

No. 2016-16

AN ACT

SB 3

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.

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

CHAPTER 1 PRELIMINARY PROVISIONS

Section 101. Short title.

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

Section 102. Declaration of policy.

The General Assembly finds and declares as follows:

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

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

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

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

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

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

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

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:

"Advisory board." The advisory board established under section 1201.

"Caregiver." The individual designated by a patient or, if the patient is under 18 years of age, an individual under section 506(2), to deliver medical marijuana.

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

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

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

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

"Controlling interest." As follows:

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

(2) For a privately held entity, the ownership of any security in the entity.

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

"Dispensary." A person, including a natural person, corporation, partnership, association, trust or other entity, or any combination thereof, which holds a permit issued by the department to dispense medical marijuana. The term does not include a health care medical marijuana organization under Chapter 19.

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

"Financial backer." An investor, mortgagee, bondholder, note holder or other source of equity, capital or other assets, other than a financial institution.

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

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

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

"Grower/processor." A person, including a natural person, corporation, partnership, association, trust or other entity, or any combination thereof, which holds a permit from the department under this act to grow and process medical marijuana. The term does not include a health care medical marijuana organization under Chapter 19.

"Identification card." A document issued under section 501 that authorizes access to medical marijuana under this act.

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

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

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

"Patient." An individual who:

- (1) has a serious medical condition;
- (2) has met the requirements for certification under this act; and
- (3) is a resident of this Commonwealth.

"Permit." An authorization issued by the department to a medical marijuana organization to conduct activities under this act.

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

"Practitioner." A physician who is registered with the department under section 401.

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

"Principal." An officer, director or person who directly owns a beneficial interest in or ownership of the securities of an applicant or permittee, a

person who has a controlling interest in an applicant or permittee or who has the ability to elect the majority of the board of directors of an applicant or permittee or otherwise control an applicant or permittee, other than a financial institution.

"Registry." The registry established by the department for practitioners.

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

"Security." As defined in section 102(t) of the act of December 5, 1972 (P.L.1280, No.284), known as the Pennsylvania Securities Act of 1972.

"Serious medical condition." Any of the following:

- (1) Cancer.
- (2) Positive status for human immunodeficiency virus or acquired immune deficiency syndrome.
- (3) Amyotrophic lateral sclerosis.
- (4) Parkinson's disease.
- (5) Multiple sclerosis.
- (6) Damage to the nervous tissue of the spinal cord with objective neurological indication of intractable spasticity.
- (7) Epilepsy.
- (8) Inflammatory bowel disease.
- (9) Neuropathies.
- (10) Huntington's disease.
- (11) Crohn's disease.
- (12) Post-traumatic stress disorder.
- (13) Intractable seizures.
- (14) Glaucoma.
- (15) Sickle cell anemia.
- (16) Severe chronic or intractable pain of neuropathic origin or severe chronic or intractable pain in which conventional therapeutic intervention and opiate therapy is contraindicated or ineffective.
- (17) Autism.

"Terminally ill." A medical prognosis of life expectancy of approximately one year or less if the illness runs its normal course.

CHAPTER 3 PROGRAM

Section 301. Program established.

(a) Establishment.—A medical marijuana program for patients suffering from serious medical conditions is established. The program shall be implemented and administered by the department. The department shall:

- (1) Issue permits to medical marijuana organizations to authorize them to grow, process or dispense medical marijuana and ensure their compliance with this act.
- (2) Register practitioners and ensure their compliance with this act.
- (3) Have regulatory and enforcement authority over the growing, processing, sale and use of medical marijuana in this Commonwealth.
- (4) Establish and maintain an electronic database to include activities and information relating to medical marijuana organizations, certifications and identification cards issued, practitioner registration and electronic tracking of all medical marijuana as required under this act to include:

(i) Ensurance that medical marijuana is not diverted or otherwise used for unlawful purposes by a practitioner or medical marijuana organization.

(ii) Ability to establish the authenticity of identification cards.

(iii) Recording recommended forms of medical marijuana provided in a certification filed by the practitioner.

(iv) Monitoring all growth, transfer, possession, processing, testing and dispensing of medical marijuana in this Commonwealth.

(v) The tracking system under section 701 must include information under section 801(a) and any other information required by the department to be used by the department and dispensaries to enable a dispensary to lawfully provide medical marijuana. The tracking system and database shall be capable of providing information in real time. The database shall be capable of receiving information from a dispensary regarding the disbursement of medical marijuana to patients and caregivers. This information shall be immediately accessible to the department and other dispensaries to inhibit diversion and ensure compliance with this act.

(5) Maintain a directory of patients and caregivers approved to use or assist in the administration of medical marijuana within the department's database.

(6) Develop a four-hour training course for physicians, pharmacists, certified registered nurse practitioners and physician assistants regarding the latest scientific research on medical marijuana, including the risks and benefits of medical marijuana, and other information deemed necessary by the department. Successful completion of the course shall be approved as continuing education credits as determined by:

(i) The State Board of Medicine and the State Board of Osteopathic Medicine.

(ii) The State Board of Pharmacy.

(iii) The State Board of Nursing.

(7) Develop a two-hour course for the principals and employees of a medical marijuana organization who either have direct contact with patients or caregivers or who physically handle medical marijuana. Employees must successfully complete the course no later than 90 days after commencing employment. Principals must successfully complete the course prior to commencing initial operation of the medical marijuana organization. The subject matter of the course shall include the following:

(i) Methods to recognize and report unauthorized activity, including diversion of medical marijuana for unlawful purposes and falsification of identification cards.

(ii) Proper handling of medical marijuana and recordkeeping.

(iii) Any other subject required by the department.

(8) Develop enforcement procedures, including announced and unannounced inspections of facilities of the grower/processors and dispensaries and all records of the medical marijuana organizations.

(9) Establish a program to authorize the use of medical marijuana to conduct medical research relating to the use of medical marijuana to treat

serious medical conditions, including the collection of data and the provision of research grants.

(10) Establish and maintain public outreach programs about the medical marijuana program, including:

(i) A dedicated telephone number for patients, caregivers and members of the public to obtain basic information about the dispensing of medical marijuana under this act.

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

(11) Collaborate as necessary with other Commonwealth agencies or contract with third parties as necessary to carry out the provisions of this act.

(12) Determine the minimum number and type of medical marijuana products to be produced by a grower/processor and dispensed by a dispensary.

(13) Develop recordkeeping requirements for all books, papers, any electronic database or tracking system data and other information of a medical marijuana organization. Information shall be retained for a minimum period of four years unless otherwise provided by the department.

(14) Restrict the advertising and marketing of medical marijuana, which shall be consistent with the Federal regulations governing prescription drug advertising and marketing.

(b) Regulations.—The department shall promulgate all regulations necessary to carry out the provisions of this act.

Section 302. Confidentiality and public disclosure.

(a) Patient information.—The department shall maintain a confidential list of patients and caregivers to whom it has issued identification cards. All information obtained by the department relating to patients, caregivers and other applicants shall be confidential and not subject to public disclosure, including disclosure under the act of February 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law, including:

(1) Individual identifying information about patients and caregivers.

(2) Certifications issued by practitioners.

(3) Information on identification cards.

(4) Information provided by the Pennsylvania State Police under section 502(b).

(5) Information relating to the patient's serious medical condition.

