

AMENDMENTS TO SENATE BILL NO. 3

Sponsor: REPRESENTATIVE MARSICO

Printer's No. 889

1 Amend Bill, page 1, lines 1 through 16; pages 2 and 3, lines
2 1 through 30; page 4, line 1; by striking out all of said lines
3 on said pages and inserting
4 Establishing a medical marijuana program; providing for patient
5 and caregiver certification and for medical marijuana
6 organization registration; imposing duties on the Department
7 of Health; providing for a tax on medical marijuana
8 organization gross receipts; establishing the Medical
9 Marijuana Program Fund; establishing the Medical Marijuana
10 Advisory Board; establishing a medical marijuana research
11 program; imposing duties on the Department of Corrections,
12 the Department of Education and the Department of Human
13 Services; and providing for penalties and enforcement.

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9 Amend Bill, page 4, lines 4 through 30; pages 5 through 68,
10 lines 1 through 30; page 69, lines 1 through 27; by striking out
11 all of said lines on said pages and inserting

12 CHAPTER 1

13 PRELIMINARY PROVISIONS

14 Section 101. Short title.

15 This act shall be known and may be cited as the Medical
16 Marijuana Act.

17 Section 102. Declaration of policy.

18 The General Assembly finds and declares as follows:

19 (1) Scientific evidence suggests that medical marijuana
20 is one potential therapy that may mitigate suffering in some
21 patients and also enhance quality of life.

22 (2) The Commonwealth is committed to patient safety.
23 Carefully regulating the program which allows access to
24 medical marijuana will enhance patient safety while research
25 into its effectiveness continues.

26 (3) It is the intent of the General Assembly to:

27 (i) Provide a program of access to medical marijuana
28 which balances the need of patients to have access to the
29 latest treatments with the need to promote patient
30 safety.

31 (ii) Provide a safe and effective method of delivery
32 of medical marijuana to patients.

33 (iii) Promote high quality research into the
34 effectiveness and utility of medical marijuana.

35 (4) It is the further intention of the General Assembly
36 that any Commonwealth-based program to provide access to
37 medical marijuana serve as a temporary measure, pending
38 Federal approval of and access to medical marijuana through
39 traditional medical and pharmaceutical avenues.

40 Section 103. Definitions.

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

44 "Advisory board." The advisory board established under
45 section 1106.

46 "Caregiver." The individual designated by a patient or, if
47 the patient is under 18 years of age, an individual under
48 section 508(2), to deliver medical marijuana.

1 "Certified medical use." The acquisition, possession, use or
2 transportation of medical marijuana by a patient, or the
3 acquisition, possession, delivery, transportation or
4 administration of medical marijuana by a caregiver, for use as
5 part of the treatment of the patient's serious medical
6 condition, as authorized in a certification under this act,
7 including enabling the patient to tolerate treatment for the
8 serious medical condition.

9 "Certified registered nurse practitioner." As defined in
10 section 2 of the act of May 22, 1951 (P.L.317, No.69), known as
11 The Professional Nursing Law.

12 "Change in control." The acquisition by a person or group of
13 persons acting in concert of a controlling interest in an
14 applicant or registrant either all at one time or over the span
15 of a 12-consecutive-month period.

16 "Continuing care." Treating a patient, in the course of
17 which the practitioner has completed a full assessment of the
18 patient's medical history and current medical condition,
19 including an in-person consultation with the patient.

20 "Controlling interest." As follows:

21 (1) The term shall mean the following:

22 (i) For a publicly traded entity, voting rights that
23 entitle a person to elect or appoint one or more of the
24 members of the board of directors or other governing
25 board or the ownership or beneficial holding of 5% or
26 more of the securities of the publicly traded entity.

27 (ii) For a privately held entity, the ownership of
28 any security in the entity.

29 (2) For purposes of this definition, the term "security"
30 is as defined in section 102(t) of the act of December 5,
31 1972 (P.L.1280, No.284), known as the Pennsylvania Securities
32 Act of 1972.

33 "Department." The Department of Health of the Commonwealth.

34 "Dispensary." A person, including a natural person,
35 corporation, partnership, association, trust or other entity, or
36 any combination thereof, which is registered by the department
37 to dispense medical marijuana. The term does not include a
38 health care medical marijuana organization under Chapter 19.

39 "Family or household member." As defined in 23 Pa.C.S. §
40 6102 (relating to definitions).

41 "Financial backer." An investor, mortgagee, bondholder, note
42 holder or other source of equity of an applicant other than a
43 financial institution.

44 "Financial institution." A bank, a national banking
45 association, a bank and trust company, a trust company, a
46 savings and loan association, a building and loan association, a
47 mutual savings bank, a credit union or a savings bank.

48 "Form of medical marijuana." The characteristics of the
49 medical marijuana recommended or limited for a particular
50 patient, including the method of consumption and any particular
51 dosage, strain, variety and quantity or percentage of medical

1 marijuana or particular active ingredient.

2 "Fund." The Medical Marijuana Program Fund established in
3 section 902.

4 "Grower/processor." A person, including a natural person,
5 corporation, partnership, association, trust or other entity, or
6 any combination thereof, which is registered by the department
7 under this act to grow and process medical marijuana. The term
8 does not include a health care medical marijuana organization
9 under Chapter 19.

10 "Identification card." A document issued under section 505
11 that permits access to medical marijuana under this act.

12 "Individual dose." A single measure of medical marijuana.

13 "Medical marijuana." Marijuana for medical use as set forth
14 in this act.

15 "Medical marijuana organization." A dispensary or a
16 grower/processor. The term does not include a health care
17 medical marijuana organization under Chapter 19.

18 "Patient." An individual who:

19 (1) has a serious medical condition;

20 (2) has met the requirements for certification under
21 this act; and

22 (3) is a resident of this Commonwealth.

23 "Physician assistant." As defined in section 2 of the act of
24 December 20, 1985 (P.L.457, No.112), known as the Medical
25 Practice Act of 1985, and section 2 of the act of October 5,
26 1978 (P.L.1109, No.261), known as the Osteopathic Medical
27 Practice Act.

28 "Practitioner." A physician who is registered with the
29 department under section 302.

30 "Prescription drug monitoring program." The Achieving Better
31 Care by Monitoring All Prescriptions Program (ABC-MAP).

32 "Principal." An officer, director or person who directly
33 owns a beneficial interest in or ownership of the securities of
34 an applicant or registrant, a person who has a controlling
35 interest in an applicant or registrant or who has the ability to
36 elect the majority of the board of directors of an applicant or
37 registrant or otherwise control an applicant or registrant,
38 other than a financial institution.

39 "Registry." The registry established by the department under
40 section 301(1).

41 "Secretary." The Secretary of Health of the Commonwealth.

42 "Serious medical condition." Any of the following:

43 (1) Cancer.

44 (2) Positive status for human immunodeficiency virus or
45 acquired immune deficiency syndrome.

46 (3) Amyotrophic lateral sclerosis.

47 (4) Parkinson's disease.

48 (5) Multiple sclerosis.

49 (6) Damage to the nervous tissue of the spinal cord with
50 objective neurological indication of intractable spasticity.

51 (7) Epilepsy.

- 1 (8) Inflammatory bowel disease.
- 2 (9) Neuropathies.
- 3 (10) Huntington's disease.
- 4 (11) Crohn's disease.
- 5 (12) Post-traumatic stress disorder.
- 6 (13) Intractable seizures.
- 7 (14) Glaucoma.
- 8 (15) Severe chronic or intractable pain of neuropathic
- 9 origin or severe chronic or intractable pain in which
- 10 conventional therapeutic intervention and opiate therapy is
- 11 contraindicated or ineffective.
- 12 "Terminally ill." A medical prognosis of life expectancy of
- 13 approximately one year or less if the illness runs its normal
- 14 course.

15 CHAPTER 3

16 PROGRAM

17 Section 301. Program established.

18 A medical marijuana program for patients suffering from

19 serious medical conditions is established. The program shall be

20 administered by the department. The department shall have the

21 authority to do all things necessary to fulfill its

22 responsibilities in implementing this act. At minimum, the

23 department shall:

24 (1) Establish and maintain a computerized registry

25 containing information set forth in this act relating to

26 patients certified to use medical marijuana, caregivers,

27 practitioners and medical marijuana organizations, which

28 shall include identification numbers. The computerized

29 registry shall include a separate, electronic database to be

30 used by the department and dispensaries and which contains

31 the information set forth in section 703(a)(1), (2), (3), (4)

32 and (5) and such additional information that the department

33 may require by regulation. The registry and database shall be

34 capable of providing information in real time. Dispensaries

35 shall have real-time access to information:

36 (i) To ensure that medical marijuana is not diverted

37 or otherwise used for unlawful purposes.

38 (ii) To establish the authenticity of identification

39 cards.

40 (iii) To provide the form of medical marijuana

41 provided in the certification by the practitioner.

42 (2) Develop and implement procedures for:

43 (i) Issuance of identification cards to patients and

44 caregivers.

45 (ii) Review and approval of certifications submitted

46 by practitioners.

47 (iii) Review of the credentials of practitioners who

48 submit certifications.

49 (iv) Review and approval of applications for

50 identification cards.

51 (v) Review and approval of applications to become

1 registered with the department as a medical marijuana
2 organization.

3 (vi) Review and approval of applications of
4 physicians to become registered with the department as
5 practitioners.

6 (3) Develop a four-hour course for physicians regarding
7 the latest scientific research on medical marijuana,
8 including the risks and benefits of medical marijuana, and
9 any other subjects deemed necessary by the department. The
10 State Board of Medicine and the State Board of Osteopathic
11 Medicine shall approve continuing education credit for any
12 physician who successfully completes the course. The State
13 Board of Pharmacy shall approve continuing education credit
14 for any pharmacist who successfully completes the course
15 pursuant to the requirement in section 707(9). The State
16 Board of Nursing shall approve continuing education credit
17 for a certified registered nurse practitioner who
18 successfully completes the course pursuant to the requirement
19 in section 707(9). The State Board of Medicine and the State
20 Board of Osteopathic Medicine shall approve continuing
21 education credit for a physician assistant who successfully
22 completes the course pursuant to the requirement in section
23 707(9).

24 (4) Develop a two-hour course for the principals and
25 employees of a medical marijuana organization who either come
26 into contact with patients or caregivers or who physically
27 handle medical marijuana. Employees must successfully
28 complete the course no later than 90 days after commencing
29 employment. Principals must successfully complete the course
30 prior to commencing initial operation of the medical
31 marijuana organization. The subject matter of the course
32 shall encompass the following:

33 (i) Recognizing unauthorized suspected activity
34 under this act and the regulations promulgated by the
35 department, including criminal diversion of medical
36 marijuana and falsification of identification cards.

37 (ii) Proper handling of medical marijuana and
38 recordkeeping.

39 (iii) Proper reporting of suspected unauthorized
40 activity, including activities under subparagraph (i), to
41 law enforcement.

42 (iv) Any other subject necessary to ensure
43 compliance with this act and regulations promulgated
44 under this act, as determined by the department.

45 (5) Develop a procedure for announced and unannounced
46 inspections by the department of the facilities for growing,
47 processing or dispensing or selling medical marijuana, and of
48 the books, papers and tracking and other systems utilized by
49 medical marijuana organizations required by this act.

50 (6) Establish a manner and method to administer research
51 studies to be operated by vertically integrated health

1 systems in order to collect research data on the use of
2 medical marijuana to treat serious medical conditions in
3 accordance with Chapter 19.

4 (7) Establish and maintain public outreach efforts about
5 this act. The efforts shall include:

6 (i) A dedicated telephone number regarding medical
7 marijuana so that patients, caregivers and members of the
8 public may call to obtain basic information about the
9 dispensing of medical marijuana under this act.

