

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 3

Session of 2015

INTRODUCED BY FOLMER, LEACH, TEPLITZ, WILEY, BLAKE, FONTANA, YUDICHAK, SCARNATI, BOSCOLA, YAW, ARGALL, SMITH, COSTA, FARNESE, WAGNER, BARTOLOTTA, WILLIAMS, TARTAGLIONE, VULAKOVICH, WHITE, SCHWANK, RAFFERTY, STEFANO, WOZNIAK, MCGARRIGLE, BROWNE AND DINNIMAN, JANUARY 26, 2015

SENATOR WARD, APPROPRIATIONS, RE-REPORTED AS AMENDED, MAY 4, 2015

AN ACT

1 Providing for the medical use of cannabis in the Commonwealth of
2 Pennsylvania.

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2 The General Assembly of the Commonwealth of Pennsylvania
3 hereby enacts as follows:

4 CHAPTER 1
5 PRELIMINARY PROVISIONS

6 Section 101. Short title.

7 This act shall be known and may be cited as the Medical
8 Cannabis Act.

9 Section 102. Definitions.

10 The following words and phrases when used in this act shall
11 have the meanings given to them in this section unless the
12 context clearly indicates otherwise:

13 "Account." The Professional Licensure Augmentation Account
14 established under and used in accordance with the act of July 1,
15 1978 (P.L.700, No.124), known as the Bureau of Professional and
16 Occupational Affairs Fee Act.

17 "Board." The State Board of Medical Cannabis Licensing.

18 "Change in control." The acquisition by a person or group of
19 persons acting in concert of at least 20% of an interest in a
20 licensed entity.

21 "Department." ~~The~~ EXCEPT AS PROVIDED IN SECTION 1101, THE <--
22 Department of State of the Commonwealth.

23 "Health care facility." A facility that provides health care
24 to patients. The term includes:

25 (1) Any of the following, as defined under section 802.1
26 of the act of July 19, 1979 (P.L.130, No.48), known as the
27 Health Care Facilities Act:

28 (i) A health care facility.

29 (ii) An ambulatory surgical facility.

30 (iii) A long-term care nursing facility.

1 (iv) A hospice.

2 (2) A clinic operated by a hospital.

3 (3) A cancer treatment center.

4 "Health care practitioner." A medical doctor or a doctor of
5 osteopathy, as defined under section 2 of the act of December
6 20, 1985 (P.L.457, No.112), known as the Medical Practice Act of
7 1985.

8 "Medical cannabis." As follows:

9 (1) Plants containing cannabidiol, tetrahydrocannabinol
10 or delta-9-tetrahydrocannabinol acid or any part of a
11 cannabis plant, including cannabis processed by extracting
12 oil from the plant, intended for medical purposes.

13 (2) The term includes extracted oil, ointments,
14 tinctures and medical cannabis delivered by a nebulizer.

15 (3) The term does not include edible products.

16 "Medical cannabis access card." A document issued by the
17 Department of Health that authorizes a patient or patient
18 representative to purchase and possess medical cannabis in this
19 Commonwealth.

20 "Medical cannabis dispenser." A for-profit or nonprofit
21 entity licensed under section 503 to dispense medical cannabis.

22 "Medical cannabis employee." An individual who is eligible
23 to receive an occupation permit by meeting one of the following:

24 (1) An individual who meets all of the following:

25 (i) Is employed by a medical cannabis grower,
26 medical cannabis processor, medical cannabis dispenser or
27 certified laboratory with the authority to make a
28 discretionary decision relating to the growing,
29 processing, dispensing or testing of medical cannabis,
30 including a manager, supervisor or an individual who

1 directly handles or controls MEDICAL cannabis.

2 (ii) Is responsible for tracking the amount and
3 transportation of medical cannabis.

4 (2) Any other employee position designated by the board.

5 "Medical cannabis grower." A for-profit or nonprofit entity
6 licensed under section 501 that grows or cultivates cannabis for
7 distribution to authorized medical cannabis processors and
8 medical cannabis dispensers in accordance with this act.

9 "Medical cannabis processor." A for-profit or nonprofit
10 entity licensed under section 502 authorized to purchase medical
11 cannabis from a medical cannabis grower for the purpose of
12 processing the medical cannabis for distribution to a medical
13 cannabis dispenser in accordance with this act.

14 "Medical cannabis strains." The three types of pure cannabis
15 utilized for medical purposes. The term includes cannabis
16 sativa, cannabis indica and the hybrid created by the
17 combination of both cannabis sativa and cannabis indica.

18 "Medical use." The acquisition, possession or use of medical
19 cannabis by a registered patient or patient representative. The
20 term does not include the smoking or vaporization of cannabis.

21 "Nebulizer." A drug delivery device that uses oxygen,
22 compressed air or ultrasonic power to break up medical
23 solutions, including ~~oil-based~~ OIL-BASED MEDICAL cannabis, into <--
24 small aerosol droplets that are directly inhaled from the
25 mouthpiece of the device.

26 "Occupation permit." A permit issued by the board
27 authorizing an individual to be employed as a medical cannabis
28 employee or patient representative.

29 "Owner or operator." Any of the following:

30 (1) An officer or director of the medical cannabis

1 grower, processor or dispenser licensed under section 505.

2 (2) A person who directly holds a beneficial interest in
3 or has a controlling interest in an applicant or licensee.

4 (3) A person who has the ability to elect a majority of
5 the board of directors of a licensee or to otherwise control
6 a licensee.

7 "Patient." An individual who has an established
8 practitioner-patient relationship and has been diagnosed with a
9 qualified medical condition.

10 "Patient representative." Any of the following:

11 (1) A parent or guardian of a registered patient.

12 (2) An individual who:

13 (i) is at least 18 years of age; and

14 (ii) receives a medical cannabis access card which
15 authorizes:

16 (A) purchase, possession, transport and transfer
17 of medical cannabis from a medical cannabis
18 dispenser; and

19 (B) proper administration of the medical
20 cannabis to a registered patient in accordance with
21 the recommendation of the registered patient's health
22 care practitioner.

23 "Practitioner-patient relationship." The relationship
24 established between a patient and health care practitioner
25 following an assessment of the patient's medical history and
26 current condition and the conduct of a personal examination.

27 "Qualified medical condition." Any of the following:

28 (1) Cancer.

29 (2) Epilepsy and seizures.

30 (3) Amyotrophic lateral sclerosis.

- 1 (4) Cachexia/wasting syndrome.
- 2 (5) Parkinson's disease.
- 3 (6) Traumatic brain injury and postconcussion syndrome.
- 4 (7) Multiple sclerosis.
- 5 (8) Spinocerebellara Ataxia (SCA).
- 6 (9) Posttraumatic stress disorder.
- 7 (10) Severe fibromyalgia.
- 8 (11) HIV/AIDS.
- 9 (12) Glaucoma.
- 10 (13) A condition authorized by the department under
- 11 section 703.

12 "Testing laboratory." A clinical laboratory or testing
13 facility located within this Commonwealth, certified by the
14 board under section 511.

15 "Tracking system." An electronic system established by the
16 department to monitor the activities of a person that grows,
17 processes, dispenses, transports or tests medical cannabis or is
18 determined by the department to be engaged in an activity
19 regulated under this act.

20 "Verification system." An electronic system established and
21 maintained by the Department of Health that allows the
22 Department of Health, the Bureau of Professional and
23 Occupational Affairs, licensed dispensers and law enforcement to
24 verify the issuance of a medical cannabis access card to an
25 individual.

26 "Written certification." A document dated and signed by a
27 health care practitioner that meets the requirements under
28 section 702(c).

29 CHAPTER 3

30 STATE BOARD OF MEDICAL CANNABIS

LICENSING AND ADMINISTRATIVE PROCEDURE

Section 301. License.

(a) Medical cannabis.--A person may not conduct an activity related to the growing, processing or dispensing of medical cannabis or operating a testing laboratory unless the person is licensed or certified by the board under this act.

(b) Employee.--A licensed medical cannabis grower, medical cannabis processor or a medical cannabis dispenser may not employ an individual to directly participate in the growing, processing, delivery or dispensing of medical cannabis unless the individual receives an occupation permit from the board under this act.

Section 302. State Board of Medical Cannabis Licensing.

(a) Establishment.--There is hereby established the State Board of Medical Cannabis Licensing within the department.

(b) Composition.--The board shall consist of the following:

(1) The Secretary of Health or a designee who is an employee of the Department of Health.

(2) Commissioner of Professional and Occupational Affairs or a designee who is an employee of the Bureau of Professional and Occupational Affairs.

(3) The Secretary of Human Services or a designee who is an employee of the Department of Human Services.

(4) Two public members.

(5) One medical doctor who is an expert in the field of pediatrics.

(6) Two members who are medical doctors representing specialties which utilize medical cannabis to treat patients.

(7) The Physician General.

(8) Two members who are registered nurses.

1 (9) A licensed pharmacist.

2 (c) Meetings.--The board shall meet within 30 days of
3 confirmation of the members and shall:

4 (1) Establish procedures to operate the board.

5 (2) Develop applications and other forms for licensure
6 and occupation permits and enforcement of this act and
7 certifications for testing laboratories.

8 (3) Promulgate regulations, as necessary, to implement
9 and enforce this act.

10 (d) Appointment and qualifications.--Each professional and
11 public member shall be appointed by the Governor with the advice
12 and consent of a majority of the Senate. Each member must comply
13 with all of the following:

14 (1) Be a citizen of the United States and a resident of
15 this Commonwealth.

16 (2) Not hold any other public office during the term on
17 the board.

18 (e) Terms.--

19 (1) A member under subsection (b) (1), (2) or (3) shall
20 serve ex officio.

21 (2) For a member under subsection (b), the following
22 apply:

23 (i) Initial appointments shall be as follows:

24 (A) Three members shall serve for a term of four
25 years.

26 (B) Three members shall serve for a term of
27 three years.

28 (C) Two members shall serve for a term of two
29 years.

30 (ii) Each subsequent term shall be for four years or

1 until a successor has been appointed and qualified, which
2 may not be longer than six months beyond the four-year
3 period.

4 (iii) A member may not serve more than two
5 consecutive terms.

6 (f) Quorum.--A majority of the members of the board shall
7 constitute a quorum. Each member must be physically in
8 attendance to be counted as part of a quorum or to vote on an
9 issue. A majority of the members present shall be necessary for
10 a vote to be considered binding.

11 (g) Chairperson.--The board shall annually select a
12 chairperson from the members of the board.

13 (h) Expenses.--With the exception of ex officio members,
14 each member of the board shall receive \$100 per diem when
15 attending to the work of the board. A member shall also receive
16 the amount of reasonable travel, hotel and other necessary
17 expenses incurred in the performance of the member's duties in
18 accordance with Commonwealth regulations.

19 (i) Forfeiture.--A member who fails to attend three
20 consecutive meetings shall forfeit the member's seat unless the
21 chairman, upon written request from the member, finds that the
22 member should be excused because of illness or death of a family
23 member.

