

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 56th Legislature (2018)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 3468

By: Jordan

7
8
9 COMMITTEE SUBSTITUTE

10 An Act relating to medical marijuana; creating the
11 Oklahoma Cannabis Commission; stating duties of the
12 Commission; directing State Department of Health to
13 provide support staff and office space to the
14 Commission; directing the Commission to adopt
15 regulations for the administration of medical
16 marijuana by date certain; directing the Commission
17 to exercise its powers and perform certain duties and
18 functions; creating the Oklahoma Cannabis Commission
19 Governing Board; providing for membership; stating
20 initial terms of Board members; stating exemption
21 from dual-office-holding prohibition; stating manner
22 in which vacancies shall be filled; prohibiting the
23 appointment of certain persons; providing for
24 termination under certain circumstances; authorizing
 compensation for services and travel reimbursement;
 requiring submission of financial disclosure
 statements; establishing meeting requirements;
 providing for the election of chair and vice chair;
 stating quorum requirement; directing Board to keep
 records; requiring compliance with certain meeting
 and open records acts; stating duties of the Board;
 creating office of the Oklahoma Cannabis
 Commissioner; providing procedure for appointing
 Commissioner; stating qualifications for
 Commissioner; directing Commissioner to prepare and
 publish personnel manual; stating employee
 classification of officers and employees of the
 Oklahoma Cannabis Commission; providing for the

1 delegation of powers and duties; directing
2 Commissioner and employees of the Commission to take
3 certain oath; providing for the adoption of a state
4 seal; providing guidelines for use of state seal;
5 authorizing the Commissioner to promulgate certain
6 rules and regulations; providing for codification;
7 providing an effective date; and declaring an
8 emergency.

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

10 SECTION 1. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 10021 of Title 74, unless there
12 is created a duplication in numbering, reads as follows:

13 A. Upon certification of election returns favoring passage of
14 State Question No. 788, Initiative Petition No. 412, there is hereby
15 created the Oklahoma Cannabis Commission.

16 B. The Oklahoma Cannabis Commission shall address issues
17 related to the medical marijuana program in Oklahoma including, but
18 not limited to, operations relating to the issuance of licenses, the
19 dispensing, cultivating, processing, transporting and sale of
20 medical marijuana in Oklahoma and any issues the Commission finds
21 relevant as it relates to the medical marijuana program.

22 C. The Oklahoma Cannabis Commission shall be initially
23 developed by the State Department of Health but shall become its own
24 agency with rights and responsibilities similar to all other state
agencies and commissions:

1 1. On or before July 1, 2019; or

2 2. If at any time the federal government takes control of the
3 State Department of Health, the Oklahoma Cannabis Commission shall
4 immediately become a separate state agency.

5 D. The State Department of Health shall provide support staff
6 to perform designated duties of the Commission. The State
7 Department of Health shall also provide space for meetings of the
8 Commission.

9 E. The Oklahoma Cannabis Commission shall adopt regulations
10 regarding the administration of medical marijuana not later than one
11 hundred twenty (120) days after the effective date of this act.

12 F. The Oklahoma Cannabis Commission shall exercise its
13 respective powers and perform its respective duties and functions as
14 specified in this section as well as Title 63 of the Oklahoma
15 Statutes.

16 SECTION 2. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 10022 of Title 74, unless there
18 is created a duplication in numbering, reads as follows:

19 A. Upon certification of election returns favoring passage of
20 State Question No. 788, Initiative Petition No. 412, there is hereby
21 created the Oklahoma Cannabis Commission Governing Board, within the
22 Oklahoma Department of Health, until the Oklahoma Cannabis
23 Commission becomes its own agency.

1 B. The Oklahoma Cannabis Commission Governing Board shall
2 consist of twelve (12) voting members all of whom shall be citizens
3 of the United States and residents of the State of Oklahoma for the
4 past five (5) years.

