



# MEDICAL MARIJUANA AND THE BUSINESS COMMUNITY

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VICE PRESIDENT GOVERNMENT AFFAIRS

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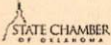
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## Who We Are

- The State Chamber of Oklahoma represents over 1,500 businesses and their 350,000 employees across the state.
- We advocate for pro-business policies at the legislative, executive, and judicial branches.
- Our interest stems from concerns brought to us by companies who employ thousands of Oklahomans.



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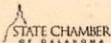
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## Overview

- Businesses need certainty
- Oklahoma's new medical marijuana laws lack the framework needed to provide safe workplaces for both Oklahoma workers and employers
- Ideal solution(s):
  - Immediate Legislative guidance
  - Extend the implementation date



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### Immediate Concerns

- New Protected Class of Workers Created
- SQ788:
  - Outlawed discrimination in hiring, termination or imposing any term or condition of employment or otherwise penalizing a person based upon either:
    - Status as a medical marijuana license holder, or
    - Positive drug test for marijuana or its components
- Solution:
  - The legislature must act to protect employers




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### Addressing Safety Sensitive J

- Change the statute to address safety-sensitive positions:
  - No employer may refuse to hire, discipline, discharge, or otherwise penalize an applicant or employee solely on the basis of a positive test for marijuana...unless:
    - The position is one involving safety-sensitive job duties.
- Address Workers' Compensation (forward looking):
  - No employer or insurer will be required to reimburse a person for "costs associated with the use of medical marijuana"




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### Precedent Across the U.S.

- States with legalized medical marijuana all run their programs differently, but there are 9 states with language similar to Oklahoma's.
- On October 4<sup>th</sup>, a federal judge in Connecticut held in favor of an employee who sued her employer for discrimination.




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### Lawsuit Potential

- Due to the lack of clarity along with language that conflicts with current state law, this new statute makes Oklahoma businesses vulnerable to expensive lawsuits that may or may not be meritorious.
- Solution:
  - Legislatively create a private cause of action under the existing framework of the Oklahoma Standards for Workplace Drug and Alcohol Testing Act.




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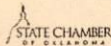
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### Make it Medical

- By listening to medical experts and adding qualifying conditions to the statute, our medical marijuana program will be on par with other states including Colorado, California, and Arkansas.
- Solution:
  - Provide a list of qualifying conditions in statute.




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### Long Term Solutions Needed

- There are several other areas of concern that will inevitably require legislative guidance in Oklahoma as we've seen in other states:
  - Workers' Compensation,
  - Unemployment Compensation,
  - Property Owners' Rights, and
  - Taxation
- Banking issues will require federal guidance, but are extremely important to the business community nonetheless.




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### Legislative Changes

- No changes have been made since SQ788 passed
- Legislative working group has heard from experts including:
  - Pro-medical marijuana advocacy groups
  - Oklahoma State Department of Health
  - District Attorneys' Council
  - Bureau of Narcotics (OBNDD)
  - State Chamber of Oklahoma
  - Oklahoma State Medical Association




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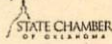
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### Legislative Changes

- Changes we want to see:
  - Employment protections
  - Local control
  - Qualifying medical conditions
  - Quality control standards
    - Laboratory testing of products
    - Packaging & Labeling
  - Clear of conflicting law regarding criminal law aspect




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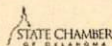
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### Regulatory Changes

- The OSDH promulgated rules on August 1<sup>st</sup>
- Their authority is very limited based on what was included in SQ788 (now Title 63, Sections 420A et seq.)
- They oversee the Oklahoma Medical Marijuana Authority (OMMA), which is the agency that receives & grants or rejects applications for patient and business licenses.




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### OSDH Rules 310:681

- Outlines requirements for each type of license: patient, caregiver, temporary (out-of-state patient), transportation, and commercial
- Growers & dispensaries are not subject to inspection by the OMMA
- Commercial licenses may not be transferred & expire one year after the date of issuance
- Minors may not enter dispensaries unless they are patient license holders accompanied by their legal guardian




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Should a Pharmacist to be on site at each dispensary?

Should license holders be required to obtain property owner's written permission for homegrow?

Should there be a restriction on smokable marijuana?

Should there be a limitation on THC content?

Permanent rulemaking will occur before April 1, 2019 when rules must be submitted to the legislature

### Public Health Concerns & Questions

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### Inter-Agency Concerns & Recommendations

- Prohibit homegrow
- Prohibit smokable marijuana
- Establish criminal penalties for dispensing or giving medical marijuana to non-licensed individuals
- Require qualifying conditions for patient licenses
- Include physician training requirements
- Increase application fees and establish a separate license fee
- Reduce possession limits (after 788, ours are 6.5 times the felony limit in Colorado).

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**What's Next?**

- The legislature will begin its next session with around 55 new members in February
- The OSDH and other agencies are looking to the legislature to create some legislation that will allow them to regulate this new industry
- There are lawsuits pending and there are sure to be more



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