AN ACT

Providing for the medical use of cannabis; establishing the State Board of Medical Cannabis Licensing and providing for its powers and duties; imposing duties on the Department of Health and the Department of State; regulating the growing, processing and dispensing of medical cannabis; imposing civil and criminal penalties; and making inconsistent repeals.

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

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CHAPTER 1

PRELIMINARY PROVISIONS

Section 101. Short title.
This act shall be known and may be cited as the Medical Cannabis Act.

Section 102. Definitions.
The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Authorized provider." A parent or guardian of a patient with a valid medical cannabis access card or an individual employed by a health care facility and who is authorized by the board to purchase, possess, transport and transfer medical cannabis from a medical cannabis dispenser and properly administer the medical cannabis to the patient in accordance with the recommendation of the patient's health care practitioner.

"Board." The State Board of Medical Cannabis Licensing established under section 302.

"Change in control." The acquisition by a person or group of persons acting in concert of more than 20% of the license.

"Department." The Department of State of the Commonwealth.

"Health care facility." A facility that provides health care to patients and does not receive Federal funding. The term includes:

(1) A hospital, as defined under the act of July 19, 1979 (P.L.130, No.48), known as the Health Care Facilities Act.

(2) A clinic, treatment facility or physician's office operated by a hospital.
(3) An ambulatory or surgical facility.
(4) A long-term care nursing facility.
(5) A cancer treatment center.
(6) A hospice care facility.

"Health care practitioner." An individual as defined under section 2 of the act of December 20, 1985 (P.L.457, No.112), known as the Medical Practice Act of 1985, who is authorized to prescribe Schedule III drugs under the act of April 14, 1972 (P.L.233, No.64), known as The Controlled Substance, Drug, Device and Cosmetic Act.

"Medical cannabis." Plants containing cannabidiol, tetrahydrocannabinol or delta-9-tetrahydrocannabinol acid used for medical purposes or any part of a cannabis plant, including cannabis processed by extracting oil from the plant. The term includes the delivery of extracted oil, edible products, ointments, tinctures and vaporization or any other medical device used to administer medical cannabis to a patient.

"Medical cannabis access card." A document issued by the Department of Health to authorize a patient or authorized provider to purchase and possess medical cannabis from a licensed medical cannabis dispenser.

"Medical cannabis dispenser." A for-profit or nonprofit entity licensed under section 503 to dispense medical cannabis.

"Medical cannabis employee." An individual who is eligible to receive an occupation permit by meeting one of the following:

(1) An individual who meets all of the following:

   (i) Is employed with the authority to make a discretionary decision relating to the growing, processing or dispensing of medical cannabis, including a manager, supervisor or an individual who directly handles
cannabis.

(ii) Is responsible for tracking the amount and transportation of medical cannabis.

(2) Any other employee position designated by the board.

"Medical cannabis grower." A for-profit or nonprofit entity licensed under section 501 who grows or cultivates medical cannabis for distribution to authorized medical cannabis processors and medical cannabis dispensers in accordance with this act.

"Medical cannabis processor." A for-profit or nonprofit entity licensed under section 502 who can purchase medical cannabis from a medical cannabis grower for the purpose of processing the medical cannabis and who can distribute medical cannabis to a medical cannabis dispenser as authorized under this act.

"Medical cannabis strains." The three types of pure cannabis utilized for medical purposes, cannabis sativa, cannabis indica and the combination of both cannabis sativa and cannabis indica, which creates a cannabis hybrid.

"Medical use." The acquisition, possession or use of medical cannabis by a patient, including the use of vaporization in the public domain or the acquisition, possession and delivery of medical cannabis by an authorized provider.

"Owner or operator." Any of the following:

(1) An officer, principal, owner or director of the medical cannabis grower, processor or dispenser licensed under section 507.

(2) A person who directly holds a beneficial interest in or has a controlling interest in an applicant or licensee.

(3) A person who has the ability to elect a majority of
the board of directors of a licensee or to otherwise control
a licensee.

"Occupation permit." A permit issued by the board
authorizing an individual to be employed by a medical cannabis
grower, processor or dispenser.

"Patient." An individual who has an established
practitioner-patient relationship and has been diagnosed by a
health care practitioner as having a qualified medical
condition.

"Practitioner-patient relationship." The relationship
established between a patient and health care practitioner
following an assessment of the patient's medical history and
current condition and the conduct of a personal examination.

"Qualified medical condition." A medical condition or its
treatment that is recognized by a licensed health care
practitioner attending to a patient as being treatable with
medical cannabis in a manner that is recommended by and under
the supervision of a health care practitioner who has
established a practitioner-patient relationship with the patient
and has provided written certification in order to notify the
Department of Health that the patient is to be issued a medical
cannabis access card after authorization of the certification in
accordance with section 512.

"Registered nurse." A person licensed to practice
professional nursing under the act of May 22, 1951 (P.L.317,
No.69), known as The Professional Nursing Law.

"Testing laboratory." An accredited clinical laboratory or
testing facility located within this Commonwealth, certified by
the board under section 511.

"Vaporizer." A medical device that enables the inhalation of
medical cannabis as a method of ingestion, turning medical cannabis into vapor and where a nontoxic water vapor is the only byproduct of using medical cannabis through vaporization.

CHAPTER 3

REGULATORY OVERSIGHT

Section 301. License.

(a) Medical cannabis.--A person may not conduct an activity related to the growing, processing or dispensing of medical cannabis unless the person is licensed by the board under this act.

(b) Employee.--A licensed medical cannabis grower, medical cannabis processor or medical cannabis dispenser may not employ an individual to directly participate in the growing, processing, delivery or dispensing of authorized medical cannabis unless the individual receives an occupation permit from the board under this act.