10 (ii) A publicly accessible Internet website with
11 similar information.

12 (8) Collaborate as necessary, as determined by the
13 secretary, with other Commonwealth agencies or to contract
14 with third parties to assist the department in fulfilling its
15 responsibilities under this act.

16 (9) Determine the minimum number and type of medical
17 marijuana to be produced by a grower/processor and dispensed
18 by a dispensary.

19 Section 302. Practitioner registration.

20 (a) Eligibility.--A physician who satisfies the following is
21 eligible for inclusion in the registry:

22 (1) The physician applies for registration in the form
23 and manner required by the department.

24 (2) The department determines that the physician is, by
25 training or experience, qualified to treat a serious medical
26 condition. The physician shall provide documentation of
27 required credentials, training or experience as required by
28 the department.

29 (3) The physician has successfully completed the course
30 under section 301(3).

31 (b) Department action.--The department shall review an
32 application submitted by a physician to determine whether to
33 include the physician in the registry. The review shall include
34 information maintained by the Department of State regarding
35 whether the physician has a valid, unexpired, unrevoked,
36 unsuspended Pennsylvania license to practice medicine and
37 whether the physician has been subject to discipline. The review
38 shall be conducted each time the department reviews
39 certifications under section 501. If the physician is not the
40 holder of a valid, unexpired, unrevoked, unsuspended
41 Pennsylvania license to practice medicine, then the department
42 shall deny the certification and shall remove the physician from
43 the registry until such time as the physician holds a valid,
44 unexpired, unrevoked, unsuspended Pennsylvania license to
45 practice medicine. A physician who is listed in the registry is
46 authorized to issue a certification to use medical marijuana.

47 (c) Practitioner requirements.--A practitioner shall have an
48 ongoing responsibility, so long as the practitioner remains in
49 the registry, to immediately notify the department in writing if
50 the practitioner knows or has reason to know that any of the
51 following is true with respect to a patient for whom the

1 practitioner has issued a certification under this act:

2 (1) The patient no longer has the serious medical
3 condition for which the certification was issued.

4 (2) Medical marijuana would no longer be therapeutic or
5 palliative.

6 (3) The patient has died.

7 Section 303. Practitioner restrictions.

8 (a) Practices prohibited.--The following apply with respect
9 to practitioners:

10 (1) A practitioner may not accept, solicit or offer any
11 form of remuneration from or to a prospective patient,
12 patient, prospective caregiver, caregiver or medical
13 marijuana organization, including an employee, financial
14 backer or principal, to certify a patient, other than
15 accepting a fee for service with respect to the examination
16 of the prospective patient to determine if the prospective
17 patient should be issued a certification to use medical
18 marijuana.

19 (2) A practitioner may not hold a direct or economic
20 interest in a medical marijuana organization.

21 (3) A practitioner may not advertise the practitioner's
22 services as a practitioner who can certify a patient to
23 receive medical marijuana.

24 (b) Unprofessional conduct.--A practitioner who violates
25 subsection (a)(1), (2) or (3) or section 501(f) shall not be
26 permitted to issue certifications to patients. The practitioner
27 shall be removed from the registry.

28 (c) Discipline.--In addition to any other penalty that may
29 be imposed under this act, a violation of subsection (a)(1), (2)
30 or (3) or section 501(f) shall be deemed unprofessional conduct
31 under section 41(8) of the act of December 20, 1985 (P.L.457,
32 No.112), known as the Medical Practice Act of 1985, or section
33 15(a)(8) of the act of October 5, 1978 (P.L.1109, No.261), known
34 as the Osteopathic Medical Practice Act, and shall subject the
35 practitioner to discipline by the State Board of Medicine or the
36 State Board of Osteopathic Medicine, as appropriate.

37 CHAPTER 5

38 PATIENT AND CAREGIVER CERTIFICATION

39 Section 501. Issuance of certification.

40 (a) Conditions for issuance.--A certification to use medical
41 marijuana may be issued by a practitioner to a patient if all of
42 the following requirements are met:

43 (1) The practitioner is authorized, as evidenced by the
44 practitioner's inclusion in the registry, to issue a
45 certification.

46 (2) The patient has a serious medical condition, which
47 is specified in the patient's health care record.

48 (3) The practitioner by training or experience is
49 qualified to treat the patient's serious medical condition.

50 (4) The patient is under the practitioner's continuing
51 care for the serious medical condition.

1 (5) In the practitioner's professional opinion and
2 review of past treatments, the practitioner determines the
3 patient is likely to receive therapeutic or palliative
4 benefit from the use of medical marijuana.

5 (b) Contents.--In addition to the information set forth in
6 subsection (a), the certification shall include:

7 (1) The name, date of birth and address of the patient.

8 (2) The specific serious medical condition of the
9 patient.

10 (3) A statement by the practitioner that the patient has
11 a serious medical condition and the patient is under the
12 practitioner's continuing care for the serious medical
13 condition.

14 (4) The date of issuance.

15 (5) The name, address, telephone number and signature of
16 the practitioner.

17 (6) Any requirement or limitation concerning the
18 appropriate form of medical marijuana.

19 (7) Information needed for the research program database
20 under section 1902(b)(2) as determined by the department.

21 (c) Optional information.--The practitioner may state in the
22 certification that, in the practitioner's professional opinion:

23 (1) The patient would benefit from medical marijuana
24 only until a specified date.

25 (2) The patient is terminally ill.

26 (d) Consultation.--A practitioner shall consult the
27 prescription drug monitoring program prior to issuing or
28 modifying a certification for the purpose of reviewing the
29 controlled substance history of a patient.

30 (e) Duties of practitioner.--The practitioner shall:

31 (1) Provide the certification to the patient.

32 (2) Provide a copy of the certification to the
33 department, which shall place the information in the
34 registry. The department shall permit electronic submission
35 of the certification.

36 (3) File a copy of the certification in the patient's
37 health care record.

38 (f) Prohibition.--A practitioner may not issue a
39 certification for the practitioner's own use or for the use of a
40 family or household member.

41 Section 502. Certification form.

42 The department shall develop a standard certification form,
43 which shall be available upon request. In addition, the form
44 shall be available to practitioners electronically. The form
45 shall include a statement that a false statement made by a
46 practitioner is punishable under the applicable provisions of 18
47 Pa.C.S. Ch. 49 (relating to falsification and intimidation).
48 Section 503. Lawful use of medical marijuana.

49 (a) General rule.--Notwithstanding any provision of law to
50 the contrary, certified medical use of medical marijuana as set
51 forth in this act and regulations promulgated under this act is

1 lawful within this Commonwealth.

2 (b) Limitations.--The lawful use of medical marijuana is
3 subject to the following limitations:

4 (1) Medical marijuana may only be administered to a
5 patient who is certified by a practitioner.

6 (2) Subject to regulations promulgated under section
7 1108(3), medical marijuana may only be dispensed to a patient
8 or caregiver in the following forms:

9 (i) pill;

10 (ii) oil;

11 (iii) topical forms, including gel, creams or
12 ointments;

13 (iv) a form medically appropriate for administration
14 by vaporization or nebulization.

15 (v) tincture; or

16 (vi) liquid.

17 (3) In accordance with section 1108, medical marijuana
18 may be dispensed to a patient or a caregiver in dry leaf or
19 plant form.

20 (4) Subject to section 1108, no individual dose of
21 medical marijuana may contain more than 10%
22 tetrahydrocannabinol.

23 (5) For each patient, possession of medical marijuana by
24 a patient and a caregiver may not exceed a 30-day supply of
25 individual doses, consistent with any regulations of the
26 department, except that, during the last seven days of any
27 30-day period, a patient may also possess a 30-day supply for
28 the subsequent 30-day period.

29 (6) An individual may not act as a caregiver for more
30 than five patients.

31 (7) A patient may designate up to two caregivers at any
32 one time.

33 (8) The form of medical marijuana that may be possessed
34 by a patient or caregiver under a certification shall be in
35 compliance with any requirement or limitation of the
36 practitioner.

37 (9) The medical marijuana shall be kept in the original
38 package in which it was dispensed, except for the portion
39 removed for immediate use by the patient.

40 (10) A patient or caregiver shall possess an
41 identification card whenever the patient or caregiver is in
42 immediate possession of medical marijuana.

43 (11) With respect to the packaging of medical marijuana
44 by growers/processors and dispensing of medical marijuana by
45 dispensaries, the medical marijuana shall only be identified
46 by the name of the grower/processor, the name of the
47 dispensary, the species and the percentage of
48 tetrahydrocannabinol and cannabidiol.

49 Section 504. Unlawful use of medical marijuana.

50 (a) General rule.--Notwithstanding section 503, the use of
51 medical marijuana as set forth in this section is unlawful and

1 shall, in addition to any other penalty provided by law, be
2 deemed a violation of the act of April 14, 1972 (P.L.233,
3 No.64), known as The Controlled Substance, Drug, Device and
4 Cosmetic Act.

5 (b) Unlawful use described.--Regardless of the form of
6 medical marijuana stated in the patient's certification, it is
7 unlawful to:

8 (1) Smoke medical marijuana.

9 (2) Incorporate medical marijuana into edible form.

10 Nothing in this act shall be construed to preclude the
11 incorporation of medical marijuana into edible form by a
12 patient or a caregiver in order to aid ingestion of the
13 medical marijuana by the patient.

14 (3) Grow medical marijuana unless registered as a
15 grower/processor or health care medical marijuana
16 organization under Chapter 19 and acting in compliance with
17 this act.

18 Section 505. Identification cards.

19 (a) Issuance.--Upon review and approval of the certification
20 issued to a patient by a practitioner, satisfactory review of a
21 practitioner's medical credentials, satisfactory review of the
22 prescription drug monitoring program in the case of a caregiver
23 and satisfactory review of the Federal and Commonwealth criminal
24 history record information in the case of a caregiver, the
25 department shall issue an identification card to a patient or
26 caregiver. The identification card shall permit a patient or
27 caregiver to access medical marijuana in accordance with this
28 act.

29 (b) Expiration.--An identification card shall expire within
30 one year from the date of issuance, upon the death of the
31 patient, or as otherwise provided in this section. The
32 department shall specify the form of application for an
33 identification card. The department shall provide the form upon
34 request, and the form shall be available electronically via the
35 department's publicly accessible Internet website.

36 (c) Separate cards to be issued.--The department shall issue
37 separate identification cards for patients and caregivers as
38 soon as reasonably practicable after receiving a completed
39 application, unless it determines that the application is
40 incomplete or factually inaccurate, in which case it shall
41 promptly notify the applicant.

42 (d) Change in name or address.--A patient or caregiver who
43 has been issued an identification card shall notify the
44 department within 10 days of any change of name or address. In
45 addition, with respect to the patient, the patient shall notify
46 the department within 10 days if the patient no longer has the
47 serious medical condition noted on the certification.

48 (e) Lost or defaced card.--In the event of a lost, stolen,
49 destroyed or illegible identification card, the patient or
50 caregiver shall apply to the department within 10 business days
51 of discovery of the loss or defacement of the card for a

1 replacement card. The application for a replacement card shall
2 be on a form furnished by the department and accompanied by a
3 \$25 fee. The department may establish higher fees for issuance
4 of second and subsequent replacement identification cards. The
5 department may waive or reduce the fee in cases of demonstrated
6 financial hardship. The department shall issue a replacement
7 identification card as soon as practicable. The card may contain
8 a different identification number. A patient or caregiver may
9 not obtain medical marijuana until the patient receives the
10 replacement card.

11 (f) Information to be kept confidential.--The department
12 shall maintain a confidential list of patients and caregivers to
13 whom it has issued identification cards. Individual identifying
14 information obtained by the department, including information
15 provided by the Pennsylvania State Police pursuant to section
16 506(b), under this act shall be confidential and exempt from
17 disclosure, including disclosure under the act of February 14,
18 2008 (P.L.6, No.3), known as the Right-to-Know Law.
19 Section 506. Process for obtaining or renewing an
20 identification card.