(b) Public information.—The following records are public records and shall be subject to the Right-to-Know Law:

(1) Applications for permits submitted by medical marijuana organizations.

(2) The names, business addresses and medical credentials of practitioners authorized to provide certifications to patients to enable them to obtain and use medical marijuana in this Commonwealth. All other practitioner registration information shall be confidential and exempt from public disclosure under the Right-to-Know Law.

(3) Information relating to penalties or other disciplinary actions taken against a medical marijuana organization or practitioner by the department for violation of this act.

Section 303. Lawful use of medical marijuana.

(a) General rule.—Notwithstanding any provision of law to the contrary, use or possession of medical marijuana as set forth in this act is lawful within this Commonwealth.

(b) Requirements.—The lawful use of medical marijuana is subject to the following:

(1) Medical marijuana may only be dispensed to:

(i) a patient who receives a certification from a practitioner and is in possession of a valid identification card issued by the department; and

(ii) a caregiver who is in possession of a valid identification card issued by the department.

(2) Subject to regulations promulgated under this act, medical marijuana may only be dispensed to a patient or caregiver in the following forms:

(i) pill;

(ii) oil;

(iii) topical forms, including gels, creams or ointments;

(iv) a form medically appropriate for administration by vaporization or nebulization, excluding dry leaf or plant form until dry leaf or plant forms become acceptable under regulations adopted under section 1202;

(v) tincture; or

(vi) liquid.

(3) Unless otherwise provided in regulations adopted by the department under section 1202, medical marijuana may not be dispensed to a patient or a caregiver in dry leaf or plant form.

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

(5) A patient may designate up to two caregivers at any one time.

(6) Medical marijuana that has not been used by the patient shall be kept in the original package in which it was dispensed.

(7) A patient or caregiver shall possess an identification card whenever the patient or caregiver is in possession of medical marijuana.

(8) Products packaged by a grower/processor or sold by a dispensary shall only be identified by the name of the grower/processor, the name of the dispensary, the form and species of medical marijuana, the percentage of tetrahydrocannabinol and cannabiniol contained in the product and any other labeling required by the department.

Section 304. Unlawful use of medical marijuana.

(a) General rule.—Except as provided in section 303, section 704, chapter 19 or Chapter 20, the use of medical marijuana is unlawful and shall, in addition to any other penalty provided by law, be deemed a violation of the act of April 14, 1972 (P.L.233, No.64), known as The Controlled Substance, Drug, Device and Cosmetic Act.

(b) Unlawful use described.—It is unlawful to:

(1) Smoke medical marijuana.

(2) Except as provided under subsection (c), incorporate medical marijuana into edible form.

(3) Grow medical marijuana unless the grower/processor has received a permit from the department under this act.

(4) Grow or dispense medical marijuana unless authorized as a health care medical marijuana organization under Chapter 19.

(5) Dispense medical marijuana unless the dispensary has received a permit from the department under this act.

(c) Edible medical marijuana.—Nothing in this act shall be construed to preclude the incorporation of medical marijuana into edible form by a patient or a caregiver in order to aid ingestion of the medical marijuana by the patient.

CHAPTER 4 PRACTITIONERS

Section 401. Practitioner registration.

(a) Eligibility.—A physician included in the registry is authorized to issue certifications to patients to use medical marijuana. To be eligible for inclusion in the registry:

(1) A physician must apply for registration in the form and manner required by the department.

(2) The department must determine that the physician is, by training or experience, qualified to treat a serious medical condition. The physician shall provide documentation of credentials, training or experience as required by the department.

(3) The physician must have successfully completed the course under section 301(a)(6).

(b) Department action.—

(1) The department shall review an application submitted by a physician to determine whether to include the physician in the registry. The review shall include information maintained by the Department of State regarding whether the physician has a valid, unexpired, unrevoked, unsuspended Pennsylvania license to practice medicine and whether the physician has been subject to discipline.

(2) The inclusion of a physician in the registry shall be subject to annual review to determine if the physician's license is no longer valid, has expired or been revoked or the physician has been subject to discipline. If the license is no longer valid, the department shall remove the physician from the registry until the physician holds a valid, unexpired, unrevoked, unsuspended Pennsylvania license to practice medicine.

(3) The Department of State shall report to the department the expiration, suspension or revocation of a physician's license and any disciplinary actions in a timely fashion.

(c) Practitioner requirements.—A practitioner included in the registry shall have an ongoing responsibility to immediately notify the department in writing if the practitioner knows or has reason to know that any of the

following is true with respect to a patient for whom the practitioner has issued a certification:

- (1) The patient no longer has the serious medical condition for which the certification was issued.
- (2) Medical marijuana would no longer be therapeutic or palliative.
- (3) The patient has died.

Section 402. Practitioner restrictions.

(a) Practices prohibited.—The following apply with respect to practitioners:

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

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

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

(b) Unprofessional conduct.—A practitioner who violates subsection (a) shall not be permitted to issue certifications to patients. The practitioner shall be removed from the registry.

(c) Discipline.—In addition to any other penalty that may be imposed under this act, a violation of subsection (a) or section 403(e) shall be deemed unprofessional conduct under section 41(8) of the act of December 20, 1985 (P.L.457, No.112), known as the Medical Practice Act of 1985, or section 15(a)(8) of the act of October 5, 1978 (P.L.1109, No.261), known as the Osteopathic Medical Practice Act, and shall subject the practitioner to discipline by the State Board of Medicine or the State Board of Osteopathic Medicine, as appropriate.

Section 403. Issuance of certification.

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

(1) The practitioner has been approved by the department for inclusion in the registry and has a valid, unexpired, unrevoked, unsuspended Pennsylvania license to practice medicine at the time of the issuance of the certification.

(2) The practitioner has determined that the patient has a serious medical condition and has included the condition in the patient's health care record.

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

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

(b) Contents.—The certification shall include:

- (1) The patient's name, date of birth and address.

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

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

(4) The date of issuance.

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

(6) Any requirement or limitation concerning the appropriate form of medical marijuana and limitation on the duration of use, if applicable, including whether the patient is terminally ill.

(c) Consultation.—A practitioner shall review the prescription drug monitoring program prior to:

(1) Issuing a certification to determine the controlled substance history of a patient.

(2) Recommending a change of amount or form of medical marijuana.

(c.1) Other access by practitioner.—A practitioner may access the prescription drug monitoring program to do any of the following:

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

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

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

(d) Duties of practitioner.—The practitioner shall:

(1) Provide the certification to the patient.

(2) Provide a copy of the certification to the department, which shall place the information in the patient directory within the department's electronic database. The department shall permit electronic submission of the certification.

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

(e) Prohibition.—A practitioner may not issue a certification for the practitioner's own use or for the use of a family or household member.

Section 404. Certification form.

The department shall develop a standard certification form, which shall be available to practitioners upon request. The form shall be available electronically. The form shall include a statement that a false statement made by a practitioner is punishable under the applicable provisions of 18 Pa.C.S. Ch. 49 (relating to falsification and intimidation).

Section 405. Duration.

Receipt of medical marijuana by a patient or caregiver from a dispensary may not exceed a 30-day supply of individual doses. During the last seven days of any 30-day period during the term of the identification card, a patient may obtain and possess a 30-day supply for the subsequent 30-day period. Additional 30-day supplies may be provided in accordance with this section for the duration of the authorized period of the identification card unless a shorter period is indicated on the certification.

PATIENTS

Section 501. Identification cards.