Section 302. State Board of Medical Cannabis Licensing.

(a) Establishment.--The State Board of Medical Cannabis Licensing is established within the department.

(b) Composition.--The board shall consist of the following:

(1) The Secretary of Health.

(2) Two public members.

(3) One member representing hospitals.

(4) Two members who are medical doctors representing specialties which utilize medical cannabis to treat patients.

(5) Two members who are registered nurses.

(6) The Secretary of State or a designee from the department who shall be an ex officio member.

(7) The Secretary of Human Services or a designee from the Department of Human Services who shall be an ex officio
member.


(c) Meetings.--The board shall meet within 30 days of the confirmation of the initial member and shall:

(1) Establish procedures to operate the board.

(2) Develop applications and other forms for licensure and occupation permits and enforcement of this act and certifications for testing laboratories.

(3) Promulgate regulations, as necessary, to implement and enforce this act.

(d) Term.--Each professional and public member shall be appointed by the Governor with the advice and consent of a majority of the Senate. Each member shall:

(1) Be a citizen of the United States and a resident of this Commonwealth.

(2) Except as provided in subsection (e), serve a term of four years or until a successor has been appointed and qualified, which may not be longer than six months beyond the four-year period.

(3) Not be eligible to serve more than two consecutive terms.

(4) Not hold any other public office during their term on the board.

(e) Initial appointments.--For each member initially appointed to the board, the term of office shall be as follows:

(1) Three members shall serve for a term of four years.

(2) Two members shall serve for a term of three years.

(3) Two members shall serve for a term of two years.

(f) Quorum.--A majority of the members of the board shall
constitute a quorum. Each member must be physically in attendance to be counted as part of a quorum or to vote on an issue. A majority of the members present shall be necessary for a vote to be considered binding.

(g) Chairperson.—The board shall annually select a chairperson from the members of the board.

(h) Expenses.—With the exception of the Commissioner of the Bureau of Professional and Occupational Affairs, the Secretary of Health, the Secretary of State or a designee from the department, the Secretary of Human Services or a designee from the Department of Human Services, each member of the board shall receive $100 per diem when attending to the work of the board. A member shall also receive the amount of reasonable travel, hotel and other necessary expenses incurred in the performance of the member's duties in accordance with Commonwealth regulations.

(i) Forfeiture.—A member who fails to attend three consecutive meetings shall forfeit the member's seat unless the chairperson, upon written request from the member, finds that the member should be excused because of illness or death of a family member.

(j) Frequency of meetings.—The board shall meet at least once per month for the first 12 months, including and after the initial meeting required by section 302(c). After the first 12 months following the establishment of the board, the board shall meet at least six times a year and may meet at additional times as necessary to conduct the business of the board.

Section 303. Powers and duties of board.

The board shall have the following powers and duties:

(1) To provide for and regulate the licensing of the following:
(i) A medical cannabis grower.
(ii) A medical cannabis processor.
(iii) A medical cannabis dispenser.

(2) To issue occupation permits to medical cannabis employees.

(3) To issue certifications to testing laboratories.

(4) To issue, deny, renew, reinstate or refuse to renew, suspend and to revoke licenses, certifications of testing laboratories and occupation permits in accordance with this act.

(5) To administer and enforce the provisions of this act.

(6) To investigate and conduct background checks for each application for a license or occupation permit to determine the fitness and eligibility of an individual applying for a license or occupation permit.

(7) To establish fees for application and renewal of licenses and occupation permits and the due dates for all fees.

(8) To promulgate and enforce regulations, not inconsistent with this act, necessary to carry out the provisions of this act as follows:

   (i) Regulations shall provide for accredited research institutions, universities and colleges recognized by the Commonwealth to study and research the health benefits of medical cannabis.

   (ii) Regulations shall prohibit the cost for medical cannabis from exceeding 110% of the average wholesale price of the product.

   (iii) Regulations shall be developed in consultation with...
with Cannabis Inflorescence, Cannabis Spp. Standards of
Identity, Analysis and Quality Control published by the
American Herbal Pharmacopeia, not inconsistent with this
act.

(iv) Except as provided for in section 5101(a),
regulations shall be adopted in conformity with all of
the following:

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

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

(9) To keep minutes and records of each transaction and
proceeding.

(10) To provide standards for the appearance of
dispensers to ensure a professional atmosphere.

(11) To promulgate regulations:

(i) In regards to childproof containers, packaging,
tracking, labeling and testing.

(ii) Providing for the development of a system to
ensure a medical cannabis dispenser can authorize a
patient's medical cannabis access card.

(iii) Prohibiting the board from limiting, changing
or restricting the definition of a qualified medical
condition.

(iv) Ensuring the diversity of medical cannabis
through establishing a medical cannabis strain and brand
registry.

(12) To develop regular inspection schedules, including
unannounced inspection, of all medical cannabis growers,
processors and dispensers.
(13) To submit annually to the department an estimate of financial requirements of the board for the board's administrative, legal and other expenses.

(14) To submit an annual report to the Senate and the House of Representatives regarding the activity of the board.

Section 304. Subpoena power.

The General Counsel of the Commonwealth, or the General Counsel's designee, shall have the power to issue a subpoena on behalf of the board in disciplinary and licensing matters before the board in order to investigate an alleged violation in accordance with the following:

(1) The power shall not apply to patient records without order of a court of competent jurisdiction showing that the records are reasonably necessary for the conduct of an investigation.

(2) The court may impose limitations on the scope of a subpoena as necessary to prevent unnecessary intrusion into patient confidential information.