5 C. All members of the Board shall be appointed by the Governor,
6 and with the exception of the initial seven members, shall be
7 confirmed by the Oklahoma State Senate. The members shall be as
8 follows:

9 1. One member of the Board shall be proposed by the
10 Commissioner of the State Department of Health and shall be a
11 physician licensed to practice medicine in Oklahoma for not less
12 than five (5) years;

13 2. One member of the Board shall be proposed by the
14 Commissioner of the Department of Mental Health and Substance Abuse
15 Services and shall be a physician licensed to practice medicine in
16 Oklahoma for not less than five years;

17 3. One member of the Board shall be proposed by the Attorney
18 General and shall be an attorney admitted to the practice of law in
19 Oklahoma for not less than five (5) years;

20 4. One member of the Board shall be proposed by the Director of
21 the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control
22 and shall have at least five (5) years of experience in
23 investigations;

1 5. One member of the Board shall be proposed by the
2 Commissioner of Public Safety and shall be a certified peace officer
3 with at least five (5) years of law enforcement experience and has
4 been certified by the Council on Law Enforcement Education and
5 Training;

6 6. One member of the Board shall be proposed by the
7 Commissioner of the Oklahoma State Banking Department and shall be a
8 certified public accountant or public accountant who has been
9 practicing in Oklahoma for at least five (5) years and has a
10 comprehensive knowledge of the principles and practices of corporate
11 finance; and

12 7. One member of the Board shall be proposed by the Executive
13 Director of the Oklahoma Department of Commerce and shall have been
14 engaged in business in a management-level capacity for at least five
15 (5) years.

16 The first seven members of the Board may be fully appointed upon
17 certification of election returns favoring passage of State Question
18 No. 788, Initiative Petition No. 412, by the Governor, with the
19 temporary consent of the Pro Tempore of the Oklahoma State Senate,
20 and full confirmation by the Oklahoma State Senate within the 1st
21 Session of the 57th Oklahoma Legislature.

22 D. Following certification of the 2018 general election results
23 and administration of the oath of office, the newly elected Governor
24 shall appoint the remaining five members of the Board each residing

1 and representing one of the five Congressional Districts for the
2 State of Oklahoma.

3 E. The terms of office of the initial members appointed to the
4 Board shall be as follows:

5 1. Six members shall serve until June 30, 2022; and

6 2. Six members shall serve until June 30, 2024.

7 All subsequent appointments shall be for terms of four (4) years.
8 Members of the Board shall not serve more than two consecutive
9 terms.

10 F. In addition to the twelve voting members, two nonvoting
11 members shall be appointed from the State Legislature as follows:

12 1. One member shall be appointed by the Speaker of the Oklahoma
13 House of Representatives; and

14 2. One member shall be appointed by the President Pro Tempore
15 of the Oklahoma State Senate.

16 G. Legislators and appointed members who serve on the Board
17 shall be exempt from dual-office-holding prohibitions pursuant to
18 Section 6 of Title 51 of the Oklahoma Statutes.

19 H. Any vacancy on the Board shall be filled for the unexpired
20 term in the same manner as the original appointment. The member
21 appointed to fill such vacancy shall be from the same category
22 described as the member vacating the position.

23 I. The Governor shall not appoint a person as a member of the
24 Board if the person discharged a sentence for a conviction of a

1 felony in the five (5) years immediately preceding his or her
2 appointment or if the person discharged a sentence for a conviction
3 of a felony pursuant to any state or federal law regarding the
4 possession, distribution, manufacturing, cultivation or use of a
5 controlled substance in the ten (10) years immediately preceding his
6 or her appointment.

7 J. The term of any member of the Board who misses more than two
8 consecutive regular Board meetings without good cause is terminated
9 and such member's successor shall be appointed in the manner
10 provided for appointments under this section.

11 K. Board members may receive compensation for their services
12 and shall be reimbursed for necessary travel and other reasonable
13 expenses incurred in the performance of their official duties.

14 L. Prior to confirmation, each member shall file with the
15 Secretary of State a financial disclosure statement in the form
16 required and prescribed by the Executive Director. Each member
17 shall renew the statement by January 1.