21 (a) Requirements.--The following apply:

22 (1) To obtain, amend or renew an identification card, a
23 patient or caregiver shall file an application with the
24 department.

25 (2) In the case of a patient, the application shall
26 include the following:

27 (i) The patient's certification. A new certification
28 must be provided with a renewal application.

29 (ii) The name, address and date of birth of the
30 patient.

31 (iii) The date of the certification.

32 (iv) If the patient has an identification card based
33 on a current valid certification, the identification
34 number and expiration date of that identification card.

35 (v) The specified date until which the patient would
36 benefit from medical marijuana, if the certification
37 states such a date.

38 (vi) The name, address and telephone number of the
39 certifying practitioner.

40 (vii) Other information required by the department.

41 (3) If the patient designates a caregiver, the
42 application shall include the name, address and date of birth
43 of the caregiver, and other individual identifying
44 information required by the department.

45 (4) In the case of a caregiver, the application shall
46 include the following:

47 (i) Federal and Commonwealth criminal history record
48 information as set forth in subsection (b).

49 (ii) The name, address and date of birth of the
50 caregiver.

51 (iii) If the caregiver has an identification card,

1 the identification number and expiration date of the
2 identification card.

3 (iv) Other information required by the department.

4 (5) The application shall be signed and dated by the
5 patient or caregiver, as appropriate.

6 (6) The application shall be accompanied by a fee of
7 \$50. The department may waive or reduce the fee in cases of
8 demonstrated financial hardship.

9 (7) The department may prescribe any other requirements
10 for the application.

11 (b) Requirement.--The following apply:

12 (1) In each case before approving the application to be
13 a caregiver, the department shall review the applicant's
14 Federal and Commonwealth criminal history record information
15 and the prescription drug monitoring program with respect to
16 the caregiver to determine if the caregiver has a history of
17 drug abuse or a history of diversion of controlled substances
18 or illegal drugs. The department may, within its discretion,
19 deny an application to become a caregiver if the applicant
20 has a history of drug abuse or a history of diverting
21 controlled substances or illegal drugs. The department shall
22 deny the application to be a caregiver if the applicant has
23 been convicted of any criminal offense related to sale or
24 possession of drugs, narcotics or other controlled
25 substances.

26 (2) Notwithstanding any provision of law to the contrary
27 and in order to fulfill the requirements of this subsection,
28 the Pennsylvania State Police shall, at the request of the
29 department, provide criminal history background
30 investigations, which shall include records of criminal
31 arrests and convictions, no matter where occurring, including
32 Federal criminal history record information, on applicants
33 for the position of caregiver. For purposes of approving
34 applicants to become caregivers, the department shall request
35 the information set forth in this paragraph for each
36 applicant who seeks to become a caregiver. The department may
37 receive and retain information otherwise protected by 18
38 Pa.C.S. Ch. 91 (relating to criminal history record
39 information).

40 (c) Notice.--An application for an identification card shall
41 include notice that a false statement made in the application is
42 punishable under the applicable provisions of 18 Pa.C.S. Ch. 49
43 (relating to falsification and intimidation).
44 Section 507. Special conditions.

45 The following apply:

46 (1) If the practitioner states in the certification
47 that, in the practitioner's professional opinion, the patient
48 would benefit from medical marijuana only until a specified
49 earlier date, then the identification card shall expire on
50 that date.

51 (2) If the practitioner reissues a certification which

1 terminates a certification on an earlier date, then a
2 replacement identification card shall be issued with the
3 earlier expiration date. The original identification card
4 shall be promptly returned by the patient to the department.

5 (3) If the certification so provides, the identification
6 card shall state any requirement or limitation by the
7 practitioner as to the form of medical marijuana for the
8 patient.

9 Section 508. Minors.

10 If a patient is under 18 years of age, the following apply:

11 (1) The patient shall have a caregiver.

12 (2) A caregiver must be one of the following:

13 (i) A parent or legal guardian of the patient.

14 (ii) An individual designated by a parent or legal
15 guardian.

16 (iii) An appropriate individual approved by the
17 department upon a sufficient showing that no parent or
18 legal guardian is appropriate or available.

19 Section 509. Caregiver authorization and limitations.

20 (a) Age.--An individual who is under 21 years of age may not
21 be a caregiver unless a sufficient showing, as determined by the
22 department, is made to the department that the individual should
23 be permitted to serve as a caregiver.

24 (b) Changing caregiver.--If a patient wishes to change or
25 terminate the designation of the patient's caregiver, for
26 whatever reason, the patient shall notify the department as soon
27 as practicable. The department shall issue a notification to the
28 caregiver that the caregiver's identification card is invalid
29 and must be promptly returned to the department.

30 (c) Denial in part.--If an application of a patient
31 designates an individual as a caregiver who is not authorized to
32 be a caregiver, that portion of the application shall be denied
33 by the department. The department shall review the balance of
34 the application and may approve that portion of it.

35 Section 510. Contents of identification card.

36 An identification card shall contain the following:

37 (1) The name of the patient and the caregiver, as
38 appropriate. The identification card shall also state whether
39 the individual is designated as a patient or as a caregiver.

40 (2) The date of issuance and expiration date.

41 (3) An identification number for the patient and
42 caregiver, as appropriate.

43 (4) A photograph of the individual to whom the
44 identification card is being issued, whether the individual
45 is a patient or a caregiver. The method of obtaining the
46 photograph shall be specified by the department by
47 regulation. The department shall provide reasonable
48 accommodation for a patient who is confined to the patient's
49 home or is in inpatient care due to a serious medical
50 condition.

51 (5) Any requirement or limitation set by the

1 practitioner as to the form of medical marijuana.

2 (6) Any other requirements determined by the department,
3 except the department may not require that an identification
4 card disclose the patient's serious medical condition.

5 Section 511. Suspension.

6 If a patient or caregiver intentionally, knowingly or
7 recklessly violates any provision of this act as determined by
8 the department, the identification card of the patient or
9 caregiver may be suspended or revoked. The suspension or
10 revocation shall be in addition to any criminal or other penalty
11 that may apply.

12 Section 512. Use of prescription drug monitoring program.

13 (a) Requirement.--A practitioner shall consult the
14 prescription drug monitoring program each time prior to
15 authorizing the use of medical marijuana for a patient and each
16 time prior to changing the form of medical marijuana for a
17 patient.

18 (b) Other access by practitioner.--A practitioner may access
19 the prescription drug monitoring program to:

20 (1) Determine whether a patient may be under treatment
21 with a controlled substance by another physician or other
22 person.

23 (2) Allow the practitioner to review the patient's
24 controlled substance history as deemed necessary by the
25 practitioner.

26 (3) Provide to the patient, or caregiver on behalf of
27 the patient if authorized by the patient, a copy of the
28 patient's controlled substance history.

29 CHAPTER 7

30 MEDICAL MARIJUANA ORGANIZATIONS

31 Section 701. Medical marijuana organizations.

32 The growing, acquiring, possessing, manufacturing, selling,
33 delivering, transporting, distributing or dispensing of medical
34 marijuana by a medical marijuana organization under this act and
35 in accordance with regulations promulgated by the department
36 under this act shall be lawful.

37 Section 702. Laboratory.

38 A grower/processor shall contract with an independent
39 laboratory to test the medical marijuana produced by the
40 grower/processor. The department shall approve the laboratory
41 and require that the laboratory report testing results in a
42 manner as the department shall determine, including requiring a
43 test at harvest and a test at final processing.

44 Section 703. Dispensing to patients and caregivers.

45 (a) General rule.--A dispensary may dispense medical
46 marijuana to a patient or caregiver upon presentation to the
47 dispensary of a valid identification card for that patient or
48 caregiver. The dispensary shall provide to the patient or
49 caregiver a receipt, as appropriate. The receipt shall include
50 all of the following:

51 (1) The name, address and identification number of the

1 dispensary.

2 (2) The name and identification number of the patient
3 and caregiver.

4 (3) The date the medical marijuana was dispensed.

5 (4) Any requirement or limitation by the practitioner as
6 to the form of medical marijuana for the patient.

7 (5) The form and the quantity of medical marijuana
8 dispensed.

9 (b) Record retention.--The dispensary shall retain the
10 following for six years:

11 (1) A copy of the patient's or caregiver's
12 identification card, as appropriate.

13 (2) The receipt, which may be retained in electronic
14 form.

15 (c) Filing with department.--Prior to dispensing medical
16 marijuana to a patient or caregiver, the dispensary shall file
17 the receipt information with the department by electronic means
18 on a real-time basis as the department shall require. The
19 department shall immediately enter the information into the
20 separate, electronic database established under section 301(1)
21 for use by the department and dispensaries to inhibit diversion
22 and other unlawful use of medical marijuana. When filing receipt
23 and certification information electronically under this
24 subsection, the dispensary shall dispose of any electronically
25 recorded prescription certification information as provided by
26 regulation.

27 (d) Limitations.--No dispensary may dispense to a patient or
28 caregiver:

29 (1) a quantity of medical marijuana greater than that
30 which the patient or caregiver is permitted to possess under
31 the certification; or

32 (2) a form of medical marijuana prohibited by this act.

33 (e) Supply.--When dispensing medical marijuana to a patient
34 or caregiver, the dispensary may not dispense an amount greater
35 than a 30-day supply until the patient has exhausted all but a
36 seven-day supply provided pursuant to a previously issued
37 certification.

38 (f) Verification.--Prior to dispensing medical marijuana to
39 a patient or caregiver, the dispensary shall verify the
40 information in subsections (e) and (g) by consulting the
41 database established under section 301(1).

42 (g) Form of medical marijuana.--Medical marijuana dispensed
43 to a patient or caregiver by a dispensary shall conform to any
44 requirement or limitation set by the practitioner as to the form
45 of medical marijuana for the patient.

46 (h) Safety insert.--When a dispensary dispenses medical
47 marijuana to a patient or caregiver, the organization shall
48 provide to that patient or caregiver, as appropriate, a safety
49 insert. The insert shall be developed and approved by the
50 department. The insert shall provide the following information:

51 (1) Lawful methods for administering medical marijuana

1 in individual doses.

2 (2) Any potential dangers stemming from the use of
3 medical marijuana.

4 (3) How to recognize what may be problematic usage of
5 medical marijuana and how to obtain appropriate services or
6 treatment for problematic usage.

7 (4) How to prevent or deter the misuse of medical
8 marijuana by minors or others.

9 (5) Any other information as determined by the
10 department.

11 (i) Sealed and labeled package.--Medical marijuana shall be
12 dispensed by a dispensary to a patient or caregiver in a sealed
13 and properly labeled package. The labeling shall contain the
14 following:

15 (1) The information required to be included in the
16 receipt provided to the patient or caregiver, as appropriate,
17 by the dispensary.

18 (2) The packaging date.

19 (3) Any applicable date by which the medical marijuana
20 should be used.

21 (4) A warning stating:

22 "This product is for medicinal use only. Women should not
23 consume during pregnancy or while breastfeeding except on the
24 advice of the practitioner who issued the certification and
25 in the case of breastfeeding, the infant's pediatrician. This
26 product might impair the ability to drive or operate heavy
27 machinery. Keep out of reach of children."

28 (5) The amount of individual doses contained within the
29 package and the species and percentage of
30 tetrahydrocannabinol and cannabidiol.

31 (6) A warning that the medical marijuana must be kept in
32 the original container in which it was dispensed.

33 (7) A warning that unauthorized use is unlawful and will
34 subject the person to criminal penalties.

35 (8) Any other information required by the department.

