

AN ACT

Amending Titles 35 (Health and Safety) and 75 (Vehicles) of the Pennsylvania Consolidated Statutes, providing for adult use cannabis; regulating the personal use and possession of cannabis; providing for powers and duties of the Department of Agriculture; establishing the Cannabis Business Development Fund; providing for social and economic equity, for regulation of cannabis business establishments, for enforcement and immunities, for laboratory testing, for advertising, marketing, packaging and labeling and for preparation, destruction and regulation of cannabis and cannabis-infused edible and nonedible products; imposing a sales tax and excise tax on cannabis and cannabis-infused edible and nonedible products; establishing the Cannabis Regulation Fund; providing for cannabis clean slate and for miscellaneous provisions; imposing penalties; consolidating provisions relating to medical marijuana; transferring certain powers and duties of the Department of Health to the Department of Agriculture; 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; and making repeals.

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

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

PART VII

CANNABIS

Chapter

91. Adult Use of Cannabis

93. Medical Marijuana

CHAPTER 91

ADULT USE OF CANNABIS

Subchapter

A. Preliminary Provisions

B. Lawful Use and Authority

C. Personal Use of Cannabis

D. Program

E. Social and Economic Equity

F. Regulation of Cannabis Business Establishments

G. Enforcement and Immunities

H. Laboratory Testing

I. Advertising, Marketing, Packaging and Labeling

J. Preparation, Destruction and Regulation of Cannabis and  
Cannabis-Infused Edible and Nonedible Products

K. Taxes

L. Cannabis Clean Slate

M. Miscellaneous Provisions

SUBCHAPTER A

PRELIMINARY PROVISIONS

Sec.

9101. Scope of chapter.

9102. Definitions.

§ 9101. Scope of chapter.

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

§ 9102. Definitions.

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

"Adult use." Cannabis that can be purchased and consumed by  
an individual 21 years of age and older.

"Adult use cultivation center." A facility operated by an  
organization or business that is permitted by the department to

cultivate, process, transport and perform other necessary activities to provide cannabis and cannabis-infused edible and nonedible products to cannabis business establishments.

"Adult use cultivation center permit." A permit issued by the department that permits an entity to act as a cultivation and processing center under this chapter or any regulation promulgated in accordance with this.

"Advertise." To engage in promotional activities, including through newspaper, radio, Internet and electronic media and television advertising. The term includes the distribution of fliers and circulars, billboard advertising and the display of window signs. The term does not include interior dispensary signage or exterior signage displaying the name of the permitted cannabis business establishment.

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

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

"Cannabis". As follows:

(1) Any of the following:

(i) Marijuana, hashish or other substances that are identified as including any parts of the plant Cannabis sativa and including derivatives or subspecies, such as indica, of all strains of cannabis, whether growing or not, including the seeds, resin extracted from any part of the plant and any compound, manufacture, salt, derivative, mixture or preparation of the plant. The term

includes THC and all other naturally or synthetically produced cannabinol derivatives, whether produced directly or indirectly by extraction, including, delta-7 THC, delta-8 THC, delta-9 THC or any structural, optical or geometric isomers of tetrahydrocannabinol, cannabis flower, concentrate and cannabis-infused edible and nonedible products.

(ii) A product intended for human consumption with a THC concentration, however derived, greater than:

- (a) 0.3 percent for any intermediate or finished plant product or material, or any product intended for consumption by inhalation or smoking; or
- (b) 0.5 milligrams per serving or individual product unit, and 2 milligrams per package for products sold in multiple servings or units, for any beverage, food, oil, ointment, tincture, topical formation, or any other product that is intended for consumption by means other than inhalation or smoking.

(2) The term does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant or any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks, the sterilized seed of the plant that is incapable of germination or industrial hemp as defined in 3 Pa.C.S. § 702 (relating to definitions) below the THC concentrate limits prescribed in subsection (ii) of this Section.

"Cannabis business establishment." An individual or entity holding a permit issued by the department to cultivate, process, dispense, infuse or transport cannabis, including a dispensing organization, adult use cultivation center, social and economic equity dispensing organization charter permit holder or micro cultivation center.

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

"Cannabis concentrate." A product derived from cannabis that is produced by extracting cannabinoids, including THC, with the intended use of smoking, vaping or making a cannabis-infused edible and nonedible product. The term includes a product derived from cannabis that is produced by means of heat and pressure or mechanical separations.

"Cannabis flower." Marijuana, hashish or other substances identified as including any parts of the plant *Cannabis sativa* and including derivatives or subspecies, such as indica, of all strains of cannabis, including raw kief, leaves and buds. The term does not include resin that has been extracted from any part of the plant or any compound, manufacture, salt, derivative, mixture or preparation of the plant, the plant's seeds or resin.

"Cannabis-infused edible product." A product meant to be chewed, dissolved, taken sublingually or swallowed. The term includes liquids, including beverages, food, oil, tincture,

capsule, tablet, gummies or other ingestible forms containing cannabis or cannabis concentrate that are not intended to be smoked or otherwise inhaled.

"Cannabis-infused nonedible product." A product meant to be used topically or otherwise not intended to be ingested. The term includes gels, creams, patches or ointments containing cannabis or cannabis concentrate.

"Cannabis paraphernalia." Any equipment, product or material of any kind which is primarily intended or designed for any of the following:

(1) Use in vaporizing, ingesting, inhaling or otherwise introducing a cannabis-infused edible and nonedible product into the human body.

(2) Preparing, storing or containing cannabis.

"Cannabis seed-to-sale tracking system" or "seed-to-sale tracking system." A system designated by the department as the system of record or a secondary electronic tracking system used by a cannabis business establishment or testing laboratory that meets all of the following criteria:

(1) The system captures everything that happens to a cannabis plant from seed and cultivation through the growth, harvest and manufacturing of cannabis and cannabis-infused edible and nonedible products, including testing and transportation, to final sale.

(2) The system uses unique-plant identification and unique-batch identification.

(3) The system has the ability to track the involvement of an agent or permittee with cannabis and cannabis-infused

edible and nonedible products.

(4) The system is integrated with a secondary system used by a cannabis business establishment or a cannabis testing facility, if applicable, in a form and manner determined by the department.

(5) The system allows for two-way communication, automation and a secure application-programming interface with a cannabis business establishment's enterprise resource planning, inventory, accounting and point-of-sale software.

(6) The system includes a secure application program interface capable of accessing all data required to be transmitted to the department to ensure compliance with the operational reporting requirements specified under this chapter or Chapter 93 (relating to medical marijuana) and any regulations promulgated by the department

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

"Charter agreement." An agreement between a social and economic equity applicant and a dispensing organization in which the dispensing organization agrees to provide financial, mentorship, training, operational and other support to the social and economic equity applicant.

"Clone." A plant section from a female cannabis plant not yet root-bound, growing in a water solution or other propagation matrix, that can develop into a new plant.

"Curbside." The transfer or dispensing of cannabis or a cannabis-infused edible and nonedible product by an employee of a cannabis business establishment to a vehicle located in the

parking area or to an individual at the entrance of the facility.

"Department." The Department of Agriculture of the Commonwealth.

"Dispensing organization" or "dispensary." An organization, including a person, that meets all of the following criteria:

(1) The organization is permitted by the department to acquire cannabis from an adult use cultivation center or micro cultivation center or other dispensary for the purpose of selling or dispensing cannabis, cannabis concentrates, cannabis-infused edible and nonedible products, cannabis seeds, paraphernalia or related supplies to individuals 21 years of age or older.

"Dispensing organization permit." A permit issued by the department that allows a person to act as a dispensing organization under this chapter or any regulation promulgated in accordance with this chapter.

"Disproportionately impacted area." A census tract that satisfies the criteria determined by the department and that meets at least one of the following criteria:

(1) The area has a poverty rate of at least 20% according to the most recent Federal decennial census.

(2) Seventy-five percent or more of the children in the area participate in the National School Lunch Program according to reported statistics from the State Board of Education.

(3) At least 20% of the households in the area receive



assistance under the Supplemental Nutrition Assistance Program.

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

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

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

"Financial institution." As defined in section 3003.22(r) of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971.

"Flowering stage." The stage of cultivation where and when a cannabis plant is cultivated to produce plant material for a cannabis-infused edible and nonedible product. The term includes mature plants if any of the following apply:

(1) More than two stigmas are visible at each internode of the plant.

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

"Limited access area." A room or other area under the control of a dispensing organization where cannabis sales occur with access limited to individuals who are 21 years of age or older and qualified patients and caregivers or other individuals as determined by the department's regulations.

"Medical marijuana grower/processor." The term shall have the same meaning as grower/processor as defined in section 9303 (relating to definitions).

"Medical marijuana organization." As defined in section 9303.

"Member of an impacted family." An individual who has a parent, legal guardian, child, spouse or dependent or was a dependent of an individual who, prior to the effective date of this definition, was arrested for, convicted of or adjudicated delinquent for any offense that is eligible for expungement under section 9199.11(b) (relating to cannabis clean slate).

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

"Micro cultivation center permit." An authorization issued

by the department to an individual or entity to conduct activities of a micro cultivation center under this chapter.

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

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

"Ownership and control." Ownership of at least 51% of a business, including corporate stock if a corporation, and control over the management and day-to-day operations of the business and an interest in the capital, assets, profits and losses of the business proportionate to the percentage of ownership.

"Patient." As defined in section 9303.

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

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

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

"Possession limit." The amount of cannabis that may be possessed at any one time by an individual 21 years of age or older, not including an individual who is a patient or caregiver

under Chapter 93.

"Principal officer." Any of the following:

(1) An officer, director or person who directly owns more than a 10% beneficial interest or ownership of the securities of a cannabis business establishment applicant or permittee or more than a 10% beneficial interest or ownership of the securities of a cannabis business establishment applicant or permittee that is a publicly traded company.

(2) A person who has a controlling interest in a cannabis business establishment applicant or permittee or who has the ability to elect the majority of the department of directors of a cannabis business establishment applicant or permittee.

(3) A person who otherwise controls a cannabis business establishment applicant or permittee, not including a financial institution.

"Purchaser." An individual 21 years of age or older who acquires cannabis for consideration. The term does not include a cannabis business establishment agent identification card holder as used in accordance with Chapter 93.

"Remediation." The reprocessing of a manufactured cannabis-infused product batch that has failed laboratory testing conducted by a cannabis testing facility or the processing of a harvest batch that has failed laboratory testing conducted by a cannabis testing facility.

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

"Smoking." The inhalation of smoke caused by the combustion of cannabis. The smoking of cannabis shall be permitted anywhere cigarette smoking is permitted. Nothing in this chapter may be construed to require a person or establishment in lawful possession of property to allow a guest, client, lessee, purchaser or visitor to use cannabis on or in that property, including on land owned in whole or in part or managed in whole or in part by the Commonwealth.

"Social and economic equity applicant." An applicant that does not generate an annual income of more than \$75,000 or have financial assets exceeding \$250,000 and meets any of the following criteria:

(1) Is comprised of at least 75% ownership and control by one or more individuals who have resided for at least five of the preceding 10 years in a disproportionately impacted area in this Commonwealth.

(2) Is comprised of at least 75% ownership and control by one or more individuals who:

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

(ii) are members of an impacted family.

"Social and economic equity dispensing organization charter permit." A dispensing organization permit issued to a social and economic equity applicant that has entered into a charter agreement with a dispensing organization to provide financial, mentorship, training and other support to the social and economic equity applicant.

"THC." A delta-9 tetrahydrocannabinol and any structural, optical or geometric isomers of tetrahydrocannabinol, including delta-7, delta-8 and delta-10 tetrahydrocannabinol, tetrahydrocannabinolic acid, tetrahydrocannabiphorol, hexahydrocannabinol and any other substance, however derived, including but not limited to synthetically or from hemp or hemp materials, that has similar effects on the mind or body as determined by the department.

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

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

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

## SUBCHAPTER B

### LAWFUL USE AND AUTHORITY

Sec.

9110. Lawful use.

9111. Sharing of authority.

9112. Background checks.

§ 9110. Lawful use.

Notwithstanding any other provision of law, use or possession of cannabis as specified under this chapter shall be lawful in this Commonwealth.

§ 9111. Sharing of authority.

Notwithstanding any other provision of law, an authority granted to a Commonwealth agency or Commonwealth employee or appointee under Chapter 93 (relating to medical marijuana) shall be shared by the Commonwealth agency or employee or appointee to permit, discipline, revoke, regulate or make regulations under this chapter.

§ 9112. Background checks.

(a) Criminal history record check.--The department shall, through the Pennsylvania State Police, conduct a criminal history record check of each prospective principal officer, board member and agent of a cannabis business establishment applying for a permit or agent identification card under this chapter. The Pennsylvania State Police shall furnish, pursuant to a positive identification, all Pennsylvania conviction information and shall forward the national criminal history record information to the department. After the effective date of this subsection, a principal officer, board member or agent of a cannabis business establishment who is convicted of diverting cannabis or cannabis-infused edible or nonedible products or who intentionally dispenses cannabis or cannabis-infused edible or nonedible products in a manner not consistent with this chapter shall be deemed to have failed the criminal history record check under this subsection and may not be permitted or otherwise be employed by a cannabis business establishment in this Commonwealth.

(b) Fingerprinting.--Each cannabis business establishment prospective principal officer, board member or agent shall

submit fingerprints to the Pennsylvania State Police in the form and manner prescribed by the Pennsylvania State Police. Unless otherwise provided by Federal or State law, the fingerprints under this subsection shall be transmitted through a live scan fingerprint vendor and checked against the fingerprint records filed in the Pennsylvania State Police and Federal Bureau of Investigation criminal history records databases.

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

(d) Submission and initial employment.--When applying for the initial permit or identification card, the background checks for each prospective principal officer, board member and agent of a cannabis business establishment may be completed concurrent with submitting the application to the department. An agent may begin working at a cannabis business establishment while waiting for the result of a background check. Nothing in this chapter shall be construed to prevent or otherwise inhibit the ability of an otherwise qualified individual from serving as a principal officer, board member or agent of a cannabis business establishment on the sole basis of a nonviolent criminal conviction related to cannabis.

#### SUBCHAPTER C

#### PERSONAL USE OF CANNABIS

Sec.

9121. Personal use of cannabis, restrictions on cultivation and penalties.



9122. Possession limits.

9123. Individuals younger than 21 years of age.

9124. Identification, false identification and penalty.

9125. Immunities and presumptions related to the use of  
cannabis by purchasers.

9126. Discrimination prohibited.

9127. Limitations and penalties.

9128. Employment and employer liability.

§ 9121. Personal use of cannabis, restrictions on cultivation  
and penalties.

Beginning 90 days after the effective date of this  
subsection, notwithstanding any other provision of law and  
except as otherwise specified under this chapter, the following  
acts shall not be a violation of this chapter and shall not be a  
criminal or civil offense under State law or an ordinance of a  
local government unit of this Commonwealth or be a basis for  
seizure or forfeiture of assets under State law for an  
individual other than an individual younger than 21 years of  
age, unless that individual, and the individual's caregiver, if  
applicable, is authorized under Chapter 93 (relating to  
medical marijuana) to:

(1) possess, consume, use, purchase, obtain or transport  
cannabis in an amount for personal use that does not exceed  
the possession limit or requirements of this chapter;

(2) possess, use, obtain or transport cannabis  
paraphernalia;

(3) transfer without remuneration, within lawful  
possession limits, to an individual 21 years of age or older;

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

(5) smoke or vaporize cannabis concentrate anywhere smoking is permitted.

§ 9122. Possession limits.

(a) Limits.--Except as otherwise authorized under this chapter, for an individual who is 21 years of age or older who is not a patient, the possession limits for cannabis shall be as follows and cumulative:

(1) Thirty grams of cannabis flower.

(2) 1,000 milligrams of THC contained in cannabis-infused edible or nonedible products.

(3) Five grams of cannabis concentrate.

(b) Excess prohibited.--A person may not knowingly obtain, seek to obtain or possess an amount of cannabis from a dispensing organization that would exceed the possession limit under this section, including cannabis that is cultivated by a person under this chapter.

(c) Exception.--Cannabis and cannabis-derived substances regulated under 3 Pa.C.S. Chs. 7 (relating to industrial hemp research) and 15 (relating to controlled plants and noxious weeds) and the Agriculture Improvement Act of 2018 (Public Law 115-334, 132 Stat. 4490) shall not apply to this section.

§ 9123. Individuals younger than 21 years of age.

(a) Prohibition.--An individual younger than 21 years of age may not purchase, possess, use, process, transport, grow or consume cannabis except as authorized under Chapter 93 (relating

to medical marijuana).

(b) Penalties for underage cannabis offenses.--

(1) An individual who violates subsection (a) commits a summary offense and shall receive a written warning for the first offense by a court of competent jurisdiction and may be subject to a fine of not more than \$250 for a second offense and not more than \$500 for a third and each subsequent offense.

(2) A State or local law enforcement agency shall keep a record of a violation of subsection (a) in a repository or database separate from a repository or database with other law enforcement records. A record of a violation of subsection (a) shall only be used to determine if an individual committed a subsequent violation of subsection (a). A State or local law enforcement agency shall destroy a record of a violation of subsection (a) when the individual who committed the offense attains 21 years of age.

(3) A State or local law enforcement agency responsible for enforcing a violation of subsection (a) shall notify the parent or guardian of the individual who committed the offense if the individual is younger than 18 years of age.

(4) When an individual is charged for violating subsection (a), the magisterial district judge may admit the offender to the adjudication alternative as authorized under 42 Pa.C.S. § 1520 (relating to adjudication alternative program) or any other preadjudication disposition if the individual has not previously received a preadjudication disposition for violating subsection (a).

(c) Intentional transfer or possession to underage individual.--An individual 21 years of age or older who intentionally transfers cannabis, with or without remuneration, to an individual younger than 21 years of age, except as authorized under Chapter 93, or intentionally allows an individual younger than 21 years of age to purchase, possess, use, process, transport, grow or consume cannabis, except as authorized under Chapter 93, may be disqualified from purchasing cannabis as authorized under this chapter in addition to being subject to additional criminal or civil penalties under State law. The department shall promulgate regulations to implement this subsection for the purpose of notifying dispensaries of a disqualification under this subsection and the penalties that may be imposed against a cannabis business establishment or agent for intentionally transferring cannabis to an individual younger than 21 years of age, except as authorized under Chapter 93.

§ 9124. Identification, false identification and penalty.

(a) No personal information required.--To protect personal privacy, the department may not require a purchaser to provide a dispensing organization with personal information other than for the purpose of verifying the purchaser's age by means of a government-issued identification. A dispensing organization may not obtain or record personal information about a purchaser without the purchaser's consent.

(b) Scanning identification.--A dispensing organization shall use an electronic reader or electronic scanning device to scan a purchaser's government-issued identification to determine

the purchaser's age and the validity of the identification. A cannabis business establishment may operate for temporary periods without an operational electronic reader or electronic scanning device if a process is implemented to determine the purchaser's age and the validity of identification.

§ 9125. Immunities and presumptions related to the use of cannabis by purchasers.

(a) Penalty applicability.--A purchaser who is 21 years of age or older shall not be subject to arrest, prosecution, denial of a right or privilege or other punishment, including, a civil penalty or disciplinary action taken by an occupational or professional licensing or permitting board based solely on any of the following:

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

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

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

(2) Selling cannabis paraphernalia if employed and authorized as an agent by a permitted dispensing organization.

(3) Being in the presence or vicinity of the use of cannabis or cannabis paraphernalia as authorized under this chapter.

(4) Possessing cannabis paraphernalia.

(b) Determination of probable cause.--

(1) Mere possession of or application for authorization to work as a cannabis business establishment agent or the agent identification card shall not:

(i) constitute probable cause or reasonable suspicion to believe that a crime has been committed; or

(ii) be used as the sole basis to support the search of the person, property or residence of the individual authorized to work as a cannabis business establishment agent, possessing an agent identification card or applying for authorization to work as an agent.

(2) The possession of or application for authorization to work as a cannabis business establishment agent or possession of an agent identification card shall not preclude the existence of probable cause if probable cause exists based on other grounds.

(c) Reliance.--An individual employed by the Commonwealth or a local government unit shall not be subject to criminal or civil penalties for taking an action in good faith in reliance on the provisions of this chapter when acting within the scope of employment.

(d) Law enforcement liability.--A law enforcement or correctional agency, or an employee of a law enforcement or correctional agency, shall not be subject to criminal or civil liability, except for willful and wanton misconduct, as a result of taking an action within the scope of the official duties of the law enforcement or correctional agency or employee to prohibit or prevent the possession or use of cannabis by any of

the following:

(1) An individual incarcerated at a correctional institution, county jail or other facility under the supervision of the Department of Corrections.

(2) An individual on parole or mandatory supervised release or otherwise under the lawful jurisdiction of the law enforcement or correctional agency or employee.

(e) Medical care.--For the purpose of receiving medical care, including an organ transplant, an individual's use of cannabis under this chapter shall not constitute the use of an illicit substance or otherwise disqualify an individual from medical care.

(f) Firearms possession.--A lawful purchaser or possessor of cannabis under this chapter or a patient may not be prohibited or otherwise restricted from lawful firearm ownership. The Pennsylvania State Police, a county sheriff's office or another law enforcement agency shall take measures to revise firearms applications or take other necessary actions to ensure compliance with this chapter.

(g) Child custody.--The purchase or possession of cannabis shall not be a determining factor in a child custody matter. The record of a legal purchase of cannabis shall not be subject to disclosure solely due to a custody action.

§ 9126. Discrimination prohibited.

(a) Child welfare.--The presence of cannabinoid component or metabolites in an individual's bodily fluids, possession of cannabis-related paraphernalia, conduct related to the use of cannabis or the participation in cannabis-related activities

authorized under this chapter by a custodial or noncustodial parent, grandparent, legal guardian, foster parent or other individual charged with the well-being of a child, may not form the sole, primary basis or supporting basis for an action or proceeding by a child welfare agency or family or juvenile court. Unless the individual's actions in relation to cannabis create an unreasonable danger to the safety of the child or otherwise show the individual is not competent as established by clear and convincing evidence, the prohibition under this subsection shall include any of the following:

(1) An adverse finding, evidence or restriction of a right or privilege in a proceeding related to the adoption of a child.

