

1 STATE OF OKLAHOMA

2 1st Session of the 59th Legislature (2023)

3 HOUSE BILL 2095

By: Echols

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5
6 AS INTRODUCED

7 An Act relating to medical marijuana; amending 63
8 O.S. 2021, Section 427.6, as last amended by Section
9 1, Chapter 328, O.S.L. 2022 (63 O.S. Supp. 2022,
10 Section 427.6), which relates to the Oklahoma Medical
11 Marijuana and Patient Protection Act; making certain
12 acts unlawful; providing penalties; and providing an
13 effective date.

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

15 SECTION 1. AMENDATORY 63 O.S. 2021, Section 427.6, as
16 last amended by Section 1, Chapter 328, O.S.L. 2022 (63 O.S. Supp.
17 2022, Section 427.6), is amended to read as follows:

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

23 B. 1. The Authority or its designee may perform on-site
24 inspections or investigations of a licensee or applicant for any

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

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

17 3. The Authority may review relevant records of a licensed
18 medical marijuana business, licensed medical marijuana research
19 facility, licensed medical marijuana education facility or licensed
20 medical marijuana waste disposal facility, and may require and
21 conduct interviews with such persons or entities and persons
22 affiliated with such entities, for the purpose of determining
23 compliance with Authority requirements and applicable laws, rules
24 and regulations.

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 Authority.

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.

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

18 G. 1. In addition to any other penalties prescribed by law,
19 penalties for sales, purchases or transfers for value of medical
20 marijuana by a medical marijuana business or employees or agents of
21 the medical marijuana business to persons other than those allowed
22 by law occurring within any one-year time period may include an
23 initial fine of Five Thousand Dollars (\$5,000.00) for a first
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1 violation and a fine of Fifteen Thousand Dollars (\$15,000.00) for
2 any subsequent violation.

3 2. Penalties for grossly inaccurate or fraudulent reporting
4 occurring within any two-year time period may include an initial
5 administrative fine of Five Thousand Dollars (\$5,000.00) for a first
6 violation and an administrative fine of Ten Thousand Dollars
7 (\$10,000.00) for any subsequent violation. The medical marijuana
8 business shall be subject to a revocation of any license granted
9 pursuant to the Oklahoma Medical Marijuana and Patient Protection
10 Act upon a second incident of grossly inaccurate or fraudulent
11 reporting in a ten-year period by the medical marijuana business or
12 any employee or agent thereof.

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

16 4. If the Authority, after investigation, is able to establish,
17 by a preponderance of evidence, a pattern of diversion or negligence
18 leading to diversion, the Authority may revoke any business licenses
19 associated with the diversion and any entity with common ownership.

20 H. 1. In addition to any other penalties prescribed by law, a
21 first offense for intentional and impermissible diversion of medical
22 marijuana, medical marijuana concentrate, or medical marijuana
23 products for value by a patient or caregiver to an unauthorized
24 person shall be subject to an administrative fine of Four Hundred

1 Dollars (\$400.00). The Authority shall have the authority to
2 enforce the provisions of this subsection.

3 2. In addition to any other penalties prescribed by law, an
4 additional incident resulting in a second offense for impermissible
5 diversion of medical marijuana, medical marijuana concentrate, or
6 medical marijuana products by a patient or caregiver to an
7 unauthorized person for value shall be subject to an administrative
8 fine of One Thousand Dollars (\$1,000.00), and shall result in
9 revocation of the license or licenses of the person.

10 3. Any person who shares less than three (3) grams of medical
11 marijuana with an unauthorized person, without the transfer being
12 for value or other consideration, shall not be subject to criminal
13 prosecution but shall be subject to an administrative fine of Four
14 Hundred Dollars (\$400.00).

15 I. The intentional diversion of medical marijuana, medical
16 marijuana concentrate or medical marijuana products by a licensed
17 medical marijuana patient or caregiver, medical marijuana business
18 or employee of a medical marijuana business to an unauthorized minor
19 person who the licensed medical marijuana patient or caregiver,
20 medical marijuana business or employee of a medical marijuana
21 business knew or reasonably should have known to be a minor person
22 shall be subject to an administrative fine of Two Thousand Five
23 Hundred Dollars (\$2,500.00). For an additional incident resulting
24 in a second or subsequent offense, the licensed medical marijuana

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

6 J. In addition to any other penalties prescribed by law, it
7 shall be unlawful for a licensed medical marijuana commercial grower
8 to knowingly hire or employ undocumented immigrants to perform work
9 inside a medical marijuana commercial grow facility or anywhere on
10 the property of the medical marijuana commercial grow operation.
11 Any licensed medical marijuana commercial grower who violates the
12 provisions of this subsection shall, upon conviction, be guilty of a
13 misdemeanor punishable by imprisonment in the county jail for a term
14 not exceeding one (1) year, or by a fine not exceeding Five Hundred
15 Dollars (\$500.00), or by both such fine and imprisonment. In
16 addition, the license of the medical marijuana commercial grower
17 shall be subject to revocation.

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

1 not less than thirty (30) days previously, a written notice of
2 violation of such statutes or rules.

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

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

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

1 the Authority shall consider the seriousness of the violation and
2 any efforts to comply with applicable requirements. Upon
3 application to the Authority, the licensee shall be offered a
4 hearing within ten (10) days of the issuance of the order.

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

7 SECTION 2. This act shall become effective November 1, 2023.

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