(a) Issuance.—The department may issue an identification card to a patient who has a certification approved by the department and to a caregiver designated by the patient. An identification card issued to a patient shall authorize the patient to obtain and use medical marijuana as authorized by this act. An identification card issued to a caregiver shall authorize the caregiver to obtain medical marijuana on behalf of the patient.

(b) Procedure for issuance.—The department shall develop and implement procedures for:

- (1) Review and approval of applications for identification cards.
- (2) Issuance of identification cards to patients and caregivers.
- (3) Review of the certification submitted by the practitioner and the patient.

(c) Application.—A patient or a caregiver may apply, in a form and manner prescribed by the department, for issuance or renewal of an identification card. A caregiver must submit a separate application for issuance or renewal. Each application must include:

- (1) The name, address and date of birth of the patient.
- (2) The name, address and date of birth of a caregiver.
- (3) The certification issued by the practitioner.
- (4) The name, address and telephone number of the practitioner and documentation from the practitioner that all of the requirements of section 403(a) have been met.
- (5) A \$50 processing fee. The department may waive or reduce the fee if the applicant demonstrates financial hardship.
- (6) The signature of the applicant and date signed.
- (7) Other information required by the department.

(d) Forms.—Application and renewal forms shall be available on the department's publicly accessible Internet website.

(e) Expiration.—An identification card of a patient or caregiver shall expire within one year from the date of issuance, upon the death of the patient, or as otherwise provided in this section.

(f) Separate cards to be issued.—The department shall issue separate identification cards for patients and caregivers as soon as reasonably practicable after receiving completed applications, unless it determines that an application is incomplete or factually inaccurate, in which case it shall promptly notify the applicant.

(g) (Reserved).

(h) Change in name or address.—A patient or caregiver who has been issued an identification card shall notify the department within 10 days of any change of name or address. In addition, the patient shall notify the department within 10 days if the patient no longer has the serious medical condition noted on the certification.

(i) Lost or defaced card.—In the event of a lost, stolen, destroyed or illegible identification card, the patient or caregiver shall apply to the department within 10 business days of discovery of the loss or defacement of the card for a replacement card. The application for a replacement card shall be on a form furnished by the department and accompanied by a \$25 fee.

The department may establish higher fees for issuance of second and subsequent replacement identification cards. The department may waive or reduce the fee in cases of demonstrated financial hardship. The department shall issue a replacement identification card as soon as practicable. A patient or caregiver may not obtain medical marijuana until the department issues the replacement card.

Section 502. Caregivers.

(a) Requirements.—

(1) If the patient designates a caregiver, the application shall include the name, address and date of birth of the caregiver, and other individual identifying information required by the department and the following:

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

(ii) If the caregiver has an identification card for the caregiver or another patient, the expiration date of the identification card.

(iii) Other information required by the department.

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

(3) The department may require additional information for the application.

(4) The application shall be signed and dated by the applicant.

(b) Criminal history.—A caregiver shall submit fingerprints for the purpose of obtaining criminal history record checks, and the Pennsylvania State Police or its authorized agent shall submit the fingerprints to the Federal Bureau of Investigation for the purpose of verifying the identity of the applicant and obtaining a current record of any criminal arrests and convictions. Any criminal history record information relating to a caregiver obtained under this section by the department may be interpreted and used by the department only to determine the applicant's character, fitness and suitability to serve as a caregiver under this act. The department shall also review the prescription drug monitoring program relating to the caregiver. The department shall deny the application of a caregiver who has been convicted of a criminal offense that occurred within the past five years relating to the sale or possession of drugs, narcotics or controlled substances. The department may deny an application if the applicant has a history of drug abuse or of diverting controlled substances or illegal drugs.

Section 503. Notice.

An application for an identification card shall include notice that a false statement made in the application is punishable under the applicable provisions of 18 Pa.C.S. Ch. 49 (relating to falsification and intimidation).

Section 503.1. Verification.

The department shall verify the information in a patient or caregiver's application and on any renewal form.

Section 504. Special conditions.

The following apply:

(1) If the practitioner states in the certification that, in the practitioner's professional opinion, the patient would benefit from medical

marijuana only until a specified earlier date, then the identification card shall expire on that date.

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

Section 505. (Reserved).

Section 506. Minors.

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

- (1) The patient shall have a caregiver.
- (2) A caregiver must be one of the following:
 - (i) A parent or legal guardian of the patient.
 - (ii) An individual designated by a parent or legal guardian.
 - (iii) An appropriate individual approved by the department upon a sufficient showing that no parent or legal guardian is appropriate or available.

Section 507. Caregiver authorization and limitations.

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

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

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

Section 508. Contents of identification card.

An identification card shall contain the following:

- (1) The name of the caregiver or the patient, as appropriate. The identification card shall also state whether the individual is designated as a patient or as a caregiver.
- (2) The date of issuance and expiration date.
- (3) An identification number for the patient or caregiver, as appropriate.
- (4) A photograph of the individual to whom the identification card is being issued, whether the individual is a patient or a caregiver. The method of obtaining the photograph shall be specified by the department by regulation. The department shall provide reasonable accommodation for a patient who is confined to the patient's home or is in inpatient care.
- (5) Any requirement or limitation set by the practitioner as to the form of medical marijuana.
- (6) Any other requirements determined by the department, except the department may not require that an identification card disclose the patient's serious medical condition.

Section 509. Suspension.

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

Section 510. Prohibitions.

The following prohibitions shall apply:

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

(i) Chemicals which require a permit issued by the Federal Government or a state government or an agency of the Federal Government or a state government.

(ii) High-voltage electricity or any other public utility.

(2) A patient may not perform any employment duties at heights or in confined spaces, including, but not limited to, mining while under the influence of medical marijuana.

(3) A patient may be prohibited by an employer from performing any task which the employer deems life-threatening, to either the employee or any of the employees of the employer, while under the influence of medical marijuana. The prohibition shall not be deemed an adverse employment decision even if the prohibition results in financial harm for the patient.

(4) A patient may be prohibited by an employer from performing any duty which could result in a public health or safety risk while under the influence of medical marijuana. The prohibition shall not be deemed an adverse employment decision even if the prohibition results in financial harm for the patient.

CHAPTER 6 MEDICAL MARIJUANA ORGANIZATIONS

Section 601. Medical marijuana organizations.

The following entities shall be authorized to receive a permit to operate as a medical marijuana organization to grow, process or dispense medical marijuana:

(1) Grower/processors.

(2) Dispensaries.

Section 602. Permits.

(a) Application.—An application for a grower/processor or dispensary permit to grow, process or dispense medical marijuana shall be in a form and manner prescribed by the department and shall include:

(1) Verification of all principals, operators, financial backers or employees of a medical marijuana grower/processor or dispensary.

(2) A description of responsibilities as a principal, operator, financial backer or employee.

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

(4) A criminal history record check. Medical marijuana organizations applying for a permit shall submit fingerprints of principals, financial

backers, operators and employees to the Pennsylvania State Police for the purpose of obtaining criminal history record checks and the Pennsylvania State Police or its authorized agent shall submit the fingerprints to the Federal Bureau of Investigation for the purpose of verifying the identity of the principals, financial backers, operators and employees and obtaining a current record of any criminal arrests and convictions. Any criminal history record information relating to principals, financial backers, operators and employees obtained under this section by the department may be interpreted and used by the department only to determine the principal's, financial backer's, operator's and employee's character, fitness and suitability to serve as a principal, financial backer, operator and employee under this act. This paragraph shall not apply to an owner of securities in a publicly traded corporation if the department determines that the owner of the securities is not substantially involved in the activities of the medical marijuana organization.