(2) A fitness determination or a determination related to a foster parent, guardianship, conservatorship or trusteeship.

(3) The execution of a will or the management of an estate.

(b) Landlords.--A landlord may not be penalized or denied a benefit of leasing to an individual who uses cannabis under this chapter.

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

§ 9127. Limitations and penalties.



(a) General limitations.--This chapter shall not permit an individual to engage in and shall not prevent the imposition of a civil, criminal or other penalty for engaging in any of the following:

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

(2) Possessing cannabis:

(i) in a school bus, unless permitted for a patient or caregiver under Chapter 93 (relating to medical marijuana);

(ii) on the grounds of a preschool or primary or secondary school, unless permitted for a patient or caregiver under Chapter 93;

(iii) in a correctional institution;

(iv) in a vehicle not open to the public unless the cannabis is in a cannabis container and reasonably inaccessible while the vehicle is moving; or

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

(3) Using cannabis:

(i) in a school bus, unless permitted for a patient;

(ii) on the grounds of a preschool or primary or secondary school, unless permitted for a patient;

(iii) in a correctional institution;

(iv) in a motor vehicle;

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

to provide permitted child care or other similar social service care on the premises; or

(vi) knowingly in close physical proximity to an individual younger than 21 years of age.

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

(5) Facilitating the use of cannabis by an individual who is not authorized to use cannabis under this chapter or Chapter 93.

(6) Transferring cannabis to an individual in violation of this chapter or Chapter 93.

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

(8) The use of cannabis by an individual who has a commercial driver's license while on duty.

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

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

(d) THC limitations.--A person may not sell, offer for sale, dispense, process, manufacture, market, advertise or distribute cannabis or a product intended for consumption or inhalation in

excess of the THC concentrations and limits prescribed, unless licensed and/or permitted and authorized under this Act.

(e) Cannabinoid product limitations.--A person may not sell, dispense, process, manufacture or distribute a cannabinoid product that is not derived from naturally occurring biologically active chemical constituents.

(f) Penalties.--A person who violates subsection (d) or (e) is guilty of a misdemeanor of the third degree. Upon conviction, the court may sentence the person to a pay a fine not to exceed \$10,000 for each offense under subsection (d) or (e).

§ 9128. Employment and employer liability.

(a) Workplace policies.--Nothing in this chapter shall prohibit an employer from adopting reasonable zero-tolerance policies, drug-free workplace policies or employment policies concerning testing, smoking, consuming, storing or using cannabis in the workplace or while on call, provided that the policies are applied in a nondiscriminatory manner. Nothing in this chapter shall require an employer to permit an employee to be under the influence of or use cannabis in the employer's workplace or while performing the employee's job duties or while on call.

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

SUBCHAPTER D

PROGRAMSec.

9131. Program establishment.

9132. Applicability of other statutes.

9133. Powers and duties of department.

9134. Regulations.

9135. Temporary regulations.

9136. Confidentiality and public disclosure.

9137. Unlicensed activities and civil penalties.

9138. Cannabis Business Development Fund.

§ 9131. Program establishment.

(a) An adult use cannabis program for the personal use and possession of cannabis by individuals 21 years of age or older within the Commonwealth is established. The department shall implement, direct and oversee this chapter.

§ 9132. Applicability of other statutes.

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

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

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

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

§ 9133. Powers and duties of department.

(a) Authority.--The department shall have general and sole regulatory authority over the conduct of cannabis or related

activities as described in this chapter. The department shall have all the powers necessary or convenient to carry out and effectuate its purposes in administering the adult use cannabis and medical cannabis programs.

(b) Staffing.--The department shall employ individuals as necessary to implement this chapter, who shall serve at the pleasure of the department. An employee of the department shall be considered a State employee for purposes of 71 Pa.C.S. Pt. XXV (relating to retirement for State employees and officers).

(c) Department duties.--The department shall:

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

(2) Hold public hearings on proposed regulations.

(3) Issue permits to cannabis business establishments to authorize the cannabis business establishments to cultivate, process, transport and dispense cannabis and ensure compliance with this chapter.

(4) Register cannabis business establishment agents and ensure compliance with this chapter.

(5) Have regulatory and enforcement authority over the cultivating, processing, transporting, dispensing and using of cannabis in this Commonwealth.

(6) Designate a seed-to-sale tracking system to include activities and information relating to cannabis business establishments and electronic tracking of all cannabis under this chapter.

(7) Develop recordkeeping requirements for all books and papers, any seed-to-sale tracking system data and other

information of a cannabis business establishment for a period of four years unless otherwise provided by the department.

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

(9) Oversee enforcement actions over permittees, including holding hearings of appeals within 90 days of the filing of an appeal.

(10) Develop and implement a comprehensive social equity and economic development program in partnership with the Commonwealth Financing Authority, which shall have the duty of conducting oversight of grants and loans under this chapter.

(11) Convene working groups.

(12) Establish and maintain public outreach programs about the adult use cannabis and medical cannabis programs.

(13) Collaborate as necessary with other Commonwealth agencies and departments or contract with third parties as necessary to carry out the provisions of this chapter.

(14) Develop strategies and procedures to prohibit the illicit cannabis market, including enforcement actions and coordination with other government agencies to prohibit unlicensed cannabis distribution and sales within the Commonwealth.

#### § 9134. Regulations.

(a) Promulgation.--The department shall promulgate regulations, with input from industry stakeholders, to implement the provisions of this chapter, including all of the following:

(1) The types of permits issued under this chapter, including the following types of permits:

(i) Cultivation/processing.

(ii) Micro cultivation.

(iii) Dispensing.

(iv) Testing.

(2) The methods and forms of permit applications, including timeline, fees and minimum requirements.

(3) The policies and procedures to prioritize, promote and encourage diversity and full participation by individuals from communities that have been disproportionately harmed by cannabis prohibition and cannabis enforcement prohibition.

(4) Procedures to process and competitively score permit applications.

(5) Procedures to process administrative requests, including changes of ownership and location.

(6) Security procedures for cannabis business establishments.

(7) Enforcement procedures, including fines, suspensions and revocations.

(8) Ownership and financial disclosure procedures and requirements for cannabis business establishments, including record keeping requirements.

(9) Procedures and requirements concerning the divestiture of a beneficial ownership interest by a person found unqualified.

(10) Procedures, processes and requirements for transfers of ownership, including the involvement of a

publicly traded corporation.

(11) Combining the medical program under Chapter 93 and adult use program under this chapter.

(12) Seed-to-sale tracking system procedures.

(13) Procedures and requirements for curbside pickup services offered by dispensing organizations.

(14) Transportation requirements, including:

(i) Establishing procedures and requirements for home delivery services by dispensing organizations.

(ii) A requirement that transportation between cannabis business establishments occurs in secured vehicles but allowing for transportation in vehicles other than those owned and operated by cannabis business establishments for purchasers to transport cannabis.

(iii) Details required on transportation manifests.

(iv) Policies encouraging bulk shipment where appropriate.

(15) Labeling requirements.

(16) Cannabis-infused edible product requirements, including the following:

(i) Ensuring that products are not likely to appeal to minors.

(ii) Product safety regulations, including the requiring of best manufacturing practices and appropriate testing.

(iii) Standards for creating clearly delineated individual servings.

(17) Advertising and marketing regulations that balance



the ability of a cannabis business establishment to engage in reasonable marketing and promotional activities while:

(i) Ensuring advertising and marketing does not target minors.

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

(18) Product safety regulations, including:

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

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

(iii) Standard symbols and warnings where the department shall review symbols and warnings from other jurisdictions where cannabis sales are permitted.

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

(19) Procedures for the investigation and enforcement of unregulated and unlicensed cultivation, processing, manufacturing, sale, dispensing or distribution of cannabis, cannabis-infused edible or nonedible products or products intended for consumption or inhalation in violation of this Act.

(b) Compliance deadline.--A permittee shall have 180 days from the effective date of a new regulation promulgated by the department under this section to comply with the new regulation.

§ 9135. Temporary regulations.

(a) Promulgation.--The department shall promulgate temporary regulations no later than 90 days from the effective date of this subsection. If the department fails to promulgate temporary regulations under this subsection, the failure shall not delay or inhibit the ability of a current medical marijuana organization on the effective date of this subsection from commencing adult use operations. The temporary regulations under this subsection shall expire not later than two years after the effective date of this subsection and shall not be subject to any of the following:

(1) Section 612 of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929.

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

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

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

(b) Compliance deadline.--A current medical marijuana organization on the effective date of this subsection that is authorized to cultivate, process, dispense or transport cannabis under this chapter shall have 180 days from the effective date of a new temporary regulation promulgated by the department under subsection (a) to comply with the temporary regulation.

§ 9136. Confidentiality and public disclosure.

(a) Exempt from access.--All personal information obtained by the department relating to agents or purchasers shall be exempt from access under the act of February 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law.

(b) Public records.--The following records are public records and shall be accessible for inspection and duplication in accordance with the Right-to-Know Law:

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

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

§ 9137. Unlicensed activities and civil penalties.

(a) Unlicensed activities.--In addition to any other penalty provided by Federal or State law, a person who cultivates, processes, distributes, sells or offers for sale cannabis, cannabis-infused edible or nonedible products, cannabis concentrates, cannabis flower or any product intended for consumption or inhalation in violation of section 9127 (relating to limitations and penalties) without a license issued by the department shall be subject to a civil penalty not to exceed \$10,000 for each offense. Each day a person engages in unlicensed activity under this subsection shall constitute a separate offense.

(b) Enforcement.--The Attorney General, the department, a State or local law enforcement agency or a local government unit

may investigate an unlicensed activity under subsection (a) and engage in enforcement measures, including entering into an intergovernmental agreement to prevent the conduct of an unlicensed activity under subsection (a).

(c) Suspension or revocation.--In addition to any other penalty provided by Federal or State law, upon the conduct of a third or subsequent unlicensed activity under subsection (a), a local government unit may suspend or revoke the business license of the person who engaged in the unlicensed activity.

(d) A violation of subsection (a) is an unfair or deceptive act or practice under the Act of Dec. 17, 1968, P.L. 1224, known as the Pennsylvania Unfair Trade Practices and Consumer Protection Law. All remedies, penalties, and authority granted to the Attorney General under that Act shall be available for the enforcement of this Act.

(e) In addition to the authority granted to the Attorney General, any business or consumer injured by a violation of subsection (a) may bring an action to enjoin a business retailing, cultivating, manufacturing, distributing, or possessing cannabis without a license and to recover actual damages sustained. Courts shall enter judgment in an amount equal to three times actual damages and shall have discretion to award punitive damages in an amount commensurate with actual damages. The Court shall award attorneys fees and costs to the prevailing party.

§ 9138. Cannabis Business Development Fund.

(a) Establishment.--The Cannabis Business Development Fund is established in the State Treasury. Money in the Cannabis

Business Development Fund is appropriated on a continuing basis for the purposes specified under this section and shall not lapse.

(b) Deposits.--Certain fees payable under this chapter shall be deposited into the Cannabis Business Development Fund as specified under this chapter. In addition, \$3,000,000 of gross receipts of revenue deposited into the Cannabis Regulation Fund shall be transferred to the Cannabis Business Development Fund. The money deposited into the Cannabis Business Development Fund may only be used for the purposes specified under this chapter. Any interest accrued shall be deposited into the Cannabis Business Development Fund.

(c) Investment.--The Department of Community and Economic Development shall direct the investment of the Cannabis Business Development Fund. The State Treasurer shall credit to the Cannabis Business Development Fund interest and earnings from Cannabis Business Development Fund investment.

(d) Administrator.--The Department of Community and Economic Development shall be the administrator of the Cannabis Business Development Fund for auditing purposes.

(e) Purposes.--Money in the Cannabis Business Development Fund shall be used for any of the following purposes:

(1) Providing low-interest-rate or zero-interest-rate loans to qualified social and economic equity applicants to pay for ordinary and necessary expenses to start and operate a cannabis business establishment.

(2) Providing grants to qualified social and economic equity applicants to pay for ordinary and necessary expenses

to start and operate a cannabis business establishment.

(3) Providing low-interest-rate loans to social and economic equity dispensing organization charter permittees and applicants to pay for legal expenses related to the development and execution of charter agreements.

(4) Providing grants to social and economic equity dispensing organization charter permittees and applicants to pay for legal expenses related to the development and execution of charter agreements.

(5) Reimbursing the Department of Community and Economic Development for costs related to the provision of low-interest-rate loans and grants to qualified social and economic equity applicants.

(6) Paying for outreach that may be provided or targeted to attract and support social and economic equity applicants.

(7) Conducting study or research concerning the participation of minorities, women, veterans or individuals with disabilities in the cannabis industry, including barriers to individuals entering the industry as equity owners of a cannabis business establishment.

(8) Assisting with job training and technical assistance in disproportionately impacted areas.

(9) Assisting community organizations, offender reentry programs, workforce development programs and other community or advocacy programs in disproportionately impacted areas or other communities negatively affected by Federal and State drug regulation and enforcement.

(f) Additional deposits.--All money collected for the

approval of a dispensing organization and adult use cultivation center permit for current medical marijuana operators issued before January 1, 2025, and remunerations made as a result of transfers of permits awarded to qualified social and economic equity applicants shall be deposited into the Cannabis Business Development Fund.

(g) Transfers.--As soon as practical after the effective date of this subsection, the State Treasurer may transfer unassigned monies from the Medical Marijuana Program Fund, up to but not in excess of 75% the total balance, into the Cannabis Business Development Fund.

(h) Prohibition.--Notwithstanding any other provision of law, the Cannabis Business Development Fund shall not be subject to sweeps, administrative charge-backs or any other fiscal or budgetary maneuver that would transfer money from the Cannabis Business Development Fund into any other fund of the Commonwealth.

#### SUBCHAPTER E

#### SOCIAL AND ECONOMIC EQUITY

Sec.

9141. Social and economic equity.

9142. Loans and grants to social and economic equity applicants.

9143. Fee waivers.

9144. Transfer of permit awarded to qualified social and economic equity applicant.

§ 9141. Social and economic equity.

(a) Promotion and partnership.--The department shall promote

and take any necessary action to ensure social and economic equity in the adult use cannabis industry in this Commonwealth. The department shall partner with the Department of Community and Economic Development in facilitating the grant and loans under this chapter.

(b) Report.--On January 1 of every year, the department, with the assistance of the Department of Community and Economic Development as necessary, shall prepare and issue a public report that assesses the extent of diversity in the adult use cannabis industry and methods for reducing or eliminating any identified barriers to entry, including access to capital. The information reported shall include all of the following:

(1) The number and percentage of permits provided to social and economic equity applicants and to businesses owned by minorities, women, veterans and individuals with disabilities.

(2) The total number and percentage of employees in the cannabis industry who meet the definition of a social and economic equity applicant or who are minorities, women, veterans or people with disabilities.

(3) The total number and percentage of contractors and subcontractors in the adult use cannabis industry that meet the criteria of social and economic equity applicants or that are owned by minority-owned businesses, women-owned businesses, veteran-owned businesses or owned by individuals with disabilities, if known to the cannabis business establishment.

(4) Recommendations on reducing or eliminating any



identified barriers to entry, including access to capital, in the cannabis industry.

§ 9142. Loans and grants to social and economic equity applicants.

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

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

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

(3) fix, determine, charge and collect any premiums, fees, charges, costs and expenses, including application fees, commitment fees, program fees, financing charges or publication fees, in connection with the Commonwealth Financing Authority's activities under this section;

(4) coordinate assistance under loan programs with activities of the department and other Commonwealth agencies

as needed to maximize the effectiveness and efficiency of this chapter;

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

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

(7) establish application, notification, contract and other forms, procedures or regulations deemed necessary and appropriate; and

(8) utilize vendors or contract work to implement this chapter.

(b) Conditions.--Loans made under this section shall meet all of the following criteria:

(1) Only be made if, in the judgment of the Commonwealth Financing Authority, the project furthers the goals specified under this chapter.

(2) Be in a principal amount and form and contain terms and provisions with respect to security, insurance, reporting, delinquency charges, default remedies and other matters as the Department of Community and Economic Development shall determine appropriate to protect the public interest and to be consistent with the purposes of this section.

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

(d) Annual report.--Beginning January 1, 2025, and each year thereafter, the Department of Community and Economic Development shall annually report to the Governor, the General Assembly and the department on the outcomes and effectiveness of this section, including all of the following:

(1) The number of persons or businesses receiving financial assistance under this section.

(2) The amount in financial assistance awarded in the aggregate, in addition to the amount of loans made that are outstanding and the amount of grants awarded.

(3) The location of the project engaged in by the person or business.

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

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

§ 9143. Fee waivers.

(a) Permit application fee waiver.--The department may waive or reduce the nonrefundable permit application fee,

nonrefundable fee associated with purchasing a permit to operate a cannabis business establishment and any surety bond or other financial requirement of a social and economic equity applicant if a social and economic equity applicant meets all the following qualifications at the time the payment is due:

(1) The applicant, including each individual or entity with 10% or greater ownership and each parent company, subsidiary or affiliate, has less than a total of \$750,000 of income in the previous calendar year.

(2) The applicant, including each individual or entity with 10% or greater ownership and each parent company, subsidiary or affiliate, has no more than two other permits for cannabis business establishments or medical marijuana organizations in this Commonwealth.

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

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

§ 9144. Transfer of permit awarded to qualified social and economic equity applicant.

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

(1) Fees that were waived by any Commonwealth agency based on the applicant's status as a social and economic equity applicant, if applicable.

(2) The outstanding amount owed by the qualified social and economic equity applicant for a loan through the Cannabis Business Development Fund, if applicable.

(3) The full amount of a grant that the qualified social and economic equity applicant received from the Commonwealth Financing Authority, if applicable.

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

#### SUBCHAPTER F

#### REGULATION OF CANNABIS BUSINESS ESTABLISHMENTS

Sec.

9151. Authority to conduct oversight of cannabis business establishments.
9152. Medical marijuana exemption.
9153. Authorization of current medical marijuana organizations to commence dispensing cannabis for adult use.
9154. Issuance of additional permits to current medical marijuana organizations and qualified social and economic equity applicants.
9155. New dispensing organization permits.
9156. Selection criteria for new dispensing organization permits.
9157. Dispensing organization operational requirements and prohibitions.
9158. Dispensing cannabis.
9159. Agent-in-charge.
- 9159.1. Inventory control system.
- 9159.2. Storage requirements.
- 9159.3. Destruction and disposal of cannabis.
- 9159.4. Security measures.
- 9159.5. Recordkeeping.
- 9159.6. Issuance of adult use cultivation center permits.
- 9159.7. Authorization of current medical marijuana grower/processor permit holders to selling cannabis for adult use.
- 9159.8. New adult use cultivation center permits.
- 9159.9. Adult use cultivation center requirements and prohibitions.
- 9159.10. Issuance of micro cultivation center permits.

9159.11. Micro cultivation center permit applications.

9159.12. Selection criteria for micro cultivation center permits.

9159.13. (Reserved).

9159.14. Micro cultivation center requirements and prohibitions.

9159.15. Cannabis business establishment agent identification cards.

9159.16. Background check for cannabis business establishment applicants.

9159.17. Renewal of cannabis business establishment permits and cannabis business establishment agent identification cards.

§ 9151. Authority to conduct oversight of cannabis business establishments.

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

(b) Limitation.--A person may not operate a cannabis business establishment for the purpose of cultivating, processing, dispensing or transporting cannabis or cannabis-infused edible or nonedible products without a permit issued under this chapter. A person may not be an officer, director, manager or agent of a cannabis business establishment without having been authorized by the department.

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

duties:

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

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

(3) Conduct investigations of possible violations of this chapter pertaining to a cannabis business establishment and cannabis business establishment agents.

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

(5) Adopt regulations required for the administration of this chapter.

§ 9152. Medical marijuana exemption.

This chapter shall not apply to entities registered under Chapter 93 (relating to medical marijuana), except where otherwise specified.

§ 9153. Authorization of current medical marijuana

organizations to commence dispensing cannabis for adult use.

(a) Dual use permits.--A medical marijuana organization holding a dispensary permit granted under Subchapter E or K of Chapter 93 (relating to medical marijuana) shall be authorized to commence selling cannabis for adult use at a dispensary operating under Chapter 93 as of January 1, 2025. A medical marijuana organization shall pay a fee of \$100,000 to the



department, which shall be deposited into the Cannabis Regulation Fund, before commencing the sale of cannabis for adult use.

(b) Delay or inhibit operations.--The failure of the department to promulgate regulations shall not delay or inhibit the ability of a medical marijuana organization under subsection (a) from commencing the sale of cannabis for adult use at a dispensary operating under Chapter 93. If the department fails to authorize a medical marijuana organization under subsection (a) from commencing the sale of cannabis for adult use at a dispensary operating under Chapter 93 within 180 days from the effective date of this subsection, the medical marijuana organization shall automatically be authorized to commence cannabis sales for adult use.

§ 9154. Issuance of additional permits to current medical marijuana organizations and qualified social and economic equity applicants.

(a) Medical marijuana organizations.--In addition to being able to commence dispensing cannabis for adult use from a dispensary operating under Chapter 93 (relating to medical marijuana) in accordance with section 9153 (relating to authorization of current medical marijuana organizations to commence dispensing cannabis for adult use), a medical marijuana organization holding a dispensary permit granted under Subchapter E or K of Chapter 93 on the effective date of this subsection may apply for an additional permit authorizing the sale of cannabis for adult use. The additional permit shall authorize the dispensary organization to operate at a single

location to serve purchasers and patients in this Commonwealth.

(b) Applications.--A medical marijuana organization seeking the issuance of an additional dispensing organization permit under this section shall submit an application on a form provided by the department. The application shall include information in at least the following categories as determined by the department:

(1) The fees to be paid.

(2) A business plan that complies with the requirements under this chapter.

(3) A security plan.

(4) An inventory control plan.

(5) A plan for community engagement.

(6) Written policies and procedures regarding recordkeeping, inventory control, safety, security, diversion and diversity.

(7) Facility plans, including the proposed physical address, floor plans, security overlay and specifications of the building exterior and interior layout.

