

1 STATE OF OKLAHOMA

2 2nd Session of the 58th Legislature (2022)

3 CONFERENCE COMMITTEE  
4 SUBSTITUTE  
5 FOR ENGROSSED  
6 HOUSE BILL NO. 3971

By: Burns, West (Josh) and  
McDugle of the House

7 and

8 Leewright of the Senate

9  
10 CONFERENCE COMMITTEE SUBSTITUTE

11 An Act relating to medical marijuana; authorizing the  
12 Oklahoma Medical Marijuana Authority to employ secret  
13 shoppers for certain purpose; directing secret  
14 shoppers to purchase specific amounts for compliance  
15 tests; providing guidelines for testing samples;  
16 directing secret shoppers to deliver samples to  
17 quality assurance laboratories for certain testing;  
18 directing the Authority to annually inspect minimum  
19 number of licensed medical marijuana dispensaries;  
20 providing for the recall of medical marijuana and  
21 marijuana products for safety failures; providing for  
22 the verification of certain laboratory results;  
23 requiring the retention of investigative results for  
24 certain number of years; directing the Authority to  
implement rules for providing certain notice;  
authorizing the Authority to take certain  
disciplinary actions; allowing the Authority to share  
investigative results with certain entities;  
authorizing the Authority to conduct further  
evaluation of investigative results; providing for  
the revocation of business licenses under certain  
circumstances; directing the Authority to implement  
certain rules; providing for codification; and  
providing an effective date.

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

1           SECTION 1.           NEW LAW           A new section of law to be codified  
2 in the Oklahoma Statutes as Section 427.25 of Title 63, unless there  
3 is created a duplication in numbering, reads as follows:

4           A.   The Oklahoma Medical Marijuana Authority shall implement  
5 rules to employ secret shoppers. Secret shoppers shall purchase  
6 medical marijuana or marijuana products from licensed medical  
7 marijuana dispensaries.

8           B.   For each purchase, the secret shopper shall buy an amount of  
9 medical marijuana or marijuana products sufficient for five complete  
10 compliance tests. Four samples shall be tested by licensed medical  
11 marijuana testing laboratories, one of which shall be the laboratory  
12 of origin, if applicable. One sample shall be kept in reserve by  
13 the Authority in the event of a discrepancy between the testing  
14 laboratories, which may require retesting of the medical marijuana  
15 or marijuana products. When making purchases from a licensed  
16 medical marijuana dispensary, the secret shopper shall ask for the  
17 certificate of analysis for each product purchased.

18           C.   The secret shopper shall deliver the medical marijuana or  
19 marijuana products to a quality assurance laboratory for  
20 homogenization. Once the samples have been homogenized, the samples  
21 shall be delivered to four randomly selected licensed medical  
22 marijuana testing laboratories for compliance testing which shall  
23 include the testing for pesticides, heavy metals, microbials,  
24 residual solvents for extracted products, and potency. One sample

1 shall be kept by the Authority in reserve. If the medical marijuana  
2 or marijuana products were previously tested with available results  
3 from a licensed medical marijuana testing laboratory, that testing  
4 laboratory shall be one of the four licensed medical marijuana  
5 testing laboratories chosen by the Authority. For the avoidance of  
6 doubt, neither the licensed medical marijuana dispensary nor the  
7 licensed medical marijuana testing laboratory shall be told that the  
8 business entity is selling medical marijuana or marijuana products  
9 to a secret shopper or testing samples submitted by a secret shopper  
10 employed by the Authority and posing as a licensed medical marijuana  
11 patient.

12 D. The Authority shall inspect, by secret shopper, a minimum of  
13 fifty licensed medical marijuana dispensaries annually beginning  
14 January 1, 2024. In the year 2025, the Authority shall inspect, by  
15 secret shopper, a minimum of ten percent (10%) of randomly selected  
16 licensed medical marijuana dispensaries in Oklahoma per year.

17 E. 1. When the licensed medical marijuana testing laboratories  
18 unanimously confirm test results with safety failures for  
19 contaminants, the Authority shall recall the medical marijuana or  
20 marijuana product within seven (7) days of obtaining the test  
21 results. The name of the licensed medical marijuana dispensary and  
22 any other relevant product information shall be made public via a  
23 press release issued by the Authority. If there is greater than one  
24 but less than four contaminant fails among the licensed medical

1 marijuana testing laboratories, the Authority shall work with a  
2 quality assurance laboratory to verify the results of the licensed  
3 medical marijuana testing laboratories and take appropriate action.

4       2. When the average of total potency or total terpene results  
5 collected from a licensed medical marijuana testing laboratory for a  
6 particular product is outside the allowable limits, the Authority  
7 shall work with a quality assurance laboratory to verify the results  
8 of the testing laboratory. If results are verified to be outside  
9 the allowable limits, the Authority shall require relabeling of the  
10 medical marijuana or marijuana products.

11       3. All investigative results shall be retained by the Authority  
12 for a minimum of three (3) years.

13       4. The Authority shall implement rules to notify any licensed  
14 medical marijuana dispensary and licensed medical marijuana grower  
15 or licensed medical marijuana processor of any investigative results  
16 determined to be noncompliant.

17       5. After the licensed medical marijuana dispensary and licensed  
18 medical marijuana grower or licensed medical marijuana processor is  
19 notified of the investigative results, such results may be used by  
20 the Authority to take action against the licensee, assess fines, or  
21 assess other civil penalties available to the Authority.

22       6. The Authority shall implement rules on sharing such  
23 investigative results with any other law enforcement agencies or  
24 regulatory authorities.

1           7. The Authority may elect to conduct further evaluations of  
2 the investigative results at any time for verification or for other  
3 purposes reasonably related to sanitation, public health, or public  
4 safety.

5           F. The failure of any licensed medical marijuana business to  
6 cooperate with the provisions of this section may result in the  
7 revocation of the license at the discretion of the Authority.

8           G. The Authority shall implement rules necessary to enforce the  
9 provisions of this act.

10          SECTION 2. This act shall become effective January 1, 2024.

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12          58-2-11570           GRS           05/16/22

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