STATE OF OKLAHOMA

1st Session of the 58th Legislature (2021)

SENATE BILL 174 By: Rader

AS INTRODUCED

An Act relating to medical marijuana; amending Section 17, Chapter 11, O.S.L. 2019, as amended by Section 4, Chapter 312, O.S.L. 2019 (63 O.S. Supp. 2020, Section 427.17), which relates to medical marijuana testing laboratory license; providing qualifications for medical laboratory director; clarifying language; and providing an effective date.

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

SECTION 1. AMENDATORY Section 17, Chapter 11, O.S.L. 2019, as amended by Section 4, Chapter 312, O.S.L. 2019 (63 O.S. Supp. 2020, Section 427.17), is amended to read as follows:

Section 427.17. A. There is hereby created a medical marijuana testing laboratory license as a category of the medical marijuana business license. The Authority is hereby enabled to monitor, inspect and audit a licensed testing laboratory under this act.

B. The Authority is hereby authorized to contract with a private laboratory for the purpose of conducting compliance testing of medical marijuana testing laboratories licensed in this state. Any such laboratory under contract for compliance testing shall be

prohibited from conducting any other commercial medical marijuana testing in this state.

C. The Authority shall have the authority to develop acceptable testing and research practices, including but not limited to testing, standards, quality control analysis, equipment certification and calibration, and chemical identification and substances used in bona fide research methods so long as it complies with this act.

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

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

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

G. A medical marijuana testing laboratory license may be issued to a person who performs testing and research on medical marijuana and medical marijuana products for medical marijuana businesses, medical marijuana research facilities, medical marijuana education facilities, and testing and research on marijuana and marijuana products grown or produced by a patient or caregiver on behalf of a patient, upon verification of registration.

H. No state-approved medical marijuana testing facility shall operate unless a medical laboratory director is on site during operational hours. A medical laboratory director must possess a bachelor's degree in the chemical, environmental, biological or physical sciences or engineering, with at least a total of twenty-four (24) college semester credit hours in chemistry or biology and at least two (2) years of experience in the environmental analysis of representative inorganic and organic analytes for which the laboratory will be performing. A master's degree or doctoral degree in one of the above disciplines may be substituted for one (1) year of experience.

~~H.~~ I. A laboratory applicant shall comply with the application requirements of this section and shall submit such other information as required for a medical marijuana business applicant, in addition to any information the Authority may request for initial approval and periodic evaluations during the approval period.

~~I.~~ J. A medical marijuana testing laboratory may accept samples of medical marijuana, medical marijuana concentrate or medical marijuana product from a medical marijuana business for testing and research purposes only, which purposes may include the provision of testing services for samples submitted by a medical marijuana business for product development. The Department may require a medical marijuana business to submit a sample of medical marijuana,

medical marijuana concentrate or medical marijuana product to a medical marijuana testing laboratory upon demand.

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

1. The individual person is a patient or caregiver pursuant to this act or is a participant in an approved clinical or observational study conducted by a research facility; and

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

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

~~L.~~ M. A medical marijuana testing laboratory may utilize a licensed medical marijuana transporter to transport samples of medical marijuana, medical marijuana concentrate and medical marijuana product for testing, in accordance with this act and the rules adopted pursuant thereto, between the originating medical marijuana business requesting testing services and the destination laboratory performing testing services.

~~M.~~ N. The medical marijuana testing laboratory shall establish policies to prevent the existence of or appearance of undue commercial, financial or other influences that may diminish the competency, impartiality and integrity of the testing processes or results of the laboratory, or that may diminish public confidence in the competency, impartiality and integrity of the testing processes or results of the laboratory. At a minimum, employees, owners or agents of a medical marijuana testing laboratory who participate in any aspect of the analysis and results of a sample are prohibited from improperly influencing the testing process, improperly manipulating data, or improperly benefiting from any ongoing financial, employment, personal or business relationship with the medical marijuana business that provided the sample.

~~N.~~ O. The Department, pursuant to rules promulgated by the State Commissioner of Health, shall develop standards, policies and procedures as necessary for:

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

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

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

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

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

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

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

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

9. Standards of performance;

10. The employment of laboratory personnel;

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

12. The successful participation in a Department-approved proficiency testing program for each testing category listed in this section, in order to obtain and maintain certification;

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

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

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

16. Any other aspect of laboratory testing of medical marijuana or medical marijuana product deemed necessary by the Department.

~~O.~~ P. A medical marijuana testing laboratory shall promptly provide the Department or designee of the Department access to a report of a test and any underlying data that is conducted on a sample at the request of a medical marijuana business or qualified patient. A medical marijuana testing laboratory shall also provide access to the Department or designee of the Department to laboratory premises and to any material or information requested by the Department to determine compliance with the requirements of this section.

~~P.~~ Q. A medical marijuana testing laboratory shall retain all results of laboratory tests conducted on marijuana or products for a period of at least two (2) years and shall make them available to the Department upon request.

~~Q.~~ R. A medical marijuana testing laboratory shall test samples from each harvest batch or product batch, as appropriate, of medical marijuana, medical marijuana concentrate and medical marijuana product for each of the following categories of testing, consistent with standards developed by the Commissioner:

1. Microbials;

2. Mycotoxins;

3. Residual solvents;

4. Pesticides;

5. Tetrahydrocannabinol (THC) and other cannabinoid potency;

6. Terpenoid potency; and

7. Heavy metals.

~~R.~~ S. A test batch shall not exceed ten (10) pounds of usable marijuana or medical marijuana product, as appropriate. A grower shall separate each harvest lot of usable marijuana into harvest batches containing no more than ten (10) pounds. A processor shall separate each medical marijuana production lot into production batches containing no more than ten (10) pounds.

~~S.~~ T. Medical marijuana testing laboratory licensure shall be contingent upon successful on-site inspection, successful

participation in proficiency testing and ongoing compliance with the applicable requirements in this section.

~~T.~~ U. A medical marijuana testing laboratory shall be inspected prior to initial licensure and annually thereafter by an inspector approved by the Authority.

~~U.~~ V. Beginning on a date determined by the Commissioner, not later than January 1, 2020, medical marijuana testing laboratory licensure shall be contingent upon accreditation by the NELAC Institute (TNI), ANSI/ASQ National Accreditation Board or another accrediting body approved by the Commissioner, and any applicable standards as determined by the Department.

~~V.~~ W. A commercial grower shall not transfer or sell medical marijuana and a processor shall not transfer, sell or process into a concentrate or product any medical marijuana, medical marijuana concentrate or medical marijuana product unless samples from each harvest batch or production batch from which that medical marijuana, medical marijuana concentrate or medical marijuana product was derived has been tested by a medical marijuana testing facility for contaminants and passed all contaminant tests required by this act.

SECTION 2. This act shall become effective November 1, 2021.

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