

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 57th Legislature (2019)

4 ENGROSSED SENATE
5 BILL NO. 162

By: Standridge and Boggs of the
Senate

6 and

7 Marti of the House

8
9
10 An Act relating to medical marijuana; amending
11 Provision No. 1, State Question No. 788, Initiative
12 Petition No. 412 (63 O.S. Supp. 2018, Section 420),
which relates to medical marijuana license;
13 broadening physicians who may sign application;
14 amending Sections 2 and 17 of Enrolled House Bill No.
2612 of the 1st Session of the 57th Oklahoma
15 Legislature, which relate to medical marijuana;
16 setting certain limit on test batch quantity; and
17 providing an effective date.

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

19 SECTION 1. AMENDATORY Section 1, State Question No. 788,
Initiative Petition No. 412 (63 O.S. Supp. 2018, Section 420), is
20 amended to read as follows:

21 Section 420. A. A person in possession of a state issued
22 medical marijuana license shall be able to:

- 23 1. Consume marijuana legally;

- 1 2. Legally possess up to three (3) ounces of marijuana on their
- 2 person;
- 3 3. Legally possess six (6) mature marijuana plants;
- 4 4. Legally possess six (6) seedling plants;
- 5 5. Legally possess one (1) ounce of concentrated marijuana;
- 6 6. Legally possess seventy-two (72) ounces of edible marijuana;
- 7 and
- 8 7. Legally possess up to eight (8) ounces of marijuana in their
- 9 residence.

10 B. Possession of up to one and one-half (1.5) ounces of
11 marijuana by persons who can state a medical condition, but are not
12 in possession of a state issued medical marijuana license, shall
13 constitute a misdemeanor offense with a fine not to exceed Four
14 Hundred Dollars (\$400.00).

15 C. A regulatory office shall be established under the ~~Oklahoma~~
16 State Department of Health which ~~will~~ shall receive applications for
17 medical license recipients, dispensaries, growers, and packagers
18 within sixty (60) days of the passage of this initiative.

19 D. The ~~Oklahoma~~ State Department of Health shall, within thirty
20 (30) days of passage of this initiative, make available, on ~~their~~
21 the Department's website, in an easy to find location, an
22 application for a medical marijuana license. The license ~~will be~~
23 good shall be valid for two (2) years, and the application fee ~~will~~
24 shall be One Hundred Dollars (\$100.00), or Twenty Dollars (\$20.00)

1 for individuals on Medicaid, Medicare, or SoonerCare. The methods
2 of payment ~~will~~ shall be provided on the Department's website.

3 E. A temporary license application ~~will~~ shall also be made
4 available on the ~~Oklahoma~~ State Department of Health website. A
5 temporary medical marijuana license ~~will~~ shall be granted to any
6 medical marijuana license holder from other states, provided that
7 the state has a state regulated medical marijuana program, and the
8 applicant can prove they are a member of such program. Temporary
9 licenses ~~will~~ shall be issued for thirty (30) days. The cost for a
10 temporary license shall be One Hundred Dollars (\$100.00). Renewal
11 ~~will~~ shall be granted with resubmission of a new application. No
12 additional criteria ~~will~~ shall be required.

13 F. Medical marijuana license applicants ~~will~~ shall submit their
14 application to the ~~Oklahoma~~ State Department of Health for approval
15 ~~and that the applicant must.~~ The applicant shall be an Oklahoma
16 state resident and shall prove residency by a valid ~~driver's~~ driver
17 license, utility bills, or other accepted methods.

18 G. The ~~Oklahoma~~ State Department of Health shall review the
19 medical marijuana application, ~~approve/reject~~ approve or reject the
20 application, and mail the applicant's approval or rejection letter
21 ~~(stating reasons for rejection),~~ stating any reasons for rejection,
22 to the applicant within fourteen (14) calendar days of receipt of
23 the application. Approved applicants ~~will~~ shall be issued a medical
24 marijuana license which ~~will~~ shall act as proof of their approved

1 status. Applications may only be rejected based on the applicant
2 not meeting stated criteria or improper completion of the
3 application.

