

1 STATE OF OKLAHOMA

2 2nd Session of the 58th Legislature (2022)

3 COMMITTEE SUBSTITUTE
4 FOR

5 HOUSE BILL NO. 4056

6 By: Marti

7 COMMITTEE SUBSTITUTE

8 An Act relating to medical marijuana; amending 63
9 O.S. 2021, Section 427.17, which relates to the
10 Oklahoma Medical Marijuana and Patient Protection
11 Act; directing certain laboratory to provide
12 recommendations, standards and operating procedures
13 to the Oklahoma Medical Marijuana Authority;
14 directing the Authority to promulgate rules;
15 requiring licensed medical marijuana testing
16 laboratories to comply with rules; and declaring an
17 emergency.

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

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

21 Section 427.17 A. There is hereby created a medical marijuana
22 testing laboratory license as a category of the medical marijuana
23 business license. The Oklahoma Medical Marijuana Authority is
24 hereby enabled to monitor, inspect and audit a licensed testing
laboratory under the Oklahoma Medical Marijuana and Patient
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 ~~1. Any~~

10 a. any individual that has a direct or indirect interest
11 in a licensed medical marijuana business~~7,~~ or

12 ~~2. Any~~

13 b. any individual or his or her spouse, parent, child,
14 spouse of a child, sibling or spouse of a sibling that
15 has an application for a medical marijuana business
16 license pending before the Department or is a member
17 of the board of directors of a medical marijuana
18 business, or is an individual financially interested
19 in any licensee or medical marijuana business located
20 within this state.

21 2. The private laboratory under contract with the Authority for
22 compliance testing shall provide to the Authority its
23 recommendations for brands and models of 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.

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

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

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

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1 F. A separate license shall be required for each specific
2 laboratory.

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

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

19 I. A medical marijuana testing laboratory may accept samples of
20 medical marijuana, medical marijuana concentrate or medical
21 marijuana product from a medical marijuana business, medical
22 marijuana research facility or medical marijuana education facility
23 for testing purposes only, which purposes may include the provision
24 of testing services for samples submitted by a medical marijuana

1 business for product development. The Department may require a
2 medical marijuana business to submit a sample of medical marijuana,
3 medical marijuana concentrate or medical marijuana product to a
4 medical marijuana testing or quality assurance laboratory upon
5 demand.

6 J. A medical marijuana testing laboratory may accept samples of
7 medical marijuana, medical marijuana concentrate or medical
8 marijuana product from an individual person for testing only under
9 the following conditions:

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

14 2. The medical marijuana testing laboratory shall require the
15 patient or caregiver to produce a valid patient license and current
16 and valid photo identification.

17 K. A medical marijuana testing laboratory may transfer samples
18 to another medical marijuana testing laboratory for testing. All
19 laboratory reports provided to or by a medical marijuana business or
20 to a patient or caregiver shall identify the medical marijuana
21 testing laboratory that actually conducted the test.

22 L. A medical marijuana testing laboratory may utilize a
23 licensed medical marijuana transporter to transport samples of
24 medical marijuana, medical marijuana concentrate and medical

1 marijuana product for testing, in accordance with the Oklahoma
2 Medical Marijuana and Patient Protection Act and the rules adopted
3 pursuant thereto, between the originating medical marijuana business
4 requesting testing services and the destination laboratory
5 performing testing services.

6 M. The medical marijuana testing laboratory shall establish
7 policies to prevent the existence of or appearance of undue
8 commercial, financial or other influences that may diminish the
9 competency, impartiality and integrity of the testing processes or
10 results of the laboratory, or that may diminish public confidence in
11 the competency, impartiality and integrity of the testing processes
12 or results of the laboratory. At a minimum, employees, owners or
13 agents of a medical marijuana testing laboratory who participate in
14 any aspect of the analysis and results of a sample are prohibited
15 from improperly influencing the testing process, improperly
16 manipulating data or improperly benefiting from any ongoing
17 financial, employment, personal or business relationship with the
18 medical marijuana business that provided the sample. A medical
19 marijuana testing laboratory shall not test samples for any medical
20 marijuana business in which an owner, employee or agent of the
21 medical marijuana testing laboratory has any form of ownership or
22 financial interest in the medical marijuana business.

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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, and remediation
10 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 harvest and production batches or samples
24 containing medical marijuana, medical marijuana concentrate or

1 medical marijuana products are identified and tracked from the point
2 they are transferred from a medical marijuana business, a patient or
3 a 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 immediate recall of medical marijuana or medical
18 marijuana products that test above allowable thresholds or are
19 otherwise determined to be unsafe;

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

23 16. The establishment by the laboratory of a system to retain
24 and maintain all required records, including business records, and

1 processes to ensure results are reported in a timely and accurate
2 manner; and

3 17. Any other aspect of laboratory testing of medical marijuana
4 or medical marijuana product deemed necessary by the Department.

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

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

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

- 23 1. Microbials;
- 24 2. Mycotoxins;

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

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

22 S. Medical marijuana testing laboratory licensure shall be
23 contingent upon successful on-site inspection, successful
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1 participation in proficiency testing and ongoing compliance with the
2 applicable requirements in this section.

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

10 U. Medical marijuana testing laboratories shall obtain
11 accreditation by an accrediting body approved by the Commissioner
12 within one (1) year of the date the initial license is issued.
13 Renewal of any medical marijuana testing laboratory license shall be
14 contingent upon accreditation in accordance with this subsection.
15 All medical marijuana testing laboratories shall obtain
16 accreditation prior to applying for and receiving a medical
17 marijuana testing laboratory license.

18 V. Unless authorized by the provisions of this section, a
19 commercial grower shall not transfer or sell medical marijuana and a
20 processor shall not transfer, sell or process into a concentrate or
21 product any medical marijuana, medical marijuana concentrate or
22 medical marijuana product unless samples from each harvest batch or
23 production batch from which that medical marijuana, medical
24 marijuana concentrate or medical marijuana product was derived has

1 | been tested by a medical marijuana testing laboratory and passed all
2 | contaminant tests required by the Oklahoma Medical Marijuana and
3 | Patient Protection Act and applicable laws, rules and regulations.
4 | A licensed commercial grower may transfer medical marijuana that has
5 | failed testing to a licensed processor only for the purposes of
6 | decontamination or remediation and only in accordance with the
7 | provisions of the Oklahoma Medical Marijuana and Patient Protection
8 | Act and the rules and regulations of the Department. Remediated and
9 | decontaminated medical marijuana may be returned only to the
10 | originating licensed commercial grower.

11 | W. Kief shall not be transferred or sold except as authorized
12 | in the rules and regulations of the Department.

13 | SECTION 2. It being immediately necessary for the preservation
14 | of the public peace, health or safety, an emergency is hereby
15 | declared to exist, by reason whereof this act shall take effect and
16 | be in full force from and after its passage and approval.

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