

1 STATE OF OKLAHOMA

2 2nd Session of the 57th Legislature (2020)

3 HOUSE BILL 3941

By: Lowe

4
5
6 AS INTRODUCED

7 An Act relating to cannabis; creating Wanda Raye's
8 Compassionate Access to Medical Cannabis Act;
9 defining terms; directing health care facilities to
10 implement certain policies relating to the use of
11 medical cannabis by patients; providing exception for
12 emergency care service providers; providing for
13 restrictions on storage and use of medical cannabis
14 at health care facilities; requiring inclusion of
15 restrictions in written guidelines; giving health
16 care facilities discretion to recommend use of
17 medical cannabis; prohibiting licensing entities from
18 enforcing stated requirements of act; providing
19 declaration that current marijuana laws shall not be
20 affected by the act; authorizing the suspension of
21 compliance under certain circumstances; providing
22 certain restriction on health care facilities
23 regarding use of medical cannabis by patients;
24 amending 63 O.S. 2011, Sections 1-860.2 and 1-860.3,
which relate to the Oklahoma Hospice Licensing Act;
defining term; directing hospice programs to allow
for the use of medical cannabis; providing for
noncodification; providing for codification; and
providing an effective date.

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

SECTION 1. NEW LAW A new section of law not to be
codified in the Oklahoma Statutes reads as follows:

This act shall be known and may be cited as "Wanda Raye's
Compassionate Access to Medical Cannabis Act".

1 SECTION 2. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 441 of Title 63, unless there is
3 created a duplication in numbering, reads as follows:

4 As used in Sections 2 and 3 of this act, unless the context
5 requires otherwise:

6 1. "Cannabis" shall have the same meaning as the term marijuana
7 as defined in Section 2-101 of Title 63 of the Oklahoma Statutes;

8 2. "Compassionate use of medical cannabis" means the use of
9 cannabis for medical purposes as authorized by the approval of State
10 Question No. 788 at the June 26, 2018, statewide primary election;

11 3. "Health care facility" means a facility or institution
12 licensed by the laws of this state to provide on a regular basis
13 medical services, skilled nursing care, necessary dietary services,
14 hospice inpatient services or personal care. The term health care
15 facility includes, but is not limited to, hospice inpatient
16 facilities, hospitals, skilled nursing homes, intermediate care
17 facilities and residential care facilities. The term health care
18 facility shall not include any state hospital or chemical dependency
19 recovery hospital;

20 4. "Medical cannabis" means cannabis or a cannabis product used
21 in compliance with the provisions of Sections 420 through 426.1 of
22 Title 63 of the Oklahoma Statutes and the Oklahoma Medical Marijuana
23 and Patient Protection Act;

24 5. "Patient" means an individual who is terminally ill; and

1 6. "Terminally ill" means a medical prognosis of limited life
2 expectancy of one (1) year or less at the time of referral to a
3 hospice of a person who is experiencing an illness for which
4 therapeutic strategies directed toward cure and control of the
5 illness alone, outside the context of symptom control, are no longer
6 appropriate.

7 SECTION 3. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 442 of Title 63, unless there is
9 created a duplication in numbering, reads as follows:

10 A. A health care facility shall do all of the following:

11 1. Not interfere or prohibit a patient from using medical
12 cannabis within the health care facility;

13 2. Prohibit smoking or vaping as methods to use medical
14 cannabis;

15 3. Include the use of medical cannabis within the medical
16 records of the patient;

17 4. Require a patient to provide a copy of the valid medical
18 marijuana patient license issued to the patient pursuant to the
19 provisions of Section 420 of Title 63 of the Oklahoma Statutes; and

20 5. Develop and disseminate written guidelines for the use of
21 medical cannabis within the health care facility pursuant to this
22 act.

23 B. The provisions of this section shall not apply to a patient
24 receiving emergency services and care or to the emergency department

1 of a health care facility while the patient is receiving emergency
2 services and care.

3 C. A health care facility may reasonably restrict the manner in
4 which a patient stores and uses medical cannabis, including
5 requiring the medical cannabis to be stored in a locked container to
6 ensure the safety of other patients, guests and employees of the
7 health care facility, compliance with other state laws, and the safe
8 operations of the health care facility. A health care facility may
9 specify that it is not responsible for lost or stolen medical
10 cannabis. A health care facility shall include all restrictions
11 within the written guidelines required by subsection A of this
12 section.

13 D. The provisions of this section do not require a health care
14 facility to provide a patient with a recommendation to use medical
15 cannabis or include medical cannabis in the discharge plan of the
16 patient.

17 E. 1. The provisions of this section shall not be enforced by
18 the agency that licenses the health care facility.

19 2. Compliance with the provisions of this section shall not be
20 a condition for obtaining, retaining or renewing a license as a
21 health care facility.

22 3. The provisions of this section shall not reduce, expand or
23 otherwise modify the laws restricting the cultivation, possession,
24 distribution or use of cannabis that may be otherwise applicable

1 including, but not limited to, the provisions of Sections 420
2 through 426.1 of Title 63 of the Oklahoma Statutes and the Oklahoma
3 Medical Marijuana and Patient Protection Act.

4 F. If a federal regulatory agency, the United States Department
5 of Justice, or the Centers for Medicare and Medicaid Services takes
6 one of the following actions, a health care facility may suspend
7 compliance with the provisions of subsection A of this section until
8 the federal regulatory agency, United States Department of Justice,
9 or Centers for Medicare and Medicaid Services notifies the health
10 care facility that it may resume permitting the use of medical
11 cannabis within the facility:

12 1. Initiates an enforcement action against a health care
13 facility related to the compliance of the facility with a state-
14 regulated medical cannabis program; or

15 2. Issues a rule or otherwise provides notification to the
16 health care facility that expressly prohibits the use of medical
17 cannabis in health care facilities or otherwise prohibits compliance
18 with a state-regulated medical cannabis program.

