

1 ENGROSSED HOUSE AMENDMENT

TO

2 ENGROSSED SENATE BILL NO. 1367

By: Paxton of the Senate

3 and

4 Hardin (David) of the House

5

6

7 [Oklahoma Medical Marijuana and Patient Protection
8 Act - certain penalties - certain discretion and
enforcement - certain license revocation - effective
9 date]

10

11 AUTHOR: Add the following Senate Coauthor: Pederson

12 AMENDMENT NO. 1. Strike the title, enacting clause, and entire bill
and insert:

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15 "An Act relating to medical marijuana; amending 63
16 O.S. 2021, Section 427.6, as last amended by Section
17 11, Chapter 553, O.S.L. 2021, which relates to the
Oklahoma Medical Marijuana and Patient Protection
18 Act; updating name of entity; modifying elements of
certain penalties; increasing penalty amounts;
19 providing administrative fines for certain unlawful
acts; authorizing certain discretion and
20 enforcement; providing for the revocation of
licenses under certain circumstances; removing
construing provision; and providing an effective
21 date.

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23 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

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1 SECTION 1. AMENDATORY 63 O.S. 2021, Section 427.6, as
2 last amended by Section 11, Chapter 553, O.S.L. 2021, is amended to
3 read as follows:

4 Section 427.6 A. The ~~State Department of Health~~ Oklahoma
5 Medical Marijuana Authority shall address issues related to the
6 medical marijuana program in ~~Oklahoma~~ this state including, but not
7 limited to, monitoring and disciplinary actions as they relate to
8 the medical marijuana program.

9 B. 1. The ~~Department~~ Authority or its designee may perform on-
10 site inspections or investigations of a licensee or applicant for
11 any medical marijuana business license, research facility, education
12 facility or waste disposal facility to determine compliance with
13 applicable laws, rules and regulations or submissions made pursuant
14 to this section. The ~~Department~~ Authority may enter the licensed
15 premises of a medical marijuana business, research facility,
16 education facility or waste disposal facility licensee or applicant
17 to assess or monitor compliance or ensure qualifications for
18 licensure.

19 2. Post-licensure inspections shall be limited to twice per
20 calendar year. However, investigations and additional inspections
21 may occur when the ~~Department~~ Authority believes an investigation or
22 additional inspection is necessary due to a possible violation of
23 applicable laws, rules or regulations. The State Commissioner of
24 Health may adopt rules imposing penalties including, but not limited

1 to, monetary fines and suspension or revocation of licensure for
2 failure to allow the Authority reasonable access to the licensed
3 premises for purposes of conducting an inspection.

4 3. The ~~Department~~ Authority may review relevant records of a
5 licensed medical marijuana business, licensed medical marijuana
6 research facility, licensed medical marijuana education facility or
7 licensed medical marijuana waste disposal facility, and may require
8 and conduct interviews with such persons or entities and persons
9 affiliated with such entities, for the purpose of determining
10 compliance with ~~Department~~ Authority requirements and applicable
11 laws, rules and regulations.

12 4. The ~~Department~~ Authority may refer complaints alleging
13 criminal activity that are made against a licensee to appropriate
14 ~~Oklahoma~~ state or local law enforcement authorities.

15 C. Disciplinary action may be taken against an applicant or
16 licensee for not adhering to applicable laws pursuant to the terms,
17 conditions and guidelines set forth in the Oklahoma Medical
18 Marijuana and Patient Protection Act.

19 D. Disciplinary actions may include revocation, suspension or
20 denial of an application, license or final authorization and other
21 action deemed appropriate by the ~~Department~~ Authority.

22 E. Disciplinary actions may be imposed upon a medical marijuana
23 business licensee for:

24

- 1 1. Failure to comply with or satisfy any provision of
2 applicable laws, rules or regulations;
- 3 2. Falsification or misrepresentation of any material or
4 information submitted to the ~~Department~~ Authority or other
5 licensees;
- 6 3. Failing to allow or impeding entry by authorized
7 representatives of the ~~Department~~ Authority;
- 8 4. Failure to adhere to any acknowledgement, verification or
9 other representation made to the ~~Department~~ Authority;
- 10 5. Failure to submit or disclose information required by
11 applicable laws, rules or regulations or otherwise requested by the
12 ~~Department~~ Authority;
- 13 6. Failure to correct any violation of this section cited as a
14 result of a review or audit of financial records or other materials;
- 15 7. Failure to comply with requested access by the ~~Department~~
16 Authority to the licensed premises or materials;
- 17 8. Failure to pay a required monetary penalty;
- 18 9. Diversion of medical marijuana or any medical marijuana
19 product, as determined by the ~~Department~~ Authority;
- 20 10. Threatening or harming a medical marijuana patient
21 licensee, caregiver licensee, a medical practitioner or an employee
22 of the ~~Department~~ Authority; and
- 23 11. Any other basis indicating a violation of the applicable
24 laws and regulations as identified by the ~~Department~~ Authority.

