

1 ENGROSSED SENATE  
BILL NO. 1704

By: Paxton of the Senate

2  
3 and

4 Lowe (Dick) of the House

5  
6 [ medical marijuana - monitoring and disciplinary  
7 actions - scope of penalties - inaccurate or  
8 fraudulent reporting - effective date ]

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

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

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

17 B. 1. The Department or its designee may perform on-site  
18 inspections or investigations of a licensee or applicant for any  
19 medical marijuana business license, research facility, education  
20 facility or waste disposal facility to determine compliance with  
21 applicable laws, rules and regulations or submissions made pursuant  
22 to this section. The Department may enter the licensed premises of  
23 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 or transfers of medical  
14 marijuana by a medical marijuana business or employees or agents of  
15 the medical marijuana business to persons other than those allowed  
16 by law occurring within any ~~two-year~~ one-year time period may  
17 include an initial fine of ~~One Thousand Dollars (\$1,000.00)~~ Five  
18 Thousand Dollars (\$5,000.00) for a first violation and a fine of  
19 ~~Five Thousand Dollars (\$5,000.00)~~ Fifteen Thousand Dollars  
20 (\$15,000.00) for any subsequent violation. ~~Penalties for grossly~~  
21 ~~inaccurate or fraudulent reporting occurring within any two-year~~  
22 ~~time period may include an initial fine of Five Thousand Dollars~~  
23 ~~(\$5,000.00) for a first violation and a fine of Ten Thousand Dollars~~  
24 ~~(\$10,000.00) for any subsequent violation.~~ The medical marijuana

1 business ~~may~~ shall be subject to a revocation of any license granted  
2 pursuant to the Oklahoma Medical Marijuana and Patient Protection  
3 Act upon a ~~showing that the violation was willful or grossly~~  
4 negligent second violation of the business or any employee or agent  
5 thereof.

6 H. 1. First offense for intentional and impermissible  
7 diversion of medical marijuana, concentrate, or products by a  
8 patient or caregiver to an unauthorized person shall not be punished  
9 under a criminal statute but may be subject to a fine of Two Hundred  
10 Dollars (\$200.00).

11 2. The second offense for impermissible diversion of medical  
12 marijuana, concentrate, or products by a patient or caregiver to an  
13 unauthorized person shall not be punished under a criminal statute  
14 but may be subject to a fine of not to exceed Five Hundred Dollars  
15 (\$500.00) and may result in revocation of the license upon a showing  
16 that the violation was willful or grossly negligent.

17 I. The intentional diversion of medical marijuana, medical  
18 marijuana concentrate or medical marijuana products by a licensed  
19 medical marijuana patient or caregiver, medical marijuana business  
20 or employee of a medical marijuana business to an unauthorized minor  
21 person who the licensed medical marijuana patient or caregiver,  
22 medical marijuana business or employee of a medical marijuana  
23 business knew or reasonably should have known to be a minor person  
24 shall be subject to a cite and release citation and, upon a finding

1 of guilt or a plea of no contest, a fine of Two Thousand Five  
2 Hundred Dollars (\$2,500.00). For a second or subsequent offense,  
3 the licensed medical marijuana patient or caregiver, medical  
4 marijuana business or employee of a medical marijuana business shall  
5 be subject to a cite and release citation and, upon a finding of  
6 guilt or a plea of no contest, a fine of Five Thousand Dollars  
7 (\$5,000.00) and automatic termination of the medical marijuana  
8 license.

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

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

1 State Commissioner of Health and to whom the Department has served,  
2 not less than thirty (30) days previously, a written notice of  
3 violation of such statutes or rules.

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

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

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

1 day of noncompliance with the order. In assessing such a penalty,  
2 the Department shall consider the seriousness of the violation and  
3 any efforts to comply with applicable requirements. Upon  
4 application to the Department, the licensee shall be offered a  
5 hearing within ten (10) days of the issuance of the order.

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

8 SECTION 2. This act shall become effective November 1, 2022.

9 Passed the Senate the 23rd day of March, 2022.

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Presiding Officer of the Senate

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13 Passed the House of Representatives the \_\_\_\_ day of \_\_\_\_\_,  
14 2022.

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Presiding Officer of the House  
of Representatives

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