

**IN THE COMMONWEALTH COURT OF PENNSYLVANIA**

Medical Marijuana Access & Patient Safety, Inc., :

Petitioner, :

v. :

Keara Klinepeter, Acting Secretary, Pennsylvania Department of Health, John J. Collins, Director of the Pennsylvania Department of Health, Office of Medical Marijuana, and Sunny D. Podolak, Assistant Director and Chief Compliance Officer of the Pennsylvania Department of Health, Office of Medical Marijuana :

Respondents. :

No. \_\_ MD 2022

**NOTICE TO DEFEND**

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within thirty (30) days after this Petition and Notice are served by entering a written appearance personally or by attorney and filing in writing with the Court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a Judgment may be entered against you by the Court without further notice for any money claimed in the Petition or for any other claim or relief requested by the Petitioner. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE ONE OF THE OFFICES SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

Dauphin County Lawyer Referral Service,  
Dauphin County Bar Association  
213 North Front Street  
Harrisburg, PA 17101  
Phone: 717-232-7536

**IN THE COMMONWEALTH COURT OF PENNSYLVANIA**

Medical Marijuana Access & Patient Safety, Inc.,	:	
	:	
Petitioner,	:	
	:	
v.	:	
	:	
Keara Klinepeter, Acting Secretary,	:	
Pennsylvania Department of Health, John J. Collins, Director of the Pennsylvania Department of Health, Office of Medical Marijuana, and Sunny D. Podolak, Assistant Director and Chief Compliance Officer of the Pennsylvania Department of Health, Office of Medical Marijuana	:	No. __ MD 2022
	:	
Respondents.	:	

**PETITION FOR REVIEW IN THE NATURE OF A COMPLAINT IN EQUITY SEEKING DECLARATORY RELIEF AND INJUNCTIVE RELIEF**

Petitioner and its individual members seek declaratory and injunctive (preliminary and permanent) relief from the Department of Health’s Office of Medical Marijuana’s (DOH) February 4, 2022 determination “that certain vaporization products containing added ingredients, such as externally sourced flavorings or terpenes,” must be recalled and destroyed because they “have not been

approved for inhalation by the United States Food and Drug Administration” (Terpene Recall Mandate).<sup>1</sup>

### **PRELIMINARY STATEMENT AND SUMMARY OF CLAIMS**

1. On February 4, 2022, the DOH issued an email to all grower/processors in the medical marijuana program mandating that hundreds of DOH-previously-approved medical marijuana vaporization products that contain terpene additives be recalled and destroyed (“Terpene Recall Mandate”), costing the industry tens of millions of dollars and depriving patients of one of the most important forms of medical marijuana.

2. For over three years, DOH has approved Petitioners’ applications to sell these inhalation medical marijuana products with added terpenes. During this time, these DOH-approved inhalation medical marijuana products with added terpenes have been used by tens of thousands of patients with no adverse events.

3. The DOH issued the Terpene Recall Mandate without explanation and under the rationale that these products were not listed on the United States Food and Drug Administration’s (“FDA”) website as safe for inhalation. Such a reason for recalling products is nonsensical and outside the authority provided for in the

---

<sup>1</sup> DOH’s Terpene Recall Mandate was issued as an email to Pennsylvania’s Medical Marijuana Organizations (MMOs). A copy is attached as **Exhibit 1**.

Medical Marijuana Act, 35 P.S. § 10231.1101, et seq., *as amended* (Act or Medical Marijuana Act).

4. The FDA does not independently test or research products; rather, manufacturers submit research and testing to the FDA for its review and approval of these manufacturers' products.

5. Because terpenes are almost exclusively used in marijuana products and marijuana is illegal at the federal level, terpene manufacturers do not submit their research and testing to the FDA. Hence, there is no reason why the terpenes added to inhalation medical marijuana products would be listed on the FDA website "as safe for inhalation."

6. However, industry testing on these inhalation medical marijuana products with added terpenes has been extensive and has supported the safety and efficacy of these products.

7. DOH's rationale for the Terpene Recall Mandate – "not listed on FDA website as safe for inhalation" – is not only an impossible standard, but one not provided for in the Act.

8. When it amended the Act to provide for the addition of terpenes, rather than use DOH's impossible to apply standard, the legislature instead expressly and prudently provided that the standard that DOH may use, in determining whether to approve such additives, is whether such products containing additives would be

considered by the FDA as “safe for use in food” or “GRAS” (generally recognized as safe). 35 P.S. §10231.702(a)(5).

