

LEGISLATIVE REFERENCE BUREAU

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No. _____

Legislative Reference Bureau

An Act amending Titles 35 (Health and Safety) and 75 (Vehicles) of the Pennsylvania Consolidated Statutes, providing for adult use cannabis and for medical marijuana, providing for lawful use and authority, for personal use of cannabis, establishing the Cannabis Regulatory Control Board, providing for regulation of cannabis business establishment, for advertising, marketing, packaging and labeling, for taxes and for cannabis clean slate; and, in driving after imbibing alcohol or utilizing drugs, further providing for driving under influence of alcohol or controlled substance and for authorized use not a defense.

INTRODUCED _____

By Laughlin, Daniel District NO. _____

By _____ District NO. _____

By _____ District NO. _____

By _____ District NO. _____

See next page for additional co-sponsors.

Prior Session _____

Referred to Committee on

Date _____

Reported _____

As Committed-Amended

Recommendation

By Hon. _____

AN ACT

1 Amending Titles 35 (Health and Safety) and 75 (Vehicles) of the
 2 Pennsylvania Consolidated Statutes, providing for adult use
 3 cannabis, for medical marijuana, for lawful use and authority
 4 and for personal use of cannabis, establishing the Cannabis
 5 Regulatory Control Board, providing for regulation of
 6 cannabis business establishment, for advertising, marketing,
 7 packaging and labeling, for taxes and for cannabis clean
 8 slate; and, in driving after imbibing alcohol or utilizing
 9 drugs, further providing for driving under influence of
 10 alcohol or controlled substance and for authorized use not a
 11 defense.

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

14 Section 1. Title 35 of the Pennsylvania Consolidated
 15 Statutes is amended by adding a part to read:

PART VII

CANNABIS

Chapter

92. Adult Use

94. Medical Marijuana

CHAPTER 92

ADULT USE

- 1 Subchapter
- 2 A. Preliminary Provisions
- 3 B. Lawful Use and Authority
- 4 C. Personal Use of Cannabis
- 5 D. Cannabis Regulatory Control Board
- 6 E. Social and Economic Equity
- 7 F. Regulation of Cannabis Business Establishment
- 8 G. Enforcement and Immunities
- 9 H. Laboratory Testing
- 10 I. Advertising, Marketing, Packaging and Labeling
- 11 J. General Provisions
- 12 K. Taxes
- 13 L. Cannabis Clean Slate
- 14 M. Miscellaneous Provisions

15 SUBCHAPTER A

16 PRELIMINARY PROVISIONS

17 Sec.

18 9201. Scope of chapter.

19 9202. Definitions.

20 § 9201. Scope of chapter.

21 This chapter relates to the adult use of marijuana in this
22 Commonwealth.

23 § 9202. Definitions.

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

27 "Adult use cultivation center." A facility operated by an
28 organization or business that is permitted by the board to
29 cultivate, process, transport and perform other necessary
30 activities to provide cannabis and cannabis-infused products to

1 cannabis business establishments.

2 "Adult use cultivation center permit." A permit issued by
3 the board that permits an entity to act as a cultivation and
4 processing center under this chapter or any regulation
5 promulgated in accordance with this chapter and may also offer
6 home delivery services where cannabis and cannabis-infused
7 products, with board approval, are delivered directly to a
8 customer or patient.

9 "Adult use dispensary." A dispensary licensed under this
10 chapter.

11 "Adult use dispensing organization." A facility operated by
12 an organization or business that is permitted by the board to
13 acquire cannabis from a cultivation center or other dispensary
14 for the purpose of selling or dispensing cannabis, cannabis
15 concentrates, cannabis-infused products, cannabis seeds,
16 paraphernalia or related supplies under this chapter to
17 purchasers or to qualified registered medical cannabis patients
18 and caregivers. The term includes a registered dispensary as
19 defined under Chapter 94 (relating to medical marijuana) that
20 has obtained an adult use dispensing organization permit.

21 "Adult use dispensing organization permit." A permit issued
22 by the board that permits a person to act as an adult use
23 dispensing organization under this chapter or any regulation
24 promulgated in accordance with this chapter.

25 "Advertise." To engage in promotional activities, including
26 newspaper, radio, Internet and electronic media and television
27 advertising. The term includes the distribution of fliers and
28 circulars, billboard advertising and the display of window
29 signs. The term does not include exterior signage displaying
30 only the name of the permitted cannabis business establishment.

1 "Agent." A principal officer, board member, employee or
2 other agent of a cannabis business establishment who is 21 years
3 of age or older.

4 "Applicant." An individual or entity applying for a permit
5 under this chapter.

6 "Appointing power." A person holding one of the five
7 positions entitled to appoint a board member.

8 "Board." The Cannabis Regulatory Control Board established
9 under Subchapter D (relating to Cannabis Regulatory Control
10 Board).

11 "Cannabis." Marijuana, hashish and other substances that are
12 identified as including any parts of the plant Cannabis sativa
13 and including derivatives or subspecies, such as indica, of all
14 strains of cannabis, whether growing or not, including the
15 seeds, resin extracted from any part of the plant and any
16 compound, manufacture, salt, derivative, mixture or preparation
17 of the plant. The term includes tetrahydrocannabinol (THC) and
18 all other naturally produced cannabinol derivatives, whether
19 produced directly or indirectly by extraction, including any
20 structural, optical or geometric isomers of
21 tetrahydrocannabinol, cannabis flower, concentrate and cannabis-
22 infused products. The term does not include the mature stalks of
23 the plant, fiber produced from the stalks, oil or cake made from
24 the seeds of the plant, any other compound, manufacture, salt,
25 derivative, mixture or preparation of the mature stalks, the
26 sterilized seed of the plant that is incapable of germination or
27 industrial hemp as defined in 3 Pa.C.S. § 702 (relating to
28 definitions).

29 "Cannabis Business Development Fund." The fund established
30 under section 9227 (relating to Cannabis Business Development

1 Fund).

2 "Cannabis business establishment." An individual or entity
3 holding a permit issued by the board to cultivate, process,
4 dispense, infuse or transport cannabis, including adult use
5 dispensing organizations, adult use cultivation centers and
6 social and economic equity dispensing organization charter
7 permit holders.

8 "Cannabis business establishment agent identification card."
9 An identification card held by an authorized agent of an adult
10 use dispensing organization, a social and economic equity
11 dispensing organization charter permit holder, a micro
12 cultivation center or an adult use cultivation center.

13 "Cannabis concentrate." A product derived from cannabis that
14 is produced by extracting cannabinoids, including
15 tetrahydrocannabinol (THC), from the plant through the use of
16 propylene glycol, glycerin, butter, olive oil or other typical
17 cooking fats, water, ice, dry ice, butane, propane, CO2, ethanol
18 or isopropanol with the intended use of smoking, vaping or
19 making a cannabis-infused product. The term includes a product
20 derived from cannabis that is produced by means of heat and
21 pressure or mechanical separations.

22 "Cannabis container." A sealed, resealable, child-resistant
23 and traceable container or package used for the purpose of
24 containment of cannabis, cannabis concentrate or a cannabis-
25 infused product during transportation.

26 "Cannabis flower." Marijuana, hashish and other substances
27 identified as including any parts of the plant Cannabis sativa
28 and including derivatives or subspecies, such as indica, of all
29 strains of cannabis, including raw kief, leaves and buds. The
30 term does not include resin that has been extracted from any

1 part of the plant or any compound, manufacture, salt,
2 derivative, mixture or preparation of the plant, the plant's
3 seeds or resin.

4 "Cannabis-infused product." A beverage, food, oil, ointment,
5 tincture, topical formulation or another product containing
6 cannabis or cannabis concentrate that is not intended to be
7 smoked or otherwise inhaled. The term includes edibles.

8 "Cannabis paraphernalia." Equipment, products or materials
9 intended to be used for planting, propagating, cultivating,
10 growing, harvesting, manufacturing, producing, processing,
11 preparing, testing, analyzing, packaging, repackaging, storing,
12 containing, concealing, ingesting or otherwise introducing
13 cannabis into the human body.

14 "Cannabis plant monitoring system" or "plant monitoring
15 system." A system that includes testing and data collection
16 established and maintained by the cultivation center or craft
17 grower and that is available to the Department of Revenue, the
18 board and the Pennsylvania State Police for the purposes of
19 documenting each cannabis plant and monitoring plant development
20 throughout the life cycle of a cannabis plant cultivated for the
21 intended use by a customer from seed planting to final
22 packaging.

23 "Cannabis Regulation Fund." The fund established under
24 section 9287 (relating to Cannabis Regulation Fund and
25 distribution of taxes).

26 "Cannabis testing facility." An entity registered by the
27 board to test cannabis for potency and contaminants.

28 "Charter agent identification card." A document issued by
29 the social and economic equity dispensing charter permittee that
30 identifies an individual as a social and economic equity

1 dispensing charter agent.

2 "Charter agreement." An agreement between a social and
3 economic equity applicant and an adult use dispensing
4 organization in which the adult use dispensing organization
5 agrees to provide financial, mentorship, training, operational
6 and other support to the social and economic equity applicant.

7 "Clone." A plant section from a female cannabis plant not
8 yet rootbound, growing in a water solution or other propagation
9 matrix, that can develop into a new plant.

10 "Controlled substance." The term shall not include cannabis
11 or cannabis products as defined in this chapter or Chapter 94.

12 "Cultivation center agent." A principal officer, board
13 member, employee or other agent of a cultivation center who is
14 21 years of age or older.

15 "Cultivation center agent identification card." A document
16 authorized by the board that identifies a person as a
17 cultivation center agent.

18 "Curbside." The transfer or dispensing of cannabis or a
19 cannabis product by an employee of a cannabis business
20 establishment to a vehicle located in the parking area or to an
21 individual at the entrance of the facility.

22 "Dispensary." A facility operated by an adult use dispensing
23 organization under this chapter.

24 "Dispensing organization agent." A principal officer,
25 employee or agent of an adult use dispensing organization who is
26 21 years of age or older.

27 "Dispensing organization agent identification card." A
28 document authorized by the board that identifies a person as an
29 adult use dispensing organization agent.

30 "Disproportionately impacted area." A census tract that

1 satisfies criteria as determined by the board and that meets at
2 least one of the following criteria:

3 (1) the area has a poverty rate of at least 20%
4 according to the latest Federal decennial census;

5 (2) 75% or more of the children in the area participate
6 in the Federal free lunch program according to reported
7 statistics from the State Board of Education;

8 (3) at least 20% of the households in the area receive
9 assistance under the Supplemental Nutrition Assistance
10 Program; or

11 (4) the area has an average unemployment rate, as
12 determined by the Department of Labor and Industry, that is
13 more than 120% of the national unemployment average, as
14 determined by the United States Department of Labor, for a
15 period of at least 12 consecutive calendar months preceding
16 the date of the application and has high rates of arrest,
17 conviction and incarceration related to the sale, possession,
18 use, cultivation, manufacture or transport of cannabis.

19 "Edibles." Includes a cannabis-infused product intended for
20 human consumption by oral ingestion, in whole or part, including
21 products dissolved in the mouth.

22 "Enclosed locked facility." A room, greenhouse, building or
23 other enclosed area equipped with locks or other security
24 devices that permit access only to cannabis business
25 establishment agents working for the permitted cannabis business
26 establishment or acting under this chapter to cultivate,
27 process, store or distribute cannabis.

28 "Enclosed locked space." Space within a facility, building
29 or other enclosed area equipped with locks or other security
30 devices that permit access only to authorized individuals under

1 this chapter.

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

6 "Flowering stage." The stage of cultivation where and when a
7 cannabis plant is cultivated to produce plant material for a
8 cannabis product. The term includes mature plants as follows:

9 (1) if more than two stigmas are visible at each
10 internode of the plant; or

11 (2) if the cannabis plant is in an area that has been
12 intentionally deprived of light for a period of time intended
13 to produce flower buds and induce maturation, from the moment
14 the light deprivation began through the remainder of the
15 cannabis plant growth cycle.

16 "Individual." A natural person.

17 "Limited access area." A room or other area under the
18 control of an adult use dispensing organization where cannabis
19 sales occur with access limited to individuals who are 21 years
20 of age or older, purchasers, adult use dispensing organization
21 owners, other dispensing organization agents, service
22 professionals conducting business with the dispensing
23 organization, registered patients and caregivers or other
24 individuals as provided by rule.

25 "Medical marijuana dispensary permit." The term shall have
26 the same meaning as "permit" under section 9403 (relating to
27 definitions).

28 "Medical marijuana grower/processor." The term shall have
29 the same meaning as "grower/processor" under section 9403.

30 "Medical marijuana organization." As defined under section

1 9403.

2 "Member of an impacted family." An individual who has a
3 parent, legal guardian, child, spouse or dependent or was a
4 dependent of an individual who, prior to the effective date of
5 this chapter, was arrested for, convicted of or adjudicated
6 delinquent for any offense that is eligible for expungement
7 under this chapter.

8 "Micro cultivation center." A facility operated by an
9 individual or entity that is permitted to cultivate, dry, cure
10 and package cannabis and perform other necessary activities to
11 make cannabis available for sale at an adult use dispensing
12 organization.

13 "Micro cultivation center agent." A principal officer, board
14 member, employee or other agent of a craft grower who is 21
15 years of age or older.

16 "Micro cultivation center permit." An authorization issued
17 by the board to an individual or entity to conduct activities of
18 a micro cultivation center under this chapter.

19 "Minority-owned business." As defined in 74 Pa.C.S. § 303(b)
20 (relating to diverse business participation).

21 "Mother plant." A cannabis plant that is cultivated or
22 maintained for the purpose of generating clones and that will
23 not be used to produce plant material for sale to a cannabis
24 business establishment.

25 "Ordinary public view." Within the sight line with normal
26 visual range of a person, unassisted by visual aids, from a
27 public street or sidewalk adjacent to real property or from
28 within an adjacent property.

29 "Ownership and control." Ownership of at least 51% of the
30 business, including corporate stock if a corporation, and

1 control over the management and day-to-day operations of the
2 business and an interest in the capital, assets, profits and
3 losses of the business proportionate to percentage of ownership.

4 "Patient." As defined in section 9403.

5 "Permit." An authorization issued by the board to a cannabis
6 business establishment to conduct activities under this chapter.

7 "Permittee." An individual or entity granted a permit under
8 this chapter.

9 "Person." An individual, firm, partnership, association,
10 joint stock company, joint venture, public or private
11 corporation, limited liability company or a receiver, executor,
12 trustee, guardian or other representative appointed by order of
13 any court.

14 "Possession limit." The amount of cannabis that may be
15 possessed at any one time by an individual 21 years of age or
16 older or who is a registered patient or caregiver under Chapter
17 94.

18 "Primary residence." A dwelling where a person usually stays
19 or stays more often than other locations as determined by
20 presence, tax filings, drivers license or permit address, voter
21 registration or other State issued identification card. The term
22 may not include more than one dwelling address.

23 "Principal officer." Includes a cannabis business
24 establishment applicant or permitted cannabis business
25 establishment's board member, owner with more than 1% interest
26 of the total cannabis business establishment or more than 5%
27 interest of the total cannabis business establishment of a
28 publicly traded company, president, vice president, secretary,
29 treasurer, partner, officer, member, manager member or person
30 with a profit sharing, financial interest or revenue sharing

1 arrangement. The term includes a person with authority to
2 control the cannabis business establishment and a person who
3 assumes responsibility for the debts of the cannabis business
4 establishment.

5 "Purchaser." An individual 21 years of age or older who
6 acquires cannabis for consideration. The term does not include a
7 cardholder as used under Chapter 94.

8 "Remediation." The reprocessing of a manufactured cannabis
9 product batch that has failed laboratory testing or the
10 processing of a harvest batch that has failed any laboratory
11 test.

12 "Resided." The location of an individual's primary residence
13 within the relevant geographic area as established by two of the
14 following:

15 (1) a signed lease agreement that includes the
16 applicant's name;

17 (2) a property deed that includes the applicant's name;

18 (3) school records;

19 (4) a voter registration card;

20 (5) a Pennsylvania driver's permit, a State
21 identification card or a Pennsylvania Person with a
22 Disability Identification Placard;

23 (6) a paycheck stub;

24 (7) a utility bill;

25 (8) tax records; or

26 (9) any other proof of residency or other information
27 necessary to establish residence as provided by rule.

28 "Restricted access area." An area of a licensed cannabis
29 business establishment where only cannabis business
30 establishment agents are permitted, with limited exceptions.

1 "Smoking." The inhalation of smoke caused by the combustion
2 of cannabis. The smoking of cannabis shall be permitted anywhere
3 cigarette smoking is permitted, including under the act of June
4 13, 2008 (P.L.182, No.27), known as the Clean Indoor Air Act.

5 "Social and economic equity applicant." An applicant that is
6 a resident of this Commonwealth and meets one of the following
7 criteria:

8 (1) has at least 75% ownership and control of cannabis
9 business establishment by one or more individuals who have
10 resided for at least 5 of the preceding 10 years in a
11 disproportionately impacted area; or

12 (2) has at least 75% ownership and control of a cannabis
13 business establishment by one or more individuals who:

14 (i) have been arrested for, convicted of or
15 adjudicated delinquent for any offense that is eligible
16 for expungement under this chapter; or

17 (ii) is a member of an impacted family.

18 (3) holds no more than a 5% ownership interest in a
19 cannabis business establishment claiming status as a social
20 and economic equity applicant under this chapter and does not
21 individually meet the qualifications under paragraph (1) or
22 (2). The applicant under this paragraph may not generate an
23 annual income of more than \$75,000 or have financial assets
24 exceeding \$250,000.

25 "Social and economic equity dispensing organization charter
26 agent." A principal officer, employee or agent of a social and
27 economic equity dispensing organization permittee who is 21
28 years of age or older.

29 "Social and economic equity dispensing organization charter
30 permit." An adult use dispensing organization permit issued to

1 a social and economic equity applicant that has entered into a
2 charter agreement with an adult use dispensing organization to
3 provide financial, mentorship, training and other support to the
4 social and economic equity applicant.

5 "Tincture." A cannabis-infused solution, typically comprised
6 of alcohol, glycerin or vegetable oils derived either directly
7 from the cannabis plant or from a processed cannabis extract.
8 The term does not include an alcoholic liquor as used in the act
9 of April 12, 1951 (P.L.90, No.21), known as the Liquor Code. The
10 term shall include a calibrated dropper or other similar device
11 capable of accurately measuring servings.

12 "Unit of local government." Any county, city, municipality,
13 borough, township or incorporated town.

14 "Vegetative stage." The stage of cultivation in which a
15 cannabis plant is propagated to produce additional cannabis
16 plants or reach a sufficient size for production. The term
17 includes seedlings, clones, mother plants, other immature
18 cannabis plants and the following:

19 (1) A cannabis plant that has no more than two stigmas
20 visible at each internode of the cannabis plant if the
21 cannabis plant is in an area that has not been intentionally
22 deprived of light for a period of time intended to produce
23 flower buds and induce maturation.

24 (2) A cannabis plant that is cultivated solely for the
25 purpose of propagating clones and is never used to produce
26 cannabis.

27 "Veteran-owned small business." As defined in 51 Pa.C.S. §
28 9601 (relating to definitions).

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

30 SUBCHAPTER B

1 LAWFUL USE AND AUTHORITY

2 Sec.

3 9205. Lawful use.

4 9206. Sharing of authority.

5 9207. Background checks.

6 § 9205. Lawful use.

7 Notwithstanding any provision of law to the contrary, use or
8 possession of cannabis as set forth in this chapter is lawful in
9 this Commonwealth.

10 § 9206. Sharing of authority.

11 Notwithstanding any provision of law to the contrary, any
12 authority granted to any Commonwealth agency or Commonwealth
13 employee or appointee under Chapter 94 (relating to medical
14 marijuana) shall be shared by any Commonwealth agency or
15 employee or appointee given authority to permit, discipline,
16 revoke, regulate or make rules under this chapter.

17 § 9207. Background checks.

18 (a) Criminal history record check.--The board shall, through
19 the Pennsylvania State Police, conduct a criminal history record
20 check of the prospective principal officers, board members and
21 agents of a cannabis business establishment applying for a
22 permit or cannabis business establishment agent identification
23 card under this chapter. The Pennsylvania State Police shall
24 furnish, pursuant to positive identification, all Pennsylvania
25 conviction information and shall forward the national criminal
26 history record information to the board. After the effective
27 date of this section, any principal officer, board member or
28 agent of a cannabis business establishment who is convicted of
29 diverting cannabis or cannabis products or who intentionally
30 dispenses cannabis or cannabis products in a manner not

1 consistent with this chapter shall be deemed to have failed the
2 criminal history record check under this subsection and may not
3 be licensed or permitted or otherwise be employed by a cannabis
4 business establishment in this Commonwealth.

5 (b) Fingerprinting.--Each cannabis business establishment
6 prospective principal officer, board member or agent shall
7 submit fingerprints to the Pennsylvania State Police in the form
8 and manner prescribed by the Pennsylvania State Police. Unless
9 otherwise provided by law, the fingerprints under this
10 subsection shall be transmitted through a live scan fingerprint
11 vendor permitted by the Commonwealth and checked against the
12 fingerprint records now and hereafter filed in the Pennsylvania
13 State Police and Federal Bureau of Investigation criminal
14 history records databases.

15 (c) Fee.--The Pennsylvania State Police shall charge a fee
16 for conducting the criminal history record check which shall not
17 exceed the actual cost of the Commonwealth and national criminal
18 history record check.

19 (d) Submission and initial employment.--When applying for
20 the initial permit or identification card, the background checks
21 for all prospective principal officers, board members and agents
22 shall be completed before submitting the application to the
23 licensing or issuing agency. An agent may begin working at a
24 cannabis business establishment while waiting for the result of
25 any background check. Nothing in this section or act shall be
26 construed to prevent or otherwise inhibit the ability of an
27 otherwise qualified individual from serving as a principal
28 officer, board member or agent of a cannabis business
29 establishment on the sole basis of a nonviolent criminal
30 conviction related to cannabis.

1 (2) transferring, with or without remuneration, up to
2 one ounce of cannabis to an individual 21 years of age or
3 older;

4 (3) cultivation of cannabis for personal use in
5 accordance with the requirements of this chapter;

6 (4) controlling property if actions that are authorized
7 by this chapter occur on the property in accordance with this
8 chapter; and

9 (5) smoking or vaporization of cannabis concentrate
10 anywhere smoking is permitted, including permitted areas
11 under the act of June 13, 2008 (P.L.182, No.27), known as the
12 Clean Indoor Air Act.

13 (b) Limitations.--Cultivating cannabis for personal use
14 shall be subject to the following limitations:

15 (1) A resident of this Commonwealth 21 years of age or
16 older who is a registered patient under Chapter 94 may
17 cultivate cannabis plants, with a limit of five plants that
18 are more than five inches tall, without a cultivation center
19 license. The plant limitation set forth in this paragraph
20 shall be cumulative for households in which more than one
21 registered patient resides. As used in this paragraph, the
22 term "resident" means an individual who has been domiciled in
23 this Commonwealth for a period of 30 days prior to
24 cultivation.

25 (2) Cannabis cultivation must take place in an enclosed,
26 locked space.

27 (3) Adult registered patients may purchase cannabis
28 seeds from a dispensary for the purpose of home cultivation.
29 Seeds may not be given or sold to any other person.

30 (4) Cannabis plants shall not be stored or placed in a

1 location where they are subject to ordinary public view. A
2 registered patient who cultivates cannabis under this section
3 shall take reasonable precautions to ensure the plants are
4 secure from unauthorized access, including unauthorized
5 access by an individual under 21 years of age.

6 (5) Cannabis cultivation may occur only on residential
7 property lawfully in possession of the cultivator or with the
8 consent of the person in lawful possession of the property.
9 An owner or lessor of residential property may prohibit the
10 cultivation of cannabis by a lessee.

11 (6) Cannabis plants may only be tended by registered
12 patients who reside at the residence or their authorized
13 agent attending to the residence for brief periods.

14 (7) A registered patient who cultivates more than the
15 allowable number of cannabis plants, or who sells or gives
16 away cannabis plants, cannabis or cannabis-infused products
17 produced under this section, is liable for penalties as
18 provided by law in addition to loss of home cultivation
19 privileges as established by rule by the board.

20 (8) Cannabis cultivated under this section shall not be
21 subject to the possession limits under section 9211 (relating
22 to possession limit).

23 § 9211. Possession limit.

24 (a) Limits.--Except as otherwise authorized under this
25 chapter, for an individual who is 21 years of age or older, the
26 possession limits for cannabis are as follows and shall be
27 cumulative:

28 (1) thirty grams of cannabis flower;

29 (2) no more than 500 milligrams of THC contained in
30 cannabis-infused products;

1 (3) five grams of cannabis concentrate; and
2 (4) for a resident of this Commonwealth 21 years of age
3 or older who is registered as a patient under Chapter 94
4 (relating to medical marijuana), any cannabis produced by
5 cannabis plants grown, provided any amount of cannabis
6 produced in excess of 30 grams of raw cannabis or its
7 equivalent must remain secured within the residence or
8 residential property in which it was grown.

9 (b) Excess prohibited.--No person may knowingly obtain, seek
10 to obtain or possess an amount of cannabis from an adult use
11 dispensing organization that would exceed the possession limit
12 under this section, including cannabis that is cultivated by a
13 person under this chapter or obtained under Chapter 94.

14 (c) Exception.--Cannabis and cannabis-derived substances
15 regulated under 3 Pa.C.S. Chs. 7 (relating to industrial hemp
16 research) and 15 (relating to controlled plants and noxious
17 weeds) and the Agriculture Improvement Act of 2018 (Public Law
18 115-334, 132 Stat. 4490) are not covered by this section.
19 § 9212. Persons under 21 years of age.

20 (a) Prohibition.--No individual under 21 years of age may
21 purchase, possess, use, process, transport, grow or consume
22 cannabis except where authorized under Chapter 94 (relating to
23 medical marijuana).

24 (b) Nonviolation.--Notwithstanding the provisions of
25 subsection (a), an individual under 21 years of age possessing
26 cannabis may not be deemed guilty of any criminal or civil law
27 violation of this Commonwealth.

28 (c) Intentional transfer or possession to underage
29 individual.--Any individual 21 years of age or older who
30 intentionally transfers cannabis, with or without remuneration,

1 to an individual under 21 years of age, except where authorized
2 under Chapter 94 or intentionally allows an individual under 21
3 years of age to purchase, possess, use, process, transport, grow
4 or consume cannabis, except where authorized under Chapter 94,
5 may be prohibited from purchasing adult use cannabis as
6 authorized by this chapter in addition to being subject to
7 additional criminal or civil penalties as provided by law. The
8 board shall promulgate rules and regulations to effectuate the
9 intent of this section and with respect to any penalties that
10 may be imposed against cannabis business establishments or
11 agents for intentionally transferring cannabis to anyone under
12 the age of 21, except where authorized under Chapter 94.

13 § 9213. Identification, false identification and penalty.

14 (a) No personal information required.--To protect personal
15 privacy, the board shall not require a purchaser to provide an
16 adult use dispensing organization with personal information
17 other than for the purposes of verifying a government-issued
18 identification to determine the purchaser's age. An adult use
19 dispensing organization may not obtain or record personal
20 information about a purchaser without the purchaser's consent.

21 (b) Scanning identification.--An adult use dispensing
22 organization shall use an electronic reader or electronic
23 scanning device to scan a purchaser's government-issued
24 identification, if applicable, to determine the purchaser's age
25 and the validity of the identification. The board may permit a
26 cannabis business establishment to operate for temporary periods
27 without an operational electronic reader or electronic scanning
28 device as long as a process is implemented to determine the
29 purchaser's age and the validity of identification.

30 § 9214. Immunities and presumptions related to the use of

1 cannabis by purchasers.

2 (a) Penalty applicability.--A purchaser who is 21 years of
3 age or older is not subject to arrest, prosecution, denial of
4 any right or privilege or other punishment, including, but not
5 limited to, any civil penalty or disciplinary action taken by an
6 occupational or professional licensing or permitting board,
7 based solely on:

8 (1) The use or possession of cannabis, if:

9 (i) the purchaser possesses an amount of cannabis
10 that does not exceed the possession limit under this
11 chapter; and

12 (ii) the use of cannabis does not impair the
13 purchaser when engaged in the practice of the profession
14 for which the purchaser is licensed, permitted, certified
15 or registered.

16 (2) selling cannabis paraphernalia if employed and
17 authorized as a dispensing organization agent by a permitted
18 dispensing organization;

19 (3) being in the presence or vicinity of the use of
20 cannabis or cannabis paraphernalia as allowed under this
21 chapter; or

22 (4) possessing cannabis paraphernalia.

23 (b) Determination of probable cause.--Mere possession of or
24 application for authorization to work as a cannabis business
25 establishment agent or the identification card or permit does
26 not constitute probable cause or reasonable suspicion to believe
27 that a crime has been committed, nor shall it be used as the
28 sole basis to support the search of the person, property or home
29 of the individual authorized to work as a cannabis business
30 establishment agent, possessing an agent identification card or

1 applying for authorization to work as an agent. The possession
2 of or application for authorization to work as a cannabis
3 business establishment agent or possession of an agent
4 identification card may not preclude the existence of probable
5 cause if probable cause exists based on other grounds.

6 (c) Reliance.--No individual employed by the Commonwealth
7 shall be subject to criminal or civil penalties for taking any
8 action in good faith in reliance on this chapter when acting
9 within the scope of employment.

10 (d) Law enforcement liability.--No law enforcement or
11 correctional agency, nor any employee of a law enforcement or
12 correctional agency, may be subject to criminal or civil
13 liability, except for willful and wanton misconduct, as a result
14 of taking any action within the scope of the official duties of
15 the agency or employee to prohibit or prevent the possession or
16 use of cannabis by an individual incarcerated at a correctional
17 facility, jail or municipal lockup facility, on parole or
18 mandatory supervised release or otherwise under the lawful
19 jurisdiction of the agency or employee.

20 (e) Medical care.--For purposes of receiving medical care,
21 including organ transplants, an individual's use of cannabis
22 under this chapter does not constitute the use of an illicit
23 substance or otherwise disqualify an individual from medical
24 care.

25 (f) Firearms possession.--A lawful purchaser or possessor of
26 cannabis under this chapter shall not be prohibited or otherwise
27 restricted from lawful firearm ownership. The Pennsylvania State
28 Police, Pennsylvania Sheriff's Department or any other law
29 enforcement agency shall take steps to revise firearms
30 applications or take other necessary actions to ensure

1 compliance with this chapter.

2 § 9215. Discrimination prohibited.

3 (a) Child welfare.--The presence of cannabinoid components
4 or metabolites in an individual's bodily fluids, possession of
5 cannabis-related paraphernalia, conduct related to the use of
6 cannabis or the participation in cannabis-related activities
7 lawful under this chapter by a custodial or noncustodial parent,
8 grandparent, legal guardian, foster parent or other individual
9 charged with the well-being of a child, may not form the sole,
10 primary basis or supporting basis for any action or proceeding
11 by a child welfare agency or family or juvenile court. The
12 prohibition under this subsection includes any adverse finding,
13 evidence or restriction of any right or privilege in a
14 proceeding related to the adoption of a child, fitness
15 determinations or a determination related to a foster parent,
16 guardianship, conservatorship, trusteeship, the execution of a
17 will or the management of an estate, unless the individual's
18 actions in relation to cannabis created an unreasonable danger
19 to the safety of the child or otherwise show the individual is
20 not competent as established by clear and convincing evidence.

21 (b) Landlords.--No landlord may be penalized or denied any
22 benefit leasing to an individual who uses cannabis under this
23 chapter.

24 (c) Use in private area.--Nothing in this chapter may be
25 construed to require any person or establishment in lawful
26 possession of property to allow a guest, client, lessee,
27 customer or visitor to use cannabis on or in that property,
28 including on any land owned in whole or in part or managed in
29 whole or in part by the Commonwealth.

30 § 9216. Limitations and penalties.

1 (a) Limitations.--This chapter does not permit any
2 individual to engage in and does not prevent the imposition of
3 any civil, criminal or other penalties for engaging in any of
4 the following:

5 (1) Undertaking any task under the influence of cannabis
6 when doing so would constitute negligence, professional
7 malpractice or professional misconduct.

