

STATE OF OKLAHOMA

1st Session of the 59th Legislature (2023)

SENATE BILL 813

By: Garvin

AS INTRODUCED

An Act relating to medical marijuana; amending 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), which relates to the medical marijuana test laboratory license; providing contract condition; removing testing condition; allowing testing by Oklahoma Medical Marijuana Authority assurance laboratory; authorizing the Authority to operate a quality assurance laboratory; allowing the Authority to use quality assurance laboratory for certain purposes; permitting the Authority to enter into certain agreements and contracts; exempting the Authority from certain provisions; 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:

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

1 laboratory under the Oklahoma Medical Marijuana and Patient
2 Protection Act.

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

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

22 2. The private laboratory under contract with the Authority for
23 compliance testing and a board or committee comprised of licensed
24 Oklahoma medical marijuana laboratories currently accredited by the

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

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

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

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

7 F. A separate license shall be required for each specific
8 laboratory.

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

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

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

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

16 1. The individual person is a patient or caregiver pursuant to
17 the Oklahoma Medical Marijuana and Patient Protection Act or is a
18 participant in an approved clinical or observational study conducted
19 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 the Oklahoma
8 Medical Marijuana and Patient Protection Act and the rules adopted
9 pursuant thereto, between the originating medical marijuana business
10 requesting testing services and the destination laboratory
11 performing testing services.

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

1 marijuana testing laboratory shall not test samples for any medical
2 marijuana business in which an owner, employee or agent of the
3 medical marijuana testing laboratory has any form of ownership or
4 financial interest in the medical marijuana business.

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

8 1. The cleanliness and orderliness of a laboratory premises and
9 the location of the laboratory in a secure location, and inspection,
10 cleaning and maintenance of any equipment or utensils used for the
11 analysis of test samples;

12 2. Testing procedures, testing standards for cannabinoid and
13 terpenoid potency and safe levels of contaminants, and remediation
14 procedures;

15 3. Controlled access areas for storage of medical marijuana and
16 medical marijuana product test samples, waste and reference
17 standards;

18 4. Records to be retained and computer systems to be utilized
19 by the laboratory;

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

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

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

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

12 9. Standards of performance;

13 10. The employment of laboratory personnel;

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

16 12. The successful participation in a proficiency testing
17 program approved by the Executive Director for each testing category
18 listed in this section, in order to obtain and maintain
19 certification;

20 13. The establishment of and adherence to a quality assurance
21 and quality control program to ensure sufficient monitoring of
22 laboratory processes and quality of results reported;

1 14. The immediate recall of medical marijuana or medical
2 marijuana products that test above allowable thresholds or are
3 otherwise determined to be unsafe;

4 15. The establishment by the laboratory of a system to document
5 the complete chain of custody for samples from receipt through
6 disposal;

7 16. The establishment by the laboratory of a system to retain
8 and maintain all required records, including business records, and
9 processes to ensure results are reported in a timely and accurate
10 manner; and

11 17. Any other aspect of laboratory testing of medical marijuana
12 or medical marijuana product deemed necessary by the Executive
13 Director.

14 O. A medical marijuana testing laboratory shall promptly
15 provide the Authority or designee of the Authority access to a
16 report of a test and any underlying data that is conducted on a
17 sample at the request of a medical marijuana business or qualified
18 patient. A medical marijuana testing laboratory shall also provide
19 access to the Authority or designee of the Authority to laboratory
20 premises and to any material or information requested by the
21 Authority to determine compliance with the requirements of this
22 section.

23 P. A medical marijuana testing laboratory shall retain all
24 results of laboratory tests conducted on marijuana or products for a

1 period of at least seven (7) years and shall make them available to
2 the Authority upon request.

3 Q. A medical marijuana testing laboratory shall test samples
4 from each harvest batch or product batch, as appropriate, of medical
5 marijuana, medical marijuana concentrate and medical marijuana
6 product for each of the following categories of testing, consistent
7 with standards developed by the Executive Director:

- 8 1. Microbials;
- 9 2. Mycotoxins;
- 10 3. Residual solvents;
- 11 4. Pesticides;
- 12 5. Tetrahydrocannabinol (THC) and other cannabinoid potency;
- 13 6. Terpenoid type and concentration; and
- 14 7. Heavy metals.

