



Conference Materials

Friday, June 21, 2019



First of all, you
did learn about
the iPhone
cursor trick,
right?

The default iOS keyboard on any 3D Touch iPhone has a hidden trackpad. To activate it, press firmly on any key until you see the keys turn blank and feel a haptic tap (Apple calls it Taptic feedback). The keyboard essentially becomes a trackpad and as you slide your finger around the keyboard, the onscreen cursor follows.

If you want to select text, ease the pressure you apply against the screen without letting go, then press firmly again to start highlighting text. This maneuver takes some getting used to, but once you do, one-handed edits are a breeze.



CALENDLY.COM



Kenton Brice

Word Formatting Help

🕒 30 min

📍 Digital Initiative Lab, OU Law Library

Sign up individually or with a group to get more training on using Microsoft Word for your Appellate Brief

Select a Date & Time

June 2019

Friday, June 14

SUN	MON	TUE	WED	THU	FRI	SAT
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29

1:15pm

1:30pm

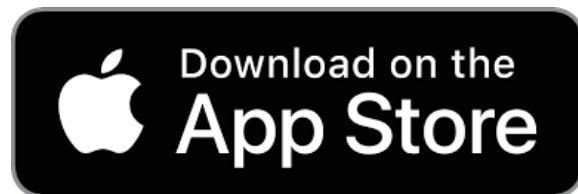
1:45pm

2:00pm

2:15pm

3

Use Outlook for iOS
to Send Availability Like a Pro



CL



OKLAHOMA BAR
INTELLI DRAFTS

Automated
document assembly for
Oklahoma lawyers using
Oklahoma-based forms


The big news
in technology
tools for
Oklahoma
lawyers is this
new OBA
service

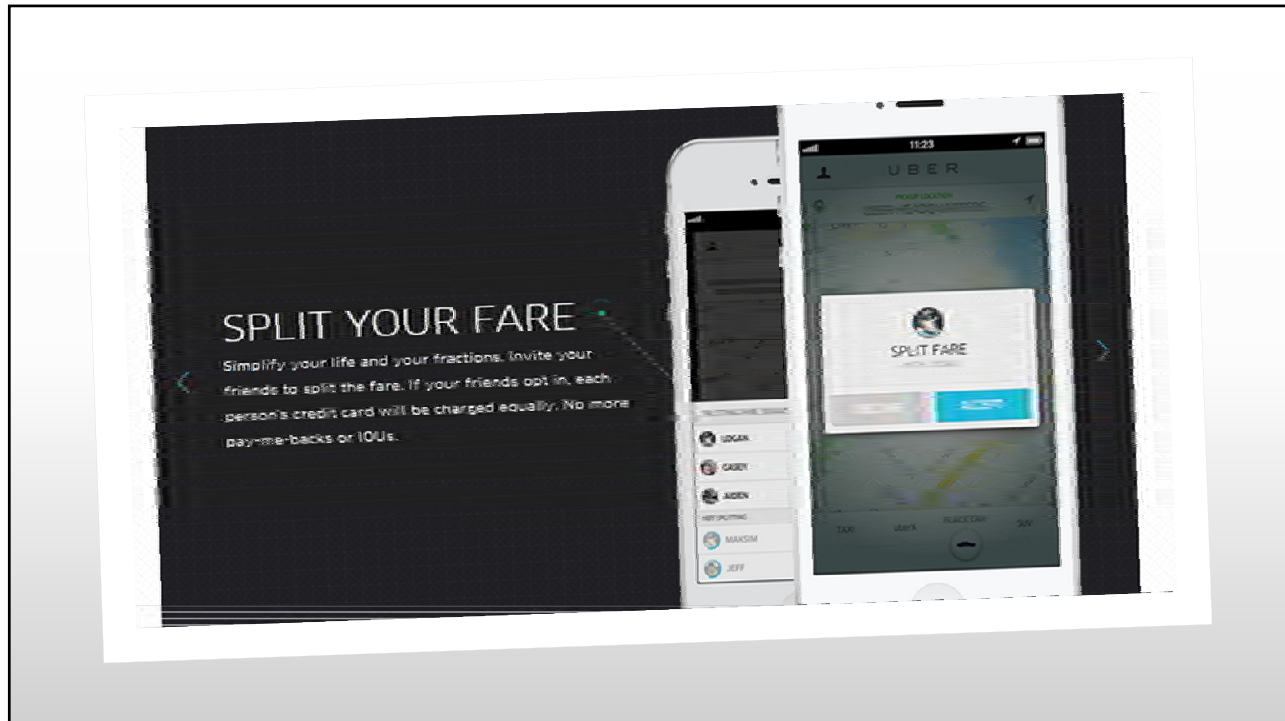
<http://oba.intelldrafts.com>

Jim

5

Yoink for Mac – Drag & Drop anything to a
"Shelf" to use later





Office 365 has many powerful tools many are not using.
Embrace the power of Office 365 training this year.

Microsoft Teams

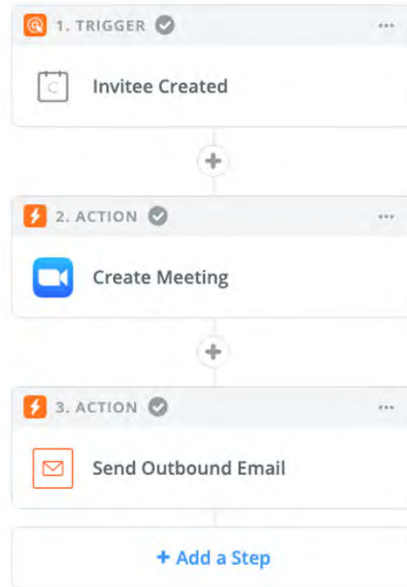
Microsoft Teams is a platform that combines workplace chat, meetings, notes, and attachments. The service integrates with the company's Office 365 subscription office productivity suite, including Microsoft Office and Skype, and features extensions that can integrate with non-Microsoft products. [Wikipedia](#)

Stable release: 1.1.00.17852 / July 18, 2018; 5 months ago
License: Proprietary commercial cloud software
Initial release date: 2017
Developed by: Microsoft Corporation
Operating system: Windows, macOS, iOS, Android

Office 365 Groups

Zapier

Create and Automate Interactions between your Apps

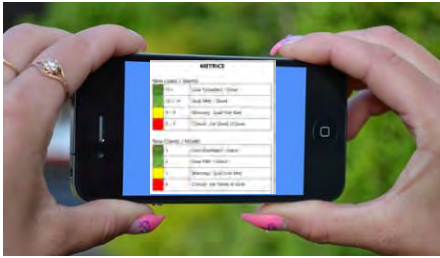


KB

Use HelloSign and HelloFax for seamless electronic signatures & submissions.

CL

Now both Excel for iPhone & Android Excel app let you take a picture of a printed table & **INSERT THE DATA** into an Excel spreadsheet.



METRICS	
New Leads / Month	
15+	Goal Exceeded - Great
10-14	Goal Met - Good
5-9	Warning: Goal Not Met
0-4	Critical: Far Short of Goal
New Clients / Month	
3	Goal Exceeded - Great
2	Goal Met - Good
1	Warning: Goal Not Met
0	Critical: Far Short of Goal

More details Android

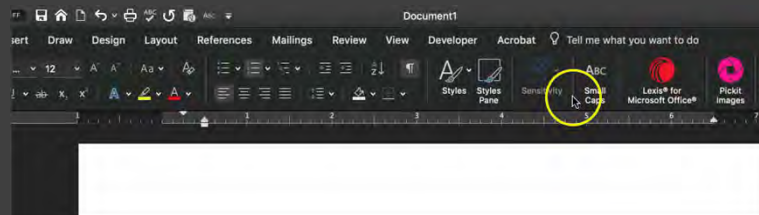
<https://www.theverge.com/2019/3/1/18246429/microsoft-excel-cover-photos-data-tables-editable-table-ai-feature>

iOS

<https://www.theverge.com/2019/5/29/18644396/microsoft-excel-iphone-spreadsheet-import-camera-picture-tables>

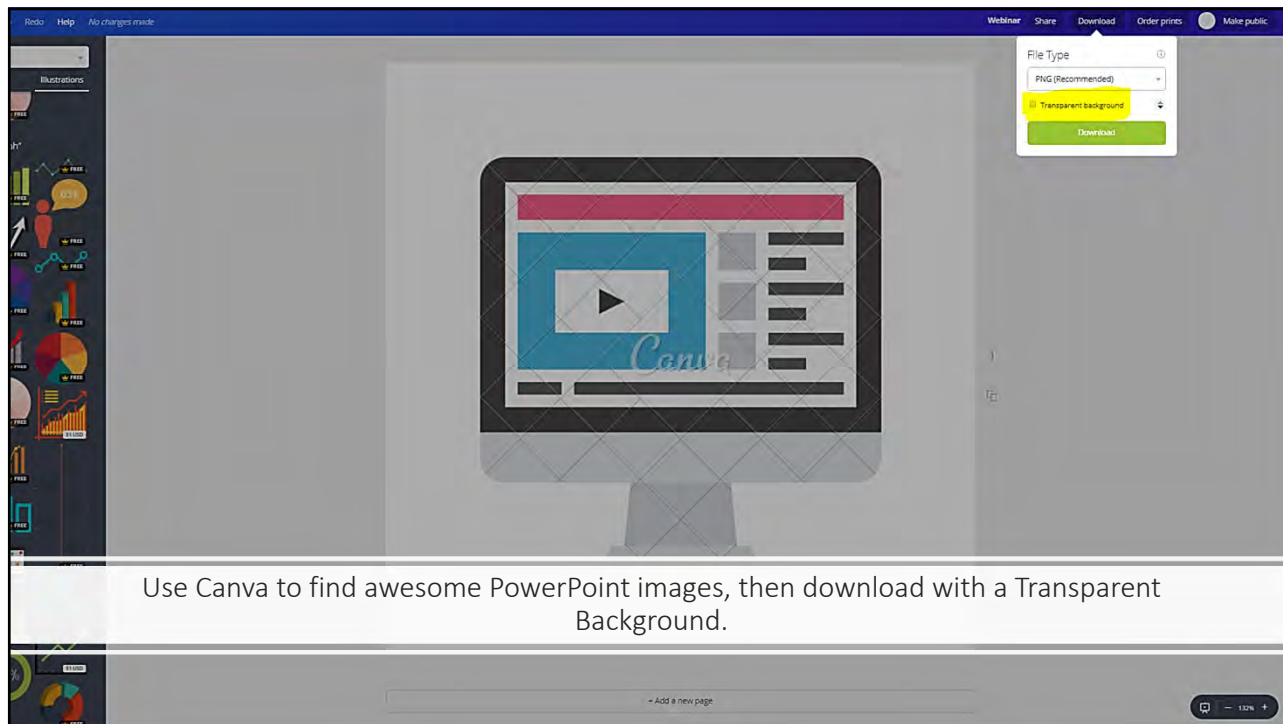
11

Use the “Tell me what you want” bar in Microsoft Word



KB

12



Protect yourself and make your digital experience more simple. A password manager is a critical Internet security tool.

The Best Password Managers for 2019

Still using your kid's birthday as your universal password? You're heading toward trouble. With a password manager, you can have a unique and strong password for every secure website. We've evaluated two dozen of the best password managers to help you choose.

By Neil J. Rubenking November 8, 2018 3:28PM EST

8.1K SHARES

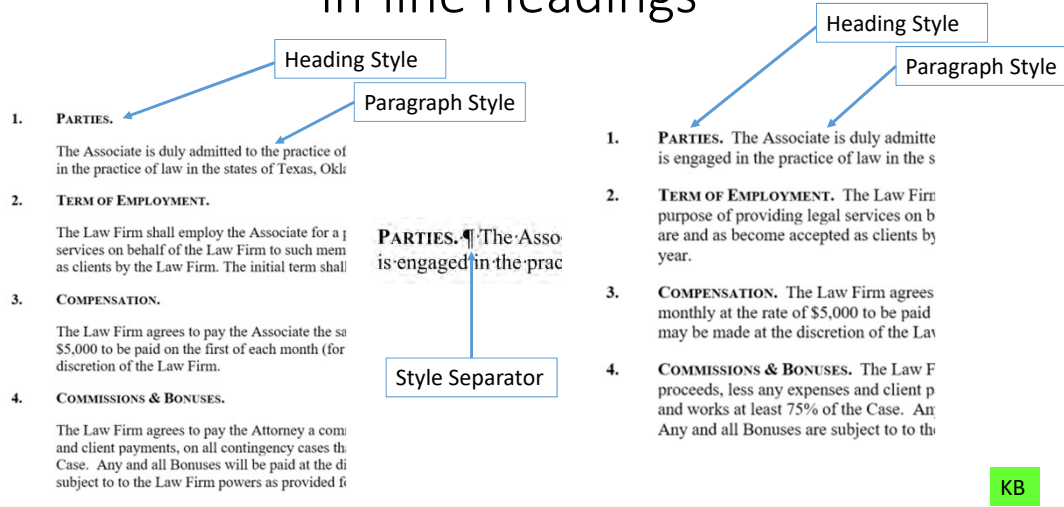
PCMag reviews products independently, but we may earn affiliate commissions from buying links on this page. Terms of use.

Product	Zoho Vault	Keeper Password Manager & Digital Vault	Dashlane	Sticky Password Premium	LastPass Premium	Password Boss Premium v2.0	LogiChase Password Management Suite Ultimate	RoboForm 8 Everywhere	Agilebits 1Password	True Key by Intel Security
Price	\$12.00	\$25.49	\$39.99	\$14.99	\$24.00	\$29.00	Free	\$19.95	\$35.08	\$19.99
Lowest Price	Zoho	Keeper Security	Dashlane - Special	Special Offer	LastPass	Password Boss	LogiChase	RoboForm	1Password	1Password
Editors' Rating	★★★★★	★★★★★	★★★★★	★★★★★	★★★★★	★★★★★	★★★★★	★★★★★	★★★★★	★★★★★
Import from Browsers	—	✓	✓	✓	✓	✓	✓	✓	✓	✓
Two-Factor Authentication	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓

- <https://www.pcmag.com/article2/0,2817,2407168,00.asp>
- If you don't want to research, randomly pick between Lastpass, Dashlane and 1Password.

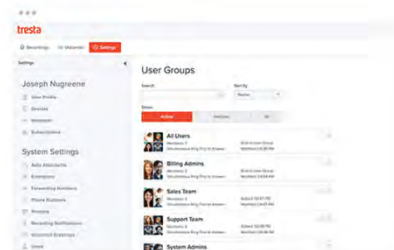
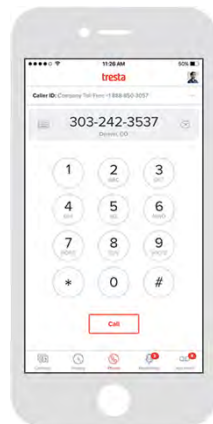
Jim

Use the Style Separator in Word to create in-line Headings



Use **Tresta** as your complete Business Phone System for \$15/mo.

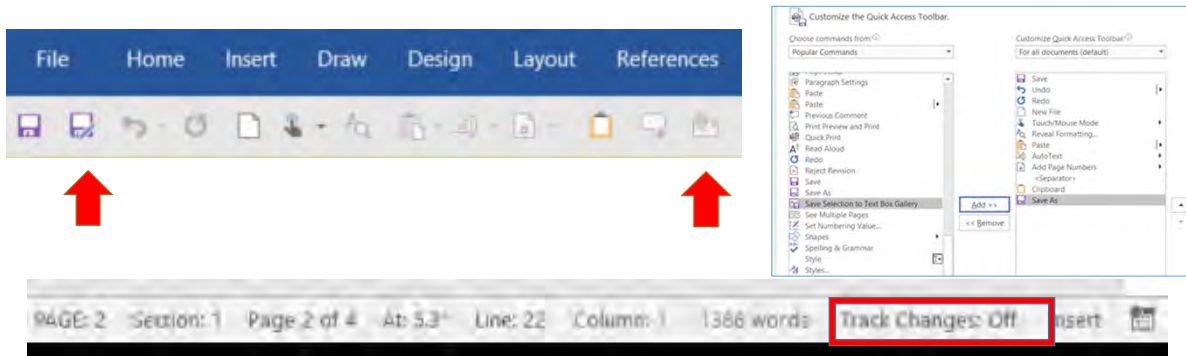
Then manage all lines and auto-attendant features from the mobile app.



Route calls to teams and departments with user groups.

CL

For Less Clicks in Microsoft Word, Customize the Quick Access Toolbar and Status Bar



My article in February 2018 Bar Journal

<https://www.okbar.org/map/articles/obj8905calloway/>

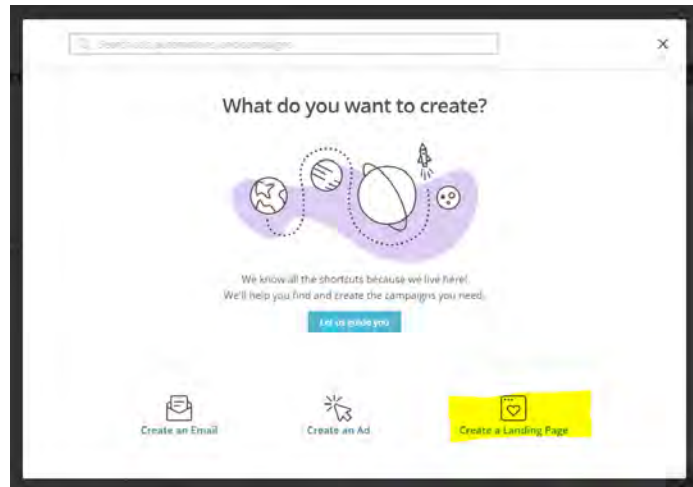
17

The image shows an Outlook email interface. The email is from Kenton Brice to Jim Calloway. The subject is 'Meeting!'. The email body contains a meeting invitation with details: Organizer: Kenton Brice, Duration: 30 minutes, Location, and When: 2 options provided. A FindTime widget is displayed on the right side of the email, showing 'You're almost done!' and options for Notifications (ON), Auto schedule (OFF), and Holds (ON). The FindTime logo and text 'Built for Microsoft Outlook' are visible at the bottom of the widget.

Stop sending multiple emails
to schedule meetings!

18

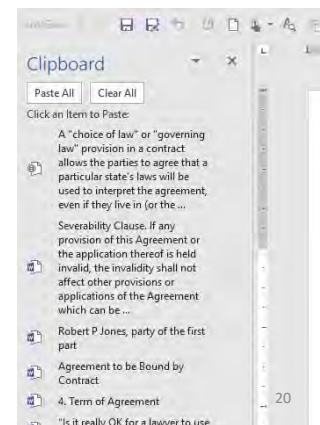
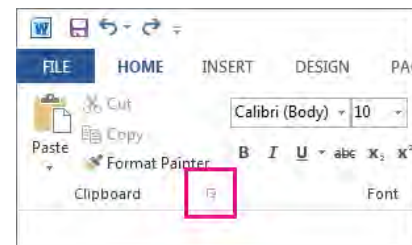
Use Mailchimp to create landing pages for your law firm.

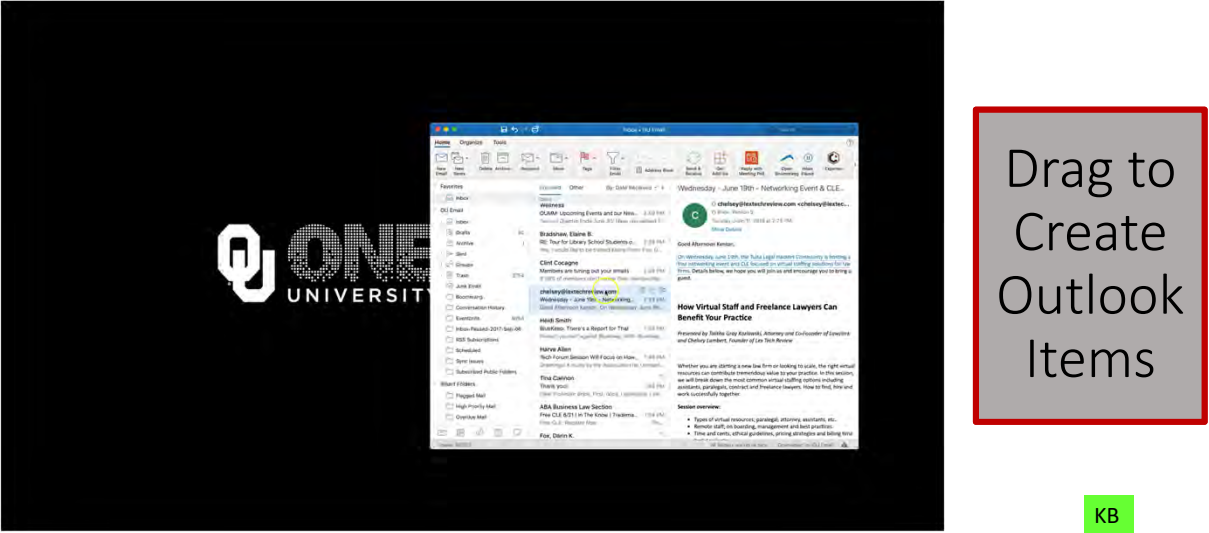


CL

Use the "Expanded" Office Clipboard

- Expand the clipboard by clicking on the expand option in the lower right of Clipboard Group
- Enables one-click access to 24 "Saves"
- Step-by-step instructions <http://bit.ly/2s746wt>






Drag to Create Outlook Items

KB

21



Join and attend a local tech meetups.

TULSA LEGAL HACKERS

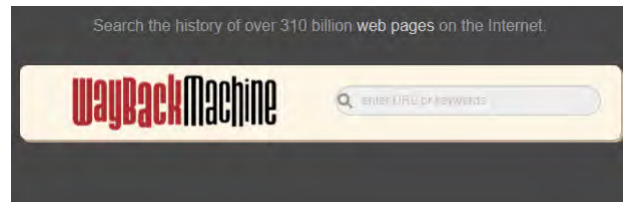
Legal Hackers is a global movement of lawyers, policymakers, designers, technologists, and academics who practice and develop creative solutions to some of the most pressing issues at the intersection of law and technology. Through local meetups, hackathons, and workshops, legal hackers spot issues and opportunities where technology can improve and inform the practice of law and where law, legal practice, and policy can lead to further changing technology.

We are explorers. We are doers.
We are Legal Hackers.

Sponsored by: true Legal Tech Media Group

22

The WaybackMachine at Archive.org



- Locate deleted or removed web pages (not 100%)
- Procedure for affidavits authenticating printouts from the Internet Archive's Wayback Machine is located at <https://archive.org/legal/>



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Perma.cc ∞

About Perma.cc

Guide

Blog

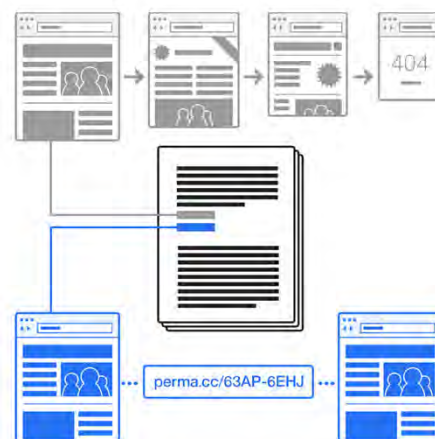
Sign up

Log in

Websites change. Perma Links don't.

Perma.cc helps scholars, journals, courts, and others create permanent records of the web sources they cite.

Perma.cc is simple, easy to use, and is built and supported by libraries.



24

Offer a secure app for communication and document exchange with clients.



PRODUCT REVIEW: YOUR FIRM APP

THE BEAUTIFUL NEW APP LAW FIRMS ARE USING TO DELIVER A WHITE GLOVE EXPERIENCE TO CLIENTS, REDUCE ADMINISTRATIVE TIME, AND IMPROVE CASH FLOW

“I really wish I had that landline or mailing address or person’s corp. title on my phone.”

evercontact

Business Pricing ContactRescue

Never lose contact again

Let Evercontact keep your address book up-to-date, magically creating new contacts and updating existing ones.

enter your work email [Start free trial](#)

I agree to the Evercontact [Privacy Policy](#), [GDPR Principles](#) and [Terms of Service](#)

Essentials

\$5 mo./person

[Purchase](#)

Unlimited email analysis
Up to 3 email addresses per user

- Auto-updating address book service
- Unlimited use of Chrome plug-in
- Team or individual billing
- Centralized team address book
- Ability to export vCard anytime

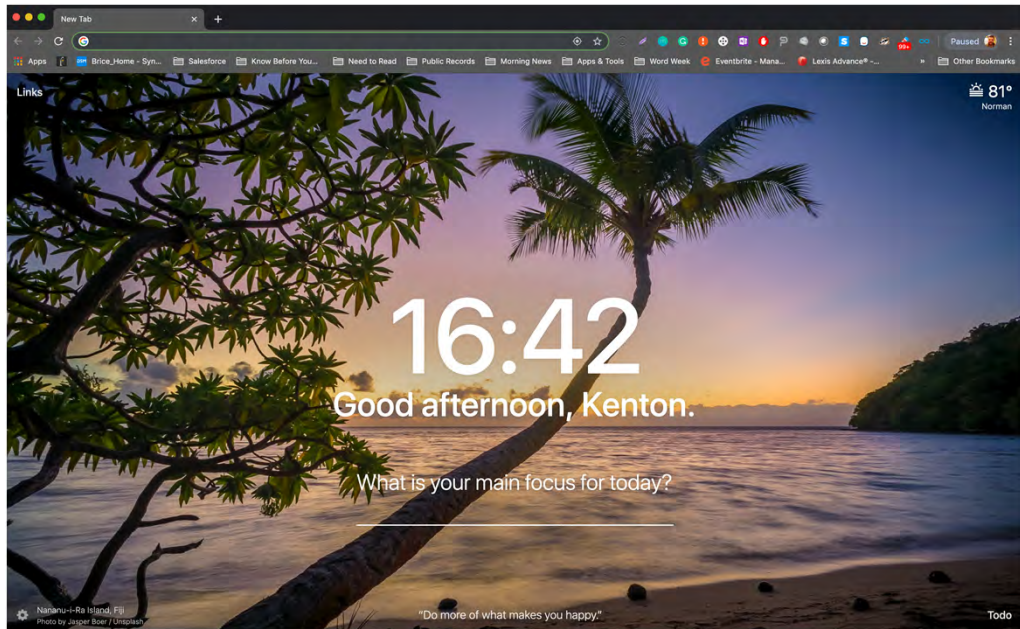
<https://evercontact.com/>

Requires Outlook, but then also works with Gmail.

26

Create space with the Momentum Dashboard*

*Chrome Extension



27

Automate case updates and monitor client satisfaction.

case status



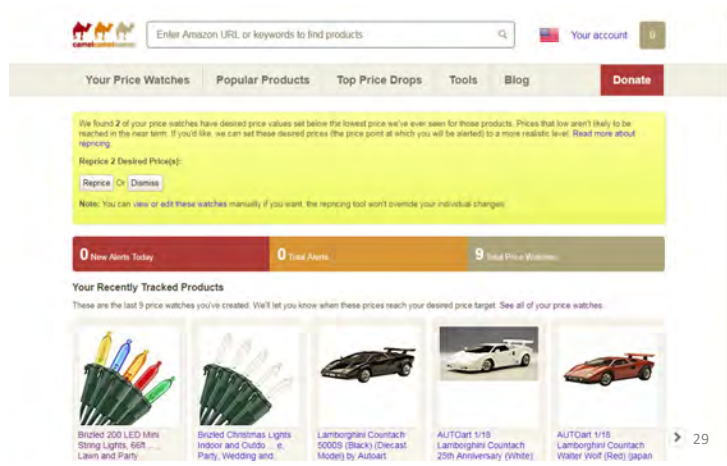
PRODUCT REVIEW: CASE STATUS

THE CLIENT PORTAL FOR LAW FIRMS THAT WILL CHANGE THE WAY CONSUMERS VIEW WORKING WITH A LAWYER

LEXtech review

CamelCamelCamel






- <https://camelcamelcamel.com/>
- Price history
- Alerts
- Watch list
- Amazon monitoring



Focus,
Recharge,
Relax, or Sleep
with Brain.FM



31

		
	<p>Use Your Virtual Receptionist Service to make outbound calls to leads, no shows, or do appointment setting campaigns.</p> <hr/>	
		

Good training for new associates plus
a pro bono service for Oklahomans in need



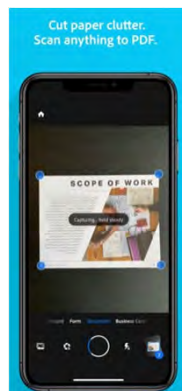
<https://oklahoma.freelegalanswers.org/>

33

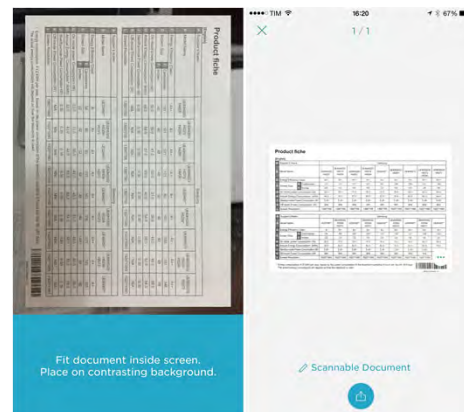
Stop searching for a scanner – Use your
phone!



ABBYY Fine Scanner

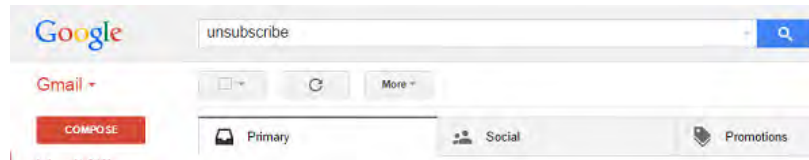


Adobe Scan



Scannable

KB



Clean out your inbox by searching “unsubscribe” then unsubscribe from newsletters you don’t want.

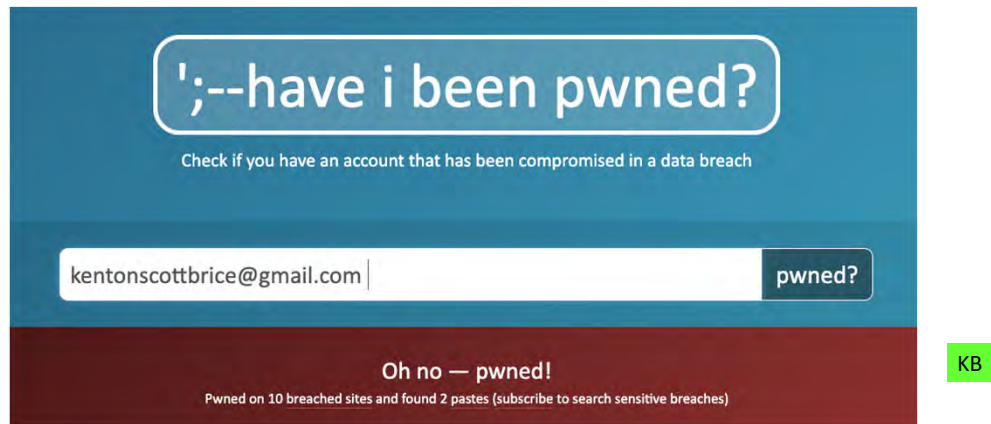
My OKBar:
Fastcase,
Communities,
Find a Lawyer
and software
benefits

 A screenshot of the Oklahoma Bar Association's "My Profile" page. The page header includes the logo and navigation links like "Home", "My Profile", "Member Directory", "CLE", "MCLE", and "Online Store". The main content area is titled "My Profile" and shows "oba Membership Active Member". It features a profile picture, contact information, and a "Member Details" section. To the right, there is a "My Recent Invoices" table. At the bottom, a dropdown menu is open, showing various options with yellow arrows pointing to "Trust Account Reporting Form" and "Practice Management Software Benefits".

Invoice	Invoice Date	Total	Payments	Balance Due
237884	02/14/2019	\$275.00	\$275.00	\$0.00
226742	06/25/2018	\$284.98	\$284.98	\$0.00
226743	06/25/2018	\$284.98	\$284.98	\$0.00
214175	03/14/2018	\$50.00	\$50.00	\$0.00
177927	02/14/2018	\$275.00	\$275.00	\$0.00

- My Membership
- My MCLE
- OBACLE Registration History
- Find A Lawyer-Sign Up
- MYOKBAR Communities (Sections and Committees)
- Join a Section
- Join a Committee
- My Downloads
- Trust Account Reporting Form
- Fastcase
- Join Online (Includes OK Bar Journal)
- Heroes Volunteer - Sign Up
- Communication Preferences
- Change My Password
- Attorney Transition Planning Guide
- Mediator Directory
- Practice Management Software Benefits

Check if your email has been compromised



';--have i been pwned?

Check if you have an account that has been compromised in a data breach

kentonscottbrice@gmail.com pwned?

Oh no — pwned!

Pwned on 10 breached sites and found 2 pastes (subscribe to search sensitive breaches)

KB

37

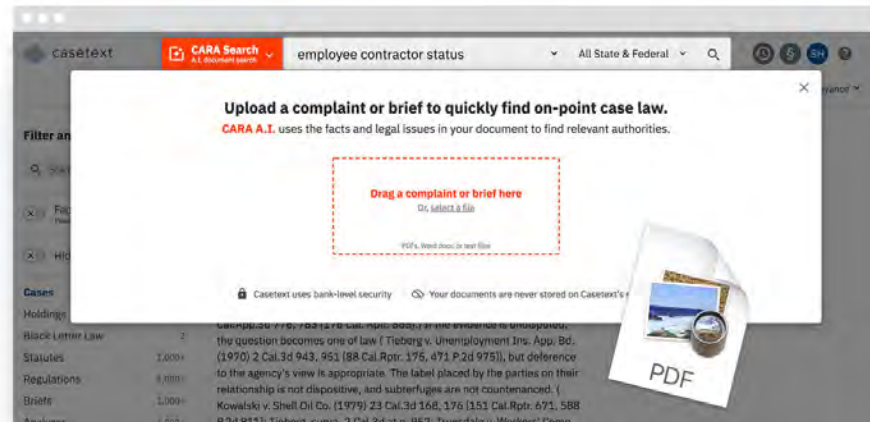
Strikethrough in Google Docs:

For Mac: Select what you want to strike and click ⌘ + Shift + X . It only works with the older style Docs, though.

Alt + Shift + 5 (Windows) or Option + Shift + 5 (Mac) is the keyboard shortcut for strikethrough. Alt + Shift + 5 or you can go to the "Format" tab and it's there as well.

CL

New OBA Member benefit - CaseText

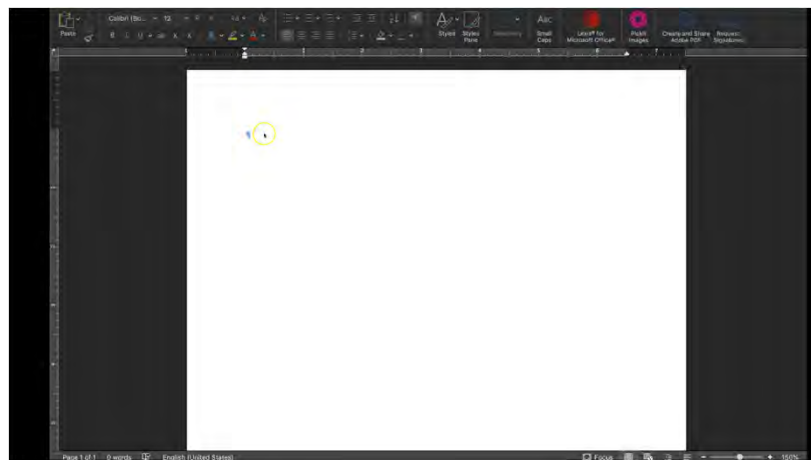


Members of the OBA receive a 15% discount for life with the cost starting at \$55.25 a month (\$663 a year) for a single-user subscription. Please visit the landing page at <https://casetext.com/oba> to take advantage of the discount.

Jim

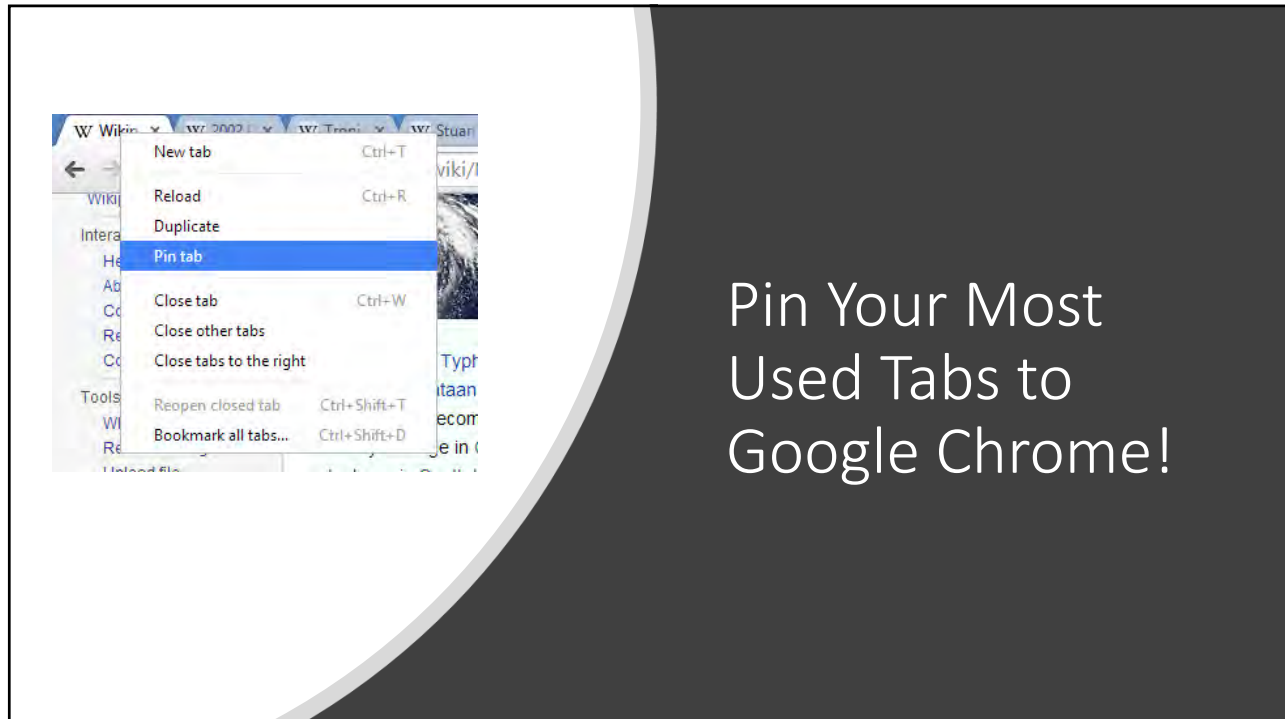
39

Automate your text with TextExpander



KB

40



Pin Your Most Used Tabs to Google Chrome!

Fastcase Sharing – Public Link

A screenshot of the Fastcase website interface. The browser address bar shows the URL: <https://www.fastcase.com/cases/130-5-C3-876-175-1-64-Ad-252-108-U-S-330-28-176-10-4078-23010>. The page title is "Introduction to the Fastcase Open Access / Public Link Feature". A red arrow points to a "Public Link" button in the top right corner of the page. The main content area displays a legal case summary for "Citizens United v. Fed. Election Commission, 130 S. Ct. 876 (2010)".

<https://www.youtube.com/watch?v=461PnNdeiXY>

42

Use Flow-E to turn Email into Kanban style task boards

Sign up for
the Cutting
Clicks
eNewsletter



- <https://yourfirmapp.com/category/cutting-clicks/>

CL

44

Fastcase – Print to PDF or Word



[Print/Save](#) [Public Link](#)
[Add to My Print Queue](#)
[Add to My Favorites](#)
[Email](#)

[Navigate to the previous case, next case.](#)
[Jump to the most relevant paragraph \[M\].](#)

State ex rel. Okla. Bar Ass'n v. Weigel, 2014 OK 4 (Okla., 2014)

2014 OK 4

STATE OF OKLAHOMA ex rel. OKLAHOMA BAR ASSOCIATION,
 v.
 JOHN HOLMAN **WEIGEL**, Respondent.

Case Number: SCBD-5864

SUPREME COURT OF THE STATE OF OKLAHOMA

Decided: February 4, 2014

384 U.S. 436
 10 Ohio Misc. 9
 40 A.L.R.2d 974
 16 L.Ed.2d 694
 36 O.O.2d 437
 86 S.Ct. 1602

Ernesto A. MIRANDA, Petitioner,
 v.
 STATE OF ARIZONA,
 Michael VIGNERA, Petitioner,
 v.
 STATE OF NEW YORK,
 Carl Calvin WESTOVER, Petitioner,
 v.
 UNITED STATES,
 STATE OF CALIFORNIA, Petitioner,
 v.
 Roy Allen STEWART.

No. 759
 No. 760
 No. 761
 No. 584

Supreme Court of the United States

Argued February 28, 1966
 Argued March 2, 1966
 Argued March 2, 1966
 Decided June 13, 1966
 Rehearing Denied No. 584 October 10, 1966

Attorneys and Law Firms
 (86 S.Ct. 1609)
 No. 759
 1384 U.S. 438

Duane B. Medrod, for National District Attorneys Ass'n, as amicus curiae, by special leave of Court. (Also in Nos. 760, 761 and 584)
 No. 760:
 Victor M. Earle, III, New York City, for petitioner.
 William I. Siegel, Brooklyn, for respondent.
 No. 761:
 F. Congar Forrest, San Francisco, Cal., for petitioner.
 Sol. Gen. Thurgood Marshall, for respondent.
 No. 584:
 Gordon Ringer, Los Angeles, Cal., for petitioner.
 William A. Norris, Los Angeles, Cal., for respondent.
 [1384 U.S. 439]

Mr. Chief Justice WARREN delivered the opinion of the Court.

The cases before us raise questions which go to the roots of our concepts of American criminal jurisprudence: the restraints society must observe consistent with the Federal Constitution in prosecuting individuals for crime. More specifically, we deal with the admissibility of statements obtained from an individual who is subjected to custodial police interrogation and the necessity for procedures which assure that the individual is

Evaluate your Cloud services!

www.legalcloudcomputingassociation.org



Home About Standards Members Contact

STANDARDS

LCCA Security Standards

Table of Contents

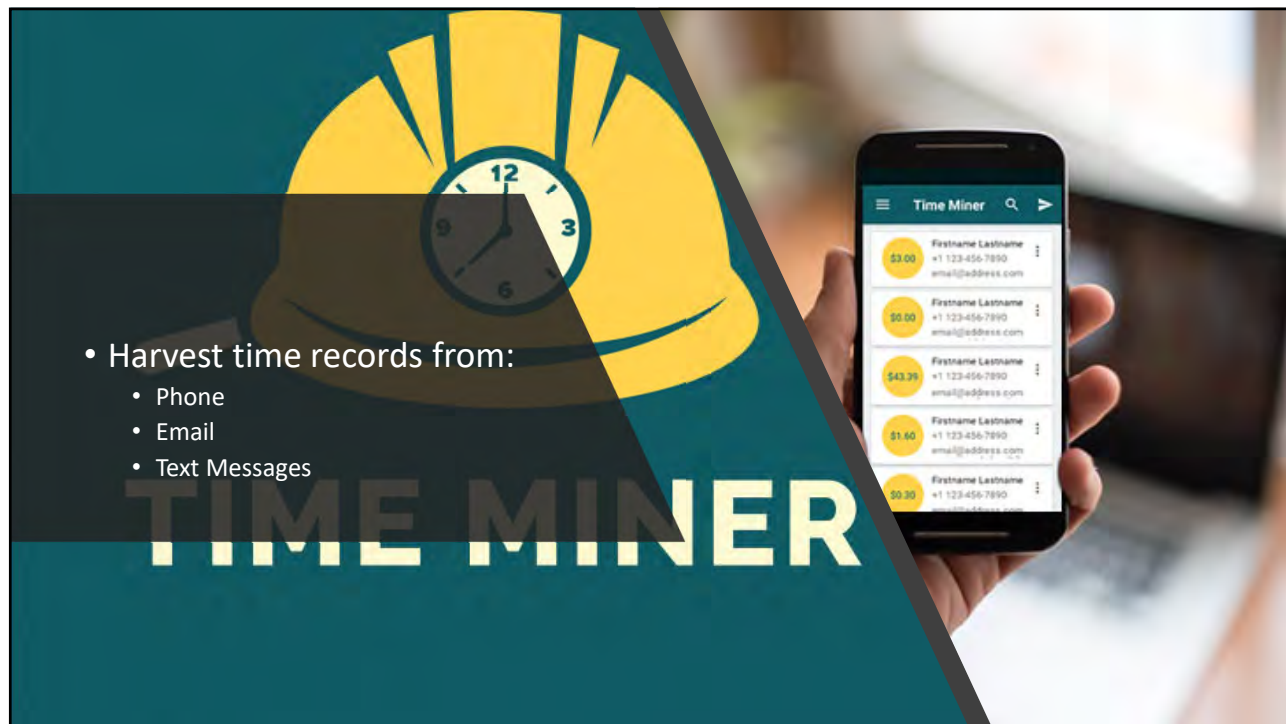
(SECTION I) SCOPE OF STANDARDS
 Standard 1. Scope and Purpose

(SECTION II) PHYSICAL AND ENVIRONMENTAL MEASURES
 Standard 2. Location of Data
 Standard 3. Certifications
 Standard 4. Geographic Redundancy

(SECTION III) DATA INTEGRITY MEASURES
 Standard 5. Encryption
 Standard 6. Testing
 Standard 7. Limitations on Third-party Access
 Standard 8. Data Retention Policy

(SECTION IV) USERS AND ACCESS CONTROL
 Standard 9. End User Authentication
 Standard 10. Addition or Suspension of a User
 Standard 11. Tracking
 Standard 12. Addition or Deletion of Data
 Standard 13. Retrieving Data

(SECTION V) TERMS OF SERVICE AND PRIVACY POLICY
 Standard 14. Terms of Service
 Standard 15. Privacy Policy
 Standard 16. Uptime Guarantee
 Standard 17. Confidentiality
 Standard 18. Ownership of Data
 Standard 19. Demands for Data
 Standard 20. Data Breach
 Standard 21. Disaster Recovery



• Harvest time records from:

- Phone
- Email
- Text Messages

TIME MINER

The smartphone screen displays the 'Time Miner' app interface with a list of records:

Amount	First Name	Last Name	Phone Number	Email Address
\$3.00	Firstname	Lastname	+1 123-456-7890	email@address.com
\$0.00	Firstname	Lastname	+1 123-456-7890	email@address.com
\$43.39	Firstname	Lastname	+1 123-456-7890	email@address.com
\$1.60	Firstname	Lastname	+1 123-456-7890	email@address.com
\$0.30	Firstname	Lastname	+1 123-456-7890	email@address.com

TECH FIX

How Updates in iOS 13 and Android Q Will Change Your Smartphone

New versions of the Apple and Google operating systems are packed with hundreds of new features. Here are the few you should know about.

<https://www.nytimes.com/2019/06/05/technology/personaltech/ios-android-2019-updates.html>

Before you're out the door...

Tript Pro will remind you when to leave, and tell you how long it will take, all the way to your gate. If your plans change, we'll show you other options.

- Flight Status**
Search you real-time flight alerts throughout your trip
- Alternate Flights**
Helps you find other flights with open seats
- Go Now**
Tells you when you should leave for the airport
- Security Wait Times**
Lets you know how long it'll take to get through security
- Partner Perk**
Search through security lines in 5 minutes or less with a discounted CLEAR membership

While you're on the move...

Tript Pro will assist you directly to your gate, connection, or bag with walking directions. Plus, we'll help you find amenities along the way.

- Interactive Map**
Provides searchable airport maps and walking directions
- Terminal and Gate Reconnector**
Search you updated departure terminal and gate info
- Connecting Flights**
Tells you how to find your connecting gate
- Baggage Claim Info**
Search you baggage claim location when you land

While you're still making plans...

Tript Pro kicks into gear as soon as you book, helping you get there more comfortably and even something along the way.

- Seat Tracker**
Lets you know if a better seat becomes available
- Fare Tracker**
Notifies you if your initial price drops after you book
- Check-in Reminder**
Gives you a heads up 24 hours before your flight
- Point Tracker**
Keeps track of your reward programs for you
- Share Circle**
Instantly share your travel plans to a select group of family, friends or colleagues
- International Travel Tools**
Provides country-specific travel information

Traveling? Stay Informed with Tript Pro

49

Download the
2019 eDiscovery
Buyers Guide for
Small Law Firms

CL

It's Time to Delete Some apps

POPULAR SCIENCE

It's time to delete most of your apps

Unused apps on your phone can do more harm than simply taking up space.

By Stan Horaczek | July 10, 2018




- Old ones may not have security updates.
- Location tracking may be active in many of them.
- Here are some tips on how to mass delete:
- <https://www.popsci.com/delete-your-apps/>

Jim

51

Use AirParrot to Supercharge your Streaming


 AirParrot 2⁺ FEATURES ▾ PRICING DOWNLOAD IN ACTION ▾ BUY \$12.99 TRY

Education **Business** Entertainment

BUSINESS

Presentations are a key part of the business world. Unfortunately, not all conference and meeting rooms are equipped with the adapters and cables needed to share screens. AirParrot makes searching for the right connector and finding the right input source a thing of the past.

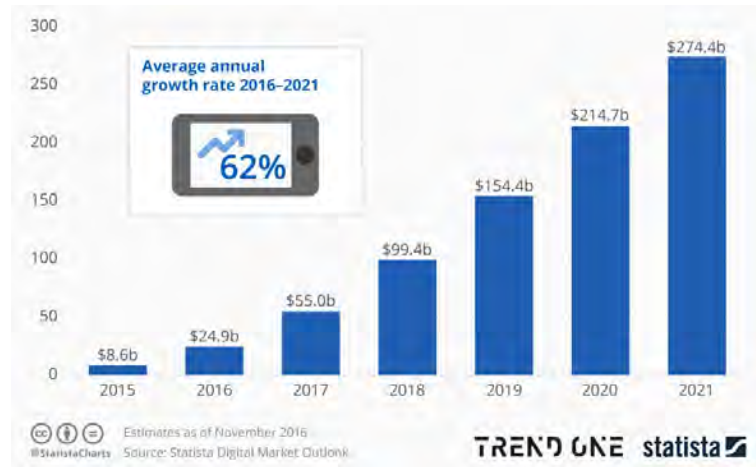
Add wireless screen mirroring to computers, and make presenting easy and seamless. Everyone in the room can see your screen, and you're not tied down with wires. AirParrot connects common devices and adds features that help you do your job better.



KB

52

Accept Electronic Payments



Offer Payment Plans

- 35% of Consumers are more likely to buy if you offer a payment plan.
- 54% of Consumers prefer installment payments over free shipping.
- Payment Plan purchases are up to 120% higher than the original amount.



Poll Your Clients

Want to know what your clients *really* think? **Try asking them.**

SurveyMonkey

Home How It Works Examples Survey Services Plans & Pricing

Sign In Help

Create Surveys, Get Answers

Pro Sign Up Sign Up FREE

The basics are always free. Upgrade for more powerful features.

- Survey your target market**
SurveyMonkey Audience has millions of people ready to take your survey.
- Want more power and multiple users?**
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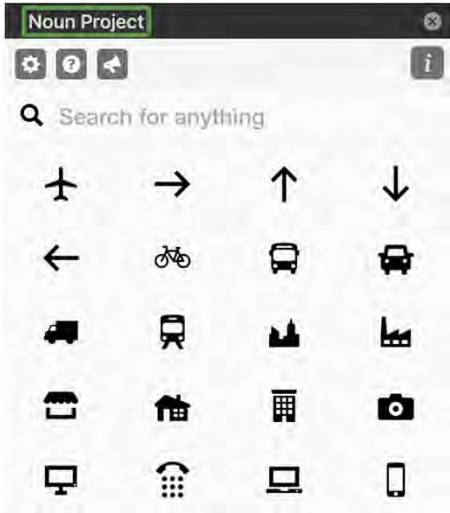
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- ✓ Enjoy a scalable survey platform

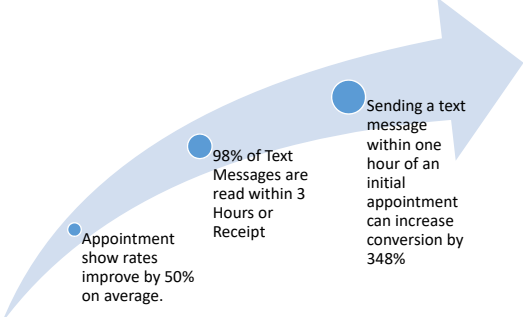


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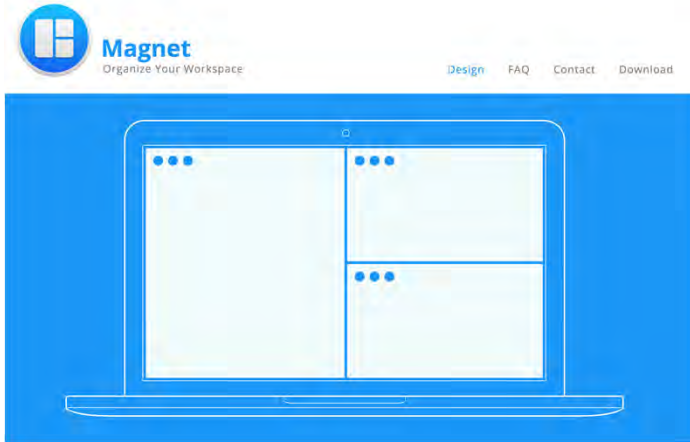
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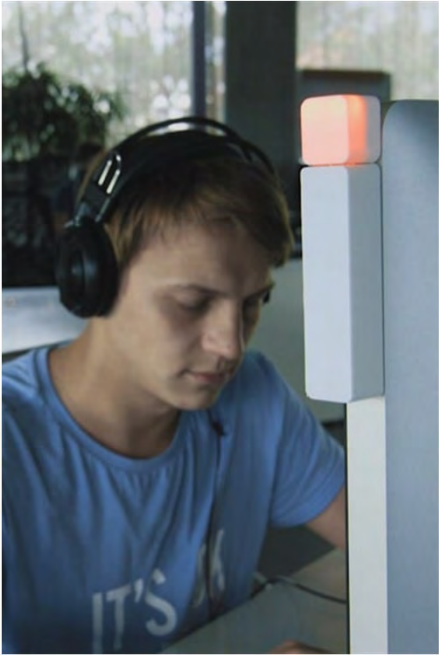
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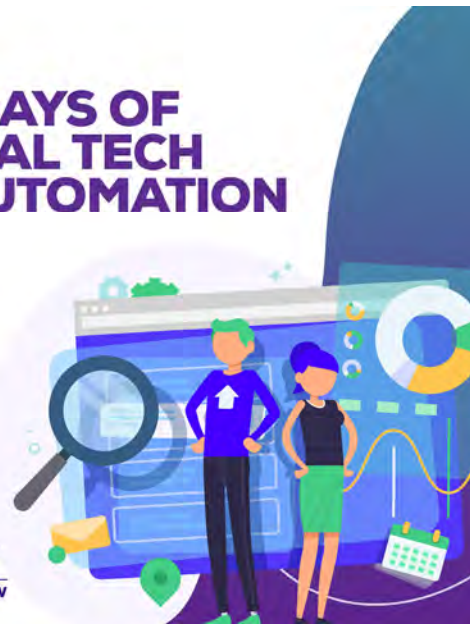
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Six Attorney Practice Management Tools Added as OBA Member Benefits

June 6, 2018

Six new member benefits to help Oklahoma lawyers better manage their practices have been announced by the Oklahoma Bar Association. Members who sign up for new subscriptions will receive discounts to Clio, CosmoLex, MyCase, PracticePanther, Rocket Matter or Zola Suite, all cloud-based practice management services for law firms.





Leverage Your OBA Member Benefits

<https://www.okbar.org/memberbenefits/>

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Jim Calloway
Director, Oklahoma Bar Association Management Assistance Program

JimC@Okbar.org
www.lawpracticetipsblog.com
Twitter [@JimCalloway](https://twitter.com/JimCalloway).



Jim Calloway is the Director of the Oklahoma Bar Association Management Assistance Program, where he has served for 21 years. He received his Juris Doctorate from the University of Oklahoma, where he was named to the Oklahoma Law Review. He publishes the award-winning law blog *Jim Calloway's Law Practice Tips* (<http://www.lawpracticetipsblog.com>) and has served as co-author of three American Bar Association books on law practice management, including two on alternative billing.

Mr. Calloway also produces, with Sharon Nelson, the monthly podcast, *The Digital Edge: Lawyers and Technology*. This monthly podcast covers a number of legal technology issues and can be accessed from The Legal Talk Network (<http://legaltalknetwork.com/podcasts/digital-edge/>) or via Apple podcasts. His Twitter address is [@jimcalloway](https://twitter.com/jimcalloway).

Mr. Calloway is a member of the Oklahoma Bar Association and the American Bar Association, where he served as chair of ABA TECHSHOW 2005. He is a member of the ABA Law Practice Division's *Law Practice Magazine* editorial board and wrote the Practice Management Advice column for that magazine for five years. He was awarded the Law Practice Division's Robert P. Wilkens Award in recognition of Best Column in Division Publications in 2015. He is also currently co-chair of the LP Division's Legal Futures Initiative.

In November 2018, he was awarded the William G. Paul Oklahoma Justice Award from Legal Aid Services of Oklahoma, Inc. for his work on access to justice projects.

He has been inducted as a Fellow of the College of Law Practice Management. He is an active member of the National Association of Bar Executives, the ABA Solo, Small Firm and General Practice Division, the Practice Management Advisors of North America and the Association of Legal Administrators. He is a former President of the Cleveland County (Oklahoma) Bar Association.

He has made hundreds of presentations on law office management, legal technology, ethics and law firm business operations.

Chelsey Lambert

Author, Speaker, Founder and CEO of the Lex Tech Review

Legal Technology + Practice Management Specialist. On a mission to educate, equip and empower law firm entrepreneurs.

Chelsey is a legal technology matchmaker who connects lawyers with the technology and resources they need to build a business that runs smoothly, so they can focus on what they love.

As the Founder and CEO of Lex Tech Review and the Legal Tech Media Group. Chelsey and her team provide legal technology, marketing, and law practice management education to lawyers and staff all over the world. She also published the nearly 200 page 2017 Legal Technology Buyer's Guide, and is a two-time ABA TechShow Speaker. All of her materials aim to educate and save readers hours of research, headaches and costly mistakes.

Her career includes a combination of roles that give her a unique understanding of how solo to mid-sized law firms operate. From building legal technology products for lawyers, such as case management and payment processing software to serving as a practice management advisor and technology trainer for the Chicago Bar Association.

Don't be surprised if you run into one of Chelsey's various online courses, or at one of the local Tulsa Legal Hackers meetups. She'll travel far and wide to fulfill her mission to help law firm entrepreneurs build better businesses so they can improve the quality of their life at home.

www.lextechreview.com | @ChelseyLambert | facebook.com/lextechreview

KENTON BRICE

Kenton Brice is the Director of Technology Innovation at the University of Oklahoma College of Law. A 2009 graduate of OU Law, Kenton teaches courses and workshops on legal research, technology in practice, and legal innovation at the College and multiple conferences, including ABA TECHSHOW, and the American Association of Law Libraries Annual Meeting.

Office 365: What Every Lawyer Should Know

Oklahoma Bar Association Solo and Small Firm Conference 2019
Kenton S. Brice, Director of Technology Innovation
University of Oklahoma College of Law

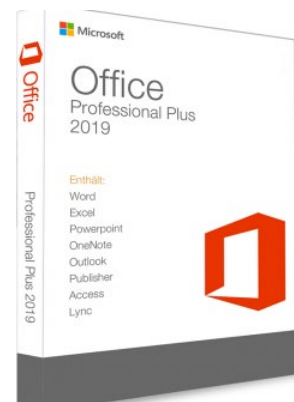
Introduction

Microsoft Office is a suite of productivity software that has been around in various forms since it was introduced in 1988. What started as a suite of tools that included a word processor (Microsoft Word), a spreadsheet editor (Microsoft Excel), and a presentation program (Microsoft PowerPoint), Microsoft Office has continually grown and matured into a full-fledge business operations software platform. In 2010, and then again in 2013 to the consumer market, Microsoft introduced Office 365, a subscription-based service that now includes functionality and features well beyond the traditional Microsoft Office suite.

Microsoft Office 365 v. Microsoft Office 2019

Since Microsoft still publishes and sells traditional Microsoft Office Suites, now in the 2019 generation, it can be confusing which suite of software that a lawyer might purchase or need to take advantage of. An easy way to think about this is that Microsoft Office 365 is a subscription-based service, with a monthly or yearly cost to continue using the software. Microsoft Office 2019 (now called Microsoft Office Home & Business 2019) is a traditional standalone license, with a one-time, up-front cost to purchase the license.

Aside from how you pay for the software, there are major differences between the two suites. Microsoft Office Home & Business 2019 provides the ability to install Microsoft Office on one desktop or laptop machine. Period. However, Microsoft Office 365 provides the ability to install Microsoft Office on up to 5 laptops, desktops, tablets, or phones. Additionally, Microsoft Office 365 provides access to the web-based office applications, so you can literally use Office anywhere, on any computer, at any time.

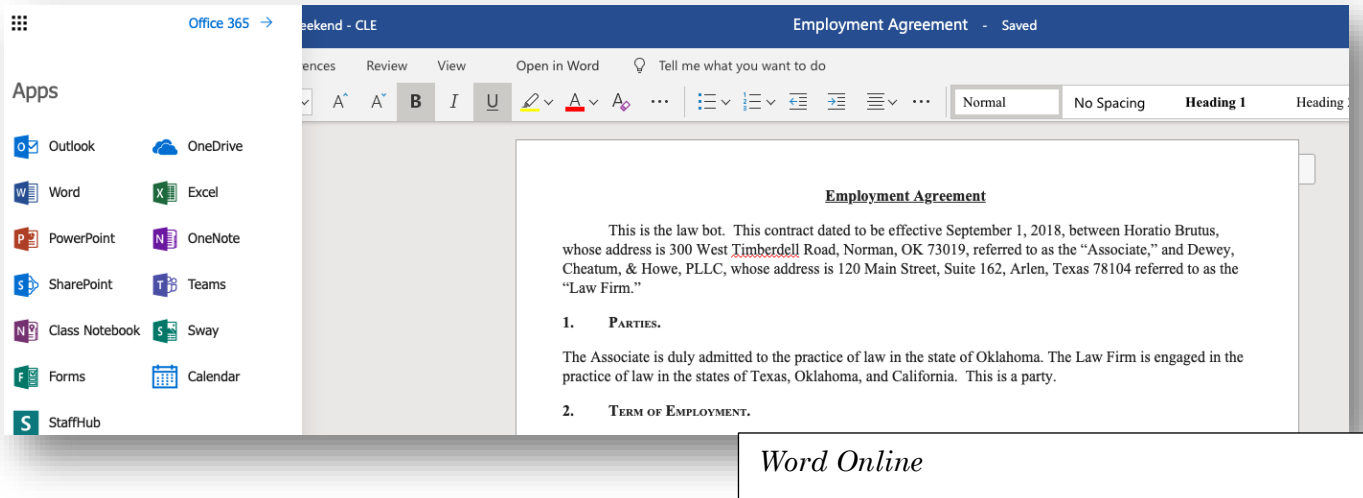


Another major feature is that Microsoft Office 365 also provides users the ability to install the most recent Office Applications. This means that transitioning from Microsoft Office 2016 to 2019 to the next version (2022?), is completely seamless, and there is no need to make any additional purchases!

A full breakdown of the features of either option is included in Appendix 1.

Office 365 as a Platform for Apps

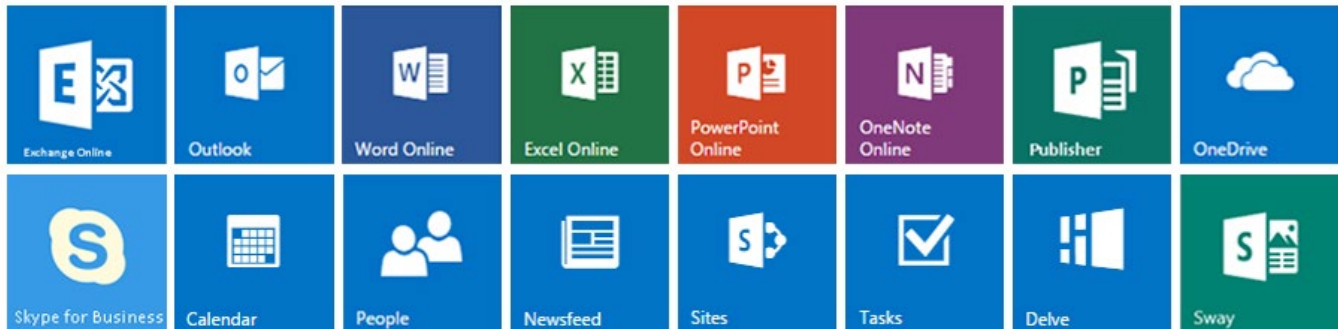
Microsoft Office 365 works on any machine, anywhere. Not only do users have access to the traditional desktop productivity software from Microsoft, users also get access to certain Web Apps such as Word Online, Excel Online, and PowerPoint Online, and certain mobile Apps such as mobile versions of Word, PowerPoint and Excel. These web and mobile apps are not as feature-rich as the traditional desktop Apps, but they are useable for most quick changes to a document or presentation. These web and mobile apps are also getting better with time.



In addition to the traditional apps from the Office suite, Microsoft Office 365 includes even more Apps as part of the Office 365 Business Premium Package. OneDrive for Business, discussed below, is the foundation for these additional apps. Here is quick list of apps Microsoft Office 365 offers in addition to Word d, Excel, PowerPoint, and Outlook:

- Hosted Exchange for email
- SharePoint platform for a company intranet
- Microsoft Teams for collaborating with other members of your team
- Skype for Business for web-conferencing (hosting up to 250 people)
- Mile IQ for tracking travel mileage
- Bookings for public facing appointment booking
- Planner for light project management and group task management
- To-Do for tracking to-do lists and daily tasks
- Sway for web story telling

- StaffHub for workforce schedule management
- Microsoft Flow to automate your processes between Apps
- 24/7 Phone Support



OneDrive for Business

OneDrive for Business is a central component of the Office 365 universe. Without this centralized, cloud-based storage solution, most of the Office 365 functionality would not work. Here is a quick run-down of the features that OneDrive for Business provides that enhances an attorneys' work.

Storage Space

With Office 365 Business Premium, users receive 1TB of OneDrive for Business storage space per user in the organization. That is a lot of space! This is part of the package and does not cost extra. As a comparison, Dropbox for Business costs the same as the entire Office 365 Business Premium package at \$12.50 per user, per month for a comparable plan and Apple's iCloud costs \$9.99 per month.

Accessing Documents

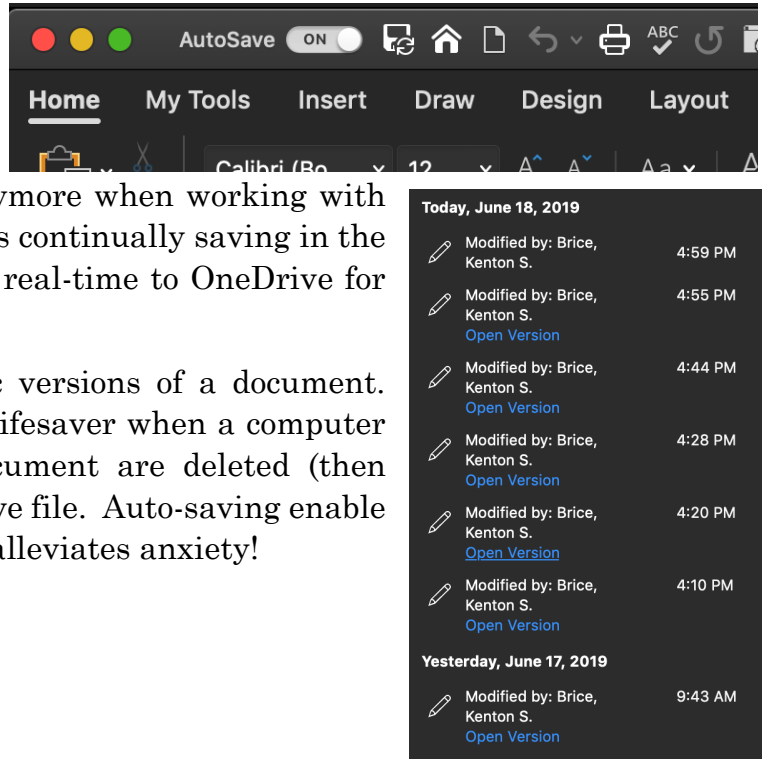
Users can access documents in OneDrive for Business multiple ways. The first, and easiest, is accessing documents from the web portal. The web portal is accessible through the office website. By logging in with your credentials, can access any documents that you have stored in the cloud. Here, users can view, download, and upload documents. Users can also edit documents that are supported in the Web App associated with the document.

For Microsoft Word, Microsoft PowerPoint, and Microsoft Excel files that need to be edited on a laptop, desktop, or mobile app, the easiest way to access documents is from within the app itself. This is a new way of accessing documents that is not the same as with previous versions of Microsoft Office. Since these documents are not stored on the local machine, they are accessible through connections that the installed apps make with OneDrive for Business. Accessing documents this way makes sure the user always has access to the most up-to-date documents. Additionally, accessing documents this way allows users to share the documents between devices. This means that users can begin working on a laptop, close the document, and then reopen it on their iPad in a seamless transaction.

