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CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 604

Introduced by Assembly Member Ammiano
(Principal coauthors: Senators Steinberg and Leno)

February 20, 2013

An act to amend Sections 2220.05, 2242, and 2264 of, and to add Chapter 18 (commencing with Section 26000) to Division 9 of, the Business and Professions Code, and to amend Section 11362.7 of, and to amend and repeal Section 11362.775 of, the Health and Safety Code, relating to medical cannabis, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 604, as amended, Ammiano. Medical cannabis: state regulation and enforcement.

Existing law, the Compassionate Use Act of 1996, an initiative measure enacted by the approval of Proposition 215 at the November 6, 1996, statewide general election, authorizes the use of marijuana for medical purposes. Existing law enacted by the Legislature, commonly referred to as the Medical Marijuana Program Act, requires the establishment of a program for the issuance of identification cards to qualified patients so that they may lawfully use marijuana for medical purposes, and requires the establishment of guidelines for the lawful cultivation of marijuana grown for medical use.

The Medical Practice Act provides for the regulation and licensing of physicians and surgeons by the Medical Board of California and requires the board to prioritize investigations and prosecutions of physicians and surgeons representing the greatest threat of harm, as specified. Existing law identifies the cases that are to be given priority, which include cases of repeated acts of excessively prescribing, furnishing, or administering controlled substances without a good faith prior examination of the patient. Existing law makes it unprofessional conduct for a physician and surgeon to prescribe, dispense, or furnish dangerous drugs without an appropriate prior examination and medical indication. Existing law also makes it unprofessional conduct to employ, aid, or abet an unlicensed person in the practice of medicine. Existing law generally makes any person who violates these provisions guilty of a misdemeanor.

This bill would enact the Medical Cannabis Regulation and Control Act and would create the Division of Medical Cannabis Regulation and Enforcement within the Department of Alcoholic Beverage Control, to be administered by a person exempt from civil service who is appointed by the Director of Alcoholic Beverage Control. The bill would grant the department the exclusive power to register persons for the cultivation, manufacture, testing, transportation, storage, distribution, and sale of medical cannabis within the state subject to specified exemptions for a city or county. The bill would provide that the director and persons employed by the department to administer and enforce its provisions are peace officers. The bill would prescribe requirements for the issuance, renewal, suspension, and revocation of mandatory commercial registrations and fees in relation to these activities. The bill would permit the department to assist statewide taxation authorities in the development of uniform policies for the taxation of mandatory commercial medical cannabis registrants and to assist in the development of regulation in connection with work safety in this industry. The bill would authorize the division to establish a grant program for the purpose of funding medical cannabis regulation and enforcement.

The bill would establish the Medical Cannabis Regulation Fund and would require deposit of fees into the fund. The bill would continuously appropriate moneys within the fund to the division for the purposes of administering the program. The bill would require the deposit of penalty money into the General Fund.

The bill would require the department, on or before January 1, 2015, to issue regulations as necessary for the implementation and enforcement

of mandatory commercial medical cannabis registration, as specified, and would prescribe requirements for provisional registrations to be operative January 1, 2014. The bill would prohibit approval of a mandatory commercial registration for specified reasons, including if a licensed physician making patient recommendations for medical cannabis is an interested party in the proposed operation, and would prohibit a physician from recommending medical cannabis to a patient while he or she is a mandatory commercial registrant, or associated, as specified, with a mandatory commercial registrant. The bill would provide that certain patient and caregiver information is excluded from disclosure to the public. The bill would provide that the actions of a mandatory commercial registrant or provisional registrant, its employees, and its agents that are permitted pursuant to a valid mandatory commercial registration issued by the division and that are conducted in accordance with the requirements of the act are not unlawful, as specified. The bill would provide a similar immunity for a property owner who allows his or her property to be used by a mandatory commercial registrant or provisional registrant.

The bill would require the department to work in conjunction with law enforcement entities throughout the state to implement and enforce the rules and regulations regarding medical cannabis and to take appropriate action against businesses and individuals that fail to comply with the law. The bill would prohibit, on and after January 1, 2015, a person other than a mandatory commercial registrant from selling cannabis or cannabis products or performing other actions related to cannabis, except as specified. The bill would provide that its provisions do not affect local zoning ordinances or laws of general application. The bill would make certain violations of its provisions a crime, thereby imposing a state-mandated local program. ~~The bill would create a Medical Cannabis Appeals Board to which a person aggrieved by any final decision of the department could appeal. The bill would authorize the department to delegate authority to administrative law judges. The bill would prescribe a procedure for these appeals and for the review of an order of the appeals board by the courts.~~ The bill would establish requirements for the transportation of medical cannabis. The bill would specify that its provisions are severable.

The bill would specify that recommending marijuana to patients without a good faith examination and medical reason is unprofessional conduct and is a type of case that should be given priority for investigation and prosecution by the Medical Board of California, as

described above. The bill would also specify that employment by, or an agreement with, a mandatory medical cannabis registrant to provide recommendations for medical marijuana constitutes unprofessional conduct. By broadening the definition of a crime, the bill would impose a state-mandated local program. The bill would repeal, 90 days after the department posts a specified notice on its Internet Web site, the provisions described above prohibiting prosecution of qualified patients, persons with valid identification cards, and designated primary caregivers who associate in California, collectively or cooperatively, to cultivate marijuana for medical purposes.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: yes. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. This act shall be known, and may be cited, as the
- 2 Medical Cannabis Regulation and Control Act.
- 3 SEC. 2. (a) The Legislature finds and declares all of the
- 4 following:
- 5 (1) In 1996, the people of the State of California enacted the
- 6 Compassionate Use Act of 1996, codified in Section 11362.5 of
- 7 the Health and Safety Code. The people of the State of California
- 8 declared that their purpose in enacting the measure was, among
- 9 other things, “to ensure that seriously ill Californians have the
- 10 right to obtain and use marijuana for medical purposes where that
- 11 medical use is deemed appropriate and has been recommended by
- 12 a physician who has determined that the person’s health would
- 13 benefit from the use of marijuana in the treatment of cancer,
- 14 anorexia, AIDS, chronic pain, spasticity, glaucoma, arthritis,
- 15 migraine, or any other illness for which marijuana provides relief.”
- 16 (2) The Compassionate Use Act of 1996 called on state
- 17 government to implement a plan for the safe and affordable
- 18 distribution of marijuana to all patients in medical need of
- 19 marijuana.

1 (3) In 2003, the Legislature enacted the Medical Marijuana
2 Program Act (MMPA), codified in Article 2.5 (commencing with
3 Section 11362.7) of Chapter 6 of Division 10 of the Health and
4 Safety Code. Under the guidance of the MMPA, approximately
5 60 California cities and counties have created medical marijuana
6 access ordinances that can act as a guide for the state. However,
7 many other cities and counties are calling for more guidance and
8 regulation from the state and have passed bans or moratoria on
9 medical marijuana cultivation and distribution while awaiting this
10 guidance.

11 (4) Greater certainty and uniformity are urgently needed
12 regarding the rights and obligations of medical marijuana facilities,
13 and for the imposition and enforcement of regulations to prevent
14 unlawful cultivation and the diversion of marijuana to nonmedical
15 use.

16 (5) Despite the passage of the Compassionate Use Act of 1996
17 and the MMPA, because of the lack of an effective statewide
18 system for regulating and controlling medical marijuana, local law
19 enforcement officials have been confronted with uncertainty about
20 the legality of some medical marijuana cultivation and distribution
21 activities. The current system of collectives and cooperatives makes
22 law enforcement difficult and endangers patient safety because of
23 an inability to monitor the supply of medical marijuana in the state
24 and the lack of quality control, testing, and labeling requirements.
25 As a result, many cities and counties have passed local ordinances
26 that in some cases ban the cultivation or distribution of medical
27 marijuana.

28 (6) For the protection of all Californians, the state must act to
29 regulate and control medical marijuana and not preempt local
30 government ordinances. Cities and counties should be allowed to
31 impose reasonable local taxes and enact reasonable zoning
32 regulations and other restrictions applicable to the cultivation and
33 distribution of medical marijuana based on local needs. In order
34 to provide patients with access to safe medical marijuana products,
35 while at the same time preventing diversion of marijuana to
36 nonmedical uses and protecting the public, it is necessary to amend
37 the MMPA and to establish a comprehensive structure for
38 regulating the cultivation, production, and distribution of medical
39 marijuana products.