24 (j) Frequency of meetings.--The board shall meet at least
25 once per month for the first 12 months, including and after the
26 initial meeting required by section 302(c). After the first 12
27 months following the establishment of the board, the board shall
28 meet at least six times a year and may meet at additional times
29 as necessary to conduct the business of the board.

30 Section 303. Powers and duties of board.

1 The board shall have the following powers and duties:

2 (1) To provide for and regulate the licensing of the
3 following:

4 (i) A medical cannabis grower under section 501.

5 (ii) A medical cannabis processor under section 502.

6 (iii) A medical cannabis dispenser under section
7 503.

8 (2) To issue occupation permits to medical cannabis
9 employees.

10 (3) To issue certifications to testing laboratories
11 under section 511.

12 (4) To issue, deny, renew, reinstate or refuse to renew,
13 suspend and revoke licenses, certifications of testing
14 laboratories and occupation permits in accordance with this
15 act.

16 (5) To implement procedures to allow the expansion of
17 qualified medical conditions for which a patient may obtain
18 medical cannabis under section 703.

19 (6) To administer and enforce the provisions of this
20 act.

21 (7) To investigate and conduct background checks for
22 each application for a license or occupation permit to
23 determine the fitness and eligibility of a person applying
24 for a license or occupation permit.

25 (8) To establish fees for application and renewal of
26 licenses and occupation permits and the due dates for all
27 fees.

28 (9) To charge for services related to the enforcement
29 and administration of this act. Billings shall be submitted
30 at least quarterly and all charges shall be itemized.

1 (10) To keep minutes and records of each transaction and
2 proceeding.

3 (11) To provide standards for the appearance of
4 dispensers to ensure a professional atmosphere.

5 (12) To require site plans, including streets, property
6 lines, buildings, security features and access to water
7 sources.

8 (13) To require utilization of any prescription
9 monitoring program established by the Commonwealth by a
10 health care practitioner to review a patient's pharmaceutical
11 history.

12 (14) To establish an electronic verification system that
13 can be accessed by health care practitioners, the Department
14 of Health, patients, the Bureau of Professional and
15 Occupational Affairs, law enforcement personnel and other
16 individuals designated by the board to verify individual
17 medical cannabis access cards and determine whether the
18 identification number corresponds with a current, valid
19 registry identification card and that the cardholder is a
20 registered qualifying patient or a patient representative.
21 The verification system:

22 (i) Must be available on a 24-hour basis for the
23 verification of medical cannabis access cards.

24 (ii) May only disclose the validity of the card,
25 whether the cardholder is a qualified patient or a
26 patient representative and the registry identification
27 number of the patient.

28 (iii) Must determine whether a medical cannabis
29 access card has been suspended or revoked.

30 (15) To establish an electronic tracking system to be

1 used by the department to track the growing, processing,
2 transporting, dispensing and delivery of all medical cannabis
3 products between growers, processors, laboratories, transport
4 entities, dispensers and other persons engaged in activities
5 regulated under this act. The electronic tracking system must
6 include:

7 (i) Date, time, quantity and price of each sale of
8 medical cannabis to a qualified patient or patient
9 representative.

10 (ii) Each daily record of plants and products grown
11 and possessed by a licensee, including date of harvest,
12 batch number, origin and strain, number of seeds or
13 cuttings planted, chemical additives, disposal and other
14 information required by the board.

15 (iii) Each sale, transport and other activity as
16 deemed necessary by the department.

17 (iv) Records of transport to and from testing
18 laboratories and the results of testing.

19 (v) An inventory control system, including each
20 day's beginning inventory, acquisitions, harvests, sales,
21 disbursements, disposals and ending inventory.

22 Information must be added to the electronic tracking
23 system under this paragraph on a daily basis.

24 (16) To establish a medical cannabis registry to ensure
25 adequate availability of different strains and concentrations
26 of medical cannabis.

27 (17) To develop regular inspection schedules, unannounced
28 inspections, procedures and other enforcement measures to
29 regulate all medical cannabis growers, processors, dispensers
30 and testing laboratories.

1 (18) To inspect, at any time, premises occupied or used
2 for the production, preparation, testing, packaging,
3 processing, storage, sale, distribution and transport of
4 medical cannabis.

5 (19) To develop standards and requirements for the
6 implementation, use and maintenance of security systems.

7 (20) To submit annually to the department an estimate of
8 financial requirements of the board, including
9 administrative, legal and other expenses.

10 (21) To develop a system for mandatory and voluntary
11 recall of defective products or medical cannabis.

12 (22) To develop standards for creation and maintenance
13 of qualifying patient records.

14 (23) To promulgate regulations to implement this act,
15 including:

16 (i) The receipt of medical cannabis for study and
17 research of the health benefits of medical cannabis by
18 accredited research institutions, universities and
19 colleges in this Commonwealth.

20 (ii) Determination of required quality and safe
21 clinical strength of medical cannabis.

22 (iii) Print advertising and marketing of medical
23 cannabis.

24 (iv) Containers, tracking and testing.

25 (v) Packaging and labeling by licensed growers,
26 licensed processors and licensed dispensers. Regulations
27 under this subparagraph shall require labeling to
28 specify:

29 (A) date of packaging;

30 (B) use-by date;

- 1 (C) cultivation site;
- 2 (D) instructions to keep the product in the
- 3 package;
- 4 (E) warnings related to use, including pregnancy
- 5 and medical conditions;
- 6 (F) warnings to keep medical cannabis out of
- 7 children's reach;
- 8 (G) other warnings deemed appropriate by the
- 9 board;
- 10 (H) recommended dosages; and
- 11 (I) appropriate methods to administer medical
- 12 cannabis for authorized diseases.

13 (24) To provide for the form and content of the
14 authority given to a registered patient by a health care
15 practitioner to obtain medical cannabis.

16 (25) To adopt requirements relating to the amount of
17 tetrahydrocannabinol authorized for each product and the
18 tetrahydrocannabinol's application to the appropriate
19 qualified medical condition.

20 (26) To consult information published by the American
21 Herbal Pharmacopeia, in the promulgation of regulations.

22 (27) To enforce regulations under this act.

23 (28) To establish record retention policies for persons
24 regulated under this act.

25 Section 304. Subpoena power.

26 The General Counsel of the Commonwealth, or the General
27 Counsel's designee, shall have the power to issue a subpoena on
28 behalf of the board in enforcement, disciplinary and licensing
29 matters before the board in order to investigate an alleged
30 violation in accordance with the following:

1 (1) The power shall not apply to patient records without
2 order of a court of competent jurisdiction showing that the
3 records are reasonably necessary for the conduct of an
4 investigation.

5 (2) The court may impose limitations on the scope of a
6 subpoena as necessary to prevent unnecessary intrusion into
7 patient confidential information.

8 (3) The attorney representing the Commonwealth in a
9 disciplinary matter before the board may apply to
10 Commonwealth Court to enforce the subpoenas.

11 (4) Nothing in this section shall be construed to excuse
12 a person from producing documents and records as requested by
13 the board under any other provision of law.

14 Section 305. Hearing examiners.

15 (a) Appointment.--The Commissioner of Professional and
16 Occupational Affairs, after consultation with the board, shall
17 appoint hearing examiners as necessary to conduct hearings in
18 disciplinary matters before the board.

19 (b) Regulation.--Regulations promulgated by the board shall
20 include the procedural rules to be followed by hearing examiners
21 under this act. Each proceeding shall be conducted in accordance
22 with 2 Pa.C.S. (relating to administrative law and procedure).

23 (c) Powers.--A hearing examiner shall have the following
24 powers:

25 (1) To conduct hearings.

26 (2) To issue subpoenas requiring:

27 (i) The attendance and testimony of individuals.

28 (ii) The production of pertinent records or other
29 papers by persons whom the examiner believes have
30 information relevant to matters pending before the

1 examiner.

2 (3) To issue decisions.

3 Section 306. Civil penalties.

4 (a) Authorization.--The board shall adopt a schedule of
5 civil penalties for operating without a current, registered,
6 unsuspended and unrevoked license, certificate or occupation
7 permit and for violations of this act. The schedule shall be
8 published in the Pennsylvania Bulletin.

9 (b) Imposition.--An agent of the board may issue citations
10 and impose penalties for a violation of this chapter. A citation
11 or a penalty may be appealed to a hearing examiner or the board
12 pursuant to regulations promulgated by the board. If the matter
13 is initially referred to a hearing examiner, the board shall
14 render a decision on an exception to the decision of the hearing
15 examiner or on any applications for review under 2 Pa.C.S.
16 (relating to administrative law and procedure).

17 (c) Board sanction.--

18 (1) In addition to any other penalty authorized by law,
19 the board may impose the following sanctions:

20 (i) Revocation of the license, permit or certificate
21 of a person convicted of a criminal offense or violation
22 of this act or regulations of the board which would
23 disqualify the holder from growing, processing or
24 dispensing medical cannabis.

25 (ii) Revocation of the license of a person for
26 willfully and knowingly violating or attempting to
27 violate an order of the board directed to the person.

28 (iii) Revocation of an occupation permit or
29 certificate of a person for willfully and knowingly
30 violating or attempting to violate an order of the board

1 directed to the person.

2 (iv) Suspension of the license, permit or
3 certificate of a person pending the outcome of a hearing
4 in a case in which a license, occupation permit or
5 certification revocation could result.

6 (v) Suspension of the license of a licensed grower,
7 processor or dispenser for a violation or attempt to
8 violate any provisions of this act.

9 (vi) Assessment of an administrative penalty as
10 necessary to address misconduct and deter future
11 violations.

12 (vii) Ordering of restitution of funds or property
13 unlawfully obtained or retained by a licensee.

14 (viii) Entrance of a cease and desist order which
15 specifies the conduct which is to be discontinued,
16 altered or implemented by the licensee.

17 (2) If the board refuses to issue or renew a license,
18 certificate or occupation permit or imposes a penalty under
19 paragraph (1), the board shall provide the applicant,
20 licensee, certificate holder or permit holder with written
21 notification of the decision, including a statement of the
22 reasons for the decision by certified mail within five
23 business days of the decision of the board. The applicant,
24 licensee, certificate holder or permittee shall have the
25 right to appeal the decision in accordance with 2 Pa.C.S.
26 Chs. 5 (relating to practice and procedure) and 7 (relating
27 to judicial review).

28 (3) A person who aids, abets, counsels, induces,
29 procures or causes another person to violate this act shall
30 be subject to all sanctions and penalties provided under this

1 subsection.

2 (d) Additional powers.--In addition to the penalties under
3 subsections (b) and (c), the board shall have the power to do
4 the following:

5 (1) Levy a civil penalty of not more than \$25,000 for a
6 violation of this act.

7 (2) Impose a civil penalty of up to \$15,000 per
8 violation if a person aids and abets the unlicensed growing,
9 processing, distribution or dispensing of medical cannabis.
10 The penalty may not be levied against a person solely as a
11 consequence of that person being a registered patient of the
12 unlicensed person.

13 (3) Assess against a respondent determined to be in
14 violation of this act the costs of investigation underlying
15 that disciplinary action. The cost of investigation shall not
16 include costs incurred by the board after the filing of
17 formal actions or disciplinary charges against a respondent.

