

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

AS AMENDED ON THIRD CONSIDERATION, MAY 11, 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." 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 "HEALTH CARE PRACTITIONER." ANY OF THE FOLLOWING: <--

6 (1) A MEDICAL DOCTOR OR A DOCTOR OF osteopathy, as
7 defined under section 2 of the act of December 20, 1985
8 (P.L.457, No.112), known as the Medical Practice Act of 1985.

9 (2) A CERTIFIED REGISTERED NURSE PRACTITIONER AS DEFINED <--
10 IN SECTION 2(12) OF THE ACT OF MAY 22, 1951 (P.L.317, NO.69),
11 KNOWN AS THE PROFESSIONAL NURSING LAW, WHEN ACTING IN
12 COLLABORATION WITH A PHYSICIAN AS SET FORTH IN A WRITTEN
13 AGREEMENT.

14 "Medical cannabis." As follows:

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

19 ~~(2) The term includes extracted oil, ointments,~~ <--
20 ~~tinctures and medical cannabis delivered by a nebulizer.~~

21 ~~(3) The term does not include edible products.~~

22 (2) THE TERM INCLUDES ANY OF THE FOLLOWING MADE FROM <--
23 PLANTS UNDER PARAGRAPH (1):

24 (I) OILS.

25 (II) OINTMENTS.

26 (III) TINCTURES.

27 (IV) LIQUIDS.

28 (V) GELS.

29 (VI) PILLS.

30 (VII) SIMILAR SUBSTANCES.

1 "Medical cannabis access card." A document issued by the
2 Department of Health that authorizes a patient or patient
3 representative to purchase and possess medical cannabis in this
4 Commonwealth.

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

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

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

10 (i) Is employed by a medical cannabis grower,
11 medical cannabis processor, medical cannabis dispenser or
12 certified laboratory with the authority to make a
13 discretionary decision relating to the growing,
14 processing, dispensing or testing of medical cannabis,
15 including a manager, supervisor or an individual who
16 directly handles or controls medical cannabis.

17 (ii) Is responsible for tracking the amount and
18 transportation of medical cannabis.

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

20 "Medical cannabis grower." A for-profit or nonprofit entity
21 licensed under section 501 that grows or cultivates cannabis for
22 distribution to authorized medical cannabis processors and
23 medical cannabis dispensers in accordance with this act.

24 "Medical cannabis processor." A for-profit or nonprofit
25 entity licensed under section 502 authorized to purchase medical
26 cannabis from a medical cannabis grower for the purpose of
27 processing the medical cannabis for distribution to a medical
28 cannabis dispenser in accordance with this act.

29 "Medical cannabis strains." The three types of pure cannabis
30 utilized for medical purposes. The term includes cannabis

1 sativa, cannabis indica and the hybrid created by the
2 combination of both cannabis sativa and cannabis indica.

3 "Medical use." The acquisition, possession or use of medical
4 cannabis by a registered patient or patient representative. The
5 term does not include the smoking ~~or vaporization~~ of cannabis. <--

6 ~~"Nebulizer." A drug delivery device that uses oxygen,~~ <--
7 ~~compressed air or ultrasonic power to break up medical~~
8 ~~solutions, including oil based medical cannabis, into small~~
9 ~~aerosol droplets that are directly inhaled from the mouthpiece~~
10 ~~of the device.~~

11 "Occupation permit." A permit issued by the board
12 authorizing an individual to be employed as a medical cannabis
13 employee or patient representative.

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

15 (1) An officer or director of the medical cannabis
16 grower, processor or dispenser licensed under section 505.

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

19 (3) A person who has the ability to elect a majority of
20 the board of directors of a licensee or to otherwise control
21 a licensee.

22 "Patient." An individual who has an established
23 practitioner-patient relationship and has been diagnosed with a
24 qualified medical condition.

25 "Patient representative." Any of the following:

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

27 (2) An individual who:

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

29 (ii) receives a medical cannabis access card which
30 authorizes:

1 (A) purchase, possession, transport and transfer
2 of medical cannabis from a medical cannabis
3 dispenser; and

4 (B) proper administration of the medical
5 cannabis to a registered patient in accordance with
6 the recommendation of the registered patient's health
7 care practitioner.

8 "Practitioner-patient relationship." The relationship
9 established between a patient and health care practitioner
10 following an assessment of the patient's medical history and
11 current condition and the conduct of a personal examination.

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

- 13 (1) Cancer.
- 14 (2) Epilepsy and seizures.
- 15 (3) Amyotrophic lateral sclerosis.
- 16 (4) Cachexia/wasting syndrome.
- 17 (5) Parkinson's disease.
- 18 (6) Traumatic brain injury and postconcussion syndrome.
- 19 (7) Multiple sclerosis.
- 20 (8) Spinocerebellar Ataxia (SCA).
- 21 (9) Posttraumatic stress disorder.
- 22 (10) Severe fibromyalgia.
- 23 (11) HIV/AIDS.
- 24 (12) Glaucoma.
- 25 (13) CHRONIC OR INTRACTABLE PAIN WHERE OTHER METHODS OF <--
26 TREATMENT NO LONGER HAVE THERAPEUTIC OR PALLIATIVE BENEFIT.
- 27 (14) CROHN'S DISEASE.
- 28 (15) DIABETES.
- 29 ~~(13)~~ (16) A condition authorized by the department under <--
30 section 703.

1 "Testing laboratory." A clinical laboratory or testing
2 facility located within this Commonwealth, certified by the
3 board under section 511.

4 "Tracking system." An electronic system established by the
5 department to monitor the activities of a person that grows,
6 processes, dispenses, transports or tests medical cannabis or is
7 determined by the department to be engaged in an activity
8 regulated under this act.

9 "Verification system." An electronic system established and
10 maintained by the Department of Health that allows the
11 Department of Health, the Bureau of Professional and
12 Occupational Affairs, licensed dispensers and law enforcement to
13 verify the issuance of a medical cannabis access card to an
14 individual.

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

18 CHAPTER 3

19 STATE BOARD OF MEDICAL CANNABIS

20 LICENSING AND ADMINISTRATIVE PROCEDURE

21 Section 301. License.

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

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

1 under this act.

2 Section 302. State Board of Medical Cannabis Licensing.

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

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

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

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

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

13 (4) Two public members.

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

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

18 (7) The Physician General.

19 (8) Two members who are registered nurses.

20 (9) A licensed pharmacist.

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

23 (1) Establish procedures to operate the board.

24 (2) Develop applications and other forms for licensure
25 and occupation permits and enforcement of this act and
26 certifications for testing laboratories.

27 (3) Promulgate regulations, as necessary, to implement
28 and enforce this act.

29 (d) Appointment and qualifications.--Each professional and
30 public member shall be appointed by the Governor with the advice

1 and consent of a majority of the Senate. Each member must comply
2 with all of the following:

3 (1) Be a citizen of the United States and a resident of
4 this Commonwealth.

5 (2) Not hold any other public office during the term on
6 the board.

7 (e) Terms.--

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

10 (2) For a member under subsection (b), the following
11 apply:

12 (i) Initial appointments shall be as follows:

13 (A) Three members shall serve for a term of four
14 years.

15 (B) Three members shall serve for a term of
16 three years.

17 (C) Two members shall serve for a term of two
18 years.

19 (ii) Each subsequent term shall be for four years or
20 until a successor has been appointed and qualified, which
21 may not be longer than six months beyond the four-year
22 period.

23 (iii) A member may not serve more than two
24 consecutive terms.

25 (f) Quorum.--A majority of the members of the board shall
26 constitute a quorum. Each member must be physically in
27 attendance to be counted as part of a quorum or to vote on an
28 issue. A majority of the members present shall be necessary for
29 a vote to be considered binding.