(5) Details relating to a similar license, permit or other authorization obtained in another jurisdiction, including any suspensions, revocations or discipline in that jurisdiction.

(6) A description of the business activities in which it intends to engage as a medical marijuana organization.

(7) A statement that the applicant:

(i) Is of good moral character. For purposes of this subparagraph, an applicant shall include each financial backer, operator, employee and principal of the medical marijuana organization.

(ii) Possesses the ability to obtain in an expeditious manner the right to use sufficient land, buildings and other premises and equipment to properly carry on the activity described in the application and any proposed location for a facility.

(iii) Is able to maintain effective security and control to prevent diversion, abuse and other illegal conduct relating to medical marijuana.

(iv) Is able to comply with all applicable Commonwealth laws and regulations relating to the activities in which it intends to engage under this act.

(8) The name, residential address and title of each financial backer and principal of the applicant. Each individual, or lawful representative of a legal entity, shall submit an affidavit with the application setting forth:

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

(ii) Whether the person or business has been convicted of a criminal offense graded higher than a summary offense or has had a permit relating to medical marijuana suspended or revoked in any administrative or judicial proceeding.

(9) Any other information the department may require.

(b) Notice.—An application shall include notice that a false statement made in the application is punishable under the applicable provisions of 18 Pa.C.S. Ch. 49 (relating to falsification and intimidation).

Section 603. Granting of permit.

(a) General rule.—The department may grant or deny a permit to a grower/processor or dispensary.

(a.1) Determination.—In making a decision under subsection (a), the department shall determine that:

(1) The applicant will maintain effective control of and prevent diversion of medical marijuana.

(2) The applicant will comply with all applicable laws of this Commonwealth.

(3) The applicant is ready, willing and able to properly carry on the activity for which a permit is sought.

(4) The applicant possesses the ability to obtain in an expeditious manner sufficient land, buildings and equipment to properly grow, process or dispense medical marijuana.

(5) It is in the public interest to grant the permit.

(6) The applicant, including the financial backer or principal, is of good moral character and has the financial fitness necessary to operate.

(7) The applicant is able to implement and maintain security, tracking, recordkeeping and surveillance systems relating to the acquisition, possession, growth, manufacture, sale, delivery, transportation, distribution or the dispensing of medical marijuana as required by the department.

(8) The applicant satisfies any other conditions as determined by the department.

(b) Nontransferability.—A permit issued under this chapter shall be nontransferable.

(c) Privilege.—The issuance or renewal of a permit shall be a revocable privilege.

(d) Regions.—The department shall establish a minimum of three regions within this Commonwealth for the purpose of granting permits to grower/processors and dispensaries and enforcing this act. The department shall approve permits for grower/processors and dispensaries in a manner which will provide an adequate amount of medical marijuana to patients and caregivers in all areas of this Commonwealth. The department shall consider the following when issuing a permit:

(1) Regional population.

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

(3) The types of serious medical conditions.

(4) Access to public transportation.

(5) Any other factor the department deems relevant.

Section 604. Notice.

When the boundaries under section 603(d) are established, the department shall publish notice of the determination in the Pennsylvania Bulletin. The department may adjust the boundaries as necessary every two years. Notice of any adjustment to the boundaries shall be published in the Pennsylvania Bulletin.

Section 605. (Reserved).**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 of the medical marijuana organization.

(2) Report to law enforcement, within 24 hours, any loss or theft of medical marijuana.

(3) Submit to announced or unannounced inspections by the department of the facilities for growing, processing, dispensing or selling medical marijuana, including all records of the organization.

(b) Additional information.—If the department is not satisfied that the applicant should be issued a permit, the department shall notify the applicant in writing of the factors for which further documentation is required. Within 30 days of the receipt of the notification, the applicant may submit additional material to the department.

Section 607. Fees and other requirements.

The following apply:

(1) For a grower/processor:

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

(ii) A fee for a permit as a grower/processor in the amount of \$200,000 shall be paid. The permit shall be valid for one year. Applicants shall submit the permit fee at the time of submission of the application. The fee shall be returned if the permit is not granted.

(iii) A renewal fee for the permit as a grower/processor in the amount of \$10,000 shall be paid and shall cover renewal for all locations. The renewal fee shall be returned if the renewal is not granted.

(iv) 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.

(v) All fees shall be paid by certified check or money order.

(vi) Before issuing an initial permit under this paragraph, the department shall verify that the applicant has at least \$2,000,000 in capital, \$500,000 of which must be on deposit with a financial institution.

(2) For a dispensary:

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

(ii) A permit fee for a dispensary shall be \$30,000 for each location. 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 dispensary in the amount of \$5,000 shall be paid. The fee shall be returned if the renewal is not granted and shall cover renewal for all locations.

(iv) 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.

(v) All fees shall be paid by certified check or money order.

(vi) Before issuing an initial permit under this paragraph, the department shall verify that the applicant has at least \$150,000 in capital, which must be on deposit with a financial institution.

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

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

Section 608. Issuance.

A permit issued by the department to a medical marijuana organization shall be effective only for that organization and shall specify the following:

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

(2) The activities of the medical marijuana organization permitted under this act.

(3) The land, buildings, facilities or location to be used by the medical marijuana organization.

(4) Any other information required by the department.

Section 609. Relocation.

The department may approve an application from a medical marijuana organization to relocate within this Commonwealth or to add or delete activities or facilities.

Section 610. Terms of permit.

A permit issued by the department shall be valid for one year from the date of issuance.

Section 611. (Reserved).

Section 612. Permit renewals.

(a) Renewal.—An application for renewal shall include the following information:

(1) Any material change in the information provided by the medical marijuana organization in a prior application or renewal of a permit.

(2) Any charge or initiated, pending or concluded investigation, during the period of the permit, by any governmental or administrative agency with respect to:

(i) any incident involving the theft, loss or possible diversion of medical marijuana grown, processed or dispensed by the applicant; and

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

(b) Approval.—The department shall renew a permit unless the department determines that:

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

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

(c) Nonrenewal decision.—The denial or nonrenewal shall specify in detail how the applicant has not satisfied the department's requirements for renewal. Within 30 days of the department's decision, the applicant may submit additional material to the department or demand a hearing, or both. If a hearing is demanded, the department shall fix a date as soon as practicable.

Section 613. Suspension or revocation.

The department may suspend or revoke a medical marijuana organization permit if:

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

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

(3) The organization has intentionally, knowingly, recklessly or negligently failed to comply with applicable laws of this Commonwealth relating to medical marijuana.

Section 614. Convictions prohibited.

The following individuals may not hold volunteer positions or positions with remuneration in or be affiliated with a medical marijuana organization, including a clinical registrant under Chapter 20, in any way if the individual has been convicted of any criminal offense related to the sale or possession of illegal drugs, narcotics or controlled substances:

(1) Financial backers.

(2) Principals.

(3) Employees.

Section 615. Diversity goals.

(a) Goals.—It is the intent and goal of the General Assembly that the department promote diversity and the participation by diverse groups in the activities authorized under this act. In order to further this goal, the department shall adopt and implement policies ensuring the following:

(1) That diverse groups are accorded equal opportunity in the permitting process.