18 M. A chair and vice chair shall be elected annually from the
19 membership of the Board. A majority of voting Board members shall
20 constitute a quorum, but the concurrence of a majority of the
21 members appointed to the Board is required for any final
22 determination by the Board.

23 N. The Board shall hold at least one meeting each quarter and
24 additional meetings as may be prescribed by rules of the Board. In

1 addition, special meetings may be called by the Commissioner of the
2 Oklahoma Cannabis Commission, any four Board members or chair, if
3 written notification of such meeting is delivered to each member at
4 least seventy-two (72) hours prior to such meeting. In emergency
5 situations in which a majority of the Board certifies that
6 exigencies of time require that the Board meet without delay, the
7 requirements of public notice and seventy-two (72) hours of actual
8 advance written notice to members may be dispensed with and Board
9 members, as well as the public, shall receive such notice as is
10 reasonable under the circumstances.

11 O. The Board shall keep complete and accurate records of all of
12 its meetings.

13 P. The Board shall act in accordance with the provisions of the
14 Oklahoma Open Meeting Act, the Oklahoma Open Records Act and the
15 Administrative Procedures Act.

16 SECTION 3. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 10023 of Title 74, unless there
18 is created a duplication in numbering, reads as follows:

19 A. Upon certification of election returns favoring passage of
20 State Question No. 788, Initiative Petition No. 412, it shall be the
21 duty of the Board to:

22 1. Promulgate such rules and regulations governing the medical
23 marijuana program as it deems necessary to carry out the purposes of
24 State Question No. 788, Initiative Petition No. 412;

1 2. Recommend necessary additions or revisions to the rules and
2 regulations of the State Department of Health pertaining to the
3 medical marijuana program;

4 3. Examine and analyze the statutory and regulatory laws
5 relating to medical marijuana within this state;

6 4. Examine and analyze the laws and events in other states and
7 the nation with respect to medical marijuana;

8 5. Determine a possible framework for the future governance of
9 the medical marijuana program in Oklahoma including proper oversight
10 and regulation of medical marijuana license recipients and
11 caregivers, medical marijuana dispensaries, medical marijuana grow
12 sites and medical marijuana processing sites;

13 6. Recommend necessary amendments to the laws of the state
14 pertaining to medical marijuana;

15 7. Determine steps the state shall take, whether administrative
16 or legislative in nature, to ensure that research on marijuana and
17 marijuana-derived products is being conducted for public purposes,
18 including the advancement of:

- 19 a. public health policy and public safety policy,
- 20 b. agronomic and horticultural best practices, and
- 21 c. medical and pharmacopoeia best practices;

22 8. Evaluate the sufficiency of the regulatory and security
23 safeguards adopted by the State Department of Health to ensure that
24

1 access to and use of medical marijuana is provided only to licensees
2 authorized for such purposes;

3 9. Hear and determine at a public hearing any contested
4 Oklahoma State license denial and any complaints against a licensee;

5 10. Administer oaths and issue subpoenas to require the
6 presence of persons and the production of papers, books and records
7 necessary to the determination of any hearing so held, all in
8 accordance with this section, Title 63 of the Oklahoma Statutes,
9 rules promulgated by the Board and any other statutory and
10 regulatory laws regarding marijuana;

11 11. Enter into agreements with the Oklahoma State Bureau of
12 Investigation and state and local law enforcement agencies for
13 conducting investigations, background checks, identification or
14 registration, or any combination thereof, of licensed operators and
15 employees in licensed premises, which conduct shall include, but not
16 be limited to, performing background investigations and criminal
17 record checks on an applicant applying for licensure and
18 investigating violations of any rule or regulation promulgated by
19 the Board. Nothing in this paragraph shall prevent or impair the
20 Oklahoma State Bureau Investigation or state or local law
21 enforcement agencies from engaging in the activities set forth in
22 this paragraph on their own initiative.