30 (g) Chairperson.--The board shall annually select a

1 chairperson from the members of the board.

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

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

13 (j) Frequency of meetings.--The board shall meet at least
14 once per month for the first 12 months, including and after the
15 initial meeting required by section 302(c). After the first 12
16 months following the establishment of the board, the board shall
17 meet at least six times a year and may meet at additional times
18 as necessary to conduct the business of the board.

19 Section 303. Powers and duties of board.

20 The board shall have the following powers and duties:

21 (1) To provide for and regulate the licensing of the
22 following:

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

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

25 (iii) A medical cannabis dispenser under section
26 503.

27 (2) To issue occupation permits to medical cannabis
28 employees.

29 (3) To issue certifications to testing laboratories
30 under section 511.

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

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

8 (6) To administer and enforce the provisions of this
9 act.

10 (7) To investigate and conduct background checks for
11 each application for a license or occupation permit to
12 determine the fitness and eligibility of a person applying
13 for a license or occupation permit.

14 (8) To establish fees for application and renewal of
15 licenses and occupation permits and the due dates for all
16 fees.

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

20 (10) To keep minutes and records of each transaction and
21 proceeding.

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

24 (12) To require site plans, including streets, property
25 lines, buildings, security features and access to water
26 sources.

27 (13) To require utilization of any prescription
28 monitoring program established by the Commonwealth by a
29 health care practitioner to review a patient's pharmaceutical
30 history.

1 (14) To establish an electronic verification system that
2 can be accessed by health care practitioners, the Department
3 of Health, patients, the Bureau of Professional and
4 Occupational Affairs, law enforcement personnel and other
5 individuals designated by the board to verify individual
6 medical cannabis access cards and determine whether the
7 identification number corresponds with a current, valid
8 registry identification card and that the cardholder is a
9 registered qualifying patient or a patient representative.
10 The verification system:

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

13 (ii) May only disclose the validity of the card,
14 whether the cardholder is a qualified patient or a
15 patient representative and the registry identification
16 number of the patient.

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

19 (15) To establish an electronic tracking system to be
20 used by the department to track the growing, processing,
21 transporting, dispensing and delivery of all medical cannabis
22 products between growers, processors, laboratories, transport
23 entities, dispensers and other persons engaged in activities
24 regulated under this act. The electronic tracking system must
25 include:

26 (i) Date, time, quantity and price of each sale of
27 medical cannabis to a qualified patient or patient
28 representative.

29 (ii) Each daily record of plants and products grown
30 and possessed by a licensee, including date of harvest,

1 batch number, origin and strain, number of seeds or
2 cuttings planted, chemical additives, disposal and other
3 information required by the board.

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

6 (iv) Records of transport to and from testing
7 laboratories and the results of testing.

8 (v) An inventory control system, including each
9 day's beginning inventory, acquisitions, harvests, sales,
10 disbursements, disposals and ending inventory.

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

13 (16) To establish a medical cannabis registry to ensure
14 adequate availability of different strains and concentrations
15 of medical cannabis.

16 (17) To develop regular inspection schedules, unannounced
17 inspections, procedures and other enforcement measures to
18 regulate all medical cannabis growers, processors, dispensers
19 and testing laboratories.

20 (18) To inspect, at any time, premises occupied or used
21 for the production, preparation, testing, packaging,
22 processing, storage, sale, distribution and transport of
23 medical cannabis.

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

26 (20) To submit annually to the department an estimate of
27 financial requirements of the board, including
28 administrative, legal and other expenses.

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

1 (22) To develop standards for creation and maintenance
2 of qualifying patient records.

3 (23) To promulgate regulations to implement this act,
4 including:

5 (i) The receipt of medical cannabis for study and
6 research of the health benefits of medical cannabis by
7 accredited research institutions, universities and
8 colleges in this Commonwealth.

9 (ii) Determination of required quality and safe
10 clinical strength of medical cannabis.

11 (iii) Print advertising and marketing of medical
12 cannabis.

13 (iv) Containers, tracking and testing.

14 (v) Packaging and labeling by licensed growers,
15 licensed processors and licensed dispensers. Regulations
16 under this subparagraph shall require labeling to
17 specify:

18 (A) date of packaging;

19 (B) use-by date;

20 (C) cultivation site;

21 (D) instructions to keep the product in the
22 package;

23 (E) warnings related to use, including pregnancy
24 and medical conditions;

25 (F) warnings to keep medical cannabis out of
26 children's reach;

27 (G) other warnings deemed appropriate by the
28 board;

29 (H) recommended dosages; and

30 (I) appropriate methods to administer medical

1 cannabis for authorized diseases.

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

5 (25) To adopt requirements relating to the amount of
6 tetrahydrocannabinol authorized for each product and the
7 tetrahydrocannabinol's application to the appropriate
8 qualified medical condition.

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

11 (27) To enforce regulations under this act.

12 (28) To establish record retention policies for persons
13 regulated under this act.

14 Section 304. Subpoena power.

15 The General Counsel of the Commonwealth, or the General
16 Counsel's designee, shall have the power to issue a subpoena on
17 behalf of the board in enforcement, disciplinary and licensing
18 matters before the board in order to investigate an alleged
19 violation in accordance with the following:

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

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

27 (3) The attorney representing the Commonwealth in a
28 disciplinary matter before the board may apply to
29 Commonwealth Court to enforce the subpoenas.

30 (4) Nothing in this section shall be construed to excuse

1 a person from producing documents and records as requested by
2 the board under any other provision of law.

3 Section 305. Hearing examiners.

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

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

12 (c) Powers.--A hearing examiner shall have the following
13 powers:

14 (1) To conduct hearings.

15 (2) To issue subpoenas requiring:

16 (i) The attendance and testimony of individuals.

17 (ii) The production of pertinent records or other
18 papers by persons whom the examiner believes have
19 information relevant to matters pending before the
20 examiner.

21 (3) To issue decisions.

22 Section 306. Civil penalties.

23 (a) Authorization.--The board shall adopt a schedule of
24 civil penalties for operating without a current, registered,
25 unsuspended and unrevoked license, certificate or occupation
26 permit and for violations of this act. The schedule shall be
27 published in the Pennsylvania Bulletin.

28 (b) Imposition.--An agent of the board may issue citations
29 and impose penalties for a violation of this chapter. A citation
30 or a penalty may be appealed to a hearing examiner or the board

1 pursuant to regulations promulgated by the board. If the matter
2 is initially referred to a hearing examiner, the board shall
3 render a decision on an exception to the decision of the hearing
4 examiner or on any applications for review under 2 Pa.C.S.
5 (relating to administrative law and procedure).

6 (c) Board sanction.--

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

9 (i) Revocation of the license, permit or certificate
10 of a person convicted of a criminal offense or violation
11 of this act or regulations of the board which would
12 disqualify the holder from growing, processing or
13 dispensing medical cannabis.

14 (ii) Revocation of the license of a person for
15 willfully and knowingly violating or attempting to
16 violate an order of the board directed to the person.

17 (iii) Revocation of an occupation permit or
18 certificate of a person for willfully and knowingly
19 violating or attempting to violate an order of the board
20 directed to the person.

21 (iv) Suspension of the license, permit or
22 certificate of a person pending the outcome of a hearing
23 in a case in which a license, occupation permit or
24 certification revocation could result.

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

28 (vi) Assessment of an administrative penalty as
29 necessary to address misconduct and deter future
30 violations.

