



Oklahoma's Medical Marijuana System-The Big Picture, Part 1

March 19, 2020 by [Sarah Lee Gossett Parrish](#)

by Sarah Lee Gossett Parrish, Cannabis Lawyer^[1]

Enough time has passed for some interesting observations concerning Oklahoma's medical marijuana system since voters passed State Question 788 ("SQ 788") June 26, 2018, and the Oklahoma Medical Marijuana Authority ("OMMA") launched its online application process for patients and businesses on Saturday, August 25, 2018. We now have established medical marijuana businesses—many of which are vertically integrated—and a relatively small regulatory framework that promises to encourage the continued growth of Oklahoma's medical program. However, for all the new legislation, rules, and regulations, we are still living in the Wild, Wild West!

SQ 788 established a simple medical marijuana program with reasonable license application fees allowing everyday people with entrepreneurial dreams and a passion for the healing properties of cannabis to enter Oklahoma's industry and thrive. Oklahoma created something unique to the cannabis industry—namely, the country's only free market medical marijuana program. There are no qualifying conditions for medical marijuana patients here, and, in addition to the original adult patient, minor patient, and caregiver licenses, today short-term licenses and temporary patient licenses are available. Fees range from \$100.00 to \$20.00 for patients who qualify for a discount (which includes 100% disabled veterans).

After initial skepticism, Oklahoma doctors willing to write recommendations for medical marijuana patients are plentiful and telemedicine is coming into its own. Additionally, the law now authorizes recommending physicians to terminate a patient's license if the recommending doctor believes continued use of medical marijuana by the card-holding patient is no longer indicated.

The commercial business licenses issued by the Oklahoma Medical Marijuana Authority now include not only the original grower, processor, and dispensary licenses (which provided an additional, free transportation license if requested), but also transporter, transport agent, testing laboratory, waste disposal facility, research facility, and education facility licenses. Notably, all license application fees are \$2500.00 (renewable annually), with the exception of transport agent licenses (currently \$100.00 each year, but pending legislation would reduce the fee to \$25.00 annually), waste disposal facility licenses (currently \$5000.00 each, with a limit of ten licenses in the first year), and research facility and education facility licenses (\$500.00 and available only to nonprofits).

Sales made by growers and processors originally were deemed wholesale sales, and dispensary sales were (and still are) subject to a 7% tax collected at the point of sale. Today, processors also must obtain a sales tax permit for sales they may make directly to medical marijuana patients who provide their own product for

processing, which those patients then purchase directly from the licensed processor.

OMMA and Oklahoma's Legislature have upheld the spirit of SQ 788 for the most part, refusing to smother the fledgling industry with over-regulation. OMMA officials demonstrated a remarkable ability to implement Oklahoma's medical program in record time—a mere 30 days after passage of SQ 788 in late June, to the first day of applications in late August. Initially, OMMA had only 14 days to accept or reject any license application. It is difficult to comprehend what the working environment must have looked like during those early days. While the 14-day period for patient licenses remains unchanged, today the period within which OMMA can grant, deny, or reject a commercial business license application (“denials” differ from “rejections”, the latter of which can be rectified through resubmissions) is 90 days—a much more reasonable time period for such a process.

Looking back, it is difficult to imagine how OMMA onboarded the entire application process in a mere 30 days and managed to process the plethora of patient, caregiver, and commercial business license applications in 14 days. OMMA's dedicated state employees somehow managed to make it work, to the great benefit of Oklahoma patients and entrepreneurs. OMMA is “the little engine that could”.

Today, it is interesting to reflect on how Oklahoma's medical program has evolved and to contemplate what the future holds. During the fall of 2018, OMMA adopted Emergency Rules, which were later amended and are now reflected in the “current rules”. These rules are detailed and govern everything today, but, initially, the Emergency Rules mainly provided guidelines concerning patient possession limits, types of licenses available, documentation required for same, and the beginnings of food safety standards. Notably, Oklahoma did not have any testing requirements at the outset—a fact that all agreed must be rectified as soon as possible. Today, OMMA is refining the testing standards and is just beginning to license laboratories.

The first major piece of legislation concerning medical marijuana was signed into law by Oklahoma Governor Kevin Stitt on March 14, 2019, and became effective on August 29, 2019. The bill was known as the Oklahoma Medical Marijuana and Patient Protection Act, nicknamed the Unity Bill (“UNITY”). UNITY modified the landscape rather significantly. It was encouraging to see both sides of the aisle working together to achieve a common goal; but UNITY's trailer bills evidenced the split in Oklahoma's Legislature—a division that continues today when it comes to medical marijuana. OMMA's current rules and the proposed permanent rules demonstrate the need for industry professionals to be consulted in the formation of Oklahoma's regulatory framework. If Oklahoma learns from other states' actions and inactions, regulations, and over-regulations, then the medical program will remain at the top of all programs in the country.

