



SPONSOR: Rep. Osienski & Sen. Paradee

HOUSE OF REPRESENTATIVES
152nd GENERAL ASSEMBLY

HOUSE BILL NO. 425

AN ACT TO AMEND TITLES 4 AND 16 RELATING TO MEDICAL MARIJUANA.

1 WHEREAS, the Office of the Marijuana Commissioner (OMC) currently exists within the Department of Safety
2 and Homeland Security (DSHS) and the Office of Medical Marijuana (OMM) currently exists within the Division of Public
3 Health (DPH) under the Department of Health and Social Services (DHSS); and

4 WHEREAS, the State of Delaware regulated marijuana industry should be centralized under a single authority;
5 and

6 WHEREAS, the merging of the OMM under the direction of the OMC will streamline the regulatory structure,
7 improve coordination between medical and recreational marijuana programs, promote consistent public policy and efficient
8 resource allocation, and improve oversight; and

9 WHEREAS, it is the responsibility of the General Assembly to ensure that fiscal resources are optimized to reduce
10 redundancy through combining administrative functions, such as budget management, human resources, and data analysis,
11 which will lead to cost savings and operational efficiencies; and

12 WHEREAS, the creation of a single authority to regulate the entire marijuana industry has been successful in
13 neighboring states including New York, New Jersey, and Maryland; and

14 WHEREAS, The Office of Medical Marijuana shall move its mission, personnel, positions, and resources under
15 the Office of the Marijuana Commissioner in the Department of Safety and Homeland Security. The Office of Medical
16 Marijuana shall become a unit under the supervision and control of the Office of the Marijuana Commissioner.

17 NOW, THEREFORE:

18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

19 Section 1. Amend Chapter 49A, Title 16 of the Delaware Code by making deletions as shown by strike through
20 and insertions as shown by underline as follows:

21 Chapter 49A. THE DELAWARE MEDICAL MARIJUANA ACT

22 § 4902A. Definitions [For application of this section, see 82 Del. Laws, c. 246, § 5].

23 For purposes of this chapter:

24 (1) “Cannabidiol-rich medical marijuana” or “CBD-rich” means a marijuana strain or product formulation
25 that has elevated levels of cannabidiol (“CBD”) and contains the profile of CBD and tetrahydrocannabinol (“THC”)
26 concentrations approved by the ~~Department~~, Commissioner.

27 (2) “Cardholder” means a qualifying patient or a designated caregiver who has been issued and possesses a
28 valid registry identification card.

29 (3) “Commissioner” means as defined in § 1302 of Title 4.

30 (3) (4) “Compassion center agent” means a principal officer, board member, employee, or agent of a
31 registered compassion center who is 21 years of age or older and has not been convicted of an excluded felony offense
32 or drug misdemeanor within 5 years.

33 (4) (5) “Debilitating medical condition” means 1 or more of the following:

34 a. Terminal illness, cancer, positive status for human immunodeficiency virus, acquired immune
35 deficiency syndrome, decompensated cirrhosis, amyotrophic lateral sclerosis, agitation of Alzheimer’s disease,
36 post-traumatic stress disorder, intractable epilepsy, seizure disorder, glaucoma, chronic debilitating migraines, new
37 daily persistent headache, or the treatment of these conditions.

38 b. A chronic or debilitating disease or medical condition or its treatment that produces 1 or more of the
39 following: cachexia or wasting syndrome; severe, debilitating pain that has not responded to previously prescribed
40 medication or surgical measures for more than 3 months or for which other treatment options produced serious
41 side effects; intractable nausea; seizures; severe and persistent muscle spasms, including those characteristic of
42 multiple sclerosis.

43 c. Any other medical condition or its treatment added by the ~~Department~~, Commissioner, as provided for
44 in § 4906A of this title.

45 (5) (6) “Department” means the Delaware Department of ~~Health and Social Services~~ Safety and Homeland
46 Security or its successor agency.

47 (6) (7) “Designated caregiver” means a person who:

48 a. Is at least 21 years of age unless the person is the parent or legal guardian of a minor who is a
49 qualifying patient;

50 b. Has agreed to assist with a patient’s medical use of marijuana;

51 c. Has not been convicted of an excluded felony offense; and

52 d. Assists no more than 5 qualifying patients with their medical use of marijuana.

53 ~~(7)~~ (8) “Enclosed, locked facility” means a greenhouse, building, or other enclosed area equipped with locks
54 or other security devices that is on a registered compassion center’s property and permits access only to the compassion
55 center agents working for the registered compassion center.

56 ~~(8)~~ (9) “Excluded felony offense” means:

57 a. A violent crime defined in § 4201(c) of Title 11, that was classified as a felony in the jurisdiction
58 where the person was convicted; or

59 b. A violation of a state or federal controlled substance law that was classified as a felony in the
60 jurisdiction where the person was convicted, not including:

61 1. An offense for which the sentence, including any term of probation, incarceration, or supervised
62 release, was completed 10 or more years earlier; or

63 2. An offense that consisted of conduct for which this chapter would likely have prevented a
64 conviction, but the conduct either occurred prior to July 1, 2011, or was prosecuted by an authority other than
65 the State of Delaware.

66 ~~(9)~~ (10) “Health-care practitioner” means an individual who is licensed and authorized to write medical orders
67 under Title 24 as a physician, advanced practice registered nurse, or physician assistant, except as otherwise provided
68 in this paragraph. If the qualifying patient is younger than 18 years of age, the health-care practitioner must be a
69 physician who is a pediatric neurologist, pediatric gastroenterologist, pediatric oncologist, pediatric psychiatrist,
70 developmental pediatrician, or pediatric palliative care specialist.

71 ~~(10)~~ (11) “Intractable epilepsy” means an epileptic seizure disorder for which standard medical treatment does
72 not prevent or significantly ameliorate recurring, uncontrolled seizures or for which standard medical treatment results
73 in harmful side effects.

74 ~~(11)~~ (12) “Labor organization” means a bona fide labor organization of any kind, including an employee
75 representation committee, group, or association, in which employees participate and which exists and is constituted for
76 the purpose, in whole or in part, of collective bargaining or otherwise dealing with compassion center or safety
77 compliance facility employers concerning grievances, labor disputes, terms or conditions of employment, including
78 wages and rates of pay, or other mutual aid or protection in connection with employment, and is characterized by 1 or
79 more of the following:

80 a. Being a party to 1 or more executed collective bargaining agreements with medical or personal use
81 marijuana employers, in this State or another state.

82 b. Having a written constitution or bylaws in the 3 immediately preceding years.

83 c. Filing the annual financial report required of labor organizations under 29 U.S.C. § 431(b) or having at
84 least 1 audited financial report in the 3 immediately preceding years.

85 d. Being affiliated with any regional or national association of unions, including state and federal labor
86 councils.

87 e. Being a member of a national labor organization that has at least 500 general members in a majority of
88 the 50 states of the United States.