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

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

6 (2) If the board refuses to issue or renew a license,
7 certificate or occupation permit or imposes a penalty under
8 paragraph (1), the board shall provide the applicant,
9 licensee, certificate holder or permit holder with written
10 notification of the decision, including a statement of the
11 reasons for the decision by certified mail within five
12 business days of the decision of the board. The applicant,
13 licensee, certificate holder or permittee shall have the
14 right to appeal the decision in accordance with 2 Pa.C.S.
15 Chs. 5 (relating to practice and procedure) and 7 (relating
16 to judicial review).

17 (3) A person who aids, abets, counsels, induces,
18 procures or causes another person to violate this act shall
19 be subject to all sanctions and penalties provided under this
20 subsection.

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

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

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

1 unlicensed person.

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

7 (e) Judgment.--A civil penalty imposed under this section
8 shall be a judgment in favor of the board upon the person or
9 property of the person upon whom the civil penalty is imposed.
10 The Attorney General shall be responsible for enforcing the
11 judgments in courts of competent jurisdiction in accordance with
12 the provisions of 42 Pa.C.S. (relating to judiciary and judicial
13 procedure).

14 Section 307. Confidentiality.

15 (a) General rule.--Investigative records of the board,
16 including prosecutorial memos and transcripts of deposition on
17 behalf of the board or concerning a licensure-related complaint
18 filed with the department, shall be confidential and privileged.

19 The following shall apply:

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

26 (2) This subsection shall not preclude or limit
27 introduction of the contents of an investigative file or
28 related witness testimony in a hearing or proceeding before
29 the board.

30 (3) This section shall not apply to a letter or other

1 document to a licensee, occupation permittee or certificate
2 holder that discloses the final outcome of an investigation
3 or to a final adjudication or order of the board.

4 (b) Disclosure permitted.--Except as provided in subsection
5 (a), this section shall not prevent disclosure of documents,
6 materials or information pertaining to the status of a license,
7 certificate or occupation permit or the sharing of information
8 with law enforcement officials or similar regulatory boards in
9 other jurisdictions. A violation of this section shall subject
10 an employee or agent of the board to administrative discipline,
11 including discharge, suspension or other formal or appropriate
12 disciplinary action.

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

18 (d) Waiver.--The board may not require an applicant to waive
19 any confidentiality under this section as a condition for the
20 approval of a license or other action of the board.

21 Section 308. Financing.

22 (a) Setting of fees.--Beginning two years after the
23 effective date of this subsection, all fees required under this
24 act shall be fixed by the board by regulation. If revenue raised
25 by fees, fines and civil penalties imposed under this act are
26 not sufficient to meet expenditures over a two-year period, the
27 board shall increase those fees by regulation under section
28 303(23) so that the projected revenues will meet or exceed
29 projected expenditures.

30 (b) Renewal fees.--Beginning two years after the effective

1 date of this subsection, all renewal fees shall be deposited
2 into the account.

3 (c) Inadequate fees.--If the Bureau of Professional and
4 Occupational Affairs determines that the fees established by the
5 board under subsection (a) are inadequate to meet the minimum
6 enforcement efforts required by this act, then the bureau, after
7 consultation with the board, shall increase the fees by
8 regulation under section 303(23) in an amount that adequate
9 revenues are raised to meet the required enforcement effort.

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

15 (e) Charging of fees.--The board may charge a reasonable
16 fee, as set by the board by regulation under section 303(23),
17 for all examinations, enforcement activities, registrations,
18 certificates, audits, licensures or applications permitted by
19 this act or a regulation under this act.

20 (f) Civil penalties.--All civil penalties shall be deposited
21 into the account.

22 Section 309. Records and reports.

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

26 (b) Reports to department.--The board shall submit annually
27 to the department an estimate of the financial requirements of
28 the board for its administrative, investigative, legal and
29 miscellaneous expenses.

30 (c) Reports to the Appropriations Committee of the Senate

1 and the Appropriations Committee of the House of
2 Representatives.--The board shall submit annually to the
3 Appropriations Committee of the Senate and the Appropriations
4 Committee of the House of Representatives, 15 days after the
5 Governor has submitted his budget to the General Assembly, a
6 copy of the budget request for the upcoming fiscal year which
7 the board previously submitted to the department.

8 (d) Reports to other legislative committees.--The board
9 shall submit annually a report to the Consumer Protection and
10 Professional Licensure Committee of the Senate and to the
11 Professional Licensure Committee of the House of Representatives
12 containing a description of the types of complaints received,
13 status of cases, board action which has been taken and the
14 length of time from the initial complaint to final board
15 resolution. The report shall also include a statement of the
16 numbers and types of licenses granted.

17 CHAPTER 5

18 LICENSING

19 Section 501. Medical cannabis growers.

20 (a) Licensing.--The board shall license not more than 65
21 medical cannabis growers to supply medical cannabis for
22 distribution to medical cannabis processors and medical cannabis
23 dispensers under this act.

24 (b) Imposition.--At the time of license issuance, the board
25 shall impose a licensing fee in the amount of \$50,000. The board
26 shall impose an initial \$5,000 annual renewal fee for each year
27 immediately following the year the license was issued. Renewal
28 fees shall thereafter be subject to adjustment under section
29 308.

30 (c) Term.--Upon payment of the fee under subsection (b), a

1 grower's license shall be in effect unless suspended, revoked or
2 not renewed by the board for good cause.

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

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

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

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

16 (1) Only grow medical cannabis using conventional
17 growing methods approved by the board in consultation with
18 the Department of Agriculture.

19 (2) Submit to preoperational and postoperational
20 announced and unannounced inspections by the board or the
21 department.

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

24 (4) Conduct quality testing utilizing a testing
25 laboratory certified by the board prior to the sale of
26 medical cannabis and submit to random testing of medical
27 cannabis conducted by the board.

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

30 (6) Only sell, transport or deliver medical cannabis to

1 a medical cannabis processor, certified laboratory or medical
2 cannabis dispenser.

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

8 (8) Provide a cultivation, inventory and packaging plan
9 and procedures for the oversight of the cultivation area,
10 including a plant monitoring system, container tracking
11 system and staffing plan.

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

14 (10) Perform a weekly physical inventory of all plants
15 and containers.

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

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

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

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

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

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

29 (4) Permit an individual to consume cannabis on its
30 property.

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

2 (i) Exchange.--The board shall promulgate regulations for
3 the exchange of medical cannabis seed and plant materials
4 between growers.

5 Section 502. Medical cannabis processors.

6 (a) Licensing.--The board shall license not more than 65
7 medical cannabis processors to process medical cannabis into
8 oil-based medical cannabis products, including oil, ointments
9 and tinctures. The licensees shall be geographically dispersed
10 throughout this Commonwealth to allow access to processed
11 medical cannabis by medical cannabis dispensers.

12 (b) Imposition.--At the time of license issuance, the board
13 shall impose a licensing fee in the amount of \$50,000. The board
14 shall impose an initial \$5,000 annual renewal fee for each year
15 immediately following the year the license was issued. Renewal
16 fees shall be subject to adjustment and deposit under section
17 308.

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

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

25 (e) Deposit.--The license fee under subsection (b) shall be
26 deposited into the General Fund. Renewal fees shall be deposited
27 into the account.

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

30 (1) Only use extraction and processing methods approved

1 by the board.

2 (2) Submit to preoperational and postoperational
3 announced and unannounced inspections by the board and the
4 department.

5 (3) Conduct quality testing utilizing a certified
6 testing laboratory approved by the board prior to delivery to
7 a dispenser and submit to random testing conducted by the
8 board.

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

11 (5) Conduct processing activity in a board-approved
12 facility that is indoor, enclosed and secure, and includes an
13 electronic locking system, a limited access area, secure
14 storage and disposal procedures, electronic surveillance and
15 other features required by the board.

16 (6) Provide information relating to the facility and
17 features under paragraph (5).

