

An Act

ENROLLED SENATE
BILL NO. 813

By: Garvin of the Senate

and

Marti of the House

An Act relating to medical marijuana; amending 63 O.S. 2021, Sections 421, 422, and 423, as last amended by Sections 1, 2, and 3, Chapter 332, O.S.L. 2022 (63 O.S. Supp. 2022, Sections 421, 422, and 423), which relate to licensing requirements for medical marijuana dispensaries, commercial growers, and processors; modifying method of application submission; amending 63 O.S. 2021, Section 427.3, as last amended by Section 2 of Enrolled House Bill No. 2095 of the 1st Session of the 59th Oklahoma Legislature (63 O.S. Supp. 2022, Section 427.3), which relates to Oklahoma Medical Marijuana Authority duties and functions; allowing for the purchase of motor vehicles; authorizing the Oklahoma Medical Marijuana Authority to create a petty cash fund for certain purpose; amending 63 O.S. 2021, Section 427.4, as amended by Section 3 of Enrolled House Bill No. 2095 of the 1st Session of the 59th Oklahoma Legislature (63 O.S. Supp. 2022, Section 427.4), which relates to the Executive Director; updating language; amending 63 O.S. 2021, Section 427.14, as last amended by Section 5 of Enrolled House Bill No. 2095 of the 1st Session of the 59th Oklahoma Legislature (63 O.S. Supp. 2022, Section 427.14), which relates to the medical marijuana business license; modifying calculation for type of indoor and outdoor growing operation; requiring remittance of certain fees prior to licensing approval; modifying method of application submission; removing provision for fees for reconsideration; providing for promulgation of rules for required application materials to the Authority prior to determination for business licensing fees; amending 63 O.S. 2021,

Sections 427.16, as last amended by Section 7 of Enrolled House Bill No. 2095 of the 1st Session of the 59th Oklahoma Legislature, and 427.17, as last amended by Section 8 of Enrolled House Bill No. 2095 of the 1st Session of the 59th Oklahoma Legislature (63 O.S. Supp. 2022, Sections 427.16 and 427.17), which relate to medical marijuana transport and testing laboratory licenses; providing contract condition; allowing testing by Oklahoma Medical Marijuana Authority assurance laboratory; authorizing the Authority to operate a quality assurance laboratory; allowing the Authority to use quality assurance laboratory for certain purposes; permitting the Authority to enter into certain agreements and contracts; allowing the transfer and transport of certain products; requiring the Authority to submit certain report; providing for promulgation of rules; clarifying language; amending Section 1, Chapter 352, O.S.L. 2022 (63 O.S. Supp. 2022, Section 427.25), which relates to secret shoppers; allowing for use of certain fund; allowing for secret shoppers to perform certain duties; modifying laboratory testing; exempting licensing requirements for secret shoppers; updating statutory language and reference; providing for codification; providing an effective date; and declaring an emergency.

SUBJECT: Medical marijuana regulation and compliance

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

SECTION 1. AMENDATORY 63 O.S. 2021, Section 421, as last amended by Section 1, Chapter 332, O.S.L. 2022 (63 O.S. Supp. 2022, Section 421), is amended to read as follows:

Section 421. A. The Oklahoma Medical Marijuana Authority shall make available on its website in an easy-to-find location an application for a medical marijuana dispensary license. The application fee to be paid by the applicant shall be in the amounts provided for in Section 427.14 of this title. A method of payment

for the application fee shall be provided on the website of the Authority. Dispensary applicants must all be residents of Oklahoma. Any entity applying for a dispensary license must be owned by an Oklahoma resident and must be registered to do business in Oklahoma. The Authority shall have ninety (90) business days to review the application; approve, reject, or deny the application; and ~~mail~~ send the approval, rejection, or denial letter stating reasons for the rejection or denial to the applicant in the same method the application was submitted to the Authority.

B. The Authority shall approve all applications which meet the following criteria:

1. The applicant must be twenty-five (25) years of age or older;

2. The applicant, if applying as an individual, must show residency in ~~the State of Oklahoma~~ this state;

3. All applying entities must show that all members, managers, and board members are Oklahoma residents;

4. An applying entity may show ownership of non-Oklahoma residents, but that percentage ownership may not exceed twenty-five percent (25%);

5. All applying individuals or entities must be registered to conduct business in ~~the State of Oklahoma~~ this state; and

6. All applicants must disclose all ownership interests in the dispensary.

Applicants with a nonviolent felony conviction in the last two (2) years, any other felony conviction in the last five (5) years, inmates in the custody of the Department of Corrections or any person currently incarcerated shall not qualify for a medical marijuana dispensary license.

C. Licensed medical marijuana dispensaries shall be required to complete a monthly sales report to the Authority. This report shall be due on the fifteenth of each month and provide reporting on the previous month. This report shall detail the weight of marijuana

purchased at wholesale and the weight of marijuana sold to licensed medical marijuana patients and licensed caregivers and account for any waste. The report shall show total sales in dollars, tax collected in dollars, and tax due in dollars. The Authority shall have oversight and auditing responsibilities to ensure that all marijuana being grown is accounted for.

D. Only a licensed medical marijuana dispensary may conduct retail sales of marijuana or marijuana derivatives. Beginning on ~~the effective date of this act~~ November 1, 2021, licensed medical marijuana dispensaries shall be authorized to package and sell pre-rolled marijuana to licensed medical marijuana patients and licensed caregivers. The products described in this subsection shall contain only the ground parts of the marijuana plant and shall not include marijuana concentrates or derivatives. The total net weight of each pre-roll packaged and sold by a medical marijuana dispensary shall not exceed one (1) gram. These products shall be tested, packaged and labeled in accordance with Oklahoma law and rules promulgated by the Authority.

E. No medical marijuana dispensary shall offer or allow a medical marijuana patient licensee, caregiver licensee or other member of the public to handle or otherwise have physical contact with any medical marijuana not contained in a sealed or separate package. Provided, such prohibition shall not preclude an employee of the medical marijuana dispensary from handling loose or nonpackaged medical marijuana to be placed in packaging consistent with the Oklahoma Medical Marijuana and Patient Protection Act and the rules promulgated by the Authority for the packaging of medical marijuana for retail sale. Provided, further, such prohibition shall not prevent a medical marijuana dispensary from displaying samples of its medical marijuana in separate display cases, jars or other containers and allowing medical marijuana patient licensees and caregiver licensees the ability to handle or smell the various samples as long as the sample medical marijuana is used for display purposes only and is not offered for retail sale.

SECTION 2. AMENDATORY 63 O.S. 2021, Section 422, as last amended by Section 2, Chapter 332, O.S.L. 2022 (63 O.S. Supp. 2022, Section 422), is amended to read as follows:

Section 422. A. The Oklahoma Medical Marijuana Authority shall make available on its website in an easy-to-find location an application for a medical marijuana commercial grower license. The application fee shall be paid by the applicant in the amounts provided for in Section 427.14 of this title. A method of payment for the application fee shall be provided on the website of the Authority. The Authority shall have ninety (90) business days to review the application; approve, reject, or deny the application; and ~~mail~~ send the approval, rejection, or denial letter stating the reasons for the rejection or denial to the applicant in the same method the application was submitted to the Authority.

