

1 STATE OF OKLAHOMA

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

3 HOUSE BILL 1552

By: Moore

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5
6 AS INTRODUCED

7 An Act relating to medical marijuana; amending 63
8 O.S. 2021, Section 427.17, as last amended by Section
9 1, Chapter 353, O.S.L. 2022 (63 O.S. Supp. 2022,
10 Section 427.17), which relates to the Oklahoma
11 Medical Marijuana and Patient Protection Act;
12 directing employees of the Oklahoma Medical Marijuana
13 Authority to collect and submit samples; and
14 providing an effective date.

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

16 SECTION 1. AMENDATORY 63 O.S. 2021, Section 427.17, as
17 last amended by Section 1, Chapter 353, O.S.L. 2022 (63 O.S. Supp.
18 2022, Section 427.17), is amended to read as follows:

19 Section 427.17 A. There is hereby created a medical marijuana
20 testing laboratory license as a category of the medical marijuana
21 business license. The Oklahoma Medical Marijuana Authority is
22 hereby enabled to monitor, inspect and audit a licensed testing
23 laboratory under the Oklahoma Medical Marijuana and Patient
24 Protection Act.

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

- 9 a. any individual that has a direct or indirect interest
10 in a licensed medical marijuana business, or
- 11 b. any individual or his or her spouse, parent, child,
12 spouse of a child, sibling or spouse of a sibling that
13 has an application for a medical marijuana business
14 license pending before the Authority or is a member of
15 the board of directors of a medical marijuana
16 business, or is an individual financially interested
17 in any licensee or medical marijuana business located
18 within this state.

19 2. The private laboratory under contract with the Authority for
20 compliance testing and a board or committee comprised of licensed
21 Oklahoma medical marijuana laboratories currently accredited by the
22 International Organization for Standardization (ISO) shall provide
23 to the Authority its recommendations for all equipment and standards
24 to be utilized by licensed medical marijuana testing laboratories

1 when testing samples of medical marijuana, medical marijuana
2 concentrate, and medical marijuana products as well as standard
3 operating procedures when extracting and testing medical marijuana,
4 medical marijuana concentrate, and medical marijuana products. The
5 recommendations shall be submitted to the Authority no later than
6 June 1, 2023. The Authority shall have ninety (90) days from the
7 date it receives the recommendations to promulgate new rules or
8 modify its current rules for laboratory standards and testing.
9 Beginning June 1, 2024, medical marijuana testing laboratories
10 renewing their medical marijuana business license shall be subject
11 to and comply with any new or modified rules relating to the testing
12 of medical marijuana, medical marijuana concentrate, and medical
13 marijuana products. The refusal or failure of a medical marijuana
14 testing laboratory licensee to comply with new or modified rules
15 relating to laboratory standards and testing procedures promulgated
16 under the provisions of this paragraph shall result in the permanent
17 revocation of the medical marijuana testing laboratory license.

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

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

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

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

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

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

22 I. A 1. Except as provided in paragraph 2 of this subsection,
23 a medical marijuana testing laboratory may accept samples of medical
24 marijuana, medical marijuana concentrate or medical marijuana

1 product from a medical marijuana business, medical marijuana
2 research facility or medical marijuana education facility for
3 testing purposes only, which purposes may include the provision of
4 testing services for samples submitted by a medical marijuana
5 business for product development. The Authority may require a
6 medical marijuana business to submit a sample of medical marijuana,
7 medical marijuana concentrate or medical marijuana product to a
8 medical marijuana testing or quality assurance laboratory upon
9 demand.

10 2. A medical marijuana testing laboratory shall be prohibited
11 from accepting test samples of medical marijuana directly from a
12 medical marijuana commercial grower. A compliance officer of the
13 Authority shall be authorized to collect samples from the harvest
14 batch of the medical marijuana commercial grower and shall submit
15 such samples for testing to the medical marijuana testing laboratory
16 on behalf of the medical marijuana commercial grower and in
17 accordance with the provisions of this section.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18 9. Standards of performance;

19 10. The employment of laboratory personnel;

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

22 12. The successful participation in a proficiency testing
23 program approved by the Executive Director for each testing category
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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 the
15 applicable requirements in this section.

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

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

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

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

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

3 SECTION 2. This act shall become effective November 1, 2023.
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