89 (~~12~~) (13) “Labor peace agreement” means an agreement between a labor organization and a registered
90 compassion center or registered safety compliance facility employer that, at a minimum, includes all of the following:

91 a. Prohibits the labor organization and members from engaging in picketing, work stoppages, boycotts, or
92 any other economic interference with the business of the employer.

93 b. Prohibits the employer from disrupting efforts by the labor organization to communicate with and
94 attempt to organize and represent employees.

95 c. Provides the labor organization access at reasonable times to areas in which the employees work, for
96 the purpose of meeting with employees to discuss their right to representation, employment rights under state law,
97 and terms and conditions of employment.

98 (~~13~~) (14) “Marijuana” has the meaning given that term in § 4701 of this title.

99 (~~14~~) (15) “Medical marijuana oil” means any of the following:

100 a. “Cannabidiol oil” which is a processed Cannabis plant extract that contains at least 15% cannabidiol
101 but no more than 7% tetrahydrocannabinol, or a dilution of the resin of the Cannabis plant that contains at least 50
102 milligrams of cannabidiol per milliliter but not more than 7% tetrahydrocannabinol.

103 b. “THC-A oil” which is a processed Cannabis plant extract that contains at least 15%
104 tetrahydrocannabinol acid but not more than 7% tetrahydrocannabinol, or a dilution of the resin of the Cannabis
105 plant that contains at least 50 milligrams of tetrahydrocannabinol acid per milliliter but not more than 7%
106 tetrahydrocannabinol.

107 c. Any change in the oil formulation which is made by the ~~Department.~~ Commissioner.

108 (~~15~~) (16) “Medical use” means the acquisition; administration; delivery; possession; transportation; transfer;
109 transportation; or use of marijuana or paraphernalia relating to the administration of marijuana to treat or alleviate a
110 registered qualifying patient’s debilitating medical condition or symptoms associated with the patient’s debilitating
111 medical condition.

112 ~~(16)~~ (17) “Physician” means a properly licensed physician subject to Chapter 17 of Title 24 except as
113 otherwise provided in this paragraph. If the qualifying patient is younger than 18 years of age, the physician must be a
114 pediatric neurologist, pediatric gastroenterologist, pediatric oncologist or pediatric palliative care specialist.

115 ~~(17)~~ (18) “Qualifying patient” means an individual who meets the qualifications to receive a registry
116 identification card under this chapter.

117 ~~(18)~~ (19) “Registered compassion center” means a not-for-profit entity registered pursuant to § 4914A of this
118 title that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, sells, supplies, or dispenses
119 marijuana, paraphernalia, or related supplies and educational materials to registered qualifying patients who have
120 designated the dispenser to cultivate marijuana for their medical use and the registered designated caregivers of these
121 patients.

122 ~~(19)~~ (20) “Registered safety compliance facility” means a nonprofit entity registered under § 4915A of this
123 title by the ~~Department~~ Commissioner to provide 1 or more of the following services: testing marijuana produced for
124 medical use or under Chapter 13 of Title 4 for potency and contaminants; and training cardholders, compassion center
125 agents, and owners and employees of entities operating under Chapter 13 of Title 4. The training may include, but need
126 not be limited to, information related to 1 or more of the following:

- 127 a. The safe and efficient cultivation, harvesting, packaging, labeling, and distribution of marijuana;
- 128 b. Security and inventory accountability procedures; and
- 129 c. Up-to-date scientific and medical research findings related to medical marijuana.

130 ~~(20)~~ (21) “Registry identification card” means a document issued by the ~~Department~~ Commissioner that
131 identifies a person as 1 of the following:

- 132 a. A registered qualifying adult patient.
- 133 b. A registered designated caregiver for a qualifying adult patient.
- 134 c. A registered designated caregiver for a pediatric patient.
- 135 d. A registered compassionate use adult patient.
- 136 e. A registered designated caregiver for an adult compassionate use patient.
- 137 f. A registered designated caregiver for a pediatric compassionate use patient.
- 138 g. A registered CBD-rich patient.
- 139 h. A registered designated caregiver for a CBD-rich patient.

140 ~~(21)~~ (22) “Safety compliance facility agent” means a principal officer, board member, employee, or agent of a
141 registered safety compliance facility who is 21 years of age or older and has not been convicted of an excluded felony
142 offense.

143 ~~(22)~~ (23) “Terminal illness” means any disease, illness or condition sustained by any human being:

144 a. For which there is no reasonable medical expectation of recovery;

145 b. Which, as a medical probability, will result in the death of such human being regardless of the use or
146 discontinuance of medical treatment implemented for the purpose of sustaining life or the life processes; and

147 c. As a result of which, the human being’s health-care practitioner would not be surprised if death were to
148 occur within 12 months.

149 ~~(23)~~ (24) “Usable marijuana” means the dried leaves and flowers of the marijuana plant and any mixture or
150 preparation of those dried leaves and flowers, including but not limited to tinctures, ointments, other preparations
151 including medical marijuana oil, but does not include the seeds, stalks, and roots of the plant. It does not include the
152 weight of any nonmarijuana ingredients combined with marijuana, such as ingredients added to prepare a topical
153 administration, food, or drink.

154 ~~(24)~~ (25) “Verification system” means a phone or Web-based system that is available to law-enforcement
155 personnel and compassion center agents on a 24-hour basis for verification of registry identification cards.

156 ~~(25)~~ (26) “Written certification” means a document dated and signed by a health-care practitioner, stating that
157 in the health-care practitioner’s professional opinion the patient is likely to receive therapeutic or palliative benefit
158 from the medical use of marijuana to treat or alleviate the patient’s debilitating medical condition or symptoms
159 associated with the debilitating medical condition. A written certification shall be made only in the course of a bona
160 fide health-care practitioner-patient relationship where the qualifying patient is under the health-care practitioner’s care
161 for the patient’s primary care or for the patient’s debilitating medical condition after the health-care practitioner has
162 completed an assessment of the qualifying patient’s medical history and current medical condition. The bona fide
163 health-care practitioner-patient relationship may not be limited to authorization for the patient to use medical marijuana
164 or consultation for that purpose. The written certification must specify the qualifying patient’s debilitating medical
165 condition.

166 § 4903A. Protections for the medical use of marijuana.

167 (b) A registered designated caregiver shall not be subject to arrest, prosecution, or denial of any right or privilege,
168 including but not limited to civil penalty or disciplinary action by a court or occupational or professional licensing board or
169 bureau:

170 (1) For assisting a registered qualifying patient to whom he or she is connected through the ~~Department's~~
171 Commissioner's registration process with the medical use of marijuana if the designated caregiver does not possess
172 more than 6 ounces of usable marijuana for each qualifying patient to whom he or she is connected through the
173 ~~Department's~~ Commissioner's registration process; and

174 (2) For receiving compensation for costs associated with assisting a registered qualifying patient's medical use
175 of marijuana if the registered designated caregiver is connected to the registered qualifying patient through the
176 ~~Department's~~ Commissioner's registration process.