18 (e) Judgment.--A civil penalty imposed under this section
19 shall be a judgment in favor of the board upon the person or
20 property of the person upon whom the civil penalty is imposed.
21 The Attorney General shall be responsible for enforcing the
22 judgments in courts of competent jurisdiction in accordance with
23 the provisions of 42 Pa.C.S. (relating to judiciary and judicial
24 procedure).

25 Section 307. Confidentiality.

26 (a) General rule.--Investigative records of the board,
27 including prosecutorial memos and transcripts of deposition on
28 behalf of the board or concerning a licensure-related complaint
29 filed with the department, shall be confidential and privileged.
30 The following shall apply:

1 (1) No person who has investigated or has access to or
2 custody of documents, materials or information which is
3 confidential and privileged under this section may be
4 required to testify in a judicial or administrative
5 proceeding without the written consent of the board unless
6 directed to do so by a court of competent jurisdiction.

7 (2) This subsection shall not preclude or limit
8 introduction of the contents of an investigative file or
9 related witness testimony in a hearing or proceeding before
10 the board.

11 (3) This section shall not apply to a letter or other
12 document to a licensee, occupation permittee or certificate
13 holder that discloses the final outcome of an investigation
14 or to a final adjudication or order of the board.

15 (b) Disclosure permitted.--Except as provided in subsection
16 (a), this section shall not prevent disclosure of documents,
17 materials or information pertaining to the status of a license,
18 certificate or occupation permit or the sharing of information
19 with law enforcement officials or similar regulatory boards in
20 other jurisdictions. A violation of this section shall subject
21 an employee or agent of the board to administrative discipline,
22 including discharge, suspension or other formal or appropriate
23 disciplinary action.

24 (c) Affidavit.--Each employee or agent of the board must
25 execute a confidentiality affidavit which provides that
26 documents, materials or information in subsection (a) obtained
27 by the employee or agent shall be considered confidential and
28 may be disclosed only as permitted under this section.

29 (d) Waiver.--The board may not require an applicant to waive
30 any confidentiality under this section as a condition for the

1 approval of a license or other action of the board.

2 Section 308. Financing.

3 (a) Setting of fees.--Beginning two years after the
4 effective date of this subsection, all fees required under this
5 act shall be fixed by the board by regulation. If revenue raised
6 by fees, fines and civil penalties imposed under this act are
7 not sufficient to meet expenditures over a two-year period, the
8 board shall increase those fees by regulation under section
9 303(23) so that the projected revenues will meet or exceed
10 projected expenditures.

11 (b) Renewal fees.--Beginning two years after the effective
12 date of this subsection, all renewal fees shall be deposited
13 into the account.

14 (c) Inadequate fees.--If the Bureau of Professional and
15 Occupational Affairs determines that the fees established by the
16 board under subsection (a) are inadequate to meet the minimum
17 enforcement efforts required by this act, then the bureau, after
18 consultation with the board, shall increase the fees by
19 regulation under section 303(23) in an amount that adequate
20 revenues are raised to meet the required enforcement effort.

21 (d) Disposition.--Fees, fines and civil penalties imposed
22 and collected under this act shall be for the exclusive use of
23 the board in carrying out this act and shall be annually
24 appropriated from the account for that purpose. This subsection
25 shall not apply to an initial license fee.

26 (e) Charging of fees.--The board may charge a reasonable
27 fee, as set by the board by regulation under section 303(23),
28 for all examinations, enforcement activities, registrations,
29 certificates, audits, licensures or applications permitted by
30 this act or a regulation under this act.

1 (f) Civil penalties.--All civil penalties shall be deposited
2 into the account.

3 Section 309. Records and reports.

4 (a) Records.--Each record of activities required under this
5 act must be retained for a period of at least two years unless
6 otherwise required by the board.

7 (b) Reports to department.--The board shall submit annually
8 to the department an estimate of the financial requirements of
9 the board for its administrative, investigative, legal and
10 miscellaneous expenses.

11 (c) Reports to the Appropriations Committee of the Senate
12 and the Appropriations Committee of the House of
13 Representatives.--The board shall submit annually to the
14 Appropriations Committee of the Senate and the Appropriations
15 Committee of the House of Representatives, 15 days after the
16 Governor has submitted his budget to the General Assembly, a
17 copy of the budget request for the upcoming fiscal year which
18 the board previously submitted to the department.

19 (d) Reports to other legislative committees.--The board
20 shall submit annually a report to the Consumer Protection and
21 Professional Licensure Committee of the Senate and to the
22 Professional Licensure Committee of the House of Representatives
23 containing a description of the types of complaints received,
24 status of cases, board action which has been taken and the
25 length of time from the initial complaint to final board
26 resolution. The report shall also include a statement of the
27 numbers and types of licenses granted.

28 CHAPTER 5

29 LICENSING

30 Section 501. Medical cannabis growers.

1 (a) Licensing.--The board shall license not more than 65
2 medical cannabis growers to supply medical cannabis for
3 distribution to medical cannabis processors and medical cannabis
4 dispensers under this act.

5 (b) Imposition.--At the time of license issuance, the board
6 shall impose a licensing fee in the amount of \$50,000. The board
7 shall impose an initial \$5,000 annual renewal fee for each year
8 immediately following the year the license was issued. Renewal
9 fees shall thereafter be subject to adjustment under section
10 308.

11 (c) Term.--Upon payment of the fee under subsection (b), a
12 grower's license shall be in effect unless suspended, revoked or
13 not renewed by the board for good cause.

14 (d) Update.--A licensee under this section must notify the
15 board of a change relating to the status of its license or other
16 information contained in its application and other information
17 filed with the board.

18 (e) Deposit.--The licensure fee under subsection (b) shall
19 be deposited into the General Fund. Renewal fees under
20 subsection (b) shall be deposited into the account.

21 (f) Restriction.--There shall be no restriction on specific
22 strains of medical cannabis that may be grown under this act.
23 Use of genetically modified organisms or an organism whose
24 genetic material has been altered using genetic engineering may
25 not be used in the cultivation of medical cannabis.

26 (g) Requirements.--A medical cannabis grower shall:

27 (1) Only grow medical cannabis using conventional
28 growing methods approved by the board in consultation with
29 the Department of Agriculture.

30 (2) Submit to preoperational and postoperational

1 announced and unannounced inspections by the board or the
2 department.

3 (3) Grow cannabis only in an indoor, enclosed, secure
4 facility.

5 (4) Conduct quality testing utilizing a testing
6 laboratory certified by the board prior to the sale of
7 medical cannabis and submit to random testing of medical
8 cannabis conducted by the board.

9 (5) Package and label medical cannabis products in
10 accordance with regulations of the board.

11 (6) Only sell, transport or deliver medical cannabis to
12 a medical cannabis processor, certified laboratory or medical
13 cannabis dispenser.

14 (7) Provide information relating to the enclosed, secure
15 facility where medical cannabis will be grown, harvested or
16 stored, including electronic locking systems, limited access
17 areas, secure storage and disposal procedures, electronic
18 surveillance and other features required by the board.

19 (8) Provide a cultivation, inventory and packaging plan
20 and procedures for the oversight of the cultivation area,
21 including a plant monitoring system, container tracking
22 system and staffing plan.

23 (9) Maintain daily records of plants, sales and other
24 activities, as required by the board.

25 (10) Perform a weekly physical inventory of all plants
26 and containers.

27 (11) Notify law enforcement within 24 hours of any loss
28 or theft of medical cannabis and record the loss or theft in
29 the electronic tracking system.

30 (12) Utilize any electronic tracking system required by

1 the board.

2 (h) Prohibitions.--A medical cannabis grower may not do any
3 of the following:

4 (1) Be located within 1,000 feet of the property line of
5 a public, private or parochial school or a day-care center.

6 (2) Be located in a residential dwelling or an area
7 zoned for residential use.

8 (3) Acquire cannabis from outside this Commonwealth or
9 otherwise in violation of regulations of the board.

10 (4) Permit an individual to consume cannabis on its
11 property.

12 (5) Advertise medical cannabis on radio or television.

13 (i) Exchange.--The board shall promulgate regulations for
14 the exchange of medical cannabis seed and plant materials
15 between growers.

16 Section 502. Medical cannabis processors.

17 (a) Licensing.--The board shall license not more than 65
18 medical cannabis processors to process medical cannabis into
19 oil-based medical cannabis products, including oil, ointments
20 and tinctures. The licensees shall be geographically dispersed
21 throughout this Commonwealth to allow access to processed
22 medical cannabis by medical cannabis dispensers.

23 (b) Imposition.--At the time of license issuance, the board
24 shall impose a licensing fee in the amount of \$50,000. The board
25 shall impose an initial \$5,000 annual renewal fee for each year
26 immediately following the year the license was issued. Renewal
27 fees shall be subject to adjustment and deposit under section
28 308.

29 (c) Term.--Upon payment of the fee under subsection (b), a
30 processor's license shall be in effect unless suspended, revoked

1 or not renewed by the board for good cause.

2 (d) Update.--A licensee under this section must notify the
3 board of a change relating to the status of its license or other
4 information contained in its application and other information
5 filed with the board.

6 (e) Deposit.--The license fee under subsection (b) shall be
7 deposited into the General Fund. Renewal fees shall be deposited
8 into the account.

9 (f) Requirements.--A medical cannabis processor shall do all
10 of the following:

11 (1) Only use extraction and processing methods approved
12 by the board.

13 (2) Submit to preoperational and postoperational
14 announced and unannounced inspections by the board and the
15 department.

16 (3) Conduct quality testing utilizing a certified
17 testing laboratory approved by the board prior to delivery to
18 a dispenser and submit to random testing conducted by the
19 board.

20 (4) Only sell, transport or deliver medical cannabis to
21 a testing laboratory or to a medical cannabis dispenser.

22 (5) Conduct processing activity in a board-approved
23 facility that is indoor, enclosed and secure, and includes an
24 electronic locking system, a limited access area, secure
25 storage and disposal procedures, electronic surveillance and
26 other features required by the board.

27 (6) Provide information relating to the facility and
28 features under paragraph (5).

29 (7) Provide a processing, inventory and packaging plan
30 and procedures for the oversight of the processing facility,

1 including a plant and product monitoring system, container
2 tracking system and staffing plan.

3 (8) Perform a weekly physical inventory of all plants,
4 containers and processing materials.

5 (9) Maintain a daily log of access to medical cannabis
6 received and products shipped.

7 (10) Only sell medical cannabis approved by a certified
8 laboratory to a licensed medical cannabis dispenser.

9 (11) Notify law enforcement within 24 hours of a loss or
10 theft of medical cannabis and record the loss or theft in the
11 electronic tracking system.

12 (12) Maintain daily records of all sales and other
13 activities as required by the board.

14 (13) Utilize any electronic tracking system required by
15 the board.

16 (g) Prohibitions.--A medical cannabis processor may not do
17 any of the following:

18 (1) Be located within 1,000 feet of the property line of
19 a public, private or parochial school or a day-care center.