18 (7) Provide a processing, inventory and packaging plan
19 and procedures for the oversight of the processing facility,
20 including a plant and product monitoring system, container
21 tracking system and staffing plan.

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

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

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

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

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

3 (13) Utilize any electronic tracking system required by
4 the board.

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

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

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

11 (3) Acquire medical cannabis from anyone other than a
12 licensed medical cannabis grower.

13 (4) Obtain medical cannabis from outside this
14 Commonwealth.

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

17 (6) Advertise medical cannabis on radio or television.
18 Section 503. Medical cannabis dispensers.

19 (a) Licensing.--The board shall license not more than 130
20 medical cannabis dispensers to accept medical cannabis access
21 cards and dispense medical cannabis to a registered patient or
22 patient representative in accordance with the instructions of a
23 health care practitioner. The licensees shall be geographically
24 dispersed throughout this Commonwealth to allow all registered
25 patients reasonable proximity and access to medical cannabis by
26 a medical cannabis dispenser.

27 (b) Imposition.--At the time of license issuance, the board
28 shall impose a licensing fee in the amount of \$50,000. The board
29 shall impose an initial \$5,000 annual renewal fee for each year
30 immediately following the year the license was issued. Renewal

1 fees shall be subject to adjustment under section 308.

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

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

9 (e) Deposit.--The license fee under subsection (b) shall be
10 deposited into the General Fund. Renewal fees shall be deposited
11 into the account.

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

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

17 (2) Submit to preoperational and postoperational
18 announced and unannounced inspections by the board and the
19 department.

20 (3) Prior to dispensing medical cannabis, access the
21 verification system to ensure that the individual seeking to
22 purchase medical cannabis holds a medical cannabis access
23 card in effect at the time of purchase.

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

26 (i) The name of the registered patient or patient
27 representative that holds the medical cannabis access
28 card.

29 (ii) The amount and dosage of the medical cannabis
30 recommended by the physician.

1 (iii) The qualified medical condition of the
2 patient.

3 (iv) The amount of medical cannabis dispensed.

4 (v) The date and time of each dispensing to the
5 cardholder.

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

7 (vii) The signature and date of the patient or
8 patient representative.

9 (5) Provide reports as required by the board relating to
10 amounts dispensed.

11 (6) Dispense no more than 2.5 ounces of medical cannabis
12 to a patient, directly or via a patient representative, in a
13 14-day period unless the qualifying patient has a quantity
14 waiver from the Department of Health.

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

19 (8) Comply with recommendations of the health care
20 practitioner as to strain, dosage and amount of medical
21 cannabis dispensed.

22 (9) Provide all registered patients and patient
23 representatives with a safety insert developed by the
24 Department of Health which includes:

25 (i) Methods for administering medical cannabis.

26 (ii) Potential dangers.

27 (iii) Recognition and correction of problematic
28 dosage.

29 (iv) Other information required by the department.

30 (10) Sell only medical cannabis that has received

1 approval from a testing laboratory.

2 (11) Maintain an electronic security system, including
3 all of the following:

4 (i) Electronic surveillance.

5 (ii) An electronic locking system.

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

9 (12) Provide for the supervision of the dispensing of
10 medical cannabis at all times by an individual. The board
11 shall determine the qualifications required to supervise the
12 dispensing which may include individuals with health care,
13 educational, pharmaceutical, management or other education or
14 training as determined by the board.

15 (13) Display appropriate signage as required by the
16 board.

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

19 (15) Provide an inventory and packaging plan and
20 procedures for the oversight of the dispensing facility,
21 including compliance with the inventory control system
22 developed under section 303(15), staffing plan and security
23 plan.

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

27 (i) Provide training to dispensary employees.

28 (ii) Develop patient education.

29 (iii) Develop a policy for refusing to dispense
30 medical cannabis to an individual who appears to be

1 impaired or abusing medical cannabis.

2 (17) Perform a weekly physical inventory of all medical
3 cannabis and medical cannabis products.

4 (18) Obtain medical cannabis only from a medical
5 cannabis processor.

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

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

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

13 (1) Be located within 1,000 feet of the property line of
14 a public, private or parochial school or a day-care center.
15 The board may adjust or waive the prohibition under this
16 paragraph if it is shown by clear and convincing evidence
17 that the adjustment or waiver is necessary to provide
18 adequate access to patients. An adjustment or waiver must
19 include any additional security, physical plant or other
20 conditions necessary to protect children.

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

23 (3) Obtain medical cannabis from outside this
24 Commonwealth.

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

27 (5) Permit an individual to consume medical cannabis on
28 its property.

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

30 (7) Sell medical cannabis over the Internet or to a

1 person not physically present at its location.

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

3 Section 504. Applications.

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

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

10 (1) Disclose the following information:

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

13 (ii) The name, address and photograph of the
14 applicant and each principal and the principal's position
15 within the corporation or organization.

16 (iii) Any financial information required by the
17 board.

18 (iv) The proposed location of the growing,
19 processing or dispensing operation.

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

22 (vi) The details of any civil judgment against the
23 applicant or the applicant's owners or operators relating
24 to:

25 (A) security regulation laws of the Federal
26 Government;

27 (B) laws relating to the regulation of
28 pharmaceuticals; or

29 (C) laws under 15 Pa.C.S. (relating to
30 corporations and unincorporated associations).

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

2 (2) Consent to the conduct of a background investigation
3 by the board, the scope of which shall be determined by the
4 board consistent with this act. Consent shall include a
5 release signed by each person subject to the investigation of
6 information required to complete the investigation.

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

10 (d) Character requirements.--Each application for a grower,
11 processor or dispenser license shall include information,
12 documentation and assurances required by the board to establish
13 by clear and convincing evidence that the applicant is a person
14 of good character, honesty and integrity, has appropriate
15 financial suitability and is eligible and suitable to be an
16 owner or operator. Information shall include information
17 pertaining to associates during the 10-year period immediately
18 preceding the filing date of the application.

19 (e) Privilege.--The issuance or renewal of a license under
20 this section shall be a revocable privilege.

21 Section 505. Licensing of owner or operator.

22 (a) License required.--Each owner or operator of an
23 applicant for licensure under this act must obtain an owner or
24 operator license from the board. An owner or operator may only
25 have an interest in the activity under this act for which
26 licensure is sought.

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

30 (1) Verification of status as an owner or operator from

1 a medical cannabis dispenser, grower or processor.

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

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

6 (4) Fingerprints, which shall be submitted to the
7 Pennsylvania State Police. The Pennsylvania State Police
8 shall submit fingerprint data to and receive national
9 criminal history record information from the Federal Bureau
10 of Investigation for use in investigating an applicant for an
11 owner or operator license.

12 (5) A photograph that meets the standards of the
13 Commonwealth Photo Imaging Network.

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

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

17 (c) Issuance.--Following review of the application and the
18 background investigation, the board may issue an owner or
19 operator license if the applicant has proven by clear and
20 convincing evidence that the applicant is a person of good
21 character, honesty and integrity and is eligible and suitable to
22 be licensed as an owner or operator.

23 (d) Nontransferability.--A license issued under this section
24 shall be nontransferable.

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

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

1 Section 506. Occupation permit for medical cannabis employees
2 and certain patient representatives.

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

6 (b) Application.--An occupation permit application shall be
7 in a form prescribed by the board and shall include the
8 following:

9 (1) Verification of one of the following:

10 (i) The status as a medical cannabis employee or
11 potential medical cannabis employer from a medical
12 cannabis grower, processor or dispenser.

13 (ii) From a health care facility that the patient
14 representative is an employee designated to purchase,
15 possess, transport, deliver and properly administer
16 medical cannabis to a patient with a medical cannabis
17 access card who is unable to obtain the medical cannabis.

