

1 STATE OF OKLAHOMA

2 2nd Session of the 58th Legislature (2022)

3 CONFERENCE COMMITTEE SUBSTITUTE

4 FOR ENGROSSED

5 SENATE BILL 1704

By: Paxton of the Senate

and

6 Lowe (Dick) of the House

7  
8  
9 CONFERENCE COMMITTEE SUBSTITUTE

10 An Act relating to medical marijuana; amending 63  
11 O.S. 2021, Section 427.6, as last amended by Section  
12 1 of Enrolled Senate Bill No. 1367 of the 2nd Session  
13 of the 58th Legislature, which relates to the  
14 Oklahoma Medical Marijuana and Patient Protection  
15 Act; authorizing the Oklahoma Medical Marijuana  
16 Authority to revoke licenses under certain  
17 circumstances; amending 63 O.S. 2021, Section 427.14,  
18 as last amended by Section 15 of Enrolled Senate Bill  
19 No. 1543 of the 2nd Session of the 58th Oklahoma  
20 Legislature, which relates to medical marijuana  
21 business license; requiring licensees to submit  
22 employees to acquire certain credentials prior to  
23 employment; requiring employees of a medical  
24 marijuana business licensee to obtain credentialing;  
allowing Oklahoma Medical Marijuana Authority to  
contract with third-party vendor to provide certain  
services; directing Authority to determine services;  
directing third-party vendor to conduct certain  
functions for applicants; requiring third-party  
vendor to issue certain credential; providing for  
certain appeal; excluding third-party vendor from  
certain liability; directing promulgation of rules;  
providing for codification; and providing an  
effective date.

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

2 SECTION 1. AMENDATORY 63 O.S. 2021, Section 427.6, as  
3 last amended by Section 1 of Enrolled Senate Bill No. 1367 of the  
4 2nd Session of the 58th Legislature, is amended to read as follows:

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

10 B. 1. The Authority or its designee may perform on-site  
11 inspections or investigations of a licensee or applicant for any  
12 medical marijuana business license, research facility, education  
13 facility or waste disposal facility to determine compliance with  
14 applicable laws, rules and regulations or submissions made pursuant  
15 to this section. The Authority may enter the licensed premises of a  
16 medical marijuana business, research facility, education facility or  
17 waste disposal facility licensee or applicant to assess or monitor  
18 compliance or ensure qualifications for 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 Authority believes an investigation or additional  
22 inspection is necessary due to a possible violation of applicable  
23 laws, rules or regulations. The State Commissioner of Health may  
24 adopt rules imposing penalties including, but not limited to,

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

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

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

24

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

6 G. Penalties 1. In addition to any other penalties prescribed  
7 by law, penalties for sales, purchases or transfers for value of  
8 medical marijuana by a medical marijuana business or employees or  
9 agents of the medical marijuana business to persons other than those  
10 allowed by law occurring within any one-year time period may include  
11 an initial fine of Five Thousand Dollars (\$5,000.00) for a first  
12 violation and a fine of Fifteen Thousand Dollars (\$15,000.00) for  
13 any subsequent violation.

14 2. Penalties for grossly inaccurate or fraudulent reporting  
15 occurring within any two-year time period may include an initial  
16 administrative fine of Five Thousand Dollars (\$5,000.00) for a first  
17 violation and an administrative fine of Ten Thousand Dollars  
18 (\$10,000.00) for any subsequent violation. The medical marijuana  
19 business shall be subject to a revocation of any license granted  
20 pursuant to the Oklahoma Medical Marijuana and Patient Protection  
21 Act upon a second incident of grossly inaccurate or fraudulent  
22 reporting in a ten-year period by the medical marijuana business or  
23 any employee or agent thereof.

24

1       3. After investigation by the Authority, the Authority may  
2 revoke the license of any person directly involved with the  
3 diversion of marijuana.

4       4. If the Authority, after investigation, is able to establish,  
5 by a preponderance of evidence, a pattern of diversion or negligence  
6 leading to diversion, the Authority may revoke any business licenses  
7 associated with the diversion and any entity with common ownership.