(2) That permittees promote the participation of diverse groups in their operations by affording equal access to employment opportunities.

(b) Duties of department.—To facilitate participation by diverse groups in the activities authorized under this act, the department shall:

(1) Conduct necessary and appropriate outreach including, if necessary, consulting with other Commonwealth agencies to identify diverse groups who may qualify for participation in activities under this act.

(2) Provide sufficient and continuous notice of the participation opportunities afforded under this act by publishing notice on the department's publicly accessible Internet website.

(3) Include in the applications for permit under this act language to encourage applicants to utilize and give consideration to diverse groups for contracting or professional services opportunities.

(c) Reports.—No later than March 1, 2018, and each March 1 thereafter, the department shall submit a report to the chairperson and minority chairperson of the Public Health and Welfare Committee of the Senate and the chairperson and minority chairperson of the Health Committee of the House of Representatives summarizing the participation and utilization of diverse groups in the activities authorized under this act. The report shall include:

(1) The participation level, by percentage, of diverse groups in the activities authorized under this act.

(2) A summary of how diverse groups are utilized by permittees, including in the provision of goods or services.

(3) Any other information the department deems appropriate.

(d) Definitions.—The following words and phrases when used in this section shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

"Disadvantaged business." As defined in 74 Pa.C.S. § 303(b) (relating to diverse business participation).

"Diverse group." A disadvantaged business, minority-owned business, women-owned business, service-disabled veteran-owned small business or veteran-owned small business that has been certified by a third-party certifying organization.

"Minority-owned business." As defined in 74 Pa.C.S. § 303(b).

"Service-disabled veteran-owned small business." As defined in 51 Pa.C.S. § 9601 (relating to definitions).

"Third-party certifying organization." As defined in 74 Pa.C.S. § 303(b).

"Veteran-owned small business." As defined in 51 Pa.C.S. § 9601.

"Women-owned business." As defined in 74 Pa.C.S. § 303(b).

Section 616. Limitations on permits.

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

(1) The department may not initially issue permits to more than 25 growers/processors.

(2) The department may not initially issue permits to more than 50 dispensaries. Each dispensary may provide medical marijuana at no more than three separate locations.

(3) The department may not issue more than five individual dispensary permits to one person.

(4) The department may not issue more than one individual grower/processor permit to one person.

(5) 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.

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

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

CHAPTER 7 MEDICAL MARIJUANA CONTROLS

Section 701. Electronic tracking.

(a) Requirement.—A grower/processor or dispensary must implement an electronic inventory tracking system which shall be directly accessible to the department through its electronic database that electronically tracks all medical marijuana on a daily basis. The system shall include tracking of all of the following:

(1) For a grower/processor, a seed-to-sale tracking system that tracks the medical marijuana from seed to plant until the medical marijuana is sold to a dispensary.

(2) For a dispensary, medical marijuana from purchase from the grower/processor to sale to a patient or caregiver and that includes information that verifies the validity of an identification card presented by the patient or caregiver.

(3) For a grower/processor and a dispensary, a daily log of each day's beginning inventory, acquisitions, amounts purchased and sold, disbursements, disposals and ending inventory. The tracking system shall include prices paid and amounts collected from patients and caregivers.

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

(5) For a grower/processor and a dispensary, a system to track the plant waste resulting from the growth of medical marijuana or other disposal, including the name and address of any disposal service.

(b) Additional requirements.—In addition to the information under subsection (a), each medical marijuana organization shall track the following:

(1) Security and surveillance.

(2) Recordkeeping and record retention.

(3) The acquisition, possession, growing and processing of medical marijuana.

(4) Delivery and transportation, including amounts and method of delivery.

(5) Dispensing, including amounts, pricing and amounts collected from patients and caregivers.

(c) Access.—Information maintained in electronic tracking systems under subsection (a) shall be confidential and not subject to the act of February 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law.

(d) Reports.—Within one year of the issuance of the first permit to a grower/processor or dispensary, and every three months thereafter in a form and manner prescribed by the department, the following information shall be provided to the department, which shall compile the information and post it on the department's publicly accessible Internet website:

(1) The amount of medical marijuana sold by a grower/processor during each three-month period.

(2) The price of amounts of medical marijuana sold by grower/processors as determined by the department.

(3) The amount of medical marijuana purchased by each dispensary in this Commonwealth.

(4) The cost of amounts of medical marijuana to each dispensary in amounts as determined by the department.

(5) The total amount and dollar value of medical marijuana sold by each dispensary in the three-month period.

Section 702. Grower/processors.

(a) Authorization.—Subject to subsection (b), a grower/processor may do all of the following in accordance with department regulations:

(1) Obtain seed from outside this Commonwealth to initially grow medical marijuana.

(2) Obtain seed and plant material from another grower/processor within this Commonwealth to grow medical marijuana.

(b) Limitations.—

(1) A grower/processor may only grow, store, harvest or process medical marijuana in an indoor, enclosed, secure facility which:

(i) includes electronic locking systems, electronic surveillance and other features required by the department; and

(ii) is located within this Commonwealth.

(2) (Reserved).

Section 703. Storage and transportation.

The department shall develop regulations relating to the storage and transportation of medical marijuana among grower/processors, testing laboratories and dispensaries which ensure adequate security to guard against in-transit losses. The tracking system developed by the department shall include all transportation and storage of medical marijuana. The regulations shall provide for the following:

(1) Requirements relating to shipping containers and packaging.

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

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

(4) Obtaining copies of drivers' licenses and registrations and other information related to security and tracking.

(5) Use of GPS systems.

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

(7) Recordkeeping for delivery and receipt of medical marijuana products.

(8) Requirements to utilize any electronic tracking system required by the department.

(9) Transporting medical marijuana to a grower/processor, approved laboratory or dispensary.

Section 704. Laboratory.

A grower/processor shall contract with an independent laboratory to test the medical marijuana produced by the grower/processor. The department shall approve the laboratory and require that the laboratory report testing results in a manner as the department shall determine, including requiring a test at harvest and a test at final processing. The possession by a laboratory of medical marijuana shall be a lawful use.

Section 705. Prices.

The department and the Department of Revenue shall monitor the price of medical marijuana sold by grower/processors and by dispensaries, including a per-dose price. If the department and the Department of Revenue

determine that the prices are unreasonable or excessive, the department may implement a cap on the price of medical marijuana being sold for a period of six months. The cap may be amended during the six-month period. If the department and the Department of Revenue determine that the prices become unreasonable or excessive following the expiration of a six-month cap, additional caps may be imposed for periods not to exceed six months.

CHAPTER 8 DISPENSARIES

Section 801. Dispensing to patients and caregivers.

(a) General rule.—A dispensary that has been issued a permit under Chapter 6 may lawfully dispense medical marijuana to a patient or caregiver upon presentation to the dispensary of a valid identification card for that patient or caregiver. The dispensary shall provide to the patient or caregiver a receipt, as appropriate. The receipt shall include all of the following:

- (1) The name, address and any identification number assigned to the dispensary by the department.
- (2) The name and address of the patient and caregiver.
- (3) The date the medical marijuana was dispensed.
- (4) Any requirement or limitation by the practitioner as to the form of medical marijuana for the patient.
- (5) The form and the quantity of medical marijuana dispensed.