18 (2) A description of employment responsibilities.

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

21 (4) Fingerprints, which shall be submitted to the
22 Pennsylvania State Police. The Pennsylvania State Police
23 shall submit fingerprint data to and receive national
24 criminal history record information from the Federal Bureau
25 of Investigation for use in investigating an applicant for an
26 occupation permit.

27 (5) A photograph that meets the standards of the
28 Commonwealth Photo Imaging Network.

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

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

2 (c) Issuance.--Following review of the application and the
3 background investigation, the board may issue an occupation
4 permit if the applicant has proven by clear and convincing
5 evidence that the applicant is a person of good character,
6 honesty and integrity and is eligible and suitable to be an
7 occupation permit holder.

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

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

12 Section 507. Change in ownership.

13 The following apply to notification and approval:

14 (1) A medical cannabis grower, processor or dispenser
15 must notify the board upon becoming aware of a proposed or
16 contemplated change of ownership or control of the licensee.
17 The new owner must pay the licensing fee required under this
18 chapter.

19 (2) The purchaser of the assets of a medical cannabis
20 grower, processor or dispenser must independently qualify for
21 a license in accordance with this act and must pay the
22 license fee required under this chapter.

23 (3) If the ownership of the operation of a licensed
24 grower, processor or dispenser or its affiliate is changed,
25 the new owner must pay the annual renewal fee for each
26 applicable license.

27 Section 508. Location.

28 (a) General rule.--Except as otherwise provided under this
29 act, each grower, processor and dispenser license shall be valid
30 for the specific physical location within the municipality and

1 county for which it was originally granted. A person may not
2 distribute medical cannabis from a location other than a
3 licensed facility.

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

5 (1) Facilities for the growing or processing of medical
6 cannabis shall meet the same municipal zoning and land use
7 requirements as other manufacturing, preparation and
8 production facilities.

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

12 (3) Applicants for a grower, processor or distributor
13 license must include a copy of the applicant's zoning
14 approval with the applicant's application. Local zoning
15 approval must be obtained prior to the issuance of a license
16 by the board.

17 (c) Petition.--An applicant or holder of a license under
18 this act may petition the board to relocate its facility. In
19 determining whether to grant a petition to relocate, the board
20 shall do all of the following:

21 (1) Evaluate the proposed new location and the reason
22 for relocation.

23 (2) Evaluate community support and compliance with local
24 ordinances.

25 (3) Consider any other information submitted by the
26 petitioner or required by the board.

27 Section 509. Storage and transportation.

28 The board shall develop regulations relating to the storage
29 and transportation of medical cannabis among growers,
30 processors, testing laboratories and medical cannabis dispensers

1 which ensure adequate security to guard against in-transit
2 losses. The tracking system developed by the board shall include
3 all transportation and storage of medical cannabis. The
4 regulations shall provide for the following:

5 (1) Requirements relating to shipping containers and
6 packaging.

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

9 (3) Security systems that include a numbered seal on the
10 trailer.

11 (4) Obtaining copies of driver's licenses and
12 registrations and other information related to security and
13 tracking.

14 (5) Use of GPS systems.

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

17 (7) Recordkeeping for delivery and receipt of medical
18 cannabis products.

19 (8) Requirements to utilize any electronic tracking
20 system required by the board.

21 Section 510. Disposal and donation.

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

25 (b) Donation.--A medical cannabis dispenser, grower and
26 processor may donate medical cannabis that has been purchased or
27 produced and tested in this Commonwealth in accordance with this
28 act and is in new and unopened condition and can only be donated
29 for research purposes to an accredited research institution,
30 university or college within this Commonwealth and recognized by

1 the Commonwealth.

2 (c) Tracking.--The electronic tracking system must monitor
3 disposals and donations of medical cannabis by licensees. A
4 medical cannabis grower, processor and dispenser must record
5 disposals and donations in the electronic tracking system.

6 Section 511. Testing laboratories.

7 (a) Certification.--The board shall certify accredited
8 laboratories to test medical cannabis in accordance with
9 regulations of the board.

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

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

17 (d) Tracking.--A testing laboratory must notify law
18 enforcement within 24 hours of a loss or theft of medical
19 cannabis and record the loss or theft in the electronic tracking
20 system.

21 Section 512. Licensee prohibitions.

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

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

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

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

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

3 CHAPTER 7

4 MEDICAL CANNABIS ACCESS

5 Section 701. Medical cannabis access card.

6 (a) Department of Health.--A patient with a qualified
7 medical condition may register with the Department of Health and
8 be issued a medical cannabis access card.

9 (b) Enforcement.--The Department of Health shall develop
10 regulations to enforce the provisions of this chapter, including
11 revocation or suspension of a medical cannabis access card for
12 violations of this act.

13 (c) Application.--An application for a medical cannabis
14 access card shall be developed by the Department of Health.
15 Applications for renewal shall be required on an annual basis. A
16 patient representative may obtain a medical cannabis access card
17 on behalf of a registered patient. The Department of Health
18 shall require an address, photo and other identifying
19 information on the application.

20 (d) Certification.--Applications and renewals must include
21 written certification from a health care practitioner under
22 section 702(a) that the applicant has a qualified medical
23 condition.

24 (e) Verification.--The Department of Health shall verify the
25 information in the application and renewal form. Verification
26 shall include verification of the certification under subsection
27 (d).

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

30 (g) Fee.--The Department of Health shall charge an

1 application fee of not more than \$100 and an annual renewal fee
2 of not more than \$50.

3 (h) Residency.--Except as provided in subsection (l), a
4 patient must reside in this Commonwealth to receive a medical
5 cannabis access card.

6 (i) Verification.--The patient or patient representative
7 must be assigned a registration number and must be placed on the
8 verification system.

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

12 (k) Notification.--The Department of Health must notify the
13 patient or patient representative that a medical cannabis access
14 card is no longer valid if notice is received from:

15 (1) The patient or health care practitioner that the
16 qualified medical condition is improved and no longer
17 requires medical cannabis.

18 (2) The patient or health care practitioner that the
19 patient no longer has a qualified medical condition or that
20 medical cannabis is no longer therapeutic or palliative.

21 (3) The health care practitioner that the health care
22 practitioner believes the patient is not using the medical
23 cannabis as recommended.

24 (l) Reciprocity.--A patient registered in another state that
25 authorizes medical cannabis and recognizes medical cannabis
26 access cards from patients who are residents of this
27 Commonwealth may submit to the Department of Health the
28 patient's credentials to utilize medical cannabis. The
29 Department of Health shall confirm an out-of-State patient's
30 status as a medical cannabis user in each state with legalized

1 medical cannabis and only grant a medical cannabis access card
2 to a person with a qualified medical condition. After the
3 Department of Health investigates and approves the patient's
4 credentials, the Department of Health shall issue the patient a
5 medical cannabis access card allowing the patient to utilize
6 medical cannabis in this Commonwealth.

7 (m) Patient representative.--

8 (1) A patient representative must be:

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

10 (ii) a resident of this Commonwealth.

11 (2) A patient representative shall do all of the
12 following:

13 (i) Register with the Department of Health in a
14 manner prescribed by the Department of Health.

15 (ii) Present, from the registered patient's health
16 care practitioner who prescribed the medical cannabis,
17 certification that the patient is unable to obtain or
18 administer medical cannabis for a good faith medical or
19 physical reason.

20 (iii) Notify the Department of Health within 10
21 business days after:

22 (A) a change to the information that the
23 provider, registered patient or patient
24 representative was required to submit to the
25 Department of Health; and

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

28 (iv) Notify the Department of Health by telephone
29 and in writing within 10 days following the death of the
30 patient representative's registered patient. The

1 Department of Health shall provide instruction to the
2 patient representative regarding the duty to dispose of
3 and means by which the remaining medical cannabis may be
4 disposed.