177 (i) A registered compassion center shall not be subject to prosecution; search or inspection, except by the
178 ~~Department~~ Commissioner pursuant to § 4919A(u) of this title; seizure; or penalty in any manner, or be denied any right or
179 privilege, including but not limited to civil penalty or disciplinary action by a court or business licensing board or entity,
180 for:

181 (1) Acting pursuant to this chapter and ~~Department~~ Commissioner regulations to acquire, possess, cultivate,
182 manufacture, deliver, transfer, transport, supply, sell, or dispense marijuana or related supplies and educational
183 materials to registered qualifying patients who have designated the compassion center to provide for them, to registered
184 designated caregivers on behalf of the registered qualifying patients who have designated the registered compassion
185 center, or to other registered compassion centers;

186 (2) Selling or transferring marijuana seeds to entities that are licensed or registered in another jurisdiction to
187 dispense marijuana for medical purposes; or

188 (3) Transferring marijuana to and from a registered safety compliance facility for the purposes of analytical
189 testing.

190 (j) A compassion center agent shall not be subject to prosecution, search, or penalty in any manner, or be denied
191 any right or privilege, including but not limited to civil penalty or disciplinary action by a court or business licensing board
192 or entity, for working or volunteering for a registered compassion center pursuant to this chapter and ~~Department~~
193 Commissioner regulations to perform the actions on behalf of a registered compassion center that are authorized by this
194 chapter.

195 (k) A Delaware facility which meets FDA-accepted security and operational standards shall not be subject to
196 prosecution; search, except by the ~~Department~~ Commissioner under § 4919A(u) of this title; seizure; or penalty in any
197 manner, or be denied any right or privilege, including civil penalty or disciplinary action by a court or business licensing
198 board or entity, solely for acting in accordance with this chapter, ~~Department~~ Commissioner regulations, or federal law for

199 the purposes of conducting research on marijuana under § 4928A of this title and pursuant to all applicable federal law on
200 medical marijuana.

201 (l) A registered safety compliance facility and safety compliance facility agents acting on behalf of a registered
202 safety compliance facility shall not be subject to prosecution; search, except by the ~~Department~~ Commissioner pursuant to §
203 4919A(u) of this title; seizure; or penalty in any manner, or be denied any right or privilege, including but not limited to
204 civil penalty or disciplinary action by a court or business licensing board or entity, solely for acting in accordance with this
205 chapter and ~~Department~~ Commissioner regulations to provide the following services:

206 (1) Acquiring or possessing marijuana obtained from registered compassion centers;

207 (2) Returning the marijuana to the same registered compassion centers;

208 (3) Transporting marijuana that was produced by registered compassion centers to or from those registered
209 compassion centers;

210 (4) Cultivating, manufacturing, and possessing marijuana for training and analytical testing;

211 (5) The production or sale of educational materials related to medical marijuana;

212 (6) The production, sale, or transportation of equipment or materials other than marijuana to registered
213 compassion centers, including lab equipment and packaging materials, that are used by registered compassion centers;

214 (7) Testing of medical marijuana samples, including for potency and contamination;

215 (8) Providing training to prospective compassion center agents and compassion center agents, provided that
216 only compassion center agents and safety compliance facility agents may be allowed to possess or cultivate marijuana
217 and any possession or cultivation of marijuana must occur on the location registered with the ~~Department~~;
218 Commissioner; and

219 (9) Receiving compensation for actions allowed under this section.

220 (m) An entity that is registered to dispense marijuana for medical use in other jurisdictions shall not be subject to
221 prosecution; search or inspection, except by the ~~Department~~ Commissioner pursuant to § 4919A(u) of this title; seizure; or
222 penalty in any manner or be denied any right or privilege, including but not limited to civil penalty or disciplinary action by
223 a court or business licensing board or entity, for providing marijuana seeds to registered compassion centers.

224 § 4904A. Limitations.

225 (a) This chapter does not authorize any person to engage in, and does not prevent the imposition of any civil,
226 criminal, or other penalties for engaging in, the following conduct:

227 (1) Undertaking any task under the influence of marijuana, when doing so would constitute negligence or
228 professional malpractice;

229 (2) Except as provided in subsection (b) of this section, possessing marijuana, or otherwise engaging in the
230 medical use of marijuana:

231 a. In a school bus;

232 b. On the grounds of any preschool or primary or secondary school; or

233 c. In any correctional facility.

234 d. In any health care or treatment facility operated by the Department of Health and Social Services or
235 funded contractually through the ~~Department~~ Department of Health and Social Services.

236 (3) Smoking marijuana:

237 a. In any form of transportation; or

238 b. In any public place.

239 (4) Operating, navigating, or being in actual physical control of any motor vehicle, aircraft, or motorboat
240 while under the influence of marijuana, except that a registered qualifying patient shall not be considered to be under
241 the influence of marijuana solely because of the presence of metabolites or components of marijuana.

242 (5) Using marijuana if that person does not have a serious or debilitating medical condition.

243 (6) Transferring marijuana to any person who is not allowed to possess marijuana under this chapter.

244 § 4906A. Addition of debilitating medical conditions.

245 Once the regulations have been adopted pursuant to this chapter, any citizen may petition the ~~Department~~
246 Commissioner to add conditions or treatments to the list of debilitating medical conditions listed in § ~~4902A(4)~~ § 4902A(5)
247 of this title. The ~~Department~~ Commissioner shall consider petitions in the manner required by ~~Department~~ Commissioner
248 regulation, including public notice and hearing, as provided by § 4923A of this title. The ~~Department~~ Commissioner shall
249 approve or deny a petition within 180 days of its submission. The approval or denial of any petition is a final decision of the
250 ~~Department~~ Commissioner subject to judicial review. Jurisdiction and venue are vested in the Superior Court.

251 § 4908A. Registration of qualifying patients and designated caregivers [For application of this section, see 82 Del.
252 Laws, c. 246, § 5].

253 (a) The ~~Department~~ Commissioner shall issue registry identification cards to qualifying patients who submit all of
254 the following, in accordance with the ~~Department's~~ Commissioner's final regulations:

255 (1) A written certification issued by a health-care practitioner within 90 days immediately preceding the date
256 of an application.

257 (2) The application or renewal fee.

258 (3) The name, address, and date of birth of the qualifying patient, except that if the applicant is homeless no
259 address is required.

260 (4) The name, address, and telephone number of the qualifying patient's health-care practitioner.

261 (5) The name, address, and date of birth of the designated caregiver, if any, chosen by the qualifying patient.

262 (6) For a compassionate use card, the patient's informed consent and health-care practitioner verification
263 under subsection (c) of this section.

264 (7) A statement signed by the qualifying patient, pledging not to divert marijuana to anyone who is not
265 allowed to possess marijuana pursuant to this chapter.

266 (8) A signed statement from the designated caregiver, if any, agreeing to be designated as the patient's
267 designated caregiver and pledging not to divert marijuana to anyone who is not allowed to possess marijuana pursuant
268 to this chapter.

269 (b) Registry identification card applications shall be available no later than the day the ~~Department~~ Commissioner
270 publishes final regulations.

