

1 STATE OF OKLAHOMA

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

3 CONFERENCE COMMITTEE
4 SUBSTITUTE
5 FOR ENGROSSED
6 HOUSE BILL NO. 4056

By: Marti, Davis, Talley, and
McDugle of the House

7 and

Paxton of the Senate

8
9
10
11 CONFERENCE COMMITTEE SUBSTITUTE

12 An Act relating to medical marijuana; amending 63
13 O.S. 2021, Section 427.17, as amended by Section 17
14 of Enrolled Senate Bill No. 1543 of the 2nd Session
15 of the 58th Oklahoma Legislature, which relates to
16 the Oklahoma Medical Marijuana and Patient Protection
17 Act; directing certain entities to provide
18 recommendations, standards and operating procedures
19 to the Oklahoma Medical Marijuana Authority;
20 directing the Authority to promulgate rules;
21 requiring licensed medical marijuana testing
22 laboratories to comply with rules; providing for
23 license revocation; and declaring an emergency.

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

SECTION 1. AMENDATORY 63 O.S. 2021, Section 427.17, as
amended by Section 17 of Enrolled Senate Bill No. 1543 of the 2nd
Session of the 58th Oklahoma Legislature, is amended to read as
follows:

1 Section 427.17 A. There is hereby created a medical marijuana
2 testing laboratory license as a category of the medical marijuana
3 business license. The Oklahoma Medical Marijuana Authority is
4 hereby enabled to monitor, inspect and audit a licensed testing
5 laboratory under the Oklahoma Medical Marijuana and Patient
6 Protection Act.

7 B. 1. The Authority is hereby authorized to contract with a
8 private laboratory for the purpose of conducting compliance testing
9 of medical marijuana testing laboratories licensed in this state.
10 Any such laboratory under contract for compliance testing shall be
11 prohibited from conducting any other commercial medical marijuana
12 testing in this state. The laboratory the Authority contracts with
13 for compliance testing shall not employ, or be owned by, the
14 following:

15 ~~1. Any~~

16 a. any individual that has a direct or indirect interest in a
17 licensed medical marijuana business; or

18 ~~2. Any~~

19 b. any individual or his or her spouse, parent, child, spouse
20 of a child, sibling or spouse of a sibling that has an application
21 for a medical marijuana business license pending before the
22 Authority or is a member of the board of directors of a medical
23 marijuana business, or is an individual financially interested in
24

1 any licensee or medical marijuana business located within this
2 state.

3 2. The private laboratory under contract with the Authority for
4 compliance testing and a board or committee comprised of licensed
5 Oklahoma medical marijuana laboratories currently accredited by the
6 International Organization for Standardization (ISO) shall provide
7 to the Authority its recommendations for all equipment and standards
8 to be utilized by licensed medical marijuana testing laboratories
9 when testing samples of medical marijuana, medical marijuana
10 concentrate, and medical marijuana products as well as standard
11 operating procedures when extracting and testing medical marijuana,
12 medical marijuana concentrate, and medical marijuana products. The
13 recommendations shall be submitted to the Authority no later than
14 June 1, 2023. The Authority shall have ninety (90) days from the
15 date it receives the recommendations to promulgate new rules or
16 modify its current rules for laboratory standards and testing.
17 Beginning June 1, 2024, medical marijuana testing laboratories
18 renewing their medical marijuana business license shall be subject
19 to and comply with any new or modified rules relating to the testing
20 of medical marijuana, medical marijuana concentrate, and medical
21 marijuana products. The refusal or failure of a medical marijuana
22 testing laboratory licensee to comply with new or modified rules
23 relating to laboratory standards and testing procedures promulgated

24

1 under the provisions of this paragraph shall result in the permanent
2 revocation of the medical marijuana testing laboratory license.

3 C. The Authority shall develop acceptable testing practices
4 including, but not limited to, testing, standards, quality control
5 analysis, equipment certification and calibration, and chemical
6 identification and substances used.

7 D. A person who is a direct beneficial owner of a medical
8 marijuana dispensary, medical marijuana commercial grower or medical
9 marijuana processor shall not be an owner of a laboratory.

10 E. A laboratory and a laboratory applicant shall comply with
11 all applicable local ordinances including, but not limited to,
12 zoning, occupancy, licensing and building codes.

13 F. A separate license shall be required for each specific
14 laboratory.

15 G. A medical marijuana testing laboratory license may be issued
16 to a person who performs testing on medical marijuana and medical
17 marijuana products for medical marijuana businesses, medical
18 marijuana research facilities, medical marijuana education
19 facilities, and testing on marijuana and marijuana products grown or
20 produced by a patient or caregiver on behalf of a patient, upon
21 verification of registration. A medical marijuana testing
22 laboratory may also conduct research related to the development and
23 improvement of its testing practices and procedures. No state-

1 approved medical marijuana testing facility shall operate unless a
2 medical laboratory director is on site during operational hours.

