An Act

ENROLLED SENATE
BILL NO. 1704

By: Paxton of the Senate

and

Lowe (Dick) of the House

An Act relating to medical marijuana; amending 63 O.S. 2021, Section 427.6, as last amended by Section 1 of Enrolled Senate Bill No. 1367 of the 2nd Session of the 58th Oklahoma Legislature, which relates to the Oklahoma Medical Marijuana and Patient Protection Act; authorizing the Oklahoma Medical Marijuana Authority to revoke licenses under certain circumstances; amending 63 O.S. 2021, Section 427.14, as last amended by Section 15 of Enrolled Senate Bill No. 1543 of the 2nd Session of the 58th Oklahoma Legislature, which relates to medical marijuana business license; requiring licensees to submit employees to acquire certain credentials prior to employment; requiring employees of a medical marijuana business licensee to obtain credentialing; allowing Oklahoma Medical Marijuana Authority to contract with third-party vendor to provide certain services; directing Authority to determine services; directing third-party vendor to conduct certain functions for applicants; requiring third-party vendor to issue certain credential; providing for certain appeal; excluding third-party vendor from certain liability; directing promulgation of rules; providing for codification; and providing an effective date.

SUBJECT: Medical marijuana

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

SECTION 1. AMENDATORY 63 O.S. 2021, Section 427.6, as last amended by Section 1 of Enrolled Senate Bill No. 1367 of the 2nd Session of the 58th Legislature, is amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8. Failure to pay a required monetary penalty;

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

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

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

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

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

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

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

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

H. 1. In addition to any other penalties prescribed by law, a first offense for intentional and impermissible diversion of medical marijuana, medical marijuana concentrate, or medical marijuana products for value by a patient or caregiver to an unauthorized person shall be subject to an administrative fine of ~~not less than~~ Four Hundred Dollars ($400.00). The Authority shall have the authority to enforce the provisions of this subsection.

2. In addition to any other penalties prescribed by law, an additional incident resulting in a second offense for impermissible diversion of medical marijuana, medical marijuana concentrate, or medical marijuana products by a patient or caregiver to an unauthorized person for value shall be subject to an administrative fine of ~~not less than~~ One Thousand Dollars ($1,000.00), and shall result in revocation of the license or licenses of the person.

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

I. The intentional diversion of medical marijuana, medical marijuana concentrate or medical marijuana products by a licensed medical marijuana patient or caregiver, medical marijuana business or employee of a medical marijuana business to an unauthorized minor person who the licensed medical marijuana patient or caregiver, medical marijuana business or employee of a medical marijuana business knew or reasonably should have known to be a minor person shall be subject to an administrative fine of Two Thousand Five Hundred Dollars ($2,500.00). For an additional incident resulting in a second or subsequent offense, the licensed medical marijuana patient or caregiver, medical marijuana business or employee of a medical marijuana business shall be subject to a cite and release citation and, upon a finding of guilt or a plea of no contest, a fine of Five Thousand Dollars ($5,000.00) and automatic revocation of the medical marijuana license.

J. In addition to any other remedies provided for by law, the Authority, pursuant to its rules and regulations, may issue a written order to any licensee the Authority has reason to believe has violated Sections 420 through 426.1 of this title, the Oklahoma

Medical Marijuana and Patient Protection Act, the Oklahoma Medical Marijuana Waste Management Act, or any rules promulgated by the State Commissioner of Health and to whom the Authority has served, not less than thirty (30) days previously, a written notice of violation of such statutes or rules.

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

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

K. Whenever the Authority finds that an emergency exists requiring immediate action in order to protect the health or welfare of the public, the Authority may issue an order, without providing notice or hearing, stating the existence of said emergency and requiring that action be taken as the Authority deems necessary to meet the emergency. Such action may include, but is not limited to, ordering the licensee to immediately cease and desist operations by the licensee. The order shall be effective immediately upon issuance. Any person to whom the order is directed shall comply immediately with the provisions of the order. The Authority may assess a penalty not to exceed Ten Thousand Dollars ($10,000.00) per day of noncompliance with the order. In assessing such a penalty, the Authority shall consider the seriousness of the violation and any efforts to comply with applicable requirements. Upon application to the Authority, the licensee shall be offered a hearing within ten (10) days of the issuance of the order.