271 (c) The ~~Department~~ Commissioner shall issue a compassionate use card to an individual who is eligible for a
272 compassionate use card and who submits all of the following, in accordance with the ~~Department's~~ Commissioner's final
273 regulations, in addition to the requirements under subsection (a) of this section:

274 (1) A signed statement from the patient's health-care practitioner that includes statements attesting to all of the
275 following:

276 a. The patient has a severe and debilitating condition.

277 b. All current standard care practices and treatments have been exhausted and have been ineffective or the
278 side effects are prohibitive with continued use.

279 c. The health-care practitioner will re-evaluate and document the efficacy of medical marijuana treatment.

280 d. There are grounds supporting the potential for the patient to benefit from using medical marijuana.

281 (2) a. If the patient is an adult, a signed statement from the patient acknowledging the patient's informed
282 consent to treatment with medical marijuana and that the patient knows that there is limited or no evidence associated
283 with medical marijuana's effectiveness in treating a condition that is not a debilitating medical condition under this
284 chapter.

285 b. If the patient is under 18 years of age, a signed statement from the patient's parent or legal guardian
286 acknowledging the patient's informed consent to treatment with medical marijuana and that the patient's parent or

287 legal guardian knows that there is limited or no evidence associated with medical marijuana's effectiveness in
288 treating a condition that is not a debilitating medical condition under this chapter.

289 (d) (1) An adult is eligible for a CBD-rich card if the individual complies with subsection (a) of this section and
290 the written certification from the patient's health-care practitioner recommends medical marijuana for the treatment of
291 anxiety or other condition approved by the ~~Department~~ Commissioner for treatment with cannabidiol-rich medical
292 marijuana.

293 (2) A patient who qualifies for a CBD-rich card may only receive cannabidiol-rich medical marijuana
294 products.

295 § 4909A. Issuance of registry identification cards [For application of this section, see 82 Del. Laws, c. 213, § 7].

296 (a) Except as provided in subsection (b) of this section, the ~~Department~~ Commissioner shall:

297 (1) Verify the information contained in an application or renewal submitted pursuant to this chapter, and shall
298 approve or deny an application or renewal within 45 days of receiving a completed application or renewal application.

299 (2) Issue registry identification cards to a qualifying patient and his or her designated caregiver, if any, within
300 30 days of approving the application or renewal. A designated caregiver must have a registry identification card for
301 each of his or her qualifying patients.

302 (3) Enter the registry identification number of the registered compassion center the patient designates into the
303 verification system.

304 (b) The ~~Department~~ Commissioner may not issue a registry identification card to a qualifying patient who is under
305 18 years of age, except if any of the following apply:

306 (1) The qualifying patient has any of the following related to a terminal illness:

307 a. Pain.

308 b. Anxiety.

309 c. Depression.

310 (2) The qualifying patient has intractable epilepsy or seizure disorder.

311 (3) The qualifying patient has a chronic or debilitating disease or medical condition where the patient has
312 failed treatment involving 1 or more of the following symptoms: cachexia or wasting syndrome; intractable nausea;
313 severe, painful and persistent muscle spasms; chronic debilitating migraines and new daily persistent headache that are
314 refractory to conventional treatment and interventions.

315 (4) Any other medical condition or its treatment added by the ~~Department~~, Commissioner as provided for in §
316 4906A of this title.

317 (5) The qualifying patient is eligible for a compassionate use card under § 4908A(c) of this title.

318 (c) A qualifying patient who is under 18 years of age may only receive marijuana oil.

319 § 4910A. Denial of registry identification cards [For application of this section, see 82 Del. Laws, c. 213, § 7].

320 (a) The ~~Department~~ Commissioner shall deny an application or renewal of a qualifying patient's registry
321 identification card only if the applicant:

322 (1) Did not provide the required information and materials;

323 (2) Previously had a registry identification card revoked; or

324 (3) Provided false or falsified information.

325 (b) The ~~Department~~ Commissioner shall deny an application or renewal for a designated caregiver chosen by a
326 qualifying patient whose registry identification card was granted only if:

327 (1) The designated caregiver does not meet the requirements of § ~~4902A(6)~~ § 4902A(7) of this title;

328 (2) The applicant did not provide the information required;

329 (3) The designated caregiver previously had a registry identification card revoked; or

330 (4) The applicant or the designated caregiver provides false or falsified information.

331 (c) A prospective designated caregiver shall obtain a background check in compliance with § 4927A of this title to
332 enable the ~~Department~~ Commissioner to comply with subsection (b) of this section. Once a prospective designated
333 caregiver has been granted a registry identification card, the designated caregiver must obtain a background check in
334 compliance with § 4927A of this title every 3 years.

335 (d) The ~~Department~~ Commissioner shall notify the qualifying patient who has designated someone to serve as his
336 or her designated caregiver if a registry identification card will not be issued to the designated caregiver.

337 (e) (1) Denial of an application or renewal is considered a final ~~Department~~ Commissioner action.

338 (2) A denial of an application or renewal for a registry identification card for a registered qualifying patient,
339 pediatric patient, or registered designated caregiver is subject to judicial review. Jurisdiction and venue for judicial
340 review are vested in the Superior Court.

341 (3) A denial of an application or renewal for a compassionate use registry identification card is not subject to
342 judicial review.

343 § 4911A. Registry identification cards [For application of this section, see 82 Del. Laws, c. 246, § 5].

344 (c) The ~~Department~~ Commissioner may, at its discretion, electronically store in the card all of the information
345 listed in subsection (a) of this section, along with the address and date of birth of the cardholder, to allow it to be read by
346 law-enforcement agents.

347 § 4912A. Notifications to ~~Department~~ the Commissioner and responses; civil penalty.

348 (a) The following notifications and ~~Department~~ Commissioner responses are required:

349 (1) A registered qualifying patient shall notify the ~~Department~~ Commissioner of any change in his or her
350 name or address, or if the registered qualifying patient ceases to have his or her debilitating medical condition, within
351 10 days of the change.

352 (2) A registered designated caregiver shall notify the ~~Department~~ Commissioner of any change in his or her
353 name or address, or if the designated caregiver becomes aware the qualifying patient passed away, within 10 days of
354 the change.

355 (3) Before a registered qualifying patient changes his or her designated caregiver, the qualifying patient must
356 notify the ~~Department~~ Commissioner.

357 (4) If a cardholder loses his or her registry identification card, he or she shall notify the ~~Department~~
358 Commissioner within 10 days of becoming aware the card has been lost.

359 (b) When a cardholder notifies the ~~Department~~ Commissioner of items listed in subsection (a) of this section, but
360 remains eligible under this chapter, the ~~Department~~ Commissioner shall issue the cardholder a new registry identification
361 card with a new random 10-digit alphanumeric identification number within 10 days of receiving the updated information
362 and pay a \$20 fee. If the person notifying the ~~Department~~ Commissioner is a registered qualifying patient, the ~~Department~~
363 Commissioner shall also issue his or her registered designated caregiver, if any, a new registry identification card within 10
364 days of receiving the updated information.