9. Upon Information and belief, all terpenes listed on DOH’s recall list of medical marijuana inhalation products *are* listed in the FDA website as “safe for use in *food*” or “GRAS”.

10. Further adding to the absurdity of DOH’s “FDA safe for inhalation” standard is that DOH continues to approve medical marijuana inhalation products with added terpenes so long as the terpenes are derived from the marijuana plant itself.

11. However, many of the naturally sourced terpenes subject to the Terpene Recall Mandate are chemically identical to the terpenes derived from marijuana. There is no difference in chemical composition between the botanically sourced terpenes DOH now denies and the terpenes DOH now allows.

12. DOH asserted its authority to issue the Terpene Recall Mandate via an email by citing to 28 Pa. Code §1151.42(c). However, this regulation does not grant DOH the authority for such a recall. Rather, the regulation provides that grower/processors shall initiate a recall if they become aware of any “complaint made ... by a patient, caregiver or practitioner”.

13. Petitioner’s members are not aware of a single complaint made by a patient, caregiver, or practitioner, and DOH has not cited to any.

14. There are many reasons why in most states where medical marijuana is legalized, including Pennsylvania for the last three plus years, it is common for growers and processors to add terpenes naturally sourced from fruits, botanicals, and marijuana to their vaporization medical marijuana products. For example, the terpenes provide health benefits and enhance the flavor and aromatic components of the vaporized products for patients such as those undergoing chemotherapy to better tolerate the medicine.

15. Pennsylvania patients have been using the inhalation products enhanced with these terpenes for over three years without a single adverse incident, let alone an adverse incident requiring a mandatory recall.

16. Based on DOH prior approvals, Petitioner's members have expended millions of dollars in equipment, supplies, labor, transportation, and marketing to safely bring these medical marijuana inhalation products with added terpenes to patients who need them.

17. Petitioners seek a declaratory judgment that DOH's Terpene Recall Mandate is unlawful, because it: exceeds DOH's statutory authority (Count I); is an unlawful *de facto* regulation (Count II); improperly applies an existing DOH regulation as the procedural basis for implementing the recall (Count III); violates Petitioner's members' vested rights (Count IV); effects an unconstitutional taking of private property (Count V); violates Petitioner's members' procedural due process

rights (Count VI); and, impugns Petitioner’s members’ constitutionally protected right to reputation (Count VII). The Declaratory Judgments Act, 42 Pa. C.S. §§ 7531-7541, is available to Petitioner to settle and afford relief from the uncertainty and insecurity with respect to Petitioner’s rights, status and legal relations engendered by the questionable status of DOH’s Terpene Recall Mandate.

18. Petitioner also seeks to preliminarily (Count VIII) and permanently (Count IX) enjoin implementation of DOH’s Terpene Recall Mandate and this Court has the power to do so pursuant to 42 Pa. C.S. § 761(a)(1).

### **STATEMENT OF JURISDICTION**

19. The Court has original jurisdiction over this action pursuant to 42 Pa. C.S. § 761(a)(1) which provides that this Court “shall have original jurisdiction of all civil actions and proceedings . . . [a]gainst the Commonwealth government . . .”

### **PETITIONER**

20. Petitioner is a 501(c)(6) non-profit association<sup>2</sup> consisting of a cross-section of industry stakeholders from permitted grower/processors and dispensaries, to certified patients that use the medical marijuana vaporization products that are subject to DOH’s terpene recall mandate, and terpene suppliers. Upon information and belief, Petitioner’s members account for approximately 75% of the medical

---

<sup>2</sup> Petitioner’s status as a 501(c)(6) non-profit is pending.

marijuana operations in Pennsylvania and produce more than approximately 90% of the vaporization products that are subject to DOH's Terpene Recall Mandate.

### **RESPONDENTS**

21. Respondent Keara Klinepeter is the Acting Secretary of the Pennsylvania Department of Health, the executive agency that issued the Terpene Recall Mandate and the agency that has the duty and authority to administer and enforce the Act, and the rules and regulations promulgated thereunder.

22. Respondent John J. Collins is the Director of the Pennsylvania Department of Health, Office of Medical Marijuana, the DOH office that is tasked with implementing and enforcing the Act and its regulations on a day-to-day basis. Respondent Collins is the DOH official who instituted the vaporization re-approval process that resulted in the Terpene Recall Mandate.

