

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 59th Legislature (2023)

4 COMMITTEE SUBSTITUTE
5 FOR ENGROSSED
6 SENATE BILL NO. 808

By: Newhouse of the Senate

and

Hilbert of the House

11 COMMITTEE SUBSTITUTE

12 An Act relating to medical marijuana; amending 63
13 O.S. 2021, Section 427.6, as last amended by Section
14 10, Chapter 251, O.S.L. 2022 (63 O.S. Supp. 2022,
15 Section 427.6), which relates to monitoring and
16 disciplinary actions; authorizing the Director to
17 issue order of immediate action under certain
18 circumstance; requiring immediate compliance;
19 providing for penalty; directing the Oklahoma Medical
20 Marijuana Authority to promulgate rules; and
21 providing an effective date.

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

23 SECTION 1. AMENDATORY 63 O.S. 2021, Section 427.6, as
24 last amended by Section 10, Chapter 251, O.S.L. 2022 (63 O.S. Supp.
25 2022, Section 427.6), is amended to read as follows:

1 Section 427.6. A. The Oklahoma Medical Marijuana Authority
2 shall address issues related to the medical marijuana program in
3 this state including, but not limited to, monitoring and
4 disciplinary actions as they relate to the medical marijuana
5 program.

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

15 2. Post-licensure inspections shall be limited to twice per
16 calendar year. However, investigations and additional inspections
17 may occur when the Authority believes an investigation or additional
18 inspection is necessary due to a possible violation of applicable
19 laws, rules or regulations. The Executive Director of the Authority
20 may adopt rules imposing penalties including, but not limited to,
21 monetary fines and suspension or revocation of licensure for failure
22 to allow the Authority reasonable access to the licensed premises
23 for purposes of conducting an inspection.

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

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

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

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

19 E. Disciplinary actions may be imposed upon a medical marijuana
20 business licensee for:

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

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

1 3. Failing to allow or impeding entry by authorized
2 representatives of the Authority;

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

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

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

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

12 8. Failure to pay a required monetary penalty;

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

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

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

20 F. Disciplinary actions against a licensee may include the
21 imposition of monetary penalties, which may be assessed by the
22 Authority. The Authority may suspend or revoke a license for
23 failure to pay any monetary penalty lawfully assessed by the
24 Authority against a licensee.

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

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

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

19 2. The second offense for impermissible diversion of medical
20 marijuana, concentrate, or products by a patient or caregiver to an
21 unauthorized person shall not be punished under a criminal statute
22 but may be subject to a fine of not to exceed Five Hundred Dollars
23 (\$500.00) and may result in revocation of the license upon a showing
24 that the violation was willful or grossly negligent.

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

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

1 of medical marijuana, medical marijuana concentrate or medical
2 marijuana products.

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

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

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

22 L. 1. Whenever the Executive Director finds that an emergency
23 exists requiring immediate action in order to protect the health or
24 welfare of the public, the Executive Director may issue an order,

1 without providing notice or hearing, stating the existence of an
2 emergency and requiring that action be taken as the Executive
3 Director deems necessary to meet the emergency. Such action may
4 include, but is not limited to, ordering the licensee to immediately
5 cease and desist operations by the licensee. The order shall be
6 effective immediately upon issuance. Any person to whom the order
7 is directed shall comply immediately with the provisions of the
8 order. The Authority may assess a penalty not to exceed Ten
9 Thousand Dollars (\$10,000.00) per day of noncompliance with the
10 order. In assessing such a penalty, the Authority shall consider
11 the seriousness of the violation and any efforts to comply with
12 applicable requirements. Upon application to the Authority, the
13 licensee shall be offered a hearing within ten (10) days of the
14 issuance of the order.

15 2. Whenever the Executive Director finds that an emergency
16 exists requiring immediate action in order to control the
17 environmental damage caused by a medical marijuana business license
18 holder in this state, the Executive Director may issue an order,
19 without providing notice or hearing, stating the existence of an
20 emergency and requiring that action be taken as the Executive
21 Director deems necessary to meet the emergency. Such action may
22 include, but is not limited to, ordering the licensee to immediately
23 cease and desist operations by the licensee. The order shall be
24 effective immediately upon issuance. Any person to whom the order

1 is directed shall comply immediately with the provisions of the
2 order. The Authority may assess penalties consistent with paragraph
3 1 of this subsection for violations. The Authority, in consultation
4 with the Department of Environmental Quality, shall promulgate rules
5 pursuant to this paragraph.

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

15 2. The Executive Director may delegate to an administrative law
16 judge the authority to conduct hearings, issue final agency orders,
17 or impose disciplinary action as provided by this section for
18 violation of state laws and rules pertaining to medical marijuana
19 including, but not limited to, violation of this section. When the
20 administrative law judge issues a final agency order, that order
21 becomes the final order of the Authority without further proceeding
22 unless there is a request for rehearing, reopening, or
23 reconsideration pursuant to Section 317 of Title 75 of the Oklahoma
24

1 Statutes or a filing for judicial review pursuant to Section 318 of
2 Title 75 of the Oklahoma Statutes.

3 SECTION 2. This act shall become effective November 1, 2023.
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5 COMMITTEE REPORT BY: COMMITTEE ON CRIMINAL JUSTICE AND CORRECTIONS,
6 dated 04/05/2023 - DO PASS, As Amended.
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