practices, while staying within the authority provided by enabling law. The Department has identified public health concerns with the implementation of a medical marijuana program and has proposed emergency rules that will help ensure the health and safety of the medical marijuana and medical marijuana products sold to consumers. These rules include, but are not limited to, making requirements to implement a state-wide inventory tracking system that will help prevent inversion and diversion and ensure that medical marijuana and medical marijuana products are properly tested and tracked.

**10. DETRIMENTAL EFFECTS ON PUBLIC HEALTH AND SAFETY WITHOUT ADOPTION:**

As noted in the prior sections, a full assessment of potential effects on public health and safety without adoption is unknown; however, the proposed emergency rules will assist in addressing issues identified during OSDH's investigations of medical marijuana commercial licensees, including several recalls of medical marijuana or medical marijuana products.

**11. PREPARATION AND MODIFICATION DATES:**

This rule impact statement was prepared on June 21, 2021.

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

**RULEMAKING ACTION:**

EMERGENCY adoption

**RULES:**

Subchapter 1. General Provisions

310:681-1-4 [AMENDED]

Subchapter 2. Medical Marijuana Licenses

310:681-2-3 [AMENDED]

Subchapter 3. Transporter License

310:681-3-1 [AMENDED]

310:681-3-6 [AMENDED]

Subchapter 4. Research Facilities and Education Facilities

310:681-4-2 [AMENDED]

310:681-4-5 [AMENDED]

Subchapter 5. Medical Marijuana Businesses

310:681-5-1.1 [AMENDED]

310:681-5-2 [AMENDED]

310:681-5-2.1 [NEW]

310:681-5-3 [AMENDED]

310:681-5-4 [AMENDED]

310:681-5-4.1 [NEW]

310:681-5-6 [AMENDED]

310:681-5-11 [NEW]

310:681-5-18 [AMENDED]

Subchapter 7. Packaging, Labeling, and Advertising

310:681-7-1 [AMENDED]

Subchapter 8. Laboratory Testing

310:681-8-3 [AMENDED]

Subchapter 9. Waste Disposal Facilities

310:681-9-1 [AMENDED]

310:681-9-2 [AMENDED]

310:681-9-3 [AMENDED]

310:681-9-4 [AMENDED]

310:681-9-7 [AMENDED]

**AUTHORITY:**

Commissioner of the Oklahoma State Department of Health; 63 O.S. § 1-104

**ADOPTION:**

June 21, 2021

**EFFECTIVE:**

Immediately upon Governor's approval

**EXPIRATION:**

Effective through September 14, 2022, unless superseded by another rule or disapproved by the Legislature

**SUPERSEDED EMERGENCY ACTIONS:**

n/a

**INCORPORATIONS BY REFERENCE:**

n/a

**FINDING OF EMERGENCY:**

Chapter 681 is being amended to conform the regulations to statutory changes that go into effect on July 1, 2021.

**GIST/ANALYSIS:**

The rules amend the Definitions section to add new terms used in the new and amended sections of Chapter 681. The amendments conform to the statutory requirements for the distance between a school and a medical marijuana business that go into effect on July 1, 2021. The rules also provide regulatory requirements for the seed-to-sale tracking system. The rules require that commercial licensees track inventory, cultivation, manufacturing and transactions for the purpose of reporting the information to the Department.

**CONTACT PERSON:**

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

**SUBCHAPTER 1. GENERAL PROVISIONS**

**310:681-1-4. Definitions**

The following words and terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

**"Actively operating" or "Actively conducting business operations"** means a commercial licensee that possesses, sells, purchases or transfers medical marijuana and/or medical marijuana products to or from its licensed premises in a regular or seasonal capacity.

**"Advertising"** means the act of providing consideration for the publication, dissemination, solicitation, or circulation of visual, oral, or written communication to induce directly or indirectly any person to patronize a particular medical marijuana business or to purchase any particular medical marijuana or medical marijuana products. "Advertising" includes marketing but does not include packaging and labeling.

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

**"Application status"** means the status of a submitted application and includes the following:

(A) "Submitted" means the application has been submitted but a review is not yet complete;

(B) "Rejected" means the application has been reviewed but contains one or more errors requiring correction by the applicant at no additional fee before a final determination on the application can be made. "Rejected" does not mean the application is denied;

(C) "Approved" means the application has been approved and that a license will be issued and mailed to the applicant; and

(D) "Denied" means the applicant does not meet the qualifications under Oklahoma law and this Chapter for a license.

**"Authority" or "OMMA"** means the Oklahoma Medical Marijuana Authority, a division of the Oklahoma State Department of Health.

**"Batch number"** means a unique numeric or alphanumeric identifier assigned prior to any testing to allow for inventory tracking and traceability.

**"Business license"** means a license issued by the Department to a medical marijuana dispensary, grower, processor, testing laboratory, or transporter.

**"Cannabinoid"** means any of the chemical compounds that are active principles of marijuana.

**"Caregiver"** means a family member or assistant who regularly looks after a licensed patient whom a physician certifies is homebound or needs assistance.

**"CFR"** means the Code of Federal Regulations, the compilation of the general and permanent rules published in the Federal Register by the executive departments and agencies of the federal government



which is published by the U.S. Government Printing Office. Citations in this Chapter to the CFR refer sequentially to the Title, Part and Section numbers.

**"Child-resistant"** means packaging that is:

- (A) Designed or constructed to be significantly difficult for children under five (5) years of age to open and not difficult for normal adults to use properly as defined by 16 CFR § 1700.15 (1995) and 16 CFR § 1700.20 (1995);
- (B) Opaque so that the outermost packaging does not allow the product to be seen without opening the packaging material; and
- (C) Resealable to maintain its child-resistant effectiveness for multiple openings for any product intended for more than a single use or containing multiple servings.

**"Clone"** means a non-flowering plant cut from a mother plant that is capable of developing into a new plant and has shown no signs of flowering.

**"Commercial license"** means any license issued to an individual or entity that is not a patient, caregiver, or transporter agent.

**"Commercial licensee"** means an individual or entity issued a commercial license and does not mean a patient, caregiver, or transporter agent.

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

**"Complete(d) application"** means a document prepared in accordance with Oklahoma law, these Rules, and the forms and instructions provided by the Department, including any supporting documentation required by the Department and the license fee.

**"Decontamination"** means a process that attempts to remove or reduce to an acceptable level a contaminant exceeding an allowable threshold set forth in these Rules in a harvest batch or production batch.

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

**"Dispense"** means the retail selling of medical marijuana or medical marijuana products that are packaged and labeled in accordance with the law to a licensed patient, the licensed patient's parent(s) or legal guardian(s) if licensed patient is a minor, or a licensed caregiver.

**"Dispensary"** or **"Commercial Dispensary"** means an individual or entity that has been issued a medical marijuana business license by the Department, which allows the dispensary to purchase medical marijuana or medical marijuana products from a licensed processor, grower, or dispensary; to sell medical marijuana and medical marijuana products to a licensed patient, to the licensed patient's parent(s) or legal guardian(s) if licensed patient is a minor, and a licensed caregiver; and to sell, transfer, and transport or contract with a commercial transporter to transport medical marijuana or medical marijuana products to another licensed dispensary, a research facility, and an educational facility; and to transfer to testing laboratories.

**"Dispose"** or **"Disposal"** means the final disposition of medical marijuana waste by either a process which renders the waste unusable through physical destruction or a recycling process.

**"Disqualifying criminal conviction"** means:

- (A) Any non-violent felony conviction within last two (2) years of submitting an application to the Department;
- (B) Any violent felony conviction for an offense listed in 57 O.S. § 571(2) within last five (5) years of submitting an application to the Department; or
- (C) Incarceration for any reason during submission of application to the Department.

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

**"Entity"** means an individual, sole proprietorship, a general partnership, a limited partnership, a limited liability company, a trust, an estate, an association, a corporation, or any other legal or commercial entity.

**"Entrance to a private or public school"** means an opening, such as a door, passage, or gate, that allows access to any public or private schools, including school buildings, facilities, or other indoor and outdoor properties utilized for classes or school activities.

**"Error in measurement"** means a mistake made by the Department or a municipality in the setback measurement process where either the distance between a medical marijuana dispensary and a school is miscalculated due to mathematical error or the method used to measure the setback distance is inconsistent with 63 O.S. § 425(G).

**"Error in measurement allowance"** means an allowance of an error in measurement of the distance between a medical marijuana dispensary and a school up to and including five hundred (500) feet when remeasured after an original license has been issued.

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

**"Flowering"** means the reproductive state of the marijuana or cannabis plant in which there are physical signs of flower or budding out of the nodes of the stem.

**"Food"** has the same meaning as set forth in 63 O.S. § 1-1101 (*'food' means (1) articles used for food or drink for man, (2) chewing gum, and (3) articles used for components of any such article*) and set forth in the Oklahoma Administrative Code ("OAC") OAC 310:257-1-2 and OAC 310:260-1-6 (*"food" means any raw, cooked, or processed edible substance, ice, beverage or ingredient used or intended for use or for sale in whole or in part for human consumption*)).

**"Grower" or "Commercial grower"** means an individual or entity that has been issued a medical marijuana business license by the Department, which allows the grower to grow, harvest, dry, cure, package, sell, transfer, and transport or contract with a commercial transporter for the transport of medical marijuana in accordance with Oklahoma law and this Chapter to a dispensary, processor, grower, research facility, education facility, or testing laboratory.

**"Harvest Batch"** means a specifically identified quantity of usable medical marijuana, no greater than ten (10) pounds, that is uniform in strain, cultivated utilizing the same cultivation practices, harvested at the same time from the same location, and dried or cured under uniform conditions.

**"Immature plant"** means a nonflowering marijuana plant that has demonstrated signs of flowering.

**"Indirect beneficial owner"** means an individual or entity who indirectly, through any contract, arrangement, understanding, relationship or otherwise, owns ten percent (10%) or more of the equity interests of a grower, processor, or dispensary.

**"Information panel"** has the same definition as set forth in 21 CFR § 101.2 and means "that part of the label immediately contiguous and to the right of the principal display panel as observed by an individual facing the principal display panel."

**"Integration" or "Integrated"** means a third-party vendor's software application or software service that has been fully validated to share inventory tracking or other data directly with the State inventory tracking system via a secure Application Programming Interface ("API").

**"Inventory tracking system" or "State inventory tracking system"** means a the required tracking system established by the Department that accounts for medical marijuana from either the seed or immature plant stage until the medical marijuana or medical marijuana product is sold to a patient at a medical marijuana dispensary, transferred to a medical marijuana research facility, disposed of in accordance with these rules or used in a research project by a medical marijuana research facility, that accounts for the entire life span of medical marijuana, from either the seed or immature plant stage until the medical marijuana or medical marijuana product is consumed, used, disposed of or otherwise destroyed.

**"Label"** carries the same definition as set forth in 63 O.S. § 1-1101 and *means a display of written, printed, or graphic matter upon the immediate container of any article; and a requirement made by or under authority of this article that any word, statement, or other information appearing on the label shall not be considered to be complied with unless such word, statement, or other information also appears on the outside container or wrapper, if there be any, of the retail package of such article, or is easily legible*

*through the outside container or wrapper.*

**"License"** means a state issued license or other state issued documentation proving the holder of such license is a member of a state-regulated medical marijuana program.

**"License number"** means the unique multi-character identifier issued and printed upon each license.

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

**"Licensed Packager"** means as used in 63 O.S. § 422(C) a processor.

**"Licensed premises"** means the premises specified in an application for a medical marijuana business, research facility, education facility, or waste disposal facility that is owned or in lawful possession of the licensee and within which the licensee is authorized to operate.

**"Lot"** means the food produced during a period of time indicated by a specific code.

**"Marijuana"** means the same as the term that is defined in 63 O.S. § 2-101 and shall not include any plant or material containing delta-8 or delta-10 tetrahydrocannabinol which is grown, processed or sold pursuant to the provisions of the Oklahoma Industrial Hemp Program.

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

**"Medicaid"** means the program that is also commonly known in Oklahoma as "SoonerCare."

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

**"Medical marijuana business"** means an individual or entity licensed by the Department as a medical marijuana dispensary, grower, processor, testing laboratory, or transporter.

**"Medical marijuana concentrate" ("Concentrate")** means a substance obtained by separating cannabinoids from any part of the marijuana plant by physical or chemical means, so as to deliver a product with a cannabinoid concentration greater than the raw plant material from which it is derived. Categories of concentrate include water-based medical marijuana concentrate, food-based medical marijuana concentrate, solvent-based concentrate, and heat- or pressure-based medical marijuana concentrate as those terms are defined in the Oklahoma Medical Marijuana and Patient Protection Act, 63 O.S. § 427.1 et seq.

**"Medical marijuana product"** means a product that contains cannabinoids that have been extracted from plant material or the resin therefrom by physical or chemical means and is intended for administration to a licensed patient, including but not limited to concentrates, oils, tinctures, edibles, pills, topical forms, gels, creams, and other derivative forms, except that this term does not include live plant forms.

**"Medical marijuana research"** means research on medical marijuana and medical marijuana products for public purposes, including the advancement of (A) Public health policy and public safety policy, (B) Agronomic and horticultural best practices, and (C) Medical and pharmacopoeia best practices. For purposes of this Chapter, this term does not include biomedical and clinical research that is subject to federal regulations and institutional oversight and shall not be subject to Department oversight.

**"Medical marijuana waste"** means

(A) unused, surplus, returned or out-of-date marijuana; recalled marijuana; unused marijuana; plant debris of the plant of the genus cannabis, including dead plants and all unused plant parts, except the term shall not include seeds, roots, stems, stalks and fan leaves,

(B) all product which is deemed to fail laboratory testing and cannot be remediated or decontaminated, or

(C) all product and inventory from commercial licensees that:

(i) have gone out of business,

(ii) are not subject to the provisions of Section 1560 of Title 12 of the Oklahoma Statutes, and

(iii) are unable to lawfully transfer or sell the product and inventory to another commercial licensee.

**"Minor"** means any natural person younger than eighteen (18) years of age.

**"Mother plant"** means a marijuana plant that is grown or maintained for the purpose of generating clones, and that will not be used to produce plant material for sale to a processor or dispensary.

**"Municipality"** means the same definition as set forth in the Oklahoma Municipal Code, 11 O.S. § 1-102, and *"means any incorporated city or town."*

**"Nonoperational"** means a commercial licensee that cannot provide proof that it is actively operating or working towards operational status.

**"Officer of a corporate entity"** or **"Principal officer"** means an officer identified in the corporate bylaws, articles of organization or other organizational documents, or in a resolution of the governing body.

**"Officer of a municipality"** means the same definition as set forth in the Oklahoma Municipal Code, 11 O.S. § 1-102, and *means any person who is elected to an office in municipal government or is appointed to fill an unexpired term of an elected office, and the clerk and the treasurer whether elected or appointed.*

**"Oklahoma resident"** or **"Resident"** means an individual who can provide proof of residency as required by OAC 310:681-1-6 (relating to proof of residency) or OAC 310:681-5-3.1 (relating to proof of residency for commercial business licensees).

**"Oklahoma uniform symbol"** or **"Universal symbol"** means the image, established by the Department and made available to commercial licensees through the OMMA website, which indicates the package contains medical marijuana or medical marijuana products with THC and must be printed at least one-half inch in size by one-half inch in size in the color designated by the Department.