1 (7) A state entity shall be created to regulate and control the
 2 mandatory registration of all entities involved in the commercial
 3 cultivation, processing, manufacturing, testing, transportation,
 4 distribution, and sale of medical marijuana in this state. Patients
 5 and their primary caregivers shall continue to be allowed to
 6 cultivate medical marijuana for the personal medical purposes of
 7 the individual patient, but only medical marijuana produced in
 8 compliance with this act may be sold or commercially distributed.

9 (8) This act is not intended to prevent cities and counties from
 10 imposing reasonable local taxes and enacting reasonable zoning
 11 regulations and other restrictions applicable to the commercial
 12 cultivation and distribution of medical marijuana based on local
 13 needs.

14 (9) It is the intent of the Legislature that the state entity created
 15 to regulate and control medical marijuana solicit input from cities
 16 and counties that have local ordinances or regulations allowing
 17 for the registering, permitting, or licensing of medical marijuana
 18 businesses, dispensaries, or other entities involved in providing
 19 medical marijuana to patients in the process of promulgating
 20 standards and regulations pursuant to this act.

21 *(10) It is the intent of the Legislature that entities provided*
 22 *immunity under Measure D, approved by the voters of the City of*
 23 *Los Angeles on the May 21, 2013, ballot, shall be considered the*
 24 *equivalent of entities that are registered, permitted, or licensed as*
 25 *a medical marijuana business, dispensary, or other entity involved*
 26 *in providing medical marijuana to patients under a local ordinance*
 27 *and shall be considered in compliance with a local ordinance for*
 28 *the purposes of the implementation of this act and any regulations*
 29 *promulgated by the Department of Alcoholic Beverage Control.*

30 ~~(10)~~

31 (11) The provisions of this act are enacted pursuant to the
 32 powers reserved to the State of California and its people under the
 33 Tenth Amendment to the United States Constitution.

34 ~~(11)~~

35 (12) Nothing in this act is intended to require any individual or
 36 entity to engage in any conduct that violates federal law or to
 37 exempt anyone from any requirement of federal law or to pose
 38 any obstacle to federal enforcement of federal law.

39 (b) It is therefore the intent of the Legislature, in enacting this
 40 act, to accomplish all of the following:

1 (1) To establish a statewide system for regulating and controlling
2 commercial medical cannabis activities by creating a state entity
3 to enact and enforce regulations governing the cultivation,
4 processing, manufacturing, testing, transportation, distribution,
5 and sale of commercial medical cannabis.

6 (2) To allow cities and counties to enact reasonable zoning
7 regulations or other restrictions applicable to the cultivation,
8 processing, manufacturing, testing, and distribution of commercial
9 medical cannabis based on local needs.

10 (3) To establish the Division of Medical Cannabis Regulation
11 and Enforcement to be located within the Department of Alcoholic
12 Beverage Control to provide a governmental agency that will
13 ensure the strict, honest, impartial, and uniform administration and
14 enforcement of the medical cannabis laws throughout the state.

15 (4) To fulfill the promise of the Compassionate Use Act of 1996
16 to “implement a plan for the safe and affordable distribution of
17 marijuana to all patients in medical need of marijuana.”

18 (5) To establish a statewide registration process for commercial
19 medical cannabis activities to identify for law enforcement which
20 entities are exempt from state criminal penalties.

21 (6) To reduce the cost of commercial medical cannabis
22 enforcement by controlling commercial medical cannabis
23 production and distribution through comprehensive statewide
24 regulation and providing law enforcement guidelines to more easily
25 determine whether or not a person is acting in conformance with
26 the state’s medical cannabis laws.

27 SEC. 3. Section 2220.05 of the Business and Professions Code
28 is amended to read:

29 2220.05. (a) In order to ensure that its resources are maximized
30 for the protection of the public, the Medical Board of California
31 shall prioritize its investigative and prosecutorial resources to
32 ensure that physicians and surgeons representing the greatest threat
33 of harm are identified and disciplined expeditiously. Cases
34 involving any of the following allegations shall be handled on a
35 priority basis, as follows, with the highest priority being given to
36 cases in the first paragraph:

37 (1) Gross negligence, incompetence, or repeated negligent acts
38 that involve death or serious bodily injury to one or more patients,
39 such that the physician and surgeon represents a danger to the
40 public.

1 (2) Drug or alcohol abuse by a physician and surgeon involving
2 death or serious bodily injury to a patient.

3 (3) Repeated acts of clearly excessive prescribing, furnishing,
4 or administering of controlled substances, or repeated acts of
5 prescribing, dispensing, or furnishing of controlled substances, or
6 recommending marijuana to patients for medical purposes, without
7 a good faith prior examination of the patient and medical reason
8 therefor. However, in no event shall a physician and surgeon
9 prescribing, furnishing, or administering controlled substances for
10 intractable pain consistent with lawful prescribing, including, but
11 not limited to, Sections 725, 2241.5, and 2241.6 of this code and
12 Sections 11159.2 and 124961 of the Health and Safety Code, be
13 prosecuted for excessive prescribing and prompt review of the
14 applicability of these provisions shall be made in any complaint
15 that may implicate these provisions.

16 (4) Sexual misconduct with one or more patients during a course
17 of treatment or an examination.

18 (5) Practicing medicine while under the influence of drugs or
19 alcohol.

20 (b) The board may by regulation prioritize cases involving an
21 allegation of conduct that is not described in subdivision (a). Those
22 cases prioritized by regulation shall not be assigned a priority equal
23 to or higher than the priorities established in subdivision (a).

24 (c) The Medical Board of California shall indicate in its annual
25 report mandated by Section 2312 the number of temporary
26 restraining orders, interim suspension orders, and disciplinary
27 actions that are taken in each priority category specified in
28 subdivisions (a) and (b).

29 SEC. 4. Section 2242 of the Business and Professions Code is
30 amended to read:

31 2242. (a) Prescribing, dispensing, or furnishing dangerous
32 drugs as defined in Section 4022, or recommending marijuana to
33 a patient for medical purposes, without an appropriate prior
34 examination and a medical indication, including an in-person
35 examination when recommending marijuana, constitutes
36 unprofessional conduct.

37 (b) No licensee shall be found to have committed unprofessional
38 conduct within the meaning of this section if, at the time the drugs
39 were prescribed, dispensed, or furnished, any of the following
40 applies:

1 (1) The licensee was a designated physician and surgeon or
2 podiatrist serving in the absence of the patient’s physician and
3 surgeon or podiatrist, as the case may be, and if the drugs were
4 prescribed, dispensed, or furnished only as necessary to maintain
5 the patient until the return of his or her practitioner, but in any case
6 no longer than 72 hours.

7 (2) The licensee transmitted the order for the drugs to a
8 registered nurse or to a licensed vocational nurse in an inpatient
9 facility, and if both of the following conditions exist:

10 (A) The practitioner had consulted with the registered nurse or
11 licensed vocational nurse who had reviewed the patient’s records.

12 (B) The practitioner was designated as the practitioner to serve
13 in the absence of the patient’s physician and surgeon or podiatrist,
14 as the case may be.

15 (3) The licensee was a designated practitioner serving in the
16 absence of the patient’s physician and surgeon or podiatrist, as the
17 case may be, and was in possession of or had utilized the patient’s
18 records and ordered the renewal of a medically indicated
19 prescription for an amount not exceeding the original prescription
20 in strength or amount or for more than one refill.

21 (4) The licensee was acting in accordance with Section 120582
22 of the Health and Safety Code.

23 SEC. 5. Section 2264 of the Business and Professions Code is
24 amended to read:

25 2264. The employing, directly or indirectly, the aiding, or the
26 abetting of any unlicensed person or any suspended, revoked, or
27 unlicensed practitioner to engage in the practice of medicine,
28 including employment by, or other agreement with, a mandatory
29 commercial registrant acting pursuant to the Medical Cannabis
30 Regulation and Control Act or a dispensary to provide
31 recommendations for medical marijuana, or any other mode of
32 treating the sick or afflicted which requires a license to practice
33 constitutes unprofessional conduct.