23. Respondent Sunny D. Podolak is the Assistant Director and Chief Compliance Officer of the Pennsylvania Department of Health, Office of Medical Marijuana, the DOH office that is tasked with implementing and enforcing the Act and its regulations on a day-to-day basis. Respondent Podolak is the DOH employee who sent the emails initiating the vaporization re-approval process and imposing the Terpene Recall Mandate.

## **FACTUAL BACKGROUND**

24. The Medical Marijuana Act became law on April 17, 2016, effective May 17, 2016.

25. The Act authorizes the production, dispensing, and patient use of various forms of medical marijuana, including “a form medically appropriate for administration by vaporization.” 35 P.S. §10231.303(b)(2)(iv).

26. Administration of medical marijuana through inhalation of vapor currently represents 36% of medical marijuana usage in Pennsylvania.

27. Petitioner’s member grower/processors and dispensaries began selling medical marijuana vaporization products in 2018, and DOH has reviewed and approved for production, sale, and dispensing each of the products used by patients.

28. Like all medical marijuana products, the cannabis in vaporization products contains substances known as terpenes; terpenes are naturally occurring chemical compounds found in cannabis and other plants that give the plant its flavor, aroma, and color.

29. In addition to the terpenes that naturally occur in cannabis, medical marijuana producers nationwide, including in Pennsylvania, add terpenes extracted from other natural sources (such as lemons, hemp, or botanicals) to add flavor to the vapor and to improve the aromatic component of the medicine. The products subject to the Terpene Recall Mandate are made from a highly refined form of medical

marijuana called distillate, which would otherwise be devoid of the associated terpenes that medical marijuana patients expect in their medicine.

30. Petitioner’s grower/processor members add terpenes to their medical marijuana vaporization products, and DOH reviewed and approved each such product before it became available for use by patients.

31. Relevant to the present Petition, the Medical Marijuana Act was amended in June 2021 by Act 44 of 2021.

32. Act 44 amended Section 702 of the Act to expressly permit, subject to certain statutory conditions and DOH regulations, the addition of terpenes and other additives to medical marijuana products. 35 P.S. §10231.702(a)(5).

33. Section 702(a)(5) requires that terpenes “must be pharmaceutical grade, unless otherwise approved by the department.” 35 P.S. §10231.702(a)(5).

34. Section 702 further provides that in determining whether to approve the addition of a terpene which is not pharmaceutical grade, DOH shall consider only whether the terpene is “permitted by the U.S. Food and Drug Administration *for use in food* or is Generally Recognized as Safe (“GRAS”) under Federal guidelines” or whether the terpene constitutes a known hazard such as diacetyl, and pentanedione. 35 P.S. §§10231.702(a)(5)(i)-(ii) (emphasis added).

35. DOH has temporary regulations for medical marijuana in effect but has yet to promulgate permanent regulations.

36. DOH has not promulgated any regulations implementing Act 44.

37. DOH's temporary regulations that have been in effect since 2017 state in pertinent part that a "grower/processor may not add any additional active ingredients or materials to medical marijuana that alters the dosage level, color, appearance, smell, taste, effect or weight of the medical marijuana unless the grower/processor has first obtained the prior written approval of the Department. Excipients must be pharmaceutical grade, unless otherwise approved by the Department." 28 Pa. Code § 1151.27(f).

38. Since grower/processors and dispensaries began selling medical marijuana products in 2018, they have submitted requests, and received approvals for, hundreds of vaporization products containing added terpenes.

39. Of the hundreds of medical marijuana products containing added terpenes approved since 2018, 100% have been approved by the DOH.

40. Petitioner and its members are unaware of a single adverse event experienced by a patient in Pennsylvania or anywhere in the U.S. that was caused by a medical marijuana vaporization product attributed to added pharmaceutical grade terpenes, nor has DOH asserted any such adverse event has occurred.

41. On November 16, 2021, Respondent Podolak sent an email (attached hereto as **Exhibit 2**) to an unspecified group of Medical Marijuana Organizations ("MMOs") advising them that DOH was "conducting a review of all vaporized

medical marijuana products containing additional ingredients” and that DOH was requiring every grower/processor to “submit for approval each vaporized product that contains additional ingredients, even if the *product had previously been approved.*” (emphasis added).

42. Pursuant to Respondent Podolak’s email, submissions for re-approval of all medical marijuana vaporization products and each respective vaporization product’s ingredients were due to DOH by November 30, 2021, in seven business days.