1 F. Disciplinary actions against a licensee may include the
2 imposition of monetary penalties, which may be assessed by the
3 ~~Department Authority~~. The ~~Department Authority~~ may suspend or
4 revoke a license for failure to pay any monetary penalty lawfully
5 assessed by the ~~Department Authority~~ against a licensee.

6 G. Penalties for sales ~~or~~, purchases or transfers for value of
7 medical marijuana by a medical marijuana business or employees or
8 agents of the medical marijuana business to persons other than those
9 allowed by law occurring within any ~~two-year~~ one-year time period
10 may include an initial fine of ~~One Thousand Dollars (\$1,000.00)~~ Five
11 Thousand Dollars (\$5,000.00) for a first violation and a fine of
12 ~~Five Thousand Dollars (\$5,000.00)~~ Fifteen Thousand Dollars
13 (\$15,000.00) for any subsequent violation. Penalties for grossly
14 inaccurate or fraudulent reporting occurring within any two-year
15 time period may include an initial administrative fine of Five
16 Thousand Dollars (\$5,000.00) for a first violation and ~~a~~ an
17 administrative fine of Ten Thousand Dollars (\$10,000.00) for any
18 subsequent violation. The medical marijuana business ~~may~~ shall be
19 subject to a revocation of any license granted pursuant to the
20 Oklahoma Medical Marijuana and Patient Protection Act upon a ~~showing~~
21 ~~that the violation was willful or~~ second incident of grossly
22 ~~negligent~~ inaccurate or fraudulent reporting in a ten-year period by
23 the medical marijuana business or any employee or agent thereof.

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1 H. 1. ~~First~~ In addition to any other penalties prescribed by
2 law, a first offense for intentional and impermissible diversion of
3 medical marijuana, medical marijuana concentrate, or medical
4 marijuana products for value by a patient or caregiver to an
5 unauthorized person shall ~~not be punished under a criminal statute~~
6 ~~but may~~ be subject to a an administrative fine of ~~Two Hundred~~
7 ~~Dollars (\$200.00)~~ not less than Four Hundred Dollars (\$400.00). The
8 Authority shall have the authority to enforce the provisions of this
9 subsection.

10 2. ~~The~~ In addition to any other penalties prescribed by law, an
11 additional incident resulting in a second offense for impermissible
12 diversion of medical marijuana, medical marijuana concentrate, or
13 medical marijuana products by a patient or caregiver to an
14 unauthorized person for value shall ~~not be punished under a criminal~~
15 ~~statute but may~~ be subject to a an administrative fine of ~~not to~~
16 ~~exceed Five Hundred Dollars (\$500.00)~~ not less than One Thousand
17 Dollars (\$1,000.00), and ~~may~~ shall result in revocation of the
18 license ~~upon a showing that the violation was willful or grossly~~
19 ~~negligent~~ or licenses of the person.

20 3. Any person who shares less than three (3) grams of medical
21 marijuana with an unauthorized person, without the transfer being
22 for value or other consideration, shall not be subject to criminal
23 prosecution but shall be subject to an administrative fine of Four
24 Hundred Dollars (\$400.00).

1 I. The intentional diversion of medical marijuana, medical
2 marijuana concentrate or medical marijuana products by a licensed
3 medical marijuana patient or caregiver, medical marijuana business
4 or employee of a medical marijuana business to an unauthorized minor
5 person who the licensed medical marijuana patient or caregiver,
6 medical marijuana business or employee of a medical marijuana
7 business knew or reasonably should have known to be a minor person
8 shall be subject to a ~~cite and release citation and, upon a finding~~
9 ~~of guilt or a plea of no contest,~~ a an administrative fine of Two
10 Thousand Five Hundred Dollars (\$2,500.00). For an additional
11 incident resulting in a second or subsequent offense, the licensed
12 medical marijuana patient or caregiver, medical marijuana business
13 or employee of a medical marijuana business shall be subject to a
14 cite and release citation and, upon a finding of guilt or a plea of
15 no contest, a fine of Five Thousand Dollars (\$5,000.00) and
16 automatic ~~termination~~ revocation of the medical marijuana license.