34 SEC. 6. Chapter 18 (commencing with Section 26000) is added
35 to Division 9 of the Business and Professions Code, to read:

CHAPTER 18. MEDICAL CANNABIS REGULATION

Article 1. General Provisions

26000. (a) It is the intent of the Legislature in enacting this chapter to provide for the comprehensive regulation of the commercial cultivation, manufacturing, testing, transportation, distribution, and sale of medical cannabis and the enforcement of laws relating to commercial medical cannabis activities.

(b) This chapter is an exercise of the police powers of the state for the protection of the safety, welfare, health, peace, and morals of the people of the state.

26001. Subject to the authority of a city or county pursuant to Section 26010, the state shall have the exclusive right and power to regulate and register persons for the cultivation, manufacture, testing, transportation, storage, distribution, sale, purchase, and possession of medical cannabis within the state. In the exercise of these rights and powers, the Legislature shall not constitute the state or any of its agencies as a cultivator, manufacturer, transporter, tester, or seller of medical cannabis.

26002. For the purpose of this chapter:

(a) "Cannabis" means all parts of the plant Cannabis sativa L., whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. "Cannabis" also means the separated resin, whether crude or purified, obtained from marijuana.

(b) "Department" means the Department of Alcoholic Beverage Control.

(c) "Dispensary" means a mandatory commercial registrant that dispenses cannabis or medical cannabis products through a retail storefront.

(d) "Division" means the Division of Medical Cannabis Regulation and Enforcement.

1 (e) “Fund” means the Medical Cannabis Regulation Fund
2 established pursuant to Section 26028.

3 (f) “Identification program” means the universal identification
4 certificate program for mandatory commercial registrants.

5 (g) “Mandatory commercial registrant” or “registrant” means
6 any individual, partnership, joint venture, association, limited
7 liability company, corporation, estate, trust, receiver, syndicate,
8 or any other group or combination thereof acting as a unit to
9 commercially cultivate, process, possess, store, manufacture, test,
10 transport, distribute, or sell medical cannabis in compliance with
11 this chapter, other than a patient or a patient’s primary caregiver,
12 as defined by the Compassionate Use Act of 1996, growing,
13 possessing, storing, manufacturing, transporting, or providing
14 medical cannabis exclusively for the personal medical purposes
15 of individual patients as defined in subdivision (b) of Section
16 26050.

17 (h) “Medical cannabis product” means any cannabis product,
18 including concentrates and extractions, that is cultivated, processed,
19 packaged, and distributed in full compliance with the requirements
20 of this chapter and with any regulations adopted by the department
21 pursuant to its rulemaking authority. “Medical cannabis product”
22 includes medically infused products that contain medical cannabis
23 and are intended for oral or topical consumption by a qualified
24 patient.

25 (i) “Person” includes any individual, firm, copartnership, joint
26 ~~adventure~~ *venture*, association, corporation, estate, trust, business
27 trust, receiver, syndicate, or any other group or combination acting
28 as a unit and includes the plural as well as the singular number.

29 (j) “Testing and labeling” means mandatory labeling and a
30 quality assurance plan in place that addresses all of the following:

- 31 (1) Potency.
- 32 (2) Chemical residue.
- 33 (3) Microbiological contaminants.
- 34 (4) Random sample testing of medical cannabis and medical
35 cannabis products.
- 36 (5) Handling, care, and storage.
- 37 (6) Date and location of production and manufacturing.

38 26010. This chapter does not prevent a city or county from
39 doing any of the following:

- 1 (a) Adopting local ordinances that ban or regulate the location,
- 2 operation, or establishment of a ~~cannabis dispensary~~ *mandatory*
- 3 *commercial registrant*.
- 4 (b) The civil or criminal enforcement of the ordinances described
- 5 in subdivision (a).
- 6 (c) Establishing a reasonable fee for the operation of a
- 7 mandatory commercial registrant within its jurisdiction.
- 8 (d) Enacting other laws consistent with this chapter.

10 Article 2. Administration

11
12 26020. (a) There is hereby created in the Department of
13 Alcoholic Beverage Control the Division of Medical Cannabis
14 Regulation and Enforcement. The division shall be administered
15 by a person exempt from the civil service who is appointed by the
16 director.

17 (b) The department shall have the exclusive power, consistent
18 with the provisions of this chapter, to register persons for the
19 cultivation, manufacture, testing, transportation, storage,
20 distribution, and sale of medical cannabis within the state and to
21 collect registration fees in connection with these actions.

22 26022. The department shall have all power necessary for
23 administration of this chapter, including, but not limited to, the
24 following:

25 (a) Establishing statewide standards for the commercial
26 cultivation, manufacturing, testing, transportation, storage,
27 distribution, and sale of medical cannabis and medical cannabis
28 products and procedures for the issuance, renewal, suspension,
29 and revocation of registrations of mandatory commercial
30 registrants.

31 (b) Establishing a scale of application, registration, and renewal
32 fees, to be imposed by the state, for mandatory commercial
33 registrants for the cultivation, manufacturing, testing,
34 transportation, distribution, and sale of medical cannabis and
35 medical cannabis products. The department may charge separate
36 fees for each mandatory commercial registration application for
37 cultivation, manufacturing, transportation, distribution, and sale.
38 The total fees imposed pursuant to this chapter shall be reasonable
39 and based on the actual costs of administering and enforcing this
40 chapter.

1 (c) The department shall make and prescribe those reasonable
2 rules as may be necessary or proper to carry out the purposes and
3 intent of this chapter and to enable it to exercise the powers and
4 perform the duties conferred upon it by this chapter and in
5 accordance with Chapter 3.5 (commencing with Section 11340)
6 of Part 1 of Division 3 of Title 2 of the Government Code. For the
7 performance of its duties, the department has the powers as set
8 forth in Article 2 (commencing with Section 11180) of Chapter 2
9 of Part 1 of Division 3 of Title 2 of the Government Code.

10 (d) Approving or denying mandatory commercial registration
11 applications for cultivation, manufacturing, testing and labeling,
12 transportation, distribution, and sale of medical cannabis pursuant
13 to this chapter.

14 (e) The department shall have the power, in its discretion, to
15 deny, suspend, revoke, or fine any registration issued pursuant to
16 this chapter if the department determines, for good cause, that the
17 granting or continuance of the registration would be contrary to
18 public welfare or morals or that a person holding or seeking a
19 registration has violated any law prohibiting conduct involving
20 moral turpitude.

21 (f) Imposing any penalty authorized by this chapter or any rule
22 or regulation adopted pursuant to this chapter.

23 (g) Taking any reasonable action with respect to a mandatory
24 commercial registration application in accordance with procedures
25 established pursuant to this chapter.

26 (h) Upon the denial of any application for a registration, the
27 department shall notify the applicant in writing. After service of
28 the notice and within the time prescribed by the department, the
29 applicant may present his or her written petition for a registration
30 to the department. Upon receipt by the department of a petition
31 for a registration in proper form, the petition shall be set for
32 hearing.

33 (i) (1) For any hearing held pursuant to this chapter, the
34 department may delegate the power to hear and decide to an
35 administrative law judge appointed by the director. Any hearing
36 before an administrative law judge shall be pursuant to the
37 procedures, rules, and limitations prescribed in Chapter 5
38 (commencing with Section 11500) of Part 1 of Division 3 of Title
39 2 of the Government Code.

1 (2) Prior to suspending, revoking, or fining any registration, the
2 department shall file an accusation as provided for in Section 11503
3 of the Government Code, and the registrant may request a hearing.

4 (j) Developing any forms, identification certificates, and
5 applications that are necessary or convenient in the reasonable
6 discretion of the department for the administration of this chapter
7 or any of the rules or regulations adopted pursuant to this chapter.

8 (k) Overseeing the operation of the Medical Cannabis Regulation
9 Fund established pursuant to Section 26028.

10 (l) Establishing reasonable fees for processing all applications,
11 registrations, notices, or reports required to be submitted to the
12 department. The amount of the fees shall reflect, but shall not
13 exceed, the direct and indirect costs of the department for the
14 administration of this chapter and the rules or regulations adopted
15 pursuant to this chapter.

16 (m) The department may consult with other state agencies,
17 departments, or public or private entities for the purposes of
18 establishing statewide standards and regulations.

19 26024. (a) The department may assist state taxation authorities
20 in the development of uniform policies for the taxation of
21 mandatory commercial registrants.

