

**MEDICAL MARIJUANA ACT - APPLICATION AND ISSUANCE, LIMITATIONS ON PERMITS, ADDITIONAL DISPENSARY AND GROWER/PROCESSOR PERMITS AUTHORIZED, APPLICATION AND ISSUANCE OF ADDITIONAL PERMITS AND LIMITATIONS ON OTHER ADDITIONAL PERMITS OR LICENSES**

**Act of Dec. 14, 2023, P.L. 453, No. 63**

**Cl. 35**

Session of 2023  
No. 2023-63

SB 773

AN ACT

Amending the act of April 17, 2016 (P.L.84, No.16), entitled "An act establishing a medical marijuana program; providing for patient and caregiver certification and for medical marijuana organization registration; imposing duties on the Department of Health; providing for a tax on medical marijuana organization gross receipts; establishing the Medical Marijuana Program Fund; establishing the Medical Marijuana Advisory Board; establishing a medical marijuana research program; imposing duties on the Department of Corrections, the Department of Education and the Department of Human Services; and providing for academic clinical research centers and for penalties and enforcement," in preliminary provisions, further providing for definitions; in medical marijuana organizations, further providing for application and issuance, for limitations on permits and providing for additional dispensary and grower/processor permits authorized, for application and issuance of additional permits and for limitations on other additional permits or licenses; and, in academic clinical research centers and clinical registrants, further providing for definitions.

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

Section 1. Section 103 of the act of April 17, 2016 (P.L.84, No.16), known as the Medical Marijuana Act, is amended by adding definitions to read:

Section 103. Definitions.

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

\* \* \*

**"Change of control transaction." The consolidation, merger or acquisition by a person or group of persons acting in concert of more than 20% of:**

(1) a medical marijuana organization's securities or other ownership interests, with the exception of any ownership interest of the person that existed:

(i) at the time of the issuance of the initial medical marijuana organization's permit and payment of the initial permit; or

(ii) prior to the effective date of this subparagraph; or

(2) the securities or other ownership interests of a corporation or other form of business entity which owns directly or indirectly 20% of the securities or other ownership interests of the medical marijuana organization.

\* \* \*

"Diverse group." The term shall mean the same as under section 615(d).

\* \* \*

"Independent dispensary." A dispensary issued a permit to operate in this Commonwealth and that meets all of the following:

- (1) Has not had the dispensary's permit revoked.
- (2) Has not entered into a change of control transaction with any other person that was issued a grower/processor permit, dispensary permit or clinical registrant permit in this Commonwealth.
- (3) Is not materially the same as another medical marijuana organization in this Commonwealth through a parent company, subsidiary or shared affiliation with another entity that holds a permit from the department under this act or through the sharing of principals, officers or directors, employees, facilities, equipment, finances or capital.

"Independent grower/processor." A grower/processor awarded a permit to operate in this Commonwealth that meets all of the following criteria as of the effective date of this definition:

- (1) Has not had its permit revoked.
- (2) Has not entered into a change of control transaction with any other person that was issued a grower/processor permit, dispensary permit or clinical registrant permit in this Commonwealth.
- (3) Is not materially the same as another medical marijuana organization in this Commonwealth through a parent company or subsidiary of another entity that holds a permit from the department under this act or through the sharing of principals, officers or directors, employees, facilities, equipment, finances or capital.

\* \* \*

"Materially the same." A person who shares any of the following with another person:

- (1) Profits or losses.
- (2) Common valuation, in the case of a publicly traded company.
- (3) Common ownership of more than 5%, including subsidiaries.
- (4) Common ownership of 5% or less if the persons with voting rights to elect or appoint one or more members of the board of directors or other governing board.
- (5) Common management, policies, principals, officers, directors, employees, equipment, finances or capital.

\* \* \*

"Parent company." A company which directly or indirectly controls any other permittee under this act.

\* \* \*

"Person." A natural person, corporation, foundation, organization, business trust, estate, limited liability company, licensed corporation, trust, partnership, limited liability partnership, association or other form of legal business entity.