8 (2) Possessing cannabis:

9 (i) In a school bus, unless permitted for a patient
10 or caregiver under Chapter 94 (relating to medical
11 marijuana).

12 (ii) On the grounds of any preschool or primary or
13 secondary school, unless permitted for a patient or
14 caregiver under Chapter 94.

15 (iii) In any correctional facility.

16 (iv) In a vehicle not open to the public unless the
17 cannabis is in a cannabis container and reasonably
18 inaccessible while the vehicle is moving.

19 (v) In a private residence that is used at any time
20 to provide permitted childcare or other similar social
21 service care on the premises.

22 (3) Using cannabis:

23 (i) In a school bus, unless permitted for a patient
24 under Chapter 94.

25 (ii) On the grounds of any preschool or primary or
26 secondary school, unless permitted for a patient under
27 Chapter 94.

28 (iii) In any correctional facility.

29 (iv) In any motor vehicle.

30 (v) In a private residence that is used at any time

1 to provide permitted childcare or other similar social
2 service care on the premises.

3 (vi) Knowingly in close physical proximity to anyone
4 under 21 years of age.

5 (4) Operating, navigating or being in actual physical
6 control of any motor vehicle, aircraft, watercraft or
7 snowmobile while using or under the influence of cannabis.

8 (5) Facilitating the use of cannabis by any individual
9 who is not allowed to use cannabis under this chapter or
10 Chapter 94.

11 (6) Transferring cannabis to any individual contrary to
12 this chapter or Chapter 94.

13 (7) The use of cannabis by a law enforcement officer,
14 corrections officer, probation officer or firefighter while
15 on duty.

16 (8) The use of cannabis by an individual who has a
17 school bus permit or a commercial driver's permit while on
18 duty.

19 (b) Business restriction.--Nothing in this chapter shall
20 prevent a private business from restricting or prohibiting the
21 use of cannabis on business property, including areas where
22 motor vehicles are parked.

23 (c) Supremacy implication.--Nothing in this chapter shall
24 authorize or otherwise require an individual or business entity
25 to violate Federal law, including the ability to consume
26 cannabis in public housing or on college or university campuses.

27 § 9217. Employment and employer liability.

28 (a) Workplace policies.--Nothing in this chapter shall
29 prohibit an employer from adopting reasonable zero tolerance,
30 drug-free workplace policies or employment policies concerning

1 testing, smoking, consuming, storing or using cannabis in the
2 workplace or while on call provided that the policy is applied
3 in a nondiscriminatory manner. Nothing in this chapter shall
4 require an employer to permit an employee to be under the
5 influence of or use cannabis in the employer's workplace or
6 while performing the employee's job duties or while on call.

7 (b) Violations of employer policy or restrictions on
8 employment.--Nothing in this chapter shall limit or prevent an
9 employer from disciplining an employee or terminating employment
10 of an employee for violating an employer's employment policies
11 or workplace drug policy. Nothing in this chapter shall be
12 construed to interfere with any Federal, Commonwealth or local
13 restrictions on employment.

14 SUBCHAPTER D

15 CANNABIS REGULATORY CONTROL BOARD

16 Sec.

17 9220. Establishment.

18 9221. Applicability of other statutes.

19 9222. Board procedures.

20 9223. Board powers.

21 9224. Regulations.

22 9225. Temporary regulations.

23 9226. Confidentiality and public disclosure.

24 9227. Cannabis Business Development Fund.

25 § 9220. Establishment.

26 (a) Board established.--The Cannabis Regulatory Control
27 Board is established as an independent board. The board shall
28 implement, direct and oversee this chapter.

29 (b) Transfer.--The Department of Health's oversight of the
30 medical marijuana program established under Chapter 94 (relating

1 to medical marijuana) shall be transferred under the authority
2 of the board within six months of the effective date of this
3 section. All authority, information, documents, databases and
4 necessary information of the medical marijuana program shall be
5 transferred to the board within six months of the effective date
6 of this section.

7 (c) Membership and term.--The board shall consist of the
8 following members:

9 (1) Two members appointed by the Governor for a seven-
10 year term, one of whom shall be a representative of the
11 cannabis industry.

12 (2) One member appointed by each of the following:

13 (i) The President pro tempore of the Senate for a
14 six-year term.

15 (ii) The Minority Leader of the Senate for a five-
16 year term.

17 (iii) The Speaker of the House of Representatives
18 for a six-year term.

19 (iv) The Minority Leader of the House of
20 Representatives for a five-year term.

21 (3) One member appointed for a two-year term who
22 possesses substantial and demonstrable experience in one of
23 the following areas, who shall be a public member appointed
24 by the Governor:

25 (i) community organizing in a disproportionately
26 impacted area;

27 (ii) work experience for an offender reentry
28 program;

29 (iii) workforce development work; or

30 (iv) work experience or advocacy in communities

1 negatively affected by Federal and State drug regulation
2 and enforcement.

3 (d) Chairperson and operations.--The Governor shall
4 designate the chairperson of the board who shall serve as
5 chairperson during the term of appointment and until a successor
6 shall be appointed. The board shall be operated from funds
7 deposited in the Cannabis Regulation Fund. If, in any year,
8 appropriations for the administration of this chapter are not
9 enacted by June 30, any funds appropriated for the
10 administration of this part which are unexpended, uncommitted
11 and unencumbered at the end of a fiscal year shall remain
12 available for expenditure by the board or other agency to which
13 they were appropriated until the enactment of appropriation for
14 the ensuing fiscal year.

15 (e) Board staff.--The board shall employ and maintain a
16 staff as necessary to effectuate its purposes, including
17 employees responsible for administrative tasks and facilitating
18 communication between the board and other Commonwealth agencies
19 or departments.

20 (f) Chief medical officer.--The board shall hire a salaried
21 chief medical officer to administer the medical marijuana
22 program under Chapter 94. The chief medical officer shall have
23 the appropriate health care credentials and be licensed by the
24 Commonwealth and report to the executive director.

25 (g) Residency requirement and elected status.--Each board
26 member shall be a resident of this Commonwealth while serving on
27 the board and may not hold, or be a candidate for, Federal,
28 State or local elected office or serve as an official in a
29 political party.

30 (h) Term.--Except as initially appointed under subsection

1 (c), each board member shall serve for a term of four years and
2 shall be eligible for reappointment for a period of no longer
3 than 12 years total between all terms. A person appointed to
4 fill a vacancy in the office of a board member shall be
5 appointed by the appointing authority under subsection (c) and
6 may only serve for the unexpired term of that board member.

7 (i) Removal.--A board member may be removed by the petition
8 of five members of the board.

9 (j) Compensation.--Board members shall receive salaries.
10 Board members shall be considered full-time employees and may
11 not maintain other employment that is in direct conflict with
12 their duties as board members or creates a conflict of interest
13 with the cannabis industry. The following shall apply:

14 (1) The Executive Board established under section 204 of
15 the act of April 9, 1929 (P.L.177, No.175), known as The
16 Administrative Code of 1929, shall establish the compensation
17 of the board members.

18 (2) Board members shall be reimbursed for all necessary
19 and actual expenses.

20 (3) Board members shall be eligible for retirement under
21 71 Pa.C.S. Pt. XXV (relating to retirement for State
22 employees and officers).

23 (k) Appointments.--The appointing authorities under this
24 section shall make their initial appointments within 60 days of
25 the effective date of this section. No appointment shall be
26 final until receipt by the appointing authority of the required
27 background investigation of the appointee by the Pennsylvania
28 State Police which shall be completed within 30 days of receipt
29 of information under this subsection. No person who has been
30 convicted in any domestic or foreign jurisdiction of a felony

1 other than a cannabis-related conviction may serve on the board.

2 § 9221. Applicability of other statutes.

3 (a) General rule.--The board shall be subject to the
4 following acts:

5 (1) The act of July 19, 1957 (P.L.1017, No.451), known
6 as the State Adverse Interest Act.

7 (2) The act of February 14, 2008 (P.L.6, No.3), known as
8 the Right-to-Know Law.

9 (3) The provisions of 65 Pa.C.S. Chs. 7 (relating to
10 open meetings) and 11 (relating to ethics standards and
11 financial disclosure).

12 (b) Status of board.--

13 (1) The board shall be considered an independent agency
14 for the purposes of the following:

15 (i) The act of October 15, 1980 (P.L.950, No.164),
16 known as the Commonwealth Attorneys Act.

17 (ii) 62 Pa.C.S. Pt. I (relating to Commonwealth
18 Procurement Code). The expediting of the payment of
19 revenue to the Commonwealth shall not be grounds for an
20 emergency procurement by the board.

21 (2) The board shall be considered an agency for the
22 purposes of the following:

23 (i) The act of July 31, 1968 (P.L.769, No.240),
24 referred to as the Commonwealth Documents Law.

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

27 § 9222. Board procedures.

28 (a) Quorum and notice.--A majority of the board members
29 shall constitute a quorum and the affirmative vote of a majority
30 of the board members shall be required for an action of the

1 board. The chairperson or a majority of the members of the board
2 may call a meeting if notice of a meeting is provided to each
3 member of the board and to other persons who request notice. The
4 board shall adopt regulations establishing procedures, which may
5 include electronic communications, by which a request to receive
6 notice shall be made and the method by which timely notice may
7 be given.

8 (b) Duties of chairperson.--The chairperson shall have and
9 exercise supervision and control over all the affairs of the
10 board and preside at all hearings where the chairperson is
11 present. The chairperson shall designate a board member to act
12 as chairperson if the chairperson will be absent at a board
13 meeting.

14 § 9223. Board powers.

15 (a) Authority.--The board shall have general and sole
16 regulatory authority over the conduct of cannabis or related
17 activities as described in this chapter. The board shall have
18 all the powers necessary or convenient to carry out and
19 effectuate its purposes in administering adult use cannabis and
20 medical marijuana programs.

21 (b) Staffing.--The board shall employ individuals as
22 necessary to implement this chapter, who shall serve at the
23 pleasure of the board. An employee of the board shall be
24 considered a State employee for purposes of 71 Pa.C.S. Pt. XXV
25 (relating to retirement for State employees and officers). For
26 the purposes of this subsection, the board shall not be
27 considered an executive or independent agency under the act of
28 October 15, 1980 (P.L.950, No.164), known as the Commonwealth
29 Attorneys Act.

30 (c) Additional employees.--In addition to employees

1 authorized by the board, each member of the board may employ one
2 special assistant whose classification and compensation shall be
3 established by the board and subject to subsection (b).

4 (d) Executive director.--The board shall hire an executive
5 director as a salaried position.

6 (e) Classification.--The board shall establish a system of
7 employee classification and compensation and shall not be
8 subject to the provisions of the act of April 9, 1929 (P.L.177,
9 No.175), known as The Administrative Code of 1929, as to
10 classification and compensation for its employees and conduct
11 its activities consistent with the practices and procedures of
12 Commonwealth agencies.

13 (f) Publication.--Within 90 days of the establishment of the
14 board, the board shall publish the employee classification
15 system on the publicly accessible Internet website of the board
16 and transmit notice of the employee classification system to the
17 Legislative Reference Bureau for publication in the Pennsylvania
18 Bulletin.

19 (g) Board duties.--The board shall:

20 (1) Schedule and initiate a process to promulgate new
21 regulations or modify existing regulations.

22 (2) Hold public hearings on proposed regulations.

23 (3) Issue permits to cannabis business establishments to
24 authorize them to cultivate, process, transport and dispense
25 cannabis and ensure compliance with this chapter and Chapter
26 94 (relating to medical marijuana).

27 (4) Register cannabis business establishment agents and
28 ensure compliance with this chapter and Chapter 94.

29 (5) Have regulatory and enforcement authority over the
30 cultivating, processing, transporting, dispensing and using

1 of cannabis in this Commonwealth.

2 (6) Establish and maintain an electronic database to
3 include activities and information relating to cannabis
4 business establishment and electronic tracking of all
5 cannabis under this chapter and Chapter 94.

6 (7) Develop recordkeeping requirements for all books and
7 papers, any electronic database or tracking system data and
8 other information of a cannabis business establishment for a
9 period of four years unless otherwise provided by the board.

10 (8) Develop enforcement procedures, including announced
11 and unannounced inspections of facilities and records of a
12 cannabis business establishment.

13 (9) Oversee enforcement actions, including holding
14 hearings of appeals.

15 (10) Develop and implement a comprehensive social equity
16 and economic development program in partnership with the
17 Commonwealth Financing Authority.

18 (11) Approve the budget of the board related to actions
19 performed under this chapter and Chapter 94.

20 (12) Set research agenda.

21 (13) Convene working groups.

22 (14) Establish and maintain public outreach programs
23 about the adult use cannabis and medical marijuana programs.

24 (15) Collaborate as necessary with other Commonwealth
25 agencies or contract with third parties as necessary to carry
26 out the provisions of this chapter and Chapter 94.

27 (16) Develop strategies and procedures to prohibit the
28 illicit market.

29 § 9224. Regulations.

30 The board shall promulgate regulations, with input from

1 industry stakeholders, to carry out the provisions of this
2 chapter and Chapter 94 (relating to medical marijuana),
3 including:

4 (1) Types of permits issued under this chapter,
5 including the following types of permits:

6 (i) Cultivation/processing.

7 (ii) Micro cultivation.

8 (iii) Dispensing.

9 (iv) Testing.

10 (2) Methods and forms of permit application, including
11 timeline, fees and minimum requirements.

12 (3) Policies and procedures to prioritize, promote and
13 encourage diversity and full participation by people from
14 communities that have been disproportionately harmed by
15 cannabis prohibition and its enforcement.

16 (4) Procedures to process and competitively score permit
17 applications and administrative requests, including changes
18 of ownership and location.

19 (5) Security procedures consistent with those
20 implemented under Chapter 94.

21 (6) Enforcement procedures, including fines, suspensions
22 and revocations.

23 (7) Ownership and financial disclosure procedures and
24 requirements, including record keeping requirements.

25 (8) Procedures and requirements concerning the
26 divestiture of a beneficial ownership interest by a person
27 found unqualified.

28 (9) Procedures, processes and requirements for transfers
29 of ownership, including the involvement of a publicly traded
30 corporation.

- 1 (10) Combining the medical program under Chapter 94 and
2 adult use program under this chapter.
- 3 (11) Seed-to-sale and inventory tracking procedures.
- 4 (12) Procedures and requirements for curbside pickup
5 services offered by dispensing organizations.
- 6 (13) Transportation requirements, including:
- 7 (i) Establishing procedures and requirements for
8 home delivery services by dispensing organizations and
9 cultivation centers.
- 10 (ii) A requirement that transportation between
11 cannabis business establishments occurs in secured
12 vehicles but allowing for transportation in vehicles
13 other than those owned and operated by adult use
14 dispensing organizations or adult use cultivation
15 centers.
- 16 (iii) Details required on transportation manifests.
- 17 (iv) Policies encouraging bulk shipment where
18 appropriate.
- 19 (14) Labeling requirements.
- 20 (15) Edible product requirements, including, but not
21 limited to:
- 22 (i) Ensuring that products are not likely to appeal
23 to minors.
- 24 (ii) Product safety regulations, including the
25 requiring of good manufacturing practices and appropriate
26 testing.
- 27 (iii) Standards for creating clearly delineated
28 individual servings.
- 29 (16) Advertising and marketing regulations that balance
30 the ability of a cannabis business establishment to engage in

1 reasonable marketing and promotional activities while:

2 (i) Ensuring advertising and marketing does not
3 targets minors.

4 (ii) Reasonably restricting access to minors by
5 taking steps to ensure the audience will be predominantly
6 over 21 years of age for advertising and marketing.

7 (17) Product safety regulations, including:

8 (i) Regulations consistent with best practices for
9 food products, except where necessary modifications are
10 required due to the active compounds in the cannabis
11 plant.

12 (ii) Standards for packaging to address freshness,
13 tamper evidence and limiting access to children.

14 (iii) Standard symbols and warnings where the board
15 shall review symbols and warnings from other
16 jurisdictions where adult use cannabis sales are
17 permitted.

18 (iv) A prohibition on packaging that is likely to
19 appeal to minors.

20 (18) Requirements that a cannabis business establishment
21 use standards and practices that align with United States
22 Department of Agriculture and Food and Drug Administration
23 standards where appropriate.

24 § 9225. Temporary regulations.

25 The board shall promulgate temporary regulations no later
26 than six months from the effective date of this chapter. The
27 temporary regulations under this section shall be for a period
28 of three years following the effective date of this section and
29 shall not be subject to:

30 (1) Sections 201, 202 and 203 of the act of July 31,

1 1968 (P.L.769, No.240), referred to as the Commonwealth
2 Documents Law.

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

5 § 9226. Confidentiality and public disclosure.

6 (a) General rule.--All information obtained by the board
7 relating to agents, patients or customers shall be confidential
8 and not subject to public disclosure, including disclosure under
9 the act of February 14, 2008 (P.L.6, No.3), known as the Right-
10 to-Know Law.

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

13 (1) With exceptions for private, security-related and
14 trade secret information, applications for permits submitted
15 by a cannabis business establishment.

16 (2) Information relating to penalties or other
17 disciplinary actions taken against a cannabis business
18 establishment or agent by the board for violation of this
19 chapter.

20 § 9227. Cannabis Business Development Fund.

21 (a) Establishment.--The Cannabis Business Development Fund
22 is established as a special fund in the State Treasury. Money in
23 the fund is appropriated as set forth in this section and shall
24 not lapse.

25 (b) Deposits.--Certain fees payable under this chapter shall
26 be deposited into the fund established under subsection (a).
27 Additionally, \$3,000,000 of gross receipts of revenue deposited
28 into the Cannabis Regulation Fund shall be transferred to the
29 Cannabis Business Development Fund. The money deposited into the
30 fund may only be used for the purposes set forth in this

1 chapter. Any interest accrued shall be deposited into the fund
2 established under this section.

3 (c) Investments.--The Commonwealth Financing Authority shall
4 direct the investment of the fund established under this
5 section. The State Treasurer shall credit to the fund interest
6 and earnings from fund investments.

7 (d) Administrator.--The Commonwealth Financing Authority is
8 the administrator of the Cannabis Business Development Fund for
9 auditing purposes.

10 (e) Purpose.--The Cannabis Business Development Fund shall
11 be used for the following purposes:

12 (1) to provide low-interest rate loans to qualified
13 social and economic equity applicants to pay for ordinary and
14 necessary expenses to start and operate a cannabis business
15 establishment;

16 (2) to provide grants to qualified social and economic
17 equity applicants to pay for ordinary and necessary expenses
18 to start and operate a cannabis business establishment;

19 (3) to provide low-interest rate loans to social and
20 economic equity charter permittees and applicants to pay for
21 legal expenses related to the development and execution of
22 charter agreements;

23 (4) to provide grants to social and economic equity
24 charter permittees and applicants to pay for legal expenses
25 related to the development and execution of charter
26 agreements;

27 (5) to compensate the Commonwealth Financing Authority
28 for any costs related to the provision of low-interest rate
29 loans and grants to qualified social and economic equity
30 applicants;

1 (6) to pay for outreach that may be provided or targeted
2 to attract and support social and economic equity applicants;

3 (7) to conduct any study or research concerning the
4 participation of minorities, women, veterans or people with
5 disabilities in the cannabis industry, including barriers to
6 individuals entering the industry as equity owners of a
7 cannabis business establishment;

8 (8) to assist with job training and technical assistance
9 for residents in disproportionately impacted areas;

10 (9) to community organizations, offender reentry
11 programs, workforce development programs and other community
12 or advocacy programs in disproportionately impacted areas or
13 other communities negatively affected by Federal and State
14 drug regulation and enforcement; and

15 (10) for any purpose set forth with respect to
16 Subchapter H of Chapter 94 (relating to tax on medical
17 marijuana).

18 (f) Additional deposits.--All money collected for the
19 approval of an adult use dispensing organization and adult use
20 cultivation center permit for existing medical marijuana
21 operators issued before January 1, 2022, and remunerations made
22 as a result of transfers of permits awarded to qualified social
23 and economic equity applicants shall be deposited into the
24 Cannabis Business Development Fund.

25 (g) Transfer.--As soon as practical after the effective date
26 of this section, the Treasurer shall transfer the balance of the
27 Medical Marijuana Program Fund to the Cannabis Business
28 Development Fund.

29 (h) Prohibition.--Notwithstanding any other law to the
30 contrary, the Cannabis Business Development Fund is not subject

1 to sweeps, administrative charge-backs, or any other fiscal or
2 budgetary maneuver that would in any way transfer any amounts
3 from the Cannabis Business Development Fund into any other fund
4 of the Commonwealth.

5 SUBCHAPTER E

6 SOCIAL AND ECONOMIC EQUITY

7 Sec.

8 9230. Social and economic equity.

9 9231. Loans and grants to social and economic equity
10 applicants.

11 9232. Fee waivers.

12 9233. Transfer of permit awarded to qualified social and
13 economic equity applicant.

14 § 9230. Social and economic equity.

15 (a) Promotion and partnership.--The board shall promote and
16 take any necessary action to ensure social and economic equity
17 in adult use and medical cannabis industries in this
18 Commonwealth. The board shall partner with the Commonwealth
19 Financing Authority, which shall be responsible for implementing
20 the social and economic equity provisions of this chapter.

21 (b) Report.--On January 1 of every year, the Commonwealth
22 Financing Authority shall prepare and issue a public report that
23 assesses the extent of diversity in the cannabis industries and
24 methods for reducing or eliminating any identified barriers to
25 entry, including access to capital. The information reported
26 shall include:

27 (1) the number and percentage of permits provided to
28 social and economic equity applicants and to businesses owned
29 by minorities, women, veterans and people with disabilities;

30 (2) the total number and percentage of employees in the

1 cannabis industry who meet the definition of a social and
2 economic equity applicant or who are minorities, women,
3 veterans or people with disabilities;

4 (3) the total number and percentage of contractors and
5 subcontractors in the cannabis industry that meet the
6 definition of a social and economic equity applicant or who
7 are owned by minorities, women, veterans or people with
8 disabilities, if known to the cannabis business
9 establishment; and

10 (4) recommendations on reducing or eliminating any
11 identified barriers to entry, including access to capital, in
12 the cannabis industry.

13 § 9231. Loans and grants to social and economic equity
14 applicants.

15 (a) Grant and loan programs.--The Commonwealth Financing
16 Authority shall establish grant and loan programs, subject to
17 appropriations from the Cannabis Business Development Fund, for
18 the purposes of providing financial assistance, loans, grants
19 and technical assistance to social and economic equity
20 applicants. The Commonwealth Financing Authority may:

21 (1) provide cannabis social and economic equity loans
22 and grants from appropriations from the Cannabis Business
23 Development Fund to assist qualified social and economic
24 equity applicants in the Commonwealth's regulated cannabis
25 marketplace;

26 (2) enter into agreements that set forth terms and
27 conditions of the financial assistance, accept funds or
28 grants and engage in cooperation with private entities and
29 Commonwealth agencies or local government to carry out the
30 purposes of this section;

1 (3) fix, determine, charge and collect any premiums,
2 fees, charges, costs and expenses, including application
3 fees, commitment fees, program fees, financing charges or
4 publication fees in connection with its activities under this
5 section;

6 (4) coordinate assistance under loan programs with
7 activities of the board and other Commonwealth agencies as
8 needed to maximize the effectiveness and efficiency of this
9 chapter;

10 (5) provide staff, administration and related support
11 required to administer this section;

12 (6) take other necessary or appropriate actions to
13 protect the Commonwealth's interest in the event of
14 bankruptcy, default, foreclosure or noncompliance with the
15 terms and conditions of financial assistance provided under
16 this section, including the ability to recapture funds if the
17 recipient is found to be noncompliant with the terms and
18 conditions of the financial assistance agreement;

19 (7) establish application, notification, contract and
20 other forms, procedures or rules deemed necessary and
21 appropriate; and

22 (8) utilize vendors or contract work to carry out the
23 purposes of this chapter.

24 (b) Conditions.--Loans made under this section shall:

25 (1) Only be made if, in the judgment of the Commonwealth
26 Financing Authority, the project furthers the goals set forth
27 in this chapter.

28 (2) Be in a principal amount and form and contain terms
29 and provisions with respect to security, insurance,
30 reporting, delinquency charges, default remedies and other

1 matters as the Commonwealth Financing Authority shall
2 determine appropriate to protect the public interest and to
3 be consistent with the purposes of this section. The terms
4 and provisions may be less than required for similar loans
5 not covered by this section.

6 (c) Award.--Grants made under this section shall be awarded
7 on a competitive and annual basis and shall further and promote
8 the goals of this chapter, including promotion of social and
9 economic equity applicants, job training and workforce
10 development and technical assistance to social and economic
11 equity applicants.

12 (d) Annual report.--Beginning January 1, 2022, and each year
13 thereafter, the Commonwealth Financing Authority shall annually
14 report to the Governor, the General Assembly and the board on
15 the outcomes and effectiveness of this section, including:

16 (1) the number of persons or businesses receiving
17 financial assistance under this section;

18 (2) the amount in financial assistance awarded in the
19 aggregate, in addition to the amount of loans made that are
20 outstanding and the amount of grants awarded;

21 (3) the location of the project engaged in by the person
22 or business; and

23 (4) if applicable, the number of new jobs and other
24 forms of economic output created as a result of the financial
25 assistance.

26 (e) Additional outreach.--The Commonwealth Financing
27 Authority shall include engagement with individuals with limited
28 English proficiency as part of its outreach provided or targeted
29 to attract and support social and economic equity applicants.

30 § 9232. Fee waivers.

1 (a) Permit application fee waiver.--The board shall waive
2 50% of any nonrefundable permit application fee, nonrefundable
3 fee associated with purchasing a permit to operate a cannabis
4 business establishment and any surety bond or other financial
5 requirement of a social and economic equity applicant, provided
6 a social and economic equity applicant meets the following
7 qualifications at the time the payment is due:

8 (1) the applicant, including all individuals and
9 entities with 10% or greater ownership and all parent
10 companies, subsidiaries and affiliates, has less than a total
11 of \$750,000 of income in the previous calendar year; and

12 (2) the applicant, including all individuals and
13 entities with 10% or greater ownership and all parent
14 companies, subsidiaries and affiliates, has no more than two
15 other permits for cannabis business establishments in this
16 Commonwealth.

17 (b) Attestation.--The board may require a social and
18 economic equity applicant to attest that they meet the
19 requirements for a fee waiver under subsection (a) and provide
20 evidence of total annual income for the previous calendar year.

21 (c) Eligibility determination.--If the board determines that
22 an applicant who applied as a social and economic equity
23 applicant is not eligible under this section, the applicant
24 shall be provided an additional 10 days to provide alternative
25 evidence of qualification as a social and economic equity
26 applicant. The applicant may pay the remainder of the waived fee
27 and not be considered as a social and economic equity applicant.
28 If the applicant cannot meet the qualifications standards or pay
29 the remainder of the waived fee, the board may keep the initial
30 application fee and the application shall not be graded.

1 § 9233. Transfer of permit awarded to qualified social and
2 economic equity applicant.

3 (a) Transfer, sale or grant of permit.--In the event a
4 qualified social and economic equity applicant seeks to
5 transfer, sell or grant a cannabis business establishment permit
6 to an individual or entity that does not qualify as a social and
7 economic equity applicant after one year from the date of
8 issuance of the permit and within five years after the permit
9 was issued, the transfer agreement shall require the new permit
10 holder to pay the board an amount equal to the following for
11 deposit in the Cannabis Business Development Fund:

12 (1) any fees that were waived by any Commonwealth agency
13 based on the applicant's status as a social and economic
14 equity applicant, if applicable;

15 (2) any outstanding amount owed by the qualified social
16 and economic equity applicant for a loan through the Cannabis
17 Business Development Fund, if applicable; and

18 (3) the full amount of any grants that the qualified
19 social and economic equity applicant received from the
20 Commonwealth Financing Authority, if applicable.

21 (b) Applicability.--Transfers of a cannabis business
22 establishment permit awarded to a social and economic equity
23 applicant shall be subject to all other provisions of this
24 chapter.

25 SUBCHAPTER F

26 REGULATION OF CANNABIS BUSINESS ESTABLISHMENT

27 Sec.

28 9235. Authority.

29 9236. Medical marijuana exemption.

30 9237. Issuance of adult use dispensing organization permits to

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2 9238. Issuance of additional adult use dispensing organization
3 permits to current medical marijuana dispensary
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1 9257. (Reserved).

2 9258. Micro cultivation center requirements and prohibitions.

3 9259. Cannabis business establishment agent identification
4 cards.

5 9260. Background check for cannabis business establishment
6 applicants.

7 9261. Renewal of cannabis business establishment permits and
8 cannabis business establishment agent identification
9 cards.

10 § 9235. Authority.

11 (a) Enforcement.--The board shall administer and enforce the
12 provisions of this chapter relating to the permitting and
13 oversight of a cannabis business establishment and cannabis
14 business establishment agents unless otherwise provided in this
15 chapter.

16 (b) Limitation.--No person shall operate a cannabis business
17 establishment for the purpose of cultivating, processing,
18 dispensing or transporting cannabis or cannabis-infused products
19 without a permit issued under this chapter. No person shall be
20 an officer, director, manager or agent of a cannabis business
21 establishment without having been authorized by the board.

22 (c) Powers and duties.--Subject to the provisions of this
23 chapter, the board may exercise the following powers and duties:

24 (1) Prescribe forms to be issued for the administration
25 and enforcement of this chapter.

26 (2) Examine, inspect and investigate the premises,
27 operations and records of cannabis business establishment
28 applicants and permittees.

29 (3) Conduct investigations of possible violations of
30 this chapter pertaining to a cannabis business establishment

1 and cannabis business establishment agents.

2 (4) Conduct hearings on proceedings to refuse to issue
3 or renew, revoke or suspend permits or to place on probation,
4 reprimand or otherwise discipline a permit holder under this
5 chapter or take other nondisciplinary action.

6 (5) Adopt rules required for the administration of this
7 chapter.

8 § 9236. Medical marijuana exemption.

9 This chapter shall not apply to entities registered under
10 Chapter 94 (relating to medical marijuana), except where
11 otherwise specified.

12 § 9237. Issuance of adult use dispensing organization permits
13 to current medical marijuana dispensary permit
14 holders.

15 (a) Permit application.--Medical marijuana dispensaries
16 holding permits granted under Subchapter E of Chapter 94
17 (relating to medical marijuana organizations) or Subchapter M of
18 Chapter 94 (relating to academic clinical research centers and
19 clinical registrants) as of the effective date of this section
20 may apply to the board for an equal number of adult use
21 dispensing organization permits and must submit separate
22 applications under this section for each permit held.

23 (b) Application requirements.--The application under
24 subsection (a) must be submitted by the same individual or
25 entity that holds the medical marijuana dispensary permit and
26 include the following:

27 (1) Payment of a nonrefundable application fee of
28 \$25,000 to be deposited into the Cannabis Regulation Fund.

29 (2) Proof of registration as a medical marijuana
30 dispensary that is in good standing.

1 (3) Certification that the applicant will comply with
2 the requirements contained under Chapter 94 except as
3 provided in this chapter.

4 (4) The legal name of the dispensary permit holder.

5 (5) The physical address of the dispensary at each of
6 its locations.

7 (6) The name, address, Social Security number and date
8 of birth of each principal officer and board member of the
9 dispensary permit holder, each of whom shall be at least 21
10 years of age.

11 (c) Permit issuance.--Any medical marijuana dispensary
12 holding a permit under this chapter that submits an application
13 under this section, including the payment of the nonrefundable
14 fee set forth under subsection (b)(1), shall be issued an adult
15 use dispensing organization permit by the board within 14 days.

16 (d) Permitted locations.--Each adult use dispensing
17 organization permit shall entitle the permit holder to operate
18 at up to three separate locations and dispense medical marijuana
19 to patients and adult use cannabis to customers in the same
20 dispensary without distinction under this chapter.

21 § 9238. Issuance of additional adult use dispensing

22 organization permits to current medical marijuana
23 dispensary permit holders and social and economic
24 equity dispensing organization charter permits to
25 qualified social and economic equity applicants.