B. The Authority shall approve all applications which meet the following criteria:

1. The applicant must be twenty-five (25) years of age or older;

2. The applicant, if applying as an individual, must show residency in ~~the State of Oklahoma~~ this state;

3. All applying entities must show that all members, managers, and board members are Oklahoma residents;

4. An applying entity may show ownership of non-Oklahoma residents, but that percentage ownership may not exceed twenty-five percent (25%);

5. All applying individuals or entities must be registered to conduct business in ~~the State of Oklahoma~~ this state; and

6. All applicants must disclose all ownership interests in the commercial grower operation.

Applicants with a nonviolent felony conviction in the last two (2) years, any other felony conviction in the last five (5) years, inmates in the custody of the Department of Corrections or any person currently incarcerated shall not qualify for a commercial grower license.

C. A licensed medical marijuana commercial grower may sell marijuana to a licensed medical marijuana dispensary or a licensed

medical marijuana processor. Further, sales by a licensed medical marijuana commercial grower shall be considered wholesale sales and shall not be subject to taxation. Under no circumstances may a licensed medical marijuana commercial grower sell marijuana directly to a licensed medical marijuana patient or licensed medical marijuana caregiver. A licensed medical marijuana commercial grower may only sell at the wholesale level to a licensed medical marijuana dispensary, a licensed medical marijuana commercial grower or a licensed medical marijuana processor. If the federal government lifts restrictions on buying and selling marijuana between states, then a licensed medical marijuana commercial grower would be allowed to sell and buy marijuana wholesale from, or to, an out-of-state wholesale provider. A licensed medical marijuana commercial grower shall be required to complete a monthly yield and sales report to the Authority. This report shall be due on the fifteenth of each month and provide reporting on the previous month. This report shall detail the amount of marijuana harvested in pounds, the amount of drying or dried marijuana on hand, the amount of marijuana sold to licensed processors in pounds, the amount of waste in pounds, and the amount of marijuana sold to licensed medical marijuana dispensaries in pounds. Additionally, this report shall show total wholesale sales in dollars. The Authority shall have oversight and auditing responsibilities to ensure that all marijuana being grown by licensed medical marijuana commercial growers is accounted for.

D. There shall be no limits on how much marijuana a licensed medical marijuana commercial grower can grow.

E. Beginning on ~~the effective date of this act~~ November 1, 2021, licensed medical marijuana commercial growers shall be authorized to package and sell pre-rolled marijuana to licensed medical marijuana dispensaries. The products described in this subsection shall contain only the ground parts of the marijuana plant and shall not include marijuana concentrates or derivatives. The total net weight of each pre-roll packaged and sold by licensed medical marijuana commercial growers shall not exceed one (1) gram. These products must be tested, packaged and labeled in accordance with Oklahoma law and rules promulgated by the Authority.

SECTION 3. AMENDATORY 63 O.S. 2021, Section 423, as last amended by Section 3, Chapter 332, O.S.L. 2022 (63 O.S. Supp. 2022, Section 423), is amended to read as follows:

Section 423. A. The Oklahoma Medical Marijuana Authority shall make available on its website in an easy-to-find location an application for a medical marijuana processing license. The Authority shall be authorized to issue two types of medical marijuana processor licenses based on the level of risk posed by the type of processing conducted:

1. Nonhazardous medical marijuana processor license; and
2. Hazardous medical marijuana processor license.

The application fee for a nonhazardous or hazardous medical marijuana processor license shall be paid by the applicant in the amounts provided for in Section 427.14 of this title. A method of payment shall be provided on the website of the Authority. The Authority shall have ninety (90) business days to review the application; approve, reject, or deny the application; and ~~mail send~~ the approval, rejection, or denial letter stating the reasons for the rejection or denial to the applicant in the same method the application was submitted to the Authority.

B. The Authority shall approve all applications which meet the following criteria:

1. The applicant must be twenty-five (25) years of age or older;
2. The applicant, if applying as an individual, must show residency in ~~the State of Oklahoma~~ this state;
3. All applying entities must show that all members, managers, and board members are Oklahoma residents;
4. An applying entity may show ownership of non-Oklahoma residents, but that percentage ownership may not exceed twenty-five percent (25%);
5. All applying individuals or entities must be registered to conduct business in ~~the State of Oklahoma~~ this state; and

6. All applicants must disclose all ownership interests in the processing operation.

Applicants with a nonviolent felony conviction in the last two (2) years, any other felony conviction in the last five (5) years, inmates in the custody of the Department of Corrections or any person currently incarcerated shall not qualify for a medical marijuana processing license.

C. 1. A licensed processor may take marijuana plants and distill or process these plants into concentrates, edibles, and other forms for consumption.

2. As required by subsection D of this section, the Authority shall make available a set of standards which shall be used by licensed processors in the preparation of edible marijuana products. The standards should be in line with current food preparation guidelines. No excessive or punitive rules may be established by the Authority.

3. Up to two times a year, the Authority may inspect a processing operation and determine its compliance with the preparation standards. If deficiencies are found, a written report of the deficiency shall be issued to the licensed processor. The licensed processor shall have one (1) month to correct the deficiency or be subject to a fine of Five Hundred Dollars (\$500.00) for each deficiency.

4. A licensed processor may sell marijuana products it creates to a licensed dispensary or any other licensed processor. All sales by a licensed processor shall be considered wholesale sales and shall not be subject to taxation.

5. Under no circumstances may a licensed processor sell marijuana or any marijuana product directly to a licensed medical marijuana patient or licensed caregiver. However, a licensed processor may process cannabis into a concentrated form for a licensed medical marijuana patient for a fee.

6. Licensed processors shall be required to complete a monthly yield and sales report to the Authority. This report shall be due on the fifteenth of each month and shall provide reporting on the

previous month. This report shall detail the amount of marijuana and medical marijuana products purchased in pounds, the amount of marijuana cooked or processed in pounds, and the amount of waste in pounds. Additionally, this report shall show total wholesale sales in dollars. The Authority shall have oversight and auditing responsibilities to ensure that all marijuana being processed is accounted for.

D. The Authority shall oversee the inspection and compliance of licensed processors producing products with marijuana as an additive. The Authority shall be compelled to, within thirty (30) days of passage of this initiative, appoint twelve (12) Oklahoma residents to the Medical Marijuana Advisory Council, who are marijuana industry experts, to create a list of food safety standards for processing and handling medical marijuana in Oklahoma. These standards shall be adopted by the Authority and the Authority may enforce these standards for licensed processors. The Authority shall develop a standards review procedure and these standards can be altered by calling another council of twelve (12) Oklahoma marijuana industry experts. A signed letter of twenty operating, licensed processors shall constitute a need for a new council and standards review.

E. If it becomes permissible under federal law, marijuana may be moved across state lines.

F. Any device used for the processing or consumption of medical marijuana shall be considered legal to be sold, manufactured, distributed and possessed. No merchant, wholesaler, manufacturer or individual may be unduly harassed or prosecuted for selling, manufacturing or possessing marijuana paraphernalia.

SECTION 4. AMENDATORY 63 O.S. 2021, Section 427.3, as last amended by Section 2 of Enrolled House Bill No. 2095 of the 1st Session of the 59th Oklahoma Legislature (63 O.S. Supp. 2022, Section 427.3), is amended to read as follows:

Section 427.3. A. There is hereby created the Oklahoma Medical Marijuana Authority within the State Department of Health which shall address issues related to the medical marijuana program in Oklahoma including, but not limited to, the issuance of patient licenses and medical marijuana business licenses, and the

dispensing, cultivating, processing, testing, transporting, storage, research, and the use of and sale of medical marijuana pursuant to the Oklahoma Medical Marijuana and Patient Protection Act.