Autosaving & Version History

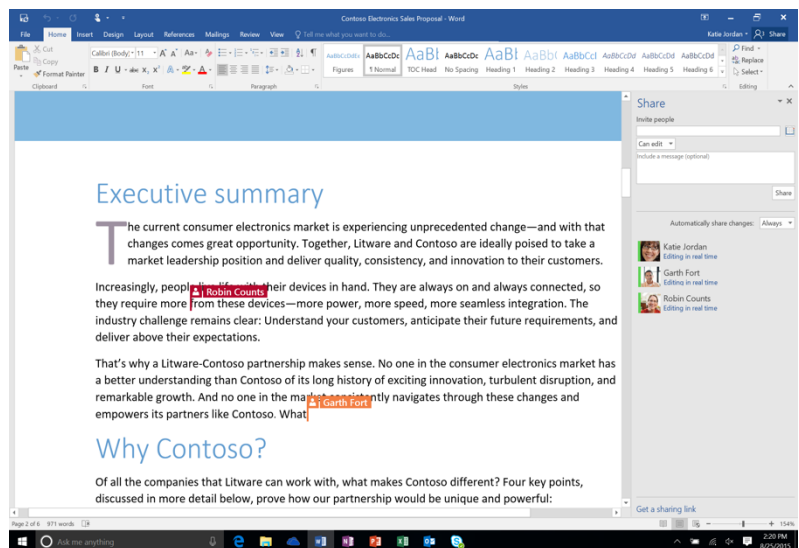
One amazing feature of OneDrive for Business is documents autosaving at multiple times through working on a document. Saving actually is not a concern anymore when working with “online” documents. The document is continually saving in the background and syncing changes in real-time to OneDrive for Business.

This feature also creates automatic versions of a document. This document versioning can be a lifesaver when a computer crashes, or when sections of a document are deleted (then saved) by one user or in a collaborative file. Auto-saving enable version history, and version history alleviates anxiety!



Collaboration

OneDrive for Business is especially helpful in a collaborative context. Multiple users can access a document, at the same time, and even write in the same document, at the same time, through a feature called Real-time Co-Authoring. This feature allows for multiple writers to be writing in various parts of a document and removes the need for emailing multiple versions back and forth. Additionally, it works on any device! Having this feature can enable more productive and collaborative writing without the traditional fear of whether or not the correct document is in front of you!



KENTON BRICE

Kenton Brice is the Director of Technology Innovation at the University of Oklahoma College of Law. A 2009 graduate of OU Law, Kenton teaches courses and workshops on legal research, technology in practice, and legal innovation at the College and multiple conferences, including ABA TECHSHOW, and the American Association of Law Libraries Annual Meeting.

Strategies for improving the Bottom Line for you and Your Client

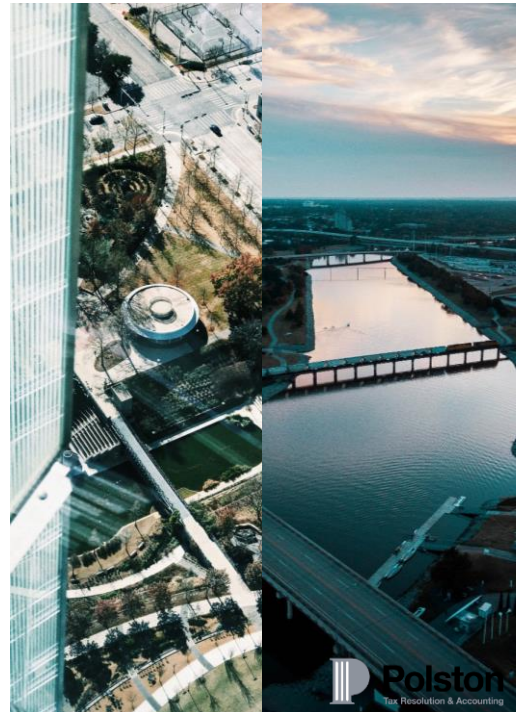
Rachel Pappy | Partner | Polston Tax



Rachel Pappy
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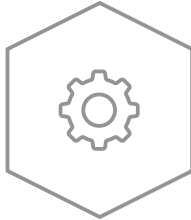
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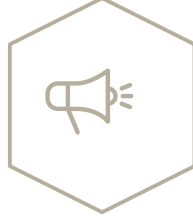
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Tax Cuts & Jobs Act Provision To Benefit Businesses with Pass Through Income

Businesses with pass-through income that qualify to take advantage of the provision include

01

Partnerships

02

S Corporations

03

Sole Proprietorships

Effective 2018 - 2025

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Benefits of the §199A Provision

The Qualified Business Income (QBI) deduction allows individuals a deduction of up to 20% against income from pass-through businesses.

The deduction can potentially decrease the effective tax rate on business income from 37% to 29.6% for those in the top bracket.

Also called the "§199A deduction"

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Qualified Business Income (QBI)

QBI is generally ordinary income earned by a business within the United States

QBI does not include investment items such as interest, dividends, or capital gains

QBI does not include wages earned as an employer or retirement income

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QBI Threshold Amount

To qualify for the QBI deduction the taxpayers income must be below the "Threshold Amount"

Threshold Amount
Married Filing Joint
\$315,000

Threshold Amount All
Other Filers \$157,500

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Calculation of Deduction Amount

For individuals with taxable income below the Threshold Amount the deduction is the lesser of:

- 20% of QBI from pass through; or
- 20% of the following formula, taxable income less net capital gains

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Calculation of Taxable Income

Taxable income is calculated after above-the-line deductions and either the standard or itemized deduction.

For example: A single taxpayer with \$200,000 of QBI can still qualify for the deduction IF they have other deductions that bring their taxable income below the \$157,500 Threshold Amount

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Income Above The Threshold

The deduction may be limited when taxable income exceeds the threshold amount by:

\$100,000
for MFJ filers

\$50,000
for all other filers

If certain criteria are not met, the deduction can be lost entirely when taxable income exceeds the upper limits:

\$415,000
for MFJ filers

\$207,500
for all other filers

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Income That Exceeds Upper Limits

Tax Payer with income above the upper limits must meet two requirements to qualify for the deduction:

1. The income may not be generated by a “Specified Service Business” ; AND
2. The “Qualified Trade or Business” generating the income must either pay wages or own property

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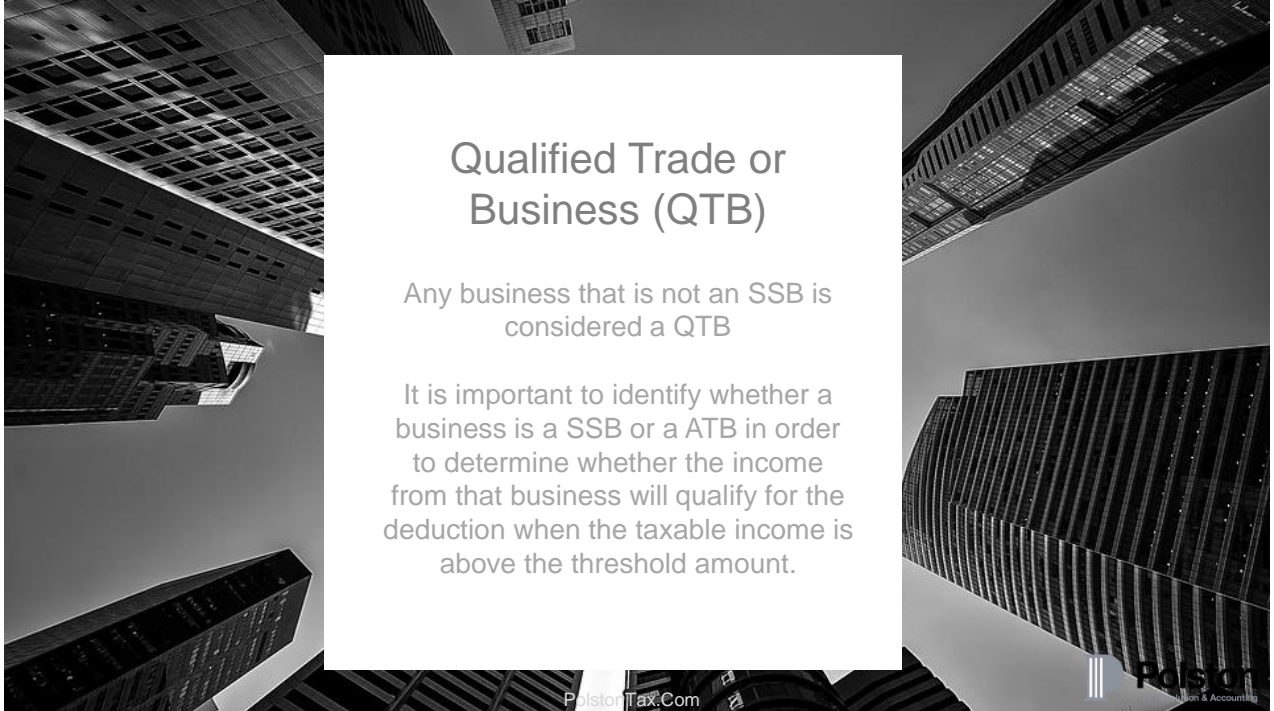
Specified Service Business (SSB)

A Specified Service Business (SSB) is broadly defined as any trade or business involving the performances of services in the fields:

- ✓ Health
- ✓ Law
- ✓ Accounting
- ✓ Actuarial Science
- ✓ Performing Arts
- ✓ Consulting
- ✓ Athletics
- ✓ Financial Services
- ✓ Brokerage Services
- ✓ Investing
- ✓ Investment Management
- ✓ Trading or Dealing in Securities

Any trade or business where the principal reputation or skill of one or more of its owners

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Qualified Trade or Business (QTB)

Any business that is not an SSB is considered a QTB

It is important to identify whether a business is a SSB or a QTB in order to determine whether the income from that business will qualify for the deduction when the taxable income is above the threshold amount.

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Calculation of QTB Income Over the Upper Limit

For taxpayers with QTB income over the upper limit of the Threshold Amount, the 20% deduction is subject to the calculation below

- ✔ **The 20% deduction of QBI is limited to the greater of**
 - ✔ **50% of Allocable W-2 Wages paid by the business; or**
 - ✔ **25 % of allocable W-2 Wages plus 2.5% of Qualified Property owned by the business**

This means, for taxpayers with taxable income above the Threshold Amount, the QTB must pay wages to employees Or own property, otherwise the deduction will not be available



Tax Planning:

Optimizing The QBI Deduction

The QBI deduction is dictated by:

The income level of the taxpayer

Whether the entity is an SSB or QTB

The entity structure of the business generating the income

Whether or not the business pays wages or owns property

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Maximizing the Opportunity to Benefit from the New Provision

The new QBI deduction can result in significant tax savings. Business restructuring may be necessary to maximize the benefit such as:

Income reduction strategies to stay below the income threshold

Recategorizing income from a specified service business into non-specified service business income

Hiring more W-2 employees or owning property

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Evaluate if Business is Structured to Optimally Benefit from Deduction

Examples of preliminary questions:

Could this married couple benefit from changing their filing status from MFJ to Married Filing Separate this year? Is the business income of one spouse below the threshold amount? (This must be weighed against the changed income tax brackets for MFJ and MFS to calculate the total savings/loss)

Could this business benefit from revisiting the compensation model in place?

Does this business have the ability to increase deductions claimed?

Would the amount of the deduction increase if independent contractors were converted to employees? (This must be weighed against the cost of payroll taxes, benefits, etc.)

Would the business benefit by owning property?

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Example 1

Bill and Sally are married and have always filed a joint return. Bill is a W-2 employee and makes a \$400,000 salary as a corporate executive. Sally is a sole-proprietor CPA (a specified service business) whose business is estimated to generate a net business profit of \$175,000. Together, Bill and Sally's taxable income is well over the \$415,000 upper limit of the phase-out for the QBI deduction for joint filers. Thus, Bill and Sally are unable to claim any amount of QBI deduction for Sally's otherwise-eligible business income. Assuming no other deductions or credits, Bill and Sally would have a total 2018 federal income tax liability (including Sally's self-employment tax) of \$164,036.

Source: <https://www.kitces.com>



Example 1 Cont.

Continuing the prior example but using the Married Filing Separately status, instead of jointly, not much changes for Bill, other than switching over to the married-filing-separate brackets and getting a \$12,000 standard deduction (half that of those filing a joint return). Ultimately, his \$400,000 salary results in a standalone \$115,725 federal income tax liability for 2018.

Things do change rather significantly for Sally though. Now, “unshackled” from Bill’s high salary (talk about a nice problem), Sally is able to reap the benefit of a substantial QBI deduction. After accounting for self-employment tax and her own standard deduction, Sally would be eligible for a \$30,539 QBI deduction. Her resulting taxable income of \$122,157 leaves her with a tax bill of \$44,545.

Source: <https://www.kitces.com>



Example 2

Clarence is a plumber and earns a salary of \$150,000 per year from his employment with ABC Plumbers. That \$150,000 is fully subject to federal income tax. Alternatively, suppose Clarence goes to his employer and together, they agree to terminate Clarence as an employee and to contract Clarence directly, as a sole proprietor, for \$160,000 annually. The net result to each, after account for the higher compensation but the shift in employment taxes (i.e. FICA and FUTA) is roughly the same. Now, however, Clarence could potentially receive a substantial QBI deduction. As an added bonus, Clarence would now be able to deduct items such as the cost of uniforms, equipment, mileage between work sites, etc., as business expenses... which is especially appealing since such unreimbursed business expenses are no longer even deductible as they were in the past, thanks to the Tax Cuts and Jobs Act!

Source: <https://www.kitces.com>





Example 3

Alicia runs a successful widget-making company, and earns \$600,000. With \$600,000 of business profits, Alicia's potential 20%-of-QBI deduction could be as much as \$120,000. Unfortunately, however, Alicia designed the widgets several years ago, and has utilized outside labor to both manufacture and distribute her product. She has no depreciable business property, and no W-2 wages paid. Thus, even though Alicia does not operate a specialize trade or service business, she is presently unable to claim any QBI deduction, as she's limited to either 50% of W-2 wages, or 25% of W-2 wages plus 2.5% of her depreciable property... all of which is \$0!

Source: <https://www.kitces.com>



Example 3 Cont.

Suppose, however, that in 2018, Alicia paid \$325,000 to independent contractors for their distribution services. Here, a "simple" change could have dramatic tax savings for Alicia. Alicia could decide to bring her distribution in-house, and hire the sales personnel as full-time employees. Consider what would happen if she hired three full-time salespersons at a salary of \$85,000 each (\$255,000 total). After factoring in employment taxes, benefits, etc., her total outlay for sales might be about the same, but now she'd have a business that paid \$255,000 of wages.

Absent other factors, Alicia's QBI deduction of \$120,000 would be allowed because it is less than \$127,500 (which is 50% of the total wages paid). The end result for Alicia is a similar net payment to her contractors/employees, but a personal federal income tax savings of roughly \$40,000!

Source: <https://www.kitces.com>



Example 4

Kelly is the owner of a successful sole proprietorship that is NOT a specified service business, but nonetheless has no W-2 employees (just some independent contractors) or depreciable property. In 2018, Kelly is projected to have net business profits of \$750,000. Despite the fact that Kelly's business is not a specified service business, she will be unable to claim any QBI deduction for 2018 because her income is too high, and her QBI deduction isn't "saved" by (25% to 50% of) W-2 wages paid or (2.5% of) depreciable property.

Source: <https://www.kitces.com>




Example 4 Cont.

Suppose, however, that Kelly changes her business entity type to an S corporation, and pays herself a \$300,000 salary. Now, after paying Kelly her salary, Kelly's business will have a net profit of \$450,000. Her potential QBI deduction here is \$90,000, and now, even though her total income is still \$750,000 and well above the upper-limit of the QBI deduction phase-out range, her deduction is "saved", as the limit of 50%-of- W-2 wages paid by her business would leave enough room to claim the \$90,000 QBI deduction... even though the W-2 wages were simply paid to herself! And in addition, she may even save a small amount of FICA Medicare taxes as well (on the \$450,000 of S corporation profits not taxed as employment income!).

Source: <https://www.kitces.com>



What Does This Mean?

Tax Reform Has Changed the Game for Business Owners!

Tax Planning is crucial to ensure business owners maximize allowable deduction and lower tax brackets

New lowers corporate tax rates could result in that structure being better overall for a business – 21%

Planning for the QBI deduction can be combined with the other tax reduction strategies to save you money!

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What Should Your Tax Professional Be Asking To Save You Money?

- ✓ In-depth details about your business
- ✓ What the long-term goals are for your business
- ✓ Where you spend your money personally



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Conclusion

- ✓ Implementing strategies to optimize this deduction will be a critical aspect of tax planning going forward.
- ✓ There is an absence of guidance on the interpretation and application of the law.
- ✓ Varying results based on entity type are likely unintended consequences.
- ✓ Case Law Precedent from Tax Court may be 2 or more years away.
- ✓ Legislative intent and well-reasoned arguments may prevail in the absence of authoritative interpretation.

PolstonTax.Com



Questions?

Rachel Pappy | Partner
Rachel.Pappy@PolstonTax.com

Nicole Hopkins, Business Development Coordinator
NicoleH@PolstonTax.com

PolstonTax.Com





Rachel Pappy

**Tax Attorney | Accountant | Business Owner
Writer | Best-Selling Author | Public Speaker
TV Guest Commentator | Radio Guest Analyst
Newspaper & Magazine Guest Contributor
Oklahoma Bar Association Tax Section Chair**

Rachel Pappy loves making the topic of tax policy, tax strategy, tax administration, tax cases, and tax law easy to understand for all!

Rachel never planned on becoming a tax attorney. Yet the passion she exhibits today - to use her knowledge to help others- was the cornerstone of who she has always been from the very beginning. The stories of Rachel Pappy in preschool recount how she was the only 4-year old in class who knew how to tie her shoelaces, and she loved patiently helping the other children learn how to loop the strings, cross them, and joined them in their delight as they tied the laces in a knot! Rachel's heart to help others is one thing about her that is still the same.

Her unusually high aptitude for math became evident while working on her undergraduate degree. Though not required for her degree, Rachel found that she excelled in high level college math courses and took algebra, trigonometry, pre-calculus, calculus I, calculus II, calculus III, differential equations, and statistics. Her affinity for math and willingness to always help other students, prompted one of her college professors to ask her if she could hire Rachel as a teaching instructor and if she would be interested in a job as a tutor for the math department. Rachel said yes to both! Finding ways to explain concepts to students who had enormous difficulty grasping the subjects reinforced how much Rachel loved helping others. She embraced the pressure of students passing or failing their math classes, knowing that it often hinged on her ability to help them overcome a mental hurdle.

Not much has changed in the decades since. Rachel began in the tax and accounting field in 1999 and after working as an accountant, Rachel was inspired to become a tax attorney so she could use her knowledge of complex tax laws to help the public navigate the nightmare they faced at the IRS. Today, Rachel Pappy and Rod Polston co-own Polston Tax with over 100 employees across 4 offices in 2 states. Rachel's love for the clients she helps each day has earned her the following recognition:

- Oklahoma Bar Association Tax Section Chair
- Best-Selling Author for "Get In the Game"
- Tax segment on TV on Fox 25 every month
- Guest TV Commentator on News 9
- Guest on William Shatner's show "Moving America Forward"
- Live on KOKC 1520 AM answering tax questions
- Selected Speaker for the Women Who Count Conference
- Keynote Speaker for the Accounting and Finance Women's Alliance Annual Banquet
- Keynote Speaker for the Giant Partner's CEO Breakfast
- Keynote Speaker for the Oklahoma Society of CPAs
- Speaker for Oklahoma Bar Association Annual Meeting
- Speaker for the Tulsa County Bar Association
- Speaker for the Creek County Bar Association
- Selected by the IRS to provide a nine-part tax seminar
- Super Lawyers Magazine award for the area of tax law - 2015, 2016, 2017, 2018
- Attorney of the Year - COALA
- OCU Law Outstanding Young Alumna Award
- "40 Under 40" Award
- "Next Under 40" Award
- Outstanding Lawyer of the Year Nomination
- Article published - Oklahoma Bar Journal
- Article published - In Brief Magazine OCU Law
- Feature article - Tulsa Business and Legal News
- Feature article - OKC Biz magazine
- Feature article- Norman Transcript
- Feature article - Boyd Street Magazine
- Featured in Super Lawyers Magazine
- Graduate of Master Executives
- Graduate of SALLT Class 10
- OBA Leadership Academy Graduate

ESTATE PLANNING TIPS

OKLAHOMA BAR ASSOCIATION SOLO & SMALL FIRM CONFERENCE

June 21, 2019

by

Susan B. Shields

McAfee & Taft
Two Leadership Square, Tenth Floor
211 North Robinson Ave.
Oklahoma City, OK 73102
(405) 552-2311 (phone)
(405) 228-7311 (fax)
susan.shields@mcafeetaft.com

ESTATE PLANNING TIPS

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EXHIBITS

1. Exhibit “A” – Form of Estate Planning Questionnaire
2. Exhibit “B” – Example of Simple Will

ESTATE PLANNING TIPS

Susan B. Shields
McAfee & Taft
Tenth Floor, Two Leadership Square
211 North Robinson
Oklahoma City, OK 73102
(405) 552-2311 (phone)
(405) 228-7311 (fax)
susan.shields@mcafeetaft.com

I. INTRODUCTION

This paper focuses on selected estate planning issues for estates that total less than \$5,000,000. The issues discussed are primarily non-tax issues applicable to estate planning with a last will and testament or a revocable trust. However, with the current environment of uncertainty in the future of the Federal estate tax laws, in the event estate planning documents are being drafted for a client who has an estate with a value approaching \$5,000,000 or more, caution should be exercised. Such an estate plan may require more sophisticated estate and tax planning.

II. NEED FOR A PLAN

Inadequate estate planning can lead to the following results:

- Excessive estate or income taxes.
- Unexpected generation-skipping transfer taxes.
- Lack of liquidity to support a surviving spouse and to pay administration expenses, debts and taxes.
- Excessive delays, expenses and inconvenience in the administration of the estate.
- Loss of control or deterioration of the family business.
- Disagreement and animosity among heirs.
- Fractionalization and loss of family wealth.

- Claims on family assets from creditors and spouses of family members.

On the other hand, a well-conceived estate plan can help solve, or at least mitigate, the problems listed above.

A. Where to Begin? Most estate planning begins with the following recommendations to your client:

1. Identify your goals. Write them down. Prioritize them.
2. Identify the problems you foresee in achieving your goals. Some of these may be family and business challenges. Others may be legal and tax-related issues.
3. Identify the various procedures and techniques available to help overcome the problems in achieving your goals.
4. Put it all together in a comprehensive estate plan. The plan should be in writing and should set forth each step which will occur in the implementation of the plan, both during the client's lifetime and following their death.

B. Goals. The general goals of most clients in their estate planning are, as follows:

1. They want to maintain personal financial security and comfort for their spouse and family.
2. They want to avoid unnecessary expenses and delays of probate and administration of assets at death.
3. They want to plan for the continuation of their business and financial affairs in the event of disability.
4. They want to reduce potential income, estate and gift taxes and eliminate any potential GST taxes.

5. They want to retain as much control as possible over business and investment assets until death.

6. They want liquidity to pay taxes, administration expenses and debts following their death and their spouse's death.

7. They want to treat all of their heirs fairly.

8. They do not want their estate to be subject to the claims of creditors and spouses of family members.

9. They do not want their heirs to have control over and access to family wealth until they are mature enough to be responsible. They want their heirs to be stewards rather than victims of family assets.

10. They may wish to provide for non-family member beneficiaries or charities upon their death.

III. ENGAGEMENT LETTER

At the beginning of your representation prepare an engagement letter and get a signed copy back from your client or clients.

Also, be mindful of the difference between representing a married couple jointly (which is the most common type of representation) or representing a couple separately. An excellent resource concerning estate planning engagement letters can be found in "Engagement Letters: A Guide for Practitioners," American College of Trust and Estate Counsel (Third Edition 2017). http://www.actec.org/assets/1/6/ACTEC_2017_Engagement_Letters.pdf.

IV. OBTAINING ASSET INFORMATION AND OTHER INFORMATION FROM CLIENT

In the initial discussions with the client about their estate planning, you should request that the client gather numerous documents which will aid in the preparation of their estate plan.

The list of documents should include the following items:

- Copies of any prior wills, trusts and other estate planning documents.
- A list of assets and liabilities and their values to determine ownership of assets and the overall estimated value of the client's estate.
- Deeds, mortgages, leases and all instruments and contracts where the client has any interest in real property, including mineral interests and including any interests in real property in other states.
- Copies of all certificates of registration for motor vehicles and other recreational vehicles.
- Life insurance policies.
- Information about retirement plans (IRA, Roth IRA, 401(k), 403(b), etc.) or pensions.
- Divorce decrees and any prenuptial agreement.
- Property settlement agreements, whether as part of divorce proceedings, or as a prior settlement of an estate.
- List of the names, addresses and birthdates of the client, the client's spouse (if any) and all of the client's children, living and deceased.
- Whether the client owns assets as community property or as separate property.

It is often helpful to ask your clients to complete an estate planning questionnaire prior to your first meeting that details the information needed to prepare their documents. See example of a form of questionnaire attached hereto as Exhibit "A".

At a minimum, documents of title for assets of the client's estate must be examined by the lawyer to avoid potentially devastating results. For example, your client may not understand

the difference between owning property as a tenant in common and owning property in joint tenancy. If the client misinforms you as to the nature by which the property is held, the entire estate plan could be in jeopardy. If the client, for whatever reason, does not wish to provide you with a particular document, the lawyer, as a practical matter, should always confirm in writing with the client the information received from the client. Such a letter may also prove beneficial to you in the future in the event the client does not remember the conversation.

Once the information is gathered by the client, the lawyer should have an in-person meeting with the client to discuss his or her estate plan. The purpose of this discussion should be for the lawyer to fully understand the specific needs and desires of the client. The lawyer must determine whether the client has any specific issues to be addressed or if there is a particular person or persons whom the client wishes to benefit (or to disinherit). Situations involving children or other beneficiaries with special needs or beneficiary with challenges, such as a history of substance abuse problems or creditor issues, require more in-depth planning and care. It is also advisable to review the property ownership documents with the client to ascertain that you have correct and complete information.

V. BASIC ESTATE PLANNING

A. Will Versus Revocable Trust. One of the threshold issues to discuss with a client or clients in the initial estate planning meeting is whether they would prefer to use a will as their primary estate planning document or a revocable trust (sometimes called a “living trust”). If a client dies with assets titled in their individual name, a probate proceeding will be required to distribute the assets under the provisions of his or her will. The primary advantage of using a revocable trust as compared to a will is that if all of the client’s property is transferred to the

client's revocable trust during their lifetime, no probate proceeding will be required because the property is owned by the trust and not by them individually at the time of their death.

A revocable trust is tax neutral, meaning that it neither saves nor costs any estate, gift, GST or income taxes. Nor does a revocable trust shield the assets in the trust from creditors or from the statutory rights of a spouse in Oklahoma. However, one advantage of a revocable trust is that it saves some of the time, administrative and legal expense, inconvenience and publicity of a probate proceeding. Further, a revocable trust may avoid the necessity of a guardianship or conservatorship proceeding during the client's lifetime should they become incapacitated, since the named successor trustees could simply take over the management of the assets in the trust. In addition, a properly drafted and funded revocable trust will avoid probate on out-of-state real property and other hard to probate assets. If a person has real property, such as a vacation home or mineral interests, located outside of Oklahoma, then an ancillary probate might be required in that other jurisdiction upon death.

For married couples, it has become increasingly common for them to create one "joint" revocable trust rather than separate trusts for each spouse. Whether that planning technique is appropriate will depend on the facts and circumstances of each family, including whether they have common desires regarding their beneficiaries, whether there are any children from prior marriages and the strength of the marriage. Sometimes, it may be appropriate to create "his", "her" and "their" revocable trusts to hold each of their separate assets and their marital assets.

For clients utilizing a revocable trust for their estate plan, it is critically important to also prepare a "pour-over will" that provides that any assets not already owned by their trust at their death will be left, or will "pour-over", to the trust upon their death.

B. “Simple” Wills. When a client requests that his or her lawyer prepare a simple will or revocable trust¹, one of the most important initial decisions to make is whether a “simple” estate planning document is appropriate. The words “simple will” are, in fact, a misnomer, for no will is actually “simple.” The term “simple will” generally refers to a will which distributes assets outright to beneficiaries, does not require extensive estate planning with testamentary trusts and does not include tax planning considerations. The increased use and popularity of internet websites offering do-it-yourself planning also may lead your client to believe that if you advise them that a simple will is not appropriate for their situation, they can save money by buying a will from a website provider. However, do-it-yourself estate planning is fraught with peril. See “From Zoom to Doom? Risks of Do-It-Yourself Estate Planning”, by Wendy S. Goffe and Rochelle L. Holler, *Estate Planning Journal (WG&L)*, Volume 38, Number 04, April 2011.

Simple wills, by their nature, generally do not include any estate tax planning provisions. See discussion of estate tax rules below.

C. Non-Tax Considerations. Even in a “simple” estate plan in which tax planning issues are not a concern, there are a number of non-tax considerations that the lawyer must take into account to properly draft an estate plan. Some of the principal non-tax considerations are:

- Statutory rights of a surviving spouse and children under Oklahoma law.
- Jointly owned property, retirement accounts and life insurance proceeds.
- Continuation of a business as a going concern.
- Selection of a personal representative and/or trustee.

¹ The discussion in the paper refers primarily to an estate plan with a last will and testament as the primary dispositive document. However, the discussion applies equally to clients wishing to use a “simple” revocable trust for their estate planning to avoid probate.

- Selection of a guardian for any minor children.
- Apportionment of costs of administration.
- Plan of distribution.

1. Statutory Rights of a Surviving Spouse and Children. 84 O.S. §44(B)(1)

provides in pertinent part, that:

“... No spouse shall bequeath or devise away from the other so much of the estate of the testator that the other spouse would receive less in value than an undivided one-half (1/2) interest in the property acquired by joint industry of the spouse and wife during coverture...”

Frequently, in smaller estates, the lawyer may encounter situations where the homestead principal residence is titled in joint tenancy with rights of survivorship with the surviving spouse and where retirement accounts and life insurance proceeds are made payable to the spouse. Both of these assets will pass outside of the will and the client’s probate estate. A client may feel that ample provisions have been made for the support of the surviving spouse, and may request that his or her will provide for the remainder of his or her estate to be divided equally among the children. The danger in drafting a will based on this request is that the spouse may elect to take his or her statutory elective share under Section 44, which may defeat the client’s intent as provided in the will. In the event a client requests that his or her will be drafted in a manner that will leave less assets to a spouse than provided under law, the lawyer should make certain the client understands that the surviving spouse’s elective share rights could be invoked. Note that the statutory right of a surviving spouse to receive the homestead and other assets under 58 O.S. §311 may be waived in a validly executed prenuptial agreement.

The client may also request that the lawyer draft an estate plan where the client can make inter vivos gifts of property while retaining control over such property. Clients sometimes believe that this technique can be used for estate tax avoidance as well as for the purpose

of avoiding a surviving spouse's elective share. If any type of dominion and control over the transferred assets is retained in the hands of the testator, the tax avoidance technique will not work and the surviving spouse will still be able to reach the property. Therefore, an attorney should not assist the client in attempting such transfers.

In addition, 58 O.S. §311 and §312 and 31 O.S. §1, dealing with the homestead rights of the surviving spouse and minor children and related exemptions, should always be considered if specific bequests of personal property to other individuals are desired by the client. The testator should be advised that bequests of the homestead or exempt property are not estate assets that can be left to other persons under the will, but must be delivered to the surviving spouse or children. Absent a valid waiver in a prenuptial agreement, the attorney should not draft an estate plan where the homestead or the exempt property is given to persons other than to the spouse or the minor children.

2. Jointly Owned Property and Life Insurance. In general, a will should not reference the disposition of property that passes outside of the will. For example, an account held in joint tenancy with rights of survivorship between two individuals will automatically pass as a matter of law to the surviving joint tenant; therefore, it is not necessary to dispose of a joint account under the will since its distribution will occur, as a matter of law, outside the will.

Likewise, retirement plan assets and life insurance policies which have a valid beneficiary designation will automatically be paid to the named beneficiary or beneficiaries outside of the terms of the will (unless the client's estate is the named beneficiary). In addition, clients often have bank accounts or certificate of deposits which name a "pay-on-death" or "POD" beneficiary. Beginning November 1, 2008, Oklahoma law authorized the use of "transfer-on-death" deeds. See 58 O.S. §1252. These POD designations will also occur outside

of the will. A specific discussion of the pros and cons of these planning options is outside the scope of this paper. However, be aware that as the lawyer you can prepare a will which includes all of your client's wishes and desires for the disposition of his or her assets upon death, and if the client has all of his or her assets titled in joint tenancy or as POD accounts, the provisions of the well-drafted estate plan will be completely inapplicable. Further, if the lawyer references property in the will that otherwise passes outside the will, he or she may have created an ambiguity and provided a basis to challenge or set aside such provisions in the will.

3. Continuation of a Business as a Going Concern. The continuation or transfer of a business as a going concern upon the death of an owner can assume a variety of forms. The decedent's ownership in the business may be as a sole proprietor, as a partner in a partnership, as a member of a limited liability company, as a shareholder in a corporation, or in another form.

The sole proprietor has various options to direct the transfer of a business interest in his or her estate plan: (i) he or she may direct that the business be sold, (ii) he or she may direct that the business be transferred to a member or multiple members of the family, or (iii) he or she may direct that the business be transferred to a trustee to operate the business for the benefit of specific members of the family. If there are multiple beneficiaries under the will and the estate includes an ongoing business, consideration must be given to whether the beneficiaries can work together to run the business after the testator's death and who will have control to make decisions regarding the business. In most cases, if one child is active in the business and another is not, the active child should inherit control of the operation of the business following the owner/parent's death.

In order to prevent a forced sale of the business, the personal representative or trustee should be empowered to operate the going business pending a sale or distribution to the beneficiary or beneficiaries. This power must be drafted broadly enough to permit the use of other assets of the estate, to borrow money as necessary, and to keep the business operating so that the full value of the business can be realized upon a subsequent sale or transfer. If the bulk of the value of the estate relates to the business, and there has been no plan for the payment of administration expenses, debt and taxes, the lawyer should discuss with the client a method to pay those expenses of the estate. A frequently used and easily adopted method of funding these types of liabilities is through life insurance policies.

If the client is a partner in a partnership or a member of a limited liability company, the lawyer should request copies of the partnership agreement or LLC documents to determine if there is any type of binding buy-sell provisions activated upon the death of a partner/member. A short-term or long-term buyout agreement between the parties also might be funded with life insurance as a part of an estate plan.

If the client owns the majority of stock in a closely-held corporation, a proper estate plan should consider the following basic possibilities:

- a. Inter vivos gift or sale of the stock;
- b. Testamentary gift of the stock;
- c. A reorganization of the corporation transferring voting rights and non-voting rights among family members;
- d. Establishment of a trust with a competent trustee; and/or
- e. A buy-sell agreement funded partially or entirely through life insurance.

Remember that any plan for the transfer of an operating closely-held business should always take into account all considerations relating to estate, gift and income tax consequences, as well as practical operational issues relating to the business.

4. Selection of a Personal Representative and Trustee. Selection of a personal representative and/or a trustee is one of the most important considerations in an estate plan, regardless of whether an estate is large or small. If there is no ongoing business and the estate is relatively small in overall value, a relative or friend may be able to competently handle the duties of a personal representative or trustee. The larger the estate and the more complex the anticipated problems of administration, the greater the need for a personal representative or trustee who has expertise and experience in more complex financial matters. This may lead to a discussion with the client about the use of a bank or trust company as the fiduciary. Under Oklahoma law, a nonresident individual may serve as the personal representative or trustee; however, such a choice may be impractical and probably should be avoided if possible due to potential time delays and costs involved with an out-of-state personal representative or trustee. Some clients wish to name co-personal representatives or co-trustees. If that is the case, make certain to discuss with the client the possibility that potential disputes may develop between the co-fiduciaries, which could add additional expenses to the administration of the estate. If co-personal representatives or co-trustees are named, it is often helpful to encourage the client to select an odd number of people or to consider naming a “tie-breaker” to prevent deadlocks in decision-making. Trust agreements should also address the payment of trustee fees if a trust is being used.

At least one, if not more, successor or alternate personal representatives and trustees should always be designated in the will and trust. If the fiduciary is a trusted friend or relative,

the testator may feel comfortable in waiving any bond under the terms of the will. If not, the testator may specifically state that bond shall be required of any personal representative designated under the will.

As set forth above, counseling and advice should also be given to the client regarding whether a corporate trustee, such as a bank trust department or trust company, or an individual should be named as the personal representative or trustee. Keep in mind that a bank trust department as personal representative or trustee may not be as familiar with the client's personal and family situation as would an individual. However, a testator should give strong consideration to naming a corporate trustee as the personal representative or trustee if it is anticipated that problems may occur with family members about the administration and distribution of the estate. The powers and responsibilities the testator gives to the personal representative or trustee under the will or trust should usually be quite broad.

Problems may arise when the testator does not have complete confidence in either the ability to manage or the integrity of the personal representative or trustee selected. If this is the case, your advice to the client should be to designate a corporate trustee as the personal representative or trustee, to designate a co-personal representative or co-trustee with the person named, or to name a completely different person as the personal representative of the estate or trustee of the trust.

We often include provisions allowing a child or more remote descendant who is a beneficiary of a trust created following the death of both parents to elect to serve as their own trustee upon reaching a certain age (perhaps 30 or 35). This allows the child/beneficiary to receive their assets in trust to take advantage of spendthrift trust provisions protecting the assets from creditors but to serve as their own trustee at some point in the future. Of course, a child or

other beneficiary with a history of creditor issues, substance abuse or other problems should generally not be appointed as their own trustee.

5. Nomination of Guardian for Minor Children. If the client has children under age 18 at the time the will is drafted, the will should include provisions that nominate a guardian and successor guardian for the children. The nomination of a guardian for most parents of minor children is perhaps the most difficult and important part of the will. A will can nominate the same person as the guardian of the person and estate of minor children, or it can nominate different people for those roles. In some families, it may be best for a sibling, parent or close friend of the testator to act as guardian for both the person and estate of minor children. On the other hand, some clients prefer the “check and balance” approach of having a different guardian of the person for the children than the person managing the financial assets of the minor children.

VI. TAXES AND APPORTIONMENT OF COSTS OF ADMINISTRATION

A. Basic Estate and Gift Tax Rules. For 2019, each person can give away \$15,000² per year to as many donees as they choose without gift tax. This is called the “annual gift tax exclusion.” See Internal Revenue Code (IRC) §2503(b). A married couple is allowed to “split gifts”, even though all of the gifted assets may come from only one spouse. A donor may also give away assets during their lifetime in excess of their annual exclusion amounts without paying any gift tax, but doing so would use up a portion of their "applicable exclusion amount", discussed below. For donors making gifts in excess of their annual exclusions, a timely Federal gift tax return should be filed.

² The annual exclusion is a base amount of \$10,000, as adjusted for inflation.

Further, donors can make gifts for the benefit of their children, grandchildren or other beneficiaries for medical and educational expenses without those gifts being taxable if they follow certain procedures. See IRC §2503(e). Caution should be exercised on how payments for medical or educational gifts are made. They should be made directly by the donor to the school or medical provider. If the donor instead reimburses the donee for such educational or medical expenses, the reimbursement will not qualify for the gift tax exclusion under IRC §2503(e).

At death, all of the assets in a decedent's gross estate may be subject to Federal estate tax. A decedent's gross estate includes all assets owned by a decedent at his or her death. This includes assets held in their name, assets owned jointly with others, assets in certain trusts (including revocable trusts created by the decedent), any life insurance policies which they owned even if a third person is named as beneficiary, and their IRAs or qualified plan accounts.

For both gift and estate tax purposes, there is an unlimited marital deduction. Thus, in computing a decedent's taxable estate, a marital deduction is allowed for any property which they leave to their spouse, including life insurance, IRAs, and qualified plan accounts which have their spouse as the beneficiary. Beginning in 2011, a new concept called "portability" became a part of the Federal estate tax laws. See IRC §2010. Portability allows the personal representative of the estate of a deceased spouse to make an election on the decedent's Federal estate tax return to transfer or "port" the deceased spouse's unused exclusion (called the "DSUE") to the surviving spouse. Portability of the DSUE only occurs if a portability election is made on a Federal estate tax return that is timely filed by its due date, which is nine months after date of death, plus extensions. The rules surrounding portability are complicated and the benefits and drawbacks of electing portability depend on each particular client's situation.

In addition, each person has a Federal estate tax-exempt amount, referred to in the tax laws as the “applicable exclusion amount” and also sometimes referred to as the “unified credit.” Under current Federal estate tax laws, an individual may die and leave a gross estate of less than \$11,400,000 before a Federal estate tax return is required to be filed and before their estate is subject to Federal estate tax. Estates above this threshold exemption are subject to estate tax at a current rate of 40%. In the past, this rate has been between 45-55% or more. However, the current exemption and rate structure under Federal law will sunset at the end of 2025, and absent further changes by Congress, the Federal exemption will revert to \$5,000,000 per person (with an inflation adjustment) and a top marginal rate of 40%. The separate Oklahoma estate tax was repealed beginning in 2010. Below is a schedule of the increases in the federal estate tax exemption.

	<u>Lifetime Gift Tax Exemption</u>	<u>Estate Tax Exemption</u>	<u>GST Tax Exemption</u>	<u>Top Transfer Tax Rate</u>
2001	\$ 675,000	\$ 675,000	\$1,060,000	55%
2002	1,000,000	1,000,000	1,100,000	50%
2003	1,000,000	1,000,000	1,120,000	49%
2004	1,000,000	1,500,000	1,500,000	48%
2005	1,000,000	1,500,000	1,500,000	47%
2006	1,000,000	2,000,000	2,000,000	46%
2007	1,000,000	2,000,000	2,000,000	45%
2008	1,000,000	2,000,000	2,000,000	45%
2009	1,000,000	3,500,000	3,500,000	45%
2010	1,000,000	unlimited	Unlimited	0%
2011	5,000,000	5,000,000	5,000,000	35%
2012	5,120,000	5,120,000	5,120,000	35%
2013	5,250,000	5,250,000	5,250,000	40%
2014	5,340,000	5,340,000	5,340,000	40%
2015	5,430,000	5,430,000	5,430,000	40%
2016	5,450,000	5,450,000	5,450,000	40%
2017	5,490,000	5,490,000	5,490,000	40%
2018	11,180,000	11,180,000	11,180,000	40%
2019	11,400,000	11,400,000	11,400,000	40%

Beginning in 2011, the exemptions are indexed for inflation. Also, the base amount of the exemptions were increased to \$10,000,000 (with an annual inflation adjustment) beginning

January 1, 2018 under the Tax Cuts and Jobs Acts. As stated above, this increase is due to “sunset” as of January 1, 2026, after which time the exemptions will return to pre-2018 levels.

B. GST Tax. In addition to gift and estate tax, there is also a tax known as the generation-skipping transfer (GST) tax that is imposed on transfers from a donor to grandchildren or other persons two or more generations below the donor. The GST tax is imposed at a flat rate equal to the highest marginal federal estate tax bracket, currently 40%. Thus, if a donor transfers any property directly to any grandchildren or more remote descendants valued at more than their available GST exemption, there could be both estate and GST tax on that transfer, for a potential combined tax bracket of 80%. Further, if a client transfers property in trust for their children, either by gift during their lifetime or upon their death, that transfer could be subject to gift tax or estate tax. Then, when the child dies and the trust continues on for that child's children (the client’s grandchildren), the law will impose a GST tax upon the property in that trust at the GST tax rate.

There is a GST exemption equal to the applicable exclusion amount. This means that under the year 2019 tax laws, each person may transfer up to \$11,400,000 during their lifetime or at death into a GST trust which can be exempt from GST taxes and can continue on for generations. This is a powerful estate planning tool for clients with large estates that wish to benefit their children, grandchildren and more remote descendants for generations to come.

C. Income Tax Considerations. In the past, the Federal estate tax rate was the highest rate of tax that most clients would ever face. However, the income tax aspects of estate planning have received greater attention since the top marginal estate tax bracket and the highest income tax bracket have become substantially the same. There is a greater focus now on planning to minimize capital gains tax and other income taxes for beneficiaries as a part of a

client's estate plan. It is generally inadvisable for clients to make lifetime gifts of low tax basis assets, absent extenuating circumstances. Retaining appreciated assets until death will result in those assets being included in the client's taxable estate and receiving a step-up in income tax basis under IRC §1014. That step-up, in turn, may reduce the income tax owed by the client's heirs if the assets are sold.

D. Administration Expenses. 84 O.S. §3 sets out the order in which property will be expended for the payment of debts, administration expenses, and allowances of the estate as follows:

1. The property which is expressly appropriated by the will for the payment of debts;
2. The property not disposed of by will;
3. The property which is devised or bequeathed to a residuary legatee;
4. Property which is not specifically devised or bequeathed; and
5. All other property on a ratable basis.

Before any debts are paid, the expenses of administration and the allowances to the family must be paid or adequate provisions must otherwise be made. Obviously the ideal estate plan would be one which assures that the costs of administration are paid without disrupting the estate plan. Consideration should be given by the lawyer to the method of payment of such costs and the client should be consulted about how such payments will be made.

VII. THE PLAN OF DISTRIBUTION

A simple will usually contains no specific devises or bequests. Instead, family members may receive proportionate shares of the entire estate. For example, a husband's will might leave all of his assets to his wife if she survives him, and if not, to the children in equal shares. This

type of drafting will meet the needs and expectations of many people. See example of will at Exhibit “B”.

Conversely, by including specific devises and bequests, the testator has the advantage of transferring specific items of personal property, property, business interests or money to certain family members and otherwise avoiding what might constitute a family dispute. When specific devises and bequests are made, as with all other dispositive provisions, it is always important to address what happens if the named beneficiary predeceases the testator by naming an alternative beneficiary or by making the will clear that in the event the named beneficiary predeceases the testator, the property will be distributed under the residuary clause of the will. It probably goes without saying, but every will must contain a residuary distribution clause that disposes of the remainder, or residue, of the estate even in cases where the client believes they have listed the specific disposition of every asset that they own.

VIII. EXECUTION OF THE WILL

Valid execution of a will in Oklahoma must follow certain statutory requirements. Typically this is done by having all of the testator, the witnesses, and the notary public in the same room and not allowing any party to leave the room until the will execution procedure is finished. The formal requisites required by 84 O.S. §55 are, as follows:

A. The will must be subscribed at the end by the testator himself or herself or some person, in his or her presence and by his or her direction, must subscribe the testator's name thereto.

B. The subscription must be made in the presence of the attesting witnesses, or be acknowledged by the testator to them, to have been made by him or her or under his or her authority.

C. The testator must, at the time of subscribing or acknowledging the will, declare to the attesting witnesses that the instrument is his or her will. This process is known as “publication” in Oklahoma.

D. There must be at least two attesting witnesses, each of whom must sign his or her name as a witness at the end of the will and at the testator's request and in his or her presence. Many lawyers have a practice of using three attesting witnesses.

E. A “self proving clause” in which the notary public attests to the signatures of the testator and witnesses is not required under Oklahoma law, but is strongly recommended to avoid the need in most circumstances to obtain testimony of the witnesses in a probate of the will.

Attorneys disagree on whether multiple original wills should be executed. As a practical matter, your client typically should have one original will in his or her possession to keep in a safe deposit box or other secure location.

Alternatively, you might inquire of the client whether he or she wishes that another original will be executed and retained in the attorney's office in the event the will in the client's possession is ever destroyed. If this is the client's desire, the attorney should make sure that the will is kept in safekeeping in the attorney's records and that proper documentation is maintained to evidence possession of the client's original will.

IX. REVIEW OF EXISTING ESTATE PLANS

The much higher estate tax exemptions now in effect may allow prior and more complicated estate planning documents to be updated and simplified. For example, does your client still benefit from having an irrevocable life insurance trust or a family limited partnership?

Does a separate “credit shelter” trust still need to be created at the first spouse’s death for tax planning purposes? All of our clients appreciate simplification when it makes sense.

X. PREPARATION OF OTHER ANCILLARY ESTATE PLANNING DOCUMENTS

A comprehensive estate plan will also include other documents, such as durable powers of attorney for property and health care and an advance directive for health care (Oklahoma’s form of “living will”). You should always encourage your clients to sign these documents to allow for decision-making on their behalf in the event of their later disability or incapacity.

XI. CONCLUSION

No matter what area of law an attorney specializes in, he or she may be asked to prepare estate planning documents for a client at some point in his or her career. By familiarizing himself or herself with the basic requirements of drafting an estate plan (and by being aware when a “simple will” may be inappropriate for a client) the lawyer can assist the client with carrying out the client’s wishes for the disposition of his or her assets upon death and also give the client some peace of mind about his or her estate plan.

EXHIBIT "A"

ESTATE PLANNING WORKSHEET

The information requested on this questionnaire helps us understand your present situation, your wishes for the future, and determine the most appropriate estate plan for you. Be as complete as you can, but don't be overly concerned with precise numbers. The purpose of this questionnaire is to obtain a basic overview of your family and financial situation so we may begin the estate planning process. This worksheet contemplates a married couple with children and grandchildren; please leave blank any questions which are not applicable to your situation. All information provided to us, is attorney/client privileged and will be treated as confidential.

I. GENERAL INFORMATION

HUSBAND:

First	Middle Initial	Last		
<hr/>		<hr/>		
<i>A/K/A</i>		<i>Date of Birth</i>		
<i>Home Address,</i>	<i>City,</i>	<i>State,</i>	<i>Zip</i>	<i>Home Telephone/Fax Number</i>
<hr/>				
<i>Business Address</i>	<i>City,</i>	<i>State,</i>	<i>Zip</i>	<i>Business Telephone/Fax Number</i>
<hr/>				
<i>Fax Number</i>		<i>e-mail address</i>		
<hr/>		<hr/>		
<i>County</i>		<i>Social Security Number</i>		

WIFE:

First	Middle Initial	Last		
<hr/>		<hr/>		
<i>A/K/A</i>		<i>Date of Birth</i>		
<i>Home Address,</i>	<i>City,</i>	<i>State,</i>	<i>Zip</i>	<i>Home Telephone</i>
<hr/>				
<i>Business Address</i>	<i>City,</i>	<i>State,</i>	<i>Zip</i>	<i>Business Telephone</i>
<hr/>				
<i>Fax Number</i>		<i>e-mail address</i>		
<hr/>		<hr/>		
<i>County</i>		<i>Social Security Number</i>		

What are your primary motivations for considering estate planning? *(Select one or more)*

- | | |
|--|---|
| <input type="checkbox"/> Probate Avoidance | <input type="checkbox"/> Income tax planning |
| <input type="checkbox"/> Guardianship for Minor Children | <input type="checkbox"/> Establishing a gifting program |
| <input type="checkbox"/> Asset Protection | <input type="checkbox"/> Providing for charitable goals |
| <input type="checkbox"/> Business or Farm Planning | <input type="checkbox"/> Planning for retirement accounts |
| <input type="checkbox"/> Succession planning for family business | |
| <input type="checkbox"/> Interest in family limited partnership or family limited liability company | |
| <input type="checkbox"/> Federal Estate Tax planning (Estates should be analyzed for federal estate tax planning options since valuation, inflation, growth and other factors may result in estate tax issues in these estates.) | |
| <input type="checkbox"/> Other: _____ | |

How soon would you like to complete planning? Is there a specific deadline, such as an upcoming trip, surgery, etc.? _____

	<u>Husband</u>	<u>Wife</u>
Do you presently have a will?	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
Do you presently have a trust?	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
Are you interested in avoiding probate of your estate?	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
Were there previous marriages?	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
Are any of your children not from your current marriage?	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
Do any of your children or other beneficiaries have disabilities?	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
Do you own a farm or business?	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
If yes, do any of your children work in the business with you?	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
If yes, does the child working in the business have an ownership interest in the business?	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
Are you a U.S. citizen?	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
Have you entered into any agreements with your spouse (such as a prenuptial or community property agreement?)	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
Are there any serious health problems?	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
If yes, please describe briefly: _____		

Do you own a long-term care (nursing home) insurance policy?

Yes No

Yes No

Do you hold everything jointly with your spouse, or is some property separate?

All Joint (except

Some separate

NET WORTH: If you added the value of all property owned by yourself and your spouse including real estate, personal property, bank accounts, stocks, bonds, IRA's and anything else you own except death benefits on life insurance, what is the approximate total value of the estate of yourself and your spouse? _____

What is the value of death benefits on life insurance? _____

Insuring
Husband

Insuring
Wife

What is the total amount of your outstanding liabilities? _____

II. INCOME INFORMATION

Please list your income/asset/liability information in the appropriate category below.
Attach an additional page if necessary.

	<u>Husband</u>	<u>Community/Joint</u>	<u>Wife</u>
INCOME:			
Earned Monthly Income from Labor			
Monthly Social Security Income			
Monthly Pension Income			
Other Monthly Income			

III. ASSETS

Enter the estimated fair market value under the appropriate column of the owner of the asset. Where applicable, please provide asset location (e.g., bank, brokerage firm, etc.) as well as account number. Attach an additional page if necessary.

Description of Asset	Husband	Joint Tenants with Rights of Survivorship	Wife
Home			
Savings Accounts			
Checking Accounts			
Certificates of Deposit			
Money Market Accounts			
Stocks			
Bonds			
Other Cash or Cash Equivalents			
Life Insurance <i>(enter value payable at death)</i>			
IRA Accounts <i>(enter value as of current date)</i>			
Retirement Plans			
Automobiles			
Collectibles <i>(e.g., coin collection, antiques, art work, etc.)</i>			
Oil and Gas Investments			
Unexercised Stock Options <i>(enter "spread", i.e. value of stock less exercise price)</i>			
Other Assets <i>(specify)</i>			

V. GIFT TAX RETURNS

Have gift tax returns ever been filed to report gifts made? _____ If YES, please bring copies of the returns to your appointment.

VI. APPOINTMENTS

Following are the documents typically drafted and the appointments to be filled for each.

1. **WILL.** In your will you designate a personal representative to probate the estate if necessary. (A personal representative is also sometimes referred to as executor or administrator.) Many people name their spouse as primary personal representative, with a child, relative, friend, or corporate trustee as alternate. If you have minor children or an incompetent child, you will need to nominate a guardian. The guardian is responsible for the day-to-day care of the child. It is a good idea to name an alternate guardian in the event your first choice cannot serve.

	HUSBAND	WIFE
PERSONAL REPRESENTATIVE		
FIRST ALTERNATE		
SECOND ALTERNATE		
GUARDIAN FOR MINOR		
ALTERNATE GUARDIAN FOR MINOR		

2. **REVOCABLE TRUST.** If you would like to avoid probate of your estate by executing and funding a revocable trust during lifetime, you (and your spouse, if you are married) may be the initial trustee(s). A trustee is responsible for managing the assets held by the trust. At least one successor trustee should be named to serve if the initial trustee is unable to serve.

	HUSBAND	WIFE
INITIAL TRUSTEE(S)		
FIRST ALTERNATE		
SECOND ALTERNATE		

3. **DURABLE POWER OF ATTORNEY FOR PROPERTY.** In a Durable Power of Attorney for Property, you appoint someone to make decisions regarding your property if you are unable to make these decisions yourself. If you are married, the primary agent is often the spouse. The alternate agents are often the same as the successor trustee appointments.

	HUSBAND	WIFE
PROPERTY AGENT		
ADDRESS (STREET, CITY, COUNTY, STATE, ZIP) OF PROPERTY AGENT (IF OTHER THAN SPOUSE)		
FIRST ALTERNATE		
SECOND ALTERNATE		

4. **DURABLE POWER OF ATTORNEY FOR HEALTH CARE.** In a Durable Power of Attorney for Health Care, you appoint someone to make medical decisions on your behalf if you are unable to make these decisions yourself. The primary agent is often the spouse.

	HUSBAND	WIFE
HEALTH CARE AGENT		
ADDRESS (STREET, CITY, COUNTY, STATE, ZIP) OF PROPERTY AGENT (IF OTHER THAN SPOUSE)		
FIRST ALTERNATE		
SECOND ALTERNATE		

5. **ADVANCE DIRECTIVE FOR HEALTH CARE.** In an Advance Directive for Health Care, you appoint a health care proxy to make life sustaining treatment decisions on your behalf in the event you become persistently unconscious, are in a terminal condition or have an end-stage condition. These appointments are typically the same as in the Durable Power of Attorney for Health care

	HUSBAND	WIFE
HEALTH CARE PROXY		
FIRST ALTERNATE		
SECOND ALTERNATE		

VII. PLAN OF DISTRIBUTION

1. **SPECIFIC GIFTS.** Do you wish to make any charitable gifts, such as to a church or other institution? Do you wish to make a special gift to a particular person, such as a piece of jewelry to a particular child? _____

2. Briefly describe how you wish your remaining assets to be distributed after any specific gifts (described above).

All to spouse; then equally between children, and if a child does not survive, the deceased child's children would take the share of the deceased child.

All to spouse, then equally between surviving children

All to spouse, then _____

As follows: _____

EXHIBIT “B”

LAST WILL AND TESTAMENT

OF

JANE DOE

I, JANE DOE, a resident of and domiciled in _____, Oklahoma, being of sound and disposing mind, do hereby make, publish and declare this instrument to be my Last Will and Testament, revoking all other wills and testamentary instruments heretofore made by me.

ARTICLE I

Declarations

1.1 Family History. I hereby declare that I am {married} {not married}. {My husband’s name is _____} I have the following children: _____ (date of birth: _____) and _____ (date of birth: _____).

ARTICLE II

Definitions and Directions

2.1 Definitions. Unless the contrary be clearly expressed or shown by context, the following definitions and directions shall apply throughout this instrument:

(a) “Children” shall mean descendants, as herein defined, related in the manner therein required, in the first degree, to the particular person named or referred to, and shall include natural and adopted children.

(b) “Descendants” shall mean all those persons who are in a direct line of descent from a particular person named or referred to, and lawfully related to that person by consanguinity or adoption, but shall not include a stepchild not legally adopted by that person.

(c) “My husband” shall mean my present husband, _____.

(d) “Personal representative” shall, where appropriate, mean and include the executor or executrix of my estate, the administrator or administratrix with will annexed of my estate, or any other kind, type or description of personal representative of my estate to include, without limitation, an “executor” as defined in Section 2203 of the Code, and any successor personal representative appointed to succeed a previously appointed personal representative.

(e) “Trustee” or “trustees” shall, where appropriate, be deemed to include either or both of a corporate trustee and individual trustee.

2.2 Gender and Usage. A pronoun in lieu of the term “personal representative” shall have, or include, as the case may be, a feminine meaning if a male fails to qualify as such upon the admission of this will to probate.

ARTICLE III

Administration and Debts

3.1 Expense of Debts. In addition to such other debts and costs which my personal representative is required to pay, I authorize my personal representative to pay costs of ancillary administration, expenses of my last illness and funeral, and, at their discretion, to pay the cost of a suitable monument at my grave.

3.2 Election. My personal representative is authorized to elect to claim as a deduction for all income tax purposes any items of administration expense which are deductible alternatively for any estate tax purposes, and if my personal representative elects to do so, no adjustment shall be made between principal and income.

3.3 Death Taxes; Allocation. My personal representative may in its sole discretion pay any and all debts of mine or any other valid claim against my estate, including but not limited to estate, inheritance, succession or transfer taxes (my “death taxes”) and expenses of last illness and funeral of mine. To the extent not inconsistent with the preceding proviso, all of my death taxes, including any interest and penalties assessed with respect thereto, payable by my estate or any beneficiary thereof shall be {paid out of the residue of my estate} {apportioned against and paid by the persons or entities in possession or receipt of the property includible in my gross estate or taxable by reason of my death, whether or not such property is part of my probate estate, unless otherwise specified in this will}.

3.4 Tax Return. My personal representatives are authorized to file income and/or gift tax returns for any period for which such a return may be filed, and, in my personal representatives' sole discretion, to pay out of my general estate any part or all of the taxes, interest or penalties found to be due with respect to such returns.

ARTICLE IV

Administration

4.1 Appointment of Personal Representatives. I hereby appoint _____ as the personal representative of my estate to serve under this last will and testament. In the event _____ shall predecease me or survive me and fail to qualify or having qualified shall die, resign, or for any other reason ceases to act as personal representative, I hereby appoint _____ as my successor representative.

4.2 Bond. I direct that no bond or other security shall be required of my personal representative.

4.3 Required Action. I direct that no action shall be had in the county or probate court in relation to the settlement of my estate other than the probating and recording of this will, and the return of an inventory, appraisalment and list of claims of my estate.

4.4 Payment of Debts. In addition to such other debts and costs which my personal representative is required to pay, I authorize my personal representative to pay costs of ancillary administration, expenses of my last illness and funeral, and at the discretion of my personal representative to pay the cost of a suitable monument at my grave.

4.5 Administration Expenses. My personal representative is authorized to claim as a deduction for all income tax purposes any items of administration expense which are deductible alternatively for any estate tax purposes, and if he or she elects to do so, no adjustment shall be made between principal and income.

4.6 Inclusion of Property in Estate. If my personal representative in good faith decides that there is uncertainty as to the inclusion of particular property in my gross estate for federal estate tax purposes, he or she shall exclude such property from my gross estate in the estate tax return. My personal representative shall not be personally liable for any loss to my estate, or to any beneficiary or beneficiaries resulting from his or her decision made in good faith that there is uncertainty as to the inclusion of that particular property in my gross estate.

4.7 Power and Authority. My personal representative is hereby authorized to do any and all things which in his or her opinion are necessary to complete the administration and settlement of my estate, including full right, power and authority, without the order of any court, and upon such terms and under such conditions as he or she shall deem best for the proper settlement of my estate, to bargain, to sell at private or public sale, convey, transfer, deed, mortgage, lease, exchange, pledge, manage and deal with any and all property belonging to my estate, to compromise, settle, adjust, release and discharge any and all obligations or claims in favor of or against my estate, and to borrow money for the purpose of inheritance and estate taxes, or for any other purpose. Without in any way limiting the scope or the powers enumerated herein of my personal representative, I hereby specifically give to my personal representative full power to retain any and all securities or property owned by me at the time of my death whenever, in his or her absolute and uncontrolled discretion, such a course shall deem to him to be best, without liability for depreciation or loss and free from investment restrictions incident to trusteeship or executorship, whether imposed by common law or statute. In the execution of said duties and powers, my personal representative shall have the power to comply with all legal requirements as to the execution and delivery of deeds and all other writings, documents or formalities without the order of any court. If and when my personal representative shall ever be in doubt as to the proper construction and interpretation of this will, or to its operation or effect in any manner, or to what property shall be comprehended within any of the terms hereof, or as to any other questions that may arise during the administration of my estate, my personal representative is authorized to resolve all such doubts and questions in such manner as my personal representative shall deem equitable and proper, without the necessity of resorting to a court for construction or instructions and all decisions so made by my personal representative shall be binding and conclusive on all parties ever interested hereunder.

ARTICLE V

Dispositions

5.1 Bequest of Specific Gifts. I leave the following assets/amounts to the following persons:

{insert information concerning specific gifts}

5.2 Distribution of Personal Residence and Personal Effects. Following my death, I leave to my husband any interest I have in my personal residence and all of my jewelry, wearing apparel, guns, books, pictures, art objects, hobby equipment and collections, household furniture and furnishings and other such property intended for personal or household use (hereafter "personal effects"). If my husband does not survive me, this distribution shall lapse and shall not be made.

Notwithstanding the above, however, I may leave in my safety deposit box or among my effects a letter or memorandum bearing my signature and containing certain wishes with respect to the personal effects, which letter or memorandum is not to be construed as a will or a legally binding obligation, but shall merely serve as a suggestion to my personal representative concerning the distribution of the personal effects. The judgment of my personal representative, in determining the classification of personal effects and in making any distribution of personal effects shall be final and binding upon all persons. All costs of safeguarding, insuring, packing, transporting and storing the personal effects before their distribution and delivery to the place of residence of the beneficiary entitled thereto shall be deemed to be expenses of administration.

5.3 Distribution of Remainder of Estate. Following my death, I devise and bequeath all of the remainder of my property of every nature and description, wherever situated, owned by me at my death in equal shares to {my husband} {my children, per stirpes}. {If my husband does not survive me, I devise and bequeath all of the remainder of my estate to my children, per stirpes.}

5.4 Distribution to Beneficiary Under Age Twenty-One (21). Notwithstanding anything else contained herein, if any beneficiary hereunder is under the age of twenty-one (21) years or under any disability at the time he or she is to receive a distribution hereunder, then his or her share may be distributed by my personal representative to his or her legal representative or to a person furnishing support, maintenance or education for the beneficiary or with whom the beneficiary is residing, for expenditure on the beneficiary's behalf or to a custodian for a minor beneficiary, as selected by my personal representative, under the Uniform Transfers to Minors Act of any state or to any trust which has been created for such persons as selected by my personal representative.

5.5 Pretermitted Heirs. I have thoughtfully considered all persons, both related and unrelated to me, who might assert that they should be beneficiaries of my will. I hereby declare that any such person who is not named as a beneficiary, either individually or by class, hereof has been intentionally omitted.

5.6 In Terrorem Clause. The distributions, allocations and appointments contained in this will are intended to be in lieu of any other claims of whatever nature and whether arising by statute or otherwise by any taker hereunder, and any taker who asserts such other claim or contests this will shall forfeit all bequests, distributions, allocations and appointments to him or to her herein and shall be treated as if that person were deceased. This section shall not be construed to limit the appearance by any taker as a witness in any proceeding for the probate of my will.

ARTICLE VI

Appointment of Guardian

I hereby appoint _____ as guardian of the person and estate of my minor children, to serve without bond. If _____ predeceases me or for any reason fails to qualify as guardian, or after having qualified as guardian, shall die, resign or be unable to continue as guardian, then I appoint _____ as guardian of the person and estate of my minor children to serve without bond.

IN WITNESS WHEREOF, I, JANE DOE, hereunto sign my name on this fifth and last page, having signed my initials at the bottom of each of the preceding four (4) pages hereof, all in the presence of the undersigned, who witnessed the same at my request, at _____, Oklahoma, this _____ day of _____, 2019.

JANE DOE, Testatrix

SUBSCRIBED by JANE DOE in the presence of each of us, the undersigned, and at the same time declared by her to us to be her Last Will and Testament, and we thereupon, at the request of the said JANE DOE in her presence and in the presence of each other, sign our names hereto as witnesses, and do hereby certify that she is at this time of sound and disposing mind this _____ day of _____, 2019.

Witness (Signature)

Residence (Printed)
Street)

Name (Printed)

(City, State, Zip)

Witness (Signature)

Residence (Printed)
Street)

Name (Printed)

(City, State, Zip)

Witness (Signature)

Residence (Printed)
Street)

Name (Printed)

(City, State, Zip)

STATE OF OKLAHOMA)
) ss.
COUNTY OF OKLAHOMA)

Before me, the undersigned authority, on this day personally appeared JANE DOE, _____ and _____, known to me to be the testatrix and the witnesses respectively, whose names are subscribed to the annexed or foregoing instrument in their respective capacities, and, all of said persons being by me first duly sworn, said JANE DOE, declared to me and to the said witnesses in my presence that said instrument is her Last Will and Testament and that she had willingly made and executed it as her free and voluntary act and deed for the purposes therein expressed; and the said witnesses, each on her oath stated to me, in the presence and hearing of the said JANE DOE, that the said JANE DOE had declared to them that said instrument is her Last Will and Testament and that she executed the same as such and wanted each of them to sign it as a witness; and upon their oaths each witness stated further that they did sign the same as witnesses in the presence of the said JANE DOE, and at her request and that she was at that time eighteen years of age or over and was of sound mind.

JANE DOE, Testatrix

Witness

Witness

Witness

Subscribed and acknowledged before me by the said JANE DOE, testatrix, and subscribed and sworn to before me by the said _____, _____, and _____, witnesses, this _____ day of _____, 2019.

(Seal)

Notary Public
My Commission Expires: _____
Commission # _____

SUSAN B. SHIELDS

Susan B. Shields is a shareholder in the law firm of McAfee & Taft in Oklahoma City. Ms. Shields' practice has emphasis in the areas of wealth transfer planning, trusts, estate administration, tax-exempt organizations, and business entities. Ms. Shields has extensive experience in the estate planning and probate area, and has assisted numerous clients in preparing their estate plans and in advising them on family business issues. She also advises charitable organizations on issues of formation, management, planned giving and governance.

Ms. Shields received a Bachelor of Arts degree with departmental honors in 1986 from Stanford University, and a Juris Doctorate degree in 1989 from UCLA School of Law. She is a member of the Oklahoma Bar Association, the California Bar Association and the American Bar Association. Ms. Shields is a Fellow in the American College of Trust and Estate Counsel (ACTEC). Ms. Shields is the 2019 President-Elect of the Oklahoma Bar Association, having previously served as Vice-President in 2014 and on the Board of Governors of the OBA from 2010 – 2012. Ms. Shields is also a trustee and former President of the Oklahoma Bar Foundation and a former Chair of the Estate Planning, Probate and Trust Section of the OBA. She has served on the board of numerous non-profit organizations and is a graduate of Class XVII of Leadership Oklahoma.

SOLO AND SMALL FIRM CONFERENCE

LAWYERS HELPING LAWYERS

**OKLAOMA BAR ASSOCIATION
JUNE 2019**

Presenters:

**Reggie Whitten
O. Clifton Gooding
Peggy Stockwell
Jeanne Snider
Deanna Harris**

OKLAHOMA LAWYERS HELPING LAWYERS

On December 6, 1986, the Oklahoma Bar Association Board of Governors recommended that the name of the OBA Attorney Impairment Committee be changed to Lawyers Helping Lawyers. At that meeting, the BOG agreed the Committee's work would not be limited to substance abuse and could be expanded to include mental and emotional problems.

LHL is a group of volunteer attorneys, across the state, committed to assisting OBA members having difficulties that may negatively affect their practices. Each committee member is appointed to serve for two (2) years (or longer).