(3) The attorney representing the Commonwealth in a disciplinary matter before the board may apply to Commonwealth Court to enforce the subpoenas.

(4) Nothing in this section shall be construed to excuse a person from producing documents and records as requested by the board under any other provision of law.

Section 305. Hearing examiners.

(a) Appointment.--The Commissioner of the Bureau of Professional and Occupational Affairs, after consultation with the board, shall appoint hearing examiners as necessary to conduct hearings in disciplinary matters before the board.

(b) Regulation.--Regulations promulgated by the board shall
include the procedural rules to be followed by hearing examiners under this act. Each proceeding shall be conducted in accordance with 2 Pa.C.S. (relating to administrative law and procedure).

(c) Powers.—A hearing examiner shall have the following powers:

(1) To conduct hearings.

(2) To issue subpoenas requiring:
   (i) The attendance and testimony of individuals.
   (ii) The production of pertinent records or other papers by persons whom the examiner believes have information relevant to matters pending before the examiner.

(3) To issue decisions.

Section 306. Civil penalties.

(a) Authorization.—The board shall adopt a schedule of civil penalties for operating without a current, registered, unsuspended and unrevoked license or occupation permit and for violations of this act. The schedule shall be published in the Pennsylvania Bulletin.

(b) Imposition.—An agent of the board may issue citations and impose penalties for a violation of this chapter. A penalty may be appealed to a hearing examiner or the board pursuant to regulations promulgated by the board. If the matter is initially referred to a hearing examiner, the board shall render a decision on an exception to the decision of the hearing examiner or on any applications for review under 2 Pa.C.S. (relating to administrative law and procedure).

(c) Board sanction.—

(1) In addition to any other penalty authorized by law, the board may impose the following sanctions on a licensee:
(i) Revocation of the license of a person convicted of a criminal offense or violation of this act or regulations of the board which would disqualify the holder from growing, processing or dispensing medical cannabis.

(ii) Revocation of the license of a person for willfully and knowingly violating or attempting to violate an order of the board directed to the person.

(iii) Revocation of an occupation permit of a person for willfully and knowingly violating or attempting to violate an order of the board directed to the person.

(iv) Suspension of the license or occupation permit of a person pending the outcome of a hearing in a case in which a license, occupation permit or certification revocation could result.

(v) Suspension of the license of a licensed grower, processor or dispenser for a violation or attempt to violate any provision of this act.

(vi) Assessment of an administrative penalty as necessary to address misconduct and deter future violations.

(vii) Ordering of restitution of funds or property unlawfully obtained or retained by a licensee.

(viii) Entrance of a cease and desist order which specifies the conduct which is to be discontinued, altered or implemented by the licensee.

(ix) Issuance of a letter of reprimand or censure, which shall be made a permanent part of the file of each licensee or occupation permit holder.

(2) If the board refuses to issue or renew a license or
occupation permit or imposes a penalty under paragraph (1),
the board shall provide the applicant, licensee or permit
holder with written notification of the decision, including a
statement of the reasons for the decision by certified mail
within five business days of the decision of the board. The
applicant, licensee or permittee shall have the right to
appeal the decision in accordance with 2 Pa.C.S. Chs. 5
(relating to practice and procedure) and 7 (relating to
judicial review).

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

(d) Additional powers.--In addition to the penalties under
subsections (b) and (c), the board shall have the power to do
the following:

(1) Levy a civil penalty of not more than $25,000 for a
violation of this act.

(2) Impose a civil penalty of up to $15,000 per
violation if a person aids and abets the unlicensed growing,
processing, distribution or dispensing of medical cannabis.
The penalty may not be levied against a person solely as a
consequence of that person being a patient of the unlicensed
person.

(3) Assess against a respondent determined to be in
violation of this act the costs of investigation underlying
that disciplinary action. The cost of investigation shall not
include costs incurred by the board after the filing of
formal actions or disciplinary charges against a respondent.

(e) Judgment.--A civil penalty imposed under this section
shall be a judgment in favor of the board upon the person or
property of the person upon whom the civil penalty is imposed.
The Attorney General shall be responsible for enforcing the
judgments in courts of competent jurisdiction in accordance with
the provisions of 42 Pa.C.S. (relating to judiciary and judicial
procedure).

Section 307. Confidentiality.

(a) General rule.--Investigative records of the board,
including prosecutorial memos and transcripts of depositions on
behalf of the board or concerning a licensure-related complaint
filed with the department, shall be confidential and privileged.
The following shall apply:

(1) No person who has investigated or has access to or
custody of documents, materials or information which is
confidential and privileged under this section may be
required to testify in a judicial or administrative
proceeding without the written consent of the board unless
directed to do so by a court of competent jurisdiction.

(2) This subsection shall not preclude or limit
introduction of the contents of an investigative file or
related witness testimony in a hearing or proceeding before
the board.

(3) This section shall not apply to a letter or other
document to a licensee or occupation permit holder that
discloses the final outcome of an investigation or to a final
adjudication or order of the board.

(b) Disclosure permitted.--Except as provided in subsection
(a), this section shall not prevent disclosure of documents,
materials or information pertaining to the status of a license
or occupation permit or the sharing of information with law
enforcement officials or similar regulatory boards in other jurisdictions. A violation of this section shall subject an employee or agent of the board to administrative discipline, including discharge, suspension or other formal or appropriate disciplinary action.

(c) Affidavit.--Each employee or agent of the board must execute a confidentiality affidavit which provides that documents, materials or information in subsection (a) obtained by the employee or agent shall be considered confidential and may be disclosed only as permitted under this section.

(d) Waiver.--The board may not require an applicant to waive any confidentiality under this section as a condition for the approval of a license or other action of the board.