20 (2) Be located in a residential dwelling or an area
21 zoned for residential use.

22 (3) Acquire MEDICAL cannabis from anyone other than a
23 licensed medical cannabis grower. <--

24 (4) Obtain MEDICAL cannabis from outside this
25 Commonwealth. <--

26 (5) Process cannabis for any purpose except to provide
27 medical cannabis to a licensed medical cannabis dispenser.

28 (6) Advertise medical cannabis on radio or television.

29 Section 503. Medical cannabis dispensers.

30 (a) Licensing.--The board shall license not more than 130

1 medical cannabis dispensers to accept medical cannabis access
2 cards and dispense medical cannabis to a registered patient or
3 patient representative in accordance with the instructions of a
4 health care practitioner. The licensees shall be geographically
5 dispersed throughout this Commonwealth to allow all registered
6 patients reasonable proximity and access to medical cannabis by
7 a medical cannabis dispenser.

8 (b) Imposition.--At the time of license issuance, the board
9 shall impose a licensing fee in the amount of \$50,000. The board
10 shall impose an initial \$5,000 annual renewal fee for each year
11 immediately following the year the license was issued. Renewal
12 fees shall be subject to adjustment under section 308.

13 (c) Term.--Upon payment of the fee under subsection (b), a
14 dispenser's license shall be in effect unless suspended, revoked
15 or not renewed by the board for good cause.

16 (d) Update.--A licensee under this section must notify the
17 board of a change relating to the status of its license,
18 operation or other information contained in its application and
19 other information filed with the board.

20 (e) Deposit.--The license fee under subsection (b) shall be
21 deposited into the General Fund. Renewal fees shall be deposited
22 into the account.

23 (f) Requirements.--A medical cannabis dispenser shall do all
24 of the following:

25 (1) Maintain an ongoing connection with the Department
26 of Health's individual verification system to verify medical
27 cannabis access cards.

28 (2) Submit to preoperational and postoperational
29 announced and unannounced inspections by the board and the
30 department.

1 (3) Prior to dispensing medical cannabis, access the
2 verification system to ensure that the individual seeking to
3 purchase medical cannabis holds a medical cannabis access
4 card in effect at the time of purchase.

5 (4) Maintain a daily log of all medical cannabis sold
6 and dispensed. The log shall include:

7 (i) The name of the registered patient or patient
8 representative that holds the medical cannabis access
9 card.

10 (ii) The amount and dosage of the medical cannabis
11 recommended by the physician.

12 (iii) The qualified medical condition of the
13 patient.

14 (iv) The amount of medical cannabis dispensed.

15 (v) The date and time of each dispensing to the
16 cardholder.

17 (vi) The dispensary agent's registry number.

18 (vii) The signature and date of the patient or
19 patient representative.

20 (5) Provide reports as required by the board relating to
21 amounts dispensed.

22 (6) Dispense no more than 2.5 ounces of MEDICAL cannabis <--
23 to a patient, directly or via a patient representative, in a
24 14-day period unless the qualifying patient has a quantity
25 waiver from the Department of Health.

26 (7) Only accept written certifications from a health
27 care practitioner for no more than the 28-day supply periods.
28 Thereafter, a new written certification from the health care
29 practitioner shall be required.

30 (8) Comply with recommendations of the health care

1 practitioner as to strain, dosage and amount of medical
2 cannabis dispensed.

3 (9) Provide all registered patients and patient
4 representatives with a safety insert developed by the
5 Department of Health which includes:

6 (i) Methods for administering medical cannabis.

7 (ii) Potential dangers.

8 (iii) Recognition and correction of problematic
9 dosage.

10 (iv) Other information required by the department.

11 (10) Sell only medical cannabis that has received
12 approval from a testing laboratory.

13 (11) Maintain an electronic security system, including
14 all of the following:

15 (i) Electronic surveillance.

16 (ii) An electronic locking system.

17 (iii) A locked door or barrier between the entry and
18 a limited access area for patients, storage, disposal and
19 other processes.

20 (12) Provide for the supervision of the dispensing of
21 medical cannabis at all times by an individual. The board
22 shall determine the qualifications required to supervise the
23 dispensing which may include individuals with health care,
24 educational, pharmaceutical, management or other education or
25 training as determined by the board.

26 (13) Display appropriate signage as required by the
27 board.

28 (14) Provide the proposed address of the enclosed,
29 secure facility where medical cannabis will be dispensed.

30 (15) Provide an inventory and packaging plan and

1 procedures for the oversight of the dispensing facility,
2 including compliance with the inventory control system
3 developed under section 303(15), staffing plan and security
4 plan.

5 (16) Appoint a physician to function as a medical
6 director to serve on site or who is able to be contacted. The
7 medical director must:

8 (i) Provide training to dispensary employees.

9 (ii) Develop patient education.

10 (iii) Develop a policy for refusing to dispense
11 medical cannabis to an individual who appears to be
12 impaired or abusing medical cannabis.

13 (17) Perform a weekly physical inventory of all medical
14 cannabis and medical cannabis products.

15 (18) Obtain medical cannabis only from a medical
16 cannabis processor.

17 (19) Notify law enforcement within 24 hours of a loss or
18 theft of medical cannabis and record the loss or theft in the
19 electronic tracking system.

20 (20) Utilize any electronic tracking system required by
21 the board.

22 (g) Prohibitions.--A medical cannabis dispenser may not do
23 any of the following:

24 (1) Be located within 1,000 feet of the property line of
25 a public, private or parochial school or a day-care center.
26 The board may adjust or waive the prohibition under this
27 paragraph if it is shown by clear and convincing evidence
28 that the adjustment or waiver is necessary to provide
29 adequate access to patients. An adjustment or waiver must
30 include any additional security, physical plant or other

1 conditions necessary to protect children.

2 (2) Be located in a residential dwelling or an area
3 zoned for residential use.

4 (3) Obtain MEDICAL cannabis from outside this <--
5 Commonwealth.

6 (4) Sell medical cannabis for any purpose except to a
7 registered patient or a patient representative.

8 (5) Permit an individual to consume MEDICAL cannabis on <--
9 its property.

10 (6) Sell products which contain nicotine or alcohol.

11 (7) Sell medical cannabis over the Internet or to a
12 person not physically present at its location.

13 (8) Advertise medical cannabis on radio or television.

14 Section 504. Applications.

15 (a) Application.--An application for a grower, processor or
16 dispenser license must be submitted on a form and in a manner as
17 required by the board. In reviewing an application, the board
18 shall confirm that all applicable fees have been paid.

19 (b) Information.--An applicant for a grower, processor or
20 dispenser license under this act must do all of the following:

21 (1) Disclose the following information:

22 (i) Each arrest and citation for a nontraffic
23 summary offense of the applicant.

24 (ii) The name, address and photograph of the
25 applicant and each principal and the principal's position
26 within the corporation or organization.

27 (iii) Any financial information required by the
28 board.

29 (iv) The proposed location of the growing,
30 processing or dispensing operation.

1 (v) The details of each loan obtained to finance the
2 growing, processing or dispensing operation.

3 (vi) The details of any civil judgment against the
4 applicant or the applicant's owners or operators relating
5 to:

6 (A) security regulation laws of the Federal
7 Government;

8 (B) laws relating to the regulation of
9 pharmaceuticals; or

10 (C) laws under 15 Pa.C.S. (relating to
11 corporations and unincorporated associations).

12 (vii) Any other information required by the board.

13 (2) Consent to the conduct of a background investigation
14 by the board, the scope of which shall be determined by the
15 board consistent with this act. Consent shall include a
16 release signed by each person subject to the investigation of
17 information required to complete the investigation.

18 (c) Refusal.--A refusal to provide the information required
19 under this section or to consent to a background investigation
20 shall result in the immediate denial of a license.

21 (d) Character requirements.--Each application for a grower,
22 processor or dispenser license shall include information,
23 documentation and assurances required by the board to establish
24 by clear and convincing evidence that the applicant is a person
25 of good character, honesty and integrity, has appropriate
26 financial suitability and is eligible and suitable to be an
27 owner or operator. Information shall include information
28 pertaining to associates during the 10-year period immediately
29 preceding the filing date of the application.

30 (e) Privilege.--The issuance or renewal of a license under

1 this section shall be a revocable privilege.

2 Section 505. Licensing of owner or operator.

3 (a) License required.--Each owner or operator of an
4 applicant for licensure under this act must obtain an owner or
5 operator license from the board. An owner or operator may only
6 have an interest in the activity under this act for which
7 licensure is sought.

8 (b) Application.--An owner or operator license application
9 shall be in a form prescribed by the board and shall include the
10 following:

11 (1) Verification of status as an owner or operator from
12 a medical cannabis dispenser, grower or processor.

13 (2) A description of responsibilities as an owner or
14 operator.

15 (3) Each release necessary to obtain information from
16 governmental agencies, employers and other organizations.

17 (4) Fingerprints, which shall be submitted to the
18 Pennsylvania State Police. The Pennsylvania State Police
19 shall submit fingerprint data to and receive national
20 criminal history record information from the Federal Bureau
21 of Investigation for use in investigating an applicant for an
22 owner or operator license.

23 (5) A photograph that meets the standards of the
24 Commonwealth Photo Imaging Network.

25 (6) Details relating to a similar license, permit or
26 other authorization obtained in another jurisdiction.

27 (7) Any additional information required by the board.

28 (c) Issuance.--Following review of the application and the
29 background investigation, the board may issue an owner or
30 operator license if the applicant has proven by clear and

1 convincing evidence that the applicant is a person of good
2 character, honesty and integrity and is eligible and suitable to
3 be licensed as an owner or operator.

4 (d) Nontransferability.--A license issued under this section
5 shall be nontransferable.

6 (e) Owner or operator.--An individual who receives an owner
7 or operator license need not obtain an occupation permit.

8 (f) Waiver.--The board may waive licensure requirements for
9 an owner of securities in a publicly traded corporation if the
10 board determines that the holder of the securities is not
11 significantly involved in the activities of the applicant.

12 Section 506. Occupation permit for medical cannabis employees
13 and certain patient representatives.

14 (a) Permit required.--Each medical cannabis employee, and
15 each patient representative who is an employee of a health care
16 facility, shall obtain an occupation permit from the board.

17 (b) Application.--An occupation permit application shall be
18 in a form prescribed by the board and shall include the
19 following:

20 (1) Verification of one of the following:

21 (i) The status as a medical cannabis employee or
22 potential medical cannabis employer from a medical
23 cannabis grower, processor or dispenser.

24 (ii) From a health care facility that the patient
25 representative is an employee designated to purchase,
26 possess, transport, deliver and properly administer
27 medical cannabis to a patient with a medical cannabis
28 access card who is unable to obtain the medical cannabis.

29 (2) A description of employment responsibilities.

30 (3) Each release necessary to obtain information from

1 governmental agencies, employers and other organizations.

2 (4) Fingerprints, which shall be submitted to the
3 Pennsylvania State Police. The Pennsylvania State Police
4 shall submit fingerprint data to and receive national
5 criminal history record information from the Federal Bureau
6 of Investigation for use in investigating an applicant for an
7 occupation permit.

