

1 **SENATE FLOOR VERSION**

2 February 13, 2023

3 SENATE BILL NO. 808

By: Newhouse

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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 1. 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

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

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

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

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

23 Penalties for grossly inaccurate or fraudulent reporting occurring
24 within any two-year time period may include an initial fine of Five

1 Thousand Dollars (\$5,000.00) for a first violation and a fine of Ten
2 Thousand Dollars (\$10,000.00) for any subsequent violation. The
3 medical marijuana business may be subject to a revocation of any
4 license granted pursuant to the Oklahoma Medical Marijuana and
5 Patient Protection Act upon a showing that the violation was willful
6 or grossly negligent.

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

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

18 I. The intentional diversion of medical marijuana, medical
19 marijuana concentrate or medical marijuana products by a licensed
20 medical marijuana patient or caregiver, medical marijuana business
21 or employee of a medical marijuana business to an unauthorized minor
22 person who the licensed medical marijuana patient or caregiver,
23 medical marijuana business or employee of a medical marijuana
24 business knew or reasonably should have known to be a minor person

1 shall be subject to a cite and release citation and, upon a finding
2 of guilt or a plea of no contest, a fine of Two Thousand Five
3 Hundred Dollars (\$2,500.00). For a second or subsequent offense,
4 the licensed medical marijuana patient or caregiver, medical
5 marijuana business or employee of a medical marijuana business shall
6 be subject to a cite and release citation and, upon a finding of
7 guilt or a plea of no contest, a fine of Five Thousand Dollars
8 (\$5,000.00) and automatic termination of the medical marijuana
9 license.

10 J. Nothing in this section shall be construed to prevent the
11 criminal prosecution, after the presentation of evidence and a
12 finding beyond a reasonable doubt, of a licensed medical marijuana
13 patient or caregiver, medical marijuana business or employee of a
14 medical marijuana business who has diverted medical marijuana,
15 medical marijuana concentrate or medical marijuana products to an
16 unauthorized person with the intent or knowledge that the
17 unauthorized person was to engage in the distribution or trafficking
18 of medical marijuana, medical marijuana concentrate or medical
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
22 Executive Director, may issue a written order to any licensee the
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 2. This act shall become effective November 1, 2023.

18 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS AND COMMERCE
19 February 13, 2023 - DO PASS
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