

1 **SENATE FLOOR VERSION**

2 February 8, 2023

3 COMMITTEE SUBSTITUTE  
4 FOR

5 SENATE BILL NO. 439

6 By: Garvin

7 An Act relating to medical marijuana; amending 63  
8 O.S. 2021, Section 420, as amended by Section 1,  
9 Chapter 251, O.S.L. 2022 (63 O.S. Supp. 2022, Section  
10 420), which relates to medical marijuana patient  
11 license; prohibiting colocation of recommending  
12 physicians for minor patient; requiring certain  
13 attestation; clarifying certain requirement;  
14 directing promulgation of certain rules; requiring  
15 qualifying medical conditions for recommendations;  
16 requiring in-person physical examination; providing  
17 exception; and providing an effective date.

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

19 SECTION 1. AMENDATORY 63 O.S. 2021, Section 420, as  
20 amended by Section 1, Chapter 251, O.S.L. 2022 (63 O.S. Supp. 2022,  
21 Section 420), is amended to read as follows:

22 Section 420. A. A person in possession of a state-issued  
23 medical marijuana patient license shall be able to:

- 24 1. Consume marijuana legally;
2. Legally possess up to three (3) ounces or eighty-four and  
25 nine-tenths (84.9) grams of marijuana on their person;

- 1           3. Legally possess six mature marijuana plants and the  
2 harvested marijuana therefrom;
- 3           4. Legally possess six seedling plants;
- 4           5. Legally possess one (1) ounce or twenty-eight and three-  
5 tenths (28.3) grams of concentrated marijuana;
- 6           6. Legally possess seventy-two (72) ounces or two thousand  
7 thirty-seven and six-tenths (2,037.6) grams of edible marijuana;
- 8           7. Legally possess up to eight (8) ounces or two hundred  
9 twenty-six and four-tenths (226.4) grams of marijuana in their  
10 residence; and
- 11          8. Legally possess seventy-two (72) ounces of topical  
12 marijuana.

13          B. Possession of up to one and one-half (1.5) ounces or forty-  
14 two and forty-five one-hundredths (42.45) grams of marijuana by  
15 persons who can state a medical condition, but are not in possession  
16 of a state-issued medical marijuana patient license, shall  
17 constitute a misdemeanor offense not subject to imprisonment but  
18 punishable by a fine not to exceed Four Hundred Dollars (\$400.00).  
19 Any law enforcement officer who comes in contact with a person in  
20 violation of this subsection and who is satisfied as to the identity  
21 of the person, as well as any other pertinent information the law  
22 enforcement officer deems necessary, shall issue to the person a  
23 written citation containing a notice to answer the charge against  
24 the person in the appropriate court. Upon receiving the written

1 promise of the alleged violator to answer as specified in the  
2 citation, the law enforcement officer shall release the person upon  
3 personal recognizance unless there has been a violation of another  
4 provision of law.

5 C. The Oklahoma Medical Marijuana Authority shall be  
6 established which shall receive applications for medical marijuana  
7 patient and caregiver license recipients, dispensaries, growers and  
8 processors within sixty (60) days of the passage of this initiative.

9 D. The Authority shall, within thirty (30) days of passage of  
10 this initiative, make available on its website, in an easy-to-find  
11 location, an application for a medical marijuana patient license.  
12 The license shall be valid for two (2) years. The biannual  
13 application fee shall be One Hundred Dollars (\$100.00), or Twenty  
14 Dollars (\$20.00) for individuals on Medicaid, Medicare or  
15 SoonerCare. The methods of payment shall be provided on the website  
16 of the Authority. Reprints of the medical marijuana patient license  
17 shall be Twenty Dollars (\$20.00).

18 E. A short-term medical marijuana patient license application  
19 shall also be made available on the website of the Authority. A  
20 short-term medical marijuana patient license shall be granted to any  
21 applicant who can meet the requirements for a two-year medical  
22 marijuana patient license, but whose physician recommendation for  
23 medical marijuana is only valid for sixty (60) days. Short-term  
24 medical marijuana patient licenses shall be issued for sixty (60)

1 days. The fee for a short-term medical marijuana patient license,  
2 reprints of the short-term medical marijuana patient license and the  
3 procedure for extending or renewing the license shall be determined  
4 by the Executive Director of the Authority.