17 J. ~~Nothing in this section shall be construed to prevent the~~
18 ~~criminal prosecution, after the presentation of evidence and a~~
19 ~~finding beyond a reasonable doubt, of a licensed medical marijuana~~
20 ~~patient or caregiver, medical marijuana business or employee of a~~
21 ~~medical marijuana business who has diverted medical marijuana,~~
22 ~~medical marijuana concentrate or medical marijuana products to an~~
23 ~~unauthorized person with the intent or knowledge that the~~
24 ~~unauthorized person was to engage in the distribution or trafficking~~

1 ~~of medical marijuana, medical marijuana concentrate or medical~~
2 ~~marijuana products.~~

3 ~~K.~~ In addition to any other remedies provided for by law, the
4 ~~Department~~ Authority, pursuant to its rules and regulations, may
5 issue a written order to any licensee the ~~Department~~ Authority has
6 reason to believe has violated Sections 420 through 426.1 of this
7 title, the Oklahoma Medical Marijuana and Patient Protection Act,
8 the Oklahoma Medical Marijuana Waste Management Act, or any rules
9 promulgated by the State Commissioner of Health and to whom the
10 ~~Department~~ Authority has served, not less than thirty (30) days
11 previously, a written notice of violation of such statutes or rules.

12 1. The written order shall state with specificity the nature of
13 the violation. The ~~Department~~ Authority may impose any disciplinary
14 action authorized under the provisions of this section including,
15 but not limited to, the assessment of monetary penalties.

16 2. Any order issued pursuant to the provisions of this section
17 shall become a final order unless, not more than thirty (30) days
18 after the order is served to the licensee, the licensee requests an
19 administrative hearing in accordance with the rules and regulations
20 of the ~~Department~~ Authority. Upon such request, the ~~Department~~
21 Authority shall promptly initiate administrative proceedings.

22 ~~L.~~ K. Whenever the ~~Department~~ Authority finds that an emergency
23 exists requiring immediate action in order to protect the health or
24 welfare of the public, the ~~Department~~ Authority may issue an order,

1 without providing notice or hearing, stating the existence of said
2 emergency and requiring that action be taken as the ~~Department~~
3 Authority deems necessary to meet the emergency. Such action may
4 include, but is not limited to, ordering the licensee to immediately
5 cease and desist operations by the licensee. The order shall be
6 effective immediately upon issuance. Any person to whom the order
7 is directed shall comply immediately with the provisions of the
8 order. The ~~Department~~ Authority may assess a penalty not to exceed
9 Ten Thousand Dollars (\$10,000.00) per day of noncompliance with the
10 order. In assessing such a penalty, the ~~Department~~ Authority shall
11 consider the seriousness of the violation and any efforts to comply
12 with applicable requirements. Upon application to the ~~Department~~
13 Authority, the licensee shall be offered a hearing within ten (10)
14 days of the issuance of the order.

15 M. L. All hearings held pursuant to this section shall be in
16 accordance with the Oklahoma Administrative Procedures Act.

17 SECTION 2. This act shall become effective November 1, 2022."
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1 ENGROSSED SENATE
2 BILL NO. 1367

By: Paxton of the Senate

3 and

4 Hardin (David) of the House

5
6 [Oklahoma Medical Marijuana and Patient Protection
7 Act - certain penalties - certain discretion and
8 enforcement - certain license revocation - effective
9 date]

10 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

11 SECTION 3. AMENDATORY 63 O.S. 2021, Section 427.6, as
12 last amended by Section 11, Chapter 553, O.S.L. 2021, is amended to
13 read as follows:

14 Section 427.6. A. The State Department of Health shall address
15 issues related to the medical marijuana program in ~~Oklahoma~~ this
16 state including, but not limited to, monitoring and disciplinary
17 actions as they relate to the medical marijuana program.

18 B. 1. The Department or its designee may perform on-site
19 inspections or investigations of a licensee or applicant for any
20 medical marijuana business license, research facility, education
21 facility or waste disposal facility to determine compliance with
22 applicable laws, rules and regulations or submissions made pursuant
23 to this section. The Department may enter the licensed premises of
24 a medical marijuana business, research facility, education facility

1 or waste disposal facility licensee or applicant to assess or
2 monitor compliance or ensure qualifications for licensure.

3 2. Post-licensure inspections shall be limited to twice per
4 calendar year. However, investigations and additional inspections
5 may occur when the Department believes an investigation or
6 additional inspection is necessary due to a possible violation of
7 applicable laws, rules or regulations. The State Commissioner of
8 Health may adopt rules imposing penalties including, but not limited
9 to, monetary fines and suspension or revocation of licensure for
10 failure to allow the Authority reasonable access to the licensed
11 premises for purposes of conducting an inspection.