26 (a) Additional permits.--Any medical marijuana dispensary
27 holding a permit granted under Subchapter E of Chapter 94
28 (relating to medical marijuana organizations) or Subchapter M of
29 Chapter 94 (relating to academic clinical research centers and
30 clinical registrants) as of the effective date of this section

1 may apply for an additional adult use dispensing organization
2 permit to operate up to three locations to serve purchasers and
3 qualified patients in this Commonwealth.

4 (b) Dual use.--A medical marijuana dispensary issued an
5 adult use dispensing organization permit under this section may
6 continue to sell and dispense cannabis to qualified patients at
7 each of its locations.

8 (c) Additional adult use dispensing organization permit.--A
9 medical marijuana dispensary holding a permit under this chapter
10 seeking the issuance of an additional adult use dispensing
11 organization permit to sell cannabis to adult use purchasers and
12 medical patients under this section shall submit an application
13 on forms provided by the board. The application must be
14 submitted by the same individual or entity that holds the
15 dispensary's registration under Chapter 94 (relating to medical
16 marijuana) and include the following:

17 (1) A payment of a nonrefundable application fee of
18 \$25,000 to be deposited into the Cannabis Regulation Fund.

19 (2) Proof of registration as a dispensary.

20 (3) The legal name of the dispensary.

21 (4) The proposed physical address, if known, of any
22 adult use dispensing organization locations.

23 (5) For any known dispensary locations, a copy of the
24 current local zoning ordinance sections relevant to
25 dispensary operations and documentation of the approval and
26 the conditional approval or the status of a request for
27 zoning approval from the local zoning office that the
28 proposed dispensary location is in compliance with the local
29 zoning rules.

30 (6) For any known dispensary locations, a plot plan of

1 the dispensary drawn to scale. The applicant shall submit
2 general specifications of the building exterior and interior
3 layout.

4 (7) A statement that the adult use cannabis dispensing
5 organization agrees to respond to the board's supplemental
6 requests for information.

7 (8) For the building or land to be used as the proposed
8 site of the adult use cannabis dispensing organization, for
9 any known dispensary locations. The following shall also be
10 included under this paragraph:

11 (i) if the property is not owned by the applicant, a
12 written statement from the property owner and landlord,
13 if any, certifying consent that the applicant may operate
14 a dispensary on the premises; or

15 (ii) if the property is owned by the applicant,
16 confirmation of ownership.

17 (9) A copy of the proposed operating bylaws.

18 (10) A copy of the proposed business plan that complies
19 with the requirements of this chapter, including:

20 (i) a description of services to be offered; and

21 (ii) a description of the process of dispensing
22 cannabis.

23 (11) For any known dispensary locations, a copy of the
24 proposed security plan that complies with the requirements of
25 this chapter, including:

26 (i) a description of the delivery process by which
27 cannabis will be received, including receipt of manifests
28 and protocols that will be used to avoid diversion, theft
29 or loss at the dispensary acceptance point;

30 (ii) the process or controls that will be

1 implemented to monitor the dispensary, secure the
2 premises, agents, patients, currency and prevent the
3 diversion, theft or loss of cannabis; and

4 (iii) the process to ensure that access to the
5 restricted access areas is restricted to agents, service
6 professionals, board inspectors and security personnel.

7 (12) For any known dispensary locations, a proposed
8 inventory control plan that complies with this section.

9 (13) The name, address, Social Security number and date
10 of birth of each principal officer and board member of the
11 adult use cannabis dispensing organization, each of whom
12 shall be at least 21 years of age.

13 (d) Executed charter agreement.--As a condition of its adult
14 use dispensing organization permit, a medical marijuana
15 dispensary holding a permit under Chapter 94, together with its
16 application under this section, must submit an executed charter
17 agreement between it and a social and economic equity applicant
18 in which the adult use dispensing organization agrees to provide
19 financial, mentorship, training, operational and other support
20 to a social and economic equity applicant to operate a
21 dispensary at up to three locations. A charter agreement may
22 provide for a method of repayment of any loaned financial
23 support by an adult use dispensing organization over a period of
24 years and under terms that allow the social and economic equity
25 applicant to profit from the business. During the term of the
26 charter agreement, an adult use dispensing organization may take
27 no more than a 10% ownership stake in a social and economic
28 equity applicant's business. A charter agreement shall be
29 subject to board approval and audit and must provide a pathway
30 for the social and economic equity applicant to assume full

1 ownership of the business within 10 years. Except as provided in
2 subsection (p), an adult use dispensing organization's failure
3 to adhere to the terms of the charter agreement shall be grounds
4 to revoke the adult use dispensing organization's permit.

5 (e) Partnership.--An adult use dispensing organization must
6 identify a social and economic equity applicant to partner with
7 through a bona fide selection process, and an adult use
8 dispensing organization shall be prohibited from accepting money
9 or other valuable consideration from a social and economic
10 equity applicant in exchange for selecting the social and
11 economic equity applicant as a charter partner.

12 (f) Additional requirements.--In addition to the required
13 charter agreement described in subsection (d), together with its
14 application, an adult use dispensing organization applicant
15 under this section must submit the application of a social and
16 economic equity applicant to operate a dispensary at up to three
17 locations under a social and economic equity dispensing
18 organization charter permit.

19 (g) Disqualification.--A social and economic equity
20 applicant must submit all required information as set forth in
21 subsection (c). Failure by any applicant to submit all required
22 information may result in the application being disqualified.
23 The issuance of a permit under this section may not be delayed
24 by an applicant's failure to identify the location of all of its
25 dispensary locations.

26 (h) Deficiency notice.--If the board receives an application
27 that fails to provide the required elements contained in
28 subsections (c) and (f), other than information relevant to all
29 of its dispensary locations, the board shall issue a deficiency
30 notice to the applicant. The applicant shall have 30 calendar

1 days from the date of the deficiency notice to submit complete
2 information.

3 (i) Review.--Once all required information and documents
4 have been submitted, the board shall review the applications of
5 both the adult use dispensing organization applicant and the
6 social and economic equity dispensing charter applicant. The
7 board may request revisions and retain final approval over
8 retail site features. The board shall approve the adult use
9 dispensing organization and social and economic equity
10 dispensing organization charter permits at the same time once
11 reviewed. Final approval for each individual dispensary location
12 shall be contingent on the completion of construction of the
13 dispensary locations, board inspections and providing the board
14 with any information set forth in subsection (c) related to
15 specific dispensary locations that were not provided during the
16 initial application process.

17 (j) Authorization.--The board may only authorize the sale of
18 cannabis at one of the adult use cannabis dispensing
19 organization's dispensary locations after the completion of a
20 successful inspection at that location and at a dispensary
21 location of the social and economic equity dispensing
22 organization charter permit holder. The board shall inspect a
23 location within 30 days of a written request by an adult use
24 dispensing organization or social and economic equity dispensing
25 organization charter permit holder.

26 (k) Successful inspection.--If the permit holders pass the
27 inspections under this section, the board shall authorize the
28 sale of cannabis at the dispensaries within 10 business days.
29 The board may, at its discretion, allow either the adult use
30 dispensing organization or the social and economic equity

1 dispensing organization charter permit holder to begin
2 operations at a location before the other permittee as long as
3 substantial, good faith efforts can be shown to open the
4 permittee that has not yet passed inspection.

5 (l) Notification of opening date.--Once the board has
6 authorized the sale of cannabis at an adult use dispensing
7 organization location or social and economic equity dispensing
8 organization charter location, the adult use dispensing
9 organization or social and economic equity dispensing
10 organization charter permittee shall notify the board of the
11 proposed opening date.

12 (m) Treatment.--A social and economic equity dispensing
13 organization charter permit holder shall be treated in all
14 respects as the equivalent of an adult use dispensing
15 organization except that the holder of a social and economic
16 equity dispensing organization charter permit shall operate its
17 dispensary locations with the assistance of the adult use
18 dispensing organization as outlined in the charter agreement.

19 (n) Initial sale.--An adult use cannabis dispensing
20 organization and social and economic equity dispensing
21 organization charter permit holder may begin selling cannabis,
22 cannabis-infused products, paraphernalia and related items to
23 purchasers and patients no sooner than January 1, 2022.

24 (o) Permit change.--After the term of the charter agreement
25 between the adult use dispensing organization and social and
26 economic equity dispensing organization charter permit holder
27 has expired and the social and economic equity dispensing
28 organization charter permit holder has assumed full ownership
29 and control of the dispensary facility, the board shall exchange
30 the social and economic equity dispensing organization charter

1 permit holder for an adult use dispensing organization permit.

2 (p) Additional permits.--Notwithstanding the requirements of
3 this section, any medical marijuana dispensary holding a permit
4 granted under Subchapter E of Chapter 94 or Subchapter M of
5 Chapter 94 as of the effective date of this section, that,
6 despite good faith efforts, has been unable to partner with a
7 qualified social and economic equity applicant as set forth in
8 this section, may still apply for an additional adult use
9 dispensing organization permit to operate at up to three
10 locations to serve purchasers and qualified patients throughout
11 this Commonwealth upon to payment of a fee of \$100,000 to the
12 board to be deposited into the Cannabis Business Development
13 Fund.

14 (q) Deposit.--All fees collected under this section shall be
15 deposited into the Cannabis Regulation Fund, unless otherwise
16 specified.

17 § 9239. New adult use dispensing organization permits.

18 (a) Additional permits.--Separate and apart from any adult
19 use dispensing organization permits issued to medical marijuana
20 dispensaries holding permits granted under Subchapter E of
21 Chapter 94 (relating to medical marijuana organizations) or
22 Subchapter M of Chapter 94 (relating to academic clinical
23 research centers and clinical registrants) as of the effective
24 date of this chapter, the board shall issue up to 10 additional
25 adult use dispensing organization permits before January 1,
26 2022.

27 (b) Dispensing.--All adult use dispensing organization
28 permits, including those issued to existing medical marijuana
29 dispensing organizations under sections 9237 (relating to
30 issuance of adult use dispensing organization permits to current

1 medical marijuana dispensary permit holders) and 9238 (relating
2 to issuance of additional adult use dispensing organization
3 permits to current medical marijuana dispensary permit holders
4 and social and economic equity dispensing organization charter
5 permits to qualified social and economic equity applicants),
6 shall entitle permittees to dispense cannabis to both adult use
7 customers and to medical patients.

8 (c) Award of permits.--To ensure the geographic dispersion
9 of adult use dispensing organization permit holders throughout
10 this Commonwealth, the board shall determine how many permits
11 should be awarded across this Commonwealth through a merit-based
12 application process. An applicant may file no more than one
13 application in any single application period.

14 (d) License application.--An applicant seeking issuance of
15 an adult use dispensing organization permit shall submit an
16 application on forms provided by the board. An applicant must:

17 (1) Pay a nonrefundable application fee of \$5,000 for
18 each license for which the applicant is applying, which shall
19 be deposited into the Cannabis Regulation Fund.

20 (2) Certify that the applicant will comply with the
21 requirements contained in this chapter.

22 (3) Include the legal name of the proposed adult use
23 dispensing organization.

24 (4) Include a statement that the adult use dispensing
25 organization agrees to respond to the board's requests for
26 information.

27 (5) Include a statement from each principal officer
28 indicating whether that individual:

29 (i) has previously held or currently holds an
30 ownership interest in a cannabis business establishment

1 in this Commonwealth; or

2 (ii) has held an ownership interest in a dispensary
3 or its equivalent in another state or territory of the
4 United States that had the dispensary permit or license
5 suspended, revoked, placed on probationary status or
6 subjected to other disciplinary action.

7 (6) Disclose whether any principal officer has ever
8 filed for bankruptcy or defaulted on spousal support or child
9 support obligation.

10 (7) Include:

11 (i) A resume for each principal officer, including
12 whether that individual has an academic degree,
13 certification or relevant experience with a cannabis
14 business establishment or in a related industry.

15 (ii) A description of the training and education
16 that will be provided to adult use dispensing
17 organization agents.

18 (iii) A copy of the proposed operating bylaws.

19 (iv) A copy of the proposed business plan that
20 complies with the requirements of this chapter,
21 including:

22 (A) a description of services to be offered; and

23 (B) a description of the process of dispensing
24 cannabis.

25 (v) A copy of the proposed security plan that
26 complies with the requirements of this chapter,
27 including:

28 (A) the process or controls that will be
29 implemented to monitor the dispensary, secure the
30 premises, agents and currency and prevent the

1 diversion, theft or loss of cannabis; and

2 (B) the process to ensure that access to the
3 restricted access areas is restricted to registered
4 agents, service professionals, transporting
5 organization agents, board inspectors and security
6 personnel.

7 (vi) A proposed inventory control plan that complies
8 with this section.

9 (vii) A proposed floor plan, square footage estimate
10 and description of proposed security devices, including
11 cameras, motion detectors, servers, video storage
12 capabilities and alarm service providers.

13 (viii) The name, address, Social Security number and
14 date of birth of each principal officer and board member
15 of the adult use dispensing organization, each of whom
16 shall be at least 21 years of age.

17 (ix) Evidence of the applicant's status as a social
18 and economic equity applicant, if applicable, and whether
19 the social and economic equity applicant plans to apply
20 for a loan or grant issued by the Commonwealth Financing
21 Authority.

22 (x) The address, telephone number and email address
23 of the applicant's principal place of business, if
24 applicable. A post office box may not be permitted.

25 (xi) Written summaries of any information regarding
26 instances in which a business or nonprofit that a
27 prospective board member previously managed or served on
28 was fined or censured, or any instances in which a
29 business or nonprofit that a prospective board member
30 previously managed or served on had its registration

1 suspended or revoked in any administrative or judicial
2 proceeding.

3 (xii) A plan for community engagement.

4 (xiii) Procedures to ensure accurate recordkeeping
5 and security measures that are in accordance with this
6 chapter and board rules.

7 (xiv) A description of the features that will
8 provide accessibility to purchasers as required by the
9 Americans with Disabilities Act of 1990 (Public Law 101-
10 336, 104 Stat. 327).

11 (xv) A detailed description of air treatment systems
12 that will be installed to reduce odors.

13 (xvi) A reasonable assurance that the issuance of a
14 license will not have a detrimental impact on the
15 community in which the applicant wishes to locate.

16 (xvii) The dated signature of each principal
17 officer.

18 (xviii) A description of the enclosed, locked
19 facility where cannabis will be stored by the dispensing
20 organization.

21 (xix) Signed statements from each adult use
22 dispensing organization agent stating that he or she will
23 not divert cannabis.

24 (xx) A diversity plan that includes a narrative
25 establishing a goal of diversity in ownership,
26 management, employment and contracting to ensure that
27 diverse participants and groups are afforded equality of
28 opportunity.

29 (xxi) A contract with a private security contractor
30 that is licensed under the laws of this Commonwealth for

1 the dispensary to have adequate security at its facility.

2 (xxii) A description of the physical location of the
3 dispensary, including evidence of the applicant's right
4 to open an adult use dispensary on the proposed property.

5 (e) Operational.--An applicant who receives an adult use
6 dispensing organization permit under this section shall have one
7 calendar year from the date of the award to become operational
8 at each of its locations. If an applicant who receives an adult
9 use dispensing organization permit does not become operational
10 at each of its locations within one calendar year of the permit
11 award, the board may revoke the permit absent good reason for
12 the delay shown by the applicant. Before a new adult use
13 dispensing organization receives authorization to begin building
14 the dispensary, the board shall inspect the physical space
15 selected by the permittee. The board shall verify the site is
16 suitable for public access, the layout promotes the safe
17 dispensing of cannabis and the location is sufficient in size,
18 power allocation, lighting, parking, handicapped accessible
19 parking spaces, accessible entry and exits as required by the
20 Americans with Disabilities Act of 1990, product handling and
21 storage.

22 (f) Background checks.--The board shall conduct a background
23 check of the prospective organization agents in order to carry
24 out this chapter. The Pennsylvania State Police shall charge the
25 applicant a fee for conducting the criminal history record check
26 which shall not exceed the actual cost of the record check. Each
27 person applying as a dispensing organization agent shall submit
28 a full set of fingerprints to the Pennsylvania State Police for
29 the purpose of obtaining a Federal and State criminal history
30 record check. Fingerprints shall be checked against the

1 fingerprint records now and hereafter, to the extent allowed by
2 law, filed in the Pennsylvania State Police and Federal Bureau
3 of Investigation criminal history records databases. The
4 Pennsylvania State Police shall furnish, following positive
5 identification, all conviction information in this Commonwealth
6 to the board.

7 § 9240. Selection criteria for new adult use dispensing
8 organization permits.

9 (a) Submissions.--Failure by an applicant to submit to the
10 board all required information under section 9239 (relating to
11 new adult use dispensing organization permits) may result in the
12 application being disqualified. If the board receives an
13 application that fails to provide the required elements in a
14 section, that section will not be scored.

15 (b) Application scoring.--The board shall, by rule, develop
16 a merit-based scoring system in which to award new adult use
17 dispensing organization permits as set forth in section 9239.

18 (c) Scoring criteria.--Applicants shall be awarded points on
19 applications as determined by the board according to the
20 following categories:

21 (1) Suitability of employee training plan.

22 (2) Security and recordkeeping.

23 (3) Applicant's business, financial, operating and floor
24 plans.

25 (4) Knowledge and experience.

26 (5) Labor and employment practices.

27 (6) Environmental plan.

28 (7) The owner is a resident of this Commonwealth.

29 (8) The applicant's plan to engage with the community.

30 (9) A diversity plan, including specifying the

1 percentage of the applicant's operating budget that will be
2 dedicated to contracting with or otherwise working with
3 minority-owned business enterprises, women-owned business
4 enterprises or veteran-owned business enterprises.

5 (10) Any other criteria the board may set by rule for
6 points.

7 (d) Anonymity.--Applications shall be scored by the board
8 anonymously pursuant to rules established by the board which
9 shall include tie-breaker language that governs the process
10 through which some applicants are to be awarded permits when
11 multiple applicants receive the same application score and the
12 awarding of permits to all tied applicants would result in
13 awarding more permits than is permissible under this chapter.
14 Any tie-breaking process shall be designed to ensure clarity,
15 transparency and fairness.

16 (e) Review.--Each application shall be reviewed and scored
17 by three individuals who score each application independently.
18 An applicant's score in each category under subsection (c) shall
19 be an average of the three scores awarded by each individual
20 score. An applicant may not receive full points simply for
21 providing responsive information on a section of the
22 application.

23 § 9241. Adult use dispensing organization operational
24 requirements and prohibitions.

25 (a) General rule.--An adult use dispensing organization
26 shall operate in accordance with the representations made in its
27 application and permit materials. An adult use dispensing
28 organization shall be in compliance with this chapter and rules.
29 The following shall apply:

30 (1) All cannabis, cannabis concentrates, cannabis-

1 infused products and cannabis seeds must be obtained from an
2 adult use cultivation center or another dispensary registered
3 in this Commonwealth.

4 (2) An adult use dispensing organization:

5 (i) Must include the legal name of the dispensary on
6 the packaging of any cannabis product it sells.

7 (ii) Shall inspect and count product received from a
8 cultivation center or other adult use dispensing
9 organization before dispensing it.

10 (iii) May only accept cannabis deliveries into a
11 restricted access area. Deliveries may not be accepted
12 through the public or limited access areas unless
13 otherwise approved by the board.

14 (iv) Shall maintain compliance with Commonwealth and
15 local building, fire and zoning requirements or
16 regulations.

17 (v) Shall submit a list to the board of the names of
18 all service professionals that will work at the
19 dispensary. The list shall include a description of the
20 type of business or service provided. The board shall be
21 promptly notified of any changes to the service
22 professional list. No service professional shall work in
23 the dispensary until the name is provided to the board on
24 the service professional list.

25 (vi) May operate between 6 a.m. and 10 p.m. local
26 time, or as determined by the local municipality.

27 (vii) Must keep all lighting outside and inside the
28 dispensary in good working order and wattage sufficient
29 for security cameras.

30 (viii) Must keep all air treatment systems that will

1 be installed to reduce odors in good working order.

2 (ix) Must contract with a private security
3 contractor that is permitted under the laws of this
4 Commonwealth to provide on-site security at all hours of
5 the dispensary's operation.

6 (x) Shall ensure that any building or equipment used
7 by an adult use dispensing organization for the storage
8 or sale of cannabis is maintained in a clean and sanitary
9 condition.

10 (xi) Shall be free from infestation by insects,
11 rodents or pests.

12 (xii) Shall develop a recall policy and procedure,
13 as approved by the board.

14 (xiii) May not:

15 (A) Cultivate, process or manufacture cannabis.

16 (B) Accept a cannabis product from a cultivation
17 center or adult use dispensing organization unless it
18 is prepackaged and labeled in accordance with this
19 chapter and any rules that may be adopted pursuant to
20 this chapter.

21 (C) Obtain cannabis or cannabis-infused products
22 from outside this Commonwealth.

23 (D) Sell cannabis or cannabis-infused products
24 to a purchaser unless the individual is registered
25 under Chapter 94 (relating to medical marijuana) or
26 the purchaser has been verified to be 21 years of age
27 or older.

28 (E) Refuse to conduct business with a
29 cultivation center or micro cultivation center that
30 can properly deliver the product and is permitted by

1 the board.

2 (F) Enter into agreements to allow persons who
3 are not adult use dispensing organization agents to
4 deliver cannabis or to transport cannabis to
5 purchasers, other than through home delivery services
6 approved by the board.

7 (G) Operate an adult use dispensing organization
8 if the:

9 (I) Organization's video surveillance
10 equipment is inoperative.

11 (II) Point-of-sale equipment is inoperative.

12 (III) Commonwealth's Seed-to-Sale Cannabis
13 Tracing System is inoperative.

14 (H) Have fewer than two people working at any
15 time while the dispensary is open.

16 (I) Sell clones or any other live plant
17 material.

18 (J) Violate any other requirements or
19 prohibitions set by the board.

20 (b) Operations requirement regulations.--The board shall
21 promulgate regulations setting forth operational requirements
22 for adult use dispensing organizations, consistent with the
23 provisions of this chapter, including the operational
24 requirements and prohibitions contained in this section.

25 § 9242. Dispensing cannabis.

26 (a) Dispensing criteria.--Prior to an adult use dispensing
27 organization agent dispensing cannabis to a purchaser, the agent
28 shall:

29 (1) Verify the age of the purchaser and validity of the
30 government-issued identification card of the purchaser by use

1 of an electronic reader or electronic scanning device, unless
2 otherwise permitted by the board, to scan a purchaser's
3 government-issued identification, if applicable.

4 (2) Enter the following information into the
5 Commonwealth's Seed-to-Sale Cannabis Tracking System:

6 (i) The adult use dispensing organization
7 identification card and dispensing agent's identification
8 number.

9 (ii) The amount and type, including strain, if
10 applicable, of cannabis or cannabis-infused product
11 dispensed.

12 (iii) The date and time the cannabis or cannabis-
13 infused product was dispensed.

14 (b) Refusal to sell.--An adult use dispensing organization
15 shall refuse to sell cannabis or cannabis-infused products to
16 any person unless the person produces valid identification
17 showing that the person is 21 years of age or older. An adult
18 use dispensing organization or a medical marijuana dispensing
19 organization under Chapter 94 (relating to medical marijuana)
20 may sell cannabis or cannabis-infused products to a person who
21 is under 21 years of age if the sale complies with the
22 provisions of Chapter 94.

23 (c) Validity.--For the purposes of this section, valid
24 identification must:

25 (1) Be valid and unexpired.

26 (2) Contain a photograph and the date of birth of the
27 person.

28 § 9243. Agent-in-charge.

29 (a) Designation.--Every adult use dispensing organization
30 shall designate, at a minimum, one agent-in-charge for each

1 permitted dispensary. The designated agent-in-charge must hold
2 an adult use dispensing organization agent identification card.
3 Maintaining an agent-in-charge shall be a continuing requirement
4 for the adult use dispensary organization permit, except as
5 provided in subsection (e).

6 (b) Requirements.--The agent-in-charge shall be a principal
7 officer or a full-time agent of the adult use dispensing
8 organization and shall manage the dispensary. Managing the
9 dispensary includes responsibility for opening and closing the
10 dispensary, delivery acceptance, oversight of sales and adult
11 use dispensing organization agents, recordkeeping, inventory,
12 adult use dispensing organization agent training and compliance
13 with this chapter, including the responsibility for maintaining
14 all files subject to audit or inspection by the board at the
15 dispensary. The agent-in-charge shall, within 48 hours, notify
16 the board of any change of information required to be reported
17 to the board.

18 (c) Determination.--In determining whether an agent-in-
19 charge manages the dispensary, the board may consider the
20 responsibilities identified in this section, the number of
21 dispensing organization agents under the supervision of the
22 agent-in-charge and the employment relationship between the
23 agent-in-charge and the adult use dispensing organization,
24 including the existence of a contract for employment and any
25 other relevant fact or circumstance.

26 (d) Change in status.--The agent-in-charge shall be
27 responsible for notifying the board of a change in the
28 employment status of any adult use dispensing organization agent
29 within 10 business days after the change, including notice to
30 the board if the termination of an agent was for diversion of

1 product or theft of currency.

2 (e) Vacancy.--In the event of the separation of an agent-in-
3 charge due to death, incapacity, termination or any other reason
4 and if the dispensary does not have an active agent-in-charge,
5 the adult use dispensing organization shall immediately contact
6 the board and request temporary authority allowing the
7 continuing operation. The request shall include the name of an
8 interim agent-in-charge until a replacement is identified or
9 shall include the name of the replacement. The board may not
10 delay in granting the temporary authority and the adult use
11 dispensing organization shall be permitted to operate while
12 obtaining board approval for an interim agent-in-charge. No
13 temporary authority shall be valid for more than 90 days. The
14 succeeding agent-in-charge shall register with the board in
15 compliance with this section. Once the permanent succeeding
16 agent-in-charge is registered with the board, the temporary
17 authority shall be void.

18 (f) Registration.--The adult use dispensing organization
19 agent-in-charge registration shall expire one year from the date
20 of issuance. The agent-in-charge's registration shall be renewed
21 annually.

22 (g) Termination.--Upon termination of an agent-in-charge's
23 employment, the adult use dispensing organization shall
24 immediately reclaim the adult use dispensing organization agent
25 identification card. The dispensing organization shall promptly
26 return the identification card to the board.

27 (h) Application denial.--The board may deny an application
28 or renewal or discipline or revoke an agent-in-charge
29 identification card for any of the following reasons:

30 (1) submission of misleading, incorrect, false or

1 fraudulent information in the application or renewal
2 application;

3 (2) violation of the requirements of this chapter or
4 rules;

5 (3) fraudulent use of the agent-in-charge identification
6 card;

7 (4) selling, distributing, transferring in any manner or
8 giving cannabis to any unauthorized person;

9 (5) theft of cannabis, currency or any other items from
10 a dispensary;

11 (6) tampering with, falsifying, altering, modifying or
12 duplicating an agent-in-charge identification card;

13 (7) tampering with, falsifying, altering or modifying
14 the surveillance video footage, point-of-sale system or the
15 Commonwealth's verification system;

16 (8) failure to notify the board immediately upon
17 discovery that the agent-in-charge identification card has
18 been lost, stolen or destroyed;

19 (9) failure to notify the board within 10 business days
20 after a change in the information provided in the application
21 for an agent-in-charge identification card;

22 (10) intentionally dispensing to purchasers in amounts
23 above the limits provided in this chapter;

24 (11) delinquency in filing any required tax returns or
25 paying any amounts owed to the Commonwealth.

26 (12) failure to notify the board within 48 hours after a
27 determination that a dispensary employee has diverted
28 cannabis or cannabis products or has intentionally dispensed
29 cannabis or cannabis products in a manner not consistent with
30 this chapter.

1 § 9244. Inventory control system.

2 (a) Inventory.--An adult use dispensing organization agent-
3 in-charge shall have primary oversight of the adult use
4 dispensing organization's cannabis inventory point-of-sale
5 system. The inventory point-of-sale system shall be real-time,
6 web-based, open API, two-way communication and accessible by the
7 board at any time. The point-of-sale system shall track, at a
8 minimum, the date of sale, amount, price and currency.

9 (b) Account.--An adult use dispensing organization shall
10 establish an account with the board's verification system that
11 documents:

12 (1) Each sales transaction at the time of sale and each
13 day's beginning inventory, acquisitions, sales, disposal and
14 ending inventory.

15 (2) Acquisition of cannabis and cannabis-infused
16 products from a permitted adult use cultivation center or
17 micro cultivation center, including:

18 (i) A description of the products, including the
19 quantity, strain, variety and batch number of each
20 product received.

21 (ii) The name and registry identification number of
22 the permitted adult use cultivation center or micro
23 cultivation center providing the cannabis and cannabis
24 products.

25 (iii) The name and registry identification number of
26 the permitted adult use cultivation center agent or micro
27 cultivation center agent delivering the cannabis.

28 (iv) The name and registry identification number of
29 the dispensing organization agent receiving the cannabis.

30 (v) The date of acquisition.

1 (3) The disposal of cannabis, including:

2 (i) A description of the products, including the
3 quantity, strain, variety, batch number and reason for
4 the cannabis being disposed.

5 (ii) The method of disposal.

6 (iii) The date and time of disposal.

7 (c) Verification.--Upon cannabis delivery, an adult use
8 dispensing organization shall confirm the product's name, strain
9 name, weight and identification number on the manifest matches
10 the information on the cannabis product label and package. The
11 product name listed and the weight listed in the Commonwealth's
12 verification system shall match the product packaging.

13 (d) Monthly inventory.--The agent-in-charge shall conduct a
14 monthly inventory reconciliation documenting and balancing
15 cannabis inventory by confirming the board's verification system
16 matches the adult use dispensing organization's point-of-sale
17 system and the amount of physical product at the dispensary. The
18 following shall apply:

19 (1) An adult use dispensing organization must receive
20 board approval before completing an inventory adjustment. An
21 adult use dispensing organization shall provide a detailed
22 reason for the adjustment. Inventory adjustment documentation
23 shall be kept at the dispensary or maintained electronically
24 for two years from the date performed.

25 (2) If the adult use dispensing organization identifies
26 an imbalance in the amount of cannabis after the daily
27 inventory reconciliation due to mistake, the dispensing
28 organization shall determine how the imbalance occurred and
29 take and document corrective action. If the adult use
30 dispensing organization cannot identify the reason for the

1 mistake within two calendar days after first discovery, the
2 adult use dispensing organization shall inform the board
3 immediately in writing of the imbalance and the corrective
4 action taken to date. The adult use dispensing organization
5 shall work diligently to determine the reason for the
6 mistake.

7 (3) If the adult use dispensing organization identifies
8 an imbalance in the amount of cannabis after the daily
9 inventory reconciliation or through other means due to theft,
10 criminal activity or suspected criminal activity, the adult
11 use dispensing organization shall determine how the reduction
12 occurred and take and document corrective action. Within 24
13 hours after the first discovery of the reduction due to
14 theft, criminal activity or suspected criminal activity, the
15 adult use dispensing organization shall inform the board and
16 the Pennsylvania State Police in writing.

17 (4) The adult use dispensing organization shall file an
18 annual compilation report with the board, including a
19 financial statement that shall include an income statement,
20 balance sheet, profit and loss statement, statement of cash
21 flow, wholesale cost and sales and any other documentation
22 requested by the board in writing. The financial statement
23 shall include any other information the board deems necessary
24 in order to effectively administer this chapter and all
25 rules, orders and final decisions promulgated under this
26 chapter. Statements required by this section shall be filed
27 with the board within 60 days after the end of the calendar
28 year. The compilation report shall include a letter authored
29 by a permitted certified public accountant that it has been
30 reviewed and is accurate based on the information provided.

1 The adult use dispensing organization, financial statement
2 and accompanying documents may not be audited unless
3 specifically requested by the board.

4 (e) Documentation.--An adult use dispensing organization
5 shall:

6 (1) Maintain the documentation required in this section
7 in a secure locked location at the adult use dispensing
8 organization, an offsite approved office or electronically,
9 for two years from the date on the document.

10 (2) Provide any documentation required to be maintained
11 in this section to the board for review upon request.