CHAPTER 5
LICENSING

Section 501. Medical cannabis growers.

(a) Licensing.--The board shall license medical cannabis growers to supply medical cannabis for distribution to medical cannabis processors and medical cannabis dispensers under this act.

(b) Imposition.--At the time of license issuance, the board shall impose a licensing fee in the amount of $5,000. The board shall impose a $2,500 annual renewal fee for each year following the year the license was issued.

(c) Term.--Upon payment of the fee under subsection (b), a grower's license shall be in effect unless suspended, revoked or not renewed by the board for good cause.

(d) Update.--A licensee under this section must notify the board of a change relating to the status of its license or other information contained in its application and other information
filed with the board.

(e) Deposit.--The fee under subsection (b) shall be deposited into the General Fund.

(f) Restriction.--There shall be no restriction on specific strains of medical cannabis that may be grown under this act. There shall be no use of genetically modified organisms or an organism whose genetic material has been altered using genetic engineering involved in the cultivation of medical cannabis.

(g) Requirements.--A medical cannabis grower shall do all of the following:

(1) Only grow medical cannabis using conventional growing methods on land or in a facility approved by the board.

(2) Conduct quality testing utilizing a testing laboratory certified by the board and submit to random testing of medical cannabis conducted by the board.

(3) Package and label medical cannabis products in accordance with 3 Pa.C.S. Ch. 57 (relating to food protection) and regulations of the board.

(4) Only transport, sell or deliver medical cannabis to a medical cannabis processor, a testing laboratory or to a medical cannabis dispenser.

(5) Maintain records of all sales and other activities as required by the board.

(h) Exchange.--The board shall promulgate regulations for the exchange of seed and plant materials with growers.

Section 502. Medical cannabis processors.

(a) Licensing.--The board shall license medical cannabis processors to process medical cannabis into oil-based medical cannabis products.
(b) Imposition.--At the time of license issuance, the board shall impose a licensing fee in the amount of $10,000. The board shall impose a $5,000 annual renewal fee for each year following the year the license was issued.

(c) Term.--Upon payment of the fee under subsection (b), a processor's license shall be in effect unless suspended, revoked or not renewed by the board for good cause.

(d) Update.--A licensee under this section must notify the board of a change relating to the status of its license or other information contained in its application and other information filed with the board.

(e) Deposit.--The fee under subsection (b) shall be deposited into the General Fund.

(f) Requirements.--A medical cannabis processor shall do all of the following:

1. Only use extraction and processing methods approved by the board.
2. Conduct quality testing utilizing an accredited testing laboratory approved by the board and submit to random testing conducted by the board.
3. Only sell, transport or deliver medical cannabis to a testing laboratory or to a medical cannabis dispenser.
4. Conduct processing activities in facilities approved by the board.
5. Maintain records of all sales and other activities as required by the board.

Section 503. Medical cannabis dispensers.

(a) Licensing.--The board shall license medical cannabis dispensaries to accept medical cannabis access cards and dispense medical cannabis to a patient with a qualifying medical
condition in accordance with a health care practitioner's
instructions.

(b) Imposition.—At the time of license issuance, the board
shall impose a licensing fee in the amount of $15,000. The board
shall impose a $7,500 annual renewal fee for each year following
the year the license was issued.

c) Term.—Upon payment of the fee under subsection (b), a
dispenser's license shall be in effect unless suspended, revoked
or not renewed by the board for good cause.

(d) Update.—A licensee under this section must notify the
board of a change relating to the status of its license or other
information contained in its application and other information
filed with the board.

e) Deposit.—The fee under subsection (b) shall be
deposited into the General Fund.

(f) Requirements.—A medical cannabis dispenser shall do all
of the following:

(1) Maintain a system to verify medical cannabis access
cards.

(2) Maintain a record of all medical cannabis dispensed.
Each record shall include:

(i) The name of the holder of the medical cannabis
access card.

(ii) The amount of medical cannabis dispensed.

(iii) The date of each dispensing to the cardholder.

(3) Provide reports as required by the board relating to
amounts dispensed.

(4) Maintain a physical premises that meets the
regulations of the board. Medical cannabis may not be visible
from the entryway to an individual who is not an occupation-
permitted employee, owner or operator of the premises.

(5) Maintain a security system as required by the board.

(6) Adopt accountability measures relating to the request of medical cannabis from a medical cannabis grower or processor.

(7) Provide for the supervision of the dispensing of medical cannabis at all times by a registered nurse.

(8) Display appropriate signage as required by the board.

Section 504. Applications.

(a) Application.--An application for a grower, processor or dispenser license must be submitted on a form and in a manner as required by the board. In reviewing an application, the board shall confirm that all applicable fees have been paid.

(b) Information.--An applicant for a grower, processor or dispenser license must do all of the following:

(1) Disclose the following information:

(i) Each arrest and citation for a nontraffic summary offense of the applicant.

(ii) The name, address and photograph of the applicant and each principal and the principal's position within the corporation or organization.

(iii) Any financial information required by the board.

(iv) The proposed location of the growing, processing or dispensing operation.

(v) The details of each loan obtained to finance the growing, processing or dispensing operation.

(vi) Any other information required by the board.

(2) Consent to the conduct of a background investigation
by the board, the scope of which shall be determined by the board consistent with this act. Consent shall include a release signed by each person subject to the investigation of information required to complete the investigation.

(c) Refusal.--A refusal to provide the information required under this section or to consent to a background investigation shall result in the immediate denial of a license.

(d) Character requirements.--Each application for a grower, processor or dispenser license shall include information, documentation and assurance required to establish by clear and convincing evidence that the applicant is a person of good character, honesty and integrity and is eligible and suitable to be an owner or operator. Information shall include information pertaining to associates during the 10-year period immediately preceding the filing date of the application.