**"Openly in existence"** means any building, location, or structure on a school site that has visible outward markings indicating the building, location or structure was operating as a school which would serve as sufficient notice of the existence of the school or a reason for further inquiry on the part of the medical marijuana dispensary license applicant. "Openly in existence" shall not mean any school that operated secretly or discreetly without any signs or other markings on any building, location, or structure on the school site, undeveloped land or a structure owned by a school that was not openly used and marked as a school site, or any school site that was established after the medical marijuana dispensary had been established and licensed by the Department.

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

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

- (A) All shareholders owning an interest of a corporate entity and all officers of a corporate entity;
- (B) All partners of a general partnership;
- (C) All general partners and all limited partners that own an interest in a limited partnership;
- (D) All members that own an interest in a limited liability company;
- (E) All beneficiaries that hold a beneficial interest in a trust and all trustees of a trust; All persons or entities that own interest in a joint venture;
- (F) All persons or entities that own an interest in an association;
- (G) The owners of any other type of legal entity; and
- (H) Any other person holding an interest or convertible note in any entity which owns, operates, or manages a licensed medical marijuana facility.

**"Package"** or **"Packaging"** means any container or wrapper that a medical marijuana business may use for enclosing or containing medical marijuana or medical marijuana products, except that "package" or "packaging" shall not include any carry-out bag or other similar container.

**"Patient"** or **"Licensed patient"** means a person that has been properly issued a medical marijuana license pursuant to Oklahoma law and these Rules.

**"Pesticide"** means

- (A) any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest, or
- (B) any substance or mixture of substances intended for use as a plant regulator, defoliant or desiccant. "Pesticide" shall not include any article that is a "new animal drug" as designated by the United States Food and Drug Administration.

**"Physician"** or **"Oklahoma Physician"** means a doctor of medicine, a doctor of osteopathic medicine, or a doctor of podiatric medicine who holds a valid, unrestricted and existing license to practice in the State

of Oklahoma.

**"Plant material"** means the leaves, stems, buds, and flowers of the marijuana plant, and does not include seedlings, seeds, clones, stalks, or roots of the plant or the weight of any non-marijuana ingredients combined with marijuana.

**"Political subdivision"** means any county or municipal governments.

**"Preschool"** means a public early childhood education program offered under 70 O.S. §§ 11-103.7 and 1-114 (B) or similar program offered by a private school whose primary purpose is to offer educational (or academic) instruction. Preschool does not include a homeschool, daycare, or child care facility licensed under the Oklahoma Child Care Facilities Licensing Act, 10 O.S. § 401 et seq.

**"Principal display panel"** has the same definition as set forth in 21 CFR § 101.1 and "means the part of a label that is most likely to be displayed, presented, shown, or examined under customary conditions of display for retail sale."

**"Private school"** means a preschool, elementary, middle, or high school maintained by private individuals, religious organizations, or corporations, funded, at least in part, by fees or tuition, and open only to pupils selected and admitted based on religious affiliations or other particular qualifications. "Private school" shall not include a homeschool, daycare, or child care facility licensed under the Oklahoma Child Care Facilities Licensing Act, 10 O.S. § 401 et seq.

**"Process"** means to distill, extract, manufacture, prepare, or otherwise produce a medical marijuana product.

**"Processor"** or **"Commercial Processor"** means an individual or entity that has been issued a medical marijuana business license by the Department, which allows the processor to: purchase medical marijuana or medical marijuana products from a grower or processor; process, package, sell, transfer, and transport or contract with a commercial transporter to transport medical marijuana and medical marijuana products that they processed to a licensed dispensary, processor, or testing laboratory in accordance with Oklahoma law and this Chapter; and process medical marijuana received from a licensed patient into a medical marijuana concentrate, for a fee.

**"Production batch"** means

(A) Any amount of medical marijuana concentrate, not to exceed ten (10) pounds, of the same category and produced using the same extraction methods, standard operating procedures, and an identical group of harvest batch of medical marijuana; and

(B) Any amount of finished medical marijuana product, not to exceed ten (10) pounds, of the same exact type, produced using the same ingredients, standard operating procedures, and same production batch of medical marijuana concentrate or same harvest batch of medical marijuana.

**"Public institution"** means any entity established or controlled by the federal government, state government, or a local government or municipality, including, but not limited, institutions of higher education and related research institutions.

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

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

**"Publicly traded company"** means a business entity organized under the laws of the United States or Canada where the domicile for the business entity permits the sale of marijuana and such business entity has a class of securities that are registered and traded for investment pursuant to the Securities Exchange Act of 1934 or listed and traded for investment on a reputable recognized foreign stock exchange or foreign market.

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

**"Registered to conduct business"** means any individual or entity that is required under Oklahoma law to register with the Oklahoma Secretary of State and/or the Oklahoma Tax Commission and has provided sufficient proof to the Department of its good standing with such.

**"Remediation"** means the process by which the medical marijuana flower or trim, which has failed microbial testing, is processed into solvent-based medical marijuana concentrate and tested in accordance with these Rules.

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

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

**"Retailer"** or **"Retail marijuana establishment"** as used in 63 O.S. § 420 et seq. means an entity licensed by the State Department of Health as a medical marijuana dispensary.

**"Revocation"** means the Department's final decision in accordance with the Oklahoma Administrative Procedures Act, 75 O.S. § 250 et seq., that any license issued by the Department pursuant to Oklahoma law and this Chapter is rescinded.

**"RFID"** means Radio Frequency Identification.

**"Rules"** means, unless otherwise indicated, the rules as adopted and set forth in OAC 310:681.

**"Sampler"** means a person who is employed by or is an owner of a licensed laboratory, grower, or processor and is authorized by that employer to collect samples in accordance with the testing laboratory's standard operating procedures and these Rules.

**"Seedling"** means a marijuana plant that has no flowers.

**"Seed-to-sale tracking system"** means an electronic inventory tracking system utilized by a commercial licensee to track inventory, any steps through the process of cultivating or manufacturing medical marijuana and/or medical marijuana products, transactions with other licensees, testing, and other required information for the purpose of reporting that information to the Department in accordance with Oklahoma law, rules, and regulations.

**"Shipping container"** means a hard-sided container with a lid or other enclosure that can be secured into place. A shipping container is used solely for the transport of medical marijuana, medical marijuana concentrate, or medical marijuana products between medical marijuana businesses, a medical marijuana research facility, or a medical marijuana education facility.

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

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

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

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

**"THC"** means tetrahydrocannabinol, which is the primary psychotropic cannabinoid formed by decarboxylation of naturally tetrahydrocannabinolic acid, which generally occurs by exposure to heat.

**"Transporter"** or **"Commercial Transporter"** means an individual or entity issued a medical marijuana commercial license by the Department, which allows the transporter to transport, store, and distribute medical marijuana and medical marijuana products to and from the licensed premises of commercial licensee. As used in this Chapter, "Transporter" or "Commercial Transporter" does not mean licensed commercial growers, processors, and dispensaries who are automatic holders of transporter licenses.

**"Transporter Agent"** means an agent, employee, officer, or owner of commercial transporter, grower, processor, or dispensary who has been issued a transporter agent license by the Department to transport medical marijuana and medical marijuana products on behalf of the said commercial transporter, grower, processor, or dispensary.

**"Transporter license"** means a medical marijuana business license issued by the Department either (A) automatically to commercial growers, processors, and dispensaries upon approval of a business license, or

(B) to commercial transporters solely for the transportation, storage, and distribution of medical marijuana and medical marijuana products.

**"Usable medical marijuana"** means the dried leaves, flowers, oils, vapors, waxes, and other portions of the marijuana plant and any mixture or preparation thereof, excluding seed, roots, stems, stalks, and fan leaves.

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

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

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

**"Wholesale package"** means medical marijuana from the same harvest batch or multiple units of medical marijuana product from the same production batch that are combined together as a single unit for the purpose of RFID tagging and are transported to a single commercial licensee.

**"Working towards operational status"** means a commercial licensee that:

- (A) Has applied for any additional permits, registrations, or licenses required by the Department or another Oklahoma agency, organization, or political subdivision to lawfully conduct operations at the licensed premises and is awaiting issuance of such permit(s), registration(s), or other license(s);
- (B) Is performing construction or other material changes to the licensed premises in preparation of operations at the licensed premises;
- (C) Is onboarding or training initial staff in preparation of operations at the licensed premises;
- (D) Is in the process of purchasing or is awaiting receipt or delivery of physical materials essential to operations at the licensed premises, such as furniture or equipment; or
- (E) Any additional actions determined to be sufficient by the Department.

## SUBCHAPTER 2. MEDICAL MARIJUANA LICENSES

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

(a) Applications for a caregiver's license for caregivers of a licensed patient may be made at any time during the term of the patient license.

(b) Only one caregiver's license shall be issued for each patient license, except in the case of a licensed patient under the age of eighteen (18) whereby two (2) parents and/or legal guardians may be recognized as the minor's caregivers, if such minor is homebound.

(c) A caregiver's application will be accepted for a patient who has a physician's attestation that the patient is homebound or does not have the capability to self-administer or purchase medical marijuana due to developmental disability or physical or cognitive impairment and would benefit by having a designated caregiver to manage medical marijuana on the behalf of the patient as provided in OAC 310:681-2-1(c)(4)(E)(iv).

(d) The caregiver's application shall be made on a form provided by the Department and shall include the following:

- (1) All information and documentation for the caregiver provided for in OAC 310:681-2-1(a) and (c) except there shall be no medical certification from an Oklahoma Physician nor fee assessed for a caregiver's license;
- (2) A signed and dated attestation from the patient license holder or patient applicant, or the patient's parent(s) or legal guardian(s) if patient is under eighteen (18) years of age, appointing the caregiver as their designee under this provision. If the patient license holder is incapacitated or

subject to legal guardianship, a durable medical power of attorney or a court order for guardianship may be submitted and the person appointed to act under that document may execute the notarized statement; and

(3) The patient license number shall be included in the application.

(e) A caregiver issued and in possession of a valid, unexpired OMMA caregiver license may exercise the same rights as the medical marijuana patient license holder for whom he or she is designated caregiver, except that:

(1) A caregiver may not use the medical marijuana or medical marijuana products obtained on behalf of the medical marijuana patient license holder; and

(2) A caregiver may only exercise cultivation rights on behalf of up to five (5) medical marijuana patient license holders and shall not charge a medical marijuana patient licensee for cultivating medical marijuana in excess of actual costs incurred in cultivating the medical marijuana.

(f) A caregiver shall immediately notify the Department in a manner prescribed by the Department if the medical marijuana patient license holder for whom he or she is designated caregiver is deceased.

### SUBCHAPTER 3. TRANSPORTER LICENSE

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

(a) A medical marijuana transporter license shall be issued to qualifying applicants for grower, processor, or dispensary licenses at the time of approval. This license shall enable licensed growers, processors, and dispensaries through their licensed transporter agents to transport medical marijuana or medical marijuana products to other commercial licensees. This license shall not authorize licensed growers, processors, or dispensaries to transport, store, or distribute medical marijuana or medical marijuana products on behalf of other medical marijuana licensees.

(b) A medical marijuana commercial transporter license shall be issued as an independent business license to applicants meeting the requirements set forth in OAC 310:681-5-3, OAC 310:681-5-3.1, and OAC 310:681-5-3.2. This license shall be subject to the same restrictions and obligations as any commercial licensee and shall enable the commercial transporter to:

(1) transport, store, and distribute medical marijuana and medical marijuana products on behalf of other commercial licensees;

(2) contract with multiple commercial licensees; and

(3) maintain multiple warehouses at licensed premises that are approved by the Department for the purpose of temporarily storing and distributing medical marijuana and medical marijuana products.

(c) A commercial transporter applicant or licensee must obtain and submit to the Department for each warehouse location a certificate of compliance issued by the political subdivision where the licensed premises is to be located certifying compliance with the categories listed in 63 O.S. § 426.1(E), and the licensed premises shall meet security requirements applicable to a medical marijuana business.

~~(d) A commercial transporter shall be responsible for any and all medical marijuana and medical marijuana products within its custody, control, or possession.~~ A commercial transporter applicant or licensee must have each warehouse location inspected and approved by the Department prior to its use.

~~(e) No person or entity shall transport or otherwise transfer any medical marijuana or medical marijuana products without both a valid transporter license and a valid transporter agent license.~~ A commercial transporter shall be responsible for any and all medical marijuana and medical marijuana products within its custody, control, or possession.

~~(f) No person or entity shall transport or otherwise transfer any medical marijuana or medical marijuana products without both a valid transporter license and a valid transporter agent license.~~

#### **310:681-3-6. Inventory manifests**

(a) Commercial transporters, growers, processors, and dispensaries shall utilize ~~an electronic inventory management system~~ the State inventory tracking system in accordance with OAC 310:681-5-6(d) to create



and maintain shipping manifests documenting all transport of medical marijuana and medical marijuana products throughout the State of Oklahoma.

(b) When transporting medical marijuana or medical marijuana products, commercial transporters, growers, processors, and dispensaries shall provide copies of the inventory manifests to each originating and receiving licensee at the time the product changes hands.

(1) The copy of the inventory manifest to be left with the originating licensee shall include, at a minimum:

- (A) The license number, business name, address, and contact information of the originating licensee;
- (B) The license number, business name, address, and contact information of the commercial transporter, grower, processor, or dispensary transporting the medical marijuana if such licensee is not the originating licensee;
- (C) A complete inventory of the medical marijuana and medical marijuana products to be transported, including the quantities by weight or unit of each type of medical marijuana and medical marijuana products and the batch number(s);
- (D) The date of transportation and the approximate time of departure;
- (E) Printed names, signatures, and transporter agent license numbers of personnel accompanying the transport;
- (F) Notation of the commercial transporter, grower, processor, or dispensary authorizing the transport; and
- (G) The license number(s), business name(s), address(es), and contact information for all end point recipients.

(2) The copy of the inventory manifest to be left with the receiving licensee shall include, at a minimum:

- (A) The license number, business name, address, and contact information for the receiving licensee;
- (B) The license number, business name, address, and contact information of the originating licensee;
- (C) The license number, business name, address, and contact information of the commercial transporter, grower, processor, or dispensary transporting the medical marijuana if such licensee is not the originating licensee;
- (D) A complete inventory of the medical marijuana and medical marijuana products delivered to the receiving licensee, including the quantities by weight or unit of each type of medical marijuana and medical marijuana products and the batch number(s);
- (E) The date and estimated time of arrival;
- (F) The printed names, signatures, and transporter agent license numbers of the personnel accompanying the transport; and
- (G) The printed names, titles, and signatures of any personnel accepting delivery on behalf of the receiving licensee.

(c) A separate inventory manifest shall be prepared for each licensee receiving the medical marijuana or medical marijuana products.

(d) Commercial transporters, processors, growers, and dispensaries shall also maintain copies of all inventory manifests in accordance with OAC 310:681-5-6(b).

(e) Inventory manifests should reflect a complete chain of custody of any and all medical marijuana and medical marijuana products being transported, including all instances in which the medical marijuana and medical marijuana products are stored at a commercial transporter warehouse.

(f) Originating and receiving licensees shall maintain copies of inventory manifests and inventory records logging the quantity of medical marijuana or medical marijuana products received for at least three (3) years from the date of receipt.

(g) An inventory manifest shall not be altered after departing from the originating licensee's premises, except for the addition of the printed names, titles, and signatures of any personnel accepting delivery on behalf of the receiving licensee.