3 H. Laboratory applicants and licensees shall comply with the
4 application requirements of this section and shall submit such other
5 information as required for a medical marijuana business applicant,
6 in addition to any information the Authority may request for initial
7 approval and periodic evaluations during the approval period.

8 I. A medical marijuana testing laboratory may accept samples of
9 medical marijuana, medical marijuana concentrate or medical
10 marijuana product from a medical marijuana business, medical
11 marijuana research facility or medical marijuana education facility
12 for testing purposes only, which purposes may include the provision
13 of testing services for samples submitted by a medical marijuana
14 business for product development. The Authority may require a
15 medical marijuana business to submit a sample of medical marijuana,
16 medical marijuana concentrate or medical marijuana product to a
17 medical marijuana testing or quality assurance laboratory upon
18 demand.

19 J. A medical marijuana testing laboratory may accept samples of
20 medical marijuana, medical marijuana concentrate or medical
21 marijuana product from an individual person for testing only under
22 the following conditions:

23 1. The individual person is a patient or caregiver pursuant to
24 the Oklahoma Medical Marijuana and Patient Protection Act or is a

1 participant in an approved clinical or observational study conducted
2 by a research facility; and

3 2. The medical marijuana testing laboratory shall require the
4 patient or caregiver to produce a valid patient license and current
5 and valid photo identification.

6 K. A medical marijuana testing laboratory may transfer samples
7 to another medical marijuana testing laboratory for testing. All
8 laboratory reports provided to or by a medical marijuana business or
9 to a patient or caregiver shall identify the medical marijuana
10 testing laboratory that actually conducted the test.

11 L. A medical marijuana testing laboratory may utilize a
12 licensed medical marijuana transporter to transport samples of
13 medical marijuana, medical marijuana concentrate and medical
14 marijuana product for testing, in accordance with the Oklahoma
15 Medical Marijuana and Patient Protection Act and the rules adopted
16 pursuant thereto, between the originating medical marijuana business
17 requesting testing services and the destination laboratory
18 performing testing services.

19 M. The medical marijuana testing laboratory shall establish
20 policies to prevent the existence of or appearance of undue
21 commercial, financial or other influences that may diminish the
22 competency, impartiality and integrity of the testing processes or
23 results of the laboratory, or that may diminish public confidence in
24 the competency, impartiality and integrity of the testing processes

1 or results of the laboratory. At a minimum, employees, owners or
2 agents of a medical marijuana testing laboratory who participate in
3 any aspect of the analysis and results of a sample are prohibited
4 from improperly influencing the testing process, improperly
5 manipulating data or improperly benefiting from any ongoing
6 financial, employment, personal or business relationship with the
7 medical marijuana business that provided the sample. A medical
8 marijuana testing laboratory shall not test samples for any medical
9 marijuana business in which an owner, employee or agent of the
10 medical marijuana testing laboratory has any form of ownership or
11 financial interest in the medical marijuana business.

12 N. The Authority, pursuant to rules promulgated by the
13 Executive Director of the Authority, shall develop standards,
14 policies and procedures as necessary for:

15 1. The cleanliness and orderliness of a laboratory premises and
16 the location of the laboratory in a secure location, and inspection,
17 cleaning and maintenance of any equipment or utensils used for the
18 analysis of test samples;

19 2. Testing procedures, testing standards for cannabinoid and
20 terpenoid potency and safe levels of contaminants, and remediation
21 procedures;

22 3. Controlled access areas for storage of medical marijuana and
23 medical marijuana product test samples, waste and reference
24 standards;

1 4. Records to be retained and computer systems to be utilized
2 by the laboratory;

3 5. The possession, storage and use by the laboratory of
4 reagents, solutions and reference standards;

5 6. A certificate of analysis (COA) for each lot of reference
6 standard;

7 7. The transport and disposal of unused marijuana, marijuana
8 products and waste;

9 8. The mandatory use by a laboratory of an inventory tracking
10 system to ensure all harvest and production batches or samples
11 containing medical marijuana, medical marijuana concentrate or
12 medical marijuana products are identified and tracked from the point
13 they are transferred from a medical marijuana business, a patient or
14 a caregiver through the point of transfer, destruction or disposal.
15 The inventory tracking system reporting shall include the results of
16 any tests that are conducted on medical marijuana, medical marijuana
17 concentrate or medical marijuana product;

18 9. Standards of performance;

19 10. The employment of laboratory personnel;

20 11. A written standard operating procedure manual to be
21 maintained and updated by the laboratory;

22 12. The successful participation in a proficiency testing
23 program approved by the Executive Director for each testing category
24

1 listed in this section, in order to obtain and maintain
2 certification;

3 13. The establishment of and adherence to a quality assurance
4 and quality control program to ensure sufficient monitoring of
5 laboratory processes and quality of results reported;

6 14. The immediate recall of medical marijuana or medical
7 marijuana products that test above allowable thresholds or are
8 otherwise determined to be unsafe;

9 15. The establishment by the laboratory of a system to document
10 the complete chain of custody for samples from receipt through
11 disposal;

12 16. The establishment by the laboratory of a system to retain
13 and maintain all required records including business records, and
14 processes to ensure results are reported in a timely and accurate
15 manner; and

16 17. Any other aspect of laboratory testing of medical marijuana
17 or medical marijuana product deemed necessary by the Executive
18 Director.