23 12. Conduct a continuous study and investigation of medical
24 marijuana throughout the state for the purpose of ascertaining any

1 defects in law or in the rules and regulations promulgated pursuant
2 to this section;

3 13. Formulate and recommend changes to statute or any rule or
4 regulation for the purpose of preventing abuses and violations of
5 this section, Title 63 of the Oklahoma Statutes, rules promulgated
6 by the Board or any other statutory and regulatory laws regarding
7 marijuana;

8 14. Guard against the use of statutory and regulatory laws as a
9 cloak for conducting illegal activities and to ensure that such
10 statutory and regulatory laws be in such form and be so administered
11 as to serve the true purpose and intent of the medical marijuana
12 program;

13 15. Report immediately to the Governor, the Attorney General,
14 the Speaker of the Oklahoma House of Representatives, the President
15 Pro Tempore of the Oklahoma State Senate and such other state
16 officers as the Board deems appropriate concerning any laws which it
17 determines require immediate amendment to prevent abuses and
18 violations of any rule or regulation promulgated pursuant to this
19 section or to remedy undesirable conditions in connection with the
20 administration or the operation of the Oklahoma Cannabis Commission;

21 16. Require such special reports from the Commissioner of the
22 Oklahoma Cannabis Commission as it considers necessary;

1 17. To issue temporary or permanent licenses to those involved
2 in the ownership of, participation in, or conduct of medical
3 marijuana;

4 18. Upon complaint, or upon its own motion, levy fines and to
5 suspend or revoke licenses issued pursuant to State Question No.
6 788, Initiative Petition No. 412;

7 19. Obtain all information from licensees and other persons and
8 agencies that the Board deems necessary or desirable in the conduct
9 of business;

10 20. Issue subpoenas for the appearance or production of
11 persons, records and things in connection with disciplinary or
12 contested cases considered by the Board;

13 21. Apply for injunctive or declaratory relief to enforce the
14 provisions of this section and any rules promulgated pursuant to
15 this section;

16 22. Inspect and examine without notice all premises wherein
17 medical marijuana is cultivated, manufactured, sold or distributed,
18 and summarily seize, remove and impound, without notice or hearing
19 from such premises, any equipment, devices, supplies, books or
20 records for the purpose of examination or inspection;

21 23. Enter into contracts with any governmental entity to carry
22 out its duties;

1 24. Exercise such other incidental powers as may be necessary
2 to ensure the safe and orderly regulation of medical marijuana and
3 the secure collection of all revenues, taxes and license fees;

4 25. Establish internal control procedures for licenses,
5 including accounting, procedures, reporting procedures and personnel
6 policies;

7 26. Establish and collect fees for performing background checks
8 on all applicants for licenses and on all persons with whom the
9 Board may agree with or contract with for providing goods or
10 services, as the Board deems appropriate;

11 27. Demand, at any time when business is being conducted,
12 access to and inspect, examine, photocopy and audit all papers,
13 books and records of applicants and licensees on their premises or
14 elsewhere as practicable and in the presence of the licensee or
15 agent of the licensee, pertaining to the gross income produced by
16 any medical marijuana establishment;

17 28. Require verification of income and all other matters
18 affecting the enforcement of the policies of the Board or any
19 provision of this section;

20 29. Impound or remove all papers, books and records of
21 applicants and licensees, without hearing, for inspection or
22 examination; and
23
24

1 30. Prescribe voluntary alternative methods for the making,
2 filing, signing, subscribing, verifying, transmitting, receiving or
3 storing of returns or other documents.

4 SECTION 4. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 10024 of Title 74, unless there
6 is created a duplication in numbering, reads as follows:

7 A. Upon certification of election returns favoring passage of
8 State Question No. 788, Initiative Petition No. 412, there is hereby
9 created the Oklahoma Cannabis Commissioner.

10 B. The Oklahoma Cannabis Commissioner shall be the head of the
11 Oklahoma Cannabis Commission and shall be appointed by the Governor
12 with the advice and consent of the Senate. The initial Commissioner
13 shall be appointed by the Governor with the temporary consent of the
14 Pro Tempore of the Oklahoma State Senate and full confirmation by
15 the Oklahoma State Senate within the 1st Session of the 57th
16 Legislature.