4 H. The ~~Oklahoma~~ State Department of Health ~~will~~ shall only keep
5 the following records for each approved medical license:

- 6 1. A digital photograph of the license holder;
- 7 2. The expiration date of the license;
- 8 3. The county where the card was issued; and
- 9 4. A unique ~~24-character~~ twenty-four-character identification
10 number assigned to the license.

11 I. The State Department of Health ~~will~~ shall make available,
12 both on ~~its~~ the Department's website, and through a telephone
13 verification system, an easy method to validate a medical marijuana
14 license ~~holders~~ holder's authenticity by the unique ~~24-character~~
15 twenty-four-character identifier.

16 J. The State Department of Health ~~will~~ shall ensure that all
17 application records and information are sealed to protect the
18 privacy of medical marijuana license applicants.

19 K. A caregiver license ~~will~~ shall be made available for
20 qualified caregivers of a medical marijuana license holder who is
21 homebound. The caregiver license ~~will~~ shall give the caregiver the
22 same rights as the medical marijuana license holder. Applicants for
23 a caregiver license ~~will~~ shall submit proof of the medical marijuana
24 license holder's license status and homebound status, proof that

1 they are the designee of the medical marijuana license holder, ~~must~~
2 ~~submit~~ proof that the caregiver is age eighteen (18) or older, and
3 ~~must submit~~ proof the caregiver is an Oklahoma resident. This ~~will~~
4 shall be the only criteria for a caregiver license.

5 L. All applicants ~~must~~ shall be eighteen (18) years or older.
6 A special exception ~~will~~ shall be granted to an applicant under the
7 age of eighteen (18), however these applications ~~must~~ shall be
8 signed by two (2) physicians and the applicant's parent or legal
9 guardian.

10 M. All applications for a medical marijuana license ~~must~~ shall
11 be signed by an Oklahoma ~~Board certified~~ physician licensed by and
12 in good standing with the State Board of Medical Licensure and
13 Supervision or the State Board of Osteopathic Examiners. There are
14 no qualifying conditions. A medical marijuana license ~~must~~ shall be
15 recommended according to the accepted standards a reasonable and
16 prudent physician would follow when recommending or approving any
17 medication. No physician may be unduly stigmatized or harassed for
18 signing a medical marijuana license application.

19 N. Counties and cities may enact medical marijuana guidelines
20 allowing medical marijuana license holders or caregivers to exceed
21 the state limits set forth in subsection A of this section.

22 SECTION 2. AMENDATORY Section 2 of Enrolled House Bill
23 No. 2612 of the 1st Session of the 57th Oklahoma Legislature, is
24 amended to read as follows:

1 Section 2. As used in this act:

2 1. "Advertising" means the act of providing consideration for
3 the publication, dissemination, solicitation, or circulation, of
4 visual, oral, or written communication, to induce directly or
5 indirectly any person to patronize a particular medical marijuana
6 business, or to purchase particular medical marijuana or a medical
7 marijuana product. Advertising includes marketing, but does not
8 include packaging and labeling;

9 2. "Authority" means the Oklahoma Medical Marijuana Authority;

10 3. "Batch number" means a unique numeric or alphanumeric
11 identifier assigned prior to testing to allow for inventory tracking
12 and traceability;

13 4. "Cannabinoid" means any of the chemical compounds that are
14 active principles of marijuana;

15 5. "Caregiver" means a family member or assistant who regularly
16 looks after a medical marijuana license holder whom a physician
17 attests needs assistance;

18 6. "Child-resistant" means special packaging that is:

- 19 a. designed or constructed to be significantly difficult
20 for children under five (5) years of age to open and
21 not difficult for normal adults to use properly as
22 defined by 16 C.F.R. 1700.15 (1995) and 16 C.F.R.
23 1700.20 (1995),