Members call in for a wide variety of issues: substance abuse, other addictions, relationship challenges, stress, grief, depression, anxiety and health. Referrals are made to licensed mental health professionals across the state or to substance abuse treatment facilities depending on the need or request. The goals of LHL are utmost confidentiality, statewide network of committee members, response and intervention, toll-free number, contact the attorney within 24 hours of referral, remind them of the available counseling, connect with the person, make a plan and follow-up.

One of the OBA member benefits is up to six (6) visits with a licensed mental health professional each year, at no additional cost. OBA members, family members and colleagues can call confidentially and report concerns involving a lawyer and a committee member will reach out to the OBA member. Examples of committee member involvement include telephone support and encouragement, meeting regularly for coffee or lunch, attending AA, NA or Al-Anon meetings with someone, assisting someone with making appointments, or listening to feedback. Members who are unable to afford extended counseling or psychiatric treatment may apply to the LHL

Foundation for financial assistance. LHL also sponsors a monthly topic Discussion Group in Oklahoma City with varied topics.

OBA members who are interested in becoming an LHL committee member should ask themselves some questions:

- Do you have the time to accept referrals?
- What are you most willing to do?
- Are you able to commit to a schedule of checking in with or meeting with an attorney in need? For how long?

Oklahoma has approximately 17,000 active licensed attorneys and 300 judges. The percentages of lawyers afflicted nationally with mental health/substance abuse issues as determined by the recent Hazelden/Betty Ford CoLAP study¹ suggests that as many as 4,000-5,000 Oklahoma lawyers could benefit from mental health and/or substance abuse assistance.

In November 2018 the OBA participated in an ABA CoLAP Evaluation Program. The evaluation involved sending a team to examine the structure, operations and procedures of the Oklahoma lawyer assistance program. At the conclusion of the study, the evaluation team reported its findings regarding the Oklahoma program and made three (3) recommendations for improvement.

1. The Oklahoma LHL should take steps to seek enactment by its Supreme Court of Rules establishing the structure and procedures of a formal lawyer assistance program.

¹In collaboration with Hazelden/Betty Ford Foundation, the ABA Commission on Lawyer Assistance Programs conducted national research on lawyer impairment. For additional information and access to the study, see: https://www.americanbar.org/groups/lawyer_assistance/research/colap_hazelden_lawyer_study/.

2. The Oklahoma LHL should be adequately funded to allow it to better effectuate the LHL mission and self-regulation function of protecting the public from harm caused by impaired lawyers.

3. The Oklahoma LHL should hire a full-time dedicated LHL Executive Director.

Members of the OBA LHL Committee are currently working on a Business Plan, which includes hiring an Executive Director who will lead the program. The Executive Director's job would require tasks such as, but not limited to:

- Provide initial response to most helpline calls;
- Help lawyers, judges, law firms, law schools and courts to identify and intervene with impaired lawyers;
- Furnish members of legal community and families information regarding resources for counseling, treatment, mental health disorders;
- Establish and maintain cooperative relationships with state's disciplinary agency, bar examiners, courts, law schools, and other bar agencies and committees that serve as sources of referral or help;
- Establish and oversee monitoring services pursuant to the policies and procedures of the ABA Model Monitoring Program;
- Develop and present educational programs for the legal community regarding sources of potential lawyer impairment, including quality of law issues, treatment and preventative measures;
- Develop and implement marketing materials and strategies to inform the OBA, courts, law schools and families of legal professionals about problems confronting the legal profession and LHL services;
- Recruit, select and train lawyer, health care and other volunteers; and
- Develop job descriptions for LHL staff personnel and hire, train and assess individuals including clinicians, assistants and office personnel, as budgetary considerations allow.

There are several issues that need to be reviewed such as the Employee Assistance Program, the 1-800 hotline number, continuation of the six (6) free counseling sessions and developing a variety of workshops and events throughout the state. Workshops for substance abuse, mental health, stress management, general wellness and positive coping skills and others, would be conducted by the Executive Director and LHL committee members with the

assistance of EAP personnel. In addition, annual volunteer training, outreach presentations to county bar associations and researching and developing CLE requirements are other areas to be studied.

Lawyer well being is defined as a continuous process whereby lawyers seek to thrive in each of the following areas: emotion health, occupational pursuits, creative or intellectual endeavors, sense of spirituality or greater purpose in life, physical health, and social connections with others.

Reasons to improve lawyer well being:

- Good for lawyers
- Good for clients
- Good for business
- The right thing to do

In order to promote lawyer wellbeing we must facilitate, destigmatize and encourage help seeking behaviors. The two most common barriers to seeking treatment for a substance abuse disorder that lawyers have reported were (1) not wanting others to find out that they needed help; and (2) concerns regarding privacy or confidentiality.

The result of these barriers is that, rather than seeking help early, many wait until their symptoms are so severe that they interfere with daily functioning. Similar dynamics apply for aging lawyers seeking assistance.

Lawyer incivility is on the rise. A recent study of over 6000 lawyers found that lawyers did not generally have a positive view of lawyer or judge professionalism. There is evidence showing that women lawyers are more frequent targets of incivility. Civility initiatives taken in other states are associated with well being, general mental and physical health and lower stress.

4

The national task force on lawyer well being recommends that bar associations and courts adopt rules of professionalism and civility.











One of the first things we want to do is provide CLE's to ensure that legal professionals receive training in identifying, addressing and supporting fellow professionals with mental health and substance abuse disorders. The Task Force recommends that the training cover the following:

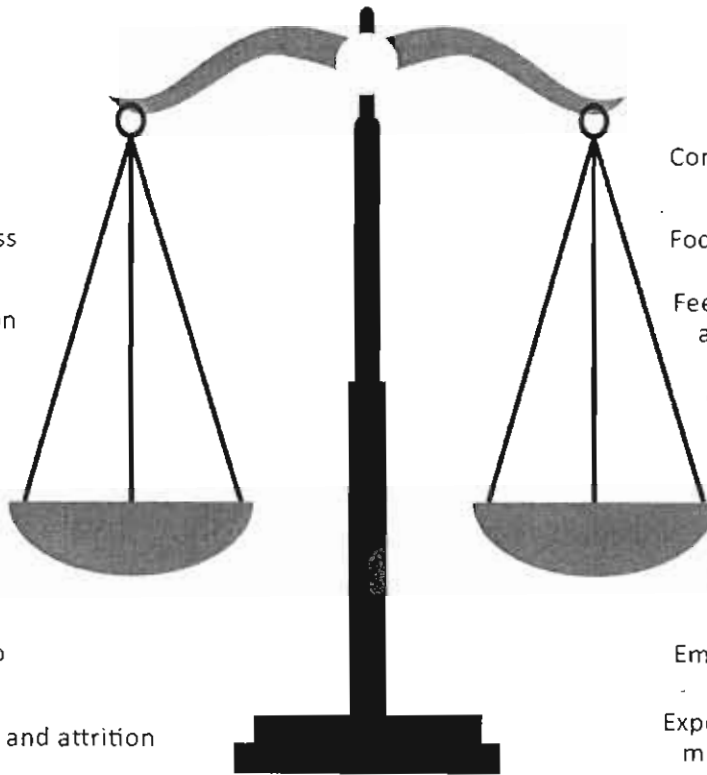
1. The warning signs of substance use or mental health disorders, including suicidal thinking;
2. How, why and where to seek help at the first signs of difficulty;
3. The relationship between substance use, depression, anxiety and suicide;
4. Freedom from substance use and mental health disorders as an indispensable predicate to fitness to practice;
5. How to approach a colleague who may be in trouble;
6. How to thrive in practice and manage stress without reliance on alcohol or drugs;
and
7. A self-assessment or other check of participants' mental health or substance use risk.

Lawyer well being and expansion of the current LHL program must be a priority for the Oklahoma Bar Association.

*Some information was also found in: The Path to Lawyer Well-being: Practical Change, published August 2017. The full report can be found on the ABA's website.

OUR CHALLENGES

-  21-36% problem drinkers
-  28% depression
-  19% anxiety
-  23% elevated stress
-  25% work addiction
-  High suicide rate
-  Sleep deprivation
-  Work-life conflict
-  Avoid seeking help
-  Job dissatisfaction and attrition



OUR POTENTIAL

- Physically healthy 
- Mentally thriving 
- Contributing to society 
- Focusing on client care 
- Feeling connected and a sense of belonging 
- Willing to seek help 
- Engaged at work 
- Continually seeking intellectual growth 
- Emotionally intelligent 
- Experiencing a sense of meaning and purpose 

THE PATH TO LAWYER WELL-BEING: Practical Recommendations For Positive Change



LAWYERS HELPING LAWYERS ASSISTANCE PROGRAM

Hotline

800-364-7886

Lawyers Helping Lawyers Assistant Program

- Group of volunteer attorneys, across the state, committed to assisting OBA members having difficulties which may negatively affect their practices. Appointed and serve for 2 years.
- No identifying information is given to the OBA regarding those utilizing the service.
- Members call in for a wide variety of issues: substance abuse, other addictions, relationship challenges, stress, grief, depression, anxiety and health.
- Referrals are made to licensed mental health professionals across the state or to substance abuse treatment facilities depending on the need or request.
- As an OBA member benefit you have up to 6 visits with a licensed mental health professional, each year, at no additional cost.
- OBA members, family members and colleagues can call confidentially and report concerns involving a lawyer and a committee member will reach out to this person.
- Members who are unable to afford extended counseling, or psychiatric treatment may apply to the LHL Foundation for financial assistance. LHLFoundation.org

Program Activity

- LHL Monthly Meetings
- Sub-committee Meetings for special projects
- Educational Presentations and Outreach in the community, at County Bar Associations, OBA functions and Universities
- Annual training in OKC and Tulsa for interested LHL committee members
- Monthly Topic Discussion Group Sessions in Oklahoma City
- LHL Foundation (Fundraiser and Sub-committee work)

Attorneys are vulnerable

- The need to do many things well, especially when just getting started
- A work culture where alcohol use is common and more accepted
- Secondary exposure to trauma stories and frequent exposure to trauma survivors
- Personality traits of perfectionism, pessimism and competitiveness
- A belief that depression or any personal struggle will be perceived as a sign of weakness, which can lead to further isolation

Oklahoma Attorney Issues

Stress

Depression

Substance Abuse

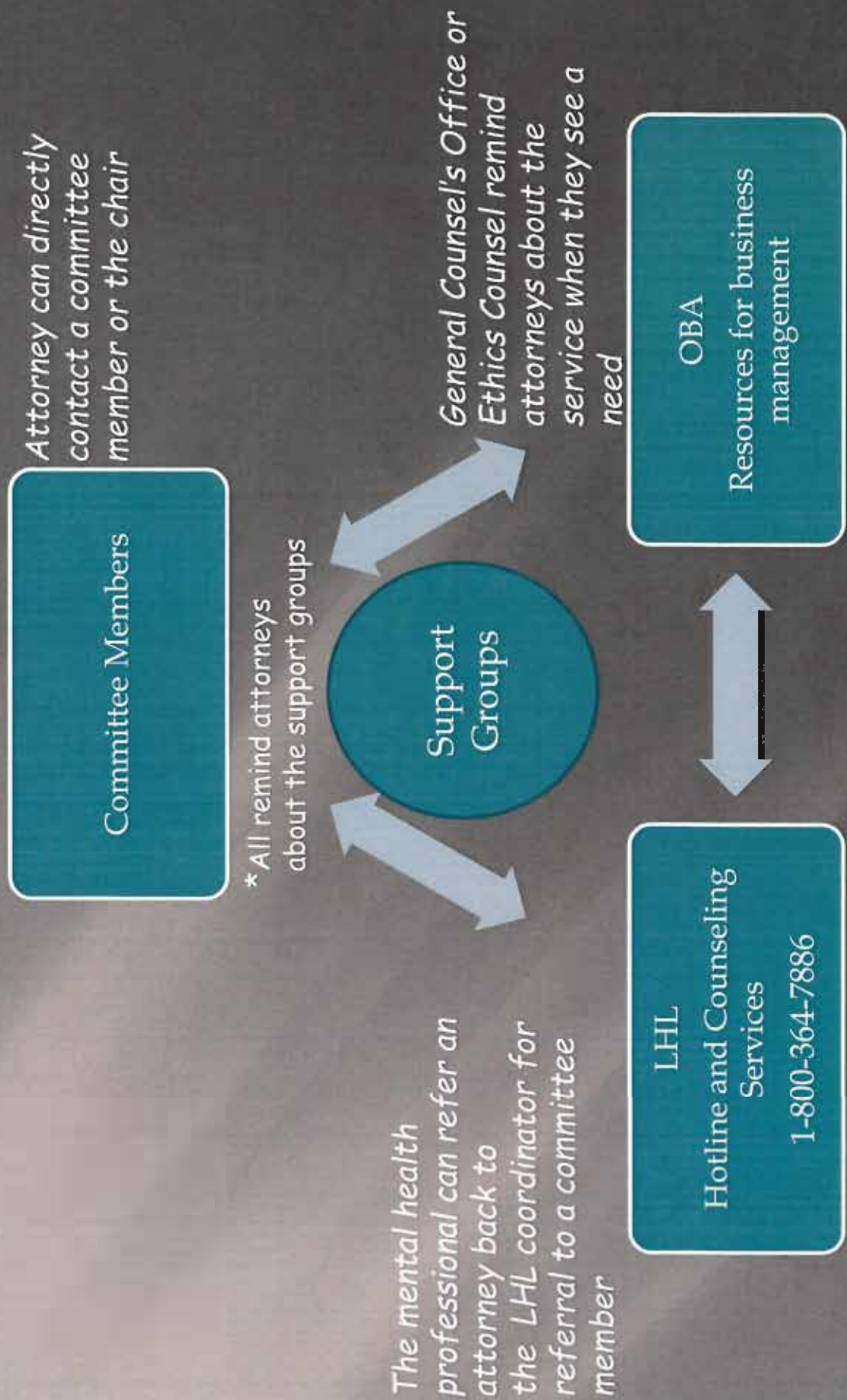
Work/Life / Personal Stress (i.e. health, gambling, etc)

Others

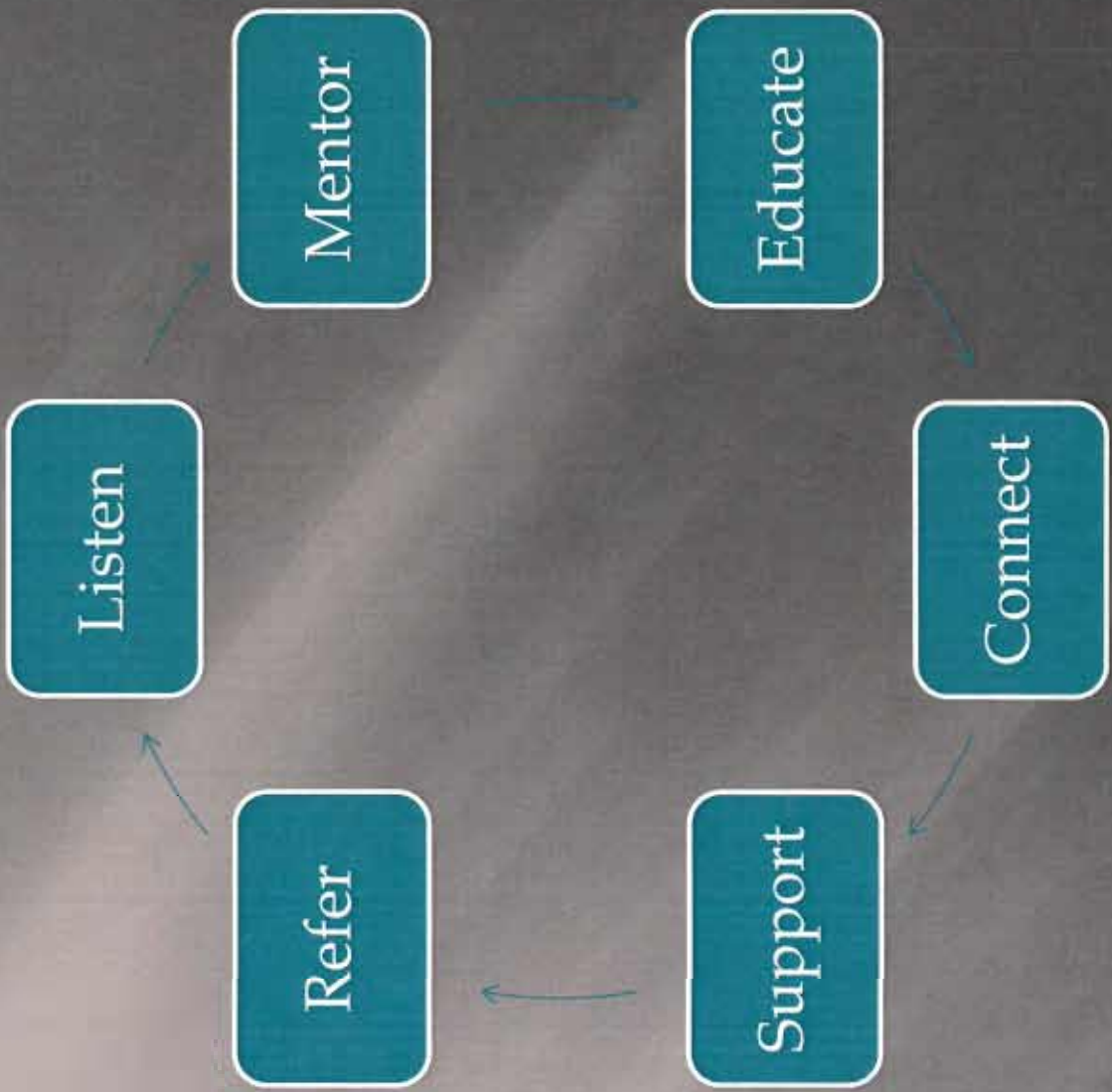
Marital/Relationships

Anxiety

Access points



LHL Role



Examples of Committee Member involvement:

- Telephone support and encouragement
- Meeting regularly for coffee or lunch
- Attending AA, NA or Al-anon meetings with someone
- Assisting someone with making appointments with a counselor or physician
- Assisting in a substance abuse intervention
- Listening or giving feedback to concerned family members or colleagues

Goals

- Contact the attorney within 24 hours of referral.
- Remind them of available counseling.
- Connect with the person.
- Make a plan regarding your role and how often you will make contact.
- Follow-up with LHL and just let us know contact has been made.

*Things to consider before becoming
an LHL Committee Member*

- Do you have the time to accept the referral?
- While your role with different referrals will vary, what is the most you are willing to do? Boundaries are important to consider with each person.
- Are you able to commit to a schedule of checking in with or meeting with the attorney in need? For how long?
- How will you know your work is done?
- How will you get support?

CONQUER YOUR MOUNTAIN

FREE 24-HOUR **800-364-7886**
CONFIDENTIAL ASSISTANCE

- depression/anxiety
- substance abuse
- stress
- relationship challenges
- support groups
- mentoring/peer support



Oklahoma Bar Association
Lawyers Helping Lawyers



PEGGY STOCKWELL

Peggy has been practicing family law for 35 years. She has served on the Board of Governors and was Vice President of the Oklahoma Bar Association in 2012. She is currently serving on the Judicial Nominating Commission. She has been a member and mentor in Lawyers Helping Lawyers for at least 15 years. She practices in Norman, Oklahoma.

DEANNA HARRIS

Deanna Harris is a Licensed Clinical Social Worker in private practice in Oklahoma City. She currently serves as a liaison with OneLife EAP and the Oklahoma Bar Association. Deanna has worked with Lawyers Helping Lawyers since 2012.

JEANNE MEACHAM SNIDER

Jeanne Meacham Snider graduated from the University of Oklahoma College of Law in 2001. She has been an Assistant City Attorney in Norman since 2002 and is the Municipal Juvenile Judge for Noble, Oklahoma.

She is the prosecutor for Norman Municipal Court and the Norman Juvenile Court. In addition to her role as prosecutor, she represents the City of Norman in Workers' Compensation Court, general litigation, tort claims and serves as a Police Liaison. She serves on the Animal Shelter Oversight Committee, the Historic District Commission and the Norman Youth Council as staff liaison. She is Co-Chair of the Oklahoma Bar Association Lawyers Helping Lawyers Committee, a former member of the Mary Abbott Children's House Board, Parents Helping Parents Board and past member of Leadership Norman. Jeanne has been married to Kerby for 40 years, has two children, Abby and Bert, and three grandchildren, Kynlee, Sawyer and Millie.

Reggie Whitten is Co-Founder of the Whitten Burrage Law Firm. In 2013, Reggie was inducted into the Oklahoma Hall of Fame, and in 2015, the University of Oklahoma inducted him into the Order of the Owl College of Law Hall of Fame and later that year, presented Reggie with an honorary degree for his contributions to the university, state and nation. In addition, Reggie has been inducted into the prestigious fellowship of the American College of Trial Lawyers.

Reggie is past president of the Oklahoma Association for Justice and has been the recipient of several honors including Journal Record Leadership in Law, Oklahoma Association of Justice Tommy D. Frasier Award, and the Oklahoma Bar Association Trailblazer Award.

In 2004, Reggie co-founded the Whitten-Newman Foundation in memory of his eldest son, Brandon, who passed away in 2002 as a result of a traffic accident caused by alcohol and prescription drug abuse. In 2010, he founded F.A.T.E. (Fighting Addiction Through Education), and he has spoken to thousands of high school and college students throughout Oklahoma about the dangers of addiction and substance abuse.

In partnership with the Sam Noble Museum of Natural History, Reggie's family foundation co-founded the ExplorOlogy and Native Explorers educational programs which has impacted over 50,000 young people in Oklahoma. His family foundation is also the leading supporter of Sister Rosemary Nyirumbe, of Gulu, Uganda, a CNN Hero and TIME 100 Most Influential Award recipient and the first Veritis Splendor laureate, in honor of Saint John Paul II.

O. CLIFTON GOODING

O. Clifton Gooding is the owner of the Gooding Law Firm, a Professional Corporation, located in Oklahoma City. His primary area of practice is Bankruptcy with an emphasis on consumer and business reorganization. Mr. Gooding received his B.S. from Oklahoma State University in 1980 and his J.D. from the University of Oklahoma College of Law in 1983, where he was a member of the Oklahoma Law Review and the Order of the Coif. He presently serves as a member and as past Chair and Cochair of the Lawyers Helping Lawyers Committee of the Oklahoma Bar Association. He serves the Board of Directors for The Other Bar in the State of Oregon. He is frequent speaker on commercial and consumer bankruptcy issues as well as the topic of recovery. Mr. Gooding has presented programs on recovery to Lawyer Assistance Groups throughout the United States and Canada. He is past Chair of the Oklahoma County Bankruptcy Section. He is a member of the Oklahoma County, Oklahoma and American Bar Associations, The National Association of Consumer Bankruptcy Attorneys and The American Bar Association.



Overview

Oklahoma Bar Intellidrafts is a web-based drafting platform that uses augmented intelligence technology to enable drafters to save time and money by using high-quality, off-the-shelf forms to confidently create better documents, faster.

Legal documents are rarely, if ever, created from scratch. Most drafters begin a new document by working from a previously drafted document. The previously drafted document may be the prior work product of the drafter, an example provided by a colleague, or a document located online. However, this approach to document drafting results in redundant work to solve the same drafting problems, the resulting documents do not normally represent optimal solutions, and the entire process is inefficient and likely to result in oversights and mistakes. Some of the shortcomings of the common drafting approach are:

- the prior work product being relied upon may have been tailored to specific circumstances that are not applicable to the present situation;
- the prior work product was likely based on even older work product; once a clause is removed or altered from a version of the document, it will no longer be considered for future versions drafted from the prior version;
- the drafter must search through the prior work product to replace the text that needs to be changed for the present situation; a time consuming and error-prone process.
- the prior work product may be outdated or of questionable quality.

Oklahoma Bar Intellidrafts addresses the shortcomings of the common drafting approach by (1) providing high-quality, off-the-shelf forms for many legal documents, and (2) providing a web-based platform to quickly and efficiently create customized legal documents based on these forms. Features of the Intellidrafts platform include:

- an interactive interview gathers information from drafters to create a highly customized document based on current law and best-practices;
- users may save information entered and use that saved information to create related documents;
- users may share the information they save with other trusted users to enable these other users to draft documents based on the saved information;
- contextual help and guidance is provided to users throughout the interactive interview to assist users to make good drafting choices;
- gender references, dates, calculations, and more are updated automatically as users enter information, eliminating tedious and time-consuming drafting tasks and minimizing human errors;
- special language and unique clauses and terms are available to drafters, but the drafting process remains simple and straightforward.

A. GABE BASS

Gabe Bass is an Oklahoma attorney in private practice on a mission to help lawyers draft better documents, faster. After a 10-plus-year search for a great automated forms solution, he gave up and decided to build the product he wanted to exist. That product is Oklahoma Bar Intellidrafts, a cloud-based service that offers lawyers and other legal professions access to hundreds of sophisticated, yet easy-to-use automated forms and content developed specifically for use in Oklahoma.

1. The landlord and tenant relationship is based on a contract that must terminate or be rightfully terminated before the parties are relieved of their respective rights and duties and before a landlord can seek a judicial order of possession.

In Oklahoma, a “Rental Agreement” is a contract that includes “all agreements and valid rules . . . which establish, embody or modify the terms and conditions concerning the use and occupancy of a dwelling unit and premises.”¹ A rental agreement is a contract.² It is controlled by contract law.³ However, it is a special type of contract that is subject to certain statutory limitations that affect interpretation and enforcement of the contract: the Oklahoma Residential Landlord and Tenant Act (“ORLTA”).⁴ At its most basic, the rental agreement grants a possessory interest in real property for a period of time to another in exchange for money. In the language of the ORLTA, a “tenant”⁵ pays⁶ “rent”⁷ to a “landlord”⁸ for exclusive⁹ possession¹⁰ of a specified “premises”¹¹ for a period of time.¹² The rental agreement is enforceable by the landlord and the tenant until it expires¹³ or it is properly

¹ Okla. Stat. tit. 41 § 102(12).

² *Mercury Inv. CO. v. F.W. Woolworth Co.*, 1985 OK 38, ¶ 8, 706 P.2d 523, 528-529.

³ *Id.*

⁴ Okla. Stat. tit. 41 § 103; *Stone v. Linden Real Estate*, 2009 OK CIV APP 47, ¶ 9.

⁵ Okla. Stat. tit. 41 § 102(15).

⁶ Okla. Stat. tit. 41 § 109.

⁷ Okla. Stat. tit. 41 § 102(11).

⁸ Okla. Stat. tit. 41 § 102(5).

⁹ Okla. Stat. tit. 41 §§ 123, 124, 128.

¹⁰ Okla. Stat. tit. 41 § 117.

¹¹ Okla. Stat. tit. 41 § 102(10) & (3).

¹² Okla. Stat. tit. 41 § 110.

¹³ Okla. Stat. tit. 41 § 111(C).

terminated through the termination procedures outlined in the ORLTA.¹⁴ In all terminations, the parties are required to act in good faith.¹⁵

The ORLTA provides:

Except as otherwise provided in this act, whenever either party to a rental agreement rightfully elects to terminate, the duties of each party under the rental agreement shall cease and be determined upon the effective date of said termination, and the parties shall thereupon discharge any remaining obligations under this act as soon as practicable.

Okla. Stat. tit. 41 § 112. That is: the duties of each party continue until the rightful termination of the agreement.

The ORLTA is designed to enforce rental agreements and preserve tenancies. The Act requires some reason for the relationship between landlord and tenant to end. In fact, even an agreement that would naturally terminate on its own terms will become a new month-to-month tenancy if the landlord consents to the tenant remaining in possession and the tenant continues to pay rent.¹⁶ Absent a naturally terminating agreement, termination of the rental agreement must occur through the termination processes outlined in the ORLTA. Each of those processes require a triggering event, including: non-payment of rent;¹⁷ non-renewal of the tenancy;¹⁸ landlord's breach of the agreement;¹⁹ destruction of the unit;²⁰ wrongful

¹⁴ Okla. Stat. tit. 41 § 112.

¹⁵ Okla. Stat. tit. 41 § 107.

¹⁶ Okla. Stat. tit. 41 § 111(D).

¹⁷ Okla. Stat. tit. 41 § 131(B).

¹⁸ Okla. Stat. tit. 41 § 111(A)-(B).

¹⁹ Okla. Stat. tit. 41 § 121.

²⁰ Okla. Stat. tit. 41 § 122.

exclusion from the unit;²¹ unlawful or unreasonable entry into the unit;²² tenant's breach of the agreement;²³ or criminal activity by a tenant or guest.²⁴

In most cases, triggering events do not themselves terminate the rental agreement. Instead, once a triggering event occurs the landlord or tenant *may choose* to terminate the rental agreement or may allow the agreement to continue.

2. In the event of non-payment of rent, the ORLTA requires the landlord to provide written notice of the amount due and a fair opportunity to pay before the rental agreement can be terminated.

Before a party can rightfully elect to terminate a rental agreement, there are specific steps that must be followed. In the context of this case, for non-payment of rent, Section 131(B) provides: “A landlord may terminate a rental agreement for failure to pay rent when due, if the tenant fails to pay the rent within five (5) days after written notice of landlord's demand for payment.”²⁵ Written notice must comply with Section 111(E). You can contest the service of the notice and the content of the notice.

The ORLTA prescribes two remedies for landlords when a tenant does not pay rent on time. One remedy, as stated above, is to terminate the tenancy if rent is not paid within 5 days of the written notice demanding payment under part B of Section 131.²⁶ Second, the

²¹ Okla. Stat. tit. 41 § 123.

²² Okla. Stat. tit. 41 § 124.

²³ Okla. Stat. tit. 41 § 132.

²⁴ *Id.*

²⁵ Okla. Stat. tit. 41 § 131(B).

²⁶ Okla. Stat. tit. 41 § 131(B).

landlord may also bring an action to collect the rent under part A of Section 131, without terminating the tenancy.

If rent is unpaid when due, the landlord may bring an action for recovery of the rent at any time thereafter or the landlord may wait until the expiration of the period allowed for curing a default by the tenant, as prescribed in subsection B of this Section, before bringing such action.

Okla. Stat. tit. 41 § 131(A). Part A does not terminate the tenancy unless the landlord also gives the notice as required by Part B. Part A, by incorporating Part B, recognizes that the right to possession requires proper termination through a written notice which specifically demands the proper amount due and gives the tenant an opportunity to cure the breach for unpaid rent.

Under Section 131(B), tenants are allowed a five-day grace period to pay rent that begins after written notice is served on the tenant. This is the tenant's opportunity to pay rent and cure the default. If the rent is not paid within the five-day period, the landlord can rightfully elect to terminate the rental agreement. Rent is defined by the ORLTA: "Rent" means all payments, except deposits and damages, to be made to the landlord under the rental agreement." Okla. Stat. tit. 41 § 102(11) (emphasis added).

Late fees are not rent and cannot be included in the Section 131(B) notice. Late fees are damages. The Oklahoma Supreme Court looked at rental agreement late fees in *Sun Ridge Investors v. Parker*, 1998 OK 22, 956 P.2d 876. In a rental agreement, as in all contracts, late fees are controlled by Okla. Stat. tit. 15 §§ 213 & 215. The statutes define this type of "fee" as either an unlawful "penalty" or "liquidated damages." The fees are not legally allowed to be a penalty, so they must be liquidated damages. This means the fees cannot be rent, because "rent," by definition, excludes damages. Alternatively, if the fees are

a penalty, they are not lawful and cannot be included in “all payments . . . to be made to the landlord under the rental agreement.”²⁷ Therefore, a penalty cannot be “rent.”

The right to cure a non-payment breach found in Section 131(B) is consistent with the Spirit of the ORLTA and the other termination procedures found throughout the Act. This right to cure is found for every triggering event that occurs during a tenancy for a definite term, except in the cases of criminal activity and destruction of the unit.²⁸ This right is available for tenant breaches and landlord breaches.

Failure to give the tenant proper notice deprives the Court of the power to enter an order for possession. This Court has long held that service of a pre-termination notice is jurisdictional. See, for example: *Sparks v. Calloway*, 1938 OK 395 ¶ 4, 82 P.2d 830 (“the giving of the notice must be proved as a jurisdictional fact where it is not waived”); *Bonewitz v. Home Owners Loan Corp.*, 1942 OK 431 ¶4, 132 P.2d 644 (“Service of the three-day notice . . . is jurisdictional, and must be proved at the trial unless proof is waived”); see also, *Moran v. Hooper*, 1958 OK 28 ¶¶ 3-4, 321 P.2d 963. Not only is proper service of the notice essential, but the Notice must properly inform the tenant of their default and option to cure. Due Process requires substantial compliance with a notice statute which means the notice cannot be misleading.²⁹ A notice that requires the tenant to perform more than the statutory requirement is misleading when the tenant is not given an opportunity to cure the default that triggers the termination. See also Section 132 which requires that Notices to terminate for

²⁷ Okla. Stat. tit. 41 § 102(11).

²⁸ Okla. Stat. tit. 41 §§ 122, 123, 124, 131, 132.

²⁹ *Seeley v. Adamson*, 1891 OK 4, ¶ 14.

cause specifically state the conduct that constitutes the Breach and which the tenant must cure in order to preserve the tenancy.

Other jurisdictions have found that a defective notice - one that does not put the tenant properly on notice of their right to cure a default - does not operate to terminate the lease and deprives the trial court of jurisdiction to hear the matter. The Kansas Supreme Court, in *Fenn v. Windsor at Kingsborough, Inc.*, 226 Kan. 653, 603 P.2d 188 (Kan. 1979), determined that a notice which did not apprise the tenant of their right to cure a breach changed the relief available to the landlord. And in Iowa, the Supreme Court, in *Liberty Manor v. Rinnels*, 487 N.W.2d 324, 326 (Iowa 1992), determined that a termination notice that does not adequately inform the tenant of their right to cure a default deprives the trial court of jurisdiction to hear a demand for possession. Neither case involved the non-payment of rent. However, the concept of inadequate notice is the same: where the statute requires that the tenant have an opportunity to cure their default before the termination is effective, the notice must fairly give that opportunity. Without that opportunity, there is no termination of the lease. If there is no termination of the lease, the trial court cannot decide the issue of possession.

Additional Reading

Marjorie Downing, The Oklahoma Residential Landlord and Tenant Act--The Continuing Experience, 17 Tulsa L. J. 97 (2013).

Available at: <https://digitalcommons.law.utulsa.edu/tlr/vol17/iss1/5>

Matthew Despond, Evicted: Poverty and Profit in the American City, (Penguin Random House LLC 2016).

Landlord Duty to Maintain Premises:

Miller v. David Grace Inc., 2009 OK 49.

Cordes v. Wood, 1996 OK 68.

Stone v. Linden Real Estate, 2009 OK CIV APP 47.

Small Claims Procedure and Consumer Protection:

Patterson v. Beall, 2000 OK 92.

Due Process for Termination of Public Benefits:

Goldberg v. Kelly, 397 U.S. 254, 90 S.Ct. 1011 (1970).

The Importance of Legal Aid:

ANTINI v. ANTINI, 2019 OK 20, ¶¶ 25-29.

Defending Evictions

2019 Solo and Small Firm Conference

Eric D. Hallett

- ▶ Statewide Coordinator of Housing Advocacy for Legal Aid Services of Oklahoma
- ▶ Civil litigation
 - ▶ Housing conditions
 - ▶ Discrimination
 - ▶ Consumer protection
 - ▶ Subsidized housing rights
- ▶ Eviction and small claims

Legal Aid Services of Oklahoma

- ▶ Serve all 77 counties through 19 local offices and online resources
- ▶ Civil legal matters only
- ▶ 200% of the federal poverty guidelines (\$51,500 for a family of 4); citizenship requirements
- ▶ 1:10,000
- ▶ Getting people out of bad homes and keeping them in good homes

Does eviction matter?

- ▶ Negative court record and credit report entry
- ▶ Property loss
- ▶ Disrupts social networks, employment, education, health
- ▶ Disproportionate impact on low-income women, women of color, families with children, and domestic violence victims
- ▶ Can occur with “no fault”

Why eviction happens

- ▶ Non-payment of rent
 - ▶ Lack of affordable housing
 - ▶ One-time financial setback
- ▶ Holdover at the end of the lease
- ▶ Personality conflict with owner/manager
- ▶ Breaking rules/law
- ▶ Discrimination
- ▶ No reason

Limits

- ▶ No opportunity for discovery in small claims court
- ▶ Short window for evidence gathering
- ▶ Many courts will not grant continuances
- ▶ Tenant cannot always make it to court - work, school, transportation
- ▶ Attorney fees and costs to prevailing party

What is eviction?

Foundations of the law and process

Statutes

- ▶ Small Claims Procedure Act - Okla. Stat. tit. 12 §§ 1751 - 1773
- ▶ Forcible Entry and Detainer - Okla. Stat. tit. 12 §§ 1148.1 - 1148.16
- ▶ Oklahoma Residential Landlord Tenant Act (ORLTA) - Okla. Stat. tit. 41 §§ 101 - 201

The landlord/tenant relationship

- ▶ Contractual relationship
 - ▶ Landlord has the right to receive rent
 - ▶ Tenant has the right to exclusive possession of the unit
- ▶ Written or oral
- ▶ Rental Agreements define the rental term, rent, and rules
- ▶ ORLTA provides parameters of agreement, termination procedures, and remedies

Basic Eviction Process

- ▶ Event triggers the right to terminate the agreement
- ▶ Written notice is required
 - ▶ Cure period
- ▶ Rightful termination of the rental agreement and Holdover
- ▶ File/serve forcible entry & detainer action - affidavit and summons
- ▶ Limited answers allowed but not required
- ▶ Hearing within 10 days

Jurisdiction and Procedure Defenses

Because you cannot waive Jurisdiction

Jurisdiction

12 O.S. § 1148.1 - FED Court Jurisdiction:

- ▶ All actions for forcible entry and detention of real property (right to possession of property)
- ▶ claims for the collection of rent or damages to the premises
- ▶ claims arising under the ORLTA
- ▶ other claims may not be included

Small Claims Procedure Act:

- ▶ Claim must be less than \$10,000 or for possession only

Answer or Affidavit by Defendant

- ▶ Defendant may file a verified answer or affidavit up to the date of trial - before the hearing - Okla. Stat. Tit. 12 § 1148.6
 - ▶ Boundary disputes or ownership claims are transferred to district court for ejectment action
 - ▶ *Rogers v. Bailey*, 2011 OK 69
 - ▶ Defenses raised under ORLTA continue to be heard in small claims
 - ▶ Contract for deed - file the contract with land records

Counterclaims

- ▶ Counterclaims and setoffs not allowed? *Schuminsky v. Field*, 1980 OK 22
 - ▶ *Schuminsky* involved commercial property and OK S. Ct. interpreted the FED jurisdiction statute without reference to the language allowing claims brought under the ORLTA
 - ▶ Counterclaims arising outside ORLTA are beyond Jurisdiction statute for FED action
- ▶ See also Okla. Stat. Tit. 41 § 105 - any right or remedy under ORLTA may be prosecuted as part of an action for forcible entry or detainer

Service of Summons Defenses

- ▶ Service of process, 12 O.S. §§ 1148.4 - 1148.5:
 - ▶ Summons must be served at least 3 days before trial, on tenant or someone over age 15 residing in unit.
 - ▶ May be served by certified mail if service cannot be made by the exercise of reasonable diligence on the tenant or on any person over the age of fifteen (15) years residing on the premises. Must be postmarked at least 3 days before trial.
- ▶ Constructive service, 12 O.S. § 1148.5A: If unable to serve, Summons may be posted but no money judgment can be granted (possession only). Reasonable diligence required. What if tenant appears in Court?

Service of Notice Defenses

- ▶ The pre-termination notice must be served according to tit. 41 O.S. § 111(E)
 - ▶ Notice must be in writing
 - ▶ Must be served on the tenant (or landlord) personally
 - ▶ If tenant not available, on any family member over age 12 residing in unit
 - ▶ If tenant nor family member available, notice may be posted. If posted, it must also be sent by certified mail
 - ▶ Landlord may be served by certified mail

Notice Content Defenses

- ▶ Notice required to terminate tenancy
- ▶ Improper notice should not terminate tenancy
- ▶ Issues beyond the scope of the notice should not be raised

Party Based Defenses

Standing and Other Rights

Real Party in Interest

- ▶ Check: County Assessor, Land Records, Secretary of State
- ▶ Review: Lease and other documents
- ▶ Okla. Stat. tit. 12 § 2017
- ▶ Okla. Stat. tit. 12 § 1760: No new parties shall be brought into the action, and no party shall be allowed to intervene in the action
- ▶ Okla. Stat. tit. 18 § 2055.2: LLC not in good standing cannot maintain suit

Subsidized Housing

- ▶ Tenants in subsidized housing have additional rights and protections
 - ▶ Additional notice requirements
 - ▶ *OKC Housing Authority v. Jeffers*, 1993 OK 73
 - ▶ Limited or specific bases for lease termination
 - ▶ Right to file Grievance
 - ▶ Good Cause to Evict standard may apply
- ▶ Type of subsidy is important
- ▶ For Section 8 tenants: insist on seeing HAP contract, part C

RENT and Rent Defenses



Rent - Okla. Stat. Tit. 41 § 102

“Rent” means all payments, except deposits and damages, to be made to the landlord under the rental agreement.

“Deposit” means any money or other property required by a landlord from a tenant as a security and which is to be returned to the tenant upon termination of the rental agreement, less any deductions properly made and allowed by this act.

What about late fees?

Sun Ridge Investors v. Parker

1998 OK 22

- ▶ Late fees are liquidated damages
 - ▶ 15 O.S. §§ 213, 215
- ▶ Late fees cannot be a penalty. Liquidated damages allowed if:
 - ▶ the injury caused by the breach must be difficult or impossible to estimate accurately
 - ▶ the parties must intend to provide for damages rather than for a penalty
 - ▶ the sum stipulated must be a reasonable pre-breach estimate of the probable loss

Sun Ridge Investors, continued

- ▶ \$20 late fee + \$5/day
- ▶ No one contested the \$20 fee. Only \$5 fee challenged.
- ▶ Characterizing late fee as "additional rent" did not convert the fee into "rent"
- ▶ Landlord only made general assertions about damages but did not provide evidence showing the actual cost of collecting late rent
- ▶ See also *North American Invest. V. Lawson*, 1993 OK CIV APP 73
 - ▶ OK Civ App applied all late fees paid to the alleged owed rent - late fees were considered penalty

Does the Court have Jurisdiction to hear late fees?

Time for a challenge

Rent Defenses

Section 120

- ▶ Failure to deliver possession: rent abates

Section 121

- ▶ Landlord failed to maintain unit and tenant moved: agreement terminated
- ▶ Landlord failed to make repairs and tenant made repairs up to \$100: deducted from rent
- ▶ Landlord failed to provide essential service: abate, reduce, or terminate

Rent Defenses

Section 122

- ▶ Destruction of unit: terminate or reduce rent

Section 123

- ▶ Illegal Lockout: may terminate and demand return of prepaid rent and deposits (may also sue for damages)

Section 124

- ▶ Landlord's unlawful or unreasonable entry: tenant may terminate (and may sue for damages)

The Best Rent Defense

The best rent defense is showing that rent was paid or not owed.

The most important thing your client can do is to bring his/her evidence to court, including:

- ▶ Receipts
- ▶ Leases
- ▶ Notices
- ▶ Pictures
- ▶ Written communications

Good Faith Withholding of Rent

Title 12 O.S. § 1148.10B: Applicable if the tenant withholds rent because the landlord failed to provide essential services

- ▶ Tenant must have given landlord actual notice within 10 days of the rent due date
- ▶ The order of the court must recite that the tenant by paying the judgment including court costs and attorney fees, by cash or cashier's check, within seventy-two (72) hours can avoid a writ of execution, cure the breach and remain in the premises
- ▶ Does not require the landlord to provide the essential services

For Cause Evictions

Rules and Property Damage

Section 132 – Tenant's failure to comply with rental agreement or perform duties

10 day notice to cure violation or lease termination in 15 days

- ▶ Material terms of the lease
- ▶ Section 127 – which includes tenancy "rules"

Defenses

- ▶ Is damage Normal Wear and Tear?
- ▶ Is notice sufficiently clear to allow tenant to cure?
- ▶ Is the "rule" proper under section 126?
- ▶ Tenant cannot/should not comply because of disability and needs an accommodation

Section 126 Rules

Rules are only enforceable if:

1. For a proper purpose: promote safety/peace/welfare of tenants; protect property from abuse; or equitably divide services
2. Reasonably related to the purpose
3. Applies to all fairly
4. Is sufficiently explicit
5. It is not for the purpose of evading the obligations of the landlord; and
6. Tenant has notice of it.
7. Cannot be a new rule unless tenant consents.

Section 132 – Criminal Activity or bad behavior

Can the landlord prove the criminal activity?

- ▶ Hearsay

Does noncompliance cause or threaten to cause imminent and irreparable harm to the premises or to any person? Was tenant given notice to remedy bad behavior?

- ▶ Is the evidence Hearsay?
- ▶ Does the tenant need an accommodation of a disability - hoarding, mental health problem, etc.

No Fault Eviction

But you still need to move

30 Day Notice or Non-renewal

Notice cannot be issued in bad faith (section 107)

- ▶ Discrimination
- ▶ Retaliation

Negotiate an agreed move

- ▶ Length of time in unit
- ▶ Age, disability, kids, employment, education
- ▶ Cost of moving/deposits/utilities

Post-Eviction

The background features abstract, overlapping geometric shapes in various shades of green, ranging from light lime to dark forest green. These shapes are primarily located on the right side of the page, creating a modern, layered effect. The text 'Post-Eviction' is positioned on the left side of the page in a clean, sans-serif font.

Time to Move

- ▶ If possession granted to the Plaintiff, Defendant has 48 hours to move before a Writ can issue that will restore possession to the Plaintiff. 12 O.S. §§ 1148.10, 1148.10A
- ▶ Counsel your client:
 - ▶ Gather most important items and have them ready to go
 - ▶ Try to move before the 48 hours expires
- ▶ Landlord has lien on items left in unit - except exempt property
- ▶ Tenant will have 30 days to retrieve left-behind property but will need to pay judgment, costs, and storage fees to landlord

Discrimination

Federal Fair Housing Act: 42 U.S.C. § 3601

State Fair Housing Act: 25 O.S. § 1451

Unlawful to discriminate in housing transactions because of:

- ▶ Race
- ▶ Color
- ▶ National Origin
- ▶ Gender
- ▶ Religion
- ▶ Familial Status
- ▶ Disability - Failure to make a reasonable accommodation

The background features abstract, overlapping geometric shapes in various shades of green, ranging from light lime to dark forest green. These shapes are primarily located on the right side of the page, creating a modern, layered effect.

Thank You!

Eric.Hallett@laok.org

907 S Detroit Ave, Suite 725

Tulsa, OK 74120

918-295-9423

ERIC HALLETT

Eric Hallett is a 2003 graduate of the University of Tulsa, College of Law, and is licensed to practice law in Oklahoma's state and federal courts. In 2008, he was hired as a litigation attorney for the Tulsa Law Office of Legal Aid Services of Oklahoma. Currently, Eric is the Coordinator of Housing Advocacy for Legal Aid and focuses his efforts on housing issues including eviction and housing discrimination.

**RECENT DEVELOPMENTS IN FAMILY LAW
2018-2019**

**Robert G. Spector
Glenn R. Watson Chair and Centennial Professor of Law Emeritus
University of Oklahoma College of Law**

OKLAHOMA DEVELOPMENTS

A. CUSTODY

1. JURISDICTION; UCCJEA; DOMESTIC VIOLENCE

Lin Shu-Hsin v. Virgin, #117,389, #117,692 (Okla 2018)

Marriage of White and Jones, 2018 OK CIV APP 68, 430 P.3d 544

The *Shu-Hsin* case is a writ of prohibition/mandamus to the trial court. Shu-Hsin (mother) and Sarkey (father) have one child. A contested custody proceeding took place in Taiwan where the court awarded custody to the mother. The father then sought permission from the Taiwanese court to bring the child to the United States. Even though the court denied the father's motion, he took the child and came to the United States. The father ended up in Cleveland County. The mother registered the Taiwanese decree in Oklahoma pursuant to the UCCJEA. After the judgment was registered the father moved to modify custody. The trial court determined that since the child was here for more than six months, Oklahoma became the home state, and once the order was registered, it became an Oklahoma order and therefore could be modified. The trial court also determined that Oklahoma was a more convenient forum than Taiwan.

The Supreme Court granted the writs prohibiting the trial court from proceeding further with the case. The court noted that the UCCJEA at §551-105 requires a court of this state to treat a foreign custody determination that was made in accordance with the terms of the UCCJEA the same as a custody determination of another state of the United States. The only defense that is special to enforcement of a foreign country order is that the custody law of the foreign country violates fundamental provisions of human rights.

In this case the child had lived its entire life in Taiwan until removed to the United States. Therefore Taiwan was the home state at the time the custody determination was commenced. Since the mother continues to reside in Taiwan, it has exclusive continuing jurisdiction over the custody determination. The father's argument that Taiwan custody law violated human rights was rejected with the court noting that: "In fact, a review of the divorce judgment reflects the Taitung court meticulously examined all of the positive and negative evidence relating to both parents in formulating its custody decision." There being no other possible defense, the court issues the writ of prohibition. The court also noted that the inconvenient forum determination is to be made in Taiwan and not Oklahoma.

The trial court had also found that there was an emergency when it issued a temporary order when the father filed for divorce and custody. Therefore the Supreme Court issues a writ of mandamus requiring the trial court to contact the court in Taiwan and limit the emergency order to the time necessary for the father to obtain an order from the Taiwanese court either relinquishing jurisdiction or determining it is an inconvenient forum.

Nothing in the opinion, the court said, prohibits the trial court from enforcing the Taiwanese order.

On remand the trial court set the expiration date for the emergency order as July 20, 2020. The petitioner, once again, asked the Supreme Court for a writ of prohibition/mandamus. Once again the Supreme Court granted the writs. It issued a writ of prohibition prohibiting the trial court from enforcing the order that extended the emergency decree until July 20, 2020. It then issued a writ of mandamus ordering the trial court to enter an order that the emergency period will expire on April 1, 2019 or earlier if the trial court hears from Taiwan. It also ordered the trial court to communicate with Taiwan no later than March 13, 2019. Unless Taiwan releases the case to the United States, the trial court retains jurisdiction only for enforcing the Taiwanese order.

Marriage of White and Jones involves a couple with children who lived in a number of different states. They lived in Massachusetts from 2010 to 2012; then New Hampshire for six months; then Massachusetts until 2015. On March 2, 2015 they moved to Oklahoma. On May 13 the family traveled to New Hampshire where the mother told the father she wanted a divorce. The mother remained there with the children and the father returned to Oklahoma. On May 27, 2015, the father filed a petition for separate maintenance alleging incompatibility. He also filed an application for temporary order. However neither the petition nor the application included the current location and addresses for the last five years for the children as required by §551-209(A). The father also did not disclose that in the meantime the mother obtained a Victims Protection Order in New Hampshire based on allegations of domestic abuse by the father, who appeared at the hearing. The mother was not given prior notice of the temporary custody order. The father obtained the children from the Mother in mid-September, 2015, with help from his relatives and the local sheriff. In October 2015, the mother filed a motion to vacate the temporary custody order on the ground that Oklahoma did not have jurisdiction to make such an order.

The hearing on the mother's motion to vacate or modify the temporary custody order was held January 13, 2016. The trial court approved the parties' agreement for joint custody with rotating 6-week periods. On January 29, 2016, the father filed an "Amended Petition for Divorce" based on the parties' incompatibility. He also alleged that "[b]oth parties have resided in Oklahoma for more than six consecutive months immediately preceding the filing hereof." On June 30, 2016, the mother filed a response admitting that "both parties have resided in Oklahoma for six consecutive months." The trial court ultimately determined that Oklahoma did have jurisdiction essentially on the basis that the parties had waived the jurisdiction issue. The court then granted the divorce and awarded joint custody. The mother appealed only the award of joint custody.

The appellate panel on its own accord focused on the jurisdictional issue under the UCCJEA. The panel noted that jurisdiction to make a child custody determination under the UCCJEA is, in Oklahoma, considered to be subject matter jurisdiction. See *Joliff v. Joliff*, 1992 OK 38, 829 P.2d 34. The court then analyzed and concluded that Oklahoma was not the home state of the child. The pleadings clearly showed that the child had not

resided for six months in Oklahoma at the time the father filed his petition.

The court then looked at whether Oklahoma had significant connection jurisdiction under §551-201(A)(2). That category of jurisdiction only applies if no other state has home state jurisdiction. The panel concluded that New Hampshire did not have home state jurisdiction because the children were there for less than a week when the father commenced the case in Oklahoma. Massachusetts also was not the home state because the children were there only for three months of the six month period before the commencement of the proceeding. Therefore since a court of another state does not have home state jurisdiction, Oklahoma may have jurisdiction if the next two requirements for jurisdiction under (A)(2) are met: (1) the child and at least one parent must have a significant connection with Oklahoma other than mere physical presence; and (2) there is available in Oklahoma substantial evidence concerning the child's care, protection, training and personal relationships.

The court concluded that Oklahoma did not have jurisdiction under this theory either. Having lived here only 2 1/2 months, the record did not show evidence of the minor children's "significant connection" to Oklahoma nor that "substantial evidence" is available here of the children's past and future care, protection, training and personal relationships. By comparison, the court noted, the children lived with their parents in Massachusetts the majority of time since their birth, where the mother and the children moved after staying in New Hampshire with the maternal grandmother. The court decided that considering the minor children's significant connection with Massachusetts and lack of significant connections with Oklahoma, it finds that Oklahoma does not have jurisdiction under §551-201(A)(2).

The court's conclusion on jurisdiction is correct. But it should be noted that the UCCJEA expressly rejects the idea of comparing two significant connection jurisdictions in order to decide which state has the most significant connections. A state has jurisdiction if it meets the requirements of Section §551-201(A)(2). The comparison between the two states is part of the §551-207 analysis on forum non conveniens. If more than two states have jurisdiction then the section on simultaneous proceedings applies. Section §551-206.

Even though the case was over with the decision on jurisdiction, the court proceeded to explain that the trial court's award of joint custody was also error. The problem is that there was significant evidence of domestic violence. The mother requested the trial court "to elaborate on 43 O.S. § 109.3 ... whether or not it found domestic violence occurred by a preponderance of the evidence? The trial court said that with regard to 109.3, it had made no findings there has been a preponderance of the evidence and "therefore 109.3 has no bearing on this order."

The statute provides that the trial court shall admit evidence of domestic violence and if proved by a preponderance of the evidence there is a rebuttal presumption that it is not appropriate to award custody to the person who committed the violence. The request by the mother's counsel for the trial judge "to elaborate on the preponderance of the

evidence" basically posed two questions: 1) did her evidence of domestic abuse and related behaviors fail to meet §109.3 's standard, or 2) if her evidence established the occurrence of such behavior so that the rebuttable presumption arose, did the father's evidence to the contrary result in overcoming the presumption against custody to him? As the trial court's response and finding in his appealed order demonstrate, neither question was answered based on his interpretation that §109.3 applies only if there has been a prior "determination" of domestic abuse or related behavior by another court.

However, §109.3 does not contain the word "determination." That term is found in that term is found in 43 O.S. §109(1)(1). That statute requires that:

In every proceeding in which there is a dispute as to the custody of a minor child, a determination by the court that domestic violence, stalking, or harassment has occurred raises a rebuttable presumption that sole custody, joint legal or physical custody, or any shared parenting plan with the perpetrator of domestic violence, harassing or stalking behavior is detrimental and not in the best interest of the child, and it is in the best interest of the child to reside with the parent who is not a perpetrator of domestic violence, harassing or stalking behavior.

In the view of the appellate panel a "determination by the court" refers to the decision made in the pending custody dispute "that domestic violence, stalking, or harassment has occurred" between the perpetrator and non-perpetrator. No prior determination of such occurrence by another court in a domestic abuse case or otherwise is required for application of either §109.3 or §109(1)(1).

In this case the panel concludes the trial court erred as a matter of law by misinterpreting the term "determination" in §109(1)(1) as requiring a prior determination of domestic violence, stalking or harassment by another court and by failing to apply §109.3's presumption based on that same misinterpretation.

2. JURISDICTION; UCCJEA; FORUM NON CONVENIENS

Gayanich v. Gayanich, 2018 WL 3475542 (V.I. 2018)

The husband filed for divorce and child custody in the Virgin Islands; two weeks later the wife filed for divorce and custody in Carter County. The Oklahoma case was stayed pending the outcome of the Virgin Island proceeding. The couple married in 2013. The children were born in Oklahoma in 2014 and 2015. On January 28, 2016, the couple moved to the Virgin Islands. In August the children and the mother returned to Oklahoma for five weeks. On September the children moved back to the Virgin Islands although the mother remained in Oklahoma where they remained at the beginning of the case on September 20.

The trial court determined that the Virgin Islands was the home state of the children for custody purposes. The mother sought to have the case transferred to Oklahoma under the forum non conveniens provisions of Section 207 of the UCCJEA. She showed that most of the evidence of parenting was based in Oklahoma, including the children's doctor,

dentist, and medical records since birth, and potential witnesses regarding childcare. In declining to exercise jurisdiction, the trial court indicated that, after reviewing all applicable factors, it found the following most relevant: (1) the length of time the children have resided outside the Virgin Islands; (2) the relative financial circumstances of the parties; and (3) the nature and location of the evidence required to resolve the pending litigation. It concluded that, while the first of these three factors did not favor either party, the remaining two supported the mother's contention that Oklahoma was the more appropriate forum. The father appealed.

The Virgin Island's Supreme Court affirmed. The purpose of including this case in Recent Developments is not for the substantive discussion of the forum non conveniens determination. That determination was relatively straight forward. However, the case is very instructive as an illustration of how to proceed when it is fairly clear that some other state is the home state of the child, yet it seems more appropriate that custody be determined in Oklahoma. First, upon learning that a proceeding had been filed first in the Virgin Islands, the Oklahoma trial court appropriately stayed the proceeding pending the outcome of the Virgin Island case. Second, the attorneys in Oklahoma should attempt to convince the Oklahoma judge to contact the Virgin Island judge on the issue of whether the Oklahoma would be a more appropriate forum. Third, local counsel in the Virgin Islands should be hired to file a motion to dismiss the Virgin Island case in favor of the Oklahoma proceeding.

3. DEPLOYED PARENTS CUSTODY AND VISITATION ACT; DEFINITION OF "DEPLOYED"

Kohler v. Chambers, 2019 OK 2, 435 P.3d 109

The parties are the biological parents of a child, although they are not married to each other. The father received orders directing him to report for basic training and advanced individual training with the army at Ft. Jackson, South Carolina. Prior to leaving, Father filed a motion seeking an order authorizing the temporary transfer of his custody and visitation rights with the child to his spouse. The father maintained he was a "deploying parent" under the Deployed Parents Custody and Visitation Act. The mother contended that he was not a deploying parent and objected to the transfer of the father's visitation right to the father's spouse. The trial court granted the father's motion and the mother appealed. The Supreme Court retained the case and reversed the trial court.

The Act, at 43 O.S. §150.1(4), defines "deploying parent" as follows:

[A] legal parent of a minor child or the legal guardian of a child, who is a member of the United States Armed Forces, civilian personnel or contractor serving in designated combat zones and who is deployed or has been notified of an impending deployment.

The term "deployment" is defined at §150.1(5) as follows:

[The temporary transfer of a servicemember in compliance with official orders to another location in support of combat, contingency operation, or natural disaster requiring the use of orders for a period of more than thirty

(30) consecutive days, during which family members are not authorized to accompany the servicemember at government expense.

It is clear that the father was not acting in support of a "contingency operation" or "natural disaster." Therefore the issues in the case was whether his temporary transfer for basic training and advanced individual training was "in support of combat." Unfortunately neither the uniform act nor the Oklahoma version of the act defines the phrase "in support of combat."

The court noted that a broad definition of the phrase would mean that virtually any service-connected activity occurring while combat operations are in existence could be construed as "in support of combat." It decided that such a broad interpretation of the phrase would not be consistent with legislative intent.

The court noted that several federal and state statutes defer to §112 of the Internal Revenue Code of 1986 which defines "combat zone" as "any area which the President of the United States by Executive Order designates ... as an area in which Armed Forces of the United States are or have engaged in combat." 26 U.S.C. §112(c)(2). Further, the court noted that the Internal Revenue Code uses the phrase "serving in support of such Armed Forces" to mean that an individual is located "in an area designated by the President of the United States by Executive order as a 'combat zone.'" 26 U.S.C. §7508. Under these statutes it is clear that the father's training was not deployment for "combat" or "in support of combat."

The court also found that the Armed Forces Code defines of deployment in 10 U.S.C.A. §991(b), to exclude periods when a servicemember is "performing service as a student or trainee at a school (including any Government school)." 10 U.S.C. § 991(b)(3)(A). Additionally, the Department of the Army has concluded that "[soldiers are not eligible for deployment until they have completed [basic training]/advanced individual training."

Therefore the court held that the father's orders for basic training and advanced individual training is not "deployment" under the Deployed Parents Custody and Visitation Act. Four justices dissented without opinion.

4 SURROGACY COMES TO OKLAHOMA

HB 2468

The Legislature has passed, and the Governor has signed, HB 2468 authorizing gestational surrogacy in Oklahoma. To refresh your memory gestational surrogacy is different than genetic, or traditional, surrogacy. In gestational surrogacy the surrogate is the carrier of the child and is not genetically related to the child. The usual method of fertilization is that the sperm comes either from the intended parent or a donor. The egg comes from the donor, not the surrogate. Fertilization takes place in vitro.

The statutory process provides for court approval of the agreement between the

intended parent or parents and the surrogate. The bill contains detailed requirements for qualifications as a surrogate, the terms of the contract, the contents of the petition seeking judicial approval of the contract and the findings and orders that the judge is required to make. One major effect of the legislation is to make it possible for a same-sex male couple to have children.

The entire bill runs about 28 pages and should be read by anyone who expects to practice in this area as well as any attorney who serves as legal advisor to a fertility clinic. I plan to put together a more detailed analysis of the legislation at a later time but for now you should know that the bill contains an emergency clause and is currently in effect as of May 24, the date the governor signed.

5. GUARDIANSHIP STATUTE

HB 1036

This bill prohibits a court from appointing as a guardian for a child the child's parent is the parents rights have been terminated. It also prohibits the Department of Human Services from recommending a parent who has had his or her parental rights terminated to seek guardianship of a child in the custody of the Department. Nov. 1.

B. CHILD SUPPORT AND PARENTAGE

1. PARENTAGE

Beck v. Cannon and Cresswell, 2019 OK CIV APP 22, 439 P.3d 451

Beck filed a petition for paternity determination on June 26, 2013, alleging he was the natural father of EWB, born in March 2009. EWB's mother, Cannon, also signed the petition. He asserted Cannon did not dispute his fatherhood of EWB and genetic test results showed he cannot be excluded as EWB's biological father. A temporary order, filed July 25, 2013, indicated Beck and Cannon entered into an agreement for joint custody of EWB, with Beck receiving visitation every Friday from 6:00 p.m. through Monday at 9:00 a.m. and alternating holidays. The court ordered Beck to pay \$48.47 per month for child support. The trial court ultimately determined that Beck is the child's biological father as determined by DNA testing. The court adjudicated Beck as EWB's father and ordered EWB's birth certificate amended to identify Beck as his father. The court awarded Beck and Cannon joint custody of EWB, with Cannon having primary physical custody.

On September 16, 2016, Cannon filed a motion to vacate paternity judgment alleging that, at the time of EWB's birth, she was married to Cresswell. She alleged Cresswell is EWB's presumptive father, has parental rights, and is a necessary party to the proceedings. She claimed Beck did not timely bring his paternity action because he waited

more than 4 years to establish paternity. Cresswell had signed a declaration of non-paternity February 11, 2011. His divorce from Cannon provided that there were no children of the marriage. However, Cresswell said he has maintained a relationship and regularly exercised visitation with EWB. Cresswell argued that his denial of paternity is not valid without a valid acknowledgement of paternity from Beck. He asserted, therefore, that he is still the presumed father of EWB. Beck however argued that he signed an acknowledgment of paternity before EWB turned two years old.

This case is governed by Oklahoma's version of the Uniform Parentage Act, 10 O.S. §7700-101 et seq. Section 304 provides that acknowledgments and denials of paternity need not be executed simultaneously. Neither is valid until both are executed. The trial court found that by executing the denial of paternity, Cresswell reserved his option to withdraw his denial. However, Cresswell never requested that the denial be withdrawn. Had it been withdrawn prior to Beck's execution of the acknowledgment, then Cresswell would have had a legal position to claim to be the presumed father. Section 7700-305 provides that if a denial is executed by the presumed father, then when a valid acknowledgment is executed, the execution of the acknowledgment makes the denial valid. The combination of the two is equivalent to an adjudication of the nonpaternity of the presumed father Cresswell and discharges him from all rights and duties of the child. Therefore according to the trial court Cresswell is no longer the presumed father of the child and denied his motion to dismiss Beck's paternity petition. Cresswell appealed.

The panel affirmed. In this case Cannon and Beck executed the acknowledgment of paternity indicating Mother was married at the time of conception or birth and Cresswell executed the denial of paternity. The only thing alleged not to have been done here that was required by statute was Beck's failure to file the acknowledgment of paternity with an attached denial of paternity with the State Department of Health, Division of Vital Records.

The fact that Cresswell's and Cannon's divorce decree states there were no children born of the marriage is not determinative of the issue before us. In *Clark v. Edens*, 2011 OK 28, 254 P.3d 672, the Supreme Court noted: "A pleading or other representation that informs the court that there are no children of the marriage simply removes such issues from determination."

Beck's alleged failure to file the acknowledgment of paternity and denial of paternity cannot serve as a basis for dismissing the paternity action more than three years after the trial court entered its decree of paternity. First, Cresswell admitted he executed the denial and sent it to Beck. Beck and the mother voluntarily and jointly executed an acknowledgment. Cresswell claims Beck's failure to file the document with the State Department of Health voids the acknowledgment and denial. The panel disagreed that failure made them void. At best they are voidable.

The panel specifically noted that Cresswell made no attempt to withdraw his denial and that never held himself out to be EWB's father or paid child support for him. Cresswell admitted he had actual knowledge of the paternity proceedings and that he looked at the legal documents "fairly shortly after they were officially filed." Although Cresswell knew the

paternity action was ongoing, he did not claim that his denial of paternity was invalid before the entry of the trial court's decree of paternity, and instead waited more than three years after the decree was entered to file his motion to dismiss. The trial court therefore did not error.

2. SUPPORT FOR A DISABLED ADULT

Marriage of Morgan, 2019 OK CIV APP 5, 438 P.3d 837

The parents have one child who was born in 1998 and suffers from autism. The parties divorced in 1998 and the father, who lives out of state, has little contact with the child. Before the child turned 18 the mother filed a motion for continued support under 43 O.S. §112.1A for the child who, she alleged, will never be emancipated. The father argued that the child was capable of self-support. He also sought to be reimbursed for what, he claimed, was overpayments for medical support for the child. At trial the mother presented substantial evidence that the child was not capable of self-support. His current job is cleaning tables and filling salt shakers at Rogers State College cafeteria. However, he needs constant supervision and a “job coach” to keep him on task. The child now only works six hours a day because he was unable to handle working eight hours a day. He is paid \$8.75 per hour, but is not paid during breaks, such as spring break, fall break, or summer break.

The mother testified that the child’s income is used to pay entertainment expenses, but does not pay for the essential overhead costs. She also stated she does not seek unemployment for the child when he is laid off during the summer because he is unable to look for employment, which is a requirement to obtain unemployment. She also testified that she has not applied for government financial assistance because she was told it would probably be denied. The mother believes that the child is her and the father's responsibility, not the government's responsibility. She covers the child on her insurance and has not looked into Sooner Care.

The trial court determined that the child was entitled to support under 43 O.S. §112.1A, denied the father request for overpayment, and assessed three years back child support from the time of the filing of the motion to the time of the trial court’s decision. It calculated the amount of support based solely on the child support guidelines. It also granted the mother \$8,000 in attorney fees finding that the father’s conduct created additional attorney fees for the mother. The father appealed.

The father’s first argument is that this is really a guardianship proceeding concerning the child’s estate and that therefore the probate court had jurisdiction to the exclusion of the court that tried the case. The court rejected this argument noting that this is not really a guardianship proceeding. Section 112.1A specifically provides that the action for support of a disabled adult shall be brought by the person having legal custody of the disabled adult in a court that has continuing jurisdiction.

With regard to the calculation of the amount of support §112.1A(E) provides that:

E. In determining the amount of support to be paid after a child's eighteenth birthday, the specific terms and conditions of that support, and the rights and duties of both parents with respect to the support of the child, the court shall determine and give special consideration to:

1. Any existing or future needs of the adult child directly related to the adult child's mental or physical disability and the substantial care and personal supervision directly required by or related to that disability;

2. Whether the parent pays for or will pay for the care or supervision of the adult child or provides or will provide substantial care or personal supervision of the adult child;

3. The financial resources available to both parents for the support, care, and supervision of the adult child; and

4. Any other financial resources or other resources or programs available for the support, care, and supervision of the adult child.

In this case the court used the child support guidelines to determine the amount of support. This the appellate panel found was error. It decided that the standard under §112.1A(E) requires a more individualized inquiry into the needs of an disabled adult and is therefore not susceptible to a generalized formula, such as the child support guidelines. The amount of support for a disabled adult who has medical or psychological needs is unique to that person. Therefore, unlike the general child support guidelines, in determining support under Section 112.1A, the court must consider the factors set forth in §112.1A(E). The appellate panel noted that after considering all the factors the amount of support may exceed, or be less than, the generalized calculation based on the child support guidelines

Section 112.1A, the panel said, does not preclude the trial court from using the child support guidelines to assist in determining the relative financial responsibility of each parent for the child's needs. Thus, after considering the factors stated in §112.1A and determining the amount of support needed for the care of the disabled adult, the trial court may utilize the guidelines to assist in determining the financial resources of each parent and to allocate to each parent their percentage of the support as determined under §112.1A needed to meet the needs of the disabled adult. Since the trial court used only the child support guidelines the case had to be remanded to determine the correct amount of support using the factors set out in §112A(E).