8 (5) A photograph that meets the standards of the
9 Commonwealth Photo Imaging Network.

10 (6) Details relating to a similar license, permit or
11 other authorization obtained in another jurisdiction.

12 (7) Any additional information required by the board.

13 (c) Issuance.--Following review of the application and the
14 background investigation, the board may issue an occupation
15 permit if the applicant has proven by clear and convincing
16 evidence that the applicant is a person of good character,
17 honesty and integrity and is eligible and suitable to be an
18 occupation permit holder.

19 (d) Nontransferability.--An occupation permit issued under
20 this section shall be nontransferable.

21 (e) Privilege.--The issuance or renewal of a permit under
22 this section shall be a revocable privilege.

23 Section 507. Change in ownership.

24 The following apply to notification and approval:

25 (1) A medical cannabis grower, processor or dispenser
26 must notify the board upon becoming aware of a proposed or
27 contemplated change of ownership or control of the licensee.
28 The new owner must pay the licensing fee required under this
29 chapter.

30 (2) The purchaser of the assets of a medical cannabis

1 grower, processor or dispenser must independently qualify for
2 a license in accordance with this act and must pay the
3 license fee required under this chapter.

4 (3) If the ownership of the operation of a licensed
5 grower, processor or dispenser or its affiliate is changed,
6 the new owner must pay the annual renewal fee for each
7 applicable license.

8 Section 508. Location.

9 (a) General rule.--Except as otherwise provided under this
10 act, each grower, processor and dispenser license shall be valid
11 for the specific physical location within the municipality and
12 county for which it was originally granted. A person may not
13 distribute medical cannabis from a location other than a
14 licensed facility.

15 (b) Zoning.--The following shall apply:

16 (1) Facilities for the growing or processing of medical
17 cannabis shall meet the same municipal zoning and land use
18 requirements as other manufacturing, preparation and
19 production facilities.

20 (2) Facilities for the dispensing of medical cannabis
21 shall meet the same municipal zoning and land use
22 requirements as other commercial facilities.

23 (3) Applicants for a grower, processor or distributor
24 license must include a copy of the applicant's zoning
25 approval with the applicant's application. Local zoning
26 approval must be obtained prior to the issuance of a license
27 by the board.

28 (c) Petition.--An applicant or holder of a license under
29 this act may petition the board to relocate its facility. In
30 determining whether to grant a petition to relocate, the board

1 shall do all of the following:

2 (1) Evaluate the proposed new location and the reason
3 for relocation.

4 (2) Evaluate community support and compliance with local
5 ordinances.

6 (3) Consider any other information submitted by the
7 petitioner or required by the board.

8 Section 509. Storage and transportation.

9 The board shall develop regulations relating to the storage
10 and transportation of medical cannabis among growers,
11 processors, testing laboratories and medical cannabis dispensers
12 which ensure adequate security to guard against in-transit
13 losses. The tracking system developed by the board shall include
14 all transportation and storage of medical cannabis. The
15 regulations shall provide for the following:

16 (1) Requirements relating to shipping containers and
17 packaging.

18 (2) The manner in which trucks, vans, trailers or other
19 carriers will be secured.

20 (3) Security systems that include a numbered seal on the
21 trailer.

22 (4) Obtaining copies of driver's licenses and
23 registrations and other information related to security and
24 tracking.

25 (5) Use of GPS systems.

26 (6) Number of drivers or other security required to
27 ensure against storage or in-transit losses.

28 (7) Recordkeeping for delivery and receipt of medical
29 cannabis products.

30 (8) Requirements to utilize any electronic tracking

1 system required by the board.

2 Section 510. Disposal and donation.

3 (a) Disposal.--The board shall promulgate regulations
4 relating to disposal of medical cannabis by medical cannabis
5 growers, processors, dispensers and law enforcement.

6 (b) Donation.--A medical cannabis dispenser, grower and
7 processor may donate medical cannabis that has been purchased or
8 produced and tested in this Commonwealth in accordance with this
9 act and is in new and unopened condition and can only be donated
10 for research purposes to an accredited research institution,
11 university or college within this Commonwealth and recognized by
12 the Commonwealth.

13 (c) Tracking.--The electronic tracking system must monitor
14 disposals and donations of medical cannabis by licensees. A
15 medical cannabis grower, processor and dispenser must record
16 disposals and donations in the electronic tracking system.
17 Section 511. Testing laboratories.

18 (a) Certification.--The board shall certify accredited
19 laboratories to test medical cannabis in accordance with
20 regulations of the board.

21 (b) Requirement.--A medical cannabis grower and a medical
22 cannabis processor must utilize a certified laboratory to test
23 the quality of medical cannabis before the sale or transport of
24 medical cannabis is made as required by the board.

25 (c) Duty of board.--The board shall determine the scope and
26 content of information required to certify laboratories,
27 including security requirements.

28 (d) Tracking.--A testing laboratory must notify law
29 enforcement within 24 hours of a loss or theft of medical
30 cannabis and record the loss or theft in the electronic tracking

1 system.

2 Section 512. Licensee prohibitions.

3 (a) Inspection.--A licensee or certified laboratory may not
4 refuse to allow an authorized employee of the department to
5 inspect a licensed premises at any time.

6 (b) Other prohibitions.--A licensee or certified laboratory
7 may be cited under this act for:

8 (1) An unlawful act prohibited by State law which occurs
9 on the licensed premises.

10 (2) An unlawful act which involves a licensee or the
11 licensee's agent or employee.

12 (3) The sale or purchase of an illegal drug by the
13 licensee or by the licensee's agent or employee.

14 CHAPTER 7

15 MEDICAL CANNABIS ACCESS

16 Section 701. Medical cannabis access card.

17 (a) Department of Health.--A patient with a qualified
18 medical condition may register with the Department of Health and
19 be issued a medical cannabis access card.

20 (b) Enforcement.--The Department of Health shall develop
21 regulations to enforce the provisions of this chapter, including
22 revocation or suspension of ~~an~~ A MEDICAL CANNABIS access card <--
23 for violations of this act.

24 (c) Application.--An application for a medical cannabis
25 access card shall be developed by the Department of Health.
26 Applications for renewal shall be required on an annual basis. A
27 patient representative may obtain a medical cannabis access card
28 on behalf of a registered patient. The Department of Health
29 shall require an address, photo and other identifying
30 information on the application.

1 (d) Certification.--Applications and renewals must include
2 written certification from a health care practitioner under
3 section 702(a) that the applicant has a qualified medical
4 condition.

5 (e) Verification.--The Department of Health shall verify the
6 information in the application and renewal form. Verification
7 shall include verification of the certification under subsection
8 (d).

9 (f) Time.--The Department of Health must approve or deny an
10 application within 90 business days.

11 (g) Fee.--The Department of Health shall charge an
12 application fee of not more than \$100 and an annual renewal fee
13 of not more than \$50.

14 (h) Residency.--Except as provided in subsection (1), a
15 patient must reside in this Commonwealth to receive a medical
16 cannabis access card.

17 (i) Verification.--The patient or patient representative
18 must be assigned a registration number and must be placed on the
19 verification system.

20 (j) Duration.--The medical cannabis access card shall be
21 valid for two years from the date of issuance. A replacement
22 card shall have the same expiration date.

23 (k) Notification.--The Department of Health must notify the
24 patient or patient representative that ~~an~~ A MEDICAL CANNABIS <--
25 access card is no longer valid if notice is received from:

26 (1) The patient or health care practitioner that the
27 qualified medical condition is improved and no longer
28 requires medical cannabis.

29 (2) The patient or health care practitioner that the
30 patient no longer has a qualified medical condition or that

1 medical cannabis is no longer therapeutic or palliative.

2 (3) The health care practitioner that the health care
3 practitioner believes the patient is not using the medical
4 cannabis as recommended.

5 (1) Reciprocity.--A patient registered in another state that
6 authorizes medical cannabis and recognizes medical cannabis
7 access cards from patients who are residents of this
8 Commonwealth may submit to the Department of Health the
9 patient's credentials to utilize medical cannabis. The
10 Department of Health shall confirm an out-of-State patient's
11 status as a medical cannabis user in each state with legalized
12 medical cannabis and only grant a medical cannabis access card
13 to a person with a qualified medical condition. After the
14 Department of Health investigates and approves the patient's
15 credentials, the Department of Health shall issue the patient a
16 medical cannabis access card allowing the patient to utilize
17 medical cannabis in this Commonwealth.

18 (m) Patient representative.--

19 (1) A patient representative must be:

20 (i) at least 18 years of age; and

21 (ii) a resident of this Commonwealth.

22 (2) A patient representative shall do all of the
23 following:

24 (i) Register with the Department of Health in a
25 manner prescribed by the Department of Health.

26 (ii) Present, from the registered patient's health
27 care practitioner who prescribed the medical cannabis,
28 certification that the patient is unable to obtain or
29 administer medical cannabis for a good faith medical or
30 physical reason.

1 (iii) Notify the Department of Health within 10
2 business days after:

3 (A) a change to the information that the
4 provider, registered patient or patient
5 representative was required to submit to the
6 Department of Health; and

7 (B) the patient representative discovers that
8 the registry identification has been lost or stolen.

9 (iv) Notify the Department of Health by telephone
10 and in writing within 10 days following the death of the
11 patient representative's registered patient. The
12 Department of Health shall provide instruction to the
13 patient representative regarding the duty to dispose of
14 and means by which the remaining medical cannabis may be
15 disposed.

16 (3) A patient representative may do any of the
17 following:

18 (i) Transport a registered patient to and from a
19 licensed medical cannabis dispenser.

20 (ii) Obtain and transport an appropriate supply in
21 accordance with section 503(f)(6) and (7) of medical
22 cannabis from a medical cannabis dispenser on behalf of a
23 registered patient.

24 (iii) Prepare medical cannabis for consumption by a
25 registered patient.

26 (iv) Administer medical cannabis to a registered
27 patient as recommended by the registered patient's health
28 care practitioner.

29 (4) A patient representative may not do any of the
30 following:

1 (i) Receive payment or other compensation for
2 services provided as a patient representative other than
3 reimbursement for reasonable expenses incurred in the
4 provision of services as a patient representative. In the
5 case of an employee of a health care facility serving as
6 a patient representative, the individual may not receive
7 payment or compensation above or beyond the individual's
8 regular wages.

9 (ii) Consume medical cannabis which has been
10 dispensed on behalf of a registered patient.

11 (iii) Sell, provide or otherwise divert medical
12 cannabis which has been dispensed to a registered
13 patient.

14 (iv) Grow or cultivate medical cannabis on behalf of
15 any individual.

16 (v) Purchase medical cannabis from an unlicensed
17 source.

18 (vi) Obtain medical cannabis from a registered
19 patient or a patient representative.

20 (5) If a patient representative previously employed by a
21 health care facility is no longer employed by the health care
22 facility, the authority to obtain medical cannabis using a
23 medical cannabis access card or other form of authorization
24 issued by the Department of Health shall be void. A health
25 care facility that employs a patient representative to pick
26 up, deliver or administer medical cannabis to registered
27 patients shall notify the Department of Health immediately
28 upon termination of the patient representative's employment.