5 (3) A patient representative may do any of the
6 following:

7 (i) Transport a registered patient to and from a
8 licensed medical cannabis dispenser.

9 (ii) Obtain and transport an appropriate supply in
10 accordance with section 503(f)(6) and (7) of medical
11 cannabis from a medical cannabis dispenser on behalf of a
12 registered patient.

13 (iii) Prepare medical cannabis for consumption by a
14 registered patient.

15 (iv) Administer medical cannabis to a registered
16 patient as recommended by the registered patient's health
17 care practitioner.

18 (4) A patient representative may not do any of the
19 following:

20 (i) Receive payment or other compensation for
21 services provided as a patient representative other than
22 reimbursement for reasonable expenses incurred in the
23 provision of services as a patient representative. In the
24 case of an employee of a health care facility serving as
25 a patient representative, the individual may not receive
26 payment or compensation above or beyond the individual's
27 regular wages.

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

30 (iii) Sell, provide or otherwise divert medical

1 cannabis which has been dispensed to a registered
2 patient.

3 (iv) Grow or cultivate medical cannabis on behalf of
4 any individual.

5 (v) Purchase medical cannabis from an unlicensed
6 source.

7 (vi) Obtain medical cannabis from a registered
8 patient or a patient representative.

9 (5) If a patient representative previously employed by a
10 health care facility is no longer employed by the health care
11 facility, the authority to obtain medical cannabis using a
12 medical cannabis access card or other form of authorization
13 issued by the Department of Health shall be void. A health
14 care facility that employs a patient representative to pick
15 up, deliver or administer medical cannabis to registered
16 patients shall notify the Department of Health immediately
17 upon termination of the patient representative's employment.

18 (6) The Department of Health shall promulgate
19 regulations relating to patient representatives, including
20 the form of authorization to be utilized.

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

29 (1) Authorized employees of the board, the Department of
30 Health and the Bureau of Professional and Occupational

1 Affairs as necessary to perform official duties of the board
2 and the Department of Health.

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

7 (3) Licensed dispensers as necessary to verify
8 information and identity.

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

10 (5) Health care practitioners.

11 Section 702. Health care practitioners.

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

15 (1) Has a good faith practitioner-patient relationship
16 with the patient, not limited to a certification for the
17 patient to use medical cannabis or a consultation simply for
18 that purpose.

19 (2) Practices within this Commonwealth at an established
20 place of practice.

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

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

27 (5) Has completed and documented an in-person full
28 assessment of the patient's medical history and current
29 medical condition not more than 90 days prior to making the
30 certification for medical cannabis. The assessment shall

1 include a review of medical records from other treating
2 health care practitioners from the previous 12 months.

3 (6) Certifies that the patient is under the physician's
4 care for, and that the physician has expertise in, the
5 patient's qualifying medical condition.

6 (7) Certifies that in the physician's professional
7 opinion, the patient is likely to receive therapeutic or
8 palliative benefit from the medical use of cannabis to treat
9 or alleviate the patient's qualifying medical condition or
10 symptoms associated with the condition.

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

13 (9) Has adopted a recordkeeping system for all patients
14 for whom the physician has recommended the use of medical
15 cannabis.

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

18 (1) Accept, solicit or offer a form of remuneration from
19 or to:

20 (i) a patient, except normal medical examination
21 costs;

22 (ii) a patient representative;

23 (iii) a licensed grower, licensed processor or
24 licensed dispenser; or

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

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

30 (3) Conduct an examination of a patient for purposes of

1 diagnosing a qualifying medical condition at a location where
2 medical cannabis is sold or distributed.

3 (4) Hold a direct or indirect economic interest in, or
4 serve on the board of, a licensed medical cannabis grower,
5 licensed medical cannabis processor or licensed medical
6 cannabis dispenser.

7 (5) Refer a patient to a particular licensed medical
8 cannabis dispenser.

9 (6) Advertise in a facility of a licensed medical
10 cannabis grower, licensed medical cannabis processor or
11 licensed medical cannabis dispenser.

12 (7) Issue a written certification to receive medical
13 cannabis to a member of the health care practitioner's
14 family.

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

17 (1) The date and signature of the health care
18 practitioner.

19 (2) A statement that in the health care practitioner's
20 opinion the patient is likely to receive therapeutic or
21 palliative benefit from the medical use of cannabis to treat
22 or alleviate a qualified medical condition or symptoms
23 associated with the qualified medical condition.

24 (3) Specification of the qualified medical condition.

25 (4) A statement that the qualifying patient is under the
26 health care practitioner's care for the qualified medical
27 condition.

28 (5) The recommended dosage and total amount of medical
29 cannabis being recommended.

30 (d) Limitation.--A written certification may not be for more

1 than 2.5 ounces of medical cannabis for a patient in a 14-day
2 period unless the patient has a quantity waiver from the
3 Department of Health.

4 (e) Veterans.--A veteran who has received treatment at a
5 Veterans' Administration hospital shall be deemed to have a bona
6 fide physician-patient relationship with a Veterans'
7 Administration physician if the patient has been seen for the
8 qualified medical condition in accordance with Veterans'
9 Administration protocols.

10 Section 703. Expansion of medical conditions.

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

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

16 (1) must be limited to a single proposed qualified
17 medical condition;

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

19 (3) must include a description of the specific medical
20 condition which is the subject of the petition; and

21 (4) must not request approval for broad categories of
22 illnesses.

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

25 (1) Review the petition received for the addition of a
26 qualified medical condition which would benefit from the use
27 of medical cannabis. The board may consolidate petitions for
28 the same or similar condition.

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

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

3 (4) Analyze the following:

4 (i) Information about why conventional medical
5 therapies are not sufficient to treat or alleviate the
6 impact of the condition or disease.

7 (ii) The proposed benefits from the use of medical
8 cannabis.

9 (iii) Evidence from the medical community and other
10 experts supporting the use of medical cannabis to
11 alleviate suffering caused by the condition or disease or
12 its treatment.

13 (iv) Letters of support from licensed health care
14 providers knowledgeable about the condition or disease,
15 including letters from physicians with whom the
16 petitioner has a physician-patient relationship.

17 (v) Medical or scientific documentation.

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

20 Section 704. Medical use permitted.

21 (a) General rule.--The cultivation, possession, acquisition,
22 use, delivery, processing, dispensing or transportation of
23 medical cannabis by a person who, at the time the cultivation,
24 possession, acquisition, use, delivery, processing, dispensing
25 or transportation occurs, possesses a valid license,
26 occupational permit, certificate or medical cannabis access card
27 under this act and is in compliance with all applicable terms
28 under this act shall not be unlawful under any provision of law.

29 (b) Medical cannabis access card.--

30 (1) Possession of or application for a medical cannabis

1 access card may not alone constitute probable cause to search
2 a person, the person's property or otherwise subject the
3 person or property to inspection by a governmental agency.

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

6 (i) The minor's health care practitioner has
7 explained to the minor and the minor's custodial parent,
8 guardian or person having legal custody the potential
9 risks and benefits of medical cannabis.

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

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

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

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

16 (c) Restriction.--An individual who has been convicted,
17 adjudicated delinquent or granted accelerated rehabilitative
18 disposition or who pleads guilty or nolo contendere for any
19 offense shall not be disqualified from obtaining or possessing a
20 valid medical cannabis access card on the basis of the offense.

