

## Oklahoma “Unity Bill” Clarifies Medical Marijuana Law, Includes Provisions Helpful To Employers

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The Oklahoma Medical Marijuana and Patient Protection Act was signed into law by Oklahoma Governor Stitt on March 14, 2019. Better known as [the medical marijuana “Unity Bill,”](#) the law clarifies certain regulatory aspects of the state’s existing medical marijuana law, and includes certain provisions that will be helpful to Oklahoma employers. The law will take effect 90 days after the close of the legislative session.

As we discussed in a [previous blog post](#), Oklahoma voters approved a medical marijuana law on June 26, 2018, and the law was implemented soon thereafter. Among other things, that law gave broad discretion to physicians in prescribing medical marijuana, and restricted employers from taking action against applicants or employees solely based on their status as a medical marijuana license holder or due to a positive drug test result.

The Unity Bill addresses a number of topics relating to the issuance of patient licenses, the creation of a medical marijuana use registry, and other regulatory issues related to medical marijuana. As the original medical marijuana law provided, the Unity Bill provides that employers may not refuse to hire, discipline, discharge or otherwise penalize an applicant or employee *solely* on the basis of the applicant’s or employee’s status as a medical marijuana licensee. However, with respect to positive drug test results, the law now provides that an employer may not refuse to hire, discipline, discharge or otherwise penalize an applicant or employee *solely* on the basis of a positive drug test result for marijuana, unless:

1. The applicant or employee is not in possess of a valid medical marijuana license;
2. 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 [the law does not define “under the influence”];
3. The position is one involving safety-sensitive job duties, as such term is defined in [the law].

“Safety-sensitive” is defined to mean 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:

1. The handling, packaging, processing, storage, disposal or transport of hazardous materials;
2. The operation of a motor vehicle, other vehicle, equipment, machinery or power tools;
3. 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;
4. Performing firefighting duties;
5. The operation, maintenance or oversight of critical services and infrastructure including, but not limited to, electric, gas, and water utilities, power generation or distribution;
6. The extraction, compression, processing, manufacturing, handling, packaging, storage, disposal, treatment



Article By [Jackson Lewis P.C.](#)  
[Kathryn J. Russo](#)  
[Drug and Alcohol Testing Law Advisor](#)  
[Blog](#)  
[Biotech, Food, Drug](#)  
[Administrative & Regulatory](#)  
[Labor & Employment](#)  
[Oklahoma](#)

or transport of potentially volatile, flammable, combustible materials, elements, chemicals or any other highly regulated component;

7. Dispensing pharmaceuticals;
8. Carrying a firearm; or,
9. Direct patient care or direct child care.

A positive drug test result is considered to be a drug test result that is at or above the cutoff concentration levels established by the U.S. Department of Transportation or Oklahoma law regarding being under the influence, whichever is lower.

Employers in Oklahoma are not required to permit or accommodate the use of medical marijuana at work or during work hours; are not prevented from having written drug testing policies that comply with the Oklahoma Standards For Workplace Drug and Alcohol Testing Act; and, are not required to reimburse an employee for costs associated with the use of medical marijuana.

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