12 (3) If maintaining a bank account, retain for a period
13 of two years, electronically or otherwise, a record of each
14 deposit or withdrawal from the bank account.

15 (f) Return policy.--If an adult use dispensing organization
16 chooses to have a return policy for cannabis and cannabis-
17 infused products, the adult use dispensing organization shall
18 seek prior approval from the board, including as to how returned
19 cannabis or cannabis-infused products will be stored and
20 quarantined from other inventory.

21 § 9245. Storage requirements.

22 (a) Authorized on-premises storage.--An adult use dispensing
23 organization must store inventory on its premises. All inventory
24 stored on the premises must be secured in a restricted access
25 area and tracked consistently with the inventory tracking rules.
26 An adult use dispensing organization shall be of suitable size
27 and construction to facilitate cleaning, maintenance and proper
28 operations and shall maintain adequate lighting, ventilation,
29 temperature, humidity control and equipment.

30 (b) Tampered containers.--A cannabis container that has been

1 tampered with, damaged or opened shall be labeled with the date
2 opened and quarantined from other cannabis products in the vault
3 until they are disposed. Cannabis that was tampered with,
4 expired or damaged may not be stored at the premises for more
5 than 14 calendar days.

6 (c) Samples.--Cannabis samples shall be in a sealed
7 container and clearly labeled. Samples shall be maintained in
8 the restricted access area.

9 (d) Storage.--The adult use dispensing organization storage
10 areas shall be maintained in accordance with the security
11 requirements in this chapter and any rules promulgated by the
12 board. Cannabis must be stored at appropriate temperatures and
13 under appropriate conditions to help ensure that its packaging,
14 strength, quality and purity are not adversely affected.

15 § 9246. Destruction and disposal of cannabis.

16 (a) Destruction.--Cannabis and cannabis-infused products
17 must be destroyed by rendering them unusable using methods
18 approved by the board that comply with this chapter and rules
19 promulgated by the board. Cannabis waste rendered unusable must
20 be promptly disposed according to this chapter and rules.

21 Disposal of the cannabis waste rendered unusable may be
22 delivered to a permitted solid waste facility for final
23 disposition. Acceptable permitted solid waste facilities
24 include:

25 (1) compostable; and

26 (2) noncompostable mixed-waste facilities.

27 (b) Waste inventory.--All waste and unusable cannabis,
28 cannabis concentrates and cannabis-infused products shall be
29 weighed, recorded and entered into the inventory system prior to
30 rendering it unusable. Verification of waste inventory shall be

1 performed by an agent-in-charge and conducted in an area with
2 video surveillance. Electronic documentation of destruction and
3 disposal shall be maintained for a period of at least two years.
4 § 9247. Security.

5 (a) General rule.--An adult use dispensing organization
6 shall implement security measures to protect the premises and
7 purchasers and deter and prevent entry into and theft of
8 cannabis or currency and shall submit any changes to the floor
9 plan or security plan to the board for preapproval. All cannabis
10 shall be maintained and stored in a restricted access area
11 during construction. Security measures shall:

12 (1) Establish a locked door or barrier between the
13 facility's adult use dispensing organization's entrance and
14 the limited access area.

15 (2) Prevent individuals from remaining on the premises
16 if they are not engaging in activity permitted by this
17 chapter or rules promulgated by the board.

18 (3) Develop a policy that addresses the maximum capacity
19 and purchaser flow in the waiting rooms and limited access
20 areas.

21 (4) Dispose of cannabis in accordance with this chapter
22 and rules promulgated by the board.

23 (5) During hours of operation, store and dispense all
24 cannabis from the limited access area. During operational
25 hours, cannabis shall be stored in an enclosed, locked space
26 or cabinet and accessible only to specifically authorized
27 adult use dispensing organization agents.

28 (6) When the dispensary is closed, store all cannabis
29 and currency in a reinforced vault room in the restricted
30 access area and in a manner as to prevent diversion, theft or

1 loss.

2 (7) Keep the reinforced vault room and any other
3 equipment or cannabis storage areas securely locked and
4 protected from unauthorized entry.

5 (8) Keep an electronic daily log of adult use dispensing
6 organization agents with access to the reinforced vault room
7 and knowledge of the access code or combination.

8 (9) Keep all locks and security equipment in good
9 working order.

10 (10) Maintain an operational security and alarm system
11 at all times.

12 (11) Prohibit keys, if applicable, from being left in
13 the locks or stored or placed in a location accessible to
14 individuals other than specifically authorized personnel.

15 (12) Prohibit accessibility of security measures,
16 including combination numbers, passwords or electronic or
17 biometric security systems to individuals other than
18 specifically authorized adult use dispensing organization
19 agents.

20 (13) Ensure that the dispensary interior and exterior
21 premises are sufficiently lit to facilitate surveillance.

22 (14) Ensure that trees, bushes and other foliage outside
23 of the dispensary premises do not allow for individuals to
24 conceal themselves from sight.

25 (15) Develop emergency policies and procedures for
26 securing all product and currency following any instance of
27 diversion, theft or loss of cannabis and conduct an
28 assessment to determine whether additional safeguards are
29 necessary.

30 (16) Develop sufficient additional safeguards in

1 response to any special security concerns, or as required by
2 the board.

3 (b) Alternative security.--The board may request or approve
4 alternative security provisions that the board determines are an
5 adequate substitute for a security requirement specified in this
6 section. Any additional protections may be considered by the
7 board in evaluating overall security measures. An adult use
8 dispensing organization shall provide additional security as
9 needed and, in a manner, appropriate for the community where it
10 operates.

11 (c) Restricted access areas, security and alarms.--The
12 following shall apply:

13 (1) All restricted access areas must be identified by
14 the posting of a sign that is a minimum of 12 inches by 12
15 inches and that states: "Do Not Enter - Restricted Access
16 Area - Authorized Personnel Only" in lettering no smaller
17 than one inch in height.

18 (2) All restricted access areas shall be clearly
19 described in the floor plan of the premises, in the form and
20 manner determined by the board, including reflecting walls,
21 partitions, counters and all areas of entry and exit. The
22 floor plan shall show all storage, disposal and retail sales
23 areas.

24 (3) All restricted access areas must be secure, with
25 locking devices that prevent access from the limited access
26 areas.

27 (4) An adult use dispensing organization's security
28 shall have an adequate security plan and security system to
29 prevent and detect diversion, theft or loss of cannabis,
30 currency or unauthorized intrusion using commercial grade

1 equipment installed by a permitted or licensed alarm
2 contractor or private alarm contractor agency in this
3 Commonwealth that shall, at a minimum, include:

4 (i) A perimeter alarm on all entry points and glass
5 break protection on perimeter windows.

6 (ii) A failure notification system that provides an
7 audible, text or visual notification of any failure in
8 the surveillance system, including panic buttons, alarms
9 and video monitoring systems.

10 (iii) A duress alarm, panic button, alarm or holdup
11 alarm and after-hours intrusion detection alarm that by
12 design and purpose will directly or indirectly notify, by
13 the most efficient means, the public safety answering
14 point for the law enforcement agency having primary
15 jurisdiction.

16 (iv) Security equipment to deter and prevent
17 unauthorized entrance into the dispensary, including
18 electronic door locks on the limited access and
19 restricted access areas that include devices or a series
20 of devices to detect unauthorized intrusion that may
21 include a signal system interconnected with a radio
22 frequency method, cellular, private radio signals or
23 other mechanical or electronic device.

24 (5) All security system equipment and recordings shall
25 be maintained in good working order, in a secure location so
26 as to prevent theft, loss, destruction or alterations.

27 (6) Access to surveillance monitoring recording
28 equipment shall be limited to persons who are essential to
29 surveillance operations, law enforcement authorities acting
30 within their jurisdiction, security system service personnel

1 and the board. A current list of authorized adult use
2 dispensing organization agents and service personnel that
3 have access to the surveillance equipment must be available
4 to the board upon request.

5 (7) All security equipment shall be inspected and tested
6 at regular intervals, not to exceed one month from the
7 previous inspection and tested to ensure the systems remain
8 functional.

9 (8) The security system shall provide protection against
10 theft and diversion that is facilitated or hidden by
11 tampering with computers or electronic records.

12 (9) The dispensary shall ensure all access doors are not
13 solely controlled by an electronic access panel to ensure
14 that locks are not released during a power outage.

15 (d) Video surveillance.--To monitor the dispensary, the
16 adult use dispensing organization shall incorporate continuous
17 electronic video monitoring. The following shall apply:

18 (1) Security monitors shall be 19 inches or greater in
19 screen size.

20 (2) All video surveillance of all enclosed dispensary
21 areas, unless prohibited by law, including all points of
22 entry and exit that shall be unobstructed and appropriate for
23 the normal lighting conditions of the area under
24 surveillance. The cameras shall be directed so all areas are
25 captured, including safes, vaults, sales areas and areas
26 where cannabis is stored, handled, dispensed or destroyed.
27 Cameras shall be angled to allow for facial recognition, the
28 capture of clear and certain identification of any person
29 entering or exiting the dispensary area and in lighting
30 sufficient during all times of night and day.

1 (3) All video surveillance of outside areas, the
2 storefront and the parking lot shall be unobstructed and
3 shall be appropriate for the normal lighting conditions of
4 the area under surveillance. Cameras shall be angled to allow
5 for the capture of facial recognition, clear and certain
6 identification of any person entering or exiting the
7 dispensary and the immediate surrounding area, and permit
8 registration plates of vehicles in the parking lot.

9 (4) There shall be 24-hour recordings from all video
10 cameras available for immediate viewing by the board upon
11 request. Recordings may not be destroyed or altered and shall
12 be retained for at least 90 days. Recordings shall be
13 retained as long as necessary if the adult use dispensing
14 organization is aware of the loss or theft of cannabis or a
15 pending criminal, civil or administrative investigation or
16 legal proceeding for which the recording may contain relevant
17 information.

18 (5) The security system shall have the ability to
19 immediately produce a clear, color still photo from the
20 surveillance video, either live or recorded.

21 (6) A date and time stamp shall be embedded on all video
22 surveillance recordings. The date and time shall be
23 synchronized and set correctly and shall not significantly
24 obscure the picture.

25 (7) The security system shall have the ability to remain
26 operational during a power outage and ensure all access doors
27 are not solely controlled by an electronic access panel to
28 ensure that locks are not released during a power outage.

29 (8) All video surveillance equipment shall allow for the
30 exporting of still images in an industry standard image

1 format. Exported video shall have the ability to be archived
2 in a proprietary format that ensures authentication of the
3 video and guarantees that no alteration of the recorded image
4 has taken place. Exported video shall also have the ability
5 to be saved in an industry standard file format that can be
6 played on a standard computer operating system. All
7 recordings shall be erased or destroyed before disposal.

8 (9) A video camera or cameras recording at each point-
9 of-sale location allowing for the identification of the
10 dispensing organization agent distributing the cannabis and
11 any purchaser. The camera or cameras shall capture the sale,
12 the individuals and the computer monitors used for the sale.

13 (10) A failure notification system that provides an
14 audible and visual notification of any failure in the
15 electronic video monitoring system.

16 (11) All electronic video surveillance monitoring must
17 record at least the equivalent of eight frames per second
18 triggered by motion and be available as recordings to the
19 board and the Pennsylvania State Police 24 hours a day via a
20 secure web-based portal with reverse functionality.

21 (e) Additional requirements.--The requirements contained in
22 this chapter are minimum requirements for operating an adult use
23 dispensing organization. The board may establish additional
24 requirements by rule.

25 § 9248. Recordkeeping.

26 (a) Record retention.--Adult use dispensing organization
27 records must be maintained electronically for two years and be
28 available for inspection by the board upon request. Required
29 written records include:

30 (1) Operating procedures.

- 1 (2) Inventory records, policies and procedures.
- 2 (3) Security records.
- 3 (4) Audit records.
- 4 (5) Staff training plans and completion documentation.
- 5 (6) Staffing plan.
- 6 (7) Business records, including:
 - 7 (i) Assets and liabilities.
 - 8 (ii) Monetary transactions.
 - 9 (iii) Written or electronic accounts, including bank
10 statements, journals, ledgers and supporting documents,
11 agreements, checks, invoices, receipts and vouchers.
 - 12 (iv) Any other financial accounts reasonably related
13 to the dispensary operations.

14 (b) Storage and transfer of records.--If an adult use
15 dispensing organization closes due to insolvency, revocation,
16 bankruptcy or for any other reason, all records must be
17 preserved at the expense of the adult use dispensing
18 organization for at least two years in a form and location in
19 this Commonwealth acceptable to the board. The adult use
20 dispensing organization shall keep the records longer if
21 requested by the board. The adult use dispensing organization
22 shall notify the board of the location where the dispensary
23 records are stored or transferred.

24 § 9249. Issuance of adult use cultivation permits.

- 25 (a) General rule.--On or after January 1, 2022, the board by
26 rule may:
 - 27 (1) Modify or change the number of adult use cultivation
28 center permits available, which shall at no time exceed five
29 permits, other than those permits issued to current
30 grower/processors under this chapter.

1 (2) Modify or change the permitting application process
2 to reduce or eliminate the barriers to permits, particularly
3 for social and economic equity applicants, and shall make
4 modifications to remedy evidence of discrimination.

5 (b) Additional permits.--Should the board determine that
6 additional adult use cultivation center permits should be issued
7 other than those permits issued to current grower/processors
8 under Chapter 94 (relating to medical marijuana), the board
9 shall ensure that the first three of the up to five additional
10 permits authorized be awarded to qualified social and economic
11 equity applicants.

12 § 9250. Issuance of adult use cultivation center permits to
13 current medical marijuana grower/processor permit
14 holders.

15 (a) Application.--A medical marijuana grower/processor
16 holding a valid permit granted under Subchapter E of Chapter 94
17 (relating to medical marijuana organizations) or Subchapter M of
18 Chapter 94 (relating to academic clinical research centers and
19 clinical registrants) as of the effective date of this section
20 may apply to the board for an adult use cultivation center
21 permit to grow and process cannabis under this section. An adult
22 use cultivation center permit issued under this section to a
23 current grower/processor may operate at up to two locations.

24 (b) Submission.--A medical marijuana grower/processor
25 seeking issuance of an adult use dispensing organization permit
26 to grow and process cannabis shall submit an application on
27 forms provided by the board. The application must be submitted
28 by the same individual or entity that holds the medical
29 marijuana grower/processor registration and include the
30 following:

1 (1) Payment of a nonrefundable application fee of
2 \$100,000 to be deposited into the Cannabis Regulation Fund.

3 (2) Proof of registration as a medical marijuana
4 grower/processor that is in good standing.

5 (3) Submission of the application by the same individual
6 or entity that holds the medical marijuana grower/processor
7 permit.

8 (4) Certification that the applicant will comply with
9 the requirements contained under Chapter 94 (relating to
10 medical marijuana), except as provided in this chapter.

11 (5) The legal name of the grower/processor.

12 (6) The physical address of the grower/processor.

13 (7) The name, address, Social Security number and date
14 of birth of each principal officer and board member of the
15 grower/processor, each of whom shall be at least 21 years of
16 age.

17 (8) A nonrefundable cannabis business development fee
18 equal to 5% of the grower/processor's total sales between
19 June 1, 2020, to June 1, 2021, or \$750,000, whichever is
20 less, but no less than \$250,000, to be deposited into the
21 Cannabis Business Development Fund.

22 (9) A commitment to completing one of the following
23 social and economic equity inclusion plans provided for in
24 this subsection prior to the expiration of the adult use
25 cultivation center permit:

26 (i) contribute 5% of total sales from June 1, 2020,
27 to June 1, 2021, or \$100,000, whichever is less, to the
28 Cannabis Business Development Fund. This is in addition
29 to the fees required under this subsection;

30 (ii) make a grant of 5% of total sales from June 1,

1 2020, to June 1, 2021, or \$100,000, whichever is less, to
2 a cannabis industry training or education program in this
3 Commonwealth;

4 (iii) donate \$100,000 or more to a program that
5 provides job training services to persons recently
6 incarcerated or that operates in a disproportionately
7 impacted area;

8 (iv) participate as a host in a cannabis business
9 establishment incubator program approved by the
10 Commonwealth Financing Authority and in which an adult
11 use cultivation center permit holder agrees to provide a
12 loan of at least \$100,000 and mentorship to incubate, for
13 at least a year, a social and economic equity applicant
14 intending to seek a permit or a permittee that qualifies
15 as a social and economic equity applicant. As used in
16 this subparagraph, "incubate" means providing direct
17 financial assistance and training necessary to engage in
18 permitted cannabis industry activity similar to that of
19 the host permittee. The adult use cultivation center
20 permit holder or the same entity holding any other
21 permits issued pursuant to this chapter shall not take an
22 ownership stake in any business receiving incubation
23 services to comply with this subsection. If an adult use
24 cultivation center permit holder fails to find a business
25 to incubate to comply with this subsection, after
26 reasonable efforts, before the adult use cultivation
27 center permit expires, the adult use cultivation center
28 permit holder may opt to meet the requirement of this
29 subsection by completing another item from this
30 subsection; or

1 (v) participate in a sponsorship program for at
2 least two years approved by the Commonwealth Financing
3 Authority in which an adult use cultivation center permit
4 holder agrees to provide an interest-free loan of at
5 least \$200,000 to a social and economic equity applicant.
6 The sponsor shall not take an ownership stake in any
7 social and economic equity applicant receiving
8 sponsorship services to comply with this subsection.

9 (c) Fees.--The application fee required by subsection (b) (1)
10 shall be in addition to any permit fee required for renewal.

11 (d) Submission and approval.--An applicant under this
12 section must submit all required information, including the
13 requirements in subsection (b), to the board. Failure by an
14 applicant to submit all required information may result in the
15 application being disqualified or delayed. If an applicant meets
16 all the requirements of subsection (b), the board shall issue
17 the adult use cultivation center permit within 14 days of
18 receiving a completed application unless:

19 (1) the permittee or a principal officer is delinquent
20 in filing any required tax returns or paying any amounts owed
21 to the Commonwealth;

22 (2) the board determines there is reason, based on
23 documented compliance violations, the permittee is not
24 entitled to an adult use cultivation center permit; or

25 (3) any principal officer fails to register and remain
26 in compliance with this chapter.

27 (e) Growing.--A registered medical marijuana
28 grower/processor that obtains an adult use cultivation center
29 permit may begin growing and processing adult use cannabis,
30 cannabis-infused products, cannabis concentrates and related

1 items under the rules promulgated by the board under this
2 chapter immediately upon receiving an adult use cultivation
3 center permit from the board and authorization to begin
4 operations at its individual locations. The board may approve
5 one initial location to begin operations before separately
6 approving another location. An adult use cultivation center that
7 obtains a permit from the board may begin selling cannabis,
8 cannabis-infused products and cannabis concentrates on January
9 1, 2022.

10 (f) Product shortage.--If there is a shortage of cannabis or
11 cannabis products, an adult use cultivation center holding both
12 a grower/processor permit under Chapter 94 and an adult use
13 cultivation center permit shall prioritize serving patients and
14 caregivers.

15 (g) Construction.--Nothing in this section shall be
16 construed to prevent or constrain an existing medical marijuana
17 grower/processor that receives an adult use cultivation center
18 permit from relocating its existing facility, before or after
19 receiving its adult use cultivation center permit, in accordance
20 with procedures for relocation in this chapter or any rules
21 promulgated by the board.

22 § 9251. New adult use cultivation center permits.

23 If the board makes available an additional adult use
24 cultivation center permit under section 9249 (relating to
25 issuance of adult use cultivation permits), an applicant for an
26 additional adult use cultivation center permit shall
27 electronically submit the following in a form as the board may
28 direct:

29 (1) the nonrefundable application fee set by the board,
30 to be deposited into the Cannabis Regulation Fund;

1 (2) the legal name of the cultivation center;

2 (3) the proposed physical address of the adult use
3 cultivation center;

4 (4) the name, address, Social Security number and date
5 of birth of each principal officer and board member of the
6 adult use cultivation center, each of whom shall be at least
7 21 years of age;

8 (5) the details of any administrative or judicial
9 proceeding in which any of the principal officers or board
10 members of the adult use cultivation center;

11 (i) pled guilty, were convicted, fined or had a
12 registration or license suspended or revoked; or

13 (ii) managed or served on the board of a business or
14 nonprofit organization that pled guilty, was convicted,
15 fined or had a registration or license suspended or
16 revoked;

17 (6) proposed operating bylaws that include procedures
18 for the oversight of the adult use cultivation center,
19 including the development and implementation of a plant
20 monitoring system, including a weekly physical inventory of
21 all plants and cannabis and accurate recordkeeping, staffing
22 plans and security plans approved by the Pennsylvania State
23 Police that are in accordance with the rules issued by the
24 board under this chapter;

25 (7) verification from the Pennsylvania State Police that
26 all background checks of the prospective principal officers,
27 board members and agents of the cannabis business
28 establishment have been conducted;

29 (8) a copy of the current local zoning ordinance or
30 permit and verification that the proposed adult use

1 cultivation center is in compliance with the local zoning
2 rules and distance limitations established by the local
3 jurisdiction;

4 (9) proposed employment practices, in which the
5 applicant must demonstrate a plan of action to inform, hire
6 and educate minorities, women, veterans and persons with
7 disabilities and engage in fair labor practices which provide
8 worker protections;

9 (10) whether an applicant can demonstrate experience in
10 or business practices that promote economic empowerment in
11 disproportionately impacted areas;

12 (11) experience with the cultivation of agricultural or
13 horticultural products, operating an agriculturally-related
14 business or operating a horticultural business;

15 (12) a description of the enclosed, locked facility
16 where cannabis will be grown, harvested, manufactured,
17 processed, packaged or otherwise prepared for distribution to
18 a dispensing organization or customer or qualified patient,
19 pursuant to home delivery services, as approved by the board;

20 (13) a survey of the enclosed and locked facility,
21 including the space used for cultivation and processing;

22 (14) cultivation, processing, inventory and packaging
23 plans;

24 (15) a description of the applicant's experience with
25 agricultural cultivation techniques and industry standards;

26 (16) a list of any academic degrees, certifications or
27 relevant experience of all prospective principal officers,
28 board members and agents of the related business;

29 (17) the identity, including the name and address, of
30 every person having a financial or voting interest of 5% or

1 greater in the adult use cultivation center operation with
2 respect to which the permit is sought, whether a trust,
3 corporation, partnership, limited liability company or sole
4 proprietorship;

5 (18) a plan describing how the adult use cultivation
6 center will address each of the following:

7 (i) energy needs, including estimates of monthly
8 electricity and gas usage, from the identified location
9 of a utility, whether local or on-site generation, and
10 any intended use to adopt a sustainable energy use and
11 energy conservation policy;

12 (ii) water needs, including estimated water draw and
13 intended use of a sustainable water use and water
14 conservation policy; and

15 (iii) waste management, including adoption of a
16 waste reduction policy;

17 (19) a diversity plan, including specifying the
18 percentage of the applicant's operating budget that will be
19 dedicated to contracting with or otherwise working with
20 minority-owned business enterprises, women-owned business
21 enterprises or veteran-owned business enterprises;

22 (20) a recycling plan, including the following
23 requirements:

24 (i) purchaser packaging, including cartridges, shall
25 be accepted by the applicant and recycled;

26 (ii) any recyclable waste generated by the
27 cultivation center shall be recycled per applicable State
28 and local laws, ordinances and rules; and

29 (iii) any cannabis waste, liquid waste or hazardous
30 waste shall be disposed of in accordance with State law,

1 except, to the greatest extent feasible, all cannabis
2 plant waste will be rendered unusable by grinding and
3 incorporating the cannabis plant waste with compostable
4 mixed waste to be disposed of in accordance with
5 Commonwealth law;

6 (21) commitment to comply with Federal, State and local
7 waste provisions, including applicable Federal and State
8 environmental requirements, including:

9 (i) storing, securing and managing all recyclables
10 and waste, including organic waste composed of or
11 containing finished cannabis and cannabis products; and

12 (ii) disposing liquid waste containing cannabis or
13 byproducts of cannabis processing in compliance with all
14 applicable Federal and State requirements;

15 (22) a commitment to a technology standard for resource
16 efficiency of the adult use cultivation center; and

17 (23) any other information required by rule.

18 § 9252. Selection criteria for new adult use cultivation center
19 permits.

20 (a) Application.--An applicant for an adult use cultivation
21 center permit under section 9251 (relating to new adult use
22 cultivation center permits) must submit all required information
23 to the board. Failure by an applicant to submit all required
24 information may result in the application being disqualified. If
25 the board receives an application that fails to provide the
26 required elements contained in this section, that section may
27 not be scored.

28 (b) Scoring.--The board shall, by rule, develop a merit-
29 based scoring system in which to award new adult use cultivation
30 center permits under section 9251. An applicant shall be awarded

1 points on their application, as determined by the board, in
2 categories including:

3 (1) Suitability of the proposed facility.

4 (2) Suitability of employee training plan.

5 (3) Security and recordkeeping.

6 (4) Cultivation or processing plan.

7 (5) Product safety and labeling plan.

8 (6) Business plan.

9 (7) Labor and employment practices.

10 (8) Environmental plan.

11 (9) Whether or not the applicant is 51% or more owned
12 and controlled by an individual or individuals who have been
13 residents of this Commonwealth for the past five years as
14 proven by tax records or two of the following:

15 (i) a signed lease agreement that includes the
16 applicant's name;

17 (ii) a property deed that includes the applicant's
18 name;

19 (iii) school records;

20 (iv) a voter registration card;

21 (v) a Pennsylvania driver's license, a State
22 identification card or a Pennsylvania person with a
23 disability registration plate;

24 (vi) a paycheck stub;

25 (vii) a utility bill; or

26 (viii) any other proof of residency or other
27 information necessary to establish residence as provided
28 by rule.

29 (10) A diversity plan, which includes specifying the
30 percentage of the applicant's operating budget that will be

1 dedicated to contracting with or otherwise working with
2 minority-owned business enterprises, women-owned business
3 enterprises or veteran-owned business enterprises.

4 (11) The applicant's plan to engage with the community.

5 (12) Any other criteria the board may set by rule for
6 points.

7 (c) Scoring.--Applications shall be scored by the board
8 anonymously under the rules established by the board. The board
9 shall develop tie-breaker language that governs the process
10 through which an applicant is awarded adult use cultivation
11 center permits when multiple applicants receive the same
12 application score and the awarding of adult use cultivation
13 center permits to all tied applicants would result in awarding
14 more adult use cultivation center permits than is permissible
15 under this chapter. Any tie-breaking process shall be designed
16 to ensure clarity, transparency and fairness.

17 (d) Review and scoring.--Each application shall be reviewed
18 and scored by three individuals who will score each application
19 independently of each other. An applicant's score on each
20 section of the application shall be an average of the three
21 scores awarded by each individual scorer. The scoring system
22 developed by the board shall be designed so that an applicant
23 may not receive full points simply for providing responsive
24 information on a section of the application.

25 (e) Eligibility.--An applicant may file no more than one
26 application in any single application period.

27 (f) Fee.--Should an applicant be awarded an adult use
28 cultivation center permit, the applicant shall pay a fee prior
29 to receiving the permit which shall be deposited into the
30 Cannabis Regulation Fund, the amount to be set by the board.

1 § 9253. Adult use cultivation center requirements and
2 prohibitions.

3 (a) Requirements.--The operating documents of an adult use
4 cultivation center shall include procedures for the oversight of
5 the adult use cultivation center, a cannabis plant monitoring
6 system including a physical inventory recorded weekly, accurate
7 recordkeeping and a staffing plan.

8 (b) Security plan.--An adult use cultivation center shall
9 implement a security plan reviewed by the Pennsylvania State
10 Police that includes facility access controls, perimeter
11 intrusion detection systems, personnel identification systems, a
12 24-hour surveillance system to monitor the interior and exterior
13 of the adult use cultivation center facility and accessibility
14 to authorized law enforcement, and the board in real time.

15 (c) Facility.--All cultivation of cannabis by an adult use
16 cultivation center must take place in an enclosed, locked
17 facility at the physical address provided to the board during
18 the licensing process. The adult use cultivation center location
19 shall only be accessed by the agents working for the adult use
20 cultivation center, the board staff performing inspections and
21 State law enforcement or other emergency personnel, contractors
22 working on jobs unrelated to cannabis or other individuals as
23 provided by rule.

24 (d) Sale prohibited.--An adult use cultivation center may
25 not sell or distribute any cannabis or cannabis products to any
26 person other than an adult use dispensing organization or as
27 otherwise authorized by rule or the board, including home
28 delivery to customers and patients.

29 (e) Pricing.--An adult use cultivation center may not either
30 directly or indirectly discriminate in price between different

1 dispensing organizations that are purchasing a like grade,
2 strain, brand and quality of cannabis or cannabis product.
3 Nothing in this subsection shall prevent adult use cultivation
4 centers from pricing cannabis differently based on differences
5 in the cost of manufacturing or processing, the quantities sold,
6 such as volume discounts, or the way the products are delivered.

7 (f) Data collection system.--All cannabis harvested by an
8 adult use cultivation center and intended for distribution to an
9 adult use dispensing organization must be entered into a data
10 collection system, packaged and labeled and placed into a
11 cannabis container for transport.

12 (g) Random inspection.--An adult use cultivation center
13 shall be subject to random inspections by the board and the
14 Pennsylvania State Police.

15 (h) Loss notification.--An adult use cultivation center
16 agent shall notify local law enforcement, the Pennsylvania State
17 Police and the board within 24 hours of the discovery of any
18 loss or theft. Notification shall be made by phone or in person,
19 or by written or electronic communication.

20 (i) Pesticides.--An adult use cultivation center shall
21 comply with all Federal and State rules and regulations
22 regarding the use of pesticides on cannabis plants. The board
23 shall promulgate reasonable rules allowing pesticide use in
24 accordance with thresholds permitted in other adult use and
25 medical marijuana markets.

26 (j) Process.--An adult use cultivation center may process
27 cannabis, cannabis concentrates and cannabis-infused products.

28 (k) Compliance.--An adult use cultivation center must comply
29 with any other requirements or prohibitions set by
30 administrative rule of the board.

1 § 9254. Issuance of micro cultivation center permits.

2 (a) Limitation.--An applicant may file no more than one
3 application in any single application period.

4 (b) Issuance.--The board shall issue up to 100 micro
5 cultivation center permits by July 1, 2022. By July 1, 2023, the
6 board shall issue up to an additional 50 micro cultivation
7 center permits. Prior to issuing a permit, the board may adopt
8 rules to modify or raise the number of micro cultivation center
9 permits or modify or change the permitting application process
10 to reduce or eliminate barriers for an applicant. In determining
11 whether to exercise the authority granted under this subsection,
12 the board must consider the following factors:

13 (1) the percentage of cannabis sales occurring in this
14 Commonwealth not in the regulated market;

15 (2) whether there is an adequate supply of cannabis and
16 cannabis products to serve patients;

17 (3) whether there is an adequate supply of cannabis and
18 cannabis products to serve purchasers;

19 (4) whether there is an oversupply of cannabis in this
20 Commonwealth leading to trafficking of cannabis to states
21 where the sale of cannabis is not permitted by law;

22 (5) population increases or shifts;

23 (6) the density of micro cultivation centers in any area
24 of this Commonwealth;

25 (7) perceived security risks of increasing the number or
26 location of micro cultivation centers;

27 (8) the past safety record of micro cultivation centers;

28 (9) the board's capacity to appropriately regulate
29 additional permittees;

30 (10) the findings and recommendations from the

1 Commonwealth Financing Authority with respect to social and
2 economic equity applicant participation; and

3 (11) any other criteria the board deems relevant.

4 (c) Modification.--After January 1, 2024, the board may by
5 rule further modify or raise the number of micro cultivation
6 center permits and modify or change the permitting application
7 process to reduce or eliminate barriers for applicants based on
8 the criteria in subsection (b). At no time may the number of
9 micro cultivation center permits exceed 300. An individual or
10 entity awarded a permit under this section may sell its micro
11 cultivation center permit subject to the restrictions of this
12 chapter or as determined by administrative rule.