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

SECTION 2. AMENDATORY 63 O.S. 2021, Section 427.14, as last amended by Section 15 of Enrolled Senate Bill No. 1543 of the 2nd Session of the 58th Oklahoma Legislature, is amended to read as follows:

Section 427.14. A. There is hereby created the medical marijuana business license, which shall include the following categories:

1. Medical marijuana commercial grower;

2. Medical marijuana processor;

3. Medical marijuana dispensary;

4. Medical marijuana transporter; and

5. Medical marijuana testing laboratory.

B. The Oklahoma Medical Marijuana Authority, with the aid of the Office of Management and Enterprise Services, shall develop a website for medical marijuana business applications.

C. The Authority shall make available on its website in an easy-to-find location, applications for a medical marijuana business.

D. The annual, nonrefundable application fee for a medical marijuana business license shall be Two Thousand Five Hundred Dollars ($2,500.00).

E. All applicants seeking licensure or licensure renewal as a medical marijuana business shall comply with the following general requirements:

1. All applications for licenses and registrations authorized pursuant to this section shall be made upon forms prescribed by the Authority;

2. Each application shall identify the city or county in which the applicant seeks to obtain licensure as a medical marijuana business;

3. Applicants shall submit a complete application to the Authority before the application may be accepted or considered;

4. All applications shall be complete and accurate in every detail;

5. All applications shall include all attachments or supplemental information required by the forms supplied by the Authority;

6. All applications shall be accompanied by a full remittance for the whole amount of the application fees. Application fees are nonrefundable;

7. All applicants shall be approved for licensing review that, at a minimum, ~~meets~~ meet the following criteria:

a. twenty-five (25) years of age or older,

b. if applying as an individual, proof that the applicant is a resident of this state pursuant to paragraph 11 of this subsection,

c. if applying as an entity, proof that seventy-five percent (75%) of all members, managers, executive officers, partners, board members or any other form of business ownership are residents of this state pursuant to paragraph 11 of this subsection,

d. if applying as an individual or entity, proof that the individual or entity is registered to conduct business in this state,

e. disclosure of all ownership interests pursuant to the Oklahoma Medical Marijuana and Patient Protection Act, and

f. proof that the medical marijuana business, medical marijuana research facility, medical marijuana education facility and medical marijuana waste disposal facility applicant or licensee has not been convicted of a nonviolent felony in the last two (2) years, or any other felony conviction within the last five (5) years, is not a current inmate in the custody

of the Department of Corrections, or currently incarcerated in a jail or corrections facility;

8. There shall be no limit to the number of medical marijuana business licenses or categories that an individual or entity can apply for or receive, although each application and each category shall require a separate application and application fee. A commercial grower, processor and dispensary, or any combination thereof, are authorized to share the same address or physical location, subject to the restrictions set forth in the Oklahoma Medical Marijuana and Patient Protection Act;

9. All applicants for a medical marijuana business license, research facility license or education facility license authorized by the Oklahoma Medical Marijuana and Patient Protection Act, or for a renewal of such license, shall undergo a state criminal history background check conducted by the Oklahoma State Bureau of Investigation (OSBI) within thirty (30) days prior to the application for the license including:

a. individual applicants applying on their own behalf,

b. individuals applying on behalf of an entity,

c. all principal officers of an entity, and

d. all owners of an entity as defined by the Oklahoma Medical Marijuana and Patient Protection Act;

10. All applicable fees charged by the OSBI are the responsibility of the applicant and shall not be higher than fees charged to any other person or industry for such background checks;

11. In order to be considered a resident of this state for purposes of a medical marijuana business application, all applicants shall provide proof of state residency for at least two (2) years immediately preceding the date of application or five (5) years of continuous state residency during the preceding twenty-five (25) years immediately preceding the date of application. Sufficient documentation of proof of state residency shall include a combination of the following:

a. an unexpired state-issued driver license,

b. a state-issued identification card,

c. a utility bill preceding the date of application, excluding cellular telephone and Internet bills,

d. a residential property deed to property in this state, and

e. a rental agreement preceding the date of application for residential property located in this state.