(b) Requirements.—A dispensary shall have a physician or a pharmacist onsite at all times during the hours the dispensary is open to receive patients and caregivers. If a dispensary has more than one separate location, a physician assistant or a certified registered nurse practitioner may be onsite at each of the other locations in lieu of the physician or pharmacist. A physician, a pharmacist, a physician assistant or a certified registered nurse practitioner shall, prior to assuming duties under this paragraph, successfully complete the course established in section 301(a)(6). A physician may not issue a certification to authorize patients to receive medical marijuana or otherwise treat patients at the dispensary.

(c) Filing with department.—Prior to dispensing medical marijuana to a patient or caregiver, the dispensary shall file the receipt information with the department utilizing the electronic tracking system. When filing receipts under this subsection, the dispensary shall dispose of any electronically recorded certification information as provided by regulation.

(d) Limitations.—No dispensary may dispense to a patient or caregiver:

- (1) a quantity of medical marijuana greater than that which the patient or caregiver is permitted to possess under the certification; or
- (2) a form of medical marijuana prohibited by this act.

(e) Supply.—When dispensing medical marijuana to a patient or caregiver, the dispensary may not dispense an amount greater than a 30-day supply until the patient has exhausted all but a seven-day supply provided pursuant to a previously issued certification until additional certification is presented under section 405.

(f) Verification.—Prior to dispensing medical marijuana to a patient or caregiver, the dispensary shall verify the information in subsections (e) and (g) by consulting the electronic tracking system included in the department's

electronic database established under section 301(a)(4)(v) and the dispensary tracking system under section 701(a)(2).

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

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

(1) Lawful methods for administering medical marijuana in individual doses.

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

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

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

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

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

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

(2) The packaging date.

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

(4) A warning stating:

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

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

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

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

(8) Any other information required by the department.

Section 802. Facility requirements.

(a) General rule.—

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

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

(3) A dispensary may not be located within 1,000 feet of the property line of a public, private or parochial school or a day-care center.

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

(5) A dispensary may sell services approved by the department related to the use of medical marijuana.

(b) Adjustment or waiver of prohibition.—The department may amend a prohibition under subsection (a)(3) if it is shown by clear and convincing evidence that the amendment is necessary to provide adequate access to patients. An amendment may include additional security, physical plant of a facility or other conditions necessary to protect children.

Section 803. Posting.

A dispensary shall post a copy of its permit in a location within its facility in a manner that is easily observable by patients, caregivers, law enforcement officers and agents of the department.

CHAPTER 9 TAX ON MEDICAL MARIJUANA

Section 901. Tax on medical marijuana.

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

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

(c) (Reserved).

(d) Deposit of proceeds.—All money received from the tax imposed under subsection (a) shall be deposited into the fund.

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

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

Section 902. Medical Marijuana Program Fund.

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

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

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

(1) To the department, 55% of the revenue in the fund. Forty percent of the revenue in the fund shall be expended for operations of the department, including outreach efforts and other projects, as required by this act. Fifteen percent of the amount in the fund shall be used by the department to establish the following:

(i) a program to assist patients with the cost of providing medical marijuana to patients who demonstrate financial hardship or need under this act, and the department shall develop guidelines and procedures to ensure maximum availability to individuals with financial need;

(ii) a program to assist patients and caregivers with the cost associated with the waiver or reduction of fees for identification cards under sections 501(c)(5) and 502(a)(2); and

(iii) a program to reimburse caregivers for the cost of providing background checks for caregivers.

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

(3) To the department, for further research related to the use of medical marijuana, including the research program established under Chapter 19, 30% of the revenue in the fund. Funding shall be provided for research into the treatment of those serious medical conditions for which medical marijuana is available for treatment within this Commonwealth and for research into the use of medical marijuana to treat other medical conditions for which medical marijuana may have legitimate medicinal value. Money shall be used to subsidize the cost of, or provide, medical marijuana to patients participating in the program. However, money in the fund may not be expended on activity under Chapter 20.

(4) To the Pennsylvania Commission on Crime and Delinquency, for distribution to local police departments which demonstrate a need relating to the enforcement of this act, 5% of the revenue in the fund.

(d) Repayment of initial funding.—The department shall repay from the fees, taxes and investment earnings of the fund to the General Fund any money appropriated for the initial planning, organization and administration by the department with respect to the establishment of the program at the time of the original enactment of this act. Repayment shall take place within a 10-year period commencing one year after the date of publication in the Pennsylvania Bulletin of the final regulations.

CHAPTER 11 ADMINISTRATION

Section 1101. Governing practice and procedure.

The provisions of 2 Pa.C.S. (relating to administrative law and procedure) shall apply to all actions of the department under this act constituting an adjudication as defined in 2 Pa.C.S. § 101 (relating to definitions).

Section 1102. Reports by medical marijuana organizations.

A medical marijuana organization shall periodically file reports related to its activities. The department shall determine the information required in and the frequency of filing the reports.

Section 1103. Law enforcement notification.

Notwithstanding any provision of this act or any other law to the contrary, the department may notify any appropriate law enforcement agency of information relating to any violation or suspected violation of this act. In addition, the department shall verify to law enforcement personnel in an appropriate case whether a certification, permit, registration or an identification card is valid, including release of the name of the patient.

Section 1104. Evaluation.

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

Section 1105. Report.

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

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

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

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

Section 1106. (Reserved).

Section 1107. Temporary regulations.

(a) Promulgation.—In order to facilitate the prompt implementation of this act, the department may promulgate temporary regulations that shall expire not later than two years following the publication of the temporary regulation. The department may promulgate temporary regulations not subject to:

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

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

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

(b) Expiration.—The department's authority to adopt temporary regulations under subsection (a) shall expire two years after the effective date of this section. Regulations adopted after this period shall be promulgated as provided by law.

(c) Publication.—The department shall begin publishing temporary regulations in the Pennsylvania Bulletin no later than six months after the effective date of this section.

CHAPTER 12 MEDICAL MARIJUANA ADVISORY BOARD

Section 1201. Advisory board.

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

(1) The secretary or a designee.

(2) The Commissioner of the Pennsylvania State Police or a designee.

(3) The chairman of the State Board of Pharmacy or a designee.

(4) The Commissioner of Professional and Occupational Affairs or a designee.

(5) The Physician General or a designee.

(6) The president of the Pennsylvania Chiefs of Police Association or a designee.

(7) The president of the Pennsylvania District Attorneys Association or a designee.

(8) One member to be appointed by each of the following, which members shall be knowledgeable and experienced in issues relating to care and treatment of individuals with a serious medical condition, geriatric or pediatric medicine or clinical research:

(i) The Governor.

(ii) The President pro tempore of the Senate.

(iii) The Majority Leader of the Senate.

(iv) The Minority Leader of the Senate.

(v) The Speaker of the House of Representatives.

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

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

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

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

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

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

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

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

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

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

(i) Expenses.—A member appointed under subsection (a)(8) or (9) shall receive the amount of reasonable travel, hotel and other necessary expenses incurred in the performance of the duties of the member in accordance with Commonwealth regulations, but shall receive no other compensation for the member's service on the board.

(j) Duties.—The advisory board shall have the following duties:

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

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

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

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

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

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

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

(iii) Whether to change the form of medical marijuana permitted under this act.

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

(v) How to ensure affordable patient access to medical marijuana.

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

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

Section 1202. Regulations based on recommendations of advisory board.