13 (d) Space.--A micro cultivation center may not contain more
14 than 3,000 square feet of canopy space for plants in the
15 flowering stage for cultivation of cannabis as provided in this
16 chapter. A micro cultivation center may share a premises with an
17 adult use dispensing organization, provided each permittee
18 stores currency and cannabis and cannabis products in a separate
19 secured vault to which the other permittee does not have access
20 or all permittees sharing a vault share more than 50% of the
21 same ownership.

22 § 9255. Micro cultivation center permit applications.

23 (a) General rule.--When applying for a license, the
24 applicant for a micro cultivation center permit shall
25 electronically submit the following to the board as the board
26 may direct:

27 (1) the nonrefundable application fee of \$2,500 to be
28 deposited into the Cannabis Regulation Fund, or another
29 amount as the board may set by rule after January 1, 2022;

30 (2) the legal name of the micro cultivation center;

1 (3) the proposed physical address of the micro
2 cultivation center;

3 (4) the name, address, Social Security number and date
4 of birth of each principal officer and board member of the
5 micro cultivation center, including each principal officer
6 and board member that is at least 21 years of age;

7 (5) the details of any administrative or judicial
8 proceeding in which any of the principal officers or board
9 members of the micro cultivation center pled guilty, were
10 convicted, were fined or had a registration or license
11 suspended or revoked or managed or served on the board of a
12 business or nonprofit organization that pled guilty, was
13 convicted, was fined or had a registration or license
14 suspended or revoked;

15 (6) proposed operating bylaws that include a weekly
16 inventory of all plants and procedures for cultivating
17 cannabis and oversight of the micro cultivation center,
18 including the development and implementation of a plant
19 monitoring system, accurate recordkeeping, staffing plan and
20 a security plan approved by the Pennsylvania State Police
21 that is in accordance with the rules issued by the board
22 under this chapter;

23 (7) verification from the Pennsylvania State Police that
24 all background checks of the prospective principal officers,
25 board members and agents of the cannabis business
26 establishment have been conducted;

27 (8) a copy of the current local zoning ordinance or
28 permit and verification that the proposed micro cultivation
29 center is in compliance with the local zoning rules and
30 distance limitations established by the local jurisdiction;

1 (9) proposed employment practices, in which the
2 applicant must demonstrate a plan of action to inform, hire
3 and educate minorities, women, veterans and persons with
4 disabilities and engage in fair labor practices and worker
5 protections;

6 (10) a diversity plan, including specifying the
7 percentage of an applicant's operating budget that will be
8 dedicated to contracting with or otherwise working with
9 minority-owned business enterprises, women-owned business
10 enterprises or veteran-owned business enterprises;

11 (11) whether an applicant can demonstrate experience in
12 business practices that promote economic empowerment in
13 disproportionately impacted areas;

14 (12) experience with the cultivation of agricultural or
15 horticultural products, operating an agriculturally related
16 business or operating a horticultural business;

17 (13) a copy of the proposed business plan that complies
18 with the requirements in this chapter, including:

19 (i) a description of services to be offered; and

20 (ii) a description, without revealing trade secrets
21 or proprietary information, of the process of cultivating
22 cannabis;

23 (14) a description of the enclosed, locked facility
24 where cannabis will be grown, harvested, packaged or
25 otherwise prepared for distribution to a cannabis business
26 establishment;

27 (15) a survey of the enclosed, locked facility,
28 including the space used for cultivation;

29 (16) cultivation, inventory and packaging plans;

30 (17) a description of the applicant's experience with

1 agricultural cultivation techniques and industry standards;

2 (18) a list of any academic degrees, certifications or
3 relevant experience of all prospective principal officers,
4 board members and agents of the related business;

5 (19) the identity of every person having a financial or
6 voting interest of 5% or greater in the micro cultivation
7 center operation, including the name and address of each
8 person;

9 (20) a plan describing how the micro cultivation center
10 will address each of the following:

11 (i) energy needs, including estimates of monthly
12 electricity and gas usage, to what extent it will procure
13 energy from a local utility or from on-site generation
14 and if it has or will adopt a sustainable energy use and
15 energy conservation policy;

16 (ii) water needs, including estimated water draw and
17 if it has or will adopt a sustainable water use and water
18 conservation policy; and

19 (iii) waste management, including if it has or will
20 adopt a waste reduction policy;

21 (21) a recycling plan, including:

22 (i) A provision stating purchaser packaging,
23 including cartridges, shall be accepted by the applicant
24 and recycled.

25 (ii) A requirement that any recyclable waste
26 generated by the micro cultivation center shall be
27 recycled per applicable Commonwealth and local laws,
28 ordinances and rules.

29 (iii) A requirement that any cannabis waste, liquid
30 waste or hazardous waste shall be disposed of in

1 accordance with the laws of this Commonwealth, except, to
2 the greatest extent feasible, all cannabis plant waste
3 will be rendered unusable by grinding and incorporating
4 the cannabis plant waste with compostable mixed waste to
5 be disposed of in accordance with applicable law;

6 (22) a commitment to comply with local waste provisions,
7 including a commitment that a micro cultivation center must
8 remain in compliance with applicable Federal and State
9 environmental requirements, including provisions related to:

10 (i) storing, securing and managing all recyclables
11 and waste, including organic waste composed of or
12 containing finished cannabis and cannabis products; and

13 (ii) disposing liquid waste containing cannabis or
14 byproducts of cannabis processing;

15 (23) a commitment to a technology standard for resource
16 efficiency of the micro cultivation center according to
17 standards established by the board; and

18 (24) any other information required by rule.

19 (b) Submission.--An applicant must submit all required
20 information to the board. Failure by an applicant to submit all
21 required information may result in the application being
22 disqualified.

23 § 9256. Selection criteria for micro cultivation center
24 permits.

25 (a) Incomplete application.--If the board receives an
26 application that fails to provide the required elements
27 contained in a section, that section may not be scored.

28 (b) Scoring.--The board shall by rule develop a merit-based
29 scoring system in which to award micro cultivation center
30 permits. Social and economic equity applicants shall receive a

1 competitive advantage in the form of a scoring bonus on their
2 applications, as determined by the board. The board shall also
3 award a scoring bonus to applicants that are existing farming
4 operations.

5 (c) Categories.--An applicant shall be awarded points on
6 applications, as determined by the board, in the following
7 categories:

8 (1) suitability of the proposed facility;

9 (2) suitability of the employee training plan;

10 (3) security and recordkeeping;

11 (4) cultivation plan;

12 (5) product safety and labeling plan;

13 (6) business plan;

14 (7) the applicant's status as:

15 (i) a social and economic equity applicant; or

16 (ii) an existing farming operation;

17 (8) labor and employment practices;

18 (9) environmental plan;

19 (10) whether or not the applicant is 51% or more owned
20 and controlled by an individual or individuals who have been
21 residents of this Commonwealth for the past five years as
22 proved by tax records or two of the following:

23 (i) a signed lease agreement that includes the
24 applicant's name;

25 (ii) a property deed that includes the applicant's
26 name;

27 (iii) school records;

28 (iv) a voter registration card;

29 (v) a Pennsylvania driver's license, a State
30 identification card or a Pennsylvania Person with a

1 Disability registration plate;

2 (vi) a paycheck stub;

3 (vii) a utility bill; or

4 (viii) any other proof of residency or other
5 information necessary to establish residence as provided
6 by rule;

7 (11) a diversity plan, which includes specifying the
8 percentage of an applicant's operating budget that will be
9 dedicated to contracting with or otherwise working with
10 minority-owned business enterprises, women-owned business
11 enterprises or veteran-owned business enterprises;

12 (12) the applicant's plan to engage with the community;
13 and

14 (13) any other criteria the board may set by rule for
15 points.

16 (d) Anonymity.--Applications shall be scored by the board
17 anonymously according to rules established by the board. The
18 board shall develop tie-breaker language that governs the
19 process through which some applicants are to be awarded permits
20 when multiple applicants receive the same application score and
21 the awarding of permits to all tied applicants would result in
22 awarding more permits than is permissible under this chapter.
23 Any tie-breaking process shall be designed to ensure clarity,
24 transparency and fairness. Each application shall be reviewed
25 and scored by three individuals who shall score each application
26 independently of each other. An applicant's score on each
27 section of the application shall be an average of the three
28 scores awarded by each individual scorer.

29 (e) Award of points.--Other than in cases where an applicant
30 provides necessary documentation of a status as a social and

1 economic equity applicant, a resident of this Commonwealth or an
2 existing farming operation, the scoring system developed by the
3 board shall be designed so that an applicant may not receive
4 full points simply for providing responsive information on a
5 section of the application.

6 § 9257. (Reserved).

7 § 9258. Micro cultivation center requirements and prohibitions.

8 (a) Operating documents.--The operating documents of a micro
9 cultivation center shall include procedures for the oversight of
10 the micro cultivation center, a cannabis plant monitoring
11 system, including a physical inventory recorded weekly, accurate
12 recordkeeping and a staffing plan.

13 (b) Security plan.--A micro cultivation center shall
14 implement a security plan reviewed by the Pennsylvania State
15 Police that includes facility access controls, perimeter
16 intrusion detection systems, personnel identification systems
17 and a 24-hour surveillance system to monitor the interior and
18 exterior of the micro cultivation center that is accessible to
19 authorized law enforcement and the board in real time.

20 (c) Facility requirements.--All cultivation of cannabis by a
21 micro cultivation center must take place in an enclosed, locked
22 facility at the physical address provided to the board during
23 the permitting process. The micro cultivation center location
24 shall only be accessed by the agents working for the micro
25 cultivation center, the board staff performing inspections,
26 Commonwealth and local law enforcement or other emergency
27 personnel, contractors working on jobs unrelated to cannabis,
28 individuals in a mentoring or educational program approved by
29 the State or other individuals as provided by rule. If a micro
30 cultivation center shares a premises with an adult use

1 dispensing organization, agents from those other permittees may
2 access the micro cultivation center portion of the premises if
3 the location point is a common area for access to bathrooms,
4 lunchrooms, locker rooms or other areas of the building where
5 work or cultivation of cannabis is not performed. At no time may
6 an adult use dispensing organization agent perform work at a
7 micro cultivation center without being an employee of the micro
8 cultivation center.

9 (d) Sale and distribution limitation.--A micro cultivation
10 center may not sell or distribute any cannabis to any person
11 other than a cannabis business establishment, or as otherwise
12 authorized by rule.

13 (e) Location limitation.--A micro cultivation center may not
14 be located in an area zoned for residential use.

15 (f) Price discrimination.--A micro cultivation center may
16 not either directly or indirectly discriminate in price between
17 different cannabis business establishments that are purchasing a
18 like grade, strain, brand and quality of cannabis or cannabis
19 product. Nothing in this subsection shall prevent a micro
20 cultivation center from pricing cannabis differently based on
21 differences in the cost of manufacturing, processing, quantities
22 sold, such as volume discounts, or the method of product
23 delivery.

24 (g) Data collection system.--All cannabis harvested by a
25 micro cultivation center and intended for distribution to an
26 adult use dispensing organization must be entered into a data
27 collection system, packaged and labeled in compliance with this
28 chapter and any rules promulgated by the board and, if
29 distribution is to an adult use dispensing organization that
30 does not share a premises with the adult use dispensing

1 organization receiving the cannabis, placed into a cannabis
2 container for transport.

3 (h) Random inspection.--A micro cultivation center shall be
4 subject to random inspections by the board and the Pennsylvania
5 State Police.

6 (i) Notification of loss or theft.--A micro cultivation
7 center agent shall notify local law enforcement, the
8 Pennsylvania State Police and the board within 24 hours of the
9 discovery of any loss or theft. A notification under this
10 subsection shall be made by phone, in person or by written or
11 electronic communication.

12 (j) Compliance.--A micro cultivation center shall comply
13 with all Federal and State rules and regulations regarding the
14 use of pesticides in addition to any rule promulgated by the
15 board.

16 (k) Transportation.--A micro cultivation center or micro
17 cultivation center agent shall be permitted to transport
18 cannabis or cannabis products to any other cannabis business
19 establishment. A micro cultivation center may alternatively
20 enter into a contract with an adult use dispensing organization
21 or a laboratory related to the transport of cannabis.

22 (l) Compliance.--A micro cultivation center must comply with
23 any other requirements or prohibitions set by administrative
24 rule of the board.

25 § 9259. Cannabis business establishment agent identification
26 cards.

27 (a) General rule.--The board shall:

28 (1) establish by rule the information required in an
29 initial application or renewal application for a cannabis
30 business establishment agent identification card submitted

1 under this chapter and the nonrefundable fee to accompany the
2 initial application or renewal application;

3 (2) require a background check be conducted of any
4 prospective agent as part of the application process;

5 (3) establish by rule a requirement that a cannabis
6 business establishment identification card shall grant the
7 holder the authority to work at any cannabis business
8 establishment, including all adult use dispensing
9 organizations and adult use cultivation centers.

10 (4) verify the information contained in an initial
11 application or renewal application for a cannabis business
12 establishment agent identification card submitted under this
13 chapter, and approve or deny an application within 14 days of
14 receiving a completed initial application or renewal
15 application and all supporting documentation required by
16 rule;

17 (5) authorize a cannabis business establishment to print
18 and issue cannabis business establishment agent
19 identification cards or to issue a cannabis business
20 establishment agent identification card to a qualifying agent
21 within 14 business days of approving the initial application
22 or renewal application;

23 (6) authorize a cannabis business establishment agent to
24 work at a cannabis business establishment after the agent's
25 application has been approved but prior to issuance of the
26 cannabis business establishment agent identification card;
27 and

28 (7) allow for an electronic initial application and
29 renewal application process and provide a confirmation by
30 electronic or other methods that an application has been

1 submitted. The board may by rule require prospective agents
2 to file an application by electronic means and provide
3 notices to the agents by electronic means.

4 (b) Identification.--An agent must keep the cannabis
5 business establishment agent identification card under this
6 section visible at all times when on the property of the
7 cannabis business establishment at which the agent is employed
8 unless the agent is working after being approved as an agent by
9 the board but prior to the receipt of the cannabis business
10 establishment agent's identification card.

11 (c) Identification card requirements.--The cannabis business
12 establishment agent identification card shall contain the
13 following:

14 (1) the name of the cardholder;

15 (2) the date of issuance and expiration date of the
16 cannabis business establishment agent identification card;

17 (3) a random 10-digit alphanumeric identification number
18 containing at least four numbers and at least four letters
19 that is unique to the holder; and

20 (4) a photograph of the cardholder.

21 (d) Lost identification card.--Any cannabis business
22 establishment agent identification card lost by an agent shall
23 be reported to the Pennsylvania State Police and the board
24 immediately upon discovery of the loss.

25 (e) Limitation.--The board may not issue a cannabis business
26 establishment agent identification card if the applicant is
27 delinquent in filing any required tax returns or paying any
28 amounts owed to the Commonwealth.

29 § 9260. Background check for cannabis business establishment
30 applicants.

1 (a) Background check.--The board shall require a criminal
2 history record check, through the Pennsylvania State Police, of
3 the prospective principal officers, board members and agents of
4 a cannabis business establishment and cannabis business
5 establishment agents applying for permits or identification
6 cards under this chapter. The Pennsylvania State Police shall
7 charge a fee set by rule for conducting the criminal history
8 record check and may not exceed the actual cost of the record
9 check. In order to carry out the provisions of this section,
10 each cannabis business establishment's prospective principal
11 officer, board member or agents shall submit a full set of
12 fingerprints to the Pennsylvania State Police for the purpose of
13 obtaining a Federal and State criminal record check.
14 Fingerprints shall be checked against the fingerprint records
15 now and hereafter, to the extent allowed by law, filed in the
16 Pennsylvania State Police and Federal Bureau of Investigation
17 criminal history records databases. The Pennsylvania State
18 Police shall furnish, following positive identification, all
19 conviction information to the board. Background checks for all
20 prospective principal officers, board members and agents shall
21 be completed prior to submitting the application to the board.
22 An agent may begin working at a cannabis business establishment
23 while waiting for the result of any background check.

24 (b) Construction.--Nothing in this section or chapter shall
25 be construed to prevent or otherwise inhibit the ability of an
26 otherwise qualified individual from serving as a principal
27 officer, board member or agent of a cannabis business
28 establishment on the sole basis of a nonviolent criminal
29 conviction related to cannabis.

30 § 9261. Renewal of cannabis business establishment permits and

1 cannabis business establishment agent identification
2 cards.

3 (a) Renewal.--A permit and identification card issued under
4 this chapter shall be renewed annually. A cannabis business
5 establishment and agent shall receive written or electronic
6 notice 90 days prior to the expiration that the permit will
7 expire. The board shall grant a renewal within 45 days of
8 submission of a renewal application if:

9 (1) the cannabis business establishment submits the
10 required nonrefundable renewal fee;

11 (2) the permit or identification card has not been
12 suspended or revoked for violating this chapter or rules
13 adopted under this chapter;

14 (3) the cannabis business establishment has continued to
15 operate in accordance with all plans submitted as part of its
16 application and approved by the board or any amendments to
17 any submitted plan that have been approved by the board;

18 (4) the cannabis business establishment has submitted an
19 agent, employee, contracting and subcontracting diversity
20 report as required by the board and the Commonwealth
21 Financing Authority; and

22 (5) for an adult use cultivation center or micro
23 cultivation center, the cannabis business establishment has
24 submitted an environmental impact report.

25 (b) Failure to renew license.--If a cannabis business
26 establishment fails to renew the establishment's permit prior to
27 license expiration, the establishment shall cease operations
28 until the permit is renewed, unless otherwise permitted by the
29 board.

30 (c) Failure to renew identification card.--If a cannabis

1 business establishment or cannabis business establishment agent
2 fails to renew its cannabis business establishment permit or the
3 agent identification card prior to expiration, the cannabis
4 business establishment or cannabis business establishment agent
5 shall cease to operate as a cannabis business establishment or
6 work as an agent of a cannabis business establishment, as
7 applicable, until the cannabis business establishment permit or
8 agent identification card is renewed, unless otherwise permitted
9 by the board.

10 (d) Disciplinary action and fines.--Any cannabis business
11 establishment that continues to operate, or any cannabis
12 business establishment agent who continues to work as an agent,
13 after the applicable permit or cannabis business establishment
14 agent identification card has expired without renewal, absent
15 board permission, shall be subject to disciplinary action by the
16 board. All fees or fines collected from the renewal of a
17 cannabis business establishment permit or identification card
18 shall be deposited into the Cannabis Regulation Fund.

19 SUBCHAPTER G

20 ENFORCEMENT AND IMMUNITIES

21 Sec.

22 9265. Permit discipline.

23 9266. Immunities and presumptions related to handling of
24 cannabis by cannabis business establishments and
25 agents.

26 9267. Commonwealth standards and requirements.

27 9268. Violation of tax acts and refusal, revocation or
28 suspension of permit or agent identification card.

29 § 9265. Permit discipline.

30 (a) Board actions.--Notwithstanding any other civil or

1 criminal penalties related to the unlawful possession of
2 cannabis, the board may take disciplinary or nondisciplinary
3 action as the board deems proper with regard to a cannabis
4 business establishment or cannabis business establishment agent,
5 including fines not to exceed \$10,000 for each violation of this
6 chapter or rules promulgated by the board.

7 (b) Determination.--The board shall consider permittee
8 cooperation in any investigation in its determination of
9 penalties imposed under this section. The procedures for
10 disciplining a cannabis business establishment or cannabis
11 business establishment agent and for administrative hearings
12 shall be determined by rule by the board and shall provide for
13 the review of final decisions under 2 Pa.C.S. (relating to
14 administrative law and procedure).

15 § 9266. Immunities and presumptions related to handling of
16 cannabis by cannabis business establishments and
17 agents.

18 (a) General rule.--A cannabis business establishment or an
19 agent of a cannabis business establishment shall not be subject
20 to the following based solely on conduct that is lawful under
21 this chapter or any rules promulgated under this chapter:

22 (1) Prosecution.

23 (2) Search or inspection, except by the board, under the
24 authority of the board, or State or local law enforcement
25 under this chapter.

26 (3) Seizure.

27 (4) Penalty in any manner, including civil penalty.

28 (5) Denial of any right or privilege.

29 (6) Penalty in any manner, or denial of any right or
30 privilege, including civil penalty or disciplinary action by

1 a business permitting or licensing board or entity for
2 working for a cannabis business establishment under this
3 chapter and rules adopted under this chapter.

4 (b) Prohibition.--Any cannabis, cannabis product, cannabis
5 paraphernalia, legal property or interest in legal property that
6 is possessed, owned or used in connection with the use of
7 cannabis as permitted under this chapter, or acts incidental to
8 that use, may not be seized or forfeited. Nothing in this
9 chapter shall be construed to prevent the seizure or forfeiture
10 of cannabis exceeding the amounts permitted under this chapter
11 or prevent seizure or forfeiture if the basis for the action is
12 unrelated to the cannabis that is possessed, manufactured,
13 transferred or used under this chapter.

14 (c) Laws of this Commonwealth.--Nothing in this chapter
15 shall be construed to preclude State or local law enforcement
16 from searching an adult use cultivation center, micro
17 cultivation center or adult use dispensing organization if there
18 is probable cause to believe that the laws of this Commonwealth
19 have been violated and the search is conducted in conformance
20 with law.

21 (d) Attorney General investigation.--Nothing in this chapter
22 shall be construed to preclude the Attorney General or other
23 authorized government agency from investigating or bringing a
24 civil action against a cannabis business establishment or an
25 agent of a cannabis business establishment for a violation of
26 Commonwealth law, including civil rights violations and
27 violations of the act of December 17, 1968 (P.L.1224, No.387),
28 known as the Unfair Trade Practices and Consumer Protection Law.
29 § 9267. Commonwealth standards and requirements.

30 Any standards, requirements and rules regarding the health

1 and safety, environmental protection, testing, security, food
2 safety and worker protections established by the Commonwealth
3 shall be the minimum standards for all permittees under this
4 chapter, where applicable. Knowing violations of any
5 Commonwealth or local law, ordinance or rule conferring worker
6 protections or legal rights on the employees of a permittee may
7 be grounds for disciplinary action in addition to applicable
8 penalties under this chapter.

9 § 9268. Violation of tax acts and refusal, revocation or
10 suspension of permit or agent identification card.

11 (a) General rule.--In addition to other grounds specified in
12 this chapter, the board, upon notification by the Department of
13 Revenue, shall refuse the issuance or renewal of a permit or
14 agent identification card, or suspend or revoke the permit or
15 agent identification card, of any person for any of the
16 following:

17 (1) Failure to file a tax return.

18 (2) The filing of a fraudulent tax return.

19 (3) Failure to pay all or part of any tax or penalty
20 finally determined to be due.

21 (4) Failure to keep books and records.

22 (5) Failure to secure and display a certificate or
23 related registration document, if required.

24 (6) The willful violation of any rule or regulation of
25 the Department of Revenue relating to the administration and
26 enforcement of tax liability.

27 (b) Resolution.--The Department of Revenue, after a
28 violation under subsection (a) has been corrected or resolved,
29 shall, upon request of the subject of the violation, notify the
30 board that the violations have been corrected or resolved. Upon

1 receiving notice from the Department of Revenue that a violation
2 under subsection (a) has been corrected or otherwise resolved,
3 the board may issue or renew the permit or agent identification
4 card or vacate an order of suspension or revocation.

5 SUBCHAPTER H

6 LABORATORY TESTING

7 Sec.

8 9270. Laboratory testing.

9 § 9270. Laboratory testing.

10 (a) Legality.--Notwithstanding any other provision of law,
11 the following actions, when performed by a cannabis testing
12 facility with a current, valid registration or an individual 21
13 years of age or older who is acting in official capacity as an
14 owner, employee or agent of a cannabis testing facility, may not
15 be determined to be unlawful and may not be an offense or be a
16 basis for seizure or forfeiture of assets under the laws of this
17 Commonwealth:

18 (1) possessing, repackaging, transporting, storing or
19 displaying cannabis or cannabis-infused products;

20 (2) receiving or transporting cannabis or cannabis
21 products from a cannabis business establishment or an
22 individual 21 years of age or older; and

23 (3) returning or transporting cannabis or cannabis
24 products to a cannabis business establishment or an
25 individual 21 years of age or older.

26 (b) Prohibition.--No laboratory shall handle, test or
27 analyze cannabis unless approved by the board in accordance with
28 this section. No laboratory shall be approved to handle, test or
29 analyze cannabis unless the laboratory:

30 (1) is accredited by a private laboratory accrediting

1 organization;

2 (2) is independent from all other persons involved in
3 the cannabis industry in this Commonwealth and no person with
4 a direct or indirect interest in the laboratory has a direct
5 or indirect financial, management or other interest in an
6 adult use cultivation center, micro cultivation center,
7 dispensary or any other entity in this Commonwealth that may
8 benefit from the production, manufacturing, dispensing, sale,
9 purchase or use of cannabis or is affiliated with a
10 certifying physician under Chapter 94 (relating to medical
11 marijuana); and

12 (3) has employed at least one individual to oversee and
13 be responsible for the laboratory testing who has earned,
14 from a college or university accredited by a national or
15 regional certifying authority, at least:

16 (i) a master's level degree in chemical or
17 biological sciences and a minimum of 2 years' postdegree
18 laboratory experience; or

19 (ii) a bachelor's degree in chemical or biological
20 sciences and a minimum of 4 years' postdegree laboratory
21 experience.

22 (4) provides the board with a copy of the most recent
23 annual inspection report granting accreditation and every
24 annual report thereafter.

25 (c) Random sample.--Immediately prior to manufacturing or
26 natural processing of any cannabis or cannabis product or
27 packaging cannabis for sale to an adult use dispensing
28 organization, each batch shall be made available by the adult
29 use cultivation center or micro cultivation center for an
30 employee of an approved laboratory to select a random sample,

1 which shall be tested by the approved laboratory for:

2 (1) microbiological contaminants;

3 (2) mycotoxins;

4 (3) pesticide active ingredients;

5 (4) heavy metals;

6 (5) residual solvent; and

7 (6) an active ingredient analysis.

8 (d) Board sample.--The board may select a random sample that
9 shall, for the purposes of conducting an active ingredient
10 analysis, be tested by a lab chosen by the board for
11 verification of label information.

12 (e) Disposal of sample.--A laboratory shall immediately
13 return or dispose of any cannabis upon the completion of any
14 testing, use or research. Any cannabis that is disposed of shall
15 be done so in compliance with board rule.

16 (f) Sample failure.--If a sample of cannabis does not pass
17 testing under subsection (c) based on the standards established
18 by the board, the following shall apply:

19 (1) The sample may be retested, with or without
20 remediation, up to three additional times after a failed
21 test.

22 (2) After a fourth failed test, or at the choosing of
23 the cannabis business establishment, the batch may be used to
24 make a CO2-based or solvent-based extract. After processing,
25 the CO2-based or solvent-based extract must still pass all
26 required tests.

27 (3) Seeds, immature cannabis plants, cannabis plants,
28 cannabis flowers or cannabis products may be remediated at
29 any time prior to cannabis or cannabis products being
30 provided to dispensaries for sale to customers under this

1 chapter or patients under Chapter 94, including after any
2 failed test performed by an independent laboratory under
3 subsection (c) based on the standards established by the
4 board, as long as the cannabis or cannabis products being
5 provided to dispensaries ultimately passes independent
6 laboratory testing under subsection (c) based on the
7 standards established by the board.

8 (g) Board testing standards.--The board shall establish
9 standards for contaminant under subsection (c) and shall develop
10 labeling requirements for contents and potency. The board shall
11 ensure standards under this subsection are comparable to those
12 set by other established adult use and medical cannabis markets
13 and shall publicly disclose the basis for any standards set.

14 (h) Copy of test results.--The laboratory shall file with
15 the board an electronic copy of each laboratory test result for
16 any batch that does not pass testing under subsection (c) at the
17 same time that it transmits those results to the cultivation
18 center or micro cultivation center. The testing laboratory shall
19 maintain the laboratory test results for at least five years and
20 make test results available at the board's request for the same
21 period.

22 (i) Results.--An adult use cultivation center or micro
23 cultivation center shall provide to an adult use dispensing
24 organization the laboratory test results for each batch of
25 cannabis product purchased by the adult use dispensing
26 organization, if sampled. Each adult use dispensing organization
27 must have those laboratory results available upon request to
28 purchasers.

29 (j) Additional rules permitted.--The board may adopt rules
30 related to testing in furtherance of this chapter.

1 SUBCHAPTER I

2 ADVERTISING, MARKETING, PACKAGING AND LABELING

3 Sec.

4 9272. Advertising and promotions.

5 9273. Cannabis product packaging and labeling.

6 § 9272. Advertising and promotions.

7 A cannabis business establishment shall be permitted to
8 advertise and market cannabis and cannabis products, including
9 through discounts and promotional programs. A cannabis business
10 establishment may only be restricted in advertising and
11 marketing to the extent that any advertising or marketing
12 contains any statement or image that:

13 (1) is false or misleading;

14 (2) promotes over consumption of cannabis or cannabis
15 products;

16 (3) depicts a person under 21 years of age consuming
17 cannabis;

18 (4) makes any unsupported health claims about cannabis,
19 cannabis products or cannabis concentrates; or

20 (5) includes any image designed or likely to appeal to a
21 minor.

22 § 9273. Cannabis product packaging and labeling.

23 (a) Registration.--Each cannabis product produced for sale
24 shall be registered with the board on forms provided by the
25 board. Each product registration shall include a label and the
26 required registration fee at the rate established by the board.
27 The registration fee shall be for the name of the product
28 offered for sale and shall be sufficient for all package sizes.

29 (b) Packaging.--All harvested cannabis intended for
30 distribution to a cannabis business establishment shall be

1 packaged in a sealed, resealable or child-resistant labeled
2 container consistent with current standards, including the
3 Consumer Product Safety Commission standards referenced by the
4 Poison Prevention Packaging Act (Public Law 91-601, 15 U.S.C. §
5 1471 et seq.).

6 (c) Cannabis-infused product packaging.--All cannabis-
7 infused products shall be individually wrapped or packaged at
8 the original point of preparation.

9 (d) Cannabis product labeling.--Each cannabis product shall
10 be labeled prior to sale. Each label shall be securely affixed
11 to the package and shall state in legible font the following:

12 (1) the common or usual name of the item and the
13 registered name of the cannabis product that was registered
14 with the board under subsection (a);

15 (2) a unique serial number that matches the product with
16 an adult use cultivation center or micro cultivation center
17 batch and lot number to facilitate any warnings or recalls
18 the board or adult use cultivation center or micro
19 cultivation center deems appropriate;

20 (3) the date of final testing and packaging, if sampled,
21 and the identification of the independent testing laboratory;

22 (4) the date of harvest for cannabis flower or the date
23 of manufacture for other forms of cannabis and a "use by"
24 date;

25 (5) the quantity, in ounces or grams, of cannabis
26 contained in the product;

27 (6) a pass or fail rating based on the laboratory's
28 testing under Subchapter H (relating to laboratory testing),
29 if sampled;

30 (7) a content list, including:

1 (i) The minimum and maximum percentage content by
2 weight for:

3 (A) delta-9-tetrahydrocannabinol (THC);

4 (B) tetrahydrocannabinolic acid (THCA);

5 (C) cannabidiol (CBD);

6 (D) cannabidiolic acid (CBDA); and

7 (E) all other ingredients of the item, including
8 any colors, artificial flavors and preservatives
9 listed in descending order by predominance of weight
10 shown with common or usual names.

11 (ii) (Reserved); and

12 (8) the acceptable tolerances for the minimum percentage
13 shall not be below 85% or above 115% of the labeled amount.

14 (e) Prohibition.--Product packaging must not contain
15 information that:

16 (1) is false or misleading;

17 (2) promotes excessive consumption;

18 (3) depicts a person under 21 years of age consuming
19 cannabis; or

20 (4) includes any image designed or likely to appeal to a
21 minor.

22 (f) Additional requirements.--The following shall apply to a
23 cannabis product produced by concentrating or extracting
24 ingredients from the cannabis plant:

25 (1) If solvents were used to create the concentrate or
26 extract, a statement that discloses the type of extraction
27 method, including any solvents or gases used to create the
28 concentrate or extract.