43. Petitioner’s members timely provided all information requested in DOH’s November 16, 2021 email.

44. On December 2, 2021, DOH emailed all patients in the medical marijuana program advising them that DOH was reviewing all products containing added terpenes and stating in part “you should be aware that products with added ingredients may not be safe for inhalation, and you should make your own decision about whether to use these products.” The December 2, 2021 email is attached hereto as **Exhibit 3**.

45. On December 2, 2021, the Medical Marijuana Advisory Board Patient Advocate, Luke Schultz, emailed Respondent Collins asking whether any adverse events had provoked the DOH’s December 2, 2021 emails. Mr. Schultz stated that he believed there were no adverse events related to any vaporization products since

all medical marijuana products are subject to DOH's "review that has been ongoing since the program's inception". Mr. Schultz further stated that since the Office's December 2, 2021 email did not state a reason for the warning over additives in vaporized products or even specify which products were of concern, that patients "don't feel as though they have enough information to properly" make their "own decisions about whether to use these products." Mr. Schultz's December 2, 2021 email is attached hereto as **Exhibit 4**.

46. To date, DOH has failed to respond to Mr. Schultz's December 2, 2021 email.

47. On December 13, 2021, Respondent Podolak sent another email to grower/processors requesting any information they had "regarding the determined safety of the externally sourced additives for inhalation, including artificial terpenes or flavorings, used in your vaporized products." The December 13, 2021, email is attached hereto as **Exhibit 5**.

48. Pursuant to the December 13, 2021 email, grower/processors had less than 48 hours to respond.

49. On December 15, 2021, the DOH received hundreds of pages of submissions from grower/processors and terpene manufacturers, including declarations from medical doctors and scientists that affirmed that there are no known safety concerns associated with fruit or botanically-derived terpenes while

also confirming that there are benefits to adding these terpenes in medical marijuana vaporized products. A representative sample of Petitioner's members' submissions is attached as **Exhibit 6**.

50. For nearly two months following DOH's December 13, 2021 email requesting safety information from all grower/processors, DOH stopped communicating via industry-wide email transmissions to grower/processors, dispensaries, patients, and physicians concerning the vaporization product re-approval process.

51. On February 4, 2022, the DOH sent a separate email to all patients in the medical marijuana program advising that the DOH was recalling medical marijuana products from dispensaries that "have not been approved for inhalation by the United States Food and Drug Administration". This DOH email to patients stated that although some of these "added ingredients may be considered safe in other non-inhaled products" the DOH was issuing a mandatory recall if such products were intended for inhalation. The February 4, 2022 email to patients is attached as **Exhibit 7**.

52. Noticeably missing in DOH's February 4, 2022 email to patients was a warning to discontinue use of the terpene infused vaporization products that patients might have in their possession or any process for patients to return these products to dispensaries.

53. DOH's February 4, 2022 email to patients did not state that the added terpenes or the terpene infused vaporization products are unsafe or that DOH had received any patient complaints or notices from physicians that patients using the products have experienced any adverse reactions.

54. Rather, DOH's February 4, 2022 email to patients advised that patients could "consult with the medical professional at the dispensary to help identify which alternative products may be appropriate."

55. Also on February 4, 2022, DOH issued the Terpene Recall Mandate email (*see, Exh. 1*) to grower/processors and dispensaries instituting a mandatory recall of at least 670 individual products under the alleged authority of 28 Pa. Code §1151.42(c)(1).

56. DOH also posted a list on DOH's website of all products and grower/processors subject to the Terpene Recall Mandate.

57. Compliance with the recall requires Petitioners to destroy product and/or the return of product for destruction. This product was manufactured according to DOH approvals and purchased for resale on that basis.

58. Pursuant to the Terpene Recall Mandate dispensaries have begun shipping the medical marijuana vaporization products containing the added terpenes back to the grower/processors who produced them where they are currently in quarantine.

59. DOH stated its reasoning for the Terpene Recall Mandate as “certain vaporization products containing added ingredients, such as externally sourced flavorings or terpenes, have not been approved for inhalation by the United States Food and Drug Administration.”

60. The added terpenes in these 670-plus products come from natural sources other than marijuana but are chemically indistinguishable from terpenes that occur naturally in cannabis and that grower/processors extract themselves from cannabis and then add to the medical marijuana vaporization products they produce – i.e., the terpenes ostensibly allowed by DOH.