22 (b) The department shall assist the Division of Occupational
23 Safety and Health in the Department of Industrial Relations in the
24 development of industry-specific regulations related to commercial
25 medical cannabis activities.

26 26028. (a) The Medical Cannabis Regulation Fund is hereby
27 established within the State Treasury. Notwithstanding Section
28 16305.7 of the Government Code, the fund shall include any
29 interest and dividends earned on the money in the fund.

30 (b) All fees collected pursuant to this chapter shall be deposited
31 into the Medical Cannabis Regulation Fund. Notwithstanding
32 Section 13340 of the Government Code, all moneys within the
33 fund are hereby continuously appropriated, without regard to fiscal
34 year, to the department solely for the purposes of fully funding
35 and administering this chapter, including, but not limited to, the
36 costs incurred by the department for its administrative expenses.

37 (c) All moneys collected pursuant to this chapter as a result of
38 penalties imposed under this division shall be deposited directly
39 into the General Fund, to be available upon appropriation.

1 (d) The department may establish and administer a grant
2 program to allocate moneys from the Medical Cannabis Regulation
3 Fund to state and local entities for the purpose of assisting with
4 commercial medical cannabis regulation and the enforcement of
5 this chapter.

6 26030. (a) The director and the persons employed by the
7 department for the administration and enforcement of this chapter
8 are peace officers in the enforcement of the penal provisions of
9 this chapter, the rules of the department adopted under the
10 provisions of this chapter, and any other penal provisions of law
11 of this state prohibiting or regulating the cultivation, processing,
12 storing, manufacturing, testing, transporting, or selling of medical
13 cannabis, and these persons are authorized, while acting as peace
14 officers, to enforce any penal provisions of law while in the course
15 of their employment.

16 (b) The director, the persons employed by the department for
17 the administration and enforcement of this chapter, peace officers
18 listed in Section 830.1 of the Penal Code, and those officers listed
19 in Section 830.6 of the Penal Code while acting in the course and
20 scope of their employment as peace officers may, in enforcing the
21 provisions of this chapter, visit and inspect the premises of any
22 mandatory commercial registrant at any time during which the
23 registrant is acting pursuant to the registration.

24 (c) Peace officers of the Department of the California Highway
25 Patrol, members of the University of California and California
26 State University police departments, and peace officers of the
27 Department of Parks and Recreation, as defined in subdivisions
28 (a), (b), (c), and (f) of Section 830.2 of the Penal Code, may, in
29 enforcing this chapter, visit and inspect the premises of any
30 mandatory commercial registrant located on state property at any
31 time during which the registrant is acting pursuant to the
32 registration.

33 26034. (a) Information identifying the names of patients, their
34 medical conditions, or the names of their primary caregivers
35 received and contained in records kept by the department for the
36 purposes of administering this chapter are confidential and exempt
37 from the California Public Records Act (Chapter 3.5 (commencing
38 with Section 6250) of Division 7 of Title 1 of the Government
39 Code) and or not subject to disclosure to any individual or private

1 entity, except as necessary for authorized employees of the State
2 of California to perform official duties pursuant to this chapter:

3 (b) (1) Nothing in this section precludes the following:

4 (A) Division employees notifying state or local law enforcement
5 about information submitted to the division that the employee
6 suspects is falsified or fraudulent.

7 (B) Notifications from the division to state or local law
8 enforcement about apparent criminal violation of this chapter.

9 (C) Verification of requests by state or local law enforcement
10 to confirm registrants and certificates issued by the division or
11 other state agency.

12 (D) Provision of information requested pursuant to a court order
13 or subpoena issued by a court.

14 (2) Information shall not be disclosed beyond what is necessary
15 to achieve the limited goals of a specific investigation or the
16 parameters of a specific court order or subpoena.

17

18 Article 3. Mandatory Commercial Registration

19

20 26040. (a) On or before January 1, 2015, the department shall
21 promulgate regulations necessary for the implementation and
22 enforcement of this chapter. These regulations shall be reasonable
23 and shall include:

24 (1) Procedures for the issuance, renewal, suspension, and
25 revocation of mandatory commercial registrations.

26 (2) Application, registration, and renewal forms and fees
27 consistent with this act.

28 (3) Time periods, not to exceed 90 days, by which the
29 department shall approve or deny an application for medical
30 cannabis registration.

31 (4) Qualifications for registrants.

32 (5) Security requirements, including, but not limited to,
33 procedures for limiting access to facilities and for the screening
34 of employees. The department shall require all registrants to
35 maintain an accurate roster of any employee’s name, date of birth,
36 and relevant personally identifying information, which shall be
37 available for inspection by the department or state or local law
38 enforcement upon demand.

1 (6) Testing and labeling requirements, including, but not limited
2 to, disclosure of the active cannabinoid profile, constituent
3 elements, active ingredients, and results of testing for contaminants.

4 (7) Health and safety requirements, including, but not limited
5 to, prohibitions on shipping or distribution of products containing
6 microbiological, bacterial, pathogenic yeast or mold counts, or
7 any adulterant or contaminant, that exceed levels to be determined
8 by the department.

9 (8) Inspection and tracking requirements, including, but not
10 limited to, an electronic production and inventory tracking system
11 that will allow the department to monitor inventory data at every
12 level of the cultivation, processing, and distribution system through
13 a secure, Internet Web site-based portal.

14 (9) Storage, packaging, and transportation procedures and
15 protocols.

16 (10) Advertising restrictions and requirements.

17 (11) Requirements to ensure conformance with applicable state
18 statutory environmental, agricultural, and food and product safety
19 requirements. The department may consult with the California
20 Environmental Protection Agency to determine whether additional
21 regulations should be issued in order to protect the state's clean
22 water and environment, including, but not limited to, protections
23 related to land conversion, grading, water diversion and pond
24 development, and agricultural discharges.

25 (12) Requirements to prevent the diversion of cannabis to
26 nonmedical use, including procedures and protocols for disposal
27 of excess, contaminated, adulterated, or deteriorated products.

28 (13) Civil penalties for the failure to comply with regulations
29 adopted pursuant to this chapter.

30 (b) A mandatory commercial registration application or renewal
31 shall not be approved if the department determines any of the
32 following:

33 (1) The applicant fails to meet the requirements of this chapter
34 or any regulation adopted pursuant to this chapter, including any
35 applicable city or county ordinance or regulation.

36 (2) The applicant, or any of its officers or directors, is under 21
37 years of age.

38 (3) The applicant has knowingly answered a question or request
39 for information falsely on the application form or failed to provide
40 information requested.

1 (4) The applicant, or any of its officers or directors, has been
2 convicted in the previous five years of a violent felony, as specified
3 in subdivision (c) of Section 667.5 of the Penal Code, a serious
4 felony as specified in subdivision (c) of Section 1192.7 of the Penal
5 Code, a felony offense involving fraud or deceit, or any other
6 felony that, in the department's estimation, would impair the
7 applicant's ability to appropriately operate as a mandatory
8 commercial registrant.

9 (5) The applicant, or any of its officers or directors, is a licensed
10 physician making patient recommendations for medical cannabis.

11 (6) The applicant, or any of its officers or directors, has been
12 sanctioned by the department, a city, or a county for unregistered
13 commercial medical cannabis activities or has had a mandatory
14 commercial registration revoked in the previous three years.

15 (7) A sufficient number of mandatory commercial registrants
16 already exists in the state, a city, or a county to provide a sufficient
17 amount of medical cannabis to satisfy patients' medical use in that
18 jurisdiction.

19 (c) (1) In order to protect the public safety and provide patients
20 with prompt, safe access to medical cannabis during
21 implementation of this chapter, within 180 days of January 1, 2014,
22 the department shall issue emergency regulations consistent with
23 this chapter that allow a qualified applicant for mandatory
24 commercial registration to apply, be reviewed, and be registered
25 to cultivate, process, manufacture, store, and transport medical
26 cannabis so as to ensure an adequate supply of medical cannabis
27 upon full implementation of this chapter.

28 (2) The department shall establish appropriate fees as part of
29 its emergency regulations adopted pursuant to this chapter.

30 26042. For the purpose of regulating the commercial
31 cultivation, manufacturing, testing, transportation, distribution,
32 and sale of medical cannabis, the department, in its reasonable
33 discretion, may establish various classes or types of registration
34 for specific commercial medical cannabis-related activities, as set
35 forth in this chapter.