1 b. opaque so that the outermost packaging does not allow
2 the product to be seen without opening the packaging
3 material, and

4 c. resealable to maintain its child-resistant
5 effectiveness for multiple openings for any product
6 intended for more than a single use or containing
7 multiple servings;

8 7. "Clone" means a nonflowering plant cut from a mother plant
9 that is capable of developing into a new plant and has shown no
10 signs of flowering;

11 8. "Commissioner" means the State Commissioner of Health;

12 9. "Complete application" means a document prepared in
13 accordance with the provisions set forth in this act, rules
14 promulgated pursuant thereto, and the forms and instructions
15 provided by the Department, including any supporting documentation
16 required and the applicable license application fee;

17 10. "Department" means the State Department of Health;

18 11. "Director" means the Executive Director of the Oklahoma
19 Medical Marijuana Authority;

20 12. "Dispense" means the selling of medical marijuana or a
21 medical marijuana product to a qualified patient or the designated
22 caregiver of the patient that is packaged in a suitable container
23 appropriately labeled for subsequent administration to or use by a
24 qualifying patient;

1 13. "Dispensary" means a medical marijuana dispensary, an
2 entity that has been licensed by the Department pursuant to this act
3 to purchase medical marijuana or medical marijuana products from a
4 licensed medical marijuana commercial grower or medical marijuana
5 processor, sell medical marijuana or medical marijuana products to
6 patients and caregivers as defined under this act, or sell or
7 transfer products to another dispensary;

8 14. "Edible medical marijuana product" means any medical-
9 marijuana-infused product for which the intended use is oral
10 consumption including, but not limited to, any type of food, drink
11 or pill;

12 15. "Entity" means an individual, general partnership, limited
13 partnership, limited liability company, trust, estate, association,
14 corporation, cooperative, or any other legal or commercial entity;

15 16. "Flower" means the reproductive organs of the marijuana or
16 cannabis plant referred to as the bud or parts of the plant that are
17 harvested and used to consume in a variety of medical marijuana
18 products;

19 17. "Flowering" means the reproductive state of the marijuana
20 or cannabis plant in which there are physical signs of flower or
21 budding out of the nodes of the stem;

22 18. "Food-based medical marijuana concentrate" means a medical
23 marijuana concentrate that was produced by extracting cannabinoids
24 from medical marijuana through the use of propylene glycol,

1 glycerin, butter, olive oil, coconut oil or other typical food-safe
2 cooking fats;

3 19. "Good cause" for purposes of an initial, renewal or
4 reinstatement license application, or for purposes of discipline of
5 a licensee, means:

6 a. the licensee or applicant has violated, does not meet,
7 or has failed to comply with any of the terms,
8 conditions or provisions of the act, any rules
9 promulgated pursuant thereto, or any supplemental
10 relevant state or local law, rule or regulation,

11 b. the licensee or applicant has failed to comply with
12 any special terms or conditions that were placed upon
13 the license pursuant to an order of the State
14 Department of Health, Oklahoma Medical Marijuana
15 Authority or the municipality, or

16 c. the licensed premises of a medical marijuana business
17 or applicant have been operated in a manner that
18 adversely affects the public health or welfare or the
19 safety of the immediate vicinity in which the
20 establishment is located;

21 20. "Harvest batch" means a specifically identified quantity of
22 medical marijuana that is uniform in strain, cultivated utilizing
23 the same cultivation practices, harvested at the same time from the
24 same location and cured under uniform conditions;

1 21. "Harvested marijuana" means post-flowering medical
2 marijuana not including trim, concentrate or waste;

3 22. "Heat- or pressure-based medical marijuana concentrate"
4 means a medical marijuana concentrate that was produced by
5 extracting cannabinoids from medical marijuana through the use of
6 heat or pressure;

7 23. "Immature plant" means a nonflowering marijuana plant that
8 has not demonstrated signs of flowering;