Section 505. Location.

(a) General rule.--Except as otherwise provided under this act, each grower, processor and dispenser license shall be valid for the specific physical location within the municipality and county for which it was originally granted. A person may not distribute medical cannabis from a location other than the facility originally authorized.

(b) Zoning.--The following shall apply:

(1) The growing of medical cannabis shall be classified as a normal agricultural operation as defined under section 2 of the act of June 10, 1982 (P.L.454, No.133), referred to as the Right-to-Farm Law.

(2) Facilities for the manufacturing, preparation and production of medical cannabis shall meet the same municipal zoning and land use requirements as other manufacturing,
preparation and production facilities.

(3) Facilities for the dispensing of medical cannabis shall meet the same municipal zoning and land use requirements as other commercial facilities.

(c) Petition.--An applicant or holder of a license under this act may petition the board to relocate its facility. In determining whether to grant a petition to relocate, the board shall do all of the following:

(1) Evaluate the proposed new location and the reason for relocation.

(2) Evaluate community support and compliance with local ordinances.

(3) Consider any other information submitted by the petitioner or required by the board.

Section 506. Change in ownership or control.

The following apply to notification and approval:

(1) A medical cannabis grower, processor or dispenser must notify the board upon becoming aware of a proposed or contemplated change of ownership or control of the licensee. A new owner must pay a licensing fee as determined by the board.

(2) The purchaser of the assets of a medical cannabis grower, processor or dispenser must independently qualify for a license in accordance with this act and must pay the license fee required under this chapter.

(3) If the ownership of the operation of a licensed grower, processor or dispenser or its affiliate changes, the new owner must pay the annual renewal fee for each applicable license.

Section 507. Licensing of owner or operator.
(a) License required.--Each owner or operator shall obtain an owner or operator license from the board.

(b) Application.--An owner or operator license application shall be in a form prescribed by the board and shall include the following:

(1) Verification of status as an owner or operator from a medical cannabis dispenser, grower or processor.

(2) A description of responsibilities as an owner or operator.

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

(4) Fingerprints, which shall be submitted to the Pennsylvania State Police. The Pennsylvania State Police shall submit fingerprint data to and receive national criminal history record information from the Federal Bureau of Investigation for use in investigating an applicant for an owner or operator license.

(5) A photograph that meets the standards of the Commonwealth Photo Imaging Network.

(6) Details relating to a similar license, permit or other authorization obtained in another jurisdiction.

(7) Any additional information required by the board.

(c) Issuance.--Following review of the application and the background investigation, the board may issue an owner or operator license if the applicant has proven by clear and convincing evidence that the applicant is a person of good character, honesty and integrity and is eligible and suitable to be licensed as an owner or operator.

(d) Nontransferability.--A license issued under this section shall be nontransferable.
Owner or operator.--An individual who receives an owner or operator license need not obtain an occupation permit.

Section 508. Occupation permits.

(a) Permit required.--Each medical cannabis employee, and each authorized provider who is not a parent or guardian of a patient, shall obtain an occupation permit from the board.

(b) Application.--An occupation permit application shall be in a form prescribed by the board and shall include the following:

1. Verification of one of the following:
   (i) The status as an occupation permit holder from a medical cannabis grower, processor or dispenser.
   (ii) From a health care facility that the authorized provider is an employee designated to purchase, possess, transport, deliver and properly administer medical cannabis to a patient with a medical cannabis access card who is unable to obtain the medical cannabis.

2. A description of employment responsibilities.

3. Each release necessary to obtain information from governmental agencies, employers and other organizations.

4. Fingerprints, which shall be submitted to the Pennsylvania State Police. The Pennsylvania State Police shall submit fingerprint data to and receive national criminal history record information from the Federal Bureau of Investigation for use in investigating an applicant for an occupation permit.

5. A photograph that meets the standards of the Commonwealth Photo Imaging Network.

6. Details relating to a similar license, permit or other authorization obtained in another jurisdiction.
(7) Any additional information required by the board.

(c) Issuance.--Following review of the application and the background investigation, the board may issue an occupation permit if the applicant has proven by clear and convincing evidence that the applicant is a person of good character, honesty and integrity and is eligible and suitable to be an occupation permit holder.

(d) Nontransferability.--An occupation permit issued under this section shall be nontransferable.

Section 509. Storage and transportation.

The board shall develop regulations relating to the storage and transportation of medical cannabis between growers, processors, testing laboratories and medical cannabis dispensaries which ensure adequate security to guard against in-transit losses. The regulations shall provide for the following:

(1) Requirements relating to shipping containers and packaging.

(2) The manner in which trailers or carriers must be secured.

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

(4) Obtaining copies of driver's licenses and registrations.

(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 cannabis products.

Section 510. Disposal and donation.

(a) Disposal.--The board shall promulgate regulations
relating to disposal of medical cannabis by medical cannabis
growers, processors, dispensers and law enforcement.
(b) Donation.--A medical cannabis dispenser, grower and
processor may donate medical cannabis that has been purchased or
produced and tested in this Commonwealth in accordance with this
act, subject to the following:
   (1) The medical cannabis is unused and in an unopened
       container.
   (2) The medical cannabis may only be donated for
       research purposes to an accredited research institution,
       university or college within this Commonwealth that is
       recognized by the Commonwealth.
Section 511. Testing laboratories.
   (a) Certification.--The board may certify an accredited
       laboratory to test medical cannabis as required by the board.
   (b) Requirement.--A medical cannabis grower and a medical
       cannabis processor must utilize a certified laboratory to test
       the quality of medical cannabis before the sale or transaction
       of medical cannabis is made as required by the board.
Section 512. Medical cannabis access card.
   (a) Department of Health.--A patient with a qualified
       medical condition may apply to the Department of Health for a
       medical cannabis access card.
   (b) Application.--An application for a medical cannabis
       access card shall be developed by the Department of Health.
       Applications for renewal shall be required on an annual basis.
       An authorized provider may obtain a medical cannabis access card
       on behalf of a patient.
   (c) Certification.--Applications and renewals must include
       written certification from a health care practitioner that the
applicant has a qualified medical condition.