29 (2) Disclosure of any chemicals or compounds used to
30 produce or added to the concentrate or extract.

1 (3) Cannabis concentrates sold with greater than 70% THC
2 shall indicate the product is a high-THC product on the
3 product label.

4 (g) Product warning.--All cannabis, cannabis-infused
5 products and cannabis concentrates must contain a warning on its
6 label stating: "Cannabis consumption may impair the ability to
7 drive or operate heavy machinery, is for adult use only and
8 should not be used by pregnant or breastfeeding women. Keep out
9 of reach of children."

10 (h) Servings.--Each cannabis-infused product intended for
11 consumption must include on the packaging the total milligram
12 content of THC and CBD. Each package may not include more than a
13 total of 1000 milligrams of THC per package with respect to
14 cannabis-infused products. A package may contain multiple
15 servings. A cannabis-infused product that consists of more than
16 a single serving shall be marked, stamped or otherwise
17 imprinted, by individual single serving, with a symbol or easily
18 recognizable mark approved by the board indicating the package
19 contains cannabis and shall be either:

20 (1) Scored or delineated to indicate one serving, if the
21 cannabis-infused product is in solid form. For purposes of
22 this paragraph, "delineated" includes directly marking the
23 product to indicate one serving or providing a means by which
24 a patient or purchaser can accurately identify one serving;
25 or

26 (2) If the cannabis-infused product is not in solid
27 form, packaged in a manner so that a single serving is
28 readily identifiable or easily measurable.

29 (i) Delineation.--A cannabis-infused product consisting of
30 multiple servings shall be homogenized so that each serving

1 contains the same concentration of THC.

2 (j) Alternation or destruction of packaging.--No individual
3 other than the purchaser may alter or destroy any labeling
4 affixed to the primary packaging of cannabis or cannabis
5 products.

6 SUBCHAPTER J

7 GENERAL PROVISIONS

8 Sec.

9 9275. Preparation of cannabis-infused products.

10 9276. Destruction of cannabis.

11 9277. Local ordinances.

12 9278. Confidentiality.

13 9279. Financial institutions.

14 9280. Contracts enforceable.

15 9281. Medical marijuana.

16 9282. Administrative rulemaking.

17 § 9275. Preparation of cannabis-infused products.

18 (a) Regulation.--The board may regulate the production of
19 cannabis-infused products, including edibles, by an adult use
20 cultivation center or a micro cultivation center and establish
21 rules related to refrigeration, hot-holding and handling of
22 cannabis-infused products. All cannabis-infused products shall
23 meet the packaging and labeling requirements contained in this
24 chapter and any rule promulgated by the board.

25 (b) Approval.--Cannabis-infused products for sale or
26 distribution at an adult use dispensing organization must be
27 prepared by an approved agent of an adult use cultivation center
28 or micro cultivation center. An adult use dispensing
29 organization may not manufacture, process or produce a cannabis-
30 infused product.

1 (c) (Reserved).

2 (d) Enforcement.--The board shall adopt and enforce rules
3 for the manufacture and processing of cannabis-infused products,
4 and may at all times enter every building, room, basement,
5 enclosure or premises occupied or used, or suspected of being
6 occupied or used, for the production, preparation, manufacture
7 for sale, storage, sale, processing, distribution or
8 transportation of cannabis-infused products. The board may
9 inspect the premises together with all utensils, fixtures,
10 furniture and machinery used for the preparation of products
11 under this section.

12 § 9276. Destruction of cannabis.

13 (a) General rule.--All cannabis byproduct, scrap and
14 harvested cannabis not intended for distribution to an adult use
15 dispensing organization must be destroyed and disposed of under
16 rules adopted by the board under this chapter. Documentation of
17 destruction and disposal shall be retained at the adult use
18 cultivation center, micro cultivation center or testing facility
19 as applicable for a period of not less than two years.

20 (b) Notification prior to destruction.--An adult use
21 cultivation center or micro cultivation center shall, prior to
22 destruction, notify the board and the Pennsylvania State Police.
23 An adult use dispensing organization shall notify the board and
24 the Pennsylvania State Police within 48 hours of any
25 destruction. The adult use cultivation center, micro cultivation
26 center or adult use dispensing organization shall keep a record
27 of the date and quantity of destruction.

28 (c) Unsold cannabis.--An adult use dispensing organization
29 shall destroy all cannabis, including cannabis-infused products,
30 not sold to purchasers. Documentation of destruction and

1 disposal shall be retained at the dispensing organization for a
2 period of not less than two years.

3 § 9277. Local ordinances.

4 Unless otherwise provided by this chapter or law:

5 (1) A unit of local government, including a home rule
6 unit or any non-home-rule county within the unincorporated
7 territory of the county, may enact reasonable zoning
8 ordinances or resolutions, not in conflict with this chapter
9 or rules adopted pursuant to this chapter, regulating a
10 cannabis business establishment. No unit of local government,
11 including a home rule unit or any non-home-rule county within
12 the unincorporated territory of the county, may unreasonably
13 prohibit the use of cannabis authorized by this chapter.

14 (2) A unit of local government, including a home rule
15 unit or any non-home-rule county within the unincorporated
16 territory of the county, may enact ordinances or rules not in
17 conflict with this chapter or with rules adopted pursuant to
18 this chapter governing the time, place, manner and number of
19 cannabis business establishment operations, including minimum
20 distance limitations between cannabis business establishments
21 and locations it deems sensitive. A unit of local government,
22 including a home rule unit, may establish civil penalties for
23 violation of an ordinance or rules governing the time, place
24 and manner of operation of a cannabis business establishment
25 in the jurisdiction of the unit of local government. No unit
26 of local government, including a home rule unit or non-home-
27 rule county within an unincorporated territory of the county,
28 may unreasonably restrict the time, place, manner and number
29 of cannabis business establishment operations authorized by
30 this chapter.

1 (3) A unit of local government, including a home rule
2 unit, or any non-home-rule county within the unincorporated
3 territory of the county may authorize or permit the on-
4 premises consumption of cannabis at or in an adult use
5 dispensing organization within its jurisdiction in a manner
6 consistent with this chapter. An adult use dispensing
7 organization authorized or permitted by a unit of local
8 government to allow on-site consumption shall not be deemed a
9 public place under the laws of this Commonwealth.

10 (4) A unit of local government, including a home rule
11 unit or any non-home-rule county within the unincorporated
12 territory of the county, may not regulate the activities
13 described in paragraph (1), (2) or (3) in a manner more
14 restrictive than the regulation of those activities by the
15 State under this chapter.

16 (5) A unit of local government, including a home rule
17 unit or any non-home-rule county within the unincorporated
18 territory of the county, may not enact ordinances to prohibit
19 a cannabis business establishment from locating within the
20 unit of local government entirely.

21 § 9278. Confidentiality.

22 (a) Disclosure.--Information provided by cannabis business
23 establishment permittees or applicants to the board, the
24 Commonwealth Financing Authority, the Pennsylvania State Police
25 or other agency shall be limited to information necessary for
26 the purposes of administering this chapter. The information
27 shall be subject to the provisions and limitations contained in
28 the the act of February 14, 2008 (P.L.6, No.3), known as the
29 Right-to-Know Law.

30 (b) Privacy.--The following information received and records

1 kept by the board, the Commonwealth Financing Authority and the
2 Pennsylvania State Police for purposes of administering this
3 chapter shall be subject to all applicable Federal privacy laws
4 and shall be confidential and exempt from disclosure under the
5 Freedom of Information Act (Public Law 89-487, 5 U.S.C. § 552),
6 except as provided in this chapter, and not subject to
7 disclosure to any individual or public or private entity, except
8 to the board, the Commonwealth Financing Authority, the
9 Pennsylvania State Police and Attorney General as necessary to
10 perform official duties under this chapter.

11 (c) Name and address.--The name and address of an individual
12 or entity holding each cannabis business establishment permit
13 shall be subject to disclosure under the Freedom of Information
14 Act.

15 (d) Board information.--All information collected by the
16 board in the course of an examination, inspection or
17 investigation of a permittee or applicant, including any
18 complaint against a permittee or applicant filed with the board
19 and information collected to investigate any complaint, shall be
20 maintained for the confidential use of the board and shall not
21 be disclosed, except as otherwise provided in this chapter. A
22 formal complaint against a permittee by the board or any
23 disciplinary order issued by the board against a permittee or
24 applicant shall be public record, except as otherwise provided
25 by law. Complaints from consumers or members of the general
26 public received regarding a specific, named permittee or
27 complaints regarding conduct by unpermitted entities shall be
28 subject to disclosure under the Freedom of Information Act.

29 (e) Background check information.--The board, the
30 Commonwealth Financing Authority, and the Pennsylvania State

1 Police may not share or disclose any Pennsylvania or national
2 criminal history record information, or the nonexistence or lack
3 of any information, to any individual or entity not expressly
4 authorized by this chapter.

5 § 9279. Financial institutions.

6 (a) Exemption.--A financial institution that provides
7 financial services customarily provided by financial
8 institutions to a cannabis business establishment authorized
9 under this chapter or to a person that is affiliated with a
10 cannabis business establishment shall be exempt from any
11 criminal law of the Commonwealth as it relates to cannabis-
12 related conduct authorized under State law.

13 (b) Confidentiality.--Information received by a financial
14 institution from a cannabis business establishment shall be
15 confidential. Except as otherwise required or permitted by
16 Federal or State law or regulation, a financial institution may
17 not make the information available to any person other than:

18 (1) the customer to whom the information applies;

19 (2) a trustee, conservator, guardian, personal
20 representative or agent of the customer to whom the
21 information applies;

22 (3) a Federal or State regulator when requested in
23 connection with an examination of the financial institution
24 or if otherwise necessary for complying with Federal or State
25 law;

26 (4) a Federal or State regulator when requested in
27 connection with an examination of the financial institution
28 or if otherwise necessary for complying with Federal or State
29 law; and

30 (5) a third party performing service for the financial

1 institution, provided the third party is performing services
2 under a written agreement that expressly or by operation of
3 law prohibits the third party's sharing and use of
4 confidential information for any purpose other than as
5 provided in its agreement to provide services to the
6 financial institution.

7 § 9280. Contracts enforceable.

8 Contracts related to the operation of a lawful cannabis
9 business establishment under this chapter shall be enforceable.

10 No contract entered into by a lawful cannabis business
11 establishment or its agents on behalf of a cannabis business
12 establishment, or by those who allow property to be used by a
13 cannabis business establishment, shall be unenforceable on the
14 basis that cultivating, obtaining, manufacturing, processing,
15 distributing, dispensing, transporting, selling, possessing or
16 using cannabis is prohibited by Federal law.

17 § 9281. Medical marijuana.

18 (a) Construction.--Nothing in this chapter shall be
19 construed to limit any privileges or rights of a medical
20 marijuana patient, including minor patients, primary caregivers,
21 medical marijuana grower/processors or medical marijuana
22 dispensaries under Chapter 94 (relating to medical marijuana).
23 If there is conflict between this chapter and Chapter 94 as they
24 relate to medical marijuana patients, the provisions of this
25 chapter shall prevail.

26 (b) Sale permitted.--Dispensary locations permitted under
27 this chapter shall be permitted to sell cannabis to adult use
28 customers and to qualified patients.

29 § 9282. Administrative rulemaking.

30 No later than 180 days after the effective date of this

1 chapter, the board, and all Commonwealth agencies and
2 departments with regulatory responsibility under this chapter,
3 shall adopt regulations in accordance with their
4 responsibilities under this chapter. The failure by any
5 Commonwealth agency or department with regulatory responsibility
6 under this chapter to adopt regulations within 180 days of the
7 effective date of this section shall not delay or otherwise
8 impede a cannabis business establishment from beginning to
9 operate in accordance with this chapter.

10 SUBCHAPTER K

11 TAXES

12 Sec.

13 9285. Imposition of sales tax.

14 9286. Imposition of excise tax.

15 9287. Cannabis Regulation Fund and distribution of taxes.

16 § 9285. Imposition of sales tax.

17 (a) Rate.--A sales tax is imposed at the rate of 6% of the
18 sales price for cannabis and cannabis products sold or otherwise
19 transferred to anyone other than a cannabis business
20 establishment.

21 (b) Deposit.--Sales tax revenue under subsection (a) shall
22 be deposited in the Cannabis Regulation Fund.

23 § 9286. Imposition of excise tax.

24 (a) Imposition.--In addition to all other taxes, an excise
25 tax is imposed on each adult use dispensing organization at the
26 rate of 10% of the sales price for cannabis or a cannabis
27 product sold or otherwise transferred to anyone other than a
28 cannabis business establishment.

29 (b) Prohibition.--Except as otherwise provided by rule, a
30 product subject to the tax imposed by this section may not be

1 bundled in a single transaction with a product or service that
2 is not subject to the tax imposed by this section.

3 § 9287. Cannabis Regulation Fund and distribution of taxes.

4 (a) Establishment.--The Cannabis Regulation Fund is
5 established as a special fund in the State Treasury. Money in
6 the fund is appropriated as set forth in subsection (c). Any
7 amount unspent at the end of a fiscal year shall be appropriated
8 to the General Fund.

9 (b) Deposit.--Fees and taxes payable to the Cannabis
10 Regulation Fund under this chapter shall be deposited in the
11 Cannabis Regulation Fund, other than tax revenue disbursed to
12 municipalities and counties as set forth below. The money
13 deposited into the Cannabis Regulation Fund may only be used for
14 the purposes set forth in this section. Any interest accrued
15 shall be deposited into the Cannabis Regulation Fund.

16 (c) Allocation.--Money in the Cannabis Regulation Fund is
17 appropriated in accordance with the following:

18 (1) To the board, up to 2% of gross receipts of the
19 revenue in the fund, as needed, for actual costs and
20 expenses, including staffing expenses, related to
21 administering and enforcing this chapter;

22 (2) \$3,000,000 annually to the Cannabis Business
23 Development Fund from gross receipts of the revenue; and

24 (3) The remainder to the General Fund to provide
25 economic relief to the Commonwealth as determined by the
26 legislature.

27 (d) Administration.--The Department of Revenue shall
28 administer the taxes imposed under this chapter and may
29 promulgate rules that prescribe a method and manner for payment
30 of the tax to ensure proper tax collection under this chapter.

1 (e) Allocation.--All taxes collected under this chapter must
2 be allocated as follows:

3 (1) 10% to municipalities in which a cannabis business
4 establishment is located, allocated in proportion to the
5 number of cannabis business establishments within the
6 municipality;

7 (2) 10% to counties in which a cannabis business
8 establishment is located, allocated in proportion to the
9 number of cannabis business establishments within the county;

10 (3) 80% to be deposited in the Cannabis Regulation Fund.

11 SUBCHAPTER L

12 CANNABIS CLEAN SLATE

13 Sec.

14 9290. Cannabis clean slate.

15 § 9290. Cannabis clean slate.

16 (a) General rule.--An individual who has been arrested for,
17 charged with or convicted under section 13(a)(30) or (31) of the
18 act of April 14, 1972 (P.L.233, No.64), known as The Controlled
19 Substance, Drug, Device and Cosmetic Act, shall have the
20 individual's criminal history related to the criminal proceeding
21 expunged in accordance with subsection (b). This subsection
22 shall only apply to nonviolent offenses.

23 (b) Expungement process.--The following shall apply:

24 (1) The Administrative Office of Pennsylvania Courts
25 shall, within six months of the effective date of this
26 chapter, transmit to the Pennsylvania State Police central
27 repository all records related to an arrest or conviction
28 under subsection (a) for expungement.

29 (2) If the Pennsylvania State Police determines a record
30 transmitted under paragraph (1) is not eligible for

1 expungement, it shall notify the Administrative Office of
2 Pennsylvania Courts of the determination within 30 days of
3 receiving the information. Upon expiration of the 30-day
4 period, the Administrative Office of Pennsylvania Courts
5 shall provide to the court of common pleas in which the
6 arrest or adjudication occurred a list of all records
7 eligible for expungement. Within 30 days of receiving the
8 list, the court of common pleas shall order the expungement
9 of all criminal history records received under this section
10 and all administrative records of the Department of
11 Transportation relating to the criminal history records
12 received under this section.

13 (c) Release of inmates.--A court of common pleas that has
14 received an expungement order for a person currently
15 incarcerated for the crime for which the court received the
16 expungement order shall transmit to the appropriate county
17 correctional institution or State correctional institution, as
18 defined under 61 Pa.C.S. § 102 (relating to definitions), an
19 order for the immediate release or discharge of the person whose
20 record has been ordered to be expunged.

21 (d) Motor vehicle operation privileges.--The Bureau of Motor
22 Vehicles shall reinstate an individual's suspended or revoked
23 motor vehicle operation privileges that were suspended or
24 revoked as a result of the individual's conviction that has been
25 expunged under this section.

26 (e) Reinstatement of license or registration.--A license or
27 registration that has been suspended or revoked under section 23
28 of The Controlled Substance, Drug, Device and Cosmetic Act due
29 to an arrest or conviction that has been expunged under this
30 section shall be reinstated.

1 SUBCHAPTER M

2 MISCELLANEOUS PROVISIONS

3 Sec.

4 9292. Conflict.

5 9293. (Reserved).

6 9294. Implementation.

7 § 9292. Conflict.

8 The cultivation, processing, manufacture, acquisition,
9 transportation, sale, dispensing, distribution, possession and
10 consumption of cannabis permitted under this chapter shall not
11 be deemed to be a violation of the act of April 14, 1972
12 (P.L.233, No.64), known as The Controlled Substance, Drug,
13 Device and Cosmetic Act. If a provision of the Controlled
14 Substance, Drug, Device and Cosmetic Act relating to cannabis
15 conflicts with a provision of this chapter, this chapter shall
16 take precedence.

17 § 9293. (Reserved).

18 § 9294. Implementation.

19 The issuance of licenses and other authorizations set forth
20 in this chapter shall begin no later than 180 days after the
21 effective date of this chapter.

22 CHAPTER 94

23 MEDICAL MARIJUANA

24 Subchapter

25 A. Preliminary Provisions

26 B. Program

27 C. Practitioners

28 D. Patients

29 E. Medical Marijuana Organizations

30 F. Medical Marijuana Controls

- 1 G. Dispensaries
- 2 H. Tax on Medical Marijuana
- 3 I. Administration
- 4 J. Medical Marijuana Advisory Board
- 5 K. Offenses Related to Medical Marijuana
- 6 L. Research Program
- 7 M. Academic Clinical Research Centers and Clinical
- 8 Registrants
- 9 N. Miscellaneous Provisions

10 SUBCHAPTER A

11 PRELIMINARY PROVISIONS

12 Sec.

13 9401. Scope of chapter.

14 9402. Declaration of policy.

15 9403. Definitions.

16 9404. (Reserved).

17 § 9401. Scope of chapter.

18 This chapter relates to the regulation and use of medical
19 marijuana in this Commonwealth.

20 § 9402. Declaration of policy.

21 The General Assembly finds and declares as follows:

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

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

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

30 (i) Provide a program of access to medical marijuana

1 which balances the need of patients to have access to the
2 latest treatments with the need to promote patient
3 safety.

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

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

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

13 § 9403. Definitions.

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

17 "Advisory board." The advisory board established under
18 section 9458 (relating to advisory board).

19 "Caregiver." The term includes the following entities
20 designated to deliver medical marijuana:

21 (1) An individual designated by a patient.

22 (2) If the patient is under 18 years of age, an
23 individual under section 9420(2) (relating to minors).

24 (3) Individuals designated in writing, for purposes of
25 section 9415 (relating to caregivers), by an organization
26 that provides hospice, palliative or home health care
27 services and:

28 (i) are employed by an organization that is licensed
29 under the act of July 19, 1979 (P.L.130, No.48), known as
30 the Health Care Facilities Act;

1 (ii) have significant responsibility for managing
2 the health care and well-being of a patient; and

3 (iii) were designated by the organization to provide
4 care to a patient who has provided authorization for the
5 designation.

6 (4) Individuals designated in writing, for purposes of
7 section 9415, by a residential facility, including a long-
8 term care nursing facility, skilled nursing facility,
9 assisted living facility, personal care home, independent
10 long-term care facility or intermediate care facility for
11 individuals with intellectual disabilities that:

12 (i) are licensed by the department or the Department
13 of Human Services;

14 (ii) have significant responsibility for managing
15 the health care and well-being of the patient; and

16 (iii) were designated by the residential facility to
17 provide care to a patient who has provided authorization
18 for the designation.

19 "Certified medical use." The acquisition, possession, use or
20 transportation of medical marijuana by a patient, or the
21 acquisition, possession, delivery, transportation or
22 administration of medical marijuana by a caregiver, for use as
23 part of the treatment of the patient's serious medical
24 condition, as authorized in a certification under this chapter,
25 including enabling the patient to tolerate treatment for the
26 serious medical condition.

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

30 "Change in control." The acquisition by a person or group of

1 persons acting in concert of a controlling interest in an
2 applicant or permittee either all at one time or over the span
3 of a 12-consecutive-month period.

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

8 "Controlling interest." As follows:

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

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

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

17 "Dispensary." A person, including a natural person,
18 corporation, partnership, association, trust or other entity, or
19 any combination thereof, which holds a permit issued by the
20 department to dispense medical marijuana. The term does not
21 include a health care medical marijuana organization under
22 Subchapter L (relating to research program).

23 "Excipients." Solvents, chemicals or materials reported by a
24 medical marijuana organization and approved by the department
25 for use in the processing of medical marijuana.

26 "Family or household member." As defined in 23 Pa.C.S. §
27 6102 (relating to definitions).

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

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

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

10 "Fund." The Medical Marijuana Program Fund established in
11 section 9450 (relating to Medical Marijuana Program Fund).

12 "Grower/processor." A person, including a natural person,
13 corporation, partnership, association, trust or other entity, or
14 any combination thereof, which holds a permit from the
15 department under this chapter to grow and process medical
16 marijuana. The term does not include a health care medical
17 marijuana organization under Subchapter L.

18 "Harvest batch." A specifically identified quantity of
19 medical marijuana plant that is uniform in strain, cultivated
20 utilizing the same growing practices, harvested at the same time
21 and at the same location and cured under uniform conditions.

22 "Harvest lot." A specifically identified quantity of medical
23 marijuana plant taken from a harvest batch.

24 "Identification card." A document issued under section 9414
25 (relating to identification cards) that authorizes access to
26 medical marijuana under this chapter.

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

28 "Medical marijuana." Marijuana for certified medical use as
29 set forth in this chapter.

30 "Medical marijuana organization." A dispensary or a

1 grower/processor. The term does not include a health care
2 medical marijuana organization under Subchapter L.

3 "Medical marijuana product." The final form and dosage of
4 medical marijuana that is grown, processed, produced, sealed,
5 labeled and tested by a grower/processor and sold to a
6 dispensary.

7 "Patient." An individual who:

8 (1) has a serious medical condition;

9 (2) has met the requirements for certification under
10 this chapter; and

11 (3) is a resident of this Commonwealth.

12 "Permit." An authorization issued by the department to a
13 medical marijuana organization to conduct activities under this
14 chapter.

15 "Physician assistant." As defined in section 2 of the act of
16 December 20, 1985 (P.L.457, No.112), known as the Medical
17 Practice Act of 1985, and section 2 of the act of October 5,
18 1978 (P.L.1109, No.261), known as the Osteopathic Medical
19 Practice Act.

20 "Practitioner." A physician who is registered with the
21 department under section 9409 (relating to practitioner
22 registration).

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

25 "Principal." An officer, director or person who directly
26 owns a beneficial interest in or ownership of the securities of
27 an applicant or permittee, a person who has a controlling
28 interest in an applicant or permittee or who has the ability to
29 elect the majority of the board of directors of an applicant or
30 permittee or otherwise control an applicant or permittee, other

1 than a financial institution.

2 "Process lot." An amount of a medical marijuana product of
3 the same type and processed using the same medical marijuana
4 extract, standard operating procedures and the same or
5 combination of different harvest lots.

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

8 "Research initiative." A nonpatient investigation not
9 subject to Institutional Review Board or Research Approval
10 Committee approval requirements of a patient-based research
11 program, project or study, conducted by an academic clinical
12 research center and its contracted clinical registrant.

13 "Safety-sensitive position." A position that requires any
14 activity that an employer reasonably believes presents a
15 potential risk of harm to the health or safety of an employee or
16 others while under the influence of medical marijuana,
17 including:

18 (1) Duties performed at heights or in confined spaces,
19 including mining.

20 (2) The operation of a motor vehicle, other vehicle,
21 equipment, machinery or a power tool.

22 (3) Repairing, maintaining or monitoring the performance
23 or operation of any equipment, machinery or manufacturing
24 process, the malfunction or disruption of which could result
25 in injury or property damage.

26 (4) Performing firefighting duties.

27 (5) The operation, maintenance or oversight of critical
28 services and infrastructure, including electric, gas and
29 water utilities, power generation or distribution.

30 (6) The extraction, compression, processing,

1 manufacturing, handling, packaging, storage, disposal,
2 treatment or transport of potentially volatile, flammable or
3 combustible materials, elements, chemicals or other highly
4 regulated component.

5 (7) Dispensing pharmaceuticals.

6 (8) A position that requires the employee to carry a
7 firearm.

8 (9) Direct patient care or direct child care.

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

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

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

14 (1) Cancer, including remission therapy.

15 (2) Positive status for human immunodeficiency virus or
16 acquired immune deficiency syndrome.

17 (3) Amyotrophic lateral sclerosis.

18 (4) Parkinson's disease.

19 (5) Multiple sclerosis.

20 (6) Damage to the nervous tissue of the central nervous
21 system (brain-spinal cord) with objective neurological
22 indication of intractable spasticity and other associated
23 neuropathies.

24 (7) Epilepsy.

25 (8) Inflammatory bowel disease.

26 (9) Neuropathies.

27 (10) Huntington's disease.

28 (11) Crohn's disease.

29 (12) Post-traumatic stress disorder.

30 (13) Intractable seizures.

1 (14) Glaucoma.

2 (15) Sickle cell anemia.

3 (16) Severe chronic or intractable pain of neuropathic
4 origin or severe chronic or intractable pain.

5 (17) Autism.

6 (18) Other conditions that are recommended by the
7 advisory board and approved by the secretary under section
8 9459 (relating to effectuating recommendations of advisory
9 board).

10 "Synchronous interaction." A two-way or multiple-way
11 exchange of information between a patient and a health care
12 provider that occurs in real time via audio or video
13 conferencing.

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

17 "Under the influence." One or more of the following:

18 (1) A drug test resulting in:

19 (i) a level of tetrahydrocannabinolic acid in an
20 employee's urine that is equal to or greater than 15
21 nanograms per milliliter; or

22 (ii) an adulterated or substituted testing sample
23 provided by an employee.

24 (2) An employer's good faith determination that an
25 employee is under the influence of marijuana based on
26 observable physical behavior or characteristics, provided
27 that the employee may rebut the determination by immediately
28 submitting to a drug test, the results of which demonstrate
29 that the level of tetrahydrocannabinolic acid in the
30 employee's urine is less than 15 nanograms per milliliter.

1 § 9404. (Reserved).

2 SUBCHAPTER B

3 PROGRAM

4 9405. Program established.

5 9406. Confidentiality and public disclosure.

6 9407. Lawful use of medical marijuana.

7 9408. Unlawful use of medical marijuana.

8 § 9405. Program established.

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

13 (1) Issue permits to medical marijuana organizations to
14 authorize them to grow, process or dispense medical marijuana
15 and ensure their compliance with this chapter.

16 (2) Register practitioners and ensure their compliance
17 with this chapter.

18 (3) Have regulatory and enforcement authority over the
19 growing, processing, sale and use of medical marijuana in
20 this Commonwealth.

21 (4) Establish and maintain an electronic database to
22 include activities and information relating to medical
23 marijuana organizations, certifications and identification
24 cards issued, practitioner registration and electronic
25 tracking of all medical marijuana as required under this
26 chapter to include:

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

30 (ii) Ability to establish the authenticity of

1 identification cards.

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

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

8 (v) The tracking system under section 9441 (relating
9 to electronic tracking) must include information under
10 section 9446(a) (relating to dispensing to patients and
11 caregivers) and any other information required by the
12 department to be used by the department and dispensaries
13 to enable a dispensary to lawfully provide medical
14 marijuana. The tracking system and database shall be
15 capable of providing information in real time. The
16 database shall be capable of receiving information from a
17 dispensary regarding the disbursement of medical
18 marijuana to patients and caregivers. This information
19 shall be immediately accessible to the department and
20 other dispensaries to inhibit diversion and ensure
21 compliance with this chapter.

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

25 (6) Develop a four-hour training course for physicians,
26 pharmacists, certified registered nurse practitioners and
27 physician assistants regarding the latest scientific research
28 on medical marijuana, including the risks and benefits of
29 medical marijuana, and other information deemed necessary by
30 the department. Successful completion of the course shall be

1 approved as continuing education credits as determined by:

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

4 (ii) The State Board of Pharmacy.

5 (iii) The State Board of Nursing.

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

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

19 (ii) Proper handling of medical marijuana and
20 recordkeeping.

21 (iii) Any other subject required by the department.

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

26 (9) Establish a program to authorize the use of medical
27 marijuana to conduct medical research relating to the use of
28 medical marijuana to treat serious medical conditions,
29 including the collection of data and the provision of
30 research grants.

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

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

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

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

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

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

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

24 (b) Regulations.--The department shall promulgate all
25 regulations necessary to carry out the provisions of this
26 chapter.

27 § 9406. Confidentiality and public disclosure.

28 (a) Patient information.--The department shall maintain a
29 confidential list of patients and caregivers to whom it has
30 issued identification cards. All information obtained by the

1 department relating to patients, caregivers and other applicants
2 shall be confidential and not subject to public disclosure,
3 including disclosure under the act of February 14, 2008 (P.L.6,
4 No.3), known as the Right-to-Know Law, including:

5 (1) Individual identifying information about patients
6 and caregivers.

7 (2) Certifications issued by practitioners.

8 (3) Information on identification cards.

9 (4) Information provided by the Pennsylvania State
10 Police under section 9415(b) (relating to caregivers).

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

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

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

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

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

28 § 9407. Lawful use of medical marijuana.

29 (a) General rule.--Notwithstanding any provision of law to
30 the contrary, use or possession of medical marijuana as set

1 forth in this chapter is lawful within this Commonwealth.

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

4 (1) Medical marijuana may only be dispensed to:

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

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

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

13 (i) pill;

14 (ii) oil;

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

17 (iv) a form medically appropriate for administration
18 by vaporization or nebulization, excluding dry leaf or
19 plant form until dry leaf or plant forms become
20 acceptable under regulations adopted under section 9459
21 (relating to effectuating recommendations of advisory
22 board);

23 (v) tincture; or

24 (vi) liquid.

25 (3) Unless otherwise provided in regulations adopted by
26 the department under section 9459, medical marijuana may not
27 be dispensed to a patient or a caregiver in dry leaf or plant
28 form.

29 (4) (Reserved).

30 (5) A patient may designate up to two caregivers at any

1 one time.

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

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

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

14 § 9408. Unlawful use of medical marijuana.

15 (a) General rule.--Except as provided in section 9407
16 (relating to lawful use of medical marijuana), section 9444
17 (relating to laboratory), Subchapter L (relating to research
18 program) or Subchapter M (relating to academic clinical research
19 centers and clinical registrants), the use of medical marijuana
20 is unlawful and shall, in addition to any other penalty provided
21 by law, be deemed a violation of the act of April 14, 1972
22 (P.L.233, No.64), known as The Controlled Substance, Drug,
23 Device and Cosmetic Act.

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

25 (1) Smoke medical marijuana.

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

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

30 (4) Grow or dispense medical marijuana unless authorized

1 as a health care medical marijuana organization under
2 Subchapter L.

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

5 (c) Edible medical marijuana.--Nothing in this chapter shall
6 be construed to preclude the incorporation of medical marijuana
7 into edible form by a patient or a caregiver in order to aid
8 ingestion of the medical marijuana by the patient.

9 SUBCHAPTER C

10 PRACTITIONERS

11 Sec.

12 9409. Practitioner registration.

13 9410. Practitioner restrictions.