19 O. A medical marijuana testing laboratory shall promptly
20 provide the Authority or designee of the Authority access to a
21 report of a test and any underlying data that is conducted on a
22 sample at the request of a medical marijuana business or qualified
23 patient. A medical marijuana testing laboratory shall also provide
24 access to the Authority or designee of the Authority to laboratory

1 premises and to any material or information requested by the
2 Authority to determine compliance with the requirements of this
3 section.

4 P. A medical marijuana testing laboratory shall retain all
5 results of laboratory tests conducted on marijuana or products for a
6 period of at least seven (7) years and shall make them available to
7 the Authority upon request.

8 Q. A medical marijuana testing laboratory shall test samples
9 from each harvest batch or product batch, as appropriate, of medical
10 marijuana, medical marijuana concentrate and medical marijuana
11 product for each of the following categories of testing, consistent
12 with standards developed by the Executive Director:

- 13 1. Microbials;
- 14 2. Mycotoxins;
- 15 3. Residual solvents;
- 16 4. Pesticides;
- 17 5. Tetrahydrocannabinol (THC) and other cannabinoid potency;
- 18 6. Terpenoid type and concentration; and
- 19 7. Heavy metals.

20 R. A licensed medical marijuana testing laboratory shall test
21 each individual harvest batch. A grower shall separate each harvest
22 lot of usable marijuana into harvest batches containing no more than
23 fifteen (15) pounds, with the exception of any plant material to be
24 sold to a licensed processor for the purposes of turning the plant

1 material into concentrate which may be separated into harvest
2 batches of no more than fifty (50) pounds. A processor shall
3 separate each medical marijuana production lot into production
4 batches containing no more than four (4) liters of concentrate or
5 nine (9) pounds for nonliquid products, and for final products, the
6 Oklahoma Medical Marijuana Authority shall be authorized to
7 promulgate rules on final products as necessary. Provided, however,
8 the Authority shall not require testing of final products less often
9 than every one thousand (1,000) grams of THC. As used in this
10 subsection, "final products" shall include, but not be limited to,
11 cookies, brownies, candies, gummies, beverages and chocolates.

12 S. Medical marijuana testing laboratory licensure shall be
13 contingent upon successful on-site inspection, successful
14 participation in proficiency testing and ongoing compliance with the
15 applicable requirements in this section.

16 T. A medical marijuana testing laboratory shall be inspected
17 prior to initial licensure and up to two (2) times per year
18 thereafter by an inspector approved by the Authority. The Authority
19 may enter the licensed premises of a testing laboratory to conduct
20 investigations and additional inspections when the Authority
21 believes an investigation or additional inspection is necessary due
22 to a possible violation of applicable laws, rules or regulations.

23 U. Medical marijuana testing laboratories shall obtain
24 accreditation by an accrediting body approved by the Executive

1 Director within one (1) year of the date the initial license is
2 issued. Renewal of any medical marijuana testing laboratory license
3 shall be contingent upon accreditation in accordance with this
4 subsection. All medical marijuana testing laboratories shall obtain
5 accreditation prior to applying for and receiving a medical
6 marijuana testing laboratory license.

7 V. Unless authorized by the provisions of this section, a
8 commercial grower shall not transfer or sell medical marijuana and a
9 processor shall not transfer, sell or process into a concentrate or
10 product any medical marijuana, medical marijuana concentrate or
11 medical marijuana product unless samples from each harvest batch or
12 production batch from which that medical marijuana, medical
13 marijuana concentrate or medical marijuana product was derived has
14 been tested by a medical marijuana testing laboratory and passed all
15 contaminant tests required by the Oklahoma Medical Marijuana and
16 Patient Protection Act and applicable laws, rules and regulations.
17 A licensed commercial grower may transfer medical marijuana that has
18 failed testing to a licensed processor only for the purposes of
19 decontamination or remediation and only in accordance with the
20 provisions of the Oklahoma Medical Marijuana and Patient Protection
21 Act and the rules and regulations promulgated by the Executive
22 Director. Remediated and decontaminated medical marijuana may be
23 returned only to the originating licensed commercial grower.

24

1 W. Kief shall not be transferred or sold except as authorized
2 in the rules and regulations promulgated by the Executive Director.

3 SECTION 2. It being immediately necessary for the preservation
4 of the public peace, health or safety, an emergency is hereby
5 declared to exist, by reason whereof this act shall take effect and
6 be in full force from and after its passage and approval.

7

8 58-2-11561 GRS 05/16/22

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24