STATE OF OKLAHOMA

2nd Session of the 58th Legislature (2022)

HOUSE BILL 3999 By: Dobrinski

AS INTRODUCED

An Act relating to medical marijuana; amending 63 O.S. 2021, Section 427.17, which relates to the Oklahoma Medical Marijuana and Patient Protection Act; prohibiting medical marijuana testing laboratories from accepting samples directly from medical marijuana growers; authorizing employees of the Oklahoma Medical Marijuana Authority to collect and submit samples; directing the Authority to retain test samples for certain amount of time; and providing an effective date.

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

SECTION 1. AMENDATORY 63 O.S. 2021, Section 427.17, is amended to read as follows:

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

B. The Authority is hereby authorized 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 the Authority contracts with for compliance testing shall not employ, or be owned by, the following:

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

2. 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 ~~Department~~ 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.

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~~ 1. Except as provided in paragraph 2 of this subsection, 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 ~~Department~~ 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.

2. A medical marijuana testing laboratory shall be prohibited from accepting test samples of medical marijuana directly from a medical marijuana grower. An employee of the Authority shall be authorized to collect samples from the harvest batch of the medical marijuana grower and shall submit such samples for testing to the medical marijuana testing laboratory on behalf of the medical marijuana grower and in accordance with the provisions of this section. All test samples collected from a medical marijuana grower by an employee of the Authority shall be retained by the Authority for a minimum of sixty (60) days.

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 ~~Department~~ Authority, pursuant to rules promulgated by the State Commissioner of Health, 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 the Authority, a medical marijuana business, or 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 Department-approved~~ an Authority-approved proficiency testing program 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 ~~Department~~ Authority.

O. A medical marijuana testing laboratory shall promptly provide the ~~Department~~ Authority or designee of the ~~Department~~

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 ~~Department~~ Authority or designee of the ~~Department~~ Authority to laboratory premises and to any material or information requested by the ~~Department~~ 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 ~~Department~~ 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 Commissioner:

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 Commissioner 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 of the ~~Department~~ Authority. 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 of the ~~Department~~ Authority.

SECTION 2. This act shall become effective November 1, 2022.

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