

1 ENGROSSED HOUSE AMENDMENT
TO
2 ENGROSSED SENATE BILL NO. 808 By: Newhouse of the Senate
3 and
4 Hilbert of the House
5
6

7 An Act relating to medical marijuana; amending 63
8 O.S. 2021, Section 427.6, as last amended by Section
9 10, Chapter 251, O.S.L. 2022 (63 O.S. Supp. 2022,
10 Section 427.6), which relates to monitoring and
11 disciplinary actions; authorizing the Director to
12 issue order of immediate action under certain
13 circumstance; requiring immediate compliance;
14 providing for penalty; and providing an effective
15 date.

15 AUTHOR: Add the following House Coauthor: Bashore

16 AMENDMENT NO. 1. Strike the title, enacting clause, and entire bill
17 and insert:
18

19 "An Act relating to medical marijuana; amending 63
20 O.S. 2021, Section 427.6, as last amended by Section
21 10, Chapter 251, O.S.L. 2022 (63 O.S. Supp. 2022,
22 Section 427.6), which relates to monitoring and
23 disciplinary actions; authorizing the Executive
24 Director to issue order of immediate action under
certain circumstance; requiring immediate compliance;
providing for penalty; directing the Oklahoma Medical
Marijuana Authority to promulgate rules; transferring
certain powers and responsibilities to the board upon

1 and following its creation; and providing an
2 effective date.

3
4 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

5 SECTION 1. AMENDATORY 63 O.S. 2021, Section 427.6, as
6 last amended by Section 10, Chapter 251, O.S.L. 2022 (63 O.S. Supp.
7 2022, Section 427.6), is amended to read as follows:

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

13 B. 1. The Authority or its designee may perform on-site
14 inspections or investigations of a licensee or applicant for any
15 medical marijuana business license, research facility, education
16 facility or waste disposal facility to determine compliance with
17 applicable laws, rules and regulations or submissions made pursuant
18 to this section. The Authority may enter the licensed premises of a
19 medical marijuana business, research facility, education facility or
20 waste disposal facility licensee or applicant to assess or monitor
21 compliance or ensure qualifications for licensure.

22 2. Post-licensure inspections shall be limited to twice per
23 calendar year. However, investigations and additional inspections
24 may occur when the Authority believes an investigation or additional

1 inspection is necessary due to a possible violation of applicable
2 laws, rules or regulations. The Executive Director of the Authority
3 may adopt rules imposing penalties including, but not limited to,
4 monetary fines and suspension or revocation of licensure for failure
5 to allow the Authority reasonable access to the licensed premises
6 for purposes of conducting an inspection.

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

15 4. The Authority may refer complaints alleging criminal
16 activity that are made against a licensee to appropriate state or
17 local law enforcement authorities.

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

22 D. Disciplinary actions may include revocation, suspension or
23 denial of an application, license or final authorization and other
24 action deemed appropriate by the Executive Director.

1 E. Disciplinary actions may be imposed upon a medical marijuana
2 business licensee for:

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

5 2. Falsification or misrepresentation of any material or
6 information submitted to the Authority or other licensees;

7 3. Failing to allow or impeding entry by authorized
8 representatives of the Authority;

9 4. Failure to adhere to any acknowledgement, verification or
10 other representation made to the Authority;

11 5. Failure to submit or disclose information required by
12 applicable laws, rules or regulations or otherwise requested by the
13 Authority;

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

16 7. Failure to comply with requested access by the Authority to
17 the licensed premises or materials;

18 8. Failure to pay a required monetary penalty;

19 9. Diversion of medical marijuana or any medical marijuana
20 product, as determined by the Authority;

21 10. Threatening or harming a medical marijuana patient
22 licensee, caregiver licensee, a medical practitioner or an employee
23 of the Authority; and
24

1 11. Any other basis indicating a violation of the applicable
2 laws and regulations as identified by the Authority.

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

8 G. Penalties for sales or purchases by a medical marijuana
9 business to persons other than those allowed by law occurring within
10 any two-year time period may include an initial fine of One Thousand
11 Dollars (\$1,000.00) for a first violation and a fine of Five
12 Thousand Dollars (\$5,000.00) for any subsequent violation.