14 9411. Issuance of certification.

15 9412. Certification form.

16 9413. Duration.

17 § 9409. Practitioner registration.

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

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

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

28 (3) The physician must have successfully completed the
29 course under section 9405(a)(6) (relating to program
30 established).

1 (b) Department action.--

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

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

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

21 (c) Practitioner requirements.--A practitioner included in
22 the registry shall have an ongoing responsibility to immediately
23 notify the department in writing if the practitioner knows or
24 has reason to know that any of the following is true with
25 respect to a patient for whom the practitioner has issued a
26 certification:

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

29 (2) Medical marijuana would no longer be therapeutic or
30 palliative.

1 (3) The patient has died.

2 § 9410. Practitioner restrictions.

3 (a) Practices prohibited.--The following apply with respect
4 to practitioners:

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

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

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

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

22 (c) Discipline.--In addition to any other penalty that may
23 be imposed under this chapter, a violation of subsection (a) or
24 section 9411(f) (relating to issuance of certification) shall be
25 deemed unprofessional conduct under section 41(8) of the act of
26 December 20, 1985 (P.L.457, No.112), known as the Medical
27 Practice Act of 1985, or section 15(a)(8) of the act of October
28 5, 1978 (P.L.1109, No.261), known as the Osteopathic Medical
29 Practice Act, and shall subject the practitioner to discipline
30 by the State Board of Medicine or the State Board of Osteopathic

1 Medicine, as appropriate.

2 § 9411. Issuance of certification.

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

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

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

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

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

19 (b) Contents.--The certification shall include:

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

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

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

27 (4) The date of issuance.

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

30 (6) Any requirement or limitation concerning the

1 appropriate form of medical marijuana and limitation on the
2 duration of use, if applicable, including whether the patient
3 is terminally ill.

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

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

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

10 (d) Other access by practitioner.--A practitioner may access
11 the prescription drug monitoring program to do any of the
12 following:

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

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

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

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

23 (1) Provide the certification to the patient.

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

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

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

4 § 9412. Certification form.

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

11 § 9413. Duration.

12 Receipt of medical marijuana by a patient or caregiver from a
13 dispensary may not exceed a 90-day supply of individual doses.
14 During the last seven days of any 30-day period during the term
15 of the identification card, a patient may obtain and possess a
16 90-day supply for the subsequent 30-day period. Additional 90-
17 day supplies may be provided in accordance with this section for
18 the duration of the authorized period of the identification card
19 unless a shorter period is indicated on the certification.

20 SUBCHAPTER D

21 PATIENTS

22 9414. Identification cards.

23 9415. Caregivers.

24 9416. Notice.

25 9417. Verification.

26 9418. Special conditions.

27 9419. (Reserved).

28 9420. Minors.

29 9421. Caregiver authorization and limitations.

30 9422. Contents of identification card.

1 9423. Suspension.

2 9424. Prohibitions.

3 § 9414. Identification cards.

4 (a) Issuance.--The department may issue an identification
5 card to a patient who has a certification approved by the
6 department and to a caregiver designated by the patient. An
7 identification card issued to a patient shall authorize the
8 patient to obtain and use medical marijuana as authorized by
9 this chapter. An identification card issued to a caregiver shall
10 authorize the caregiver to obtain medical marijuana on behalf of
11 the patient.

12 (b) Procedure for issuance.--The department shall develop
13 and implement procedures for:

14 (1) Review and approval of applications for
15 identification cards.

16 (2) Issuance of identification cards to patients and
17 caregivers.

18 (3) Review of the certification submitted by the
19 practitioner and the patient.

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

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

26 (2) The name, address and date of birth of a caregiver.

27 (3) The certification issued by the practitioner.

28 (4) The name, address and telephone number of the
29 practitioner and documentation from the practitioner that all
30 of the requirements of section 9411(a) (relating to issuance

1 of certification) have been met.

2 (5) A \$50 processing fee. The department may waive or
3 reduce the fee if the applicant demonstrates financial
4 hardship.

5 (6) The signature of the applicant and date signed.

6 (7) Other information required by the department.

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

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

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

19 (g) (Reserved).

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

26 (i) Lost or defaced card.--In the event of a lost, stolen,
27 destroyed or illegible identification card, the patient or
28 caregiver shall apply to the department within 10 business days
29 of discovery of the loss or defacement of the card for a
30 replacement card. The application for a replacement card shall

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

9 § 9415. Caregivers.

10 (a) Requirements.--

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

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

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

20 (iii) Other information required by the department.

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

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

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

28 (b) Criminal history.--A caregiver who has not been
29 previously approved by the department under this section shall
30 submit fingerprints for the purpose of obtaining criminal

1 history record checks, and the Pennsylvania State Police or its
2 authorized agent shall submit the fingerprints to the Federal
3 Bureau of Investigation for the purpose of verifying the
4 identity of the applicant and obtaining a current record of any
5 criminal arrests and convictions. Any criminal history record
6 information relating to a caregiver obtained under this section
7 by the department may be interpreted and used by the department
8 only to determine the applicant's character, fitness and
9 suitability to serve as a caregiver under this chapter. The
10 criminal history record information provided under this
11 subsection may not be subject to the limitations under 18
12 Pa.C.S. § 9121(b)(2) (relating to general regulations). The
13 department shall also review the prescription drug monitoring
14 program relating to the caregiver. The department shall deny the
15 application of a caregiver who has been convicted of a criminal
16 offense that occurred within the past five years relating to the
17 sale or possession of drugs, narcotics or controlled substances.
18 The department may deny an application if the applicant has a
19 history of drug abuse or of diverting controlled substances or
20 illegal drugs.

21 § 9416. Notice.

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

26 § 9417. Verification.

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

29 § 9418. Special conditions.

30 The following apply:

1 (1) If the practitioner states in the certification
2 that, in the practitioner's professional opinion, the patient
3 would benefit from medical marijuana only until a specified
4 earlier date, then the identification card shall expire on
5 that date.

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

10 § 9419. (Reserved).

11 § 9420. Minors.

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

14 (1) The patient shall have a caregiver.

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

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

17 (ii) An individual designated by a parent or legal
18 guardian.

19 (iii) An appropriate individual approved by the
20 department upon a sufficient showing that no parent or
21 legal guardian is appropriate or available.

22 § 9421. Caregiver authorization and limitations.

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

27 (b) Changing caregiver.--If a patient wishes to change or
28 terminate the designation of the patient's caregiver, for
29 whatever reason, the patient shall notify the department as soon
30 as practicable. The department shall issue a notification to the

1 caregiver that the caregiver's identification card is invalid
2 and must be promptly returned to the department.

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

8 § 9422. Contents of identification card.

9 An identification card shall contain the following:

10 (1) The name of the caregiver or the patient, as
11 appropriate. The identification card shall also state whether
12 the individual is designated as a patient or as a caregiver.

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

14 (3) An identification number for the patient or
15 caregiver, as appropriate.

16 (4) A photograph of the individual to whom the
17 identification card is being issued, whether the individual
18 is a patient or a caregiver. The method of obtaining the
19 photograph shall be specified by the department by
20 regulation. The department shall provide reasonable
21 accommodation for a patient who is confined to the patient's
22 home or is in inpatient care.

23 (5) Any requirement or limitation set by the
24 practitioner as to the form of medical marijuana.

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

28 § 9423. Suspension.

29 If a patient or caregiver intentionally, knowingly or
30 recklessly violates any provision of this chapter as determined

1 by the department, the identification card of the patient or
2 caregiver may be suspended or revoked. The suspension or
3 revocation shall be in addition to any criminal or other penalty
4 that may apply.

5 § 9424. Prohibitions.

6 The following prohibitions shall apply:

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

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

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

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

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

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

1 for the patient.

2 SUBCHAPTER E

3 MEDICAL MARIJUANA ORGANIZATIONS

4 9425. Medical marijuana organizations.

5 9426. Permits.

6 9427. Granting of permit.

7 9428. Notice.

8 9429. (Reserved).

9 9430. Application and issuance.

10 9431. Fees and other requirements.

11 9432. Issuance.

12 9433. Relocation.

13 9434. Terms of permit.

14 9435. (Reserved).

15 9436. Permit renewals.

16 9437. Suspension or revocation.

17 9438. Convictions prohibited.

18 9439. Diversity goals.

19 9440. Limitations on permits.

20 § 9425. Medical marijuana organizations.

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

24 (1) Grower/processors.

25 (2) Dispensaries.

26 § 9426. Permits.

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

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

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

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

8 (4) A criminal history record check. Medical marijuana
9 organizations applying for a permit shall submit fingerprints
10 of principals, financial backers, operators and employees to
11 the Pennsylvania State Police for the purpose of obtaining
12 criminal history record checks and the Pennsylvania State
13 Police or its authorized agent shall submit the fingerprints
14 to the Federal Bureau of Investigation for the purpose of
15 verifying the identity of the principals, financial backers,
16 operators and employees and obtaining a current record of any
17 criminal arrests and convictions. Any criminal history record
18 information relating to principals, financial backers,
19 operators and employees obtained under this section by the
20 department may be interpreted and used by the department only
21 to determine the principal's, financial backer's, operator's
22 and employee's character, fitness and suitability to serve as
23 a principal, financial backer, operator and employee under
24 this chapter. The criminal history record information
25 provided under this subsection may not be subject to the
26 limitations under 18 Pa.C.S. § 9121(b)(2) (relating to
27 general regulations). After submission of required
28 documentation to the department, medical marijuana
29 organizations may allow employees to work in a supervised
30 capacity until the department formally approves the

1 employee's affiliation with the medical marijuana
2 organization. Any employee who the department determines to
3 be unable to meet the affiliation requirements under section
4 9438 (relating to convictions prohibited) shall be terminated
5 by the medical marijuana organization immediately. This
6 paragraph shall not apply to an owner of securities in a
7 publicly traded corporation or an owner of 5% or less in a
8 privately held business entity if the department determines
9 that the owner of the securities is not substantially
10 involved in the activities of the medical marijuana
11 organization.

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

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

18 (7) A statement that the applicant:

19 (i) (Reserved).

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

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

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

1 chapter.

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

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

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

16 (9) Any other information the department may require.

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

21 § 9427. Granting of permit.

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

24 (b) Determination.--In making a decision under subsection
25 (a), the department shall determine that:

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

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

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

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

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

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

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

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

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

17 (c) Nontransferability.--A permit issued under this
18 subchapter shall be nontransferable.

19 (d) Privilege.--The issuance or renewal of a permit shall be
20 a revocable privilege.

21 (e) Regions.--The department shall establish a minimum of
22 three regions within this Commonwealth for the purpose of
23 granting permits to grower/processors and dispensaries and
24 enforcing this chapter. The department shall approve permits for
25 grower/processors and dispensaries in a manner which will
26 provide an adequate amount of medical marijuana to patients and
27 caregivers in all areas of this Commonwealth. The department
28 shall consider the following when issuing a permit:

29 (1) Regional population.

30 (2) The number of patients suffering from serious

1 medical conditions.

2 (3) The types of serious medical conditions.

3 (4) Access to public transportation.

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

5 § 9428. Notice.

6 When the boundaries under section 9427(e) (relating to
7 granting of permit) are established, the department shall
8 transmit notice of the determination to the Legislative
9 Reference Bureau for publication in the Pennsylvania Bulletin.
10 The department may adjust the boundaries as necessary every two
11 years. Notice of any adjustment to the boundaries shall be
12 transmitted to the Legislative Reference Bureau for publication
13 in the Pennsylvania Bulletin.

14 § 9429. (Reserved).

15 § 9430. Application and issuance.

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

18 (1) Report to the department any change in facts or
19 circumstances reflected in the application or any newly
20 discovered or occurring fact or circumstance which is
21 required to be included in the application, including a
22 change in control of the medical marijuana organization.

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

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

29 (b) Additional information.--If the department is not
30 satisfied that the applicant should be issued a permit, the

1 department shall notify the applicant in writing of the factors
2 for which further documentation is required. Within 30 days of
3 the receipt of the notification, the applicant may submit
4 additional material to the department.

5 § 9431. Fees and other requirements.

6 The following apply:

7 (1) For a grower/processor:

8 (i) An initial application fee in the amount of
9 \$10,000 shall be paid. The fee is nonrefundable.

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

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

19 (iv) An application to renew a permit must be filed
20 with the department not more than six months nor less
21 than four months prior to expiration.

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

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

28 (2) For a dispensary:

29 (i) An initial application fee in the amount of
30 \$5,000 shall be paid. The fee is nonrefundable.

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

6 (iii) A renewal fee for the permit as a dispensary
7 in the amount of \$5,000 shall be paid. The fee shall be
8 returned if the renewal is not granted and shall cover
9 renewal for all locations.

10 (iv) An application to renew a permit must be filed
11 with the department not more than six months nor less
12 than four months prior to expiration.

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

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

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

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

25 § 9432. Issuance.

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

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

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

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

5 (4) Any other information required by the department.
6 § 9433. Relocation.

7 (a) Authorization.--The department may approve an
8 application from a medical marijuana organization to relocate
9 within this Commonwealth or to add or delete activities or
10 facilities.

11 (b) Designations.--Notwithstanding the provisions of
12 subsection (a), a dispensary may interchange the designation of
13 a primary, secondary or tertiary location at any time, including
14 the period before a location becomes operational, by providing
15 written notice to the department at least 14 days before the
16 change in designation. A change in designation under this
17 subsection may not be subject to approval by the department.

18 § 9434. Terms of permit.

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

21 § 9435. (Reserved).

22 § 9436. Permit renewals.

23 (a) Renewal.--An application for renewal shall include the
24 following information:

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

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

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

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

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

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

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

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

24 § 9437. Suspension or revocation.

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

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

30 (2) The organization violates any provision of this

1 chapter or a regulation of the department.

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

5 § 9438. Convictions prohibited.

6 (a) Prohibitions.--The following individuals may not hold
7 volunteer positions or positions with remuneration in or be
8 affiliated with a medical marijuana organization, including a
9 clinical registrant under Subchapter M (relating to academic
10 clinical research centers and clinical registrants), in any way
11 if the individual has been convicted of any felony criminal
12 offense related to the manufacture, delivery or possession with
13 intent to manufacture or deliver a controlled substance in
14 violation of the act of April 14, 1972 (P.L.233, No.64), known
15 as The Controlled Substance, Drug, Device and Cosmetic Act, or
16 similar law in any other jurisdiction:

17 (1) Financial backers.

18 (2) Principals.

19 (3) Employees.

20 (b) Exclusion.--This section shall not apply to an
21 individual for whom it has been 10 or more years since the entry
22 of a final disposition of a felony conviction related to the
23 manufacture, delivery or possession with intent to manufacture
24 or deliver a controlled substance in violation of The Controlled
25 Substance, Drug, Device and Cosmetic Act, or similar law in any
26 other jurisdiction, or one year since the individual's release
27 from imprisonment for the felony conviction, whichever is later.

28 § 9439. Diversity goals.

29 (a) Goals.--It is the intent and goal of the General
30 Assembly that the department promote diversity and the

1 participation by diverse groups in the activities authorized
2 under this chapter. In order to further this goal, the
3 department shall adopt and implement policies ensuring the
4 following:

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

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

10 (b) Duties of department.--To facilitate participation by
11 diverse groups in the activities authorized under this chapter,
12 the department shall:

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

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

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

25 (c) Reports.--No later than March 1, 2018, and each March 1
26 thereafter, the department shall submit a report to the
27 chairperson and minority chairperson of the Health and Human
28 Services Committee of the Senate and the chairperson and
29 minority chairperson of the Health Committee of the House of
30 Representatives summarizing the participation and utilization of

1 diverse groups in the activities authorized under this chapter.

2 The report shall include:

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

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

7 (3) Any other information the department deems
8 appropriate.

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

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

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

18 "Minority-owned business." As defined in 74 Pa.C.S. §
19 303(b).

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

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

24 "Veteran-owned small business." As defined in 51 Pa.C.S. §
25 9601.

26 "Women-owned business." As defined in 74 Pa.C.S. § 303(b).
27 § 9440. Limitations on permits.

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

30 (1) The department may not initially issue permits to

1 more than 25 growers/processors.

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

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

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

9 (5) No more than five grower/processors may be issued
10 permits as dispensaries. If the number of growers/processors
11 is increased under section 9459 (relating to effectuating
12 recommendations of advisory board), no more than 20% of the
13 total number of growers/processors may also be issued permits
14 as dispensaries.

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

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

20 SUBCHAPTER F

21 MEDICAL MARIJUANA CONTROLS

22 9441. Electronic tracking.

23 9442. Grower/processors.

24 9443. Storage and transportation.

25 9444. Laboratory.

26 9445. Prices.

27 § 9441. Electronic tracking.

28 (a) Requirement.--A grower/processor or dispensary must
29 implement an electronic inventory tracking system which shall be
30 directly accessible to the department through its electronic

1 database that electronically tracks all medical marijuana on a
2 daily basis. The system shall include tracking of all of the
3 following:

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

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

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

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

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

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

25 (1) Security and surveillance.

26 (2) Recordkeeping and record retention.

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

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

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

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

7 (d) Application programming interface.--The department or
8 the department's contracted seed-to-sale vendor shall allow two-
9 way communication, automation and application-programming
10 interface of a medical marijuana organization's enterprise
11 resource planning, inventory, accounting and point-of-sale
12 software with the software of the department or the department's
13 contracted seed-to-sale vendor. The department or the
14 department's contracted seed-to-sale vendor shall provide for
15 the development and use of a seed-to-sale cannabis tracking
16 system, which shall include a secure application program
17 interface capable of accessing all data required to be
18 transmitted to the advisory board to ensure compliance with the
19 operational reporting requirements established under this
20 chapter and the regulations of the department.

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

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

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

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

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

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

7 § 9442. Grower/processors.

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

11 (1) Obtain and transport seed and immature plant
12 material from outside this Commonwealth during at least one
13 30-day period per year as designated by the department to
14 grow and process medical marijuana.

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

18 (3) Obtain and transport bulk postharvest medical
19 marijuana plant material from another grower/processor within
20 this Commonwealth to process medical marijuana. As used in
21 this paragraph, the term "postharvest plant material"
22 includes all unfinished plant and plant-derived material,
23 whether fresh, dried, partially dried, frozen or partially
24 frozen, oil, concentrate or similar byproducts derived or
25 processed from medical marijuana or medical marijuana plants.

26 (4) Apply solvent-based extraction methods and processes
27 to medical marijuana plants that have failed a test conducted
28 by an approved laboratory at harvest, subject to the
29 following:

30 (i) The test failure shall be limited to yeast and

1 mold.

2 (ii) The extracted material shall be processed into
3 a topical form.

4 (iii) The medical marijuana product must pass a
5 final processed test under section 9444 (relating to
6 laboratory).

7 (iv) The medical marijuana product shall be labeled
8 as remediated.

9 (v) This paragraph shall expire upon the publication
10 in the Pennsylvania Bulletin of a notice of the
11 secretary's approval of the recommendations relating to a
12 research initiative, as prescribed in section 9482
13 (relating to research initiative).

14 (5) Obtain harvested hemp from a person holding a permit
15 issued by the Department of Agriculture to grow or cultivate
16 hemp under 3 Pa.C.S. Ch. 15 (relating to controlled plants
17 and noxious weeds) if the hemp received by a grower/processor
18 is subject to the laboratory testing requirements of section
19 9444.

20 (6) Add excipients or hemp or hemp-derived additives
21 obtained or cultivated in accordance with paragraph (5).
22 Excipients must be pharmaceutical grade, unless otherwise
23 approved by the department. In determining whether to approve
24 an added substance, the department shall consider the
25 following:

26 (i) Whether the added substance is permitted by the
27 United States Food and Drug Administration for use in
28 food or is Generally Recognized as Safe (GRAS) under
29 Federal guidelines.

30 (ii) Whether the added substance constitutes a known

1 hazard such as diacetyl, CAS number 431-03-8, and
2 pentanedione, CAS number 600-14-6.

3 (b) Limitations.--

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

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

10 (ii) is located within this Commonwealth.

11 (2) For the purpose of paragraph (1), a grower/processor
12 shall maintain continuous video surveillance. A
13 grower/processor is required to retain the recordings onsite
14 or offsite for a period of no less than 180 days, unless
15 otherwise required for investigative or litigation purposes.

16 (c) Pesticides.--The following shall apply:

17 (1) A grower/processor may use a pesticide that is
18 registered by the Department of Agriculture under the act of
19 March 1, 1974 (P.L.90, No.24), known as the Pennsylvania
20 Pesticide Control Act of 1973, and designated by the
21 Secretary of Agriculture in consultation with the secretary
22 for use by a grower/processor.

23 (2) The Secretary of Agriculture shall transmit, by June
24 30, 2022, an initial list of pesticides which may be used by
25 grower/processors to the Legislative Reference Bureau for
26 publication in the Pennsylvania Bulletin. The list shall be
27 posted on the department's publicly accessible Internet
28 website and shall be reviewed and updated by the Secretary of
29 Agriculture, in consultation with the secretary, at least
30 once annually and transmitted to the Legislative Reference

1 Bureau for publication in the Pennsylvania Bulletin.

2 § 9443. Storage and transportation.

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

10 (1) Requirements relating to shipping containers and
11 packaging.

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

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

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

19 (5) Use of GPS systems.

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

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

24 (8) Requirements to utilize any electronic tracking
25 system required by the department, which shall allow for the
26 two-way communication, automation and application-programming
27 interface between a medical marijuana organization's
28 enterprise resource planning, inventory, accounting and
29 point-of-sale software and the software of the department or
30 the department's vendor.

1 (9) Transporting medical marijuana to a
2 grower/processor, approved laboratory or dispensary.
3 § 9444. Laboratory.

4 (a) General testing.--A grower/processor shall contract with
5 one or more independent laboratories to test the medical
6 marijuana produced by the grower/processor. The department shall
7 approve a laboratory under this subsection and require that the
8 laboratory report testing results in a manner as the department
9 shall determine, including requiring a test at harvest and a
10 test at final processing. The possession by a laboratory of
11 medical marijuana shall be a lawful use.

12 (b) Stability testing.--A laboratory shall perform stability
13 testing to ensure the medical marijuana product's potency and
14 purity. A grower/processor shall retain a sample from each
15 medical marijuana product derived from a harvest batch and
16 request that a sample be identified and collected by a
17 laboratory approved under subsection (a) from each process lot
18 to perform stability testing under the following conditions:

19 (1) The medical marijuana product is still in inventory
20 at a dispensary in this Commonwealth as determined by the
21 seed-to-sale system.

22 (2) The stability testing is done at six-month intervals
23 for the duration of the expiration date period as listed on
24 the medical marijuana product and once within six months of
25 the expiration date.

26 § 9445. Prices.

27 The department and the Department of Revenue shall monitor
28 the price of medical marijuana sold by grower/processors and by
29 dispensaries, including a per-dose price. If the department and
30 the Department of Revenue determine that the prices are

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

8 SUBCHAPTER G

9 DISPENSARIES

10 9446. Dispensing to patients and caregivers.

11 9447. Facility requirements.

12 9448. Posting.

13 § 9446. Dispensing to patients and caregivers.

14 (a) General rule.--A dispensary that has been issued a
15 permit under Subchapter E (relating to medical marijuana
16 organizations) may lawfully dispense medical marijuana to a
17 patient or caregiver upon presentation to the dispensary of a
18 valid identification card for that patient or caregiver. The
19 dispensary shall provide to the patient or caregiver a receipt,
20 as appropriate. The receipt shall include all of the following:

21 (1) The name, address and any identification number
22 assigned to the dispensary by the department.

23 (2) The name and address of the patient and caregiver.

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

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

27 (5) The form and the quantity of medical marijuana
28 dispensed.

29 (b) Requirements.--A dispensary shall have a physician or a
30 pharmacist available, either in person or by synchronous

1 interaction, to verify patient certifications and to consult
2 with patients and caregivers at all times during the hours the
3 dispensary is open to receive patients and caregivers. If a
4 dispensary has more than one separate location, a physician
5 assistant or a certified registered nurse practitioner may
6 verify patient certifications and consult with patients and
7 caregivers, either in person or by synchronous interaction, at
8 each of the other locations in lieu of the physician or
9 pharmacist. A physician, a pharmacist, a physician assistant or
10 a certified registered nurse practitioner shall, prior to
11 assuming duties under this paragraph, successfully complete the
12 course established in section 9405(a)(6) (relating to program
13 established). A physician may not issue a certification to
14 authorize patients to receive medical marijuana or otherwise
15 treat patients at the dispensary.

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

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

24 (1) a quantity of medical marijuana greater than that
25 which the patient or caregiver is permitted to possess under
26 the certification; or

27 (2) a form of medical marijuana prohibited by this
28 chapter.

29 (e) Supply.--When dispensing medical marijuana to a patient
30 or caregiver, the dispensary may not dispense an amount greater

1 than a 90-day supply until the patient has exhausted all but a
2 seven-day supply provided pursuant to a previously issued
3 certification until additional certification is presented under
4 section 9413 (relating to duration).

5 (f) Verification.--Prior to dispensing medical marijuana to
6 a patient or caregiver, the dispensary shall verify the
7 information in subsections (e) and (g) by consulting the
8 electronic tracking system included in the department's
9 electronic database established under section 9405(a)(4)(v) and
10 the dispensary tracking system under section 9441(a)(2)
11 (relating to electronic tracking).

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

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

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

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

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

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

30 (5) Any other information as determined by the

1 department.

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

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

9 (2) The packaging date.

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

12 (4) A warning stating:

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

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

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

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

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

28 § 9447. Facility requirements.

29 (a) General rule.--

30 (1) A dispensary may dispense medical marijuana in an

1 indoor, enclosed, secure facility located within this
2 Commonwealth or in accordance with a curbside delivery
3 protocol as determined by the department.

4 (2) For the purposes of paragraph (1), a dispensary
5 shall maintain continuous video surveillance. The dispensary
6 is required to retain the recordings onsite or offsite for a
7 period of no less than 180 days, unless otherwise required
8 for investigative or litigation purposes.

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

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

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

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

19 (b) Adjustment or waiver of prohibition.--The department may
20 amend a prohibition under subsection (a)(4) if it is shown by
21 clear and convincing evidence that the amendment is necessary to
22 provide adequate access to patients. An amendment may include
23 additional security, physical plant of a facility or other
24 conditions necessary to protect children.

25 § 9448. Posting.

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

30 SUBCHAPTER H

TAX ON MEDICAL MARIJUANA

9449. Tax on medical marijuana.

9450. Medical Marijuana Program Fund.

§ 9449. 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.

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

4 § 9450. Medical Marijuana Program Fund.

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

10 (b) Source of funds.--Fees and taxes payable under this
11 chapter shall be deposited into the fund. The money deposited
12 into the fund may only be used for the purposes set forth in
13 this section. Any interest accrued shall be deposited into the
14 fund.

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

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

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

30 (ii) a program to assist patients and caregivers

1 with the cost associated with the waiver or reduction of
2 fees for identification cards under sections 9414(c)(5)
3 (relating to identification cards) and 9415(a)(2)
4 (relating to caregivers); and

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

7 (2) To the Department of Drug and Alcohol Programs, for
8 drug abuse prevention and counseling and treatment services,
9 10% of the revenue in the fund.

10 (3) To the department, for further research related to
11 the use of medical marijuana, including the research program
12 established under Subchapter L (relating to research
13 program), 30% of the revenue in the fund. Funding shall be
14 provided for research into the treatment of those serious
15 medical conditions for which medical marijuana is available
16 for treatment within this Commonwealth and for research into
17 the use of medical marijuana to treat other medical
18 conditions for which medical marijuana may have legitimate
19 medicinal value. Money shall be used to subsidize the cost
20 of, or provide, medical marijuana to patients participating
21 in the program. However, money in the fund may not be
22 expended on activity under Subchapter M (relating to academic
23 clinical research centers and clinical registrants).

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

28 (d) Repayment of initial funding.--The department shall
29 repay from the fees, taxes and investment earnings of the fund
30 to the General Fund any money appropriated for the initial

1 planning, organization and administration by the department with
2 respect to the establishment of the program at the time of April
3 17, 2016.

4 SUBCHAPTER I

5 ADMINISTRATION

6 9451. Governing practice and procedure.

7 9452. Reports by medical marijuana organizations.

8 9453. Law enforcement notification.

9 9454. Evaluation.

10 9455. Report.

11 9456. (Reserved).

12 9457. Temporary regulations.

13 § 9451. Governing practice and procedure.

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

18 § 9452. Reports by medical marijuana organizations.

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

23 § 9453. Law enforcement notification.

24 Notwithstanding any provision of this chapter or any other
25 law to the contrary, the department may notify any appropriate
26 law enforcement agency of information relating to any violation
27 or suspected violation of this chapter. In addition, the
28 department shall verify to law enforcement personnel in an
29 appropriate case whether a certification, permit, registration
30 or an identification card is valid, including release of the

1 name of the patient.

2 § 9454. Evaluation.

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

9 § 9455. Report.

10 (a) Report required.--The department shall submit a written
11 report under subsection (b) every two years beginning April 17,
12 2018, to the following:

13 (1) The Governor.

14 (2) The President pro tempore of the Senate.

15 (3) The Majority Leader and the Minority Leader of the
16 Senate.

17 (4) The Speaker of the House of Representatives.

18 (5) The Majority Leader and the Minority Leader of the
19 House of Representatives.

20 (6) The chairperson and minority chairperson of the
21 Judiciary Committee of the Senate.

22 (7) The chairman and minority chairman of the Health and
23 Human Services Committee of the Senate.

24 (8) The chairman and minority chairman of the Judiciary
25 Committee of the House of Representatives.

26 (9) The chairman and minority chairman of the Health
27 Committee of the House of Representatives.

28 (10) The Attorney General of the Commonwealth.

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

1 (1) An assessment of the use of medical marijuana as a
2 result of the enactment of this chapter.

3 (2) An assessment of the benefits and risks to patients
4 using medical marijuana under this chapter, including adverse
5 events.

6 (3) Recommendations for amendments to this chapter for
7 reasons of patient safety or to aid the general welfare of
8 the citizens of this Commonwealth.

9 § 9456. (Reserved).

10 § 9457. Temporary regulations.

11 (a) Promulgation.--In order to facilitate the prompt
12 implementation of this chapter, the department may promulgate
13 temporary regulations that shall expire not later than two years
14 following the publication of the temporary regulation. The
15 department may promulgate temporary regulations not subject to:

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

19 (2) Sections 204(b) and 301(10) of the act of October
20 15, 1980 (P.L.950, No.164), known as the Commonwealth
21 Attorneys Act.

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

24 (b) Expiration.--Notwithstanding any other provision of law,
25 the department's authority to adopt temporary regulations under
26 subsection (a) shall expire May 31, 2022. Regulations adopted
27 after this period shall be promulgated as provided by law.

28 (c) Publication.--The department shall transmit notice of
29 temporary regulations to the Legislative Reference Bureau for
30 publication in the Pennsylvania Bulletin no later than October

1 17, 2016.

2 SUBCHAPTER J

3 MEDICAL MARIJUANA ADVISORY BOARD

4 9458. Advisory board.

5 9459. Effectuating recommendations of advisory board.

6 § 9458. Advisory board.

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

10 (1) The secretary or a designee.

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

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

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

17 (5) The Physician General or a designee.

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

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

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

27 (i) The Governor.

28 (ii) The President pro tempore of the Senate.

29 (iii) The Majority Leader of the Senate.

30 (iv) The Minority Leader of the Senate.

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

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

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

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

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

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

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

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

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

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

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

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

27 (j) Duties.--The advisory board shall have the following
28 duties:

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

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

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

5 (4) To issue written reports to the Governor, the Senate
6 and the House of Representatives.

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

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

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

14 (iii) Whether to change the form of medical
15 marijuana permitted under this chapter.

16 (iv) (Reserved).

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

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

23 § 9459. Effectuating recommendations of advisory board.