(h) A receiving licensee shall refuse to accept any medical marijuana or medical marijuana products that are not accompanied by an inventory manifest.

(i) If a receiving licensee refuses to accept delivery of any medical marijuana and/or medical marijuana product or if delivery of the medical marijuana or medical marijuana is impossible:

- (1) The medical marijuana and/or medical marijuana products shall be immediately returned to originating licensee who retains legal ownership of the products; and
- (2) The refusal shall be fully documented in the inventory manifests, which should include, at a minimum:

(A) The license number, business name, address, and contact information of the licensee to which the medical marijuana or medical marijuana products were to be delivered;

(B) A complete inventory of the medical marijuana or medical marijuana products being returned, including batch number;

(C) The date and time of the refusal; and

(D) Documentation establishing the medical marijuana or medical marijuana products were returned in accordance with OAC 310:681- 3-6(i)(1).

#### **SUBCHAPTER 4. RESEARCH FACILITIES AND EDUCATION FACILITIES**

##### **310:681-4-2. Licenses**

(a) **Timeframe.** Research facility and education facility licenses shall be issued for a twelve (12) month period expiring one (1) year from the date of issuance. The license may be issued upon receipt of a completed application, payment of application fee, and verification by the Department the individual or entity complies with the requirements set forth in Oklahoma law and this Chapter.

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

(c) **Renewal of license.**

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

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

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

(4) The Department may refuse to renew a license of a research or education facility for the following:

(A) Failure to meet the requirements for licensure set forth in 63 O.S. § 420 et seq; the Oklahoma Medical Marijuana and Patient Protection Act, 63 O.S. § 427.1 et seq.; or OAC 310:681.

(B) Noncompliance with 63 O.S. § 420 et seq.; the Oklahoma Medical Marijuana and Patient Protection Act, 63 O.S. § 427.1 et seq.; the Oklahoma Medical Marijuana Waste Management Act, 63 O.S. § 427a et seq.; or OAC 310:681.

(5) Upon the determination that a licensee has not met the requirements for renewal, the Department shall provide written notice to the licensee. The notice shall provide an explanation for the denial of the renewal application.

(d) **Liquidation of products.** A research facility or education facility licensee whose license is not renewed, or whose license is revoked, suspended, or voluntarily surrendered, shall cease all operations immediately upon expiration of the license and shall liquidate or dispose of all medical marijuana and medical marijuana products in accordance with OAC 310:681-5-2(d).

(e) **Change in information.**

(1) Licensees shall notify the Department in writing within fourteen (14) days of any changes in contact information by electronically submitting a change request in accordance with the Department's

instructions.

(2) Licensees shall obtain Department approval prior to any changes that affect the licensee's qualifications for licensure. Licensees shall notify the Department in writing in advance of any change that may affect the licensee's qualifications for licensure by electronically submitting a change request, along with any relevant documentation, in accordance with the Department's instructions. Except as is otherwise authorized by the Department, licensees are limited to one location change request and one ownership change request per year of licensure.

(A) Medical marijuana research and education licensees submitting a location change must provide the information and documentation required in OAC 310:681-4-3 relating to locations, including but not limited to the following:

- (i) A certificate of compliance as required in OAC 310:681-4- 3(e) on a form prescribed or otherwise authorized by the Department that is issued by the political subdivision where the licensed premises is to be located certifying compliance with the categories listed in 63 O.S. § 426.1(E); and
- (ii) Any further documentation the Department determines is necessary to ensure the business licensee is still qualified under Oklahoma law and this Chapter to obtain a business license.

(B) Medical marijuana research and education licensees submitting an ownership change request must provide the information and documentation required in OAC 310:681-4-3 relating to owners, including but not limited to the following:

- (i) If applicable, a list of all owners and principal officers of the applicant and supporting documentation as set forth in OAC 310:681-4-3(e)(2);
- (ii) Documents required under OAC 310:681-4-3(e)(3) establishing that the applicant; and the members, managers, and board members if applicable; and seventy-five percent (75%) of the research facility's or education facility's ownership interests are Oklahoma residents as required in the Oklahoma Medical Marijuana and Patient Protection Act, 63 O.S. § 427.1 et seq.;
- (iii) For public institutions seeking a research facility license, a background check for each principal investigator and co-principal investigator; and
- (iv) Any further documentation the Department determines is necessary to ensure the business licensee is still qualified under Oklahoma law and this Chapter to obtain a business license.

(3) Licensees shall notify the Department prior to any changes that affect the initial research project and/or curriculum, including funding, in a manner prescribed by the Department. If the research will be conducted with a public institution or public money, the licensee shall supply any documentation or information the Department determines is necessary to determine whether any change to the research project and/or curriculum constitutes a material change. If there is a material change, the Department may deny the change and require the licensee to submit a new application.

**(f) Transfer of license.**

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

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

~~(3)~~ (2) Licenses are limited to the research project(s) approved by the Department and shall not be transferred to any other research project, research, or curriculum.

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

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

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

- (1) The amount of marijuana purchased from medical marijuana businesses and research facilities in pounds;
- (2) The amount of medical marijuana grown and used for research in pounds;
- (3) The amount of marijuana waste in pounds;

(4) If necessary, a detailed explanation of why any marijuana cannot be accounted for as having been purchased, used for research, or maintained in current inventory; and

(5) Any information the Department determines is necessary to ensure that all marijuana grown in Oklahoma is accounted for as required under 63 O.S. § 420 et seq. the Oklahoma Medical Marijuana and Patient Protection Act, 63 O.S. § 427.1 et seq.

(6) Upon implementation, submission of information and data to the Department through the State inventory tracking system will be required in accordance with the Oklahoma Medical Marijuana Protection Act, 63 O.S. § 427.1 et seq., and these Rules, and submission of information and data to the Department through the State inventory tracking system shall be sufficient to satisfy monthly reporting requirements.

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

(1) The name and license number of the medical marijuana researcher licensee that purchased or received the medical marijuana;

(2) The address and phone number of each recipient;

(3) The type of marijuana donated or sold;

(4) The amount of marijuana donated or sold in pounds; and

(5) The date of the donation or sale.

(c) **Records.** Pursuant to the Department's audit and inspection responsibilities, research facility and education facility licensees shall keep onsite and readily accessible, either in paper or electronic form, a copy of the records listed below. Except as otherwise specifically provided in Oklahoma law and this Chapter, all records shall be maintained for at least seven (7) years from the date of creation.

(1) Business records, which may include but are not limited to employee records, organizational documents or other records relating to the governance and structure of the licensee, manual or computerized records of assets and liabilities, monetary transactions, tax records, journals, ledgers, and supporting documents, including agreements, checks, invoices, receipts, and vouchers.

(2) As applicable, any documents related to the processing, preparation, and/or testing of medical marijuana and medical marijuana products, including but not limited to lab reports, testing records, equipment inspections, training materials, and standard operating procedures.

(3) Documentation of every instance in which medical marijuana was sold or otherwise transferred to or purchased or otherwise obtained from another licensee, which shall include, but is not limited to:

(A) The name, license number, address, and phone number of all licensees involved in each transaction; and

(B) The quantity and type of medical marijuana or medical marijuana products involved in each transaction;

(C) The batch number of the medical marijuana or medical marijuana products involved in each transaction;

(D) The date of each transaction;

(E) The monetary value of the medical marijuana or medical marijuana products involved in each transaction, including the total sale or purchase amounts;

(F) All point-of-sale and tax records; and

(G) All inventory manifests and other documentation relating to the transport of medical marijuana and medical marijuana products.

(4) Any and all documents relating to the disposal or destruction of medical marijuana, medical marijuana products, and medical marijuana waste.

(5) Written standard operating procedures outlining the manner in which the commercial licensee operates as prescribed by the Department.

(d) **Inventory tracking system.** Pursuant to 63 O.S. § 427.3(D)(8) and 63 O.S. § 427.13(B), ~~Each~~ each research facility and education facility ~~commercial licensee~~ shall use the State inventory seed-to-sale

tracking system established by the Department by inputting inventory tracking data required to be reported to the Department directly into the State inventory tracking system or by utilizing a seed-to-sale tracking system that integrates with the Department established system at the time of its implementation State inventory tracking system. All commercial licensees must have an inventory tracking system account activated to lawfully operate and must ensure all information is reported to the Department accurately and in real time or after each individual sale in accordance with 63 O.S. § 427.13(B)(1) and these Rules. The system utilized by each licensee shall be a system that: All commercial licensees shall ensure the following information and data are accurately tracked and timely reported to the Department through the State inventory tracking system:

(1) Documents the The chain of custody of all medical marijuana and medical marijuana products, including every transaction with another commercial licensee, patient, or caregiver; including, but not limited to:

(A) The name, address, license number and phone number of the medical marijuana business that cultivated, manufactured, sold, purchased, or otherwise transferred the medical marijuana or medical marijuana product(s);

(B) The type, item, strain, and category of medical marijuana or medical marijuana product(s) involved in the transaction;

(C) The weight, quantity, or other metric required by the Department, of the medical marijuana or medical marijuana product(s) involved in the transaction;

(D) The batch number of the medical marijuana or medical marijuana product(s);

(E) The total amount spent in dollars;

(F) All point-of-sale records as applicable;

(G) Transportation information documenting the transport of medical marijuana or medical marijuana product(s) as required under OAC 310:681-3-6(b);

(H) Testing results and information;

(I) Waste records and information;

(J) Marijuana excise tax records, if applicable;

(K) RFID tag number(s);

(2) Establishes ongoing inventory controls and procedures for the conduct of inventory reviews and comprehensive inventories of medical marijuana and medical marijuana products for traceability which shall enable the licensee to detect any diversion, theft, or loss in a timely manner;

(3) Identifies and allows for tracking and documentation of the The entire life span of a licensee's stock of medical marijuana and medical marijuana products, including, at a minimum, notifying the Department:

(A) when When medical marijuana seeds or clones are planted;

(B) when When medical marijuana plants are harvested and/or destroyed;

(C) when When medical marijuana is transported, or otherwise transferred, sold, stolen, diverted, or lost;

(D) a complete inventory of all medical marijuana; seeds; plant tissue; clones; useable marijuana; trim; leaves; other plant matter and medical marijuana products. When medical marijuana changes form, including, but not limited to, when it is planted, cultivated, processed, and infused into a final product.

(E) all samples sent to a testing laboratory or used for internal testing or other purposes A complete inventory of all medical marijuana; seeds; plant tissue; clones; usable marijuana; trim; shake; leaves; other plant matter; and medical marijuana products;

(F) All samples sent to a testing laboratory or used for internal quality testing or other purposes;

(4) In event of a serious adverse event or recall, is capable of tracking medical marijuana or medical marijuana product from a patient back to the source of the medical marijuana or medical marijuana product; and

(5) (3) Tracks medical marijuana using an assigned batch number and bar code. Any further information the Department determines is necessary to ensure all medical marijuana and medical

marijuana products are accurately and fully tracked throughout the entirety of the life span of the plant and product.

(e) **Seed-to-sale tracking system.** A commercial licensee shall use a seed-to-sale tracking system or integrate its own seed-to-sale tracking system with the State inventory tracking system established by the Department. If a commercial licensee uses a seed-to-sale tracking system that does not integrate with the State inventory tracking system, or does integrate but does not share all required information, the commercial licensee shall ensure all required information is reported directly into the State inventory tracking system.

**Audits.** The Department may perform on-site audits of all research facility and education facility licensees to ensure the accuracy of the research facility's monthly reports and to ensure that all marijuana grown in Oklahoma is accounted for. Submission of an application for a research facility or education facility license constitutes permission for entry to any licensed premises and auditing of the licensee during hours of operation and other reasonable times. Refusal to permit the Department entry or refusal to permit the Department to inspect all books and records shall constitute grounds for the nonrenewal, suspension, or revocation of a license.

~~(1) The Department may review any and all records and information of a research facility or education facility licensee and may require and conduct interviews with such persons or entities and persons affiliated with such licensees, for the purpose of determining compliance with Department rules and applicable laws. Failure to make documents or other requested information available to the Department and/or refusal to appear or cooperate with an interview shall constitute grounds for nonrenewal, suspension, or revocation of a license, or any other remedy or relief provided under law. All records shall be kept on-site and readily accessible.~~

~~(2) Licensees shall comply with all written requests from the Department to produce or provide access to records and information within ten (10) business days.~~

~~(3) If the Department identifies a violation of 63 O.S. § 420 et seq., the Oklahoma Medical Marijuana and Patient Protection Act, 63 O.S. § 427.1 et seq.; or these Rules during an audit of the licensee, the Department shall take administrative action against the licensee in accordance with Oklahoma law, including the Oklahoma Administrative Procedures Act, 75 O.S. § 250 et seq.~~

~~(4) The Department may refer all complaints alleging criminal activity or other violations of Oklahoma law that are made against a licensee to appropriate Oklahoma state or local law enforcement or regulatory authorities.~~

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

~~(6) Except as is otherwise provided in Oklahoma law or these Rules, correctable violations identified during an audit shall be corrected within thirty (30) days of receipt of a written notice of violation.~~

~~(7) If a licensee fails to correct violations within thirty (30) days, the licensee will be subject to a fine of \$500.00 for each violation and any other administrative action and penalty authorized by law.~~

**(f) Inventory tracking system requirements.**

(1) At a minimum, commercial licensees shall track, update, and report inventory after each individual sale to the Department in the State inventory tracking system.

(2) All commercial licensees must reconcile all on-premises and in-transit medical marijuana and medical marijuana product inventories each day in the State inventory tracking system at the close of business.

(3) Commercial licensees are required to use RFID tags from a Department-approved supplier for the State inventory tracking system. Each Licensee is responsible for the cost of all RFID tags and any associated vendor fees.

(A) A commercial licensee shall ensure its inventories are properly tagged and that a RFID tag is properly assigned to medical marijuana, medical marijuana products, and medical marijuana waste as required by the Department.

(B) A commercial licensee shall ensure it has an adequate supply of RFID tags at all times. If a

commercial licensee is unable to account for unused RFID tags, the commercial licensee must report to the Department and the State inventory tracking system vendor within forty-eight (48) hours.

(C) RFID tags must contain the legal name and correct license number of the commercial licensee that ordered them. Commercial licensees are prohibited from using another licensee's RFID tags.

(D) Prior to a plant reaching a point where it is able to support the weight of the RFID tag and attachment strap, the RFID tag may be securely fastened to the stalk or other similarly situated position approved by the Department.

(E) When the plant becomes able to support the weight of the RFID tag, the RFID tag shall be securely fastened to a lower supporting branch. The RFID tag shall remain affixed for the entire life of the plant until disposal.

(F) Mother plants must be tagged before any cuttings or clones are generated therefrom.

(G) If a RFID tag gets destroyed, stolen, or falls off of a medical marijuana plant, the licensee must ensure a new RFID tag is placed on the medical marijuana plant and the change of the RFID tag is properly reflected in the State inventory tracking system.

(H) Commercial licensees shall not reuse any RFID tag that has already been affixed to any regulated medical marijuana or medical marijuana products.

(4) Each wholesale package of medical marijuana must have a RFID tag during storage and transfer and may only contain one harvest batch of medical marijuana.

(5) Prior to transfer, commercial licensees shall ensure that each immature plant is properly affixed with an RFID tag if the plant was not previously tagged in accordance with these rules.