365 (c) If a registered qualifying patient ceases to be a registered qualifying patient or changes his or her registered
366 designated caregiver, the ~~Department~~ Commissioner shall promptly notify the designated caregiver. The registered
367 designated caregiver's protections under this chapter as to that qualifying patient shall expire 15 days after notification by
368 the ~~Department~~ Commissioner.

369 (d) A cardholder who fails to make a notification to the ~~Department~~ Commissioner that is required by this section
370 is subject to a civil infraction, punishable by a penalty of no more than \$150.

371 (e) The ~~Department~~ Commissioner shall administer a real-time statewide patient registry to facilitate patient choice
372 in purchasing medical marijuana from any properly licensed Delaware Compassion Centers. The registry shall track patient
373 purchases to comply with § 4919A(i) of this title.

374 (f) If the registered qualifying patient's certifying health-care practitioner notifies the ~~Department~~ Commissioner
375 in writing that either the registered qualifying patient has ceased to suffer from a debilitating medical condition or that the
376 health-care practitioner no longer believes the patient would receive therapeutic or palliative benefit from the medical use

377 of marijuana, the card becomes null and void. However, the registered qualifying patient has 15 days to dispose of their
378 marijuana or give it to a registered compassion center where nothing of value is transferred in return.

379 § 4913A. Affirmative defense and dismissal for medical marijuana.

380 (e) (1) This section shall only apply for arrests made after July 1, 2011, until 75 days after registration for qualified
381 patients is available, and

382 (2) Thereafter, for arrests made after a valid ~~an~~ application for a qualifying patient has been submitted and
383 before the registry identification card has been received.

384 § 4914A. Registration of compassion centers.

385 (a) Compassion centers may only operate if they have been issued a valid registration certificate from the
386 ~~Department~~ Commissioner. When applying for a compassion center registration certificate, the applicant shall submit the
387 following in accordance with ~~Department~~ Commissioner regulations:

388 (1) An application fee in an amount determined by the ~~Department's~~ Commissioner's regulations.

389 (2) The proposed legal name of the compassion center.

390 (3) The proposed physical address of the compassion center and the proposed physical address of any
391 additional locations, if any, where marijuana will be cultivated, harvested, packaged, labeled, or otherwise prepared for
392 distribution by the compassion center.

393 (4) The name, address, and date of birth of each principal officer and board member of the compassion center,
394 provided that all such individuals shall be at least 21 years of age.

395 (5) Any instances in which a business or not-for-profit that any of the prospective board members managed or
396 served on the board of was convicted, fined, censured, or had a registration or license suspended or revoked in any
397 administrative or judicial proceeding.

398 (6) Proposed operating bylaws that include procedures for the oversight of the compassion center and
399 procedures to ensure accurate record keeping and security measures that are in accordance with the regulations issued
400 by the ~~Department~~ Commissioner pursuant to this chapter. The by-laws shall include a description of the enclosed,
401 locked facility where medical marijuana will be grown, cultivated, harvested, packaged, labeled, or otherwise prepared
402 for distribution by the compassion center.

403 (7) Any information required by the ~~Department~~ Commissioner to evaluate the applicant pursuant to the
404 competitive bidding process described in subsection (b) of this section.

405 (8) a. If the applicant has 20 or more employees, a copy of a labor peace agreement, as required under §
406 4919A(y) of this title, or an attestation that the applicant will enter into a labor peace agreement and submit a copy of
407 the completed labor peace agreement.

408 b. If the applicant has under 20 employees, an attestation that the applicant will enter into a labor peace
409 agreement as required under § 4919A(y) of this title within 60 days of hiring a twentieth employee and submit a
410 copy.

411 (b) The ~~Department~~ Commissioner shall evaluate applications for compassion center registration certificates using
412 an impartial and numerically scored competitive bidding process developed by the ~~Department~~ Commissioner in
413 accordance with this chapter. The registration considerations shall consist of the following criteria:

414 (1) Documentation of not-for-profit status, consistent with § 4919A(a) of this title.

415 (2) The suitability of the proposed location or locations, including but not limited to compliance with any
416 local zoning laws and the geographic convenience to patients from throughout the State of Delaware to compassion
417 centers if the applicant were approved.

418 (3) The principal officer and board members' character and relevant experience, including any training or
419 professional licensing related to medicine, pharmaceuticals, natural treatments, botany, or marijuana cultivation and
420 preparation and their experience running businesses or not-for-profits.

421 (4) The proposed compassion center's plan for operations and services, including its staffing and training
422 plans, whether it has sufficient capital to operate, and its ability to provide an adequate supply of medical marijuana to
423 the registered patients in the State.

424 (5) The sufficiency of the applicant's plans for record keeping.

425 (6) The sufficiency of the applicant's plans for safety, security, and the prevention of diversion, including
426 proposed locations and security devices employed.

427 (7) The applicant's plan for making medical marijuana available on an affordable basis to registered
428 qualifying patients enrolled in Medicaid or receiving Supplemental Security Income or Social Security Disability
429 Insurance.

430 (8) The applicant's plan for safe and accurate packaging and labeling of medical marijuana, including the
431 applicant's plan for ensuring that all medical marijuana is free of contaminants.

432 (c) No later than July 1, 2012, the ~~Department~~ Commissioner shall issue a request for applications for compassion
433 center registration certificates. The ~~Department~~ Commissioner shall issue a compassion center registration certificate to the
434 highest scoring applicant in each county by January 1, 2013. If there are only applicants from 1 or 2 counties, no later than

435 January 1, 2013, the ~~Department~~ Commissioner shall issue a compassion center registration certificate to the highest
436 scoring applicant in each county with an applicant. If the revenue received from the fees generated by this chapter and
437 donations covers the cost of implementing the program established by this chapter, certificates will be awarded.

438 (d) By January 1, 2014, the ~~Department~~ Commissioner shall issue additional registration certifications to at least 3
439 of the highest scoring applicants not already awarded a registration certificate, provided a sufficient number of qualified
440 additional applicants have applied. If the ~~Department~~ Commissioner determines, after reviewing the report issued pursuant
441 to § 4922A of this title, that additional compassion centers are needed to meet the needs of registered qualifying patients
442 throughout the State, the ~~Department~~ Commissioner shall issue registration certificates to the corresponding number of
443 applicants who score the highest.

444 (e) (1) At any time after July 1, 2013, that the number of outstanding and valid registered compassion center
445 certificates is lower than the number of registration certificates the ~~Department~~ Commissioner is required to issue pursuant
446 to subsection (d) of this section, the ~~Department~~ Commissioner shall accept applications for compassion centers and issue
447 registration certificates to the corresponding number of additional applicants who score the highest while ensuring at least 1
448 compassion center is registered in each county.