29 (6) The Department of Health shall promulgate
30 regulations relating to patient representatives, including

1 the form of authorization to be utilized.

2 (n) Confidentiality.--The Department of Health shall
3 maintain a verification system that includes the names of each
4 individual who has been issued a medical cannabis access card or
5 authorized to act as a patient representative. The information
6 on the list shall be confidential and shall not be considered a
7 public record under the act of February 14, 2008 (P.L.6, No.3),
8 known as the Right-to-Know Law. The list may not be disclosed
9 except to any of the following:

10 (1) Authorized employees of the board, the Department of
11 Health and the Bureau of Professional and Occupational
12 Affairs as necessary to perform official duties of the board
13 and the Department of Health.

14 (2) Authorized employees of the board and the Department
15 of Health, as necessary to verify that a person who is
16 engaged in the suspected or alleged medical use of cannabis
17 is lawfully in possession of a medical cannabis access card.

18 (3) Licensed dispensers as necessary to verify
19 information and identity.

20 (4) Law enforcement as provided under section 906.

21 (5) Health care practitioners.

22 Section 702. Health care practitioners.

23 (a) Requirements.--A health care practitioner may recommend
24 the use of medical cannabis to a patient if the health care
25 practitioner complies with all of the following:

26 (1) Has a good faith practitioner-patient relationship
27 with the patient, not limited to a certification for the
28 patient to use medical cannabis or a consultation simply for
29 that purpose.

30 (2) Practices within this Commonwealth at an established

1 place of practice.

2 (3) Registers with the department if required by
3 department regulation.

4 (4) Has responsibility for the ongoing care and
5 treatment of the patient as long as the ongoing care
6 treatment is not limited to or for the primary purpose of
7 certifying a qualifying medical condition.

8 (5) Has completed and documented an in-person full
9 assessment of the patient's medical history and current
10 medical condition not more than 90 days prior to making the
11 certification for medical cannabis. The assessment shall
12 include a review of medical records from other treating
13 health care practitioners from the previous 12 months.

14 (6) Certifies that the patient is under the physician's
15 care for, and that the physician has expertise in, the
16 patient's qualifying medical condition.

17 (7) Certifies that in the physician's professional
18 opinion, the patient is likely to receive therapeutic or
19 palliative benefit from the medical use of cannabis to treat
20 or alleviate the patient's qualifying medical condition or
21 symptoms associated with the condition.

22 (8) Bases each written certification to receive medical
23 cannabis on generally accepted standards of medical practice.

24 (9) Has adopted a recordkeeping system for all patients
25 for whom the physician has recommended the use of medical
26 cannabis.

27 (b) Prohibitions.--A health care practitioner may not do any
28 of the following:

29 (1) Accept, solicit or offer a form of remuneration from
30 or to:

1 (i) a patient, except normal medical examination
2 costs;

3 (ii) a patient representative;

4 (iii) a licensed grower, licensed processor or
5 licensed dispenser; or

6 (iv) an principal officer, employee or agent of a
7 person listed in subparagraph (i), (ii) or (iii).

8 (2) Offer a discount or an item of value to a patient
9 who uses or agrees to use a particular patient representative
10 or medical cannabis dispenser to obtain medical cannabis.

11 (3) Conduct an examination of a patient for purposes of
12 diagnosing a qualifying medical condition at a location where
13 medical cannabis is sold or distributed.

14 (4) Hold a direct or indirect economic interest in, or
15 serve on the board of, a licensed medical cannabis grower,
16 licensed medical cannabis processor or licensed medical
17 cannabis dispenser.

18 (5) Refer a patient to a particular licensed medical
19 cannabis dispenser.

20 (6) Advertise in a facility of a licensed medical
21 cannabis grower, licensed medical cannabis processor or
22 licensed medical cannabis dispenser.

23 (7) Issue a written certification to receive medical
24 cannabis to a member of the health care practitioner's
25 family.

26 (c) Written certification.--A health care practitioner shall
27 issue a written certification that includes the following:

28 (1) The date and signature of the health care
29 practitioner.

30 (2) A statement that in the health care practitioner's

1 opinion the patient is likely to receive therapeutic or
2 palliative benefit from the medical use of cannabis to treat
3 or alleviate a qualified medical condition or symptoms
4 associated with the qualified medical condition.

5 (3) Specification of the qualified medical condition.

6 (4) A statement that the qualifying patient is under the
7 health care practitioner's care for the qualified medical
8 condition.

9 (5) The recommended dosage and total amount of medical
10 cannabis being recommended.

11 (d) Limitation.--A written certification may not be for more
12 than 2.5 ounces of medical cannabis for a patient in a 14-day
13 period unless the patient has a quantity waiver from the
14 Department of Health.

15 (e) Veterans.--A veteran who has received treatment at a
16 Veterans' Administration hospital shall be deemed to have a bona
17 fide physician-patient relationship with a Veterans'
18 Administration physician if the patient has been seen for the
19 qualified medical condition in accordance with Veterans'
20 Administration protocols.

21 Section 703. Expansion of medical conditions.

22 (a) Petition.--Beginning July 1, 2017, the board may accept
23 petitions from a resident of this Commonwealth to add additional
24 qualified medical conditions to those conditions for which a
25 patient may receive medical cannabis.

26 (b) Requirements.--A petition under subsection (a):

27 (1) must be limited to a single proposed qualified
28 medical condition;

29 (2) must be in a form prescribed by the board;

30 (3) must include a description of the specific medical

1 condition which is the subject of the petition; and

2 (4) must not request approval for broad categories of
3 illnesses.

4 (c) Review.--Upon receipt of a petition under subsection
5 (a), the board shall do all of the following:

6 (1) Review the petition received for the addition of a
7 qualified medical condition which would benefit from the use
8 of medical cannabis. The board may consolidate petitions for
9 the same or similar condition.

10 (2) Review new or current medical and scientific
11 evidence pertaining to currently approved conditions.

12 (3) Consult medical and scientific experts as necessary
13 to adequately review the petition.

14 (4) Analyze the following:

15 (i) Information about why conventional medical
16 therapies are not sufficient to treat or alleviate the
17 impact of the condition or disease.

18 (ii) The proposed benefits from the use of medical
19 cannabis.

20 (iii) Evidence from the medical community and other
21 experts supporting the use of medical cannabis to
22 alleviate suffering caused by the condition or disease or
23 its treatment.

24 (iv) Letters of support from licensed health care
25 providers knowledgeable about the condition or disease,
26 including letters from physicians with whom the
27 petitioner has a physician-patient relationship.

28 (v) Medical or scientific documentation.

29 (d) Action.--The board shall approve or deny a petition in
30 accordance with regulations promulgated by the board.

1 Section 704. Medical use permitted.

2 (a) General rule.--The cultivation, possession, acquisition,
3 use, delivery, processing, dispensing or transportation of
4 medical cannabis by a person who, at the time the cultivation,
5 possession, acquisition, use, delivery, processing, dispensing
6 or transportation occurs, possesses a valid license,
7 occupational permit, certificate or medical cannabis access card
8 under this act and is in compliance with all applicable terms
9 under this act shall not be unlawful under any provision of law.

10 (b) ~~Access~~ MEDICAL CANNABIS ACCESS card.--

<--

11 (1) Possession of or application for a medical cannabis
12 access card may not alone constitute probable cause to search
13 a person, the person's property or otherwise subject the
14 person or property to inspection by a governmental agency.

15 (2) Paragraph (1) does not apply to a patient under 18
16 years of age unless all of the following have occurred:

17 (i) The minor's health care practitioner has
18 explained to the minor and the minor's custodial parent,
19 guardian or person having legal custody the potential
20 risks and benefits of medical cannabis.

21 (ii) The custodial parent, guardian or person having
22 legal custody consents in writing to:

23 (A) Allow the minor's use of medical cannabis.

24 (B) Serve as the minor's patient representative.

25 (C) Control the acquisition, dosage and
26 frequency of the minor's use of medical cannabis.

27 (c) Restriction.--An individual who has been convicted,
28 adjudicated delinquent or granted accelerated rehabilitative
29 disposition or who pleads guilty or nolo contendere for any
30 offense shall not be disqualified from obtaining or possessing a

1 valid medical cannabis access card on the basis of the offense.

2 Section 705. Authorized use.

3 The use of MEDICAL cannabis products mixed into food or <--
4 drinks to facilitate ingestion by a patient in a facility or
5 residence shall not violate the ban on edible MEDICAL cannabis <--
6 products. Any food mixed with medical cannabis under this
7 section may not be sold to any person.

8 Section 706. Health insurance.

9 Nothing in this act shall be construed to require a State
10 government medical assistance program or private health insurer
11 to reimburse a person for costs associated with the medical use
12 of cannabis or an employer to accommodate the medical use of
13 cannabis in a workplace.

14 Section 707. Sovereign immunity.

15 The Commonwealth may not be held liable for any deleterious
16 outcomes resulting from the medical use of cannabis by a
17 registered patient.

18 CHAPTER 9

19 PROTECTION, PROHIBITIONS,

20 ENFORCEMENT AND PENALTIES

21 Section 901. Civil discrimination protection.

22 The following shall apply:

23 (1) ~~For the purposes of medical care, a patient's~~ <--
24 ~~authorized use of medical cannabis under this act shall be~~
25 ~~considered the equivalent of the use of other medication~~
26 ~~under the direction of a health care practitioner.~~ Medical
27 cannabis, when used in accordance with this act, may not be
28 considered an illicit substance or otherwise disqualify a
29 patient from medical care.

30 (2) An individual may not be penalized in any of the

1 following ways due to the individual's use of medical
2 cannabis under this act:

3 (i) Denied custody, visitation or parenting time
4 with a minor child.

5 (ii) Presumed to neglect or endanger a minor child
6 unless the individual's behavior creates an unreasonable
7 danger to the safety of the minor by clear and convincing
8 evidence.

9 (3) A landlord may not refuse to lease or otherwise
10 penalize a patient solely for having a medical cannabis
11 access card or using medical cannabis in accordance with this
12 act unless the landlord would lose a monetary or licensing-
13 related benefit under Federal law or regulation.

14 (4) A school may not refuse to enroll or otherwise
15 penalize a patient solely for having a medical cannabis
16 access card or using medical cannabis in accordance with this
17 act unless the school would lose a monetary or licensing-
18 related benefit under Federal law or regulation.

19 (5) An employer may not discriminate against an
20 individual in the hiring or termination of benefits or
21 otherwise penalize the individual for being a medical
22 cannabis access cardholder. The following shall apply:

23 (i) The employer may take an individual's status as
24 a MEDICAL CANNABIS ACCESS cardholder into account only if <--
25 the employer can prove the employee is abusing or
26 misusing the employee's medical cannabis on the premises
27 of the place of employment during ordinary hours of
28 employment or if failure to do so would cause an employer
29 to lose a licensing benefit under Federal law or
30 regulation.