(8) Documented ownership or control of the property.

(9) A copy of each relevant local zoning ordinance and documentation, if necessary, of approval from the local zoning office that the proposed dispensary location is in compliance with each local zoning ordinance.

(10) Information regarding each principal officer.

(11) Evidence of the applicant's status as a social and economic equity applicant, if applicable.

(c) Executed charter agreement.--As a condition of an

additional permit issued under this section, a medical marijuana dispensary organization shall submit to the department, together with the application under subsection (b), an executed charter agreement between the medical marijuana dispensary organization and a social and economic equity applicant in which the dispensing organization agrees to provide financial, mentorship, training, operational and other support to the social and economic equity applicant to operate a dispensary at a single location. The charter agreement may provide for a method of repayment of any loaned financial support by a dispensing organization over a period of 10 years and under terms that allow the social and economic equity applicant to profit from the business. During the term of the charter agreement, a dispensing organization may not take more than a 10% ownership stake in a social and economic equity applicant's business. The charter agreement shall be subject to department approval and audit. The charter agreement shall provide a pathway for the social and economic equity applicant to assume full ownership of the business within 10 years. Except as provided under subsection (r), a dispensing organization's failure to adhere to the terms of the charter agreement shall be grounds to revoke the dispensing organization's permit. However, if a social and economic equity applicant does not, or cannot, maintain operations during the term of the charter agreement for any reason, including as a result of any disciplinary action taken by the department, and such is not the result of the dispensing organization's failure to abide by the terms of the charter agreement, the dispensing organization's permit shall not be

revoked, suspended, or otherwise disciplined, and the dispensing organization shall be able to continue to operate.

(d) Partnership.--A dispensing organization shall identify a social and economic equity applicant to partner with through a bona fide selection process, and the dispensing organization shall be prohibited from accepting money or other valuable consideration from a social and economic equity applicant in exchange for selecting the social and economic equity applicant as a charter partner.

(e) Additional requirements.--In addition to the required charter agreement specified under subsection (c), together with the application under subsection (b), a dispensing organization applicant under this section shall submit the application of a social and economic equity applicant to operate a dispensary at a single location under a social and economic equity dispensing organization charter permit.

(f) Disqualification.--A social and economic equity applicant shall submit all required information under subsection (b) to the department. Failure of the social and economic equity applicant to submit all required information under subsection (b) may result in the application being disqualified. The issuance of a permit under this section may not be delayed by an applicant's failure to identify each of the applicant's dispensary locations.

(g) Deficiency notice.--If the department receives an application that fails to provide the required elements contained in subsections (b) and (c), other than information relevant to all of each of the applicant's dispensary locations,

the department shall issue a deficiency notice to the applicant. The applicant shall have 30 calendar days from the date of the deficiency notice to submit the complete information.

(h) Review.--Upon receipt of all of the required information and documents under this section, the department shall review the applications of both the dispensing organization applicant and the dispensing social and economic equity applicant. The department may request revisions and retain final approval over retail site features. The department shall approve the dispensing organization and social and economic equity dispensing organization charter permits at the same time once reviewed. Final approval for each individual dispensary location shall be contingent on the completion of construction of each dispensary location, department inspections and providing the department with any information specified under subsection (e) related to each dispensary location that was not provided during the initial application process.

(i) Authorization.--The department may only authorize the sale of cannabis at one of the cannabis dispensing organization's dispensary location after the completion of a successful inspection at the location and at a dispensary location of the social and economic equity dispensing organization charter permit holder. The department shall inspect a location within 14 days of a written request by a dispensing organization or social and economic equity dispensing organization charter permit holder.

(j) Successful inspection.--If the permit holders pass the inspections under this section, the department shall authorize

the sale of cannabis at the dispensaries within 10 business days. The department may, at its discretion, allow either the dispensing organization or the social and economic equity dispensing organization charter permit holder to begin operations at a location before the other permittee as long as substantial, good faith efforts can be shown to open the permittee that has not yet passed inspection.

(k) Notification of opening date.--Once the department has authorized the sale of cannabis at a dispensing organization location or social and economic equity dispensing organization charter location, the dispensing organization or social and economic equity dispensing organization charter permittee shall notify the department of the proposed opening date.

(l) Treatment.--A social and economic equity dispensing organization charter permit holder shall be treated in all respects as the equivalent of a dispensing organization except that the holder of a social and economic equity dispensing organization charter permit shall operate its dispensary locations with the assistance of the dispensing organization as outlined in the charter agreement.

(m) Initial sale.--A cannabis dispensing organization and social and economic equity dispensing organization charter permit holder may begin selling cannabis, cannabis-infused edible and nonedible products, cannabis paraphernalia and related items to adult use purchasers no earlier than January 1, 2025.

(n) Permit change.--After the term of the charter agreement between the dispensing organization and social and economic

equity dispensing organization charter permit holder has expired and the social and economic equity dispensing organization charter permit holder has assumed full ownership and control of the dispensary facility, the department shall exchange the social and economic equity dispensing organization charter permit for a dispensing organization permit. Following the permit exchange, if a social and economic equity permittee seeks to sell, transfer, or surrender its dispensing organization permit then the dispensing organization it entered into the charter agreement with shall have right of first refusal to purchase the permit. If the dispensing organization does not exercise this right then the social and economic equity permittee may sell or transfer the permit to another party, or surrender the permit to the department, in accordance with this chapter and the rules promulgated there under.

(o) Additional permits.--Notwithstanding the requirements of this section, any medical marijuana organization holding a permit granted under Subchapter E or K of Chapter 93 as of the effective date of this subsection that, despite good faith efforts, has been unable to partner with a qualified social and economic equity applicant as specified under this section, may still apply for an additional dispensing organization permit to operate a single location to serve purchasers throughout this Commonwealth upon the payment of a fee of \$100,000 to the department to be deposited into the Cannabis Business Development Fund.

(p) If a social and economic equity permittee does not, or cannot, maintain operations during the term of the charter

agreement for any reason, including as a result of any disciplinary action taken by the department, and such is not the result of the dispensing organization's failure to abide by the terms of the charter agreement, the dispensing organization the social and economic equity permittee entered into the charter agreement with shall have the sole right to purchase the permit in lieu of its surrender to the department. Upon any sale or transfer, the department shall exchange the social and economic equity dispensing organization charter permit for a dispensing organization permit. If the social and economic equity dispensing organization charter permit holder surrenders its permit, the department may only reissue the permit to another qualified social and economic equity applicant through a competitive application process, as determined by the department.

(q) A social and economic equity dispensing organization charter permit may not be sold or transferred during the term of the charter agreement other than in accordance with subsection (p) and rules promulgated pursuant to this chapter.

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

§ 9155. New dispensing organization permits.

(a) Additional permits.--The department shall be the exclusive entity authorized to issue new dispensing organization permits. Separate and apart from any dispensing organization permits issued to a medical marijuana organization under section 9153 (relating to authorization of current medical marijuana



organizations to commence dispensing cannabis for adult use) or 9154 (relating to issuance of additional permits to current medical marijuana organizations and qualified social and economic equity applicants), the department shall issue up to four additional dispensing organization permits after January 1, 2025.

(b) Dispensing.--All dispensing organization permits issued to existing medical marijuana organizations under section 9153 or 9154, shall entitle permittees to dispense cannabis to both adult use purchasers and patients, in accordance with activities permitted by permit holders under this chapter and Chapter 93 (relating to medical marijuana).

(c) Award of permits.--To ensure the geographic dispersion of dispensing organization permittees throughout this Commonwealth, the department shall determine how many permits should be awarded across this Commonwealth through a merit-based application process. An applicant may file no more than one application in a single application period for an additional permit under this section.

(d) Permit application.--An applicant seeking issuance of a dispensing organization permit shall submit an application on a form provided by the department. The application shall include information in at least the following categories as determined by the department:

(1) The fees to be paid.

(2) A business plan that complies with the requirements under this chapter.

(3) A security plan.

(4) An inventory control plan.

(5) A plan for community engagement.

(6) Written policies and procedures regarding recordkeeping, inventory control, safety, security and diversity.

(7) Facility plans, including the proposed physical address, floor plans, security overlay and specifications of the building exterior and interior layout.

(8) Documented ownership or control of the property.

(9) A copy of each relevant local zoning ordinance and documentation, if necessary, of approval from the local zoning office that the proposed dispensary location is in compliance with each local zoning ordinance.

(10) Information regarding each principal officer.

(11) Evidence of the applicant's status as a social and economic equity applicant, if applicable.

(e) Operations.--An applicant who receives a dispensing organization permit under this section shall have one calendar year from the date of the award to become operational at each of the applicant's locations. If the applicant does not become operational at each of the applicant's locations within one calendar year of the permit award, the department may revoke the permit absent good reason for the delay shown by the applicant. Before a new dispensing organization receives authorization to commence building a dispensary, the department shall inspect the physical space selected by the permittee. The department shall verify the site is suitable for public access, there is a sufficient distance between the site and a school, day care

center or playground, the site's layout promotes the safe dispensing of cannabis and the site's location is sufficient in size, power allocation, lighting, parking, handicapped-accessible parking spaces, accessible entry and exits as required by the Americans with Disabilities Act of 1990 (Public Law 101-336, 104 Stat. 327), product handling and storage.

(f) Background checks.--The department shall conduct a background check of each agent of an applicant under this section. The Pennsylvania State Police shall charge the applicant a fee for conducting the criminal history record check, which shall not exceed the actual cost of the record check. Each individual applying as a cannabis business establishment agent shall submit a full set of fingerprints to the Pennsylvania State Police for the purpose of obtaining a Federal and State criminal history record check. The Pennsylvania State Police shall check the fingerprints against the fingerprint records filed in the Pennsylvania State Police and Federal Bureau of Investigation criminal history records databases as authorized under Federal and State law. The Pennsylvania State Police shall furnish, following positive identification, all conviction information in this Commonwealth to the department.

§ 9156. Selection criteria for new dispensing organization permits.

(a) Incomplete application.--Failure by an applicant to submit to the department all required information under section 9155 (relating to new dispensing organization permits) may result in the application being disqualified. If the department

receives an application that fails to provide the required elements in a section, that section shall not be scored.

(b) Application scoring.--The department shall, by rule, develop a merit-based scoring system in which to award new dispensing organization permits as specified under section 9155.

(c) Scoring criteria.--An applicant for a new dispensing organization permit shall be awarded points on applications as determined by the department.

(d) Anonymity.--Applications for new dispensing organization permits shall be scored by the department anonymously in accordance with regulations promulgated by the department, which shall include tie-breaker language that governs the process through which some applicants are to be awarded permits when multiple applicants receive the same application score and the awarding of permits to all tied applicants would result in awarding more permits than is permissible under this chapter. Any tie-breaking process shall be designed to ensure clarity, transparency and fairness.

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

§ 9157. Dispensing organization operational requirements and prohibitions.

(a) Requirements and prohibitions.--A dispensing

organization shall operate in accordance with the representations made in its application and permit materials. A dispensing organization shall be in compliance with this chapter and the regulations promulgated under this chapter . The following shall apply:

(1) All cannabis, cannabis concentrates, cannabis-infused edible and nonedible products and cannabis seeds shall be obtained from an adult use cultivation center, micro cultivation center or another dispensary registered in this Commonwealth.

(2) A dispensing organization:

(i) Shall inspect and count product received from a micro cultivation center or other dispensing organization before dispensing it.

(ii) May only accept cannabis deliveries into a restricted access area. Deliveries may not be accepted through the public or limited access areas unless otherwise approved by the department.

(iii) Shall maintain compliance with Commonwealth and local building, fire and zoning requirements or regulations.

(iv) Shall submit a list to the department of the names of all service professionals that will work at the dispensary. The list shall include a description of the type of business or service provided. The department shall be promptly notified of any changes to the service professional list. No service professional shall work in the dispensary until the name is provided to the

department on the service professional list.

(v) Shall operate between 6 a.m. and 10 p.m. local time or as determined by the local municipality.

(vi) Shall keep all lighting outside and inside the dispensary in good working order and wattage sufficient for security cameras.

(vii) Shall keep all air treatment systems that will be installed to reduce odors in good working order.

(viii) Shall ensure that any building or equipment used by a dispensing organization for the storage or sale of cannabis is maintained in a clean and sanitary condition.

(ix) Shall be free from infestation by insects, rodents or pests.

(x) Shall develop a recall policy and procedure as approved by the department.

(3) A dispensing organization may not:

(i) Cultivate, process or manufacture cannabis.

(ii) Accept a cannabis-infused edible and nonedible product from an adult use cultivation center, micro cultivation center or dispensing organization unless it is prepackaged and labeled in accordance with this chapter and regulations that may be promulgated in accordance with this chapter.

(iii) Obtain cannabis or cannabis-infused edible and nonedible products from outside this Commonwealth.

(iv) Sell cannabis or cannabis-infused edible and nonedible products to a purchaser unless the individual

has been verified to be 21 years of age or older or if the dispensing organization maintains a medical marijuana permit under Chapter 93 and the individual is registered under Chapter 93.

(v) Enter into agreements to allow persons who are not cannabis business establishment agents to deliver cannabis or to transport cannabis to purchasers, other than through home delivery services approved by the department.

(vi) Operate a dispensary if the:

(A) Dispensary organization's video surveillance equipment is inoperative.

(B) Point-of-sale equipment is inoperative.

(C) Cannabis seed-to-seed tracking system is inoperative, unless the dispensing organization has the ability to record, including electronically, transactions to upload to the cannabis seed-to-seed tracking system once the system is operational.

(vii) Have fewer than two individuals working at any time while the dispensary is open.

(viii) Sell clones or any other live plant material, unless otherwise authorized by this chapter.

(ix) Shall not be located within 1,500 feet of the property line of another dispensing organization.

(x) Violate any other requirements or prohibitions specified by the department.

(b) Regulations.--The department shall promulgate regulations, within 180 days following the release of temporary

regulations, specifying operational requirements for dispensing organizations, consistent with the provisions of this chapter, including the operational requirements and prohibitions contained in this section.

§ 9158. Dispensing cannabis.

(a) Dispensing criteria.--Prior to a cannabis business establishment agent dispensing cannabis to a purchaser, the agent shall:

(1) Verify the age of the purchaser and validity of the government-issued identification card of the purchaser by use of an electronic reader or electronic scanning device, unless otherwise permitted by the department, to scan a purchaser's government-issued identification, if applicable.

(2) Enter the following information into the seed-to-sale tracking system:

(i) The cannabis business establishment agent identification card and dispensing cannabis business establishment agent's identification number.

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

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

(b) Refusal to sell.--A Dispensing organization shall refuse to sell cannabis or cannabis-infused edible and nonedible products under any of the following circumstances:

(1) To an individual unless the individual produces valid identification showing that the individual is 21 years



of age or older. However, a dispensary under Chapter 93 (relating to medical marijuana) may sell cannabis or cannabis-infused edible and nonedible products to an individual who is younger than 21 years of age if the sale complies with the provisions of Chapter 93.

(2) To an individual who is disqualified by the department.

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

(1) Be valid and unexpired.

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

§ 9159. Agent-in-charge.

(a) Designation.--A dispensing organization shall designate, at a minimum, one agent-in-charge for each permitted dispensary. The designated agent-in-charge shall hold a cannabis business establishment agent identification card. Maintaining an agent-in-charge shall be a continuing requirement for the dispensary organization permit, except as provided under subsection (e).

(b) Requirements.--The agent-in-charge shall be on-site managers or full-time agents of the dispensing organization and shall manage the dispensary. Managing the dispensary shall include responsibility for opening and closing the dispensary, delivery acceptance, oversight of sales and cannabis business establishment agents, recordkeeping, inventory, cannabis business establishment agent training and compliance with this chapter, including the responsibility for maintaining all files subject to audit or inspection by the department at the

dispensary. Except for a determination that a dispensary employee has diverted cannabis or cannabis-infused edible or nonedible products or has intentionally dispensed cannabis or cannabis-infused edible or nonedible products in a manner not consistent with this chapter, which shall be reported to the department within 48 hours, the agent-in-charge shall, within 10 days, notify the department of a change of information required to be reported to the department.

(c) Determination.--In determining whether an agent-in-charge manages the dispensary, the department may consider the responsibilities identified in this section, the number of cannabis business establishment agents under the supervision of the agent-in-charge and the employment relationship between the agent-in-charge and the dispensing organization, including the existence of a contract for employment and any other relevant fact or circumstance.

(d) Change in status.--The agent-in-charge shall be responsible for notifying the department of a change in the employment status of any cannabis business establishment agent within 10 business days after the change, including notice to the department if the termination of an agent was for diversion of product or theft of currency.

(e) Vacancy.--In the event of the separation of an agent-in-charge due to death, incapacity, termination or any other reason and if the dispensary does not have an active agent-in-charge, the dispensing organization shall immediately contact the department and request temporary authority allowing the continuing operation. The request shall include the name of an

interim agent-in-charge until a succeeding agent-in-charge is identified or shall include the name of the replacement. The department may not delay in granting the temporary authority, and the dispensing organization shall be permitted to operate while obtaining department approval for an interim agent-in-charge. A temporary authority may not be valid for more than 90 days. The succeeding agent-in-charge shall register with the department in compliance with this section. Once the permanent succeeding agent-in-charge is registered with the department, the temporary authority shall be void.

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

(g) Termination.--Upon termination of an agent-in-charge's employment, the dispensing organization shall immediately reclaim the cannabis business establishment agent identification card. The dispensing organization shall promptly return the agent identification card to the department.

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

(1) submission of misleading, incorrect, false or fraudulent information in the application or renewal application;

(2) violation of the requirements of this chapter or regulations;

(3) fraudulent use of an agent identification card;

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

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

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

(7) tampering with, falsifying, altering or modifying the surveillance video footage, point-of-sale system, cannabis seed-to-sale tracking system or the Commonwealth's verification system;

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

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

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

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

(12) failure to notify the department within 48 hours after a determination that a dispensary employee has diverted cannabis or cannabis-infused edible or nonedible products or has intentionally dispensed cannabis or cannabis-infused edible or nonedible products in a manner not consistent with this chapter.

§ 9159.1. Inventory control system.

(a) Inventory.--A dispensing organization agent-in-charge

shall have primary oversight of the dispensing organization's cannabis inventory point-of-sale system. The inventory point-of-sale system shall be real-time, web-based, open API, two-way communication and accessible by the department at any time. The point-of-sale system shall track, at a minimum, the date of sale, amount, price and currency.

(b) Account.--A dispensing organization shall establish an account with the department's verification system that documents:

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

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

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

(ii) The name and registry identification number of the permitted adult use cultivation center or micro cultivation center providing the cannabis and cannabis-infused edible and nonedible products.

(iii) The name and registry identification number of the permitted cannabis business establishment agent delivering the cannabis.

(iv) The name and registry identification number of the cannabis business establishment agent receiving the cannabis.

(v) The date of acquisition.

(3) The disposal of cannabis, including:

(i) A description of the products, including the quantity, strain, variety, batch number and reason for the cannabis disposal.

(ii) The method of disposal.

(iii) The date and time of disposal.

(c) Verification.--Upon cannabis delivery from an adult use cultivation center or a micro cultivation center, a dispensing organization shall confirm that the product's name, strain name, weight and identification number on the manifest matches the information on the cannabis-infused edible and nonedible product label and package. The product name listed and the weight listed in the Commonwealth's verification system shall match the product packaging.

(d) Monthly inventory.--The agent-in-charge shall conduct a daily inventory reconciliation documenting and balancing cannabis inventory by confirming that the department's verification system matches the dispensing organization's point-of-sale system and the amount of physical product at the dispensary. The following shall apply:

(1) A dispensing organization shall provide a reason for an inventory adjustment. Inventory adjustment documentation shall be kept at the dispensary or maintained electronically for two years from the date performed.

(2) If the dispensing organization identifies an anomaly in the amount of cannabis after the daily inventory reconciliation due to a mistake, the dispensing organization

shall determine how the anomaly occurred and take and document corrective action. The dispensing organization shall work diligently to determine the reason for the anomaly and document steps on how to address the anomaly.

(3) If the dispensing organization identifies a discrepancy in the amount of cannabis after the daily inventory reconciliation or through other means due to theft, criminal activity or suspected criminal activity, the dispensing organization shall determine how the diversion occurred and take and document corrective action. Within 48 hours after the first discovery of the diversion due to theft, criminal activity or suspected criminal activity, the dispensing organization shall inform the department and the Pennsylvania State Police in writing.

(4) The dispensing organization shall file an annual compilation report with the department, including a financial statement that shall include an income statement, balance sheet, profit and loss statement, statement of cash flow, wholesale cost and sales and any other documentation requested by the department in writing. The financial statement shall include any other information the department deems necessary in order to effectively administer this chapter and all regulations, orders and final decisions promulgated under this chapter. Statements required by this section shall be filed with the department within 60 days after the end of the calendar year. The compilation report shall include a letter authored by a licensed certified public accountant that it has been reviewed and is accurate

based on the information provided. The dispensing organization, financial statement and accompanying documents may not be audited unless specifically requested by the department.

(e) Documentation.--A dispensing organization shall have all of the following duties:

(1) Maintain the documentation required under this section in a secure locked location at the dispensing organization, an off-site approved office or electronically, for two years from the date on the document.

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

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

(f) Return policy.--If a dispensing organization chooses to have a return policy for cannabis and cannabis-infused edible and nonedible products, the dispensing organization shall seek prior approval from the department, including written policies as to how returned cannabis or cannabis-infused edible and nonedible products will be stored and quarantined from other inventory.

§ 9159.2. Storage requirements.

(a) Authorized on-premises storage.--A dispensing organization shall store inventory on its premises. All inventory stored on the premises shall be secured in a restricted access area and tracked consistently with the inventory tracking regulations. A dispensing organization shall



be of suitable size and construction to facilitate cleaning, maintenance and proper operations and shall maintain adequate lighting, ventilation, temperature, humidity control and equipment.

(b) Tampered containers.--A cannabis container that has been tampered with, damaged or opened shall be labeled with the date opened, if known, and quarantined from other cannabis-infused edible and nonedible products in the vault until the cannabis-infused edible and nonedible products are disposed. Cannabis that was tampered with, expired or damaged may not be stored at the premises for more than 14 calendar days.