On remand the trial court was instructed to take into account the amount of money earned by the child. The trial court attributed the amount the child earned to the mother when calculating support. This was error, however the amount should be factored in to the calculation of the disabled adult's needs.

The appellate panel also determined that it was error to award the mother the three years of support calculated from the time the motion to determine support was filed and the time of the court's order. The panel noted that the legislature specifically provided in 43 O.S. §118I(A)(3) that an order modifying child support of a minor child is effective the date the motion to modify is filed. However, the Legislature did not include any such provision in Section 112.1A, the statute providing for support for an adult with disabilities.

Therefore that amount awarded to the mother was stricken.

The father's final argument is the trial court erred in awarding the mother attorney's fees. He argued there was no a contract or statute allowing an award of attorney's fees and, therefore, the trial court erred. In response, the mother argued that her motion was a modification of the original child support award and therefore she is entitled to an attorney's fee award pursuant to 43 O.S. §110(E). The panel found that there was sufficient evidence to support the trial court's determination that the father's conduct had created delays and created additional attorney fees for the mother and therefore affirmed the trial court's determination that the mother should receive fees.

3. APPEALS FROM ADMINISTRATIVE CHILD SUPPORT HEARINGS

SB 512

This bill does a number of things. First it continues the requirement that a petition in error be filed in the district court in the county of the underlying support order. However, it adds the provision that a designation of record shall be filed prior to or concurrently with the filing of the petition in error.

Second, it provides that the rules governing the appeal such as time limits for completion of the record be promulgated by the Supreme Court and not the district court.

Third it provides that the district court set aside or reverse the administrative court decision if the administrative decision is:

- a. in violation of constitutional provisions,
- b. in excess of the statutory authority or jurisdiction of OAH,
- c. made upon unlawful procedure,
- d. affected by other error of law
- e. clearly erroneous as not supported by substantial evidence in the record,
- f. arbitrary or capricious, or
- g. made without findings of fact upon issues essential to the decision, although such findings of fact were requested.

The bill becomes law on November 1.

C. PROPERTY

1. PROPERTY; COMMINGLING AND TRACING

Gillett v. McKinney, 2019 OK CIV APP 24, 440 P.3d 69

This is an appeal by the husband's personal representative from a decision by the district court that the husband was not entitled the 2014 and 2015 tax credits and overpayments. The court found that husband's deposit of his separate funds into the parties' joint accounts "took away the separate identity and character" of those funds so deposited. The court also found that any of husband's separate funds used to pay the

parties' income taxes had been commingled with their marital funds. These findings by the trial court meant that the husband would be denied credit for the tax credits.

The parties filed joint income tax returns for the 2014 tax year and received a partial refund. In 2015 prior to the filing of the petition for divorce, the parties made estimated tax payments for the 2015 tax year. The estimated tax payments exceeded the amount of income tax owed for 2015.

At trial the husband called an expert witness who testified that he could trace the source of the 2014 and 2015 tax payments to deposits made to the parties' joint account. The source of the funds used to pay the taxes came from the husband's IRA, which the parties agreed was the husband's separate property. Occasionally the husband would withdraw funds from his IRA and deposit those funds into the parties' joint accounts. Some of these deposits approximately coincide with the 2014 and 2015 tax payments. The dispositive issue was whether the funds withdrawn from husband's IRA remained his separate property once they were deposited in the parties' joint accounts, even if the tax payments can be traced to some of the deposits. The trial court found the deposits from the husband's IRA lost their separate character when placed into the parties joint account.

The Court of Civil Appeals affirmed the trial court. The husband's expert testified that he was able to "trace" the tax payments to the husband's separate funds because the comparatively large tax payments generally coincided with comparatively large deposits into the joint accounts made a few days before or a few days after withdrawals from husband's IRA. The appellate panel found that the husband's expert's testimony was not convincing. For example the estimated taxes paid for the third quarter of 2015 were made by checks totaling \$73,684 that were written from the parties' joint checking account. On September 22, 2015, \$20,000 was withdrawn from husband's IRA and deposited in the parties' joint checking account. However, on September 14 and 15, \$60,000 was withdrawn from the parties' joint savings and deposited into the parties' joint checking account. Husband's expert argued that this \$60,000 should be attributed to husband because funds in the joint savings account could be traced to a deposit made a year earlier from husband's separate funds. On August 15, 2014, \$250,000 was withdrawn from the husband's IRA and deposited in the parties' joint checking account. On August 21, 2014, \$200,000 was transferred from the joint checking account to the joint savings account, which had a balance of \$648.80 before the deposit. However, the expert provided no evidence about the balance in the checking account prior to the \$250,000 deposit, the purpose for which the deposit was made or the use of the \$50,000 that was not transferred to the joint savings account.

The panel noted that it does appear that deposits into the parties' joint checking account from husband's IRA on June 16, 2015, exceeded, by \$61, the checks written on June 14, 2015, to cover their second quarter estimated tax payments. However, deposits from husband's IRA did not cover \$15,600 of the \$282,600 paid on April 14, 2015, in conjunction with the parties' requested extension to file their 2014 tax returns. The panel found that devastating to the credibility of the husband's expert was the number of comparatively large withdrawals from husband's IRA deposited in the parties' joint accounts

at times when no tax payments were made. For example, in 2014, husband made five withdrawals from his IRA, \$38,000 in April, \$50,000 in May, \$22,000 in June, \$80,000 in July and \$250,000 in August.

On ten occasions during this time period, according to the panel, the husband withdrew relatively large amounts from his IRA, which he deposited in the parties' joint accounts. Those funds, commingled with wife's separate property, and other marital income, and were used to pay for the parties' living expenses, including their taxes. Only three of those ten withdrawals occurred in proximity with payments for taxes. The husband's expert offered no explanation why only the tax payments, and not payment of all the marital expenses, should be traceable to husband's separate property.

In this case the withdrawals from the husband's IRA were not deposited into a separate account but into an account jointly owned by husband and wife and commingled with wife's separate property and other marital property. The taxes and the parties' living expenses were paid from the joint account. The only source of deposits into the joint account, other than deposits from husband's IRA, came from marital property, the husband and wife's earned income during the marriage.

In addition, when the husband withdrew funds from his IRA, he incurred a tax liability. His expert testified that the withdrawals from husband's IRA during this time were generally made without withholding the taxes due on the withdrawal. It does not appear that the husband treated this liability as his personal obligation for which he filed a separate tax return. The tax due on these withdrawals was treated as the obligation of both parties and included in the joint return the parties filed for 2014.

The conclusions of the panel were that it was not disputed that the parties maintained joint accounts and that the contested tax payments were made from the parties' joint checking account. The wife earned approximately \$200,000 per year during this time and deposited all of her paychecks into the joint accounts. Gifts from wife's parents to the parties and wife's distribution of her separate property from her family's business were also deposited into the joint accounts. All of these funds were used to pay the parties' utility bills, ad valorem taxes, husband's substantial medical bills, insurance bills and other household expenses, including the parties' income tax liability. Since the joint savings accounts were clearly commingled, it followed that payment of the taxes came from an account that was classified as marital.

D. ALIMONY

1. MODIFICATION OF SUPPORT ALIMONY

Marriage of Dalton, 2019 OK CIV APP 23, 438 P.3d 852

The parties settled divorce agreement and decree in 2011 required the husband to

pay the wife \$225,000 in support alimony in installments according to the following schedule: \$4,500.00 per month for twelve months, then \$4,250.00 per month for the next twelve months, then \$4,000.00 per month for twenty-four months. Neither party noticed that the installment schedule provided for the payment of only \$201,000.00 total, not the \$225,000.00 to which the parties had agreed. On August 14, 2015, the husband filed a motion to terminate his support alimony obligation. There remained eight months of installment payments due. He alleged a change of circumstances in his ability to pay support, and ceased making payments pursuant to the consent decree. The wife sought to hold the husband in contempt.

At trial, the evidence demonstrated that, the husband possessed sufficient funds to make his required payments of support under the consent decree. At the time of trial, Husband owed some \$30,000.00 in past due installments of support alimony, and the \$24,000.00 difference between the agreed-to amount of support alimony of \$225,000.00 and the \$201,000.00 total of installments. The trial court ordered the husband to pay the total of \$54,000.00 in support alimony due under the consent decree (\$30,000.00 in past due installments and the \$24,000.00 difference between the total support obligation of \$225,000.00 and the total scheduled installments), in installments according to a schedule beginning in April 2017, and extending over the next 78 months.

The wife appealed arguing that the trial court lacked the power to modify or terminate payments of the support obligation which had already accrued at the time of trial. The appellate panel agreed. It noted that the applicable statute is 43 O.S. §134(D) provides:

[T]he provisions of any dissolution of marriage decree pertaining to the payment of alimony as support may be modified upon proof of changed circumstances relating to the need for support or ability to support which are substantial and continuing so as to make the terms of the decree unreasonable to either party. Modification by the court of any dissolution of marriage decree pertaining to the payment of alimony as support, pursuant to the provisions of this subsection, may extend to the terms of the payments and to the total amount awarded; provided however, such modification shall only have prospective application.

In *McCoy v. McCoy*, 1995 OK CIV APP 38, 892 P.2d 680, the Court of Civil Appeals construed the phrase “shall only have prospective application” to limit the trial court’s authority to modify only payments of support alimony which came due after the date of the court’s order for modification. At the time of trial there remained an accrued arrearage of \$30,000.00 due and unpaid for support alimony under the consent decree. The trial court lacked the authority to modify the terms for payment of those installments which had already accrued at the time of trial. The trial court could not extend the time for those payments to be made.

With regard to the \$24,000 computational error the panel concluded that the consent decree’s silence concerning the obligation to pay the \$24,000.00 difference could only be construed to require the payment of the final \$24,000.00 in support alimony as due

upon completion of the schedule for payment of the expressly provided-for installments.

Therefore the trial court's order providing for the husband's payment of support alimony due and owing in installments was contrary to the terms of the agreement and contrary to the limits of §134(D) and therefore was reversed.

E. DIVORCE PROCEDURE AND OTHER ISSUES

1. ATTORNEY FEES; UCCJEA

Jones v. Pack, 2018 OK CIV APP 3, 408 P.3d 628

The attorney fee issue grew out of a parentage-child support proceeding originally filed by DHS against the father. In the original hearing, and in a further modification hearing, there was no order concerning visitation for the father. Eventually the father filed a petition to establish visitation. The mother appeared specially arguing that Oklahoma did not have jurisdiction because she and the child had lived in Arkansas for the last four years. The trial court agreed and dismissed the petition. Mother then sought attorney fees. The court awarded her \$2,195 in monthly payments of \$182.92. The trial court did not specify the basis for the award of fees. The father appealed.

The Court of Civil Appeals reversed finding there is no authority to award attorney fees in this situation. Normally, of course, unless you can find statutory authority for an award of attorney each party bears its own costs. The UCCJEA contains two sections that authorize fees. The first is 43 O.S. §551-208 which concerns situations where the person seeking a child custody determination has engaged in unjustifiable conduct and the court is required to decline the case. That statute does not apply in this situation. The second section of the UCCJEA concerning fees is §551-312 which authorizes fees in actions to enforce a child custody determination. That also is not the case here and therefore some other authority must be found to justify the fee award.

The normal statutory basis for an award of fees in 43 O.S. §110. However, that statute does not apply when the parents were never married. See *McKiddy v. Alarkon*, 2011 OK CIV APP 63, 254 P.3d 141. The appellate panel also found that 43 O.S. §109.2 was also not applicable because no custody or child support decisions were made as a result of the father's petition to establish visitation.

In addition the panel found that the Parentage Act did not apply. Although Title 10 O.S. § 7700-636 does provide that in a proceeding to adjudicate parentage the court may award attorney fees and other costs. The problem is that this is not a parentage proceeding. Parentage was previously determined in the proceeding brought by DHS to establish child support.

Finally the court dismissed the mother's argument based on *Briggeman v. Hargrove*, 2014 OK CIV APP 13,318 P.3d 1130. In that case the panel reversed a trial court determination that it had no jurisdiction to award fees because it had been prohibited by the Supreme Court from proceeding further with father's custody modification proceeding. The panel, in that case, summarily held that notwithstanding the entry of the writ of prohibition, the trial court had the inherent equitable supervisory power to award the mother attorney fees in the event it found the father's conduct was oppressive or abusive. This case does not concern whether the court has jurisdiction to determine the attorney fee award. The trial court did award fees and the appellate panel found that even considering *Briggeman*, the father's action was neither oppressive or abusive.

There being no other possible basis to award attorney fees, the appellate panel reversed.

For another case to the same effect see *Marriage of Thomas*, #115,520 (Tulsa 2018), where the panel concluded that there was no authority to award fees in a nunc pro tunc proceeding. Section 110(E) authorizes fees only in an action for "enforcement or modification" of a divorce decree. "By definition, a nunc pro tunc proceeding is not an action for modification or enforcement," said the court.

2. UCCJEA; ATTORNEY FEES FOR PRO BONO REPRESENTATION

Marriage of Antini, 2019 OK 20, 440 P.3d 57

The parties were divorced in New York in 2013. They had joint legal custody with primary physical custody of the children awarded to the mother. The mother and the children then moved to Maine. In April 2014, the father picked the children up in Maine for visitation but transported them to Oklahoma and, despite the mother's requests and her subsequent trip to Oklahoma to recover the children, the father refused to return them. The mother modified the New York decree in Maine, now the children's home state, and received sole custody of the children. Ultimately, because of the father's refusal to return the children, the mother filed an application for a writ of habeas corpus in Oklahoma. The trial court ordered the children returned to Maine enforcing the Maine modification of the New York custody determination as required under the Uniform Child Custody Jurisdiction Act, 43 O.S. §551-101 et. seq.

The mother then sought attorney fees under 43 O.S. §551-312 which provides that the prevailing party in an enforcement proceeding shall recover:

necessary and reasonable expenses incurred by or on behalf of the party, including costs, communication expenses, attorney's fees, investigative fees, expenses for witnesses, travel expenses, and child care during the course of the proceedings, unless the party from whom fees or expenses are sought establishes that the award would be clearly inappropriate.

The trial court denied the request for attorney fees on the ground that only a party

who has paid for an attorney to prosecute the custody enforcement proceeding can recover fees. In this case the mother was represented by Legal Aid who did not charge the mother a fee. The Court of Civil Appeals affirmed finding that there was no court or legislative provision to award fees to a party who was represented pro bono. The Supreme Court granted certiorari and reversed both the trial court and the Court of Civil Appeals.

The court noted that the statute uses the word "shall" which, it said, "expresses a command or a mandatory directive creating an unequivocal right that leaves no discretion with the court to deny it." In this case the mother was clearly the prevailing party. The burden is on the non-prevailing party to demonstrate that the fee-shift would be "clearly inappropriate." In this case the amount of fees and costs requested by the mother was not at issue. The only question was whether fees must be granted in the first instance. This issue turns on the meaning of "on behalf of" within the phrase "necessary and reasonable expenses incurred by or on behalf of the party."

The court said that: "It goes without question that legal representation comes at a cost. Nor can it be questioned that, attorneys who represent but do not pass the cost of representation onto their clients, are the client's representative and act in the client's best interest. Whether this service is paid for by the client, by the public, or not at all has no effect on this inquiry." Consequently, it became apparent to the court that the words "on behalf of" is a legislative intent that fees must be awarded even where the party did not pay for the legal services. Ruling otherwise would render the phrase "on behalf of" superfluous. The court found that if the legislature meant to exclude entities that provide free legal services from receiving fees it would have said so.

The court also noted that this decision agrees with the results of practically all courts which have considered this issue. See e.g., *Miller v. Wilfong*, 119 P.3d 727 (Nev. 2005); *Vazquez v. Campbell*, 146 P.3d 1 (Alaska 2006). In addition it found that the attorney fees section of the UCCJEA was copied from the International Child Abduction Recovery Act, 22 U.S.C. §9007(b)(3). which implements the Hague Convention on the Civil Aspects of International Child Abduction. The federal courts uniformly hold that this provision is to be interpreted to allow attorney fees when there is pro bono representation. See e.g., *Cuellar v. Joyce*, 603 F.3d 1142 (9th Cir. 2010); *Salazar v. Maiman*, 750 F.3d 514 (5th Cir. 2014).

Finally the court said that If §551-312 were held to exclude attorneys rendering legal services to clients at no cost, many Oklahomans would lose access to the court. Without the fee-shifting provision abductors would not be held accountable. The case was remanded for a determination and award of a reasonable attorney's fee.

3. ATTORNEY FEES

Marriage of Briscoe, 2019 OK CIV APP 6, 438 P.3d 824

In the underlying action the trial court ordered the father to pay his share of the health insurance premium. The mother then sought and received \$2,282.50 for attorney

fees. The father appealed.

The attorney fees were awarded under the authority of 43 O.S. §110(D) and (E) which require a balancing of the equities. The father's argument on appeal that the trial court did not do so was rejected on the basis that the record clearly showed that the trial court did balance the equities. In particular the trial court considered the factors set out in *Finger v. Finger*, 1996 OK CIV APP 91,923 P.2d 1195 which are:

In considering what is just and proper under the circumstances, the court in the exercise of its discretion should consider the totality of circumstances leading up to, and including, the subsequent action for which expenses and fees are being sought. Such circumstances should include, but not be limited to: the outcome of the action for modification; whether the subsequent action was brought because one of the parties had endangered or compromised the health, safety, or welfare of the child or children; whether one party's behavior demonstrated the most interest in the child or children's physical, material, moral, and spiritual welfare; whether one party's behavior demonstrated a priority of self-interest over the best interests of the child or children; whether either party unnecessarily complicated or delayed the proceedings, or made the subsequent litigation more vexatious than it needed to be; and finally, the means and property of the respective parties.

The father then argued that the trial court had erred as a matter of law by not considering all the factors set out in *State ex rel Burk v. City of Okla. City*, 1979 OK 115, 598 P.2d 659. The panel disagreed. It noted that an award of attorney fees under §110(D) and (E) is different that an attorney fee award under a statute such as 43 O.S. §111.1 (C)(3). The former is an award that is conditioned upon a balancing of the equities. The latter is an award that is given to the prevailing party. In considering an award under §110 the court must first determine whether the party is entitled to an attorney award and then must determine the amount of the award. Under a prevailing party statute the only issue is the amount of the award. The factors set out in the *Finger* case relate to whether an attorney fee is proper. The factors set out in *Burk* become relevant and should be applied in the context of a §110 attorney fee request when a party specifically challenges the reasonableness of the total fee sought by the party entitled to fees.

In this case the father did not challenge the reasonableness of the amount of fees award the mother. Therefore the panel rejected the father's argument that the trial court erred as a matter of law in failing to apply the *Burk* factors.

4. ATTORNEY'S LIEN; COMPULSORY COUNTERCLAIMS

Marriage of Evans, 2018 OK CIV APP 53, 439 P.3d 418

The law firm in this case, Kirk and Chaney, represented the wife in a divorce and filed a notice of an attorney's lien under 5 O.S. § 6. The law firm sought to foreclose the charging lien claiming the client owed them over \$47,000. The client defended by arguing

that the fee was excessive and unreasonable because the law firm made legal and mathematical errors which resulted in a reduced division of the marital estate.

Enforcement of the charging lien is an equitable proceeding which allows the court to inquire into the reasonableness of the underlying fee which the lien is designed to enforce. Whether a fee is reasonable is determined by the factors set out in *State ex rel. Burk v. City of Oklahoma City*, 1979 OK 115, 598 P.2d 659 as follows:

There is a two-part reasonableness test for an attorney's fee: 1) a base fee calculated by multiplying hours worked by an hourly rate, and 2) a bonus or incentive fee calculated under eight factors. Generally referred to as the Burk criteria, the same eight factors are listed for determining the amount of an attorney's fee: 1) time and labor required, novelty and difficulty of the questions involved, and skill requisite to properly perform the legal services; 2) the likelihood the representation will preclude other employment by the attorney; 3) customary charge in the community for similar legal services; 4) amount involved and results obtained; 5) time limitations imposed by the client or the circumstances; 6) nature and length of the professional relationship with the client; 7) the experience, reputation, and ability of the attorney performing the legal service; and 8) whether the fee is fixed or contingent.

The law firm addressed the Burk factors at the hearing before the trial court. It introduced detailed time records of the work it performed for the client. They represented the client for approximately twenty-one months in a "hard-fought divorce case." The marital estate was valued at \$4.5 million dollars. The contested Issues included separate property, stock and stock options, support alimony, child support, contempt, and custody. The client received separate property worth over \$1.2 million, plus stock and stock options, as well as \$790,000.00 in property division alimony, \$4,000.00 per month in support alimony for three years, and \$3,500.00 per month for child support.

The client did not dispute the amount of the hourly fee as set out in the fee contract or object that the amount of the hourly fee was unreasonable. Nor did she claim that the law firm worked an excessive number of hours. The trial court determined that the amount of the fee was reasonable and enforce the charging lien.

The client's real complaint related to the quality of the representation. She had filed a counter claim in the case for professional negligence which was dismissed on the ground that it should be the basis for a wholly separate law suit. The client appealed arguing that the malpractice claim was a compulsory counterclaim to the charging lien enforcement procedure.

The appellate panel affirmed. A proceeding to enforce an attorney's charging lien is an equitable proceeding that is ancillary to the divorce case, although it can be made the basis of an separate filing. Because the law firm sought to enforce its lien in the underlying action, the firm was proceeding against the judgment itself and not against the client. Therefore the client did not become an opposing party for purposes of the compulsory

counterclaim rule. Thus the trial court was correct in dismissing the counterclaim.

In a related proceeding the law firm was awarded attorney fees for the proceeding to enforce its charging lien under 12 O.S. § 176 which provides for fees when enforcing liens. *Marriage of Evans*, #115,600 (Tulsa 2018).

5. DIVORCE PROCEDURE

Christian v. Christian, 2018 OK 91, 434 P.3d 941

The parties were divorced following a four-day trial. The divorce decree setting forth the trial court's findings was filed on June 30, 2016. Both parties filed motions on July 15, 2016, requesting clarification and/or modification of the decree. The husband also filed a motion requesting an award of attorney fees and costs. The trial court determined that the wife's motion was not timely filed and therefore denied it. The wife filed her appeal on October 27, 2016. The Court of Civil Appeals affirmed the trial court.

The Supreme Court granted certiorari and reversed the Court of Civil Appeals and the trial court. 12 O.S. §653(A) provides that a motion for a new trial must be filed not later than ten days after the judgment has been filed. The decree was filed on June 30, 2016. Therefore the wife had ten days from June 30, 2016, to file a motion seeking a new trial. If this provision were read standing alone the deadline would be July 10, 2016. However, the court said, the provisions of §653(A) must be read in conjunction with 12 O.S. § 2006(A).

That statute requires that: "In computing any period of time prescribed or allowed by this title, by the rules of any court of this state, or by order of a court of this state, the day of the act, event, or default from which the designated period of time begins to run shall not be included." It also provides that: [When the period of time prescribed or allowed is less than eleven (11) days, intermediate legal holidays and any other day when the office of the court clerk does not remain open for public business until the regularly scheduled closing time, shall be excluded from the computation."

The Christian decree was filed on Friday, June 30, 2016. Under § 2006(A) the date of filing is excluded when establishing the wife's deadline. In addition, a total of five days must be excluded from the computation: "July 2--3, 2016 (Saturday and Sunday), the Fourth of July holiday, and July 9--10, 2016 (Saturday and Sunday)." When these days are omitted from the calculation, the wife's deadline for filing a motion for new trial under § 653(A) was Friday July 15, 2016, the date she filed her motion. Therefore the motion for new trial was timely filed. The case was remanded to the trial court to hear the motion for a new trial.

6. VICTIM PROTECTIVE ORDER; DISCOVERY

Sunderland v. Zimmerman, 2019 OK CIV APP 27, ___ P.3d ___

Mr. Zimmerman and Ms. Sunderland had a tumultuous dating relationship.

Ultimately Ms. Sunderland filed for a protective order against Mr. Zimmerman. An ex parte hearing and emergency order of Protection was issued on November 7, 2017. The hearing was set for November 15, at which Mr. Zimmerman requested a continuance. The case was continued until December 8. He then sent discovery requests to Ms Sunderland who failed to respond to them. His motion to compel discovery was denied and there was no discovery before the final hearing. Following the hearing, the trial court entered a five-year final order of protection against Mr. Zimmerman, which included the requirement that he attend a 52-week batterer prevention program. Ms. Sunderland was also awarded attorney fees in the amount of \$6,780.

Mr. Zimmerman appealed arguing that the trial court erred when it denied him the opportunity to conduct discovery. The appellate panel agreed and reversed. It noted that the discovery code at 12 O.S. §3224 provides that it applied to all civil law suits. In earlier cases the appellate court had opined that proceedings for a victim protective order are civil in nature. *Marquette v. Marquette*, 1984 OK CIV APP 25, 686 P.2d 990. It logically follows that discovery is required in a proceeding for a VPO.

Although discovery may be unnecessary in a large number of cases under the domestic violence act, the right to conduct discovery is necessary to protect the rights of defendants. And, of course, discovery may be restricted in accordance with 12 O.S. §3226.

Further strengthening the court's argument is that the legislature had exempted small claims cases from the discovery code. If the legislature had meant victim protective order cases to be exempt from discovery it would have said so.

On rehearing the panel struck the attorney fee award without saying why it did so.

ROBERT G. SPECTOR

Robert G. Spector is the Glenn R. Watson Chair and Centennial Professor of Law Emeritus at the University of Oklahoma College of Law. He taught courses on Family Law, Children and the Law, Conflict of Laws, Evidence, and Child Abuse and Neglect. He received his Juris Doctor degree from the University of Wisconsin in 1966.

Professor Spector is an elected member of the American Law Institute and served as the Reporter for the Uniform Child Custody Jurisdiction and Enforcement Act and the Family Law Joint Editorial Board for the National Conference of Commissioners on Uniform State Laws. He was an Expert member of the United States' Delegation to the Hague Conference on Private International Law's Sessions on negotiating a multilateral agreement for the recognition and enforcement of support obligations. He was the Deputy Head of the United States' Delegation to the Hague conference on Private International Law's Special and Diplomatic Commissions on the Protection of Incapacitated Adults and served as an Expert Member of the United States' Delegation to the Hague Conference Special and Diplomatic Commissions for the Convention on the Protection of Minors, the Special Sessions on the Maintenance Convention, the Special Session on the working of the Abduction Convention and the Special Session on the working of the maintenance conventions.

He was a member of the Governing Council of the American Bar Association's Family Law Section for ten years. He serves as a consultant to the Oklahoma Bar Association's Section of Family Law. He is the author of *Oklahoma Family Law; Cases and Materials*; *Oklahoma Family Law: The Handbook* and *Oklahoma Family Law: Statutes and Rules Annotated*, all published by Imprimatur Press and over 120 articles on family law. He also serves as the Associate Editor of the *Family Law Quarterly*.

Professor Spector writes and lectures extensively on family law topics. He received the Chair's Award from the Oklahoma Bar Association's Family Law Section in 1994 and 1997 for significant contributions to the development of family law and in 1990 was named the Outstanding Family Law Attorney. He has also received the Earl Sneed Award for significant contributions to Continuing Legal Education by the Oklahoma Bar Association in 1991, as well as the Golden Quill Award for the best article submitted to the Oklahoma Bar Journal.

Prior to joining the University of Oklahoma faculty in 1980, Professor Spector was a member of the faculty of Loyola University of Chicago law School for thirteen years. He has served as a visiting professor at the University of Illinois, the University of North Carolina, and Suffolk University in Boston.

Drug Courts:

A Smart Approach To Ensuring Justice For All

Hon. Michael Tupper

OBA Solo & Small Firms Conference

June 21, 2019

Substance Abuse Affects On Oklahoma

- Families:
 - Overdoses, divorce, child welfare, suicide, teen pregnancy, unemployment
- Businesses:
 - Absenteeism, lost productivity, higher medical expenses
- Communities:
 - Demand on law enforcement, local emergency rooms, juvenile delinquency, in-school disruptions, dropouts, increase in foster care
- Criminal Justice:
 - Enormous strain on court dockets
 - Prison overcrowding



What Is a Drug Court?

- A Court program given the responsibility to handle cases involving substance-abusing offenders through comprehensive supervision, drug testing, treatment services, and immediate sanctions and incentives. www.nadcp.org

Who Makes Up The Drug Court Team?

- District Judge
- District Attorney
- Defense Counsel
- Treatment Providers
- Probation Officers
- Police Department
- Sheriff's Department
- Department of Veterans Affairs



Who Is Eligible For Drug Court?

- Reside in Cleveland County
- Charged with a non-violent felony offense (not limited to drug or alcohol offense)
- Offender must admit to a substance use disorder
- Assessed as a high risk/high needs offender

What is Recovery?

- A process of change through which individuals improve their health and wellness, live self-directed lives, and strive to reach their potential.
- Abstinence from intoxicating substances is a preferred outcome, but not absolute.
- Focus is on harm reduction, not necessarily eradication.

Performance Contract

- Each participant must sign upon entry into Drug Court
- Sets forth rules and responsibilities of each participant
- Requires participant to plead guilty to underlying charges
- Written agreement as to sentencing upon graduation or termination

Drug Court Phases

- **Phase I**: Acute Stabilization (8 weeks)
- **Phase II**: Clinical Stabilization (12 weeks)
- **Phase III**: Pro-Social Habilitation (12 weeks)
- **Phase IV**: Adaptive Habilitation (16 weeks)
- **Phase V**: Continuing Care (12 weeks)

Program Requirements

- Achieve/maintain recovery
- 5 phases (approx. 14 months in duration)
- Group meetings / individual therapy each week
- Weekly Self-Improvement Activities
- Regular, random drug testing
- Nightly curfews (10pm – 6am)
- Ignition interlock/Smart start devices for alcohol offenders
- Regular, random home visits from Compliance Officers
- Attend court weekly
- Maintain full-time employment (20 hrs community service weekly until employed)
- Obtainment of goals (GED, DL, custody, etc.)

Purpose of SQ 780

- **Implement criminal justice reforms that:**
 - (1) stop wasting taxpayer money keeping low-level offenders in prison;
 - (2) saddle fewer low-level offenders with felony convictions

Effect of SQ 780

- **Elimination of drug classifications**
 - Opiates, cocaine, meth, heroin, marijuana
- **Elimination of enhancements**
 - 2nd and subsequent offenses (50%, 90%)
- **Elimination of aggravators**
 - w/in 1000 ft of park/school
 - w/in presence of minor

Reason for Concern?

- **Less incentive for drug offenders to submit to treatment**
- **Drugs of abuse will now be processed through system as misdemeanors**
- **Less severe consequence (motivation) for failing to get sober**

Misdemeanor Recovery Court

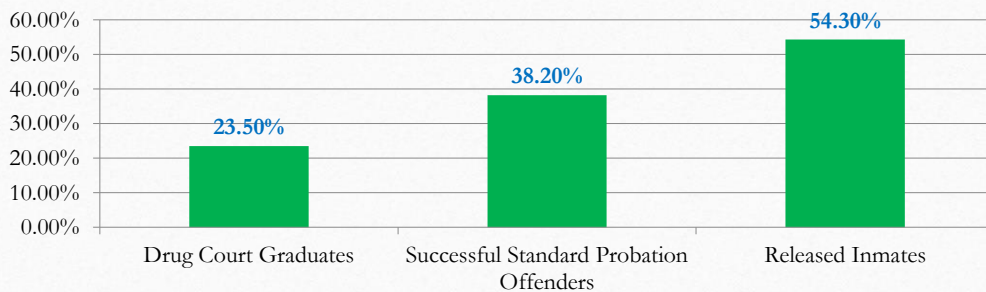
- **Target Population:** Misdemeanor Poss. Of CDS charges
- **Phase Structure:**
 - **Phase 1:** Orientation, Engagement, and Stabilization (2 weeks)
 - **Phase 2:** Intensive Care (4 weeks)
 - **Phase 3:** Supportive Care (12 weeks)
 - **Phase 4:** Aftercare (8 weeks)
- Program is designed to be completed in six (6) months, but may be extended up to twelve (12) months.

Drug Court and Medical Marijuana

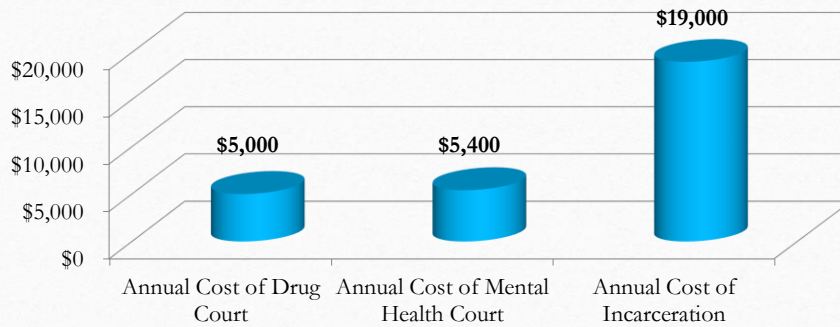
- Policy Statement:
- Cannabis use could threaten public safety and inhibit a participant's ability to achieve recovery from their substance use disorder and/or mental illness.
- Permitting medical marijuana use for participants would pose significant difficulties for Drug Court supervision and compliance monitoring.
- Use of medical marijuana for participants would be contrary to overall goals of the Drug Court in assisting persons with a substance use disorder and/or mental illness in achieving recovery.
- The Cleveland County Adult Drug Court program finds that the possession or use of medical marijuana by any participant shall be prohibited during participation in the program.

Drug Courts and Recidivism

A Comparison of Re-Arrest Rates for Drug Court

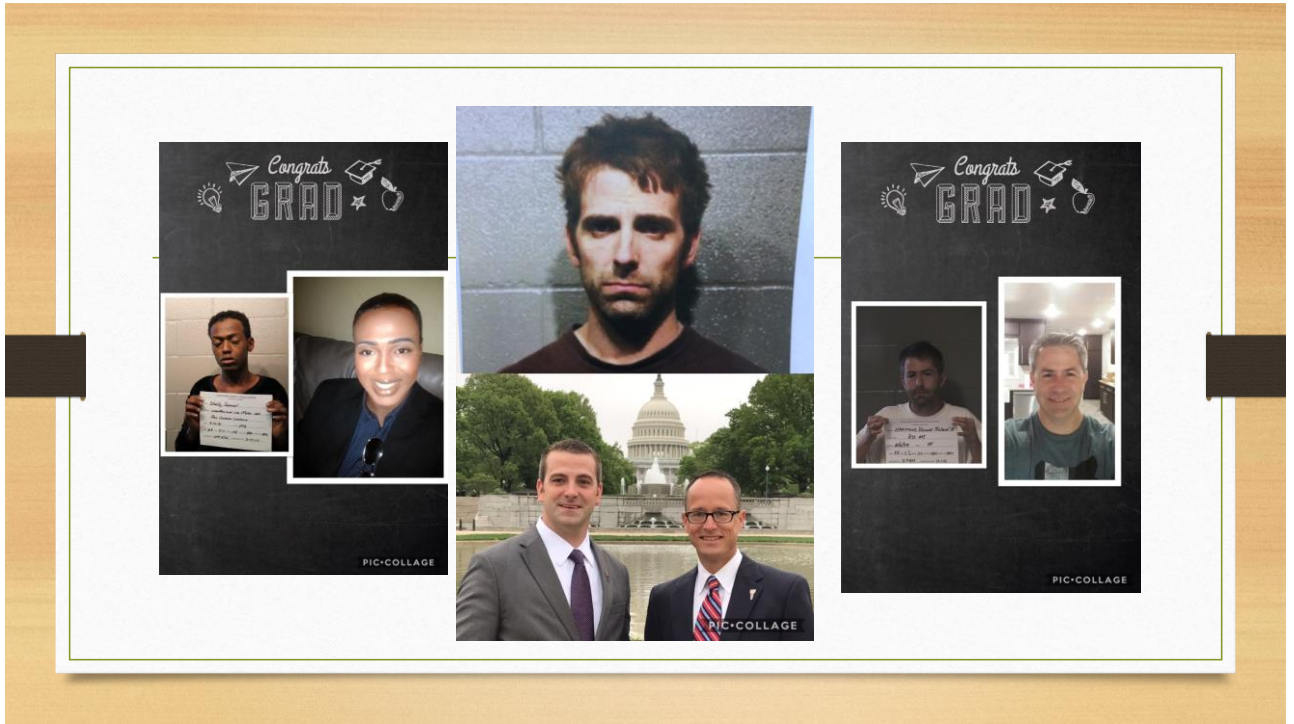


Costs of Treatment v. Incarceration



Oklahoma Drug Courts

- 58 operational drug courts
- \$14,000 avg. annual savings per participant
- 75% graduation rate
- 24% recidivism rate
- 97% of graduates are employed
- Monthly income rises 125.3% among drug court participants from admission to graduation





A Smart Approach To Ensuring Justice For All

HONORABLE MICHAEL TUPPER

The Honorable Michael Tupper is a District Judge for the 21st Judicial District (Cleveland, McClain, and Garvin Counties). Among other docket responsibilities, Judge Tupper presides over the Cleveland County Adult Drug Court, Mental Health Court, and Pre-trial Release Program. Judge Tupper was appointed District Judge on December 1, 2017. Prior to this appointment, Judge Tupper served as a Special Judge for Cleveland County from 2009 - 2017. Prior to his judicial service, Tupper served as an Assistant District Attorney for the Cleveland County District Attorney's Office from 2002 - 2008 wherein he was a member of the Major Crimes Unit. Judge Tupper is passionate about therapeutic treatment courts and dedicated to enhancing access to treatment services for persons within the criminal justice system who have a substance use disorder and other mental illnesses. Judge Tupper is a frequent speaker on Drug Courts in Oklahoma. In 2017 and 2018, Judge Tupper was selected as the Judicial Representative for the State of Oklahoma at the National Association of Drug Court Professionals (NADCP) Spring Congressional Fly-Ins. Judge Tupper is a former recipient of the Norman Next Under 40 Leadership Award, and the Professional Advocate of the Year Award by the Oklahoma Bar Association. Judge Tupper is active with the Cleveland County Bar Association, having served in various executive positions.



The 411 on Texting for Lawyers

By

Jim Calloway

Director, Oklahoma Bar Association
Management Assistance Program

[Jim Calloway's Law Practice Tips Blog](http://jimcalloway.com)

JimC@okbar.org

Author's note: An earlier version of this paper was at ABA TECHSHOW 2018. The original was co-authored by Ivan Hemmans, Senior Manager of Technical Development, O'Melveny & Myers LLP, Los Angeles, CA

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Your personal opinion on the business use of text messages is probably related to a number of factors from your age group to your past experiences with texting, pro or con.

There's certainly a lot of misinformation floating around text messages—and a lot of poor advice to lawyers on the subject. See for example, see *A Lawyer's 7 Laws of Texting in Business*, where a lawyer who hates text messaging first asserts that judges "don't like" to admit text messages into evidence and then creates his seven laws, most of which apply equally to email as well as text messages. At a minimum, that lawyer hasn't been trying cases in family law court the last several years.

Whether and how you use text messages to communicate with clients is a very simple question that, like most things lawyers deal with, requires a detailed analysis that is far from simple.

Among the considerations are:

1. The digital security of communicating by text message
2. The lawyer's ability to document every communication with the client in the client file
3. The clients' need to have good communication with the lawyer in ways that make sense for them
4. A lawyer's need for certainty that the client has received a communication
5. The negative impact on the lawyer's personal life that giving out the lawyer's mobile phone to too many clients will undoubtedly cause

SHOULD YOU COMMUNICATE BY TEXT MESSAGES WITH CLIENTS?

Several years ago, Jim Calloway met with a lawyer to discuss law practice management issues.

"I expressed my concern about the fact that she made extensive use of text messaging to communicate with her clients and that (at the time) it was difficult for her to preserve them in the client file should a later dispute arise. She responded that she believed she had to make use of text messages because she was frequently at the courthouse all day.

"But then she told me something I'd never considered. She believed that for at least one client, she was ethically required to use text messages to communicate with the client.

"This particular client in his early 20s was facing a criminal charge and lived with his mother. His mother had absolutely no respect for his privacy, often opening his mail that was delivered to the house. A millennial, he had an email account, but never checked it— only using it for things like registration for new services and password recovery. His method of communicating digitally was to use text messages. He had a lock code on his phone, which he did change periodically and would never disclose to his mother after a previous incident of her looking at text messages between him and his girlfriend.

“While I had never considered it before, this lawyer did convince me that in this particular and somewhat unique situation, text messages were the most secure method of communicating with the client, particularly when considering the method that attorney client confidences would be most likely invaded.”

If that situation was encountered today and the client had used an iPhone, it would be an additional good idea for the lawyer to advise the client on how to disable the lock screen preview of the text message.

WHAT SHOULDN'T YOU TEXT?

Let's be very clear. Text messaging is a very limited communications method. It works great for letting someone know you're running five minutes late for your luncheon meeting or to pass on a quick congratulations or kudos to someone.

But it is very limited and is a poor tool for almost every complex legal discussion. So one needs to learn to use the medium's strengths and avoid its weaknesses. Here are some common-sense examples:

Let's not do that! Call me to discuss why.

That's too complicated to discuss via text message. Call my office to schedule an appointment.

That's an important strategic decision and requires more in-depth discussion.

The above examples may sound like you are putting off your client and while that is, to some extent, true, we still encourage this because you have combined the immediate responsiveness that many clients crave today without the potential problem of discussing complicated situations in a medium that tends to dangerously oversimplify complex communication.

Other concerns include texting to someone who is not your client about a legal matter and whether you may have inadvertently created what they believe to be an attorney-client relationship. Even though it is certainly a bit stuffy, don't be hesitant to clarify that you're not representing someone until they have executed a formal representation agreement.

Likewise, one would want to be cautious about any communication that appears to be negotiating terms of an attorney-client relationship or billing rates via text message. Be a clear communicator as to why the limitations of text messages make it inappropriate to discuss certain topics.

Certain areas of substantive law like possible mergers or acquisitions or other topics related to securities law likely mean that your text messages should be friendly but very limited in scope.

DISCUSSING TEXT MESSAGING WITH YOUR CLIENT

Lawyers due to their cautious natures and training might be less likely to commit text messaging errors than most of our clients. It is incumbent with each new client engagement that the lawyer takes the time to discuss all possible challenges with all forms of digital communication including text messaging and email.

As is noted in other presentations at ABA TECHSHOW 2018, it is quite likely that a law firm's appropriate use of client portals will resolve many of the security issues related to communicating confidential information over the Internet.

But the beginning of each attorney-client relationship must now include a discussion of expectations of appropriate communication and the client's need to also be a partner in protecting the confidentiality of their information.

While all lawyers are concerned about fulfilling their professional obligations to protect a client's confidences, in truth it is more likely that the client will make a significant error in texting without proper advance direction from the lawyer.

SAVING TEXT MESSAGES IN THE CLIENT FILE

It is critically important to document everything in the client file to properly represent your client. It is also critically important for the lawyer that all client communications are documented in the client file in case the lawyer is later accused of misconduct.

It is also important to appreciate that the law firm or a client might receive a document preservation notice as a part of the e-discovery process and so a law firm process that preserves every text message to the client file might help an individual lawyer avoid the unpleasant possibility of having to turn over one smart phone to an e-discovery processor.

So, if you're going to have conversations with clients via text message, the firm has to develop procedures to save these messages in the client's file. This is likely easier to do with the digital client file (as we assume almost all TECHSHOW attendees now use) as opposed to a paper file. But if you have paper client files, then some printing may be involved.

So let's discuss various techniques.

THE "ONE OFF"

Even though you attended this session, you were convinced that texting with clients was a bad idea and you were not going to do it. And then a client who you had previously called several times on your mobile phone, sends you an important text message like "I have changed my mind. Let's accept their last settlement offer."

Obviously, this is a very important message to retain as the client file up until that moment contains repeated entries documenting the client's position that settlement is not an option. So

the simple solution is to at that moment take a screenshot of your mobile phone screen and transfer that to the digital client file, even if it means printing it out on paper. And because a part of practicing law in the digital age is a healthy skepticism, most lawyers would finalize that settlement or communicate with opposing counsel until they had an additional conversation with the client just to make certain they sent that text. So if you ask the client to email you or call you to confirm this direction, it may be that you do not need to retain that text message in the client file because you have other documentation.

THE DO-IT-YOURSELFER

This tutorial from Macroplant.com shows iPhone users how to [Transfer & Backup Text Messages \(SMS\) to Your Mac or PC](#).¹

This tutorial from Digital Trends is entitled [Don't lose your texts! Here's how to save text messages in Android and iOS](#).²

Here is a similar tutorial from [Popular Science](#).³

There are other manual methods.

The problem with any manual method is that it creates yet another task for the lawyer to do. In this situation it is also difficult for staff to help the lawyer because the lawyer must surrender her cell phone to the staff. No matter what size of law firm, if any of these do-it-yourself methods are done regularly and consistently, the question will arise as to whether this is an effective use of the lawyer's time.

The application IFTTT has recipes that allow you to save SMS messages to Google Sheets in Google Drive.⁴ But, of course, this will require an IFTTT account and some training.

ENTERPRISE TEXTING SOLUTIONS

A better solution is an automated process or an enterprise texting solution. A primary privacy benefit for lawyers is that an enterprise texting solution often provides an app that will allow the lawyer to text from their mobile devices without revealing their mobile phone number.

While it is outside of the scope of our presentation to do an-depth review of every available enterprise texting solution, at least according to what we see on the Internet, ZipWhip is an example of these type of tools and ZipWhip could be a serious contender for any law firm seeking to implement this type of solution. We have both been test driving ZipWhip in

¹ <https://macroplant.com/iexplorer/tutorials/how-to-transfer-and-backup-sms-and-imeessages>

² <https://www.digitaltrends.com/mobile/how-to-save-text-messages/>

³ <https://www.popsci.com/how-to-save-your-text-messages>

⁴ <https://ifttt.com/applets/166449p-save-incoming-text-messages-to-google-drives>

preparation for this presentation and will cover how this other enterprise texting solutions perform and retain all texting data.

It is also worth noting that practice management solution Clio has developed a ZipWhip integration.⁵

LAWYERS NEED A LITTLE PRIVACY, TOO

One of the challenges of sending a text message to a client is that savvy clients will then save your mobile phone number so that they can call you anytime that they feel like it.

This might be appropriate for the general counsel of a very significant major law firm client. In fact, many of those types of clients already have the attorney cell phone number. But it's really unworkable for a practitioner who practices mainly in the family law arena and who may find their weekends and evenings interrupted by complaints about the behavior of the soon-to-be ex-spouse or other clients who have boundary issues.

Enterprise texting solutions like ZipWhip provide a mobile device app so that one can text a client from a cell phone and use the law firm's main landline number to receive any replies at the ZipWhip app.

Hong Dao, Practice Management Advisor with the Oregon State Bar Professional Liability Fund (PLF) reminds us that it is generally possible to send text messages to your clients using email. The blog post in [Appendix 1](#) appears at <https://www.osbplf.org/inpractice/send-text-messages-to-your-clients-without-using-your-cell-phone/>. The post is from the PLF's blog, *inPractice*.

THE DIGITAL SECURITY OF COMMUNICATING BY TEXT MESSAGE

The world's first SMS text message was sent well before your firm's most recent class of Fall Associates were born,⁶ however it's quite possible that — depending on the smartphone in question — lawyers may be sending text-based messages to clients without using SMS at all, which it's why it's important for us to understand the digital security of communicating by text message.

Practically every cell phone on the market can communicate via SMS (Short Message Service) and many can also send MMS (Multimedia Messaging Service) messages, messages with pictures or video. However, smartphones may also communicate using new or emerging message platforms. Each of these platforms has its own advantages, and it's important to understand the security implications related to each, if for no other purpose than to know where your text is being stored and how it's being protected when you communicate with clients and others.

⁵ <https://www.zipwhip.com/integrations/cli/>

⁶ <https://en.wikipedia.org/wiki/SMS>

SMS

Cell phone service providers allow phones on their networks to send 160-character plain text messages to other devices, usually other cell phones, on the same or some other network. Messages longer than 160 characters may be split into 160-character blocks and delivered sequentially.

Your provider or "carrier" keeps records of your cell phone use, including calls and text messages, and even pictures, sent from your phone. Almost all cell phone carriers give detailed information about [a] phone's use in billing statements sent to the owner."⁷

In the United States, Federal privacy laws like the, "Consumer Telephone Records Protection Act of 2006"⁸ help to protect this data from "fraudulent acquisition" and threaten penalties for the "unauthorized disclosure of phone records."

MMS

According to Wikipedia, "the MMS standard extends the core SMS capability, allowing the exchange of text messages greater than 160 characters in length. Unlike text-only SMS, MMS can deliver a variety of media, including up to forty seconds of video, one image, a slideshow of multiple images, or audio."⁹

As with SMS, MMS messages are delivered to devices by cell phone providers.

APPLE MESSAGES

The Messages app ships with all iOS devices. iPhones with active cellular plans can use this app to send SMS and MMS messages to modern phones. However, messages sent to other iOS users may be sent using the iMessage format, which is Apple's secure, end-to-end encrypted solution for its platform. You can send messages in the iMessage format by logging into any modern Apple device, whether it be phone, tablet, or Mac, using your iCloud username and password. Message and SMS messages are backed up on iCloud for your convenience, but you can turn iCloud Backup off whenever you want.¹⁰

As your intuition may be telling you, messages sent as iMessages fall outside the purview of the federal privacy laws that protect SMS and MMS messages; instead, they rely on iMessage encryption to keep that information out of hands that should not have access to it.

⁷ <https://www.lawyers.com/legal-info/communications-media/privacy-law/are-your-text-messages-and-images-private.html>

⁸ <https://www.gpo.gov/fdsys/pkg/BILLS-109hr4709enr/pdf/BILLS-109hr4709enr.pdf>

⁹ https://en.wikipedia.org/wiki/Multimedia_Messaging_Service

¹⁰ <https://www.apple.com/privacy/approach-to-privacy>

ANDROID MESSAGES

People who use modern Android phones will find that their default text messaging app is Android Messages, Google’s SMS and MMS app. By default, the Android Messages app sends messages using what it hopes will become a new standard, RCS (Rich Communication Services), which “is more rich”¹¹ and provides other enhanced features beyond the scope of what either SMS or MMS can provide.

GOOGLE ALLO

Allo is a smart messaging app from Google that provides rich formatting options, and delivery of messages over a data network — it doesn’t rely on SMS or MMS. It also lets you start secure, end-to-end encrypted message conversations, although messages aren’t secured by default.

That last point bears repeating: Google Allo messages aren’t secured by default. To better understand the implications of this statement, read “Everything You Need to Know About Google Allo's Privacy Backlash”¹² over at fortune.com.

INSTANT MESSAGING

In the previous sections we’ve discussed SMS text messaging and MMS multimedia messaging, as well as a few other systems that people might assume use the SMS or MMS protocols. In actuality, these other systems blur the line between traditional text messaging and more modern instant messaging. According an American Bar article published in 2008, “Instant messages (IMs) are transmitted via the Internet in real time, often through an account provided by an Internet Service Provider.”¹³

Smartphones have become the default communication device for many over the last ten years. And with the proliferation of mobile apps that bring desktop computing power to the pockets and purses of the masses, instant messaging apps — or apps that contain some messaging capability — have become ubiquitous. In many ways, it is now easier than ever to tie electronic messages to the devices that send them, as well as to the location from which those messages were sent.

What follows are brief descriptions of a few services that some businesses and lawyers use to better leverage the power of text-based communications.

SENDHUB

SendHub provides what it describes as “business-class texting.” The service includes an online messaging mailbox that collects all conversations into a web-based dashboard, support for SMS

¹¹ https://en.wikipedia.org/wiki/Rich_Communication_Services

¹² <http://fortune.com/2016/09/22/google-allo-nope>

¹³

https://apps.americanbar.org/litigation/litigationnews/2008/april/0408_article_messages.html

and MMS, and mobile apps on Android and iOS. It also delivers functionality similar to that of email, including the ability to archive, search, as well as mark messages read and unread. It's available at www.sendhub.com.

SIDELINE

Sideline is a service that aims to help you, “keep your personal number private.” It can automatically respond to unanswered calls or texts with a custom branded message, route inbound calls to ring at multiple devices across a team, as well as provide support for MMS. Arguably, this service is more about voice-based features than the text-based ones, but it provides a collection of features that some find valuable. Learn more about Sideline at www.sideline.com.

SIGNAL

Signal's value proposition is privacy for calls as well as instant messages. The first two sentences on the website read: “Fast, simple, secure. Privacy that fits in your pocket.” The goal of this open source project is to provide a secure messaging experience, free. With that said, end-to-end encryption is the cornerstone of what makes Signal great. It reproduces text messaging and telephone functionality, all from within a secure framework. Apps for Android, iOS, Mac, Windows, or Linux are available at www.signal.org.

RINGCENTRAL

RingCentral is a cloud VoIP phone system that includes web conferencing, team collaboration tools, as well as mobile texting, calling, and faxing. Some companies use RingCentral to replace their telephone systems. It supports multiple telephone extensions within an organization. And, with regard to its texting platform, there's support for sending and receiving SMS and MMS messages. A powerful web-based app allows for calling or texting from within a browser. It also offers apps on Android and iOS, and a whole host of integrations with 3rd-party services, like Clio and zapier.¹⁴ The website is www.ringcentral.com.

TEXTMAGIC

TextMagic is an “all-in-one bulk SMS service for business.” The feature set it provides is focused around communicating with a large number of recipients around the world in a systematic way, whether text originates online, in their Android or iOS apps, as SMS, or email. This service does not support MMS messages. Learn more about its features on their website: <https://www.textmagic.com/business-sms-platform>.

TXTIMPACT

TXImpact is an enterprise text message service that supports SMS and MMS, while also allowing for features like polling, surveys, message scheduling, and more. In addition, it can

¹⁴ <https://apps1.ringcentral.com/apps?compatibility=ringcentral>

enable support for sending and receiving of text messages at existing landline telephones with any existing voice service provider. To get a better sense of available options, visit <https://www.txtimpact.com/products>.

ZIPWHIP

ZipWhip enables texting for your existing business phone number. The service gives you a text inbox that's available online, or in the various apps it supports. Searching, scheduled messages, SMS, MMS, and automatic text replies are just a few of the features available. Discover all their features at www.zipwhip.com/features.

RISKS ASSOCIATED WITH TEXT MESSAGING

SMS SPOOFING / SMISHING

As with any technology, there are potential risks associated with communicating using text messaging. For example, as with email messages, a person can forward a message — or a screenshot of a message — to someone else. Similarly, it's possible for a bad actor to “spoof” or pretend to be someone else when sending a text message. This is called SMS Spoofing.¹⁵ While ne'er-do-wells often resort to SMS Spoofing to access premium services for free, it's possible they could set their sights on a specific target to extract information from them, an act that's half SMS Spoofing and half Phishing — Smishing.¹⁶

Several months ago, Jared Kushner's lawyer was fooled into forwarding a legitimate email to a fake address.¹⁷ It's not hard to imagine how SMS Spoofing could, especially on small screens, lure someone into divulging confidential information to an untrusted party.

CONCLUSION

Like email, communicating by text message commonly known as “texting” is likely going to be with us for a while. Under the right circumstances, it is incredibly convenient and a time-saving tool.

But as is true of many things related to the legal representation of clients concerning their confidential business and private matters, we — as members of the legal profession — have to look beyond the convenience factor to ensure that we are not compromising our clients' interests or our professional interests by thoughtless use of text messaging communication.

¹⁵ https://en.wikipedia.org/wiki/SMS_spoofing

¹⁶ <https://www.mirror.co.uk/money/how-fake-text-message-trick-11439875>

¹⁷ https://www.washingtonpost.com/lifestyle/style/email-hoax-comes-back-to-haunt-jared-kushners-attorney/2017/09/28/c2df2c4a-a490-11e7-ade1-76d061d56efa_story.html?utm_term=.168254c01c69

Text and Instant Messaging Technology is continuing to evolve at a rapid rate. It's quite likely that a presentation on text messaging for lawyers at ABA TECHSHOW 2023 might cover significantly different issues and challenges that we are not yet able to conceive.

But OTOH maybe texting has already fully evolved. IDK. So we will TTYL. TYVM for your attention. EOM.

APPENDIX 1

SEND TEXT MESSAGES TO YOUR CLIENTS WITHOUT USING YOUR CELL PHONE

March 10, 2017

by Hong Dao

Have you ever wanted to text an appointment reminder or a quick message to your clients without having to use your cell phone? Many clients are faster at reading and responding to their text messages than to their emails. There is an easy and free way to do this. It's called Email-to-SMS Gateway. You just use your email program on your computer to send a short text message to your clients. No need to use a third-party service that you don't know and trust. No need to install an application.

WHAT IS SMS GATEWAY?

An SMS gateway allows your computer to send Short Message Service (SMS), which is generally known as a "text message," to a cell phone. However, the text message cannot be more than 160 characters and cannot include media.

If you want to send a longer text message with an image, video or audio, you'd need to use the MMS (Multimedia Messaging Service) gateway. MMS is a type of messaging that has no character limit and allows media files. Most cell phones support both SMS and MMS. But keep in mind that if your client's phone plan doesn't have MMS, he or she won't receive the message.

The SMS gateway texting method requires you to know three things:

1. Your client's cell phone number.
2. The name of the client's phone carrier. You can look up the carrier at this [website](#).
3. The SMS gateway address that corresponds with the carrier. The gateway addresses for major U.S. phone service providers are listed below for your convenience:

U.S. Carriers	SMS Gateway (text only)	MMS Gateway (text and media)
AT&T	@txt.att.net	@mms.att.net
Boost Mobile	@sms.myboostmobile.com	@myboostmobile.com
Sprint	@messaging.sprintpcs.com	@pm.sprint.com

T-Mobile	@tmomail.net (Include "1" before the phone number)	@tmomail.net (Include "1" before the phone number)
U.S. Cellular	@email.uscc.net	@mms.uscc.net
Verizon	@vtext.com	@vzwpix.com
Virgin Mobile	@vmobl.com	@vmpix.com

Follow these steps to send text messages from your email program:

1. Compose a new email.
2. In the "To" field, insert the client's 10-digit phone number followed by the appropriate @gateway address. Do not include hyphens or dashes in the phone number.

For example, if your client's phone number is 503-123-4567 and the carrier is AT&T, this is the SMS gateway address: 5031234567@txt.att.net.

If the carrier is T-Mobile, make sure you include the number "1" before the 10-digit phone number.

3. Write your message. Keep the message to fewer than 160 characters. If you need to write a longer message or want to include media, use the MMS gateway address or regular email.
4. Hit "Send."

Your client will receive your email in the form of a text message on his or her cell phone. If the client responds to your text, the message will be sent to your email inbox.

There are other options to send text messages from your computer, including using Google Voice and third-party online services. But SMS gateway is simple, reliable and free. You can test it right now by sending a text from your email to your cell phone.

The above blog post (Appendix 1) is from the PLF's blog, *inPractice*, Copyright by the PLF and is reprinted here with permission of the PLF and the author Hong Dao.

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TEXT MESSAGING FOR LAWYERS

A guide to the ethical use of text messaging for law firms.

*" Any sufficiently advanced
technology is equivalent to
magic. "*

– Sir Arthur C. Clarke

Consumer expectations of sales and service response.

Consumers are impatient

Speed is everything to today's buyers, and patience wears out at 10 minutes

82%

of consumers rate an "immediate" response as important or very important when they have a marketing or sales question.

Percentage of consumers who define "immediate" as 10 minutes or less, by their stage in the customer journey.

90%

of consumers rate an "immediate" response as important or very important when they have a customer service question.



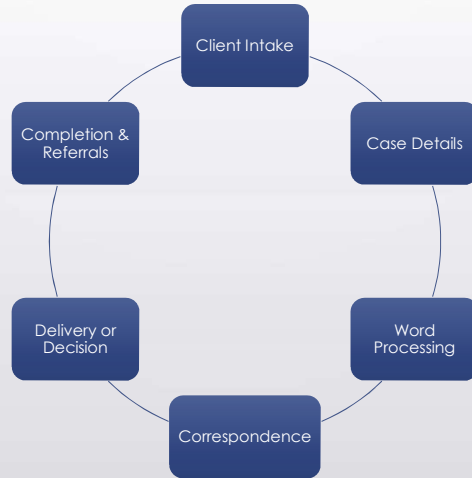
Base: 1,000 consumers in the US, UK, Australia, and Singapore
Source: HubSpot Research Consumer Customer Support Survey, Q2 2018

HubSpot Research

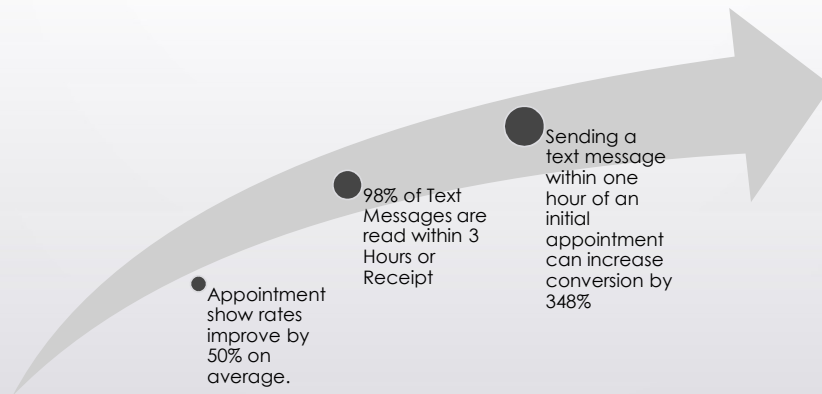
Law Firm Client Expectations

- 89% of consumers expect an immediate response to a customer service issue
- 82% of consumers expect an immediate response when inquiring about services
- 67% of law firm clients want an attorney who responds to the first call or email right away
- 64% of legal consumers look for an attorney who offers a free initial consult

Understanding Your Law Firm Client Life Cycle



The Statistical Benefits of Text Messaging



Common Text Messaging Applications

- Appointment Booking
- Meeting Notifications
- Retainer Agreement Alerts
- Document Collection
- Accident Photos
- Client Payments



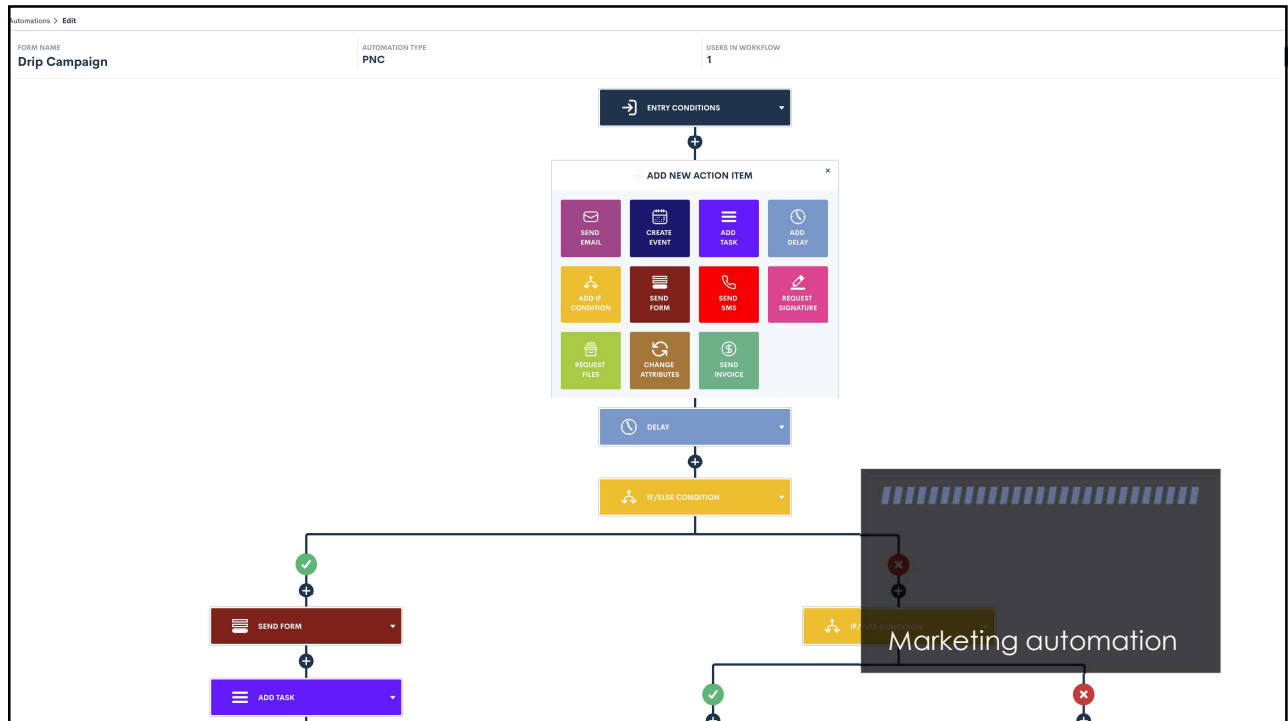
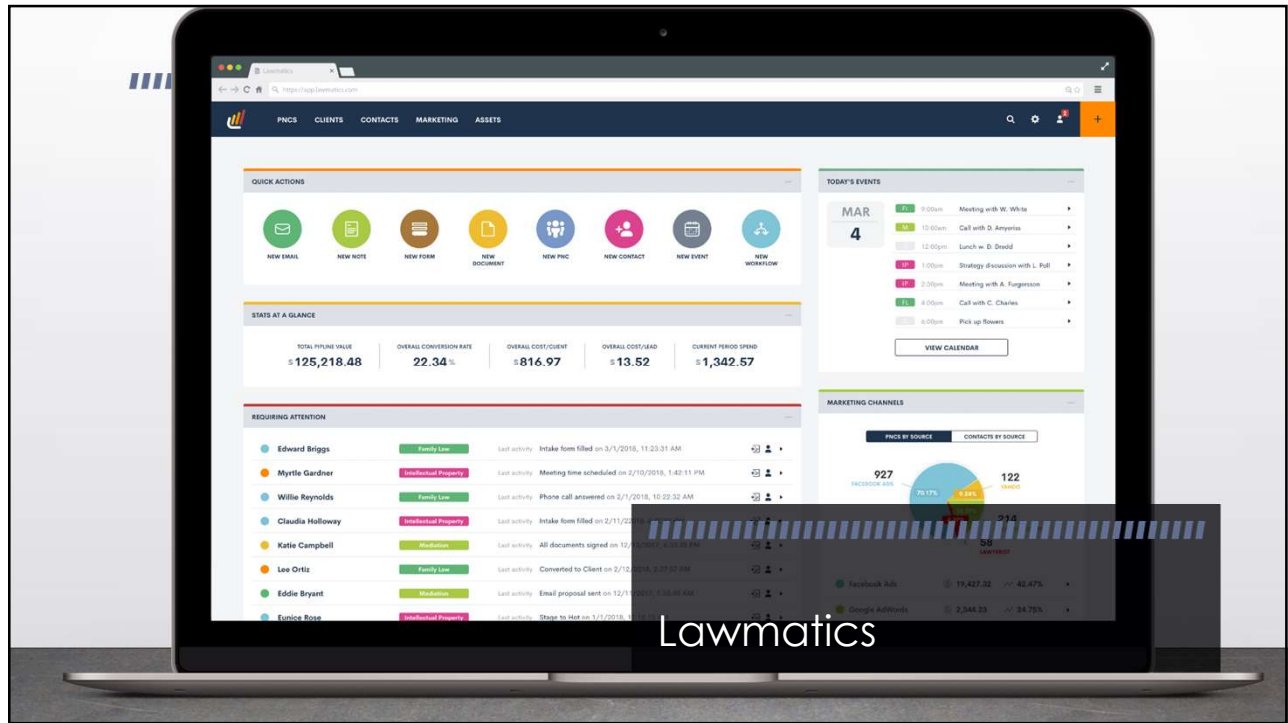
TEXT MESSAGING (SMS) TECHNOLOGY APPLICATION

- Client Communication
- CRM Tools / Marketing
- Time and Billing
- Electronic Payments
- Evidence Collection



CRM TOOLS & MARKETING





The screenshot shows a document editor interface. At the top, there are navigation tabs: PNC, CLIENTS, CONTACTS, MARKETING, ASSETS. The main document title is 'Primary fee agreement'. On the left, there are 'STANDARD BLOCKS' (Text field, Headline, Subheadline, Image, HTML field, Page break, Separator) and 'SAVED BLOCKS' (Letterhead, Address line, Name tag - Mark, Name tag - Lois, Fees). The document content includes a logo for 'D&H DEWEY - CHEATEM - HOWE', contact information for 'Law offices of Dewey, C...', and a section titled 'Fee Agreement'. Below this is a paragraph of text: 'Hey you guys! We're gonna turn it on, we're gonna bring you the power! We're gonna light the dark of night like the brightest day in a who... We're gonna turn it on, we're gonna bring you the power! We're gonna tell you the truest words that you heard anybody say! Moving out it... moving out in a new way! We're gonna turn it on, we're gonna bring you the power! It's coming down the lines, strong as they can be, thro... of the Electric Company, the Electric Company!'. A rich text editor toolbar is visible below the text. A dark overlay with the word 'Agreements' is positioned in the lower-left quadrant. On the right, a 'BLOCK SETTINGS' panel is open, showing 'Block type' as 'Text field', 'Conditional logic' as 'Show block if all conditions are true (AND)', and a list of conditions including 'Owned by', 'IS', 'Mark Lawberg', 'Practice area', 'IS NOT', and 'Criminal law'. An 'ADD CONDITION' button is at the bottom of the panel.