13 Penalties for grossly inaccurate or fraudulent reporting occurring
14 within any two-year time period may include an initial fine of Five
15 Thousand Dollars (\$5,000.00) for a first violation and a fine of Ten
16 Thousand Dollars (\$10,000.00) for any subsequent violation. The
17 medical marijuana business may be subject to a revocation of any
18 license granted pursuant to the Oklahoma Medical Marijuana and
19 Patient Protection Act upon a showing that the violation was willful
20 or grossly negligent.

21 H. 1. First offense for intentional and impermissible
22 diversion of medical marijuana, concentrate, or products by a
23 patient or caregiver to an unauthorized person shall not be punished
24

1 under a criminal statute but may be subject to a fine of Two Hundred
2 Dollars (\$200.00).

3 2. The second offense for impermissible diversion of medical
4 marijuana, concentrate, or products by a patient or caregiver to an
5 unauthorized person shall not be punished under a criminal statute
6 but may be subject to a fine of not to exceed Five Hundred Dollars
7 (\$500.00) and may result in revocation of the license upon a showing
8 that the violation was willful or grossly negligent.

9 I. The intentional diversion of medical marijuana, medical
10 marijuana concentrate or medical marijuana products by a licensed
11 medical marijuana patient or caregiver, medical marijuana business
12 or employee of a medical marijuana business to an unauthorized minor
13 person who the licensed medical marijuana patient or caregiver,
14 medical marijuana business or employee of a medical marijuana
15 business knew or reasonably should have known to be a minor person
16 shall be subject to a cite and release citation and, upon a finding
17 of guilt or a plea of no contest, a fine of Two Thousand Five
18 Hundred Dollars (\$2,500.00). For a second or subsequent offense,
19 the licensed medical marijuana patient or caregiver, medical
20 marijuana business or employee of a medical marijuana business shall
21 be subject to a cite and release citation and, upon a finding of
22 guilt or a plea of no contest, a fine of Five Thousand Dollars
23 (\$5,000.00) and automatic termination of the medical marijuana
24 license.

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

11 K. In addition to any other remedies provided for by law, the
12 Authority, pursuant to rules and regulations promulgated by the
13 Executive Director, may issue a written order to any licensee the
14 Authority has reason to believe has violated Sections 420 through
15 426.1 of this title, the Oklahoma Medical Marijuana and Patient
16 Protection Act, the Oklahoma Medical Marijuana Waste Management Act,
17 or any rules promulgated by the Executive Director and to whom the
18 Authority has served, not less than thirty (30) days previously, a
19 written notice of violation of such statutes or rules.

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

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1 2. Any order issued pursuant to the provisions of this section
2 shall become a final order unless, not more than thirty (30) days
3 after the order is served to the licensee, the licensee requests an
4 administrative hearing in accordance with the rules and regulations
5 promulgated by the Executive Director. Upon such request, the
6 Authority shall promptly initiate administrative proceedings.

7 L. 1. Whenever the Executive Director finds that an emergency
8 exists requiring immediate action in order to protect the health or
9 welfare of the public, the Executive Director may issue an order,
10 without providing notice or hearing, stating the existence of an
11 emergency and requiring that action be taken as the Executive
12 Director deems necessary to meet the emergency. Such action may
13 include, but is not limited to, ordering the licensee to immediately
14 cease and desist operations by the licensee. The order shall be
15 effective immediately upon issuance. Any person to whom the order
16 is directed shall comply immediately with the provisions of the
17 order. The Authority may assess a penalty not to exceed Ten
18 Thousand Dollars (\$10,000.00) per day of noncompliance with the
19 order. In assessing such a penalty, the Authority shall consider
20 the seriousness of the violation and any efforts to comply with
21 applicable requirements. Upon application to the Authority, the
22 licensee shall be offered a hearing within ten (10) days of the
23 issuance of the order.

1 2. Whenever the Executive Director finds that an emergency
2 exists requiring immediate action in order to control the
3 environmental damage caused by a medical marijuana business license
4 holder in this state, the Executive Director may issue an order,
5 without providing notice or hearing, stating the existence of an
6 emergency and requiring that action be taken as the Executive
7 Director deems necessary to meet the emergency. Such action may
8 include, but is not limited to, ordering the licensee to immediately
9 cease and desist operations. The order shall be effective
10 immediately upon issuance. Any person to whom the order is directed
11 shall comply immediately with the provisions of the order. The
12 Authority may assess penalties consistent with paragraph 1 of this
13 subsection for violations. The Authority, in consultation with the
14 Department of Environmental Quality, shall promulgate rules pursuant
15 to this paragraph.

