

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 58th Legislature (2022)

4 COMMITTEE SUBSTITUTE
5 FOR ENGROSSED
6 SENATE BILL NO. 1367

By: Paxton and **Pederson** of the
Senate

and

Hardin (David) of the House

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10 COMMITTEE SUBSTITUTE

11 An Act relating to medical marijuana; amending 63
12 O.S. 2021, Section 427.6, as last amended by Section
13 11, Chapter 553, O.S.L. 2021, which relates to the
14 Oklahoma Medical Marijuana and Patient Protection
15 Act; updating name of entity; modifying elements of
16 certain penalties; increasing penalty amounts;
17 providing administrative fines for certain unlawful
18 acts; authorizing certain discretion and enforcement;
19 providing for the revocation of licenses under
20 certain circumstances; removing construing provision;
21 and providing an effective date.

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

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

Section 427.6 A. The ~~State Department of Health~~ Oklahoma
Medical Marijuana Authority shall address issues related to the

1 medical marijuana program in ~~Oklahoma~~ this state including, but not
2 limited to, monitoring and disciplinary actions as they relate to
3 the medical marijuana program.

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

14 2. Post-licensure inspections shall be limited to twice per
15 calendar year. However, investigations and additional inspections
16 may occur when the ~~Department~~ Authority believes an investigation or
17 additional inspection is necessary due to a possible violation of
18 applicable laws, rules or regulations. The State Commissioner of
19 Health may adopt rules imposing penalties including, but not limited
20 to, monetary fines and suspension or revocation of licensure for
21 failure to allow the Authority reasonable access to the licensed
22 premises for purposes of conducting an inspection.

23 3. The ~~Department~~ Authority may review relevant records of a
24 licensed medical marijuana business, licensed medical marijuana

1 research facility, licensed medical marijuana education facility or
2 licensed medical marijuana waste disposal facility, and may require
3 and conduct interviews with such persons or entities and persons
4 affiliated with such entities, for the purpose of determining
5 compliance with ~~Department~~ Authority requirements and applicable
6 laws, rules and regulations.

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

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

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

17 E. Disciplinary actions may be imposed upon a medical marijuana
18 business licensee for:

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

21 2. Falsification or misrepresentation of any material or
22 information submitted to the ~~Department~~ Authority or other
23 licensees;

24

- 1 3. Failing to allow or impeding entry by authorized
2 representatives of the ~~Department~~ Authority;
- 3 4. Failure to adhere to any acknowledgement, verification or
4 other representation made to the ~~Department~~ Authority;
- 5 5. Failure to submit or disclose information required by
6 applicable laws, rules or regulations or otherwise requested by the
7 ~~Department~~ Authority;
- 8 6. Failure to correct any violation of this section cited as a
9 result of a review or audit of financial records or other materials;
- 10 7. Failure to comply with requested access by the ~~Department~~
11 Authority to the licensed premises or materials;
- 12 8. Failure to pay a required monetary penalty;
- 13 9. Diversion of medical marijuana or any medical marijuana
14 product, as determined by the ~~Department~~ Authority;
- 15 10. Threatening or harming a medical marijuana patient
16 licensee, caregiver licensee, a medical practitioner or an employee
17 of the ~~Department~~ Authority; and
- 18 11. Any other basis indicating a violation of the applicable
19 laws and regulations as identified by the ~~Department~~ Authority.
- 20 F. Disciplinary actions against a licensee may include the
21 imposition of monetary penalties, which may be assessed by the
22 ~~Department~~ Authority. The ~~Department~~ Authority may suspend or
23 revoke a license for failure to pay any monetary penalty lawfully
24 assessed by the ~~Department~~ Authority against a licensee.

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

19 H. 1. ~~First~~ In addition to any other penalties prescribed by
20 law, a first offense for intentional and impermissible diversion of
21 medical marijuana, medical marijuana concentrate, or medical
22 marijuana products for value by a patient or caregiver to an
23 unauthorized person shall ~~not be punished under a criminal statute~~
24 ~~but may~~ be subject to a an administrative fine of ~~Two Hundred~~

1 ~~Dollars (\$200.00)~~ not less than Four Hundred Dollars (\$400.00). The
2 Authority shall have the authority to enforce the provisions of this
3 subsection.

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

14 I. The intentional diversion of medical marijuana, medical
15 marijuana concentrate or medical marijuana products by a licensed
16 medical marijuana patient or caregiver, medical marijuana business
17 or employee of a medical marijuana business to an unauthorized minor
18 person who the licensed medical marijuana patient or caregiver,
19 medical marijuana business or employee of a medical marijuana
20 business knew or reasonably should have known to be a minor person
21 shall be subject to a ~~cite and release citation and, upon a finding~~
22 ~~of guilt or a plea of no contest,~~ a an administrative fine of Two
23 Thousand Five Hundred Dollars (\$2,500.00). For an additional
24 incident resulting in a second or subsequent offense, the licensed

1 medical marijuana patient or caregiver, medical marijuana business
2 or employee of a medical marijuana business shall be subject to a
3 cite and release citation and, upon a finding of guilt or a plea of
4 no contest, a fine of Five Thousand Dollars (\$5,000.00) and
5 automatic ~~termination~~ revocation of the medical marijuana license.

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

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

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

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

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

1 with applicable requirements. Upon application to the ~~Department~~
2 Authority, the licensee shall be offered a hearing within ten (10)
3 days of the issuance of the order.

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

6 SECTION 2. This act shall become effective November 1, 2022.
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8 COMMITTEE REPORT BY: COMMITTEE ON ALCOHOL, TOBACCO AND CONTROLLED
9 SUBSTANCES, dated 04/14/2022 - DO PASS, As Amended and Coauthored.
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