(6) Commercial licensees' inventory must have a RFID tag properly affixed to all medical marijuana products during storage and transfer in one of the following manners:

(A) Individual units of medical marijuana products shall be individually affixed with a RFID tag; or

(B) Medical marijuana products may only be combined in a single wholesale package using one RFID tag if all units are from the same production batch.

(7) If any medical marijuana or medical marijuana products are removed from a wholesale package, each individual unit or new wholesale package must be separately tagged.

(8) All packages of medical marijuana waste shall have a RFID tag affixed and the contents of the waste package shall be reported in the State inventory tracking system.

**(g) Inventory tracking system administrators and users.**

(1) A commercial licensee must have at least one owner, or manager, who is an inventory tracking system administrator.

(2) The inventory tracking system administrator must attend and complete all required inventory tracking system training.

(3) If at any point, the inventory tracking system administrator for a licensee changes, the commercial licensee shall change or assign a new inventory tracking system administrator within three business days.

(4) Commercial licensees shall maintain an accurate and complete list of all inventory tracking system administrators and employee users.

(5) Commercial licensees shall ensure that all owners and employees that are granted inventory tracking system account access for the purpose of conducting inventory tracking functions are trained and authorized before the owners or employees may access the State inventory tracking system.

(6) All inventory tracking system users shall be assigned an individual account in the State inventory tracking system.

(7) Any individual entering data into the State inventory tracking system shall only use the inventory tracking system account assigned specifically to that individual. Each inventory tracking system administrator and inventory tracking system user must have unique log-in credentials that shall not be used by any other person.

(8) Within three (3) business days, commercial licensees must remove access for any inventory tracking system administrator or user from their accounts if any such individual no longer utilizes the State

inventory tracking system or is no longer employed by the commercial licensee.

(h) **Loss access to State inventory tracking system.** If at any time a commercial licensee loses access to the State inventory tracking system due to circumstances beyond the commercial licensee's control, the commercial licensee shall keep and maintain records detailing all inventory tracking activities that were conducted during the loss of access. Once access is restored, all inventory tracking activities that occurred during the loss of access must be immediately entered into the State inventory tracking system. If a commercial licensee loses access to the State inventory tracking system due to circumstances within its control, the commercial licensee may not perform any business activities that would be required to be reported into the State inventory tracking system until access is restored and reporting is resumed; any transfer, sale, or purchase of medical marijuana or medical marijuana products shall be an unlawful sale.

(i) **Audits.** The Department may perform on-site audits of all research facility and education facility licensees to ensure the accuracy of information and data reported to the Department and to ensure that all marijuana grown in Oklahoma is accounted for. Submission of an application for a research facility or education facility license constitutes permission for entry to any licensed premises and auditing of the licensee during hours of operation and other reasonable times. Refusal to permit the Department entry or refusal to permit the Department to inspect all books and records shall constitute grounds for the nonrenewal, suspension, or revocation of a license.

(1) The Department may review any and all records and information of a research facility or education facility licensee and may require and conduct interviews with such persons or entities and persons affiliated with such licensees, for the purpose of determining compliance with Department rules and applicable laws. Failure to make documents or other requested information available to the Department and/or refusal to appear or cooperate with an interview shall constitute grounds for nonrenewal, suspension, or revocation of a license, or any other remedy or relief provided under law. All records shall be kept on-site and readily accessible.

(2) Licensees shall comply with all written requests from the Department to produce or provide access to records and information within ten (10) business days.

(3) If the Department identifies a violation of 63 O.S. § 420 et seq., the Oklahoma Medical Marijuana and Patient Protection Act, 63 O.S. § 427.1 et seq.; or these Rules during an audit of the licensee, the Department shall take administrative action against the licensee in accordance with Oklahoma law, including the Oklahoma Administrative Procedures Act, 75 O.S. § 250 et seq.

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

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

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

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

## **SUBCHAPTER 5. MEDICAL MARIJUANA BUSINESSES**

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

Upon acceptance of the license issued by the Department, the license holder in order to retain the license shall:

- (1) Post the license or permit in a location in the licensed premises that is conspicuous;
- (2) Comply with the provisions in this Chapter;
- (3) Allow representatives of the Department access to the medical marijuana business as specified under OAC 310:681-5-4 and OAC 310:681-5-6(e);



- (4) Comply with directives of the Department including time frames for corrective actions specified in inspection reports, audit reports, notices, orders, warnings, and other directives issued by the Department in regard to the license holder's medical marijuana business or in response to community emergencies;
- (5) Accept notices issued and served by the Department according to law;
- (6) Be subject to the administrative, civil, injunctive, and criminal remedies authorized in law for failure to comply with this Chapter or a directive of the Department, including time frames for corrective actions specified in inspection reports, audit reports, notices, orders, warnings, and other directives;
- (7) Ensure that all information and records maintained in the licensee's online OMMA license account—including the hours of operation for all licensed premises and a valid mailing address, if applicable—are complete, accurate, and updated in a timely manner in accordance with these Rules; and
- (8) If applicable, submit the annual renewal application and pay all renewal license and late fees, if any.
- (9) Bear the financial responsibility for all compliance and inventory tracking obligations and responsibilities set forth in Oklahoma statutes and these Rules. The Department will not contribute to, fund, or subsidize any commercial licensee's compliance or tracking expenses. Nothing herein shall be construed to require the Department to contribute to, subsidize, or fund in any way a commercial licensee's compliance or tracking expenses.

### **310:681-5-2. Licenses**

- (a) **Timeframe.** A medical marijuana business license shall be issued for a twelve (12) month period expiring one (1) year from the date of issuance. The license may be issued upon receipt of a completed application, payment of application fee, and verification by the Department the individual or entity complies with the requirements set forth in Oklahoma law and this Chapter.
- (b) **Location.** A business license issued to a grower, processor, dispensary, or testing laboratory shall only be valid for a single location at the address listed on the application. A transporter license shall only be valid at the physical locations that have been submitted to and approved by the Department and are listed on the application.
- (c) **Renewal of license.**
  - (1) It is the responsibility of the license holder to renew the license, with all applicable documentation, prior to the date of expiration of the license by following the procedures provided in OAC 310:681-5-3.
  - (2) Before renewing a license, the Department may require further information and documentation and may require additional background checks to determine the licensee continues to meet the requirements set forth in Oklahoma law and these Rules.
  - (3) The Department may refuse to renew a license of a medical marijuana business for the following:
    - (A) Failure to meet the requirements for licensure set forth in 63 O.S. § 420 et seq; the Oklahoma Medical Marijuana and Patient Protection Act, 63 O.S. § 427.1 et seq.; or OAC 310:681.
    - (B) Noncompliance with 63 O.S. § 420 et seq.; the Oklahoma Medical Marijuana and Patient Protection Act, 63 O.S. § 427.1 et seq.; the Oklahoma Medical Marijuana Waste Management Act, 63 O.S. § 427a et seq.; or OAC 310:681.
  - (4) Upon the determination that a licensee has not met the requirements for renewal, the Department shall provide written notice to the licensee. The notice shall provide an explanation for the denial of the renewal application.
- (d) **Liquidation of products.** A medical marijuana business licensee whose license is not renewed, or whose license is revoked, suspended, or voluntarily surrendered, shall cease all operations immediately upon expiration of the license.
  - (1) A medical marijuana business has thirty (30) days from date of expiration, revocation, suspension, or surrender of a business license to liquidate and transfer all medical marijuana or medical marijuana products to another medical marijuana business that (1) the medical marijuana business may lawfully sell to and (2) is licensed to possess such medical marijuana or medical marijuana products.
  - (2) Any medical marijuana or medical marijuana products not liquidated in accordance with OAC

310:681-5-2(d)(1) shall be disposed of as specified under OAC 310:681-5-10.

**(e) Change in information.**

(1) Licensees shall notify the Department in writing within fourteen (14) days of any changes in contact information by electronically submitting a change request in accordance with the Department's instructions.

(2) Licensees shall obtain Department approval prior to any changes that affect the licensee's qualifications for licensure. Licensees shall notify the Department in writing in advance of any change that may affect the licensee's qualifications for licensure by electronically submitting a change request, along with any relevant documentation, in accordance with the Department's instructions. Except as is otherwise authorized by the Department, licensees are limited to one location change request and one ownership change request per year of licensure.

(A) Medical marijuana business licensees submitting a location change must provide the information and documentation required in OAC 310:681-5-3 relating to locations, including but not limited to the following:

(i) If applicable, proof as required in OAC 310:681-5-3(e)(7) (5) that the location of the dispensary is at least one thousand (1,000) feet from any public and private school;

(ii) A certificate of compliance as required in OAC on a form prescribed or otherwise authorized by the Department that is issued by the political subdivision where the licensed premises is to be located certifying compliance with the categories listed in 63 O.S. § 426.1(E); and

(iii) Any further documentation the Department determines is necessary to ensure the business licensee is still qualified under Oklahoma law and this Chapter to obtain a business license.

(B) Medical marijuana business licensees submitting an ownership change request must provide the information and documentation required in OAC 310:681-5-3 relating to owners, including but not limited to the following:

(i) An list of all owners and principal officers of the commercial applicant and supporting documentation as set forth in OAC 310:681-5-3(e)(1);

(ii) An affidavit of lawful presence for each new owner;

(iii) Documents required under OAC 310:681-5-3(e)(6) establishing that the applicant; and the members, managers, and board members if applicable; and seventy-five percent (75%) of the commercial applicant's ownership interests are Oklahoma residents as required in the Oklahoma Medical Marijuana and Patient Protection Act, 63 O.S. § 427.1 et seq.;

(iv) A background check in accordance with OAC 310:681-1-5; and

(v) Any further documentation the Department determines is necessary to ensure the business licensee is still qualified under Oklahoma law and this Chapter to obtain a business license.

(C) Medical marijuana growers, processors, or commercial transporters that have held a valid medical marijuana business license for at least eighteen (18) months and are operating in good standing may submit an ownership change request to add a publicly traded company as an owner. The publicly traded company shall not own more than forty percent (40%) of the equity in the existing medical marijuana grower, processor or commercial transporter. The following documentation must be provided:

(i) If applicable, a certificate of good standing from the Oklahoma Secretary of State issued within thirty (30) days of submission of the application.

(ii) A list of all owners, excluding all shareholders of the publicly traded company, and principal officers of the commercial applicant and supporting documentation as set forth in OAC 310:681-5-3(e)(1);

(iii) Document required under OAC 310:681-5-3(e)(6) establishing that the applicant; and the members, managers, and board members if applicable; and seventy-five percent (75%) of the grower, processor, or transporter applicant's ownership interests, excluding the publicly traded company, are Oklahoma residents as required in the Oklahoma Medical Marijuana and Patient Protection Act, 63 O.S. § 427.1 et seq.

(iv) Documentation establishing that the publicly traded company does not own more than forty percent (40%) of the equity interest of the licensed medical marijuana grower, processor or commercial transporter including, but not limited to: certificate of incorporation, bylaws, articles of organization, operating agreement, certificate of limited partnership, resolution of a board of directors, or other similar documents.

(v) Documentation establishing the publicly traded company was organized under the laws of the United States or Canada where the domicile for the business entity permits the sale of marijuana.

(vi) Documentation establishing what securities exchanges the publicly traded company is listed and traded on, as well as stock symbol information.

(vii) Any further documentation the Department determines is necessary to ensure the medical marijuana grower, processor, or commercial transporter licensee is still qualified under Oklahoma law and this Chapter to obtain a business license.

**(f) Transfer of license.**

~~(1) Business licenses may not be assigned or otherwise transferred from one person to another person, from one medical marijuana business to another, or from one legal entity to another.~~

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

**(g) Surrender of license.**

(1) A licensee may voluntarily surrender a license to the Department at any time.

(2) If a licensee voluntarily surrenders a license, the licensee shall:

(A) Return the license to the Department;

(B) Submit on a form prescribed by the Department a report to the Department including the reason for surrendering the license; contact information following the close of business; the person or persons responsible for the close of the business; and where business records will be retained;

(C) Submit proof of the licensee's identity through submission of documentation identified in OAC 310:681-1-7 (relating to Proof of Identity); and

(D) Liquidate or dispose of any medical marijuana or medical marijuana products remaining in the possession of the licensee in accordance with ~~OAC 310:681-5-2(d)~~ and OAC 310:681-5-10.

**310:681-5-2.1. Objection by municipality**

Prior to the initial renewal or transfer of a license, a municipal government may object to the continued licensure of a medical marijuana dispensary if the municipal government determines the medical marijuana dispensary is operating contrary to the required setback distance after taking into account the error in measurement allowance.

(1) To object to the initial renewal or transfer of a license, the municipal government shall submit the following documentation:

(A) An objection in a form and manner as determined by the department;

(B) A municipal resolution finding that the medical marijuana dispensary is located within the prohibited setback distance from a school;

(C) Documentation establishing that the school in question was openly in existence prior to the medical marijuana dispensary being licensed;

(D) Documentation of the measured distance from the school to the marijuana dispensary measuring in a straight line from the school door nearest the front door of the medical marijuana dispensary to the front door of the medical marijuana dispensary less the error in measurement allowance.

(2) If the Department determines a medical marijuana dispensary is operating contrary to the required setback distance from a school, including the error in measurement allowance, the Department may deny the renewal or transfer of license and move for revocation of the license.

**310:681-5-3. Applications**

**(a) Application fee.** An applicant for a medical marijuana business, or renewal thereof, shall submit to the

Department a completed application on a form and in a manner prescribed by the Department, along with the application fee as established in 63 O.S. § 420 et seq. and the Oklahoma Medical Marijuana and Patient Protection Act, 63 O.S. § 427.1 et seq.

(b) **Submission.** Applications for a business license will be accepted by the Department no earlier than sixty (60) days from the date that the State Question is approved by the voters of the State of Oklahoma. The application shall be on the Department prescribed form and shall include the following information about the establishment:

- (1) Name of the establishment;
- (2) Physical address of the establishment, including the county in which any licensed premises will be located;
- (3) GPS coordinates of the establishment;
- (4) Phone number and email of the establishment; and
- (5) Hours of operation for any licensed premises.

(c) **Individual applicant.** The application for a business license made by an individual on his or her own behalf shall be on the Department prescribed form and shall include at a minimum:

- (1) The applicant's first name, middle name, last name and suffix if applicable;
- (2) The applicant's residence address and valid mailing address;
- (3) The applicant's date of birth;
- (4) The applicant's telephone number and email address;
- (5) An attestation that the information provided by the applicant is true and correct;
- (6) An attestation that any licensed premises shall not be located on tribal lands;
- (7) An attestation that the business has obtained all applicable local licenses and permits for all licensed premises;
- (8) An attestation that no individual with ownership interest in the business is a sheriff, deputy sheriff, police officer, prosecuting officer, an officer or employee of OMMA, or an officer or employee of a municipality in which the commercial entity is located; and
- (9) A statement signed by the applicant pledging not to divert marijuana to any individual or entity that is not lawfully entitled to possess marijuana.

(d) **Application on behalf of an entity.** In addition to requirements of Subsection (c), an application for a business license made by an individual on behalf of an entity shall include:

- (1) An attestation that applicant is authorized to make application on behalf of the entity;
- (2) Full name of organization;
- (3) Trade name, if applicable;
- (4) Type of business organization;
- (5) Mailing address;
- (6) Telephone number and email address; and
- (7) The name, residence address, and date of birth of each owner and each member, manager, and board member, if applicable.