After receiving the report of the advisory board under section 1201(j)(4), at the discretion of the secretary, the department may promulgate regulations to effectuate recommendations made by the advisory board. The secretary shall issue notice in the Pennsylvania Bulletin within 12 months of the receipt of the report of the advisory board. The notice shall include the recommendations of the advisory board and shall state the specific reasons for the decision of the secretary on whether or not to effectuate each recommendation.

CHAPTER 13 OFFENSES RELATED TO MEDICAL MARIJUANA

Section 1301. Criminal diversion of medical marijuana by practitioners.

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

Section 1302. Criminal diversion of medical marijuana.

In addition to any other penalty provided by law, an employee, financial backer, operator or principal of any of the following commits a misdemeanor of the first degree if the person intentionally, knowingly or recklessly sells, dispenses, trades, delivers or otherwise provides medical marijuana to a person who is not lawfully permitted to receive medical marijuana:

(1) A medical marijuana organization.

(2) A health care medical marijuana organization or university participating in a research study under Chapter 19.

(3) A clinical registrant or academic clinical research center under Chapter 20.

(4) A laboratory utilized to test medical marijuana under section 704.

Section 1303. Criminal retention of medical marijuana.

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

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

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

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

Section 1305. Falsification of identification cards.

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

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

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

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

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

Section 1306. Adulteration of medical marijuana.

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

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

Section 1307. Disclosure of information prohibited.

(a) Offense defined.—In addition to any other penalty provided by law, an employee, financial backer, operator or principal of any of the following commits a misdemeanor of the third degree if the person discloses, except to authorized persons for official governmental or health care purposes, any information related to the use of medical marijuana:

(1) A medical marijuana organization.

(2) A health care medical marijuana organization or university participating in a research study under Chapter 19.

(3) A clinical registrant or academic clinical research center under Chapter 20.

(4) An employee of the department.

(b) Exception.—Subsection (a) shall not apply where disclosure is permitted or required by law or by court order.

Section 1308. Additional penalties.

(a) Criminal penalties.—In addition to any other penalty provided by law, a practitioner, caregiver, patient, employee, financial backer, operator or principal of any medical marijuana organization, health care medical organization or university participating in a research study under Chapter 19, and an employee, financial backer, operator or principal of a clinical registrant or academic clinical research center under Chapter 20, who violates any of the provisions of this act, other than those specified in section 1301, 1302, 1303, 1304, 1305, 1306 or 1307, or any regulation promulgated under this act:

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

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

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

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

(i) The gravity of the violation.

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

(iii) The willfulness of the violation.

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

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

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

(3) A person who aids, abets, counsels, induces, procures or causes another person to violate this act, a regulation promulgated under this act or an order issued under this act or regulation shall be subject to the civil penalties provided under this subsection.

(c) Sanctions.—

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

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

(ii) Revoke or suspend the permit of a person for conduct or activity or the occurrence of an event that would have disqualified the person from receiving the permit.

(iii) Revoke or suspend the registration of a practitioner for a violation of this act or a regulation promulgated or an order issued under this act or for conduct or activity which would have disqualified the practitioner from receiving a registration.

(iv) Suspend a permit or registration of a person pending the outcome of a hearing in a case in which the permit or registration could be revoked.

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

(vi) Issue a cease and desist order.

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

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

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

Section 1309. Other restrictions.

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

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

(2) Possessing or using medical marijuana in a State or county correctional facility, including a facility owned or operated or under contract with the Department of Corrections or the county which houses inmates serving a portion of their sentences on parole or other community correction program. Nothing in this paragraph shall be construed to apply to employees of the facilities set forth in this paragraph. The Department of Corrections shall adopt a written policy no later than 18 months from the effective date of this section regarding the possession and use of medical marijuana by employees in State correctional facilities. The governing authority of a county may adopt a resolution no later than 18 months from the effective date of this section regarding the possession and use of medical marijuana by employees in a county correctional facility.

(3) Possessing or using medical marijuana in a youth detention center or other facility which houses children adjudicated delinquent, including the separate, secure State-owned facility or unit utilized for sexually

violent delinquent children under 42 Pa.C.S. § 6404 (relating to duration of inpatient commitment and review). As used in this paragraph, the term "sexually violent delinquent children" shall have the meaning given to it in 42 Pa.C.S. § 6402 (relating to definitions). Nothing in this paragraph shall be construed to apply to employees of the facilities set forth in this paragraph.

CHAPTER 19 RESEARCH PROGRAM

Section 1901. 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:

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

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

Section 1902. Establishment of medical marijuana research program.

(a) Program to be established.—The department shall establish and develop a research program to study the impact of medical marijuana on the treatment and symptom management of serious medical conditions. The program shall not include a clinical registrant or academic clinical research center under Chapter 20.

(b) Department duties.—The department shall:

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

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

(3) When the database contains 25 or more patients with the same serious medical condition, petition the United States Food and Drug Administration and the United States Drug Enforcement Administration for approval to study the condition and the impact of medical marijuana on the condition.

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

(5) Upon approval of a research study by the United States Food and Drug Administration and the United States Drug Enforcement Administration, select a vertically integrated health system or systems to

conduct the research study and designate the form or forms of medical marijuana which will be used to treat the serious medical condition.

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

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

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

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

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

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

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

Section 1903. Medical marijuana research program administration.

(a) General rule.—The department shall establish a research study for each serious medical condition. The department shall engage universities within this Commonwealth to participate in the collection, collation, analysis and conclusive findings of the research studies. The department shall, by regulation, establish the procedure to be used by health care medical marijuana organizations with respect to:

(1) Real time inventory tracking.

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

(3) Recall of defective medical marijuana.

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

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

(2) The serious medical condition to be studied.

(c) Research reports.—

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

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

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

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

Section 1904. Approval.

A vertically integrated health system located in this Commonwealth may petition the department to participate in a research study to study a serious medical condition under section 1903. Approval of the vertically integrated health system as a health care medical marijuana organization by the department shall authorize access within a region under section 603(d) to medical marijuana for all patients included in an approved research study.

Section 1905. Requirements.

(a) Dispensing.—A health care medical marijuana organization that dispenses medical marijuana shall:

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

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

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

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

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

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

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

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

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

(3) Keep a daily log of medical marijuana intended for ultimate use by patients participating in a research study.

Section 1906. Restrictions.

A health care medical marijuana organization may not participate in a research study of any kind, including the program established under this chapter, or dispense or grow and process medical marijuana if it has violated its licensure requirements under the act of July 19, 1979 (P.L.130, No.48), known as the Health Care Facilities Act.

Section 1907. Regulations.

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

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

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

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

(4) A system to recall defective medical marijuana.

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

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

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

Section 1908. Nonentitlement.

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

CHAPTER 20 ACADEMIC CLINICAL RESEARCH CENTERS

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:

"Academic clinical research center." An accredited medical school within this Commonwealth that operates or partners with an acute care hospital licensed within this Commonwealth.

"Clinical registrant." An entity that:

(1) holds a permit as both a grower/processor and a dispensary; and

(2) has a contractual relationship with an academic clinical research center under which the academic clinical research center or its affiliate provides advice to the entity, regarding, among other areas, patient health and safety, medical applications and dispensing and management of controlled substances.

Section 2002. Clinical registrants.