B. The Department shall provide support staff to perform designated duties of the Authority. The Department shall also provide office space for meetings of the Authority.

C. The Authority shall implement the provisions of the Oklahoma Medical Marijuana and Patient Protection Act consistently with the voter-approved State Question No. 788, Initiative Petition No. 412, subject to the provisions of the Oklahoma Medical Marijuana and Patient Protection Act.

D. The Authority shall exercise its respective powers and perform its respective duties and functions as specified in the Oklahoma Medical Marijuana and Patient Protection Act and this title including, but not limited to, the following:

1. Determine steps the state shall take, whether administrative or legislative in nature, to ensure that research on marijuana and marijuana products is being conducted for public purposes, including the advancement of:

- a. public health policy and public safety policy,
- b. agronomic and horticultural best practices, and
- c. medical and pharmacopoeia best practices;

2. Contract with third-party vendors and other governmental entities in order to carry out the respective duties and functions as specified in the Oklahoma Medical Marijuana and Patient Protection Act;

3. Upon complaint or upon its own motion and upon a completed investigation, levy fines as prescribed in applicable laws, rules, and regulations and suspend, revoke, or not renew licenses pursuant to applicable laws, rules, and regulations;

4. Issue subpoenas for the appearance or production of persons, records, and things in connection with disciplinary or contested cases considered by the Authority;

5. Apply for injunctive or declaratory relief to enforce the provisions of applicable laws, rules, and regulations;

6. Inspect and examine all licensed premises of medical marijuana businesses, research facilities, education facilities, and waste disposal facilities in which medical marijuana is cultivated, manufactured, sold, stored, transported, tested, distributed, or disposed of;

7. Upon action by the federal government by which the production, sale, and use of marijuana in Oklahoma does not violate federal law, work with the ~~Oklahoma State~~ Banking Department and the State Treasurer to develop good practices and standards for banking and finance for medical marijuana businesses;

8. Establish internal control procedures for licenses including accounting procedures, reporting procedures, and personnel policies;

9. Establish a fee schedule and collect fees for performing background checks as the Authority deems appropriate. The fees charged pursuant to this paragraph shall not exceed the actual cost incurred for each background check;

10. Establish a fee schedule and collect fees for material changes requested by the licensee;

11. Establish regulations, which require a medical marijuana business to submit information to the Authority, deemed reasonably necessary to assist the Authority in the prevention of diversion of medical marijuana by a licensed medical marijuana business. Such information required by the Authority may include, but shall not be limited to:

- a. the square footage of the licensed premises,
- b. a diagram of the licensed premises,

- c. the number and type of lights at the licensed medical marijuana commercial grower business,
- d. the number, type, and production capacity of equipment located at the medical marijuana processing facility,
- e. the names, addresses, and telephone numbers of employees or agents of a medical marijuana business,
- f. employment manuals and standard operating procedures for the medical marijuana business, and
- g. any other information as the Authority reasonably deems necessary;

12. Declare and establish a moratorium on processing and issuing new medical marijuana business licenses pursuant to Section 427.14 of this title for an amount of time the Authority deems necessary; ~~and~~

13. Enter into and negotiate the terms of Memorandums of Understanding between the Authority and other state agencies concerning the enforcement of laws regulating medical marijuana in this state. The Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, the Oklahoma State Bureau of Investigation, and the Oklahoma Attorney General shall have full authority to investigate and enforce any violations of the laws regarding medical marijuana including medical marijuana business licenses held by commercial growers, processors, transporters, researchers, education facilities, and waste disposal facilities;

14. Purchase and maintain motor vehicles for use by the employees of the Authority; and

15. Enter into contracts and agreements for the payment of food, lodging, and other authorized expenses as may be necessary to host, conduct, sponsor, or participate in conferences, meetings, or training sessions. The Authority may establish accounts as necessary for the collection and distribution of funds, including funds of sponsors and registration fees, related to such conferences, meetings, and training sessions. Any expenses incurred

may be paid directly to the contracting agency or business establishment.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 427.3b of Title 63, unless there is created a duplication in numbering, reads as follows:

There is hereby created a petty cash fund for the Oklahoma Medical Marijuana Authority. The fund shall be used by the Authority to supply its agents with money for undercover operations, to perform statutory requirements, and to obtain evidence for case presentations. The amount of the petty cash fund shall be determined by the Director of the Office of Management and Enterprise Services and the Executive Director of the Oklahoma Medical Marijuana Authority. The Director of the Office of Management and Enterprise Services shall be authorized to prescribe forms, systems, and procedures for the administration of the petty cash fund.

SECTION 6. AMENDATORY 63 O.S. 2021, Section 427.4, as amended by Section 3 of Enrolled House Bill No. 2095 of the 1st Session of the 59th Oklahoma Legislature (63 O.S. Supp. 2022, Section 427.4), is amended to read as follows:

Section 427.4. A. The Oklahoma Medical Marijuana Authority shall employ an Executive Director and other personnel as necessary to assist the Authority in carrying out its duties. The Executive Director shall be appointed by the Governor, with the advice and consent of the Senate. The Executive Director shall serve at the pleasure of the Governor and may be removed or replaced without cause. Compensation for the Executive Director shall be determined pursuant to Section 3601.2 of Title 74 of the Oklahoma Statutes.

B. The Authority shall not employ an individual if any of the following circumstances exist:

1. The individual has a direct or indirect interest in a licensed medical marijuana business; or

2. The individual or his or her spouse, parent, child, spouse of a child, sibling, or spouse of a sibling has an application for a medical marijuana business license pending before the Authority or

is a member of the board of directors of a medical marijuana business, or is an individual financially interested in any licensee or medical marijuana business.

C. All officers and employees of the Authority shall be in the exempt unclassified service ~~as provided for in Section 840-5.5 of Title 74 of the Oklahoma Statutes.~~

D. The Executive Director may delegate to any officer or employee of the Authority any of the powers of the Executive Director and may designate any officer or employee of the Authority to perform any of the duties of the Executive Director.

E. The Executive Director may promulgate rules governing the oversight and implementation of the Oklahoma Medical Marijuana and Patient Protection Act.

F. The Authority is hereby authorized to create employment positions necessary for the implementation of its obligations pursuant to the Oklahoma Medical Marijuana and Patient Protection Act including, but not limited to, investigators of the Authority and a director of enforcement. The Authority, the director of enforcement, the Executive Director, investigators of the Authority, the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, the Oklahoma State Bureau of Investigation, and the Attorney General shall have all the powers and authority of a peace officer of this state for the purpose of enforcing the provisions of the Oklahoma Medical Marijuana and Patient Protection Act and other laws pertaining to medical marijuana, rules promulgated by the Executive Director, or criminal laws of this state. These powers shall include but not be limited to:

1. Investigating violations or suspected violations of the Oklahoma Medical Marijuana and Patient Protection Act or other laws pertaining to medical marijuana, any rules promulgated pursuant thereto, and any violations of criminal laws of this state discovered through the course of such investigations;

2. Serving and executing all warrants, summonses, subpoenas, administrative citations, notices or other processes relating to the enforcement of laws regulating marijuana, concentrate, and marijuana product;