61. DOH cited to Section 702(a)(5) of the Act, 35 P.S. § 10231.702(a)(5), for support of its Terpene Recall Mandate, but this section of the Act only provides that such added terpenes need to be pharmaceutical grade or otherwise approved by the department in accordance with 35 P.S. § 10231.702(a)(5)(i)-(ii).

62. Upon information and belief, all added terpenes used by Petitioner’s grower/processor members *are* pharmaceutical grade or otherwise FDA-approved for use in food or GRAS.

63. DOH misstates the Section 702(a)(5) approval standard by inserting the necessity that the FDA must have approved such terpenes “for inhalation.” Such a misstatement constitutes an impermissible addition to the statute, one not made by, and contrary to, the General Assembly’s intent.

64. The manner and means DOH employed by sending the Terpene Recall Mandate via the February 4, 2022 email to grower/processors constitutes a regulation not properly promulgated under the Act even as a temporary regulation.

65. The FDA does not develop or test products. Instead, the FDA reviews results of testing done by manufacturers who wish to obtain FDA approval for their drug products.

66. Terpenes extracted from cannabis and other plants are predominantly and almost exclusively used as additives to marijuana vaporization products that are inhaled by the user.

67. Marijuana is illegal under federal law. Therefore, the producers of terpenes used in marijuana vaporization products that are inhaled do not seek FDA approval or submit test results to the FDA.

68. The FDA has not reviewed terpenes used in medical marijuana products made for inhalation and therefore does not list any of these on its website.

69. Medical Marijuana, itself, is not listed on the FDA website as “safe for inhalation.”

70. Using “FDA-approved as safe for inhalation” as the standard for approving added terpenes is an unachievable standard lacking a factual and legal basis because no terpene would be approved given the intended use of terpenes and the legal status of marijuana under federal law.

71. Noticeably missing in the Terpene Recall Mandate is any reference to an occurrence of an adverse event or any assertion that the terpenes or terpene infused vaporization products represent any hazard to patients.

72. The terpenes and vaporization products subject to the Terpene Recall Mandate are prevalent and legally accepted in numerous states that have legalized medical marijuana and have been for up over eight years without a single reported adverse event.

73. The Terpene Recall Mandate that recalls over 670 individual product types (“Terpene Infused Vaporization Products”) represents over 329,073 total products at a cost in excess of \$17.75 million dollars to Petitioner’s members.

74. The Terpene Infused Vaporization Products represent 35.6% of the current total Pennsylvania medical marijuana product market.

75. The Terpene Infused Vaporization Products represent approximately 57% of the total annual sales of the Pennsylvania medical marijuana vaporization product market.

76. The Terpene Recall Mandate will deprive approximately 150,000 Pennsylvania medical marijuana patients of their preferred products.

77. Terpene Infused Vaporization Products are essential medicine for many patients suffering from conditions approved under the Act to be treated by medical marijuana including but not limited to cancer patients undergoing

chemotherapy treatment and patients suffering from severe chronic or intractable pain.

78. According to DOH, there are currently over 670,000 patients certified in the Pennsylvania medical marijuana program, and vaporized Medical Marijuana products, the majority of which are Terpene Infused Products, represent more than 35% of the total products purchased by the patients in the program from January 2020 to October 2021.<sup>3</sup>

79. Patients needing the Terpene Infused Vaporization Products, if unable to secure them through the program's dispensaries, likely will turn to the dangerous black market to obtain these types of products; to have patients relying on black market terpene infused vaporization products is dangerous because they are unregulated and untested products that could contain toxic substances, e.g., pesticides, solvents, heavy metals, even arsenic and embalming fluid, a risk the legislature sought to eliminate through the Act. When originally passing the Act, the legislature considered the risks of patients accessing the black market or traveling to other states for medical marijuana if these medicines were not legalized in Pennsylvania. Given that vaporized medical marijuana products are an

---

<sup>3</sup> See, Department of Health Medical Marijuana Advisory Board Meeting Presentation for Nov. 16, 2021 Advisory Board Meeting at p. 4, 13, *available at* <https://www.health.pa.gov/topics/Documents/Programs/Medical%20Marijuana/MAB%20Presentation%20-%20November%2016,%202021.pdf>

overwhelming preference for patients, turning to the illicit market or adjoining states is a reality. *See* Pennsylvania Senate Journal 2016 Reg. Session No. 6 at 36-37 attached hereto as **Exhibit 8**.

80. Because many of the products subject to the Terpene Recall Mandate were already approved by the DOH months or even years ago, in addition to the specific lost-product costs, the Petitioner's members will suffer more than \$26,000,000 in costs associated with the development, creation, marketing, and distribution of these products including but not limited to the equipment, supplies, and labor necessary to create these products.