(e) **Supporting documentation.** Each application shall be accompanied by the following documentation:

- (1) A list of all owners and principal officers of the business applicant and supporting documentation, including, but not limited to: certificate of incorporation, bylaws, articles of organization, operating agreement, certificate of limited partnership, resolution of a board of directors, or other similar documents;
- (2) If applicable, a certificate of good standing from the Oklahoma Secretary of State issued within thirty (30) days of submission of the application;
- (3) If applicable, an electronic copy or digital image in color of a sales tax permit issued by the Oklahoma Tax Commission;
- (4) An Affidavit of Lawful Presence for each owner;
- (5) If a licensed dispensary, proof that the location of the dispensary is at least one thousand (1,000) feet from a public or private school. The distance specified shall be measured in a straight line from ~~any entrance of any public and private school to the nearest point of the location of the dispensary~~ the

school door nearest the front door of the medical marijuana dispensary to the front door of the medical marijuana dispensary; and

(6) Documents establishing the applicant; and the members, managers, and board members if applicable; and seventy-five percent (75%) of the commercial applicant's ownership interests are Oklahoma residents as required in the Oklahoma Medical Marijuana and Patient Protection Act, 63 O.S. § 427.1 et seq.

(A) Applicants seeking to renew a commercial license issued prior to the enactment of the Oklahoma Medical Marijuana and Patient Protection Act, 63 O.S. § 427.1 et seq., shall submit documentation establishing proof of residency in accordance with OAC 310:681-1-6 (relating to proof of residency);

(B) All other applicants shall submit documentation establishing proof of residency in accordance with OAC 310:681-5-3.1 (relating to proof of residency for business licenses).

(7) A certificate of compliance on a form prescribed or otherwise authorized by the Department that is issued by the political subdivision where the licensed premises is to be located certifying compliance with the categories listed in 63 O.S. § 426.1(E);

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

(9) ~~Any further documentation the Department determines is necessary to ensure the commercial applicant is qualified under the Oklahoma law and this Chapter to obtain a commercial license. If a licensed grower, processor or transporter has added or is seeking to add a publicly traded company as an owner, additional documentation as required under OAC 310:681-5-2(e)(2)(C) to show the grower, processor or transporter applicants meet the requirements stated in 63 O.S. § 427.15a.~~

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

(f) **Incomplete application.** Failure to submit a complete application with all required information and documentation shall result in a rejection of the application. The Department shall notify the applicant via email through the electronic application account of the reasons for the rejection, and the applicant shall have thirty (30) days from the date of notification to correct and complete the application without an additional fee. If the applicant fails to correct and complete the application within the thirty (30) day period, the application shall expire.

(g) **Status update letter.** If a delay in processing has occurred, the Department shall notify the applicant via email of the delay and the reason for the delay.

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

(a) Submission of an application for a medical marijuana commercial license constitutes permission for entry to and inspection of any licensed premises and any vehicles on the licensed premises used for the transportation of medical marijuana and medical marijuana products during hours of operation and other reasonable times. Refusal to permit or impeding such entry or inspection shall constitute grounds for the nonrenewal, suspension, or revocation of a license.

(b) The Department may perform two on-site inspections per calendar year of each licensed grower, processor, dispensary, or commercial transporter to determine, assess, and monitor compliance with applicable Oklahoma law and these Rules.

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

~~(d) The Department may conduct additional inspections to ensure correction of or investigate violations of applicable Oklahoma law and these Rules. Such inspections may be unannounced if the Department believes notice will result in the destruction of evidence. The Department shall conduct one on-site inspection of each warehouse location of a medical marijuana transporter applicant or licensee prior to~~

approving the location for use to ensure all information and documentation is true and correct and to determine if the proposed warehouse location meets all requirements of 63 O.S. § 427.16 and these Rules.

(e) The Department shall refer all complaints alleging criminal activity or other violations of Oklahoma law that are made against a licensee to appropriate Oklahoma state or local law enforcement or regulatory authorities. The Department may conduct additional inspections to ensure correction of or investigate violations of applicable Oklahoma law and these Rules. Such inspections may be unannounced if the Department believes notice will result in the destruction of evidence.

(f) If the Department discovers what it reasonably believes to be criminal activity or other violations of Oklahoma law during an inspection, the Department may refer the matter to appropriate Oklahoma state or local law enforcement or regulatory authorities for further investigation. The Department shall refer all complaints alleging criminal activity or other violations of Oklahoma law that are made against a licensee to appropriate Oklahoma state or local law enforcement or regulatory authorities.

(g) The Department may review any and all records of a licensee and may require and conduct interviews with such persons or entities and persons affiliated with such entities, for the purpose of determining compliance with Department rules and applicable laws. Licensees shall be afforded at least twenty-four hours' notice to secure legal representation prior to any interviews. Failure to make documents or other requested information available to the Department and/or refusal to appear or cooperate with an interview shall constitute grounds for nonrenewal, suspension, or revocation of a license, or any other remedy or relief available under law. All records shall be kept on-site and readily accessible. If the Department discovers what it reasonably believes to be criminal activity or other violations of Oklahoma law during an inspection, the Department may refer the matter to appropriate Oklahoma state or local law enforcement or regulatory authorities for further investigation.

(h) If the Department identifies a violation of 63 O.S. § 420 et seq., the Oklahoma Medical Marijuana and Patient Protection Act, 63 O.S. § 427.1 et seq.; and these Rules during an inspection of the licensed business, the Department shall take administrative action in accordance with Oklahoma law, including the Oklahoma Administrative Procedures Act, 75 O.S. § 250 et seq. The Department may review any and all records of a licensee and may require and conduct interviews with such persons or entities and persons affiliated with such entities, for the purpose of determining compliance with Department rules and applicable laws. Licensees shall be afforded at least twenty-four hours' notice to secure legal representation prior to any interviews. Failure to make documents or other requested information available to the Department and/or refusal to appear or cooperate with an interview shall constitute grounds for nonrenewal, suspension, or revocation of a license, or any other remedy or relief available under law. All records shall be kept on-site and readily accessible.

(i) Except as otherwise provided in Oklahoma law or these Rules, correctable violations identified during an inspection shall be corrected within thirty (30) days of receipt of a written notice of violations. If the Department identifies a violation of 63 O.S. § 420 et seq., the Oklahoma Medical Marijuana and Patient Protection Act, 63 O.S. § 427.1 et seq., and these Rules during an inspection of the licensed business, the Department shall take administrative action in accordance with Oklahoma law, including the Oklahoma Administrative Procedures Act, 75 O.S. § 250 et seq.

(j) If a licensee fails to correct violations within thirty (30) days, the licensee will be subject to a fine of \$500.00 for each deficiency and any other administrative action and penalty authorized by law. Except as otherwise provided in Oklahoma law or these Rules, correctable violations identified during an inspection shall be corrected within thirty (30) days of receipt of a written notice of violations.

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

### **310:681-5-4.1. Operational status visit**

(a) **Initial operational status visit for Growers, Processors, and Dispensaries.** Effective September 1, 2021, the Department shall begin scheduling on-site visits at licensed growers, processors, and dispensaries for the purposes of verifying whether the licensed grower, processor, or dispensary is actively operating or

is working towards becoming operational.

(1) Initial operational status visits shall be scheduled and shall occur within the first one hundred eighty (180) days after issuance of a medical marijuana grower, medical marijuana processor, or medical marijuana dispensary license.

(2) Each operational status visit shall be performed on-site at the licensed premises on file with the Department.

(3) If, at the time of the initial operational status visit, the grower, processor, or dispensary being inspected fails to provide proof to the Department that the licensee is actively operating or working towards operational status, the Department shall grant the grower, processor, or dispensary a grace period of one hundred eighty (180) additional days from the date of their initial operational status visit to become operational.

(b) **Follow-up operational status visits.** Upon the expiration of an operational status visit grace period, the Department shall perform a follow-up inspection of the licensed grower, licensed processor, or licensed dispensary for the purposes of verifying whether the licensed grower, processor, or dispensary has begun actively operating or is continuing to work towards becoming operational.

(1) Follow-up operational status visits shall be scheduled upon expiration of the grace period.

(2) Each follow-up operational status visit shall be performed on-site at the licensed premises on file with the Department.

(3) If, at the time of the follow-up operational status visit, the grower, processor, or dispensary fails to provide proof to the Department that the medical marijuana commercial licensee is actively operating or is continuing to work towards becoming operational, the Department may elect to grant an additional grace period of one hundred eighty (180) days to become operational. However, if granted, such grace period shall not extend beyond the one-year term of the license.

(A) If the Department does not grant a grower, processor, or dispensary a secondary grace period, the Department shall seek revocation of the grower, processor, or dispensary license.

(B) If, after conducting a follow-up visit, the Department grants a secondary grace period, a grower, processor, or dispensary shall be afforded an additional term of one hundred eighty (180) days to become operational. Upon expiration of the secondary grace period, if a grower, processor, or dispensary has failed to provide proof to the Department that operations have commenced, the Department shall seek revocation of the grower, processor, or dispensary license. A third operational status visit of the licensed premises shall be at the discretion of the Department in making such a determination but shall not be required.

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

(a) **Monthly reports.** Licensed growers, processors, and dispensaries shall complete a monthly report on a form and in a manner prescribed by the Department. These reports shall be deemed untimely if not received by the Department by the fifteenth (15th) of each month for the preceding month.

(1) Dispensary reports shall include:

(A) The amount of marijuana purchased in pounds;

(B) The amount of marijuana sold or otherwise transferred in pounds;

(C) The amount of marijuana waste in pounds;

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

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

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

(G) Any information the Department determines is necessary to ensure that all marijuana grown in Oklahoma is accounted for as required under 63 O.S. § 420 et seq. and the Oklahoma Medical Marijuana and Patient Protection Act, 63 O.S. § 427.1 et seq.

(2) Grower reports shall include:

(A) The amount of marijuana harvested in pounds;

- (B) The amount of marijuana purchased in pounds;
  - (C) The amount of marijuana sold or otherwise transferred in pounds;
  - (D) The amount of drying or dried marijuana on hand;
  - (E) The amount of marijuana waste in pounds;
  - (F) If necessary, a detailed explanation of why any marijuana cannot be accounted for as having been sold, disposed of, or maintained in current inventory;
  - (G) Total dollar amount of all sales; and
  - (H) Any information the Department determines is necessary to ensure that all marijuana grown in Oklahoma is accounted for as required under 63 O.S. § 420 et seq. and the Oklahoma Medical Marijuana and Patient Protection Act, 63 O.S. § 427.1 et seq.
- (3) Processor reports shall include:
- (A) The amount of marijuana purchased in pounds;
  - (B) The amount of marijuana sold or otherwise transferred in pounds;
  - (C) The amount of medical marijuana manufactured or processed in pounds;
  - (D) If necessary, a detailed explanation of why any marijuana cannot be accounted for as having been purchased, sold, processed, or maintained in current inventory;
  - (E) The amount of marijuana waste in pounds; and
  - (F) Any information the Department determines is necessary to ensure that all marijuana grown in Oklahoma is accounted for as required under 63 O.S. § 420 et seq. and the Oklahoma Medical Marijuana and Patient Protection Act, 63 O.S. § 427.1 et seq.
- (4) Upon implementation, Submission submission of information and data to the Department through the seed to sale tracking system established by the Department, or a seed to sale tracking system that integrates with the Department established system, State inventory tracking system will be required in accordance with the Oklahoma Medical Marijuana Protection Act, 63 O.S. § 427.1 et seq., and these Rules, and submission of information and data to the Department through the State inventory tracking system shall be sufficient to satisfy monthly reporting requirements.
- (b) **Records.** Pursuant to the Department's audit and inspection responsibilities, medical marijuana business shall keep onsite and readily accessible, either in paper or electronic form, a copy of the records listed below. Except as otherwise specifically provided in Oklahoma law and this Chapter, all records shall be maintained for at least seven (7) years from the date of creation.
- (1) Business records, which may include but are not limited to employee records, organizational documents or other records relating to the governance and structure of the licensee, manual or computerized records of assets and liabilities, monetary transactions, tax records, journals, ledgers, and supporting documents, including agreements, checks, invoices, receipts, and vouchers.
  - (2) As applicable, any documents related to the processing, preparation, transportation, sampling, and/or testing of medical marijuana and medical marijuana products, including but not limited to sample field logs, lab reports, testing records, equipment inspections, training materials, and standard operating procedures.
  - (3) Documentation of every instance in which medical marijuana was sold or otherwise transferred to or purchased or otherwise obtained from another licensee, which shall include, but is not limited to:
    - (A) The name, license number, address, and phone number of all licensees involved in each transaction; and
    - (B) The quantity and type of medical marijuana or medical marijuana products involved in each transaction;
    - (C) The batch number of the medical marijuana or medical marijuana products involved in each transaction;
    - (D) The date of each transaction;
    - (E) The monetary value of the medical marijuana or medical marijuana products involved in each transaction, including the total sale or purchase amounts;
    - (F) All point-of-sale and tax records; and
    - (G) All inventory manifests and other documentation relating to the transport of medical marijuana



and medical marijuana products.

(4) Any and all documents relating to the disposal or destruction of medical marijuana, medical marijuana products, and medical marijuana waste.

(5) Written standard operating procedures outlining the manner in which the commercial licensee operates as prescribed by the Department.

(c) **Patient information.** Records containing private patient information shall not be retained by a medical marijuana business for more than sixty (60) days without the patient's or caregiver's consent. "Private patient information" means personally identifiable information, such as the patient name, address, date of birth, social security number, telephone number, email address, photograph, and financial information. This term does not include the patient's medical marijuana license number, which shall be retained by the business and provided to the Department upon request for compliance and public health purposes, including the verification of lawful sales or patient traceability in the event of product recall.

(d) **Inventory tracking system.** Pursuant to 63 O.S. § 427.3(D)(8) and 63 O.S. § 427.13(B), ~~Each each business commercial licensee shall use the seed-to-sale State inventory tracking system established by the Department or by inputting inventory tracking data required to be reported to the Department directly into the State inventory tracking system or by utilizing a seed-to-sale tracking system that integrates with the State inventory tracking system Department-established system at the time of its implementation. All commercial licensees must have an inventory tracking system account activated to lawfully operate and must ensure all information is reported to the Department accurately and in real time or after each individual sale in accordance with 63 O.S. § 427.13(B)(1) and these Rules. The system utilized by each licensee shall be a system that:~~ All commercial licensees shall ensure the following information and data are accurately tracked and timely reported to the Department through the State inventory tracking system:

(1) Documents the ~~The~~ chain of custody of all medical marijuana and medical marijuana products, including every transaction with another commercial licensee, patient, or caregiver; ~~including, but not limited to:~~

(A) The name, address, license number and phone number of the medical marijuana business that cultivated, manufactured, sold, purchased, or otherwise transferred the medical marijuana or medical marijuana product(s);

(B) The type, item, strain, and category of medical marijuana or medical marijuana product(s) involved in the transaction;

(C) The weight, quantity, or other metric required by the Department, of the medical marijuana or medical marijuana product(s) involved in the transaction;

(D) The batch number of the medical marijuana or medical marijuana product(s);

(E) The total amount spent in dollars;

(F) All point-of-sale records as applicable;

(G) Transportation information documenting the transport of medical marijuana or medical marijuana product(s) as required under OAC 310:681-3-6(b);

(H) Testing results and information;

(I) Waste records and information;

(J) Marijuana excise tax records, if applicable;

(K) RFID tag number(s);

~~(2) Establishes ongoing inventory controls and procedures for the conduct of inventory reviews and comprehensive inventories of medical marijuana and medical marijuana products for traceability which shall enable the licensee to detect any diversion, theft, or loss in a timely manner;~~

~~(3) Identifies and allows for tracking and documentation of the~~ The entire life span of a licensee's stock of medical marijuana and medical marijuana products, including, at a minimum, notifying the Department:

(A) When medical marijuana seeds or clones are planted;

(B) When medical marijuana plants are harvested and/or destroyed;

(C) When medical marijuana is transported, or otherwise transferred, sold, stolen, diverted, or lost;

(D) A complete inventory of all medical marijuana; seeds; plant tissue; clones; usable marijuana;

trim; leaves; other plant matter; and medical marijuana products; When medical marijuana changes form, including, but not limited to, when it is planted, cultivated, processed, and infused into a final form product.