1 (ii) An individual's positive drug test for cannabis
2 components or metabolites may not be considered by an
3 employer unless the individual unlawfully used, possessed
4 or was impaired by the medical cannabis while on the
5 premises of the place of employment or during the hours
6 of employment.

7 Section 902. Prohibitions and use.

8 (a) Prohibitions.--

9 (1) A registered patient may not operate or be in
10 physical control of any of the following while under the
11 influence with a blood content of more than 10 nanograms of
12 active tetrahydrocannabinis per milliliter of blood in serum:

13 (i) A motor vehicle.

14 (ii) An aircraft.

15 (iii) A motor boat.

16 (iv) Heavy machinery.

17 (v) A mode of transportation in a manner that would
18 constitute an offense under 75 Pa.C.S. Ch. 38 (relating
19 to driving after imbibing alcohol or utilizing drugs).

20 (2) A registered patient may not undertake any task
21 under the influence of medical cannabis when doing so would
22 constitute negligence or professional malpractice.

23 (3) A person may not allow medical cannabis obtained by
24 a registered patient to be used by an individual who is not
25 authorized to use medical cannabis under this act.

26 (4) An individual may not smoke medical cannabis or
27 utilize a vaporizer to ingest or inhale medical cannabis.

28 (b) Use.--Except as provided under subsection (a), a
29 registered patient may utilize medical cannabis in any public
30 place, including the following:

1 (1) Public transportation.

2 (2) On school grounds if the registered patient is a
3 student or an employee of the school in accordance with the
4 Department of Education regulations regarding medication on
5 school grounds.

6 (3) In a correctional facility in accordance with
7 Department of Corrections regulations regarding medications
8 in correctional facilities.

9 (4) At a public park or public beach.

10 (c) Adulteration.--With the exception of extraction methods
11 and processing operations approved by the board, a person may
12 not adulterate, fortify, contaminate or change the character or
13 purity of medical cannabis from the original sold by a licensed
14 medical cannabis grower, processor or dispenser.

15 Section 903. Unlawful activities.

16 In addition to any other applicable provision of law, it
17 shall be a criminal offense to intentionally or knowingly do any
18 of the following:

19 (1) Grow, process or dispense medical cannabis without a
20 license under this act.

21 (2) Transport medical cannabis from or between an
22 unlicensed grower, processor or dispenser.

23 (3) Participate in the growing, processing, testing or
24 dispensing of medical cannabis in violation of this act.

25 (4) Fail to report, pay or truthfully account for and
26 pay any license fee, authorization fee or an assessment
27 imposed under this act.

28 (5) Violate any regulation of the board.

29 Section 904. Criminal penalties and fines.

30 (a) Offense.--Except as provided under subsections (b) and

1 (c), a violation of the act shall be graded as a misdemeanor of
2 the second degree.

3 (b) Unauthorized actions.--A medical cannabis grower,
4 processor or dispenser that distributes, gives, sells or
5 provides medical cannabis to a person other than a person
6 authorized under this act commits a felony of the third degree.

7 (c) Individual.--An individual who falsifies an application
8 or certification under section 511 commits a misdemeanor of the
9 first degree.

10 (d) Other violations.--A person that is convicted of a
11 second or subsequent violation of this act commits a felony of
12 the third degree.

13 Section 905. Daily log access.

14 (a) Court order.--A daily log under section 503(f)(4) may be
15 accessed by law enforcement upon receipt of a court order
16 obtained by the requesting law enforcement agency. Upon receipt
17 of a request for access under this subsection, a court may enter
18 an ex parte order granting the motion if the law enforcement
19 agency has demonstrated by a preponderance of the evidence that:

20 (1) The motion pertains to a person who is the subject
21 of an active criminal investigation.

22 (2) There is reasonable suspicion that a criminal act
23 has occurred.

24 (b) Use.--Data obtained by a law enforcement agency under
25 subsection (a) may only be used to establish probable cause to
26 obtain a search warrant or arrest warrant.

27 Section 906. Law enforcement.

28 The verification system may be accessed by law enforcement
29 agencies registered with the department to confirm the
30 authenticity of ~~an~~ A MEDICAL CANNABIS access card. The

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1 information shall remain confidential unless criminal charges
2 are filed.

3 CHAPTER 11

4 MEDICAL CANNABIS SURCHARGE

5 Section 1101. Definitions.

6 The following words and phrases when used in this chapter
7 shall have the meanings given to them in this section unless the
8 context clearly indicates otherwise:

9 "Department." The Department of Revenue of the Commonwealth.

10 ~~"Medical cannabis." Plants containing cannabidiol,~~ <--
11 ~~tetrahydrocannabinol or delta-9-tetrahydrocannabinol acid or any~~
12 ~~part of a cannabis plant, including cannabis processed by~~
13 ~~extracting oil from the plant, intended for medical purposes.~~
14 ~~The term includes extracted oil, ointments and tinctures.~~

15 "Medical cannabis purveyor." A medical cannabis dispenser,
16 medical cannabis grower, medical cannabis processor or any other
17 person licensed under this chapter who, in the usual course of
18 business, sells medical cannabis to a medical cannabis
19 dispenser.

20 "Purchase price." The total value of anything paid or
21 delivered, or promised to be paid or delivered, whether it be
22 money or otherwise, in complete performance of a sale or
23 purchase, without a deduction on account of the cost or value of
24 the property sold, cost or value of transportation, cost or
25 value of labor or service, interest or discount paid or allowed
26 after the sale is consummated, other taxes or surcharges imposed
27 by the Commonwealth or other expense.

28 "Sale." A transfer of ownership, custody or possession of
29 medical cannabis for consideration; an exchange, barter or gift;
30 or an offer to sell or transfer the ownership, custody or

1 possession of medical cannabis for consideration.

2 "Surcharge payer." A person subject to the surcharge under
3 this chapter.

4 "Unclassified importer." A person in this Commonwealth that
5 acquires medical cannabis from a source on which the surcharge
6 imposed by this chapter was not paid and that is not a person
7 otherwise required to be licensed under the provisions of this
8 chapter. The term includes a patient who purchases medical
9 cannabis outside this Commonwealth for personal possession or
10 use in this Commonwealth.

11 Section 1102. Incidence and rate of surcharge.

12 (a) Imposition.--A medical cannabis surcharge is imposed on
13 a medical cannabis purveyor or other person at the time the
14 medical cannabis is first sold to a medical cannabis dispenser
15 in this Commonwealth at the rate of 6% on the purchase price
16 charged to the medical cannabis dispenser for the purchase of
17 medical cannabis. The surcharge shall be collected from the
18 medical cannabis dispenser by the seller of the medical cannabis
19 to the medical cannabis dispenser and remitted to the
20 department. A person required to collect this surcharge shall
21 separately state the amount of surcharge on an invoice or other
22 sales document.

23 (b) Medical cannabis dispenser.--If the surcharge is not
24 collected by the seller from the medical cannabis dispenser, the
25 surcharge is imposed on the medical cannabis dispenser at the
26 time of purchase at the same rate as in subsection (a) based on
27 the medical cannabis dispenser's purchase price of the medical
28 cannabis. The medical cannabis dispenser shall remit the
29 surcharge to the department.

30 (c) Unclassified importer.--The surcharge is imposed on an

1 unclassified importer at the time of purchase at the same rate
2 as in subsection (a) based on the unclassified importer's
3 purchase price of the medical cannabis. The unclassified
4 importer shall remit the surcharge to the department.

5 (d) Exceptions.--The surcharge shall not be imposed on
6 medical cannabis that:

7 (1) is exported for sale outside this Commonwealth; or

8 (2) is not subject to surcharge or taxation by the
9 Commonwealth pursuant to any laws of the United States.

10 (e) Article II.--Unless otherwise specifically noted, the
11 provisions of Article II of the act of March 4, 1971 (P.L.6,
12 No.2), known as the Tax Reform Code of 1971, shall apply to the
13 returns, payment, penalties, enforcement, collections and
14 appeals of the surcharge imposed on medical cannabis.

15 Section 1103. Limitation of surcharge.

16 Only one sale shall be surcharged and used in computing the
17 amount of surcharge due under this chapter.

18 Section 1104. Remittance of surcharge to department.

19 Medical cannabis purveyors and unclassified importers shall
20 file monthly reports on a form prescribed by the department by
21 the 20th day of the month following the sale or purchase of
22 medical cannabis from another source on which the surcharge
23 levied by this chapter has not been paid. The surcharge is due
24 at the time the report is due. The department may require the
25 filing of reports and payments of surcharges on a less frequent
26 basis at its discretion.

27 Section 1105. Procedures for claiming refund.

28 A claim for a refund of the surcharge imposed by this chapter
29 shall be in accordance with section 3003.1 and Article XXVII of
30 the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform

1 Code of 1971, and shall be in the form and contain the
2 information prescribed by the department by regulation.

3 Section 1106. Sales or possession of medical cannabis when
4 surcharge not paid.

5 (a) Sales or possession.--A person who sells or possesses
6 medical cannabis for which the proper surcharge has not been
7 paid commits a summary offense and shall, upon conviction, be
8 sentenced to pay costs of prosecution and a fine of not less
9 than \$100 nor more than \$1,000 or to imprisonment for not more
10 than 60 days, or both, at the discretion of the court. Medical
11 cannabis purchased from a medical cannabis purveyor properly
12 licensed under this chapter shall be presumed to have the proper
13 surcharges paid.

14 (b) Surcharge evasion.--A person that falsely or
15 fraudulently, maliciously, intentionally or willfully, with
16 intent to evade the payment of the surcharge imposed by this
17 chapter, sells or possesses medical cannabis for which the
18 proper surcharge has not been paid commits a misdemeanor of the
19 third degree and shall, upon conviction, be sentenced to pay
20 costs of prosecution and a fine of not more than \$5,000 or to
21 imprisonment for not more than one year, or both, at the
22 discretion of the court.

23 Section 1107. Assessment.

24 The department is authorized to make the inquiries,
25 determinations and assessments of the surcharge, including
26 interest, additions and penalties, imposed by this chapter.

27 Section 1108. Failure to file return.

28 Where no return is filed, the amount of the surcharge due may
29 be assessed and collected at any time as to chargeable
30 transactions not reported.

1 Section 1109. False or fraudulent return.

2 Where the surcharge payer willfully files a false or
3 fraudulent return with intent to evade the surcharge imposed by
4 this chapter, the amount of surcharge due may be assessed and
5 collected at any time.

6 Section 1110. Extension of limitation period.

7 Notwithstanding any other provision of this chapter, where,
8 before the expiration of the period prescribed for the
9 assessment of a surcharge, a surcharge payer has consented, in
10 writing, that the period be extended, the amount of surcharge
11 due may be assessed at any time within the extended period. The
12 period so extended may be extended further by subsequent
13 consents, in writing, made before the expiration of the extended
14 period.

15 Section 1111. Failure to furnish information, returning false
16 information or failure to permit inspection.

17 (a) Penalty.--A surcharge payer who fails to keep or make a
18 record, return, report, inventory or statement, or keeps or
19 makes a false or fraudulent record, return, report, inventory or
20 statement required by this chapter, commits a misdemeanor and
21 shall, upon conviction, be sentenced to pay costs of prosecution
22 and a fine of \$500 and to imprisonment for not more than one
23 year, or both, at the discretion of the court.