3. Seizing, destroying, confiscating, embargoing, or placing an administrative hold on any marijuana or marijuana product not properly logged in the inventory ~~records~~ tracking system or untraceable product ~~not~~ required to be in the system, altered or improperly packaged, or illegally held in violation of the Oklahoma Medical Marijuana and Patient Protection Act, any other laws of this state, or any rules promulgated by the Executive Director;

4. Assisting or aiding any law enforcement officer in the performance of his or her duties upon such law enforcement officer's request or the request of other local officials having jurisdiction;

5. Referring any evidence, reports, or charges regarding violations of any provision of the Oklahoma Medical Marijuana and Patient Protection Act that carries criminal penalty, or of any other criminal laws of this state, to the appropriate law enforcement authority and prosecutorial authority for action;

6. Aiding the enforcement authorities of this state or any county or municipality of the state, or the federal government, in prosecutions of violations of the Oklahoma Medical Marijuana and Patient Protection Act or any other laws of this state that carry criminal penalty involving crimes discovered during the investigation of violations or suspected violations of the Oklahoma Medical Marijuana and Patient Protection Act or other laws pertaining to medical marijuana or any rules promulgated pursuant thereto;

7. Requiring any business applicant or licensee to permit an inspection of licensed premises during business hours or at any time of apparent operation, marijuana equipment, and marijuana accessories, or books and records; and to permit the testing of or examination of medical marijuana, concentrate, or product;

8. Requiring applicants and licensees to submit complete and current applications, information and fees required by the Oklahoma Medical Marijuana and Patient Protection Act, the Oklahoma Medical Marijuana Waste Management Act and Sections 420 through 426.1 of this title, and approve material changes made by the applicant or licensee;

9. Requiring medical marijuana business licensees to submit a sample or unit of medical marijuana or medical marijuana product to the quality assurance laboratory when the Authority has reason to believe the medical marijuana or medical marijuana product may be unsafe for patient consumption or inhalation or has not been tested in accordance with the provisions of the Oklahoma Medical Marijuana and Patient Protection Act and the rules and regulations promulgated by the Executive Director. The licensee shall provide the samples or units of medical marijuana or medical marijuana products at its own expense but shall not be responsible for the costs of testing; and

10. Requiring medical marijuana business licensees to periodically submit samples or units of medical marijuana or medical marijuana products to the quality assurance laboratory for quality assurance purposes. Licensed growers, processors, dispensaries and transporters shall not be required to submit samples or units of medical marijuana or medical marijuana products more than twice a year. The licensee shall provide the samples or units of medical marijuana or medical marijuana products at its own expense but shall not be responsible for the costs of testing.

G. All investigators of the Authority shall meet all training requirements and qualifications for peace officers as required by Section 3311 et seq. of Title 70 of the Oklahoma Statutes.

H. During the course of an investigation, the Authority, as provided by subsection F of this section, may arrest a violator or suspected violator of any laws of this state committed in the presence of the Authority or upon the development of probable cause that such crime has been committed. The Authority as provided by subsection F of this section may, upon request of a sheriff or another peace officer of this state, or any political subdivision thereof, assist in the apprehension and arrest of a violator or suspected violator of any of the laws of this state.

I. The Executive Director may employ or contract with attorneys, as needed, to advise the Authority on all legal matters and to appear for and represent the Executive Director and the Authority in all administrative hearings and all litigation or other proceedings which may arise in the discharge of their duties. At the request of the Executive Director, such attorneys shall assist

district attorneys in prosecuting charges of violators of the Oklahoma Medical Marijuana and Patient Protection Act or any other laws of this state that carry criminal penalty involving crimes discovered during the investigation of violations or suspected violations of the Oklahoma Medical Marijuana and Patient Protection Act or other laws pertaining to medical marijuana or any rules promulgated pursuant thereto.

SECTION 7. AMENDATORY 63 O.S. 2021, Section 427.14, as last amended by Section 5 of Enrolled House Bill No. 2095 of the 1st Session of the 59th Oklahoma Legislature (63 O.S. Supp. 2022, Section 427.14), is amended to read as follows:

Section 427.14. A. There is hereby created the medical marijuana business license, which shall include the following categories:

1. Medical marijuana commercial grower;
2. Medical marijuana processor;
3. Medical marijuana dispensary;
4. Medical marijuana transporter; and
5. Medical marijuana testing laboratory.

B. The Oklahoma Medical Marijuana Authority, with the aid of the Office of Management and Enterprise Services, shall develop a website for medical marijuana business applications.

C. The Authority shall make available on its website in an easy-to-find location, applications for a medical marijuana business.

D. 1. The annual, nonrefundable fee for a medical marijuana transporter license shall be Two Thousand Five Hundred Dollars (\$2,500.00).

2. The initial, nonrefundable fee for a medical marijuana commercial grower license shall be calculated based upon the total amount of square feet of canopy or acres the grower estimates will

be harvested, transferred, or sold for the year. The annual, nonrefundable license fee shall be based upon the total amount of square feet of canopy or acres harvested, transferred, or sold by the grower during the previous twelve (12) months. The amount of the fees shall be determined as follows:

a. For an indoor, greenhouse, or light deprivation medical marijuana grow facility:

- (1) Tier 1: Up to ten thousand (10,000) square feet of canopy, the fee shall be Two Thousand Five Hundred Dollars (\$2,500.00),
- (2) Tier 2: Ten thousand one (10,001) square feet of canopy to twenty thousand (20,000) square feet of canopy, the fee shall be Five Thousand Dollars (\$5,000.00),
- (3) Tier 3: Twenty thousand one (20,001) square feet of canopy to forty thousand (40,000) square feet of canopy, the fee shall be Ten Thousand Dollars (\$10,000.00),
- (4) Tier 4: Forty thousand one (40,001) square feet of canopy to sixty thousand (60,000) square feet of canopy, the fee shall be Twenty Thousand Dollars (\$20,000.00),
- (5) Tier 5: Sixty thousand one (60,001) square feet of canopy to eighty thousand (80,000) square feet of canopy, the fee shall be Thirty Thousand Dollars (\$30,000.00),
- (6) Tier 6: Eighty thousand one (80,001) square feet of canopy to ninety-nine thousand nine hundred ninety-nine (99,999) square feet of canopy, the fee shall be Forty Thousand Dollars (\$40,000.00), and
- (7) Tier 7: One hundred thousand (100,000) square feet of canopy and beyond, the fee shall be Fifty Thousand Dollars (\$50,000.00), plus an additional

twenty-five cents (\$0.25) per square foot of canopy over one hundred thousand (100,000) square feet.

b. For an outdoor medical marijuana grow facility:

- (1) Tier 1: ~~Up to~~ Less than two and one-half (2 1/2) acres, the fee shall be Two Thousand Five Hundred Dollars (\$2,500.00),
- (2) Tier 2: ~~Two~~ More than two and one-half (2 1/2) acres up to five (5) acres, the fee shall be Five Thousand Dollars (\$5,000.00),
- (3) Tier 3: ~~Five~~ More than five (5) acres up to ten (10) acres, the fee shall be Ten Thousand Dollars (\$10,000.00),
- (4) Tier 4: ~~Ten~~ More than ten (10) acres up to twenty (20) acres, the fee shall be Twenty Thousand Dollars (\$20,000.00),
- (5) Tier 5: ~~Twenty~~ More than twenty (20) acres up to thirty (30) acres, the fee shall be Thirty Thousand Dollars (\$30,000.00),
- (6) Tier 6: ~~Thirty~~ More than thirty (30) acres up to forty (40) acres, the fee shall be Forty Thousand Dollars (\$40,000.00),
- (7) Tier 7: ~~Forty~~ More than forty (40) acres up to fifty (50) acres, the fee shall be Fifty Thousand Dollars (\$50,000.00), and
- (8) Tier 8: If the amount of acreage exceeds fifty (50) acres, the fee shall be Fifty Thousand Dollars (\$50,000.00) plus an additional Two Hundred Fifty Dollars (\$250.00) per acre.

