

**SENATE CHAMBER**  
**STATE OF OKLAHOMA**

DISPOSITION

FLOOR AMENDMENT

No. \_\_\_\_\_

\_\_\_\_\_

COMMITTEE AMENDMENT

\_\_\_\_\_

(Date)

Mr./Madame President:

I move to amend House Bill No. 2613, by substituting the attached floor substitute for the title, enacting clause and entire body of the measure.

Submitted by:

\_\_\_\_\_  
Senator Paxton

Paxton-DC-FS-Req#2253  
4/23/2019 5:08 PM

(Floor Amendments Only) Date and Time Filed: \_\_\_\_\_

Untimely

Amendment Cycle Extended

Secondary Amendment

1 STATE OF OKLAHOMA

2 1st Session of the 57th Legislature (2019)

3 FLOOR SUBSTITUTE  
4 FOR ENGROSSED

5 HOUSE BILL NO. 2613

By: Fetgatter and Echols of the  
House

6 and

7 Paxton of the Senate

8  
9 FLOOR SUBSTITUTE

10 [ medical marijuana - definitions - recommending  
11 physicians - professions and occupations -  
codification -

emergency ]

12  
13  
14 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

15 SECTION 1. AMENDATORY Section 2 of Enrolled House Bill  
16 No. 2612 of the 1st Session of the 57th Oklahoma Legislature, is  
17 amended to read as follows:

18 Section 2. As used in this act:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 conditions or provisions of the act, any rules  
2 promulgated pursuant thereto, or any supplemental  
3 relevant state or local law, rule or regulation,

4 b. the licensee or applicant has failed to comply with  
5 any special terms or conditions that were placed upon  
6 the license pursuant to an order of the State  
7 Department of Health, Oklahoma Medical Marijuana  
8 Authority or the municipality, or

9 c. the licensed premises of a medical marijuana business  
10 or applicant have been operated in a manner that  
11 adversely affects the public health or welfare or the  
12 safety of the immediate vicinity in which the  
13 establishment is located;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

1 genus Cannabis, including dead plants and all unused plant parts and  
2 roots;

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

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

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

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

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

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

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

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

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

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

8 50. "Production batch" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3       64. "Test batch" means with regard to usable marijuana, a  
4 homogenous, identified quantity of usable marijuana by strain that  
5 is harvested during a seven-day period from a specified cultivation  
6 area, and with regard to oils, vapors and waxes derived from usable  
7 marijuana, means an identified quantity that is uniform, that is  
8 intended to meet specifications for identity, strength and  
9 composition, and that is manufactured, packaged and labeled during a  
10 specified time period according to a single manufacturing, packaging  
11 and labeling protocol;

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

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

19       67. "Usable marijuana" means the dried leaves, flowers, oils,  
20 vapors, waxes and other portions of the marijuana plant and any  
21 mixture or preparation thereof, excluding seed, roots and stalks;  
22 and

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1       68. "Water-based medical marijuana concentrate" means a  
2 concentrate that was produced by extracting cannabinoids from  
3 medical marijuana through the use of only water, ice, or dry ice.

4       SECTION 2.       AMENDATORY       Section 10 of Enrolled House Bill  
5 No. 2612 of the 1st Session of the 57th Oklahoma Legislature, is  
6 amended to read as follows:

7       Section 10. A. Only licensed Oklahoma allopathic ~~and,~~  
8 osteopathic and podiatric physicians may provide a medical marijuana  
9 recommendation for a medical marijuana patient license under this  
10 act.

11       B. A physician who has not completed his or her first residency  
12 shall not meet the definition of "physician" under this section and  
13 any recommendation for a medical marijuana patient license shall not  
14 be processed by the Authority.

15       C. No physician shall be subject to arrest, prosecution or  
16 penalty in any manner or denied any right or privilege under  
17 Oklahoma state, municipal or county statute, ordinance or  
18 resolution, including without limitation a civil penalty or  
19 disciplinary action by the State Board of Medical Licensure and  
20 Supervision or the State Board of Osteopathic Examiners or by any  
21 other business, occupation or professional licensing board or  
22 bureau, solely for providing a medical marijuana recommendation for  
23 a patient or for monitoring, treating or prescribing scheduled  
24 medication to patients who are medical marijuana licensees. The

1 provisions of this subsection shall not prevent the relevant  
2 professional licensing boards from sanctioning a physician for  
3 failing to properly evaluate the medical condition of a patient or  
4 for otherwise violating the applicable physician-patient standard of  
5 care.

6 D. A physician who recommends use of medical marijuana shall  
7 not be located at the same physical address as a dispensary.

8 E. If the physician determines the continued use of medical  
9 marijuana by the patient no longer meets the requirements set forth  
10 in this act, the physician shall notify the Department and the  
11 Authority shall immediately revoke the license.

12 SECTION 3. NEW LAW A new section of law to be codified  
13 in the Oklahoma Statutes as Section 149.1 of Title 59, unless there  
14 is created a duplication in numbering, reads as follows:

15 A. The Board of Podiatric Medical Examiners is hereby  
16 authorized to issue guidance to all podiatric physicians in this  
17 state on the recommending of medical marijuana to patients.

18 B. The Board may take disciplinary action as provided for in  
19 the Podiatric Medicine Practice Act against any podiatric physician  
20 who willfully violates or aids another in the willful violation of  
21 the provisions of Section 420 et seq. of Title 63 of the Oklahoma  
22 Statutes or the provisions of Enrolled House Bill No. 2612 of the  
23 1st Session of the 57th Oklahoma Legislature.

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1           SECTION 4.           NEW LAW           A new section of law to be codified  
2 in the Oklahoma Statutes as Section 510.1 of Title 59, unless there  
3 is created a duplication in numbering, reads as follows:

4           A.   The State Board of Medical Licensure and Supervision is  
5 hereby authorized to issue guidance to all allopathic physicians in  
6 this state on the recommending of medical marijuana to patients.

7           B.   The Board may take disciplinary action as provided for in  
8 the Oklahoma Allopathic Medical and Surgical Licensure and  
9 Supervision Act against any allopathic physician who willfully  
10 violates or aids another in the willful violation of the provisions  
11 of Section 420 et seq. of Title 63 of the Oklahoma Statutes or the  
12 provisions of Enrolled House Bill No. 2612 of the 1st Session of the  
13 57th Oklahoma Legislature.

14          SECTION 5.           NEW LAW           A new section of law to be codified  
15 in the Oklahoma Statutes as Section 638.1 of Title 59, unless there  
16 is created a duplication in numbering, reads as follows:

17          A.   The State Board of Osteopathic Examiners is hereby  
18 authorized to issue guidance to all osteopathic physicians in this  
19 state on the recommending of medical marijuana to patients.

20          B.   The Board may take disciplinary action as provided for in  
21 the Oklahoma Osteopathic Medicine Act against any osteopathic  
22 physician who willfully violates or aids another in the willful  
23 violation of the provisions of Section 420 et seq. of Title 63 of  
24

1 the Oklahoma Statutes or the provisions of Enrolled House Bill No.  
2 2612 of the 1st Session of the 57th Oklahoma Legislature.

3 ~~SECTION 6. It being immediately necessary for the preservation~~  
4 ~~of the public peace, health or safety, an emergency is hereby~~  
5 ~~declared to exist, by reason whereof this act shall take effect and~~  
6 ~~be in full force from and after its passage and approval.~~

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