The screenshot shows an e-signature application interface. The top navigation bar includes CRM, MARKETING, INSIGHTS, ASSETS. The main area is titled 'E Signatures' and contains 'Signature Templates' (PNC Fee Agreement, Lawmatics - Mutual NDA, PIIA) and a 'Signature Requests' table. A modal window is open in the center, displaying a document with a signature line and a 'SEND' button. The document text includes: 'I would like to hire your law firm for my case. I agree to pay all my fees and will be sure to respond to any enquiries from my attorney. This is the best law firm I have ever spoken to and am excited to work with you. You will be charged [Priced - Fee] for your case. We will be handling the following for you: Contact - Scope of Work. Thank you and we are excited to work with you.' Below the text are fields for 'Client's signature' and 'Lawyer's signature'. A dark overlay with the word 'esignature' is positioned in the lower-right quadrant. The 'Signature Requests' table has columns for STATUS, NAME, DEADLINE, and CREATED.

STATUS	NAME	DEADLINE	CREATED
completed	PNC Fee Agreement	7/16/2018	7/16/2018
completed	PNC Fee Agreement	7/16/2018	7/16/2018
pending	PNC Fee Agreement	7/16/2018	7/16/2018
completed	PNC Fee Agreement	7/10/2018	7/10/2018
completed	PNC Fee Agreement	7/9/2018	7/9/2018
completed	PNC Fee Agreement	7/6/2018	7/6/2018
completed	PNC Fee Agreement	7/5/2018	7/5/2018
pending	PNC Fee Agreement	6/29/2018	6/29/2018
completed	PNC Fee Agreement	6/29/2018	6/29/2018
completed	PNC Fee Agreement	6/28/2018	6/28/2018
pending	PNC Fee Agreement	6/28/2018	6/28/2018
completed	PNC Fee Agreement	6/28/2018	6/28/2018

The screenshot displays a software interface for managing file request templates. The main window is titled "Edit a File Request Template" and contains the following sections:

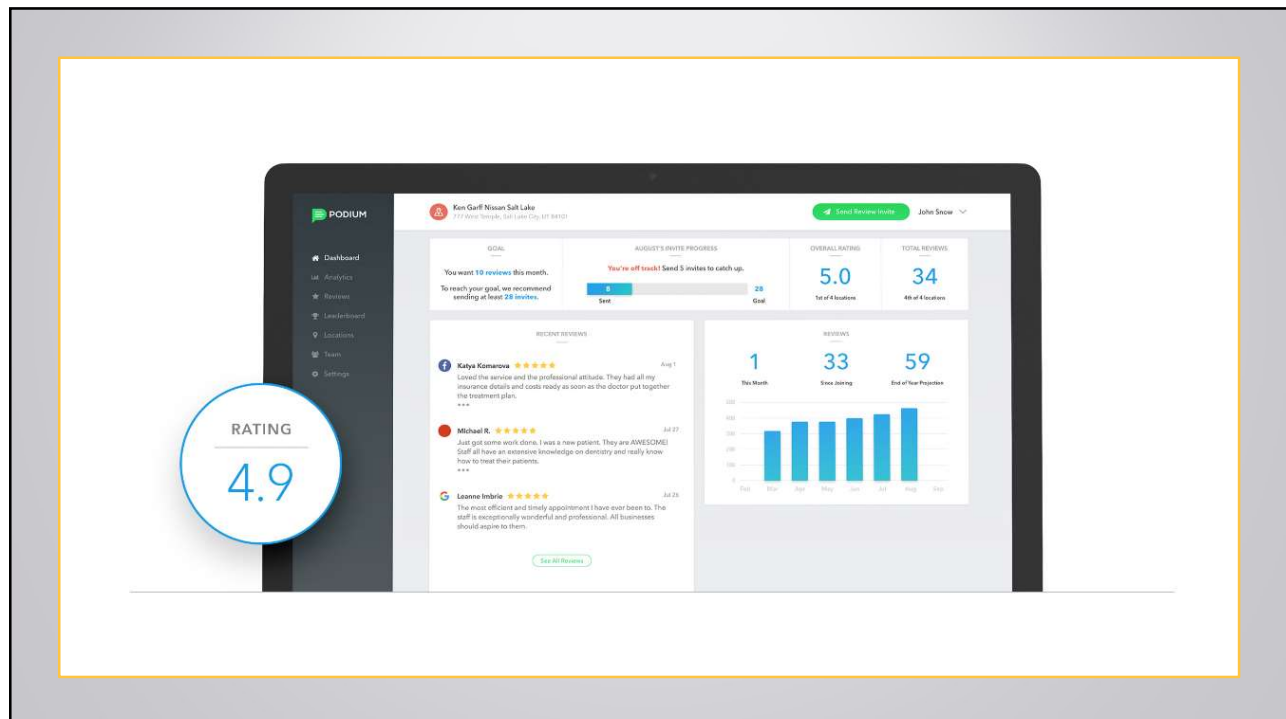
- Template Info:** Includes a "TEMPLATE NAME" field with the value "Estate Planning File List" and a checked checkbox for "Allow requestee to upload additional optional files?".
- Default Email Info:** Includes an "EMAIL SUBJECT" field with the value "We need files from you" and an "EMAIL MESSAGE" field with the text "Please take the time to prepare and upload these files for us. Thanks!".
- Required Files:** A section for defining file requirements, containing three entries:
 - File 1:** Name "Insurance Documents", Type "Any", Description "Please upload any and all insurance documents".
 - File 2:** Name "Financial Records", Type "Document", Description "Financial statements".
 - File 3:** Name "Prior Legal Docs", Type "Document", Description "Any and all prior legal estate related documents (i.e. wills, trusts)".

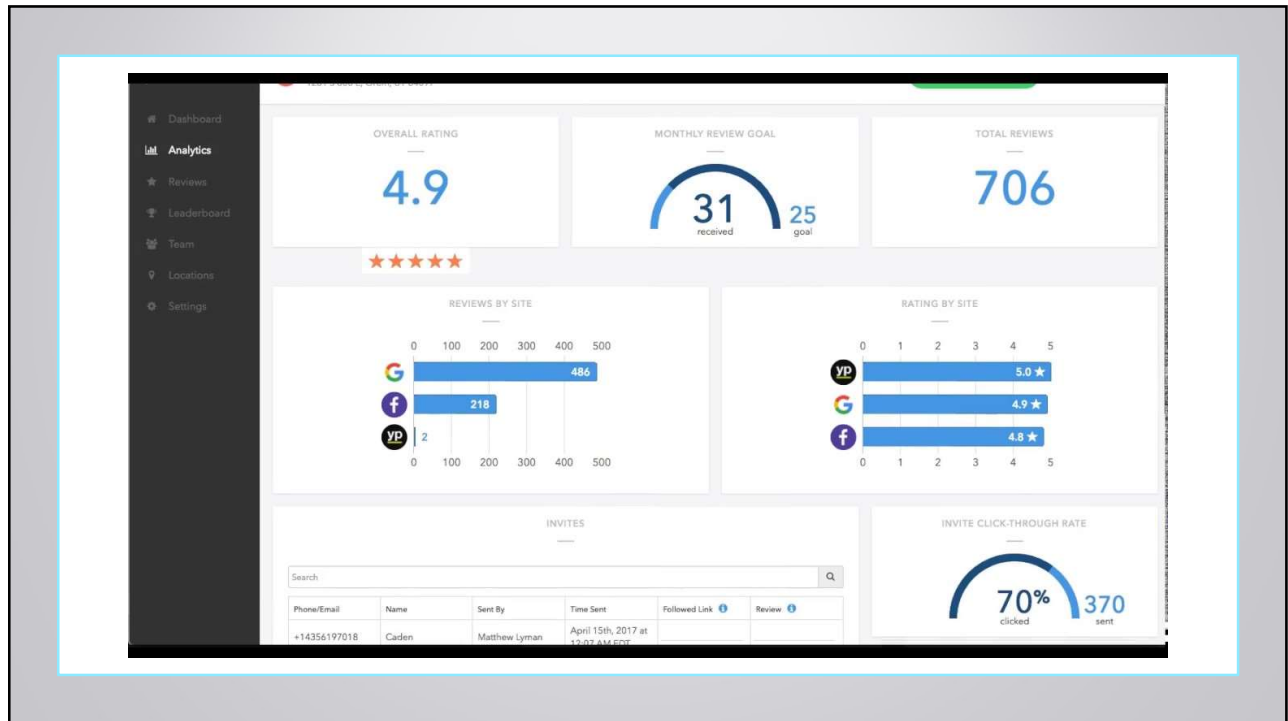
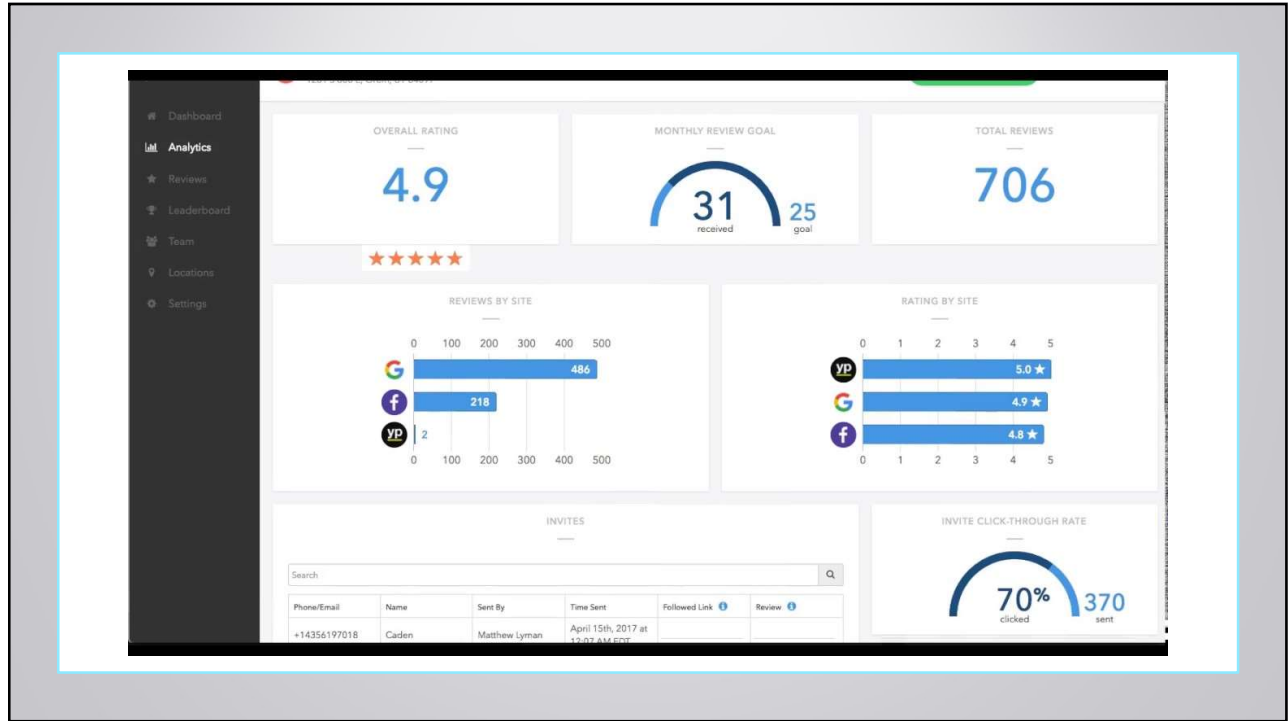
The left sidebar shows a list of "request Templates" (Car Accident Dossier, Divorce File Request, Estate Planning File List) and a table of "requests". The right-hand panel shows a list of requests with columns for "SENT ON", "COMPLETED", and "LAST UPLOAD". A dark overlay with the text "File requests" is positioned over the bottom right of the right-hand panel.

A large graphic with a blue and white gradient background. At the top, there is a decorative horizontal line composed of many small, slanted dashes. Below this, the text "CLIENT COMMUNICATION" is written in large, bold, blue, sans-serif capital letters. The bottom of the graphic shows a dark, textured surface, possibly representing a floor or a shadow.

CLIENT COMMUNICATION

- 50% Increase in Appt Show Rates
- 86% of Web Traffic Comes from a Mobile Device
- 99% Open Rate for Requested Reviews
- 348% Increase in Conversion when a text is sent within 1 hour of the 1st appointment



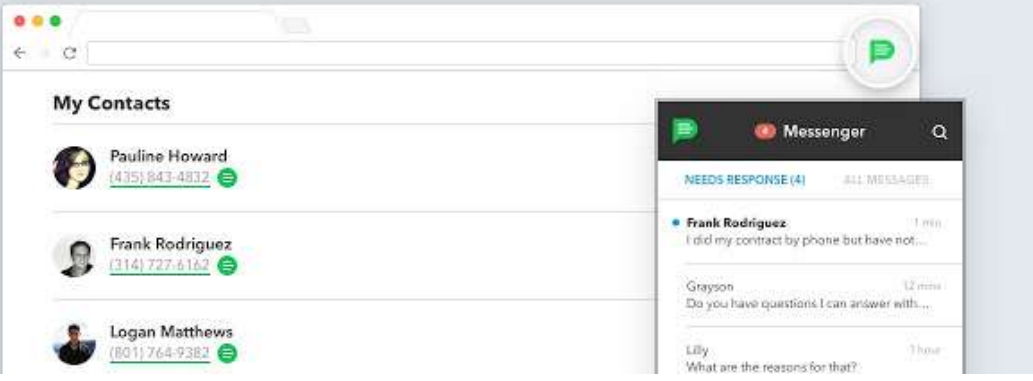


The screenshot shows a Podium web dashboard. At the top, there is a navigation bar with links for Dashboard, Messenger, Analytics, Reviews, Leaderboard, Locations, Insights, and Manage. A 'Send Review Invite' button and a user profile icon (BC) are on the right. Below the navigation, the 'Reviews' section is active, showing 'All Reviews' and 'Needs Response (35)'. A 'Generate Reports' button is visible. The main content area displays a review from Holly Mahan (★★★★★) dated Dec 11, 2017. The review text reads: 'Love working with Podium. They have helped us develop our reputation management strategy. I've appreciate the one on one attention they give us, as well as their reception...'. A tooltip indicates 'Sylvia Line sent an invitation to Holly Glem on Dec 11, 2017'. Below the review is a response from the owner: 'Thanks so much for the feedback, Holly!' dated December 12, 2017. On the right, a 'Support' sidebar contains a search bar and several filters: Min Rating (1), Max Rating (5), Date Range (All Time), Website (All), and Credited to User.

The image shows two smartphone screens. The left screen displays a business listing for 'Podium' with a 4.7 star rating and 32 reviews. The listing includes a map showing the location at 3301 North Thanksgiving Way #500, Lehi, UT 84043. Below the listing are buttons for CALL, MESSAGE, DIRECTIONS, and WEBSITE. The right screen shows a text message conversation with a contact at +1 (201) 639-2977. The message history shows a question: 'Do you have any openings this afternoon?' and a response: 'Yes we do. What time would work best for you? We are open until 6:00 tonight and aren't too busy.' A text input field at the bottom is ready for a new message.

Send Texts With the Click of a Button

Easily text any phone number on a web page with the Podium Messenger Chrome Extension.



The screenshot shows a web browser window with a contact list titled "My Contacts". The contacts are Pauline Howard (435) 843-4832, Frank Rodriguez (314) 727-6162, and Logan Matthews (801) 764-9382. A "Messenger" extension popup is visible on the right, showing a list of messages with names like Frank Rodriguez, Grayson, and Lily, and their respective messages and timestamps.

Compose Message

Emily Brand Films Test 4 1598 E 4095 S, Millcreek, UT 84124, USA

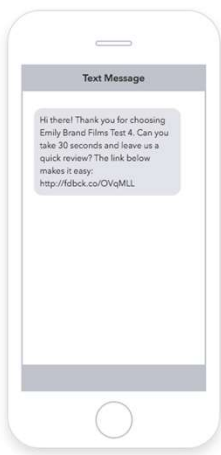
Name

Phone or email
(801) 717-0144

START MESSAGE WITH:
[Review Invitation](#) | [Invitation Follow Up](#) | [Say Thanks](#)
[Negative Review Follow Up](#)

Hi there! Thank you for choosing Emily Brand Films Test 4. Can you take 30 seconds and leave us a quick review? The link below makes it easy:
:review_invitation:

[Review Invite Link](#) Send



The screenshot shows a mobile phone displaying a text message that reads: "Hi there! Thank you for choosing Emily Brand Films Test 4. Can you take 30 seconds and leave us a quick review? The link below makes it easy: http://fbck.co/OVqMLL".

TIME & BILLING

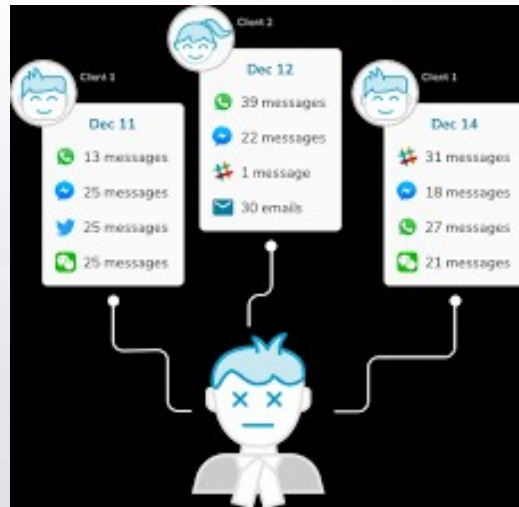
If you bill your time by the hour, you need Time Miner –the app that finds billable calls and text messages in your phone.

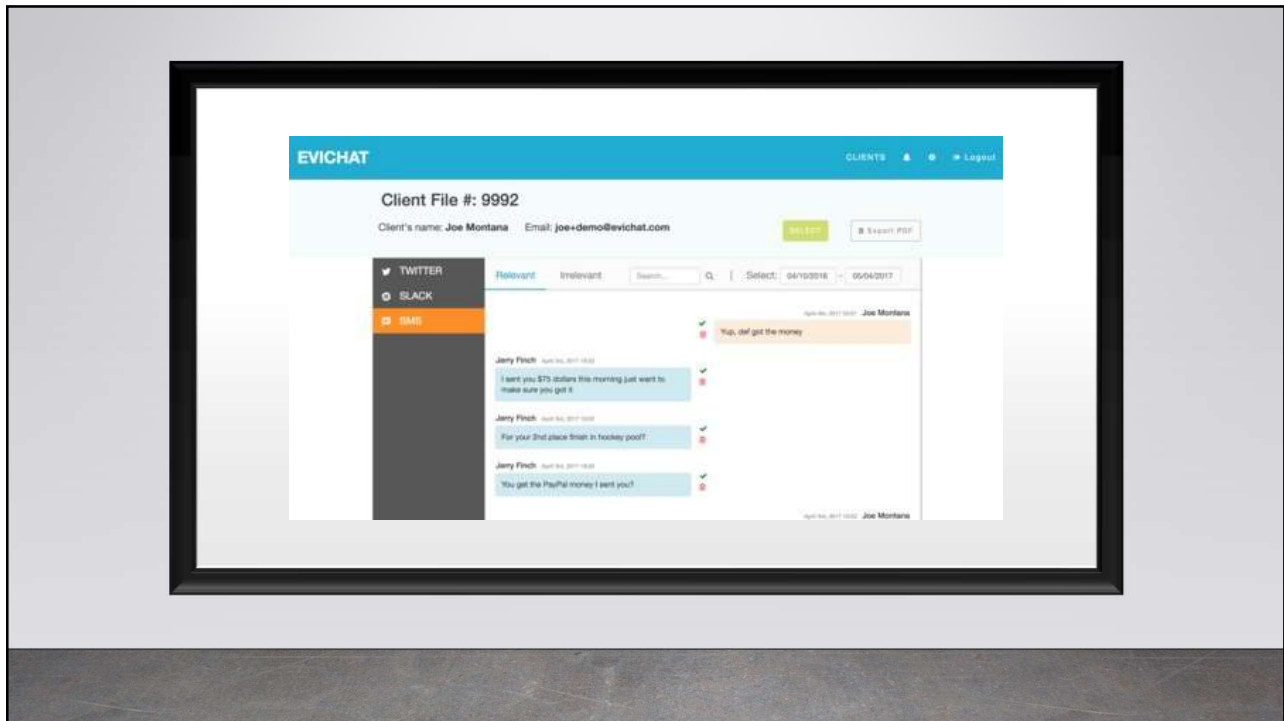
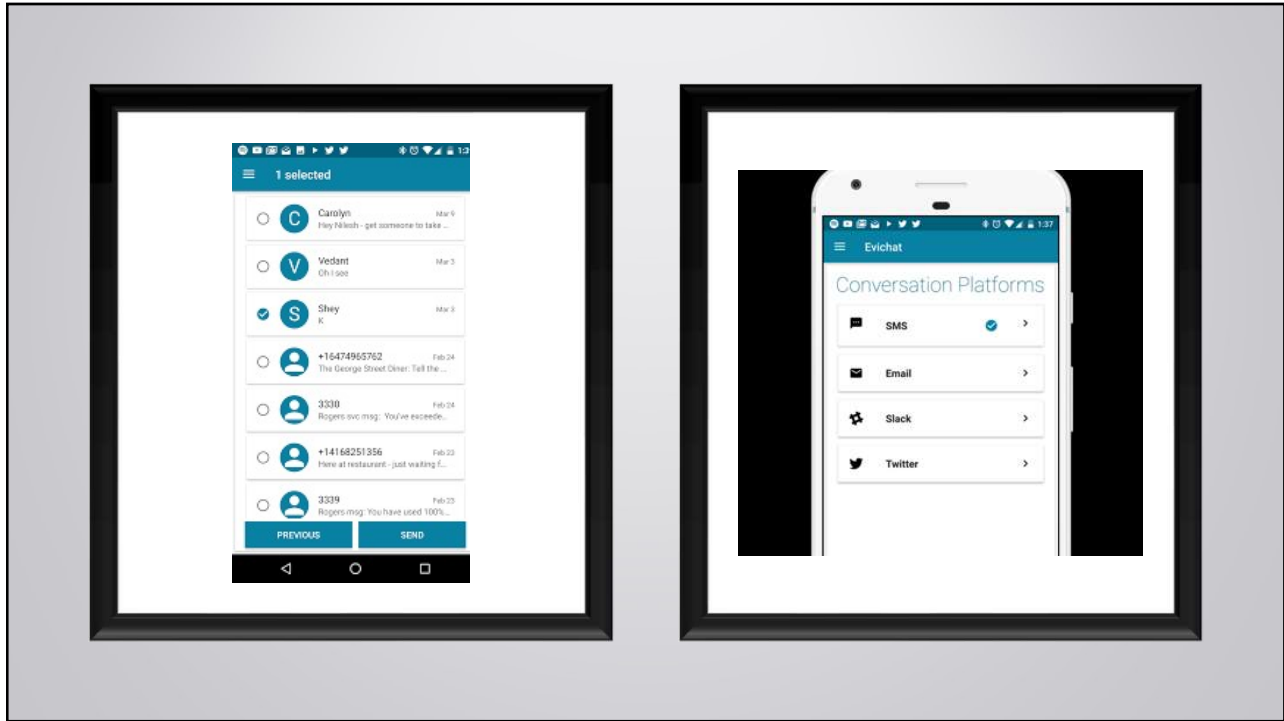
MAKE BILLING EASY. USE TIME MINER.

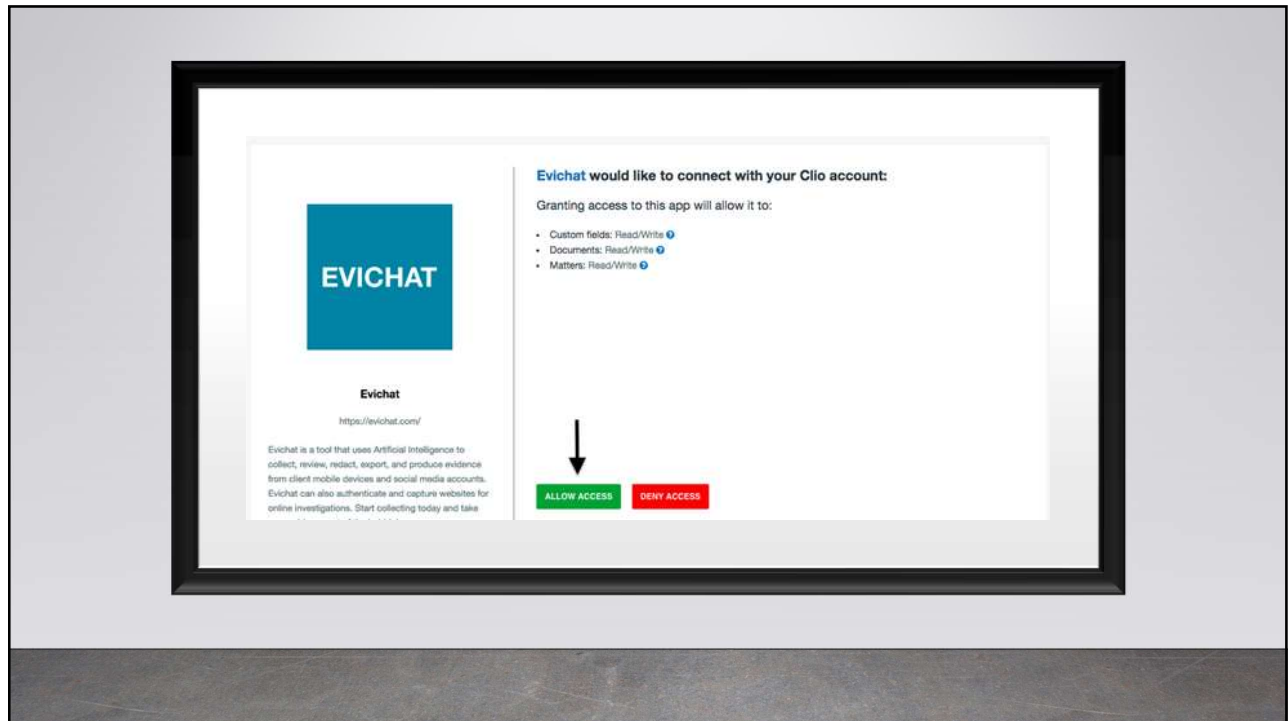
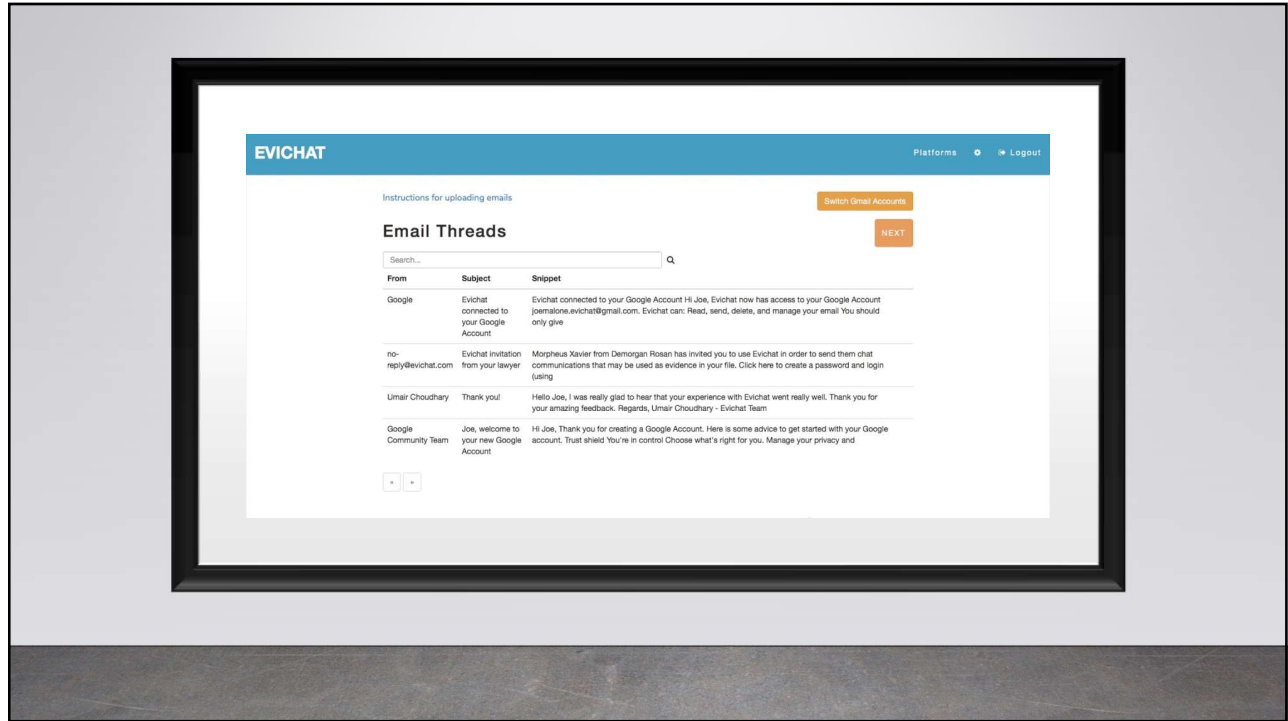
The advertisement features a smartphone displaying the Time Miner app interface with a list of contacts: Amanda Padine (800552972, amanda@email.com), George Teiler (800555569, teiler@email.com), and Larry Hyneman (800555874, larry@email.com). Below the phone is a yellow hard hat icon with a clock face. To the right, a 'Services' menu is shown with three items: RingCentral (+16158007096) with a checked checkbox, Clio with an unchecked checkbox, and Outlook with an unchecked checkbox.

EVIDENCE COLLECTION

EVICHAT





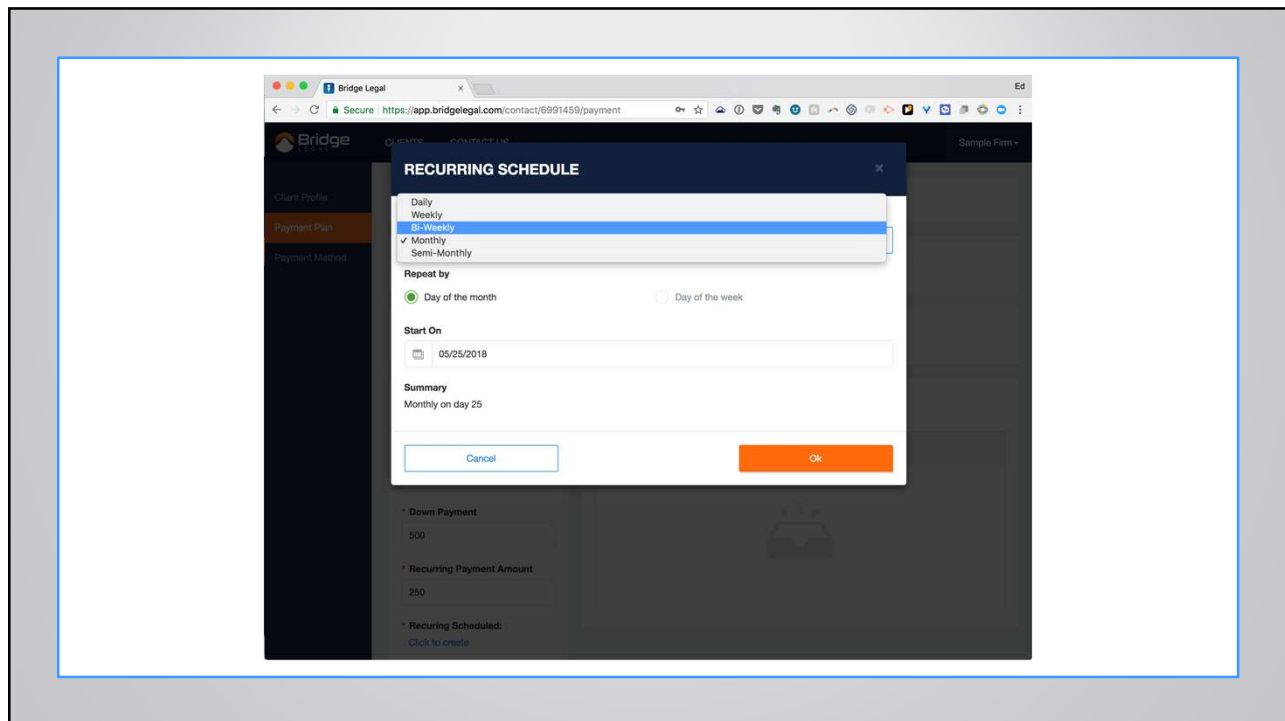
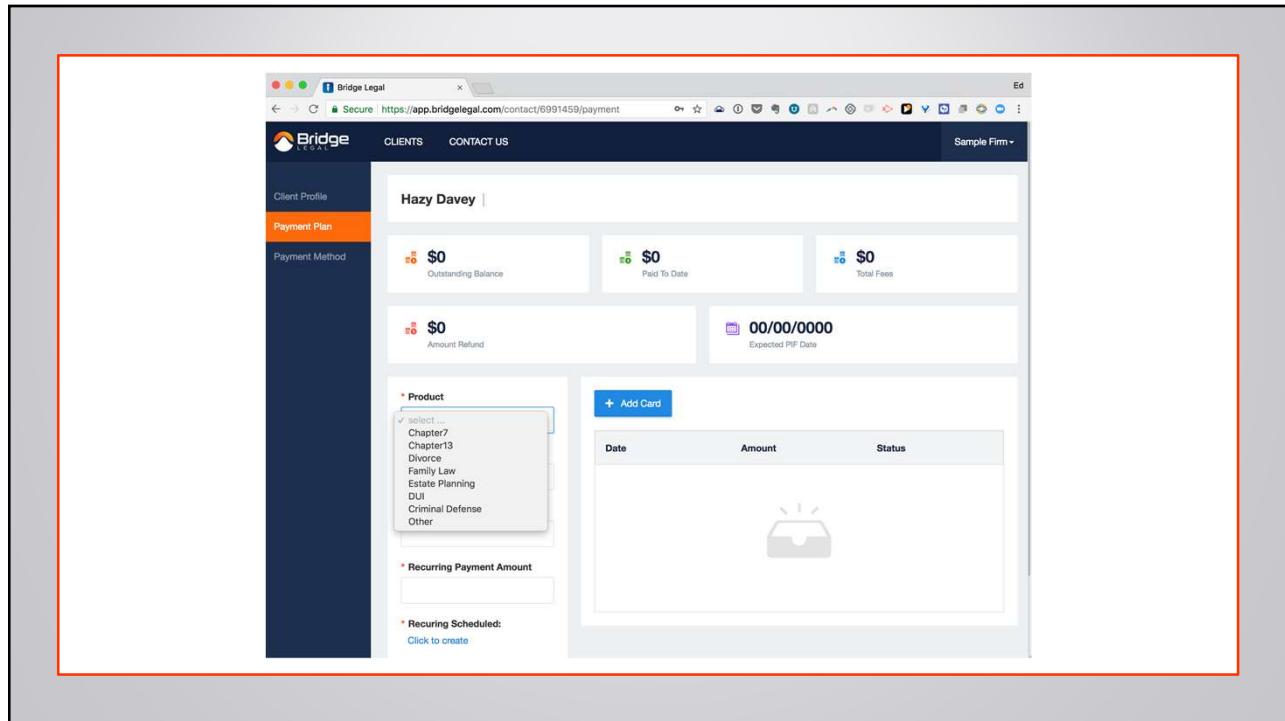


ELECTRONIC PAYMENTS



PAYMENTS TECHNOLOGY

- Debit or Credit Cards
- Flexible Payment Plans Updates Clients via Text Message



Bridge Legal | CLIENTS CONTACT US | Sample Firm

Client Profile
Payment Plan
 Payment Method

Hazy Davey | Estate Planning

\$2,800 Outstanding Balance
\$0 Paid To Date
\$2,800 Total Fees
\$0 Amount Refund
10/15/2018 Expected PIF Date

+ Add Card Customize

Date	Amount	Status
05/24/2018	\$500	SCHEDULED
06/01/2018	\$250	SCHEDULED
06/15/2018	\$250	SCHEDULED
06/29/2018	\$250	SCHEDULED
07/13/2018	\$250	SCHEDULED
08/01/2018	\$250	SCHEDULED
08/15/2018	\$250	SCHEDULED
08/31/2018	\$250	SCHEDULED

* Product: Estate Planning

* Total Fees: 2800

* Down Payment: 500

* Recurring Payment Amount: 250

* Recurring Scheduled: (Start on 06/01/2018)
 Semi-Monthly on the day 1 and 15

Generate

Need scheduled balance: 0 Confirm Cancel

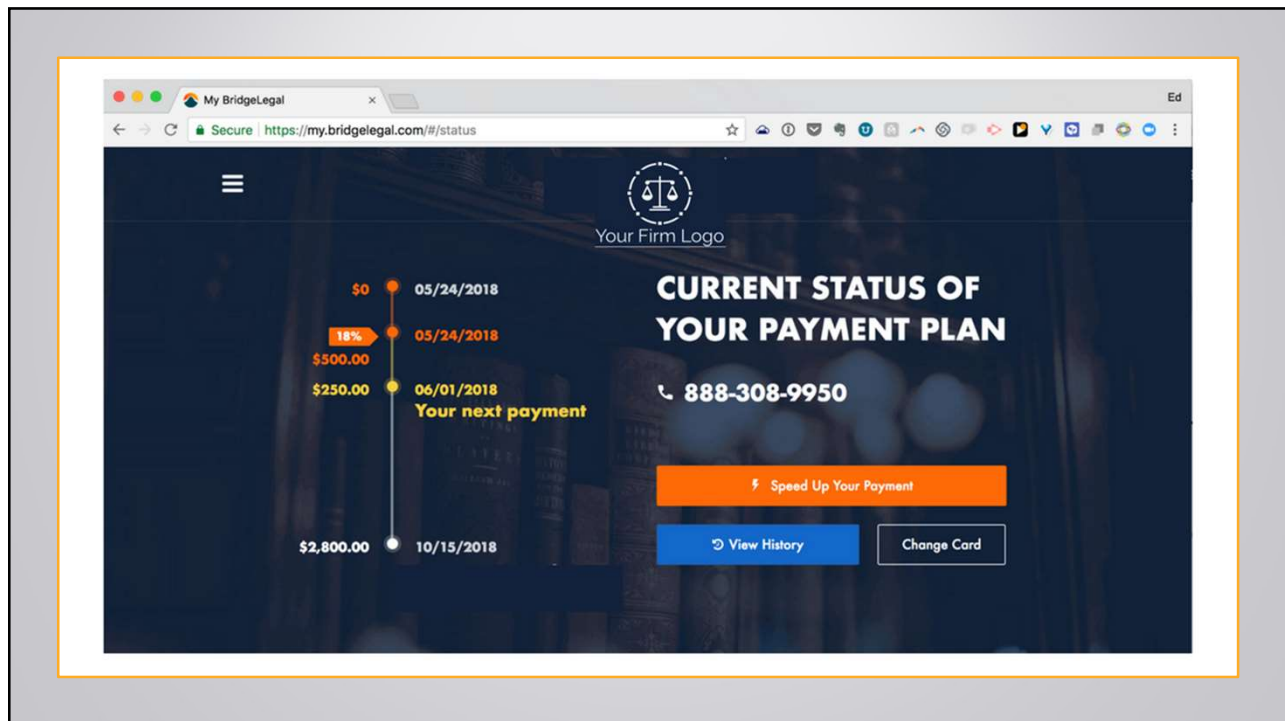
Date	Amount	Status	Operate
05/24/2018	500	scheduled	Edit
06/01/2018	250	scheduled	Edit Delete Add below
06/15/2018	250	scheduled	Save Cancel
06/29/2018	250	scheduled	Edit Delete Add below
07/13/2018	250	scheduled	Edit Delete Add below
08/01/2018	250	scheduled	Edit Delete Add below
08/15/2018	250	scheduled	Edit Delete Add below
08/31/2018	250	scheduled	Edit Delete Add below
09/14/2018	250	scheduled	Edit Delete Add below
10/01/2018	250	scheduled	Edit Delete Add below

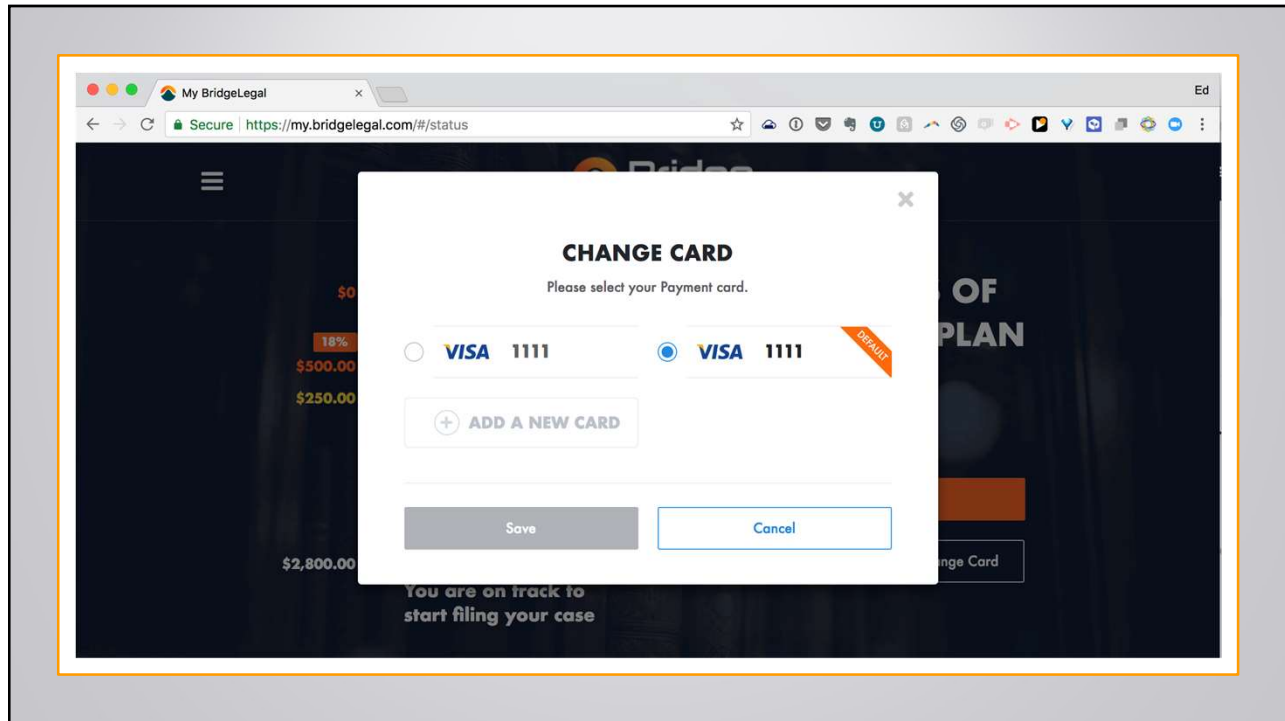
08/31/2018 \$250 SCHEDULED

The screenshot shows a web form for adding a payment card. The form is titled "Add Card" and is set against a dark background with a sidebar on the left. The sidebar contains links for "Client Profile", "Payment Plan", and "Payment Method". The form fields are as follows:

- Card Type:** A dropdown menu with "Visa" selected.
- Category:** A dropdown menu with "Debit" selected.
- Card Number:** A text input field containing "4444 3333 2222 1111".
- Card Owner Name:** A text input field containing "Hazy Davey".
- Expiration (MM/YY):** A date input field containing "05/18".
- CVV:** A text input field containing "...".
- Billing Address:** A text input field containing "123 Main St".
- City:** A text input field containing "Wheeler".
- State:** A dropdown menu with "Indiana" selected.
- Zip Code:** A text input field containing "46393".
- Recurrence:** A checked checkbox labeled "Set as default payment".

At the bottom of the form is a large orange "Save" button. To the right of the form, there is a date "10/15/2018" labeled "Expected PIF Date" and a "Customize" button. The background shows a list of items with "SCHEDULED" status.





Native Message Integration

- Text Message Appointment Reminders
 - Practice Panther
- Text Message Review Management
 - Podium
- Built In Text Messaging
 - CASEpeer for Personal Injury
 - JubileeBK for Bankruptcy

The image shows a collection of logos for various integration partners. From top to bottom, left to right: Podium (green speech bubble icon), Zipwhip (orange and red 'Z' icon), PracticePanther (black shield icon), LeadDocket (blue 'LEADDOCKET' text), Jubilee (blue cursive text with a blue figure icon, with 'LegalPRO's CLOUD Bankruptcy Platform' below it), and CASEpeer (green cursive text).

LEXtech
review



INTAKE & APPOINTMENT BOOKING SERVICES
AND PHONE TRAINING



TAKE ADVANTAGE OF MY FREE
COURSE!

<http://bit.ly/10daysoflegaltech>

\$197.00

FREE WITH CODE: OKSSF2019





Thank you!

Chelsey Lambert

- Author and Founder
- [Lex Tech Review](#)
- chelsey@lextechreview.com

Jim Calloway

- Director, Oklahoma Bar Association
- Management Assistance Program
- [Jim Calloway's Law Practice Tips Blog](#)
- JimC@okbar.org

Chelsey Lambert

Author, Speaker, Founder and CEO of the Lex Tech Review

Legal Technology + Practice Management Specialist. On a mission to educate, equip and empower law firm entrepreneurs.

Chelsey is a legal technology matchmaker who connects lawyers with the technology and resources they need to build a business that runs smoothly, so they can focus on what they love.

As the Founder and CEO of Lex Tech Review and the Legal Tech Media Group. Chelsey and her team provide legal technology, marketing, and law practice management education to lawyers and staff all over the world. She also published the nearly 200 page 2017 Legal Technology Buyer's Guide, and is a two-time ABA TechShow Speaker. All of her materials aim to educate and save readers hours of research, headaches and costly mistakes.

Her career includes a combination of roles that give her a unique understanding of how solo to mid-sized law firms operate. From building legal technology products for lawyers, such as case management and payment processing software to serving as a practice management advisor and technology trainer for the Chicago Bar Association.

Don't be surprised if you run into one of Chelsey's various online courses, or at one of the local Tulsa Legal Hackers meetups. She'll travel far and wide to fulfill her mission to help law firm entrepreneurs build better businesses so they can improve the quality of their life at home.

www.lextechreview.com | @ChelseyLambert | facebook.com/lextechreview



Jim Calloway

Jim Calloway is the Director of the Oklahoma Bar Association Management Assistance Program, where he has served for 19 years. He received his Juris Doctorate from the University of Oklahoma, where he was named to the Oklahoma Law Review. He publishes the award-winning law blog *Jim Calloway's Law Practice Tips* and has served as co-author of three American Bar Association books on law practice management, *How Good Lawyers Survive Bad Times* (with Ross Kodner and Sharon Nelson) and *Winning Alternatives to the Billable Hour: Strategies That Work, Second and Third Editions* (with Mark Robertson).



Mr. Calloway also produces, with Sharon Nelson, the monthly podcast, *The Digital Edge: Lawyers and Technology*. This monthly podcast covers a number of legal technology issues and can be accessed from The Legal Talk Network (<http://legaltalknetwork.com/podcasts/digital-edge/>) or via iTunes.

Mr. Calloway is a member of the American Bar Association where he served as chair of the ABA TECHSHOW 2005 Board. He is a member of the Law Practice Division's *Law Practice Magazine* editorial board and writes the Practice Management Advice column for that magazine. In 2015 he was awarded the ABA Law Practice Division's Robert P. Wilkens Award in recognition of Best Column in Division Publications. He also co-chaired the first two ABA GP/Solo National Solo and Small Firm Conferences in 2006 and 2007. He is an active member of the National Association of Bar Executives and the Association of Legal Administrators. He is a former President of the Cleveland County (Oklahoma) Bar Association.

He has made hundreds of presentations on law office management, legal technology, ethics and legal business operations and has been inducted as a Fellow of the College of Law Practice Management. His Twitter account is @JimCalloway and his blog is at www.lawpracticetipsblog.com.

CANNABIS LAWS IN OKLAHOMA¹

By: Miles Pringle

On June 26, 2018, Oklahomans passed State Question 788 making Oklahoma the 30th states to approve medical marijuana. As you are likely aware, the possession, use, and distribution of marijuana of any kind, medical or otherwise, remains a felony under federal law. This purpose of this presentation is to educate on the legal framework of medical marijuana in Oklahoma.

Background

Cannabis, or cannabis sativa, is an annual flowering plant grown around the world. It is difficult to ascertain its exact origins, but “[e]vidence suggesting its use more than 5,000 years ago in what is now Romania has been described extensively.”² In the United States, cannabis was cultivated by European colonists soon after settlement. More commonly referred to as hemp, colonists used the plant to produce rope, sails, and clothing. The Colonies considered its cultivation vital. For example, in 1619 the Virginia Assembly passed legislation requiring every farmer to grow hemp.

American cultivation of hemp for industrial purposes continued until after the Civil War, when it was eventually replaced by other products. Cannabis, however, became a popular ingredient in medicinal products in the late 19th Century. Coinciding with this development was the industrial revolution, which changed how many foods and drugs were produced. Some foods and drugs were unsafe for human consumption. In response, there was strong public concern regarding the manufacturing and labeling process (exemplified by Upton Sinclair’s *The Jungle*). Efforts to improve these products lead to the passage of the Pure Food and Drug Act of 1906, one of the United States’ first consumer protection laws.

Signed by Teddy Roosevelt, the Act assigned enforcement to the Bureau of Chemistry (within the Department of Agriculture). Eventually this entity became the Food and Drug Administration (FDA). More importantly for our purposes, the Act required drug manufactures to label products containing “addictive” and/or “dangerous” ingredients. Cannabis was identified as such an ingredient, along with alcohol, morphine, and opium.

In 1934 the National Conference of Commissioners on Uniform State Laws finalized the Uniform State Narcotic Drug Act. Initially it failed to be enacted by the states. Harry J. Anslinger, then Commissioner of the Federal Bureau of Narcotics, took up a nationwide

¹ These materials are for educational purposes only and are not intended to be used as legal advice. Any opinions contained herein are only those of the author and not of the Oklahoma Bar Association or The Bankers Bank.

² Bridgeman MB, Abazia DT. Medicinal Cannabis: History, Pharmacology, And Implications for the Acute Care Setting. P T. 2017 Mar;42(3):180-188. PubMed PMID: 28250701; PubMed Central PMCID: PMC5312634 (available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5312634/>).

promotional campaign during which he stated that marijuana causes temporary insanity. The campaign moved all states to enact the bill. Cannabis was eventually criminalized federally in 1937 via the Marihuana Tax Act.

In 1970, Congress passed the Controlled Substances Act (21 U.S.C. §§ 801 et seq.). It created five schedules of controlled substances. Tetrahydrocannabinols, the principal psychoactive element of cannabis, was and continues to be identified as a Schedule I substance. Schedule I substances are defined as those that have: i) a high potential for abuse; ii) no currently accepted medical use in treatment in the United States; and iii) a lack of accepted safety for use of the drug or other substance under medical supervision.

Current Federal Policy

Since 1970, the United States has seen a shift in public attitudes toward cannabis. According to a 2017 Gallop Poll, 64% of Americans support the legalization of Marijuana.³ States have begun taking steps to address this change. In 1996, California passed Proposition 215 legalizing the use of medical marijuana. In 2009, in response to several other states passing laws legalizing the use of medical marijuana, the Department of Justice (“DOJ”) issued a memorandum authored by David Ogden instructing DOJ to comply with state laws in certain circumstances. In 2012, Colorado and Washington legalized the use of recreational marijuana, which was followed in 2013 by a new DOJ memorandum authored by James Cole instructing DOJ to comply with these laws as well.

In January 2018, then Attorney General Jeff Sessions revoked the Cole and Ogden memorandums. Nevertheless, since 2014 Congress has been attaching the Rohrabacher-Farr Amendment to funding bills preventing DOJ from using funds to prevent certain “States from implementing their own State laws that authorize the use, distribution, possession, or cultivation of **medical** marijuana”. (**emphasis added**). The Amendment temporarily expired in December during the government shutdown, but was renewed through September 30, 2019 via the Consolidated Appropriations Act, 2019.⁴

³ See McCarthy, Justin, “Record-High Support for Legalizing Marijuana Use in U.S.”, Gallup, published October 25, 2017 (available at <https://news.gallup.com/poll/221018/record-high-support-legalizing-marijuana.aspxb>).

⁴ Public Law 116-6, § 537: None of the funds made available under this Act to the Department of Justice may be used, with respect to any of the States of Alabama, Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Georgia, Hawaii, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, **Oklahoma**, Oregon, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, and Wyoming, or with respect to the District of Columbia, the Commonwealth of the Northern Mariana Islands, Guam, or Puerto Rico, to prevent any of them from implementing their own laws that authorize the use, distribution, possession, or cultivation of medical marijuana. (**emphasis added**).

Oklahoma Medical Marijuana

State Question 788 passed a very loose medical marijuana regime. There are no qualifying conditions, no cap on licensing or plant growth, and individuals in possession of marijuana without a license are only subject to a fine if he/she can state a medical purpose. The Oklahoma Department of Health initially drafted very strict regulations. For example, the initial rules prohibited smokable marijuana, required a pharmacist, and limited the amount of THC. The Oklahoma Attorney General issued a letter concluding that “the Board acted outside of its statutory authority in promulgating several rules.” The Department of Health then issued new rules with fewer restrictions, and the Oklahoma Medical Marijuana Authority (“OMMA”) was created to administer the new laws.

State Question 788, codified at 63 O.S. §§ 420 et seq., creates a licensing system for medical marijuana. Licenses include: i) a user License for people to possess and consume marijuana which must be a signed by a board certified physician; ii) a caregivers license to bring marijuana to homebound medical license holders; iii) a dispensary license; iv) a marijuana processing license (to distill or process plants into concentrates, edibles, and other forms for consumption); v) a transportation license; vi) a research license; and, vii) a temporary license for visitors.

In this past session, the Legislature passed HB 2612, also known as the Medical Marijuana Unity Bill. This bill fills out more of the framework for the medical marijuana industry. For example, it defines physicians able to sign marijuana licenses as those licensed by the State Board of Medical Licensures and Supervision or the State Board of Osteopathic. HB 2612 also grants the OMMA authority to investigate and enforce medical marijuana laws. To do that OMMA has the authority to: issue subpoenas; apply for injunctive relief; collect fees; revoke, suspend or deny of an application for license or final authorization; issue monetary fines; and, take other action deemed appropriate by OMMA.

Regarding employment, unless otherwise required by federal law, no employer may: 1) refuse to hire, discipline, discharge or otherwise penalize an applicant or employee solely on the basis of such applicant’s or employee’s status as a medical marijuana licensee; and 2) refuse to hire, discipline, discharge or otherwise penalize an applicant or employee solely on the basis of a positive test for marijuana components or metabolites (unless the licensee possesses, consumes or is under the influence of medical marijuana or medical marijuana product while at the place of employment or during the fulfillment of employment obligations, or the position is one involving safety-sensitive job duties). While there are protections, the Act does not require an employer to permit or accommodate the use of medical marijuana on the property or premises of any place of employment or during hours of employment; provide worker’s compensation benefits to reimburse a person for costs associated with the use of medical marijuana; or prevent an

employer from having written policies regarding drug testing and impairment in accordance with the Oklahoma Standards for Workplace Drug and Alcohol Testing Act.

It appears that medical marijuana products are popular in Oklahoma. May sales topped \$23 million.⁵ “To date, medical marijuana sales have generated nearly \$10.7 million for state coffers.”⁶ According to OMMA, it has licensed more than 80,000 patients and is on track to pass 150,000 in the first year (avg. 5,000/week).⁷ That would mean approximately 3.8% of the population of Oklahoma has a license for medical marijuana.

Issues to Consider

The fact that marijuana continues to be illegal federally means that licensees and operators are at risk of federal prosecution. Unless it is renewed again, the Rohrabacher-Farr Amendment expires in September. With the revocation of previous DOJ memoranda, it appears that each U.S. Attorney will have discretion on whether or not to bring charges for violating the Controlled Substances Act.

Additionally, banks and other financial institutions are reluctant to serve marijuana related accounts. In addition to potential exposure under the Controlled Substances Act, financial institutions are subject to the Bank Secrecy Act and the USA Patriot Act, which require them to implement certain programs and report suspicious activities. Additionally, financial institutions are required to submit currency transaction reports for cash transactions over \$10,000. It is important for practitioners to be aware that some of these provisions extend beyond traditional banks and cover entities such as insurance companies, pawnbrokers, travel agencies, and persons involved in real estate closings.

Lawyers should also be aware that Rule 1.2 of the Rules for Professional Conduct states that “[a] lawyer shall not counsel a client to engage, or assist a client, in conduct that the lawyer knows is criminal or fraudulent, but a lawyer may discuss the legal consequences of any proposed course of conduct with a client and may counsel or assist a client to make a good faith effort to determine the validity, scope, meaning or application of the law.” Some representations of clients engaging in the medical marijuana industry may violate this provision. Several states have addressed this by issuing advisory opinions or modifying Rule 1.2. Oklahoma has yet to undertake any such action.

⁵ Associated Press, “Medical marijuana sales soaring in Oklahoma, top \$23M in May”, published June 8, 2019 (available at <https://kfor.com/2019/06/08/medical-marijuana-sales-soaring-in-oklahoma-top-23m-in-may/>).

⁶ Id.

⁷ Vincent, Samantha, “Authority estimated licensing 80,000 patients in year one. It's on track for 150,000”, Tulsa World, published April 13, 2019 (available at https://www.tulsaworld.com/news/local/marijuana/oklahoma-medical-marijuana-authority-estimated-licensing-patients-in-year-one/article_9cb5858e-1fc3-59b2-a188-112329e682f4.html).

Conclusion

When signing the Medical Marijuana Unity Bill governor Stitt stated that, “[t]his is a work in progress... I’m sure we will learn more and learn how to regulate this as the years go by.” While true, practitioners should be aware of and advise clients of the ongoing risk of federal prosecution and potential conflicts with other federal laws.

April 11th, 2016

The Honorable Chris Bengé
Oklahoma Secretary of State
2300 N. Lincoln Boulevard, Ste. 101
Oklahoma City, Oklahoma 73105-4897

Re: Initiative Petition

Dear Mr. Secretary,

Please accept for filing the enclosed copy of an initiative petition and the suggested ballot title. The initiative petition would amend statutes to legalize medical marijuana.

Sincerely,

Oklahomans for Health
8751 N 117th E Ave
Owasso, OK 74055

RECEIVED

APR 11 2016

OKLAHOMA SECRETARY
OF STATE

FILED

APR 11 2016

OKLAHOMA SECRETARY
OF STATE

PROPOSED BALLOT TITLE

This measure amends the Oklahoma State Statutes. A yes vote legalizes the licensed use, sale, and growth of marijuana in Oklahoma for medicinal purposes. A license is required for use and possession of marijuana for medicinal purposes and must be approved by an Oklahoma Board Certified Physician. The State Department of Health will issue medical marijuana licenses if the applicant is eighteen years or older and an Oklahoma resident. A special exception will be granted to an applicant under the age of eighteen, however these applications must be signed by two physicians and a parent or legal guardian. The Department will also issue seller, grower, packaging, transportation, research and caregiver licenses. Individual and retail businesses must meet minimal requirements to be licensed to sell marijuana to licensees. The punishment for unlicensed possession of permitted amounts of marijuana for individuals who can state a medical condition is a fine not exceeding four hundred dollars. Fees and zoning restrictions are established. A seven percent state tax is imposed on medical marijuana sales.

Shall the proposal be approved?

For the proposal	-	YES
Against the proposal	-	NO

A "YES" vote is a vote in favor of this measure. A "NO" vote is a vote against this measure.

WARNING

It is a felony for anyone to sign an initiative or referendum petition with any name other than his own, or knowingly to sign his name more than once for the measure, or to sign such petition when he is not a legal voter.

INITIATIVE PETITION

To the Honorable Mary Fallin, Governor of Oklahoma:

We, the undersigned legal voters of the State of Oklahoma, respectfully order that the following proposed law shall be submitted to the legal voters of the State of Oklahoma for their approval or rejection at the regular general election, to be held on the 8th day of November, 2016 (or at a special election as may be called by the Governor), and each for himself says: I have personally signed this petition; I am a legal voter of the State of Oklahoma; my residence or post office are correctly written after my name. The time for filing this petition expires ninety (90) days from _____. The question we herewith submit to our fellow voters is:

Shall the following bill be approved?

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 420 of Title 63, unless there is created a duplication in numbering, reads as follows:

- A. A person in possession of a state issued medical marijuana license shall be able to:
1. Consume marijuana legally;
 2. Legally possess up to three (3) ounces of marijuana on their person;
 3. Legally possess six (6) mature marijuana plants;
 4. Legally possess six (6) seedling plants;
 5. Legally possess one (1) ounce of concentrated marijuana;
 6. Legally possess seventy-two (72) ounces of edible marijuana; and
 7. Legally possess up to eight (8) ounces of marijuana in their residence.
- B. Possession of up to one and one-half (1.5) ounces of marijuana by persons who can state a medical condition, but not in possession of a state issued medical marijuana license, shall constitute a misdemeanor offense with a fine not to exceed Four Hundred Dollars (\$400.00).
- C. A regulatory office shall be established under the Oklahoma State Department of Health which will receive applications for medical license recipients, dispensaries, growers, and packagers within sixty (60) days of the passage of this initiative.
- D. The Oklahoma State Department of Health shall within thirty (30) days of passage of this initiative, make available, on their website, in an easy to find location, an application for a medical marijuana license. The license will be good for two (2) years, and the application fee will be One Hundred Dollars (\$100.00), or Twenty Dollars (\$20.00) for individuals on Medicaid, Medicare, or SoonerCare. The methods of payment will be provided on the website.
- E. A temporary license application will also be available on the Oklahoma Department of Health website. A temporary medical marijuana license will be granted to any medical marijuana license holder from other states, provided that the state has a state regulated medical marijuana program, and the applicant can prove they are a member of such. Temporary licenses will be issued for thirty (30) days. The cost for a temporary license shall be One Hundred Dollars (\$100.00). Renewal will be granted with resubmission of a new application. No additional criteria will be required.
- F. Medical marijuana license applicants will submit their application to the Oklahoma State Department of Health for approval and that the applicant must be an Oklahoma state resident and shall prove residency by a valid driver's license, utility bills, or other accepted methods.
- G. The Oklahoma State Department of Health shall review the medical marijuana application, approve/reject the application, and mail the applicant's approval or rejection letter (stating reasons for rejection) to the applicant within fourteen (14) days of receipt of the application. Approved applicants will be issued a medical marijuana license which will act as proof of their approved status. Applications may only be rejected based on applicant not meeting stated criteria or improper completion of the application.
- H. The Oklahoma State Department of Health will only keep the following records for each approved medical license:

1. a digital photograph of the license holder;
2. the expiration date of the license;
3. the county where the card was issued; and
4. a unique 24 character identification number assigned to the license.

I. The Department of Health will make available, both on its website, and through a telephone verification system, an easy method to validate a medical license holders authenticity by the unique 24 character identifier.

J. The State Department of Health will ensure that all application records and information are sealed to protect the privacy of medical license applicants.

K. A caregiver license will be made available for qualified caregivers of a medical marijuana license holder who is homebound. The caregiver license will give the caregiver the same rights as the medical license holder. Applicants for a caregiver license will submit proof of the medical marijuana license holder's license status and homebound status, that they are the designee of the medical marijuana license holder, must submit proof that the caregiver is age eighteen (18) or older, and must submit proof the caregiver is an Oklahoma resident. This will be the only criteria for a caregiver license.

L. All applicants must be eighteen (18) years or older. A special exception will be granted to an applicant under the age of eighteen (18), however these applications must be signed by two (2) physicians and the applicant's parent or legal guardian.

M. All applications for a medical license must be signed by an Oklahoma Board certified physician. There are no qualifying conditions. A medical marijuana license must be recommended according to the accepted standards a reasonable and prudent physician would follow when recommending or approving any medication. No physician may be unduly stigmatized or harassed for signing a medical marijuana license application.

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

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 421 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. The Oklahoma State Department of Health shall within thirty (30) days of passage of this initiative, make available, on their website, in an easy to find location, an application for a medical marijuana dispensary license. The application fee shall be Two Thousand Five Hundred Dollars (\$2,500.00) and a method of payment will be provided on the website. Retail applicants must all be Oklahoma state residents. Any entity applying for a retail license must be owned by an Oklahoma state resident and must be registered to do business in Oklahoma. The Oklahoma State Department of Health shall have two (2) weeks to review the application, approve or reject the application, and mail the approval/rejection letter (if rejected, stating reasons for rejection) to the applicant.

B. The Oklahoma State Department of Health must approve all applications which meet the following criteria:

1. Applicant must be age twenty-five (25) or older;
2. Any applicant, applying as an individual, must show residency in the state of Oklahoma;
3. All applying entities must show that all members, managers, and board members are Oklahoma residents;
4. An applying entity may show ownership of non-Oklahoma residents, but that percentage ownership may not exceed twenty-five percent (25%);
5. All applying individuals or entities must be registered to conduct business in the state of Oklahoma;
6. All applicants must disclose all ownership;
7. Applicant(s) with only nonviolent felony conviction(s) in the last two (2) years, any other felony conviction in 5 (years), inmates, or any person currently incarcerated may not qualify for a medical marijuana dispensary license.

C. Retailers will be required to complete a monthly sales report to the Oklahoma Department of Health. This report will be due on the 15th of each month and provide reporting on the previous month. This report will detail the weight of marijuana purchased at wholesale and the weight of marijuana sold to card holders, and account for any waste. The report will show total sales in dollars, tax collected in dollars, and tax due in dollars. The Oklahoma State Department of Health will have oversight and auditing responsibilities to ensure that all marijuana being grown is accounted for. A retailer will only be subject to a penalty if a gross discrepancy exists and cannot be explained. Penalties for fraudulent reporting occurring within any 2 year time period will be an initial fine of Five Thousand Dollars (\$5,000.00) (first) and revocation of licensing (second).

D. Only a licensed medical marijuana retailer may conduct retail sales of marijuana, or marijuana derivatives in the form provided by licensed processors, and these products can only be sold to a medical marijuana license holder or their caregiver. Penalties for fraudulent sales occurring within any 2 year time period will be an initial fine of Five Thousand Dollars (\$5,000.00) (first) and revocation of licensing (second).

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 422 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. The Oklahoma State Department of Health will within thirty (30) days of passage of this initiative, make available, on their website, in an easy to find location, an application for a commercial grower license. The application fee will be Two Thousand Five Hundred Dollars (\$2,500.00) and methods of payment will be provided on the website. The Oklahoma State Department of Health has two (2) weeks to review application, approve or reject the application, and mail the approval/rejection letter (if rejected, stating reasons for rejection) to the applicant.

B. The Oklahoma State Department of Health must approve all applications which meet the following criteria:

1. Applicant must be age twenty-five (25) or older;
2. Any applicant, applying as an individual, must show residency in the state of Oklahoma;
3. All applying entities must show that all members, managers, and board members are Oklahoma residents;
4. An applying entity may show ownership of non-Oklahoma residents, but that percentage ownership may not exceed twenty-five percent (25%);
5. All applying individuals or entities must be registered to conduct business in the state of Oklahoma;
6. All applicants must disclose all ownership;
7. Applicant(s) with only nonviolent felony conviction(s) in the last two (2) years, any other felony conviction in 5 (years), inmates, or any person currently incarcerated may not qualify for a commercial grower license.

C. A licensed commercial grower may sell marijuana to a licensed retailer, or a licensed packager. Further, these sales will be considered wholesale sales and not subject to taxation. Under no circumstances may a licensed commercial grower sell marijuana directly to a medical marijuana license holder. A licensed commercial grower may only sell at the wholesale level to a licensed retailer or a licensed processor. If the federal government lifts restrictions on buying and selling marijuana between states, then a licensed commercial grower would be allowed to sell and buy marijuana wholesale from, or to, an out of state wholesale provider. A licensed commercial grower will be required to complete a monthly yield and sales report to the Oklahoma Department of Health. This report will be due on the 15th of each month and provide reporting on the previous month. This report will detail amount of marijuana harvested in pounds, the amount of drying or dried marijuana on hand, the amount of marijuana sold to processors in pounds, the amount of waste in pounds, and the amount of marijuana sold to retailers in lbs. Additionally, this report will show total wholesale sales in dollars. The Oklahoma State Department of Health will have oversight and auditing responsibilities to ensure that all marijuana being grown is accounted for. A licensed grower will only be subject to a penalty if a gross discrepancy exists and cannot be explained. Penalties for fraudulent reporting or sales occurring within any 2 year time period will be an initial fine of Five Thousand Dollars (\$5,000.00) (first) and revocation of licensing (second).

D. There shall be no limits on how much marijuana a licensed grower can grow.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 423 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. The Oklahoma State Department of Health shall within thirty (30) days of passage of this initiative, make available, on their website, in an easy to find location, an application for a medical marijuana processing license. The application fee shall be Two Thousand Five Hundred Dollars (\$2,500.00) and methods of payment will be provided on the website. The Oklahoma State Department of Health shall have two (2) weeks to review the application, approve or reject the application, and mail the approval/rejection letter (if rejected, stating reasons for rejection) to the applicant.

B. The Oklahoma State Department of Health must approve all applications which meet the following criteria:

1. Applicant must be age twenty-five (25) or older;
2. Any applicant, applying as an Individual, must show residency in the state of Oklahoma;
3. All applying entities must show that all members, managers, and board members are Oklahoma residents;
4. An applying entity may show ownership of non-Oklahoma residents, but that percentage ownership may not exceed twenty-five percent (25%);
5. All applying individuals or entities must be registered to conduct business in the state of Oklahoma;
6. All applicants must disclose all ownership;
7. Applicant(s) with only nonviolent felony conviction(s) in the last two (2) years, any other felony conviction in 5 (years), inmates, or any person currently incarcerated may not qualify for a medical marijuana processing license.

