

AMENDMENTS TO SENATE BILL NO. 3 (As amended by A05835)

Sponsor: REPRESENTATIVE BAKER

Printer's No. 889

1 Amend Bill, page 31, by inserting between lines 42 and 43

2 (A05835)

3 Section 1106.1. Qualifications and restrictions of the board.

4 (a) Qualification and restrictions.--The qualifications and
5 restrictions of each professional and public member of the board
6 shall be as follows:

7 (1) Each member at the time of appointment shall be at
8 least 25 years of age and shall have been a resident of this
9 Commonwealth for a period of at least one year immediately
10 preceding appointment. Each member shall continue to remain a
11 resident of this Commonwealth during the term of membership
12 on the board.

13 (2) Except for ex officio members, no person shall be
14 appointed a member of the board or be employed by or be an
15 independent contractor of the board if that person is a
16 public official or party officer as defined 4 Pa.C.S. § 1512
17 (relating to financial and employment interests) in this
18 Commonwealth or any of its political subdivisions.

19 (3) Each member, employee and independent contractor of
20 the board shall sign an agreement not to disclose
21 confidential information.

22 (4) No member, employee or independent contractor of the
23 board or other agency having regulatory authority over the
24 board shall be employed, hold any office or position or be
25 engaged in any activity which is incompatible with the
26 position, employment or contract.

27 (5) No member shall be paid or receive any fee or other
28 compensation for any activity related to the duties or
29 authority of the board other than salary and expenses
30 provided by law.

31 (6) No member, employee or independent contractor of the
32 board shall participate in a hearing, proceeding or other
33 matter in which the member, employee or independent
34 contractor, or the immediate family of the member, employee
35 or independent contractor, has a financial interest in the
36 subject matter of the hearing or proceeding or other interest
37 that could be substantially affected by the outcome of the
38 hearing or proceeding without first fully disclosing the

1 nature of the interest to the board and other persons
2 participating in the hearing or proceeding. The board shall
3 determine if the interest is a disqualifying interest that
4 requires the disqualification or nonparticipation of an
5 employee or independent contractor. For purposes of this
6 paragraph, the term "immediate family" shall mean spouse,
7 parent, brother, sister or child.

8 (7) At the time of appointment and annually thereafter,
9 each member shall disclose the existence of any financial
10 interest in any marijuana grower/processor or dispensary and
11 in an affiliate, intermediary, subsidiary or holding company
12 thereof held by the member or known to be held by the
13 member's immediate family. The disclosure statement shall be
14 filed with the chairperson of the board and the Governor and
15 shall be open to inspection by the public at the office of
16 the board during the normal business hours of the board for
17 the duration of the member's term and for two years after the
18 member leaves office. For purposes of this paragraph, the
19 term "immediate family" shall mean spouse, parent, brother,
20 sister or child.

21 (8) Prior to being sworn as a member, an appointee and
22 the appointee's immediate family shall divest any financial
23 interest in any marijuana grower/processor or dispensary and
24 in an affiliate, intermediary, subsidiary or holding company
25 thereof owned or held by the appointee or known to be held by
26 the appointee's immediate family. For the duration of the
27 member's term and for two years thereafter, the member and
28 the member's immediate family may not acquire a financial
29 interest in any marijuana grower/processor or dispensary or
30 in an affiliate, intermediary, subsidiary or holding
31 company of any marijuana grower/processor or dispensary. For
32 purposes of this paragraph, the term "immediate family" shall
33 mean spouse and any minor or unemancipated child.

34 (9) Prior to entering into employment or a contract with
35 the board and annually thereafter, an employee or independent
36 contractor shall disclose the existence of any financial
37 interest in any marijuana grower/processor or dispensary and
38 in an affiliate, intermediary, subsidiary or holding company
39 thereof owned or held by the employee or independent
40 contractor or known to be held by the immediate family of the
41 employee or independent contractor. The disclosure statement
42 shall be filed with the board and shall be open to inspection
43 by the public at the office of the board during the normal
44 business hours of the board and for two years after
45 termination of employment or a contract with the board. For
46 purposes of this paragraph, the term "immediate family" shall
47 mean spouse, parent, brother, sister or child.

48 (10) Prior to entering into employment or contracting
49 with the board, an employee or independent contractor and the
50 employee's or independent contractor's immediate family shall
51 divest any financial interest in any marijuana

1 grower/processor or dispensary, and in an affiliate,
2 intermediary, subsidiary or holding company thereof, owned or
3 held by the employee or independent contractor or known to be
4 held by the immediate family of the employee or independent
5 contractor. For the duration of the employee's employment
6 with the board or the independent contractor's contract with
7 the board and for two years thereafter, the employee or
8 independent contractor and the immediate family thereof shall
9 not acquire, by purchase, gift, exchange or otherwise, any
10 financial interest in any marijuana grower/processor or
11 dispensary and in any affiliate, intermediary, subsidiary or
12 holding company thereof. For purposes of this paragraph, the
13 term "immediate family" shall mean spouse, parent, brother,
14 sister or child.

15 (11) No member, employee or independent contractor of
16 the board may directly or indirectly solicit, request,
17 suggest or recommend to any marijuana grower/processor or
18 dispensary, or an affiliate, intermediary, subsidiary or
19 holding company thereof or to any principal, employee,
20 independent contractor or agent thereof, the appointment or
21 employment of any person in any capacity by the marijuana
22 grower/processor or dispensary, or an affiliate,
23 intermediary, subsidiary or holding company thereof for a
24 period of two years from the termination of term of office,
25 employment or contract with the board.