8       H. 1. In addition to any other penalties prescribed by law, a  
9 first offense for intentional and impermissible diversion of medical  
10 marijuana, medical marijuana concentrate, or medical marijuana  
11 products for value by a patient or caregiver to an unauthorized  
12 person shall be subject to an administrative fine of ~~not less than~~  
13 Four Hundred Dollars (\$400.00). The Authority shall have the  
14 authority to enforce the provisions of this subsection.

15       2. In addition to any other penalties prescribed by law, an  
16 additional incident resulting in a second offense for impermissible  
17 diversion of medical marijuana, medical marijuana concentrate, or  
18 medical marijuana products by a patient or caregiver to an  
19 unauthorized person for value shall be subject to an administrative  
20 fine of ~~not less than~~ One Thousand Dollars (\$1,000.00), and shall  
21 result in revocation of the license or licenses of the person.

22       3. Any person who shares less than three (3) grams of medical  
23 marijuana with an unauthorized person, without the transfer being  
24 for value or other consideration, shall not be subject to criminal

1 prosecution but shall be subject to an administrative fine of Four  
2 Hundred Dollars (\$400.00).

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

18 J. In addition to any other remedies provided for by law, the  
19 Authority, pursuant to its rules and regulations, may issue a  
20 written order to any licensee the Authority has reason to believe  
21 has violated Sections 420 through 426.1 of this title, the Oklahoma  
22 Medical Marijuana and Patient Protection Act, the Oklahoma Medical  
23 Marijuana Waste Management Act, or any rules promulgated by the  
24 State Commissioner of Health and to whom the Authority has served,

1 not less than thirty (30) days previously, a written notice of  
2 violation of such statutes or rules.

3 1. The written order shall state with specificity the nature of  
4 the violation. The Authority may impose any disciplinary action  
5 authorized under the provisions of this section including, but not  
6 limited to, the assessment of monetary penalties.

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

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



1 the Authority shall consider the seriousness of the violation and  
2 any efforts to comply with applicable requirements. Upon  
3 application to the Authority, the licensee shall be offered a  
4 hearing within ten (10) days of the issuance of the order.

5 L. All hearings held pursuant to this section shall be in  
6 accordance with the Oklahoma Administrative Procedures Act.

7 SECTION 2. AMENDATORY 63 O.S. 2021, Section 427.14, as  
8 last amended by Section 15 of Enrolled Senate Bill No. 1543 of the  
9 2nd Session of the 58th Oklahoma Legislature, is amended to read as  
10 follows:

11 Section 427.14. A. There is hereby created the medical  
12 marijuana business license, which shall include the following  
13 categories:

- 14 1. Medical marijuana commercial grower;
- 15 2. Medical marijuana processor;
- 16 3. Medical marijuana dispensary;
- 17 4. Medical marijuana transporter; and
- 18 5. Medical marijuana testing laboratory.

19 B. The Oklahoma Medical Marijuana Authority, with the aid of  
20 the Office of Management and Enterprise Services, shall develop a  
21 website for medical marijuana business applications.

22 C. The Authority shall make available on its website in an  
23 easy-to-find location, applications for a medical marijuana  
24 business.

1 D. The annual, nonrefundable application fee for a medical  
2 marijuana business license shall be Two Thousand Five Hundred  
3 Dollars (\$2,500.00).

4 E. All applicants seeking licensure or licensure renewal as a  
5 medical marijuana business shall comply with the following general  
6 requirements:

7 1. All applications for licenses and registrations authorized  
8 pursuant to this section shall be made upon forms prescribed by the  
9 Authority;

10 2. Each application shall identify the city or county in which  
11 the applicant seeks to obtain licensure as a medical marijuana  
12 business;

13 3. Applicants shall submit a complete application to the  
14 Authority before the application may be accepted or considered;

15 4. All applications shall be complete and accurate in every  
16 detail;

17 5. All applications shall include all attachments or  
18 supplemental information required by the forms supplied by the  
19 Authority;

20 6. All applications shall be accompanied by a full remittance  
21 for the whole amount of the application fees. Application fees are  
22 nonrefundable;