36 26043. (a) Each mandatory commercial registration application
37 approved by the department pursuant to this chapter is separate
38 and distinct. An applicant may apply for mandatory commercial
39 registration in more than one class of specified medical cannabis
40 activities.

1 (b) A mandatory commercial registration application approved
2 by the department pursuant to this chapter shall be valid for a
3 period not to exceed one year from the date of approval unless
4 revoked or suspended pursuant to this chapter or the rules or
5 regulations adopted pursuant to this chapter.

6 26044. (a) The department shall limit the number of
7 registrations statewide for the cultivation, processing, extraction,
8 packaging, and transportation of medical cannabis to a number no
9 greater than what is necessary to meet statewide need. In
10 determining the appropriate number of registrations, the department
11 may take into account information obtained from sources that
12 include, but need not be limited to, municipalities, patients, and
13 registrants.

14 (b) The department shall ensure that the number of registrations
15 that it approves does not exceed the ability of the department to
16 enforce the provisions of this chapter, particularly with respect to
17 ensuring patient safety and preventing illegal diversion of cannabis.

18 (c) In establishing limits pursuant to this section, the department
19 shall consider the following:

20 (1) The purposes and intent of the Compassionate Use Act of
21 1996 to ensure an adequate supply of medical cannabis while
22 endeavoring to prevent an oversupply of cannabis that may result
23 in diversion.

24 (2) The number of applicants for mandatory commercial
25 registrations whose application demonstrates that they will be able
26 to produce consistent products with strict quality controls, in full
27 compliance with this chapter and with all applicable state and local
28 regulations, and the amount of medical cannabis those applicants
29 will be able to provide.

30 26045. Every mandatory commercial registration is renewable
31 unless the registration has been revoked if the renewal registration
32 is made and the fee for it is paid. All registrations expire at 12
33 midnight on the last day of the month posted on the registration.
34 All registrations issued shall be renewed as follows:

35 (a) On or before the first of the month preceding the month
36 posted on the registration, the department shall mail to each
37 registrant at his or her registered premises, or at any other mailing
38 address that the registrant has designated, an application to renew
39 the registration.

1 (b) The application to renew the registration may be filed before
2 the registration expires upon payment of the annual fee.

3 (c) For 60 days after the registration expires, the registration
4 may be renewed upon payment of the annual renewal fee plus a
5 penalty fee that shall be equal to 50 percent of the annual fee.

6 (d) Unless otherwise terminated, or unless renewed pursuant to
7 subdivision (b) or (c), a registration that is in effect on the month
8 posted on the registration continues in effect through 12 midnight
9 of the 60th day following the month posted on the registration, at
10 which time it is automatically canceled.

11 (e) On or before the 10th day preceding the cancellation of a
12 registration, the department shall mail a notice of cancellation to
13 each registrant that has not either filed an application to renew its
14 registration or notified the department of its intent not to do so.
15 Failure to mail the renewal application in accordance with
16 subdivision (a) or to mail the notice provided in this subdivision
17 shall not continue the right to a registration.

18 (f) A registration that has been canceled pursuant to subdivision
19 (d) may be reinstated during the 30 days immediately following
20 cancellation upon payment by cashier's check or money order of
21 the annual renewal fee, plus a penalty fee that shall be equal to
22 100 percent of the annual fee. A registration that has been canceled
23 pursuant to subdivision (d) and that has not been reinstated within
24 30 days pursuant to this subdivision is automatically revoked on
25 the 31st day after the registration has been canceled.

26 (g) A renewal application shall not be deemed filed within the
27 meaning of this section unless the document itself has been actually
28 delivered to, and the required renewal fee has been paid at, any
29 office of the department during office hours, or unless both the
30 document and fee have been filed and remitted pursuant to Section
31 11003 of the Government Code.

32 26046. An application for mandatory commercial registration
33 shall include, but shall not be limited to, all of the following:

34 (a) For all applicants:

35 (1) The legal name and proposed physical addresses of the
36 mandatory commercial registrant.

37 (2) The name, address, and date of birth of each principal officer
38 and board member.

39 (3) Operating and inventory control procedures to ensure
40 security and prevent diversion.

1 (4) Detailed operating procedures for the proposed facility,
2 which shall include, but not be limited to, provisions for facility
3 and operational security, prevention of diversion, employee
4 screening, storage of medical cannabis, personnel policies, and
5 recordkeeping procedures.

6 (5) A list of all persons or entities having an ownership interest
7 other than a security interest, lien, or encumbrance on any property
8 that will be used by the applicant.

9 (6) Evidence of the legal right to occupy and use an established
10 location, *or an immunity from prosecution for that occupancy or*
11 *use pursuant to a local ordinance or ordinances*, for the activities
12 to be conducted if the desired registration is granted consistent
13 with the provisions of this chapter and the regulations developed
14 by the department.

15 (7) Documentation that the applicant will be in compliance with
16 all local ordinances and regulations, *including an entity granted*
17 *immunity under Measure D, approved by the voters of the City of*
18 *Los Angeles on the May 21, 2013, ballot.*

19 (8) Evidence that officers and owners of the applicant
20 organization are citizens of the United States and residents of the
21 State of California.

22 (b) In addition to the requirements of subdivision (a), for
23 cultivation and processing applicants, detailed operating procedures
24 for cultivation, extraction and infusion methods, transportation of
25 products, inventory procedures, procedures for quality control,
26 and onsite testing of product for potential contaminants.

27 26047. Upon receipt of an application for a registration and
28 the applicable fee, the department shall make a thorough
29 investigation to determine whether the applicant and the premises
30 for which a registration is applied qualify for the registration and
31 whether the provisions of this chapter have been complied with,
32 and shall investigate all matters connected therewith which may
33 affect the public welfare and morals. The department shall deny
34 an application for a registration if either the applicant or the
35 premises for which a registration is applied do not qualify for a
36 registration under this chapter. The department further shall deny
37 an application for a registration if issuance of that registration
38 would tend to create a law enforcement problem. The department
39 may place reasonable conditions upon registrations if grounds exist

1 for denial of the registration, and the department finds those
2 grounds may be removed by the imposition of those conditions.

3 26048. A physician shall not recommend medical cannabis to
4 a patient while the physician is a mandatory commercial registrant,
5 or an officer, director, employee, or financial beneficiary of a
6 mandatory commercial registrant.

7 26049. (a) The actions of a mandatory commercial registrant
8 or provisional registrant, its employees, and its agents, permitted
9 pursuant to a mandatory commercial registration or provisional
10 registration issued by the department or otherwise permitted by
11 this chapter, that are conducted in accordance to the requirements
12 of this chapter and regulations adopted pursuant to the authority
13 granted by this chapter, are not unlawful and shall not be an offense
14 subject to arrest, prosecution, or other sanction under state or local
15 law, or be subject to a civil fine or be a basis for seizure or
16 forfeiture of assets under state or local law.

17 (b) The actions of a person who, in good faith and upon
18 appropriate investigation, allows his or her property to be used by
19 a mandatory commercial registrant or provisional registrant, its
20 employees, and its agents, as permitted pursuant to a mandatory
21 commercial registration or provisional registration issued by the
22 department or otherwise permitted by this chapter, are not unlawful
23 and shall not be an offense subject to arrest, prosecution, or other
24 sanction under state or local law, or be subject to a civil fine or be
25 a basis for seizure or forfeiture of assets under state or local law.

26 26050. (a) A registrant shall not cultivate, process, store,
27 manufacture, test, transport, or sell medical cannabis in the state
28 unless accurate records are kept at the registered premises of the
29 growing, processing, storing, manufacturing, testing, transporting,
30 or selling by the registrant in the state. These records shall include
31 all expenditures incurred by the registrant, provided that a registrant
32 registered to act at more than one premises may keep all records
33 at one of the registered premises. Required records shall be kept
34 for a period of three years from the date of the transaction.

35 (b) The department may make any examination of the books
36 and records of any registrant and may visit and inspect the premises
37 of any registrant that the department may deem necessary to
38 perform its duties under this chapter.

39 26052. (a) This chapter shall not apply to, and shall have no
40 diminishing effect on, the rights and protections granted to a patient

1 or a primary caregiver pursuant to the Compassionate Use Act of
2 1996.