(d) Verification.--The Department of Health shall verify the information in the application and renewal form. Verification shall include verification of the certification under subsection (c).

(e) Time.--The department must approve or deny an application within 30 business days.

(f) Denial.--A denial must state the reason for the denial. A denial shall be considered a final agency decision subject to review under 2 Pa.C.S. (relating to administrative law and procedure).

(g) Fee.--The department shall charge an application fee of not more than $100.

(h) Residency.--A patient must reside in this Commonwealth to receive a medical cannabis access card.

(i) Reciprocity.--A patient registered in another medical cannabis state may submit to the department the patient's credentials to utilize medical cannabis. After the department authorizes the patient's credentials, the department shall issue the patient a medical cannabis access card allowing the patient to utilize medical cannabis in this Commonwealth.

(j) Issuance to authorized provider.--If an authorized provider is no longer employed with a health care facility, the authorized provider's medical cannabis access card shall be made immediately null and void. A health care facility that employs an authorized provider to pick up and administer medical cannabis to its patients shall notify the Department of Health immediately upon the termination of the authorized provider's employment.

(k) Right-to-Know Law.--The Department of Health shall
maintain a confidential list of each individual identified by
the individual's medical cannabis access card who has been
issued a medical cannabis access card. Other identifying
information on the list shall be confidential and shall not be
considered a public record under the act of February 14, 2008
(P.L.6, No.3), known as the Right-to-Know Law. The list may not
be disclosed except to any of the following:

(1) Authorized employees of the board as necessary to
perform official duties of the board and Department of
Health.

(2) Authorized employees of the board and Department of
Health, only as necessary to verify that a person who is
engaged in the suspected or alleged medical use of cannabis
is lawfully in possession of a medical cannabis access card.

Section 513. Prohibitions and use.

(a) Prohibitions.--

(1) No individual shall smoke medical cannabis in the
public domain.

(2) No individual may operate, drive, navigate or be in
physical control of any of the following while under the
influence with a blood content of more than 10 nanograms of
tetrahydrocannabinoid of medical cannabis:

(i) A motor vehicle.

(ii) An aircraft.

(iii) A motor boat.

(iv) Heavy machinery.

(v) A mode of transportation in a manner that would
constitute an offense under 75 Pa.C.S. Ch. 38 (relating
to driving after imbibing alcohol or utilizing drugs).

(3) An individual with a valid medical cannabis access
card shall not be determined to be under the influence of medical cannabis solely for having medical cannabis in the individual's system.

(b) Use.--Except as provided under subsections (a) and (c), an individual with a valid medical cannabis access card may utilize medical cannabis in any public place, including the following:

(1) Public transportation.

(2) On school grounds in accordance with the Department of Education regulations regarding medication on school grounds.

(3) In a correctional facility in accordance with the Department of Corrections regulations regarding medications in correctional facilities.

(4) At a public park or public beach.

(c) Vaporization.--Combusting and inhaling medical cannabis by means of vaporization is permitted in the public domain.

(d) Adulteration.--With the exception of extraction methods and processing operations approved by the board, a person may not adulterate, fortify, contaminate or change the character or purity of medical cannabis from the original sold by a licensed medical cannabis grower, processor or dispenser.

Section 514. Unlawful activities.

(a) Licensing.--It shall be a criminal offense to knowingly do any of the following:

(1) Grow, process or dispense medical cannabis without a license under this act.

(2) Transport medical cannabis from or between an unlicensed grower, processor or dispenser.

(3) Participate in the growing, processing or dispensing
of medical cannabis in violation of this act.

(4) Fail to report, pay or truthfully account for and pay any license fee, authorization fee or an assessment imposed under this act.

(5) Violate any regulation of the board.

(b) False swearing.--The provisions of 18 Pa.C.S. § 4902 (relating to perjury), 4903 (relating to false swearing) or 4904 (relating to unsworn falsification to authorities) shall apply to a person providing information or making an oral or written statement to the board, a Commonwealth agency or to law enforcement in relation to the enforcement of this act.

Section 515. Criminal penalties.

(a) Violation.--Except as provided under subsections (b), (c) and (d), a violation of this act is a misdemeanor of the second degree.

(b) Unauthorized actions.--A medical cannabis grower, processor or dispenser that distributes, gives, sells or provides medical cannabis to a person other than a person authorized under this act commits a felony of the third degree.

(c) Falsification of application or certification.--An individual who falsifies an application or certification under section 511 commits a misdemeanor of the first degree.

(d) Subsequent violation.--A person that is convicted of a second or subsequent violation of this act commits a felony of the third degree.

CHAPTER 7

 MEDICAL CANNABIS

Section 701. Medical use permitted.

(a) Patient.--

(1) A patient who possesses a valid medical cannabis
access card shall not be subject to arrest, prosecution, penalty, denial of a right or privilege, civil penalty or disciplinary action by a professional licensing board due to the use of medical cannabis in accordance with this act. Law enforcement personnel may not unreasonably detain, question or arrest a patient with a valid medical cannabis access card.