23 7. All applicants shall be approved for licensing review that,  
24 at a minimum, ~~meets~~ meet the following criteria:

- 1 a. twenty-five (25) years of age or older,
- 2 b. if applying as an individual, proof that the applicant
- 3 is a resident of this state pursuant to paragraph 11
- 4 of this subsection,
- 5 c. if applying as an entity, proof that seventy-five
- 6 percent (75%) of all members, managers, executive
- 7 officers, partners, board members or any other form of
- 8 business ownership are residents of this state
- 9 pursuant to paragraph 11 of this subsection,
- 10 d. if applying as an individual or entity, proof that the
- 11 individual or entity is registered to conduct business
- 12 in this state,
- 13 e. disclosure of all ownership interests pursuant to the
- 14 Oklahoma Medical Marijuana and Patient Protection Act,
- 15 and
- 16 f. proof that the medical marijuana business, medical
- 17 marijuana research facility, medical marijuana
- 18 education facility and medical marijuana waste
- 19 disposal facility applicant or licensee has not been
- 20 convicted of a nonviolent felony in the last two (2)
- 21 years, or any other felony conviction within the last
- 22 five (5) years, is not a current inmate in the custody
- 23 of the Department of Corrections, or currently
- 24 incarcerated in a jail or corrections facility;

1 8. There shall be no limit to the number of medical marijuana  
2 business licenses or categories that an individual or entity can  
3 apply for or receive, although each application and each category  
4 shall require a separate application and application fee. A  
5 commercial grower, processor and dispensary, or any combination  
6 thereof, are authorized to share the same address or physical  
7 location, subject to the restrictions set forth in the Oklahoma  
8 Medical Marijuana and Patient Protection Act;

9 9. All applicants for a medical marijuana business license,  
10 research facility license or education facility license authorized  
11 by the Oklahoma Medical Marijuana and Patient Protection Act, or for  
12 a renewal of such license, shall undergo a state criminal history  
13 background check conducted by the Oklahoma State Bureau of  
14 Investigation (OSBI) within thirty (30) days prior to the  
15 application for the license including:

- 16 a. individual applicants applying on their own behalf,
- 17 b. individuals applying on behalf of an entity,
- 18 c. all principal officers of an entity, and
- 19 d. all owners of an entity as defined by the Oklahoma  
20 Medical Marijuana and Patient Protection Act;

21 10. All applicable fees charged by the OSBI are the  
22 responsibility of the applicant and shall not be higher than fees  
23 charged to any other person or industry for such background checks;

24

1 11. In order to be considered a resident of this state for  
2 purposes of a medical marijuana business application, all applicants  
3 shall provide proof of state residency for at least two (2) years  
4 immediately preceding the date of application or five (5) years of  
5 continuous state residency during the preceding twenty-five (25)  
6 years immediately preceding the date of application. Sufficient  
7 documentation of proof of state residency shall include a  
8 combination of the following:

- 9 a. an unexpired state-issued driver license,
- 10 b. a state-issued identification card,
- 11 c. a utility bill preceding the date of application,  
12 excluding cellular telephone and Internet bills,
- 13 d. a residential property deed to property in this state,  
14 and
- 15 e. a rental agreement preceding the date of application  
16 for residential property located in this state.

17 Applicants that were issued a medical marijuana business license  
18 prior to August 30, 2019, are hereby exempt from the two-year or  
19 five-year state residence requirement mentioned above;

20 12. All license applicants shall be required to submit a  
21 registration with the Oklahoma State Bureau of Narcotics and  
22 Dangerous Drugs Control as provided in Sections 2-302 through 2-304  
23 of this title;

24

1 13. All applicants shall establish their identity through  
2 submission of a color copy or digital image of one of the following  
3 unexpired documents:

- 4 a. front of a state-issued driver license,
- 5 b. front of a state-issued identification card,
- 6 c. a United States passport or other photo identification  
7 issued by the United States government, or
- 8 d. a tribal identification card approved for  
9 identification purposes by the Department of Public  
10 Safety; and

11 14. All applicants shall submit an applicant photograph.