36 (j) Convictions prohibited.--The following individuals may
37 not hold volunteer positions or positions with remuneration in
38 or be affiliated with a medical marijuana organization in any
39 way if the individual has been convicted of any criminal offense
40 related to the sale or possession of illegal drugs, narcotics or
41 controlled substances:

42 (1) Financial backers.

43 (2) Principals.

44 (3) Employees.

45 Section 704. Pricing.

46 The following apply:

47 (1) Each sale of medical marijuana by a dispensary shall
48 not exceed the maximum price determined by the department
49 through regulation. A charge made or demanded for medical
50 marijuana by a dispensary which exceeds the maximum price
51 determined by the department is deemed to be a violation of

1 the act of December 17, 1968 (P.L.1224, No.387), known as the
2 Unfair Trade Practices and Consumer Protection Law.

3 (2) The department shall set the maximum per-dose price
4 of each form of medical marijuana dispensed by a dispensary.
5 In setting the maximum per-dose price, the department shall
6 consider the fixed and variable costs of producing the form
7 of medical marijuana and any other factor the department
8 deems relevant to determine the maximum per-dose price.

9 (3) The department may set the maximum per-dose price of
10 each form of medical marijuana sold by a grower/processor to
11 a dispensary.

12 (4) A grower/processor shall make medical marijuana
13 available for sale to all dispensaries at the same per-dose
14 price.

15 (5) If a grower/processor changes the per-dose price on
16 any sale of any form of medical marijuana to a dispensary,
17 the grower/processor shall change the per-dose price for that
18 form of medical marijuana for all other dispensaries by the
19 same amount.

20 Section 705. Facility requirements.

21 (a) General rule.--The following apply:

22 (1) A grower/processor may only grow or process medical
23 marijuana in an indoor, enclosed, secure facility located
24 within this Commonwealth, as determined by the department.
25 The facility may include a greenhouse.

26 (2) A dispensary may only dispense medical marijuana in
27 an indoor, enclosed, secure facility located within this
28 Commonwealth, as determined by the department.

29 (3) A dispensary may not operate on the same site as a
30 facility used for growing and processing medical marijuana.

31 (b) Determination.--A grower/processor shall provide
32 documentation of the quality and safety of the medical marijuana
33 produced by the grower/processor to the department and to any
34 patient or caregiver to which the medical marijuana is
35 dispensed. The documentation shall include the test results
36 under section 702.

37 Section 706. Registration.

38 (a) Registration required.--Upon application, the department
39 may register the person as:

40 (1) Both a grower/processor and a dispensary or solely
41 as a grower/processor.

42 (2) Both a dispensary and a grower/processor or solely
43 as a dispensary.

44 (b) Separate registration.--Separate registration is
45 required for a grower/processor and for a dispensary, including
46 when:

47 (1) A dispensary is registered as a grower/processor.

48 (2) A grower/processor is registered as a dispensary.

49 (c) Records.--A grower/processor which is also registered as
50 a dispensary shall keep separate books and records.

51 (d) Department to establish regions.--The department shall

1 establish no fewer than three regions within this Commonwealth
2 for the purpose of registering growers/processors and
3 dispensaries and providing for their locations. The department
4 shall implement this subsection in a manner which will supply an
5 adequate amount of medical marijuana to patients and caregivers
6 in each region. In determining the geographic boundaries of the
7 regions, the department shall consider the following:

8 (1) Population.

9 (2) The number of patients suffering from serious
10 medical conditions.

11 (3) The types of serious medical conditions.

12 (4) Access to public transportation.

13 (5) Any other factor the department deems relevant.

14 (e) Notice.--When the boundaries are established, the
15 department shall publish notice of the determination in the
16 Pennsylvania Bulletin. The department may adjust the boundaries
17 as necessary every two years. Notice of any adjustment to the
18 boundaries shall be published in the Pennsylvania Bulletin.

19 Section 707. Limitations on registrations.

20 The following limitations apply to registration of
21 grower/processors and dispensaries:

22 (1) The department may not initially register more than
23 25 growers/processors.

24 (2) The department may not initially register more than
25 50 dispensaries. Each dispensary may provide medical
26 marijuana at no more than three separate locations.

27 (3) The department may not permit a single person to
28 hold more than five individual dispensary registrations.

29 (4) The department may not permit a single person to
30 hold more than one grower/processor registration.

31 (5) No more than five grower/processors may be
32 registered as dispensaries. If the number of
33 growers/processors is increased pursuant to section 1108(4),
34 no more than 20% of the total number of growers/processors
35 may also be registered as dispensaries.

36 (6) A dispensary may only obtain medical marijuana from
37 a grower/processor holding a valid registration under this
38 act.

39 (7) A grower/processor may only provide medical
40 marijuana to a dispensary holding a valid registration under
41 this act.

42 (8) No medical marijuana may be dispensed from, obtained
43 from or transferred to a location outside of this
44 Commonwealth.

45 (8.1) In accordance with regulations promulgated by the
46 department:

47 (i) To initially grow medical marijuana, a
48 grower/processor may obtain seed and plant material from
49 outside this Commonwealth.

50 (ii) To grow medical marijuana, a grower/processor
51 may obtain seed and plant material from another

1 grower/processor within this Commonwealth.

2 (9) A dispensary shall have a physician or a pharmacist
3 onsite at all times during the hours the dispensary is open
4 to receive patients and caregivers, except that if a
5 dispensary has more than one separate location, a physician
6 assistant or a certified registered nurse practitioner may be
7 onsite at the other location. A physician, a pharmacist, a
8 physician assistant or a certified registered nurse
9 practitioner shall, prior to assuming duties under this
10 paragraph, successfully complete the course established in
11 section 301(3). A physician may not certify patients to
12 receive medical marijuana or otherwise treat patients at the
13 dispensary.

14 (10) A dispensary may sell medical devices and
15 instruments which are needed to administer medical marijuana
16 under this act.

17 (11) A dispensary may sell services approved by the
18 department related to the use of medical marijuana.
19 Section 708. Application and issuance of registration.

20 (a) Application for initial registration.--The department is
21 authorized to register eligible applicants to grow and process
22 or dispense medical marijuana. The department shall develop a
23 standard application form, which shall be available upon
24 request. The department shall provide the application in
25 electronic form, which shall be available on the department's
26 publicly accessible Internet website.

27 (b) Contents of application.--An applicant shall provide the
28 following information:

29 (1) A description of the business activities in which
30 the applicant intends to engage as a medical marijuana
31 organization.

32 (2) A statement that the applicant:

33 (i) Is of good moral character. The applicant shall
34 submit Federal and Commonwealth criminal history record
35 information in order to support the assertion of good
36 moral character. For purposes of this subparagraph an
37 applicant shall include each financial backer and
38 principal of the medical marijuana organization.

39 (ii) Possesses or has the right to use sufficient
40 land, buildings and other premises and equipment to
41 properly carry on the activity described in the
42 application. The information shall be specified in the
43 application in sufficient detail to allow the department
44 to verify the information.

45 (iii) Is able to maintain effective security and
46 control to prevent diversion, abuse and other illegal
47 conduct relating to medical marijuana. The statement
48 shall include a provision which states that in the event
49 of any loss or theft of medical marijuana the medical
50 marijuana organization shall notify the Pennsylvania
51 State Police within 24 hours.

1 (iv) Is able to comply with all applicable
2 Commonwealth laws and regulations relating to the
3 activities in which it intends to engage under the
4 registration.

5 (3) The name, address and title of each financial backer
6 and principal of the applicant. Residential addresses shall
7 be included for individuals. Each individual or
8 representative of an entity shall submit an affidavit with
9 the application setting forth:

10 (i) Any position of management or ownership during
11 the preceding 10 years of a controlling interest in any
12 other business, located inside or outside this
13 Commonwealth, manufacturing or distributing controlled
14 substances.

15 (ii) Whether the individual or entity has been
16 convicted of a criminal offense graded higher than a
17 summary offense.

18 (iii) Whether the individual or entity has had a
19 registration or license suspended or revoked in any
20 administrative or judicial proceeding.

21 (iv) Any other information the department may
22 require.

23 (c) Notice.--The application shall include notice that a
24 false statement made in the application is punishable under the
25 applicable provisions of 18 Pa.C.S. Ch. 49 (relating to
26 falsification and intimidation).

27 (d) Duty to report.--The applicant is under a continuing
28 duty to:

29 (1) Report to the department any change in facts or
30 circumstances reflected in the application or any newly
31 discovered or occurring fact or circumstance which is
32 required to be included in the application, including a
33 change in control of the medical marijuana organization.

34 (2) Report to the Pennsylvania State Police, within 24
35 hours, any loss or theft of medical marijuana from the
36 facility the applicant is operating.

37 (3) Submit to inspections, whether announced or
38 unannounced, by the department of the facilities for growing,
39 processing, dispensing or selling medical marijuana, or of
40 the books, papers and tracking or other systems required by
41 this act.

42 (e) Granting of registration.--The department shall grant a
43 registration or amendment to a registration under this section
44 if the department is satisfied that:

45 (1) The applicant will be able to maintain effective
46 control against diversion of medical marijuana.

47 (2) The applicant will be able to comply with all
48 applicable laws and regulations of this Commonwealth relating
49 to the activities in which it intends to engage under the
50 registration.

51 (3) The applicant is ready, willing and able to properly

1 carry on the activity for which a registration is sought.

2 (4) The applicant possesses or has the right to use
3 sufficient land, buildings and equipment to properly carry on
4 the activity described in the application.

5 (5) It is in the public interest that the registration
6 be granted. In determining whether the granting of
7 registration is in the public interest, the department shall
8 consider whether the number of medical marijuana
9 organizations in an area will be adequate or excessive.

10 (6) The applicant and its principals and financial
11 backers are of good moral character.

12 (7) The applicant satisfies any other conditions as
13 determined by the department.

14 (f) Additional information.--If the department is not
15 satisfied that the applicant should be issued a registration,
16 the department shall notify the applicant in writing of the
17 factors for which further documentation is required. Within 30
18 days of the receipt of the notification, the applicant may
19 submit additional material to the department for consideration.

20 (g) Fees.--The following apply:

21 (1) For a grower/processor:

22 (i) An initial application fee in the amount of
23 \$10,000 shall be paid. The fee is nonrefundable.

24 (ii) A fee for registration as a grower/processor in
25 the amount of \$200,000 shall be paid. The period of
26 registration is one year. Applicants shall submit the
27 registration fee at the time of submission of the
28 application. The fee shall be returned if the
29 registration is not granted.

30 (iii) A renewal fee for registration as a
31 grower/processor in the amount of \$10,000 shall be paid.
32 The renewal fee shall be returned if the renewal is not
33 granted.

34 (iv) Before the granting of the initial
35 registration, the department shall verify that the
36 applicant has \$2,000,000 in capital, \$500,000 of which
37 must be on deposit with a financial institution.

38 (v) An application to renew registration shall be
39 filed with the department not more than six months nor
40 less than four months prior to expiration.

41 (vi) All fees shall be paid by certified check or
42 money order.

43 (2) For a dispensary:

44 (i) An initial application fee in the amount of
45 \$5,000 shall be paid. The fee is nonrefundable.

46 (ii) A fee for registration as a dispensary in the
47 amount of \$30,000 shall be paid. The period of
48 registration is one year. An applicant shall submit the
49 registration fee at the time of submission of the
50 application. The fee shall be returned if the application
51 is not granted.

1 (iii) A renewal fee for registration as a dispensary
2 in the amount of \$5,000 shall be paid. The fee shall be
3 returned if the renewal is not granted.

4 (iv) There shall be no additional fee for operating
5 more than one location.

6 (v) Before the granting of the initial registration,
7 the department shall verify that the applicant has
8 \$150,000 in capital, which must be on deposit with a
9 financial institution.

10 (vi) An application to renew registration shall be
11 filed with the department not more than six months nor
12 less than four months prior to expiration.