24 After receiving a report of the advisory board under section
25 9458(j)(4) (relating to advisory board), at the discretion of
26 the secretary, the department may effectuate recommendations
27 made by the advisory board by transmitting a notice to the
28 Legislative Reference Bureau for publication in the Pennsylvania
29 Bulletin. The secretary shall transmit notice to the Legislative
30 Reference Bureau for publication in the Pennsylvania Bulletin

1 within 12 months of the receipt of a report of the advisory
2 board. The notice shall include the recommendations of the
3 advisory board and shall state the specific reasons for the
4 decision of the secretary on whether or not to effectuate each
5 recommendation.

6 SUBCHAPTER K

7 OFFENSES RELATED TO MEDICAL MARIJUANA

8 9460. Criminal diversion of medical marijuana by practitioners.

9 9461. Criminal diversion of medical marijuana.

10 9462. Criminal retention of medical marijuana.

11 9463. Criminal diversion of medical marijuana by patient or
12 caregiver.

13 9464. Falsification of identification cards.

14 9465. Adulteration of medical marijuana.

15 9466. Disclosure of information prohibited.

16 9467. Additional penalties.

17 9468. Other restrictions.

18 § 9460. Criminal diversion of medical marijuana by
19 practitioners.

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

26 § 9461. Criminal diversion of medical marijuana.

27 In addition to any other penalty provided by law, an
28 employee, financial backer, operator or principal of any of the
29 following commits a misdemeanor of the first degree if the
30 person intentionally, knowingly or recklessly sells, dispenses,

1 trades, delivers or otherwise provides medical marijuana to a
2 person who is not lawfully permitted to receive medical
3 marijuana:

4 (1) A medical marijuana organization.

5 (2) A health care medical marijuana organization or
6 university participating in a research study under Subchapter
7 L (relating to research program).

8 (3) A clinical registrant or academic clinical research
9 center under Subchapter M (relating to academic clinical
10 research centers and clinical registrants).

11 (4) A laboratory utilized to test medical marijuana
12 under section 9444 (relating to laboratory).

13 § 9462. Criminal retention of medical marijuana.

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

19 § 9463. Criminal diversion of medical marijuana by patient or
20 caregiver.

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

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

29 § 9464. Falsification of identification cards.

30 (a) Offense defined.--In addition to any other penalty

1 provided by law, a person commits an offense if, knowing he is
2 not privileged to hold an identification card, the person:

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

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

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

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

18 § 9465. Adulteration of medical marijuana.

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

24 (b) Grading.--A first offense under this section constitutes
25 a misdemeanor of the second degree. A second or subsequent
26 offense under this section constitutes a misdemeanor of the
27 first degree.

28 § 9466. Disclosure of information prohibited.

29 (a) Offense defined.--In addition to any other penalty
30 provided by law, an employee, financial backer, operator or

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

5 (1) A medical marijuana organization.

6 (2) A health care medical marijuana organization or
7 university participating in a research study under Subchapter
8 L (relating to research program).

9 (3) A clinical registrant or academic clinical research
10 center under Subchapter M (relating to academic clinical
11 research centers and clinical registrants).

12 (4) An employee or contractor of the department.

13 (b) Exception.--Subsection (a) shall not apply where
14 disclosure is permitted or required by law or by court order.
15 The department, including an authorized employee, requesting or
16 obtaining information under this chapter shall not be subject to
17 any criminal liability. The immunity provided by this subsection
18 shall not apply to any employee of the department who knowingly
19 and willfully discloses prohibited information under this
20 chapter.

21 § 9467. Additional penalties.

22 (a) Criminal penalties.--In addition to any other penalty
23 provided by law, a practitioner, caregiver, patient, employee,
24 financial backer, operator or principal of any medical marijuana
25 organization, health care medical organization or university
26 participating in a research study under Subchapter L (relating
27 to research program), and an employee, financial backer,
28 operator or principal of a clinical registrant or academic
29 clinical research center under Subchapter M (relating to
30 academic clinical research centers and clinical registrants),

1 who violates any of the provisions of this chapter, other than
2 those specified in section 9460 (relating to criminal diversion
3 of medical marijuana by practitioners), 9461 (relating to
4 criminal diversion of medical marijuana), 9462 (relating to
5 criminal retention of medical marijuana), 9463 (relating to
6 criminal diversion of medical marijuana by patient or
7 caregiver), 9464 (relating to falsification of identification
8 cards), 9465 (relating to adulteration of medical marijuana) or
9 9466 (relating to disclosure of information prohibited), or any
10 regulation promulgated under this chapter:

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

15 (2) For a second or subsequent offense, commits a
16 misdemeanor of the third degree and shall, upon conviction,
17 be sentenced to pay a fine of not more than \$10,000, or to
18 imprisonment for not less than six months nor more than one
19 year, or both.

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

26 (1) The department may assess a penalty of not more than
27 \$10,000 for each violation and an additional penalty of not
28 more than \$1,000 for each day of a continuing violation. In
29 determining the amount of each penalty, the department shall
30 take the following factors into consideration:

1 (i) The gravity of the violation.

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

4 (iii) The willfulness of the violation.

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

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

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

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

21 (c) Sanctions.--

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

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

29 (ii) Revoke or suspend the permit of a person for
30 conduct or activity or the occurrence of an event that

1 would have disqualified the person from receiving the
2 permit.

3 (iii) Revoke or suspend the registration of a
4 practitioner for a violation of this chapter or a
5 regulation promulgated or an order issued under this
6 chapter or for conduct or activity which would have
7 disqualified the practitioner from receiving a
8 registration.

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

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

15 (vi) Issue a cease and desist order.

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

20 (d) Costs of action.--The department may assess against a
21 person determined to be in violation of this chapter the costs
22 of investigation of the violation.

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

29 § 9468. Other restrictions.

30 Nothing in this chapter may be construed to permit any person

1 to engage in or prevent the imposition of any civil, criminal or
2 other penalty for the following:

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

6 (2) Possessing or using medical marijuana in a State or
7 county correctional facility, including a facility owned or
8 operated or under contract with the Department of Corrections
9 or the county which houses inmates serving a portion of their
10 sentences on parole or other community correction program.
11 Nothing in this paragraph shall be construed to apply to
12 employees of the facilities set forth in this paragraph. The
13 Department of Corrections shall adopt a written policy no
14 later October 17, 2017, regarding the possession and use of
15 medical marijuana by employees in State correctional
16 facilities. The governing authority of a county may adopt a
17 resolution no later than October 17, 2017, regarding the
18 possession and use of medical marijuana by employees in a
19 county correctional facility.

20 (3) Possessing or using medical marijuana in a youth
21 detention center or other facility which houses children
22 adjudicated delinquent, including the separate, secure State-
23 owned facility or unit utilized for sexually violent
24 delinquent children under 42 Pa.C.S. § 6404 (relating to
25 duration of inpatient commitment and review). As used in this
26 paragraph, the term "sexually violent delinquent children"
27 shall have the meaning given to it in 42 Pa.C.S. § 6402
28 (relating to definitions). Nothing in this paragraph shall be
29 construed to apply to employees of the facilities set forth
30 in this paragraph.

1 M (relating to academic clinical research centers and clinical
2 registrants).

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

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

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

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

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

24 (5) Upon approval of a research study by the United
25 States Food and Drug Administration and the United States
26 Drug Enforcement Administration, select a vertically
27 integrated health system or systems to conduct the research
28 study and designate the form or forms of medical marijuana
29 which will be used to treat the serious medical condition.

30 (6) Notify a patient who has been issued an

1 identification card:

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

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

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

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

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

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

30 § 9471. Medical marijuana research program administration.

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

8 (1) Real time inventory tracking.

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

11 (3) Recall of defective medical marijuana.

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

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

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

23 (c) Research reports.--

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

28 (2) The department shall notify the vertically
29 integrated health system and the university participating in
30 the research study of the data which is required to meet the

1 United States Food and Drug Administration's and the United
2 States Drug Enforcement Administration's approval for the
3 research study.

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

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

12 § 9472. Approval.

13 A vertically integrated health system located in this
14 Commonwealth may petition the department to participate in a
15 research study to study a serious medical condition under
16 section 9471 (relating to medical marijuana research program
17 administration). Approval of the vertically integrated health
18 system as a health care medical marijuana organization by the
19 department shall authorize access within a region under section
20 9427(e) (relating to granting of permit) to medical marijuana
21 for all patients included in an approved research study.

22 § 9473. Requirements.

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

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

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

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

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

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

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

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

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

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

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

28 § 9474. Restrictions.

29 A health care medical marijuana organization may not
30 participate in a research study of any kind, including the

1 program established under this subchapter, or dispense or grow
2 and process medical marijuana if it has violated its licensure
3 requirements under the act of July 19, 1979 (P.L.130, No.48),
4 known as the Health Care Facilities Act.

5 § 9475. Regulations.

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

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

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

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

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

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

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

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

27 § 9476. Nonentitlement.

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

1 whereby the Commonwealth may encourage research associated
2 with medical marijuana.

3 (2) It is the policy of the Commonwealth to allow, in
4 addition to the 25 grower/processors and 50 dispensaries
5 initially authorized under section 9440 (relating to
6 limitations on permits), the operation of additional
7 grower/processors and dispensaries which will be approved by
8 the department as clinical registrants. A clinical registrant
9 is a grower/processor and a dispensary which has a
10 contractual relationship with a medical school that operates
11 or partners with a hospital to provide advice about medical
12 marijuana so that patient safety may be enhanced.

13 § 9478. Definitions.

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

17 "Academic clinical research center." An accredited medical
18 school within this Commonwealth that operates or partners with
19 an acute care hospital licensed within this Commonwealth that
20 has been approved and certified by the department to enter into
21 a contract with a clinical registrant.

22 "Clinical registrant." An entity that:

23 (1) is approved by the department as a clinical
24 registrant;

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

1 (3) is approved by the department to hold a permit as
2 both a grower/processor and a dispensary.

3 § 9479. Academic clinical research centers.

4 (a) General rule.--An academic clinical research center must
5 be approved and certified by the department before the academic
6 clinical research center may contract with a clinical
7 registrant. An academic clinical research center shall only
8 contract with one clinical registrant. The accredited medical
9 school that is seeking approval and certification from the
10 department as an academic clinical research center must provide
11 all information required by the department, including
12 information for the individual who will be the primary contact
13 for the academic clinical research center during the
14 department's review of the application. The accredited medical
15 school must also provide all information required by the
16 department for any licensed acute care hospital that the
17 accredited medical school will operate or partner with during
18 the time that it may be approved and certified as an academic
19 clinical research center by the department.

20 (b) Posting and publication of list.--The department shall
21 post a list containing the name and address of each certified
22 academic clinical research center on the department's publicly
23 accessible Internet website and transmit notice to the
24 Legislative Reference Bureau for publication in the Pennsylvania
25 Bulletin.

26 § 9480. Clinical registrants.

27 (a) Approval.--The department may approve up to 10 clinical
28 registrants. Each clinical registrant may provide medical
29 marijuana at not more than six separate locations. The total
30 number of locations authorized to dispense medical marijuana

1 under this section shall not exceed 60. The grower/processor and
2 dispensary permits issued to clinical registrants approved under
3 this section shall be in addition to the 25 grower/processor and
4 50 dispensary permits issued by the department in accordance
5 with section 9440(1) and (2) (relating to limitations on
6 permits). The limitations relating to number and location in
7 sections 9440(1) and (2) and 9427(e) (relating to granting of
8 permit) do not apply. A clinical registrant may not hold more
9 than one grower/processor and one dispensary permit. Once the
10 department approves an entity as a clinical registrant, the
11 entity shall comply with this subchapter. The following shall
12 apply:

13 (1) The department shall:

14 (i) Open applications for the approval of up to two
15 additional academic clinical research centers and issue
16 approvals to qualified academic clinical research centers
17 by July 16, 2016.

18 (ii) Open applications for the approval of up to two
19 additional clinical registrants by August 15, 2016, and
20 issue permits to qualified clinical registrants within
21 180 days from the date when applications are posted.

22 (2) If the statutory maximum number of approved academic
23 clinical research centers or approved clinical registrants
24 are not approved under paragraph (1), the department shall
25 reopen the application process for the approval of academic
26 clinical research centers and clinical registrants.

27 (b) Requirements.--The following shall apply to clinical
28 registrants:

29 (1) An entity seeking approval as a clinical registrant
30 shall submit an application to the department in such form

1 and manner as the department prescribes. The department shall
2 ensure that the applicant meets the requirements of this
3 chapter before approving the application to become a clinical
4 registrant.

5 (2) An entity may be issued a permit as a
6 grower/processor or dispensary before seeking approval as a
7 clinical registrant. An entity may also apply for a permit as
8 a grower/processor or a dispensary at the same time the
9 entity seeks approval from the department as a clinical
10 registrant.

11 (3) An entity seeking approval as a clinical registrant
12 that does not already hold a permit as a grower/processor or
13 a dispensary shall submit the applications required under
14 Subchapter E (relating to medical marijuana organizations).
15 In reviewing an application, the department shall ensure that
16 the entity meets all of the requirements for the issuance of
17 a grower/processor permit or a dispensary permit, as
18 applicable.

19 (4) When the department issues a permit as a
20 grower/processor or a dispensary to an entity seeking
21 approval as a clinical registrant, the issuance shall not be
22 construed to reduce the number of permits for
23 growers/processors and dispensaries authorized under section
24 9440(1) and (2).

25 (i) The department shall not approve an applicant
26 for a grower/processor permit if the applicant has
27 previously had a contractual relationship with an
28 academic clinical research center whereby the academic
29 clinical research center or its affiliate provided advice
30 to the applicant regarding, among other areas, patient

1 health and safety, medical applications and dispensing
2 and management of controlled substances and the applicant
3 subsequently sold or assigned for profit to another
4 entity their responsibility under the contractual
5 relationship.

6 (ii) (Reserved).

7 (5) Except as provided in section 9431(1)(vi) and (2)
8 (vi) (relating to fees and other requirements), an entity
9 seeking approval as a clinical registrant must pay the fees
10 and meet all other requirements under this chapter for
11 obtaining a permit as a grower/processor and a dispensary.
12 Upon approval of the department, a clinical registrant shall
13 be issued a grower/processor permit and a dispensary permit
14 and shall be a medical marijuana organization. As a medical
15 marijuana organization, a clinical registrant must comply
16 with all the provisions of this chapter relating to medical
17 marijuana organizations except as otherwise provided in this
18 subchapter.

19 (6) The clinical registrant must have a minimum of
20 \$15,000,000 in capital. The department shall verify the
21 capital requirement.

22 (7) The clinical registrant shall have all of the same
23 rights as a grower/processor permittee and must comply with
24 all other requirements of this chapter regarding growing,
25 processing and dispensing medical marijuana.

26 (8) A grower/processor facility owned by a clinical
27 registrant may sell its medical marijuana products to all
28 dispensary facilities. The facility may sell seeds, medical
29 marijuana plants and medical marijuana products to, or
30 exchange seeds, medical marijuana plants and medical

1 marijuana products with, any other grower/processor facility
2 holding a permit under Subchapter E or this subchapter.

3 (9) A clinical registrant may petition the department,
4 on a form prescribed by the department, for approval to sell
5 certain of the medical marijuana products grown and processed
6 by its grower/processor facility to other medical marijuana
7 organizations holding dispensary permits under Subchapter E.
8 The petition must be accompanied by a written report of the
9 clinical registrant's research findings with respect to the
10 medical marijuana products which are the subject of the
11 petition. The department shall approve the petition if it has
12 been demonstrated that the medical marijuana products have a
13 practical effect on patients which changes a recommendation
14 within the medical field as indicated in the report submitted
15 by the clinical registrant.

16 (10) A dispensary owned by a clinical registrant may
17 dispense medical marijuana products to a patient or caregiver
18 who presents a valid identification card to an employee who
19 is authorized to dispense medical marijuana products at a
20 dispensary location operated by the clinical registrant,
21 regardless of whether the patient is a participant in a
22 research study or program.

23 § 9481. Research study.

24 (a) Applicability.--The provisions of this section shall
25 apply upon publication of the notice under section 9490
26 (relating to notice).

27 (b) Procedures.--The department may, upon application,
28 approve the dispensing of medical marijuana by a clinical
29 registrant to the academic clinical research center for the
30 purpose of conducting a research study. The department shall

1 develop the application and standards for approval of such
2 dispensing by the clinical registrant. The following apply to
3 the research study:

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

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

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

10 (iii) The anticipated duration of the study.

11 (iv) Evidence of approval of the trial by an
12 accredited institutional review board and any other
13 required regulatory approvals.

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

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

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

28 § 9482. Research initiative.

29 (a) Authority.--An academic clinical research center, in
30 coordination with its contracted clinical registrant, may

1 conduct a research initiative on the antimicrobial effects of
2 applying solvent-based extraction methods and processes to
3 microbial contamination of immature medical marijuana plants,
4 medical marijuana plants, medical marijuana or medical marijuana
5 products.

6 (b) Procedure.--An academic clinical research center shall
7 submit to the department for approval a completed written
8 research protocol of the planned research initiative. The
9 department shall grant approval or denial of the protocol within
10 15 days of its submissions. The following apply:

11 (1) The research initiative shall commence no later than
12 30 days from the date the department issues approval and
13 shall be completed no later than six months from the start
14 date of the research initiative.

15 (2) Research initiative findings shall be provided to
16 the department by the academic clinical research center
17 within 15 days of the research initiative's conclusion.

18 (3) An academic clinical research center and its
19 contracted clinical registrant shall present research
20 initiative findings to the advisory board and the board's
21 research subcommittee for the board's review and
22 consideration under sections 9458 (relating to advisory
23 board) and 9459 (relating to effectuating recommendations of
24 advisory board). The board shall issue a written report, with
25 recommendations and findings regarding the use of solvent-
26 based extraction methods and processes on microbial
27 contamination by a clinical registrant or grower/processor.
28 The secretary may approve the board's recommendation in
29 accordance with section 9459.

30 (4) Prior to implementing a recommendation of the board

1 under paragraph (3), as approved by the secretary, a clinical
2 registrant or grower/processor shall seek approval from the
3 department for a change in its grower/processor extraction
4 process. The department shall inspect the site and facility
5 equipment. Upon approval, the department shall issue a notice
6 of final approval to implement the process.

7 § 9483. Temporary regulations.

8 (a) Promulgation.--In order to facilitate the prompt
9 implementation of this subchapter, the department shall
10 promulgate temporary regulations that shall expire not later
11 than two years following the publication of the temporary
12 regulations. The temporary regulations shall not be subject to:

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

16 (2) Sections 204(b) and 301(10) of the act of October
17 15, 1980 (P.L.950, No.164), known as the Commonwealth
18 Attorneys Act.

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

21 (b) Expiration.--The department's authority to adopt
22 temporary regulations under subsection (a) shall expire October
23 17, 2016. Regulations adopted after this period shall be
24 promulgated as provided by law.

25 (c) Publication.--The department shall transmit notice of
26 temporary regulations to the Legislative Reference Bureau for
27 publication in the Pennsylvania Bulletin no later than July 16,
28 2016.

29 SUBCHAPTER N

30 MISCELLANEOUS PROVISIONS

- 1 9483. Conflict.
- 2 9484. Financial and employment interests.
- 3 9485. Insurers.
- 4 9486. Protections for patients and caregivers.
- 5 9487. Schools.
- 6 9488. Day-care centers.
- 7 9489. Zoning.
- 8 9490. Notice.
- 9 9491. Applicability.
- 10 9492. Enforcement and civil actions.

11 § 9483. Conflict.

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

21 § 9484. Financial and employment interests.

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

1 of the individual's status as an executive-level public
2 employee, public official or party officer.

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

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

17 (d) State Ethics Commission.--The State Ethics Commission
18 shall do all of the following:

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

27 (2) Publish a list of all State, county, municipal and
28 other government positions that meet the definitions of
29 "public official" or "executive-level public employee" as
30 defined under 4 Pa.C.S. § 1512(b) (relating to financial and

1 employment interests). The Office of Administration shall
2 assist the State Ethics Commission in the development of the
3 list, which shall be transmitted by the State Ethics
4 Commission to the Legislative Reference Bureau for
5 publication in the Pennsylvania Bulletin biennially and
6 posted by the department on the department's Internet
7 website. Upon request, each public official shall have a duty
8 to provide the State Ethics Commission with adequate
9 information to accurately develop and maintain the list. The
10 State Ethics Commission may impose a civil penalty under 65
11 Pa.C.S. § 1109(f) (relating to penalties) upon any
12 individual, including any public official or executive-level
13 public employee, who fails to cooperate with the State Ethics
14 Commission under this subsection. A person that relies in
15 good faith on the list published by the State Ethics
16 Commission shall not be subject to any penalty for a
17 violation of this section.

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

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

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

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

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

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

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

30 (3) An individual elected or appointed to any office of

1 a county or municipality that directly receives a
2 distribution of revenue from the fund.

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

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

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

19 § 9485. Insurers.

20 Nothing in this chapter shall be construed to require an
21 insurer or a health plan, whether paid for by Commonwealth funds
22 or private funds, to provide coverage for medical marijuana.
23 Notwithstanding any other provision of law, no workers'
24 compensation carrier, self-insured employer or other insurer in
25 this Commonwealth may be required to provide coverage for or
26 otherwise reimburse the cost of medical marijuana.

27 § 9486. Protections for patients and caregivers.

28 (a) Licensure.--None of the following shall be subject to
29 arrest, prosecution or penalty in any manner, or denied any
30 right or privilege, including civil penalty or disciplinary

1 action by a Commonwealth licensing board or commission, solely
2 for lawful use of medical marijuana or manufacture or sale or
3 dispensing of medical marijuana, or for any other action taken
4 in accordance with this chapter:

5 (1) A patient.

6 (2) A caregiver.

7 (3) A practitioner.

8 (4) A medical marijuana organization.

9 (5) A health care medical marijuana organization or
10 university participating in a research study under Subchapter
11 L (relating to research program).

12 (6) A clinical registrant or academic clinical research
13 center under Subchapter M (relating to academic clinical
14 research centers and clinical registrants).

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

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

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

22 (10) A pharmacist, physician assistant or certified
23 registered nurse practitioner under section 9446(b) (relating
24 to dispensing to patients and caregivers).

25 (b) Employment.--

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

1 marijuana.

2 (2) Nothing in this chapter shall require an employer to
3 make any accommodation of the use of medical marijuana on the
4 property or premises of any place of employment. If an
5 employer makes an adverse employment decision against an
6 employee or job applicant under this act, the adverse
7 employment decision may not be challenged under any other
8 State or local law.

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

12 (4) An employer may require employees or job applicants
13 who have received a conditional offer of employment to submit
14 to a drug test, including a test for marijuana. An employer
15 may make an adverse employment decision against an employee
16 or job applicant who has provided an adulterated or
17 substituted testing sample or has refused to submit to a
18 lawful drug test required by an employer.

19 (5) An employer or entity that provides employment
20 services or information may indicate that a job position's
21 application process or the job requires a drug test.

22 (6) An employer may require an employee or job applicant
23 who has received a conditional employment offer to disclose
24 and produce a valid identification card if the employee's
25 position, or the position for which the job applicant is
26 applying, is a safety-sensitive position. Notwithstanding the
27 provisions of paragraph (1), an employer may make an adverse
28 employment decision against an employee or job applicant who
29 fails to disclose and produce a valid identification card.

30 (7) Notwithstanding the provisions of paragraph (1), an

1 employer may make an adverse employment decision against an
2 employee or job applicant who discloses and produces a valid
3 identification card, or who uses medical marijuana, if the
4 employee's position, or the position for which the job
5 applicant is applying, is a safety-sensitive position.

6 (8) Notwithstanding the provisions of paragraph (1), an
7 employer may make an adverse employment decision against an
8 employee if the employee's use of medical marijuana decreases
9 or lessens the employee's job performance or ability to
10 perform the employee's job duties.

11 (9) If an employee is under the influence at the time of
12 an otherwise work-related injury and is not certified to use
13 medical marijuana in accordance with this act, the injury may
14 not be covered by the act of June 2, 1915 (P.L.736, No.338),
15 known as the Workers' Compensation Act.

16 (10) If an injured employee's employment is terminated
17 because the employee tests positive for marijuana and does
18 not produce a valid identification card, and the employer
19 proves that work would have been available to the injured
20 employee but for employee's termination from employment, the
21 injured worker shall not be entitled to disability benefits
22 under the Workers' Compensation Act.

23 (11) An employer shall be granted relief from charges if
24 a former employee is granted unemployment compensation
25 benefits because the employer could not accommodate the
26 employee's lawful use of medical marijuana.

27 (12) For purposes of the act of December 5, 1936 (1937,
28 Sp.Sess. 2, P.L.2897, No.1), known as the Unemployment
29 Compensation Law, an employee's separation from employment
30 that was caused by medical marijuana use that violated a

1 lawful workplace policy or refusal to submit to a drug test
2 under this section shall constitute conclusive evidence of
3 willful misconduct.

4 (13) Nothing in this act shall be construed to create or
5 imply a cause of action for an employee or job applicant
6 against an employer for:

7 (i) Any claim that arises following an employee's or
8 job applicant's noncompliance with this section and which
9 may have been prevented had the employee or job applicant
10 complied.

11 (ii) Actions taken pursuant to an employer's
12 reasonable workplace drug policy, including subjecting an
13 employee or job applicant to a reasonable drug and
14 alcohol test, reasonable and nondiscriminatory random
15 drug test and discipline, termination of employment or
16 withdrawal of a job offer after a failure of a drug test.

17 (iii) Actions based on the employer's good faith
18 belief that an employee used or possessed medical
19 marijuana in the employer's workplace or while performing
20 the employee's job duties or while on call in violation
21 of the employer's employment policies.

22 (iv) Actions, including discipline or termination of
23 employment based on the employer's good faith belief that
24 an employee was impaired as a result of the use of
25 medical marijuana, under the influence of medical
26 marijuana while at the employer's workplace, under the
27 influence while performing the employee's job duties or
28 under the influence while on call in violation of the
29 employer's workplace drug policy.

30 (c) Custody determination.--The fact that an individual is

1 certified to use medical marijuana and acting in accordance with
2 this chapter shall not by itself be considered by a court in a
3 custody proceeding. In determining the best interest of a child
4 with respect to custody, the provisions of 23 Pa.C.S. Ch. 53
5 (relating to child custody) shall apply.

6 § 9487. Schools.

7 The Department of Education shall promulgate regulations by
8 October 17, 2017, regarding the following:

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

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

15 § 9488. Day-care centers.

16 The Department of Human Services shall promulgate regulations
17 by October 17, 2017, regarding the following:

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

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

24 (3) Possession and use of medical marijuana by employees
25 of a youth development center or other facility which houses
26 children adjudicated delinquent, including the separate,
27 secure State-owned facility or unit for sexually violent
28 children, as set forth in section 9468(3) (relating to other
29 restrictions).

30 § 9489. Zoning.

1 The following apply:

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

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

9 § 9490. Notice.

10 Upon amendment of the Controlled Substances Act (Public Law
11 91-513, 84 Stat. 1236) removing marijuana from Schedule I of the
12 Controlled Substances Act, the department shall transmit notice
13 of the effective date of the amendment to the Legislative
14 Reference Bureau for publication in the Pennsylvania Bulletin.

15 § 9491. Applicability.

16 (a) (Reserved).

17 (b) Issuance.--The issuance of permits and other
18 authorizations shall begin upon transmittance of notice by the
19 department to the Legislative Reference Bureau for publication
20 in the Pennsylvania Bulletin that adequate temporary or
21 permanent regulations have been adopted to initiate the program
22 under this chapter.

23 § 9492. Enforcement and civil actions.

24 (a) Regulations.--The Secretary of Labor and Industry shall
25 promulgate regulations to enforce section 9486(b) (relating to
26 protections for patients and caregivers).

27 (b) Civil action.--All administrative remedies shall be
28 exhausted prior to a complainant bringing an action under this
29 chapter.

30 Section 2. Section 3802(d)(1) of Title 75 is amended and the

1 section is amended by adding a subsection to read:

2 § 3802. Driving under influence of alcohol or controlled
3 substance.

4 * * *

5 (d) Controlled substances.--An individual may not drive,
6 operate or be in actual physical control of the movement of a
7 vehicle under any of the following circumstances:

8 (1) There is in the individual's blood any amount of a:

9 (i) Schedule I controlled substance, as defined in
10 the act of April 14, 1972 (P.L.233, No.64), known as The
11 Controlled Substance, Drug, Device and Cosmetic Act;

12 (ii) Schedule II or Schedule III controlled
13 substance, as defined in The Controlled Substance, Drug,
14 Device and Cosmetic Act, which has not been medically
15 prescribed for the individual; [or]

16 (iii) metabolite of a substance under subparagraph
17 (i) or (ii) [.] or

18 (iv) marijuana, cannabis, a cannabis concentrate or
19 a cannabis-infused product.

20 * * *

21 (h) Definitions.--As used in this section, the following
22 words and phrases shall have the meanings given to them in this
23 subsection unless the context clearly indicates otherwise:

24 "Cannabis." As defined in 35 Pa.C.S. § 9202 (relating to
25 definitions).

26 "Cannabis concentrate." As defined in 35 Pa.C.S. § 9202.

27 "Cannabis-infused product." As defined in 35 Pa.C.S. § 9202.

28 Section 3. Section 3810 of Title 75 is amended to read:

29 § 3810. Authorized use not a defense.

30 The fact that a person charged with violating this chapter is

1 or has been legally entitled to use alcohol [or], controlled
2 substances or marijuana under the act of April 17, 2016 (P.L.
3 84, No.16), known as the Medical Marijuana Act, or other laws of
4 this Commonwealth is not a defense to a charge of violating this
5 chapter.

6 Section 4. Repeals are as follows:

7 (1) The General Assembly declares that the repeals under
8 paragraph (2) are necessary to effectuate the addition of 35
9 Pa.C.S. Ch. 92.

10 (2) The following acts and parts of acts are repealed to
11 the extent specified:

12 (i) Sections 4(1)(iv) and 13(a)(31) of the act of
13 April 14, 1972 (P.L.233, No.64), known as The Controlled
14 Substance, Drug, Device and Cosmetic Act.

15 (ii) 18 Pa.C.S. § 7508(a)(1) and (f).

16 (3) The General Assembly declares that the repeal under
17 paragraph (4) is necessary to effectuate the addition of 35
18 Pa.C.S. Ch. 94.

19 (4) The act of April 17, 2016 (P.L.84, No.16), known as
20 the Medical Marijuana Act, is repealed.

21 Section 5. The addition of 35 Pa.C.S. Ch. 94 is a
22 continuation of the act of April 17, 2016 (P.L.84, No.16), known
23 as the Medical Marijuana Act. The following apply:

24 (1) Except as otherwise provided in 35 Pa.C.S. Ch. 94,
25 all activities initiated under the act of April 17, 2016
26 (P.L.84, No.16), known as the Medical Marijuana Act, shall
27 continue and remain in full force and effect and may be
28 completed under 35 Pa.C.S. Ch. 94. Orders, regulations, rules
29 and decisions which were made under the Medical Marijuana Act
30 and which are in effect on the effective date of section 4(4)

1 of this act shall remain in full force and effect until
2 revoked, vacated or modified under 35 Pa.C.S. Ch. 94.
3 Contracts, obligations and collective bargaining agreements
4 entered into under the Medical Marijuana Act are not affected
5 nor impaired by the repeal of the Medical Marijuana Act.

6 (2) Except as set forth in paragraph (3), any difference
7 in language between 35 Pa.C.S. Ch. 94 and the Medical
8 Marijuana Act is intended only to conform to the style of the
9 Pennsylvania Consolidated Statutes and is not intended to
10 change or affect the legislative intent, judicial
11 construction or administration and implementation of the
12 Medical Marijuana Act.

13 (3) Paragraph (2) does not apply to the following
14 provisions:

15 (i) The addition of the definitions of "safety-
16 sensitive position" and "under the influence" in 35
17 Pa.C.S. § 9403.

18 (ii) The addition of 35 Pa.C.S. § 9485.

19 (iii) The addition of 35 Pa.C.S. § 9486(b)(2), (4),
20 (5), (6), (7), (8), (9), (10), (11), (12) and (13).

21 (4) All other acts and parts of acts are repealed
22 insofar as they are inconsistent with the addition of 35
23 Pa.C.S. Chs. 92 and 94.

24 Section 6. This act shall take effect immediately.