

**Mission:**

To protect, promote & improve the health of all people in Florida through integrated state, county & community efforts.



**Ron DeSantis**  
Governor

**Joseph A. Ladapo, MD, PhD**  
State Surgeon General

**Vision:** To be the **Healthiest State** in the Nation

---

**Sent via Electronic Delivery**

August 30, 2022

ACS Laboratory, LLC  
c/o Aixia Sun  
721 Cortaro Drive  
Sun City Center, FL 33573  
asun@acslabtest.com

Re: Notice of Violation

Reference Number: 00009312

Dear Ms. Sun,

The Florida Department of Health (“Department”) has determined that ACS Laboratory, LLC (“ACS”), a Certified Marijuana Testing Laboratory (“CMTL”) engaged in an activity that was not in compliance with Emergency Rule 64ER20-3.

On August 3, 2022, the Department received a renewal application from ACS. In its renewal application, ACS submitted the most recent ISO/IEC 17025:2017 Certificate of Accreditation. The Certificate of Accreditation shows that ACS is accredited to test Total Combined Yeast and Mold using a 3M Petrifilm Plate culture method, SOP 013.003, “Microbiological Testing by Plate Counting.” Additionally, Proficiency Testing (“PT”) results submitted with the renewal application show satisfactory results for Total Combined Yeast and Mold were performed using the plating method.

Based on a review of Certificates of Analysis issued by ACS, the Department has determined that ACS is conducting regulatory compliance testing of Total Combined Yeast and Mold using the polymerase chain reaction (“PCR”) testing method. ACS has not provided ISO/IEC 17025:2017 accreditation for use of the PCR method for the Testing Field of Total Combined Yeast and Mold. Additionally, ACS has not provided evidence of satisfactory PT results for the Testing Field of Total Combined Yeast and Mold utilizing the PCR method.

Emergency Rule 64ER20-3(1)(b) requires that analyses of Testing Fields within Matrix Groups must be covered by the CMTL’s ISO/IEC 17025:2017 (revised March 2018) accreditation.

Further, Emergency Rule 64ER20-3(1)(c) requires that analyses of Testing Fields within Matrix Groups must be supported by documentation of two satisfactory analyses of the three most recent PTs administered by an ISO/IEC 17043:2010 accredited body.

Emergency Rule 64ER22-5(11)(mm) states that using an unapproved Analytical Method may result in a fine ranging from \$500 to \$1,000 per instance.

ACS Laboratory, LLC

Page 2 of 3

August 30, 2022

Based on the forgoing, the Department is fining ACS as follows:

- \$20,000.00 for using the unapproved Analytical Method—PCR testing—for the analysis of the Testing Field of Total Combined Yeast and Mold in the Matrix Groups Usable Whole Flower, Derivative Products, and Edibles.

ACS must also immediately discontinue Regulatory Compliance Testing using the unapproved PCR method for the analysis of Total Combined Yeast and Mold in all Matrix Groups. ACS is permitted however, to continue testing Total Combined Yeast and Mold utilizing the plating method for which it has provided ISO/IEC 17025 accreditation and satisfactory PT results.

ACS must provide the following before resuming the analysis of Total Combined Yeast and Mold using the PCR method:

- An updated ISO/IEC 17025 accreditation showing approval of the PCR method for Total Combined Yeast and Mold; and
- Satisfactory PT results compliant with 64ER20-3(1)(c) for the ISO/IEC 17025 approved PCR method for Total Combined Yeast and Mold all Matrix Groups delivered to the Department by the ISO 17043 accredited PT provider.

ACS must also provide the following within seven calendar days of receipt of this notice:

- A written corrective action plan to resolve the identified violations, compliant with Emergency Rule 64ER22-5(4); and
- All current SOPs for the analysis of Total Combined Yeast and Mold.

ACS must deliver to the Department a total payment of \$20,000.00, no later than 21 calendar days from the date of this letter. The reference number noted above must be included with payment to ensure it is applied appropriately.

If any responses contain confidential information, ACS must identify the specific public records exemption claimed at the time of submittal and provide an accompanying redacted version of the document(s) with only the confidential portion redacted, by submitting to [OMMUlabs@flhealth.gov](mailto:OMMUlabs@flhealth.gov).

If you have any questions, please contact the Department directly for assistance.

Please mail the check to:  
Florida Department of Health  
Attn: Office of Medical Marijuana Use  
4052 Bald Cypress Way, Bin M-01  
Tallahassee, FL 32399

Sincerely,

*Christopher Ferguson*

Christopher Ferguson  
Director  
Office of Medical Marijuana Use

ACS Laboratory, LLC

Page 3 of 3

August 30, 2022

**NOTICE OF RIGHTS**

This letter is agency action for purposes of section 120.569, Florida Statutes. A party whose substantial interest is affected by this action may petition for an administrative hearing pursuant to sections 120.569 and 120.57, Florida Statutes. A petition must be filed in writing and must be received by the Agency Clerk within twenty-one (21) days from receipt of this notice.

The petition may be mailed to the Agency Clerk, Department of Health, 4052 Bald Cypress Way, BIN #A-02, Tallahassee, FL 32399- 1703; hand delivered to the Agency Clerk, Department of Health, 2585 Merchants Row Blvd., Prather Building, Suite 110, Tallahassee, FL; or sent by facsimile to (850) 413-8743. Such petition must be filed in conformance with Florida Administrative Code Rules 28-106.201 or 28-106.301, as applicable.

Mediation is not available.

Failure to file a petition within 21 days shall constitute a waiver of the right to a hearing on this agency action.