

1 STATE OF OKLAHOMA

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

3 COMMITTEE SUBSTITUTE
4 FOR

5 HOUSE BILL NO. 4411

6 By: Lowe (Dick)

7 COMMITTEE SUBSTITUTE

8 An Act relating to medical marijuana; amending 63
9 O.S. 2021, Section 427.6, which relates to the
10 Oklahoma Medical Marijuana and Patient Protection
11 Act; deleting limitation that restricts the number of
12 post-licensure inspections conducted in a calendar
13 year; and providing an 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, is
16 amended to read as follows:

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

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

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

6 2. ~~Post-licensure~~ A post-licensure inspection of every licensed
7 medical marijuana business, medical marijuana research facility,
8 medical marijuana education facility, and medical marijuana waste
9 disposal facility shall occur a minimum of one per calendar year;
10 provided, however, there shall be no limit to the number of post-
11 licensure inspections shall be limited to twice per that may be
12 conducted by the Authority in a calendar year. However,
13 ~~investigations~~ Investigations and ~~additional~~ inspections may occur
14 when the Department believes an investigation or ~~additional~~
15 inspection is necessary due to a possible violation of applicable
16 laws, rules or regulations. The State Commissioner of Health may
17 adopt rules imposing penalties including, but not limited to,
18 monetary fines and suspension or revocation of licensure for failure
19 to allow the Authority reasonable access to the licensed premises
20 for purposes of conducting an inspection.

21 3. The Department may review relevant records of a licensed
22 medical marijuana business, licensed medical marijuana research
23 facility, licensed medical marijuana education facility or licensed
24 medical marijuana waste disposal facility, and may require and

1 conduct interviews with such persons or entities and persons
2 affiliated with such entities, for the purpose of determining
3 compliance with Department requirements and applicable laws, rules
4 and regulations.

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

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

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

15 E. Disciplinary actions may be imposed upon a medical marijuana
16 business licensee for:

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

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

21 3. Failing to allow or impeding entry by authorized
22 representatives of the Department;

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

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 for sales or purchases by a medical marijuana
22 business to persons other than those allowed by law occurring within
23 any two-year time period may include an initial fine of One Thousand
24 Dollars (\$1,000.00) for a first violation and a fine of Five

1 Thousand Dollars (\$5,000.00) for any subsequent violation.
2 Penalties for grossly inaccurate or fraudulent reporting occurring
3 within any two-year time period may include an initial fine of Five
4 Thousand Dollars (\$5,000.00) for a first violation and a fine of Ten
5 Thousand Dollars (\$10,000.00) for any subsequent violation. The
6 medical marijuana business may be subject to a revocation of any
7 license granted pursuant to the Oklahoma Medical Marijuana and
8 Patient Protection Act upon a showing that the violation was willful
9 or grossly negligent.

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

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

22 I. The intentional diversion of medical marijuana, medical
23 marijuana concentrate or medical marijuana products by a licensed
24 medical marijuana patient or caregiver, medical marijuana business

1 or employee of a medical marijuana business to an unauthorized minor
2 person who the licensed medical marijuana patient or caregiver,
3 medical marijuana business or employee of a medical marijuana
4 business knew or reasonably should have known to be a minor person
5 shall be subject to a cite and release citation and, upon a finding
6 of guilt or a plea of no contest, a fine of Two Thousand Five
7 Hundred Dollars (\$2,500.00). For a second or subsequent offense,
8 the licensed medical marijuana patient or caregiver, medical
9 marijuana business or employee of a medical marijuana business shall
10 be subject to a cite and release citation and, upon a finding of
11 guilt or a plea of no contest, a fine of Five Thousand Dollars
12 (\$5,000.00) and automatic termination of the medical marijuana
13 license.

14 J. Nothing in this section shall be construed to prevent the
15 criminal prosecution, after the presentation of evidence and a
16 finding beyond a reasonable doubt, of a licensed medical marijuana
17 patient or caregiver, medical marijuana business or employee of a
18 medical marijuana business who has diverted medical marijuana,
19 medical marijuana concentrate or medical marijuana products to an
20 unauthorized person with the intent or knowledge that the
21 unauthorized person was to engage in the distribution or trafficking
22 of medical marijuana, medical marijuana concentrate or medical
23 marijuana products.

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1 K. In addition to any other remedies provided for by law, the
2 Department, pursuant to its rules and regulations, may issue a
3 written order to any licensee the Department has reason to believe
4 has violated Sections 420 through 426.1 of this title, the Oklahoma
5 Medical Marijuana and Patient Protection Act, the Oklahoma Medical
6 Marijuana Waste Management Act, or any rules promulgated by the
7 State Commissioner of Health and to whom the Department has served,
8 not less than thirty (30) days previously, a written notice of
9 violation of such statutes or rules.

10 1. The written order shall state with specificity the nature of
11 the violation. The Department may impose any disciplinary action
12 authorized under the provisions of this section including, but not
13 limited to, the assessment of monetary penalties.

14 2. Any order issued pursuant to the provisions of this section
15 shall become a final order unless, not more than thirty (30) days
16 after the order is served to the licensee, the licensee requests an
17 administrative hearing in accordance with the rules and regulations
18 of the Department. Upon such request, the Department shall promptly
19 initiate administrative proceedings.

20 L. Whenever the Department finds that an emergency exists
21 requiring immediate action in order to protect the health or welfare
22 of the public, the Department may issue an order, without providing
23 notice or hearing, stating the existence of said emergency and
24 requiring that action be taken as the Department deems necessary to

1 meet the emergency. Such action may include, but is not limited to,
2 ordering the licensee to immediately cease and desist operations by
3 the licensee. The order shall be effective immediately upon
4 issuance. Any person to whom the order is directed shall comply
5 immediately with the provisions of the order. The Department may
6 assess a penalty not to exceed Ten Thousand Dollars (\$10,000.00) per
7 day of noncompliance with the order. In assessing such a penalty,
8 the Department shall consider the seriousness of the violation and
9 any efforts to comply with applicable requirements. Upon
10 application to the Department, the licensee shall be offered a
11 hearing within ten (10) days of the issuance of the order.

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

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

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