12 3. The Department may review relevant records of a licensed
13 medical marijuana business, licensed medical marijuana research
14 facility, licensed medical marijuana education facility or licensed
15 medical marijuana waste disposal facility, and may require and
16 conduct interviews with such persons or entities and persons
17 affiliated with such entities, for the purpose of determining
18 compliance with Department requirements and applicable laws, rules
19 and regulations.

20 4. The Department may refer complaints alleging criminal
21 activity that are made against a licensee to appropriate ~~Oklahoma~~
22 state or local law enforcement authorities.

23 C. Disciplinary action may be taken against an applicant or
24 licensee for not adhering to applicable laws pursuant to the terms,

1 conditions and guidelines set forth in the Oklahoma Medical
2 Marijuana and Patient Protection Act.

3 D. Disciplinary actions may include revocation, suspension or
4 denial of an application, license or final authorization and other
5 action deemed appropriate by the Department.

6 E. Disciplinary actions may be imposed upon a medical marijuana
7 business licensee for:

8 1. Failure to comply with or satisfy any provision of
9 applicable laws, rules or regulations;

10 2. Falsification or misrepresentation of any material or
11 information submitted to the Department or other licensees;

12 3. Failing to allow or impeding entry by authorized
13 representatives of the Department;

14 4. Failure to adhere to any acknowledgement, verification or
15 other representation made to the Department;

16 5. Failure to submit or disclose information required by
17 applicable laws, rules or regulations or otherwise requested by the
18 Department;

19 6. Failure to correct any violation of this section cited as a
20 result of a review or audit of financial records or other materials;

21 7. Failure to comply with requested access by the Department to
22 the licensed premises or materials;

23 8. Failure to pay a required monetary penalty;

24

1 9. Diversion of medical marijuana or any medical marijuana
2 product, as determined by the Department;

3 10. Threatening or harming a medical marijuana patient
4 licensee, caregiver licensee, a medical practitioner or an employee
5 of the Department; and

6 11. Any other basis indicating a violation of the applicable
7 laws and regulations as identified by the Department.

8 F. Disciplinary actions against a licensee may include the
9 imposition of monetary penalties, which may be assessed by the
10 Department. The Department may suspend or revoke a license for
11 failure to pay any monetary penalty lawfully assessed by the
12 Department against a licensee.

13 G. Penalties for sales or purchases by a medical marijuana
14 business to persons other than those allowed by law occurring within
15 any two-year time period may include an initial fine of One Thousand
16 Dollars (\$1,000.00) for a first violation and a fine of Five
17 Thousand Dollars (\$5,000.00) for any subsequent violation.

18 Penalties for grossly inaccurate or fraudulent reporting occurring
19 within any two-year time period may include an initial fine of Five
20 Thousand Dollars (\$5,000.00) for a first violation and a fine of Ten
21 Thousand Dollars (\$10,000.00) for any subsequent violation. The
22 medical marijuana business may be subject to a revocation of any
23 license granted pursuant to the Oklahoma Medical Marijuana and
24

1 Patient Protection Act upon a showing that the violation was willful
2 or grossly negligent.

3 H. 1. ~~First~~ In addition to any other penalties prescribed by
4 law, a first offense for intentional and impermissible diversion of
5 medical marijuana, concentrate, or products by a patient ~~or~~
6 ~~caregiver~~ to an unauthorized person shall ~~not be punished under a~~
7 ~~criminal statute but may~~ be subject to a an administrative fine of
8 ~~Two Hundred Dollars (\$200.00)~~ not less than Four Hundred Dollars
9 (\$400.00), or a higher amount as determined by the administrative
10 rules of the Oklahoma Medical Marijuana Authority designed to deter
11 unlawful diversion. The Oklahoma Medical Marijuana Authority shall
12 have authority to enforce the provisions of this subsection.

13 2. ~~The~~ In addition to any other penalties prescribed by law, a
14 second offense for impermissible diversion of medical marijuana,
15 concentrate, or products by a patient ~~or caregiver~~ to an
16 unauthorized person shall ~~not be punished under a criminal statute~~
17 ~~but may~~ be subject to a an administrative fine of ~~not to exceed Five~~
18 ~~Hundred Dollars (\$500.00)~~ not less than One Thousand Dollars
19 (\$1,000.00), or a higher amount as determined by the administrative
20 rules of the Oklahoma Medical Marijuana Authority designed to deter
21 unlawful diversion and ~~may~~ shall result in revocation of the license
22 or licenses of the person or any other person or entity for whom the
23 diverting person serves as an agent. Additionally, the revoked
24 person or entity, and any owner or other person or entity with an