3 (b) (1) A patient who cultivates, possesses, stores, manufactures,
4 or transports cannabis exclusively for his or her personal medical
5 use and who does not sell or distribute cannabis is not considered
6 a commercial registrant and is exempt from mandatory commercial
7 registration.

8 (2) A primary caregiver who cultivates, possesses, stores,
9 manufactures, transports, or provides cannabis exclusively for the
10 personal medical purposes of a specified qualified patient for whom
11 he or she is the primary caregiver within the meaning of Section
12 11362.7 of the Health and Safety Code and who does not sell or
13 distribute cannabis except for compensation in full compliance
14 with subdivision (c) of Section 11362.765 of the Health and Safety
15 Code is not considered a commercial registrant and is exempt from
16 mandatory commercial registration.

17 26054. Beginning January 1, 2014, the department shall provide
18 for provisional registrations as follows:

19 (a) The department shall request that every city or county,
20 provide the department with a list of approved entities providing
21 medical cannabis to qualified patients and caregivers within the
22 city or county's jurisdiction, the location at which the entity is
23 operating, and the names of the persons who operate the entity. ~~If~~
24 *Unless* the jurisdiction represents that the entity has *not* been
25 operating in compliance with local laws and regulations, *or does*
26 *not have limited immunity under local laws*, the department shall
27 issue a provisional registration to the entity until the time that the
28 entity's application for mandatory commercial registration has
29 been approved or denied under this chapter, but no later than 90
30 days after the department begins accepting applications for
31 mandatory commercial registration.

32 (b) The department shall issue a provisional registration to
33 individuals and entities that the department determines were, during
34 the six months prior to January 1, 2014, regularly cultivating or
35 distributing medical cannabis collectively or cooperatively in full
36 compliance with paragraphs A and B of Section IV of the
37 Guidelines for Security and Non-Diversion of Marijuana Grown
38 for Medical Use, issued by the Department of Justice in August
39 2008, to continue to do so until such time as the registrant's
40 application for mandatory commercial registration has been

1 approved or denied under this chapter, but no later than 90 days
2 after the department begins accepting applications for mandatory
3 commercial registration. In determining compliance, the department
4 shall consider any complaints or actions made or brought by a city
5 or county against the individual or entity. To qualify, provisional
6 registrants shall be required to disclose to the department the
7 following information in writing on or before January 20, 2014,
8 in order to obtain provisional registration:

9 (1) The names, addresses, and dates of birth of each principal
10 officer, owner, or board member.

11 (2) The common street address and assessor's parcel number
12 of the property at which any cultivation activity was or is to be
13 conducted.

14 (3) For the six months prior to January 1, 2014, the quantity of
15 cannabis cultivated at a location and the quantity expected to be
16 cultivated from January 1, 2014, to June 30, 2014, inclusive. The
17 registrant shall make its records of current activity and activity for
18 the six months prior to January 1, 2014, available to the department
19 upon request.

20 (c) The department shall charge an application fee of five
21 thousand dollars (\$5,000) for each provisional registration.

22 *26055. Entities that are provided immunity under Measure D,*
23 *approved by the voters of the City of Los Angeles on the May 21,*
24 *2013, ballot, shall be considered the equivalent of entities that are*
25 *registered, permitted, or licensed as a medical marijuana business,*
26 *dispensary, or other entity involved in providing medical marijuana*
27 *to patients under a local ordinance and shall be considered in*
28 *compliance with a local ordinance for the purposes of the*
29 *implementation of the act adding this section and any regulations*
30 *promulgated by the department.*

31 26056. In addition to other regulations adopted by the
32 department pertaining to mandatory commercial registrants and
33 without limiting the authority of a city or a county pursuant to
34 Section 26010 or subdivision (b) of Section 26060, the department
35 shall adopt regulations regarding the minimum standards for the
36 operation of dispensaries that establish all of the following:

37 (a) Standards for labeling of products, including the name of
38 the mandatory commercial registrant from which the product was
39 obtained, and a requirement that dispensaries provide patients with

1 detailed written information about the contents of the cannabis
2 and medical cannabis products they obtain.

3 (b) Requirements for inventory control and reporting that require
4 all dispensaries to be able to demonstrate the present location,
5 amounts, and descriptions of all medical cannabis products from
6 the time of delivery to the dispensary until purchase by a qualified
7 patient or primary caregiver.

8 (c) The maximum number of dispensaries that may operate in
9 a city or county or the unincorporated areas of a county based on
10 population, taking into consideration the distances that patients in
11 rural areas may need to travel in order to reach a dispensary and
12 the availability of public transportation in both rural and urban
13 areas.

14 (d) Minimum educational and testing requirements for
15 dispensary staff, including background checks, and a requirement
16 that every dispensary maintain dedicated security staff both inside
17 and outside the dispensary.

18 (e) Maximum hours of operation for every dispensary.

19 (f) Minimum standards governing signage and advertising for
20 dispensaries.

21 *26057. The department shall make recommendations to the*
22 *Legislature pertaining to the establishment of an appeals and*
23 *judicial review process for persons aggrieved by a final decision*
24 *of the department.*

25

26 Article 4. Enforcement

27

28 26060. (a) The department shall work in conjunction with law
29 enforcement entities throughout the state for the purpose of
30 implementing and enforcing the rules and regulations regarding
31 commercial medical cannabis and taking appropriate action against
32 businesses and individuals who fail to comply with the law.

33 (b) Nothing in this chapter shall prevent a city, county, or city
34 and county from enforcing a zoning ordinance or law of general
35 application.

36 26062. Except for a person identified in Section 26052, a person
37 shall not exercise the privilege or perform any act that a registrant
38 may exercise or perform under the authority of a registration unless
39 the person is acting pursuant to a registration, including a
40 provisional registration, issued pursuant to this chapter.

1 26063. (a) Commencing January 1, 2015, any product
2 containing cannabis that is distributed, except in the case of a
3 primary caregiver distributing to a qualified patient, or offered for
4 sale shall comply with the testing and labeling requirements
5 established through regulation by the department.

6 (b) No person shall steal or fraudulently use a mandatory
7 commercial registrant identification certificate or registration or
8 other registrant's identification card or registration issued by the
9 department to acquire, cultivate, transport, produce, possess for
10 sale, sell, or distribute cannabis.

11 (c) No person shall counterfeit, tamper with, or fraudulently
12 produce an identification card or registration status.

13 (d) Any person who violates this section, or Section 26062, is
14 guilty of a misdemeanor and shall be subject to the following
15 penalties:

16 (1) For the first offense, imprisonment in a county jail for no
17 more than six months or a fine not to exceed one thousand dollars
18 (\$1,000), or both.

19 (2) For a second or subsequent offense, imprisonment in a
20 county jail for no more than one year or a fine not to exceed one
21 thousand dollars (\$1,000), or both.

22 (e) Any person who is charged, prosecuted, or subjected to a
23 civil penalty under this chapter shall not also be charged or
24 prosecuted pursuant to the Health and Safety Code for conduct
25 arising from the same set of facts.

26 26064. Any person operating an unregistered facility, building,
27 structure, or location where cannabis is being commercially
28 cultivated, manufactured, or possessed for sale in violation of this
29 chapter may be subject to civil penalties of up to twenty-five
30 thousand dollars (\$25,000) for each violation, and the department
31 may order the destruction of any cannabis associated with that
32 violation. Any civil fines collected pursuant to this section shall
33 be deposited into the General Fund pursuant to Section 26028.

34 26066. The director may bring an action to enjoin a violation
35 or the threatened violation of any provision of this chapter,
36 including, but not limited to, a registrant's failure to correct
37 objectionable conditions following notice or as a result of any rule
38 promulgated pursuant to this chapter. The action shall be brought
39 in the county in which the violation occurred or is threatened to
40 occur. Any proceeding brought pursuant to this chapter shall

1 conform to the requirements of Chapter 3 (commencing with
2 Section 525) of Title 7 of Part 2 of the Code of Civil Procedure.

3 26068. (a) A state or local law enforcement agency shall
4 immediately notify the department of any arrests made for
5 violations over which the department has jurisdiction which involve
6 a registrant or registered premises. Notice shall be given within
7 10 days of the arrest. The department shall promptly cause an
8 investigation to be made as to whether grounds exist for suspension
9 or revocation of a registration of the registrant.

