

1 STATE OF OKLAHOMA

2 1st Session of the 59th Legislature (2023)

3 COMMITTEE SUBSTITUTE
4 FOR

5 SENATE BILL 813

6 By: Garvin

7 COMMITTEE SUBSTITUTE

8 An Act relating to medical marijuana; amending 63
9 O.S. 2021, Section 427.17, as last amended by Section
10 1, Chapter 353, O.S.L. 2022 (63 O.S. Supp. 2022,
11 Section 427.17), which relates to the medical
12 marijuana testing laboratory license; providing
13 contract condition; allowing testing by Oklahoma
14 Medical Marijuana Authority assurance laboratory;
15 authorizing the Authority to operate a quality
16 assurance laboratory; allowing the Authority to use
17 quality assurance laboratory for certain purposes;
18 permitting the Authority to enter into certain
19 agreements and contracts; allowing the transfer and
20 transport of certain products; requiring the
21 Authority to submit certain report; providing for
22 promulgation of rules; providing for codification;
23 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
last amended by Section 1, Chapter 353, O.S.L. 2022 (63 O.S. Supp.
2022, 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 Oklahoma Medical Marijuana Authority is

1 hereby enabled to monitor, inspect, and audit a licensed testing
2 laboratory under the Oklahoma Medical Marijuana and Patient
3 Protection Act.

4 B. ~~1.~~ The Authority is hereby authorized to operate a quality
5 assurance laboratory or to contract with a private laboratory for
6 the purpose of conducting compliance testing of medical marijuana
7 testing laboratories licensed in this state. Any such laboratory
8 under contract for compliance testing shall be prohibited from
9 conducting any other commercial medical marijuana testing in this
10 state. ~~The laboratory~~ If the Authority contracts with for
11 compliance testing a private laboratory to implement the
12 requirements of this section:

13 1. The laboratory shall not employ, or be owned by, the
14 following:

- 15 a. any individual that has a direct or indirect interest
- 16 in a licensed medical marijuana business, or
- 17 b. any individual or his or her spouse, parent, child,
- 18 spouse of a child, sibling, or spouse of a sibling
- 19 that has an application for a medical marijuana
- 20 business license pending before the Authority or is a
- 21 member of the board of directors of a medical
- 22 marijuana business, or is an individual financially
- 23 interested in any licensee or medical marijuana
- 24 business located within this state; and

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

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

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

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

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

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

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

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

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

21 1. The individual person is a patient or caregiver pursuant to
22 the Oklahoma Medical Marijuana and Patient Protection Act or is a
23 participant in an approved clinical or observational study conducted
24 by a research facility; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

16 9. Standards of performance;

17 10. The employment of laboratory personnel;

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

20 12. The successful participation in a proficiency testing
21 program approved by the Executive Director for each testing category
22 listed in this section, in order to obtain and maintain
23 certification;

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

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

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

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

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

17 O. A medical marijuana testing laboratory shall promptly
18 provide the Authority or designee of the Authority access to a
19 report of a test and any underlying data that is conducted on a
20 sample at the request of a medical marijuana business or qualified
21 patient. A medical marijuana testing laboratory shall also provide
22 access to the Authority or designee of the Authority to laboratory
23 premises and to any material or information requested by the
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1 Authority to determine compliance with the requirements of this
2 section.

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

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

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

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

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

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

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

22 U. Medical marijuana testing laboratories shall obtain
23 accreditation by an accrediting body approved by the Executive
24 Director or the Authority's quality assurance laboratory within one

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

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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. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 427.17a of Title 63, unless
5 there is created a duplication in numbering, reads as follows:

6 A. The Oklahoma Medical Marijuana Authority may operate a
7 quality assurance laboratory for the purpose of conducting
8 compliance testing of medical marijuana businesses licensed in this
9 state.

10 B. The Authority shall utilize the quality assurance laboratory
11 to:

12 1. Provide recommendations for all equipment and standards to
13 be utilized by licensed medical marijuana testing laboratories when
14 testing samples of medical marijuana, medical marijuana concentrate,
15 and medical marijuana products;

16 2. Provide standardized operating procedures when procuring,
17 collecting, extracting, and testing medical marijuana, medical
18 marijuana concentrate, and medical marijuana products;

19 3. Procure, handle, transfer, transport, and test samples taken
20 from medical marijuana licensed businesses;

21 4. Implement the secret shopper program pursuant to Section
22 427.25 of Title 63 of the Oklahoma Statutes; and

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1 5. Detect and analyze any compounds that are not among the
2 targeted analytes and are unknown, unidentified, tentatively
3 identified, or known and injurious to human health if consumed.

4 C. In order to fulfill the provisions of subsection A of this
5 section, the Authority may:

6 1. Enter into interlocal agreements with any other government
7 agency pursuant to Section 1001 et seq. of Title 74 of the Oklahoma
8 Statutes;

9 2. Select a laboratory information system through a competitive
10 bidding process pursuant to Section 85.7 of Title 74 of the Oklahoma
11 Statutes;

12 3. Isolate, sequester, embargo, or otherwise prohibit for
13 transfer or sale medical marijuana, medical marijuana concentrate,
14 and medical marijuana product that may require additional testing
15 upon a determination by the Authority that such action is necessary
16 to protect the public health and safety; or

17 4. Collect samples from harvest batches that failed testing.

18 D. The quality assurance laboratory may transport and transfer
19 medical marijuana, medical marijuana concentrate, and medical
20 marijuana product for testing between the originating medical
21 marijuana business, the quality assurance laboratory, and other
22 licensed medical marijuana testing laboratories pursuant to this
23 section.

1 E. The quality assurance laboratory shall comply with the
2 provisions of the Oklahoma Medical Marijuana and Patient Protection
3 Act when transporting samples of medical marijuana, medical
4 marijuana concentrate, and medical marijuana product for testing
5 between the originating medical marijuana business, the quality
6 assurance laboratory, and other licensed medical marijuana testing
7 laboratories pursuant to this section. Nothing in this section
8 shall require the quality assurance laboratory to apply for and
9 receive a license.

10 F. The Authority shall submit an annual report to the
11 Legislature on quality assurance activities and results.

12 G. The Authority may promulgate rules necessary for the
13 implementation of a quality assurance laboratory pursuant to this
14 section.

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

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