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

(d) Storage.--The dispensing organization storage areas shall be maintained in accordance with the security requirements in this chapter and any regulations promulgated by the department. Cannabis shall be stored at appropriate temperatures and under appropriate conditions to help ensure that the packaging, strength, quality and purity are not adversely affected.

§ 9159.3. Destruction and disposal of cannabis.

(a) Destruction.--Cannabis and cannabis-infused edible and nonedible products shall be destroyed by rendering the cannabis and cannabis-infused edible and nonedible products unusable using methods approved by the department and promptly disposed in a manner that complies with this chapter and regulations promulgated by the department. Disposal of the cannabis waste

rendered unusable may be delivered to a permitted solid waste facility for final disposition. Acceptable permitted solid waste facilities shall include all of the following:

(1) Compostable facilities.

(2) Noncompostable mixed-waste facilities.

(b) Waste inventory.--Waste and unusable cannabis, cannabis concentrate or a cannabis-infused edible and nonedible product shall be weighed, recorded and entered into the seed-to-sale tracking system prior to rendering it unusable. Verification of waste inventory shall be performed by an employee who is a manager and conducted in an area with video surveillance. Electronic documentation of destruction and disposal shall be maintained for a period of at least two years.

§ 9159.4. Security measures.

(a) Measures.--A dispensing organization shall implement security measures to protect the premises and purchasers and deter and prevent entry into and theft of cannabis or currency in accordance with the regulations promulgated under this chapter as determined by the department. Such measures shall include, but are not limited to:

(1) A professionally-monitored security and surveillance system that includes:

(i) Coverage of all facility entry and exit points, rooms with exterior windows, exterior walls, roof hatches or skylights, storage rooms, and the perimeter of the facility;

- (ii) Motion activated video recording of all cameras;
- (iii) Silent and audible security alarm systems;
- (iv) Off-site monitoring of the interior and exterior of the facility;
- (v) Failure notification system;
- (vi) Fire and smoke alarms; and
- (vii) Ability to retain security and surveillance recordings for a period of 2 years.

(b) Alternative provisions.--The department may approve alternative security provisions that the department determines are an adequate substitute for a security requirement specified in the regulations promulgated under Chapter 93.

§ 9159.5. Recordkeeping.

(a) Record retention.--Dispensing organization records shall be maintained electronically for two years and be available for inspection by the department upon request. The required written records shall include all of the following:

- (1) Operating procedures.
- (2) Inventory records, policies and procedures.
- (3) Security records, not including video footage retained pursuant to 9159.4.
- (4) Audit records.
- (5) Staff training plans and completion documentation.
- (6) Staffing plan.
- (7) Business records, including:
  - (i) Assets and liabilities.
  - (ii) Monetary transactions.

(iii) Written or electronic accounts, including bank statements, journals, ledgers and supporting documents, agreements, checks, invoices, receipts and vouchers.

(iv) Any other financial accounts reasonably related to the dispensary operations.

(b) Storage and transfer of records.--If a dispensing organization closes due to insolvency, revocation, bankruptcy or for any other reason, all records required to be maintained shall be preserved and provided to the department.

§ 9159.6. Issuance of adult use cultivation center permits.

(a) Modifications or changes.--On or after January 1, 2025, the department may, by rule, do any of the following:

(1) Modify or change the number of new adult use cultivation center permits available, which shall at no time exceed three permits, other than those permits issued to current medical marijuana grower/processors under this chapter.

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

(b) Additional permits.--If the department determines that additional adult use cultivation center permits should be issued other than those permits issued to current medical marijuana grower/processors, the department shall ensure that the first permit of the up to three additional permits authorized is awarded to qualified social and economic equity applicants.

§ 9159.7. Authorization of current medical marijuana

grower/processor permit holders to selling cannabis for adult use.

(a) Dual use cultivation center permits.--A medical marijuana organization holding a grower/processor permit granted under Subchapter E or K of Chapter 93 (relating to medical marijuana) shall, within 180 days from the effective date of this subsection, be authorized by the department to commence selling cannabis at a grower/processor facility operating under Chapter 93. A medical marijuana organization holding a grower/processor permit granted under Subchapter E or K of Chapter 93 shall pay a nonrefundable permit fee of \$250,000 to the department, which shall be deposited into the Cannabis Regulation Fund.

(b) Delay or inhibit operations.--The failure of the department to promulgate regulations shall not delay or inhibit the ability of a medical marijuana organization under subsection (a) from commencing the sale of cannabis for adult use at a grower/processor facility operating under Chapter 93. If the department fails to authorize a medical marijuana organization under subsection (a) from commencing the sale of cannabis for adult use at a grower/processor facility operating under Chapter 93 within 180 days from the effective date of this subsection, the medical marijuana organization shall automatically be authorized to commence cannabis sales for adult use.

(c) Adult use cultivation centers.--An adult use cultivation center operating under this chapter and Chapter 93 shall be subject to the provisions of both chapters.

§ 9159.8. New adult use cultivation center permits.

If the department makes available an additional adult use cultivation center permit in excess of the permits authorized under section 9159.7 (relating issuance of adult use cultivation center permits to current medical marijuana grower/processor permit holders), the department shall determine the requirements of an application for the permit and selection criteria and promulgate regulations as necessary to implement this section.

§ 9159.9. Adult use cultivation center requirements and prohibitions.

(a) Requirements.--The operating documents of an adult use cultivation center shall include procedures for the oversight of the adult use cultivation center, tracking cannabis, including a physical inventory recorded weekly, accurate recordkeeping and a staffing plan.

(b) Security plan.--An adult use cultivation center shall implement a security plan that includes facility access controls, perimeter intrusion detection systems, personnel identification systems, a 24-hour surveillance system to monitor the interior and exterior of the adult use cultivation center facility and accessibility to authorized law enforcement and the department in real time.

(c) Facility.--All cultivation of cannabis by an adult use cultivation center shall take place in an enclosed, locked facility at the physical address provided to the department during the licensing process. The adult use cultivation center location shall only be accessed by the agents working for the adult use cultivation center, the department staff performing

inspections and State law enforcement or other emergency personnel, contractors working on jobs unrelated to cannabis or other individuals as provided by rule.

(d) Sale prohibited.--An adult use cultivation center may not sell or distribute any cannabis or cannabis-infused edible and nonedible products to any person other than a dispensing organization or as otherwise authorized by rule of the department.

(e) Pricing.--An adult use cultivation center may not either directly or indirectly discriminate in price between different dispensing organizations that are purchasing a like grade, strain, brand and quality of cannabis or cannabis-infused edible or nonedible product. Nothing in this subsection shall prevent adult use cultivation centers from pricing cannabis differently based on differences in cannabinoid content, in the cost of manufacturing or processing, the quantities sold, including volume discounts, or the way the products are delivered.

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

(g) Random inspection.--An adult use cultivation center shall be subject to random inspections by the department.

(h) Loss notification.--A cannabis business establishment agent shall notify local law enforcement, the Pennsylvania State Police and the department within 24 hours of the discovery of any loss or theft. Notification shall be made by phone, in

person or by written or electronic communication.

(i) Pesticides.--An adult use cultivation center shall comply with all Federal and State rules and regulations regarding the use of pesticides on cannabis plants. The department shall promulgate reasonable regulations allowing pesticide use in accordance with thresholds permitted in other adult use markets but may not regulate pesticide use in a manner than is more stringent than currently regulated under Chapter 93 (relating to medical marijuana).

(j) Process.--An adult use cultivation center may process cannabis, cannabis concentrates and cannabis-infused edible and nonedible products, including tinctures, topicals and edibles.

(k) Compliance.--An adult use cultivation center shall comply with any other requirements or prohibitions specified by regulations of the department.

§ 9159.10. Issuance of micro cultivation center permits.

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

(b) Issuance.--The department may issue micro cultivation center permits, as determined by the department. Prior to issuing a permit, the department may adopt regulations to modify or raise the number of micro cultivation center permits or modify or change the permitting application process to reduce or eliminate barriers for an applicant. In determining whether to exercise the authority granted under this subsection, the department shall consider the following factors:

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



(2) whether there is an adequate supply of cannabis and cannabis-infused edible and nonedible products to serve patients;

(3) whether there is an adequate supply of cannabis and cannabis-infused edible and nonedible products to serve purchasers;

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

(5) population increases or shifts;

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

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

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

(9) the department's capacity to appropriately regulate additional permittees;

(10) social and economic equity applicant participation;  
and

(11) any other criteria the department deems relevant.

(c) Space.--A micro cultivation center may not contain more than 3,000 square feet of canopy space for plants in the flowering stage for cultivation of cannabis as provided in this chapter. A micro cultivation center may share a premises with a dispensing organization if each permittee stores currency and cannabis and cannabis-infused edible and nonedible products in a separate secured vault to which any other permittee does not have access or all permittees sharing a vault share more than

50% of the same ownership.

§ 9159.11. Micro cultivation center permit applications.

(a) Required information.--When applying for a permit, the applicant for a micro cultivation center permit shall electronically include information in at least the following categories as determined by the department:

(1) The fees to be paid.

(2) A business plan that complies with the requirements under this chapter.

(3) A security plan.

(4) An inventory control plan.

(5) A plan for community engagement.

(6) Written policies and procedures regarding recordkeeping, inventory control, safety, security, diversion and diversity.

(7) Facility plans, including the proposed physical address, floor plans, security overlay and specifications of the building exterior and interior layout.

(8) Documented ownership or control of the property.

(9) A copy of each relevant local zoning ordinance and documentation, if necessary, of approval from the local zoning office that the proposed dispensary location is in compliance with each local zoning ordinance.

(10) Information regarding each principal officer.

(11) Evidence of the applicant's status as a social and economic equity applicant, if applicable.

(b) Submission.--An applicant under subsection (a) shall submit all required information to the department. Failure by an

applicant to submit all required information may result in the application being disqualified.

§ 9159.12. Selection criteria for micro cultivation center permits.

(a) Incomplete application.--If the department receives an application under section 9159.11 (relating to micro cultivation center permit applications) that fails to provide the required elements contained in a section, that section may not be scored.

(b) Application scoring.--The department shall, by rule, develop a merit-based scoring system in which to award micro cultivation center permits.

(c) Scoring criteria.--An applicant for a micro cultivation center permit shall be awarded points on an application as determined by the department.

(d) Anonymity.--Applications for micro cultivation center permits shall be scored by the department anonymously in accordance with regulations promulgated by the department, which shall include tie-breaker language that governs the process through which some applicants are to be awarded permits when multiple applicants receive the same application score and the awarding of permits to all tied applicants would result in awarding more permits than is permissible under this chapter. A tie-breaking process shall be designed to ensure clarity, transparency and fairness.

(e) Review.--Each application for a micro cultivation center permit shall be reviewed and scored by three individuals who score each application independently. An applicant's score in each category under subsection (c) shall be an average of the

three scores awarded by each individual score. An applicant may not receive full points simply for providing responsive information on a section of the application.

(f) Award of points.--Except in the case when an applicant for a micro cultivation center permit provides necessary documentation of a status as a social and economic equity applicant or an existing farming operation, the scoring system developed by the department shall be designed to ensure that the applicant does not receive full points merely for providing responsive information on a section of the application.

§ 9159.13. (Reserved).

§ 9159.14. Micro cultivation center requirements and prohibitions.

(a) Operating documents.--The operating documents of a micro cultivation center shall include procedures for the oversight of the micro cultivation center, tracking cannabis, including a physical inventory recorded weekly, accurate recordkeeping and a staffing plan.

(b) Security plan.--A micro cultivation center shall implement a security plan that includes facility access controls, perimeter intrusion detection systems, personnel identification systems and a 24-hour surveillance system to monitor the interior and exterior of the micro cultivation center that is accessible to authorized law enforcement and the department in real time.

(c) Facility requirements.--All cultivation of cannabis by a micro cultivation center shall take place in an enclosed, locked facility at the physical address provided to the department

during the permitting process. The micro cultivation center location shall only be accessed by the cannabis business establishment agents working for the micro cultivation center, the department staff performing inspections, Commonwealth and local law enforcement or other emergency personnel, contractors working on jobs unrelated to cannabis, individuals in a mentoring or educational program approved by the State or other individuals as provided by rule. If a micro cultivation center shares a premises with a dispensing organization, agents from those other permittees may access the micro cultivation center portion of the premises if the location point is a common area for access to bathrooms, lunchrooms, locker rooms or other areas of the building where work or cultivation of cannabis is not performed. At no time may a dispensing organization agent perform work at a micro cultivation center without being an employee of the micro cultivation center.

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

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

(f) Price discrimination.--A micro cultivation center may not either directly or indirectly discriminate in price between different cannabis business establishments that are purchasing a like grade, strain, brand and quality of cannabis or cannabis-infused edible or nonedible product. Nothing in this subsection shall prevent a micro cultivation center from pricing cannabis

differently based on cannabinoid content, differences in the cost of manufacturing, processing, quantities sold, such as volume discounts, or the method of product delivery.

(g) Data collection system.--All cannabis harvested by a micro cultivation center and intended for distribution to a dispensing organization shall be entered into a data collection system, packaged and labeled in compliance with this chapter and any regulations promulgated by the department and, if the distribution is to a dispensing organization that does not share a premises with the dispensing organization receiving the cannabis, placed into a cannabis container for transport.

(h) Random inspection.--A micro cultivation center shall be subject to random inspections by the department.

(i) Notification of loss or theft.--A cannabis business establishment agent shall notify local law enforcement, the Pennsylvania State Police and the department within 24 hours of the discovery of any loss or theft. A notification under this subsection shall be made by phone, in person or by written or electronic communication.

(j) Pesticides.--A micro cultivation center shall comply with all Federal and State rules and regulations regarding the use of pesticides in addition to any regulations promulgated by the department.

(k) Transportation.--A micro cultivation center or cannabis business establishment agent shall be permitted to transport cannabis or cannabis-infused edible and nonedible products to any other cannabis business establishment. A micro cultivation center may alternatively enter into a contract with a dispensing

organization or a laboratory related to the transport of cannabis.

(1) Compliance.--A micro cultivation center shall comply with any other requirements or prohibitions specified by regulations of the department.

§ 9159.15. Cannabis business establishment agent identification cards.

(a) Required form.--The department shall promulgate regulations detailing the form required for an initial application or renewal application for a cannabis business establishment agent identification card submitted under this chapter. The form shall include all of the following:

(1) A nonrefundable fee to accompany the initial application or renewal application.

(2) A fingerprinting and background check requirement.

(3) Means to submit the initial application or renewal application via electronic means.

(b) Verification.--The department shall verify the information contained in an initial application or renewal application for a cannabis business establishment agent identification card submitted under this chapter and approve or deny the application within 14 days of receiving the completed application and all supporting documentation required by regulations of the department.

(c) Duties of establishment.--The cannabis business establishment:

(1) shall print and issue a cannabis business establishment agent identification card to a qualifying agent

within 14 business days of approving the initial application or renewal application; and

(2) may allow a cannabis business establishment agent to work at a cannabis business establishment after the agent's application has been approved but prior to issuance of the cannabis business establishment agent identification card.

(d) Identification.--An agent shall keep the cannabis business establishment agent identification card under this section visible at all times when on the property of the cannabis business establishment where the agent is employed, unless the agent is working after being approved as an agent by the department but prior to the receipt of the cannabis business establishment agent's identification card.

(e) Identification card requirements.--The cannabis business establishment agent identification card shall contain the following:

(1) The name of the cardholder.

(2) The date of issuance and expiration date of the cannabis business establishment agent identification card.

(3) A random 10-digit alphanumeric identification number containing at least four numbers and at least four letters that is unique to the holder.

(4) A photograph of the cardholder.

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

§ 9159.16. Background check for cannabis business establishment



applicants.

(a) Background check.--The department shall require a criminal history record check, through the Pennsylvania State Police, of the prospective principal officers, board members and agents of a cannabis business establishment applying for permits or identification cards under this chapter. The Pennsylvania State Police shall charge a fee set by rule for conducting the criminal history record check and may not exceed the actual cost of the record check. In order to carry out the provisions of this section, each cannabis business establishment's prospective principal officer, board member or agents shall submit a full set of fingerprints to the Pennsylvania State Police for the purpose of obtaining a Federal and State criminal record check. Fingerprints shall be checked against the fingerprint records now and hereafter, to the extent allowed by law, filed in the Pennsylvania State Police and Federal Bureau of Investigation criminal history records databases. The Pennsylvania State Police shall furnish, following positive identification, all conviction information to the department. Background checks for all prospective principal officers, board members and agents shall be completed concurrent with submitting an application to the department. An agent may begin working at a cannabis business establishment while waiting for the result of any background check.

(b) Construction.--Nothing in this section or chapter shall be construed to prevent or otherwise inhibit the ability of an otherwise qualified individual from serving as a principal officer, board member or agent of a cannabis business

establishment on the sole basis of a nonviolent criminal conviction related to cannabis.

§ 9159.17. Renewal of cannabis business establishment permits and cannabis business establishment agent identification cards.

(a) Renewal.--A permit or agent identification card issued under this chapter shall be renewed every four years. A cannabis business establishment and agent shall receive written or electronic notice no later than 90 days before the expiration of the permit or card. The department shall grant a renewal within 30 days of submission of a renewal application if:

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

(2) the permit or agent identification card has not been suspended or revoked for violating this chapter or regulations adopted under this chapter;

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

(4) the cannabis business establishment has submitted an agent, employee, contracting and subcontracting diversity report as required by the department.

(b) In the event the department has not completed its review of a permittee's renewal application, and the renewal application was submitted as required in this subchapter, the permittee's permit shall remain active and in good standing

until such time as the department completes their review and issues a renewed permit or denial.

(c) Failure to renew license.--If a cannabis business establishment fails to renew the establishment's permit prior to license expiration, the establishment shall cease operations until the permit is renewed, unless otherwise permitted by the department.

(d) Failure to renew identification card.--If a cannabis business establishment or cannabis business establishment agent fails to renew a cannabis business establishment permit or the agent identification card prior to expiration, the cannabis business establishment or cannabis business establishment agent shall cease to operate as a cannabis business establishment or work as an agent of a cannabis business establishment, as applicable, until the cannabis business establishment permit or agent identification card is renewed, unless otherwise permitted by the department.

(e) Disciplinary action and fines.--A cannabis business establishment that continues to operate, or any cannabis business establishment agent who continues to work as an agent, after the applicable permit or cannabis business establishment agent identification card has expired without renewal, absent department permission, shall be subject to disciplinary action by the department.

(f) Collection of fees and fines.--All fees or fines collected from the renewal of a cannabis business establishment permit or agent identification card shall be deposited into the Cannabis Regulation Fund.

SUBCHAPTER GENFORCEMENT AND IMMUNITIES

Sec.

9161. Permit discipline.

9162. Immunities and presumptions relating to handling of  
cannabis by cannabis business establishments and  
agents.

9163. Commonwealth standards and requirements.

9164. Violation of tax acts and refusal, revocation or  
suspension of permit or agent identification card.

§ 9161. Permit discipline.

(a) Department actions.--Notwithstanding any other civil or  
criminal penalties related to the unlawful possession of  
cannabis, the department may take disciplinary or  
nondisciplinary action as the department deems proper with  
regard to a cannabis business establishment or cannabis business  
establishment agent, including fines not to exceed \$5,000 for  
each violation of this chapter or regulations promulgated by the  
department.

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

§ 9162. Immunities and presumptions relating to handling of

cannabis by cannabis business establishments and agents.

(a) Immunities and presumptions.--A cannabis business establishment or an agent shall not be subject to the following based solely on conduct that is lawful under this chapter or any regulations promulgated under this chapter:

(1) Prosecution.

(2) Search or inspection, except by the department or under the authority of the department or a State or local law enforcement agency under this chapter.

(3) Seizure.

(4) Denial of any right or privilege.

(5) Penalty in any manner, or denial of any right or privilege, including civil penalty or disciplinary action by a business permitting or licensing board or entity for working for a cannabis business establishment under this chapter and regulations adopted under this chapter.

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

(c) Laws of this Commonwealth.--Nothing in this chapter

shall be construed to preclude State or local law enforcement from searching an adult use cultivation center, micro cultivation center or dispensing organization if there is probable cause to believe that the laws of this Commonwealth have been violated and the search is conducted in conformance with law.

(d) Attorney General investigation.--Nothing in this chapter shall be construed to preclude the Attorney General or other authorized government agency from investigating or bringing a civil action against a cannabis business establishment or an agent of a cannabis business establishment for a violation of Commonwealth law, including civil rights violations and violations of the act of December 17, 1968 (P.L.1224, No.387), known as the Unfair Trade Practices and Consumer Protection Law.  
§ 9163. Commonwealth standards and requirements.

Any standards, requirements and regulations regarding the health and safety, environmental protection, testing, security, food safety and worker protections established by the Commonwealth shall be the minimum standards for all permittees under this chapter, where applicable. Knowing violations of any Commonwealth or local law, ordinance or regulation conferring worker protections or legal rights on the employees of a permittee may be grounds for disciplinary action in addition to applicable penalties under this chapter.

§ 9164. Violation of tax acts and refusal, revocation or suspension of permit or agent identification card.

(a) General rule.--In addition to other grounds specified in this chapter, the department, upon notification by the

Department of Revenue, shall refuse the issuance or renewal of a permit or agent identification card or suspend or revoke the permit or agent identification card of any person for any of the following:

(1) Failure to file a tax return.

(2) The filing of a fraudulent tax return.

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

(4) Failure to keep books and records in accordance with this chapter or the regulations promulgated by the department.

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

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

(b) Resolution.--The Department of Revenue, after a violation under subsection (a) has been corrected or resolved, shall, upon request of the subject of the violation, notify the department that the violation has been corrected or resolved. Upon receiving notice from the Department of Revenue that a violation under subsection (a) has been corrected or otherwise resolved, the department may issue or renew the permit or agent identification card or vacate an order of suspension or revocation.

#### SUBCHAPTER H

#### LABORATORY TESTING

Sec.