13 (vii) All fees shall be paid by certified check or
14 money order.

15 (3) A fee of \$250 shall be required when amending the
16 application to indicate relocation within this Commonwealth
17 or the addition or deletion of approved activities by the
18 medical marijuana organization.

19 (4) Fees payable under this section shall be deposited
20 into the fund.

21 (h) Issuance.--A registration issued by the department to a
22 medical marijuana organization shall be effective only for that
23 organization and shall specify the following:

24 (1) The name and address of the medical marijuana
25 organization.

26 (2) The land, buildings and facilities that may be used
27 by the medical marijuana organization.

28 (3) Any other information the department requires to
29 assure compliance with this act.

30 (i) Relocation.--The department may approve an application
31 from a medical marijuana organization to relocate within this
32 Commonwealth or to add or delete activities or facilities. The
33 medical marijuana organization may not relocate or add or delete
34 activities or facilities unless approved by the department.

35 (j) Length of registration.--A registration issued by the
36 department shall be valid for one year from the date of
37 issuance, except that in order to facilitate registration
38 renewals, the department may, upon an initial application for
39 registration, issue registrations that are valid for not more
40 than one year and eleven months.

41 (k) Posting.--A dispensary shall post a copy of its
42 registration in a location within its facility such that it is
43 easily observable by patients, caregivers, law enforcement
44 officers and agents of the department.

45 Section 709. Registration renewals.

46 (a) The following apply to a renewal of registration:

47 (1) An applicant is under a continuing duty to report to
48 the department any change in facts or circumstances reflected
49 in the application or any newly discovered or occurring fact
50 or circumstance which is required to be included in the
51 application.

1 (2) The application shall include the following
2 information, prepared in the manner and detail as the
3 department may require:

4 (i) Any material change in the information provided
5 by the medical marijuana organization in an application
6 or renewal of registration.

7 (ii) Every known charge or initiated investigation,
8 pending or concluded during the period of the
9 registration, by any governmental or administrative
10 agency with respect to:

11 (A) each incident or alleged incident involving
12 the theft, loss or possible diversion of medical
13 marijuana grown, processed or dispensed by the
14 applicant; and

15 (B) compliance by the applicant with the laws of
16 this Commonwealth with respect to any substance
17 listed in section 4 of the act of April 14, 1972
18 (P.L.233, No.64), known as The Controlled Substance,
19 Drug, Device and Cosmetic Act.

20 (b) Granting of renewal.--The department shall renew a
21 registration unless the department determines that:

22 (1) The applicant is unlikely to maintain or be able to
23 maintain effective control against diversion of medical
24 marijuana.

25 (2) The applicant is unlikely to comply with all laws of
26 this Commonwealth applicable to the activities in which it
27 may engage under the registration.

28 (c) Nonrenewal decision.--If the department is not satisfied
29 that the applicant is entitled to a renewal of the registration,
30 the department shall within a reasonable time serve upon the
31 applicant or the applicant's attorney of record by registered or
32 certified mail an order directing the applicant to show cause
33 why the application for renewal should not be denied. The order
34 shall specify in detail the way in which the applicant has not
35 satisfied the department's requirement for renewal. Within 30
36 days of the order, the applicant may submit additional material
37 to the department or demand a hearing, or both. If a hearing is
38 demanded, the department shall fix a date as soon as
39 practicable.

40 Section 710. Suspension or revocation of registration.

41 The department may suspend or revoke registration as a
42 medical marijuana organization if:

43 (1) The department has evidence that a medical marijuana
44 organization has failed to maintain effective control against
45 diversion of medical marijuana.

46 (2) The medical marijuana organization violates any
47 provision of this act or a regulation of the department.

48 (3) The medical marijuana organization has
49 intentionally, knowingly, recklessly or negligently failed to
50 comply with applicable laws of this Commonwealth relating to
51 the activities in which it engages under the registration.

1 Section 711. Privilege not property right.

2 Registration of a medical marijuana organization gives a
3 medical marijuana organization a privilege to engage in the
4 specified activity, but registration does not give a property
5 right.

6 CHAPTER 9

7 TAX ON MEDICAL MARIJUANA

8 Section 901. Tax on medical marijuana.

9 (a) Tax imposed.--A tax is imposed on the gross receipts of
10 a grower/processor received from the sale of medical marijuana
11 by a grower/processor to a dispensary, to be paid by the
12 grower/processor, at the rate of 5%. The tax shall be charged
13 against and be paid by the grower/processor and shall not be
14 added as a separate charge or line item on any sales slip,
15 invoice, receipt or other statement or memorandum of the price
16 paid by a dispensary, patient or caregiver.

17 (b) Payment of tax and reports.--The tax imposed under
18 subsection (a) shall be administered in the same manner as the
19 tax imposed under Article XI of the act of March 4, 1971 (P.L.6,
20 No.2), known as the Tax Reform Code of 1971, except that
21 estimated tax payments under section 3003.2 of the Tax Reform
22 Code of 1971 shall not be required. A grower/processor shall
23 make quarterly payments under this section for each calendar
24 quarter at the rate prescribed in subsection (a) on the gross
25 receipts for the calendar quarter. The tax shall be due and
26 payable on the 20th day of January, April, July and October for
27 the preceding calendar quarter on a form prescribed by the
28 Department of Revenue.

29 (c) (Reserved).

30 (d) Deposit of proceeds.--All money received from the tax
31 imposed under subsection (a) shall be deposited in the fund.

32 (e) Exemption.--Medical marijuana shall not be subject to
33 the tax imposed under section 202 of the Tax Reform Code of
34 1971.

35 (f) Information.--A grower/processor that sells medical
36 marijuana shall provide to the Department of Revenue information
37 required by the department.

38 Section 902. Medical Marijuana Program Fund.

39 (a) Fund established.--The Medical Marijuana Program Fund is
40 established as a special fund in the State Treasury. Money in
41 the fund is appropriated as set forth in subsection (c). Any
42 amount unspent at the end of a fiscal year shall be appropriated
43 to the department for its operations.

44 (b) Source of funds.--Fees and taxes payable under this act
45 shall be deposited into the fund. The money deposited into the
46 fund may only be used for the purposes set forth in this
47 section. Any interest accrued shall be deposited into the fund.

48 (c) Use of proceeds.--After any repayment made under
49 subsection (d), money in the fund is appropriated in accordance
50 with the following percentages:

51 (1) To the department, for operations of the department,

1 including outreach efforts under section 301(7), as required
2 by this act, 45% of the revenue in the fund. However, no more
3 than 15% of the amount under this paragraph may be expended
4 for:

5 (i) the cost of providing medical marijuana to
6 patients participating in the research program under
7 Chapter 19;

8 (ii) the cost of providing medical marijuana to
9 patients who demonstrate financial hardship under this
10 act; and

11 (iii) the cost associated with the waiver of fees
12 for identification cards under sections 505 (e) and
13 506(a)(6).

14 (2) To the Department of Drug and Alcohol Programs, for
15 drug abuse prevention and counseling and treatment services,
16 10% of the revenue in the fund.

17 (3) To the department, for further research related to
18 the safety and use of medical marijuana, including the
19 research program established under Chapter 19, 30% of the
20 revenue in the fund. Funding shall be provided for research
21 into the treatment of those serious medical conditions for
22 which medical marijuana is available for treatment within
23 this Commonwealth and for research into the use of medical
24 marijuana to treat other medical conditions for which medical
25 marijuana may have legitimate medicinal value.

26 (4) To the Pennsylvania Commission on Crime and
27 Delinquency, for distribution to local police departments
28 which demonstrate a need relating to the enforcement of this
29 act, as determined by the Pennsylvania Commission on Crime
30 and Delinquency, 10% of the revenue in the fund.

31 (5) To the Pennsylvania State Police to fulfill its
32 duties under this act, 5% of the revenue in the fund.

33 (d) Repayment of initial appropriation.--The department
34 shall repay from the fees, taxes and investment earnings of the
35 fund to the General Fund any money appropriated for the initial
36 planning, organization and administration by the department with
37 respect to the establishment of the program at the time of the
38 original enactment of this act. Repayment shall take place
39 within a 10-year period commencing one year after the date of
40 publication in the Pennsylvania Bulletin of the final
41 regulations described under section 1107.

42 CHAPTER 11

43 ADMINISTRATION

44 Section 1101. Governing practice and procedure.

45 The department's consideration and resolution of all
46 applications for registration under Chapter 7, the resolution of
47 applications for identification cards, the finding of violations
48 by the department and the imposition of civil penalties and
49 sanctions shall be conducted in accordance with 2 Pa.C.S.
50 (relating to administrative law and procedure).

51 Section 1102. Reports by medical marijuana organizations.

1 (a) Report required.--A medical marijuana organization shall
2 periodically file reports related to its activities. The
3 department shall determine the information required in and the
4 frequency of filing the reports.

5 (b) Tracking systems.--Each medical marijuana organization
6 shall adopt and maintain security, tracking, recordkeeping,
7 record retention and surveillance systems relating to every
8 stage of acquiring, possessing, growing, manufacturing, selling,
9 delivering, transporting, distributing or dispensing medical
10 marijuana. The department shall specify the type and manner of
11 security, tracking, recordkeeping, record retention and
12 surveillance system required through regulation.

13 (c) Additional tracking and recall systems.--In addition to
14 other systems required by subsection (b), the department shall
15 require that a grower/processor or dispenser implement the
16 following:

17 (1) For a grower/processor and a dispensary, real time
18 inventory tracking.

19 (2) For a grower/processor, a seed-to-sale tracking
20 system that tracks medical marijuana from seed or immature
21 plant stage until the medical marijuana is sold to a
22 dispensary.

23 (3) For a dispensary, a system that tracks medical
24 marijuana from purchase from the grower/processor until the
25 medical marijuana is dispensed to a patient or caregiver.

26 (4) For a grower/processor and a dispensary, a daily log
27 of each day's beginning inventory, acquisitions, sales,
28 disbursements, disposals and ending inventory.

29 (5) For a grower/processor and a dispensary, a system
30 for recall of defective medical marijuana.

31 (6) For a grower/processor, a system to track the plant
32 waste resulting from the growth or processing of medical
33 marijuana.

34 Section 1103. Law enforcement notification.

35 Notwithstanding any law to the contrary, the department may
36 notify any appropriate law enforcement agency of information
37 relating to any violation or suspected violation of this act.

38 In addition, the department shall verify to law enforcement
39 personnel in an appropriate case whether a certification,
40 registration or an identification card is valid.

41 Section 1104. Evaluation.

42 The department may provide for an analysis and evaluation of
43 the implementation and effectiveness of this act, including
44 whether the intent and stated policy of the General Assembly
45 have been achieved. The department may enter into agreements
46 with one or more persons for the performance of an evaluation of
47 the implementation and effectiveness of this act.

48 Section 1105. Report.

49 (a) Report required.--The department shall submit a written
50 report under subsection (b) every two years, beginning two years
51 after the effective date of this section, to the following:

- 1 (1) The Governor.
- 2 (2) The President pro tempore of the Senate.
- 3 (3) The Majority Leader and the Minority Leader of the
- 4 Senate.
- 5 (4) The Speaker of the House of Representatives.
- 6 (5) The Majority Leader and the Minority Leader of the
- 7 House of Representatives.
- 8 (6) The chairman and minority chairman of the Judiciary
- 9 Committee of the Senate.
- 10 (7) The chairman and minority chairman of the Public
- 11 Health and Welfare Committee of the Senate.
- 12 (8) The chairman and minority chairman of the Judiciary
- 13 Committee of the House of Representatives.
- 14 (9) The chairman and minority chairman of the Health
- 15 Committee of the House of Representatives.
- 16 (10) The Attorney General of the Commonwealth.