c. For a medical marijuana commercial grower that has a combination of both indoor and outdoor growing facilities at one location, the medical marijuana

commercial grower shall be required to obtain a separate license from the Authority for each type of grow operation and shall be subject to the licensing fees provided for in subparagraphs a and b of this paragraph.

d. As used in this paragraph:

- (1) "canopy" means the total surface area within a cultivation area that is dedicated to the cultivation of flowering marijuana plants. The surface area of the plant canopy must be calculated in square feet and measured and must include all of the area within the boundaries where the cultivation of the flowering marijuana plants occurs. If the surface of the plant canopy consists of noncontiguous areas, each component area must be separated by identifiable boundaries. If a tiered or shelving system is used in the cultivation area, the surface area of each tier or shelf must be included in calculating the area of the plant canopy. Calculation of the area of the plant canopy may not include the areas within the cultivation area that are used to cultivate immature marijuana plants and seedlings, prior to flowering, and that are not used at any time to cultivate mature marijuana plants. If the flowering plants are vertically grown in cylinders, the square footage of the canopy shall be measured by the circumference of the cylinder multiplied by the total length of the cylinder,
- (2) "greenhouse" means a structure located outdoors that is completely covered by a material that allows a controlled level of light transmission, and
- (3) "light deprivation" means a structure that has concrete floors and the ability to manipulate natural light.

3. The initial, nonrefundable fee for a medical marijuana processor license shall be Two Thousand Five Hundred Dollars (\$2,500.00). The annual, nonrefundable license fee for a medical marijuana processor license shall be determined based on the previous twelve (12) months as follows:

- a. Tier 1: ~~Zero~~ The transfer or sale of zero (0) to ten thousand (10,000) pounds of biomass or ~~production or use~~ the production, transfer, or sale of up to one hundred (100) liters of cannabis concentrate, whichever is greater, the annual fee shall be Two Thousand Five Hundred Dollars (\$2,500.00),
- b. Tier 2: ~~Ten~~ The transfer or sale of ten thousand one (10,001) pounds to fifty thousand (50,000) pounds of biomass or ~~production or use from~~ the production, transfer, or sale of one hundred one (101) to three hundred fifty (350) liters of cannabis concentrate, whichever is greater, the annual fee shall be Five Thousand Dollars (\$5,000.00),
- c. Tier 3: ~~Fifty~~ The transfer or sale of fifty thousand one (50,001) pounds to one hundred fifty thousand (150,000) pounds of biomass or ~~production or use from~~ the production, transfer, or sale of three hundred fifty-one (351) to six hundred fifty (650) liters of cannabis concentrate, whichever is greater, the annual fee shall be Ten Thousand Dollars (\$10,000.00),
- d. Tier 4: ~~One~~ The transfer or sale of one hundred fifty thousand one (150,001) pounds to three hundred thousand (300,000) pounds of biomass or ~~production or use from~~ the production, transfer, or sale of six hundred fifty-one (651) to one thousand (1,000) liters of cannabis concentrate, whichever is greater, the annual fee shall be Fifteen Thousand Dollars (\$15,000.00), and
- e. Tier 5: ~~More~~ The transfer or sale of more than three hundred thousand one (300,001) pounds of biomass or ~~production or use~~ the production, transfer, or sale in excess of one thousand one (1,001) liters of cannabis

concentrate, the annual fee shall be Twenty Thousand Dollars (\$20,000.00).

For purposes of this paragraph only, if the cannabis concentrate is in nonliquid form, every one thousand (1,000) grams of concentrated marijuana shall be calculated as one (1) liter of cannabis concentrate.

4. The initial, nonrefundable fee for a medical marijuana dispensary license shall be Two Thousand Five Hundred Dollars (\$2,500.00). The annual, nonrefundable license fee for a medical marijuana dispensary license shall be calculated at ten percent (10%) of the sum of twelve (12) calendar months of the combined annual state sales tax and state excise tax of the dispensary during the previous twelve (12) months. The minimum fee shall be not less than Two Thousand Five Hundred Dollars (\$2,500.00) and the maximum fee shall not exceed Ten Thousand Dollars (\$10,000.00).

5. The annual, nonrefundable license fee for a medical marijuana testing laboratory shall be Twenty Thousand Dollars (\$20,000.00).

E. All applicants seeking licensure or licensure renewal as a medical marijuana business shall comply with the following general requirements:

1. All applications for licenses and registrations authorized pursuant to this section shall be made upon forms prescribed by the Authority;

2. Each application shall identify the city or county in which the applicant seeks to obtain licensure as a medical marijuana business;

3. Applicants shall submit a complete application to the Authority before the application may be accepted or considered;

4. All applications shall be complete and accurate in every detail;

5. All applications shall include all attachments or supplemental information required by the forms supplied by the Authority;

6. All applications for a transporter license, initial dispensary license, initial processor license, or laboratory license shall be accompanied by a full remittance for the whole amount of the ~~application fees.~~ Application license fee as set forth in subsection D of this section. All submissions of grower applications, renewal processor applications, and renewal dispensary applications shall be accompanied by a remittance of a fee of Two Thousand Five Hundred Dollars (\$2,500.00). The Authority shall invoice license applicants, if applicable, for any additional licensing fees owed pursuant to subsection D of this section prior to approval of a license application. License fees are nonrefundable;

7. All applicants shall be approved for licensing review that, at a minimum, ~~meets~~ meet the following criteria:

- a. twenty-five (25) years of age or older,
- b. if applying as an individual, proof that the applicant is an Oklahoma resident pursuant to paragraph 11 of this subsection,
- c. if applying as an entity, proof that seventy-five percent (75%) of all members, managers, executive officers, partners, board members or any other form of business ownership are Oklahoma residents pursuant to paragraph 11 of this subsection,
- d. if applying as an individual or entity, proof that the individual or entity is registered to conduct business in the State of Oklahoma this state,
- e. disclosure of all ownership interests pursuant to the Oklahoma Medical Marijuana and Patient Protection Act, and
- f. proof that the medical marijuana business, medical marijuana research facility, medical marijuana

education facility and medical marijuana waste disposal facility applicant or licensee has not been convicted of a nonviolent felony in the last two (2) years, or any other felony conviction within the last five (5) years, is not a current inmate in the custody of the Department of Corrections, or currently incarcerated in a jail or corrections facility.