449 (2) Notwithstanding subsections (c), (d), and paragraph (e)(1) of this section, an application for a compassion
450 center registration certificate must be denied if any of the following conditions are met:

451 a. The applicant failed to submit the materials required by this section, including if the applicant's plans
452 do not satisfy the security, oversight, or recordkeeping regulations issued by the ~~Department~~; Commissioner;

453 b. The applicant would not be in compliance with local zoning regulations issued in accordance with §
454 4917A of this title;

455 c. The applicant does not meet the requirements of § 4919A of this title;

456 d. One or more of the prospective principal officers or board members has been convicted of an excluded
457 felony offense or has been convicted of a misdemeanor drug offense, as provided in Title 16 or an equivalent
458 offense from another jurisdiction, within 5 years from the date of application that is not excluded by §
459 ~~4902A(8)b.2.~~ § 4902A(9)b.2. of this title; and

460 e. One or more of the prospective principal officers or board members has served as a principal officer or
461 board member for a registered compassion center that has had its registration certificate revoked; and

462 f. One or more of the principal officers or board members is younger than 21 years of age.

463 (f) Before a compassion center is approved, it shall submit a registration fee to the ~~Department~~ Commissioner in
464 the amount determined by the ~~Department's~~ Commissioner's regulations and, if a physical address had not been finalized
465 when it applied, it shall submit a complete listing of all its physical addresses.

466 (g) When issuing a compassion center registration certificate, the ~~Department~~ Commissioner shall also issue a
467 renewable registration certificate with an identification number.

468 § 4915A. Registration and certification of safety compliance facilities.

469 (a) Safety compliance facilities may only operate if they have been issued a valid registration certificate from the
470 ~~Department~~. Commissioner. When applying for a safety compliance facility registration certificate, the applicant shall
471 submit the following in accordance with ~~Department~~ Commissioner regulations:

472 (1) A nonrefundable application fee in an amount determined by the ~~Department's~~ Commissioner's
473 regulations;

474 (2) The proposed legal name of the safety compliance facility;

475 (3) The proposed physical address of the safety compliance facility;

476 (4) The name, address, and date of birth of each principal officer and board member of the safety compliance
477 facility, provided that all such individuals shall be at least 21 years of age;

478 (5) Any instances in which a business or not-for-profit that any of the prospective board members managed or
479 served on the board of was convicted, fined, censured, or had a registration or license suspended or revoked in any
480 administrative or judicial proceeding; and

481 (6) Any information required by the ~~Department~~ Commissioner to evaluate the applicant pursuant to the
482 competitive bidding process described in subsection (b) of this section.

483 (7) a. If the applicant has 20 or more employees, a copy of a labor peace agreement, as required under §
484 4919A(y) of this title, or an attestation that the applicant will enter into a labor peace agreement and submit a copy of
485 the completed labor peace agreement.

486 b. If the applicant has under 20 employees, an attestation that the applicant will enter into a labor peace
487 agreement as required under § 4919A(y) of this title within 60 days of hiring a twentieth employee and submit a
488 copy.

489 (b) The ~~Department~~ Commissioner shall evaluate applications for safety compliance facility registration
490 certificates using an impartial and numerically scored competitive bidding process developed by the ~~Department~~
491 Commissioner in accordance with this chapter. The registration considerations shall consist of the following criteria:

492 (1) The proposed principal officers' and board members' relevant experience, including any training or
493 professional licensing related to analytical testing, medicine, pharmaceuticals, natural treatments, botany, or marijuana
494 cultivation, preparation, and testing and their experience running businesses or not-for-profits;

495 (2) The suitability of the proposed location, including compliance with any local zoning laws and the
496 geographic convenience to compassion centers from throughout the State of Delaware to registered safety compliance
497 facilities if the applicant were approved;

498 (3) The sufficiency of the applicant's plans for safety, security, and the prevention of diversion, including
499 proposed locations and security devices employed; and

500 (4) The proposed safety compliance facility's plan for operations and services, including its staffing and
501 training plans, and whether it has sufficient capital to operate.

502 (c) The ~~Department~~ Commissioner shall issue at least 1 safety compliance facility registration certificate to the
503 highest scoring applicant by January 1, 2013, if the revenue received from the fees generated by this chapter and donations
504 covers the cost of implementing the program established by this chapter.

505 (d) (1) The ~~Department~~ Commissioner may issue additional safety compliance facility registration certificates to
506 the highest scoring applicant or applicants. If the ~~Department~~ Commissioner determines, after reviewing the report issued
507 pursuant to § 4922A of this title, that additional safety compliance facilities are needed to meet the needs of cardholders
508 and registered compassion centers throughout the State, the ~~Department~~ Commissioner shall issue registration certificates
509 to the corresponding number of applicants who score the highest.

510 (2) Notwithstanding subsection (c) and paragraph (d)(1) of this section, an application for a safety compliance
511 facility registration certificate must be denied if any of the following conditions are met:

512 a. The applicant failed to submit the materials required by this section, including if the plans do not
513 satisfy the security, oversight, or recordkeeping regulations issued by the ~~Department~~; Commissioner;

514 b. The applicant would not be in compliance with local zoning regulations issued in accordance with §
515 4917A of this title;

516 c. The applicant does not meet the requirements of § 4919A of this title;

517 d. One or more of the prospective principal officers or board members has been convicted of an excluded
518 felony offense or has been convicted of a misdemeanor drug offense, as provided in Title 16 or an equivalent
519 offense from another jurisdiction, within 5 years from the date of application that is not excluded by §
520 ~~4902A(8)b.2.~~ § 4902A(9)b.2. of this title;

521 e. One or more of the prospective principal officers or board members has served as a principal officer or
522 board member for a registered safety compliance facility or registered compassion center that has had its
523 registration certificate revoked; and

524 f. One or more of the principal officers or board members is younger than 21 years of age.

525 (e) Before a safety compliance facility is approved, it shall submit a registration fee paid to the ~~Department~~
526 Commissioner in the amount determined by ~~Department~~ Commissioner regulation and, if a physical address had not been
527 finalized when it applied, its physical address.

528 (f) When issuing a safety compliance facility registration certificate, the ~~Department~~ Commissioner shall also issue
529 a renewable registration certificate with an identification number. The ~~Department~~ Commissioner shall also provide the
530 registered safety compliance facility with the contact information for the verification system.

531 § 4916A. Compassion center and safety compliance facilities renewal.

532 Registration certificates may be renewed every 2 years. The registered compassion center or registered safety
533 compliance facility may submit a renewal application beginning 90 days prior to the expiration of its registration certificate.
534 The ~~Department~~ Commissioner shall grant a renewal application within 30 days of its submission if the following
535 conditions are all satisfied:

536 (1) The registered compassion center or registered safety compliance facility submits a renewal application
537 and the required renewal fee, which shall be refunded within 30 days if the renewal application is rejected;

538 (2) The ~~Department~~ Commissioner has not suspended the registered compassion center or registered safety
539 compliance facility's registration certificate for violations of this chapter or regulations adopted pursuant to this
540 chapter; and

541 (3) The inspections authorized by § 4919A(u) of this title and the annual report, provided pursuant to §
542 4922A of this title, do not raise serious concerns about the continued operation of the registered compassion center or
543 registered safety compliance facility applying for renewal.