9 24. "Inventory tracking system" means the required tracking
10 system that accounts for medical marijuana from either the seed or
11 immature plant stage until the medical marijuana or medical
12 marijuana product is sold to a patient at a medical marijuana
13 dispensary, transferred to a medical marijuana research facility,
14 destroyed by a medical marijuana business or used in a research
15 project by a medical marijuana research facility;

16 25. "Licensed patient" or "patient" means a person who has been
17 issued a medical marijuana patient license by the State Department
18 of Health or Oklahoma Medical Marijuana Authority;

19 26. "Licensed premises" means the premises specified in an
20 application for a medical marijuana business license, medical
21 marijuana research facility license or medical marijuana education
22 facility license pursuant to this act that are owned or in
23 possession of the licensee and within which the licensee is
24 authorized to cultivate, manufacture, distribute, sell, store,

1 transport, test or research medical marijuana or medical marijuana
2 products in accordance with the provisions of this act and rules
3 promulgated pursuant thereto;

4 27. "Manufacture" means the production, propagation,
5 compounding or processing of a medical marijuana product, excluding
6 marijuana plants, either directly or indirectly by extraction from
7 substances of natural or synthetic origin, or independently by means
8 of chemical synthesis, or by a combination of extraction and
9 chemical synthesis;

10 28. "Marijuana" shall have the same meaning as such term is
11 defined in Section 2-101 of Title 63 of the Oklahoma Statutes;

12 29. "Material change" means any change that would require a
13 substantive revision to the standard operating procedures of a
14 licensee for the cultivation or production of medical marijuana,
15 medical marijuana concentrate or medical marijuana products;

16 30. "Mature plant" means a harvestable female marijuana plant
17 that is flowering;

18 31. "Medical marijuana business (MMB)" means a licensed medical
19 marijuana dispensary, medical marijuana processor, medical marijuana
20 commercial grower, medical marijuana laboratory, medical marijuana
21 business operator, or a medical marijuana transporter;

22 32. "Medical marijuana concentrate" or "concentrate" means a
23 specific subset of medical marijuana that was produced by extracting
24 cannabinoids from medical marijuana. Categories of medical

1 marijuana concentrate include water-based medical marijuana
2 concentrate, food-based medical marijuana concentrate, solvent-based
3 medical marijuana concentrate, and heat- or pressure-based medical
4 marijuana concentrate;

5 33. "Medical marijuana commercial grower" or "commercial
6 grower" means an entity licensed to cultivate, prepare and package
7 medical marijuana and transfer or contract for transfer medical
8 marijuana to a medical marijuana dispensary, medical marijuana
9 processor, any other medical marijuana commercial grower, medical
10 marijuana research facility, medical marijuana education facility
11 and pesticide manufacturers. A commercial grower may sell seeds,
12 flower or clones to commercial growers pursuant to this act;

13 34. "Medical marijuana education facility" or "education
14 facility" means a person or entity approved pursuant to this act to
15 operate a facility providing training and education to individuals
16 involving the cultivation, growing, harvesting, curing, preparing,
17 packaging or testing of medical marijuana, or the production,
18 manufacture, extraction, processing, packaging or creation of
19 medical-marijuana-infused products or medical marijuana products as
20 described in this act;

21 35. "Medical-marijuana-infused product" means a product infused
22 with medical marijuana including, but not limited to, edible
23 products, ointments and tinctures;

24

1 36. "Medical marijuana product" or "product" means a product
2 that contains cannabinoids that have been extracted from plant
3 material or the resin therefrom by physical or chemical means and is
4 intended for administration to a qualified patient including, but
5 not limited to, oils, tinctures, edibles, pills, topical forms,
6 gels, creams, vapors, patches, liquids, and forms administered by a
7 nebulizer, excluding live plant forms which are considered medical
8 marijuana;

9 37. "Medical marijuana processor" means a person or entity
10 licensed pursuant to this act to operate a business including the
11 production, manufacture, extraction, processing, packaging or
12 creation of concentrate, medical-marijuana-infused products or
13 medical marijuana products as described in this act;