(E) All samples sent to a testing laboratory or used for internal quality testing or other purposes; A complete inventory of all medical marijuana; seeds; plant tissue; clones; usable marijuana; trim; shake; leaves; other plant matter; and medical marijuana products;

(F) All samples sent to a testing laboratory or used for internal quality testing or other purposes;

(4) In event of a serious adverse event or recall, is capable of tracking medical marijuana or medical marijuana product from a patient back to the source of the medical marijuana or medical marijuana product; and

(3)(5) Tracks medical marijuana using an assigned batch number and bar code. Any further information the Department determines is necessary to ensure all medical marijuana and medical marijuana products are accurately and fully tracked throughout the entirety of the life span of the plant and product.

(e) **Seed-to-sale tracking system.** A commercial licensee shall use a seed-to-sale tracking system or integrate its own seed-to-sale tracking system with the State inventory tracking system established by the Department. If a commercial licensee uses a seed-to-sale tracking system that does not integrate with the State inventory tracking system, or does integrate but does not share all required information, the commercial licensee shall ensure all required information is reported directly into the State inventory tracking system.

**Audits.** The Department may perform on-site audits of all research facility and education facility licensees to ensure the accuracy of the research facility's monthly reports and to ensure that all marijuana grown in Oklahoma is accounted for. Submission of an application for a research facility or education facility license constitutes permission for entry to any licensed premises and auditing of the licensee during hours of operation and other reasonable times. Refusal to permit the Department entry or refusal to permit the Department to inspect all books and records shall constitute grounds for the nonrenewal, suspension, or revocation of a license.

(1) The Department may review any and all records and information of a research facility or education facility licensee and may require and conduct interviews with such persons or entities and persons affiliated with such licensees, for the purpose of determining compliance with Department rules and applicable laws. Failure to make documents or other requested information available to the Department and/or refusal to appear or cooperate with an interview shall constitute grounds for nonrenewal, suspension, or revocation of a license, or any other remedy or relief provided under law. All records shall be kept on-site and readily accessible.

(2) Licensees shall comply with all written requests from the Department to produce or provide access to records and information within ten (10) business days.

(3) If the Department identifies a violation of 63 O.S. § 420 et seq., the Oklahoma Medical Marijuana and Patient Protection Act, 63 O.S. § 427.1 et seq.; or these Rules during an audit of the licensee, the Department shall take administrative action against the licensee in accordance with Oklahoma law, including the Oklahoma Administrative Procedures Act, 75 O.S. § 250 et seq.

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

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

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

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

**(f) Inventory Tracking System Requirements.**

(1) At a minimum, commercial licensees shall track, update, and report inventory after each individual sale to the Department in the State inventory tracking system.

(2) All commercial licensees must reconcile all on-premises and in-transit medical marijuana and medical marijuana product inventories each day in the State inventory tracking system at the close of business.

(3) Commercial licensees are required to use RFID tags from a Department-approved supplier for the State Inventory Tracking System. Each Licensee is responsible for the cost of all RFID tags and any associated vendor fees.

(A) A commercial licensee shall ensure its inventories are properly tagged and that a RFID tag is properly assigned to medical marijuana, medical marijuana products, and medical marijuana waste as required by the Department.

(B) A commercial licensee shall ensure it has an adequate supply of RFID tags at all times. If a commercial licensee is unable to account for unused RFID tags, the commercial licensee must report to the Department and the State inventory tracking system vendor within forty-eight (48) hours.

(C) RFID tags must contain the legal name and correct license number of the commercial licensee that ordered them. Commercial licensees are prohibited from using another licensee's RFID tags.

(D) Prior to a plant reaching a point where it is able to support the weight of the RFID tag and attachment strap, the RFID tag may be securely fastened to the stalk or other similarly situated position approved by the Department.

(E) When the plant becomes able to support the weight of the RFID tag, the RFID tag shall be securely fastened to a lower supporting branch. The RFID tag shall remain affixed for the entire life of the plant until disposal.

(F) Mother plants must be tagged before any cuttings or clones are generated therefrom.

(G) If a RFID tag gets destroyed, stolen, or falls off of a medical marijuana plant, the licensee must ensure a new RFID tag is placed on the medical marijuana plant and the change of the RFID tag is properly reflected in the State inventory tracking system.

(H) Commercial licensees shall not reuse any RFID tag that has already been affixed to any regulated medical marijuana or medical marijuana products.

(4) Each wholesale package of medical marijuana must have a RFID tag during storage and transfer and may only contain one harvest batch of medical marijuana.

(5) Prior to transfer, commercial licensees shall ensure that each immature plant is properly affixed with an RFID tag if the plant was not previously tagged in accordance with these rules.

(6) Commercial licensees' inventory must have a RFID tag properly affixed to all medical marijuana products during storage and transfer in one of the following manners:

(A) Individual units of medical marijuana products shall be individually affixed with a RFID tag; or

(B) Medical marijuana products may only be combined in a single wholesale package using one RFID tag if all units are from the same production batch.

(7) If any medical marijuana or medical marijuana products are removed from a wholesale package, each individual unit or new wholesale package must be separately tagged.

(8) All packages of medical marijuana waste shall have a RFID tag affixed and the contents of the waste package shall be reported in the State inventory tracking system.

**(g) Inventory tracking system administrators and users.**

(1) A commercial licensee must have at least one owner, or manager, who is an inventory tracking system administrator.

(2) The inventory tracking system administrator must attend and complete all required inventory tracking system training.

(3) If at any point, the inventory tracking system administrator for a commercial licensee changes, the commercial licensee shall change or assign a new inventory tracking system administrator within three business days.

(4) Commercial licensees shall maintain an accurate and complete list of all inventory tracking system

administrators and employee users.

(5) Commercial Licensees shall ensure that all owners and employees that are granted inventory tracking system account access for the purpose of conducting inventory tracking functions are trained and authorized before the owners or employees may access the State inventory tracking system.

(6) All inventory tracking system users shall be assigned an individual account in the State inventory tracking system.

(7) Any individual entering data into the State inventory tracking system shall only use the inventory tracking system account assigned specifically to that individual. Each inventory tracking system administrator and inventory tracking system user must have unique log-in credentials that shall not be used by any other person.

(8) Within three (3) business days, commercial licensees must remove access for any inventory tracking system administrator or user from their accounts if any such individual no longer utilizes the State inventory tracking system or is no longer employed by the commercial licensee.

(h) **Loss of use of the State inventory tracking system.** If at any time a commercial licensee loses access to the State inventory tracking system due to circumstances beyond the commercial licensee's control, the commercial licensee shall keep and maintain records detailing all inventory tracking activities that were conducted during the loss of access. Once access is restored, all inventory tracking activities that occurred during the loss of access must be immediately entered into the State inventory tracking system. If a commercial licensee loses access to the State inventory tracking system due to circumstances within its control, the commercial licensee may not perform any business activities that would be required to be reported into the State inventory tracking system until access is restored and reporting is resumed; any transfer, sale, or purchase of medical marijuana or medical marijuana products shall be an unlawful sale.

(i) **Audits.** The Department shall perform on-site audits of all commercial licensees to ensure the accuracy of information and data reported to the Department and to ensure that all marijuana grown in Oklahoma is accounted for. Submission of an application for a medical marijuana commercial license constitutes permission for entry to any licensed premises and auditing of the commercial licensee during hours of operation and other reasonable times. Refusal to permit the Department entry or refusal to permit the Department to inspect all books and records shall constitute grounds for the nonrenewal, suspension, or revocation of a license.

(1) The Department may review any and all records and information of a commercial licensee and may require and conduct interviews with such persons or entities and persons affiliated with such licensees, for the purpose of determining compliance with Department rules and applicable laws. Failure to make documents or other requested information available to the Department and/or refusal to appear or cooperate with an interview shall constitute grounds for nonrenewal, suspension, or revocation of a license or any other remedy or relief provided under law. All records shall be kept onsite and readily accessible.

(2) Commercial licensees shall comply with all written requests from the Department to produce or provide access to records and information within ten (10) business days.

(3) If the Department identifies a violation of 63 O.S. § 420 et seq., the Oklahoma Medical Marijuana and Patient Protection Act, 63 O.S. § 427.1 et seq., or these Rules during an audit of the commercial licensee, the Department shall take administrative action against the licensee in accordance with the Oklahoma law, including the Oklahoma Administrative Procedures Act, 75 O.S. § 250 et seq.

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

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

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

(7) If a licensee fails to correct violations within thirty (30) days, the licensee will be subject to a fine of

\$500.00 for each violation and any other administrative action and penalty authorized by law.

**310:681-5-11. Attestation confirming or denying foreign financial interests.**

(a) All licensed medical marijuana businesses shall submit an attestation to the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control ("OBND") confirming or denying the existence of any foreign financial interests in the medical marijuana business in accordance with 63 O.S. § 427.15 and OBND rules and regulations.

(b) The Department shall immediately revoke the medical marijuana business license of any medical marijuana business licensee that fails to submit such attestation to OBND in accordance with the law.

(c) A medical marijuana business that submits a complete and approved attestation to OBND within sixty (60) days of revocation of its license may be eligible to seek reinstatement of its license.

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

(a) No commercial licensee shall allow the consumption of alcohol or the smoking or vaping of medical marijuana or medical marijuana products on the premises.

(b) No commercial licensee shall employ any person under the age of eighteen (18).

(c) No dispensary shall allow for or provide the delivery of medical marijuana or medical marijuana products to licensed patients or caregivers.

(d) No dispensary shall allow any physician to be located, maintain an office, write recommendations, or otherwise provide medical services to patients at the same physical address as a dispensary.

(e) No commercial licensee shall engage in false advertising.

(f) No commercial licensee shall sell or offer to sell medical marijuana products by means of any advertisement or promotion that includes any statement, representation, symbol, depiction, or reference, directly or indirectly, which would reasonably be expected to induce minors to purchase or consume marijuana or medical marijuana products.

(g) No commercial licensee shall falsify or misrepresent any documents, forms, or other materials or information submitted to the Department.

(h) No commercial licensee shall threaten or harm a patient, medical practitioner, or an employee of the Department.

(i) No commercial licensee shall fail to adhere to any acknowledgment, verification, or other representation made to the Department.

(j) No licensee shall operate or otherwise use any extraction equipment or processes utilizing butane, propane, carbon dioxide or any potentially hazardous material in residential property.

(k) Licensees shall only sell or otherwise transfer, purchase, obtain, or otherwise accept the transfer of medical marijuana or medical marijuana products from an Oklahoma-licensed medical marijuana business. No licensee shall purchase or sell medical marijuana or medical marijuana products from any unlicensed or out-of-state individual or entity.

(l) After implementation of the State inventory tracking system, no licensee shall sell or otherwise transfer, purchase, obtain, or otherwise accept the transfer of medical marijuana or medical marijuana products that are not properly inputted and tracked in the State inventory tracking system in accordance with Oklahoma law and regulations.

**SUBCHAPTER 7. PACKAGING, LABELING, AND ADVERTISING**

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

(a) **Prohibition on sale or transfer.** Commercial licensees shall not sell, distribute, or otherwise transfer medical marijuana and medical marijuana products that are not packaged and labeled in accordance with the Oklahoma Medical Marijuana and Patient Protection Act, 63 O.S. § 427.1 et seq., and these Rules.

(b) **Nonacceptance or return.** A dispensary shall refuse to accept or shall return to the licensee transferring medical marijuana or medical marijuana products to the dispensary, any medical marijuana or medical

marijuana products that are not packaged and labeled in accordance with the Oklahoma Medical Marijuana and Patient Protection Act, 63 O.S. § 427.1 et seq., and these Rules. The business licensee who sold or otherwise transferred the nonconforming medical marijuana or medical marijuana products shall accept such return. If circumstances are such that the dispensary cannot return or refuse to accept the nonconforming medical marijuana or medical marijuana products, the dispensary shall dispose of the nonconforming medical marijuana and medical marijuana products in accordance with the Oklahoma Medical Marijuana Waste Management Act, 63 O.S. § 427a et seq., and these Rules.

(c) **Documentation.** A dispensary shall document any such return, nonacceptance, or disposal, and such documentation shall include at a minimum:

- (1) The license number, name, contact information, and address of the licensee who sold or otherwise transferred the nonconforming medical marijuana or medical marijuana products to the dispensary;
- (2) A complete inventory of the medical marijuana and medical marijuana products to be returned or disposed, including the batch number;
- (3) The reason for the nonacceptance, return, or disposal; and
- (4) The date of the nonacceptance, return, or disposal.

(d) **General requirements.** The following general label and packaging requirements, prohibitions, and exceptions shall apply to all medical marijuana and medical marijuana products being transferred or sold to a dispensary or by a dispensary:

- (1) Labels, packages, and containers shall not be attractive to minors and shall not contain any content that reasonably appears to target children, including toys, cartoon characters, and similar images. Packages should be designed to minimize appeal to children and shall not depict images other than the business name logo of the medical marijuana producer and image of the product.
- (2) Packaging must contain a label that reads: "Keep out of reach of children."
- (3) All medical marijuana and medical marijuana products must be packaged in child-resistant containers at the point of sale or other transfer to a patient, a patient's parent or legal guardian if patient is a minor, or a caregiver.
- (4) Label must contain a warning that states "Women should not use marijuana or medical marijuana products during pregnancy because of the risk of birth defects."
- (5) Packages and labels shall not contain any false or misleading statements.
- (6) No medical marijuana or medical marijuana products shall be intentionally or knowingly packaged or labeled so as to cause a reasonable patient confusion as to whether the medical marijuana or medical marijuana product is a trademarked product.
- (7) No medical marijuana or medical marijuana products shall be packaged or labeled in a manner that violates any federal trademark law or regulation.
- (8) Packages and labels shall not make any claims or statements that the medical marijuana or medical marijuana products provide health or physical benefits to the patient.
- (9) Packages and labels shall not contain the logo of the Oklahoma State Department of Health or the Oklahoma Medical Marijuana Authority.