544 (4) The applicant still complies with the qualifications required in §§ 4914A and 4915A of this title.

545 § 4917A. Local ordinances.

546 Nothing shall prohibit local governments from enacting ordinances or regulations not in conflict with this chapter
547 or with ~~Department~~ Commissioner regulations regulating the time, place, and manner of registered compassion center
548 operations and registered safety compliance facilities, provided that no local government may prohibit registered
549 compassion center operation altogether, either expressly or through the enactment of ordinances or regulations which make

550 registered compassion center and registered safety compliance facility operation unreasonably impracticable in the
551 jurisdiction.

552 § 4918A. Compassion center and safety compliance facility agents.

553 (a) (1) Every person seeking to become a principal officer, board member, agent, volunteer, or employee of a
554 registered compassion center or a registered safety compliance facility shall obtain a background check in compliance with
555 § 4927A of this title before beginning work, with or without compensation, at a registered compassion center or a
556 registered safety compliance facility. Once a person becomes a principal officer, board member, agent, volunteer, or
557 employee of a registered compassion center or a registered safety compliance facility, the person must obtain a background
558 check in compliance with § 4927A of this title every 5 years.

559 (2) A registered compassion center or a registered safety compliance facility may not employ, with or without
560 compensation, any person who:

561 a. Was convicted of an excluded felony offense;

562 b. Is under 21 years of age;

563 c. Has been convicted of a misdemeanor drug offense, as provided in this title or an equivalent offense
564 from another jurisdiction, within 5 years from the date of the application that is not excluded in ~~§ 4902A(8)b.2.~~ §
565 4902A(9)b.2. of this title.

566 (3) The ~~Department~~ Commissioner is responsible for reviewing the background check of a person seeking to
567 become, or who is, a principal officer, board member, agent, volunteer, or employee of a registered compassion center
568 or a registered safety compliance facility to determine if the person complies with paragraph (a)(2) of this section. The
569 ~~Department~~ Commissioner shall notify the registered compassion center or registered safety compliance facility if a
570 person is disqualified under paragraph (a)(2) of this section.

571 § 4919A. Requirements, prohibitions, penalties.

572 (f) All cultivation of marijuana for registered compassion centers must take place in an enclosed, locked location
573 at the physical address or addresses provided to the ~~Department~~ Commissioner during the registration process, which can
574 only be accessed by compassion center agents working or volunteering for the registered compassion center.

575 (m) A health-care ~~practitioner~~ practitioner may not refer patients to a registered compassion center or
576 registered designated caregiver, advertise in a registered compassion center, or, if the health-care practitioner issues written
577 certifications, hold any financial interest in a registered compassion center.

578 (n) No person who has been convicted of an excluded felony offense or has been convicted of a misdemeanor drug
579 offense, as provided in this title or an equivalent offense from another jurisdiction, within 5 years from the date of
580 application that is not excluded by ~~§ 4902A(8)b.2.~~ § 4902A(9)b.2. of this title may be a compassion center agent.

581 (o) The ~~Department~~ Commissioner shall issue a civil fine of up to \$3,000 for violations of this section.

582 (p) The ~~Department~~ Commissioner shall suspend or revoke a registration certificate for serious or multiple
583 violations of this chapter and regulations issued in accordance with this chapter. A registered compassion center may
584 continue to cultivate and possess marijuana plants during a suspension, but it may not dispense, transfer, or sell marijuana.

585 (q) The suspension or revocation of a certificate is a final ~~Department~~ Commissioner action, subject to judicial
586 review. Jurisdiction and venue for judicial review are vested in the Superior Court.

587 (r) Any cardholder who sells marijuana to a person who is not allowed to possess marijuana for medical purposes
588 under this chapter shall have his or her registry identification card revoked and shall be subject to other penalties for the
589 unauthorized sale of marijuana.

590 (s) Any registered qualifying patient, registered designated caregiver, compassion center agent, or safety
591 compliance facility agent, including a principal owner, board member, employee or volunteer who has access to
592 compassion center or safety compliance facility records, who sells marijuana to someone who is not allowed to use
593 marijuana for medical purposes or who fails to maintain, fraudulently maintains, or fraudulently represents to the
594 ~~Department~~ Commissioner records required by this chapter or rules promulgated pursuant to this chapter, for the purposes
595 of selling marijuana to someone who is not allowed to use marijuana for medical purposes under this chapter is guilty of a
596 felony punishable by imprisonment for not more than 2 years or a fine of not more than \$2,000, or both, in addition to any
597 other penalties for the distribution of marijuana.

598 (t) The ~~Department~~ Commissioner shall revoke the registry identification card of any cardholder who knowingly
599 commits multiple or serious violations of this chapter.

600 (u) Registered compassion centers are subject to random and reasonable inspection by the ~~Department~~
601 Commissioner. The ~~Department~~ Commissioner shall give reasonable notice of an inspection under this paragraph.

602 (x) For registered qualifying patients and designated caregivers, medical marijuana shall be contained, when not
603 being prepared for ingestion or ingested and outside the registrant's residence, within, sealed, tamperproof containers issued
604 by compassion centers pursuant to ~~Department~~ Commissioner regulations and may be subject to prosecution for failure to
605 do so. If the registrant is unable to produce a sealed, tamperproof container within 2 weeks of the summons, the penalty for
606 a violation of this section shall be an unclassified misdemeanor.

607 § 4920A. Confidentiality.

608 (a) The following information received and records kept by the ~~Department~~ Commissioner for purposes of
609 administering this chapter are confidential and exempt from the Delaware Freedom of Information Act [Chapter 100 of
610 Title 29], and not subject to disclosure to any individual or public or private entity, except as necessary for authorized
611 employees of the State of Delaware to perform official duties pursuant to this chapter:

612 (1) Applications and renewals, their contents, and supporting information submitted by qualifying patients and
613 designated caregivers, including information regarding their designated caregivers and health-care practitioners.

614 (2) Applications and renewals, their contents, and supporting information submitted by or on behalf of
615 compassion centers and safety compliance facilities in compliance with this chapter, including their physical
616 addressees.

617 (3) The individual names and other information identifying persons to whom the ~~Department~~ Commissioner
618 has issued registry identification cards.

619 (4) Any dispensing information required to be kept under § 4919A of this title or ~~Department~~ Commissioner
620 regulation shall identify cardholders and registered compassion centers by their registry identification numbers and not
621 contain names or other personally identifying information.

622 (5) Any ~~Department~~ Commissioner hard drives or other data-recording media that are no longer in use and
623 that contain cardholder information must be destroyed. The ~~Department~~ Commissioner shall retain a signed statement
624 from a ~~Department~~ Commissioner employee confirming the destruction.

625 (b) Nothing in this section precludes the following:

626 (1) ~~Department~~ Commissioner employees shall notify law-enforcement about falsified or fraudulent
627 information submitted to the ~~Department~~ Commissioner if the employee who suspects that falsified or fraudulent
628 information has been submitted.