10 (b) The department shall not open or add an entry to a file or
11 initiate an investigation of a registrant or suspend or revoke a
12 registration in either of the following circumstances:

13 (1) Solely because the registrant or an agent acting on behalf
14 of the registrant has reported to a state or local law enforcement
15 agency that suspected controlled substance violations have taken
16 place on the registered premises.

17 (2) Solely based on activities constituting violations described
18 in a report made under paragraph (1), unless the violations reported
19 occurred with the actual knowledge and willful consent of the
20 registrant.

21 26070. Nothing in this chapter shall be construed to limit a law
22 enforcement agency's ability to investigate unlawful activity in
23 relation to a mandatory commercial registrant.

24 26072. The department shall create and maintain a searchable
25 database that will allow state and local law enforcement to verify
26 a mandatory commercial registration.

27

28 ~~Article 5. Appeals and Judicial Review~~

29

30 ~~26080. There is in the state government, in the Business,~~
31 ~~Consumer Services, and Housing Agency, a Medical Cannabis~~
32 ~~Appeals Board. The Medical Cannabis Appeals Board, also referred~~
33 ~~to as the board in this chapter, shall exercise the powers as are~~
34 ~~vested in it by this chapter and may adopt such rules pertaining to~~
35 ~~appeals and other matters within its jurisdiction as may be required.~~
36 ~~The board and its duly authorized representatives in the~~
37 ~~performance of its duties under this chapter shall have the powers~~
38 ~~of a head of a department as set forth in Article 2 (commencing~~
39 ~~with Section 11180) of Chapter 2 of Part 1 of Division 3 of Title~~
40 ~~2 of the Government Code.~~

1 ~~26081. (a) Any person aggrieved by a final decision of the~~
2 ~~department issuing, denying, suspending, revoking, or ordering~~
3 ~~any penalty assessment against a registration for the cultivation,~~
4 ~~manufacture, testing, transportation, storage, distribution, sale,~~
5 ~~purchase, or possession of medical cannabis may appeal to the~~
6 ~~board, which shall review the decision subject to the limitations~~
7 ~~that may be imposed by the Legislature.~~

8 ~~(b) No decision of the department shall become effective during~~
9 ~~the period in which an appeal may be filed, and the filing of an~~
10 ~~appeal shall stay the effect of the decision until such time as a final~~
11 ~~order is made by the board.~~

12 ~~26083. The review by the board of a decision of the department~~
13 ~~shall be limited to whether:~~

14 ~~(a) The department has proceeded without, or in excess of, its~~
15 ~~jurisdiction.~~

16 ~~(b) The department has proceeded in the manner required by~~
17 ~~law.~~

18 ~~(c) The decision is supported by the findings.~~

19 ~~(d) The findings are supported by substantial evidence in the~~
20 ~~light of the whole record.~~

21 ~~(e) There is relevant evidence that, in the exercise of reasonable~~
22 ~~diligence, could not have been produced or which was improperly~~
23 ~~excluded at the hearing before the department.~~

24 ~~26085. (a) The board shall determine the appeal upon the~~
25 ~~record of the department and upon any briefs that may be filed by~~
26 ~~the parties. If any party to the appeal requests to appear before the~~
27 ~~board, the board may fix a time and place for argument. The board~~
28 ~~shall not receive any evidence other than that contained in the~~
29 ~~record of the proceedings of the department.~~

30 ~~(b) Chapter 4.5 (commencing with Section 11400) of Part 1 of~~
31 ~~Division 3 of Title 2 of the Government Code does not apply to~~
32 ~~the determination.~~

33 ~~26087. (a) Except as provided in subdivision (b), the board~~
34 ~~shall enter an order either affirming or reversing the decision of~~
35 ~~the department.~~

36 ~~(b) If the board finds that there is relevant evidence that in the~~
37 ~~exercise of reasonable diligence could not have been produced or~~
38 ~~which was improperly excluded at the hearing before the~~
39 ~~department, the board may enter an order remanding the matter to~~
40 ~~the department for reconsideration in light of the relevant evidence.~~

1 ~~(e) When the board reverses a decision of the department, the~~
2 ~~board may direct reconsideration in light of its order and may direct~~
3 ~~the department to take further action as is specifically enjoined~~
4 ~~upon it by law, but shall not limit or control in any way the~~
5 ~~discretion vested by law in the department.~~

6 ~~26088. Each order of the board on appeal from a decision of~~
7 ~~the department shall be in writing and shall be filed by delivering~~
8 ~~copies to the parties personally or in the manner prescribed by~~
9 ~~Section 1013 of the Code of Civil Procedure. Each order shall~~
10 ~~become final upon being filed as provided in this section, and there~~
11 ~~shall be no reconsideration or rehearing by the board.~~

12 ~~26090. (a) Any person affected by a final order of the board,~~
13 ~~including the department, may apply to the Supreme Court or to~~
14 ~~the court of appeal for the appellate district in which the proceeding~~
15 ~~arose, for a writ of review of the final order. The application for~~
16 ~~writ of review shall be made within 30 days after filing of the final~~
17 ~~order of the board.~~

18 ~~(b) No court of this state, except the Supreme Court and the~~
19 ~~courts of appeal to the extent specified in this article, shall have~~
20 ~~jurisdiction to review, affirm, reverse, correct, or annul any order,~~
21 ~~rule, or decision of the department or to suspend, stay, or delay~~
22 ~~the operation or execution of it, or to restrain, enjoin, or interfere~~
23 ~~with the department in the performance of its duties, but a writ of~~
24 ~~mandate shall lie from the Supreme Court or the courts of appeal~~
25 ~~in any proper case.~~

26 ~~(c) No decision of the department which has been appealed to~~
27 ~~the board and no final order of the board shall become effective~~
28 ~~during the period in which application may be made for a writ of~~
29 ~~review, as provided within this section.~~

30 ~~(d) The filing of a petition for, or the pendency of, a writ of~~
31 ~~review shall not of itself stay or suspend the operation of any order,~~
32 ~~rule, or decision of the department, but the court before which the~~
33 ~~petition is filed may stay or suspend, in whole or in part, the~~
34 ~~operation of the order, rule, or decision of the department subject~~
35 ~~to review, upon the terms and conditions which it by order directs.~~

36 ~~26091. The writ of review shall be made returnable at a time~~
37 ~~and place then or thereafter specified by court order and shall direct~~
38 ~~the board to certify the whole record of the department in the case~~
39 ~~to the court within the time specified. No new or additional~~
40 ~~evidence shall be introduced in the court, but the cause shall be~~

1 heard on the whole record of the department as certified to by the
2 board.

3 26092. (a) The review by the court shall not extend further
4 than to determine, based on the whole record of the department as
5 certified by the board, whether:

6 (1) The department has proceeded without or in excess of its
7 jurisdiction.

8 (2) The department has proceeded in the manner required by
9 law.

10 (3) The decision of the department is supported by the findings.

11 (4) The findings in the department's decision are supported by
12 substantial evidence in the light of the whole record.

13 (5) There is relevant evidence which, in the exercise of
14 reasonable diligence, could not have been produced or which was
15 improperly excluded at the hearing before the department.

16 (b) Nothing in this article shall permit the court to hold a trial
17 de novo, to take evidence, or to exercise its independent judgment
18 on the evidence.

19 26094. The findings and conclusions of the department on
20 questions of fact are conclusive and final and are not subject to
21 review. The questions of fact shall include ultimate facts and the
22 findings and conclusions of the department. The board, the
23 department, and each party to the action or proceeding before the
24 board shall have the right to appear in the review proceeding.
25 Following the hearing, the court shall enter judgment either
26 affirming or reversing the decision of the department or the court
27 may remand the case for further proceedings before or
28 reconsideration by the department.

29 26096. The provisions of the Code of Civil Procedure relating
30 to writs of review shall, insofar as applicable, apply to proceedings
31 in the courts as provided by this article. A copy of every pleading
32 filed pursuant to this article shall be served on the board, the
33 department, and on each party who entered an appearance before
34 the board.

35 26097. Whenever any matter is pending before the board or a
36 court of record involving a dispute between the department and a
37 registrant, and the parties to the dispute agree upon a settlement
38 or adjustment of it, the tribunal shall, upon the stipulation by the
39 parties that an agreement has been reached, remand the matter to
40 the department.