9171. Laboratory testing requirements and prohibitions.

§ 9171. Laboratory testing requirements and prohibitions.

(a) Legality.--Notwithstanding any other provision of law, the following actions, when performed by a cannabis testing facility with a current, valid registration or an individual 21 years of age or older who is acting in official capacity as an owner, employee or agent of a cannabis testing facility, may not be determined to be unlawful and may not be an offense or be a basis for seizure or forfeiture of assets under the laws of this Commonwealth:

(1) possessing, repackaging, transporting or storing cannabis or cannabis-infused edible or nonedible products;

(2) receiving or transporting cannabis or cannabis-infused edible or nonedible products from a cannabis business establishment; and

(3) returning or transporting cannabis or cannabis-infused edible or nonedible products to a cannabis business establishment.

(b) Prohibition.--A laboratory at a cannabis testing facility may not handle, test or analyze cannabis unless approved by the department in accordance with this section. A laboratory at a cannabis testing facility may not be approved to handle, test or analyze cannabis unless the laboratory:

(1) is accredited by a private laboratory accrediting organization;

(2) does not have a direct or indirect financial, management or other interest in an adult use cultivation center, micro cultivation center, dispensing organization or



medical marijuana grower/processor in this Commonwealth or is affiliated with a certifying physician under Chapter 93 (relating to medical marijuana);

(3) has employed at least one individual to oversee and be responsible for the laboratory testing who has earned, from a college or university accredited by a national or regional certifying authority, at least:

(i) a master's level degree in chemical or biological sciences and a minimum of two years' postdegree laboratory experience; or

(ii) a bachelor's degree in chemical or biological sciences and a minimum of four years' postdegree laboratory experience; and

(4) provides the department with a copy of the most recent annual inspection report granting accreditation and every annual report thereafter.

(c) Random sample.--

(1) Immediately prior to selling any cannabis or cannabis-infused edible or nonedible product or packaging cannabis for sale to a dispensing organization, each batch shall be made available by the adult use cultivation center or micro cultivation center for an employee of an approved laboratory at a cannabis testing facility to select a random sample, which shall be tested by the approved laboratory for:

(i) microbiological contaminants;

(ii) mycotoxins;

(iii) pesticide active ingredients;

(iv) heavy metals;

(v) residual solvent;

(vi) an active ingredient analysis; and

(vii) THC potency.

(2) The department shall only require cannabis or cannabis-infused edible and nonedible products to be tested one time in its final form before the cannabis or cannabis-infused edible and nonedible products can be sold to a dispensing organization for sale to purchasers.

(d) Department sample.--The department may select a random sample that shall, for the purposes of conducting an active ingredient analysis, be tested by a laboratory chosen by the department for verification of label information.

(e) Disposal of sample.--A laboratory at a cannabis testing facility shall immediately return or dispose of any cannabis upon the completion of any testing, use or research. Any cannabis that is disposed of shall be done in accordance with the department's regulations related to cannabis waste.

(f) Sample failure.--If a sample of cannabis does not pass testing under subsection (c) based on the standards established by the department, the following shall apply:

(1) The sample may be retested, with or without remediation, up to three additional times after a failed test.

(2) After a fourth failed test, or at the choosing of the cannabis business establishment, the batch may be used to make a CO2-based or solvent-based extract. After processing, the CO2-based or solvent-based extract shall still pass all required tests.

(3) Seeds, immature cannabis plants, cannabis plants, cannabis flowers or cannabis-infused edible or nonedible products may be remediated at any time prior to cannabis or cannabis-infused edible or nonedible products being provided to dispensing organizations for sale to purchasers under this chapter, including after any failed test performed by an independent laboratory under subsection (c) based on the standards established by the department, as long as the cannabis or cannabis-infused edible or nonedible products being provided to dispensing organizations ultimately passes independent laboratory testing under subsection (c) based on the standards established by the department.

(g) Department testing standards.--The department shall establish standards for contaminant under subsection (c) and shall develop labeling requirements for contents and potency. The department shall ensure standards under this subsection are comparable to those set by other established adult use cannabis markets and shall publicly disclose the basis for any standards set.

(h) Copy of test results.--A laboratory at a cannabis testing facility shall file with the department an electronic copy of each laboratory test result for any batch that does not pass testing under subsection (c) at the same time that it transmits those results to the adult use cultivation center or micro cultivation center. The testing laboratory shall maintain the laboratory test results for at least five years and make test results available at the department's request for the same period.

(i) Results.--An adult use cultivation center or micro cultivation center shall provide to a dispensing organization the laboratory test results for each batch of cannabis-infused edible or nonedible product purchased by the dispensing organization, if sampled. Each dispensing organization shall have those laboratory results available upon request to purchasers.

(j) Additional regulations permitted.--The department shall promulgate regulations relating to testing in furtherance of and consistent with this chapter.

#### SUBCHAPTER I

#### ADVERTISING, MARKETING, PACKAGING AND LABELING

Sec.

9181. Advertising and promotions.

9182. Cannabis-infused edible and nonedible product packaging and labeling.

§ 9181. Advertising and promotions.

(a) A cannabis business establishment shall be permitted to advertise and market cannabis and cannabis-infused edible and nonedible products, including through discounts and promotional programs. A cannabis business establishment may only be restricted in advertising and marketing to the extent that any advertising or marketing contains any statement or image that:

(1) is false or misleading;

(2) promotes over-consumption of cannabis or cannabis-infused edible and nonedible products;

(3) depicts a person under 21 years of age consuming cannabis;

(4) makes any unsupported health claims about cannabis, cannabis-infused edible or nonedible products or cannabis concentrates; or

(5) includes any image designed or likely to appeal to a minor.

(b) For purposes of this subchapter, a qualified health claim is defined as a claim supported by scientific evidence, but does not meet the more rigorous significant scientific agreement standard required for an authorized health claim. To ensure that these claims are not misleading, they must be accompanied by a disclaimer or other qualifying language to accurately communicate to consumers the level of scientific evidence supporting the claim.

§ 9182. Cannabis-infused edible and nonedible product packaging and labeling.

(a) Registration.--Each cannabis-infused edible and nonedible product produced for sale shall be registered with the department in a form and manner provided by the department. However, no product produced in accordance with this chapter shall require department approval prior to being produced for sale. Each product registration shall include a label containing all information required by the department.

(b) Packaging.--Cannabis or cannabis-infused edible and nonedible products intended for distribution to a dispensing organization for sale to purchasers shall be packaged in a sealed or child-resistant container or package and labeled in a manner consistent with current standards, including the Consumer Product Safety Commission standards referenced under 15 U.S.C.

Ch. 39A (relating to special packaging of household substances for protection of children).

(c) Cannabis-infused edible and nonedible product packaging.--Each cannabis-infused edible and nonedible product shall be wrapped or packaged at the original point of preparation.

(d) Cannabis-infused edible and nonedible product labeling.--Each cannabis-infused edible and nonedible product shall be labeled prior to sale. Each label shall be securely affixed to the package and shall state in legible font the following:

(1) the common or usual name of the item and the registered name of the cannabis-infused edible and nonedible product that was registered with the department under subsection (a);

(2) a unique serial number that matches the product with an adult use cultivation center or micro cultivation center batch and lot number to facilitate any warnings or recalls the department or adult use cultivation center or micro cultivation center deems appropriate;

(3) the date of final testing and packaging;

(4) the identification of the independent cannabis testing facility;

(5) the date of harvest for cannabis flower or the date of manufacture for other forms of cannabis;

(6) a "use by" date;

(7) the quantity, in ounces or grams, of cannabis contained in the product;

(8) a content list, including:

(i) The minimum and maximum percentage content by weight for:

(A) delta-9-tetrahydrocannabinol (THC);

(B) tetrahydrocannabinolic acid (THCA);

(C) cannabidiol (CBD);

(D) cannabidiolic acid (CBDA); and

(E) all other ingredients of the item, including any colors, artificial flavors and preservatives listed in descending order by predominance of weight shown with common or usual names.

(ii) (Reserved); and

(9) the acceptable tolerances for the minimum percentage shall not be below 85% or above 115% of the labeled amount.

(e) Prohibition.--Cannabis product packaging may not contain information that:

(1) is false or misleading;

(2) promotes excessive consumption;

(3) depicts a person under 21 years of age consuming cannabis; or

(4) includes any image designed or likely to appeal to a minor.

(f) Additional requirements.--The following shall apply to a cannabis-infused edible and nonedible product produced by concentrating or extracting ingredients from the cannabis plant:

(1) If solvents were used to create the concentrate or extract, a statement that discloses the type of extraction method, including any solvents or gases used to create the concentrate or extract.

(2) Disclosure of any chemicals or compounds used to produce or added to the concentrate or extract.

(3) Cannabis concentrates sold with greater than 70% THC shall indicate the product is a high-THC product on the product label.

(g) Product warning.--All cannabis, cannabis-infused edible and nonedible products and cannabis concentrates shall contain a warning on its label stating: "Cannabis consumption may impair the ability to drive or operate heavy machinery, is for adult use only and should not be used by pregnant or breastfeeding women. Keep out of reach of children."

(h) Servings.--Each cannabis-infused edible or nonedible product intended for consumption shall include on the packaging the total milligram content of THC and CBD. Each package may not include more than a total of 1,000 milligrams of THC per package with respect to cannabis-infused edible and nonedible products. A package may contain multiple servings. A cannabis-infused edible and nonedible product that consists of more than a single serving shall be marked, stamped or otherwise imprinted, by individual single serving, with a symbol or easily recognizable mark approved by the department indicating the package contains cannabis and shall be either:

(1) scored or delineated to indicate one serving, if the cannabis-infused edible or nonedible product is in solid form. As used in this paragraph, the term "delineated" includes directly marking the product to indicate one serving or providing a means by which a purchaser can accurately identify one serving; or



(2) if the cannabis-infused edible or nonedible product is not in solid form, packaged in a manner so that a single serving is readily identifiable or easily measurable.

(i) Delineation.--A cannabis-infused edible or nonedible product consisting of multiple servings shall be homogenized so that each serving contains the same concentration of THC.

(j) Alternation or destruction of packaging.--No individual other than the purchaser shall alter or destroy any labeling affixed to the primary packaging of cannabis or cannabis-infused edible or nonedible products after the cannabis or cannabis-infused edible or nonedible products have been dispensed.

#### SUBCHAPTER J

### PREPARATION, DESTRUCTION AND REGULATION OF CANNABIS AND CANNABIS-INFUSED EDIBLE AND NONEDIBLE PRODUCTS.

Sec.

9191. Preparation of cannabis-infused edible and nonedible products.

9192. Destruction of cannabis.

9193. Local ordinances.

9194. Confidentiality.

9195. Financial institutions.

9196. Contracts enforceable.

9197. Medical marijuana.

9198. Administrative rulemaking.

§ 9191. Preparation of cannabis-infused edible and nonedible products.

(a) Regulation.--The department may regulate the production of cannabis-infused edible and nonedible products, including

edibles, by an adult use cultivation center or a micro cultivation center and establish regulations related to refrigeration, hot-holding and handling of cannabis-infused edible and nonedible products. All cannabis-infused edible and nonedible products shall meet the packaging and labeling requirements specified under this chapter and any regulation promulgated by the department.

(b) Approval.--Cannabis-infused edible and nonedible products for sale or distribution at a dispensing organization shall be prepared by an approved agent of an adult use cultivation center or micro cultivation center. A dispensing organization may not manufacture, process or produce a cannabis-infused edible and nonedible product.

(c) (Reserved).

(d) Enforcement.--The department shall promulgate regulations for the manufacture and processing of cannabis-infused edible and nonedible products and may at all times enter every building, room, basement, enclosure or premises occupied or used, or suspected of being occupied or used, for the production, preparation, manufacture for sale, storage, processing, distribution or transportation of cannabis-infused edible and nonedible products. The department may inspect the premises together with all utensils, fixtures, furniture and machinery used for the preparation of products under this section.

§ 9192. Destruction of cannabis.

(a) Destruction.--All cannabis byproduct, scrap and harvested cannabis not intended for distribution to a dispensing

organization shall be destroyed and disposed of under regulations adopted by the department under this chapter.

Documentation of the destruction and disposal shall be retained at the adult use cultivation center, micro cultivation center or cannabis testing facility as applicable for a period of not less than two years.

(b) Notification prior to destruction.-- The adult use cultivation center, micro cultivation center or dispensing organization shall keep a record of the date and quantity of destruction.

(c) Unsold cannabis.--A dispensing organization shall destroy all cannabis, including cannabis-infused edible and nonedible products, not sold to purchasers by the stated date of expiration. Documentation of destruction and disposal shall be retained at the dispensing organization for a period of not less than two years.

§ 9193. Local ordinances.

Unless otherwise provided by this chapter or law:

(1) A unit of local government, including a home rule unit or any non-home-rule county within the unincorporated territory of the county, may enact reasonable zoning ordinances or resolutions, not in conflict with this chapter or rules adopted pursuant to this chapter, regulating a cannabis business establishment. No unit of local government, including a home rule unit or any non-home-rule county within the unincorporated territory of the county, may unreasonably prohibit the use of cannabis authorized by this chapter.

(2) A unit of local government, including a home rule

unit or any non-home-rule county within the unincorporated territory of the county, may enact ordinances or rules not in conflict with this chapter or with rules adopted pursuant to this chapter governing the time, place, manner and number of cannabis business establishment operations, including minimum distance limitations between cannabis business establishments and locations it deems sensitive. A unit of local government, including a home rule unit, may establish civil penalties for violation of an ordinance or rules governing the time, place and manner of operation of a cannabis business establishment in the jurisdiction of the unit of local government. No unit of local government, including a home rule unit or non-home-rule county within an unincorporated territory of the county, may unreasonably restrict the time, place, manner and number of cannabis business establishment operations authorized by this chapter.

(3) A unit of local government, including a home rule unit, or any non-home-rule county within the unincorporated territory of the county may authorize or permit the on-premises consumption of cannabis at or in a dispensing organization within its jurisdiction in a manner consistent with this chapter. A dispensing organization authorized or permitted by a unit of local government to allow on-site consumption shall not be deemed a public place under the laws of this Commonwealth.

(4) A unit of local government, including a home rule unit or any non-home-rule county within the unincorporated territory of the county, may not regulate the activities

described in paragraph (1), (2) or (3) in a manner more restrictive than the regulation of those activities by the State under this chapter.

(5) A unit of local government, including a home rule unit or any non-home-rule county within the unincorporated territory of the county, may not enact ordinances to prohibit a cannabis business establishment from locating within the unit of local government.

§ 9194. Confidentiality.

(a) Disclosure.--Information provided by cannabis business establishment permittees or applicants to the department, the Commonwealth Financing Authority, the Pennsylvania State Police or other agency shall be limited to information necessary for the purposes of administering this chapter. The information shall be subject to the provisions and limitations contained in the act of February 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law.

(b) Privacy.--The information received and records kept by the department, the Department of Community and Economic Development and the Pennsylvania State Police for purposes of administering this chapter shall be subject to all applicable Federal privacy laws and shall be confidential and exempt from disclosure under 5 U.S.C. § 552 (relating to public information; agency rules, opinions, orders, records, and proceedings), except as provided under this chapter. The information received and records kept by the department, the Department of Community and Economic Development and the Pennsylvania State Police for purposes of administering this chapter shall not be subject to

disclosure to an individual or a public or private entity, except to the department, the Commonwealth Financing Authority, the Pennsylvania State Police and the Attorney General as necessary to perform official duties under this chapter.

(c) Name and address.--The name and address of an individual or entity holding each cannabis business establishment permit shall be subject to disclosure under the Right-to-Know Law.

(d) Department information.--All information collected by the department in the course of an examination, inspection or investigation of a permittee or applicant, including any complaint against a permittee or applicant filed with the department and information collected to investigate any complaint, shall be maintained for the confidential use of the department and shall not be disclosed, except as otherwise provided under this chapter. A formal complaint against a permittee by the department or any disciplinary order issued by the department against a permittee or applicant shall be public record, except as otherwise provided by law. Complaints from consumers or members of the general public received regarding a specific, named permittee or complaints regarding conduct by entities without permits shall be subject to disclosure under the Right-to-Know Law.

(e) Background check information.--The department, the Department of Community and Economic Development and the Pennsylvania State Police may not share or disclose any Pennsylvania or national criminal history record information, or the nonexistence or lack of any information, to any individual or entity not expressly authorized by this chapter.

§ 9195. Financial institutions.

(a) Exemption.--A financial institution that provides financial services customarily provided by financial institutions to a cannabis business establishment authorized under this chapter or to a person that is affiliated with a cannabis business establishment shall be exempt from any criminal law of the Commonwealth as it relates to cannabis-related conduct authorized under State law.

(b) Confidentiality.--Information received by a financial institution from a cannabis business establishment shall be confidential. Except as otherwise required or permitted by Federal or State law or regulation, a financial institution may not make the information available to any person other than:

- (1) the purchaser to whom the information applies;
- (2) a trustee, conservator, guardian, personal representative or agent of the purchaser to whom the information applies;
- (3) a Federal or State regulator when requested in connection with an examination of the financial institution or if otherwise necessary for complying with Federal or State law;
- (4) a Federal or State regulator when requested in connection with an examination of the financial institution or if otherwise necessary for complying with Federal or State law; and
- (5) a third party performing service for the financial institution, provided the third party is performing services under a written agreement that expressly or by operation of

law prohibits the third party's sharing and use of confidential information for any purpose other than as provided in its agreement to provide services to the financial institution.

§ 9196. Contracts enforceable.

Contracts related to the operation of a lawful cannabis business establishment under this chapter shall be enforceable. No contract entered into by a lawful cannabis business establishment or its agents on behalf of a cannabis business establishment, or by those who allow property to be used by a cannabis business establishment, shall be unenforceable on the basis that cultivating, obtaining, manufacturing, processing, distributing, dispensing, transporting, selling, possessing or using cannabis is prohibited by Federal law.

§ 9197. Medical marijuana.

(a) Construction.--Nothing in this chapter shall be construed to limit any privileges or rights of a medical marijuana patient, including minor patients, or primary caregivers under Chapter 93 (relating to medical marijuana).

(b) Sale permitted.--Dispensary locations permitted under this chapter shall be authorized to sell cannabis to adult use purchasers, unless the dispensing organization additionally maintains medical marijuana permits pursuant to Chapter 93.

§ 9198. Administrative rulemaking.

No later than 180 days after the promulgation of temporary regulations, the department and each Commonwealth agency or department with regulatory responsibility under this chapter shall promulgate regulations in accordance with the duties



required under this chapter. The failure by a Commonwealth agency or department with regulatory responsibility under this chapter to promulgate regulations within 180 days of the promulgation of temporary regulations shall not delay or otherwise impede a cannabis business establishment from commencing operations in accordance with this chapter.

## SUBCHAPTER K

### TAXES

Sec.

9199.1. Imposition of sales tax and excise tax.

9199.2. Cannabis Regulation Fund and distribution of revenue.

9199.3. Tax deduction for eligible cannabis business establishments.

§ 9199.1. Imposition of sales tax and excise tax.

(a) Rate of sales tax.--A sales tax is imposed at the rate of 8% of the sales price for cannabis and cannabis-infused edible and nonedible products sold or otherwise transferred to any person other than a cannabis business establishment.

(b) Deposit of sales tax.--Sales tax revenue under subsection (a) shall be deposited into the Cannabis Regulation Fund.

(c) Rate of excise tax.--In addition to all other applicable taxes, an excise tax is imposed on each dispensing organization at the rate of 5% of the sales price for cannabis sold for adult use or otherwise transferred to any person other than a cannabis business establishment. Except as otherwise provided by regulation, a product subject to the tax imposed under this subsection may not be bundled in a single transaction with a

product or service that is not subject to the tax imposed under this subsection.

(d) Deposit of excise tax.--Excise tax revenue under subsection (c) shall be deposited into the Cannabis Regulation Fund.

§ 9199.2. Cannabis Regulation Fund and distribution of revenue.

(a) Establishment.--The Cannabis Regulation Fund is established in the State Treasury. Money in the fund is appropriated as specified under subsection (c). Any amount unspent at the end of a fiscal year shall be transferred to the General Fund if there has been an appropriation from the General Fund for the operations of the department.

(b) Deposit.--Fees and taxes payable to the Cannabis Regulation Fund under this chapter shall be deposited in the Cannabis Regulation Fund, other than tax revenue disbursed to municipalities and counties specified under subsection (e). The money deposited into the Cannabis Regulation Fund may only be used for the purposes specified under this section. Any interest accrued shall be deposited into the Cannabis Regulation Fund.

(c) Allocation.--Money in the Cannabis Regulation Fund shall be allocated in accordance with the following:

(1) Two percent of gross receipts of the revenue in the Cannabis Regulation Fund is appropriated to the department as necessary for actual costs and expenses, including staffing expenses and expenses related to administering and enforcing this chapter.

(2) The amount of \$3,000,000 is transferred annually to the Cannabis Business Development Fund from gross receipts of

the revenue in the Cannabis Regulation Fund.

(3) The remainder of the money in the Cannabis Regulation Fund is transferred to the General Fund to provide economic relief to this Commonwealth.

(d) Administration.--The Department of Revenue shall administer the taxes imposed under this chapter and may promulgate regulations that prescribe a method and manner for payment of the tax to ensure proper tax collection under this chapter.

(e) Disbursement.--Revenue from all taxes collected under this chapter shall be disbursed as follows:

(1) 10% of the revenue shall be disbursed to municipalities in which a cannabis business establishment is located, disbursed in proportion to the number of cannabis business establishments within the municipality;

(i) If a cannabis business establishment is located within a city of the first class or city of the second class all applicable tax revenue under this subsection shall be disbursed directly to the Commonwealth Financing Authority for deposit into the local share accounts for such cities.

(2) 50% of the revenue shall be deposited in the Cannabis Regulation Fund;

(3) 15% of the revenue shall be used by the department to establish the following:

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

ensure maximum availability to individuals with financial need;

(ii) a program to assist patients and caregivers with the cost associated with the waiver or reduction of fees for identification cards under sections 9331(c)(5) (relating to identification cards) and 9332(a)(2) (relating to caregivers); and

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

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

(5) To the Pennsylvania Commission on Crime and Delinquency, 10% of the revenue in the fund for distribution to local police departments which demonstrate a need relating to the enforcement of this chapter, and 5% of the revenue in the fund to be used for indigent defense services.