(2) There shall exist a rebuttable presumption that a patient is using medical cannabis if the patient possesses a valid medical cannabis access card. The presumption may be rebutted by evidence that conduct related to medical cannabis use is not related to a patient's qualified medical condition.

(3) A patient may assert the use of medical cannabis as an affirmative defense to a prosecution involving medical cannabis unless the individual is in violation of this act when the events giving rise to the prosecution occurred. The defense shall be presumed valid if the evidence shows one of the following:

(i) Medical records and current medical condition made in the course of a practitioner-patient relationship indicate the potential benefits of medical cannabis likely outweigh health risks.

(ii) A health care practitioner affirms that in the health care practitioner's opinion, after full assessment of the patient's medical history and current medical condition, the potential benefits of medical cannabis outweigh the health risks.

(4) Possession of or application for a medical cannabis access card may not alone constitute probable cause to search
a person, the person's property or otherwise subject the
person or property to inspection by a governmental agency.

(5) Law enforcement officials may not destroy, damage or
alter a patient's supply of medical cannabis if the patient
is in possession of a valid medical cannabis access card.

(b) Patients under 18 years of age.—Subsection (a) does not
apply to a patient under 18 years of age unless all of the
following have occurred:

(1) The minor's health care practitioner has explained
to the minor and the minor's custodial parent, guardian or
person having legal custody the potential risks and benefits
of medical cannabis.

(2) The custodial parent, guardian or person having
legal custody consents in writing to:
   (i) Allow the minor's use of medical cannabis.
   (ii) Serve as the minor's authorized provider.
   (iii) Control the acquisition, dosage and frequency
       of the minor's use of medical cannabis.

(c) Authorized provider.—

(1) An authorized provider who has possession of a valid
medical cannabis access card shall not be subject to
detrimental action, including arrest, prosecution, penalty,
denial of a right or privilege, civil penalty or disciplinary
action, by a professional licensing board for assisting a
patient to whom the authorized provider is connected through
the board's registration process with medical cannabis. Law
enforcement personnel may not unreasonably detain, question
or arrest or repeatedly detain, question or arrest an
authorized provider for assisting the patient.

(2) There shall exist a rebuttable presumption that an
authorized provider is engaged in medical cannabis use if the authorized provider possesses a valid medical cannabis access card. The presumption may be rebutted by evidence that conduct related to medical cannabis use is not for the purpose of alleviating the symptoms or effects of a patient's qualified medical condition.

(3) An authorized provider may assert the medical use of cannabis as an affirmative defense to a prosecution involving medical cannabis unless the authorized provider is in violation of this act when the events giving rise to the prosecution occurred. The defense shall be presumed valid if the evidence shows either of the following at the time of the events giving rise to the prosecution:

(i) The patient's medical records and current medical condition made in the course of a practitioner-patient relationship indicate the potential benefits of medical cannabis outweigh the health risks for the patient.

(ii) A health care practitioner states that in the health care practitioner's opinion, after completing a full assessment of the patient's medical history and current medical condition, potential benefits of medical cannabis likely outweigh the health risks for the patient.

(4) Possession of or application for a medical cannabis access card shall not alone constitute probable cause to search a person, property of a person possessing or applying for the medical cannabis access card or otherwise subject the person or the person's property to inspection by a governmental agency.
(5) Law enforcement officials may not intentionally destroy, damage or alter a patient's supply of medical cannabis which is in the possession of the authorized provider if the authorized provider is in possession of a medical cannabis access card.

(d) Health care practitioner and registered nurse.--A health care practitioner or registered nurse shall not be subject to detrimental action, including arrest, prosecution, penalty, denial of a right or privilege, civil penalty or disciplinary action, by the health care practitioner's or registered nurse's licensing board for providing written certification for the medical use of cannabis to a patient in accordance with this act.

(e) Registered nurse.--A registered nurse shall not be subject to detrimental action, including arrest, prosecution, penalty, denial of a right or privilege, civil penalty or disciplinary action, by the registered nurse's licensing board for dispensing medical cannabis to a patient in accordance with this act.

(f) Personal proximity.--An individual shall not be subject to arrest or prosecution for constructive possession, conspiracy or another offense for being in the presence or vicinity of medical cannabis as permitted under this act.

(g) Restriction.--An individual who has been sentenced for a criminal act shall not be disqualified from obtaining or possessing a valid medical cannabis access card on the basis of the offense.

CHAPTER 9

PROTECTION, PROHIBITIONS AND ENFORCEMENT

Section 901. Civil discrimination protection.
The following shall apply:

(1) For the purposes of medical care, including organ transplant, a patient's authorized use of medical cannabis under this act shall be considered the equivalent of the use of other medication under the direction of a health care practitioner. Medical cannabis, when used in accordance with this act, may not be considered an illicit substance or otherwise disqualify a patient from medical care.

(2) An individual may not be penalized in any of the following ways due to the individual's use of medical cannabis under this act:

   (i) Denied custody, visitation or parenting time with a minor child.

   (ii) Presumed to neglect or endanger a minor child unless the individual's behavior creates an unreasonable danger to the safety of the minor by clear and convincing evidence.

(3) A landlord may not refuse to lease or otherwise penalize a patient solely for having a medical cannabis access card or using medical cannabis in accordance with this act unless the landlord would forfeit a monetary or licensing-related benefit under Federal law or regulation.

(4) A school may not refuse to enroll or otherwise penalize a patient solely for having a medical cannabis access card or using medical cannabis in accordance with this act unless the school would forfeit a monetary or licensing-related benefit under Federal law or regulation.