14 38. "Medical marijuana research facility" or "research
15 facility" means a person or entity approved pursuant to this act to
16 conduct medical marijuana research. A medical marijuana research
17 facility is not a medical marijuana business;

18 39. "Medical marijuana testing laboratory" or "laboratory"
19 means a public or private laboratory licensed pursuant to this act,
20 to conduct testing and research on medical marijuana and medical
21 marijuana products;

22 40. "Medical marijuana transporter" or "transporter" means a
23 person or entity that is licensed pursuant to this act. A medical
24 marijuana transporter does not include a medical marijuana business

1 that transports its own medical marijuana, medical marijuana
2 concentrate or medical marijuana products to a property or facility
3 adjacent to or connected to the licensed premises if the property is
4 another licensed premises of the same medical marijuana business;

5 41. "Medical marijuana waste" or "waste" means unused, surplus,
6 returned or out-of-date marijuana, plant debris of the plant of the
7 genus Cannabis, including dead plants and all unused plant parts and
8 roots;

9 42. "Medical use" means the acquisition, possession, use,
10 delivery, transfer or transportation of medical marijuana, medical
11 marijuana products, medical marijuana devices or paraphernalia
12 relating to the administration of medical marijuana to treat a
13 licensed patient;

14 43. "Mother plant" means a marijuana plant that is grown or
15 maintained for the purpose of generating clones, and that will not
16 be used to produce plant material for sale to a medical marijuana
17 processor or medical marijuana dispensary;

18 44. "Oklahoma physician" or "physician" means a physician
19 licensed by and in good standing with the State Board of Medical
20 Licensure and Supervision or the State Board of Osteopathic
21 Examiners;

22 45. "Oklahoma resident" means an individual who can provide
23 proof of residency as required by this act;

24

1 46. "Owner" means, except where the context otherwise requires,
2 a direct beneficial owner including, but not limited to, all persons
3 or entities as follows:

- 4 a. all shareholders owning an interest of a corporate
5 entity and all officers of a corporate entity,
- 6 b. all partners of a general partnership,
- 7 c. all general partners and all limited partners that own
8 an interest in a limited partnership,
- 9 d. all members that own an interest in a limited
10 liability company,
- 11 e. all beneficiaries that hold a beneficial interest in a
12 trust and all trustees of a trust,
- 13 f. all persons or entities that own interest in a joint
14 venture,
- 15 g. all persons or entities that own an interest in an
16 association,
- 17 h. the owners of any other type of legal entity, and
- 18 i. any other person holding an interest or convertible
19 note in any entity which owns, operates or manages a
20 licensed facility;

21 47. "Package" or "packaging" means any container or wrapper
22 that may be used by a medical marijuana business to enclose or
23 contain medical marijuana;

1 48. "Person" means a natural person, partnership, association,
2 business trust, company, corporation, estate, limited liability
3 company, trust or any other legal entity or organization, or a
4 manager, agent, owner, director, servant, officer or employee
5 thereof, except that "person" does not include any governmental
6 organization;

7 49. "Pesticide" means any substance or mixture of substances
8 intended for preventing, destroying, repelling or mitigating any
9 pest or any substance or mixture of substances intended for use as a
10 plant regulator, defoliant or desiccant, except that the term
11 "pesticide" shall not include any article that is a "new animal
12 drug" as designated by the United States Food and Drug
13 Administration;

14 50. "Production batch" means:

- 15 a. any amount of medical marijuana concentrate of the
16 same category and produced using the same extraction
17 methods, standard operating procedures and an
18 identical group of harvest batch of medical marijuana,
19 or
20 b. any amount of medical marijuana product of the same
21 exact type, produced using the same ingredients,
22 standard operating procedures and the same production
23 batch of medical marijuana concentrate;