21 Section 705. Authorized use.

22 ~~The use of medical cannabis products mixed into food or~~ <--
23 ~~drinks to facilitate ingestion by a patient in a facility or~~
24 ~~residence shall not violate the ban on edible medical cannabis~~
25 ~~products. Any food mixed with medical cannabis under this~~

26 ~~section may not be sold to any person.~~ (A) USE IN FOOD.--THE <--
27 USE OF MEDICAL CANNABIS PRODUCTS MIXED INTO FOOD OR DRINKS TO
28 FACILITATE INGESTION BY A PATIENT IN A FACILITY OR RESIDENCE
29 SHALL NOT VIOLATE THE BAN ON EDIBLE MEDICAL CANNABIS PRODUCTS.
30 ANY FOOD MIXED WITH MEDICAL CANNABIS UNDER THIS SECTION MAY NOT

1 BE SOLD TO ANY PERSON.

2 (B) VAPORIZATION.--FOR CANCER, A SEIZURE OR POSTTRAUMATIC
3 STRESS DISORDER, VAPORIZATION OF MEDICAL CANNABIS IS AUTHORIZED
4 IF A PHYSICIAN INDICATES THAT VAPORIZATION IS NECESSARY FOR THE
5 DELIVERY OF MEDICAL CANNABIS. VAPORIZATION MUST BE DELIVERED BY
6 USING A FORM OF VAPORIZATION AUTHORIZED BY THE BOARD. EQUIPMENT
7 OR DELIVERY SYSTEMS APPROVED BY THE BOARD MAY BE USED FOR
8 VAPORIZATION.

9 Section 706. Health insurance.

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

15 Section 707. Sovereign immunity.

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

19 CHAPTER 9

20 PROTECTION, PROHIBITIONS,
21 ENFORCEMENT AND PENALTIES

22 Section 901. Civil discrimination protection.

23 The following shall apply:

24 (1) Medical cannabis, when used in accordance with this
25 act, may not be considered an illicit substance or otherwise
26 disqualify a patient from medical care.

27 (2) An individual may not be penalized in any of the
28 following ways due to the individual's use of medical
29 cannabis under this act:

30 (i) Denied custody, visitation or parenting time

1 with a minor child.

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

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

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

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

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

28 (ii) An individual's positive drug test for cannabis
29 components or metabolites may not be considered by an
30 employer unless the individual unlawfully used, possessed

1 or was impaired by the medical cannabis while on the
2 premises of the place of employment or during the hours
3 of employment.

4 Section 902. Prohibitions and use.

5 (a) Prohibitions.--

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

10 (i) A motor vehicle.

11 (ii) An aircraft.

12 (iii) A motor boat.

13 (iv) Heavy machinery.

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

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

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

23 (4) An individual may not smoke medical cannabis ~~or~~ <--
24 ~~utilize a vaporizer to ingest or inhale medical cannabis.~~

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

28 (1) Public transportation.

29 (2) On school grounds if the registered patient is a
30 student or an employee of the school in accordance with the

1 Department of Education regulations regarding medication on
2 school grounds.

3 (3) In a correctional facility in accordance with
4 Department of Corrections regulations regarding medications
5 in correctional facilities.

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

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

12 Section 903. Unlawful activities.

13 In addition to any other applicable provision of law, it
14 shall be a criminal offense to intentionally or knowingly do any
15 of the following:

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

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

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

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

25 (5) Violate any regulation of the board.

26 Section 904. Criminal penalties and fines.

27 (a) Offense.--Except as provided under subsections (b) and
28 (c), a violation of the act shall be graded as a misdemeanor of
29 the second degree.

30 (b) Unauthorized actions.--A medical cannabis grower,

1 processor or dispenser that distributes, gives, sells or
2 provides medical cannabis to a person other than a person
3 authorized under this act commits a felony of the third degree.

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

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

10 Section 905. Daily log access.

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

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

19 (2) There is reasonable suspicion that a criminal act
20 has occurred.

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

24 Section 906. Law enforcement.

25 The verification system may be accessed by law enforcement
26 agencies registered with the department to confirm the
27 authenticity of a medical cannabis access card. The information
28 shall remain confidential unless criminal charges are filed.

29 CHAPTER 11

30 MEDICAL CANNABIS SURCHARGE

1 Section 1101. Definitions.

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

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

6 "Medical cannabis purveyor." A medical cannabis dispenser,
7 medical cannabis grower, medical cannabis processor or any other
8 person licensed under this chapter who, in the usual course of
9 business, sells medical cannabis to a medical cannabis
10 dispenser.

11 "Purchase price." The total value of anything paid or
12 delivered, or promised to be paid or delivered, whether it be
13 money or otherwise, in complete performance of a sale or
14 purchase, without a deduction on account of the cost or value of
15 the property sold, cost or value of transportation, cost or
16 value of labor or service, interest or discount paid or allowed
17 after the sale is consummated, other taxes or surcharges imposed
18 by the Commonwealth or other expense.

19 "Sale." A transfer of ownership, custody or possession of
20 medical cannabis for consideration; an exchange, barter or gift;
21 or an offer to sell or transfer the ownership, custody or
22 possession of medical cannabis for consideration.

23 "Surcharge payer." A person subject to the surcharge under
24 this chapter.

25 "Unclassified importer." A person in this Commonwealth that
26 acquires medical cannabis from a source on which the surcharge
27 imposed by this chapter was not paid and that is not a person
28 otherwise required to be licensed under the provisions of this
29 chapter. The term includes a patient who purchases medical
30 cannabis outside this Commonwealth for personal possession or

1 use in this Commonwealth.

2 Section 1102. Incidence and rate of surcharge.

3 (a) Imposition.--A medical cannabis surcharge is imposed on
4 a medical cannabis purveyor or other person at the time the
5 medical cannabis is first sold to a medical cannabis dispenser
6 in this Commonwealth at the rate of 6% on the purchase price
7 charged to the medical cannabis dispenser for the purchase of
8 medical cannabis. The surcharge shall be collected from the
9 medical cannabis dispenser by the seller of the medical cannabis
10 to the medical cannabis dispenser and remitted to the
11 department. A person required to collect this surcharge shall
12 separately state the amount of surcharge on an invoice or other
13 sales document.

14 (b) Medical cannabis dispenser.--If the surcharge is not
15 collected by the seller from the medical cannabis dispenser, the
16 surcharge is imposed on the medical cannabis dispenser at the
17 time of purchase at the same rate as in subsection (a) based on
18 the medical cannabis dispenser's purchase price of the medical
19 cannabis. The medical cannabis dispenser shall remit the
20 surcharge to the department.

21 (c) Unclassified importer.--The surcharge is imposed on an
22 unclassified importer at the time of purchase at the same rate
23 as in subsection (a) based on the unclassified importer's
24 purchase price of the medical cannabis. The unclassified
25 importer shall remit the surcharge to the department.

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

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

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

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

6 Section 1103. Limitation of surcharge.

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

9 Section 1104. Remittance of surcharge to department.

10 Medical cannabis purveyors and unclassified importers shall
11 file monthly reports on a form prescribed by the department by
12 the 20th day of the month following the sale or purchase of
13 medical cannabis from another source on which the surcharge
14 levied by this chapter has not been paid. The surcharge is due
15 at the time the report is due. The department may require the
16 filing of reports and payments of surcharges on a less frequent
17 basis at its discretion.

18 Section 1105. Procedures for claiming refund.

19 A claim for a refund of the surcharge imposed by this chapter
20 shall be in accordance with section 3003.1 and Article XXVII of
21 the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform
22 Code of 1971, and shall be in the form and contain the
23 information prescribed by the department by regulation.