UNITY adopted seed to sale requirements, restricted the unending menu of municipal ordinances to some extent, enumerated “safety-sensitive jobs” as to which employers may prohibit the use of medical marijuana at the place of employment or during hours of employment, and recognized employers' right to establish written policies about drug testing and impairment in accord with current Oklahoma law. UNITY also ended patient drives with doctors writing medical marijuana recommendations at dispensaries and the days of residential property extraction “if the equipment or process utilizes butane, propane, carbon dioxide or any potentially hazardous material in a residential property”.

UNITY created several new licenses, including a medical marijuana transporter license, testing laboratory license, research license, and education facility license. However, perhaps most controversial of all, UNITY changed the residency requirements for OMMA licensees from the simple, easily-met standard in SQ 788 (which required applicants to “show residency in the State of Oklahoma” by producing an Oklahoma state driver's license, identification card, residential lease, mortgage, deed, or similar document), to a strict, two-year residency requirement (or five years of continuous Oklahoma residency during the preceding 25 years immediately prior to the application date). Significant documentary evidence is now required as proof.

For nonresidents eager to enter Oklahoma's medical marijuana industry, UNITY marked the end of an era. After UNITY, it became more important than ever for those who are not Oklahoma residents to cultivate strong relationships with Oklahoma partners if they hope to obtain one of OMMA's coveted licenses. It is important to note that the ownership percentage requirements, a minimum of 75% ownership by Oklahoma residents, did not change. However, exactly who would qualify as an Oklahoma resident did.

After UNITY, OMMA rallied and produced two new sets of rules, and more legislation has followed. Social change is happening in the Red State of Oklahoma. Stay tuned for Part II in my series about Oklahoma's Medical Marijuana System, where I will discuss the continued development and evolution of Oklahoma's

program, all the way into this current year, 2020.

[1]Information contained herein provides general information related to the law and does not provide legal advice. It is recommended that readers consult their personal lawyer if they want legal advice. No attorney-client or confidential relationship exists or is formed between you and Ms. Parrish as a result of this article.



About Sarah Lee Gossett Parrish

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Parrish (www.sarahleegossettparrish.com) is a third-generation attorney who maintains a business litigation practice with an emphasis in Oklahoma's cannabis industry. She is also admitted to practice in Texas. Sarah Lee represents dispensaries, growers, processors, and ancillary businesses within the cannabis space.

The *National Law Journal* recently named Sarah Lee one of its 2019 Cannabis Trailblazers. Sarah Lee has achieved Martindale-Hubbell's highest AV rating for both peer and judicial review and is a member of Lawyers of Distinction for Excellence in Cannabis Law. Sarah Lee was named one of the Women Leaders in the Law by *The American Lawyer Magazine* in 2019 and 2020 for her leadership in Oklahoma's medical marijuana industry. She is a member of the American Bar Association, Federal Bar Association, International Cannabis Bar Association, National Cannabis Industry Association, NORML, the Oklahoma Cannabis Industry Association, and Oklahoma Women Cann.

Sarah Lee is admitted to practice in all state and federal district courts in Oklahoma; all state courts in Texas; the United States Court of Appeals for the Tenth Circuit; and the United States Supreme Court.

She received her B.A. in Letters from the University of Oklahoma, graduating with the Silver Leitzeiser Award for Outstanding Senior, Phi Beta Kappa, and Summa Cum Laude. While chairing the Oklahoma Governor's Commission on the Status of Women, Sarah Lee was instrumental in starting the Oklahoma Women's Hall of Fame. She recently organized and moderated Cannabis POTpourri, a sold out continuing legal education course and The Oklahoma Bar Association's first full day of cannabis education for Oklahoma attorneys, held during the Bar's 2019 Annual Convention.

Often interviewed in print and digital media, Sarah Lee has been quoted in Marijuana Business Daily, Los Angeles Times, The Denver Post, The New York Times, The Chicago Tribune, and online publications of ABC News, Newsmax, InStyle, Food and Wine, The Leaf, Leafbuyer.com, Cannabis Tech, CPA Practice Advisor, Cooking Light, and Health.com magazines. She has been a guest on numerous radio shows, including Cannabis A to Z with Frankie Boyer, iHeart Radio, Andy Hooser The Voice of Reason, The Mike Siegel Show, the Heidi Selexa Show, and KTOK. Her legal thriller took second place in the New York LawJournal's 2006 Fiction Writing Contest, and she has shown her fine art photography at Art SanDiego and during Miami's Art Basel week at Spectrum Miami. Sarah Lee is a monthly columnist for *Herb-Age*, an Oklahoma cannabis magazine, and has spoken at cannabis events, including CannaCon I and CannaCon II in Oklahoma City.