12 F. The Authority shall review the medical marijuana business  
13 application; approve, reject or deny the application; and mail the  
14 approval, rejection, denial or status-update letter to the applicant  
15 within ninety (90) business days of receipt of the application.

16 G. 1. The Authority shall review the medical marijuana  
17 business applications and conduct all investigations, inspections  
18 and interviews before approving the application.

19 2. Approved applicants shall be issued a medical marijuana  
20 business license for the specific category applied under, which  
21 shall act as proof of their approved status. Rejection and denial  
22 letters shall provide a reason for the rejection or denial.  
23 Applications may only be rejected or denied based on the applicant  
24 not meeting the standards set forth in the provisions of the

1 Oklahoma Medical Marijuana and Patient Protection Act and Sections  
2 420 through 426.1 of this title, improper completion of the  
3 application, or for a reason provided for in the Oklahoma Medical  
4 Marijuana and Patient Protection Act and Sections 420 through 426.1  
5 of this title. If an application is rejected for failure to provide  
6 required information, the applicant shall have thirty (30) days to  
7 submit the required information for reconsideration. No additional  
8 application fee shall be charged for such reconsideration. Unless  
9 the Authority determines otherwise, an application that has been  
10 resubmitted but is still incomplete or contains errors that are not  
11 clerical or typographical in nature shall be denied.

12 3. Status-update letters shall provide a reason for delay in  
13 either approval, rejection or denial should a situation arise in  
14 which an application was submitted properly but a delay in  
15 processing the application occurred.

16 4. Approval, rejection, denial or status-update letters shall  
17 be sent to the applicant in the same method the application was  
18 submitted to the Authority.

19 H. A license for a medical marijuana business, medical  
20 marijuana research facility, medical marijuana education facility or  
21 medical marijuana waste disposal facility shall not be issued to or  
22 held by:

23 1. A person until all required fees have been paid;

24

1           2. A person who has been convicted of a nonviolent felony  
2 within two (2) years of the date of application, or within five (5)  
3 years for any other felony;

4           3. A corporation, if the criminal history of any of its  
5 officers, directors or stockholders indicates that the officer,  
6 director or stockholder has been convicted of a nonviolent felony  
7 within two (2) years of the date of application, or within five (5)  
8 years for any other felony;

9           4. A person under twenty-five (25) years of age;

10          5. A person licensed pursuant to this section who, during a  
11 period of licensure, or who, at the time of application, has failed  
12 to:

13           a. file taxes, interest or penalties due related to a  
14 medical marijuana business, or

15           b. pay taxes, interest or penalties due related to a  
16 medical marijuana business;

17          6. A sheriff, deputy sheriff, police officer or prosecuting  
18 officer, or an officer or employee of the Authority or municipality;

19          7. A person whose authority to be a caregiver, as defined in  
20 Section 427.2 of this title, has been revoked by the Authority; or

21          8. A person who was involved in the management or operations of  
22 any medical marijuana business, medical marijuana research facility,  
23 medical marijuana education facility or medical marijuana waste  
24 disposal facility that, after the initiation of a disciplinary



1 action, has had a medical marijuana license revoked, not renewed, or  
2 surrendered during the five (5) years preceding submission of the  
3 application and for the following violations:

- 4 a. unlawful sales or purchases,
- 5 b. any fraudulent acts, falsification of records or  
6 misrepresentation to the Authority, medical marijuana  
7 patient licensees, caregiver licensees or medical  
8 marijuana business licensees,
- 9 c. any grossly inaccurate or fraudulent reporting,
- 10 d. threatening or harming any medical marijuana patient,  
11 caregiver, medical practitioner or employee of the  
12 Authority,
- 13 e. knowingly or intentionally refusing to permit the  
14 Authority access to premises or records,
- 15 f. using a prohibited, hazardous substance for processing  
16 in a residential area,
- 17 g. criminal acts relating to the operation of a medical  
18 marijuana business, or
- 19 h. any violations that endanger public health and safety  
20 or product safety.

21 I. In investigating the qualifications of an applicant or a  
22 licensee, the Authority and municipalities may have access to  
23 criminal history record information furnished by a criminal justice  
24 agency subject to any restrictions imposed by such an agency.