(e) **Label requirements for sales to dispensaries or by dispensaries.**

(1) ~~Medical~~ Labels on medical marijuana and medical marijuana product products labels being transferred or sold to a dispensary or by a dispensary shall contain, at a minimum, the following information:

- (A) ~~The Oklahoma Uniform Symbol in the manner and form prescribed by the Department;~~ The name and license number of the grower or processor who is selling or otherwise transferring the medical marijuana or medical marijuana products to the dispensary;
- (B) ~~THC potency;~~ Name of the medical marijuana or medical marijuana product;
- (C) ~~Terpenoid potency; and~~ The batch number of the medical marijuana or medical marijuana product;
- (D) ~~The statement, "This product has been tested for contaminants."~~ Net quantity or weight of contents;
- (E) Ingredients list;

- (F) The Oklahoma Uniform Symbol in the manner and form prescribed by the Department;
  - (G) THC potency;
  - (H) Terpenoid potency; and
  - (I) The statement, "This product has been tested for contaminants."
- (2) Labels for edible medical marijuana products shall also meet the requirements set forth in OAC 310:681-5-8.1.
- (3) As applicable, RFID tags shall not obscure required label and packaging requirements.

## SUBCHAPTER 8. LABORATORY TESTING

### **310:681-8-3. Sampling requirements and procedures General requirements.**

- (a) Samples must be collected in accordance with OAC 310:681-8-3(a)-(c). Individuals collecting samples are called "Samplers."
- (1) Samplers must:
- (A) Follow the approved ~~sampling policies and standard operating~~ procedures of the laboratory that will be testing the samples collected. ~~Samplers shall have access to a copy of the laboratory's standard operating procedures while they are collecting the samples~~ must be trained on how to collect samples in accordance with the standard operating procedures of the laboratory(ies) that will be conducting the testing on the samples collected and shall have access to a copy of the standard operating procedures while they are collecting the samples; and
  - (B) Follow inventory manifest requirements set forth in these Rules.
- (2) Samplers shall collect samples at the location of the grower or processor.
- (3) A licensed laboratory must either utilize a licensed commercial transporter to transport samples or obtain a commercial transporter license in order to transport samples from the grower or processor to the laboratory.
- (4) All commercial transporters, growers, or processors transporting samples to a laboratory shall be prohibited from storing samples at any location other than the laboratory facility. All samples must be delivered the day of collection.
- (5) Samples shall only be collected from harvest batches and production batches in final form. For purpose of this Subsection, "final form" means the form medical marijuana or a medical marijuana product is in when sold or transferred.
- (6) The sampler shall collect both a primary sample and a reserve sample from each harvest batch and production batch. The sample shall be clearly and conspicuously labeled and the label shall include at least the following information:
- (A) Whether the sample is "Primary Sample" or "Reserve Sample";
  - (B) Name and license number of grower or processor from whom the sample was taken; and
  - (C) The batch number of harvest batch or production batch from which the sample was taken.
- (7) The primary sample and reserve sample shall be stored and analyzed separately. The reserve sample is used for quality control purposes only.
- (8) Samples shall be transported and subsequently stored at the laboratory in a manner that prevents degradation, contamination, and tampering. If the medical marijuana or medical marijuana product specifies on the label how the product shall be stored, the laboratory shall store the sample as indicated on the label.
- (9) The sampler shall create and use a sample field log to record the following information for each sample:
- (A) Laboratory's name, address, and license number;
  - (B) ~~Sampler's name(s) and title(s) and the names of others onsite~~ Title and version of the laboratory's standard operating procedure(s) followed when collecting the sample;
  - (C) ~~Date and time sampling started and ended~~ Sampler's name(s) and title(s) and the names of others onsite;

- (D) ~~Grower's or processor's name, address, and license number~~ Date and time sampling started and ended;
- (E) ~~Batch number of the batch from which the sample was obtained~~ Grower's or processor's name, address, and license number;
- (F) ~~Sample matrix~~ Batch number of the batch from which the sample was obtained;
- (G) ~~Total batch size, by weight or unit count~~ Total weight or unit count;
- (H) ~~Total weight or unit count of the primary sample~~ Total batch size, by weight or unit count;
- (I) ~~Total weight or unit count of the reserve sample~~ Total weight or unit count of the primary sample;
- (J) ~~The unique sample identification number for each sample~~ Total weight or unit count of the reserve sample;
- (K) ~~Name, business address, and license number of the person who transports the samples to the laboratory~~ The unique sample identification number for each sample;
- (L) ~~Requested analyses~~ Name, business address, and license number of the person who transports the samples to the laboratory;
- (M) ~~Sampling conditions, including temperature~~ Requested analyses;
- (N) ~~Problems encountered and corrective actions taken during the sampling process, if any; and~~ Sampling conditions, including temperature;
- (O) ~~Any other observations from sampling, including major inconsistencies in the medical marijuana color, size, or smell.~~ Problems encountered and corrective actions taken during the sampling process, if any; and
- (P) ~~Any other observations from sampling, including major inconsistencies in the medical marijuana color, size, or smell.~~
- (10) The laboratory shall maintain inventory manifest documentation listed in OAC 310:681-3-6 and utilize an electronic inventory management system that meets the requirements set forth in OAC 310:681-5-6(d) for each sample that the laboratory collects, transports, and analyzes.
- (11) ~~A laboratory must maintain the documentation required in these rules for at least two (2) years and must provide that information to the Department upon request~~ Commercial licensees shall document all employee training on a testing laboratory's standard operating procedures.
- (12) Commercial licensees must maintain the documentation required in these rules for at least two (2) years and must provide that information to the Department upon request.
- (b) **Sample size.**
- (1) To obtain a representative sample of a harvest batch, a total of 0.5% of the batch is collected from different areas of the batch following the laboratory's approved protocol. The sample is then homogenized and aliquoted into a primary sample and reserve sample, which shall be equal in amounts. The primary sample and reserve sample shall be in the amounts specified in the laboratory's standard operating procedure. Any amounts left over after aliquoting may be returned to the harvest batch.
- (2) To obtain a representative sample of a processed batch that is well mixed or homogeneous by its nature, obtain an amount sufficient to be aliquoted into a primary sample and a reserve sample, which shall be equal in amounts. If the batch is of not homogeneous or is of unknown homogeneity, then 0.5% of the batch shall be collected from different portions of the batch following the laboratory's approved protocol. The sample is then homogenized and aliquoted into a primary sample and reserve sample, which shall be equal in amounts. The primary sample and reserve sample shall be in the amounts specified in the laboratory's standard operating procedure. Any amounts left over after aliquoting may be returned to the harvest batch.
- (c) **Sampling standard operating procedures.**
- (1) Samples collected must be representative of the entire batch to ensure accurate microbiological analysis and foreign material assessments.
- (2) Sample protocol shall be approved by the laboratory director. The laboratory shall develop and implement written sampling policies and procedures that are appropriate for each test method and each type of matrix to be tested and that are consistent with these regulations. Sampling procedures must



describe the laboratory's method for collection, preparation, packaging, labeling, documentation, and transport of samples from each matrix type the laboratory tests.

(3) The sampling standard operating procedures (SOP) shall include at least the following information:

(A) A step-by-step guide for obtaining samples from each matrix type the laboratory samples;

(B) Protocols for ensuring that contaminants are not introduced during sampling, including protocols relating to the sanitizing of equipment and tools, protective garb, and sampling containers;

(C) Accepted test sample types;

(D) Minimum test sample size;

(E) Recommended test sample containers;

(F) Test sample labeling;

(G) Transport and storage conditions, such as refrigeration, as appropriate to protect the physical and chemical integrity of the sample;

(H) Other requirements, such as use of preservatives, inert gas, or other measures designed to protect sample integrity; and

(I) Chain-of-custody documentation for each sample in accordance with OAC 310:681-5-6.

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

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

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

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

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

~~(3) Any portion of a medical marijuana product test sample that is not destroyed during analysis shall be.~~ Reserve samples shall be maintained and properly stored by the laboratory for at least thirty (30) days.

(4) After the required thirty (30) day storage period, any portion of a medical marijuana or medical marijuana product test sample that is not destroyed during analysis shall be:

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

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

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

(e) **Data reporting.**

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

(2) The laboratory shall issue the COA to the requester within two (2) business days after technical and administrative review of analysis has been completed. A laboratory shall not withhold a COA reporting a failed test from the requester for any reason.

~~(3) The COA~~ All COAs, whether in paper or electronic form, shall contain, at minimum, the following information:

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

(B) If the laboratory sends a sample to another laboratory for testing, the reference laboratory must be identified as having performed that test;

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

(D) The description of the type or form of the test sample (leaf, flower, powder, oil, specific edible

- product, etc.) and its total primary sample weight in grams, reported to the nearest gram;
- (E) The unique sample identifier;
- (F) Batch number of the batch from which the sample was obtained;
- (G) Sample history, including the date collected, the date received by the laboratory, and the date(s) of sample analyses and corresponding testing results, including units of measure where applicable;
- (H) The analytical methods used, including at a minimum identification of the type of analytical equipment used (e.g., GC, HPLC, UV, etc.);
- (I) The reporting limit for each analyte tested;
- (J) Any compounds detected during the analyses of the sample that are not among the targeted analytes and are unknown, unidentified, tentatively identified or known and injurious to human health if consumed, if any;
- (K) The identity of the supervisory or management personnel who reviewed and verified the data and results and ensured that data quality, calibration, and other applicable requirements were met; and
- (L) Definitions of any abbreviated terms.
- (4) The laboratory shall report test results for each primary sample on the COA as follows:
- (A) When reporting quantitative results for each analyte, the laboratory shall use the appropriate units of measurement as required under this chapter and indicate "pass" or "fail";
- (B) When reporting qualitative results for each analyte, the laboratory shall indicate "pass" or "fail";
- (C) ~~When reporting results for any analytes that were detected below the analytical method limit of quantitation (LOQ), indicate "Pass" and "Fail" must be clear, conspicuous, and easily identifiable in a font size no less than the size of 12 pt font in Times New Roman and shall not be in fine print or footnotes;~~
- (D) ~~Indicate "NT" for not tested for any test that the laboratory did not perform. When reporting results for any analytes that were detected below the analytical method limit of quantitation (LOQ), indicate "<LOQ" and list the results for analytes that were detected above the LOQ but below the allowable limit; and~~
- (E) Indicate "NT" for not tested for any test that the laboratory did not perform.
- (5) Upon detection of any compounds during the analyses of the sample that are not among the targeted analytes and are unknown, unidentified, tentatively identified, or known and injurious to human health if consumed, laboratories shall notify the Department immediately and shall submit to the Department a copy of the COA containing those compounds as required in OAC 310:681-8-3(e)(3)(I). The Department may require a processor or grower to submit samples for additional testing, including testing for analytes that are not required by these Rules, at the licensee's expense.
- (6) When a laboratory determines that a harvest batch or production batch has failed any required testing, the laboratory shall immediately notify the Department in the manner and form prescribed by the Department on its website and shall submit a copy of the COA to the Department within two (2) business days. Submission of this information to the Department through the seed-to-sale tracking system established by the Department or a seed-to-sale tracking system that integrates with the Department-established system shall be sufficient to satisfy this reporting requirement.

## SUBCHAPTER 9. WASTE DISPOSAL FACILITIES

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

- (a) No person or entity shall operate a medical marijuana waste disposal facility without first obtaining a license from the Department pursuant to the Oklahoma Medical Marijuana Waste Management Act, 63 O.S. § 427a et seq., other applicable Oklahoma law, including regulations of the Oklahoma Department of Environmental Quality, and the Rules in this Chapter. Only a person who is in compliance with the requirements of Oklahoma law and these Rules shall be entitled to receive or retain such a license or permit.
- (b) The Department shall not, ~~for the first year of the licensure program, until November 1, 2021, issue~~

more than ten (10) waste disposal facility licenses. The Department shall have the authority to develop and utilize criteria, standards, and preferred qualifications for the selection of licensees and timing of licensure as it deems appropriate and reasonable. Beginning November 1, 2021, there shall be no limit to the number of medical marijuana waste disposal licenses issues by the Department.

(c) All license and permit applications shall be complete and accurate in every detail, shall include all attachments or supplemental information required by the forms supplied by the Department, and shall be accompanied by full remittance of the entire application fee. Any misstatements, omissions, misrepresentations, or untruths made in the application shall be grounds for administrative action against the licensee by the Department.

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

(e) Application fees are nonrefundable.

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

### **310:681-9-2. Licenses and permits**

(a) **Timeframe.** Waste disposal facility licenses and permits shall be issued for a twelve (12) month period expiring one (1) year from the date of issuance. The license or permit may be issued upon receipt of a completed application, payment of application fee, and verification by the Department the individual or entity complies with the requirements set forth in Oklahoma law and this Chapter.

(b) **Location.** Waste disposal facility licenses and permits shall only be valid for a single location at the address listed on the application.

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

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

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

(3) The Department may refuse to renew a license or permit of a medical marijuana waste facility for the following:

(A) Failure to meet the requirements for licensure or permits set forth in the Oklahoma Medical Marijuana Waste Management Act, 63 O.S. § 427a et seq., or OAC 310:681.

(B) Noncompliance with 63 O.S. § 420 et seq.; the Oklahoma Medical Marijuana and Patient Protection Act, 63 O.S. § 427.1 et seq.; the Oklahoma Medical Marijuana Waste Management Act, 63 O.S. § 427a et seq.; or OAC 310:681.

(4) Upon the determination that a licensee has not met the requirements for renewal, the Department shall provide written notice to the licensee. The notice shall provide an explanation for the denial of the renewal application.

(d) **Disposal of waste upon termination of license/permit.**

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

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

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

(B) Transfer such medical marijuana waste to another permitted location belonging to the same

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

**(e) Change in information.**

(1) Licensee shall notify the Department in writing within fourteen (14) days of any changes in contact information by electronically submitting a change request in accordance with the Department's instructions.

(2) Licensees shall obtain Department approval prior to any changes that affect the licensee's qualifications to receive a license or permit. Licensees shall notify the Department in writing in advance of any change that may affect the licensee's qualifications for licensure by electronically submitting a change request, along with any relevant documentation, in accordance with the Department's instructions. Except as is otherwise authorized by the Department, licensees are limited to one location change request and one ownership change request per year of licensure.

(A) Medical marijuana waste licensees submitting a location change for any licensed or permitted location must provide the information and documentation required in OAC 310:681-9-4 relating to locations, including but not limited to the following:

(i) Proof as required in OAC 310:681-9-4(c)(1) that the location of the waste facility is at least one thousand (1,000) feet from any public or private school; and

(ii) Any further documentation the Department determines is necessary to ensure the business licensee is still qualified under Oklahoma law and this Chapter to obtain a business license.

(B) Medical marijuana business licensees submitting an ownership change request must provide the information and documentation required in OAC 310:681-9-3 relating to owners, including but not limited to the following:

(i) An list of all owners and principal officers of the commercial applicant and supporting documentation as set forth in OAC 310:681-9-3(e)(1);

(ii) An affidavit of lawful presence for each new owner;

(iii) Documents required under OAC 310:681-9-3(e)(5) establishing that the applicant; and the members, managers, and board members if applicable; and seventy-five percent (75%) of the commercial applicant's ownership interests are Oklahoma residents as required in the Oklahoma Medical Marijuana and Patient Protection Act, 63 O.S. § 427.1 et seq.;

(iv) Background checks in accordance with OAC 310:681-1-5; and

(v) Any further documentation the Department determines is necessary to ensure the business licensee is still qualified under Oklahoma law and this Chapter to obtain a business license.