Upon reasonable suspicion that a medical marijuana business licensee is illegally growing, processing, transferring, selling, disposing, or diverting marijuana, the Authority, the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, the Oklahoma State Bureau of Investigation, or the Attorney General may subpoena documents necessary to establish the personal identifying information of all owners and individuals with any ownership interest in the business;

8. There shall be no limit to the number of medical marijuana business licenses or categories that an individual or entity can apply for or receive, although each application and each category shall require a separate application and, application fee, or license fee. A commercial grower, processor and dispensary, or any combination thereof, are authorized to share the same address or physical location, subject to the restrictions set forth in the Oklahoma Medical Marijuana and Patient Protection Act;

9. All applicants for a medical marijuana business license, research facility license or education facility license authorized by the Oklahoma Medical Marijuana and Patient Protection Act, or for a renewal of such license, shall undergo a national fingerprint-based background check conducted by the Oklahoma State Bureau of Investigation (OSBI) within thirty (30) days prior to the application for the license, including:

- a. individual applicants applying on their own behalf,
- b. individuals applying on behalf of an entity,
- c. all principal officers of an entity, and
- d. all owners of an entity as defined by the Oklahoma Medical Marijuana and Patient Protection Act;

10. All applicable fees charged by the OSBI are the responsibility of the applicant and shall not be higher than fees charged to any other person or industry for such background checks;

11. In order to be considered an Oklahoma resident for purposes of a medical marijuana business application, all applicants shall provide proof of Oklahoma residency for at least two (2) years immediately preceding the date of application or five (5) years of continuous Oklahoma residency during the preceding twenty-five (25) years immediately preceding the date of application. Sufficient documentation of proof of residency shall include a combination of the following:

- a. an unexpired Oklahoma-issued driver license,
- b. an Oklahoma identification card,
- c. a utility bill preceding the date of application, excluding cellular telephone and Internet bills,
- d. a residential property deed to property in ~~the State of Oklahoma~~ this state, and
- e. a rental agreement preceding the date of application for residential property located in ~~the State of Oklahoma~~ this state.

Applicants that were issued a medical marijuana business license prior to August 30, 2019, are hereby exempt from the two-year or five-year Oklahoma residence requirement mentioned above;

12. All license applicants shall be required to submit a registration with the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control as provided in Sections 2-302 through 2-304 of this title;

13. All applicants shall establish their identity through submission of a color copy or digital image of one of the following unexpired documents:

- a. front of an Oklahoma driver license,

- b. front of an Oklahoma identification card,
- c. a United States passport or other photo identification issued by the United States government, or
- d. a tribal identification card approved for identification purposes by the ~~Oklahoma~~ Department of Public Safety; and

14. All applicants shall submit an applicant photograph.

F. The Authority shall review the medical marijuana business application; approve, reject, or deny the application; and ~~mail~~ send the approval, rejection, denial, or status-update letter to the applicant in the same method the application was submitted to the Authority within ninety (90) business days of receipt of the application.

G. 1. The Authority shall review the medical marijuana business applications ~~and~~, conduct all investigations, inspections, and interviews, and collect all license and application fees before approving the application.

2. Approved applicants shall be issued a medical marijuana business license for the specific category applied under, which shall act as proof of their approved status. Rejection and denial letters shall provide a reason for the rejection or denial. Applications may only be rejected or denied based on the applicant not meeting the standards set forth in the provisions of the Oklahoma Medical Marijuana and Patient Protection Act and Sections 420 through 426.1 of this title, improper completion of the application, unpaid license or application fees, or for a reason provided for in the Oklahoma Medical Marijuana and Patient Protection Act and Sections 420 through 426.1 of this title. If an application is rejected for failure to provide required information, the applicant shall have thirty (30) days to submit the required information for reconsideration. ~~No additional application fee shall be charged for such reconsideration.~~ Unless the Authority determines otherwise, an application that has been resubmitted but is still incomplete or contains errors that are not clerical or typographical in nature shall be denied.

3. Status-update letters shall provide a reason for delay in either approval, rejection or denial should a situation arise in which an application was submitted properly but a delay in processing the application occurred.

4. Approval, rejection, denial or status-update letters shall be sent to the applicant in the same method the application was submitted to the Authority.

H. A license for a medical marijuana business, medical marijuana research facility, medical marijuana education facility or medical marijuana waste disposal facility shall not be issued to or held by:

1. A person until all required fees have been paid;

2. A person who has been convicted of a nonviolent felony within two (2) years of the date of application, or within five (5) years for any other felony;

3. A corporation, if the criminal history of any of its officers, directors or stockholders indicates that the officer, director or stockholder has been convicted of a nonviolent felony within two (2) years of the date of application, or within five (5) years for any other felony;

4. A person under twenty-five (25) years of age;

5. A person licensed pursuant to this section who, during a period of licensure, or who, at the time of application, has failed to:

a. file taxes, interest or penalties due related to a medical marijuana business, or

b. pay taxes, interest or penalties due related to a medical marijuana business;

6. A sheriff, deputy sheriff, police officer or prosecuting officer, or an officer or employee of the Authority or municipality;

7. A person whose authority to be a caregiver, as defined in Section 427.2 of this title, has been revoked by the Authority; or

8. A person who was involved in the management or operations of any medical marijuana business, medical marijuana research facility, medical marijuana education facility or medical marijuana waste disposal facility that, after the initiation of a disciplinary action, has had a medical marijuana license revoked, not renewed, or surrendered during the five (5) years preceding submission of the application and for the following violations:

- a. unlawful sales or purchases,
- b. any fraudulent acts, falsification of records or misrepresentation to the Authority, medical marijuana patient licensees, caregiver licensees or medical marijuana business licensees,
- c. any grossly inaccurate or fraudulent reporting,
- d. threatening or harming any medical marijuana patient, caregiver, medical practitioner or employee of the Authority,
- e. knowingly or intentionally refusing to permit the Authority access to premises or records,
- f. using a prohibited, hazardous substance for processing in a residential area,
- g. criminal acts relating to the operation of a medical marijuana business, or
- h. any violations that endanger public health and safety or product safety.

I. In investigating the qualifications of an applicant or a licensee, the Authority and municipalities may have access to criminal history record information furnished by a criminal justice agency subject to any restrictions imposed by such an agency.

J. The failure of an applicant or licensee to provide the requested information by the Authority deadline may be grounds for denial of the application.

K. All applicants and licensees shall submit information to the Authority in a full, faithful, truthful and fair manner. The Authority may recommend denial of an application where the applicant or licensee made misstatements, omissions, misrepresentations or untruths in the application or in connection with the background investigation of the applicant. This type of conduct may be grounds for administrative action against the applicant or licensee. Typos and scrivener errors shall not be grounds for denial.

L. A licensed medical marijuana business premises shall be subject to and responsible for compliance with applicable provisions consistent with the zoning where such business is located as described in the most recent versions of the Oklahoma Uniform Building Code, the International Building Code and the International Fire Code, unless granted an exemption by a municipality or appropriate code enforcement entity.

M. All medical marijuana business, medical marijuana research facility, medical marijuana education facility and medical marijuana waste disposal facility licensees shall pay the relevant licensure fees prior to receiving licensure to operate.

N. A medical marijuana business, medical marijuana research facility, medical marijuana education facility or medical marijuana waste disposal facility that attempts to renew its license after the expiration date of the license shall pay a late renewal fee in an amount to be determined by the Authority to reinstate the license. Late renewal fees are nonrefundable. A license that has been expired for more than ninety (90) days shall not be renewed.

O. No medical marijuana business, medical marijuana research facility, medical marijuana education facility or medical marijuana waste disposal facility shall possess, sell or transfer medical marijuana or medical marijuana products without a valid, unexpired license issued by the Authority.

P. No more than one medical marijuana commercial grower license shall be issued for any one property.

Q. The Executive Director of the Authority may promulgate rules to implement the provisions of this section including, but not limited to, required application materials to be submitted by the applicant and utilized by the Authority to determine medical marijuana business licensing fees pursuant to this section.

