

1 **SENATE FLOOR VERSION**

2 February 22, 2021

3 COMMITTEE SUBSTITUTE
4 FOR

5 SENATE BILL NO. 445

6 By: Paxton

7 An Act relating to medical marijuana; amending
8 Section 6, Chapter 11, O.S.L. 2019, as amended by
9 Section 7, Chapter 477, O.S.L. 2019 (63 O.S. Supp.
10 2020, Section 427.6), which relates to disciplinary
11 actions; providing cumulative penalties; specifying
12 type of fine; clarifying language; and providing an
13 effective date.

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

15 SECTION 1. AMENDATORY Section 6, Chapter 11, O.S.L.
16 2019, as amended by Section 7, Chapter 477, O.S.L. 2019 (63 O.S.
17 Supp. 2020, Section 427.6), is amended to read as follows:

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

22 B. 1. The Department or its designee may perform on-site
23 assessments of a licensee or applicant for any medical marijuana
24 business license issued pursuant to ~~this act~~ the Oklahoma Medical
Marijuana and Patient Protection Act to determine compliance with

1 this act or submissions made pursuant to this section. The
2 Department may enter the licensed premises of a medical marijuana
3 business licensee or applicant to assess or monitor compliance.

4 2. Inspections shall be limited to twice per calendar year and
5 twenty-four (24) hours of notice shall be provided to a medical
6 marijuana business applicant or licensee prior to an on-site
7 assessment. However, additional inspections may occur when the
8 Department shows that an additional inspection is necessary due to a
9 violation of ~~this act~~ the Oklahoma Medical Marijuana and Patient
10 Protection Act. Such inspection may be without notice if the
11 Department believes that such notice will result in the destruction
12 of evidence.

13 3. The Department may review relevant records of a licensed
14 medical marijuana business, licensed medical marijuana research
15 facility or licensed medical marijuana education facility, and may
16 require and conduct interviews with such persons or entities and
17 persons affiliated with such entities, for the purpose of
18 determining compliance with Department requirements and applicable
19 laws. However, prior to conducting any interviews with the medical
20 marijuana business, research facility or education facility, the
21 licensee shall be afforded sufficient time to secure legal
22 representation during such questioning if requested by the business
23 or facility or any of its agents or employees or contractors.

24

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

4 C. Disciplinary action may be taken against an applicant or
5 licensee under ~~this act~~ the Oklahoma Medical Marijuana and Patient
6 Protection Act for not adhering to the law pursuant to the terms,
7 conditions and guidelines set forth in this act.

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

11 E. Disciplinary actions may be imposed upon a medical marijuana
12 business licensee for:

13 1. Failure to comply with or satisfy any provision of this
14 section;

15 2. Falsification or misrepresentation of any material or
16 information submitted to the Department;

17 3. Failing to allow or impeding a monitoring visit by
18 authorized representatives of the Department;

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

21 5. Failure to submit or disclose information required by this
22 section or otherwise requested by the Department;

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

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

3 8. Failure to pay a required monetary penalty;

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

6 10. Threatening or harming a patient, a medical practitioner or
7 an employee of the Department; and

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

10 F. Disciplinary actions against a licensee may include the
11 imposition of monetary penalties, which may be assessed by the
12 Department.

13 G. ~~Penalties~~ In addition to any other penalties provided by
14 law, penalties for sales by a medical marijuana business to persons
15 other than those allowed by law occurring within any two-year time
16 period may include an initial administrative fine of One Thousand
17 Dollars (\$1,000.00) for a first violation and ~~a~~ an administrative
18 fine of Five Thousand Dollars (\$5,000.00) for any subsequent
19 violation. The medical marijuana business may be subject to a
20 revocation of any license granted pursuant to ~~this act~~ the Oklahoma
21 Medical Marijuana and Patient Protection Act upon a showing that the
22 violation was willful or grossly negligent.

23 H. 1. ~~First~~ In addition to any other penalties provided under
24 the Uniform Controlled Dangerous Substance Act, a first offense for

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

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

14 I. The following persons or entities may request a hearing to
15 contest an action or proposed action of the Department:

16 1. A medical marijuana business, research facility or education
17 facility licensee whose license has been summarily suspended or who
18 has received a notice of contemplated action to suspend or revoke a
19 license or take other disciplinary action; and

20 2. A patient or caregiver licensee whose license has been
21 summarily suspended or who has received notice of contemplated
22 action to suspend or revoke a license or take other disciplinary
23 action.

24

1 J. All hearings held pursuant to this section shall be in
2 accordance with the Oklahoma Administrative Procedures Act, Section
3 250 et seq. of Title 75 of the Oklahoma Statutes.

4 SECTION 2. This act shall become effective November 1, 2021.

5 COMMITTEE REPORT BY: COMMITTEE ON HEALTH AND HUMAN SERVICES
6 February 22, 2021 - DO PASS AS AMENDED
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