24

1 51. "Public institution" means any entity established or
2 controlled by the federal government, state government, or a local
3 government or municipality including, but not limited to,
4 institutions of higher education or related research institutions;

5 52. "Public money" means any funds or money obtained by the
6 holder from any governmental entity including, but not limited to,
7 research grants;

8 53. "Recommendation" means a document that is signed or
9 electronically submitted by a physician on behalf of a patient for
10 the use of medical marijuana pursuant to this act;

11 54. "Registered to conduct business" means a person that has
12 provided proof that the business applicant is in good standing with
13 the Oklahoma Secretary of State and Oklahoma Tax Commission;

14 55. "Remediation" means the process by which the medical
15 marijuana flower or trim, which has failed microbial testing, is
16 processed into solvent-based medical marijuana concentrate and
17 retested as required by this act;

18 56. "Research project" means a discrete scientific endeavor to
19 answer a research question or a set of research questions related to
20 medical marijuana and is required for a medical marijuana research
21 license. A research project shall include a description of a
22 defined protocol, clearly articulated goals, defined methods and
23 outputs, and a defined start and end date. The description shall
24 demonstrate that the research project will comply with all

1 requirements in this act and rules promulgated pursuant thereto.
2 All research and development conducted by a medical marijuana
3 research facility shall be conducted in furtherance of an approved
4 research project;

5 57. "Revocation" means the final decision by the Department
6 that any license issued pursuant to this act is rescinded because
7 the individual or entity does not comply with the applicable
8 requirements set forth in this act or rules promulgated pursuant
9 thereto;

10 58. "School" means a public or private preschool or a public or
11 private elementary or secondary school used for school classes and
12 instruction. A homeschool, daycare or child-care facility shall not
13 be considered a "school" as used in this act;

14 59. "Shipping container" means a hard-sided container with a
15 lid or other enclosure that can be secured in place. A shipping
16 container is used solely for the transport of medical marijuana,
17 medical marijuana concentrate, or medical marijuana products between
18 medical marijuana businesses, a medical marijuana research facility,
19 or a medical marijuana education facility;

20 60. "Solvent-based medical marijuana concentrate" means a
21 medical marijuana concentrate that was produced by extracting
22 cannabinoids from medical marijuana through the use of a solvent
23 approved by the Department;

24

1 61. "State Question" means Oklahoma State Question No. 788,
2 Initiative Petition No. 412, approved by a majority vote of the
3 citizens of Oklahoma on June 26, 2018;

4 62. "Strain" means the classification of marijuana or cannabis
5 plants in either pure sativa, indica, afghanica, ruderalis or hybrid
6 varieties;

7 63. "THC" means tetrahydrocannabinol, which is the primary
8 psychotropic cannabinoid in marijuana formed by decarboxylation of
9 naturally tetrahydrocannabinolic acid, which generally occurs by
10 exposure to heat;

11 64. "Test batch" means with regard to usable marijuana, a
12 homogenous, identified quantity of usable marijuana by strain, no
13 greater than ten (10) pounds, that is harvested during a seven-day
14 period from a specified cultivation area, and with regard to oils,
15 vapors and waxes derived from usable marijuana, means an identified
16 quantity that is uniform, that is intended to meet specifications
17 for identity, strength and composition, and that is manufactured,
18 packaged and labeled during a specified time period according to a
19 single manufacturing, packaging and labeling protocol;

20 65. "Transporter agent" means a person who transports medical
21 marijuana or medical marijuana products for a licensed transporter
22 and holds a transporter agent license pursuant to this act;

23 66. "Universal symbol" means the image established by the State
24 Department of Health or Oklahoma Medical Marijuana Authority and

1 made available to licensees through its website indicating that the
2 medical marijuana or the medical marijuana product contains THC;

3 67. "Usable marijuana" means the dried leaves, flowers, oils,
4 vapors, waxes and other portions of the marijuana plant and any
5 mixture or preparation thereof, excluding seed, roots and stalks;
6 and

7 68. "Water-based medical marijuana concentrate" means a
8 concentrate that was produced by extracting cannabinoids from
9 medical marijuana through the use of only water, ice, or dry ice.