SECTION 8. AMENDATORY 63 O.S. 2021, Section 427.16, as last amended by Section 7 of Enrolled House Bill No. 2095 of the 1st Session of the 59th Oklahoma Legislature (63 O.S. Supp. 2022, Section 427.16), is amended to read as follows:

Section 427.16. A. There is hereby created a medical marijuana transporter license as a category of the medical marijuana business license.

B. Pursuant to Section 424 of this title, the Oklahoma Medical Marijuana Authority shall issue a medical marijuana transporter license to licensed medical marijuana commercial growers, processors and dispensaries upon issuance of such licenses and upon each renewal. Medical marijuana transporter licenses shall also be issued to licensed medical marijuana research facilities, medical marijuana education facilities and medical marijuana testing laboratories upon issuance of such licenses and upon each renewal.

C. A medical marijuana transporter license may also be issued to qualifying applicants who are registered with the Secretary of State and otherwise meet the requirements for a medical marijuana business license set forth in the Oklahoma Medical Marijuana and Patient Protection Act and the requirements set forth in this section to provide logistics, distribution and storage of medical marijuana, medical marijuana concentrate and medical marijuana products.

D. A medical marijuana transporter license shall be valid for one (1) year and shall not be transferred with a change of ownership. A licensed medical marijuana transporter shall be responsible for all medical marijuana, medical marijuana concentrate and medical marijuana products once the transporter takes control of the product.

E. A transporter license shall be required for any person or entity to transport or transfer medical marijuana, medical marijuana concentrate or medical marijuana products from a licensed medical marijuana business to another medical marijuana business, or from a medical marijuana business to a medical marijuana research facility or medical marijuana education facility.

F. A medical marijuana transporter licensee may contract with multiple licensed medical marijuana businesses.

G. A medical marijuana transporter may maintain a licensed premises to temporarily store medical marijuana, medical marijuana concentrate and medical marijuana products and to use as a centralized distribution point. A medical marijuana transporter may store and distribute medical marijuana, medical marijuana concentrate and medical marijuana products from the licensed premises. The licensed premises shall meet all security requirements applicable to a medical marijuana business.

H. A medical marijuana transporter licensee shall use the seed-to-sale tracking system developed pursuant to the Oklahoma Medical Marijuana and Patient Protection Act to create shipping manifests documenting the transport of medical marijuana, medical marijuana concentrate and medical marijuana products throughout the state.

I. A licensed medical marijuana transporter may maintain and operate one or more warehouses in the state to handle medical marijuana, medical marijuana concentrate and medical marijuana products. Each location shall be registered and inspected by the Authority prior to its use.

J. With the exception of a lawful transfer between medical marijuana businesses who are licensed to operate at the same physical address, all medical marijuana, medical marijuana concentrate and medical marijuana products shall be transported:

1. In vehicles equipped with Global Positioning System (GPS) trackers;

2. In a locked container and clearly labeled "Medical Marijuana or Derivative"; and

3. In a secured area of the vehicle that is not accessible by the driver during transit.

K. A transporter agent may possess marijuana at any location while the transporter agent is transferring marijuana to or from a licensed medical marijuana business, licensed medical marijuana research facility or licensed medical marijuana education facility. The Authority shall administer the provisions of this section and the Authority, the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, the Oklahoma State Bureau of Investigation, and the Attorney General shall have the authority to enforce the provisions of this section concerning transportation.

L. The Authority shall issue a transporter agent license to individual agents, employees, officers or owners of a transporter license in order for the individual to qualify to transport medical marijuana, medical marijuana concentrate or medical marijuana products.

M. The annual fee for a transporter agent license shall be Twenty-five Dollars (\$25.00) and shall be paid by the transporter license holder or the individual applicant. Transporter agent license reprints shall be Twenty Dollars (\$20.00).

N. The Authority shall issue each transporter agent a registry identification card within thirty (30) days of receipt of:

1. The name, address and date of birth of the person;
2. Proof of current state residency;
3. Proof of identity as required for a medical marijuana business license;
4. Possession of a valid state-issued driver license;
5. Verification of employment with a licensed transporter;
6. The application and affiliated fee; and

7. A copy of the criminal background check conducted by the Oklahoma State Bureau of Investigation, paid for by the applicant.

O. If the transporter agent application is denied, the Authority shall notify the transporter in writing of the reason for denying the registry identification card.

P. A registry identification card for a transporter shall expire one (1) year after the date of issuance or upon notification from the holder of the transporter license that the transporter agent ceases to work as a transporter.

Q. The Authority may revoke the registry identification card of a transporter agent who knowingly violates any provision of this section, and the transporter is subject to any other penalties established by law for the violation.

R. The Authority may revoke or suspend the transporter license of a transporter that the Authority determines knowingly aided or facilitated a violation of any provision of this section, and the license holder is subject to any other penalties established in law for the violation.

S. Vehicles used in the transport of medical marijuana or medical marijuana product shall be:

1. Insured at or above the legal requirements in this state;
2. Capable of securing medical marijuana during transport; and
3. In possession of a shipping container as defined in Section 427.2 of this title capable of securing all transported products.

T. Prior to the transport of any medical marijuana, medical marijuana concentrate or medical marijuana products, an inventory manifest shall be prepared at the origination point of the medical marijuana. The inventory manifest shall include the following information:

1. For the origination point of the medical marijuana:
 - a. the licensee number for the commercial grower, processor or dispensary,

- b. address of origination of transport, and
- c. name and contact information for the originating licensee;

2. For the end recipient license holder of the medical marijuana:

- a. the license number for the dispensary, commercial grower, processor, research facility or education facility destination,
- b. address of the destination, and
- c. name and contact information for the destination licensee;

3. Quantities by weight or unit of each type of medical marijuana product contained in transport;

4. The date of the transport and the approximate time of departure;

5. The arrival date and estimated time of arrival;

6. Printed names and signatures of the personnel accompanying the transport; and

7. Notation of the transporting licensee.

U. 1. A separate inventory manifest shall be prepared for each licensee receiving the medical marijuana.

2. The transporter agent shall provide the other medical marijuana business with a copy of the inventory manifest at the time the product changes hands and after the other licensee prints his or her name and signs the inventory manifest.

3. A receiving licensee shall refuse to accept any medical marijuana, medical marijuana concentrate or medical marijuana products that are not accompanied by an inventory manifest.

4. Originating and receiving licensees shall maintain copies of inventory manifests and logs of quantities of medical marijuana received for seven (7) years from date of receipt.

SECTION 9. AMENDATORY 63 O.S. 2021, Section 427.17, as last amended by Section 8 of Enrolled House Bill No. 2095 of the 1st Session of the 59th Oklahoma Legislature (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, the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, the Oklahoma State Bureau of Investigation, and the Attorney General are hereby enabled to monitor, inspect and audit a licensed testing laboratory under the Oklahoma Medical Marijuana and Patient Protection Act.

B. ~~1.~~ The Authority is hereby authorized to operate a quality assurance laboratory or 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. ~~The laboratory~~ If the Authority contracts with ~~for compliance testing~~ a private laboratory to implement the requirements of this section:

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

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

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

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

D. A person who is a direct 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 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 on medical marijuana and medical marijuana products for medical marijuana businesses, medical marijuana research facilities, medical marijuana education facilities, and testing on marijuana and marijuana products grown or produced by a patient or caregiver on behalf of a patient, upon verification of registration. A medical marijuana testing laboratory may also conduct research related to the development and improvement of its testing practices and procedures. No state-approved medical marijuana testing facility shall operate unless a medical laboratory director is on site during operational hours.