5 F. A temporary medical marijuana patient license application  
6 shall also be available on the website of the Authority for  
7 residents of other states. Temporary medical marijuana patient  
8 licenses shall be granted to medical marijuana license holders from  
9 other states, provided that such states have state-regulated medical  
10 marijuana programs and applicants can prove they are members of such  
11 programs. Temporary medical marijuana patient licenses shall be  
12 issued for thirty (30) days. The cost for a temporary medical  
13 marijuana patient license shall be One Hundred Dollars (\$100.00).  
14 Renewal shall be granted with resubmission of a new application. No  
15 additional criteria shall be required. Reprints of the temporary  
16 medical marijuana patient license shall be Twenty Dollars (\$20.00).

17 G. Medical marijuana patient license applicants shall submit  
18 their applications to the Authority for approval. The applicant  
19 shall be a resident of this state and shall prove residency by a  
20 valid driver license, utility bills, or other accepted methods.

21 H. The Authority shall review the medical marijuana patient  
22 license application; approve, reject or deny the application; and  
23 mail the approval, rejection or denial letter stating any reasons  
24 for the rejection or denial to the applicant within fourteen (14)

1 business days of receipt of the application. Approved applicants  
2 shall be issued a medical marijuana patient license which shall act  
3 as proof of his or her approved status. Applications may only be  
4 rejected or denied based on the applicant not meeting stated  
5 criteria or improper completion of the application.

6 I. The Authority shall make available, both on its website and  
7 through a telephone verification system, an easy method to validate  
8 the authenticity of the medical marijuana patient license by the  
9 unique 24-character identification number.

10 J. The Authority shall ensure that all medical marijuana  
11 patient and caregiver records and information are sealed to protect  
12 the privacy of medical marijuana patient license applicants.

13 K. A caregiver license shall be made available for qualified  
14 caregivers of a medical marijuana patient license holder who is  
15 homebound. As provided in Section 427.11 of this title, the  
16 caregiver license shall provide the caregiver the same rights as the  
17 medical marijuana patient licensee including the ability to possess  
18 marijuana, marijuana products and mature and immature plants  
19 pursuant to the Oklahoma Medical Marijuana and Patient Protection  
20 Act, but excluding the ability to use marijuana or marijuana  
21 products unless the caregiver has a medical marijuana patient  
22 license. Applicants for a caregiver license shall submit proof of  
23 the license status and homebound status of the medical marijuana  
24 patient and proof that the applicant is the designee of the medical

1 marijuana patient. The applicant shall also submit proof that he or  
2 she is eighteen (18) years of age or older and proof of his or her  
3 state residency.

4 L. All applicants for a medical marijuana patient license shall  
5 be eighteen (18) years of age or older. A special exception shall  
6 be granted to an applicant under the age of eighteen (18); however,  
7 these applications shall be signed by two physicians and the parent  
8 or legal guardian of the applicant. The two physicians shall not be  
9 located at the same physical address. At least one of the  
10 physicians shall attest that the minor applicant has been under the  
11 routine care of the physician for not less than one (1) year, or not  
12 less than five (5) years if the minor patient has only been seen by  
13 the physician through telemedicine, or that the minor applicant was  
14 referred to the physician by a physician whose care the minor  
15 applicant has been under for not less than one (1) year or not less  
16 than five (5) years if the minor patient has only been seen by the  
17 physician through telemedicine.

18 M. All applications for a medical marijuana patient license  
19 shall be signed by ~~an Oklahoma~~ a physician located in this state and  
20 licensed by and in good standing with the State Board of Medical  
21 Licensure and Supervision, the State Board of Osteopathic Examiners,  
22 or the Board of Podiatric Medical Examiners. There are no  
23 qualifying conditions for patients eighteen (18) years of age or  
24 older. The Executive Director shall promulgate rules to specify

1 qualifying medical conditions for a medical marijuana patient under  
2 eighteen (18) years of age for licensure. A medical marijuana  
3 patient license shall be recommended according to the accepted  
4 standards a reasonable and prudent physician would follow when  
5 recommending or approving any medication, and may only be  
6 recommended for qualifying medical conditions approved by the  
7 Executive Director. Before issuing a medical marijuana  
8 recommendation to a minor patient, a physician shall first conduct  
9 an in-person examination of the patient. Unless the physician  
10 certifies that the patient is homebound and in need of a caregiver  
11 under subsection K of this section. No physician may be unduly  
12 stigmatized or harassed for signing a medical marijuana patient  
13 license application.

14 N. Counties and cities may enact medical marijuana guidelines  
15 allowing medical marijuana patient license holders or caregiver  
16 license holders to exceed the state limits set forth in subsection A  
17 of this section.

18 SECTION 2. This act shall become effective January 1, 2025.

19 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS AND COMMERCE  
20 February 8, 2023 - DO PASS AS AMENDED BY CS

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