Applicants that were issued a medical marijuana business license prior to August 30, 2019, are hereby exempt from the two-year or five-year state residence requirement mentioned above;

12. All license applicants shall be required to submit a registration with the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control as provided in Sections 2-302 through 2-304 of this title;

13. All applicants shall establish their identity through submission of a color copy or digital image of one of the following unexpired documents:

a. front of a state-issued driver license,

b. front of a state-issued identification card,

c. a United States passport or other photo identification issued by the United States government, or

d. a tribal identification card approved for identification purposes by the Department of Public Safety; and

14. All applicants shall submit an applicant photograph.

F. The Authority shall review the medical marijuana business application; approve, reject or deny the application; and mail the

approval, rejection, denial or status-update letter to the applicant within ninety (90) business days of receipt of the application.

G. 1. The Authority shall review the medical marijuana business applications and conduct all investigations, inspections and interviews before approving the application.

2. Approved applicants shall be issued a medical marijuana business license for the specific category applied under, which shall act as proof of their approved status. Rejection and denial letters shall provide a reason for the rejection or denial. Applications may only be rejected or denied based on the applicant not meeting the standards set forth in the provisions of the Oklahoma Medical Marijuana and Patient Protection Act and Sections 420 through 426.1 of this title, improper completion of the application, or for a reason provided for in the Oklahoma Medical Marijuana and Patient Protection Act and Sections 420 through 426.1 of this title. If an application is rejected for failure to provide required information, the applicant shall have thirty (30) days to submit the required information for reconsideration. No additional application fee shall be charged for such reconsideration. Unless the Authority determines otherwise, an application that has been resubmitted but is still incomplete or contains errors that are not clerical or typographical in nature shall be denied.

3. Status-update letters shall provide a reason for delay in either approval, rejection or denial should a situation arise in which an application was submitted properly but a delay in processing the application occurred.

4. Approval, rejection, denial or status-update letters shall be sent to the applicant in the same method the application was submitted to the Authority.

H. A license for a medical marijuana business, medical marijuana research facility, medical marijuana education facility or medical marijuana waste disposal facility shall not be issued to or held by:

1. A person until all required fees have been paid;

2. A person who has been convicted of a nonviolent felony within two (2) years of the date of application, or within five (5) years for any other felony;

3. A corporation, if the criminal history of any of its officers, directors or stockholders indicates that the officer, director or stockholder has been convicted of a nonviolent felony within two (2) years of the date of application, or within five (5) years for any other felony;

4. A person under twenty-five (25) years of age;

5. A person licensed pursuant to this section who, during a period of licensure, or who, at the time of application, has failed to:

a. file taxes, interest or penalties due related to a medical marijuana business, or

b. pay taxes, interest or penalties due related to a medical marijuana business;

6. A sheriff, deputy sheriff, police officer or prosecuting officer, or an officer or employee of the Authority or municipality;

7. A person whose authority to be a caregiver, as defined in Section 427.2 of this title, has been revoked by the Authority; or

8. A person who was involved in the management or operations of any medical marijuana business, medical marijuana research facility, medical marijuana education facility or medical marijuana waste disposal facility that, after the initiation of a disciplinary action, has had a medical marijuana license revoked, not renewed, or surrendered during the five (5) years preceding submission of the application and for the following violations:

a. unlawful sales or purchases,

b. any fraudulent acts, falsification of records or misrepresentation to the Authority, medical marijuana patient licensees, caregiver licensees or medical marijuana business licensees,

c. any grossly inaccurate or fraudulent reporting,

d. threatening or harming any medical marijuana patient, caregiver, medical practitioner or employee of the Authority,

e. knowingly or intentionally refusing to permit the Authority access to premises or records,

f. using a prohibited, hazardous substance for processing in a residential area,

g. criminal acts relating to the operation of a medical marijuana business, or

h. any violations that endanger public health and safety or product safety.