24 (b) Examination.--The department is authorized to examine
25 the books and records, the stock of medical cannabis and the
26 premises and equipment of a surcharge payer in order to verify
27 the accuracy of the payment of the surcharge imposed by this
28 chapter. The person subject to an examination shall give to the
29 department or its duly authorized representative the means,
30 facilities and opportunity for the examination. Willful refusal

1 to cooperate with or permit an examination to the satisfaction
2 of the department shall be sufficient grounds for suspension or
3 revocation of a surcharge payer's license issued under this
4 chapter.

5 (c) Records.--A medical cannabis purveyor shall keep and
6 maintain for a period of four years records in the form
7 prescribed by the department. The records shall be maintained at
8 the location for which the license under this chapter is issued.

9 (d) Reports.--A medical cannabis purveyor shall file reports
10 at times and in the form prescribed by the department.

11 (e) Medical cannabis purveyor.--A medical cannabis purveyor
12 located or doing business in this Commonwealth who sells medical
13 cannabis in this Commonwealth shall keep records showing:

14 (1) The amount and kind of medical cannabis sold.

15 (2) The date the medical cannabis was sold.

16 (3) The name and license number issued under Chapter 5
17 of the medical cannabis dispenser to which the medical
18 cannabis was sold.

19 (4) The total price of the medical cannabis sold to the
20 medical cannabis dispenser.

21 (5) The place where the medical cannabis was shipped.

22 (6) The name of the common carrier.

23 (f) Medical cannabis purveyor.--A medical cannabis purveyor
24 shall file with the department, on or before the 20th day of
25 each month, a report showing the information listed in
26 subsection (e) for the previous month.

27 Section 1112. Records of shipments and receipts of medical
28 cannabis required.

29 The department shall require reports from a common or
30 contract carrier who transports medical cannabis to any point or

1 points within this Commonwealth, and from a bonded warehouseman
2 or bailee who has in the possession of the warehouseman or
3 bailee any medical cannabis. The reports shall contain the
4 information concerning shipments of medical cannabis that the
5 department determines to be necessary for the administration of
6 this chapter. All common and contract carriers, bailees and
7 warehousemen shall permit the examination by the department or
8 its authorized agents of records relating to the shipment or
9 receipt of medical cannabis.

10 Section 1113. Licensing of medical cannabis purveyors.

11 (a) Prohibition.--No person, unless all sales of medical
12 cannabis are exempt from the medical cannabis surcharge in this
13 Commonwealth, shall sell, transfer or deliver medical cannabis
14 in this Commonwealth without first obtaining the proper license
15 provided for in this chapter.

16 (b) Application.--An applicant for a medical cannabis
17 purveyor's license shall complete and file an application with
18 the department. The application shall be in the form and contain
19 information prescribed by the department and shall set forth
20 truthfully and accurately the information required by the
21 department. If the application is approved, the department shall
22 license the medical cannabis purveyor for a period of one year
23 and the license may be renewed annually thereafter.

24 (c) Requirements.--Applicants for a medical cannabis
25 purveyor's license or renewal of that license shall meet the
26 following requirements:

27 (1) The premises on which the applicant proposes to
28 conduct business are adequate to protect the revenue.

29 (2) The applicant is a person of reasonable financial
30 stability and reasonable business experience.

1 (3) The applicant, or a shareholder controlling more
2 than 10% of the stock if the applicant is a corporation or an
3 officer or director if the applicant is a corporation, shall
4 not have been convicted of a crime involving moral turpitude.

5 (4) The applicant shall not have failed to disclose
6 material information required by the department, including
7 information that the applicant has complied with this chapter
8 by providing a signed statement under penalty of perjury.

9 (5) The applicant shall not have made any material false
10 statement in the application.

11 (6) The applicant shall not have violated a provision of
12 this chapter.

13 (7) The applicant shall have filed all required State
14 tax reports and paid State taxes not subject to a timely
15 perfected administrative or judicial appeal or subject to a
16 duly authorized deferred payment plan.

17 (d) Multiple locations.--The medical cannabis purveyor's
18 license shall be valid for one specific location only. Medical
19 cannabis purveyors with more than one location shall obtain a
20 license for each location.

21 Section 1114. License fees and issuance and display of license.

22 (a) Fees.--At the time of making an application or license
23 renewal application, an applicant for a medical cannabis
24 purveyor's license shall pay the department a license fee of
25 \$75.

26 (b) Proration.--Fees shall not be prorated.

27 (c) Issuance and display.--On approval of the application
28 and payment of the fees, the department shall issue the proper
29 license which must be conspicuously displayed at the location
30 for which it has been issued.

1 Section 1115. Electronic filing.

2 The department may, at its discretion, require that any or
3 all returns, reports or registrations that are required to be
4 filed under this chapter be filed electronically.

5 Section 1116. Expiration of license.

6 (a) Expiration.--A license shall expire on the last day of
7 June next succeeding the date upon which it was issued unless
8 the department at an earlier date suspends, surrenders or
9 revokes the license.

10 (b) Violation.--After the expiration date of the license or
11 sooner if the license is suspended, surrendered or revoked, it
12 shall be illegal for a medical cannabis purveyor to engage
13 directly or indirectly in the business conducted by the medical
14 cannabis purveyor for which the license was issued. A licensee
15 who shall, after the expiration date of the license, engage in
16 the business conducted by the licensee either by way of
17 purchase, sale, distribution or in any other manner directly or
18 indirectly engaged in the business of dealing with medical
19 cannabis shall be in violation of this chapter and be subject to
20 the penalties provided in this chapter.

21 Section 1117. Administration powers and duties.

22 (a) Department.--The administration of this chapter is
23 vested in the department. The department shall adopt rules and
24 regulations for the enforcement of this chapter.

25 (b) Joint administration.--The department is authorized to
26 jointly administer this chapter with other provisions of the act
27 of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of
28 1971, including joint reporting of information, forms, returns,
29 statements, documents or other information submitted to the
30 department.

1 Section 1118. Sales without license.

2 (a) Penalty.--A person who shall, without being the holder
3 of a proper unexpired medical cannabis purveyor's license,
4 engage in purchasing, selling, distributing or in another manner
5 directly or indirectly engage in the business of dealing with
6 medical cannabis commits a summary offense and shall, upon
7 conviction, be sentenced to pay costs of prosecution and a fine
8 of not less than \$250 nor more than \$1,000, or to imprisonment
9 for not more than 30 days, or both, at the discretion of the
10 court.

11 (b) Prima facie evidence.--Open display of medical cannabis
12 in any manner shall be prima facie evidence that the person
13 displaying such medical cannabis is directly or indirectly
14 engaging in the business of dealing medical cannabis.

15 Section 1119. Violations and penalties.

16 (a) Suspension.--The license of a person who violates this
17 chapter may be suspended after due notice and opportunity for a
18 hearing for a period of not less than five days nor more than 30
19 days for a first violation and shall be revoked or suspended for
20 any subsequent violation.

21 (b) Fine.--In addition to the provisions of subsection (a),
22 upon adjudication of a first violation, the person shall be
23 fined not less than \$2,500 nor more than \$5,000. For subsequent
24 violations, the person shall, upon adjudication, be fined not
25 less than \$5,000 nor more than \$15,000.

26 Section 1120. Property rights.

27 (a) Incorporation.--Subject to subsection (b), section 1285
28 of the act of March 4, 1971 (P.L.6, No.2), known as the Tax
29 Reform Code of 1971, is incorporated by reference into and shall
30 apply to this chapter.

1 (b) Alterations.--

2 (1) References to cigarettes in section 1285 of the Tax
3 Reform Code of 1971 shall apply to medical cannabis in this
4 chapter.

5 (2) References to 2,000 or more unstamped cigarettes in
6 section 1285 of the Tax Reform Code of 1971 shall apply to
7 medical cannabis worth at least \$1,000 in this chapter.

8 (3) References to more than 200 unstamped cigarettes in
9 section 1285 of the Tax Reform Code of 1971 shall apply to
10 medical cannabis worth at least \$100 in this chapter.

11 Section 1121. Information exchange.

12 The department is authorized to exchange information with any
13 other Federal, State or local enforcement agency for purposes of
14 enforcing this chapter.

15 CHAPTER 51

16 MISCELLANEOUS PROVISIONS

17 Section 5101. Regulations.

18 (a) Requirement.--The board shall promulgate regulations as
19 necessary to implement this act.

20 (b) Temporary regulations.--In order to facilitate the
21 implementation of this act, regulations promulgated by the board
22 shall be deemed temporary regulations which shall expire not
23 later than two years following the publication of the temporary
24 regulation. Temporary regulations shall not be subject to:

25 (1) Sections 201, 202, 203, 204 and 205 of the act of
26 July 31, 1968 (P.L.769, No.240), referred to as the
27 Commonwealth Documents Law.

28 (2) The act of June 25, 1982 (P.L.633, No.181), known as
29 the Regulatory Review Act.

30 (3) Sections 204(b) and 301(10) of the act of October

1 15, 1980 (P.L.950, No.164), known as the Commonwealth
2 Attorneys Act.

3 (c) Expiration.--The board's authority to adopt temporary
4 regulations under subsection (b) shall expire two years after
5 the effective date of this section. Regulations adopted after
6 this period shall be promulgated as provided by law.

7 (d) Publication.--The board shall begin publishing temporary
8 regulations in the Pennsylvania Bulletin no later than six
9 months following the effective date of this section.

10 Section 5102. Appropriation.

11 The sum of \$1.3 million or as much thereof as may be
12 necessary is appropriated from the ~~General Fund~~ PROFESSIONAL <--
13 LICENSURE AUGMENTATION ACCOUNT to the Bureau of Professional and
14 Occupational Affairs within the Department of State for the
15 start-up and initial operation of the State Board of Medical
16 Cannabis Licensing. THE APPROPRIATION SHALL BE REPAID BY THE <--
17 BOARD WITHIN FIVE YEARS OF THE BEGINNING OF ISSUANCE OF LICENSES
18 BY THE BOARD.

19 Section 5103. Applicability of other statutes.

20 The following acts shall apply to the board:

21 (1) The act of February 14, 2008 (P.L.6, No.3), known as
22 the Right-to-Know Law.

23 (2) The act of July 19, 1957 (P.L.1017, No.451), known
24 as the State Adverse Interest Act.

25 (3) 65 Pa.C.S. Chs. 7 (relating to open meetings) and 11
26 (relating to ethics standards and financial disclosure).

27 Section 5104. Repeals.

28 The following shall apply:

29 (1) Sections 4 and 13 of the act of April 14, 1972
30 (P.L.233, No.64), known as The Controlled Substance, Drug,

1 Device and Cosmetic Act, are repealed insofar as they are
2 inconsistent with this act.

3 (2) All acts and parts of acts are repealed insofar as
4 they are inconsistent with this act.

5 Section 5105. Effective date.

6 This act shall take effect in 60 days.