16 3. Upon and following the creation of a board tasked with
17 overseeing the duties and operations of the Authority, the board
18 shall assume all powers and responsibilities provided for in
19 paragraphs 1 and 2 of this subsection of establishing the criteria
20 for defining emergencies or environmental emergencies and
21 determining when emergencies or environmental emergencies exist that
22 may require immediate action in order to control damages caused by a
23 medical marijuana business licensee. The Board shall further be
24 authorized to issue orders and take such action deemed necessary to

1 meet the emergency or environmental emergency including, but not
2 limited to, the assessment of fines and penalties.

3 M. 1. The Executive Director may conduct hearings, issue final
4 agency orders, impose disciplinary action as provided by this
5 section for violation of state laws and rules pertaining to medical
6 marijuana including, but not limited to, violation of this section,
7 and take such other action as may be necessary to enforce state laws
8 and rules pertaining to medical marijuana pursuant to the
9 Administrative Procedures Act. All hearings held pursuant to this
10 section shall be in accordance with the Administrative Procedures
11 Act.

12 2. The Executive Director may delegate to an administrative law
13 judge the authority to conduct hearings, issue final agency orders,
14 or impose disciplinary action as provided by this section for
15 violation of state laws and rules pertaining to medical marijuana
16 including, but not limited to, violation of this section. When the
17 administrative law judge issues a final agency order, that order
18 becomes the final order of the Authority without further proceeding
19 unless there is a request for rehearing, reopening, or
20 reconsideration pursuant to Section 317 of Title 75 of the Oklahoma
21 Statutes or a filing for judicial review pursuant to Section 318 of
22 Title 75 of the Oklahoma Statutes.

23 SECTION 2. This act shall become effective November 1, 2023."
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1 ENGROSSED SENATE
2 BILL NO. 808

By: Newhouse of the Senate

3 and

4 Hilbert of the House

5
6 An Act relating to medical marijuana; amending 63
7 O.S. 2021, Section 427.6, as last amended by Section
8 10, Chapter 251, O.S.L. 2022 (63 O.S. Supp. 2022,
9 Section 427.6), which relates to monitoring and
10 disciplinary actions; authorizing the Director to
11 issue order of immediate action under certain
12 circumstance; requiring immediate compliance;
13 providing for penalty; and providing an effective
14 date.

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

16 SECTION 3. AMENDATORY 63 O.S. 2021, Section 427.6, as
17 last amended by Section 10, Chapter 251, O.S.L. 2022 (63 O.S. Supp.
18 2022, Section 427.6), is amended to read as follows:

19 Section 427.6. A. The Oklahoma Medical Marijuana Authority
20 shall address issues related to the medical marijuana program in
21 this state including, but not limited to, monitoring and
22 disciplinary actions as they relate to the medical marijuana
23 program.

24 B. 1. The Authority or its designee may perform on-site
inspections or investigations of a licensee or applicant for any
medical marijuana business license, research facility, education
facility or waste disposal facility to determine compliance with

1 applicable laws, rules and regulations or submissions made pursuant
2 to this section. The Authority may enter the licensed premises of a
3 medical marijuana business, research facility, education facility or
4 waste disposal facility licensee or applicant to assess or monitor
5 compliance or ensure qualifications for licensure.

6 2. Post-licensure inspections shall be limited to twice per
7 calendar year. However, investigations and additional inspections
8 may occur when the Authority believes an investigation or additional
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10 laws, rules or regulations. The Executive Director of the Authority
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12 monetary fines and suspension or revocation of licensure for failure
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15 3. The Authority may review relevant records of a licensed
16 medical marijuana business, licensed medical marijuana research
17 facility, licensed medical marijuana education facility or licensed
18 medical marijuana waste disposal facility, and may require and
19 conduct interviews with such persons or entities and persons
20 affiliated with such entities, for the purpose of determining
21 compliance with requirements of the Executive Director and
22 applicable laws, rules and regulations.