17 (b) Contents of report.--The following information shall be
18 included in the report:

- 19 (1) An assessment of the use of medical marijuana as a
- 20 result of the enactment of this act.
- 21 (2) An assessment of the benefits and risks to patients
- 22 using medical marijuana under this act, including adverse
- 23 events.
- 24 (3) Recommendations for amendments to this act for
- 25 reasons of patient safety or to aid the general welfare of
- 26 the citizens of this Commonwealth.

27 Section 1106. Advisory board.

28 (a) Establishment.--The Medical Marijuana Advisory Board is
29 established within the department. The advisory board shall
30 consist of the following members:

- 31 (1) The secretary or a designee.
- 32 (2) The Commissioner of the Pennsylvania State Police or
- 33 a designee.
- 34 (3) The chairman of the State Board of Pharmacy or a
- 35 designee.
- 36 (4) The Commissioner of Professional and Occupational
- 37 Affairs or a designee.
- 38 (5) The Physician General or a designee.
- 39 (6) The president of the Pennsylvania Chiefs of Police
- 40 Association or a designee.
- 41 (7) The president of the Pennsylvania District Attorneys
- 42 Association or a designee.
- 43 (8) One member to be appointed by each of the following,
- 44 which members shall be knowledgeable and experienced in
- 45 issues relating to care and treatment of individuals with a
- 46 serious medical condition, geriatric or pediatric medicine or
- 47 clinical research:

- 48 (i) The Governor.
- 49 (ii) The President pro tempore of the Senate.
- 50 (iii) The Majority Leader of the Senate.
- 51 (iv) The Minority Leader of the Senate.

1 (v) The Speaker of the House of Representatives.

2 (vi) The Majority Leader of the House of
3 Representatives.

4 (vii) The Minority Leader of the House of
5 Representatives.

6 (9) One member appointed by the Governor, who shall be a
7 patient, a family or household member of a patient or a
8 patient advocate.

9 (b) Terms.--Except as provided under subsection (g), the
10 members appointed under subsection (a) (8) and (9) shall serve a
11 term of four years or until a successor has been appointed and
12 qualified, but no longer than six months beyond the four-year
13 period.

14 (c) Chair.--The secretary, or a designee, shall serve as
15 chair of the advisory board.

16 (d) Voting; quorum.--The members under subsections (1), (2),
17 (3), (4), (5), (6) and (7) shall serve ex officio and shall have
18 voting rights. A majority of the members shall constitute a
19 quorum for the purpose of organizing the advisory board,
20 conducting its business and fulfilling its duties. A vote of the
21 majority of the members present shall be sufficient for all
22 actions of the advisory board unless the bylaws require a
23 greater number.

24 (e) Attendance.--A member of the advisory board appointed
25 under subsection (a) (8) or (9) who fails to attend three
26 consecutive meetings shall forfeit his seat unless the
27 secretary, upon written request from the member, finds that the
28 member should be excused from a meeting for good cause. A member
29 who cannot be physically present may attend meetings via
30 electronic means, including video conference.

31 (f) Governance.--The advisory board shall have the power to
32 prescribe, amend and repeal bylaws, rules and regulations
33 governing the manner in which the business of the advisory board
34 is conducted and the manner in which the duties granted to it
35 are fulfilled. The advisory board may delegate supervision of
36 the administration of advisory board activities to an
37 administrative secretary and other employees of the department
38 as the secretary shall appoint.

39 (g) Initial terms.--The initial terms of members appointed
40 under subsection (a) (8) and (9) shall be for terms of one, two,
41 three or four years, the particular term of each member to be
42 designated by the secretary at the time of appointment. All
43 other members shall serve for a term of four years.

44 (h) Vacancy.--In the event that any member appointed under
45 subsection (a) (8) or (9) shall die or resign or otherwise become
46 disqualified during the member's term of office, a successor
47 shall be appointed in the same way and with the same
48 qualifications as set forth in this section and shall hold
49 office for the unexpired term. An appointed member of the
50 advisory board shall be eligible for reappointment.

51 (i) Expenses.--A member appointed under subsection (a) (8) or

1 (9) shall receive the amount of reasonable travel, hotel and
2 other necessary expenses incurred in the performance of the
3 duties of the member in accordance with Commonwealth
4 regulations, but shall receive no other compensation for the
5 member's service on the board.

6 (j) Duties.--The advisory board shall have the following
7 duties:

8 (1) To examine and analyze the statutory and regulatory
9 law relating to medical marijuana within this Commonwealth.

10 (2) To examine and analyze the law and events in other
11 states and the nation with respect to medical marijuana.

12 (3) To accept and review written comments from
13 individuals and organizations about medical marijuana.

14 (4) To issue three years after the effective date of
15 this section a written report to the Governor, the Senate and
16 the House of Representatives.

17 (5) The written report under paragraph (4) shall include
18 recommendations and findings as to the following:

19 (i) Whether to change the types of medical
20 professionals who can issue certifications to patients.

21 (ii) Whether to change, add or reduce the types of
22 medical conditions which qualify as serious medical
23 conditions under this act.

24 (iii) Whether to change, add or reduce the form and
25 manner of consumption of medical marijuana permitted
26 under this act.

27 (iv) Whether to change, add or reduce the number of
28 growers/processors or dispensaries.

29 (v) How to ensure affordable patient access to
30 medical marijuana, including whether the department
31 should set a maximum per-dose price for medical
32 marijuana.

33 (vi) Whether to permit medical marijuana to be
34 dispensed in dry leaf or plant form, for administration
35 by vaporization.

36 (vii) Whether to permit an individual dose of
37 medical marijuana to contain a greater percentage of
38 tetrahydrocannabinol than 10%.

39 (6) The final written report under this section shall be
40 adopted at a public meeting. The report shall be a public
41 record under the act of February 14, 2008 (P.L.6, No.3),
42 known as the Right-to-Know Law.

43 Section 1107. Regulations.

44 In order to implement the provisions of this act, the
45 department shall promulgate regulations within 18 months of the
46 effective date of this section. The regulations shall provide
47 for the following:

48 (1) Restricting the advertising and marketing of medical
49 marijuana, which shall be consistent with the Federal
50 regulations governing prescription drug advertising and
51 marketing.

1 (2) Growing of medical marijuana by grower/processors in
2 an indoor, enclosed facility. The regulations shall also
3 specify the manner and method of growing medical marijuana.

4 (3) The procedure for certification of patients.

5 (4) A procedure for review and approval of
6 certifications submitted by practitioners.

7 (5) A procedure to review the credentials of
8 practitioners who submit certifications.

9 (6) A procedure to review and approve applications for
10 identification cards.

11 (7) A procedure to review and approve applications to
12 become registered with the department as a medical marijuana
13 organization.

14 (8) A procedure to renew the registration of a medical
15 marijuana organization.

16 (9) The setting of a maximum per-dose price for medical
17 marijuana by a dispensary.

18 (10) Additional information required by the department
19 for certification of patients and applications to become
20 registered as a medical marijuana organization.

21 (11) The procedure for waiving or reducing application
22 fees to be paid by patients and caregivers in the case of
23 financial hardship.

24 (12) Additional requirements of identification cards for
25 patients or caregivers.

26 (13) The method of transporting, delivering, growing,
27 processing and selling medical marijuana by a
28 grower/processor and the method of dispensing of medical
29 marijuana by a dispensary, including the types of medical
30 devices, instruments and services, which may be sold by a
31 dispensary.

32 (14) The method for maintaining effective security and
33 control to prevent diversion and abuse of medical marijuana
34 by a medical marijuana organization, including specifying the
35 requirements of the tracking system required by section
36 1102(b) and (c).

37 (15) The contents and timing of reports which must be
38 filed with the department by medical marijuana organizations.

39 (16) The proper disposal of electronic information by
40 medical marijuana organizations.

41 (17) Information required for labeling of medical
42 marijuana by medical marijuana organizations.

43 (18) The procedure for practitioners registering with
44 the department.

45 (19) The frequency of filing reports by medical
46 marijuana organizations.

47 (20) The criteria for designating an appropriate
48 individual to be a caregiver for a patient under 18 years of
49 age.

50 (21) The procedure for obtaining photographs for
51 identification cards.

1 (22) The procedure for reporting results of laboratory
2 testing of medical marijuana.

3 (23) The procedure for approving laboratories that seek
4 to test medical marijuana.

5 (24) The contents of the safety insert.

6 (25) The procedure for filing receipts generated by
7 dispensaries with the department.

8 (26) A schedule for inspections by the department of the
9 facilities for growing, processing, dispensing or selling
10 medical marijuana, or of the books, papers and tracking
11 systems of medical marijuana organizations required by this
12 act.

13 (27) Regulations that the department must promulgate
14 under section 1903(a), a procedure to select patients for the
15 research study and any other regulation the department deems
16 necessary to implement the research program under Chapter 19.

17 (28) Regulations which ensure a grower/processor only
18 provides medical marijuana to a dispensary holding a valid
19 registration and which ensure that a dispensary only procures
20 medical marijuana from a grower/processor holding a valid
21 registration, as set forth in section 707(6) and (7).

22 (29) The determination of the minimum number and the
23 types of medical marijuana to be produced by a
24 grower/processor and dispensed by a dispensary.

25 (30) Regulations which set forth the procedure for a
26 grower/processor to obtain seed and plant material:

27 (i) From outside this Commonwealth to initially grow
28 medical marijuana.

29 (ii) From another grower/processor within this
30 Commonwealth to grow medical marijuana.

31 (31) Any other regulation necessary to implement this
32 act, as determined by the department.

33 Section 1108. Regulations based on recommendations of advisory
34 board.

35 (a) Recommendations.--After receiving the report of the
36 advisory board under section 1106(j)(4), at the discretion of
37 the secretary, the department may promulgate regulations to
38 effectuate recommendations made by the advisory board. The
39 secretary shall issue notice in the Pennsylvania Bulletin within
40 12 months of the receipt of the report of the advisory board.
41 The notice shall include the recommendations of the advisory
42 board and shall state the specific reasons for the decision of
43 the secretary on whether or not to effectuate each
44 recommendation. The secretary shall consider whether to
45 promulgate regulations with respect to:

46 (1) Whether to change the types of medical professionals
47 who can issue certifications to patients with respect to the
48 use of medical marijuana under this act.

49 (2) Whether to change, add or reduce the types of
50 medical conditions which qualify as serious medical
51 conditions under this act.

1 (3) Whether to change, add or reduce the form and manner
2 of consumption of medical marijuana permitted under this act.

3 (4) Whether to change, add or reduce the number of
4 growers/processors or dispensaries.

5 (5) Whether to permit medical marijuana to be dispensed
6 in dry leaf or plant form for administration by vaporization.

7 (6) Whether to permit an individual dose of medical
8 marijuana to contain a greater percentage of
9 tetrahydrocannabinol than 10%.

10 (b) Timing.--Any regulations promulgated under this
11 paragraph shall be promulgated within 12 months of the receipt
12 of the report of the advisory board.

13 Section 1109. Temporary regulations.

14 (a) Promulgation.--In order to facilitate the prompt
15 implementation of this act, regulations promulgated by the
16 department shall be deemed temporary regulations which shall
17 expire not later than 18 months following the publication of the
18 temporary regulation. The department may promulgate temporary
19 regulations not subject to:

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

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

25 (3) Sections 204(b) and 301(10) of the act of October
26 15, 1980 (P.L.950, No.164), known as the Commonwealth
27 Attorneys Act.

28 (b) Expiration.--The department's authority to adopt
29 temporary regulations under subsection (a) shall expire 18
30 months after the effective date of this section. Regulations
31 adopted after this period shall be promulgated as provided by
32 law.

33 (c) Temporary regulations.--The department shall begin
34 publishing temporary regulations in the Pennsylvania Bulletin no
35 later than six months from the effective date of this section.