\* \* \*

Section 2. Sections 606(a)(1) and 616(5) of the act are amended to read:

Section 606. Application and issuance.

(a) Duty to report.--An applicant to be a grower/processor or to operate a dispensary is under a continuing duty to:

- (1) Report to the department any change in facts or circumstances reflected in the application or any newly discovered or occurring fact or circumstance which is required to be included in the application, including a

change in control **or change of control transaction** of the medical marijuana organization.

\* \* \*

Section 616. Limitations on permits.

The following limitations apply to approval of permits for grower/processors and dispensaries:

\* \* \*

(5) [No] **Except as provided under section 617, no** more than five grower/processors may be issued permits as dispensaries. [If the number of growers/processors is increased under section 1202, no more than 20% of the total number of growers/processors may also be issued permits as dispensaries.]

\* \* \*

Section 3. The act is amended by adding sections to read:

**Section 617. Additional dispensary and grower/processor permits authorized.**

(a) **Authorization.--**

(1) An independent grower/processor that applies and meets the requirements under section 618 shall be issued one dispensary permit.

(2) An independent dispensary that applies and meets the requirements under section 618 shall be issued one grower/processor permit.

(b) **Rights and privileges.--**The permits issued under this section shall carry the same rights, privileges and obligations as permits issued under this chapter.

(c) **Suspension or revocation prohibited.--**The department may not suspend or revoke the permit of an entity that receives a permit under this section due to the entity entering into a change of control transaction with any person at least one year after the holder of the dispensary permit becomes operational in this Commonwealth. Nothing in this section shall prohibit the department from taking action for a violation of section 618(a)(4).

(d) **Permit for clinical registrant.--**Notwithstanding subsection (c) or section 619, an independent grower/processor or independent dispensary that applies for a permit to convert to a clinical registrant under section 2002 shall surrender a grower/processor permit or dispensary permit, or both, previously issued to the independent grower/processor or independent dispensary.

Section 618. Application and issuance of additional permits.

(a) **Applications.--**

(1) The department shall develop a standard application form and open applications for permits authorized under section 617 within 30 days of the effective date of this paragraph.

(2) Applicants under this section shall submit applications for permits authorized under section 617.

(3) The department shall review applications for permits authorized under section 617 within 45 days of receipt of an application under paragraph (1) from an eligible independent grower/processor or independent dispensary.

(4) An application for a permit authorized under section 617 shall require:

(i) Supporting documentation and certification to the department that the applicant qualifies as an independent grower/processor or independent dispensary.

(ii) Certification to the department that the applicant will not enter into a change of control transaction with any other person for a duration of one

year from the date the first dispensary location or grower/processor location is deemed operational by the department, unless the change of control transaction occurs after the holder of the permit becomes operational and is between the applicant and a diverse group.

(iii) Any information required under section 602 that has significantly changed since the applicant received an initial permit.

(b) Issuance.--

(1) Except as provided under paragraph (3), the department shall issue permits under section 617 within 60 days of the application submission deadline under subsection (a)(2) to all applicants that meet the minimum requirements for permitting under this chapter. The department shall notify an applicant for permits authorized under section 617 of the approval of an application by certified mail or email.

(2) If an application under this section is incomplete, the following apply:

(i) The department shall, within 15 days of reviewing the application, notify the applicant by certified mail or email of the missing application materials.

(ii) An applicant shall have 15 days from when the notice is received under this paragraph to provide missing materials to the department.

(iii) An applicant's failure to complete the application by the deadline under subparagraph (ii) shall be grounds for denial of a permit.

(3) If an application under this section is complete but does not meet the minimum criteria for a permit, the department shall notify the applicant by certified mail or email of the deficiencies in the application and the following apply:

(i) An applicant shall have 30 days from the date the notice is received under this paragraph to provide supplemental application materials to the department.

(ii) An applicant's failure to provide the supplemental application materials to the department by the deadline will be grounds for denial of the issuance of a permit.