C. A licensed processor may take marijuana plants and distill or process these plants into concentrates, edibles, and other forms for consumption. As required by subsection D of this section, the Oklahoma State Department of Health will, within sixty (60) days of passage of this initiative, make

available a set of standards which will be used by licensed processors in the preparation of edible marijuana products. This should be in line with current food preparation guidelines and no excessive or punitive rules may be established by the Oklahoma State Department of Health. Once a year, the Oklahoma State Department of Health may inspect a processing operation and determine its compliance with the preparation standards. If deficiencies are found, a written report of deficiency will be issued to the processor. The processor will have one (1) month to correct the deficiency or be subject to a fine of Five Hundred Dollars (\$500.00) for each deficiency. A licensed processor may sell marijuana products it creates to a licensed retailer, or any other licensed processor. Further, these sales will be considered wholesale sales and not subject to taxation. Under no circumstances may a licensed processor sell marijuana, or any marijuana product, directly to a medical marijuana license holder. However, a licensed processor may process cannabis into a concentrated form, for a medical license holder, for a fee. Processors will be required to complete a monthly yield and sales report to the Oklahoma State Department of Health. This report will be due on the 15th of each month and provide reporting on the previous month. This report will detail amount of marijuana purchased in pounds, the amount of marijuana cooked or processed in pounds, and the amount of waste in pounds. Additionally, this report will show total wholesale sales in dollars. The Oklahoma State Department of Health will have oversight and auditing responsibilities to ensure that all marijuana being grown is accounted for. A licensed processor will only be subject to a penalty if a gross discrepancy exists and cannot be explained. Penalties for fraudulent reporting occurring within any 2 year time period will be an initial fine of Five Thousand Dollars (\$5,000.00) (first) and revocation of licensing (second).

D. The inspection and compliance of processors producing products with marijuana as an additive. The Oklahoma State Department of Health will be compelled to, within thirty (30) days of passage of this initiative, appoint a board of twelve (12) Oklahoma residents, who are marijuana industry experts, to create a list of food safety standards for processing and handling medical marijuana in Oklahoma. These standards will be adopted by the agency and the agency can enforce these standards for processors. The agency will develop a standards review procedure and these standards can be altered by calling another board of twelve (12) Oklahoma marijuana industry experts. A signed letter of twenty (20) operating processors would constitute a need for a new board and standard review.

E. If it becomes permissible, under federal law, marijuana may be moved across state lines.

F. Any device used for the consumption of medical marijuana shall be considered legal to be sold, manufactured, distributed, and possessed. No merchant, wholesaler, manufacturer, or individual may unduly be harassed or prosecuted for selling, manufacturing, or possession of medical marijuana paraphernalia.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 424 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. A marijuana transportation license will be issued to qualifying applicants for a marijuana retail, growing, or processing license. The transportation license will be issued at the time of approval of a retail, growing, or processing license.

B. A transportation license will allow the holder to transport marijuana from an Oklahoma licensed medical marijuana retailer, licensed growing facility, or licensed processor facility to an Oklahoma licensed medical marijuana retailer, licensed growing facility, or licensed processing facility.

C. All marijuana or marijuana products shall be transported in a locked container and clearly labeled "Medical Marijuana or Derivative".

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 425 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. No school or landlord may refuse to enroll or lease to and may not otherwise penalize a person solely for his status as a medical marijuana license holder, unless failing to do so would imminently cause the school or landlord to lose a monetary or licensing related benefit under federal law or regulations.

B. Unless a failure to do so would cause an employer to imminently lose a monetary or licensing related benefit under federal law or regulations, an employer may not discriminate against a person in hiring, termination or imposing any term or condition of employment or otherwise penalize a person based upon either:

1. The person's status as a medical marijuana license holder; or
2. Employers may take action against a holder of a medical marijuana license holder if the holder uses or possesses marijuana while in the holder's place of employment or during the hours of employment. Employers may not take action against the holder of a medical marijuana license solely based upon the status of an employee as a medical marijuana license holder or the results of a drug test showing positive for marijuana or its components.

C. For the purposes of medical care, including organ transplants, a medical marijuana license holder's authorized use of marijuana must be considered the equivalent of the use of any other medication under the direction of a physician and does not constitute the use of an illicit substance or otherwise disqualify a registered qualifying patient from medical care.

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

E. No person holding a medical marijuana license may unduly be withheld from holding a state issued license by virtue of their being a medical marijuana license holder. This would include such things as a concealed carry permit.

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

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

H. Research will be provided under this law. A researcher may apply to the Oklahoma Department of Health for a special research license. That license will be granted, provided the applicant meet the criteria listed under Section 421. B. Research license holders will be required to file monthly consumption reports to the Oklahoma Department of Health with amounts of marijuana used for research.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 426 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. The tax on retail medical marijuana sales will be established at seven percent (7%) of the gross amount received by the seller.

B. This tax will be collected at the point of sale. Tax proceeds will be applied primarily to finance the regulatory office.

C. If proceeds from the levy authorized by subsection A of this section exceed the budgeted amount for running the regulatory office, any surplus shall be apportioned with seventy-five percent (75%) going to the General Revenue Fund and may only be expended for common education. Twenty-five percent (25%) shall be apportioned to the Oklahoma State Department of Health and earmarked for drug and alcohol rehabilitation.

SECTION 8. The provisions hereof are severable, and if any part or provision hereof shall be void, invalid, or unconstitutional, the decision of the court so holding shall not affect or impair any of the remaining parts or provision hereof, and the remaining provisions hereof shall continue in full force and effect.

SECTION 9. This act shall become effective one (1) month immediately following its passage.

Name and Address of Proponents

Oklahomans for Health
8751 N 117th E Ave
Owasso, OK 74055

SIGNATURES

The gist of the proposition is as follows: This measure legalizes medical marijuana for residents with a recommendation from an Oklahoma Board Certified Physician. It also legalizes commercial medical marijuana dispensary, growing, and processing licenses regulated by the Department of Health. It protects card holders from discrimination and lowers penalties for unlicensed possession.

WARNING

It is a felony for anyone to sign an initiative or referendum petition with any name other than his own, or knowingly to sign his name more than once for the measure, or to sign such petition when he is not a legal voter.

1.	_____	_____	_____	_____	_____
	Signature of Legal Voter	Print Name	Address	City	Zip County
2.	_____	_____	_____	_____	_____
	Signature of Legal Voter	Print Name	Address	City	Zip County
3.	_____	_____	_____	_____	_____
	Signature of Legal Voter	Print Name	Address	City	Zip County
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	Signature of Legal Voter	Print Name	Address	City	Zip County
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	Signature of Legal Voter	Print Name	Address	City	Zip County
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17.	_____	_____	_____	_____	_____
	Signature of Legal Voter	Print Name	Address	City	Zip County
18.	_____	_____	_____	_____	_____
	Signature of Legal Voter	Print Name	Address	City	Zip County
19.	_____	_____	_____	_____	_____
	Signature of Legal Voter	Print Name	Address	City	Zip County
20.	_____	_____	_____	_____	_____
	Signature of Legal Voter	Print Name	Address	City	Zip County

Signature Collectors – Please fill out information on reverse side and have notarized before filing



Chris Bengé
Secretary of State
and
Native American Affairs

Mary Fallin
Governor

SECRETARY OF STATE
AND
NATIVE AMERICAN AFFAIRS

April 11, 2016

FILED

APR 11 2016

OKLAHOMA SECRETARY
OF STATE

Oklahomans for Health
8751 N. 117th E Ave
Owasso, Oklahoma 74055

Dear Proponent(s):

This acknowledges receipt of the petition submitted to our office, which has been designated as **State Question Number 788, Initiative Petition Number 412**, and filed accordingly this April 11, 2016.

Per Title 34 O.S. Section 8, subsequent to the publication of the notice of filing of said petition, the apparent sufficiency or insufficiency thereof and notice that any citizen(s) of the state may file a protest as to the constitutionality of the petition, the Secretary of State will provide a notification to the proponent(s) setting the date to begin circulation for signatures. The date set shall not be less than fifteen (15) days nor more than thirty (30) days from the date when all appeals, protests and rehearings have been resolved or the period for filing such has expired.

If we may provide any further assistance or should you have any questions, please do not hesitate to contact our office (405-522-4565 or executivelegislative@sos.ok.gov).

Executive Legislative Division
OKLAHOMA SECRETARY OF STATE OFFICE
Oklahoma State Capitol Building, Rm 101
Oklahoma City, Oklahoma 73105
Phone: 405.522.4565
Email: executivelegislative@sos.ok.gov



Chris Bengé
Secretary of State
and
Native American Affairs

Mary Fallin
Governor

SECRETARY OF STATE
AND
NATIVE AMERICAN AFFAIRS

April 11, 2016

Ms. Cindy Shea
Oklahoma Press Service
3601 N. Lincoln
Oklahoma City, Oklahoma 73105

Dear Ms. Shea:

Please find enclosed for publication;

- **Notice of Filing for State Question 788, Initiative Petition 410**

Per Title 34 O.S. § 8, the publications must appear in at least one newspaper of general circulation in the State of Oklahoma. Please publish the enclosed notice in *The Oklahoman*, *Tulsa World*, and the *Journal Record* as soon as possible.

Also, upon the completion of publication, please provide our office with the corresponding Affidavits of Publication. Should you have any questions, please do not hesitate to contact our office.

Sincerely,

A handwritten signature in cursive script that reads "Chris Bengé".

Chris Bengé
Secretary of State and
Native American Affairs

NOTICE OF THE FILING OF STATE QUESTION 788, INITIATIVE PETITION 412, THE APPARENT SUFFICIENCY THEREOF, AND NOTICE TO CITIZENS OF THE STATE THAT ANY SUCH PROTEST, AS TO THE CONSTITUTIONALITY OF SAID PETITION, MUST BE FILED ACCORDINGLY WITHIN TEN (10) BUSINESS DAYS AFTER THIS NOTICE (Okla. Stat. tit. 34, § 8)

NOTICE is hereby given that on April 11, 2016, State Question 788, Initiative Petition 412 was filed in the Office of the Oklahoma Secretary of State.

NOTICE is also hereby given that State Question 788, Initiative Petition 412 is SUFFICIENT for filing with the Office of the Oklahoma Secretary of State.

NOTICE is likewise, hereby given, as provided in Title 34 Section 8 of the Oklahoma Statutes, that any citizen or citizens of the state may file a protest as to the constitutionality of said petition, by a written notice to the Supreme Court and to the proponents or proponents filing the petition. Any such protest must be filed within ten (10) business days after publication of this notice. Also, a copy of any such protest shall be filed with the Office of the Oklahoma Secretary of State.

Proponent of record for State Question 788, Initiative Petition 412:

Oklahomans for Health
8751 N. 117th E Ave
Owasso, Oklahoma 74055

Chris Bengé
Oklahoma Secretary of State and
Native American Affairs



Chris Bengé
Secretary of State
and
Native American Affairs

Mary Fallin
Governor

SECRETARY OF STATE
AND
NATIVE AMERICAN AFFAIRS

April 11, 2016

RECEIVED
APR 12 2016

BY: _____

The Honorable Mary Fallin
Governor, State of Oklahoma
Room 212, State Capitol
Oklahoma City, Oklahoma 73105

Dear Governor Fallin:

Please be advised that an initiative petition, designated as **State Question 788, Initiative Petition 412**, was sufficiently filed with the Office of the Secretary of State on Monday, April 11, 2016. Proponents of record for said petition is as follows;

Oklahomans for Health
8751 N. 117th E Ave
Owasso, Oklahoma 74055

Please find enclosed a true and exact copy of State Question 788, Initiative Petition 412 on record with the Office of the Secretary of State.

Per Title 34 O.S. Section 8, subsequent to the publication of notice of filing of said petition, the apparent sufficiency thereof and notice that any citizen(s) of the state may file a protest as to the constitutionality of the petition, the Secretary of State will provide a notification to the proponent(s) setting the date to begin circulation for signatures. The date set shall not be less than fifteen (15) days nor more than thirty (30) days from the date when all appeals, protests and rehearings have been resolved or the period for filing such has expired.

If I may be of any further assistance, please do not hesitate to contact me.

Sincerely,

Chris Bengé
Secretary of State and
Native American Affairs

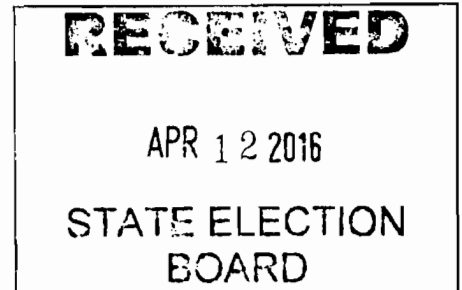
Chris Bengé
Secretary of State
and
Native American Affairs



SECRETARY OF STATE
AND
NATIVE AMERICAN AFFAIRS

Mary Fallin
Governor

April 11, 2016



Secretary Paul Ziriaux
Oklahoma State Election Board
Room 3, State Capitol
Oklahoma City, Oklahoma 73105

Dear Secretary Ziriaux:

Please be advised that an initiative petition, designated as **State Question 788, Initiative Petition 412**, was sufficiently filed with the Office of the Secretary of State on Monday, April 11, 2016. Proponents of record for said petition is as follows;

Oklahomans for Health
8751 N. 117th E Ave
Owasso, Oklahoma 74055

Please find enclosed a true and exact copy of State Question 788, Initiative Petition 412 on record with the Office of the Secretary of State.

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If I may be of any further assistance, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Chris Bengé". The signature is written in a cursive style with a large initial "C".

Chris Bengé
Secretary of State and
Native American Affairs

SQ 788, IP 412

Bids & Proposals 710

Bids & Proposals 710

ELECTRIC UTILITY DEBRIS REMOVAL

Oklahoma Electric Cooperative (OEC) in Norman, OK, is a distribution electric utility serving members in central Oklahoma. OEC is seeking bids for debris and material removal and disposal for 2016. In the event of substantial storm damage to the utility, the winning bid would be required to begin removing debris in one week's notice. Debris would consist of wooden poles, material, wire and trash. Please contact Marty Hayes, manager of maintenance, at 405-217-6642 or mhayes@okcoop.org for information on specific requirements and contract forms. Bids are due April 19 at 10 a.m.; Bids will be opened on April 21 at 10 a.m.



STORM RESTORATION

Oklahoma Electric Cooperative (OEC) in Norman, OK, is a distribution electric utility serving members in central Oklahoma. OEC is seeking bids from power line construction contractors for storm restoration in 2016. In the event of substantial storm damage to the utility, the winning bid would be notified to assemble crews and report of OEC's office on short notice. Please contact Randy Simmons, vice president of operations, at 405-217-6670 or rsimmons@okcoop.org for more information on specific requirements and contract forms. Bids are due April 19 at 10 a.m.; Bids will be opened on April 21 at 10 a.m.



Legal Notices 717

Legal Notices 717

PUBLIC NOTICE FEMA-4256-DR-OK

The Federal Emergency Management Agency (FEMA) hereby gives notice to the public of its intent to reimburse eligible applicants for eligible costs to repair and/or replace facilities damaged by Severe Winter Storms and Flooding, occurring during the period December 26, 2015 thru January 5, 2016. This notice applies to the Public Assistance (PA) and Hazard Mitigation Grant (HMGP) programs implemented under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. §§ 5121-5206.

Under a major disaster declaration (FEMA-4256-DR-OK) signed by the President on February 10, 2016, the following Counties have been designated eligible for PA: Adair, Alfalfa, Beckham, Blaine, Caddo, Canadian, Cherokee, Coal, Comanche, Cotton, Craig, Custer, Delaware, Dewey, Grady, Grant, Greer, Harmon, Haskell, Hughes, Jackson, Kay, Kingfisher, Kiowa, Latimer, Major, Mayes, McCurtain, McIntosh, Muskogee, Noble, Okfuskee, Okmulgee, Osage, Pittsburg, Pushmataha, Roger Mills, Sequoyah, Tillman, Washita, and Woods counties. All Counties in the State of Oklahoma are eligible for HMGP.

This public notice concerns activities that may affect historic properties, activities that are located in or affect wetland areas or the 100-year floodplain, and critical actions within the 500-year floodplain. Such activities may adversely affect the historic property, floodplain or wetland, or may result in continuing vulnerability to flood damage.

Presidential Executive Orders 11988 and 11990 require that all federal actions in or affecting the floodplain or wetlands be reviewed for opportunities to relocate, and evaluated for social, economic, historical, environmental, legal and safety considerations. Where there is no opportunity to relocate, FEMA is required to undertake a detailed review to determine what measures can be taken to minimize future damages. The public is invited to participate in the process of identifying alternatives and analyzing their impacts.

FEMA has determined that for certain types of facilities there are normally no alternatives to restoration in the floodplain/wetland. These are facilities that meet all of the following criteria: 1) FEMA's estimate of the cost of repairs is less than 50% of the cost to replace the entire facility, and is less than \$100,000; 2) the facility is not located in a floodway; 3) the facility has not sustained major structural damage in a previous Presidentially declared flooding disaster or emergency; and 4) the facility is not critical (e.g., the facility is not a hospital, generating plant, emergency operations center, or a facility that contains dangerous materials). FEMA intends to provide assistance for the restoration of these facilities to their pre-disaster condition, except that certain measures to mitigate the effects of future flooding or other hazards may be included in the work. For example, a bridge or culvert restoration may include a larger waterway opening to decrease the risk of future washouts.

For routine activities, this will be the only public notice provided. Other activities and those involving facilities that do not meet the four criteria are required to undergo more detailed review, including study of alternate locations. Subsequent public notices regarding such projects will be published if necessary, as more specific information becomes available.

In many cases, an applicant may have started facility restoration before federal involvement. Even if the facility must undergo detailed review and analysis of alternate locations, FEMA will...

Legal Notices 717

Legal Notices 717

PUBLIC NOTICE FEMA-4247-DR-OK

The Federal Emergency Management Agency (FEMA) hereby gives notice to the public of its intent to reimburse eligible applicants for eligible costs to repair and/or replace facilities damaged by Severe Winter Storms and Flooding, occurring during the period November 27, 2015-November 29, 2015. This notice applies to the Public Assistance (PA) and Hazard Mitigation Grant (HMGP) programs implemented under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. §§ 5121-5206.

Under a major disaster declaration (FEMA-4247-DR-OK) signed by the President on December 29, 2015, as modified by Amendment 1, the following Counties have been designated eligible for PA: Alfalfa, Beckham, Blaine, Bryan, Caddo, Canadian, Custer, Dewey, Ellis, Garfield, Grady, Grant, Greer, Kingfisher, Kiowa, Logan, Major, Oklahoma, Roger Mills, Washita and Woods. All Counties in the State of Oklahoma are eligible for HMGP.

This public notice concerns activities that may affect historic properties, activities that are located in or affect wetland areas or the 100-year floodplain, and critical actions within the 500-year floodplain. Such activities may adversely affect the historic property, floodplain or wetland, or may result in continuing vulnerability to flood damage.

Presidential Executive Orders 11988 and 11990 require that all federal actions in or affecting the floodplain or wetlands be reviewed for opportunities to relocate, and evaluated for social, economic, historical, environmental, legal and safety considerations. Where there is no opportunity to relocate, FEMA is required to undertake a detailed review to determine what measures can be taken to minimize future damages. The public is invited to participate in the process of identifying alternatives and analyzing their impacts.

FEMA has determined that for certain types of facilities there are normally no alternatives to restoration in the floodplain/wetland. These are facilities that meet all of the following criteria: 1) FEMA's estimate of the cost of repairs is less than 50% of the cost to replace the entire facility, and is less than \$100,000; 2) the facility is not located in a floodway; 3) the facility has not sustained major structural damage in a previous Presidentially declared flooding disaster or emergency; and 4) the facility is not critical (e.g., the facility is not a hospital, generating plant, emergency operations center, or a facility that contains dangerous materials). FEMA intends to provide assistance for the restoration of these facilities to their pre-disaster condition, except that certain measures to mitigate the effects of future flooding or other hazards may be included in the work. For example, a bridge or culvert restoration may include a larger waterway opening to decrease the risk of future washouts.

For routine activities, this will be the only public notice provided. Other activities and those involving facilities that do not meet the four criteria are required to undergo more detailed review, including study of alternate locations. Subsequent public notices regarding such projects will be published if necessary, as more specific information becomes available.

In many cases, an applicant may have started facility restoration before federal involvement. Even if the facility must undergo detailed review and analysis of alternate locations, FEMA will...

Dogs 573



Shih-tzu, AKC, 6 wks. Home Raised Bk/W; s/w/dc. \$375 M; \$425 F 405 331 0844; 405 328 1298

Horses, Equipment & Supplies 575

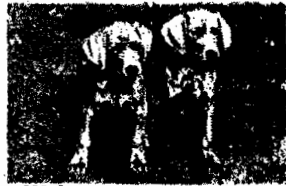
DONATE YOUR HORSE TO CALVARY BOYS RANCH Tax deduct. given 918-689-9403

Pets 577



Siberian Husky 3/4, American Timber Wolf 1/4, 6F, 5wks, blue eyes, Light Blue/White coat, etc.

Call/txt after 4pm 580-530-0922



Weimaraner, AKC 4F, 4M,
silver, 4 weeks on 4/7, both parents on premises, \$700 ea, taking deposits (\$350), 580-467-5104.

WEIMARANER AKC PUPS
3m fm 11wks s/w POP
\$450 Cash + 405-368-6533

Yorkie, Adorable Babies, ACA
s/w/ \$700 570-5274 570-9134

Yorkie Poo, adorable ITTY BITTY
\$495-\$550 VISA/MC 826-4557

YORKIES, ACA REGISTERED,
M/F, s/w/dc, pics available,
\$300-\$450, 580-224-1642.



350 Fine Pets At FREE TO LIVE
4mi N of Waterloo on Western
ALL Dogs & Cats \$80 Shts/Neut
282-8617 ★★ freetoliveok.org

Horses, Equipment,
& Supplies 575



APHA world champion full sister
3y/o filly, green broke, Palomino
Overo, \$2000, 405-481-5558.

Jones Livestock Auction
Thursday Tack 6pm
Goats, Cattle &
Horses Following
15 miles East of OK
126 E Main Jones, OK 73049
(405)399-2999

Catalog Horse Sale May 14th
Stillwater, OK.
Catalog deadline May 5th.
Horses & buyers from all over.
For info call 580-227-0459.
www.heartofcowboycountry.com

Mini Potbelly Piglets, 8 weeks,
vet checked, boys \$200,
girls \$300, 405-481-5558.

Hedgehogs, 4 month F's, \$250;
Bearded Dragons, proven breeding pair,
\$250; 405-481-5558.

TAKE NOTE

Scan to find even more classifieds.

Business Oppty 712 5

28YR OLD RESTAURANT NW ok
for sale. Retiring! 405-402-0441

Financial 714 5

I'm in need of a loan secured by
1st mortgage on real estate,
405-414-7450.

Lost 720

Siberian Husky on Apr 12,
157th & Rockwell area. Lg white
& gray neutered M w/red collar.
has KS Chip, family pet, very
missed \$100 Reward if found call
405-603-6071; 651-0247 lv msg

Personal Messages 722

Thank you Our Lady of Lourdes,
St. Jude, St. Anthony, All Saints,
Michael the Archangel & all angels,
for your assistance of answering my novenas as promised.

HOMESOK.COM

restoration at the original location if the facility is functionally dependent on its floodplain location (e.g., bridges and flood control facilities), or the project facilitates an open space use, or the facility is an integral part of a larger network that is impractical or uneconomical to relocate, such as a road. In such cases, FEMA must also examine the possible effects of not restoring the facility, minimize floodplain/wetland impacts, and determine both that an overriding public need for the facility clearly outweighs the Executive Order requirements to avoid the floodplain/wetland, and that the site is the only practicable alternative. State of Oklahoma and local officials will confirm to FEMA that proposed actions comply with all applicable State and local floodplain management and wetland protection requirements.

FEMA also intends to provide HMGP funding to the State of Oklahoma to mitigate future disaster damages. These projects may include construction of new facilities, modification of existing, undamaged facilities, relocation of facilities out of floodplains, demolition of structures, or other types of projects to mitigate future disaster damages. In the course of developing project proposals, subsequent public notices will be published if necessary, as more specific information becomes available.

The National Historic Preservation Act requires federal agencies to take into account the effects of their undertakings on historic properties. Those actions or activities affecting buildings, structures, districts or objects 50 years or older or that affect archeological sites or undisturbed ground will require further review to determine if the property is eligible for listing in the National Register of Historic Places (Register). If the property is determined to be eligible for the Register, and FEMA's undertaking will adversely affect it, FEMA will provide additional public notices. For historic properties not adversely affected by FEMA's undertaking, this will be the only public notice.

As noted, this may be the only public notice regarding the above-described actions under the PA and HMGP programs. Interested persons may obtain information about these actions or a specific project by writing to Kevin Jaynes, Regional Environmental Officer, Federal Emergency Management Agency, Region VI, 800 North Loop 288, Denton, TX 76209. Comments should be sent in writing within 15 days of the date of this notice.

NOTICE OF THE FILING OF STATE QUESTION 787, INITIATIVE PETITION 411, THE APPARENT SUFFICIENCY THEREOF, AND NOTICE TO CITIZENS OF THE STATE THAT ANY SUCH PROTEST, AS TO THE CONSTITUTIONALITY OF SAID PETITION, MUST BE FILED ACCORDINGLY WITHIN TEN (10) BUSINESS DAYS AFTER THIS NOTICE (Okla. Stat. tit. 34, § 8)

NOTICE is hereby given that on April 11, 2016, State Question 787, Initiative Petition 411 was filed in the Office of the Oklahoma Secretary of State.

NOTICE is also hereby given that State Question 787, Initiative Petition 411 is SUFFICIENT for filing with the Office of the Oklahoma Secretary of State.

NOTICE is likewise, hereby given, as provided in Title 34 Section 8 of the Oklahoma Statutes, that any citizen or citizens of the state may file a protest as to the constitutionality of said petition, by a written notice to the Supreme Court and to the proponents or proponents filing the petition. Any such protest must be filed within ten (10) business days after publication of this notice. Also, a copy of any such protest shall be filed with the Office of the Oklahoma Secretary of State.

Proponent of record for State Question 787, Initiative Petition 411:

Frank Grove
8751 N. 117th E Ave
Owasso, Oklahoma 74055

Chris Bengé
Oklahoma Secretary of State and
Native American Affairs

or the project facilitates an open space use, or the facility is an integral part of a larger network that is impractical or uneconomical to relocate, such as a road. In such cases, FEMA must also examine the possible effects of not restoring the facility, minimize floodplain/wetland impacts, and determine both that an overriding public need for the facility clearly outweighs the Executive Order requirements to avoid the floodplain/wetland, and that the site is the only practicable alternative. State of Oklahoma and local officials will confirm to FEMA that proposed actions comply with all applicable State and local floodplain management and wetland protection requirements.

FEMA also intends to provide HMGP funding to the State of Oklahoma to mitigate future disaster damages. These projects may include construction of new facilities, modification of existing, undamaged facilities, relocation of facilities out of floodplains, demolition of structures, or other types of projects to mitigate future disaster damages. In the course of developing project proposals, subsequent public notices will be published if necessary, as more specific information becomes available.

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NOTICE OF THE FILING OF STATE QUESTION 788, INITIATIVE PETITION 412, THE APPARENT SUFFICIENCY THEREOF, AND NOTICE TO CITIZENS OF THE STATE THAT ANY SUCH PROTEST, AS TO THE CONSTITUTIONALITY OF SAID PETITION, MUST BE FILED ACCORDINGLY WITHIN TEN (10) BUSINESS DAYS AFTER THIS NOTICE (Okla. Stat. tit. 34, § 8)

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Proponent of record for State Question 788, Initiative Petition 412:

Oklahomans for Health
8751 N. 117th E Ave
Owasso, Oklahoma 74055

Chris Bengé
Oklahoma Secretary of State and
Native American Affairs

Oklahoma Press Service

3601 North Lincoln Blvd.

Oklahoma City, OK 73105-

Voice (405) 499-0020 Fax (405) 499-0048

Thursday, April 21, 2016 02:22 PM

Page 1

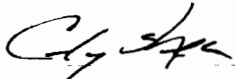
Proof of Publication Order Number 16-04-43

I, Cindy Shea, of lawful age, being duly sworn upon oath, deposes and says: That I am the Authorized Agent of OK-TULSA WORLD - Legal, a Daily newspaper printed and published in the city of TULSA, county of Tulsa, and state of Oklahoma, and that the advertisement referred to, a true and printed copy of which is here unto attached, was published in said OK-TULSA WORLD - Legal in consecutive issues on the following dates-to-wit:

Insertion: 04/17/2016

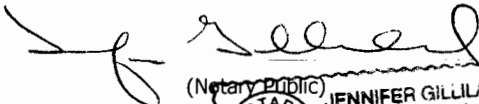
That said newspaper has been published continuously and uninterruptedly in said county during a period of one-hundred and four consecutive weeks prior to the publication of the attached notice or advertisement; that it has been admitted to the United States mail as second-class mail matter; that it has a general paid circulation, and publishes news of general interest, and otherwise conforms with all of the statutes of the Oklahoma governing legal publications.

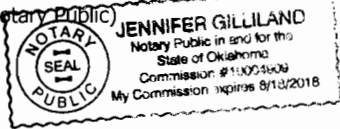
PUBLICATION FEE \$48.95



(Editor, Publisher or Authorized Agent)

SUBSCRIBED and sworn to me this
21 day of April 2016.



(Notary Public)
 JENNIFER GILLILAND
Notary Public in and for the
State of Oklahoma
Commission #11003606
My Commission expires 8/13/2018

NOTICE OF THE FILING OF STATE QUESTION 788, INITIATIVE PETITION 412, THE APPARENT SUFFICIENCY THEREOF, AND NOTICE TO CITIZENS OF THE STATE THAT ANY SUCH PROTEST, AS TO THE CONSTITUTIONALITY OF SAID PETITION, MUST BE FILED ACCORDINGLY WITHIN TEN (10) BUSINESS DAYS AFTER THIS NOTICE (Okla. Stat. tit. 34, § 8)

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Proponent of record for State Question 788, Initiative Petition 412:

Oklahomans for Health
8751 N. 117th E Ave
Owasso, Oklahoma 74055

Chris Bengé
Oklahoma Secretary of State and Native American Affairs

Oklahoma Press Service

3601 North Lincoln Blvd.

Oklahoma City, OK 73105-

Voice (405) 499-0020 Fax (405) 499-0048

Thursday, April 21, 2016 02:22 PM

Page 1

Proof of Publication Order Number 16-04-43

I, Cindy Shea, of lawful age, being duly sworn upon oath, deposes and says: That I am the Authorized Agent of OK-THE OKLAHOMAN, a Daily newspaper printed and published in the city of OKLAHOMA CITY, county of Oklahoma, and state of Oklahoma, and that the advertisement referred to, a true and printed copy of which is here unto attached, was published in said OK-THE OKLAHOMAN in consecutive issues on the following dates-to-wit:

Insertion: 04/17/2016

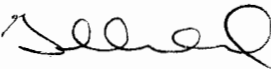
That said newspaper has been published continuously and uninterrupted in said county during a period of one-hundred and four consecutive weeks prior to the publication of the attached notice or advertisement; that it has been admitted to the United States mail as second-class mail matter; that it has a general paid circulation, and publishes news of general interest, and otherwise conforms with all of the statutes of the Oklahoma governing legal publications.

PUBLICATION FEE \$931.84

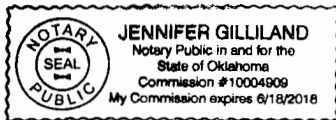


(Editor, Publisher or Authorized Agent)

SUBSCRIBED and sworn to me this
21 day of April 2016.



(Notary Public)



NOTICE OF THE FILING OF STATE QUESTION 788, INITIATIVE PETITION 412, THE APPARENT SUFFICIENCY THEREOF, AND NOTICE TO CITIZENS OF THE STATE THAT ANY SUCH PROTEST, AS TO THE CONSTITUTIONALITY OF SAID PETITION, MUST BE FILED ACCORDINGLY WITHIN TEN (10) BUSINESS DAYS AFTER THIS NOTICE (Okla. Stat. tit. 34, § 8)

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Proponent of record for State Question 788, Initiative Petition 412:

Oklahomans for Health
8751 N. 117th E Ave
Owasso, Oklahoma 74055

Chris Bengé
Oklahoma Secretary of State and Native American Affairs

Oklahoma Press Service

3601 North Lincoln Blvd.

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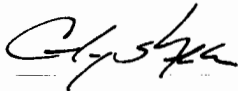
Proof of Publication Order Number 16-04-43

I, Cindy Shea, of lawful age, being duly sworn upon oath, deposes and says: That I am the Authorized Agent of OK-JOURNAL RECORD, a Daily newspaper printed and published in the city of OKLAHOMA CITY, county of Oklahoma, and state of Oklahoma, and that the advertisement referred to, a true and printed copy of which is here unto attached, was published in said OK-JOURNAL RECORD in consecutive issues on the following dates-to-wit:

Insertion: 04/18/2016

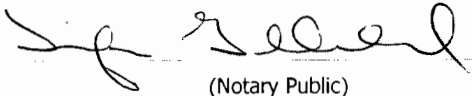
That said newspaper has been published continuously and uninterruptedly in said county during a period of one-hundred and four consecutive weeks prior to the publication of the attached notice or advertisement; that it has been admitted to the United States mail as second-class mail matter; that it has a general paid circulation, and publishes news of general interest, and otherwise conforms with all of the statutes of the Oklahoma governing legal publications.

PUBLICATION FEE \$36.85

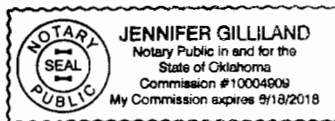


(Editor, Publisher or Authorized Agent)

SUBSCRIBED and sworn to me this
21 day of April 2016.



(Notary Public)



NOTICE OF THE FILING OF STATE QUESTION 788, INITIATIVE PETITION 412, THE APPARENT SUFFICIENCY THEREOF, AND NOTICE TO CITIZENS OF THE STATE THAT ANY SUCH PROTEST, AS TO THE CONSTITUTIONALITY OF SAID PETITION, MUST BE FILED ACCORDINGLY WITHIN TEN (10) BUSINESS DAYS AFTER THIS NOTICE (Okla. Stat. tit. 34, § 8)

NOTICE is hereby given that on April 11, 2016, State Question 788, Initiative Petition 412 was filed in the Office of the Oklahoma Secretary of State.

NOTICE is also hereby given that State Question 788, Initiative Petition 412 is SUFFICIENT for filing with the Office of the Oklahoma Secretary of State.

NOTICE is likewise, hereby given, as provided in Title 34 Section 8 of the Oklahoma Statutes, that any citizen or citizens of the state may file a protest as to the constitutionality of said petition, by a written notice to the Supreme Court and to the proponents or proponents filing the petition. Any such protest must be filed within ten (10) business days after publication of this notice. Also, a copy of any such protest shall be filed with the Office of the Oklahoma Secretary of State.

Proponent of record for State Question 788, Initiative Petition 412:

Oklahomans for Health
8751 N. 117th E Ave
Owasso, Oklahoma 74055

Chris Bengé
Oklahoma Secretary of State and Native American Affairs



Chris Benge
Secretary of State
and
Native American Affairs

Mary Fallin
Governor

SECRETARY OF STATE
AND
NATIVE AMERICAN AFFAIRS

May 6, 2016

Oklahomans for Health
8751 N 117th E Ave
Owasso, Oklahoma 74055

Dear Proponent(s):

Per Title 34, Section 8 of the Oklahoma Statutes, no appeals or protests for rehearing have been filed and the period for such has expired, therefore notice is hereby given that the signature gathering period for **State Question Number 788, Initiative Petition Number 412** is set to begin on May 14, 2016 and all signatures are due within ninety (90) days of the date set. Signatures will not be accepted for filing after 5:00 p.m. on August 11, 2016. The current signature requirement for amendments to the Oklahoma Statutes is 65,987.

Please find enclosed two true and accurate copies of said petition on record with the Secretary of State office and a copy of the current signature requirements for statewide petitions as certified by the Secretary of the Oklahoma State Election Board.

If we may provide any further assistance or should you have any questions, please do not hesitate to contact our office (405-522-4565 or executivelegislative@sos.ok.gov).

Sincerely,

Chris Benge
Secretary of State and
Native American Affairs

WARNING

It is a felony for anyone to sign an initiative or referendum petition with any name other than his own, or knowingly to sign his name more than once for the measure, or to sign such petition when he is not a legal voter.

INITIATIVE PETITION

To the Honorable Mary Fallin, Governor of Oklahoma:

We, the undersigned legal voters of the State of Oklahoma, respectfully order that the following proposed law shall be submitted to the legal voters of the State of Oklahoma for their approval or rejection at the regular general election, to be held on the 8th day of November, 2016 (or at a special election as may be called by the Governor), and each for himself says: I have personally signed this petition; I am a legal voter of the State of Oklahoma; my residence or post office are correctly written after my name. The time for filing this petition expires ninety (90) days from May 14, 2016. The question we herewith submit to our fellow voters is:

Shall the following bill be approved?

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 420 of Title 63, unless there is created a duplication in numbering, reads as follows:

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

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

B. Possession of up to one and one-half (1.5) ounces of marijuana by persons who can state a medical condition, but not in possession of a state issued medical marijuana license, shall constitute a misdemeanor offense with a fine not to exceed Four Hundred Dollars (\$400.00).

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

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

E. A temporary license application will also be available on the Oklahoma Department of Health website. A temporary medical marijuana license will be granted to any medical marijuana license holder from other states, provided that the state has a state regulated medical marijuana program, and the applicant can prove they are a member of such. Temporary licenses will be issued for thirty (30) days. The cost for a temporary license shall be One Hundred Dollars (\$100.00). Renewal will be granted with resubmission of a new application. No additional criteria will be required.

F. Medical marijuana license applicants will submit their application to the Oklahoma State Department of Health for approval and that the applicant must be an Oklahoma state resident and shall prove residency by a valid driver's license, utility bills, or other accepted methods.

G. The Oklahoma State Department of Health shall review the medical marijuana application, approve/reject the application, and mail the applicant's approval or rejection letter (stating reasons for rejection) to the applicant within fourteen (14) days of receipt of the application. Approved applicants will be issued a medical marijuana license which will act as proof of their approved status. Applications may only be rejected based on applicant not meeting stated criteria or improper completion of the application.

H. The Oklahoma State Department of Health will only keep the following records for each approved medical license:

1. a digital photograph of the license holder;
2. the expiration date of the license;
3. the county where the card was issued; and
4. a unique 24 character identification number assigned to the license.

I. The Department of Health will make available, both on its website, and through a telephone verification system, an easy method to validate a medical license holders authenticity by the unique 24 character identifier.

J. The State Department of Health will ensure that all application records and information are sealed to protect the privacy of medical license applicants.

K. A caregiver license will be made available for qualified caregivers of a medical marijuana license holder who is homebound. The caregiver license will give the caregiver the same rights as the medical license holder. Applicants for a caregiver license will submit proof of the medical marijuana license holder's license status and homebound status, that they are the designee of the medical marijuana license holder, must submit proof that the caregiver is age eighteen (18) or older, and must submit proof the caregiver is an Oklahoma resident. This will be the only criteria for a caregiver license.

L. All applicants must be eighteen (18) years or older. A special exception will be granted to an applicant under the age of eighteen (18), however these applications must be signed by two (2) physicians and the applicant's parent or legal guardian.

M. All applications for a medical license must be signed by an Oklahoma Board certified physician. There are no qualifying conditions. A medical marijuana license must be recommended according to the accepted standards a reasonable and prudent physician would follow when recommending or approving any medication. No physician may be unduly stigmatized or harassed for signing a medical marijuana license application.

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

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 421 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. The Oklahoma State Department of Health shall within thirty (30) days of passage of this initiative, make available, on their website, in an easy to find location, an application for a medical marijuana dispensary license. The application fee shall be Two Thousand Five Hundred Dollars (\$2,500.00) and a method of payment will be provided on the website. Retail applicants must all be Oklahoma state residents. Any entity applying for a retail license must be owned by an Oklahoma state resident and must be registered to do business in Oklahoma. The Oklahoma State Department of Health shall have two (2) weeks to review the application, approve or reject the application, and mail the approval/rejection letter (if rejected, stating reasons for rejection) to the applicant.

B. The Oklahoma State Department of Health must approve all applications which meet the following criteria:

1. Applicant must be age twenty-five (25) or older;
2. Any applicant, applying as an individual, must show residency in the state of Oklahoma;
3. All applying entities must show that all members, managers, and board members are Oklahoma residents;
4. An applying entity may show ownership of non-Oklahoma residents, but that percentage ownership may not exceed twenty-five percent (25%);
5. All applying individuals or entities must be registered to conduct business in the state of Oklahoma;
6. All applicants must disclose all ownership;
7. Applicant(s) with only nonviolent felony conviction(s) in the last two (2) years, any other felony conviction in 5 (years), inmates, or any person currently incarcerated may not qualify for a medical marijuana dispensary license.

C. Retailers will be required to complete a monthly sales report to the Oklahoma Department of Health. This report will be due on the 15th of each month and provide reporting on the previous month. This report will detail the weight of marijuana purchased at wholesale and the weight of marijuana sold to card holders, and account for any waste. The report will show total sales in dollars, tax collected in dollars, and tax due in dollars. The Oklahoma State Department of Health will have oversight and auditing responsibilities to ensure that all marijuana being grown is accounted for. A retailer will only be subject to a penalty if a gross discrepancy exists and cannot be explained. Penalties for fraudulent reporting occurring within any 2 year time period will be an initial fine of Five Thousand Dollars (\$5,000.00) (first) and revocation of licensing (second).

D. Only a licensed medical marijuana retailer may conduct retail sales of marijuana, or marijuana derivatives in the form provided by licensed processors, and these products can only be sold to a medical marijuana license holder or their caregiver. Penalties for fraudulent sales occurring within any 2 year time period will be an initial fine of Five Thousand Dollars (\$5,000.00) (first) and revocation of licensing (second).

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 422 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. The Oklahoma State Department of Health will within thirty (30) days of passage of this initiative, make available, on their website, in an easy to find location, an application for a commercial grower license. The application fee will be Two Thousand Five Hundred Dollars (\$2,500.00) and methods of payment will be provided on the website. The Oklahoma State Department of Health has two (2) weeks to review application, approve or reject the application, and mail the approval/rejection letter (if rejected, stating reasons for rejection) to the applicant.

B. The Oklahoma State Department of Health must approve all applications which meet the following criteria:

1. Applicant must be age twenty-five (25) or older;
2. Any applicant, applying as an individual, must show residency in the state of Oklahoma;
3. All applying entities must show that all members, managers, and board members are Oklahoma residents;
4. An applying entity may show ownership of non-Oklahoma residents, but that percentage ownership may not exceed twenty-five percent (25%);
5. All applying individuals or entities must be registered to conduct business in the state of Oklahoma;
6. All applicants must disclose all ownership;
7. Applicant(s) with only nonviolent felony conviction(s) in the last two (2) years, any other felony conviction in 5 (years), inmates, or any person currently incarcerated may not qualify for a commercial grower license.

C. A licensed commercial grower may sell marijuana to a licensed retailer, or a licensed packager. Further, these sales will be considered wholesale sales and not subject to taxation. Under no circumstances may a licensed commercial grower sell marijuana directly to a medical marijuana license holder. A licensed commercial grower may only sell at the wholesale level to a licensed retailer or a licensed processor. If the federal government lifts restrictions on buying and selling marijuana between states, then a licensed commercial grower would be allowed to sell and buy marijuana wholesale from, or to, an out of state wholesale provider. A licensed commercial grower will be required to complete a monthly yield and sales report to the Oklahoma Department of Health. This report will be due on the 15th of each month and provide reporting on the previous month. This report will detail amount of marijuana harvested in pounds, the amount of drying or dried marijuana on hand, the amount of marijuana sold to processors in pounds, the amount of waste in pounds, and the amount of marijuana sold to retailers in lbs. Additionally, this report will show total wholesale sales in dollars. The Oklahoma State Department of Health will have oversight and auditing responsibilities to ensure that all marijuana being grown is accounted for. A licensed grower will only be subject to a penalty if a gross discrepancy exists and cannot be explained. Penalties for fraudulent reporting or sales occurring within any 2 year time period will be an initial fine of Five Thousand Dollars (\$5,000.00) (first) and revocation of licensing (second).

D. There shall be no limits on how much marijuana a licensed grower can grow.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 423 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. The Oklahoma State Department of Health shall within thirty (30) days of passage of this initiative, make available, on their website, in an easy to find location, an application for a medical marijuana processing license. The application fee shall be Two Thousand Five Hundred Dollars (\$2,500.00) and methods of payment will be provided on the website. The Oklahoma State Department of Health shall have two (2) weeks to review the application, approve or reject the application, and mail the approval/rejection letter (if rejected, stating reasons for rejection) to the applicant.

B. The Oklahoma State Department of Health must approve all applications which meet the following criteria:

1. Applicant must be age twenty-five (25) or older;
2. Any applicant, applying as an individual, must show residency in the state of Oklahoma;
3. All applying entities must show that all members, managers, and board members are Oklahoma residents;
4. An applying entity may show ownership of non-Oklahoma residents, but that percentage ownership may not exceed twenty-five percent (25%);
5. All applying individuals or entities must be registered to conduct business in the state of Oklahoma;
6. All applicants must disclose all ownership;
7. Applicant(s) with only nonviolent felony conviction(s) in the last two (2) years, any other felony conviction in 5 (years), inmates, or any person currently incarcerated may not qualify for a medical marijuana processing license.

C. A licensed processor may take marijuana plants and distill or process these plants into concentrates, edibles, and other forms for consumption. As required by subsection D of this section, the Oklahoma State Department of Health will, within sixty (60) days of passage of this initiative, make

available a set of standards which will be used by licensed processors in the preparation of edible marijuana products. This should be in line with current food preparation guidelines and no excessive or punitive rules may be established by the Oklahoma State Department of Health. Once a year, the Oklahoma State Department of Health may inspect a processing operation and determine its compliance with the preparation standards. If deficiencies are found, a written report of deficiency will be issued to the processor. The processor will have one (1) month to correct the deficiency or be subject to a fine of Five Hundred Dollars (\$500.00) for each deficiency. A licensed processor may sell marijuana products it creates to a licensed retailer, or any other licensed processor. Further, these sales will be considered wholesale sales and not subject to taxation. Under no circumstances may a licensed processor sell marijuana, or any marijuana product, directly to a medical marijuana license holder. However, a licensed processor may process cannabis into a concentrated form, for a medical license holder, for a fee. Processors will be required to complete a monthly yield and sales report to the Oklahoma State Department of Health. This report will be due on the 15th of each month and provide reporting on the previous month. This report will detail amount of marijuana purchased in pounds, the amount of marijuana cooked or processed in pounds, and the amount of waste in pounds. Additionally, this report will show total wholesale sales in dollars. The Oklahoma State Department of Health will have oversight and auditing responsibilities to ensure that all marijuana being grown is accounted for. A licensed processor will only be subject to a penalty if a gross discrepancy exists and cannot be explained. Penalties for fraudulent reporting occurring within any 2 year time period will be an initial fine of Five Thousand Dollars (\$5,000.00) (first) and revocation of licensing (second).

D. The inspection and compliance of processors producing products with marijuana as an additive. The Oklahoma State Department of Health will be compelled to, within thirty (30) days of passage of this initiative, appoint a board of twelve (12) Oklahoma residents, who are marijuana industry experts, to create a list of food safety standards for processing and handling medical marijuana in Oklahoma. These standards will be adopted by the agency and the agency can enforce these standards for processors. The agency will develop a standards review procedure and these standards can be altered by calling another board of twelve (12) Oklahoma marijuana industry experts. A signed letter of twenty (20) operating processors would constitute a need for a new board and standard review.

E. If it becomes permissible, under federal law, marijuana may be moved across state lines.

F. Any device used for the consumption of medical marijuana shall be considered legal to be sold, manufactured, distributed, and possessed. No merchant, wholesaler, manufacturer, or individual may unduly be harassed or prosecuted for selling, manufacturing, or possession of medical marijuana paraphernalia.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 424 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. A marijuana transportation license will be issued to qualifying applicants for a marijuana retail, growing, or processing license. The transportation license will be issued at the time of approval of a retail, growing, or processing license.

B. A transportation license will allow the holder to transport marijuana from an Oklahoma licensed medical marijuana retailer, licensed growing facility, or licensed processor facility to an Oklahoma licensed medical marijuana retailer, licensed growing facility, or licensed processing facility.

C. All marijuana or marijuana products shall be transported in a locked container and clearly labeled "Medical Marijuana or Derivative".

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 425 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. No school or landlord may refuse to enroll or lease to and may not otherwise penalize a person solely for his status as a medical marijuana license holder, unless failing to do so would imminently cause the school or landlord to lose a monetary or licensing related benefit under federal law or regulations.

B. Unless a failure to do so would cause an employer to imminently lose a monetary or licensing related benefit under federal law or regulations, an employer may not discriminate against a person in hiring, termination or imposing any term or condition of employment or otherwise penalize a person based upon either:

1. The person's status as a medical marijuana license holder; or
2. Employers may take action against a holder of a medical marijuana license holder if the holder uses or possesses marijuana while in the holder's place of employment or during the hours of employment. Employers may not take action against the holder of a medical marijuana license solely based upon the status of an employee as a medical marijuana license holder or the results of a drug test showing positive for marijuana or its components.

C. For the purposes of medical care, including organ transplants, a medical marijuana license holder's authorized use of marijuana must be considered the equivalent of the use of any other medication under the direction of a physician and does not constitute the use of an illicit substance or otherwise disqualify a registered qualifying patient from medical care.

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

E. No person holding a medical marijuana license may unduly be withheld from holding a state issued license by virtue of their being a medical marijuana license holder. This would include such things as a concealed carry permit.

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

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

H. Research will be provided under this law. A researcher may apply to the Oklahoma Department of Health for a special research license. That license will be granted, provided the applicant meet the criteria listed under Section 421. B. Research license holders will be required to file monthly consumption reports to the Oklahoma Department of Health with amounts of marijuana used for research.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 426 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. The tax on retail medical marijuana sales will be established at seven percent (7%) of the gross amount received by the seller.

B. This tax will be collected at the point of sale. Tax proceeds will be applied primarily to finance the regulatory office.

C. If proceeds from the levy authorized by subsection A of this section exceed the budgeted amount for running the regulatory office, any surplus shall be apportioned with seventy-five percent (75%) going to the General Revenue Fund and may only be expended for common education. Twenty-five percent (25%) shall be apportioned to the Oklahoma State Department of Health and earmarked for drug and alcohol rehabilitation.

SECTION 8. The provisions hereof are severable, and if any part or provision hereof shall be void, invalid, or unconstitutional, the decision of the court so holding shall not affect or impair any of the remaining parts or provision hereof, and the remaining provisions hereof shall continue in full force and effect.

SECTION 9. This act shall become effective one (1) month immediately following its passage.

Name and Address of Proponents

Oklahomans for Health
8751 N 117th E Ave
Owasso, OK 74055

SIGNATURES

The gist of the proposition is as follows: This measure legalizes medical marijuana for residents with a recommendation from an Oklahoma Board Certified Physician. It also legalizes commercial medical marijuana dispensary, growing, and processing licenses regulated by the Department of Health. It protects card holders from discrimination and lowers penalties for unlicensed possession.

WARNING

It is a felony for anyone to sign an initiative or referendum petition with any name other than his own, or knowingly to sign his name more than once for the measure, or to sign such petition when he is not a legal voter.

1.						
Signature of Legal Voter	Print Name	Address	City	Zip	County	
2.						
Signature of Legal Voter	Print Name	Address	City	Zip	County	
3.						
Signature of Legal Voter	Print Name	Address	City	Zip	County	
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19.						
Signature of Legal Voter	Print Name	Address	City	Zip	County	
20.						
Signature of Legal Voter	Print Name	Address	City	Zip	County	

Signature Collectors – Please fill out information on reverse side and have notarized before filing



Chris Bengé
Secretary of State
and
Native American Affairs

Mary Fallin
Governor

OKLAHOMA SECRETARY OF STATE

August 12, 2016

FILED

AUG 12 2016

OKLAHOMA SECRETARY
OF STATE

SENT VIA EMAIL and REGULAR USPS MAIL

Oklahomans for Health
8751 N. 117th E. Ave.
Owasso, Oklahoma 74055

Dear Proponent(s):

This letter is to acknowledge receipt of 6 boxes containing signature pamphlets filed for **State Question Number 788, Initiative Petition Number 412**. Said boxes of petition pamphlets arrived August 11, 2016 at 4:46 p.m. As required by law, the petition boxes have been sealed. Said seals will not be broken until the signature counting process begins.

Also, per Title 34 O.S. §4, an individual from the petition drive must be present for the detaching of the signature pages and affidavits. Please refer to the enclosed Observer Details page for further instruction and information regarding such.

If we may provide any further assistance or should you have any questions, please do not hesitate to contact our office (405-522-4565 or executivelegislative@sos.ok.gov).

Sincerely,

A handwritten signature in cursive script that reads "Chris Bengé".

Chris Bengé
Secretary of State and
Native American Affairs



Chris Bengé
Secretary of State
and
Native American Affairs

Mary Fallin
Governor

OKLAHOMA SECRETARY OF STATE

August 12, 2016

TO: Proponents of record for SQ788, IP412

RE: OBSERVER DETAILS and INSTRUCTION SHEET

Signature Counting Room: **The Secretary of State office
Oklahoma State Capitol, Room 101**

Monitors of the count: **Amy Canton and Harrison Guy
405-522-4565 / executivelegislative@sos.ok.gov**

Pursuant to the provisions of Title 34 O.S. Section 4, an individual from the petition drive must be present during the detaching of the signature pages and affidavits.

As required by law, one copy of the proposed measure will be attached to each volume of signatures during the binding process. Per the request of the proponents, the detached sheets not attached to a volume will be set aside for proponent retrieval.

The counting process for SQ788 will begin **after** the completion of the physical count for SQ787. Once the count begins for SQ788, it will occur daily, Monday through Friday, 9:00 a.m. to 4:00 p.m., until the signature count is complete. There will be a one hour break for lunch from 12:00 p.m. to 1:00 p.m. daily. It is extremely important to remember that the observer must be present at all times during the detachment of the pamphlets.

The observer appointed by the proponents of SQ788, **shall not distract or communicate with the S.O.S. staff performing said count. Any questions or comments he/she might have must be directed to the monitor(s) of the count.**



Chris Bengé
Secretary of State
and
Native American Affairs

Mary Fallin
Governor

OKLAHOMA SECRETARY OF STATE

August 15, 2016

HAND DELIVERED

The Honorable E. Scott Pruitt
Attorney General
313 NE 21st Street
Oklahoma City, Oklahoma 73105

Dear Attorney General Pruitt:

Pursuant to 34 O.S., § 8(H), the proponents of State Question 788, Initiative Petition 412 have timely filed signed copies of said petition. Per 34 O.S. § 9(D), the proposed ballot title of SQ 788, IP 412 is hereby submitted to you for review as to legal correctness. The enclosed are true and exact copies of the documents on record with our office.

If additional information is needed from this office, or if we may be of further assistance, please do not hesitate to contact us.

Sincerely,

A handwritten signature in cursive script that reads "Chris Bengé".

Chris Bengé
Secretary of State and
Native American Affairs

Enclosures: SQ788, IP412 – Proposed Ballot Title
SQ788, IP412 – Petition Pamphlet

RECEIVED
RECEPTIONIST

AUG 15 2016

ATTORNEY GENERAL



OFFICE OF ATTORNEY GENERAL
STATE OF OKLAHOMA

FILED

AUG 18 2016

OKLAHOMA SECRETARY
OF STATE

August 18, 2016

Chris Benge, Secretary of State
Office of the Secretary of State
2300 N. Lincoln Blvd., Room 101
Oklahoma City, Oklahoma 73105-4897

RE: Ballot Title for State Question No. 788, Initiative Petition No. 412

Dear Secretary Benge:

In accordance with the provisions of 34 O.S.Supp.2015, § 9(D)(1), we have reviewed the Proposed Ballot Title for the above-referenced State Question and conclude that it does not comply with applicable laws for the following reasons.

It fails to adequately explain the effect of the proposition because, as among other things:

- it does not explain that marijuana will be a non-prescription drug nor accurately explain the role of the physician;
- it does not sufficiently address zoning restrictions insofar as it fails to specify that a municipality's power to restrict or change zoning laws is limited; and
- it does not explain that the measure would not affect constitutionally-enacted federal law to the contrary.

Having found that the Proposed Ballot Title does not comply with applicable laws, we will, in accordance with the provisions of 34 O.S.Supp.2015, § 9(D)(1), within ten business days, prepare a ballot title which complies with the law and furnish a copy to you.

Sincerely,

A handwritten signature in black ink, appearing to read "E. Scott Pruitt", with a long horizontal stroke extending to the right.

E. Scott Pruitt
Attorney General



Chris Bengé
Secretary of State
and
Native American Affairs

OKLAHOMA SECRETARY OF STATE

FILED
SUPREME COURT
STATE OF OKLAHOMA
AUG 25 2016
Governor
MICHAEL S. RICHIE
CLERK

#115287

August 25, 2016

HAND DELIVERED

Chief Justice John Reif
The Oklahoma Supreme Court
2100 N. Lincoln Blvd., Suite 1
Oklahoma City, Oklahoma 73105

**RE: Secretary of State's Certification to the Court of the Physical Signature Count for
State Question 788, Initiative Petition 412 (subject: Medical Marijuana)**

Dear Chief Justice Reif:

Pursuant to the provisions of Title 34 O.S., Sections 6.1 and 8, the Secretary of State certifies to the Supreme Court the following details:

- Six (6) boxes of signature pamphlets, for State Question 788, Initiative Petition 412, were received by our office on August 11, 2016.
- The Secretary of State began the physical count of signatures on August 18, 2016 at 1:00 p.m. Said count was concluded on August 23, 2016 at 4:00 p.m.
- Individual signature sheets are page numbered 1 through 3,895 and bound in a total of 20 volumes. Volumes 1 through 19 contain 200 signature sheets per volume and Volume 20 contains a total of 95 signature sheets.
- Several signatures on page 3,804 were not included in the count as they were duplicates of signatures which had first appeared and were counted on page 3,803.
- Page numbers 3,806 through 3,891 were not included in such physical count due to either improper/incomplete notarizations or incomplete circulator affidavits.
- The Secretary of State certifies the total number of signatures counted for State Question 788, Initiative Petition 412 is **67,801**.
- The Secretary of State affirms the State Election Board has certified that a total of 824,831 votes were cast for the office of Governor at the General Election in November 2014.

- The Secretary of State also certifies that proponents' proposed ballot title was submitted to the Attorney General's office August 15, 2016 for review as to legal correctness. The Attorney General's ballot title review was filed with the Secretary of State's office on August 18, 2016.

In support of the details so certified, please find attached the following documents:

- A. Copy of State Question 788, Initiative Petition 412
- B. Tabulation Sheets for SQ 788, IP 412
- C. Total votes cast as certified by the State Election Board--SOS Doc# 047220
- D. Attorney General's ballot title review, filed with S.O.S. 08-18-2016

Please be advised that this office is prepared to provide the Court with additional information or assistance as needed.

Sincerely,



Chris Bengé
Secretary of State and
Native American Affairs

CERTIFICATE OF MAILING

I hereby certify that a true and accurate copy of the foregoing was hand delivered, on August 25, 2016 to the following party;

The Honorable E. Scott Pruitt
Oklahoma Attorney General
313 NE 21st Street
Oklahoma City, Oklahoma 73105

I also hereby certify that a true and accurate copy of the foregoing was placed in USPS mail, regular first-class, on August 25, 2016, addressed to the proponent(s) of record for SQ788.

Proponent(s) of record for State Question 788

Oklahomans for Health
8751 N. 117th E Ave
Owasso, Oklahoma 74055



Chris Bengé
Oklahoma Secretary of State and
Native American Affairs

ATTACHMENT 'A'

WARNING

It is a felony for anyone to sign an initiative or referendum petition with any name other than his own, or knowingly to sign his name more than once for the measure, or to sign such petition when he is not a legal voter.

INITIATIVE PETITION

To the Honorable Mary Fallin, Governor of Oklahoma:

We, the undersigned legal voters of the State of Oklahoma, respectfully order that the following proposed law shall be submitted to the legal voters of the State of Oklahoma for their approval or rejection at the regular general election, to be held on the 8th day of November, 2016 (or at a special election as may be called by the Governor), and each for himself says: I have personally signed this petition; I am a legal voter of the State of Oklahoma; my residence or post office are correctly written after my name. The time for filing this petition expires ninety (90) days from May 14, 2016. The question we herewith submit to our fellow voters is:

Shall the following bill be approved?

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 420 of Title 63, unless there is created a duplication in numbering, reads as follows:

- A. A person in possession of a state issued medical marijuana license shall be able to:
1. Consume marijuana legally;
 2. Legally possess up to three (3) ounces of marijuana on their person;
 3. Legally possess six (6) mature marijuana plants;
 4. Legally possess six (6) seedling plants;
 5. Legally possess one (1) ounce of concentrated marijuana;
 6. Legally possess seventy-two (72) ounces of edible marijuana; and
 7. Legally possess up to eight (8) ounces of marijuana in their residence.
- B. Possession of up to one and one-half (1.5) ounces of marijuana by persons who can state a medical condition, but not in possession of a state issued medical marijuana license, shall constitute a misdemeanor offense with a fine not to exceed Four Hundred Dollars (\$400.00).
- C. A regulatory office shall be established under the Oklahoma State Department of Health which will receive applications for medical license recipients, dispensaries, growers, and packagers within sixty (60) days of the passage of this initiative.
- D. The Oklahoma State Department of Health shall within thirty (30) days of passage of this initiative, make available, on their website, in an easy to find location, an application for a medical marijuana license. The license will be good for two (2) years, and the application fee will be One Hundred Dollars (\$100.00), or Twenty Dollars (\$20.00) for individuals on Medicaid, Medicare, or SoonerCare. The methods of payment will be provided on the website.
- E. A temporary license application will also be available on the Oklahoma Department of Health website. A temporary medical marijuana license will be granted to any medical marijuana license holder from other states, provided that the state has a state regulated medical marijuana program, and the applicant can prove they are a member of such. Temporary licenses will be issued for thirty (30) days. The cost for a temporary license shall be One Hundred Dollars (\$100.00). Renewal will be granted with resubmission of a new application. No additional criteria will be required.
- F. Medical marijuana license applicants will submit their application to the Oklahoma State Department of Health for approval and that the applicant must be an Oklahoma state resident and shall prove residency by a valid driver's license, utility bills, or other accepted methods.
- G. The Oklahoma State Department of Health shall review the medical marijuana application, approve/reject the application, and mail the applicant's approval or rejection letter (stating reasons for rejection) to the applicant within fourteen (14) days of receipt of the application. Approved applicants will be issued a medical marijuana license which will act as proof of their approved status. Applications may only be rejected based on applicant not meeting stated criteria or improper completion of the application.
- H. The Oklahoma State Department of Health will only keep the following records for each approved medical license:

1. a digital photograph of the license holder;
2. the expiration date of the license;
3. the county where the card was issued; and
4. a unique 24 character identification number assigned to the license.

I. The Department of Health will make available, both on its website, and through a telephone verification system, an easy method to validate a medical license holders authenticity by the unique 24 character identifier.

J. The State Department of Health will ensure that all application records and information are sealed to protect the privacy of medical license applicants.

K. A caregiver license will be made available for qualified caregivers of a medical marijuana license holder who is homebound. The caregiver license will give the caregiver the same rights as the medical license holder. Applicants for a caregiver license will submit proof of the medical marijuana license holder's license status and homebound status, that they are the designee of the medical marijuana license holder, must submit proof that the caregiver is age eighteen (18) or older, and must submit proof the caregiver is an Oklahoma resident. This will be the only criteria for a caregiver license.

L. All applicants must be eighteen (18) years or older. A special exception will be granted to an applicant under the age of eighteen (18), however these applications must be signed by two (2) physicians and the applicant's parent or legal guardian.

M. All applications for a medical license must be signed by an Oklahoma Board certified physician. There are no qualifying conditions. A medical marijuana license must be recommended according to the accepted standards a reasonable and prudent physician would follow when recommending or approving any medication. No physician may be unduly stigmatized or harassed for signing a medical marijuana license application.

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

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 421 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. The Oklahoma State Department of Health shall within thirty (30) days of passage of this initiative, make available, on their website, in an easy to find location, an application for a medical marijuana dispensary license. The application fee shall be Two Thousand Five Hundred Dollars (\$2,500.00) and a method of payment will be provided on the website. Retail applicants must all be Oklahoma state residents. Any entity applying for a retail license must be owned by an Oklahoma state resident and must be registered to do business in Oklahoma. The Oklahoma State Department of Health shall have two (2) weeks to review the application, approve or reject the application, and mail the approval/rejection letter (if rejected, stating reasons for rejection) to the applicant.

B. The Oklahoma State Department of Health must approve all applications which meet the following criteria:

1. Applicant must be age twenty-five (25) or older;
2. Any applicant, applying as an individual, must show residency in the state of Oklahoma;
3. All applying entities must show that all members, managers, and board members are Oklahoma residents;
4. An applying entity may show ownership of non-Oklahoma residents, but that percentage ownership may not exceed twenty-five percent (25%);
5. All applying individuals or entities must be registered to conduct business in the state of Oklahoma;
6. All applicants must disclose all ownership;
7. Applicant(s) with only nonviolent felony conviction(s) in the last two (2) years, any other felony conviction in 5 (years), inmates, or any person currently incarcerated may not qualify for a medical marijuana dispensary license.

C. Retailers will be required to complete a monthly sales report to the Oklahoma Department of Health. This report will be due on the 15th of each month and provide reporting on the previous month. This report will detail the weight of marijuana purchased at wholesale and the weight of marijuana sold to card holders, and account for any waste. The report will show total sales in dollars, tax collected in dollars, and tax due in dollars. The Oklahoma State Department of Health will have oversight and auditing responsibilities to ensure that all marijuana being grown is accounted for. A retailer will only be subject to a penalty if a gross discrepancy exists and cannot be explained. Penalties for fraudulent reporting occurring within any 2 year time period will be an initial fine of Five Thousand Dollars (\$5,000.00) (first) and revocation of licensing (second).

D. Only a licensed medical marijuana retailer may conduct retail sales of marijuana, or marijuana derivatives in the form provided by licensed processors, and these products can only be sold to a medical marijuana license holder or their caregiver. Penalties for fraudulent sales occurring within any 2 year time period will be an initial fine of Five Thousand Dollars (\$5,000.00) (first) and revocation of licensing (second).

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 422 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. The Oklahoma State Department of Health will within thirty (30) days of passage of this initiative, make available, on their website, in an easy to find location, an application for a commercial grower license. The application fee will be Two Thousand Five Hundred Dollars (\$2,500.00) and methods of payment will be provided on the website. The Oklahoma State Department of Health has two (2) weeks to review application, approve or reject the application, and mail the approval/rejection letter (if rejected, stating reasons for rejection) to the applicant.

B. The Oklahoma State Department of Health must approve all applications which meet the following criteria:

1. Applicant must be age twenty-five (25) or older;
2. Any applicant, applying as an individual, must show residency in the state of Oklahoma;
3. All applying entities must show that all members, managers, and board members are Oklahoma residents;
4. An applying entity may show ownership of non-Oklahoma residents, but that percentage ownership may not exceed twenty-five percent (25%);
5. All applying individuals or entities must be registered to conduct business in the state of Oklahoma;
6. All applicants must disclose all ownership;
7. Applicant(s) with only nonviolent felony conviction(s) in the last two (2) years, any other felony conviction in 5 (years), inmates, or any person currently incarcerated may not qualify for a commercial grower license.

C. A licensed commercial grower may sell marijuana to a licensed retailer, or a licensed packager. Further, these sales will be considered wholesale sales and not subject to taxation. Under no circumstances may a licensed commercial grower sell marijuana directly to a medical marijuana license holder. A licensed commercial grower may only sell at the wholesale level to a licensed retailer or a licensed processor. If the federal government lifts restrictions on buying and selling marijuana between states, then a licensed commercial grower would be allowed to sell and buy marijuana wholesale from, or to, an out of state wholesale provider. A licensed commercial grower will be required to complete a monthly yield and sales report to the Oklahoma Department of Health. This report will be due on the 15th of each month and provide reporting on the previous month. This report will detail amount of marijuana harvested in pounds, the amount of drying or dried marijuana on hand, the amount of marijuana sold to processors in pounds, the amount of waste in pounds, and the amount of marijuana sold to retailers in lbs. Additionally, this report will show total wholesale sales in dollars. The Oklahoma State Department of Health will have oversight and auditing responsibilities to ensure that all marijuana being grown is accounted for. A licensed grower will only be subject to a penalty if a gross discrepancy exists and cannot be explained. Penalties for fraudulent reporting or sales occurring within any 2 year time period will be an initial fine of Five Thousand Dollars (\$5,000.00) (first) and revocation of licensing (second).

D. There shall be no limits on how much marijuana a licensed grower can grow.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 423 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. The Oklahoma State Department of Health shall within thirty (30) days of passage of this initiative, make available, on their website, in an easy to find location, an application for a medical marijuana processing license. The application fee shall be Two Thousand Five Hundred Dollars (\$2,500.00) and methods of payment will be provided on the website. The Oklahoma State Department of Health shall have two (2) weeks to review the application, approve or reject the application, and mail the approval/rejection letter (if rejected, stating reasons for rejection) to the applicant.

B. The Oklahoma State Department of Health must approve all applications which meet the following criteria:

1. Applicant must be age twenty-five (25) or older;
2. Any applicant, applying as an Individual, must show residency in the state of Oklahoma;
3. All applying entities must show that all members, managers, and board members are Oklahoma residents;
4. An applying entity may show ownership of non-Oklahoma residents, but that percentage ownership may not exceed twenty-five percent (25%);
5. All applying individuals or entities must be registered to conduct business in the state of Oklahoma;
6. All applicants must disclose all ownership;
7. Applicant(s) with only nonviolent felony conviction(s) in the last two (2) years, any other felony conviction in 5 (years), inmates, or any person currently incarcerated may not qualify for a medical marijuana processing license.