26 (12) No member may accept employment with any marijuana
27 grower/processor or dispensary, or an affiliate,
28 intermediary, subsidiary or holding company thereof, for a
29 period of two years from the termination of term of office.

30 (13) No former member may appear before the board in any
31 hearing or proceeding or participate in any other activity on
32 behalf of any marijuana grower/processor or dispensary, or an
33 affiliate, intermediary, subsidiary or holding company of a
34 marijuana grower/processor or dispensary for a period of two
35 years from the termination of term of office.

36 (14) A member who has been convicted during his term in
37 any domestic or foreign jurisdiction of a felony, infamous
38 crime or controlled substances offense shall, upon
39 conviction, be automatically removed from the board and shall
40 be ineligible to become a member in the future. If an ex
41 officio member is convicted during his term in any domestic
42 or foreign jurisdiction of a felony, infamous crime or
43 controlled substances offense, the ex officio member shall,
44 upon conviction, be automatically removed from the board and
45 a member shall be designated pursuant to subsection (e) to
46 serve the remainder of the ex officio member's term.

47 (15) The following shall apply to an employee of the
48 board whose duties substantially involve licensing,
49 enforcement, development of law, promulgation of regulations
50 or development of policy, relating to medical marijuana under
51 this chapter or who has other discretionary authority which

1 may affect or influence the outcome of an action, proceeding
2 or decision under this act, including the executive director,
3 bureau directors and attorneys:

4 (i) The individual may not, for a period of two
5 years following termination of employment, accept
6 employment with or be retained by a marijuana
7 grower/processor or dispensary or by any affiliate,
8 intermediary, subsidiary or holding company of an
9 applicant, medical cannabis grower, processor or
10 dispenser.

11 (ii) The individual may not, for a period of two
12 years following termination of employment, appear before
13 the board in a hearing or proceeding or participate in
14 activity on behalf of a marijuana grower/processor or
15 dispensary or on behalf of any affiliate, intermediary,
16 subsidiary or holding company of a marijuana
17 grower/processor or dispensary.

18 (iii) A marijuana grower/processor or dispensary or
19 affiliate, intermediary, subsidiary or holding company of
20 a marijuana grower/processor or dispensary may not, until
21 the expiration of two years following termination of
22 employment, employ or retain the individual. Violation of
23 this subparagraph shall result in termination of the
24 individual's employment and subject the violator to
25 Chapter 13.

26 (iv) A prospective employee who, upon employment,
27 would be subject to this paragraph must, as a condition
28 of employment, sign an affidavit that the prospective
29 employee will not violate subparagraph (i) or (ii). If
30 the prospective employee fails to sign the affidavit, the
31 board shall rescind any offer of employment and shall not
32 employ the individual.

33 (16) The following shall apply to an entity involved in
34 consultation relating to licensing, enforcement, development
35 of law, promulgation of regulations or development of policy,
36 relating to medical cannabis under this chapter:

37 (i) The person may not, for a period of two years
38 following termination of the contract with the board, be
39 retained by a marijuana grower/processor or dispensary or
40 any affiliate, intermediary, subsidiary or holding
41 company of a marijuana grower/processor or dispensary.

42 (ii) The person may not, for a period of two years
43 following termination of the contract with the board,
44 appear before the board in a hearing or proceeding or
45 participate in activity on behalf of a marijuana
46 grower/processor or dispensary on behalf of an affiliate,
47 intermediary, subsidiary or holding company of a
48 marijuana grower/processor or dispensary.

49 (iii) A marijuana grower/processor or dispensary or
50 an affiliate, intermediary, subsidiary or holding company
51 of a marijuana grower/processor or dispensary may not,

1 until the expiration of two years following termination
2 of the contract with the board, employ or retain the
3 person. A knowing violation of this subparagraph shall
4 result in termination of the person's employment and
5 subject the violator to Chapter 13.

6 (iv) Each contract between the board and an
7 independent contractor which involves the duties set
8 forth in this paragraph shall contain a provision
9 requiring the independent contractor to sign an affidavit
10 that the independent contractor will not violate
11 subparagraph (i) or (ii). If the independent contractor
12 fails to sign the affidavit, the board shall not enter
13 into the contract.

14 (v) An independent contractor shall require a
15 prospective employee whose employment would involve the
16 duties set forth in this paragraph to sign an affidavit
17 that the prospective employee will not violate
18 subparagraph (i) or (ii). If the prospective employee
19 fails to sign the affidavit, the independent contractor
20 shall rescind any offer of employment and shall not
21 employ the individual.

22 (17) If a member of the board violates any provision of
23 this section, the Governor may remove the person from the
24 board. A member removed under this paragraph shall, for a
25 period of five years following removal, be prohibited from
26 future appointment to the board and shall be prohibited from
27 applying for a license, permit or other authorization under
28 this chapter.

29 (b) Definitions.--As used in this section, the term
30 "financial interest" shall mean the ownership, property,
31 leasehold or other beneficial interest in an entity.
32 Section 1106.2. Liability.

33 Members shall not be personally liable for any of the
34 following:

35 (1) Obligations of the board.

36 (2) Actions which were within the scope of their office
37 and made in good faith.