I. In investigating the qualifications of an applicant or a licensee, the Authority and municipalities may have access to criminal history record information furnished by a criminal justice agency subject to any restrictions imposed by such an agency.

J. The failure of an applicant or licensee to provide the requested information by the Authority deadline may be grounds for denial of the application.

K. All applicants and licensees shall submit information to the Authority in a full, faithful, truthful and fair manner. The Authority may recommend denial of an application where the applicant or licensee made misstatements, omissions, misrepresentations or untruths in the application or in connection with the background investigation of the applicant. This type of conduct may be grounds for administrative action against the applicant or licensee. Typos and scrivener errors shall not be grounds for denial.

L. A licensed medical marijuana business premises shall be subject to and responsible for compliance with applicable provisions consistent with the zoning where such business is located as described in the most recent versions of the Oklahoma Uniform Building Code, the International Building Code and the International

Fire Code, unless granted an exemption by a municipality or appropriate code enforcement entity.

M. All medical marijuana business, medical marijuana research facility, medical marijuana education facility and medical marijuana waste disposal facility licensees shall pay the relevant licensure fees prior to receiving licensure to operate.

N. A medical marijuana business, medical marijuana research facility, medical marijuana education facility or medical marijuana waste disposal facility that attempts to renew its license after the expiration date of the license shall pay a late renewal fee in an amount to be determined by the Executive Director of the Authority to reinstate the license. Late renewal fees are nonrefundable. A license that has been expired for more than ninety (90) days shall not be renewed.

O. No medical marijuana business, medical marijuana research facility, medical marijuana education facility or medical marijuana waste disposal facility shall possess, sell or transfer medical marijuana or medical marijuana products without a valid, unexpired license issued by the Authority.

P. A medical marijuana business license holder shall require all individuals employed under their license to be issued a credential pursuant to the provisions of Section 3 of this act prior to employment.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 427.14a of Title 63, unless there is created a duplication in numbering, reads as follows:

A. Beginning January 1, 2024, the Oklahoma Medical Marijuana Authority shall require employees of a medical marijuana business licensee to apply for and receive a credential authorizing the employee to work in a licensed medical marijuana business.

B. The Authority may contract with one or more third-party vendors to provide the credentialing services necessary to carry out the provisions of this section.

C. The Authority shall determine the services to be provided by such third-party vendor and shall establish costs and prices. If contracted for credentialing services, a third-party vendor shall on behalf of the Authority conduct the background checks and verify eligibility and suitability for any employees of a medical marijuana business license holder to obtain a credential.

D. Upon successful completion by the third-party vendor of the statutorily required background checks and verification of eligibility and suitability for an employee, the third-party vendor shall issue a credential to the employee. The results of background checks and verifications shall be provided to the Authority by the third-party vendor.

E. If the third-party vendor determines that an employee of a medical marijuana business holder does not meet the minimum statutory requirements for a credential, the applicant or employee shall have no recourse against the third-party vendor but may appeal such adverse determination to the Authority.

F. The third-party vendor shall not be civilly liable to an applicant, licensee, or employee of a licensee for any acts taken in good-faith compliance with the provisions of Section 420 et seq. of Title 63 of the Oklahoma Statutes and the Oklahoma Medical Marijuana and Patient Protection Act and the rules promulgated by the Oklahoma Medical Marijuana Authority.

G. The Executive Director of the Authority may promulgate rules to implement the provisions of this section.

SECTION 4. This act shall become effective November 1, 2022.

Passed the Senate the 17th day of May, 2022.

Brent Howard
Presiding Officer of the Senate

Passed the House of Representatives the 19th day of May, 2022.

Carl W. Newton
Presiding Officer of the House
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this 19th
day of May, 20 22, at 3:06 o'clock p. M.
By: Summer Cursey

Approved by the Governor of the State of Oklahoma this 25th
day of May, 20 22, at 5:45 o'clock p. M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this 25th
day of May, 20 22, at 6:08 o'clock P. M.
By: Brian Bingman