C. A licensed processor may take marijuana plants and distill or process these plants into concentrates, edibles, and other forms for consumption. As required by subsection D of this section, the Oklahoma State Department of Health will, within sixty (60) days of passage of this initiative, make

available a set of standards which will be used by licensed processors in the preparation of edible marijuana products. This should be in line with current food preparation guidelines and no excessive or punitive rules may be established by the Oklahoma State Department of Health. Once a year, the Oklahoma State Department of Health may inspect a processing operation and determine its compliance with the preparation standards. If deficiencies are found, a written report of deficiency will be issued to the processor. The processor will have one (1) month to correct the deficiency or be subject to a fine of Five Hundred Dollars (\$500.00) for each deficiency. A licensed processor may sell marijuana products it creates to a licensed retailer, or any other licensed processor. Further, these sales will be considered wholesale sales and not subject to taxation. Under no circumstances may a licensed processor sell marijuana, or any marijuana product, directly to a medical marijuana license holder. However, a licensed processor may process cannabis into a concentrated form, for a medical license holder, for a fee. Processors will be required to complete a monthly yield and sales report to the Oklahoma State Department of Health. This report will be due on the 15th of each month and provide reporting on the previous month. This report will detail amount of marijuana purchased in pounds, the amount of marijuana cooked or processed in pounds, and the amount of waste in pounds. Additionally, this report will show total wholesale sales in dollars. The Oklahoma State Department of Health will have oversight and auditing responsibilities to ensure that all marijuana being grown is accounted for. A licensed processor will only be subject to a penalty if a gross discrepancy exists and cannot be explained. Penalties for fraudulent reporting occurring within any 2 year time period will be an initial fine of Five Thousand Dollars (\$5,000.00) (first) and revocation of licensing (second).

D. The inspection and compliance of processors producing products with marijuana as an additive. The Oklahoma State Department of Health will be compelled to, within thirty (30) days of passage of this initiative, appoint a board of twelve (12) Oklahoma residents, who are marijuana industry experts, to create a list of food safety standards for processing and handling medical marijuana in Oklahoma. These standards will be adopted by the agency and the agency can enforce these standards for processors. The agency will develop a standards review procedure and these standards can be altered by calling another board of twelve (12) Oklahoma marijuana industry experts. A signed letter of twenty (20) operating processors would constitute a need for a new board and standard review.

E. If it becomes permissible, under federal law, marijuana may be moved across state lines.

F. Any device used for the consumption of medical marijuana shall be considered legal to be sold, manufactured, distributed, and possessed. No merchant, wholesaler, manufacturer, or individual may unduly be harassed or prosecuted for selling, manufacturing, or possession of medical marijuana paraphernalia.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 424 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. A marijuana transportation license will be issued to qualifying applicants for a marijuana retail, growing, or processing license. The transportation license will be issued at the time of approval of a retail, growing, or processing license.

B. A transportation license will allow the holder to transport marijuana from an Oklahoma licensed medical marijuana retailer, licensed growing facility, or licensed processor facility to an Oklahoma licensed medical marijuana retailer, licensed growing facility, or licensed processing facility.

C. All marijuana or marijuana products shall be transported in a locked container and clearly labeled "Medical Marijuana or Derivative".

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 425 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. No school or landlord may refuse to enroll or lease to and may not otherwise penalize a person solely for his status as a medical marijuana license holder, unless failing to do so would imminently cause the school or landlord to lose a monetary or licensing related benefit under federal law or regulations.

B. Unless a failure to do so would cause an employer to imminently lose a monetary or licensing related benefit under federal law or regulations, an employer may not discriminate against a person in hiring, termination or imposing any term or condition of employment or otherwise penalize a person based upon either:

1. The person's status as a medical marijuana license holder; or
2. Employers may take action against a holder of a medical marijuana license holder if the holder uses or possesses marijuana while in the holder's place of employment or during the hours of employment. Employers may not take action against the holder of a medical marijuana license solely based upon the status of an employee as a medical marijuana license holder or the results of a drug test showing positive for marijuana or its components.

C. For the purposes of medical care, including organ transplants, a medical marijuana license holder's authorized use of marijuana must be considered the equivalent of the use of any other medication under the direction of a physician and does not constitute the use of an illicit substance or otherwise disqualify a registered qualifying patient from medical care.

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

E. No person holding a medical marijuana license may unduly be withheld from holding a state issued license by virtue of their being a medical marijuana license holder. This would include such things as a concealed carry permit.

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

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

H. Research will be provided under this law. A researcher may apply to the Oklahoma Department of Health for a special research license. That license will be granted, provided the applicant meet the criteria listed under Section 421. B. Research license holders will be required to file monthly consumption reports to the Oklahoma Department of Health with amounts of marijuana used for research.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 426 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. The tax on retail medical marijuana sales will be established at seven percent (7%) of the gross amount received by the seller.

B. This tax will be collected at the point of sale. Tax proceeds will be applied primarily to finance the regulatory office.

C. If proceeds from the levy authorized by subsection A of this section exceed the budgeted amount for running the regulatory office, any surplus shall be apportioned with seventy-five percent (75%) going to the General Revenue Fund and may only be expended for common education. Twenty-five percent (25%) shall be apportioned to the Oklahoma State Department of Health and earmarked for drug and alcohol rehabilitation.

SECTION 8. The provisions hereof are severable, and if any part or provision hereof shall be void, invalid, or unconstitutional, the decision of the court so holding shall not affect or impair any of the remaining parts or provision hereof, and the remaining provisions hereof shall continue in full force and effect.

SECTION 9. This act shall become effective one (1) month immediately following its passage.

Name and Address of Proponents

Oklahomans for Health
8751 N 117th E Ave
Owasso, OK 74055

SIGNATURES

The gist of the proposition is as follows: This measure legalizes medical marijuana for residents with a recommendation from an Oklahoma Board Certified Physician. It also legalizes commercial medical marijuana dispensary, growing, and processing licenses regulated by the Department of Health. It protects card holders from discrimination and lowers penalties for unlicensed possession.

WARNING

It is a felony for anyone to sign an initiative or referendum petition with any name other than his own, or knowingly to sign his name more than once for the measure, or to sign such petition when he is not a legal voter.

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Signature Collectors – Please fill out information on reverse side and have notarized before filing

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**STATE QUESTION NO. 788
INITIATIVE PETITION NO. 412**

VOLUME NO. 2

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Page numbered 201 through 400

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**STATE QUESTION NO. 788
INITIATIVE PETITION NO. 412**

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**STATE QUESTION NO. 788
INITIATIVE PETITION NO. 412**

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STATE QUESTION NO. 788
INITIATIVE PETITION NO. 412

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STATE QUESTION NO. 788
INITIATIVE PETITION NO. 412

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**STATE QUESTION NO. 788
INITIATIVE PETITION NO. 412**

VOLUME NO. 14

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Page numbered 2601 through 2800

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**STATE QUESTION NO. 788
INITIATIVE PETITION NO. 412**

VOLUME NO. 15

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Page numbered 2801 through 3000

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STATE QUESTION NO. 788
INITIATIVE PETITION NO. 412

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ATTACHMENT 'C'



Oklahoma State Election Board

ROOM B-6 • BOX 53156 • STATE CAPITOL • OKLAHOMA CITY, OKLAHOMA 73152 • (405) 521-2311

FILED

DEC 18 2014

November 20, 2014

**OKLAHOMA SECRETARY
OF STATE**

The Honorable Chris Bengé
Secretary of State
Room 101, State Capitol
Oklahoma City, Oklahoma 73105

Dear Mr. Bengé:

Subsequent to the November 4, 2014, General Election, I am able to provide the following information.

The total votes cast for the office of Governor at the General Election in 2014 were 824,831. Signature requirements for the types of petitions listed below are derived by applying the parenthetical percentages indicated and are valid from November 13, 2014, through November 13, 2018.

Referendum	(5%).....	41,242
Initiative	(8%).....	65,987
Initiative for Constitutional Change	(15%).....	123,725
Rejected Initiative or Referendum Measures	(25%).....	206,208

Signature requirements for certain types of petitions are based on the total votes cast in the last General Election for President. In the November 6, 2012, General Election, the total votes cast for Presidential Electors were 1,334,872. Signature requirements for the following types of petitions are derived by applying the parenthetical percentages indicated and are valid from November 14, 2012, through November 15, 2016.

Independent Presidential Electors	(3%).....	40,047
Unrecognized Party Presidential Electors	(3%).....	40,047

0472220

The signature requirement for a petition for formation of a new political party is based on the total votes cast in the last General Election either for Governor or for electors for President and Vice President. In the November 4, 2014, General Election, the total votes cast for Governor were 824,831. The signature requirement for the following petition is derived by applying the parenthetical percentage indicated and is valid from November 13, 2014, through November 15, 2016.

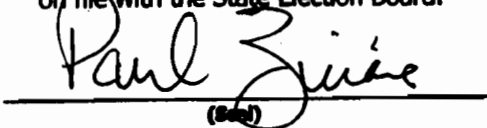
Formation of New Political Party (5%)41,242

Sincerely,



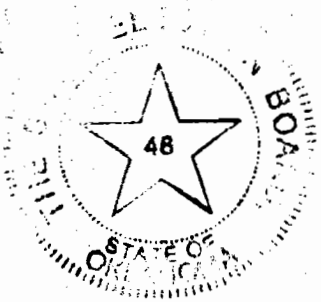
PAUL ZIRIAX, Secretary
State Election Board

**This is a true and correct copy of a document
on file with the State Election Board.**



(242)

12-18-2014



ATTACHMENT 'D'



OFFICE OF ATTORNEY GENERAL
STATE OF OKLAHOMA

FILED

AUG 18 2016

OKLAHOMA SECRETARY
OF STATE

August 18, 2016

Chris Benge, Secretary of State
Office of the Secretary of State
2300 N. Lincoln Blvd., Room 101
Oklahoma City, Oklahoma 73105-4897

RE: Ballot Title for State Question No. 788, Initiative Petition No. 412

Dear Secretary Benge:

In accordance with the provisions of 34 O.S.Supp.2015, § 9(D)(1), we have reviewed the Proposed Ballot Title for the above-referenced State Question and conclude that it does not comply with applicable laws for the following reasons.

It fails to adequately explain the effect of the proposition because, as among other things:

- it does not explain that marijuana will be a non-prescription drug nor accurately explain the role of the physician;
- it does not sufficiently address zoning restrictions insofar as it fails to specify that a municipality's power to restrict or change zoning laws is limited; and
- it does not explain that the measure would not affect constitutionally-enacted federal law to the contrary.

Having found that the Proposed Ballot Title does not comply with applicable laws, we will, in accordance with the provisions of 34 O.S.Supp.2015, § 9(D)(1), within ten business days, prepare a ballot title which complies with the law and furnish a copy to you.

Sincerely,

A handwritten signature in black ink, appearing to read "E. Scott Pruitt", with a long horizontal stroke extending to the right.

E. Scott Pruitt
Attorney General



OFFICE OF ATTORNEY GENERAL
STATE OF OKLAHOMA

FILED

August 25, 2016

AUG 25 2016

Chris Benge, Secretary of State
Office of the Secretary of State
2300 N. Lincoln Blvd., Room 101
Oklahoma City, Oklahoma 73105-4897

OKLAHOMA SECRETARY
OF STATE

RE: Ballot Title for State Question No. 788, Initiative Petition No. 412

Dear Secretary Benge:

Having found that the Proposed Ballot Title for the above-referenced State Question did not comply with applicable laws, we have, in accordance with 34 O.S.Supp.2015, § 9(D)(1), prepared the following Ballot Title. The Ballot Title reads as follows:

BALLOT TITLE FOR STATE QUESTION NO. 788

This measure legalizes the licensed use, sale, and growth of marijuana in Oklahoma. There are no qualifying medical conditions identified. Possession and use of marijuana is authorized through a medical marijuana license that is valid for two years, rather than by prescription. An Oklahoma board certified physician must recommend the license using the same accepted standards for recommending other medications, and must sign the application for the license. The State Department of Health must issue a license to an applicant who:

- submits a valid application,
- is eighteen years or older, and
- is an Oklahoma resident.

Applications for individuals under eighteen must be signed by two physicians and by a parent or legal guardian. The Department also issues seller, grower, packaging, transportation, research, and

caregiver licenses to those who meet certain minimal requirements. A 7 percent state tax is imposed on retail sales of marijuana. Unlicensed possession by an individual who claims to have a medical condition is punishable by a fine not exceeding \$400.

Local government cannot use zoning laws to prevent the opening of a retail marijuana store. This measure does not change federal law, which makes use, sale, and growth of marijuana illegal.

SHALL THE MEASURE BE APPROVED?

FOR THE MEASURE – YES _____

AGAINST THE MEASURE – NO _____

A “YES” vote is a vote in favor of this measure. A “NO” vote is a vote against this measure.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "E. Scott Pruitt", with a long horizontal flourish extending to the right.

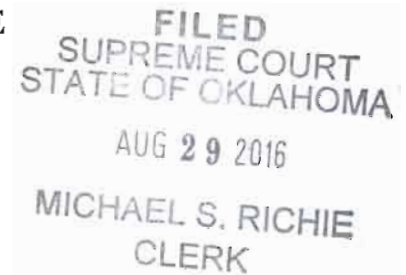
E. Scott Pruitt
Attorney General



Chris Bengé
Secretary of State
and
Native American Affairs

Mary Fallin
Governor

OKLAHOMA SECRETARY OF STATE



August 29, 2016

Chief Justice John Reif
The Oklahoma Supreme Court
2100 N. Lincoln Blvd., Suite 1
Oklahoma City, Oklahoma 73105

RE: OKLAHOMA SUPREME COURT CASE No. O-115287

STATE QUESTION 788, INITIATIVE PETITION 412 (subject: Medical Marijuana)

Dear Chief Justice Reif:

In addition to the "Secretary of State's Certification to the Court of the Physical Signature Count for State Question 788, Initiative Petition 412" (filed with the Supreme Court Clerk's office August 25, 2016), please accept for filing a true and accurate copy of the Oklahoma Attorney General's Ballot Title for State Question 788, on record with our office as of August 25, 2016.

Please be advised that this office is prepared to provide the Court with additional information or assistance as needed.

Sincerely,

A handwritten signature in cursive script that reads "Chris Bengé".

Chris Bengé
Secretary of State and
Native American Affairs

Enc: Attorney General's Ballot Title (SQ788, IP412)

CERTIFICATE OF MAILING

I hereby certify that a true and accurate copy of the foregoing was placed in Interagency Mail on August 29, 2016 to the following party;

The Honorable E. Scott Pruitt
Oklahoma Attorney General
313 NE 21st Street
Oklahoma City, Oklahoma 73105

I also hereby certify that a true and accurate copy of the foregoing was placed in USPS mail, regular first-class, on August 29, 2016, addressed to the proponent(s) of record for SQ788.

Proponent(s) of record for State Question 788

Oklahomans for Health
8751 N. 117th E Ave
Owasso, Oklahoma 74055



Chris Bengé
Oklahoma Secretary of State and
Native American Affairs

Enclosure



OFFICE OF ATTORNEY GENERAL
STATE OF OKLAHOMA

FILED

August 25, 2016

AUG 25 2016

Chris Benge, Secretary of State
Office of the Secretary of State
2300 N. Lincoln Blvd., Room 101
Oklahoma City, Oklahoma 73105-4897

OKLAHOMA SECRETARY
OF STATE

RE: Ballot Title for State Question No. 788, Initiative Petition No. 412

Dear Secretary Benge:

Having found that the Proposed Ballot Title for the above-referenced State Question did not comply with applicable laws, we have, in accordance with 34 O.S.Supp.2015, § 9(D)(1), prepared the following Ballot Title. The Ballot Title reads as follows:

BALLOT TITLE FOR STATE QUESTION NO. 788

This measure legalizes the licensed use, sale, and growth of marijuana in Oklahoma. There are no qualifying medical conditions identified. Possession and use of marijuana is authorized through a medical marijuana license that is valid for two years, rather than by prescription. An Oklahoma board certified physician must recommend the license using the same accepted standards for recommending other medications, and must sign the application for the license. The State Department of Health must issue a license to an applicant who:

- submits a valid application,
- is eighteen years or older, and
- is an Oklahoma resident.

Applications for individuals under eighteen must be signed by two physicians and by a parent or legal guardian. The Department also issues seller, grower, packaging, transportation, research, and

caregiver licenses to those who meet certain minimal requirements. A 7 percent state tax is imposed on retail sales of marijuana. Unlicensed possession by an individual who claims to have a medical condition is punishable by a fine not exceeding \$400.

Local government cannot use zoning laws to prevent the opening of a retail marijuana store. This measure does not change federal law, which makes use, sale, and growth of marijuana illegal.

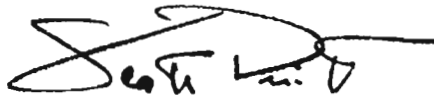
SHALL THE MEASURE BE APPROVED?

FOR THE MEASURE – YES _____

AGAINST THE MEASURE – NO _____

A “YES” vote is a vote in favor of this measure. A “NO” vote is a vote against this measure.

Respectfully submitted,



E. Scott Pruitt
Attorney General



ORIGINAL

FILED
SUPREME COURT
STATE OF OKLAHOMA
SEP - 6 2016

IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

CHIP PAUL AND PHILIP WINTERS
OKLAHOMANS FOR HEALTH,)
)
Petitioners,)
)
Vs)
)
THE HONORABLE SCOTT PRUITT,)
ATTORNEY GENERAL OF OKLAHOMA,))
)
Respondent.)

MICHAEL S. RICHIE
CLERK

Case No. #115322

PETITIONER'S APPLICATION TO ASSUME ORIGINAL JURISDICTION AND
COMBINED PETITION TO REVIEW THE ABLOT TITLE OF INITIATIVE
PETITION 412

DAVID R. SLANE, OBA# 16156
427 N. Meridian Avenue
Oklahoma City, OK 73107
(405) 319-1800
(405) 319-1802 Facsimile
davidrslane@hotmail.com

ATTORNEY FOR PETITIONERS



* **Note to file:** This copy of Supreme Court document number 1034509562 was downloaded, for SOS record purposes, from the OSCN.net website. Copy of such was not received by our office via regular USPS mail from Petitioners, as of 09/30/2016.

- A.C. (S.O.S. 9/30/2016)
OFFICE

IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

IN RE: INITIATIVE PETITION NO. 412) No. _____
)
)
)
)

**BRIEF OF PETITIONER/PROPONENT REQUESTING REVIEW OF
SUBSTITUTED BALLOT TITLE PREPARED BY THE ATTORNEY GENERAL
IN CONNECTION WITH INITIATIVE PETITION 412**

This is a statutorily authorized appeal initiated pursuant to Title 34 O.S. 2015 § 9, whereby the petitioner seeks review and substitution of the corrected ballot titled proffered by the Oklahoma Attorney General on August 25, 2016, included and incorporated herein by reference.

THE FACTS CONCERNING BACKGROUND AND HISTORY OF FILING

This legal action is taken on behalf of two parties, Chip Paul, co-chairman for Oklahomans for Health and Philip Winters, one of the valid voter signatures to Initiative Petition Number 412. This is a measure which would amend Oklahoma law to wit: “This measure amends the Oklahoma State Statutes. A yes vote legalizes the licensed use, sale and growth of marijuana in Oklahoma for medicinal purposes and must be approved by an Oklahoma Board Certified Physician. The State Department of Health will issue medical marijuana licenses if the applicant is eighteen years or older and an Oklahoma resident. A special exception will be granted to an applicant under the age of eighteen, however these applications must be signed by two physicians and a parent or legal guardian. The Department will also issue seller, grower, packaging, transportation, research and caregiver licenses. Individual and retail businesses must meet minimal requirements to be licensed to sell marijuana to licensees. The punishment for unlicensed

possession of permitted amounts of marijuana for individuals who can state a medical condition is a fine not exceeding four hundred dollars. Fees and zoning restrictions are established. A seven percent state tax is imposed on medical marijuana sales.” (See **Exhibit A, attached hereto and incorporated herein by reference**) The measure is to be approved or rejected by the legal voters of the State of Oklahoma at the regular general election to be held on November 8, 2016 or a later date designated by the Governor of the State of Oklahoma.

Pursuant to the statutory requirements found in Title 34 O.S. § 9.D.1, the Oklahoma Secretary of State informed the Attorney General of the filing of the petition and submitted the same to him for review as to legal correctness. The Attorney General, “within five (5) business days after the filing of the measure and ballot title...shall notify the Secretary of State whether or not the proposed ballot title complies with applicable law” *Id.* He did so by notification dated August 18, 2016. (See **Exhibit B, attached hereto and incorporated herein by reference**) The Attorney General submitted a new ballot title on the proposed question to the Oklahoma Secretary of State on August 25, 2016. To wit:

“This measure legalizes the licensed use, sale and growth of marijuana in Oklahoma. There are no qualifying medical conditions identified. Possession and use of marijuana is authorized through a medical marijuana license that is valid for two years, rather than by prescription. An Oklahoma board certified physician must recommend the license using the same acceptable standards for recommending other medications, and must sign the application for the license. The State Department of Health must issue a license to an applicant who:

- Submits a valid application;
- Is eighteen years or older, and
- Is an Oklahoma resident.

Applications for individuals under eighteen must be signed by two physicians and by a parent or legal guardian. The Department also issues seller, grower, packaging, transportation, research, and caregiver licenses to those who meet certain minimal requirements. A 7 percent state tax is imposed on retail sales of marijuana. Unlicensed possession by an individual who claims to have a medical condition is punishable by a fine not exceeding \$ 400.

Local government cannot use zoning laws to prevent the opening of a retail marijuana store. This measure does not change federal law, which make use, sale, and growth of marijuana illegal.”

(See Exhibit C, attached hereto and incorporated herein by reference)

PETITIONER'S OBJECTION TO SUBSTITUTED BALLOT TITLE

1. THE PETITIONER'S ORIGINAL BALLOT TITLE DOES NOT RUN AFOUL OF OKLAHOMA LAW AND IS LEGALLY CORRECT

The Attorney General is to review the petition “for review as to legal correctness under 34 O.S. § 9(D)1.

Petitioners believe the Initiative Petition and Ballot Title complied with the law. Title 34 § 9(B) clearly outlines the requirements for “the suggested ballot title”:

“ B. The parties submitting the measure shall also submit a suggested ballot title which shall be filed on a separate sheet of paper and shall not be deemed part of the petition. The suggested ballot title:

1. Shall not exceed two hundred (200) words;

2. Shall explain in basic words, which can be easily found in dictionaries of general usage, the effect of the proposition;
3. Shall be written on the eighth-grade reading comprehension level;
4. Shall not contain any words which have a special meaning for a particular profession or trade not commonly known to the citizens of this state;
5. Shall not reflect partiality in its composition or contain any argument for or against the measure;
6. Shall contain language which clearly states that a "yes" vote is a vote in favor of the proposition and a "no" vote is a vote against the proposition; and
7. Shall not contain language whereby a "yes" vote is in fact, a vote against the proposition and a "no" vote is, in fact, a vote in favor of the proposition."

The proposed title submitted by the Petitioner complies with § 9(B).

2. THE SUBSTITUTED BALLOT TITLE NEGATES THE INTENT OF THE ORIGINALLY FILED INITIATIVE PETITION

The Attorney General proposed ballot title rewritten explains;

The measure would "legalize the licensed use, sale and growth of marijuana in Oklahoma." Further, "There are no qualifying medical conditions identified".

This language would mislead the voters and or make argument against or show partiality. Specifically, he would lead voters to believe they are either legalizing marijuana for general purposes and/or would confuse voters by his language used rather than the original language of marijuana for medical purposes. Specifically, "marijuana for medicinal purposes and must be approved by an Oklahoma Board certified Physician".

The Attorney General's proposed ballot title violates Title 34(B)(4) in that it "shall not reflect partiality".

The Attorney General expresses his belief that "the measure does not change federal law, which make use, sale and growth of marijuana illegal".

Thus, would mislead voters and or make argument against or show partiality.

CONCLUSION

Pursuant to Title 34 O.S. § 10.A, the Petitioner respectfully requests this Court to reject the Attorney General's amended ballot title in reference to Initiative Petition No. 412 and restore the Petitioner's ballot title in Exhibit A to the Petition.

Respectfully submitted,



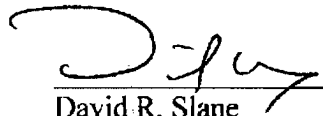
David R. Slane, OBA# 16156
427 N. Meridian Avenue
Oklahoma City, OK 73107
(405) 319-1800
(405) 319-1802 Facsimile
davidrslane@hotmail.com
ATTORNEY FOR PETITIONERS

CERTIFICATE OF SERVICE

I hereby certify that on this 6th day of September, 2016 a true and correct copy of the above and foregoing instrument was mailed postage prepaid to the following:

Scott Pruitt
Oklahoma Attorney General
313 NE 21st Street
Oklahoma City, OK 73105

Oklahoma Secretary of State
2300 N. Lincoln Blvd.
Room 101
Oklahoma City, OK 73105


David R. Slane

FILED

APR 11 2016

OKLAHOMA SECRETARY
OF STATE

PROPOSED BALLOT TITLE

This measure amends the Oklahoma State Statutes. A yes vote legalizes the licensed use, sale, and growth of marijuana in Oklahoma for medicinal purposes. A license is required for use and possession of marijuana for medicinal purposes and must be approved by an Oklahoma Board Certified Physician. The State Department of Health will issue medical marijuana licenses if the applicant is eighteen years or older and an Oklahoma resident. A special exception will be granted to an applicant under the age of eighteen, however these applications must be signed by two physicians and a parent or legal guardian. The Department will also issue seller, grower, packaging, transportation, research and caregiver licenses. Individual and retail businesses must meet minimal requirements to be licensed to sell marijuana to licensees. The punishment for unlicensed possession of permitted amounts of marijuana for individuals who can state a medical condition is a fine not exceeding four hundred dollars. Fees and zoning restrictions are established. A seven percent state tax is imposed on medical marijuana sales.

Shall the proposal be approved?

For the proposal	-	YES
Against the proposal	-	NO

A "YES" vote is a vote in favor of this measure. A "NO" vote is a vote against this measure.

EXH. A



OFFICE OF ATTORNEY GENERAL
STATE OF OKLAHOMA

FILED

AUG 18 2016

OKLAHOMA SECRETARY
OF STATE

August 18, 2016

Chris Bengel, Secretary of State
Office of the Secretary of State
2300 N. Lincoln Blvd., Room 101
Oklahoma City, Oklahoma 73105-4897

RE: Ballot Title for State Question No. 788, Initiative Petition No. 412

Dear Secretary Bengel:

In accordance with the provisions of 34 O.S.Supp.2015, § 9(D)(1), we have reviewed the Proposed Ballot Title for the above-referenced State Question and conclude that it does not comply with applicable laws for the following reasons.

It fails to adequately explain the effect of the proposition because, as among other things:

- it does not explain that marijuana will be a non-prescription drug nor accurately explain the role of the physician;
- it does not sufficiently address zoning restrictions insofar as it fails to specify that a municipality's power to restrict or change zoning laws is limited; and
- it does not explain that the measure would not affect constitutionally-enacted federal law to the contrary.

Having found that the Proposed Ballot Title does not comply with applicable laws, we will, in accordance with the provisions of 34 O.S.Supp.2015, § 9(D)(1), within ten business days, prepare a ballot title which complies with the law and furnish a copy to you.

Sincerely,

A handwritten signature in black ink, appearing to read "E. Scott Pruitt", written over a horizontal line.

E. Scott Pruitt
Attorney General



OFFICE OF ATTORNEY GENERAL
STATE OF OKLAHOMA

FILED

August 25, 2016

AUG 25 2016

Chris Bengel, Secretary of State
Office of the Secretary of State
2300 N. Lincoln Blvd., Room 101
Oklahoma City, Oklahoma 73105-4897

OKLAHOMA SECRETARY
OF STATE

RE: Ballot Title for State Question No. 788, Initiative Petition No. 412

Dear Secretary Bengel:

Having found that the Proposed Ballot Title for the above-referenced State Question did not comply with applicable laws, we have, in accordance with 34 O.S.Supp.2015, § 9(D)(1), prepared the following Ballot Title. The Ballot Title reads as follows:

BALLOT TITLE FOR STATE QUESTION NO. 788

This measure legalizes the licensed use, sale, and growth of marijuana in Oklahoma. There are no qualifying medical conditions identified. Possession and use of marijuana is authorized through a medical marijuana license that is valid for two years, rather than by prescription. An Oklahoma board certified physician must recommend the license using the same accepted standards for recommending other medications, and must sign the application for the license. The State Department of Health must issue a license to an applicant who:

- submits a valid application,
- is eighteen years or older, and
- is an Oklahoma resident.

Applications for individuals under eighteen must be signed by two physicians and by a parent or legal guardian. The Department also issues seller, grower, packaging, transportation, research, and

caregiver licenses to those who meet certain minimal requirements. A 7 percent state tax is imposed on retail sales of marijuana. Unlicensed possession by an individual who claims to have a medical condition is punishable by a fine not exceeding \$400.

Local government cannot use zoning laws to prevent the opening of a retail marijuana store. This measure does not change federal law, which makes use, sale, and growth of marijuana illegal.


SHALL THE MEASURE BE APPROVED?

FOR THE MEASURE - YES _____

AGAINST THE MEASURE - NO _____

A "YES" vote is a vote in favor of this measure. A "NO" vote is a vote against this measure.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "E. Scott Pruitt", with a long horizontal flourish extending to the right.

E. Scott Pruitt
Attorney General

IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

FILED
SUPREME COURT
STATE OF OKLAHOMA

SEP 12 2016

MICHAEL S. RICHIE
CLERK

IN RE:)
)
INITIATIVE PETITION NO. 412,) No. 115,287
)
STATE QUESTION NO. 788.)

STATE OF OKLAHOMA, TO:

CHRIS BENGE, SECRETARY OF STATE, STATE OF OKLAHOMA

RECEIVED

GREETINGS:

SEP 13 2016

**OKLAHOMA SECRETARY
OF STATE**

ORDER

An initiative petition has been circulated in the State of Oklahoma, seeking the approval by the electorate of State Question No. 788, a proposed new law, to be codified at Oklahoma Statutes Title 63, §420, which would legalize medical marijuana for residents with a recommendation from an Oklahoma Board Certified Physician and legalize medical marijuana dispensaries with growing and processing licenses.

In accordance with 34 O.S. Supp. 2015 § 8, the Court recognizes the certification of the Secretary of State that the petition contains 67,801 signatures. The Court further recognizes that the number of signatures necessary to place the measure before the electorate is 65,987, being 8% of the votes cast for the office Governor in the November, 2014 general election. Okla. Const. Art. 5 § 2. The signatures on the petition appear numerically sufficient.


The Secretary of State is directed forthwith to cause to be published in at least one newspaper of general circulation in the State of Oklahoma, a public notice

of the filing of Initiative Petition No. 412, State Question No. 788, and of the apparent numerical sufficiency of the signatures. The Secretary of State shall also publish the text of the ballot title as rewritten by the Attorney General pursuant to 34 O.S.Supp.2015 § 9(D). The notice shall advise that any citizen of the State of Oklahoma may file a written objection to the signature count, or the rewritten ballot title, in the office of the Clerk of the Supreme Court of the State of Oklahoma, with a copy directed to the proponents of the petition and the Attorney General. Any such objection must be filed with the Clerk of the Supreme Court not later than ten (10) days from the date of publication. A copy of the objection must also be filed with the Secretary of State.

Proceedings in the Supreme Court to resolve any objection shall be in accordance with 34 O.S.Supp.2015 §§ 8-11, and such other procedures as may be ordered by the Court.

The Secretary of State is directed to obtain verified proof of publication of the notice herein directed, and to file the same with the Clerk of this Court as a return to this order.

DONE BY ORDER OF THE SUPREME COURT IN CONFERENCE THIS
12th DAY OF SEPTEMBER, 2016.



VLS CHIEF JUSTICE

ALL JUSTICES CONCUR.

80

FILED
SUPREME COURT
STATE OF OKLAHOMA



SEP 13 2016 IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

MICHAEL J. ...
CLERK

ORIGINAL

Tuesday, September 13, 2016

THE CLERK IS DIRECTED TO ENTER THE FOLLOWING ORDERS OF THE COURT:

115,322 - CHIP PAUL and PHILIP WINTERS OKLAHOMA FOR HEALTH v. THE HONORABLE SCOTT PRUITT, ATTORNEY GENERAL OF OKLAHOMA

The Court notes the filing of this cause prior to this Court's September 2, 2016 order in Case No. 115,287 *In Re: Initiative Petition No. 412, State Question No. 788*. This cause will be considered along with any other written objections filed pursuant to this Court's September 12th order in Case No. 115,287. 34 O.S. §8.

115,099 - ARTHUR L. BEEN, JR. v. MARIE RAMSEY-HIRST, CANADIAN COUNTY COURT CLERK, *et al.*

This cause is dismissed on the motion of the petitioner.

115,278 - MARGO RADEBAUGH v. THE HONORABLE ALLEN J. WELCH, Judge of the District Court of Oklahoma County, Seventh Judicial District of the State of Oklahoma, *et al.*

This cause is dismissed on the motion of the petitioner.

Rec'd (date)	9/13/2016
Filed	TS
Mailed	TS
Entered	TS
Publish	yes P

VICE CHIEF JUSTICE

* **Note to file:** This copy of Supreme Court document number 1034509681 was downloaded, for SOS record purposes, from the OSCN.net website. Copy of such has not been received by our office.

- A.C. (S.O.S office 9/30/2016)



Chris Bengé
Secretary of State
and
Native American Affairs

Mary Fallin
Governor

OKLAHOMA SECRETARY OF STATE

September 13, 2015

Ms. Cindy Shea
Oklahoma Press Service
3601 N. Lincoln
Oklahoma City, OK 73105

Dear Ms. Shea:

Please find enclosed the Notice of the Filing of Signatures and the Numerical Sufficiency thereof and the Text of the Preliminary Ballot Title as Rewritten by the Attorney General for State Question 788, Initiative Petition 412. By Supreme Court order (case no. O-115,287) and per Title 34 O.S. § 8, the publication must appear in at least one newspaper of general circulation in the State of Oklahoma. Please have the enclosed notice published in both *The Oklahoman* and the *Tulsa World* as soon as possible.

Also, upon the completion of publication, please provide our office with corresponding Affidavits of Publication. Should you have any questions, please do not hesitate to contact our office.

Sincerely,

A handwritten signature in cursive script that reads "Chris Bengé".

Chris Bengé
Secretary of State
and Native American Affairs

**NOTICE OF THE FILING OF SIGNATURES AND
THE APPEARENT NUMERICAL SUFFICIENCY THEREOF AND THE TEXT OF THE PRELIMINARY
BALLOT TITLE AS REWRITTEN BY THE ATTORNEY GENERAL FOR
STATE QUESTION NUMBER 788, INITIATIVE PETITION NUMBER 412**

NOTICE is hereby given that on August 11, 2016 six (6) boxes of signature pamphlets were received by the office of the Secretary of State, from the proponents of record for State Question 788, Initiative Petition 412.

NOTICE is also hereby given that in accordance with Title 34 O.S., Supp. 2015 § 8 and by order of the Supreme Court of Oklahoma, the Court recognizes the certification of the Secretary of State that the petition contains 67,801 signatures. The Court further recognizes that the number of signatures necessary to place the measure before the electorate is 65,987, being 8% of the votes cast for the office of Governor at the General Election in November 2014. The signatures on the petition appear numerically sufficient.

NOTICE is likewise, hereby given that any citizen or citizens of the state may file an objection, relating only to the signature count made by the Secretary of State or the Preliminary Ballot Title as rewritten by the Attorney General, within ten (10) business days of the date of this publication, by a written notice to the Clerk of the Oklahoma Supreme Court and a copy directed to the proponent(s) of the petition and the Attorney General. Also, a copy of any such objection shall be filed with the Secretary of State. Proceedings in the Supreme Court to resolve a protest or objection shall be in accordance with Title 34 O.S., Supp. 2015 §§ 8-11, and such other procedures as may be ordered by the Court.

Proponent(s) of record for State Question 788, Initiative Petition 412:

Oklahomans for Health
8751 N. 117th E Ave.
Owasso, Oklahoma 74055

PRELIMINARY BALLOT TITLE FOR SQ 788, as rewritten by the Attorney General

This measure legalizes the licensed use, sale, and growth of marijuana in Oklahoma. There are no qualifying medical conditions identified. Possession and use of marijuana is authorized through a medical marijuana license that is valid for two years, rather than by prescription. An Oklahoma board certified physician must recommend the license using the same accepted standards for recommending other medications, and must sign the application for the license. The State Department of Health must issue a license to an applicant who:

- submits a valid application,
- is eighteen years or older, and
- is an Oklahoma resident.

Applications for individuals under eighteen must be signed by two physicians and by a parent or legal guardian. The Department also issues seller, grower, packaging, transportation, research, and caregiver licenses to those who meet certain minimal requirements. A 7 percent state tax is imposed on retail sales of marijuana. Unlicensed possession by an individual who claims to have a medical condition is punishable by a fine not exceeding \$400.

Local government cannot use zoning laws to prevent the opening of a retail marijuana store. This measure does not change federal law, which makes use, sale, and growth of marijuana illegal.

SHALL THE MEASURE BE APPROVED?

FOR THE MEASURE – YES _____
AGAINST THE MEASURE – NO _____

A “YES” vote is a vote in favor of this measure. A “NO” vote is a vote against this measure.

DONE, BY ORDER OF THE SUPREME COURT THIS 13TH DAY OF SEPTEMBER, 2016.

Chris Bengé
Oklahoma Secretary of State
and Native American Affairs

(/)

oklahoman.com/replica)

📅 Thursday, September 15 ▾

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Legal Notices / Legal Notices Classified

NOTICE OF THE FILING OF SIGNATURES AND THE APPEARENT NUMERICAL SUFFICIENCY THEREOF AND THE TEXT OF THE PRELIMINARY BALLOT TITLE AS REWRITTEN BY THE ATTORNEY GENERAL FOR STATE QUESTION NUMBER 788, INITIATIVE PETITION NUMBER 412 NOTICE is hereby given that on August 11, 2016 six (6) boxes of signature pamphlets were received by the office of the Secretary of State, from the proponents of record for State Question 788, Initiative Petition 412. NOTICE is also hereby given that in accordance with Title 34 O.S., Supp. 2015 ? 8 and by order of the Supreme Court of Oklahoma, the Court recognizes the certification of the Secretary of State that the petition contains 67,801 signatures. The Court further recognizes that the number of signatures necessary to place the measure before the electorate is 65,987, being 8% of the votes cast for the office of Governor at the General Election in November 2014. The signatures on the petition appear numerically sufficient. NOTICE is likewise, hereby given that any citizen or citizens of the state may file an objection, rebting only to the signature count made by the Secretary of State or the Preliminary Ballot Title as rewritten by the Attorney General, within ten (10) business days of the date of this publication, by a written notice to the Clerk of the Oklahoma Supreme Court and a copy directed to the proponent(s) of the petition and the Attorney General. Also, a copy of any such objection shall be filed with the Secretary of State. Proceedings in the Supreme Court to resolve a protest or objection shall be in accordance with Title 34 O.S., Supp. 2015 ?? 8-11, and such other procedures as may be ordered by the Court. Proponent(s) of record for State Question 788, Initiative Petition 412: Oklahomans for Health 8751 N. 117th E Ave. Owasso, Oklahoma 74055 PRELIMINARY BALLOT TITLE FOR SQ 788, as rewritten by the Attorney General This measure legalizes the licensed use, sale, and growth of marijuana in Oklahoma. There are noqualifying medical conditions identified. Possession and use of marijuana is authorized through a medical marijuana license that is valid for two years, rather than by prescription. An Oklahoma board certified physician must recommend the license using the same accepted standards for recommending other medications, and must sign the application for the license. The State Department of Health must issue a license to an applicant who: •submits a valid application, •is eighteen years or older, and •is an Oklahoma resident. Applications for individuals under eighteen must be signedby two physicians and by a parent or legal guardian. The Department also issues seller, grower, packaging, transportation, research, and caregiver licenses to thosewho meet certain minimal requirements. A 7 percent state tax is imposed on retail sales of marijuana. Unlicensed possession by an individual who claims to have a medical condition is punishable by a fine not exceeding \$400. Local government cannot use zoning laws to prevent the opening of a retail marijuana store. This measure does not change federal law, which makes use, sale, and growth of marijuana illegal. SHALL THE MEASURE BE APPROVED? FOR THE MEASURE - YES AGAINST THE MEASURE - NO A ?YES? vote is a vote in favor of this measure. A ?NO? vote is a vote against this measure. DONE, BY ORDER OF THE SUPREME COURT THIS 13TH DAY OF SEPTEMBER, 2016. Chris Bengé Oklahoma Secretary of State and Native American Affairs

HOMES ▶
([HTTP://NEWSOK.COM/MARKETPLACE/H](http://newsok.com/marketplace/H))

JOB ▶
([HTTP://NEWSOK.COM/MARKETPLACE/JC](http://newsok.com/marketplace/J))

Ride ▶
([HTTP://BESTRIDE.COM/](http://bestride.com/))

CATEGORIES

ANIMALS

Cats (4) (/classifieds/2016-09-15/animals/cats/2016-09-15)

Cattle & Livestock(2)
(/classifieds/2016-09-15/animals/cattle-and-livestock/2016-09-15)

Dogs (98) (/classifieds/2016-09-15/animals/dogs/2016-09-15)

Exotic Animals (2)
(/classifieds/2016-09-15/animals/exotic-animals/2016-09-15)

Horses Equipment & Supplies (1)
(/classifieds/2016-09-15/animals/horses-equipment-and-supplies/2016-09-15)

Pigeons (1) (/classifieds/2016-09-15/animals/pigeons/2016-09-15)

AUTOMOTIVE

Acura (6) (/classifieds/2016-09-15/automotive/acura/2016-09-15)

LEGALS

289801

Published in the Tulsa World, Tulsa County, Oklahoma, September 15, 2016

NOTICE OF THE FILING OF SIGNATURES AND THE APPEARENT NUMERICAL SUFFICIENCY THEREOF AND THE TEXT OF THE PRELIMINARY BALLOT TITLE AS REWRITTEN BY THE ATTORNEY GENERAL FOR STATE QUESTION NUMBER 788, INITIATIVE PETITION NUMBER 412 NOTICE is hereby given that on August 11, 2016 six (6) boxes of signature pamphlets were received by the office of the Secretary of State, from the proponents of record for State Question 788, Initiative Petition 412. NOTICE is also hereby given that in accordance with Title 34 O.S., Supp. 2015 § 8 and by order of the Supreme Court of Oklahoma, the Court recognizes the certification of the Secretary of State that the petition contains 67,801 signatures. The Court further recognizes that the number of signatures necessary to place the measure before the electorate is 65,987, being 8% of the votes cast for the office of Governor at the General Election in November 2014. The signatures on the petition appear numerically sufficient. NOTICE is likewise, hereby given that any citizen or citizens of the state may file an objection, relating only to the signature count made by the Secretary of State or the Preliminary Ballot Title as rewritten by the Attorney General, within ten (10) business days of the date of this publication, by a written notice to the Clerk of the Oklahoma Supreme Court and a copy directed to the proponent(s) of the petition and the Attorney General. Also, a copy of any such objection shall be filed with the Secretary of State. Proceedings in the Supreme Court to resolve a protest or objection shall be in accordance with Title 34 O.S., Supp. 2015 §§ 8-11, and such other procedures as may be ordered by the Court. Proponent(s) of record for State Question 788, Initiative Petition 412: Oklahomans for Health 8751 N. 117th E Ave. Owasso, Oklahoma 74055

PRELIMINARY BALLOT TITLE FOR SQ 788, as

rewritten by the Attorney General

This measure legalizes the licensed use, sale, and growth of marijuana in Oklahoma. There are no qualifying medical conditions identified. Possession and use of marijuana is authorized through a medical marijuana license that is valid for two years, rather than by prescription. An Oklahoma board certified physician must recommend the license using the same accepted standards for recommending other medications, and must sign the application for the license. The State Department of Health must issue a license to an applicant who: submits a valid application, is eighteen years or older, and is an Oklahoma resident. Applications for individuals under eighteen must be signed by two physicians and by a parent or legal guardian. The Department also issues seller, grower, packaging, transportation, research, and caregiver licenses to those who meet certain minimal requirements. A 7 percent state tax is imposed on retail sales of marijuana. Unlicensed possession by an individual who claims to have a medical condition is punishable by a fine not exceeding \$400. Local government cannot use zoning laws to prevent the opening of a retail marijuana store. This measure does not change federal law, which makes use, sale, and growth of marijuana illegal. SHALL THE MEASURE BE APPROVED? FOR THE MEASURE - YES _____ AGAINST THE MEASURE - NO _____ A "YES" vote is a vote in favor of this measure. A "NO" vote is a vote against this measure. DONE, BY ORDER OF THE SUPREME COURT THIS 13TH DAY OF SEPTEMBER, 2016. Chris Benge Oklahoma Secretary of State and Native American Affairs

Location:

801 Signatures. The Court

[Image: A small, illegible stamp or signature at the bottom of the notice.]



Chris Bengé
Secretary of State
and
Native American Affairs

Mary Fallin
Governor

OKLAHOMA SECRETARY OF STATE

**FILED
SUPREME COURT
STATE OF OKLAHOMA**

SEP 29 2016

**MICHAEL S. RICHIE
CLERK**

September 29, 2016

HAND DELIVERED

Chief Justice John Reif
The Oklahoma Supreme Court
2100 N. Lincoln Blvd., Suite 1
Oklahoma City, Oklahoma 73105

**RE: Return on Supreme Court publication order – Supreme Court Case No. O-115,287
State Question 788, Initiative Petition 412**

Dear Chief Justice Reif:

In accordance with the Supreme Court Order filed September 12, 2016 (received by SOS office September 13, 2016), I herewith submit to the Court, the enclosed proofs of publication for the *Notice of the Filing of Signatures and the Apparent Numerical Sufficiency thereof and the Text of the Preliminary Ballot Title as Rewritten by the Attorney General for State Question 788, Initiative Petition 412*. I also certify that said notice was published Thursday, September 15, 2016 in both THE OKLAHOMAN and TULSA WORLD.

Enclosures:

- A. Copy of Supreme Court Order filed September 12, 2016 (S.C. Case No. O-115,287)
- B. Oklahoma Press Service - Proof of Publication, Order Number 16-09-49 (*THE OKLAHOMAN*)
- C. Oklahoma Press Service - Proof of Publication, Order Number 16-09-49 (*TULSA WORLD*)

Please be advised that this office is prepared to provide the Court with additional information or assistance as needed.

Sincerely,

Chris Bengé
Oklahoma Secretary of State and
Native American Affairs

CERTIFICATE OF HAND DELIVERY AND MAILING

I hereby certify that a true and accurate copy of the foregoing was hand delivered on September 29, 2016, to the following party;

The Honorable E. Scott Pruitt
Attorney General
313 NE 21st Street
Oklahoma City, Oklahoma 73105

I also hereby certify that a true and accurate copy of the foregoing, was placed in USPS mail, regular first-class, on September 29, 2016, addressed to the following parties;

Oklahomans for Health
8751 N 117th E Ave
Owasso, Oklahoma 74055

COUNSEL FOR PROPONENTS

Brady Henderson
ACLU of Oklahoma Foundation
3000 Paseo Drive
Oklahoma City, Oklahoma 73103

Ryan Kiesel
ACLU of Oklahoma Foundation
3000 Paseo Drive
Oklahoma City, Oklahoma 73103



Chris Bengé
Oklahoma Secretary of State and
Native American Affairs

Enclosure “A”

IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

FILED
SUPREME COURT
STATE OF OKLAHOMA

SEP 12 2016

MICHAEL S. RICHIE
CLERK

IN RE:)
)
INITIATIVE PETITION NO. 412,) No. 115,287
)
STATE QUESTION NO. 788.)

STATE OF OKLAHOMA, TO:

CHRIS BENGE, SECRETARY OF STATE, STATE OF OKLAHOMA

GREETINGS:

RECEIVED

SEP 13 2016

OKLAHOMA SECRETARY
OF STATE

ORDER

An initiative petition has been circulated in the State of Oklahoma, seeking the approval by the electorate of State Question No. 788, a proposed new law, to be codified at Oklahoma Statutes Title 63, §420, which would legalize medical marijuana for residents with a recommendation from an Oklahoma Board Certified Physician and legalize medical marijuana dispensaries with growing and processing licenses.

In accordance with 34 O.S. Supp. 2015 § 8, the Court recognizes the certification of the Secretary of State that the petition contains 67,801 signatures. The Court further recognizes that the number of signatures necessary to place the measure before the electorate is 65,987, being 8% of the votes cast for the office Governor in the November, 2014 general election. Okla. Const. Art. 5 § 2. The signatures on the petition appear numerically sufficient.

The Secretary of State is directed forthwith to cause to be published in at least one newspaper of general circulation in the State of Oklahoma, a public notice

of the filing of Initiative Petition No. 412, State Question No. 788, and of the apparent numerical sufficiency of the signatures. The Secretary of State shall also publish the text of the ballot title as rewritten by the Attorney General pursuant to 34 O.S.Supp.2015 § 9(D). The notice shall advise that any citizen of the State of Oklahoma may file a written objection to the signature count, or the rewritten ballot title, in the office of the Clerk of the Supreme Court of the State of Oklahoma, with a copy directed to the proponents of the petition and the Attorney General. Any such objection must be filed with the Clerk of the Supreme Court not later than ten (10) days from the date of publication. A copy of the objection must also be filed with the Secretary of State.

Proceedings in the Supreme Court to resolve any objection shall be in accordance with 34 O.S.Supp.2015 §§ 8-11, and such other procedures as may be ordered by the Court.

The Secretary of State is directed to obtain verified proof of publication of the notice herein directed, and to file the same with the Clerk of this Court as a return to this order.

DONE BY ORDER OF THE SUPREME COURT IN CONFERENCE THIS
12th DAY OF SEPTEMBER, 2016.



VLS CHIEF JUSTICE

ALL JUSTICES CONCUR.

Enclosure “B”

Oklahoma Press Service

3601 North Lincoln Blvd.
Oklahoma City, OK 73105-
Voice (405) 499-0020 Fax (405) 499-0048

Thursday, September 22, 2016 12:17 PM

Page 1

Proof of Publication Order Number 16-09-49

I, Cindy Shea, of lawful age, being duly sworn upon oath, deposes and says: That I am the Authorized Agent of OK-THE OKLAHOMAN, a Daily newspaper printed and published in the city of OKLAHOMA CITY, county of Oklahoma, and state of Oklahoma, and that the advertisement referred to, a true and printed copy of which is here unto attached, was published in said OK-THE OKLAHOMAN in consecutive issues on the following dates-to-wit:

Insertion: 09/15/2016

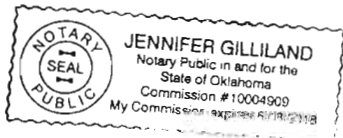
That said newspaper has been published continuously and uninterruptedly in said county during a period of one-hundred and four consecutive weeks prior to the publication of the attached notice or advertisement; that it has been admitted to the United States mail as second-class mail matter; that it has a general paid circulation, and publishes news of general interest, and otherwise conforms with all of the statutes of the Oklahoma governing legal publications.

PUBLICATION FEE \$2,005.76

(Editor, Publisher or Authorized Agent)

SUBSCRIBED and sworn to me this
22 day of September 2016.

(Notary Public)



NOTICE OF THE FILING OF SIGNATURES AND THE APPEARANT NUMERICAL SUFFICIENCY THEREOF AND THE TEXT OF THE PRELIMINARY BALLOT TITLE AS REWRITTEN BY THE ATTORNEY GENERAL FOR STATE QUESTION NUMBER 788, INITIATIVE PETITION NUMBER 412

NOTICE is hereby given that on August 11, 2016 six (6) boxes of signature pamphlets were received by the office of the Secretary of State, from the proponents of record for State Question 788, Initiative Petition 412.

NOTICE is also hereby given that in accordance with Title 34 O.S., Supp. 2015 § 8 and by order of the Supreme Court of Oklahoma, the Court recognizes the certification of the Secretary of State that the petition contains 67,801 signatures. The Court further recognizes that the number of signatures necessary to place the measure before the electorate is 65,987, being 8% of the votes cast for the office of Governor at the General Election in November 2014. The signatures on the petition appear numerically sufficient.

NOTICE is likewise, hereby given that any citizen or citizens of the state may file an objection, relating only to the signature count made by the Secretary of State or the Preliminary Ballot Title as rewritten by the Attorney General, within ten (10) business days of the date of this publication, by a written notice to the Clerk of the Oklahoma Supreme Court and a copy directed to the proponent(s) of the petition and the Attorney General. Also, a copy of any such objection shall be filed with the Secretary of State. Proceedings in the Supreme Court to resolve a protest or objection shall be in accordance with Title 34 O.S., Supp. 2015 §§ 8-11, and such other procedures as may be ordered by the Court.

Proponent(s) of record for State Question 788, Initiative Petition 412:

Oklahomans for Health
8751 N. 117th E Ave.
Owasso, Oklahoma 74055

PRELIMINARY BALLOT TITLE FOR SQ 788, as rewritten by the Attorney General

This measure legalizes the licensed use, sale, and growth of marijuana in Oklahoma. There are no qualifying medical conditions identified. Possession and use of marijuana is authorized through a medical marijuana license that is valid for two years, rather than by prescription. An Oklahoma board certified physician must recommend the license using the same accepted standards for recommending other medications, and must sign the application for the license. The State Department of Health must issue a license to an applicant who:

- submits a valid application,
- is eighteen years or older, and
- is an Oklahoma resident.

Applications for individuals under eighteen must be signed by two physicians and by a parent or legal guardian. The Department also issues seller, grower, packaging, transportation, research, and caregiver licenses to those who meet certain minimal requirements. A 7 percent state tax is imposed on retail sales of marijuana. Unlicensed possession by an individual who claims to have a medical condition is punishable by a fine not exceeding \$400.

Local government cannot use zoning laws to prevent the opening of a retail marijuana store. This measure does not change federal law, which makes use, sale, and growth of marijuana illegal.

SHALL THE MEASURE BE APPROVED?

FOR THE MEASURE – YES
AGAINST THE MEASURE – NO

A "YES" vote is a vote in favor of this measure. A "NO" vote is a vote against this measure.

DONE, BY ORDER OF THE SUPREME COURT THIS 13TH DAY OF SEPTEMBER, 2016.

Chris Bengé
Oklahoma Secretary of State
and Native American Affairs

Enclosure “C”

Oklahoma Press Service

3601 North Lincoln Blvd.

Oklahoma City, OK 73105-

Voice (405) 499-0020 Fax (405) 499-0048

Thursday, September 22, 2016 12:17 PM

Page 1

Proof of Publication Order Number 16-09-49

I, Cindy Shea, of lawful age, being duly sworn upon oath, deposes and says: That I am the Authorized Agent of OK-TULSA WORLD - Legal, a Daily newspaper printed and published in the city of TULSA, county of Tulsa, and state of Oklahoma, and that the advertisement referred to, a true and printed copy of which is here unto attached, was published in said OK-TULSA WORLD - Legal in consecutive issues on the following dates-to-wit:

Insertion: 09/15/2016

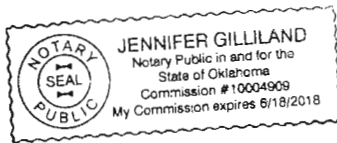
That said newspaper has been published continuously and uninterruptedly in said county during a period of one-hundred and four consecutive weeks prior to the publication of the attached notice or advertisement; that it has been admitted to the United States mail as second-class mail matter; that it has a general paid circulation, and publishes news of general interest, and otherwise conforms with all of the statutes of the Oklahoma governing legal publications.

PUBLICATION FEE \$141.55

(Editor, Publisher or Authorized Agent)

SUBSCRIBED and sworn to me this 22 day of September 2016.

(Notary Public)



289801

Published in the Tulsa World, Tulsa County, Oklahoma, September 15, 2016

NOTICE OF THE FILING OF SIGNATURES AND THE APPEARANT NUMERICAL SUFFICIENCY THEREOF AND THE TEXT OF THE PRELIMINARY BALLOT TITLE AS REWRITTEN BY THE ATTORNEY GENERAL FOR STATE QUESTION NUMBER 788, INITIATIVE PETITION NUMBER 412

NOTICE is hereby given that on August 11, 2016 six (6) boxes of signature pamphlets were received by the office of the Secretary of State, from the proponents of record for State Question 788, Initiative Petition 412.

NOTICE is also hereby given that in accordance with Title 34 O.S., Supp. 2015 § 8 and by order of the Supreme Court of Oklahoma, the Court recognizes the certification of the Secretary of State that the petition contains 67,801 signatures. The Court further recognizes that the number of signatures necessary to place the measure before the electorate is 65,987, being 8% of the votes cast for the office of Governor of the General Election in November 2014. The signatures on the petition appear numerically sufficient.

NOTICE is likewise, hereby given that any citizen or citizens of the state may file an objection, relating only to the signature count made by the Secretary of State or the Preliminary Ballot Title as rewritten by the Attorney General, within ten (10) business days of the date of this publication, by a written notice to the Clerk of the Oklahoma Supreme Court and a copy directed to the proponent(s) of the petition and the Attorney General. Also, a copy of any such objection shall be filed with the Secretary of State. Proceedings in the Supreme Court to resolve a protest or objection shall be in accordance with Title 34 O.S., Supp. 2015 §§ 8-11, and such other procedures as may be ordered by the Court.

Proponent(s) of record for State Question 788, Initiative Petition 412:

Oklahomans for Health
8751 N. 117th E Ave.
Owasso, Oklahoma 74055

PRELIMINARY BALLOT TITLE FOR SQ 788, as rewritten by the Attorney General

This measure legalizes the licensed use, sale, and growth of marijuana in Oklahoma. There are no qualifying medical conditions identified. Possession and use of marijuana is authorized through a medical marijuana license that is valid for two years, rather than by prescription. An Oklahoma board certified physician must recommend the license using the same accepted standards for recommending other medications, and must sign the application for the license. The State Department of Health must issue a license to an applicant who:

- submits a valid application,
- is eighteen years or older, and
- is an Oklahoma resident.

Applications for individuals under eighteen must be signed by two physicians and by a parent or legal guardian. The Department also issues seller, grower, packaging, transportation, research, and caregiver licenses to those who meet certain minimal requirements. A 7 percent state tax is imposed on retail sales of marijuana. Unlicensed possession by an individual who claims to have a medical condition is punishable by a fine not exceeding \$400.

Local government cannot use zoning laws to prevent the opening of a retail marijuana store. This measure does not change federal law, which makes use, sale, and growth of marijuana illegal.

SHALL THE MEASURE BE APPROVED?

FOR THE MEASURE - YES _____
AGAINST THE MEASURE - NO _____

A "YES" vote is a vote in favor of this measure. A "NO" vote is a vote against this measure.

DONE, BY ORDER OF THE SUPREME COURT THIS 13TH DAY OF SEPTEMBER, 2016.

Chris Bengt
Oklahoma Secretary of State
and Native American Affairs

SEP 29 2016

In Re:)
INITIATIVE PETITION NO. 412,) No. 115,287
STATE QUESTION NO. 788)

MICHAEL S. RICHIE
CLERK

**NOTICE OF OBJECTION TO
SIGNATURE COUNT CERTIFIED BY OKLAHOMA SECRETARY OF STATE**

COME NOW, Chip Paul and Phillip Winters, Oklahomans for Health, Proponents of the Initiative Petition at issue herein, and give notice of their objection to a portion of the signature count certified by the Oklahoma Secretary of State in its August 25 letter to the Chief Justice of this Honorable Court. This objection is made pursuant to the Court’s Order of September 12, 2016, and in compliance with 34 O.S. § 8(K). In support of said objection, Proponents state as follows:

1. On or about August 25, 2016, the Oklahoma Secretary of State certified that Initiative Petition No. 412 received 67,801 valid signatures, following the physical counting of 3,895 pages of signatures. This certification letter is attached as Exhibit A.
2. The required number of signatures to place No. 412 before Oklahoma voters in 65,987. As such, the signature count certified by the Secretary of State is sufficient to put State Question 788 to a vote of the people. Proponents do not challenge or object to this sufficiency.
3. Exhibit A also certified that signatures appearing on pages 3,806 through 3,891 were “not included in such physical count due to improper/incomplete notarizations or incomplete circulator affidavits.” Exhibit A, at 1. Proponents object to the certified signature count solely concerning the exclusion of a portion of these pages, as more fully set out below.

RECEIVED

SEP 30 2016

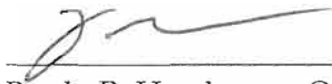
**OKLAHOMA SECRETARY
OF STATE**

4. Proponents' review of pages 3,806 through 3,891 indicates many of them should be subject to counting under Oklahoma law. This objection to their exclusion will become moot if no challenge has been or is timely filed with this Court to the overall sufficiency of signatures to place State Question 788 on the ballot. Should no challenge be filed, Proponents intend to move to dismiss this objection due to mootness, as preservation of Proponents' rights to challenge the exclusion of signatures will no longer be necessary.
5. When examining potential notarization defects or affidavit defects, 34 O.S. § 6.1(A)(7), in pertinent part, requires exclusion only of signatures in which "a notary has failed to sign, the seal of the notary is absent, the commission of the notary has expired, or the expiration date is not on the signature sheet." 34 O.S. § 6.1(A)(7).
6. Proponents' review of pages 3,806 through 3,891 demonstrates the following apparent notarization omissions or errata that Proponents contend should not invalidate the lawfully rendered signatures of the Oklahoma voters included therein:
 - a. On pages 3,807, 3,809, 3,816, 3,823, 3,842, 3,855, 3,857-3,859, and 3,861-3,863, the county was omitted from the style appearing at the top of the petitioner's affidavit. However, the state of Oklahoma was listed at the top, along with all other requisite information for substantial compliance with 34 O.S. §6. As such, this insubstantial omission should not preclude counting of the signatures appearing on these pages.
 - b. On pages 3,878-3,880 and 3,882, a scrivener's error appears in which one element of the date of notarization was mistakenly filled in to match the notary's date of commission expiration. The remainder of the date is filled in accurately. The error is readily intelligible and giving effect to the scrivener's error would create the absurdity of certifying that the pages in question were notarized in 2017 and 2020 respectively. As such, this insubstantial error should not preclude counting of the signatures appearing on these pages.

- c. Page 3,806 includes no defect apparent on its face, but further research indicates that the notary's listed address may not match the address currently displayed in an online public record check of the state's notary public database. However, the notary public otherwise completed the notarization correctly, signed and sealed it, and is registered as currently in active commission as a notary public, and thus empowered to complete the process required by 34 O.S. § 6. As such, a records discrepancy as to the notary's address should not preclude counting of the signatures on this page.
 - d. Pages 3,808, 3,811-3,815, 3,817-3,818, 3,824-3,825, 3,827-3,841, 3,843-3,854, and 3,856 contain both the omission of County detailed in Subsection a., above, and the address discrepancy detailed above in Subsection c., but no apparent substantive deficiencies. The combination of insubstantial omission and insubstantial records discrepancy should not preclude counting of the signatures on these pages.
7. None of the omissions or errata discussed are listed in 34 O.S. § 6.1 as reasons for exclusion from counting.
 8. Inclusion of the pages described above would add presumptively up to 977 signatures to the signature count for State Question 788, beyond the 67,801 previously certified by the Oklahoma Secretary of State.

WHEREFORE, Proponents give notice of their objection, and their request that the pages detailed above be examined and, if the Court finds it appropriate, added to the signature count for State Question 788. Should this request be made moot by the absence of any challenge to the sufficiency of signatures to place State Question 788 before the electorate, Proponents will move this Court to dismiss this objection as soon as practicable.

Respectfully submitted,



Brady R. Henderson, OBA#21212
ACLU of Oklahoma Foundation
3000 Paseo Drive, Oklahoma City, OK 73103
(405) 525-3831, (405) 524-2296 (fax)
bhenderson@acluok.org

Ryan Kiesel, OBA#21254
ACLU of Oklahoma Foundation
3000 Paseo Drive, Oklahoma City, OK 73103
(405) 525-3831, (405) 524-2296 (fax)
rkiesel@acluok.org
Attorneys for Proponents herein

CERTIFICATE OF MAILING

The undersigned hereby certifies that on the 29th day of September, 2016, a true and correct copy of the above Entry is being filed with the Secretary of State via hand delivery, at 2300 N. Lincoln Blvd., Ste. 101, Oklahoma City, Oklahoma, 73105, and is being delivered to the Honorable Scott Pruitt, Oklahoma Attorney General, at 313 NE 21st St., Oklahoma City, Oklahoma, 73069, via hand-delivery.



Brady Henderson



ORIGINAL

Chris Bengé
Secretary of State
and
Native American Affairs

Mary Fallin
Governor

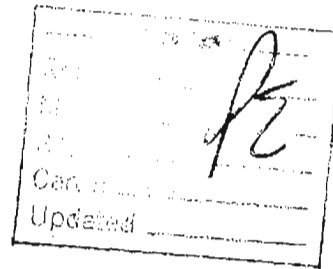
OKLAHOMA SECRETARY OF STATE

August 25, 2016

#115287

HAND DELIVERED

Chief Justice John Reif
The Oklahoma Supreme Court
2100 N. Lincoln Blvd., Suite 1
Oklahoma City, Oklahoma 73105



RE: Secretary of State's Certification to the Court of the Physical Signature Count for State Question 788, Initiative Petition 412 (subject: Medical Marijuana)

Dear Chief Justice Reif:

Pursuant to the provisions of Title 34 O.S., Sections 6.1 and 8, the Secretary of State certifies to the Supreme Court the following details:

- Six (6) boxes of signature pamphlets, for State Question 788, Initiative Petition 412, were received by our office on August 11, 2016.
- The Secretary of State began the physical count of signatures on August 18, 2016 at 1:00 p.m. Said count was concluded on August 23, 2016 at 4:00 p.m.
- Individual signature sheets are page numbered 1 through 3,895 and bound in a total of 20 volumes. Volumes 1 through 19 contain 200 signature sheets per volume and Volume 20 contains a total of 95 signature sheets.
- Several signatures on page 3,804 were not included in the count as they were duplicates of signatures which had first appeared and were counted on page 3,803.
- Page numbers 3,806 through 3,891 were not included in such physical count due to either improper/incomplete notarizations or incomplete circulator affidavits.
- The Secretary of State certifies the total number of signatures counted for State Question 788, Initiative Petition 412 is **67,801**.
- The Secretary of State affirms the State Election Board has certified that a total of 824,831 votes were cast for the office of Governor at the General Election in November 2014.

Exhibit A


- The Secretary of State also certifies that proponents' proposed ballot title was submitted to the Attorney General's office August 15, 2016 for review as to legal correctness. The Attorney General's ballot title review was filed with the Secretary of State's office on August 18, 2016.

In support of the details so certified, please find attached the following documents:

- A. Copy of State Question 788, Initiative Petition 412
- B. Tabulation Sheets for SQ 788, IP 412
- C. Total votes cast as certified by the State Election Board--SOS Doc# 047220
- D. Attorney General's ballot title review, filed with S.O.S. 08-18-2016

Please be advised that this office is prepared to provide the Court with additional information or assistance as needed.

Sincerely,



Chris Bengé
Secretary of State and
Native American Affairs

CERTIFICATE OF MAILING

I hereby certify that a true and accurate copy of the foregoing was hand delivered, on August 25, 2016 to the following party;

The Honorable E. Scott Pruitt
Oklahoma Attorney General
313 NE 21st Street
Oklahoma City, Oklahoma 73105

I also hereby certify that a true and accurate copy of the foregoing was placed in USPS mail, regular first-class, on August 25, 2016, addressed to the proponent(s) of record for SQ788.

Proponent(s) of record for State Question 788

Oklahomans for Health
8751 N. 117th E Ave
Owasso, Oklahoma 74055



Chris Bengé
Oklahoma Secretary of State and
Native American Affairs



ORIGINAL

IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

FILED
SUPREME COURT
STATE OF OKLAHOMA

OCT 03 2016

MICHAEL S. RICHIE
CLERK

CHIP PAUL and PHILIP WINTERS)
 OKLAHOMANS FOR HEALTH,)
)
 Petitioners,)
)
 v.)
)
 THE HONORABLE SCOTT PRUITT,)
 ATTORNEY GENERAL OF OKLAHOMA,)
)
 Respondent.)

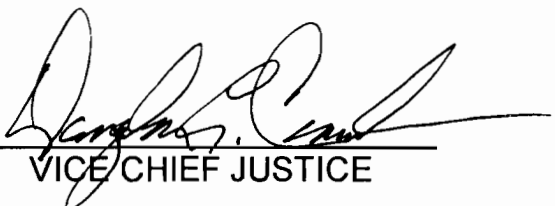
No. 115,322

Received	10/3/2016
Filed	43
Index	12
Classified	15
Released	10
Disposition	yes

ORDER

The respondent is directed to respond, not later than October 25, 2016, to petitioners' petition to review the ballot title re-written by the respondent for State Question 788, Initiative Petition No. 412. The petitioners may file a reply, limited to 10 pages, 10 days after the respondent files his response. No oral presentation is contemplated at this time.

DONE BY THE ORDER OF THE SUPREME COURT THIS 3RD DAY OF OCTOBER, 2016.


 VICE CHIEF JUSTICE

RECEIVED

OCT 04 2016

OKLAHOMA SECRETARY
OF STATE

IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

FILED
SUPREME COURT
STATE OF OKLAHOMA
OCT - 3 2016

In Re:)
INITIATIVE PETITION NO. 412,) No. 115,287
STATE QUESTION NO. 788)

MICHAEL S. RICHIE
CLERK
RECEIVED

OCT 03 2016

MOTION TO DISMISS PROPONENTS' OBJECTION TO OKLAHOMA SECRETARY OF STATE
SIGNATURE COUNT CERTIFIED BY OKLAHOMA SECRETARY OF STATE

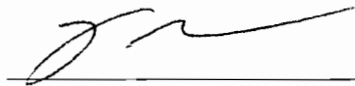
COME NOW, Chip Paul and Phillip Winters, Oklahomans for Health, Proponents of the Initiative Petition at issue herein, and move to dismiss their own previously filed objection to signature count certified by the Oklahoma Secretary of State. In support of said objection, Proponents state as follows:

1. On or about August 25, 2016, the Oklahoma Secretary of State certified that Initiative Petition No. 412 received 67,801 valid signatures. The required number of signatures to place No. 412 before Oklahoma voters is 65,987. As such, the signature count certified by the Secretary of State is sufficient to put State Question 788 to a vote of the people.
2. On September 29, 2016, Proponents filed an Objection to the certified signature count (though not the sufficiency), arguing that up to 977 additional signatures should have been counted.
3. Since the September 29 filing, the deadline for objections or protests to the signature certification by the Oklahoma Secretary of State has now passed. No protest or objection to the sufficiency of the signatures certified has been filed. As such, Proponents' objection has become moot since State Question 788 has sufficient certified voter signatures to place it before the electorate regardless of whether any or all of the 977 additional signatures are added.