(iii) An applicant's failure to meet the minimum criteria for a permit after providing supplemental application materials to the department shall be grounds for denial of the issuance of a permit.

(iv) The department may use up to 30 additional days to issue dispensary permits to applicants that meet the minimum criteria for a permit after providing supplemental application materials to the department.

(4) If the department denies an application for a dispensary permit authorized under section 617, the department shall notify the applicant of the denial by certified mail or email. The notice shall include each deficiency in the application that does not meet the minimum criteria to be issued a dispensary permit.

(5) If an independent grower/processor or independent dispensary receives a denial under paragraph (4), the independent grower/processor or independent dispensary may reapply for a permit authorized under section 617 30 days after receiving notice of a denial.

(6) Appeals to the issuance or denials of dispensary permits under this section must be responded to by the department within 45 days of submittal.

(7) An independent grower/processor or independent dispensary issued a permit under section 617 shall notify the department when the independent grower/processor or independent dispensary location is operational.

(8) Upon notification under paragraph (7), the department shall schedule an inspection to determine if the medical marijuana organization facility is operational to the satisfaction of the department. Nothing in this section shall prohibit the department from determining that the inspected location fails to be operational.

(c) Fees.--

(1) An independent grower/processor applying for a dispensary permit shall pay:

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

(ii) A permit fee of \$30,000 for each dispensary location. The period of the permit shall be one year. An applicant shall submit the permit fee at the time of submission of the application. The fee shall be returned if the application is not granted.

(iii) A renewal fee for the permit as a dispensary in the amount of \$5,000. The fee shall be returned if the renewal is not granted and shall cover renewal for all locations. An application to renew a permit must be filed with the department not more than six months nor less than four months prior to expiration.

(iv) A fee of \$250 when amending the application to indicate relocation within this Commonwealth or the addition or deletion of approved activities by the medical marijuana organization.

(2) An independent dispensary applying for a grower/processor permit shall pay:

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

(ii) A permit fee of \$200,000. The period of the permit is one year. An applicant shall submit the permit fee at the time of submission of the application. The fee shall be returned if the application is not granted.

(iii) A renewal fee for the permit as a grower/processor in the amount of \$10,000. The fee shall cover the renewal for all locations. The renewal fee shall be returned if the renewal is not granted. An application to review a permit must be filed with the department not more than six months nor less than four months prior to expiration.

(iv) A fee of \$250 when amending the application to indicate relocation within this Commonwealth or the addition or deletion of approved activities by the medical marijuana organization.

(3) All fees under this subsection shall be paid by certified check or money order.

(4) Fees payable under this subsection shall be deposited into the fund.

(d) Regions.--An independent grower/processor may apply for a dispensary permit under this section in any region established under section 603(d).

(e) Certification violation.--If an independent grower/processor or independent dispensary enters into a change of control transaction with another entity in violation of this act, the contract or agreement executed with the other entity for the change of control transaction shall be void, unless the change of control transaction occurs at least one year after

the permittee becomes operational or the merger is between a permit holder and a diverse group.

Section 619. Limitations on other additional permits or licenses.

Notwithstanding the provisions of section 617 or 618, nothing in section 617 or 618 shall be construed to limit an entity that qualifies as an independent grower/processor or independent dispensary from applying for and receiving additional permits or licenses under any other provisions of this act upon the release of additional permits or licenses by the department or the Commonwealth.

Section 4. Section 2001 of the act is amended by adding a definition to read:

Section 2001. Definitions.

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

\* \* \*

"Accredited medical school." An institution located within this Commonwealth that is accredited by the Liaison Committee of Medical Education or the Commission on Osteopathic College Accreditation or has gained pre-accreditation or provisional accreditation so that the institution is authorized to enroll students and is affiliated with an accredited institution of higher education located within this Commonwealth.

\* \* \*

Section 5. This act shall take effect in 120 days.

APPROVED--The 14th day of December, A.D. 2023.

JOSH SHAPIRO