§ 9199.3. Tax deduction for eligible cannabis business

establishments. -- A tax deduction shall be allowed from the taxable income of a cannabis business establishment, as defined in this Act, in the amount of the ordinary and necessary expenses paid or incurred during the taxable year by the cannabis business establishment which are ordinarily deductible for federal income tax purposes under 26 U.S.C. § 162 (relating to trade or business expenses). The deduction shall only be permitted to the extent deductions for expenses under 26 U.S.C. § 162 were not taken by the cannabis business

establishment for federal income tax purposes for the taxable year.

SUBCHAPTER L

CANNABIS CLEAN SLATE

Sec.

9199.11. Cannabis clean slate.

§ 9199.11. Cannabis clean slate.

(a) General rule.--An individual who has been arrested for, charged with or convicted under section 13(a)(30) or (31) of the act of April 14, 1972 (P.L.233, No.64), known as The Controlled Substance, Drug, Device and Cosmetic Act, shall have the individual's criminal history related to the criminal proceeding expunged in accordance with subsection (b). This subsection shall only apply to nonviolent offenses.

(b) Expungement process.--

(1) The Administrative Office of Pennsylvania Courts shall, within six months of the effective date of this paragraph, transmit to the Pennsylvania State Police central repository all records related to an arrest or conviction under subsection (a) for expungement.

(2) If the Pennsylvania State Police determines a record transmitted under paragraph (1) is not eligible for expungement, it shall notify the Administrative Office of Pennsylvania Courts of the determination within 30 days of receiving the information. Upon expiration of the 30-day period, the Administrative Office of Pennsylvania Courts shall provide to the court of common pleas in which the

arrest or adjudication occurred a list of all records eligible for expungement. Within 30 days of receiving the list, the court of common pleas shall order the expungement of all criminal history records received under this section and all administrative records of the Department of Transportation relating to the criminal history records received under this section.

(c) Resentencing process. -

(1) An individual currently serving a sentence for a conviction under the Pennsylvania Controlled Substance, Drug, Device and Cosmetic Act related to the manufacture, delivery, or possession of marijuana, including, but not limited to section 13(a)(30) or (31), that would have been lawful if this Act had been in effect at the time of the offense, may petition for a dismissal of sentence before the trial court that entered the judgement of conviction in his or her case to request resentencing.

(2) An individual with a prior conviction under the Pennsylvania Controlled Substance, Drug, Device and Cosmetic Act related to the manufacture, delivery, or possession of marijuana including, but not limited to section 13(a)(30) or (31), that would have been lawful if this Act had been in effect at the time of the offense, who is currently serving a sentence for a subsequent conviction of any kind and whose prior conviction under the Pennsylvania Controlled Substance, Drug, Device and Cosmetic Act may have led to an increased sentence for the current conviction may petition for a dismissal of sentence before the trial court that entered the

judgement of conviction in his or her case to request resentencing.

(3) Following review of the petition by the court, if the individual is found to be eligible for resentencing the court shall notify the prosecution and any other relevant parties to allow for the presentation of arguments or evidence regarding the request.

(d) Release of inmates.--A court of common pleas that has received an expungement order for a person currently incarcerated for the crime for which the court received the expungement order shall transmit to the appropriate county correctional institution or State correctional institution, as defined under 61 Pa.C.S. § 102 (relating to definitions), an order for the immediate release or discharge of the individual whose record has been ordered to be expunged.

(e) Motor vehicle operation privileges.--The Bureau of Motor Vehicles shall reinstate an individual's suspended or revoked motor vehicle operation privileges that were suspended or revoked as a result of the individual's conviction that has been expunged under this section.

(f) Reinstatement of license or registration.--A license or registration that has been suspended or revoked under section 23 of The Controlled Substance, Drug, Device and Cosmetic Act due to an arrest or conviction that has been expunged under this section shall be reinstated.

(g) Workplace. --

(1) This section is not intended to prohibit an employer from adopting reasonable policies restricting the use,

consumption, possession, transfer, display, transportation, sale, or growing of cannabis or cannabis products by employees in the workplace for adult use.

(2) The following shall apply to drug screening tests:

(i) Drug Screening tests may be permissible for any position of employment that is a safety-sensitive position.

(ii) A random drug screening test showing the mere presence of a nonintoxicating level of cannabis may not be the basis of a termination of employment or any other disciplinary action against the employee.

(iii) Except as otherwise specifically provided by law:

(A) An employer may not refuse to hire a prospective employee because the results of a drug screening test indicate the presence of cannabis.

(B) If an employer requires an employee to submit to a drug screening test within the first 30 days of employment, the employee shall have the right to submit to an additional drug screening test, at the employee's own expense, to rebut the results of the initial drug screening test. The employer shall accept and give appropriate consideration to the results of the additional drug screening test.

(iv) The provisions of subparagraph (2) (iii) shall not apply:

(A) To the extent that the provisions are inconsistent or otherwise in conflict with the provisions of an employment contract or collective



bargaining agreement regarding the employee;

(B) To the extent that the provisions are inconsistent or otherwise in conflict with Federal law;

(C) To a position of employment that is funded by a Federal grant.

(3) Definitions. -- As used in this paragraph, the following words and phrases shall have the meanings given to them in this subparagraph unless the context clearly indicates otherwise:

"Drug screening test." A test of an individual's blood, urine, hair, or saliva to detect the general presence of a controlled substance or any other drug.

"Safety-Sensitive Position". A position that requires any activity that an employer reasonably believes presents a potential risk of harm to the health or safety of an employee, others, or the public while under the influence of medical marijuana or cannabis for adult use, including, but not limited to:

(1) duties performed at heights or in confined spaces, including, but not limited to mining.

(2) the operation of a motor vehicle, aircraft, watercraft, snowmobile, or other vehicles, equipment, machinery, or power tools.

(3) repairing, maintaining, or monitoring the performance or operation of any equipment, machinery, or manufacturing process, the malfunction or disruption of which could

result in injury or property damage.

(4) performing firefighting or law enforcement duties.

(5) the operation, maintenance, or oversight of critical services and infrastructure, including, but not limited to, electric, gas, and water utilities, power generation or distribution.

(6) the extraction, compression, processing, manufacturing, handling, packaging, storage, disposal, treatment, or transport of potentially volatile, flammable, combustible materials, elements, chemicals, or other highly regulated components.

(7) dispensing pharmaceuticals.

(8) a position that requires the employee to carry a firearm.

(9) direct patient care or direct childcare.

#### SUBCHAPTER M

#### MISCELLANEOUS PROVISIONS

Sec.

9199.21. Conflicts.

9199.22. (Reserved).

9199.23. Implementation.

§ 9199.21. Conflicts.

The cultivation, processing, manufacture, acquisition, transportation, sale, dispensing, distribution, possession and consumption of cannabis permitted under this chapter shall not

be deemed to be a violation of the act of April 14, 1972 (P.L.233, No.64), known as The Controlled Substance, Drug, Device and Cosmetic Act. If a provision of the Controlled Substance, Drug, Device and Cosmetic Act relating to cannabis conflicts with a provision of this chapter, this chapter shall take precedence.

§ 9199.22. (Reserved).

§ 9199.23. Implementation.

The issuance of licenses and other authorizations specified under this chapter shall begin no later than 90 days after the effective date of this section.

### CHAPTER 93

#### MEDICAL MARIJUANA

##### Subchapter

A. Preliminary Provisions

B. Program

C. Practitioners

D. Patients

E. Medical Marijuana Organizations

F. Medical Marijuana Controls

G. Dispensaries

H. Administration

I. Medical Marijuana Advisory Board

J. Offenses Related to Medical Marijuana

K. Academic Clinical Research Centers and Clinical

##### Registrants

L. Miscellaneous Provisions

#### SUBCHAPTER A

PRELIMINARY PROVISIONS

Sec.

9301. Scope of chapter.

9302. Declaration of policy.

9303. Definitions.

§ 9301. Scope of chapter.

This chapter relates to the regulation and use of medical marijuana in this Commonwealth.

§ 9302. Declaration of policy.

The General Assembly finds and declares as follows:

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

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

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

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

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

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

(4) It is the further intention of the General Assembly

that any Commonwealth-based program to provide access to medical marijuana serve as a temporary measure, pending Federal approval of and access to medical marijuana through traditional medical and pharmaceutical avenues.

§ 9303. Definitions.

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

"Advisory board." The advisory board established under section 9391 (relating to advisory board).

"Cannabis". As follows:

(1) Any of the following:

(i) Marijuana, hashish or other substances that are identified as including any parts of the plant Cannabis sativa and including derivatives or subspecies, such as indica, of all strains of cannabis, whether growing or not, including the seeds, resin extracted from any part of the plant and any compound, manufacture, salt, derivative, mixture or preparation of the plant. The term includes THC and all other naturally or synthetically produced cannabinol derivatives, whether produced directly or indirectly by extraction, including, delta-7 THC, delta-8 THC, delta-9 THC or any structural, optical or geometric isomers of tetrahydrocannabinol, cannabis flower, concentrate and cannabis-infused edible and nonedible products.

(ii) A product intended for human consumption with a THC concentration, however derived, greater than:

- (a) 0.3 percent for any intermediate or finished plant product or material, or any product intended for consumption by inhalation or smoking; or
- (b) 0.5 milligrams per serving or individual product unit, and 2 milligrams per package for products sold in multiple servings or units, for any beverage, food, oil, ointment, tincture, topical formation, or any other product that is intended for consumption by means other than inhalation or smoking.

(2) The term does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant or any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks, the sterilized seed of the plant that is incapable of germination or industrial hemp as defined in 3 Pa.C.S. § 702 (relating to definitions) below the THC concentration limits prescribed in subsection (ii) of this Section.

"Cannabis-infused edible product." A product meant to be chewed, dissolved, taken sublingually or swallowed. The term includes liquids, including beverages, food, oil, tincture, capsule, tablet, gummies or other ingestible forms containing cannabis or cannabis concentrate that is not intended to be smoked or otherwise inhaled.

"Cannabis-infused nonedible product." A product meant to be used topically or otherwise not intended to be ingested. The term includes gels, creams, patches or ointments containing

cannabis or cannabis concentrate.

"Caregiver." The term includes the following entities designated to deliver medical marijuana:

(1) An individual designated by a patient.

(2) If the patient is under 18 years of age, an individual under section 9337(2) (relating to minors).

(3) Individuals designated in writing, for purposes of section 9332 (relating to caregivers), by an organization that provides hospice, palliative or home health care services and:

(i) are employed by an organization that is licensed under the act of July 19, 1979 (P.L.130, No.48), known as the Health Care Facilities Act;

(ii) have significant responsibility for managing the health care and well-being of a patient; and

(iii) were designated by the organization to provide care to a patient who has provided authorization for the designation.

(4) Individuals designated in writing, for purposes of section 9332, by a residential facility, including a long-term care nursing facility, skilled nursing facility, assisted living facility, personal care home, independent long-term care facility or intermediate care facility for individuals with intellectual disabilities that:

(i) are licensed by the department or the Department of Human Services;

(ii) have significant responsibility for managing the health care and well-being of the patient; and

(iii) were designated by the residential facility to provide care to a patient who has provided authorization for the designation.

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

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

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

"Controlling interest." As follows:

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

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

"Department." The Department of Agriculture of the



Commonwealth.

"Dispensary." A person, including a natural person, corporation, partnership, association, trust or other entity, or any combination thereof, which holds a permit issued by the department to dispense medical marijuana.

"Excipients." Solvents, chemicals or materials reported by a medical marijuana organization and approved by the department for use in the processing of medical marijuana.

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

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

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

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

"Fund." The Medical Marijuana Program Fund established in section 9372 (relating to Medical Marijuana Program Fund).

"Grower/processor." A person, including a natural person, corporation, partnership, association, trust or other entity, or any combination thereof, which holds a permit from the department under this chapter to grow and process medical

marijuana.

"Harvest batch." A specifically identified quantity of medical marijuana plant that is uniform in strain, cultivated utilizing the same growing practices, harvested at the same time and at the same location and cured under uniform conditions.

"Harvest lot." A specifically identified quantity of medical marijuana plant taken from a harvest batch.

"Identification card." A document issued under section 9331 (relating to identification cards) that authorizes access to medical marijuana under this chapter.

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

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

"Medical marijuana organization." A dispensary or a grower/processor.

"Medical marijuana product." The final form and dosage of medical marijuana that is grown, processed, produced, sealed, labeled and tested by a grower/processor and sold to a dispensary.

"Patient." An individual who:

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

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

"Practitioner." A physician who is registered with the

department under section 9321 (relating to practitioner registration).

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

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

"Process lot." An amount of a medical marijuana product of the same type and processed using the same medical marijuana extract, standard operating procedures and the same or combination of different harvest lots.

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

"Research initiative." A nonpatient investigation not subject to Institutional Review Board or Research Approval Committee approval requirements of a patient-based research program, project or study, conducted by an academic clinical research center and its contracted clinical registrant.

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

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

"Serious medical condition." Any of the following:

- (1) Cancer, including remission therapy.

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

(3) Amyotrophic lateral sclerosis.

(4) Parkinson's disease.

(5) Multiple sclerosis.

(6) Damage to the nervous tissue of the central nervous system (brain-spinal cord) with objective neurological indication of intractable spasticity and other associated neuropathies.

(7) Epilepsy.

(8) Inflammatory bowel disease.

(9) Neuropathies.

(10) Huntington's disease.

(11) Crohn's disease.

(12) Posttraumatic stress disorder.

(13) Intractable seizures.

(14) Glaucoma.

(15) Sickle cell anemia.

(16) Severe chronic or intractable pain of neuropathic origin or severe chronic or intractable pain.

(17) Autism.

(18) Anxiety disorders.

(19) Chronic Hepatitis C.

(20) Dyskinetic and spastic movement disorder.

(21) Neurodegenerative diseases.

(22) Opioid use disorder for which conventional therapeutic interventions are contraindicated or ineffective, or for which adjunctive therapy is indicated in combination

with primary therapeutic interventions.

(23) Terminal illness.

(24) Tourette syndrome.

(25) Other conditions certified by the practitioner.

"Synchronous interaction." A two-way or multiple-way exchange of information between a patient and a health care provider that occurs in real time via audio or video conferencing.

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

#### SUBCHAPTER B

##### PROGRAM

Sec.

9311. Program established.

9312. Confidentiality and public disclosure.

9313. Lawful use of medical marijuana.

9314. (Reserved).

§ 9311. Program established.

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

(1) Issue permits to medical marijuana organizations to authorize them to grow, process or dispense medical marijuana and ensure their compliance with this chapter.

(2) Register practitioners and ensure their compliance

with this chapter.

(3) Have regulatory and enforcement authority over the growing, processing, sale and use of medical marijuana in this Commonwealth.

(4) Establish and maintain an electronic database to include activities and information relating to medical marijuana organizations, certifications and identification cards issued, practitioner registration and electronic tracking of all medical marijuana as required under this chapter to include:

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

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

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

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

(v) The tracking system under section 9351 (relating to electronic tracking) must include information under section 9361(a) (relating to dispensing to patients and caregivers) and any other information required by the department to be used by the department and dispensaries to enable a dispensary to lawfully provide medical marijuana. The tracking system and database shall be

capable of providing information in real time. The database shall be capable of receiving information from a dispensary regarding the disbursement of medical marijuana to patients and caregivers. This information shall be immediately accessible to the department and other dispensaries to inhibit diversion and ensure compliance with this chapter.

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

(6) (reserved).

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

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

(ii) Proper handling of medical marijuana and recordkeeping.

(iii) Any other subject required by the department.

(8) Develop enforcement procedures, including announced

and unannounced inspections of facilities of the grower/processors and dispensaries and all records of the medical marijuana organizations.

(9) Establish a program to authorize the use of medical marijuana to conduct medical research relating to the use of medical marijuana to treat serious medical conditions, including the collection of data and the provision of research grants.

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

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

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

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

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

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

(14) Restrict the advertising and marketing of medical



marijuana, which shall be consistent with the Federal regulations governing prescription drug advertising and marketing.

(b) Regulations.--The department shall promulgate all regulations necessary to carry out the provisions of this chapter. No medical marijuana regulation shall differ from any regulation promulgated by the department of agriculture addressing the comparable issue regarding the operation of a permittee under Chapter 91, except where expressly required to protect the rights of patients. The department shall align all medical marijuana regulations promulgated pursuant to this chapter with the regulations promulgated pursuant to Chapter 91, eliminating differences between the regulations and avoiding any duplication required by medical marijuana permittees who are also permittees under Chapter 91, except where differences are required to protect the rights of patients. To the extent any medical marijuana regulation conflicts with any regulation related to adult use cannabis under Chapter 91, the adult use cannabis regulation shall supersede the medical cannabis regulation, except as required to protect the rights of patients.

§ 9312. Confidentiality and public disclosure.

(a) Patient information.--The department shall maintain a confidential list of patients and caregivers to whom it has issued identification cards. All information obtained by the department relating to patients, caregivers and other applicants shall be confidential and not subject to public disclosure, including disclosure under the act of February 14, 2008 (P.L.6,

No.3), known as the Right-to-Know Law, including:

(1) Individual identifying information about patients and caregivers.

(2) Certifications issued by practitioners.

(3) Information on identification cards.

(4) Information provided by the Pennsylvania State Police under section 9332(b) (relating to caregivers).

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

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

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

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

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

§ 9313. Lawful use of medical marijuana.

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

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

(1) Medical marijuana may only be dispensed to:

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

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

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

(i) Cannabis-infused nonedible products.

(ii) Cannabis-infused edible products.

(iii) Forms medically appropriate for administration by vaporization or nebulization, including dry leaf and plant material.

(3) (Reserved).

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

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

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

(7) Products packaged by a grower/processor or sold by a dispensary shall only be identified by the name of the grower/processor, the name of the dispensary, the brand name,

if applicable, the form and species of medical marijuana, the percentage of tetrahydrocannabinol and cannabitol contained in the product and any other labeling required by the department.

(c) Limitations on cultivating cannabis.--Cultivating cannabis for personal use by a patient shall be subject to the following limitations:

(1) A resident of this Commonwealth 21 years of age or older who is a patient may cultivate cannabis plants, with a limit of five plants that are more than five inches tall, without an adult use cultivation center or micro cultivation center license. The plant limitation specified under this paragraph shall be cumulative for households in which more than one patient resides. As used in this paragraph, the term "resident" means an individual who has been domiciled in this Commonwealth for a period of 30 days prior to cultivation.

(2) Cannabis cultivation by a patient shall take place in an enclosed, locked space.

(3) A patient 21 years of age or older shall purchase cannabis seeds from a dispensary for the purpose of home cultivation. Seeds may not be given or resold to any other individual regardless of age.

(4) Cannabis plants shall not be stored or placed in a location where they are subject to ordinary public view. A patient who cultivates cannabis shall take reasonable precautions to ensure that the plants are secure from unauthorized access, including unauthorized access by an individual who is under 21 years of age.

(5) Cannabis cultivation for personal use by a patient may occur only on residential property lawfully in possession of the patient cultivating cannabis for personal use or with the consent of the person in lawful possession of the property. An owner or lessor of residential property may prohibit the cultivation of cannabis by a lessee.

(6) Cannabis plants may only be tended by a patient who resides at the residence or an individual authorized by a patient attending to the residence for brief periods.

(7) A patient who cultivates more than the allowable number of cannabis plants, or who sells or gives away cannabis plants, cannabis or cannabis-infused edible or nonedible products, shall be liable for penalties as provided by State law in addition to loss of home cultivation privileges as established by regulation by the board.

(8) Cannabis cultivated by a patient and cannabis produced by cannabis plants grown, if the amount of cannabis produced is in excess of 30 grams of raw cannabis, shall remain secured within the residence or residential property in which the cannabis is grown.

§ 9314. (Reserved).

#### SUBCHAPTER C

#### PRACTITIONERS

Sec.

9321. Practitioner registration.

9322. Practitioner restrictions.

9323. Issuance of certification.

9324. Certification form.

9325. Duration.§ 9321. Practitioner registration.

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

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

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

(3) The physician must have successfully completed the course under section 9311(a)(6) (relating to program established).

(b) Department action.--

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

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

from the registry until the physician holds a valid, unexpired, unrevoked, unsuspended Pennsylvania license to practice medicine.

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

(c) Practitioner requirements.--A practitioner included in the registry shall have an ongoing responsibility to immediately notify the department in writing if the practitioner knows or has reason to know that any of the following is true with respect to a patient for whom the practitioner has issued a certification:

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

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

(3) The patient has died.

§ 9322. Practitioner restrictions.

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

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

patient should be issued a certification to use medical marijuana.

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

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

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

(c) Discipline.--In addition to any other penalty that may be imposed under this chapter, a violation of subsection (a) or section 9323(f) (relating to issuance of certification) shall be deemed unprofessional conduct under section 41(8) of the act of December 20, 1985 (P.L.457, No.112), known as the Medical Practice Act of 1985, or section 15(a)(8) of the act of October 5, 1978 (P.L.1109, No.261), known as the Osteopathic Medical Practice Act, and shall subject the practitioner to discipline by the State Board of Medicine or the State Board of Osteopathic Medicine, as appropriate.

§ 9323. Issuance of certification.

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

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



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

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

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

(b) Contents.--The certification shall include:

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

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

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

(4) The date of issuance.

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

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

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

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

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

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

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

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

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

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

(1) Provide the certification to the patient.

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

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

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

§ 9324. Certification form.

The department shall develop a standard certification form,

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

§ 9325. Duration.

Receipt of medical marijuana by a patient or caregiver from a dispensary may not exceed a 90-day supply of individual doses. During the last seven days of any 30-day period during the term of the identification card, a patient may obtain and possess a 90-day supply for the subsequent 30-day period. Additional 90-day supplies may be provided in accordance with this section for the duration of the authorized period of the identification card unless a shorter period is indicated on the certification.

SUBCHAPTER D

PATIENTS

Sec.