(5) An employer may not discriminate against an individual in the hiring, termination of benefits or otherwise penalize the individual for being a medical
cannabis access cardholder. The following shall apply:

(i) The employer may take an individual's status as a cardholder into account only if the employer proves the employee is abusing or misusing the employee's medical cannabis on the premises of the place of employment during ordinary hours of employment or if failure to do so would cause an employer to forfeit a licensing benefit under Federal law or regulation.

(ii) A individual's positive drug test for cannabis components or metabolites may not be considered by an employer unless the individual unlawfully used, possessed or was impaired by the medical cannabis while on the premises of the place of employment or during the hours of employment.

Section 902. Prohibitions.

(a) Inspection.--A licensee may not refuse to allow an authorized employee of the department to inspect the licensee's premises at any time.

(b) Other prohibitions.--A licensee may be cited under this act for:

(1) An unlawful act prohibited by State law which occurs on the licensee's premises.

(2) An unlawful act which involves a licensee or the licensee's agent or employee.

(3) The sale or purchase of an illegal drug by the licensee or by the licensee's agent or employee.

Section 903. Enforcement.

(a) Officers.--To enforce the provisions of this act, uniformed law enforcement officers may:

(1) Arrest on view, except in private homes, or with a
warrant a person engaged in any of the following activities contrary to this act or another law of this Commonwealth:

(i) Unlawful distribution, sale or transfer of medical cannabis.

(ii) Unlawful importation of medical cannabis.

(iii) Unlawful manufacture of medical cannabis.

(iv) Unlawful transportation of medical cannabis.

(v) Unlawful possession of medical cannabis.

(vi) Unlawful growing of medical cannabis.

(2) Arrest on view, except in private homes or with a warrant, a person whom the officer, while in the performance of assigned duties under this act and regulations promulgated under this act, observes to be in violation of any of the following:

(i) 18 Pa.C.S. § 3302 (relating to causing or risking catastrophe).

(ii) 18 Pa.C.S. § 3304 (relating to criminal mischief).

(iii) 18 Pa.C.S. § 4101 (relating to forgery).

(iv) 18 Pa.C.S. § 5503 (relating to disorderly conduct).

(v) 18 Pa.C.S. § 6310.3 (relating to carrying a false identification card).

(3) Search, seize and dispose of seized property in accordance with the following:

(i) Upon reasonable and probable cause with a warrant, except in private homes, to search and seize the following:

(A) Medical cannabis unlawfully possessed, manufactured, sold, imported or transported.
(B) Equipment, materials, utensils, vehicles, boats, vessels or aircraft which are or have been used in the unlawful manufacture, sale, importation or transportation of medical cannabis.

(ii) Medical cannabis equipment, materials, utensils, vehicles, boats, vessels or aircraft that have been seized shall be disposed of as provided in this act and in regulations promulgated under this act.

(4) Arrest a person who engages in the following offenses when the offenses are committed against the officer while the officer is performing assigned duties under this act and the regulations promulgated under this act:

   (i) 18 Pa.C.S. § 2701 (relating to simple assault).
   (ii) 18 Pa.C.S. § 2702 (relating to aggravated assault).
   (iii) 18 Pa.C.S. § 2705 (relating to recklessly endangering another person).
   (iv) 18 Pa.C.S. § 2706 (relating to terroristic threats).
   (v) 18 Pa.C.S. § 2709 (relating to harassment).
   (vi) 18 Pa.C.S. § 5104 (relating to resisting arrest or other law enforcement).
   (vii) 18 Pa.C.S. § 5501 (relating to riot).

(5) Serve and execute warrants issued by the proper authorities for offenses under this subsection and to serve subpoenas.

(6) Arrange for the administration of chemical tests of blood or urine to a person for the purpose of determining the tetrahydrocannabinol content of blood or the presence of a controlled substance by qualified personnel of a State or
local police department or qualified personnel of a clinical
laboratory licensed and approved by the department.

(7) To investigate and issue citations for the following:

(i) A violation of this act.

(ii) A violation of a regulation of the board.

(iii) A violation of another law of this Commonwealth.

(b) Confiscation.--Equipment or appurtenance actually used in the commission of the unlawful acts may be confiscated. The confiscation shall not divest or impair the rights or interest of a bona fide lien holder in the equipment or appurtenance.

CHAPTER 51
MISCELLANEOUS PROVISIONS

Section 5101. Temporary regulations.

(a) Temporary regulations.--In order to facilitate the implementation of this act, regulations promulgated by the board shall be deemed temporary regulations which shall expire not later than two years following the publication of the temporary regulation. Temporary regulations shall not be subject to:

(1) Sections 201, 202, 203, 204 and 205 of 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.


(b) Expiration.--The board's authority to adopt temporary regulations under subsection (a) shall expire two years after 20150HB0193PN0260
the effective date of this section. Regulations adopted after this period shall be promulgated as provided by law.

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

Section 5102. Applicability of other statutes.

The following acts shall apply to the board:

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

Section 5103. Repeals.

The following shall apply:

(1) Sections 4 and 13 of the act of April 14, 1972 (P.L.233, No.64), known as The Controlled Substance, Drug, Device and Cosmetic Act, are repealed insofar as they are inconsistent with this act.

(2) All acts and parts of acts are repealed insofar as they are inconsistent with this act.

Section 5104. Sovereign immunity.

The Commonwealth may not be held liable for any deleterious outcomes resulting from the medical use of cannabis by a patient.

Section 5105. Health insurance.

Nothing in this act shall be construed to require a State government medical assistance program or private health insurer to reimburse a person for costs associated with the medical use of cannabis or an employer to accommodate the medical use of cannabis.
cannabis in a workplace.

Section 5106. Effective date.

This act shall take effect in 60 days.