17 C. The Commissioner shall have been a qualified elector of the
18 state for at least five (5) years prior to the appointment, shall be
19 at least thirty-five (35) years old and cannot have been convicted
20 of a felony. The Commissioner shall be appointed for a term of four
21 (4) years. The Commissioner shall continue to serve until a
22 successor is duly appointed, confirmed and qualified. The
23 Commissioner may be removed by the Governor for cause after notice
24 and hearing. A successor to a Commissioner who dies, resigns or is

1 removed from office shall be appointed in the same manner as
2 provided in this section.

3 D. The Commissioner shall prepare in writing a manual of all
4 employee positions for the Oklahoma Cannabis Commission including,
5 but not limited to, job classifications, seniority status, personnel
6 qualifications, duties, maximum and minimum salary schedules and
7 other personnel information as approved by the Oklahoma Cannabis
8 Commission Governing Board. The Commissioner may select, appoint
9 and employ such accountants, attorneys, auditors, inspectors,
10 examiners, clerks, secretaries and other personnel as the
11 Commissioner deems necessary for the proper administration of the
12 Oklahoma Cannabis Commission and any other statutory duties of the
13 Commissioner.

14 E. All officers and employees of the Commission shall be in the
15 exempt unclassified service as provided for in Section 840-5.5 of
16 Title 74 of the Oklahoma Statutes. All future appointees to such
17 positions shall be in the exempt unclassified service. Officers and
18 employees of the Commission shall not be terminable except for cause
19 as defined by the Board.

20 F. The Commissioner may delegate to any officer or employee of
21 the Commission any of the powers of the Commissioner and may
22 designate any officer or employee of the Commission to perform any
23 of the duties of the Commissioner.

1 G. The Commissioner and all other personnel shall, before
2 entering upon the discharge of their duties, take and subscribe to
3 the oath of office required of state officers as provided by Section
4 36.2A of Title 51 of the Oklahoma Statutes.

5 H. The Commissioner shall adopt an appropriate seal as the Seal
6 of the State Cannabis Commissioner.

7 I. Every certificate, assignment and conveyance executed by the
8 Commissioner, in pursuance of the authority conferred upon the
9 Commissioner by law and sealed with the seal of the Commission,
10 shall be received in evidence and recorded in the proper recording
11 offices in the same manner as a deed regularly acknowledged, as
12 required by law.

13 J. Whenever it is necessary for the Commissioner to approve any
14 instrument or to affix the official seal thereto, the Commissioner
15 may charge a fee for affixing the approval of the Commissioner or
16 the official seal to such instrument. Copies of all records and
17 papers in the office of the Commission, certified by the
18 Commissioner and authenticated by the seal, shall be received in
19 evidence in all cases equally and of like effect as the original.
20 Whenever it is proper to furnish a copy of any paper filed in the
21 Commission or to certify such paper, the Commissioner may charge a
22 fee for furnishing such copy, for affixing the official seal on such
23 copy or for certifying the same.

1 K. The Commissioner shall be authorized to promulgate rules and
2 regulations governing the oversight of licensed medical marijuana
3 dispensaries located within this state. The rules and regulations
4 shall address inventory control, sales, personnel and security at
5 licensed medical marijuana dispensaries. The Commissioner is
6 further authorized to inspect any licensed medical marijuana
7 dispensary to determine if the dispensary is in compliance with
8 rules and regulations promulgated by the Commissioner and applicable
9 state laws that govern the dispensing of medical marijuana to
10 medical marijuana license holders.

11 SECTION 5. This act shall become effective July 1, 2018.

12 SECTION 6. It being immediately necessary for the preservation
13 of the public peace, health or safety, an emergency is hereby
14 declared to exist, by reason whereof this act shall take effect and
15 be in full force from and after its passage and approval.

16
17 COMMITTEE REPORT BY: COMMITTEE ON RULES, dated 03/01/2018 - DO PASS,
18 As Amended.
19
20
21
22
23
24