9331. Identification cards.

9332. Caregivers.

9333. Notice.

9334. Verification.

9335. Special conditions.

9336. (Reserved).

9337. Minors.

9338. Caregiver authorization and limitations.

9339. Contents of identification card.

9339.1. Suspension.

9339.2. Prohibitions.

§ 9331. Identification cards.

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

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

(1) Review and approval of applications for identification cards.

(2) Issuance of identification cards to patients and caregivers.

(3) Review of the certification submitted by the practitioner and the patient.

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

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

(2) The name, address and date of birth of a caregiver.

(3) The certification issued by the practitioner.

(4) The name, address and telephone number of the practitioner and documentation from the practitioner that all of the requirements of section 9323(a) (relating to issuance

of certification) have been met.

(5) A \$50 processing fee. The department may waive or reduce the fee if the applicant demonstrates financial hardship.

(6) The signature of the applicant and date signed.

(7) Other information required by the department.

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

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

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

(g) (Reserved).

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

(i) Lost or defaced card.--In the event of a lost, stolen, destroyed or illegible identification card, the patient or caregiver shall apply to the department within 10 business days

of discovery of the loss or defacement of the card for a replacement card. The application for a replacement card shall be on a form furnished by the department and accompanied by a \$25 fee. The department may establish higher fees for issuance of second and subsequent replacement identification cards. The department may waive or reduce the fee in cases of demonstrated financial hardship. The department shall issue a replacement identification card as soon as practicable. A patient or caregiver may not obtain medical marijuana until the department issues the replacement card.

§ 9332. Caregivers.

(a) Requirements.--

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

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

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

(iii) Other information required by the department.

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

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

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

applicant.

(b) Criminal history.--A caregiver who has not been previously approved by the department under this section shall submit fingerprints for the purpose of obtaining criminal history record checks, and the Pennsylvania State Police or its authorized agent shall submit the fingerprints to the Federal Bureau of Investigation for the purpose of verifying the identity of the applicant and obtaining a current record of any criminal arrests and convictions. Any criminal history record information relating to a caregiver obtained under this section by the department may be interpreted and used by the department only to determine the applicant's character, fitness and suitability to serve as a caregiver under this chapter. The criminal history record information provided under this subsection may not be subject to the limitations under 18 Pa.C.S. § 9121(b)(2) (relating to general regulations). The department shall also review the prescription drug monitoring program relating to the caregiver. The department shall deny the application of a caregiver who has been convicted of a criminal offense that occurred within the past five years relating to the sale or possession of drugs, narcotics or controlled substances. The department may deny an application if the applicant has a history of drug abuse or of diverting controlled substances or illegal drugs.

§ 9333. Notice.

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

(relating to falsification and intimidation).

§ 9334. Verification.

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

§ 9335. Special conditions.

The following apply:

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

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

§ 9336. (Reserved).

§ 9337. Minors.

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

(1) The patient shall have a caregiver.

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

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

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

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

§ 9338. Caregiver authorization and limitations.



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

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

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

§ 9339. Contents of identification card.

An identification card shall contain the following:

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

(2) The date of issuance and expiration date.

(3) An identification number for the patient or caregiver, as appropriate.

(4) A photograph of the individual to whom the identification card is being issued, whether the individual is a patient or a caregiver. The method of obtaining the photograph shall be specified by the department by regulation. The department shall provide reasonable

accommodation for a patient who is confined to the patient's home or is in inpatient care.

(5) Any requirement or limitation set by the practitioner as to the form of medical marijuana.

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

§ 9339.1. Suspension.

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

§ 9339.2. Prohibitions.

The following prohibitions shall apply:

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

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

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

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

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

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

#### SUBCHAPTER E

#### MEDICAL MARIJUANA ORGANIZATIONS

#### Sec.

9341. Medical marijuana organizations.

9342. Permits.

9343. Granting of permit.

9344. Notice.

9345. (Reserved).

9346. Application and issuance.

9347. Fees and other requirements.

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9349.1. Terms of permit.

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9349.3. Permit renewals.

9349.4. Suspension or revocation.

9349.5. Convictions prohibited.

9349.6. Diversity goals.

9349.7. Limitations on permits.

§ 9341. Medical marijuana organizations.

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

(1) Grower/processors.

(2) Dispensaries.

§ 9342. Permits.

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

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

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

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

(4) A criminal history record check. Medical marijuana organizations applying for a permit shall submit fingerprints of principals, financial backers, operators and employees to the Pennsylvania State Police for the purpose of obtaining criminal history record checks and the Pennsylvania State Police or its authorized agent shall submit the fingerprints

to the Federal Bureau of Investigation for the purpose of verifying the identity of the principals, financial backers, operators and employees and obtaining a current record of any criminal arrests and convictions. Any criminal history record information relating to principals, financial backers, operators and employees obtained under this section by the department may be interpreted and used by the department only to determine the principal's, financial backer's, operator's and employee's character, fitness and suitability to serve as a principal, financial backer, operator and employee under this chapter. The criminal history record information provided under this subsection may not be subject to the limitations under 18 Pa.C.S. § 9121(b)(2) (relating to general regulations). After submission of required documentation to the department, medical marijuana organizations may allow employees to work in a supervised capacity until the department formally approves the employee's affiliation with the medical marijuana organization. Any employee who the department determines to be unable to meet the affiliation requirements under section 9349.5 (relating to convictions prohibited) shall be terminated by the medical marijuana organization immediately. This paragraph shall not apply to an owner of securities in a publicly traded corporation or an owner of or less in a privately held business entity if the department determines that the owner of the securities is not substantially involved in the activities of the medical marijuana organization.

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

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

(7) A statement that the applicant:

(i) (Reserved).

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

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

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

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

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

substances.

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

(9) Any other information the department may require.

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

§ 9343. Granting of permit.

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

(b) Determination.--In making a decision under subsection

(a), the department shall determine that:

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

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

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

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

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

(6) The applicant, including the financial backer or principal, is of good moral character and has the financial

fitness necessary to operate.

(7) The applicant is able to implement and maintain security, tracking, recordkeeping and surveillance systems relating to the acquisition, possession, growth, manufacture, sale, delivery, transportation, distribution or the dispensing of medical marijuana as required by the department and in accordance Chapter 91.

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

(c) Nontransferability.--A permit issued under this subchapter shall be nontransferable.

(d) Privilege.--The issuance or renewal of a permit shall be a revocable privilege.

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

(1) Regional population.

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

(3) The types of serious medical conditions.

(4) Access to public transportation.

(5) Any other factor the department deems relevant.

§ 9344. Notice.



When the boundaries under section 9343(e) (relating to granting of permit) are established, the department shall transmit notice of the determination to the Legislative Reference Bureau for publication in the next available issue of the Pennsylvania Bulletin. The department may adjust the boundaries as necessary every two years. Notice of any adjustment to the boundaries shall be transmitted to the Legislative Reference Bureau for publication in the next available issue of the Pennsylvania Bulletin.

§ 9345. (Reserved).

§ 9346. Application and issuance.

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

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

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

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

(b) Additional information.--If the department is not satisfied that the applicant should be issued a permit, the department shall notify the applicant in writing of the factors for which further documentation is required. Within 30 days of

the receipt of the notification, the applicant may submit additional material to the department.

§ 9347. Fees and other requirements.

The following apply:

(1) For a grower/processor:

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

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

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

(iv) An application to renew a permit must be filed with the department not more than six months nor less than four months prior to expiration.

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

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

(2) For a dispensary:

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

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

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

(iv) An application to renew a permit must be filed with the department not more than six months nor less than four months prior to expiration.

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

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

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

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

§ 9348. Issuance.

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

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

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

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

(4) Any other information required by the department.

§ 9349. Relocation.

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

(b) Designations.--Notwithstanding the provisions of subsection (a), a dispensary may interchange the designation of a primary, secondary or tertiary location at any time, including the period before a location becomes operational, by providing written notice to the department at least 14 days before the change in designation. A change in designation under this subsection may not be subject to approval by the department.

§ 9349.1. Terms of permit.

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

§ 9349.2. (Reserved).

§ 9349.3. Permit renewals.

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

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

renewal of a permit.

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

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

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

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

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

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

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

§ 9349.4. Suspension or revocation.

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

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

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

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

§ 9349.5. Convictions prohibited.

(a) Prohibitions.--The following individuals may not hold volunteer positions or positions with remuneration in or be affiliated with a medical marijuana organization, including a clinical registrant under Subchapter K (relating to academic clinical research centers and clinical registrants), in any way if the individual has been convicted of any felony criminal offense related to the manufacture, delivery or possession with intent to manufacture or deliver a controlled substance in violation of the act of April 14, 1972 (P.L.233, No.64), known as The Controlled Substance, Drug, Device and Cosmetic Act, or similar law in any other jurisdiction:

(1) Financial backers.

(2) Principals.

(3) Employees.

(b) Exclusion.--This section shall not apply to an individual for whom it has been 10 or more years since the entry of a final disposition of a felony conviction related to the

manufacture, delivery or possession with intent to manufacture or deliver a controlled substance in violation of The Controlled Substance, Drug, Device and Cosmetic Act, or similar law in any other jurisdiction, or one year since the individual's release from imprisonment for the felony conviction, whichever is later.  
§ 9349.6. Diversity goals.

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

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

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

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

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

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

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

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

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

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

(3) Any other information the department deems appropriate.

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

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

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

"Minority-owned business." As defined in 74 Pa.C.S. §



303(b).

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

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

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

"Women-owned business." As defined in 74 Pa.C.S. § 303(b). § 9349.7. Limitations on permits.

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

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

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

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

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

(5) No more than five grower/processors may be issued permits as dispensaries. If the number of growers/processors is increased under section 9392 (relating to effectuating recommendations of advisory board), no more than 20% of the total number of growers/processors may also be issued permits as dispensaries.

(6) A medical marijuana organization that qualifies as an independent grower/processor or independent dispensary, as

defined in section 103 of the amended 2016 Act 16, and completes a change of control transaction shall no longer qualify as an independent grower/processor or independent dispensary and as such shall not be entitled to the continuation of benefits pursuant to section 617 of the amended 2016 Act 16. Any grower/processor or dispensary that obtained its permit as a result of a sale, transfer, or change of control transaction with a permittee that either qualifies, or formally qualified, as an independent grower/processor or an independent dispensary, does not itself qualify as an independent grower/processor or an independent dispensary.

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

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

#### SUBCHAPTER F

#### MEDICAL MARIJUANA CONTROLS

Sec.

9351. Electronic tracking.

9352. Grower/processors.

9353. Storage and transportation.

9354. Laboratory.

9355. Prices.

§ 9351. Electronic tracking.

(a) Requirement.--A grower/processor or dispensary must implement an electronic inventory tracking system which shall be

directly accessible to the department through its electronic database that electronically tracks all medical marijuana on a daily basis. The system shall include tracking of all of the following:

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

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

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

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

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

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

(1) Security and surveillance.

(2) Recordkeeping and record retention.

(3) The acquisition, possession, growing and processing

of medical marijuana.

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

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

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

(d) Application programming interface.--The department or the department's contracted seed-to-sale vendor shall allow two-way communication, automation and application-programming interface of a medical marijuana organization's enterprise resource planning, inventory, accounting and point-of-sale software with the software of the department or the department's contracted seed-to-sale vendor. The department or the department's contracted seed-to-sale vendor shall provide for the development and use of a seed-to-sale cannabis tracking system, which shall include a secure application program interface capable of accessing all data required to be transmitted to the advisory board to ensure compliance with the operational reporting requirements established under this chapter and the regulations of the department.

(e) Reports.--Within one year of the issuance of the first permit to a grower/processor or dispensary, and every three months thereafter in a form and manner prescribed by the department, the following information shall be provided to the department, which shall compile the information and post it on

the department's publicly accessible Internet website:

- (1) The amount of medical marijuana sold by a grower/processor during each three-month period.
- (2) The price of amounts of medical marijuana sold by grower/processors as determined by the department.
- (3) The amount of medical marijuana purchased by each dispensary in this Commonwealth.
- (4) The cost of amounts of medical marijuana to each dispensary in amounts as determined by the department.
- (5) The total amount and dollar value of medical marijuana sold by each dispensary in the three-month period.

§ 9352. Grower/processors.

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

- (1) Obtain and transport seed and immature plant material from outside this Commonwealth during at least one 30-day period per year as designated by the department to grow and process medical marijuana.
- (2) Obtain seed and plant material from another grower/processor within this Commonwealth to grow medical marijuana.
- (3) Obtain and transport bulk postharvest medical marijuana plant material from another grower/processor within this Commonwealth to process medical marijuana. As used in this paragraph, the term "postharvest plant material" includes all unfinished plant and plant-derived material, whether fresh, dried, partially dried, frozen or partially

frozen, oil, concentrate or similar byproducts derived or processed from medical marijuana or medical marijuana plants.

(4) Apply solvent-based extraction methods and processes to medical marijuana plants that have failed a test conducted by an approved laboratory at harvest, subject to the following:

(i) The test failure shall be limited to yeast and mold.

(ii) The extracted material shall be processed into a topical form.

(iii) The medical marijuana product must pass a final processed test under section 9354 (relating to laboratory).

(iv) The medical marijuana product shall be labeled as remediated.

(v) This paragraph shall expire upon the publication in the Pennsylvania Bulletin of a notice of the secretary's approval of the recommendations relating to a research initiative, as prescribed in section 9399.26 (relating to research initiative).

(5) Obtain harvested hemp from a person holding a permit issued by the Department of Agriculture to grow or cultivate hemp under 3 Pa.C.S. Ch. 15 (relating to controlled plants and noxious weeds) if the hemp received by a grower/processor is subject to the laboratory testing requirements of section 9354.

(6) Add excipients or hemp or hemp-derived additives obtained or cultivated in accordance with paragraph (5).

Excipients must be pharmaceutical grade, unless otherwise approved by the department. In determining whether to approve an added substance, the department shall consider the following:

(i) Whether the added substance is permitted by the United States Food and Drug Administration for use in food or is Generally Recognized as Safe (GRAS) under Federal guidelines.

(ii) Whether the added substance constitutes a known hazard such as diacetyl, CAS number 431-03-8, and pentanedione, CAS number 600-14-6.

(b) Limitations.--

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

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

(ii) is located within this Commonwealth.

(2) For the purpose of paragraph (1), a grower/processor shall maintain continuous video surveillance. A grower/processor is required to retain the recordings onsite or offsite for a period of no less than 180 days, unless otherwise required for investigative or litigation purposes.

(c) Pesticides.--

(1) A grower/processor may use a pesticide that is registered by the Department of Agriculture under the act of March 1, 1974 (P.L.90, No.24), known as the Pennsylvania

Pesticide Control Act of 1973, and designated by the Secretary of Agriculture in consultation with the secretary for use by a grower/processor.

(2) The Secretary of Agriculture shall transmit, by June 30, 2022, an initial list of pesticides which may be used by grower/processors to the Legislative Reference Bureau for publication in the next available issue of the Pennsylvania Bulletin. The list shall be posted on the department's publicly accessible Internet website and shall be reviewed and updated by the Secretary of Agriculture, in consultation with the secretary, at least once annually and transmitted to the Legislative Reference Bureau for publication in the next available issue of the Pennsylvania Bulletin.

§ 9353. Storage and transportation.

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

(1) Requirements relating to shipping containers and packaging.

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

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

(4) Obtaining copies of drivers' licenses and



registrations and other information related to security and tracking.

(5) Use of GPS systems.

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

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

(8) Requirements to utilize any electronic tracking system required by the department, which shall allow for the two-way communication, automation and application-programming interface between a medical marijuana organization's enterprise resource planning, inventory, accounting and point-of-sale software and the software of the department or the department's vendor.

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

§ 9354. Laboratory.

(a) General testing.--A grower/processor shall contract with one or more independent laboratories to test the medical marijuana produced by the grower/processor. The department shall approve a laboratory under this subsection and require that the laboratory report testing results in a manner as the department shall determine, including requiring a test at harvest and a test at final processing. The possession by a laboratory of medical marijuana shall be a lawful use.

(b) Stability testing.--A laboratory shall perform stability testing to ensure the medical marijuana product's potency and purity. A grower/processor shall retain a sample from each

medical marijuana product derived from a harvest batch and request that a sample be identified and collected by a laboratory approved under subsection (a) from each process lot to perform stability testing under the following conditions:

(1) The medical marijuana product is still in inventory at a dispensary in this Commonwealth as determined by the seed-to-sale system.

(2) The stability testing is done at six-month intervals for the duration of the expiration date period as listed on the medical marijuana product and once within six months of the expiration date.

§ 9355. Prices.

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

SUBCHAPTER G

DISPENSARIES

Sec.

9361. Dispensing to patients and caregivers.

9362. Facility requirements.

9363. Posting.§ 9361. Dispensing to patients and caregivers.

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

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

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

(c) Limitations.--No dispensary may dispense to a patient or caregiver:

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

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

(d) Supply.--When dispensing medical marijuana to a patient or caregiver, the dispensary may not dispense an amount greater than a 90-day supply until the patient has exhausted all but a seven-day supply provided pursuant to a previously issued certification until additional certification is presented under section 9325 (relating to duration).

(e) Verification.--Prior to dispensing medical marijuana to a patient or caregiver, the dispensary shall verify the information in subsections (d) and (f) by consulting the electronic tracking system included in the department's electronic database established under section 9311(a)(4)(v) and the dispensary tracking system under section 9351(a)(2) (relating to electronic tracking).

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

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

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

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

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

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

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

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

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

(2) The packaging date.

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

(4) A warning stating:

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

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

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

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

(8) Any other information required by the department.

§ 9362. Facility requirements.

(a) General rule.--

(1) A dispensary may dispense medical marijuana in an indoor, enclosed, secure facility located within this Commonwealth or in accordance with a curbside delivery protocol as determined by the department.

(2) For the purposes of paragraph (1), a dispensary shall maintain continuous video surveillance. The dispensary is required to retain the recordings onsite or offsite for a period of no less than 180 days, unless otherwise required for investigative or litigation purposes.

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

(4) A dispensary may not be located within 1,000 feet of the property line of a public, private or parochial school or a day-care center or 1,500 feet of the property line of another dispensing organization.

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

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

(b) Adjustment or waiver of prohibition.--The department may

amend a prohibition under subsection (a)(4) if it is shown by clear and convincing evidence that the amendment is necessary to provide adequate access to patients. An amendment may include additional security, physical plant of a facility or other conditions necessary to protect children.

§ 9363. Posting.

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

SUBCHAPTER H

ADMINISTRATION

Sec.

9371. Governing practice and procedure.

9372. Reports by medical marijuana organizations.

9373. Law enforcement notification.

9374. Evaluation.

9375. Report.

9376. (Reserved).

9377. Temporary regulations.

§ 9371. Governing practice and procedure.

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

Pa.C.S. § 101 (relating to definitions).

§ 9372. Reports by medical marijuana organizations.

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

§ 9373. Law enforcement notification.

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

§ 9374. Evaluation.

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

§ 9375. Report.

(a) Report required.--The department shall submit a written report under subsection (b) every two years beginning April 17, 2018, to the following:

(1) The Governor.

(2) The President pro tempore of the Senate.



(3) The Majority Leader and the Minority Leader of the Senate.

(4) The Speaker of the House of Representatives.

(5) The Majority Leader and the Minority Leader of the House of Representatives.

(6) The chairperson and minority chairperson of the Judiciary Committee of the Senate.

(7) The chairman and minority chairman of the Health and Human Services Committee of the Senate.

(8) The chairman and minority chairman of the Judiciary Committee of the House of Representatives.

(9) The chairman and minority chairman of the Health Committee of the House of Representatives.

(10) The Attorney General of the Commonwealth.

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

(1) An assessment of the use of medical marijuana as a result of the enactment of this chapter.

(2) An assessment of the benefits and risks to patients using medical marijuana under this chapter, including adverse events.

(3) Recommendations for amendments to this chapter for reasons of patient safety or to aid the general welfare of the citizens of this Commonwealth.

§ 9376. (Reserved).

§ 9377. Temporary regulations.

(a) Promulgation.--In order to facilitate the prompt implementation of this chapter, the department may promulgate

temporary regulations that shall expire not later than two years following the publication of the temporary regulation. The department may promulgate temporary regulations not subject to:

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

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

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

(b) Expiration.--Notwithstanding any other provision of law, the department's authority to adopt temporary regulations under subsection (a) shall expire May 31, 2022. Regulations adopted after this period shall be promulgated as provided by law.

(c) Publication.--The department shall transmit notice of temporary regulations to the Legislative Reference Bureau for publication in the next available issue of the Pennsylvania Bulletin no later than October 17, 2016.

#### SUBCHAPTER I

#### MEDICAL MARIJUANA ADVISORY BOARD

Sec.

9381. Advisory board.

9382. Effectuating recommendations of advisory board.

§ 9381. Advisory board.

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

(1) The secretary or a designee.

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

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

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

(5) The Physician General or a designee.

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

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

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

(i) The Governor.

(ii) The President pro tempore of the Senate.

(iii) The Majority Leader of the Senate.

(iv) The Minority Leader of the Senate.

(v) The Speaker of the House of Representatives.

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

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

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

patient advocate.

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

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

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

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

(f) Governance.--The advisory board shall have the power to prescribe, amend and repeal bylaws, rules and regulations governing the manner in which the business of the advisory board is conducted and the manner in which the duties granted to it are fulfilled. The advisory board may delegate supervision of

the administration of advisory board activities to an administrative secretary and other employees of the department as the secretary shall appoint.

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

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

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

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

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

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

(3) To accept and review written comments from

individuals and organizations about medical marijuana.

(4) To issue written reports to the Governor, the Senate and the House of Representatives.

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

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

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

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

(iv) (Reserved).

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

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

§ 9382. Effectuating recommendations of advisory board.

After receiving a report of the advisory board under section 9381(j)(4) (relating to advisory board), at the discretion of the secretary, the department may effectuate recommendations made by the advisory board by transmitting a notice to the Legislative Reference Bureau for publication in the next available issue of the Pennsylvania Bulletin. The secretary shall transmit notice to the Legislative Reference Bureau for publication in the next available issue of the Pennsylvania

Bulletin within 12 months of the receipt of a report of the advisory board. The notice shall include the recommendations of the advisory board and shall state the specific reasons for the decision of the secretary on whether or not to effectuate each recommendation.