24 Section 1106. Sales or possession of medical cannabis when
25 surcharge not paid.

26 (a) Sales or possession.--A person who sells or possesses
27 medical cannabis for which the proper surcharge has not been
28 paid commits a summary offense and shall, upon conviction, be
29 sentenced to pay costs of prosecution and a fine of not less
30 than \$100 nor more than \$1,000 or to imprisonment for not more

1 than 60 days, or both, at the discretion of the court. Medical
2 cannabis purchased from a medical cannabis purveyor properly
3 licensed under this chapter shall be presumed to have the proper
4 surcharges paid.

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

14 Section 1107. Assessment.

15 The department is authorized to make the inquiries,
16 determinations and assessments of the surcharge, including
17 interest, additions and penalties, imposed by this chapter.

18 Section 1108. Failure to file return.

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

22 Section 1109. False or fraudulent return.

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

27 Section 1110. Extension of limitation period.

28 Notwithstanding any other provision of this chapter, where,
29 before the expiration of the period prescribed for the
30 assessment of a surcharge, a surcharge payer has consented, in

1 writing, that the period be extended, the amount of surcharge
2 due may be assessed at any time within the extended period. The
3 period so extended may be extended further by subsequent
4 consents, in writing, made before the expiration of the extended
5 period.

6 Section 1111. Failure to furnish information, returning false
7 information or failure to permit inspection.

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

15 (b) Examination.--The department is authorized to examine
16 the books and records, the stock of medical cannabis and the
17 premises and equipment of a surcharge payer in order to verify
18 the accuracy of the payment of the surcharge imposed by this
19 chapter. The person subject to an examination shall give to the
20 department or its duly authorized representative the means,
21 facilities and opportunity for the examination. Willful refusal
22 to cooperate with or permit an examination to the satisfaction
23 of the department shall be sufficient grounds for suspension or
24 revocation of a surcharge payer's license issued under this
25 chapter.

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

30 (d) Reports.--A medical cannabis purveyor shall file reports

1 at times and in the form prescribed by the department.

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

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

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

7 (3) The name and license number issued under Chapter 5
8 of the medical cannabis dispenser to which the medical
9 cannabis was sold.

10 (4) The total price of the medical cannabis sold to the
11 medical cannabis dispenser.

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

13 (6) The name of the common carrier.

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

18 Section 1112. Records of shipments and receipts of medical
19 cannabis required.

20 The department shall require reports from a common or
21 contract carrier who transports medical cannabis to any point or
22 points within this Commonwealth, and from a bonded warehouseman
23 or bailee who has in the possession of the warehouseman or
24 bailee any medical cannabis. The reports shall contain the
25 information concerning shipments of medical cannabis that the
26 department determines to be necessary for the administration of
27 this chapter. All common and contract carriers, bailees and
28 warehousemen shall permit the examination by the department or
29 its authorized agents of records relating to the shipment or
30 receipt of medical cannabis.

1 Section 1113. Licensing of medical cannabis purveyors.

2 (a) Prohibition.--No person, unless all sales of medical
3 cannabis are exempt from the medical cannabis surcharge in this
4 Commonwealth, shall sell, transfer or deliver medical cannabis
5 in this Commonwealth without first obtaining the proper license
6 provided for in this chapter.

7 (b) Application.--An applicant for a medical cannabis
8 purveyor's license shall complete and file an application with
9 the department. The application shall be in the form and contain
10 information prescribed by the department and shall set forth
11 truthfully and accurately the information required by the
12 department. If the application is approved, the department shall
13 license the medical cannabis purveyor for a period of one year
14 and the license may be renewed annually thereafter.

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

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

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

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

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

30 (5) The applicant shall not have made any material false

1 statement in the application.

2 (6) The applicant shall not have violated a provision of
3 this chapter.

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

8 (d) Multiple locations.--The medical cannabis purveyor's
9 license shall be valid for one specific location only. Medical
10 cannabis purveyors with more than one location shall obtain a
11 license for each location.

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

13 (a) Fees.--At the time of making an application or license
14 renewal application, an applicant for a medical cannabis
15 purveyor's license shall pay the department a license fee of
16 \$75.

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

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

22 Section 1115. Electronic filing.

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

26 Section 1116. Expiration of license.

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

1 (b) Violation.--After the expiration date of the license or
2 sooner if the license is suspended, surrendered or revoked, it
3 shall be illegal for a medical cannabis purveyor to engage
4 directly or indirectly in the business conducted by the medical
5 cannabis purveyor for which the license was issued. A licensee
6 who shall, after the expiration date of the license, engage in
7 the business conducted by the licensee either by way of
8 purchase, sale, distribution or in any other manner directly or
9 indirectly engaged in the business of dealing with medical
10 cannabis shall be in violation of this chapter and be subject to
11 the penalties provided in this chapter.

12 Section 1117. Administration powers and duties.

13 (a) Department.--The administration of this chapter is
14 vested in the department. The department shall adopt rules and
15 regulations for the enforcement of this chapter.

16 (b) Joint administration.--The department is authorized to
17 jointly administer this chapter with other provisions of the act
18 of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of
19 1971, including joint reporting of information, forms, returns,
20 statements, documents or other information submitted to the
21 department.

22 Section 1118. Sales without license.

23 (a) Penalty.--A person who shall, without being the holder
24 of a proper unexpired medical cannabis purveyor's license,
25 engage in purchasing, selling, distributing or in another manner
26 directly or indirectly engage in the business of dealing with
27 medical cannabis commits a summary offense and shall, upon
28 conviction, be sentenced to pay costs of prosecution and a fine
29 of not less than \$250 nor more than \$1,000, or to imprisonment
30 for not more than 30 days, or both, at the discretion of the

1 court.

2 (b) Prima facie evidence.--Open display of medical cannabis
3 in any manner shall be prima facie evidence that the person
4 displaying such medical cannabis is directly or indirectly
5 engaging in the business of dealing medical cannabis.

6 Section 1119. Violations and penalties.

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

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

17 Section 1120. Property rights.

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

22 (b) Alterations.--

23 (1) References to cigarettes in section 1285 of the Tax
24 Reform Code of 1971 shall apply to medical cannabis in this
25 chapter.

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

29 (3) References to more than 200 unstamped cigarettes in
30 section 1285 of the Tax Reform Code of 1971 shall apply to

1 medical cannabis worth at least \$100 in this chapter.

2 Section 1121. Information exchange.

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

6 CHAPTER 51

7 MISCELLANEOUS PROVISIONS

8 Section 5101. Regulations.

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

11 (b) Temporary regulations.--In order to facilitate the
12 implementation of this act, regulations promulgated by the board
13 shall be deemed temporary regulations which shall expire not
14 later than two years following the publication of the temporary
15 regulation. Temporary regulations shall not be subject to:

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

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

21 (3) Sections 204(b) and 301(10) of the act of October
22 15, 1980 (P.L.950, No.164), known as the Commonwealth
23 Attorneys Act.

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

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

1 Section 5102. Appropriation.

2 The sum of \$1.3 million or as much thereof as may be
3 necessary is appropriated from the Professional Licensure
4 Augmentation Account to the Bureau of Professional and
5 Occupational Affairs within the Department of State for the
6 start-up and initial operation of the State Board of Medical
7 Cannabis Licensing. The appropriation shall be repaid by the
8 board within five years of the beginning of issuance of licenses
9 by the board.

10 Section 5103. Applicability of other statutes.

11 The following acts shall apply to the board:

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

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

16 (3) 65 Pa.C.S. Chs. 7 (relating to open meetings) and 11
17 (relating to ethics standards and financial disclosure).

18 Section 5104. Repeals.

19 The following shall apply:

20 (1) Sections 4 and 13 of the act of April 14, 1972
21 (P.L.233, No.64), known as The Controlled Substance, Drug,
22 Device and Cosmetic Act, are repealed insofar as they are
23 inconsistent with this act.

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

26 Section 5105. Effective date.

27 This act shall take effect in 60 days.