36 CHAPTER 13

37 OFFENSES RELATED TO MEDICAL MARIJUANA

38 Section 1301. Criminal diversion of medical marijuana by
39 practitioners.

40 In addition to any other penalty provided by law, a
41 practitioner commits a misdemeanor of the first degree if the
42 practitioner intentionally, knowingly or recklessly certifies a
43 person as being able to lawfully receive medical marijuana or
44 otherwise provides medical marijuana to a person who is not
45 lawfully permitted to receive medical marijuana.

46 Section 1302. Criminal diversion of medical marijuana by
47 medical marijuana organizations.

48 In addition to any other penalty provided by law, an employee
49 or principal of a medical marijuana organization commits a
50 misdemeanor of the first degree if the person intentionally,
51 knowingly or recklessly sells, dispenses, trades, delivers or

1 otherwise provides medical marijuana to a person who is not
2 lawfully permitted to receive medical marijuana.

3 Section 1303. Criminal retention of medical marijuana.

4 In addition to any other penalty provided by law, a patient
5 or caregiver commits a misdemeanor of the third degree if the
6 patient or caregiver intentionally, knowingly or recklessly
7 possesses, stores or maintains an amount of medical marijuana in
8 excess of the amount legally permitted.

9 Section 1304. Criminal diversion of medical marijuana by
10 patient or caregiver.

11 (a) Offense defined.--In addition to any other penalty
12 provided by law, a patient or caregiver commits an offense if
13 the patient or caregiver intentionally, knowingly or recklessly
14 provides medical marijuana to a person who is not lawfully
15 permitted to receive medical marijuana.

16 (b) Grading.--A first offense under this section constitutes
17 a misdemeanor of the second degree. A second or subsequent
18 offense constitutes a misdemeanor of the first degree.

19 Section 1305. Falsification of identification cards.

20 (a) Offense defined.--In addition to any other penalty
21 provided by law, a person commits an offense if, knowing he is
22 not privileged to hold an identification card, the person:

23 (1) possesses an identification card and either attempts
24 to use the card to obtain medical marijuana or obtains
25 medical marijuana;

26 (2) possesses an identification card which falsely
27 identifies the person as being lawfully entitled to receive
28 medical marijuana and either attempts to use the card to
29 obtain medical marijuana or obtains medical marijuana; or

30 (3) possesses an identification card which contains any
31 false information on the card and the person either attempts
32 to use the card to obtain medical marijuana or obtains
33 medical marijuana.

34 (b) Grading.--A first offense under this section constitutes
35 a misdemeanor of the second degree. A second or subsequent
36 offense under this section constitutes a misdemeanor of the
37 first degree.

38 Section 1306. Adulteration of medical marijuana.

39 (a) General rule.--In addition to any other penalty provided
40 by law, a person commits an offense if the person adulterates,
41 fortifies, contaminates or changes the character or purity of
42 medical marijuana from that set forth on the patient's or
43 caregiver's identification card.

44 (b) Grading.--A first offense under this section constitutes
45 a misdemeanor of the second degree. A second or subsequent
46 offense under this section constitutes a misdemeanor of the
47 first degree.

48 Section 1307. Disclosure of information prohibited.

49 (a) Offense defined.--In addition to any other penalty
50 provided by law, an employee or principal of a medical marijuana
51 organization or an employee of the department commits a

1 misdemeanor of the third degree if the person discloses, except
2 to authorized persons for official governmental or health care
3 purposes, any information related to the use of medical
4 marijuana.

5 (b) Exception.--Subsection (a) shall not apply where
6 disclosure is permitted or required by law or by court order.
7 Section 1308. Additional penalties.

8 (a) Criminal penalties.--In addition to any other penalty
9 provided by law, a practitioner, caregiver, patient or employee
10 or principal of any medical marijuana organization who violates
11 any of the provisions of this act, other than those specified in
12 section 1301, 1302, 1303, 1304, 1305, 1306 or 1307, or any
13 regulation promulgated under this act:

14 (1) For a first offense, commits a misdemeanor of the
15 third degree and shall, upon conviction, be sentenced to pay
16 a fine of not more than \$5,000, or to imprisonment for not
17 more than six months.

18 (2) For a second or subsequent offense, commits a
19 misdemeanor of the third degree and shall, upon conviction,
20 be sentenced to pay a fine of not more than \$10,000, or to
21 imprisonment for not less than six months or more than one
22 year, or both.

23 (b) Civil penalties.--In addition to any other remedy
24 available to the department, the department may assess a civil
25 penalty for a violation of this act, a regulation promulgated
26 under this act or an order issued under this act or regulation
27 as provided in this subsection. The following shall apply:

28 (1) The department may assess a penalty of not more than
29 \$10,000 for each violation and an additional penalty of not
30 more than \$1,000 for each day of a continuing violation. In
31 determining the amount of each penalty, the department shall
32 take the following factors into consideration:

33 (i) The gravity of the violation.

34 (ii) The potential harm resulting from the violation to
35 patients, caregivers or the general public.

36 (iii) The willfulness of the violation.

37 (iv) Previous violations, if any, by the person being
38 assessed.

39 (v) The economic benefit to the person being assessed
40 for failing to comply with the requirements of this act, a
41 regulation promulgated under this act or an order issued
42 under this act or regulation.

43 (2) If the department finds that the violation did not
44 threaten the safety or health of a patient, caregiver or the
45 general public and the violator took immediate action to
46 remedy the violation upon learning of it, the department may
47 issue a written warning in lieu of assessing a civil penalty.

48 (3) A person who aids, abets, counsels, induces,
49 procures or causes another person to violate this act, a
50 regulation promulgated under this act or an order issued
51 under this act or regulation shall be subject to the civil

1 penalties provided under this subsection.

2 (c) Sanctions.--

3 (1) In addition to the penalties provided in subsection
4 (b) and any other penalty authorized by law, the department
5 may impose the following sanctions:

6 (i) Revoke or suspend the registration of a person
7 found to be in violation of this act, a regulation
8 promulgated under this act or an order issued under this
9 act or regulation.

10 (ii) Revoke or suspend the registration of a person
11 for conduct, activity or the occurrence of an event that
12 would have disqualified the person from receiving the
13 registration.

14 (iii) Revoke or suspend the registration of a person
15 for willfully and knowingly violating or attempting to
16 violate an order of the department directed to the
17 person.

18 (iv) Suspend a registration of a person pending the
19 outcome of a hearing in a case in which the registration
20 could be revoked.

21 (v) Order restitution of funds or property
22 unlawfully obtained or retained by a registrant.

23 (vi) Issue a cease and desist order.

24 (2) A person who aids, abets, counsels, induces,
25 procures or causes another person to violate this act shall
26 be subject to the sanctions provided under this subsection.

27 (d) Costs of action.--The department may assess against a
28 person determined to be in violation of this act the costs of
29 investigation of the violation.

30 (e) Minor violations.--Nothing in this section shall be
31 construed to require the assessment of a civil penalty or the
32 imposition of a sanction for a minor violation of this act if
33 the department determines that the public interest will be
34 adequately served under the circumstances by the issuance of a
35 written warning.

36 Section 1309. Other restrictions.

37 This act does not permit any person to engage in and does not
38 prevent the imposition of any civil, criminal or other penalty
39 for the following:

40 (1) Undertaking any task under the influence of medical
41 marijuana when doing so would constitute negligence,
42 professional malpractice or professional misconduct.

43 (2) Possessing or using medical marijuana in a State or
44 county correctional facility, including a facility owned or
45 operated or under contract with the Department of Corrections
46 or the county which houses inmates serving a portion of their
47 sentences on parole or other community correction program.
48 Nothing in this paragraph shall be construed to apply to
49 employees of the facilities set forth in this paragraph. The
50 Department of Corrections shall adopt a written policy no
51 later than 18 months from the effective date of this section

1 regarding the possession and use of medical marijuana by
2 employees in State correctional facilities. The governing
3 authority of a county may adopt a resolution no later than 18
4 months from the effective date of this section regarding the
5 possession and use of medical marijuana by employees in a
6 county correctional facility.

7 (3) Possessing or using medical marijuana in a youth
8 detention center or other facility which houses children
9 adjudicated delinquent, including the separate, secure State-
10 owned facility or unit utilized for sexually violent
11 delinquent children under 42 Pa.C.S. § 6404 (relating to
12 duration of inpatient commitment and review). As used in this
13 paragraph, the term "sexually violent delinquent children"
14 shall have the meaning given to it in 42 Pa.C.S. § 6402
15 (relating to definitions). Nothing in this paragraph shall be
16 construed to apply to employees of the facilities set forth
17 in this paragraph.

18 CHAPTER 19
19 RESEARCH PROGRAM

20 Section 1901. Definitions.

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

24 "Health care medical marijuana organization." A vertically
25 integrated health system approved by the department to dispense
26 medical marijuana or grow and process medical marijuana, or
27 both, in accordance with a research study under this chapter.

28 "Vertically integrated health system." A health delivery
29 system licensed under the act of July 19, 1979 (P.L.130, No.48),
30 known as the Health Care Facilities Act, in which the complete
31 spectrum of care, including primary and specialty care,
32 hospitalization and pharmaceutical care, is provided within a
33 single organization.

34 Section 1902. Establishment of medical marijuana research
35 program.

36 (a) Program to be established.--The department shall
37 establish and develop a research program to study the impact of
38 medical marijuana on the treatment and symptom management of
39 serious medical conditions.

40 (b) Department duties.--The department shall:

41 (1) Review all serious medical conditions which are
42 cited by a practitioner upon the practitioner's certification
43 that a patient be granted an identification card.

44 (2) Create a database of all serious medical conditions,
45 including comorbidities, which are cited by practitioners in
46 the certifications of patients. The database shall also
47 include the form of medical marijuana certified to treat each
48 serious medical condition.

49 (3) When the database contains 25 or more patients with
50 the same serious medical condition, petition the United
51 States Food and Drug Administration and the United States

1 Drug Enforcement Administration for approval to study the
2 condition and the impact of medical marijuana on the
3 condition.

4 (4) Concurrent with the request to the United States
5 Food and Drug Administration and United States Drug
6 Enforcement Administration, publicly announce the formation
7 of a research study to which a vertically integrated health
8 system and a university within this Commonwealth may submit a
9 request to participate.

10 (5) Upon approval of a research study by the United
11 States Food and Drug Administration and the United States
12 Drug Enforcement Administration, select a vertically
13 integrated health system or systems to conduct the research
14 study and designate the form or forms of medical marijuana
15 which will be used to treat the serious medical condition.

16 (6) Notify a patient who has been issued an
17 identification card:

18 (i) that the patient has been selected to
19 participate, at the patient's option, in a research study
20 to study medical marijuana as a treatment; and

21 (ii) where the patient may secure medical marijuana
22 through a health care medical marijuana organization at
23 no cost to the patient in accordance with subsection (c).

24 (7) If the United States Food and Drug Administration
25 and the United States Drug Enforcement Administration reject
26 the proposal for the research study, take all reasonable
27 steps to collect and collate data on the serious medical
28 condition and the use of medical marijuana as a treatment for
29 the serious medical condition and consider submitting an
30 additional request to the United States Food and Drug
31 Administration and United States Drug Enforcement
32 Administration for a research study on the same condition.

33 (c) Costs.--The cost of the medical marijuana which is
34 dispensed to patients in accordance with an approved research
35 study shall be paid for by the fund.

36 (d) Geographic accessibility.--The department shall take
37 into consideration the geographic location of the health care
38 medical marijuana organization when assigning a patient to a
39 health care medical marijuana organization. The department shall
40 make an effort to assign a patient to a health care medical
41 marijuana organization that is located within 50 miles of the
42 patient's residence.