SUBCHAPTER J

OFFENSES RELATED TO MEDICAL MARIJUANA

Sec.

9391.1. Criminal diversion of medical marijuana by practitioners.

9391.2. Criminal diversion of medical marijuana.

9391.3. Criminal retention of medical marijuana.

9391.4. Criminal diversion of medical marijuana by patient or caregiver.

9391.5. Falsification of identification cards.

9391.6. Adulteration of medical marijuana.

9391.7. Disclosure of information prohibited.

9391.8. Additional penalties.

9391.9. Other restrictions.

§ 9391.1. Criminal diversion of medical marijuana by practitioners.

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

§ 9391.2. Criminal diversion of medical marijuana.

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

(1) A medical marijuana organization.

(2) A clinical registrant or academic clinical research center under Subchapter K (relating to academic clinical research centers and clinical registrants).

(3) A laboratory utilized to test medical marijuana under section 9354 (relating to laboratory).

§ 9391.3. Criminal retention of medical marijuana.

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

§ 9391.4. Criminal diversion of medical marijuana by patient or caregiver.

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

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



offense constitutes a misdemeanor of the first degree.

§ 9391.5. Falsification of identification cards.

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

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

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

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

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

§ 9391.6. Adulteration of medical marijuana.

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

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

offense under this section constitutes a misdemeanor of the first degree.

§ 9391.7. Disclosure of information prohibited.

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

(1) A medical marijuana organization.

(2) A clinical registrant or academic clinical research center under Subchapter K (relating to academic clinical research centers and clinical registrants).

(3) An employee or contractor of the department.

(b) Exception.--Subsection (a) shall not apply where disclosure is permitted or required by law or by court order. The department, including an authorized employee, requesting or obtaining information under this chapter shall not be subject to any criminal liability. The immunity provided by this subsection shall not apply to any employee of the department who knowingly and willfully discloses prohibited information under this chapter.

§ 9391.8. Additional penalties.

(a) Criminal penalties.--In addition to any other penalty provided by law, a practitioner, caregiver, patient, employee, financial backer, operator or principal of any medical marijuana organization, and an employee, financial backer, operator or principal of a clinical registrant or academic clinical research

center under Subchapter K (relating to academic clinical research centers and clinical registrants), who violates any of the provisions of this chapter, other than those specified in section 9393.1 (relating to criminal diversion of medical marijuana by practitioners), 9393.2 (relating to criminal diversion of medical marijuana), 9393.3 (relating to criminal retention of medical marijuana), 9393.4 (relating to criminal diversion of medical marijuana by patient or caregiver), 9393.5 (relating to falsification of identification cards), 9393.6 (relating to adulteration of medical marijuana) or 9393.7 (relating to disclosure of information prohibited), or any regulation promulgated under this chapter:

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

(2) For a second or subsequent offense, commits a misdemeanor of the third degree and shall, upon conviction, be sentenced to pay a fine of not more than \$10,000 or to imprisonment for not less than six months nor more than one year, or both.

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

(1) The department may assess a penalty of not more than

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

(i) The gravity of the violation.

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

(iii) The willfulness of the violation.

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

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

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

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

(c) Sanctions.--

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

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

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

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

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

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

(vi) Issue a cease and desist order.

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

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

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

§ 9391.9. Other restrictions.

Nothing in this chapter may be construed to permit any person to engage in or prevent the imposition of any civil, criminal or other penalty for the following:

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

(2) Possessing or using medical marijuana in a State or county correctional facility, including a facility owned or operated or under contract with the Department of Corrections or the county which houses inmates serving a portion of their sentences on parole or other community correction program.

Nothing in this paragraph shall be construed to apply to employees of the facilities set forth in this paragraph. The Department of Corrections shall adopt a written policy no later than October 17, 2017, regarding the possession and use of medical marijuana by employees in State correctional facilities. The governing authority of a county may adopt a resolution no later than October 17, 2017, regarding the possession and use of medical marijuana by employees in a county correctional facility.

(3) Possessing or using medical marijuana in a youth

detention center or other facility which houses children adjudicated delinquent, including the separate, secure State-owned facility or unit utilized for sexually violent delinquent children under 42 Pa.C.S. § 6404 (relating to duration of inpatient commitment and review). As used in this paragraph, the term "sexually violent delinquent children" shall have the meaning given to it in 42 Pa.C.S. § 6402 (relating to definitions). Nothing in this paragraph shall be construed to apply to employees of the facilities set forth in this paragraph.

SUBCHAPTER K

ACADEMIC CLINICAL RESEARCH CENTERS

AND CLINICAL REGISTRANTS

Sec.

9393.1. Legislative findings and declaration of policy.

9393.2. Definitions.

9393.3. Academic clinical research centers.

9393.4. Clinical registrants.

9393.5. Research study.

9393.6. Research initiative.

9393.7. Temporary regulations.

§ 9393.1. Legislative findings and declaration of policy.

(a) Legislative findings.--It is determined and declared as a matter of legislative finding:

(1) Patients suffering from serious medical conditions deserve the benefit of research conducted in conjunction with the Commonwealth's medical schools to determine whether medical marijuana will improve their conditions or symptoms.

(2) The Commonwealth has an interest in creating a mechanism whereby this Commonwealth's medical schools and hospitals can help develop research programs and studies in compliance with applicable law.

(b) Declaration of policy.--The General Assembly declares as follows:

(1) It is the intention of the General Assembly to create a mechanism whereby this Commonwealth's medical schools and hospitals may provide advice to grower/processors and dispensaries in the areas of patient health and safety, medical applications and dispensing and management of controlled substances, among other areas. It is the further intention of the General Assembly to create a mechanism whereby the Commonwealth may encourage research associated with medical marijuana.

(2) It is the policy of the Commonwealth to allow, in addition to the 25 grower/processors and 50 dispensaries initially authorized under section 9349.7 (relating to limitations on permits), the operation of additional grower/processors and dispensaries which will be approved by the department as clinical registrants. A clinical registrant is a grower/processor and a dispensary which has a contractual relationship with a medical school that operates or partners with a hospital to provide advice about medical marijuana so that patient safety may be enhanced.

§ 9393.2. Definitions.

The following words and phrases when used in this subchapter shall have the meanings given to them in this section unless the



context clearly indicates otherwise:

"Academic clinical research center." An accredited medical school within this Commonwealth that operates or partners with an acute care hospital licensed within this Commonwealth that has been approved and certified by the department to enter into a contract with a clinical registrant.

"Clinical registrant." An entity that:

(1) is approved by the department as a clinical registrant;

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

(3) is approved by the department to hold a permit as both a grower/processor and a dispensary.

§ 9399.23. Academic clinical research centers.

(a) General rule.--An academic clinical research center must be approved and certified by the department before the academic clinical research center may contract with a clinical registrant. An academic clinical research center shall only contract with one clinical registrant. The accredited medical school that is seeking approval and certification from the department as an academic clinical research center must provide all information required by the department, including information for the individual who will be the primary contact for the academic clinical research center during the

department's review of the application. The accredited medical school must also provide all information required by the department for any licensed acute care hospital that the accredited medical school will operate or partner with during the time that it may be approved and certified as an academic clinical research center by the department.

(b) Posting and publication of list.--The department shall post a list containing the name and address of each certified academic clinical research center on the department's publicly accessible Internet website and transmit notice to the Legislative Reference Bureau for publication in the next available issue of the Pennsylvania Bulletin.

§ 9393.4. Clinical registrants.

(a) Approval.--The department may approve up to 10 clinical registrants. Each clinical registrant may provide medical marijuana at not more than six separate locations. The total number of locations authorized to dispense medical marijuana under this section shall not exceed 60. The grower/processor and dispensary permits issued to clinical registrants approved under this section shall be in addition to the 25 grower/processor and 50 dispensary permits issued by the department in accordance with section 9349.7(1) and (2) (relating to limitations on permits). The limitations relating to number and location in sections 9349.7(1) and (2) and 9343(e) (relating to granting of permit) do not apply. A clinical registrant may not hold more than one grower/processor and one dispensary permit. Once the department approves an entity as a clinical registrant, the entity shall comply with this subchapter. The following shall

apply:

(1) The department shall:

(i) Open applications for the approval of up to two additional academic clinical research centers and issue approvals to qualified academic clinical research centers by July 16, 2016.

(ii) Open applications for the approval of up to two additional clinical registrants by August 15, 2016, and issue permits to qualified clinical registrants within 180 days from the date when applications are posted.

(2) If the statutory maximum number of approved academic clinical research centers or approved clinical registrants are not approved under paragraph (1), the department shall reopen the application process for the approval of academic clinical research centers and clinical registrants.

(b) Requirements.--The following shall apply to clinical registrants:

(1) An entity seeking approval as a clinical registrant shall submit an application to the department in such form and manner as the department prescribes. The department shall ensure that the applicant meets the requirements of this chapter before approving the application to become a clinical registrant.

(2) An entity may be issued a permit as a grower/processor or dispensary before seeking approval as a clinical registrant. An entity may also apply for a permit as a grower/processor or a dispensary at the same time the entity seeks approval from the department as a clinical

registrant.

(3) An entity seeking approval as a clinical registrant that does not already hold a permit as a grower/processor or a dispensary shall submit the applications required under Subchapter E (relating to medical marijuana organizations). In reviewing an application, the department shall ensure that the entity meets all of the requirements for the issuance of a grower/processor permit or a dispensary permit, as applicable.

(4) When the department issues a permit as a grower/processor or a dispensary to an entity seeking approval as a clinical registrant, the issuance shall not be construed to reduce the number of permits for growers/processors and dispensaries authorized under section 9349.7(1) and (2).

(i) The department shall not approve an applicant for a grower/processor permit if the applicant has previously had a contractual relationship with an academic clinical research center whereby the academic clinical research center or its affiliate provided advice to the applicant regarding, among other areas, patient health and safety, medical applications and dispensing and management of controlled substances and the applicant subsequently sold or assigned for profit to another entity their responsibility under the contractual relationship.

(ii) (Reserved).

(5) Except as provided in section 9347(1)(vi) and (2)

(relating to fees and other requirements), an entity seeking approval as a clinical registrant must pay the fees and meet all other requirements under this chapter for obtaining a permit as a grower/processor and a dispensary. Upon approval of the department, a clinical registrant shall be issued a grower/processor permit and a dispensary permit and shall be a medical marijuana organization. As a medical marijuana organization, a clinical registrant must comply with all the provisions of this chapter relating to medical marijuana organizations except as otherwise provided in this subchapter.

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

(7) The clinical registrant shall have all of the same rights as a grower/processor permittee and must comply with all other requirements of this chapter regarding growing, processing and dispensing medical marijuana.

(8) A grower/processor facility owned by a clinical registrant may sell its medical marijuana products to all dispensary facilities. The facility may sell seeds, medical marijuana plants and medical marijuana products to, or exchange seeds, medical marijuana plants and medical marijuana products with, any other grower/processor facility holding a permit under Subchapter E or this subchapter.

(9) A clinical registrant may petition the department, on a form prescribed by the department, for approval to sell certain of the medical marijuana products grown and processed

by its grower/processor facility to other medical marijuana organizations holding dispensary permits under Subchapter E. The petition must be accompanied by a written report of the clinical registrant's research findings with respect to the medical marijuana products which are the subject of the petition. The department shall approve the petition if it has been demonstrated that the medical marijuana products have a practical effect on patients which changes a recommendation within the medical field as indicated in the report submitted by the clinical registrant.

(10) A dispensary owned by a clinical registrant may dispense medical marijuana products to a patient or caregiver who presents a valid identification card to an employee who is authorized to dispense medical marijuana products at a dispensary location operated by the clinical registrant, regardless of whether the patient is a participant in a research study or program.

§ 9393.5. Research study.

(a) Applicability.--The provisions of this section shall apply upon publication of the notice under section 9399.38 (relating to notice).

(b) Procedures.--The department may, upon application, approve the dispensing of medical marijuana by a clinical registrant to the academic clinical research center for the purpose of conducting a research study. The department shall develop the application and standards for approval of such dispensing by the clinical registrant. The following apply to the research study:

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

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

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

(iii) The anticipated duration of the study.

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

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

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

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

§ 9393.6. Research initiative.

(a) Authority.--An academic clinical research center, in coordination with its contracted clinical registrant, may conduct a research initiative on the antimicrobial effects of

applying solvent-based extraction methods and processes to microbial contamination of immature medical marijuana plants, medical marijuana plants, medical marijuana or medical marijuana products.

(b) Procedure.--An academic clinical research center shall submit to the department for approval a completed written research protocol of the planned research initiative. The department shall grant approval or denial of the protocol within 15 days of its submissions. The following apply:

(1) The research initiative shall commence no later than 30 days from the date the department issues approval and shall be completed no later than six months from the start date of the research initiative.

(2) Research initiative findings shall be provided to the department by the academic clinical research center within 15 days of the research initiative's conclusion.

(3) An academic clinical research center and its contracted clinical registrant shall present research initiative findings to the advisory board and the board's research subcommittee for the board's review and consideration under sections 9391 (relating to advisory board) and 9392 (relating to effectuating recommendations of advisory board). The board shall issue a written report, with recommendations and findings regarding the use of solvent-based extraction methods and processes on microbial contamination by a clinical registrant or grower/processor. The secretary may approve the board's recommendation in accordance with section 9392.



(4) Prior to implementing a recommendation of the board under paragraph (3), as approved by the secretary, a clinical registrant or grower/processor shall seek approval from the department for a change in its grower/processor extraction process. The department shall inspect the site and facility equipment. Upon approval, the department shall issue a notice of final approval to implement the process.

§ 9393.7. Temporary regulations.

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

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

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

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

(b) Expiration.--The department's authority to adopt temporary regulations under subsection (a) shall expire October 17, 2016. Regulations adopted after this period shall be promulgated as provided by law.

(c) Publication.--The department shall transmit notice of temporary regulations to the Legislative Reference Bureau for publication in the next available issue of the Pennsylvania

Bulletin no later than July 16, 2016.

SUBCHAPTER L

MISCELLANEOUS PROVISIONS

Sec.

9399.1. Conflict.

9399.2. Financial and employment interests.

9399.3. Insurers.

9399.4. Protections for patients and caregivers.

9399.5. Schools.

9399.6. Day-care centers.

9399.7. Zoning.

9399.8. Notice.

9399.9. Applicability.

9399.10. Lawful interstate transport of industrial hemp, hemp,  
and hemp materials.

§ 9399.1. Conflict.

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

§ 9399.2. Financial and employment interests.

(a) Financial interests.--Except as may be provided for the  
judiciary by rule or order of the Pennsylvania Supreme Court, an

executive-level public employee, public official or party officer, or an immediate family member thereof, shall not intentionally or knowingly hold a financial interest in a medical marijuana organization or in a holding company, affiliate, intermediary or subsidiary thereof, while the individual is an executive-level public employee, public official or party officer and for one year following termination of the individual's status as an executive-level public employee, public official or party officer.

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

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

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

(1) Issue a written determination of whether a person is subject to subsection (a) or (b) upon the written request of the person or any other person that may have liability for an

action taken with respect to such person. A person that relies in good faith on a determination made under this paragraph shall not be subject to any penalty for an action taken, provided that all material facts set forth in the request for the determination are correct.

(2) Publish a list of all State, county, municipal and other government positions that meet the definitions of "public official" or "executive-level public employee" as defined under 4 Pa.C.S. § 1512(b) (relating to financial and employment interests). The Office of Administration shall assist the State Ethics Commission in the development of the list, which shall be transmitted by the State Ethics Commission to the Legislative Reference Bureau for publication in the next available issue of the Pennsylvania Bulletin biennially and posted by the department on the department's Internet website. Upon request, each public official shall have a duty to provide the State Ethics Commission with adequate information to accurately develop and maintain the list. The State Ethics Commission may impose a civil penalty under 65 Pa.C.S. § 1109(f) (relating to penalties) upon any individual, including any public official or executive-level public employee, who fails to cooperate with the State Ethics Commission under this subsection. A person that relies in good faith on the list published by the State Ethics Commission shall not be subject to any penalty for a violation of this section.

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

subsection:

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

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

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

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

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

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

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

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

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

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

office as of January 1, 2017.

§ 9399.3. Insurers.

Nothing in this chapter shall be construed to require an insurer or a health plan, whether paid for by Commonwealth funds or private funds, to provide coverage for medical marijuana. Notwithstanding any other provision of law, no workers' compensation carrier, self-insured employer or other insurer in this Commonwealth may be required to provide coverage for or otherwise reimburse the cost of medical marijuana.

§ 9399.4. Protections for patients and caregivers.

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

- (1) A patient.
- (2) A caregiver.
- (3) A practitioner.
- (4) A medical marijuana organization.
- (5) A clinical registrant or academic clinical research center under Subchapter K (relating to academic clinical research centers and clinical registrants).
- (6) An employee, principal or financial backer of a medical marijuana organization.
- (7) An employee of a clinical registrant or an employee of an academic clinical research center under Subchapter K.

(b) Employment.--

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

(2) Nothing in this chapter shall require an employer to make any accommodation of the use of medical marijuana on the property or premises of any place of employment. If an employer makes an adverse employment decision against an employee or job applicant under this chapter, the adverse employment decision may not be challenged under any other State or local law.

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

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

§ 9399.5. Schools.

The Department of Education shall promulgate regulations by October 17, 2017, regarding the following:

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

school.

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

§ 9399.6. Day-care centers.

The Department of Human Services shall promulgate regulations by October 17, 2017, regarding the following:

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

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

(3) Possession and use of medical marijuana by employees of a youth development center or other facility which houses children adjudicated delinquent, including the separate, secure State-owned facility or unit for sexually violent delinquent children, as set forth in section 9393.9(3) (relating to other restrictions).

§ 9399.7. Zoning.

The following apply:

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

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



§ 9399.8. Notice.

Upon amendment of the Controlled Substances Act (Public Law 91-513, 84 Stat. 1236) removing marijuana from Schedule I of the Controlled Substances Act, the department shall transmit notice of the effective date of the amendment to the Legislative Reference Bureau for publication in the next available issue of the Pennsylvania Bulletin.

§ 9399.9. Applicability.

(a) (Reserved).

(b) Issuance.--The issuance of permits and other authorizations shall begin upon transmittance of notice by the department to the Legislative Reference Bureau for publication in the next available issue of the Pennsylvania Bulletin that adequate temporary or permanent regulations have been adopted to initiate the program under this chapter.

§ 9399.10 Lawful transport of industrial hemp, hemp, and hemp materials.

- (a) Nothing in this Act shall prohibit or interfere with the lawful transport of industrial hemp, hemp materials, or hemp products as authorized by the U.S. Department of Agriculture, the U.S. Food and Drug Administration, and in compliance with other federal law or rules, through the Commonwealth of Pennsylvania for delivery to an out-of-state destination.
- (b) No person shall transport industrial hemp, hemp, or hemp materials within the Commonwealth of Pennsylvania, unless the person is duly authorized under state and federal law and regulation to transport hemp, and possesses a hemp manifest that shall include the following:
- (i) The name and address of the owner of the hemp;
  - (ii) The point of origin;
  - (iii) The point of delivery, including name and address;

- (iv) The kind and quantity of packages or, if in bulk, the total quantity of hemp in the shipment; and
- (v) The date of shipment.

Section 4. Repeals are as follows:

(1) The General Assembly declares that the repeals under paragraph (2) are necessary to effectuate the addition of 35 Pa.C.S. Ch. 93.

(2) The following acts and parts of acts are repealed to the extent specified:

(i) Sections 4(1)(iv) and 13(a)(31) of the act of April 14, 1972 (P.L.233, No.64), known as The Controlled Substance, Drug, Device and Cosmetic Act.

(ii) 18 Pa.C.S. § 7508(a)(1) and (f).

(3) The General Assembly declares that the repeal under paragraph (4) is necessary to effectuate the addition of 35 Pa.C.S. Ch. 93.

(4) The act of April 17, 2016 (P.L.84, No.16), known as the Medical Marijuana Act, is repealed.

(5) All other acts and parts of acts are repealed insofar as they are inconsistent with the addition of 35 Pa.C.S. Chs. 91 and 93.

Section 5. The addition of 35 Pa.C.S. Ch. 93 is a continuation of the act of April 17, 2016 (P.L.84, No.16), known as the Medical Marijuana Act. The following apply:

(1) Except as otherwise provided in 35 Pa.C.S. Ch. 93, all activities initiated under the act of April 17, 2016 (P.L.84, No.16), known as the Medical Marijuana Act, shall

continue and remain in full force and effect and may be completed under 35 Pa.C.S. Ch. 93. Orders, regulations, rules and decisions which were made under the Medical Marijuana Act and which are in effect on the effective date of section 4(4) of this act shall remain in full force and effect until revoked, vacated or modified under 35 Pa.C.S. Ch. 93.

Contracts, obligations and collective bargaining agreements entered into under the Medical Marijuana Act are not affected nor impaired by the repeal of the Medical Marijuana Act.

(2) Except as set forth in paragraph (3), any difference in language between 35 Pa.C.S. Ch. 93 and the Medical Marijuana Act is intended only to conform to the style of the Pennsylvania Consolidated Statutes and is not intended to change or affect the legislative intent, judicial construction or administration and implementation of the Medical Marijuana Act.

(3) Paragraph (2) does not apply to the following provisions:

(i) The addition of the definitions of "board," "cannabis-infused edible product," "cannabis-infused nonedible product," "chief medical officer," "executive director," "serious medical condition," "safety-sensitive position" and "under the influence" in 35 Pa.C.S. § 9303.

(ii) The addition of 35 Pa.C.S. § 9304.

(iii) The addition of 35 Pa.C.S. § 9313(b) (2) and

(c).

(iv) The addition of 35 Pa.C.S. § 9314.

(v) The addition of 35 Pa.C.S. § 9399.33.

(vi) The addition of 35 Pa.C.S. § 9399.34(b)(2),  
(4), (5), (6), (7), (8), (9), (10), (11), (12) and (13).

Section 6. This act shall take effect immediately.