1 interest of any kind affiliated with an entity whose agent made an
2 impermissible diversion pursuant to this subsection, shall have any
3 license issued by the Oklahoma Medical Marijuana Authority revoked
4 and shall be prohibited from obtaining a new license ~~upon a showing~~
5 ~~that the violation was willful or grossly negligent.~~

6 I. The intentional diversion of medical marijuana, medical
7 marijuana concentrate or medical marijuana products by a licensed
8 medical marijuana patient or caregiver, medical marijuana business
9 or employee of a medical marijuana business to an unauthorized minor
10 person who the licensed medical marijuana patient or caregiver,
11 medical marijuana business or employee of a medical marijuana
12 business knew or reasonably should have known to be a minor person
13 shall be subject to a ~~cite and release citation and, upon a finding~~
14 ~~of guilt or a plea of no contest,~~ a an administrative fine of Two
15 Thousand Five Hundred Dollars (\$2,500.00). For a second or
16 subsequent offense, the licensed medical marijuana patient or
17 caregiver, medical marijuana business or employee of a medical
18 marijuana business shall be subject to a cite and release citation
19 and, upon a finding of guilt or a plea of no contest, a fine of Five
20 Thousand Dollars (\$5,000.00) and automatic ~~termination~~ revocation of
21 the medical marijuana license. Additionally, the revoked person or
22 entity, and any owner or other person or entity with an interest of
23 any kind affiliated with an entity whose agent made an impermissible
24 diversion pursuant to this subsection, shall have any license issued

1 by the Oklahoma Medical Marijuana Authority revoked and shall be
2 prohibited from obtaining a new license.

3 ~~J. Nothing in this section shall be construed to prevent the~~
4 ~~criminal prosecution, after the presentation of evidence and a~~
5 ~~finding beyond a reasonable doubt, of a licensed medical marijuana~~
6 ~~patient or caregiver, medical marijuana business or employee of a~~
7 ~~medical marijuana business who has diverted medical marijuana,~~
8 ~~medical marijuana concentrate or medical marijuana products to an~~
9 ~~unauthorized person with the intent or knowledge that the~~
10 ~~unauthorized person was to engage in the distribution or trafficking~~
11 ~~of medical marijuana, medical marijuana concentrate or medical~~
12 ~~marijuana products.~~

13 ~~K.~~ In addition to any other remedies provided for by law, the
14 Department, pursuant to its rules and regulations, may issue a
15 written order to any licensee the Department has reason to believe
16 has violated Sections 420 through 426.1 of this title, the Oklahoma
17 Medical Marijuana and Patient Protection Act, the Oklahoma Medical
18 Marijuana Waste Management Act, or any rules promulgated by the
19 State Commissioner of Health and to whom the Department has served,
20 not less than thirty (30) days previously, a written notice of
21 violation of such statutes or rules.

22 1. The written order shall state with specificity the nature of
23 the violation. The Department may impose any disciplinary action
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1 authorized under the provisions of this section including, but not
2 limited to, the assessment of monetary penalties.

3 2. Any order issued pursuant to the provisions of this section
4 shall become a final order unless, not more than thirty (30) days
5 after the order is served to the licensee, the licensee requests an
6 administrative hearing in accordance with the rules and regulations
7 of the Department. Upon such request, the Department shall promptly
8 initiate administrative proceedings.

9 ~~L.~~ K. Whenever the Department finds that an emergency exists
10 requiring immediate action in order to protect the health or welfare
11 of the public, the Department may issue an order, without providing
12 notice or hearing, stating the existence of said emergency and
13 requiring that action be taken as the Department deems necessary to
14 meet the emergency. Such action may include, but is not limited to,
15 ordering the licensee to immediately cease and desist operations by
16 the licensee. The order shall be effective immediately upon
17 issuance. Any person to whom the order is directed shall comply
18 immediately with the provisions of the order. The Department may
19 assess a penalty not to exceed Ten Thousand Dollars (\$10,000.00) per
20 day of noncompliance with the order. In assessing such a penalty,
21 the Department shall consider the seriousness of the violation and
22 any efforts to comply with applicable requirements. Upon
23 application to the Department, the licensee shall be offered a
24 hearing within ten (10) days of the issuance of the order.

1 ~~M.~~ L. All hearings held pursuant to this section shall be in
2 accordance with the Oklahoma Administrative Procedures Act.

3 SECTION 4. This act shall become effective November 1, 2022.
4 Passed the Senate the 23rd day of March, 2022.

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Presiding Officer of the Senate

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8 Passed the House of Representatives the ____ day of _____,
9 2022.

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Presiding Officer of the House
of Representatives

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