H. Laboratory applicants and licensees 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. A medical marijuana testing laboratory may accept samples of medical marijuana, medical marijuana concentrate or medical marijuana product from a medical marijuana business, medical marijuana research facility or medical marijuana education facility for testing purposes only, which purposes may include the provision of testing services for samples submitted by a medical marijuana business for product development. The Authority 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 or quality assurance laboratory upon demand.

J. 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 the Oklahoma Medical Marijuana and Patient Protection 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. 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. 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 the Oklahoma Medical Marijuana and Patient Protection Act and the rules adopted pursuant thereto, between the originating medical marijuana business requesting testing services and the destination laboratory performing testing services.

M. 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. A medical marijuana testing laboratory shall not test samples for any medical marijuana business in which an owner, employee or agent of the medical marijuana testing laboratory has any form of ownership or financial interest in the medical marijuana business.

N. The Authority, pursuant to rules promulgated by the Executive Director of the Authority, 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 harvest and production 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 proficiency testing program approved by the Executive Director 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 immediate recall of medical marijuana or medical marijuana products that test above allowable thresholds or are otherwise determined to be unsafe;

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

16. 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

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

O. A medical marijuana testing laboratory shall promptly provide the Authority or designee of the Authority 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 Authority or designee of the Authority to laboratory premises and to any material or information requested by the Authority to determine compliance with the requirements of this section.

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

Q. 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 Executive Director:

1. Microbials;
2. Mycotoxins;
3. Residual solvents;
4. Pesticides;
5. Tetrahydrocannabinol (THC) and other cannabinoid potency;
6. Terpenoid type and concentration; and
7. Heavy metals.

R. A licensed medical marijuana testing laboratory shall test each individual harvest batch. A grower shall separate each harvest ~~lot~~ of usable marijuana into harvest batches containing no more than fifteen (15) pounds, with the exception of any plant material to be sold to a licensed processor for the purposes of turning the plant material into concentrate which may be separated into harvest batches of no more than fifty (50) pounds. A processor shall separate each medical marijuana production lot into production batches containing no more than four (4) liters of concentrate or nine (9) pounds for nonliquid products, and for final products, the Oklahoma Medical Marijuana Authority shall be authorized to promulgate rules on final products as necessary. Provided, however, the Authority shall not require testing of final products less often than every one thousand (1,000) grams of THC. As used in this subsection, "final products" shall include, but not be limited to, cookies, brownies, candies, gummies, beverages and chocolates.

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

U. Medical marijuana testing laboratories shall obtain accreditation by an accrediting body approved by the Executive Director or the Authority's quality assurance laboratory within one (1) year of the date the initial license is issued. Renewal of any medical marijuana testing laboratory license shall be contingent upon accreditation in accordance with this subsection. All medical marijuana testing laboratories shall obtain accreditation prior to applying for and receiving a medical marijuana testing laboratory license.

V. Unless authorized by the provisions of this section, 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 laboratory and passed all contaminant tests required by the Oklahoma Medical Marijuana and Patient Protection Act and applicable laws, rules and regulations. A licensed commercial grower may transfer medical marijuana that has failed testing to a licensed processor only for the purposes of decontamination or remediation and only in accordance with the provisions of the Oklahoma Medical Marijuana and Patient Protection Act and the rules and regulations promulgated by the Executive Director. Remediated and decontaminated medical marijuana may be returned only to the originating licensed commercial grower.

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

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 427.17a of Title 63, unless there is created a duplication in numbering, reads as follows:

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

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

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

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

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

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

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

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

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

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

3. Collect samples from harvest batches that failed testing.

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

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

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

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

SECTION 11. AMENDATORY Section 1, Chapter 352, O.S.L. 2022 (63 O.S. Supp. 2022, Section 427.25), is amended to read as follows:

Section 427.25. A. The Oklahoma Medical Marijuana Authority shall implement rules to employ secret shoppers. Secret shoppers shall purchase medical marijuana or marijuana products from licensed medical marijuana dispensaries utilizing cash from the petty cash fund authorized in Section 5 of this act.

B. ~~For each purchase, the~~ The secret shopper shall ~~buy~~ be authorized to:

1. Purchase an amount of medical marijuana or marijuana products sufficient for ~~five~~ two complete compliance tests; or

2. Attempt to purchase medical marijuana or marijuana products in order to prove compliance with the Oklahoma Medical Marijuana and Patient Protection Act or any rule determined by the Authority.

~~Four samples~~ C. Samples collected pursuant to paragraph 1 of subsection B of this section shall be tested by licensed medical marijuana testing laboratories, one of which shall be the laboratory of origin, if applicable, and one of which may be the Authority's quality assurance laboratory. One sample shall be kept in reserve by the Authority in the event of a discrepancy between the testing laboratories, which may require retesting of the medical marijuana or marijuana products. When making purchases from a licensed medical marijuana dispensary, the secret shopper shall ask for the certificate of analysis for each product purchased.

~~C.~~ D. The secret shopper shall deliver the medical marijuana or marijuana products to a quality assurance laboratory, which may be the Authority's quality assurance laboratory, for homogenization. Once the samples have been homogenized, the samples shall be delivered to ~~four randomly selected~~ two licensed medical marijuana testing laboratories, one of which may be the Authority's quality assurance laboratory, for compliance testing which shall include the testing for pesticides, heavy metals, microbials, residual solvents for extracted products, and potency. One sample shall be kept by the Authority in reserve. If the medical marijuana or marijuana products were previously tested with available results from a licensed medical marijuana testing laboratory, that testing laboratory shall be one of the ~~four~~ licensed medical marijuana testing laboratories chosen by the Authority. For the avoidance of doubt, neither the licensed medical marijuana dispensary nor the licensed medical marijuana testing laboratory shall be told that the business entity is selling medical marijuana or marijuana products to a secret shopper or testing samples submitted by a secret shopper employed by the Authority and posing as a licensed medical marijuana patient.

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

~~E.~~ F. 1. When the licensed medical marijuana testing laboratories unanimously confirm test results with safety failures for contaminants, the Authority shall recall the medical marijuana or marijuana product within seven (7) days of obtaining the test results. The name of the licensed medical marijuana dispensary and any other relevant product information shall be made public via a press release issued by the Authority. If there is greater than one ~~but less than four~~ contaminant fails among the licensed medical marijuana testing laboratories, the Authority shall work with a quality assurance laboratory to verify the results of the licensed medical marijuana testing laboratories and take appropriate action.

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

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

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

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

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

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

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

~~G.~~ H. Any secret shopper performing any provision of this section shall not be required to fulfill licensing requirements of Section 420 of this title for a patient license and shall be able to enter a dispensary with appropriate authorization as determined by the Authority.

I. The Authority shall implement rules necessary to enforce the provisions of this ~~act~~ section.

SECTION 12. This act shall become effective June 1, 2023.

SECTION 13. It being immediately necessary for the preservation of the public peace, health or safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the Senate the 25th day of May, 2023.

Presiding Officer of the Senate

Passed the House of Representatives the 26th day of May, 2023.

Presiding Officer of the House
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____

Approved by the Governor of the State of Oklahoma this _____

day of _____, 20_____, at _____ o'clock _____ M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____