**(f) Transfer of license or permit.**

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

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

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

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

**310:681-9-3. License applications**

(a) **Application fee.** An applicant for a waste disposal facility license, or renewal thereof, shall submit to the Department a completed application on a form and in a manner prescribed by the Department, along with the application fee as established in 63 O.S. § 420 et seq. and the Oklahoma Medical Marijuana Waste Management Act, 63 O.S. § 427a et seq.

(b) **Submission.** The application shall be on the Department prescribed form and shall include the following information about the establishment:

(1) Name of the establishment;

- (2) Physical address of the establishment, including the county in which any licensed premises will be located;
  - (3) GPS coordinates of the establishment;
  - (4) Phone number and email of the establishment;
  - (5) Hours of operation for any licensed premises;
  - (6) Type of waste facility; and
  - (7) Proposed number and location of additional waste disposal facilities associated with the applicant.
- (c) **Individual applicant.** The application for a waste disposal facility license made by an individual on his or her own behalf shall be on the Department prescribed form and shall include at a minimum:
- (1) The applicant's first name, middle name, last name, and suffix if applicable;
  - (2) The applicant's residence address and valid mailing address;
  - (3) The applicant's date of birth;
  - (4) The applicant's telephone number and email address;
  - (5) An attestation that the information provided by the applicant is true and correct;
  - (6) An attestation that any licensed premises shall not be located on tribal lands; and
  - (7) A statement signed by the applicant pledging not to divert marijuana to any individual or entity that is not lawfully entitled to possess marijuana.
- (d) **Application on behalf of an entity.** In addition to requirements of Subsection (c), an application for a waste facility license made by an individual on behalf of an entity shall include:
- (1) An attestation that applicant is authorized to make application on behalf of the entity;
  - (2) Full name of organization;
  - (3) Trade name, if applicable;
  - (4) Type of business organization;
  - (5) Mailing address;
  - (6) Telephone number and email address; and
  - (7) The name, residence address, and date of birth of each owner and each member, manager, and board member, if applicable.
- (e) **Supporting documentation.** Each application shall be accompanied by the following documentation:
- (1) A list of all persons and/or entities that have an ownership interest in the entity;
  - (2) A certificate of good standing from the Oklahoma Secretary of State, if applicable;
  - (3) An Affidavit of Lawful Presence for each owner;
  - (4) Proof that the proposed location of the waste disposal facility is a least one thousand (1,000) feet from a public or private school. The distance specified shall be measured from any entrance of the school to the nearest ~~property line point~~ front entrance of the facility;
  - (5) Documents establishing the applicant, the members, managers, and board members, if applicable, and seventy-five percent (75%) of the ownership interests are Oklahoma residents as established in 63 O.S. § 420 et seq., and OAC 310:681-1-6 (relating to proof of residency);
  - (6) Proof of sufficient liability insurance. Liability insurance or a letter of insurability from the insurance company shall be provided by the applicant and shall apply to sudden and non-sudden bodily injury and property damage on, below, and above the surface of the facility. Such insurance shall be maintained for the period of operation of the facility during operation and after closing. Sufficient liability insurance means that the licensee shall maintain at all times insurance coverage with at least the following minimum limits:
    - (A) Commercial General Liability: \$5,000,000.00 each occurrence;
    - (B) Pollution Legal Liability: \$5,000,000.00 each occurrence;
  - (7) Relevant waste permit(s) from the Oklahoma Department of Environmental Quality or the Oklahoma Department of Agriculture; and
  - (8) Any further documentation the Department determines is necessary to ensure the applicant is qualified under Oklahoma law and this Chapter to obtain a waste disposal facility license.
- (f) **Incomplete application.** Failure to submit a complete application with all required information and documentation shall result in a rejection of the application. The Department shall notify the applicant via

email through the electronic application account of the reasons for the rejection.

#### **310:681-9-4. Permit applications**

(a) **Application fee.** An applicant for a waste disposal facility permit, or renewal thereof, shall submit to the Department a completed application on a form and in a manner prescribed by the Department, along with the application fee as established in 63 O.S. § 420 et seq. and the Oklahoma Medical Marijuana Waste Management Act, 63 O.S. § 427a et seq. A waste disposal facility permit application shall be submitted after and associated with an approved waste disposal facility license application.

(b) **Submission.** The application shall be on the Department prescribed form and shall include the following information about the establishment:

- (1) Name and license number of the waste disposal facility licensee associated with the permit;
- (2) Physical address of the establishment, including the county in which any licensed premises will be located;
- (3) GPS coordinates of the establishment;
- (4) Phone number and email of the establishment;
- (5) Hours of operation of the establishment.
- (6) Mailing address of the establishment;
- (7) An attestation that the information provided by the applicant is true and correct;
- (8) An attestation that any licensed premises shall not be located on tribal lands;
- (9) A statement signed by the applicant pledging not to divert marijuana to any individual or entity that is not lawfully entitled to possess marijuana; and
- (10) An attestation that applicant is authorized to make application on behalf of the entity.

(c) **Supporting documentation.** Each application shall be accompanied by the following documentation:

- (1) Proof that the proposed location of the waste disposal facility is a least one thousand (1,000) feet from a public or private school. The distance specified shall be measured from any entrance of the school to the nearest ~~property line point~~ front entrance of the disposal facility;
- (2) Proof of sufficient liability insurance. Liability insurance shall be provided by the applicant and shall apply to sudden and nonsudden bodily injury and property damage on, below, and above the surface of the facility. Such insurance shall be maintained for the period of operation of the facility and shall provide coverage for damages resulting from operation of the facility during operation and after closing. Sufficient liability insurance means that the licensee shall maintain at all times insurance coverage with at least the following minimum limits:
  - (A) Commercial General Liability: \$5,000,000.00;
  - (B) Pollution Legal Liability: \$5,000,000.00 each occurrence;
- (3) Relevant waste permit(s) from the Oklahoma Department of Environmental Quality; and
- (4) Any further documentation the Department determines is necessary to ensure the commercial applicant is qualified under Oklahoma law and this Chapter to obtain a waste disposal facility license.

(d) **Incomplete application.** Failure to submit a complete application with all required information and documentation shall result in a rejection of the application. The Department shall notify the applicant via email through the electronic application account of the reasons for the rejection.

#### **310:681-9-7. Audits and inventory**

(a) **Audits.** The Department may perform on-site audits of all waste disposal facility licensees and permitted locations to ensure that all marijuana grown in Oklahoma is accounted for. Submission of an application for a medical marijuana waste disposal facility license constitutes permission for entry to any licensed premises and auditing of the licensee during hours of operation and other reasonable times. Refusal to permit the Department entry or refusal to permit the Department to inspect all books and records shall constitute grounds for the nonrenewal, suspension, or revocation of a license or permit.

- (1) The Department may review any and all records and information of a waste disposal facility licensee and may require and conduct interviews with such persons or entities and persons affiliated

with such licensees, for the purpose of determining compliance with Department rules and applicable laws. Failure to make documents or other requested information available to the Department and/or refusal to appear or cooperate with an interview shall constitute grounds for nonrenewal, suspension, or revocation of a license or any other remedy or relief provided under law. All records shall be kept on-site and readily accessible.

(2) Waste disposal facility licensees shall comply with all written requests from the Department to produce or provide access to records and information within ten (10) business days.

(3) If the Department identifies a violation of the Oklahoma Medical Marijuana Waste Management Act, 63 O.S. § 427a et seq., other applicable Oklahoma law, or these Rules during an audit of the licensee, the Department shall take administrative action against the licensee in accordance with the Oklahoma law, including the Oklahoma Administrative Procedures Act, 75 O.S. § 250 et seq.

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

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

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

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

(b) **Inventory tracking system.** ~~Each waste disposal facility Pursuant to 63 O.S. § 427.3(D)(8) and 63 O.S. § 427.13(B), each commercial licensee shall use the seed-to-sale State inventory established by the Department or a seed-to-sale tracking system that integrates with the Department established system at the time of its implementation by inputting inventory tracking data required to be reported to the Department directly into the State inventory tracking system or by utilizing a seed-to-sale tracking system that integrates with the State inventory tracking system. All commercial licensees must have an inventory tracking system account activated to lawfully operate and must ensure all information is reported to the Department accurately and in real time or after each individual sale in accordance with 63 O.S. § 427.13(B)(1) and these Rules. The system utilized by each licensee shall be a system that:~~ All commercial licensees shall ensure the following information and data are accurately tracked and timely reported to the Department through the State inventory tracking system:

(1) ~~Documents the~~ The chain of custody of all medical marijuana and medical marijuana products, including every transaction with another commercial licensee; ~~patient or caregiver, including, but not limited to:~~

(A) The name, address, license number and phone number of the medical marijuana business that cultivated, manufactured, sold, purchased, or otherwise transferred the medical marijuana or medical marijuana product(s);

(B) The type, item, strain, and category of medical marijuana or medical marijuana product(s) involved in the transaction;

(C) The weight, quantity, or other metric required by the Department, of the medical marijuana or medical marijuana product(s) involved in the transaction;

(D) The batch number of the medical marijuana or medical marijuana product(s);

(E) The total amount spent in dollars;

(F) All point-of-sale records as applicable;

(G) Transportation information documenting the transport of medical marijuana or medical marijuana product(s) as required under OAC 310:681-3-6(b);

(H) Testing results and information;

(I) Waste records and information;

(J) Marijuana excise tax records, if applicable;

(K) RFID tag number(s);

(2) ~~Establishes ongoing inventory controls and procedures for the conduct of inventory reviews and comprehensive inventories of medical marijuana and medical marijuana products for traceability which shall enable the licensee to detect any diversion, theft, or loss in a timely manner;~~

(3) ~~Identifies and allows for tracking and documentation of the~~ The entire life span of a licensee's stock of medical marijuana and medical marijuana products, including, at a minimum, notifying the Department:

(A) ~~when~~ When medical marijuana seeds or clones are planted;

(B) ~~when~~ When medical marijuana plants are harvested and/or destroyed;

(C) ~~when~~ When medical marijuana is transported, or otherwise transferred, sold, stolen, diverted, or lost;

(D) ~~a complete inventory of all medical marijuana; seeds; plant tissue; clones; usable marijuana; trim; leaves; other plant matter; and medical marijuana products~~ When medical marijuana changes form, including, but not limited to, when it is planted, cultivated, processed, and infused into a final form product;

(E) ~~all samples sent to a testing laboratory or used for internal quality testing or other purposes~~ A complete inventory of all medical marijuana; seeds; plant tissue; clones; usable marijuana; trim; shake; leaves; other plant matter; and medical marijuana products; and

(F) All samples sent to a testing laboratory or used for internal quality testing or other purposes;

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

(3) Any further information the Department determines is necessary to ensure all medical marijuana and medical marijuana products are accurately and fully tracked throughout the entirety of the life span of the plant and product.

**(c) Seed-to-sale tracking system.** A commercial licensee shall use a seed-to-sale tracking system or integrate its own seed-to-sale tracking system with the State inventory tracking system established by the Department. If a commercial licensee uses a seed-to-sale tracking system that does not integrate with the State inventory tracking system, or does integrate but does not share all required information, the commercial licensee shall ensure all required information is reported directly into the State inventory tracking system.

**(d) Inventory tracking system requirements.**

(1) At a minimum, commercial licensees shall track, update and report its inventory after each individual sale to the Department in the State inventory tracking system.

(2) All commercial licensees must reconcile all on-premises and in-transit medical marijuana and medical marijuana product inventories each day in the State inventory tracking system at the close of business.

(3) Commercial licensees are required to use RFID tags from a Department-approved supplier for the State Inventory Tracking System. Each Licensee is responsible for the cost of all RFID tags and any associated vendor fees.

(A) A commercial licensee shall ensure its inventories are properly tagged and that a RFID tag is properly assigned to medical marijuana, medical marijuana products, and medical marijuana waste as required by the Department.

(B) A commercial licensee shall ensure it has an adequate supply of RFID tags at all times. If a commercial licensee is unable to account for unused RFID tags, the commercial licensee must report to the Department and the State inventory tracking system vendor within forty-eight (48) hours.

(C) RFID tags must contain the legal name and correct license number of the commercial licensee that ordered them. Commercial licensees are prohibited from using another licensee's RFID tags.

(D) Prior to a plant reaching a point where it is able to support the weight of the RFID tag and attachment strap, the RFID tag may be securely fastened to the stalk or other similarly situated position approved by the Department.

(E) When the plant becomes able to support the weight of the RFID tag, the RFID tag shall be securely fastened to a lower supporting branch. The RFID tag shall remain affixed for the entire life



of the plant until disposal.

(F) Mother plants must be tagged before any cuttings or clones are generated therefrom.

(G) If a RFID tag gets destroyed, stolen, or falls off of a medical marijuana plant, the licensee must ensure a new RFID tag is placed on the medical marijuana plant and the change of the RFID tag is properly reflected in the State inventory tracking system.

(H) Commercial licensees shall not reuse any RFID tag that has already been affixed to any regulated medical marijuana or medical marijuana products.

(4) Each wholesale package of medical marijuana must have a RFID tag during storage and transfer and may only contain one harvest batch of medical marijuana.

(5) Prior to transfer, commercial licensees shall ensure that each immature plant is properly affixed with an RFID tag if the plant was not previously tagged in accordance with these rules.

(6) Commercial licensees' inventory must have a RFID tag properly affixed to all medical marijuana products during storage and transfer in one of the following manners:

(A) Individual units of medical marijuana products shall be individually affixed with a RFID tag; or

(B) Marijuana products may only be combined in a single wholesale package using one RFID tag if all units are from the same production batch.

(7) If any medical marijuana or medical marijuana products are removed from a wholesale package, each individual unit or new wholesale package must be separately tagged.

(8) All packages of medical marijuana waste shall have a RFID tag affixed and the contents of the waste package shall be reported in the State inventory tracking system.

**(e) Inventory tracking system administrators and users.**

(1) The inventory tracking system administrator must attend and complete all required inventory tracking system training.

(2) If at any point, the inventory tracking system administrator for a licensee changes, the commercial licensee shall change or assign a new inventory tracking system administrator within three business days.

(3) Commercial licensees shall maintain an accurate and complete list of all inventory tracking system administrators and employee users.

(4) Commercial Licensees shall ensure that all owners and employees that are granted inventory tracking system account access for the purpose of conducting inventory tracking functions are trained and authorized before the owners or employees may access the State inventory tracking system.

(5) All inventory tracking system users shall be assigned an individual account in the State inventory tracking system.

(6) Any individual entering data into the State inventory tracking system shall only use the inventory tracking system account assigned specifically to that individual. Each inventory tracking system administrator and inventory tracking system user must have unique log-in credentials that shall not be used by any other person.

(7) Within three (3) business days, commercial licensees must remove access for any inventory tracking system administrator or user from their accounts if any such individual no longer utilizes the State inventory tracking system or is no longer employed by the commercial licensee.

**(f) Loss of access to State inventory tracking system.** If at any time a commercial licensee loses access to the State inventory tracking system due to circumstances beyond the commercial licensee's control, the commercial licensee shall keep and maintain records detailing all inventory tracking activities that were conducted during the loss of access. Once access is restored, all inventory tracking activities that occurred during the loss of access must be immediately entered into the State inventory tracking system. If a commercial licensee loses access to the inventory tracking system due to circumstances within its control, the commercial licensee may not perform any business activities that would be required to be reported into the State inventory tracking system until access is restored and reporting is resumed; any transfer, sale, or purchase of medical marijuana or medical marijuana products would be an unlawful sale.