1 J. The failure of an applicant or licensee to provide the  
2 requested information by the Authority deadline may be grounds for  
3 denial of the application.

4 K. All applicants and licensees shall submit information to the  
5 Authority in a full, faithful, truthful and fair manner. The  
6 Authority may recommend denial of an application where the applicant  
7 or licensee made misstatements, omissions, misrepresentations or  
8 untruths in the application or in connection with the background  
9 investigation of the applicant. This type of conduct may be grounds  
10 for administrative action against the applicant or licensee. Typos  
11 and scrivener errors shall not be grounds for denial.

12 L. A licensed medical marijuana business premises shall be  
13 subject to and responsible for compliance with applicable provisions  
14 consistent with the zoning where such business is located as  
15 described in the most recent versions of the Oklahoma Uniform  
16 Building Code, the International Building Code and the International  
17 Fire Code, unless granted an exemption by a municipality or  
18 appropriate code enforcement entity.

19 M. All medical marijuana business, medical marijuana research  
20 facility, medical marijuana education facility and medical marijuana  
21 waste disposal facility licensees shall pay the relevant licensure  
22 fees prior to receiving licensure to operate.

23 N. A medical marijuana business, medical marijuana research  
24 facility, medical marijuana education facility or medical marijuana

1 waste disposal facility that attempts to renew its license after the  
2 expiration date of the license shall pay a late renewal fee in an  
3 amount to be determined by the Executive Director of the Authority  
4 to reinstate the license. Late renewal fees are nonrefundable. A  
5 license that has been expired for more than ninety (90) days shall  
6 not be renewed.

7 O. No medical marijuana business, medical marijuana research  
8 facility, medical marijuana education facility or medical marijuana  
9 waste disposal facility shall possess, sell or transfer medical  
10 marijuana or medical marijuana products without a valid, unexpired  
11 license issued by the Authority.

12 P. A medical marijuana business license holder shall require  
13 all individuals employed under their license to be issued a  
14 credential pursuant to the provisions of Section 4 of this act prior  
15 to employment.

16 SECTION 3. NEW LAW A new section of law to be codified  
17 in the Oklahoma Statutes as Section 427.14a of Title 63, unless  
18 there is created a duplication in numbering, reads as follows:

19 A. Beginning January 1, 2024, the Oklahoma Medical Marijuana  
20 Authority shall require employees of a medical marijuana business  
21 licensee to apply for and receive a credential authorizing the  
22 employee to work in a licensed medical marijuana business.

23

24

1 B. The Authority may contract with one or more third-party  
2 vendors to provide the credentialing services necessary to carry out  
3 the provisions of this section.

4 C. The Authority shall determine the services to be provided by  
5 such third-party vendor and shall establish costs and prices. If  
6 contracted for credentialing services, a third-party vendor shall on  
7 behalf of the Authority conduct the background checks and verify  
8 eligibility and suitability for any employees of a medical marijuana  
9 business license holder to obtain a credential.

10 D. Upon successful completion by the third-party vendor of the  
11 statutorily required background checks and verification of  
12 eligibility and suitability for an employee, the third-party vendor  
13 shall issue a credential to the employee. The results of background  
14 checks and verifications shall be provided to the Authority by the  
15 third-party vendor.

16 E. If the third-party vendor determines that an employee of a  
17 medical marijuana business holder does not meet the minimum  
18 statutory requirements for a credential, the applicant or employee  
19 shall have no recourse against the third-party vendor but may appeal  
20 such adverse determination to the Authority.

21 F. The third-party vendor shall not be civilly liable to an  
22 applicant, licensee, or employee of a licensee for any acts taken in  
23 good-faith compliance with the provisions of Section 420 et seq. of  
24 Title 63 of the Oklahoma Statutes and the Oklahoma Medical Marijuana

1 and Patient Protection Act and the rules promulgated by the Oklahoma  
2 Medical Marijuana Authority.

3 G. The Executive Director of the Authority may promulgate rules  
4 to implement the provisions of this section.

5 SECTION 4. This act shall become effective November 1, 2022.

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