WHEREFORE, Proponents give notice of the mootness of their Objection to Signature Count filed previously herein, and move this Honorable Court to dismiss

that Objection, so that the outstanding controversy of the State Question's re-write by the Oklahoma Attorney General can be resolved with dispatch, and an appropriately worded ballot title for S.Q. 788 may be placed before the Oklahoma electorate.

Respectfully submitted,

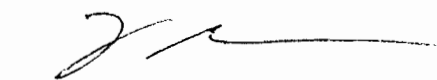


Brady R. Henderson, OBA#21212
ACLU of Oklahoma Foundation
3000 Paseo Drive, Oklahoma City, OK 73103
(405) 525-3831, (405) 524-2296 (fax)
bhenderson@acluok.org

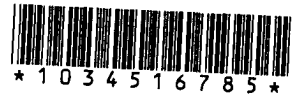
Ryan Kiesel, OBA#21254
ACLU of Oklahoma Foundation
3000 Paseo Drive, Oklahoma City, OK 73103
(405) 525-3831, (405) 524-2296 (fax)
rkiesel@acluok.org
Attorneys for Proponents herein

CERTIFICATE OF MAILING

The undersigned hereby certifies that on the day of filing a true and correct copy of the above Entry is being filed with the Secretary of State via hand delivery, at 2300 N. Lincoln Blvd., Ste. 101, Oklahoma City, Oklahoma, 73105, and is being delivered to the Honorable Scott Pruitt, Oklahoma Attorney General, at 313 NE 21st St., Oklahoma City, Oklahoma, 73069, via hand-delivery.



Brady Henderson



IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

Chip Paul and Philip Winters)
 Oklahomans for Health,)
)
 Petitioners,)
)
 vs)
)
 The Honorable Scott Pruitt, Attorney)
 General of Oklahoma,)
)
 Respondent.)

FILED
SUPREME COURT
STATE OF OKLAHOMA
 DEC 13 2016
MICHAEL S. RICHIE
 CLERK

No. 115322

20788

ORDER

The parties are directed to file briefs in this matter addressing the following issue: Whether this proposed Initiative Petition is void on its face in relation to federal law?


The briefs shall be filed according to the following schedule:

The Respondent's brief shall be filed within thirty days from the date of this Order.

The Petitioners' response brief shall be filed no more than twenty days after the Respondent's brief is filed.

The briefs shall be limited to the issue presented and shall not exceed twenty-five pages.

DONE BY ORDER OF THE SUPREME COURT on December 12, 2016.


 CHIEF JUSTICE

Combs, C.J., Kauger, Winchester, Taylor and Reif, JJ., concur;
 Gurich, V.C.J., Watt, Edmondson and Colbert, JJ., dissent.

RECEIVED
 DEC 14 2016
 OKLAHOMA SECRETARY
 OF STATE



IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

FILED
SUPREME COURT
STATE OF OKLAHOMA

MAR - 8 2017

MICHAEL S. RICHIE
CLERK

CHIP PAUL and PHILLIP WINTERS,)
OKLAHOMANS FOR HEALTH,)

Petitioners,)

v.)

THE HONORABLE SCOTT PRUITT,)
ATTORNEY GENERAL OF OKLAHOMA)

Respondent.)

SQ 788

No. 115,322

ORDER

I hereby recuse myself from the above-styled and numbered cause.

DONE THIS 8TH DAY OF MARCH, 2017.

PATRICK R. WYRICK
JUSTICE



FILED
SUPREME COURT
STATE OF OKLAHOMA

IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

OCT 7 2016

Friday, October 7, 2016

MICHAEL S. RICHIE
CLERK OF
THE APPELLATE COURTS

THE CLERK IS DIRECTED TO ENTER THE FOLLOWING ORDERS OF THE COURT:

115,374 - KURT MEYER v. HONORABLE CYNTHIA FERRELL ASHWOOD, District Judge, Lincoln County

Motion for an extension of time to respond is granted in part. The new deadline for filing a response is October 14, 2016. Oral presentation shall remain as scheduled.

115,287 - IN RE: INITIATIVE PETITION NO. 412, STATE QUESTION NO. 788

Proponents' motion to dismiss their objection to the Signature Count is granted, and the Objection filed September 29, 2016 is dismissed.

115,416 - MARISSA WILLIAMS and JOSHUA WILLIAMS v. THE HONORABLE ROBERT E. DAVID, Associate District Judge of the District Court of Kingfisher County

Respondent, by and through the real party in interest, is ordered to respond by no later than October 31, 2016.

Oral presentation to a Referee of this Court is set for November 8, 2016 at 1:30 p.m.

115,277 - SCOTT THOMPSON v. THE HONORABLE BARBARA G. SWINTON, Judge of the District Court of Oklahoma County, Oklahoma

Petitioner is directed to show cause, not later than October 16, 2016, why this cause should not be dismissed as abandoned.


VICE CHIEF JUSTICE

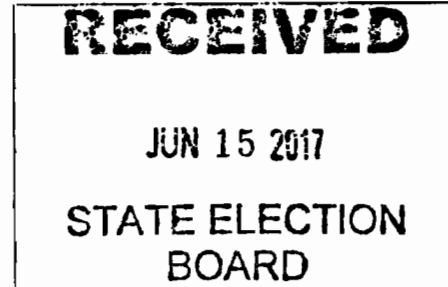


Dave Lopez
Secretary of State

Mary Fallin
Governor

OKLAHOMA SECRETARY OF STATE

June 15, 2016



HAND DELIVERED

The Honorable Paul Ziriach
Secretary, State Election Board
State Capitol, Room B-6
Oklahoma City, Oklahoma 73105

Re: State Question 788, Initiative Petition 412 – Certification of Final Ballot Title

Dear Secretary Ziriach:

In accordance with the provisions of 34 O.S. § 9, I hereby certify that all requirements of said section of law have been met for State Question 788, Initiative Petition 412, and therefore, I herewith transmit to you true and accurate copies of the following on record with this office;

- **Original Proposed Ballot Title for State Question 788, Initiative Petition 412**
- **State Question 788, Initiative Petition 412**
- **Filed stamped copy of Order of the Court filed w/ Supreme Court 09/12/2016**
- **Filed stamped copy of Order of the Court filed w/ Supreme Court 10/07/2016**
- **File stamped copy of Oklahoma Supreme Court Order 2017 OK 25**

If our office may be of any further assistance, please do let us know.

Sincerely,

Dave Lopez
Secretary of State



Dave Lopez
Secretary of State

Mary Fallin
Governor

OKLAHOMA SECRETARY OF STATE

June 15, 2017

RECEIVED
JUN 15 2017
OFFICE OF THE
GOVERNOR

HAND DELIVERED

The Honorable Mary Fallin
Governor, State of Oklahoma
State Capitol, Room 212
Oklahoma City, Oklahoma 73105

Re: State Question 788, Initiative Petition 412 – Certification of Final Ballot Title

Dear Governor Fallin:

Pursuant to 34 O.S. § 9, the Secretary of State has certified to the State Election Board that all requirements of said section of law have been met for State Question 788, Initiative Petition 412. Therefore, the Secretary of State has transmitted an attested copy of the above referenced measure and an attested copy of the original proposed ballot title. Please find enclosed true and accurate copies of the following, on record with the Secretary of State office;

- **SOS transmittal letter to the State Election Board dated June 15, 2017**
- **Original Proposed Ballot Title for State Question 788, Initiative Petition 412**
- **State Question 788, Initiative Petition 412**
- **Filed stamped copy of Order of the Court filed w/ Supreme Court 09/12/2016**
- **Filed stamped copy of Order of the Court filed w/ Supreme Court 10/07/2016**
- **Filed stamped copy of Oklahoma Supreme Court Order 2017 OK 25**

If there are any questions, please do not hesitate to contact our office.

Sincerely,

A handwritten signature in black ink, appearing to read "Dave Lopez".

Dave Lopez
Secretary of State



Mary Fallin
Governor

FILED

JAN 04 2018

OKLAHOMA SECRETARY
OF STATE

**EXECUTIVE DEPARTMENT
EXECUTIVE PROCLAMATION**

I, Mary Fallin, Governor of the State of Oklahoma, pursuant to the provisions of Section 1 of Article V of the Oklahoma Constitution, Section 12 and 25 of Title 34 of the Oklahoma Statutes, and the referral by the Secretary of State, do hereby declare that Initiative Petition Number 412, State Question 788, be submitted to qualified electors of the State of Oklahoma for their approval or rejection at a special election to be held statewide on the primary election date of June 26, 2018.

The substance of the measure amends the Oklahoma State Statutes to legalize the licensed use, sale and growth of marijuana in Oklahoma for medicinal purposes.

Copies of this Executive Proclamation shall be delivered to the Secretary of State, the Speaker of the House of Representatives, the President Pro Tempore of the Senate, and the Secretary of the State Election Board.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Oklahoma to be affixed at Oklahoma City, Oklahoma this 4 day of January, 2018.

BY THE GOVERNOR OF THE STATE OF OKLAHOMA

MARY FALLIN

ATTEST

DAVE LOPEZ
SECRETARY OF STATE

049042



Oklahoma State Election Board

ROOM B-6 • BOX 53156 • STATE CAPITOL • OKLAHOMA CITY, OKLAHOMA 73152 • (405) 521-2391

FILED

JUL 05 2018

OKLAHOMA SECRETARY
OF STATE

July 5, 2018

The Honorable James Williamson
Secretary of State
Room 122, State Capitol
Oklahoma City, Oklahoma 73105

Dear Secretary Williamson:

Enclosed please find a copy of the official returns of the vote at the Primary Election on June 26, 2018, on the following measure, as certified to the Governor of the State of Oklahoma.

STATE QUESTION No. 788
INITIATIVE PETITION No. 412

YES: 507,582
NO: 385,176

Sincerely,

PAUL ZIRIAX, Secretary
State Election Board

PZ/ps

Receipt of the above hereby is acknowledged on this 5 day of July, 2018.

By: Alley Saeber

Time: 11:55am

An Act

ENROLLED HOUSE
BILL NO. 2612

By: Echols of the House

and

McCortney of the Senate

An Act relating to medical marijuana; creating the Oklahoma Medical Marijuana and Patient Protection Act; providing definitions; creating the Oklahoma Medical Marijuana Authority; directing Authority to address certain issues related to medical marijuana; providing for support staff and office space; stating duties of the Authority; authorizing employment of Executive Director and personnel; providing qualifications for positions; authorizing Executive Director to delegate powers and duties and suggest rules; granting the Authority and certain personnel specific peace officer powers; creating the Oklahoma Medical Marijuana Authority Revolving Fund; providing sources of monies; appropriating monies for certain purposes; authorizing State Department of Health to address issues related to the medical marijuana program; allowing the Department to perform on-site assessments; establishing guidelines for conducting on-site assessments; providing disciplinary actions for certain violations; providing for the assessment of monetary penalties; allowing applicants and licensees to contest disciplinary actions; providing for the creation of a medical marijuana use registry; stating requirements of use registry; providing for confidentiality of certain medical marijuana licensee records; clarifying possession rights of licensees; prohibiting counties and municipalities from enacting certain possession guidelines; allowing property owners to prohibit certain medical marijuana use; prohibiting denial of eligibility in government assistance programs solely for status as patient or caregiver; providing exception; prohibiting restrictions on a licensee's right to own, purchase or possess firearms; prohibiting assessment of criminal or civil penalties to licensees who use

medical marijuana in accordance with medical marijuana program; providing that government assistance programs are not required to reimburse certain costs; prohibiting employers from engaging in certain employment practices with applicants or employees that hold medical marijuana licenses; providing exceptions; construing act; stating remedies for aggrieved applicants or employees under certain act; defining terms; establishing restrictions for smoking or vaping medical marijuana under certain act; authorizing Department to contact recommending physicians to verify need; providing reduced fee for certain applicants; stating term of patient license; providing limitations on physicians who may recommend medical marijuana to patients; prohibiting assessment of criminal or civil penalties for physicians who recommend medical marijuana; prohibiting physician from co-locating with dispensary; providing for patient license revocation; stating rights of caregivers; limiting number of patients to be designated for caregivers; limiting term of license; stating guidelines and restrictions for homegrown medical marijuana plants; prohibiting use of certain extraction equipment or processes; requiring certain products to be purchased from Oklahoma-licensed businesses; granting Department oversight and audit responsibilities for medical marijuana program; providing inventory tracking system guidelines; creating medical marijuana business licenses; directing development of website for medical marijuana business applications; requiring Department to make medical marijuana business applications available on website; stating requirements, fee and licensing procedures for medical marijuana business applicants; directing applicants to submit certain information and documentation; exempting applicants from certain registration requirement; providing for approval or rejection of license; providing for investigations, interviews and inspections; providing certain approval and rejection procedures; requiring certain licenses and permits; providing for conditional license; excluding certain applicants; providing certain investigative procedures; providing certain grounds for denial and disciplinary action; requiring

compliance with certain building codes; requiring payment of fee before business begins operating; directing applicants to disclose certain financial information and documents; authorizing the Department to develop policies and procedures for disclosure of financial interest and ownership; directing Department to receive applications and issue licenses for medical marijuana transporters; defining scope of license; providing procedures and guidelines for obtaining transporter licenses; directing transporters to use certain tracking system; establishing procedures for transporting medical marijuana or medical marijuana product; authorizing the Department to issue transporter agent licenses; stating fee; providing for the issuance of transporter agent identification card; stating contents of identification card; stating term of license; authorizing Department to revoke or suspend transporter licenses under certain circumstances; specifying vehicle requirements for transporters; requiring preparation of inventory manifests prior to transporting product; requiring certain information on inventory manifest; creating the medical marijuana testing laboratory license; authorizing the Authority to contract with laboratories for certain purpose; authorizing the Department to develop certain testing and research practices; placing restrictions on who may own a testing laboratory; stating requirements and licensing procedures for medical marijuana testing laboratory applicants; requiring medical laboratory director; providing for acceptance of samples; authorizing certain transfer; authorizing use of licensed transporters; directing laboratories to establish certain policies related to the integrity of testing processes; directing the Department to develop certain standards, policies and procedures; requiring laboratories to provide the Department with access to test reports and premises; providing for the retention of lab test results for time certain; specifying mandatory testing categories; requiring certain inspection and proficiency testing; providing for laboratory accreditation; prohibiting sale or transfer of untested medical marijuana and medical marijuana products; prohibiting the sale or distribution of

usable marijuana products unless packaged and labeled in certain manner; requiring return of noncompliant product; establishing certain packaging and labeling requirements; providing for development of packaging and labeling standards for medical marijuana; requiring certain information be displayed on the label; authorizing issuance of research license to certain persons; stating fee for license; allowing issuance of license for specific research purposes; stating criteria for obtaining a medical marijuana research license; providing limitations on the transfer of marijuana grown for research purposes; allowing for the revocation of research license under certain circumstances; authorizing research licensees to contract with institution of higher education; providing exemption from civil or criminal liability for licensed researchers who act in accordance with the medical marijuana program; requiring certain review for public institutions; creating the medical marijuana education facility license; stating purpose of license; stating fee for license; establishing purposes for which the license may be issued; directing applicant to submit certain information with application; providing for the revocation of license under certain circumstances; providing limitations on the transfer of marijuana grown for education purposes; authorizing education facility licensees to contract with higher education research institutions or other research licensees; providing exemption from civil or criminal liability; prohibiting medical marijuana businesses from engaging in deceptive, false or misleading advertising; prohibiting any form of advertising that targets individuals under a certain age; making certain records confidential and exempt from the Oklahoma Open Records Act; defining term; providing for promulgation and recommendation of rules; amending 40 O.S. 2011, Section 552, as amended by Section 17, Chapter 196, O.S.L. 2012 (40 O.S. Supp. 2018, Section 552), which relates to the Standards for Workplace Drug and Alcohol Testing Act; clarifying scope of certain definition; and providing for codification.

SUBJECT: Medical marijuana

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 427.1 of Title 63, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Oklahoma Medical Marijuana and Patient Protection Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 427.2 of Title 63, unless there is created a duplication in numbering, reads as follows:

As used in this act:

1. "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 particular medical marijuana or a medical marijuana product. Advertising includes marketing, but does not include packaging and labeling;

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

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

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

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

6. "Child-resistant" means special 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 C.F.R. 1700.15 (1995) and 16 C.F.R. 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;

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

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

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

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

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

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

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

14. "Edible medical marijuana product" means any medical-marijuana-infused product for which the intended use is oral

consumption including, but not limited to, any type of food, drink or pill;

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

16. "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;

17. "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;

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

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

- a. the licensee or applicant has violated, does not meet, or has failed to comply with any of the terms, conditions or provisions of the act, any rules promulgated pursuant thereto, or any supplemental relevant state or local law, rule or regulation,
- b. the licensee or applicant has failed to comply with any special terms or conditions that were placed upon the license pursuant to an order of the State Department of Health, Oklahoma Medical Marijuana Authority or the municipality, or
- c. the licensed premises of a medical marijuana business or applicant have been operated in a manner that adversely affects the public health or welfare or the safety of the immediate vicinity in which the establishment is located;

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

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

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

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

24. "Inventory tracking system" means the required tracking system 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, destroyed by a medical marijuana business or used in a research project by a medical marijuana research facility;

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

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

27. "Manufacture" means the production, propagation, compounding or processing of a medical marijuana product, excluding marijuana plants, either directly or indirectly by extraction from substances of natural or synthetic origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis;

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

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

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

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

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

33. "Medical marijuana commercial grower" or "commercial grower" means an entity licensed to cultivate, prepare and package medical marijuana and transfer or contract for transfer medical marijuana to a medical marijuana dispensary, medical marijuana processor, any other medical marijuana commercial grower, medical marijuana research facility, medical marijuana education facility and pesticide manufacturers. A commercial grower may sell seeds, flower or clones to commercial growers pursuant to this act;

34. "Medical marijuana education facility" or "education facility" means a person or entity approved pursuant to this act 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 as described in this act;

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

36. "Medical marijuana product" or "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 qualified patient including, but not limited to, oils, tinctures, edibles, pills, topical forms, gels, creams, vapors, patches, liquids, and forms administered by a nebulizer, excluding live plant forms which are considered medical marijuana;

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

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

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

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

41. "Medical marijuana waste" or "waste" means unused, surplus, returned or out-of-date marijuana, plant debris of the plant of the genus Cannabis, including dead plants and all unused plant parts and roots;

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

43. "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 medical marijuana processor or medical marijuana dispensary;

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

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

46. "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,
- 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;

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

50. "Production batch" means:

- a. any amount of medical marijuana concentrate of the same category and produced using the same extraction methods, standard operating procedures and an identical group of harvest batch of medical marijuana, or
- b. any amount of medical marijuana product of the same exact type, produced using the same ingredients, standard operating procedures and the same production batch of medical marijuana concentrate;

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

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

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

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

55. "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 retested as required by this act;

56. "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. A research project shall include a description of a defined protocol, clearly articulated goals, defined methods and outputs, and a defined start and end date. The description shall demonstrate that the research project will comply with all requirements in this act and rules promulgated pursuant thereto. All research and development conducted by a medical marijuana research facility shall be conducted in furtherance of an approved research project;

57. "Revocation" means the final decision by the Department that any license issued pursuant to this act is rescinded because the individual or entity does not comply with the applicable requirements set forth in this act or rules promulgated pursuant thereto;

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

59. "Shipping container" means a hard-sided container with a lid or other enclosure that can be secured in 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;

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

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

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

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

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

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

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

67. "Usable 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 and stalks; and

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

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 427.3 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. There is hereby created the Oklahoma Medical Marijuana Authority within the State Department of Health which shall address issues related to the medical marijuana program in Oklahoma including, but not limited to, the issuance of patient licenses and medical marijuana business licenses, and the dispensing, cultivating, processing, testing, transporting, storage, research, and the use of and sale of medical marijuana pursuant to this act.

B. The Department shall provide support staff to perform designated duties of the Authority. The Department shall also provide office space for meetings of the Authority.

C. The Department shall implement the provisions of this act consistently with the voter-approved State Question No. 788, Initiative Petition No. 412, subject to the provisions of this act.

D. The Department shall exercise its respective powers and perform its respective duties and functions as specified in this act and Title 63 of the Oklahoma Statutes including, but not limited to, the following:

1. Determine steps the state shall take, whether administrative or legislative in nature, to ensure that research on marijuana and marijuana products is being conducted 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;

2. Contract with third-party vendors and other governmental entities in order to carry out the respective duties and functions as specified in this act. The Department shall not contract with any vendor providing commercial services to medical marijuana businesses either directly, through affiliates, or any joint venture or subsidiary;

3. Upon complaint or upon its own motion and upon a completed investigation, levy fines as prescribed in this act and suspend or revoke licenses pursuant to this act;

4. Issue subpoenas for the appearance or production of persons, records and things in connection with disciplinary or contested cases considered by the Department;

5. Apply for injunctive or declaratory relief to enforce the provisions of this section and any rules promulgated pursuant to this section;

6. Inspect and examine, with notice provided in accordance with this act, all licensed premises of medical marijuana businesses, research facilities and education facilities in which medical marijuana is cultivated, manufactured, sold, stored, transported, tested or distributed;

7. Work with the Oklahoma State Banking Department and the State Treasurer to develop good practices and standards for banking and finance for medical marijuana businesses;

8. Establish internal control procedures for licenses including accounting procedures, reporting procedures and personnel policies;

9. Establish a fee schedule and collect fees for performing background checks as the Commissioner deems appropriate. The fees charged pursuant to this paragraph shall not exceed the actual cost incurred for each background check; and

10. Require verification for sources of finance for medical marijuana businesses.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 427.4 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. The Oklahoma Medical Marijuana Authority, in conjunction with the State Department of Health, shall employ an Executive Director and other personnel as necessary to assist the Authority in carrying out its duties.

B. The Authority shall not employ an individual if any of the following circumstances exist:

1. The individual has a direct or indirect interest in a licensed medical marijuana business; or

2. The individual or his or her spouse, parent, child, spouse of a child, sibling, or spouse of a sibling has an application for a medical marijuana business license pending before the Department or is a member of the board of directors of a medical marijuana business, or is an individual financially interested in any licensee or medical marijuana business.

C. All officers and employees of the Authority shall be in the exempt unclassified service as provided for in Section 840-5.5 of Title 74 of the Oklahoma Statutes.

D. The Commissioner may delegate to any officer or employee of the Department any of the powers of the Executive Director and may designate any officer or employee of the Department to perform any of the duties of the Executive Director.

E. The Executive Director shall be authorized to suggest rules governing the oversight and implementation of this act.

F. The Department is hereby authorized to create employment positions necessary for the implementation of its obligations pursuant to this act, including but not limited to Authority investigators and a senior director of enforcement. The Department and the Authority, the senior director of enforcement, the Executive Director, and Department investigators shall have all the powers of any peace officer to:

1. Investigate violations or suspected violations of this act and any rules promulgated pursuant thereto;

2. Serve all warrants, summonses, subpoenas, administrative citations, notices or other processes relating to the enforcement of laws regulating medical marijuana, concentrate, and medical marijuana product;

3. Assist or aid any law enforcement officer in the performance of his or her duties upon such law enforcement officer's request or the request of other local officials having jurisdiction;

4. Require any business licensee, upon twenty-four (24) hours notice or upon a showing of necessity, to permit an inspection of licensed premises during business hours or at any time of apparent operation, marijuana equipment, and marijuana accessories, or books and records; and to permit the testing of or examination of medical marijuana, concentrate, or product; and

5. Require applicants to submit complete and **current** applications, information required by this act and fees, and approve material changes made by the applicant or licensee.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 427.5 of Title 63, unless there is created a duplication in numbering, reads as follows:

There is hereby created in the State Treasury a revolving fund for the State Department of Health to be designated the "Oklahoma Medical Marijuana Authority Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the Department from fees and fines collected pursuant to this act and all monies received by the Oklahoma Tax Commission from tax proceeds collected pursuant to Section 426 of Title 63 of the Oklahoma Statutes. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the Department for the purposes set forth in Section 426 of Title 63 of the Oklahoma Statutes. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 427.6 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. The State Department of Health shall address issues related to the medical marijuana program in Oklahoma including, but not limited to, monitoring and disciplinary actions as they relate to the medical marijuana program.

B. 1. The Department or its designee may perform on-site assessments of a licensee or applicant for any medical marijuana business license issued pursuant to this act to determine compliance with this act or submissions made pursuant to this section. The Department may enter the licensed premises of a medical marijuana business licensee or applicant to assess or monitor compliance.

2. Inspections shall be limited to twice per calendar year and twenty-four (24) hours of notice shall be provided to a medical marijuana business applicant or licensee prior to an on-site assessment. However, additional inspections may occur when the

Department shows that an additional inspection is necessary due to a violation of this act. Such inspection may be without notice if the Department believes that such notice will result in the destruction of evidence.

3. The Department may review relevant records of a licensed medical marijuana business, licensed medical marijuana research facility or licensed medical marijuana education facility, 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 requirements and applicable laws. However, prior to conducting any interviews with the medical marijuana business, research facility or education facility, the licensee shall be afforded sufficient time to secure legal representation during such questioning if requested by the business or facility or any of its agents or employees or contractors.

4. The Department shall refer complaints alleging criminal activity that are made against a licensee to appropriate Oklahoma state or local law enforcement authorities.

C. Disciplinary action may be taken against an applicant or licensee under this act for not adhering to the law pursuant to the terms, conditions and guidelines set forth in this act.

D. Disciplinary actions may include revocation, suspension or denial of an application, license or final authorization and other action deemed appropriate by the Department.

E. Disciplinary actions may be imposed upon a medical marijuana business licensee for:

1. Failure to comply with or satisfy any provision of this section;

2. Falsification or misrepresentation of any material or information submitted to the Department;

3. Failing to allow or impeding a monitoring visit by authorized representatives of the Department;

4. Failure to adhere to any acknowledgement, verification or other representation made to the Department;

5. Failure to submit or disclose information required by this section or otherwise requested by the Department;

6. Failure to correct any violation of this section cited as a result of a review or audit of financial records or other materials;

7. Failure to comply with requested access by the Department to the licensed premises or materials;

8. Failure to pay a required monetary penalty;

9. Diversion of medical marijuana or any medical marijuana product, as determined by the Department;

10. Threatening or harming a patient, a medical practitioner or an employee of the Department; and

11. Any other basis as identified by the Department.

F. Disciplinary actions against a licensee may include the imposition of monetary penalties, which may be assessed by the Department.

G. Penalties for sales by a medical marijuana business to persons other than those allowed by law occurring within any two-year time period may include an initial fine of One Thousand Dollars (\$1,000.00) for a first violation and a fine of Five Thousand Dollars (\$5,000.00) for any subsequent violation. The medical marijuana business may be subject to a revocation of any license granted pursuant to this act upon a showing that the violation was willful or grossly negligent.

H. 1. First offense for intentional and impermissible diversion of medical marijuana, concentrate, or products by a patient or caregiver to an unauthorized person shall not be punished under a criminal statute but may be subject to a fine of Two Hundred Dollars (\$200.00).

2. The second offense for impermissible diversion of medical marijuana, concentrate, or products by a patient or caregiver to an unauthorized person shall not be punished under a criminal statute but may be subject to a fine of not to exceed Five Hundred Dollars (\$500.00) and may result in revocation of the license upon a showing that the violation was willful or grossly negligent.

I. The following persons or entities may request a hearing to contest an action or proposed action of the Department:

1. A medical marijuana business, research facility or education facility licensee whose license has been summarily suspended or who has received a notice of contemplated action to suspend or revoke a license or take other disciplinary action; and

2. A patient or caregiver licensee whose license has been summarily suspended or who has received notice of contemplated action to suspend or revoke a license or take other disciplinary action.

J. All hearings held pursuant to this section shall be in accordance with the Oklahoma Administrative Procedures Act, Section 250 et seq. of Title 75 of the Oklahoma Statutes.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 427.7 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. The Authority shall create a medical marijuana use registry of patients and caregivers as provided under this section. The handling of any records maintained in the registry shall comply with all relevant state and federal laws including, but not limited to, the Health Insurance Portability and Accountability Act of 1996 (HIPAA).

B. The medical marijuana use registry shall be accessible to Oklahoma-licensed medical marijuana dispensaries to verify the license of a patient or caregiver by the twenty-four-character identifier.

C. All other records regarding a medical marijuana licensee shall be maintained by the Authority and shall be deemed confidential. The handling of any records maintained by the Authority shall comply with all relevant state and federal laws including, but not limited to, the Health Insurance Portability and Accountability Act of 1996 (HIPAA). Such records shall be marked as confidential, shall not be made available to the public and shall only be made available to the licensee, designee of the licensee, any physician of the licensee or the caregiver of the licensee. No personally identifiable information, as defined under HIPAA, shall be stored at the Department.

D. A log shall be kept with the file of the licensee to record any event in which the records of the licensee were made available and to whom the records were provided.

E. The Department shall ensure that all application records and information are sealed to protect the privacy of medical marijuana patient license applicants.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 427.8 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. The rights to possess the marijuana products set forth in Section 420 of Title 63 of the Oklahoma Statutes are cumulative and a duly licensed individual may possess at any one time the totality of the items listed therein and not be in violation of this act so long as the individual holds a valid patient license or caregiver license.

B. Municipal and county governing bodies may not enact medical marijuana guidelines which restrict or interfere with the rights of a licensed patient or caregiver to possess, purchase, cultivate or transport medical marijuana within the legal limits set forth in this act or Section 420 et seq. of Title 63 of the Oklahoma Statutes or require patients or caregivers to obtain permits or licenses in addition to the state-required licenses provided herein.

C. Nothing in this act or Section 420 et seq. of Title 63 of the Oklahoma Statutes shall prohibit a residential or commercial property or business owner from prohibiting the consumption of medical marijuana or medical marijuana product by smoke or vaporization on the premises, within the structures of the premises or within ten (10) feet of the entryway to the premises. However, a medical marijuana patient shall not be denied the right to consume or use other medical marijuana products which are otherwise legal and do not involve the smoking or vaporization of cannabis when lawfully recommended pursuant to Section 420 of Title 63 of the Oklahoma Statutes.

D. A medical marijuana patient or caregiver licensee shall not be denied eligibility in public assistance programs including, but not limited to, Medicaid, Supplemental Nutrition Assistance Program (SNAP), Women, Infants, and Children Nutrition Program (WIC), Temporary Assistance for Needy Families (TANF) or other such public assistance programs based solely on his or her status as a medical

marijuana patient or caregiver licensee, unless required by federal law.

E. A medical marijuana patient or caregiver licensee shall not be denied the right to own, purchase or possess a firearm, ammunition, or firearm accessories based solely on his or her status as a medical marijuana patient or caregiver licensee. No state or local agency, municipal or county governing authority shall restrict, revoke, suspend or otherwise infringe upon the right of a person to own, purchase or possess a firearm, ammunition, or firearm accessories or any related firearms license or certification based solely on their status as a medical marijuana patient or caregiver licensee.

F. A medical marijuana patient or caregiver in actual possession of a medical marijuana license shall not be subject to arrest, prosecution or penalty in any manner or denied any right, privilege or public assistance, under state law or municipal or county ordinance or resolution including without limitation a civil penalty or disciplinary action by a business, occupational or professional licensing board or bureau, for the medical use of marijuana in accordance with this act.

G. A government medical assistance program shall not be required to reimburse a person for costs associated with the medical use of marijuana unless federal law requires reimbursement.

H. Unless otherwise required by federal law or required to obtain federal funding:

1. No employer may refuse to hire, discipline, discharge or otherwise penalize an applicant or employee solely on the basis of such applicant's or employee's status as a medical marijuana licensee; and

2. 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 components or metabolites, unless:

- a. the applicant or employee is not in possession of a valid medical marijuana license,
- b. the licensee possesses, consumes or is under the influence of medical marijuana or medical marijuana

product while at the place of employment or during the fulfillment of employment obligations, or

- c. the position is one involving safety-sensitive job duties, as such term is defined in subsection K of this section.

I. Nothing in this act or Section 420 et seq. of Title 63 of the Oklahoma Statutes shall:

1. Require an employer to permit or accommodate the use of medical marijuana on the property or premises of any place of employment or during hours of employment;

2. Require an employer, a government medical assistance program, private health insurer, worker's compensation carrier or self-insured employer providing worker's compensation benefits to reimburse a person for costs associated with the use of medical marijuana; or

3. Prevent an employer from having written policies regarding drug testing and impairment in accordance with the Oklahoma Standards for Workplace Drug and Alcohol Testing Act, Section 551 et seq. of Title 40 of the Oklahoma Statutes.

J. Any applicant or employee aggrieved by a willful violation of this section shall have, as his or her exclusive remedy, the same remedies as provided for in the Oklahoma Standards for Workplace Drug and Alcohol Testing Act set forth in Section 563 of Title 40 of the Oklahoma Statutes.

K. As used in this section:

1. "Safety-sensitive" means any job that includes tasks or duties that the employer reasonably believes could affect the safety and health of the employee performing the task or others including, but not limited to, any of the following:

- a. the handling, packaging, processing, storage, disposal or transport of hazardous materials,
- b. the operation of a motor vehicle, other vehicle, equipment, machinery or power tools,

- c. repairing, maintaining or monitoring the performance or operation of any equipment, machinery or manufacturing process, the malfunction or disruption of which could result in injury or property damage,
- d. performing firefighting duties,
- e. the operation, maintenance or oversight of critical services and infrastructure including, but not limited to, electric, gas, and water utilities, power generation or distribution,
- f. the extraction, compression, processing, manufacturing, handling, packaging, storage, disposal, treatment or transport of potentially volatile, flammable, combustible materials, elements, chemicals or any other highly regulated component,
- g. dispensing pharmaceuticals,
- h. carrying a firearm, or
- i. direct patient care or direct child care; and

2. A "positive test for marijuana components or metabolites" means a result that is at or above the cutoff concentration level established by the United States Department of Transportation or Oklahoma law regarding being under the influence, whichever is lower.

L. All smokable, vaporized, vapable and e-cigarette medical marijuana product inhaled through vaporization or smoked by a medical marijuana licensee are subject to the same restrictions for tobacco under Section 1-1521 of Title 63 of the Oklahoma Statutes, commonly referred to as the "Smoking in Public Places and Indoor Workplaces Act".

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 427.9 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. The Authority may contact the recommending physician of an applicant for a medical marijuana license to verify the need of the applicant for the license.

B. An applicant for a medical marijuana license who can demonstrate his or her status as a one-hundred-percent-disabled veteran as determined by the U.S. Department of Veterans Affairs and codified at 38 C.F.R., Section 3.340(a) (2013) shall pay a reduced application fee of Twenty Dollars (\$20.00). The methods of payment, as determined by the Authority, shall be provided on the website. However, the Authority shall ensure that all applicants have an option to submit the license application and payment by means other than solely by submission of the application and fee online.

C. The patient license shall be valid for up to two (2) years from the date of issuance, unless the recommendation of the physician is terminated pursuant to this act or revoked by the Department.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 427.10 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. Only licensed Oklahoma allopathic and osteopathic physicians may provide a medical marijuana recommendation for a medical marijuana patient license under this act.

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

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

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

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

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 427.11 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. The caregiver license shall provide the caregiver the same rights as the medical marijuana patient licensee, including the ability to possess marijuana, marijuana products, and mature and immature plants pursuant to this act, but excluding the ability to use marijuana or marijuana products unless the caregiver has a medical marijuana patient license. Caregivers shall be authorized to deliver marijuana and products to their authorized patients. Caregivers shall be authorized to possess medical marijuana and medical marijuana products up to the sum of the possession limits for the patients under his or her care pursuant to this act.

B. An individual caregiver shall be limited to exercising the marijuana cultivation rights of no more than five licensed patients as prescribed by this act.

C. The license of a caregiver shall not extend beyond the expiration date of the underlying patient license regardless of the issue date.

SECTION 12. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 427.12 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. All medical marijuana grown by medical marijuana patient license holders or caregivers may only be grown on real property owned by the patient license holder or on real property for which the patient license holder has the property owner's written permission to grow marijuana on the property.

B. All medical marijuana plants grown by a patient or caregiver shall be grown so that the marijuana is not accessible to a member of the general public. No marijuana plants shall be visible from any street adjacent to the property. For purposes of this section,

"visible" means viewable by a normal person with 20/20 eyesight without the use of any device to assist in improving viewing distance or vantage point.

C. It is expressly prohibited to operate extraction equipment or utilize extraction processes if the equipment or process utilizes butane, propane, carbon dioxide or any potentially hazardous material in a residential property.

SECTION 13. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 427.13 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. All medical marijuana and medical marijuana products shall be purchased solely from an Oklahoma-licensed medical marijuana business, and shall not be purchased from any out-of-state providers.

B. 1. The Authority shall have oversight and auditing responsibilities to ensure that all marijuana being grown in Oklahoma is accounted for and shall implement an inventory tracking system. Pursuant to these duties, the Authority shall require that each medical marijuana business keep records for every transaction with another medical marijuana business, patient or caregiver. Inventory shall be tracked and updated after each individual sale and reported to the Authority.

2. The inventory tracking system licensees use shall allow for integration of other seed-to-sale systems and, at a minimum, shall include the following:

- a. notification of when marijuana seeds are planted,
- b. notification of when marijuana plants are harvested and destroyed,
- c. notification of when marijuana is transported, sold, stolen, diverted or lost,
- d. a complete inventory of all marijuana, seeds, plant tissue, clones, plants, usable marijuana or trim, leaves and other plant matter, batches of extract, and marijuana concentrates,

- e. all samples sent to a testing laboratory, an unused portion of a sample returned to a licensee, all samples utilized by licensee for purposes of negotiating a sale, and
- f. all samples used for quality testing by a licensee.

3. Each medical marijuana business shall use a seed-to-sale tracking system or integrate its own seed-to-sale tracking system with the seed-to-sale tracking system established by the Authority.

4. These records shall include, but not be limited to, the following:

- a. the name and license number of the medical marijuana business that cultivated, manufactured or sold the medical marijuana or medical marijuana product,
- b. the address and phone number of the medical marijuana business that cultivated, manufactured or sold the medical marijuana or medical marijuana product,
- c. the type of product received during the transaction,
- d. the batch number of the marijuana plant used,
- e. the date of the transaction,
- f. the total spent in dollars,
- g. all point-of-sale records,
- h. marijuana excise tax records, and
- i. any additional information as may be reasonably required by the Department.

5. All inventory tracking records containing patient information shall comply with all relevant state and federal laws including, but not limited to, the Health Insurance Portability and Accountability Act of 1996 (HIPAA), and shall not be retained by any medical marijuana business for more than sixty (60) days.

SECTION 14. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 427.14 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. There is hereby created the medical marijuana business license, which shall include the following categories:

1. Medical marijuana commercial grower;
2. Medical marijuana processor;
3. Medical marijuana dispensary;
4. Medical marijuana transporter; and
5. Medical marijuana testing laboratory.

B. The Authority, with the aid of the Office of Management and Enterprise Services, shall develop a website for medical marijuana business applications.

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

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

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

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

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

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

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

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

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

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

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

8. There shall be no limit to the number of medical marijuana business licenses or categories that an individual or entity can apply for or receive, although each application and each category shall require a separate application and application fee. A commercial grower, processor and dispensary, or any combination thereof, are authorized to share the same address or physical location, subject to the restrictions set forth in this act;

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

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

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

11. In order to be considered an Oklahoma resident for purposes of a medical marijuana business application, all applicants shall provide proof of Oklahoma residency for at least two (2) years immediately preceding the date of application or five (5) years of continuous Oklahoma residency during the preceding twenty-five (25) years immediately preceding the date of application. Sufficient documentation of proof of residency shall include a combination of the following:

- a. an unexpired Oklahoma-issued driver license,
- b. an Oklahoma voter identification card,
- c. a utility bill preceding the date of application, excluding cellular telephone and Internet bills,
- d. a residential property deed to property in the State of Oklahoma, and
- e. a rental agreement preceding the date of application for residential property located in the State of Oklahoma;

12. All license applicants shall be required to submit a registration with the Oklahoma State Bureau of Narcotics and

Dangerous Drugs Control as provided in Sections 2-202 through 2-204 of Title 63 of the Oklahoma Statutes;

13. All applicants shall establish their identity through submission of a color copy or digital image of one of the following unexpired documents:

- a. front and back of an Oklahoma driver license,
- b. front and back of an Oklahoma identification card,
- c. a United States passport or other photo identification issued by the United States government,
- d. certified copy of the applicant's birth certificate for minor applicants who do not possess a document listed in this section, or
- e. a tribal identification card approved for identification purposes by the Oklahoma Department of Public Safety; and

14. All applicants shall submit an applicant photograph.

F. The Authority shall review the medical marijuana business application, approve or reject the application and mail the approval, rejection or status-update letter to the applicant within ninety (90) days of receipt of the application.

G. 1. The Authority shall review the medical marijuana business applications and conduct all investigations, inspections and interviews before approving the application.

2. Approved applicants shall be issued a medical marijuana business license for the specific category applied under which shall act as proof of their **approved** status. Rejection letters shall provide a reason for the rejection. Applications may only be rejected based on the applicant not meeting the standards set forth in the **provisions** of this section, improper completion of the application, or for a reason provided for in this act. If an application is rejected for failure to provide required information, the **applicant** shall have thirty (30) days to submit the required information for reconsideration. No additional application fee shall be charged for such **reconsideration**.

3. Status-update letters shall provide a reason for delay in either approval or rejection should a situation arise in which an application was submitted properly, but a delay in processing the application occurred.

4. Approval, rejection or status-update letters shall be sent to the applicant in the same method the application was submitted to the Department.

H. A license provided by this act or by Section 421, 422, 423 or 425 of Title 63 of the Oklahoma Statutes shall not be issued until all relevant local licenses and permits have been issued by the municipality, including but not limited to an occupancy permit or certificate of compliance.

I. In the event that an applicant has not received the necessary permits, certificates or licenses from a municipality, but the applicant has fulfilled all other obligations required by this act, the Authority shall grant a conditional license. A conditional license shall remain valid for a period of one (1) year or until the applicant obtains the necessary local permits, certificates or licenses. An applicant shall not transfer any medical marijuana, concentrate or products to a medical marijuana business, patient or caregiver until approval is received from the Authority.

J. A medical marijuana business license shall not be issued to or held by:

1. A person until all required fees have been paid;

2. A person who has been convicted of a nonviolent felony within two (2) years of the date of application, or within five (5) years for any other felony;

3. A corporation, if the criminal history of any of its officers, directors or stockholders indicates that the officer, director or stockholder has been convicted of a nonviolent felony within two (2) years of the date of application, or within five (5) years for any other felony;

4. A person under twenty-five (25) years of age;

5. A person licensed pursuant to this section who, during a period of licensure, or who, at the time of application, has failed to:

- a. file taxes, interest or penalties due related to a medical marijuana business, or
- b. pay taxes, interest or penalties due related to a medical marijuana business;

6. A sheriff, deputy sheriff, police officer or prosecuting officer, or an officer or employee of the Authority or municipality;

7. A person whose authority to be a caregiver as defined in this act has been revoked by the Department; or

8. A publicly traded company.

K. In investigating the qualifications of an applicant or a licensee, the Department, Authority and municipalities may have access to criminal history record information furnished by a criminal justice agency subject to any restrictions imposed by such an agency. In the event the Department considers the criminal history record of the applicant, the Department shall also consider any information provided by the applicant regarding such criminal history record, including but not limited to evidence of rehabilitation, character references and educational achievements, especially those items pertaining to the period of time between the last criminal conviction of the applicant and the consideration of the application for a state license.

L. The failure of an applicant to provide the requested information by the Authority deadline may be grounds for denial of the application.

M. All applicants shall submit information to the Department and Authority in a full, faithful, truthful and fair manner. The Department and Authority may recommend denial of an application where the applicant made misstatements, omissions, misrepresentations or untruths in the application or in connection with the background investigation of the applicant. This type of conduct may be considered as the basis for additional administrative action against the applicant. Typos and scrivener errors shall not be grounds for denial.

N. A licensed medical marijuana business premises shall be subject to and responsible for compliance with applicable provisions for medical marijuana business facilities as described in the most

recent versions of the Oklahoma Uniform Building Code, the International Building Code and the International Fire Code, unless granted an exemption by the Authority or municipality.

O. All medical marijuana business licensees shall pay the relevant licensure fees prior to receiving licensure to operate a medical marijuana business, as defined in this act for each class of license.

SECTION 15. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 427.15 of Title 63, unless there is created a duplication in numbering, reads as follows:

The State Department of Health is hereby authorized to develop policies and procedures for disclosure by a medical marijuana business of financial interest and ownership.

SECTION 16. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 427.16 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. There is hereby created a medical marijuana transporter license as a category of the medical marijuana business license.

B. Pursuant to Section 424 of Title 63 of the Oklahoma Statutes, the Authority shall issue a medical marijuana transporter license to licensed medical marijuana commercial growers, processors and dispensaries upon issuance of such licenses and upon each renewal.

C. A medical marijuana transporter license may also be issued to qualifying applicants who are registered with the Oklahoma Secretary of State and otherwise meet the requirements for a medical marijuana business license set forth in this act and the requirements set forth in this section to provide logistics, distribution and storage of medical marijuana, medical marijuana concentrate and medical marijuana products.

D. A medical marijuana transporter license shall be valid for one (1) year and shall not be transferred with a change of ownership. A licensed medical marijuana transporter shall be responsible for all medical marijuana, concentrate and products once the transporter takes control of the product.

E. A transporter license shall be required for any person or entity to transport or transfer medical marijuana, concentrate or product from a licensed medical marijuana business to another medical marijuana business, or from a medical marijuana business to a medical marijuana research facility or medical marijuana education facility.

F. A medical marijuana transporter licensee may contract with multiple licensed medical marijuana businesses.

G. A medical marijuana transporter may maintain a licensed premises to temporarily store medical marijuana, concentrate and products and to use as a centralized distribution point. A medical marijuana transporter may store and distribute medical marijuana, concentrate and products from the licensed premises. The licensed premises shall meet all security requirements applicable to a medical marijuana business.

H. A medical marijuana transporter licensee shall use the seed-to-sale tracking system developed pursuant to this act to create shipping manifests documenting the transport of medical marijuana, concentrate and products throughout the state.

I. A licensed medical marijuana transporter may maintain and operate one or more warehouses in the state to handle medical marijuana, concentrate and products.

J. All medical marijuana, concentrate and product shall be transported:

1. In vehicles equipped with Global Positioning System (GPS) trackers;

2. In a locked container and clearly labeled "Medical Marijuana or Derivative"; and

3. In a secured area of the vehicle that is not accessible by the driver during transit.

K. A transporter agent may possess marijuana at any location while the transporter agent is transferring marijuana to or from a licensed medical marijuana business, medical marijuana research facility or medical marijuana education facility. The Department shall administer and enforce the provisions of this section concerning transportation.

L. The Authority shall issue a transporter agent license to individual agents, employees, officers or owners of a transporter license in order for the individual to qualify to transport medical marijuana or product.

M. The annual fee for a transporter agent license shall be One Hundred Dollars (\$100.00) and shall be paid by the transporter license holder or the individual applicant.

N. The Authority shall issue each transporter agent a registry identification card within thirty (30) days of receipt of:

1. The name, address and date of birth of the person;
2. Proof of residency as required for a medical marijuana business license;
3. Proof of identity as required for a medical marijuana business license;
4. Possession of a valid Oklahoma driver license;
5. Verification of employment with a licensed transporter;
6. The application and affiliated fee; and
7. A criminal background check conducted by the Oklahoma State Bureau of Investigation, paid for by the applicant.

O. If the transporter agent application is denied, the Department shall notify the transporter in writing of the reason for denying the registry identification card.

P. A registry identification card for a transporter shall expire one (1) year after the date of issuance or upon notification from the holder of the transporter license that the transporter agent ceases to work as a transporter.

Q. The Department may revoke the registry identification card of a transporter agent who knowingly violates any provision of this section, and the transporter is subject to any other penalties established by law for the violation.

R. The Department may revoke or suspend the transporter license of a transporter that the Department determines knowingly aided or facilitated a violation of any provision of this section, and the licenseholder is subject to any other penalties established in law for the violation.

S. Vehicles used in the transport of medical marijuana or medical marijuana product shall be:

1. Insured at or above the legal requirements in Oklahoma;
2. Capable of securing medical marijuana during transport; and
3. In possession of a shipping container as defined in this act capable of securing all transported product.

T. Prior to the transport of any medical marijuana or products, an inventory manifest shall be prepared at the origination point of the medical marijuana. The inventory manifest shall include the following information:

1. For the origination point of the medical marijuana:
 - a. the licensee number for the commercial grower, processor or dispensary,
 - b. address of origination of transport, and
 - c. name and contact information for the originating licensee;
2. For the end recipient license holder of the medical marijuana:
 - a. the license number for the dispensary, commercial grower, processor, research facility or education facility destination,
 - b. address of the destination, and
 - c. name and contact information for the destination licensee;
3. Quantities by weight or unit of each type of medical marijuana product contained in transport;

4. The date of the transport and the approximate time of departure;

5. The arrival date and estimated time of arrival;

6. Printed names and signatures of the personnel accompanying the transport; and

7. Notation of the transporting licensee.

U. 1. A separate inventory manifest shall be prepared for each licensee receiving the medical marijuana.

2. The transporter agent shall provide the other medical marijuana business with a copy of the inventory manifest at the time the product changes hands and after the other licensee prints his or her name and signs the inventory manifest.

3. An inventory manifest shall not be altered after departing the originating premises other than in cases where the printed name and signature of receipt by the receiving licensee is necessary.

4. A receiving licensee shall refuse to accept any medical marijuana or product that is not accompanied by an inventory manifest.

5. Originating and receiving licensees shall maintain copies of inventory manifests and logs of quantities of medical marijuana received for three (3) years from date of receipt.

SECTION 17. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 427.17 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. There is hereby created a medical marijuana testing laboratory license as a category of the medical marijuana business license. The Authority is hereby enabled to monitor, inspect and audit a licensed testing laboratory under this act.

B. The Authority is hereby authorized to contract with a private laboratory for the purpose of conducting compliance testing of medical marijuana testing laboratories licensed in this state. Any such laboratory under contract for compliance testing shall be

prohibited from conducting any other commercial medical marijuana testing in this state.

C. The Authority shall have the authority to develop acceptable testing and research practices, including but not limited to testing, standards, quality control analysis, equipment certification and calibration, and chemical identification and substances used in bona fide research methods so long as it complies with this act.

D. A person who is a direct beneficial owner or an indirect beneficial owner of a medical marijuana dispensary, medical marijuana commercial grower, or medical marijuana processor shall not be an owner of a laboratory.

E. A laboratory and a laboratory applicant shall comply with all applicable local ordinances, including but not limited to zoning, occupancy, licensing and building codes.

F. A separate license shall be required for each specific laboratory.

G. A medical marijuana testing laboratory license may be issued to a person who performs testing and research on medical marijuana and medical marijuana products for medical marijuana businesses, medical marijuana research facilities, medical marijuana education facilities, and testing and research on marijuana and marijuana products grown or produced by a patient or caregiver on behalf of a patient, upon verification of registration. No state-approved medical marijuana testing facility shall operate unless a medical laboratory director is on site during operational hours.

H. A laboratory applicant shall comply with the application requirements of this section and shall submit such other information as required for a medical marijuana business applicant, in addition to any information the Authority may request for initial approval and periodic evaluations during the approval period.

I. A medical marijuana testing laboratory may accept samples of medical marijuana, medical marijuana concentrate or medical marijuana product from a medical marijuana business for testing and research purposes only, which purposes may include the provision of testing services for samples submitted by a medical marijuana business for product development. The Department may require a medical marijuana business to submit a sample of medical marijuana,

medical marijuana concentrate or medical marijuana product to a medical marijuana testing laboratory upon demand.

J. A medical marijuana testing laboratory may accept samples of medical marijuana, medical marijuana concentrate or medical marijuana product from an individual person for testing only under the following conditions:

1. The individual person is a patient or caregiver pursuant to this act or is a participant in an approved clinical or observational study conducted by a research facility; and

2. The medical marijuana testing laboratory shall require the patient or caregiver to produce a valid patient license and current and valid photo identification.

K. A medical marijuana testing laboratory may transfer samples to another medical marijuana testing laboratory for testing. All laboratory reports provided to or by a medical marijuana business or to a patient or caregiver shall identify the medical marijuana testing laboratory that actually conducted the test.

L. A medical marijuana testing laboratory may utilize a licensed medical marijuana transporter to transport samples of medical marijuana, medical marijuana concentrate and medical marijuana product for testing, in accordance with this act and the rules adopted pursuant thereto, between the originating medical marijuana business requesting testing services and the destination laboratory performing testing services.

M. The medical marijuana testing laboratory shall establish policies to prevent the existence of or appearance of undue commercial, financial or other influences that may diminish the competency, impartiality and integrity of the testing processes or results of the laboratory, or that may diminish public confidence in the competency, impartiality and integrity of the testing processes or results of the laboratory. At a minimum, employees, owners or agents of a medical marijuana testing laboratory who participate in any aspect of the analysis and results of a sample are prohibited from improperly influencing the testing process, improperly manipulating data, or improperly benefiting from any ongoing financial, employment, personal or business relationship with the medical marijuana business that provided the sample.

N. The Department, pursuant to rules promulgated by the State Commissioner of Health, shall develop standards, policies and procedures as necessary for:

1. The cleanliness and orderliness of a laboratory premises and the location of the laboratory in a secure location, and inspection, cleaning and maintenance of any equipment or utensils used for the analysis of test samples;

2. Testing procedures, testing standards for cannabinoid and terpenoid potency and safe levels of contaminants, batch size and remediation procedures;

3. Controlled access areas for storage of medical marijuana and medical marijuana product test samples, waste and reference standards;

4. Records to be retained and computer systems to be utilized by the laboratory;

5. The possession, storage and use by the laboratory of reagents, solutions and reference standards;

6. A certificate of analysis (COA) for each lot of reference standard;

7. The transport and disposal of unused marijuana, marijuana products and waste;

8. The mandatory use by a laboratory of an inventory tracking system to ensure all test batches or samples containing medical marijuana, medical marijuana concentrate or medical marijuana products are identified and tracked from the point they are transferred from a medical marijuana business, a patient or a caregiver through the point of transfer, destruction or disposal. The inventory tracking system reporting shall include the results of any tests that are conducted on medical marijuana, medical marijuana concentrate or medical marijuana product;

9. Standards of performance;

10. The employment of laboratory personnel;

11. A written standard operating procedure manual to be maintained and updated by the laboratory;

12. The successful participation in a Department-approved proficiency testing program for each testing category listed in this section, in order to obtain and maintain certification;

13. The establishment of and adherence to a quality assurance and quality control program to ensure sufficient monitoring of laboratory processes and quality of results reported;

14. The establishment by the laboratory of a system to document the complete chain of custody for samples from receipt through disposal;

15. The establishment by the laboratory of a system to retain and maintain all required records, including business records, and processes to ensure results are reported in a timely and accurate manner; and

16. Any other aspect of laboratory testing of medical marijuana or medical marijuana product deemed necessary by the Department.

O. A medical marijuana testing laboratory shall promptly provide the Department or designee of the Department access to a report of a test and any underlying data that is conducted on a sample at the request of a medical marijuana business or qualified patient. A medical marijuana testing laboratory shall also provide access to the Department or designee of the Department to laboratory premises and to any material or information requested by the Department to determine compliance with the requirements of this section.

P. A medical marijuana testing laboratory shall retain all results of laboratory tests conducted on marijuana or products for a period of at least two (2) years and shall make them available to the Department upon request.

Q. A medical marijuana testing laboratory shall test samples from each harvest batch or product batch, as appropriate, of medical marijuana, medical marijuana concentrate and medical marijuana product for each of the following categories of testing, consistent with standards developed by the Commissioner:

1. Microbials;
2. Mycotoxins;

3. Residual solvents;
4. Pesticides;
5. Tetrahydrocannabinol (THC) and other cannabinoid potency;
6. Terpenoid potency; and
7. Heavy metals.

R. Medical marijuana testing laboratory licensure shall be contingent upon successful on-site inspection, successful participation in proficiency testing and ongoing compliance with the applicable requirements in this section.

S. A medical marijuana testing laboratory shall be inspected prior to initial licensure and annually thereafter by an inspector approved by the Authority.

T. Beginning on a date determined by the Commissioner, not later than January 1, 2020, medical marijuana testing laboratory licensure shall be contingent upon accreditation by the NELAC Institute (TNI), ANSI/ASQ National Accreditation Board or another accrediting body approved by the Commissioner, and any applicable standards as determined by the Department.

U. A commercial grower shall not transfer or sell medical marijuana and a processor shall not transfer, sell or process into a concentrate or product any medical marijuana, medical marijuana concentrate or medical marijuana product unless samples from each harvest batch or production batch from which that medical marijuana, medical marijuana concentrate or medical marijuana product was derived has been tested by a medical marijuana testing facility for contaminants and passed all contaminant tests required by this act.

SECTION 18. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 427.18 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. An Oklahoma medical marijuana business shall not sell, transfer or otherwise distribute medical marijuana or medical marijuana product that has not been packaged and labeled in accordance with this section and rules promulgated by the State Commissioner of Health.

B. A medical marijuana dispensary shall return medical marijuana and medical marijuana product that does not meet packaging or labeling requirements in this section or rules promulgated pursuant thereto to the entity who transferred it to the dispensary. The medical marijuana dispensary shall document to whom the item was returned, what was returned and the date of the return or dispose of any usable marijuana that does not meet these requirements in accordance with this act.

C. 1. Medical marijuana packaging shall be packaged to minimize its 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. A medical marijuana business shall not place any content on a container in a manner that reasonably appears to target individuals under the age of twenty-one (21), including but not limited to cartoon characters or similar images.

3. Labels on a container shall not include any false or misleading statements.

4. No container shall be intentionally or knowingly labeled so as to cause a reasonable patient confusion as to whether the medical marijuana, medical marijuana concentrate or medical marijuana product is a trademarked product or labeled in a manner that violates any federal trademark law or regulation.

5. The label on the container shall not make any claims regarding health or physical benefits to the patient.

6. All medical marijuana, medical marijuana concentrate and medical marijuana products shall be in a child-resistant container at the point of transfer to the patient or caregiver.

D. The State Department of Health shall develop minimum standards for packaging and labeling of medical marijuana and medical marijuana products. Such standards shall include, but not be limited to, the required contents of labels to be affixed to all medical marijuana and medical marijuana products prior to transfer to a licensed patient or caregiver, which shall include, at a minimum:

1. A universal symbol indicating that the product contains tetrahydrocannabinol (THC);
2. THC and other cannabinoid potency, and terpenoid potency;
3. A statement indicating that the product has been tested for contaminants;
4. One or more product warnings to be determined by the Department; and
5. Any other information the Department deems necessary.

SECTION 19. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 427.19 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. A medical marijuana research license may be issued to a person to grow, cultivate, possess and transfer, by sale or donation, marijuana pursuant to this act for the limited research purposes identified in this section.

B. The fee for a medical marijuana research license shall be Five Hundred Dollars (\$500.00) and shall be payable by an applicant for a medical marijuana research license upon submission of his or her application to the Authority.

C. A medical marijuana research license may be issued for the following research purposes:

1. To test chemical potency and composition levels;
2. To conduct clinical investigations of marijuana-derived medicinal products;
3. To conduct research on the efficacy and safety of administering marijuana as part of medical treatment;
4. To conduct genomic, horticultural or agricultural research; and
5. To conduct research on marijuana-affiliated products or systems.

D. 1. As part of the application process for a medical marijuana research license, an applicant shall submit to the Authority a description of the research that the applicant intends to conduct and whether the research will be conducted with a public institution or using public money. If the research will not be conducted with a public institution or with public money, the Authority shall grant the application if it determines that the applicant meets the criteria in this section.

2. If the research will be conducted with a public institution or public money, the Department shall review the research project of the applicant to determine if it meets the requirements of this section and to assess the following:

- a. the quality, study design, value or impact of the project,
- b. whether the applicant has the appropriate personnel, expertise, facilities, infrastructure, funding and human, animal or other approvals in place to successfully conduct the project, and
- c. whether the amount of marijuana to be grown by the applicant is consistent with the scope and goals of the project.

3. If the Authority determines that the research project does not meet the requirements of this section or assesses the criteria to be inadequate, the application shall be denied.

E. A medical marijuana research licensee may only transfer, by sale or donation, marijuana grown within its operation to other medical marijuana research licensees. The Department may revoke a medical marijuana research license for violations of this section and any other violation of this act.

F. A medical marijuana research licensee may contract to perform research in conjunction with a public higher education research institution or another medical marijuana research licensee.

G. The growing, cultivating, possessing or transferring, by sale or donation, of marijuana in accordance with this section and the rules promulgated pursuant thereto, by a medical marijuana research licensee shall not be a criminal or civil offense under state law. A medical marijuana research license shall be issued in

the name of the applicant and shall specify the location in Oklahoma at which the medical marijuana research licensee intends to operate. A medical marijuana research licensee shall not allow any other person to exercise the privilege of the license.

H. If the research conducted includes a public institution or public money, the Authority shall review any reports made by medical marijuana research licensees under state licensing authority rule and provide the Authority with its determination on whether the research project continues to meet research qualifications pursuant to this section.

SECTION 20. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 427.20 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. There is hereby created a medical marijuana education facility license.

B. A medical marijuana education facility license may be issued to a person to possess or cultivate marijuana for the limited education and research purposes identified in this section.

C. A medical marijuana education facility license may only be granted to a not-for-profit organization structured under Section 501(c)(3) of the Internal Revenue Code, operating as an Oklahoma not-for-profit registered organization with the Office of the Secretary of State.

D. A medical marijuana education facility license may only be granted upon the submission of a fee of Five Hundred Dollars (\$500.00) to the Authority.

E. A medical marijuana education facility license may be issued for the following education and research purposes:

1. To test cultivation techniques, strategies, infrastructure, mediums, lighting and other related technology;

2. To demonstrate cultivation techniques, strategies, infrastructure, mediums, lighting and other related technology;

3. To demonstrate the application and use of product manufacturing technologies;

4. To conduct genomic, horticultural or agricultural research; and

5. To conduct research on marijuana-affiliated products or systems.

F. As part of the application process for a medical marijuana education facility license, an applicant shall submit to the Authority a description of the project and curriculum that the applicant intends to conduct and whether the project and curriculum will be conducted with a public institution or using public money. If the research will not be conducted with a public institution or with public money, the Authority shall grant the application. If the research will be conducted with a public institution or public money, the Authority shall review the research project of the applicant to determine if it meets the requirements of this section and to assess the following:

1. The quality, study design, value or impact of the project;

2. Whether the applicant has the appropriate personnel, expertise, facilities, infrastructure, funding, and human, animal or other approvals in place to successfully conduct the project; and

3. Whether the amount of marijuana to be grown by the applicant is consistent with the scope and goals of the project.

If the Authority determines that the education project does not meet the requirements of this section or assesses the criteria to be inadequate, the application shall be denied.

G. A medical marijuana education facility licensee may only transfer, by sale or donation, marijuana grown within its operation to medical marijuana research licensees. The Department may revoke a medical marijuana education facility license for violations of this section and any other violation of this act.

H. A medical marijuana education facility licensee may contract to perform research in conjunction with a public higher education research institution or another research licensee.

I. The growing, cultivating, possessing or transferring, by sale or donation, of marijuana in accordance with this section and the rules promulgated pursuant thereto, by a medical marijuana education facility licensee shall not be a criminal or civil offense

under state law. A medical marijuana education facility license shall be issued in the name of the applicant and shall specify the location in Oklahoma at which the medical marijuana education facility licensee intends to operate. A medical marijuana education facility licensee shall not allow any other person to exercise the privilege of the license.

SECTION 21. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 427.21 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. A medical marijuana business shall not engage in advertising that is deceptive, false or misleading.

B. A medical marijuana business shall not include in any form of advertising or signage any content that specifically targets individuals under the age of eighteen (18), including but not limited to cartoon characters or similar images.

SECTION 22. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 427.22 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. An application or renewal and supporting information submitted by a qualifying patient or designated caregiver under the provisions of this act including, without limitation, information regarding the physician of the qualifying patient shall be considered confidential medical records that are exempt from the Oklahoma Open Records Act.

B. The dispensary records with patient information shall be treated as confidential records that are exempt from the Oklahoma Open Records Act.

C. All financial information provided by an applicant in its application to the Authority shall be treated as confidential records that are exempt from the Oklahoma Open Records Act.

D. All information provided by an applicant that constitutes private business information shall be treated as confidential records that are exempt from the Oklahoma Open Records Act.

E. As used in this section, "private business information" means information that, if disclosed, would give advantage to competitors or bidders including, but not limited to, information

related to the planning, site location, operations, strategy, or product development and marketing of an applicant, unless approval for release of those records is granted by the business.

SECTION 23. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 427.23 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. The State Commissioner of Health, the Oklahoma Tax Commission, the Banking Board, the State Treasurer, the Secretary of State and the Director of the Office of Management and Enterprise Services shall promulgate rules to implement the provisions of this act.

B. The Food Safety Standards Board, in addition to the powers and duties granted in Section 423 of Title 63 of the Oklahoma Statutes, may recommend to the State Commissioner of Health rules relating to all aspects of the cultivation and manufacture of medical marijuana products.

SECTION 24. AMENDATORY 40 O.S. 2011, Section 552, as amended by Section 17, Chapter 196, O.S.L. 2012 (40 O.S. Supp. 2018, Section 552), is amended to read as follows:

Section 552. As used in the Standards for Workplace Drug and Alcohol Testing Act:

1. "Alcohol" means ethyl alcohol or ethanol;
2. "Applicant" means a person who has applied for a position with an employer and received a conditional offer of employment;
3. "Board" means the State Board of Health;
4. "Confirmation test" means a drug or alcohol test on a sample to substantiate the results of a prior drug or alcohol test on the same sample and which uses different chemical principles and is of equal or greater accuracy than the prior drug or alcohol test. Where a breathalyzer test is utilized, a confirmation test means a second sample test that confirms the prior result. Where a single-use test is utilized, a confirmation test means a second test confirmed by a testing facility. A breath or blood specimen may be used for the confirmation test for alcohol. A urine, saliva or blood specimen may be used for the confirmation test for drugs;

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

6. "Drug" means amphetamines, cannabinoids, cocaine, phencyclidine (PCP), hallucinogens, methaqualone, opiates, barbiturates, benzodiazepines, synthetic narcotics, designer drugs, or a metabolite of any of the substances listed herein;

7. "Drug or alcohol test" means a chemical test administered for the purpose of determining the presence or absence of a drug or its metabolites or alcohol in a person's bodily tissue, fluids or products. Adulteration of a specimen or of a drug or alcohol test shall be considered as a refusal to test;

8. "Employee" means any person who supplies labor for remuneration to his or her employer in this state and shall not include an independent contractor, subcontractor or employees of an independent contractor; provided, however, an independent contractor, subcontractor, or employees of an independent contractor, may be subject to a workplace drug or alcohol testing policy under the terms of the contractual agreement when the drug or alcohol testing policy applies to other workers at the job site or workers who are in the same or similar classification or group;

9. "Employer" means any person, firm, corporation, partnership, association, nonprofit organization or public employer, which has one or more employees within this state, or which has offered or may offer employment to one or more individuals in this state;

10. "Public employer" means the State of Oklahoma or any political subdivision thereof, including any department, agency, board, commission, institution, authority, public trust, municipality, county, district or instrumentalities thereof;

11. "Review officer" means a person, qualified by the State Board of Health, who is responsible for receiving results from a testing facility which have been generated by an employer's drug or alcohol testing program, and who has knowledge and training to interpret and evaluate an individual's test results together with the individual's medical history and any other relevant information;

12. "Sample" means tissue, fluid or product of the human body chemically capable of revealing the presence of drugs or alcohol in the human body; and

13. "Testing facility" means a facility which provides laboratory services to test samples for the presence of drugs or alcohol.

Passed the House of Representatives the 28th day of February, 2019.

Presiding Officer of the House of Representatives

Passed the Senate the 11th day of March, 2019.

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this 12th

day of March, 20 19, at 1:59 o'clock p. M.

By: Sumner Curry

Approved by the Governor of the State of Oklahoma this 14th

day of March, 20 19, at 3:07 o'clock p. M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this 14th

day of March, 20 19, at 3:20 o'clock P. M.

By: Michael Rogers

Miles Pringle

Miles Pringle is a native Oklahoman and 3rd generation attorney. He currently serves as In-House Counsel for The Bankers Bank in Oklahoma City. Prior to that Miles was a partner in the firm Pringle & Pringle where the majority of his clients were financial institutions which he counseled on regulatory compliance issues, mergers and acquisitions, and vendor contracting.

Miles obtained his undergraduate degree from the University of Kansas, and his J.D. from the University of Missouri – Kansas City. Miles was a member of the National Moot Court Team and was awarded the Best Brief for the Petitioner at the regional competition. He is licensed to practice law in Oklahoma, Missouri, and Texas.

Miles currently serves on the Board of Governors for the Oklahoma Bar Association, Chair of the Financial Institution and Commercial Law Section, and Vice-Chair of the Legislative Monitoring Committee. He has presented at multiple OBA events and had two articles published in the Oklahoma Bar Journal (“Joint Account Basics” and “Citizenship and Jurisdiction of Federally Chartered Companies”). Miles also serves on the Briefcase Committee of the Oklahoma County Bar