Notwithstanding the limitations in section 616, the department may register up to eight clinical registrants. Each entity may provide medical marijuana at not more than six separate locations. The total number of locations authorized to dispense medical marijuana under this section shall not exceed 48. The following apply with respect to this category of clinical registrant:

(1) A clinical registrant must pay the fees and meet all other requirements under this act for obtaining a permit as a grower/processor and a dispensary, except as provided under section 607(1)(vi) and (2)(vi).

(2) The clinical registrant must have a minimum of \$15,000,000 in capital. The department shall verify the capital requirement.

(3) The clinical registrant must comply with all other requirements of this act regarding growing, processing and dispensing medical marijuana.

Section 2003. Research study.

Notwithstanding any provision of this act to the contrary, the department may, upon application, approve the dispensing of medical marijuana by a clinical registrant to the academic clinical research center for the purpose of conducting a research study. The department shall develop the application and standards for approval of such dispensing by the clinical registrant. The following apply to the research study:

(1) The clinical registrant shall disclose the following information to the department in its application:

(i) The reason for the research project, including the reason for the trial.

(ii) The strain of medical marijuana to be used and the strength of the medical marijuana to be used in the research study.

(iii) The anticipated duration of the study.

(iv) Evidence of approval of the trial by an accredited institutional review board, including any other required regulatory approvals.

(v) Other information required by the department, except that the department may not require disclosure of any information that would infringe upon the academic clinical research center's exclusive right to intellectual property or legal obligations for patient confidentiality.

(2) The academic clinical research center shall provide its findings to the department within 365 days of the conclusion of the research study or within 365 days of publication of the results of the research study in a peer-reviewed medical journal, whichever is later.

(3) The department shall allow the exchange of medical marijuana seed between clinical registrants for the conduct of research.

Section 2101. Conflict.

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

Section 2101.1. Financial and employment interests.

(a) **Financial interests.**—Except as may be provided for the judiciary by rule or order of the Pennsylvania Supreme Court, an executive-level public employee, public official or party officer, or an immediate family member thereof, shall not intentionally or knowingly hold a financial interest in a medical marijuana organization or in a holding company, affiliate, intermediary or subsidiary thereof, while the individual is an executive-level public employee, public official or party officer and for one year following termination of the individual's status as an executive-level public employee, public official or party officer.

(b) **Employment.**—Except as may be provided by rule or order of the Pennsylvania Supreme Court, no executive-level public employee, public official or party officer, or an immediate family member thereof, shall be employed by a medical marijuana organization or by any holding company, affiliate, intermediary or subsidiary thereof, while the individual is an executive-level public employee, public official or party officer and for one year following termination of the individual's status as an executive-level public employee, public official or party officer.

(c) **Grading.**—An individual who violates this section commits a misdemeanor and shall, upon conviction, be sentenced to pay a fine of not more than \$1,000 or to imprisonment for not more than one year, or both.

(d) **State Ethics Commission.**—The State Ethics Commission shall do all of the following:

(1) Issue a written determination of whether a person is subject to subsection (a) or (b) upon the written request of the person or any other person that may have liability for an action taken with respect to such person. A person that relies in good faith on a determination made under this paragraph shall not be subject to any penalty for an action taken, provided that all material facts set forth in the request for the determination are correct.

(2) Publish a list of all State, county, municipal and other government positions that meet the definitions of "public official" or "executive-level public employee" as defined under 4 Pa.C.S. § 1512(b) (relating to financial and employment interests). The Office of Administration shall assist the State Ethics Commission in the development of the list, which shall be published by the State Ethics Commission in the Pennsylvania Bulletin biennially and posted by the department on the department's Internet website. Upon request, each public official shall have a duty to provide the State Ethics Commission with adequate information to accurately develop and maintain the list. The State Ethics Commission may impose a civil penalty under 65 Pa.C.S. § 1109(f) (relating to

penalties) upon any individual, including any public official or executive-level public employee, who fails to cooperate with the State Ethics Commission under this subsection. A person that relies in good faith on the list published by the State Ethics Commission shall not be subject to any penalty for a violation of this section.

(e) Definitions.—As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

"Financial interest." As defined in 4 Pa.C.S. § 1512(b).

"Immediate family." As defined in 4 Pa.C.S. § 1512(b).

"Party officer." As defined in 4 Pa.C.S. § 1512(b).

"Public official." The term shall include the following:

(1) The Governor, Lieutenant Governor, a member of the Governor's cabinet, Treasurer, Auditor General and Attorney General of the Commonwealth.

(2) A member of the Senate or House of Representatives of the Commonwealth.

(3) An individual elected or appointed to any office of a county or municipality that directly receives a distribution of revenue from the fund.

(4) An individual elected or appointed to a department, agency, board, commission, authority or other governmental body not included in paragraph (1), (2) or (3) that directly receives a distribution of revenue from the fund.

(5) An individual elected or appointed to a department, agency, board, commission, authority, county, municipality or other governmental body not included in paragraph (1), (2) or (3) with discretionary power which may influence or affect the outcome of an action or decision and who is involved in the development of regulation or policy relating to a medical marijuana organization or who is involved in other matters under this act.

The term does not include a member of a school board or an individual who held an uncompensated office with a governmental body prior to January 1, 2017, and who no longer holds the office as of January 1, 2017.

Section 2102. Insurers.

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

Section 2103. Protections for patients and caregivers.

(a) Licensure.—None of the following shall be subject to arrest, prosecution or penalty in any manner, or denied any right or privilege, including civil penalty or disciplinary action by a Commonwealth licensing board or commission, solely for lawful use of medical marijuana or manufacture or sale or dispensing of medical marijuana, or for any other action taken in accordance with this act:

(1) A patient.

(2) A caregiver.

(3) A practitioner.

(4) A medical marijuana organization.

(5) A health care medical marijuana organization or university participating in a research study under Chapter 19.

(6) A clinical registrant or academic clinical research center under Chapter 20.

(7) An employee, principal or financial backer of a medical marijuana organization.

(8) An employee of a health care medical marijuana organization or an employee of a university participating in a research study under Chapter 19.

(9) An employee of a clinical registrant or an employee of an academic clinical research center under Chapter 20.

(10) A pharmacist, physician assistant or certified registered nurse practitioner under section 801(b).

(b) Employment.—

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

(2) Nothing in this act shall require an employer to make any accommodation of the use of medical marijuana on the property or premises of any place of employment. This act shall in no way limit an employer's ability to discipline an employee for being under the influence of medical marijuana in the workplace or for working while under the influence of medical marijuana when the employee's conduct falls below the standard of care normally accepted for that position.

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

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

Section 2104. Schools.

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

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

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

Section 2105. Day-care centers.

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

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

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

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

Section 2106. Medical marijuana from other states.

(a) General rule.—It is not a violation of this act or the act of April 14, 1972 (P.L.233, No.64), known as The Controlled Substance, Drug, Device and Cosmetic Act, if a parent or guardian of a minor under 18 years of age lawfully obtains medical marijuana from another state, territory of the United States or any other country to be administered to the minor.

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

Section 2107. Zoning.

The following apply:

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

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

Section 2108. Notice.

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

Section 2109. Applicability.

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

(b) Issuance.—The issuance of permits and other authorizations shall begin upon publication of a notice by the department in the Pennsylvania Bulletin that adequate temporary or permanent regulations have been adopted to initiate the program under this act.

Section 2110. Effective date.

This act shall take effect in 30 days.

APPROVED—The 17th day of April, A.D. 2016

TOM WOLF