10 SECTION 3. AMENDATORY Section 17 of Enrolled House Bill
11 No. 2612 of the 1st Session of the 57th Oklahoma Legislature, is
12 amended to read as follows:

13 Section 17. A. There is hereby created a medical marijuana
14 testing laboratory license as a category of the medical marijuana
15 business license. The Authority is hereby enabled to monitor,
16 inspect and audit a licensed testing laboratory under this act.

17 B. The Authority is hereby authorized to contract with a
18 private laboratory for the purpose of conducting compliance testing
19 of medical marijuana testing laboratories licensed in this state.
20 Any such laboratory under contract for compliance testing shall be
21 prohibited from conducting any other commercial medical marijuana
22 testing in this state.

23 C. The Authority shall have the authority to develop acceptable
24 testing and research practices, including but not limited to

1 testing, standards, quality control analysis, equipment
2 certification and calibration, and chemical identification and
3 substances used in bona fide research methods so long as it complies
4 with this act.

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

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

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

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

23 H. A laboratory applicant shall comply with the application
24 requirements of this section and shall submit such other information

1 as required for a medical marijuana business applicant, in addition
2 to any information the Authority may request for initial approval
3 and periodic evaluations during the approval period.

4 I. A medical marijuana testing laboratory may accept samples of
5 medical marijuana, medical marijuana concentrate or medical
6 marijuana product from a medical marijuana business for testing and
7 research purposes only, which purposes may include the provision of
8 testing services for samples submitted by a medical marijuana
9 business for product development. The Department may require a
10 medical marijuana business to submit a sample of medical marijuana,
11 medical marijuana concentrate or medical marijuana product to a
12 medical marijuana testing laboratory upon demand.

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

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

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

23 K. A medical marijuana testing laboratory may transfer samples
24 to another medical marijuana testing laboratory for testing. All

1 laboratory reports provided to or by a medical marijuana business or
2 to a patient or caregiver shall identify the medical marijuana
3 testing laboratory that actually conducted the test.

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

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

24

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

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

8 2. Testing procedures, testing standards for cannabinoid and
9 terpenoid potency and safe levels of contaminants, ~~batch size~~ and
10 remediation procedures;

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

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

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

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

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

22 8. The mandatory use by a laboratory of an inventory tracking
23 system to ensure all test batches or samples containing medical
24 marijuana, medical marijuana concentrate or medical marijuana

1 products are identified and tracked from the point they are
2 transferred from a medical marijuana business, a patient or a
3 caregiver through the point of transfer, destruction or disposal.
4 The inventory tracking system reporting shall include the results of
5 any tests that are conducted on medical marijuana, medical marijuana
6 concentrate or medical marijuana product;

7 9. Standards of performance;

8 10. The employment of laboratory personnel;

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

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

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

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

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

24

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

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

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

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

- 21 1. Microbials;
- 22 2. Mycotoxins;
- 23 3. Residual solvents;
- 24 4. Pesticides;

- 1 5. Tetrahydrocannabinol (THC) and other cannabinoid potency;
- 2 6. Terpenoid potency; and
- 3 7. Heavy metals.

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

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

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

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

23 ~~U.~~ V. A commercial grower shall not transfer or sell medical
24 marijuana and a processor shall not transfer, sell or process into a

1 concentrate or product any medical marijuana, medical marijuana
2 concentrate or medical marijuana product unless samples from each
3 harvest batch or production batch from which that medical marijuana,
4 medical marijuana concentrate or medical marijuana product was
5 derived has been tested by a medical marijuana testing facility for
6 contaminants and passed all contaminant tests required by this act.

7 SECTION 4. This act shall become effective November 1, 2019.

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9 COMMITTEE REPORT BY: COMMITTEE ON RULES, dated 04/09/2019 - DO PASS.

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