43 (e) Data.--Data collected by the health care medical
44 marijuana organization shall be provided to the university
45 participating in the research study for analysis.

46 Section 1903. Medical marijuana research program
47 administration.

48 (a) General rule.--The department shall establish a research
49 study for each serious medical condition. The department shall
50 engage universities within this Commonwealth to participate in
51 the collection, collation, analysis and conclusive findings of

1 the research studies. The department shall, by regulation,
2 establish the procedure to be used by health care medical
3 marijuana organizations with respect to:

4 (1) Real time inventory tracking.

5 (2) Real time tracking of the medical marijuana
6 dispensed.

7 (3) Recall of defective medical marijuana.

8 (b) Request for distributions.--The department shall
9 establish a form and procedure for universities selected to
10 participate in a research study to request distributions from
11 the fund to conduct research on medical marijuana, including
12 administrative costs. These distributions shall also be used to
13 pay for the cost of the medical marijuana so that it is not
14 borne by the patient participating in the research study. The
15 forms shall include, at a minimum, the following:

16 (1) The form or forms of medical marijuana to be
17 studied.

18 (2) The serious medical condition to be studied.

19 (c) Research reports.--

20 (1) A vertically integrated health system shall report
21 on the effectiveness of the use of medical marijuana for the
22 treatment of the serious medical condition studied and all
23 counterindications and noted side effects.

24 (2) The department shall notify the vertically
25 integrated health system and the university participating in
26 the research study of the data which is required to meet the
27 United States Food and Drug Administration's and the United
28 States Drug Enforcement Administration's approval for the
29 research study.

30 (3) The first report, including the data required under
31 paragraph (2), shall be submitted to the department and made
32 publicly available within 180 days of the initiation of a
33 research study for a specific serious medical condition.

34 (4) An annual report of the data required under
35 paragraph (2) shall be submitted to the department beginning
36 one year after the initiation of a research study for a
37 specific serious medical condition and each year thereafter.

38 Section 1904. Approval.

39 A vertically integrated health system located in this
40 Commonwealth may petition the department to participate in a
41 research study to study a serious medical condition under
42 section 1902. Approval of the vertically integrated health
43 system as a health care medical marijuana organization by the
44 department shall authorize access within a region under section
45 706(d) to medical marijuana for all patients included in an
46 approved research study.

47 Section 1905. Requirements.

48 (a) Dispensing.--A health care medical marijuana
49 organization that dispenses medical marijuana shall:

50 (1) Maintain licensure with the department as required
51 under the act of July 19, 1979 (P.L.130, No.48), known as the

1 Health Care Facilities Act.

2 (2) Secure the medical marijuana within the associated
3 pharmacies of the health care medical marijuana organization
4 in a manner and method prescribed by the department.

5 (3) Keep a daily log of the medical marijuana dispensed
6 and the research study with which the patient and the medical
7 marijuana are associated. Reports shall be delivered to the
8 department and the university participating in the research
9 study on a weekly basis.

10 (4) Report to the Pennsylvania Health Care Cost
11 Containment Council the utilization rates of those patients
12 participating in the research of medical marijuana and
13 treatment options.

14 (5) Only dispense medical marijuana received from a
15 grower/processor or a health care medical marijuana
16 organization that is approved to grow and process medical
17 marijuana.

18 (6) Provide all patients or caregivers with the safety
19 insert, prepared by the department, which includes potential
20 dangers, recognition and correction of problematic dosage and
21 any other information required by the department or which the
22 department deems relevant for patient safety.

23 (b) Growing and processing.--A health care medical marijuana
24 organization that grows and processes medical marijuana shall:

25 (1) Maintain licensure with the department as required
26 under the Health Care Facilities Act.

27 (2) Only make available medical marijuana to health care
28 medical marijuana organizations that dispense medical
29 marijuana.

30 (3) Keep a daily log of medical marijuana intended for
31 ultimate use by patients participating in a research study.
32 Section 1906. Restrictions.

33 A health care medical marijuana organization may not
34 participate in a research study of any kind, including the
35 program established under this chapter, or dispense or grow and
36 process medical marijuana if it has violated its licensure
37 requirements under the Health Care Facilities Act.
38 Section 1907. Regulations.

39 The department shall, by regulation, establish the procedure
40 to be used by a health care medical marijuana organization that
41 grows and processes medical marijuana with respect to:

42 (1) Real time inventory tracking, including a seed-to-
43 dispensing tracking system that tracks medical marijuana from
44 seed or immature plant stage until the medical marijuana is
45 provided to a patient in a research study.

46 (2) Security, recordkeeping, record retention and
47 surveillance systems relating to every stage of growing and
48 processing medical marijuana.

49 (3) A daily log of each day's beginning inventory,
50 acquisitions, disbursements, disposals and ending inventory.

51 (4) A system to recall defective medical marijuana.

1 (5) A system to track the plant waste resulting from the
2 growth of medical marijuana.

3 (6) Testing of medical marijuana by an independent
4 laboratory to test the medical marijuana produced by the
5 health care medical marijuana organization, including
6 requiring a test at harvest and a test at final processing.

7 (7) Any other procedure deemed necessary by the
8 department.

9 Section 1908. Nonentitlement.

10 Nothing in this chapter shall be construed to create an
11 entitlement or right of a patient to receive medical marijuana
12 or to participate in a research study.

13 CHAPTER 21

14 MISCELLANEOUS PROVISIONS

15 Section 2101. Conflict.

16 The growth, processing, manufacture, acquisition,
17 transportation, sale, dispensing, distribution, possession and
18 consumption of medical marijuana permitted under this act shall
19 not be deemed to be a violation of the act of April 14, 1972
20 (P.L.233, No.64), known as The Controlled Substance, Drug,
21 Device and Cosmetic Act. If a provision of the Controlled
22 Substance, Drug, Device and Cosmetic Act relating to marijuana
23 conflicts with a provision of this act, this act shall take
24 precedence.

25 Section 2102. Insurers.

26 Nothing in this act shall be construed to require an insurer
27 or a health plan, whether paid for by Commonwealth funds or
28 private funds, to provide coverage for medical marijuana.

29 Section 2103. Protections for patients and caregivers.

30 (a) Licensure.--No patient, caregiver, practitioner, medical
31 marijuana organization, health care medical marijuana
32 organization or university participating in a research study
33 under Chapter 19 or an employee, principal or financial backer
34 of a medical marijuana organization or employee of a health care
35 medical marijuana organization or an employee of a university
36 participating in a research study under Chapter 19 shall be
37 subject to arrest, prosecution or penalty in any manner, or
38 denied any right or privilege, including civil penalty or
39 disciplinary action by a Commonwealth licensing board or
40 commission, solely for lawful use of medical marijuana or
41 manufacture or sale or dispensing of medical marijuana, or for
42 any other action taken in accordance with this act.

43 (b) Employment.--

44 (1) No employer may discharge, threaten, refuse to hire
45 or otherwise discriminate or retaliate against an employee
46 regarding an employee's compensation, terms, conditions,
47 location or privileges solely on the basis of such employee's
48 status as an individual who is certified to use medical
49 marijuana.

50 (2) Nothing in this act shall require an employer to
51 make any accommodation of the use of medical marijuana on the

1 property or premises of any place of employment. This act
2 shall in no way limit an employer's ability to discipline an
3 employee for being under the influence of medical marijuana
4 in the workplace or for working while under the influence of
5 medical marijuana when the employee's conduct falls below the
6 standard of care normally accepted for that position.

7 (3) Nothing in this act shall require an employer to
8 commit any act that would put the employer or any person
9 acting on its behalf in violation of Federal law.

10 (c) Custody determination.--The fact that an individual is
11 certified to use medical marijuana and acting in accordance with
12 this act shall not by itself be considered by a court in a
13 custody proceeding. In determining the best interest of a child
14 with respect to custody, the provisions of 23 Pa.C.S. Ch. 53
15 (relating to child custody) shall apply.

16 (d) Disclosure.--Data and information collected by the
17 department under this act, including copies of identification
18 cards and copies of certifications, shall be deemed exempt from
19 public disclosure under the act of February 14, 2008 (P.L.6,
20 No.3), known as the Right-to-Know Law. However, an application
21 to become a medical marijuana organization shall be a public
22 record under the Right-to-Know Law.

23 Section 2104. Schools.

24 The Department of Education shall promulgate regulations
25 within 18 months of the effective date of this section regarding
26 the following:

27 (1) Possession and use of medical marijuana by a student
28 on the grounds of a preschool, primary school and a secondary
29 school.

30 (2) Possession and use of medical marijuana by an
31 employee of a preschool, primary school and a secondary
32 school on the grounds of such school.

33 Section 2105. Day-care centers.

34 The Department of Human Services shall promulgate regulations
35 within 18 months of the effective date of this section regarding
36 the following:

37 (1) Possession and use of medical marijuana by a child
38 under the care of a child-care or social service center
39 licensed or operated by the Department of Human Services.

40 (2) Possession and use of medical marijuana by an
41 employee of a child-care or social service center licensed or
42 operated by the Department of Human Services.

43 (3) Possession and use of medical marijuana by employees
44 of a youth development center or other facility which houses
45 children adjudicated delinquent, including the separate,
46 secure State-owned facility or unit for sexually violent
47 children, as set forth in section 1309(3).

48 Section 2106. Medical marijuana from other states.

49 (a) General rule.--It is not a violation of this act or the
50 act of April 14, 1972 (P.L.233, No.64), known as The Controlled
51 Substance, Drug, Device and Cosmetic Act, if a parent or

1 guardian of a minor under 18 years of age lawfully obtains
2 medical marijuana from another state, territory of the United
3 States or any other country to be administered to the minor.

4 (b) Expiration.--This section shall expire 730 days after
5 the effective date of this section.

6 Section 2107. Zoning.

7 The following apply:

8 (1) A grower/processor shall meet the same municipal
9 zoning and land use requirements as other manufacturing,
10 processing and production facilities that are located in the
11 same zoning district.

12 (2) A dispensary shall meet the same municipal zoning
13 and land use requirements as other commercial facilities that
14 are located in the same zoning district.

15 Section 2108. Notice.

16 Upon amendment of the Controlled Substances Act (Public Law
17 91-513, 84 Stat. 1236) removing marijuana from Schedule I of the
18 Controlled Substances Act, the department shall publish notice
19 of the effective date of the amendment in the Pennsylvania
20 Bulletin.

21 Section 2109. Applicability.

22 The provisions of this act with respect to dispensaries shall
23 not apply beginning 1,095 days from the effective date of an
24 amendment to the Controlled Substances Act (Public Law 91-513,
25 84 Stat. 1236) removing marijuana from Schedule I of the
26 Controlled Substances Act.

27 Section 2110. Effective date.

28 This act shall take effect as follows:

29 (1) The following provisions shall take effect
30 immediately:

- 31 (i) This section.
- 32 (ii) Chapter 1.
- 33 (iii) Chapter 3.
- 34 (iv) Section 704.
- 35 (v) Section 711.
- 36 (vi) Chapter 9.
- 37 (vii) Section 1101.
- 38 (viii) Section 1104.
- 39 (ix) Section 1105.
- 40 (x) Section 1106.
- 41 (xi) Section 1107.
- 42 (xii) Section 1108.
- 43 (xiii) Section 1109.
- 44 (xiv) Section 1309.
- 45 (xv) Chapter 19.
- 46 (xvi) Section 2101.
- 47 (xvii) Section 2102.
- 48 (xviii) Section 2103.
- 49 (xix) Section 2104.
- 50 (xx) Section 2105.
- 51 (xxi) Section 2106.

1 (xxii) Section 2108.

2 (xxiii) Section 2109.

3 (2) The remainder of this act shall take effect upon the
4 issuance of temporary regulations by the department under
5 section 1109(a) or 18 months from the effective date of this
6 section, whichever is sooner.