1 Article 6-5. Transportation of Medical Cannabis

2
3 26100. To claim the protections of this chapter and to maintain
4 a valid mandatory commercial registration, a registrant shall ship
5 medical cannabis products only in response to a request for a
6 specific quantity and variety from a registered dispensary or
7 mandatory commercial registrant.

8 26102. (a) Prior to transporting any medical cannabis product,
9 a mandatory commercial registrant shall do the following:

10 (1) Complete a shipping manifest using a form prescribed by
11 the department.

12 (2) Securely transmit a copy of the manifest to the mandatory
13 commercial registrant that will receive the medical cannabis
14 product and to the department prior to transport.

15 (b) The mandatory commercial registrant shipping and the
16 registrant receiving shall maintain each shipping manifest and
17 make it available to the department upon request.

18 26104. (a) Transported medical cannabis products shall:

19 (1) Be transported only in a locked, safe and secure storage
20 compartment that is securely affixed to the interior of the
21 transporting vehicle.

22 (2) Not be visible from outside the vehicle.

23 (b) Any vehicle transporting medical cannabis products shall
24 travel directly from the facilities of mandatory commercial
25 registrant to the registrant authorized to receive the shipment.

26 26106. (a) A mandatory commercial registrant shall staff all
27 transport vehicles with a minimum of two employees. At least one
28 delivery team member shall remain with the vehicle at all times
29 that the vehicle contains medical cannabis.

30 (b) Each delivery team member shall have access to a secure
31 form of communication by which each member can communicate
32 with personnel at the mandatory commercial registrant facility at
33 all times that the vehicle contains medical cannabis.

34 (c) Each delivery team member shall possess documentation of
35 mandatory commercial registration and a government-issued
36 identification card at all times when transporting or delivering
37 medical cannabis and shall produce it to any representative of the
38 department or law enforcement official upon request.

39 SEC. 7. Section 11362.7 of the Health and Safety Code is
40 amended to read:

1 11362.7. For purposes of this article, the following definitions
 2 shall apply:

3 (a) “Attending physician” means an individual who possesses
 4 a license in good standing to practice medicine or osteopathy issued
 5 by the Medical Board of California or the Osteopathic Medical
 6 Board of California and who has taken responsibility for an aspect
 7 of the medical care, treatment, diagnosis, counseling, or referral
 8 of a patient and who has performed an appropriate prior
 9 examination, found that the patient has a medical indication, and
 10 recommends marijuana for medical purposes to treat a serious
 11 medical condition.

12 (b) “Department” means the State Department of Public Health.

13 (c) “Person with an identification card” means an individual
 14 who is a qualified patient who has applied for and received a valid
 15 identification card pursuant to this article.

16 (d) “Primary caregiver” means the individual, designated by a
 17 qualified patient or by a person with an identification card, who
 18 has consistently assumed responsibility for the housing, health, or
 19 safety of that patient or person, and may include any of the
 20 following:

21 (1) In any case in which a qualified patient or person with an
 22 identification card receives medical care or supportive services,
 23 or both, from a clinic licensed pursuant to Chapter 1 (commencing
 24 with Section 1200) of Division 2, a health care facility licensed
 25 pursuant to Chapter 2 (commencing with Section 1250) of Division
 26 2, a residential care facility for persons with chronic life-threatening
 27 illness licensed pursuant to Chapter 3.01 (commencing with Section
 28 1568.01) of Division 2, a residential care facility for the elderly
 29 licensed pursuant to Chapter 3.2 (commencing with Section 1569)
 30 of Division 2, a hospice, or a home health agency licensed pursuant
 31 to Chapter 8 (commencing with Section 1725) of Division 2, the
 32 owner or operator, or no more than three employees who are
 33 designated by the owner or operator, of the clinic, facility, hospice,
 34 or home health agency, if designated as a primary caregiver by
 35 that qualified patient or person with an identification card.

36 (2) An individual who has been designated as a primary
 37 caregiver by more than one qualified patient or person with an
 38 identification card, if every qualified patient or person with an
 39 identification card who has designated that individual as a primary

1 caregiver resides in the same city or county as the primary
2 caregiver.

3 (3) An individual who has been designated as a primary
4 caregiver by a qualified patient or person with an identification
5 card who resides in a city or county other than that of the primary
6 caregiver, if the individual has not been designated as a primary
7 caregiver by any other qualified patient or person with an
8 identification card.

9 (e) A primary caregiver shall be at least 18 years of age, unless
10 the primary caregiver is the parent of a minor child who is a
11 qualified patient or a person with an identification card or the
12 primary caregiver is a person otherwise entitled to make medical
13 decisions under state law pursuant to Sections 6922, 7002, 7050,
14 or 7120 of the Family Code.

15 (f) “Qualified patient” means a person who is entitled to the
16 protections of Section 11362.5, but who does not have an
17 identification card issued pursuant to this article.

18 (g) “Identification card” means a document issued by the State
19 Department of Public Health that document identifies a person
20 authorized to engage in the medical use of marijuana and the
21 person’s designated primary caregiver, if any.

22 (h) “Serious medical condition” means all of the following
23 medical conditions:

24 (1) Acquired immune deficiency syndrome (AIDS).

25 (2) Anorexia.

26 (3) Arthritis.

27 (4) Cachexia.

28 (5) Cancer.

29 (6) Chronic pain.

30 (7) Glaucoma.

31 (8) Migraine.

32 (9) Persistent muscle spasms, including, but not limited to,
33 spasms associated with multiple sclerosis.

34 (10) Seizures, including, but not limited to, seizures associated
35 with epilepsy.

36 (11) Severe nausea.

37 (12) Any other chronic or persistent medical symptom that
38 either:

1 (A) Substantially limits the ability of the person to conduct one
2 or more major life activities as defined in the Americans with
3 Disabilities Act of 1990 (Public Law 101-336).

4 (B) If not alleviated, may cause serious harm to the patient's
5 safety or physical or mental health.

6 (i) "Written documentation" means accurate reproductions of
7 those portions of a patient's medical records that have been created
8 by the attending physician, that contain the information required
9 by paragraph (2) of subdivision (a) of Section 11362.715, and that
10 the patient may submit to a county health department or the
11 county's designee as part of an application for an identification
12 card.

13 SEC. 8. Section 11362.775 of the Health and Safety Code is
14 amended to read:

15 11362.775. (a) Qualified patients, persons with valid
16 identification cards, and the designated primary caregivers of
17 qualified patients and persons with identification cards, who
18 associate within the State of California in order collectively or
19 cooperatively to cultivate marijuana for medical purposes, shall
20 not solely on the basis of that fact be subject to state criminal
21 sanctions under Section 11357, 11358, 11359, 11360, 11366,
22 11366.5, or 11570.

23 (b) This section shall remain in effect only until 90 days after
24 the Department of Alcoholic Beverage Control posts a notice on
25 its Internet Web site that it began accepting applications for
26 mandatory commercial registration pursuant to Article 3
27 (commencing with Section 26040) of Chapter 18 of Division 9 of
28 the Business and Professions Code, and as of that date is repealed.

29 SEC. 9. The provisions of this act are severable. If any
30 provision of this act or its application is held invalid, that invalidity
31 shall not affect other provisions or applications that can be given
32 effect without the invalid provision or application.

33 SEC. 10. The Legislature finds and declares that Section 3 of
34 this act imposes a limitation on the public's right of access to
35 documents in the possession of a public agency within the meaning
36 of Section 3 of Article I of the California Constitution. Pursuant
37 to that constitutional provision, the Legislature makes the following
38 finding to demonstrate the interest protected by this limitation and
39 the need for protecting that interest:

1 It is necessary to maintain the confidentiality of patient and
2 physician information provided to the Division of Medical
3 Cannabis Regulation and Enforcement in order to protect the
4 private medical information of patients who use medical cannabis
5 and to preserve the essential confidentiality of the physician and
6 patient relationship.

7 SEC. 11. No reimbursement is required by this act pursuant to
8 Section 6 of Article XIII B of the California Constitution because
9 the only costs that may be incurred by a local agency or school
10 district will be incurred because this act creates a new crime or
11 infraction, eliminates a crime or infraction, or changes the penalty
12 for a crime or infraction, within the meaning of Section 17556 of
13 the Government Code, or changes the definition of a crime within
14 the meaning of Section 6 of Article XIII B of the California
15 Constitution.

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