19 G. The provisions of this section shall not permit a health
20 care facility from prohibiting the use of medical cannabis due
21 solely to the fact that cannabis is a Schedule I drug pursuant to
22 the federal Uniform Controlled Substances Act, or other federal
23 constraints on the use of medical cannabis that were in existence
24 prior to the enactment of this act.

1 SECTION 4. AMENDATORY 63 O.S. 2011, Section 1-860.2, is
2 amended to read as follows:

3 Section 1-860.2 As used in the Oklahoma Hospice Licensing Act:

4 1. "Board" means the State Board of Health;

5 2. "Cannabis" shall have the same meaning as the term marijuana
6 as defined in Section 2-101 of Title 63 of the Oklahoma Statutes;

7 3. "Department" means the State Department of Health;

8 ~~3.~~ 4. "Hospice program" means a centrally administered,
9 nonprofit or profit, medically directed, nurse-coordinated program
10 which provides a continuum of home and inpatient care for the
11 terminally ill patient and the patient's family. A hospice program
12 offers palliative and supportive care to meet the special needs
13 arising out of the physical, emotional and spiritual stresses
14 experienced during the final stages of illness and during dying and
15 bereavement. This care is available twenty-four (24) hours a day,
16 seven (7) days a week, and is provided on the basis of need,
17 regardless of ability to pay. "Class A" Hospice refers to Medicare-
18 certified hospices. "Class B" refers to all other providers of
19 hospice services;

20 ~~4.~~ 5. "Hospice interdisciplinary team" or "hospice team" means
21 a unit composed of professionals and lay persons, as specified by
22 the Oklahoma Hospice Licensing Act, who provide hospice care;

23 ~~5.~~ 6. "Hospice patient/family" means the hospice patient's
24 immediate kin, including a spouse, brother, sister, child, parent or

1 other persons with significant personal ties to the hospice patient,
2 who may be designated by members of the hospice patient/family;

3 ~~6.~~ 7. "Hospice services" means those services furnished to a
4 patient by a hospice or by other persons, pursuant to arrangements
5 with such hospice, in a place of temporary or permanent residence
6 used as the home of the terminally ill patient for the purpose of
7 maintaining the patient at home. Should a patient require short-
8 term institutionalization, such hospice services shall be furnished
9 in cooperation with those contracted institutions or in a hospice
10 inpatient facility. Such services may include, but need not be
11 limited to, bereavement, palliative, personal care and such other
12 services as are provided by nurses, physicians, home health aides,
13 physical therapists, counselors, psychologists, social workers and
14 volunteers. Services provided by a hospital, nursing home or other
15 health care provider shall not constitute hospice services unless
16 such hospital, nursing home or other health care provider is
17 licensed as a hospice program;

18 ~~7.~~ 8. "Medical advisor" means a physician licensed pursuant to
19 the laws of this state who is commissioned as a medical advisor by a
20 hospice for the purpose of providing ongoing palliative care as a
21 member of a hospice team;

22 ~~8.~~ 9. "Palliative services" means the care or treatment given
23 to a patient by a hospice team for the reduction or abatement of
24 pain and other symptoms attendant to the patient's condition;

1 ~~9.~~ 10. "Patient" means a terminally ill person receiving
2 hospice services;

3 ~~10.~~ 11. "Terminally ill" means a medical prognosis of limited
4 life expectancy of one (1) year or less at the time of referral to a
5 hospice of a person who is experiencing an illness for which
6 therapeutic strategies directed toward cure and control of the
7 illness alone, outside the context of symptom control, are no longer
8 appropriate;

9 ~~11.~~ 12. "Bereavement" means the period of time following death
10 during which survivors mourn a death and process their grief;

11 ~~12.~~ 13. "Bereavement services" means support services offered
12 to a family during the bereavement period;

13 ~~13.~~ 14. "Hospice inpatient facility" means a facility of a
14 licensed hospice program, with twelve or fewer beds, in which only
15 hospice services are provided;

16 ~~14.~~ 15. "Personal care" means services provided to a patient in
17 a home to meet the physical requirements and to accommodate the
18 maintenance or supportive needs of a patient;

19 ~~15.~~ 16. "Medically directed" means the delivery of medical care
20 as directed by a medical advisor;

21 ~~16.~~ 17. "Hospice home services" means hospice services provided
22 primarily in the home of a patient;

23

24

1 ~~17.~~ 18. "Inpatient services" means hospice services provided to
2 patients who require twenty-four (24) hour supervision by a licensed
3 health care provider; and

4 ~~18.~~ 19. "Health care provider" means a facility or institution
5 licensed by the laws of this state to provide on a regular basis
6 medical services, skilled nursing care, necessary dietary ~~service~~
7 services, hospice inpatient services or personal care. The term
8 "health care provider" includes, but is not limited to, hospice
9 inpatient facilities, hospitals, skilled nursing homes, intermediate
10 care facilities and residential care facilities.

11 SECTION 5. AMENDATORY 63 O.S. 2011, Section 1-860.3, is
12 amended to read as follows:

13 Section 1-860.3 A. Each hospice program shall consist of
14 hospice home services and may provide inpatient hospice services
15 which afford the patient and the family of the patient a range of
16 hospice services which can be tailored to specific needs and
17 preferences of the patient and family.

18 B. Each hospice program shall allow for the use of medical
19 cannabis by a patient under its care in accordance with the
20 provisions set forth in Section 3 of this act.

21 SECTION 6. This act shall become effective November 1, 2020.

22
23 57-2-10508 GRS 01/10/20

24