15 R. A licensed medical marijuana testing laboratory shall test
16 each individual harvest batch. A grower shall separate each harvest
17 lot of usable marijuana into harvest batches containing no more than
18 fifteen (15) pounds, with the exception of any plant material to be
19 sold to a licensed processor for the purposes of turning the plant
20 material into concentrate which may be separated into harvest
21 batches of no more than fifty (50) pounds. A processor shall
22 separate each medical marijuana production lot into production
23 batches containing no more than four (4) liters of concentrate or
24 nine (9) pounds for nonliquid products, and for final products, the

1 Oklahoma Medical Marijuana Authority shall be authorized to
2 promulgate rules on final products as necessary. ~~Provided, however,~~
3 ~~the Authority shall not require testing of final products less often~~
4 ~~than every one thousand (1,000) grams of THC.~~ As used in this
5 subsection, "final products" shall include, but not be limited to,
6 cookies, brownies, candies, gummies, beverages and chocolates.

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

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

18 U. Medical marijuana testing laboratories shall obtain
19 accreditation by an accrediting body approved by the Executive
20 Director or the Authority's quality assurance laboratory within one
21 (1) year of the date the initial license is issued. Renewal of any
22 medical marijuana testing laboratory license shall be contingent
23 upon accreditation in accordance with this subsection. All medical
24 marijuana testing laboratories shall obtain accreditation prior to

1 applying for and receiving a medical marijuana testing laboratory
2 license.

3 V. Unless authorized by the provisions of this section, a
4 commercial grower shall not transfer or sell medical marijuana and a
5 processor shall not transfer, sell or process into a concentrate or
6 product any medical marijuana, medical marijuana concentrate or
7 medical marijuana product unless samples from each harvest batch or
8 production batch from which that medical marijuana, medical
9 marijuana concentrate or medical marijuana product was derived has
10 been tested by a medical marijuana testing laboratory and passed all
11 contaminant tests required by the Oklahoma Medical Marijuana and
12 Patient Protection Act and applicable laws, rules and regulations.

13 A licensed commercial grower may transfer medical marijuana that has
14 failed testing to a licensed processor only for the purposes of
15 decontamination or remediation and only in accordance with the
16 provisions of the Oklahoma Medical Marijuana and Patient Protection
17 Act and the rules and regulations promulgated by the Executive
18 Director. Remediated and decontaminated medical marijuana may be
19 returned only to the originating licensed commercial grower.

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

22 SECTION 2. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 427.17a of Title 63, unless
24 there is created a duplication in numbering, reads as follows:

1 A. The Oklahoma Medical Marijuana Authority is hereby
2 authorized to operate a quality assurance laboratory for the purpose
3 of conducting compliance testing of medical marijuana businesses
4 licensed in this state.

5 B. In addition to any provisions required in Section 427.17 of
6 Title 63 of the Oklahoma Statutes, the Authority shall utilize the
7 quality assurance laboratory for the following, which may include,
8 but not be limited to:

9 1. Provide recommendations for all equipment and standards to
10 be utilized by licensed medical marijuana testing laboratories when
11 testing samples of medical marijuana, medical marijuana concentrate,
12 and medical marijuana products;

13 2. Provide standardized operating procedures when extracting
14 and testing medical marijuana, medical marijuana concentrate, and
15 medical marijuana products;

16 3. Test samples taken from medical marijuana licensed business;
17 and

18 4. Utilize secret shoppers pursuant to Section 427.25 of Title
19 63 of the Oklahoma Statutes.

20 C. In order to fulfill the provisions of subsection A of this
21 section, the Authority may:

22 1. Enter into interlocal agreements with any other government
23 agency pursuant to Section 1001 et seq. of Title 74 of the Oklahoma
24 Statutes; or

1 2. Select a laboratory information system through a complete
2 bidding process pursuant to Section 85.7 of Title 74 of the Oklahoma
3 Statutes.

4 D. The Authority quality assurance laboratory may be exempt
5 from the provisions of the Oklahoma Medical Marijuana and Patient
6 Protection Act to transport samples of medical marijuana, medical
7 marijuana concentrate, and medical marijuana product for testing
8 between the originating medical marijuana business and the Authority
9 laboratory.

10 E. The Authority may promulgate rules necessary for the
11 implementation of a quality assurance laboratory pursuant to this
12 section.

13 SECTION 3. 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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