629 (2) The ~~Department~~ Commissioner shall notify state or local law-enforcement about apparent criminal
630 violations of this chapter.

631 (3) Compassion center agents shall notify the ~~Department~~ Commissioner of a suspected violation or attempted
632 violation of this chapter or the regulations issued pursuant to it.

633 (4) The ~~Department~~ Commissioner shall verify registry identification cards pursuant to 4921A of this title.

634 (5) The submission of the § 4922A of this title report to the legislature.

635 Information obtained pursuant to this chapter is subject to the same protections and penalties afforded other
636 health information under the Health Insurance Portability and Accountability Act (HIPAA), 45 C.F.R. Part 160, 162
637 and 164.

638 § 4921A. Registry identification and registration certificate verification.

639 (a) The ~~Department~~ Commissioner shall maintain a confidential list of the persons to whom the ~~Department~~
640 Commissioner has issued registry identification cards and their addresses, phone numbers, and registry identification
641 numbers.

642 (b) The ~~Department~~ Commissioner shall maintain a verification system which shall be established by January 1,
643 2013. The verification system must allow law-enforcement personnel, compassion center agents, and safety compliance
644 facility agents to enter a registry identification number to determine whether or not the number corresponds with a current,
645 valid registry identification card. The system shall only disclose whether the identification card is valid; whether the
646 cardholder is a registered qualifying patient or a registered designated caregiver; the registry identification number of the
647 registered compassion center designated to serve the registered qualifying patient; and, if the cardholder is a registered
648 designated caregiver, the registry identification number of the registered qualified patient who is assisted by the cardholder.

649 (c) The ~~Department~~ Commissioner shall, with a cardholder's permission, confirm his or her status as a registered
650 qualifying patient or registered designated caregiver to a landlord, employer, school, medical professional, or court.

651 (d) The ~~Department~~ Commissioner shall disclose the names of any person whose registry identification card was
652 revoked to any court where the person is seeking to assert the protections of 4913A of this title.

653 § 4922A. Annual report by ~~Department~~ the Commissioner.

654 (a) [Repealed.]

655 (b) The ~~Department~~ Commissioner shall submit to the Governor and the General Assembly an annual report that
656 does not disclose any identifying information about cardholders, registered compassion centers, or health-care practitioners,
657 but does contain, at a minimum, all of the following information:

658 (1) The number of applications and renewals filed for registry identification cards.

659 (2) The number of qualifying patients and designated caregivers approved in each county.

660 (3) The nature of the debilitating medical conditions of the qualifying patients.

661 (4) The number of registry identification cards revoked for misconduct.

662 (5) The number of health-care practitioners providing written certifications for qualifying patients.

663 (6) The number of registered compassion centers.

664 (7) Specific accounting of fees and costs.

665 § 4923A. ~~Department~~ Commissioner to issue regulations [For application of this section, see 82 Del. Laws, c. 246,
666 § 5].

667 The ~~Department~~ Commissioner shall promulgate regulations regarding all of the following:

668 (1) Governing the manner in which the ~~Department~~ Commissioner shall consider petitions from the public to
669 add debilitating medical conditions or treatments to the list of debilitating medical conditions under § ~~4902A(4)~~ §
670 4902A(5) of this title, including public notice of and an opportunity to comment in public hearings on the petitions.

671 (5) Requiring application and renewal fees for registry identification cards, and registered compassion center
672 registration certificates, according to all of the following:

673 a. The total fees collected must generate revenues sufficient to offset all expenses of implementing and
674 administering this chapter, except that fee revenue may be offset or supplemented by private donations.

675 b. The total amount of revenue from application, renewal, and registration fees for compassion centers
676 and security compliance facilities must be sufficient to implement and administer the compassion center and safety
677 compliance facility provisions of this chapter.

678 c. The ~~Department~~ Commissioner may establish a sliding scale of patient application and renewal fees
679 based upon a qualifying patient's household income.

680 d. The ~~Department~~ Commissioner may accept donations from private sources to reduce application and
681 renewal fees.

682 e. The total amount of revenue from application, renewal, and registration fees for compassion centers,
683 security compliance facilities, and registry identification cards will be deposited to a special account within the
684 ~~Department~~ Commissioner's office for the operation of the program created by this chapter and shall be used as
685 necessary to support program operations and growth.

686 (6) Establishing requirements for cannabidiol-rich medical marijuana profile concentrations.

687 § 4924A. Enforcement of this chapter.

688 If the ~~Department~~ Commissioner fails to adopt regulations to implement this chapter within the times provided for
689 in this chapter, any citizen may commence an action in Superior Court to compel the ~~Department~~ Commissioner to perform
690 the actions mandated pursuant to the provisions of this chapter.

691 § 4927A. Background checks.

692 (b) The State Bureau of Identification shall be the intermediary for the purpose of subsection (a) of this section and
693 shall forward all information required by subsection (a) of this section to the ~~Department~~ Commissioner.

694 (c) The ~~Department~~ Commissioner shall use the background check required by this section only to determine if the
695 person required to obtain a background check meets the requirements of this chapter.

696 Section 2. Amend § 1322, Title 4 of the Delaware Code by making deletions as shown by strike through and
697 insertions as shown by underline as follows:

698 § 1322. Duties and powers of the Commissioner.

699 (a) The Commissioner, in accordance with the Administrative Procedures Act, Chapter 101 of Title 29, shall do all
700 of the following:

701 (14) Oversee and administer the Delaware Medical Marijuana Act under Chapter 49A of Title 16.

702 Section 3. This Act takes effect 180 days after its enactment into law.

703 Section 4. As of the effective date of this Act, all current employees of the Office of Medical Marijuana within the
704 Department of Health and Social Services shall become employees of the Office of the Marijuana Commissioner, and shall
705 maintain their then-current salary, seniority, and benefits.

706 Section 5. As of the effective date of this Act, the Office of the Marijuana Commissioner within the Department of
707 Safety and Homeland Security shall assume all contracts, deeds, debts, and other assets and liabilities of the Office of
708 Medical Marijuana within the Department of Health and Social Services.

709 Section 6. As of the effective date of this Act, the regulations promulgated by the Department of Health and Social
710 Services under the Delaware Medical Marijuana Act, Chapter 49A of Title 16, shall be adopted by the Marijuana
711 Commissioner until the Marijuana Commissioner, in the Commissioner's discretion, issues new regulations in accordance
712 with the Administrative Procedures Act, Chapter 101 of Title 29.

SYNOPSIS

This Act moves the Office of Medical Marijuana, which is currently under the Department of Health and Social Services to the Office of the Marijuana Commissioner within the Department of Safety and Homeland Security. Under this Act, the Marijuana Commissioner, rather than DHSS, will be responsible for administering the Delaware Medical Marijuana Act, which includes the following tasks: (1) Registration and certification of safety compliance facilities and compassion centers; (2) Issuance of registry identification cards; (3) Registration of qualifying patients and designated caregivers; and (4) Updating rules and regulations under the Delaware Medical Marijuana Act.