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

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

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
14 applicable laws, rules or regulations;

15 2. Falsification or misrepresentation of any material or
16 information submitted to the Authority or other licensees;

17 3. Failing to allow or impeding entry by authorized
18 representatives of the Authority;

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

21 5. Failure to submit or disclose information required by
22 applicable laws, rules or regulations or otherwise requested by the
23 Authority;

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

3 7. Failure to comply with requested access by the Authority to
4 the licensed premises or materials;

5 8. Failure to pay a required monetary penalty;

6 9. Diversion of medical marijuana or any medical marijuana
7 product, as determined by the Authority;

8 10. Threatening or harming a medical marijuana patient
9 licensee, caregiver licensee, a medical practitioner or an employee
10 of the Authority; and

11 11. Any other basis indicating a violation of the applicable
12 laws and regulations as identified by the Authority.

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18 I. The intentional diversion of medical marijuana, medical
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24 business knew or reasonably should have known to be a minor person

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17 unauthorized person was to engage in the distribution or trafficking
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19 marijuana products.

20 K. In addition to any other remedies provided for by law, the
21 Authority, pursuant to rules and regulations promulgated by the
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23 Authority has reason to believe has violated Sections 420 through
24 426.1 of this title, the Oklahoma Medical Marijuana and Patient

1 Protection Act, the Oklahoma Medical Marijuana Waste Management Act,
2 or any rules promulgated by the Executive Director and to whom the
3 Authority has served, not less than thirty (30) days previously, a
4 written notice of violation of such statutes or rules.

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

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

15 L. 1. Whenever the Executive Director finds that an emergency
16 exists requiring immediate action in order to protect the health or
17 welfare of the public, the Executive Director may issue an order,
18 without providing notice or hearing, stating the existence of an
19 emergency and requiring that action be taken as the Executive
20 Director deems necessary to meet the emergency. Such action may
21 include, but is not limited to, ordering the licensee to immediately
22 cease and desist operations by the licensee. The order shall be
23 effective immediately upon issuance. Any person to whom the order
24 is directed shall comply immediately with the provisions of the

1 order. The Authority may assess a penalty not to exceed Ten
2 Thousand Dollars (\$10,000.00) per day of noncompliance with the
3 order. In assessing such a penalty, the Authority shall consider
4 the seriousness of the violation and any efforts to comply with
5 applicable requirements. Upon application to the Authority, the
6 licensee shall be offered a hearing within ten (10) days of the
7 issuance of the order.

8 2. Whenever the Executive Director finds that an emergency
9 exists requiring immediate action in order to control the
10 environmental damage caused by a medical marijuana business license
11 holder in this state, the Executive Director may issue an order,
12 without providing notice or hearing, stating the existence of an
13 emergency and requiring that action be taken as the Executive
14 Director deems necessary to meet the emergency. Such action may
15 include, but is not limited to, ordering the licensee to immediately
16 cease and desist operations by the licensee. The order shall be
17 effective immediately upon issuance. Any person to whom the order
18 is directed shall comply immediately with the provisions of the
19 order. The Authority may assess penalties consistent with paragraph
20 1 of this subsection for violations.

21 M. 1. The Executive Director may conduct hearings, issue final
22 agency orders, impose disciplinary action as provided by this
23 section for violation of state laws and rules pertaining to medical
24 marijuana including, but not limited to, violation of this section,

1 and take such other action as may be necessary to enforce state laws
2 and rules pertaining to medical marijuana pursuant to the
3 Administrative Procedures Act. All hearings held pursuant to this
4 section shall be in accordance with the Administrative Procedures
5 Act.

6 2. The Executive Director may delegate to an administrative law
7 judge the authority to conduct hearings, issue final agency orders,
8 or impose disciplinary action as provided by this section for
9 violation of state laws and rules pertaining to medical marijuana
10 including, but not limited to, violation of this section. When the
11 administrative law judge issues a final agency order, that order
12 becomes the final order of the Authority without further proceeding
13 unless there is a request for rehearing, reopening, or
14 reconsideration pursuant to Section 317 of Title 75 of the Oklahoma
15 Statutes or a filing for judicial review pursuant to Section 318 of
16 Title 75 of the Oklahoma Statutes.

17 SECTION 4. This act shall become effective November 1, 2023.
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