

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. 1704

By: Paxton of the Senate

and

7 Lowe (Dick) of the House

8
9
10 COMMITTEE SUBSTITUTE

11 An act relating to medical marijuana; amending 63
12 O.S. 2021, Section 427.6, which relates to the
13 Oklahoma Medical Marijuana and Patient Protection
14 Act; clarifying penalties for certain unlawful acts;
15 increasing fine amounts; authorizing the Oklahoma
16 Medical Marijuana Authority to revoke licenses under
17 certain circumstances; and declaring an emergency.

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

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

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

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

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

19 3. The Department may review relevant records of a licensed
20 medical marijuana business, licensed medical marijuana research
21 facility, licensed medical marijuana education facility or licensed
22 medical marijuana waste disposal facility, and may require and
23 conduct interviews with such persons or entities and persons
24 affiliated with such entities, for the purpose of determining

1 compliance with Department requirements and applicable laws, rules
2 and regulations.

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

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

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

13 E. Disciplinary actions may be imposed upon a medical marijuana
14 business licensee for:

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

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

19 3. Failing to allow or impeding entry by authorized
20 representatives of the Department;

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

23

24

1 5. Failure to submit or disclose information required by
2 applicable laws, rules or regulations or otherwise requested by the
3 Department;

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

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

8 8. Failure to pay a required monetary penalty;

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

11 10. Threatening or harming a medical marijuana patient
12 licensee, caregiver licensee, a medical practitioner or an employee
13 of the Department; and

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

16 F. Disciplinary actions against a licensee may include the
17 imposition of monetary penalties, which may be assessed by the
18 Department. The Department may suspend or revoke a license for
19 failure to pay any monetary penalty lawfully assessed by the
20 Department against a licensee.

21 G. ~~Penalties~~ In addition to any other penalties prescribed by
22 law, penalties for sales ~~or~~, purchases, or transfers for value of
23 medical marijuana by a medical marijuana business or employees or
24 agents of the medical marijuana business to persons other than those

1 allowed by law ~~occurring within any two-year time period~~ may include
2 an initial administrative fine of ~~One Thousand Dollars (\$1,000.00)~~
3 Five Thousand Dollars (\$5,000.00) for a first violation and ~~a~~ an
4 administrative fine of ~~Five Thousand Dollars (\$5,000.00)~~ Fifteen
5 Thousand Dollars (\$15,000.00) for any subsequent violation occurring
6 within any two-year time frame.

7 1. Penalties for grossly inaccurate or fraudulent reporting
8 ~~occurring within any two-year time period~~ may include an initial
9 administrative fine of Five Thousand Dollars (\$5,000.00) for a first
10 violation and ~~a~~ an administrative fine of ~~Ten Thousand Dollars~~
11 ~~(\$10,000.00)~~ Fifteen Thousand Dollars (\$15,000.00) for any
12 subsequent violation occurring within any two-year time frame.

13 2. After investigation by the Authority, the Authority may
14 revoke the license of any person directly involved with the
15 diversion of marijuana.

16 3. If the Authority, after investigation, can show by a
17 preponderance of the evidence a pattern of diversion or negligence
18 leading to diversion, the Authority shall revoke the business
19 licenses associated with the diversion and any entity with common
20 ownership.

21 4. The medical marijuana business may be subject to a
22 revocation of any license granted pursuant to the Oklahoma Medical
23 Marijuana and Patient Protection Act upon a ~~showing that the~~
24 ~~violation was willful or grossly negligent~~ second incident of

1 grossly inaccurate or fraudulent reporting in a ten-year period by
2 the business or any employee or agent thereof.

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

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

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 fine of Two Thousand Five
23 Hundred Dollars (\$2,500.00). For a second or subsequent offense,
24 the licensed medical marijuana patient or caregiver, medical

1 marijuana business or employee of a medical marijuana business shall
2 be subject to a cite and release citation and, upon a finding of
3 guilt or a plea of no contest, a fine of Five Thousand Dollars
4 (\$5,000.00) and automatic termination of the medical marijuana
5 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, pursuant to its rules and regulations, may issue a
18 written order to any licensee the Department has reason to believe
19 has violated Sections 420 through 426.1 of this title, the Oklahoma
20 Medical Marijuana and Patient Protection Act, the Oklahoma Medical
21 Marijuana Waste Management Act, or any rules promulgated by the
22 State Commissioner of Health and to whom the Department has served,
23 not less than thirty (30) days previously, a written notice of
24 violation of such statutes or rules.

1 1. The written order shall state with specificity the nature of
2 the violation. The Department may impose any disciplinary action
3 authorized under the provisions of this section including, but not
4 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. Upon such request, the Department shall promptly
10 initiate administrative proceedings.

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

1 application to the Department, the licensee shall be offered a
2 hearing within ten (10) days of the issuance of the order.

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

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

6

7 COMMITTEE REPORT BY: COMMITTEE ON ALCOHOL, TOBACCO AND CONTROLLED
8 SUBSTANCES, dated 04/14/2022 - DO PASS, As Amended.

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24