

1                   **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2                                   STATE OF OKLAHOMA

3                                   1st Session of the 59th Legislature (2023)

4 COMMITTEE SUBSTITUTE  
5 FOR ENGROSSED  
6 SENATE BILL NO. 813

By: Garvin of the Senate

and

Marti of the House

7  
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10                                   COMMITTEE SUBSTITUTE

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

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:

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

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

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

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

1 marijuana business, or is an individual financially  
2 interested in any licensee or medical marijuana  
3 business located within this state-; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18 9. Standards of performance;

19 10. The employment of laboratory personnel;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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; or

12           3. Collect samples from harvest batches that failed testing.

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

19           E. The quality assurance laboratory shall comply with the  
20 provisions of the Oklahoma Medical Marijuana and Patient Protection  
21 Act when transporting samples of medical marijuana, medical  
22 marijuana concentrate, and medical marijuana product for testing  
23 between the originating medical marijuana business, the quality  
24 assurance laboratory, and other licensed medical marijuana testing

1 laboratories pursuant to this section. Nothing in this section  
2 shall require the quality assurance laboratory to apply for and  
3 receive a license.

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

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

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

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14 COMMITTEE REPORT BY: COMMITTEE ON ALCOHOL, TOBACCO AND CONTROLLED  
15 SUBSTANCES, dated 04/13/2023 - DO PASS, As Amended.

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