81. In addition to the economic loss from the Terpene Recall Mandate, Petitioner's grower/processor members are suffering damage to their reputations caused by the emails DOH sent to patients that imply without evidence that Petitioner's members are producing and dispensing unsafe products, and by including Petitioner's members on a list posted on DOH's website that identifies them as producers of products that must be recalled.

82. The DOH has not conducted any tests or research which support a determination that Terpenes are unsafe.

83. In 2019, during the time when many of the Terpene Infused Vaporization Products were approved, DOH's Secretary stated, "Pennsylvania's medical marijuana program is carefully regulated, with products going through

extensive laboratory testing. Pennsylvania has a safe, effective and high-quality program designed to help those suffering from any of the 23 serious medical conditions.”<sup>4</sup>

84. On August 17, 2021, Respondent Collins re-affirmed that all medical marijuana products containing additives that are available to Pennsylvania patients are subject to “a very granular [approval] process” by undergoing “a very detailed process that does a look back to FDA requirements and approvals for amount, substance and route of administration and maximum amounts per dosage and that is looked at very, very carefully” and that no adverse events had occurred to date as a direct result of any product.<sup>5</sup>

85. These Terpene Infused Vaporization Products are all subjected to stringent testing and have specified expiration dates. All products subject to the Terpene Recall Mandate have passed at least two separate testing phases.

86. Petitioners relied on the Department’s prior approvals to invest millions of dollars in the development of safe and effective Terpene Infused

---

<sup>4</sup> Available at <https://www.media.pa.gov/pages/Health-details.aspx?newsid=651> (Feb. 8, 2022).

<sup>5</sup> See August 17, 2021 Medical Marijuana Advisory Board Meeting Minutes, at 71-72, available at <https://www.health.pa.gov/topics/Documents/Programs/Medical%20Marijuana/Meeting%20Minutes%20-%20August%2017,%202021.pdf>.

Vaporization Products. DOH has not cited any change in circumstances that justifies the recall actions which are a 180 degree turn away from its prior approvals.

87. Petitioners will suffer irreparable harm if they are made to destroy these Terpene Infused Vaporization Products or made to quarantine these products beyond their expiration dates and patients will suffer irreparable harm if they are prohibited from securing these Terpene Infused Products.

**COUNT I: DECLARATORY JUDGMENT**  
**LACK OF STATUTORY AUTHORITY**

88. Paragraphs 1-87 are incorporated herein by reference as if fully set forth.

89. Terpenes that are added to medical marijuana are “excipients” as that term is used in the Medical Marijuana Act.

90. The Medical Marijuana Act as amended in June 2021 by Act 44 expressly addresses the issue of excipients, permits a grower/processor to add an excipient to a medical marijuana product if it is pharmaceutical grade, and authorizes DOH to disapprove a proposed added substance only if the FDA has not approved it “for use in food or it is not Generally Recognized as Safe (GRAS) under Federal guidelines.” 35 P.S. § 10231.702(a)(5).

91. The Medical Marijuana Act as amended in June 2021 does not authorize DOH to base approval or disapproval of the addition of an excipient based on whether the FDA has approved or disapproved it “for inhalation.”

92. Petitioner and its members are unaware of any list or directory of terpenes that the FDA has approved for inhalation. The FDA-approval process is manufacturer initiated. A manufacturer performs and submits product testing for FDA review and approval. Because terpenes in inhalation products are almost exclusively used in marijuana products, terpene manufacturers do not submit their testing to the FDA since marijuana is still illegal at the federal level. Therefore, the FDA has had no opportunity to approve a terpene for inhalation.

93. Because the Medical Marijuana Act expressly addresses the use of excipients and authorizes DOH to non-approve a medical marijuana product if it contains an excipient not approved by the FDA for use in food but is silent on the issue of FDA approval of an excipient for inhalation, DOH's Terpene Recall Mandate based on the absence of FDA approval for inhalation exceeds DOH's authority under the Medical Marijuana Act, and is in fact contrary to the Act.

**COUNT II: DECLARATORY JUDGMENT**  
**UNLAWFUL DE FACTO REGULATION**

94. Paragraphs 1-93 are incorporated herein by reference as if fully set forth.

95. DOH's Terpene Recall Mandate announces for the first time an immediately effective industry-wide rule that purports to have the force and effect of law: that if a terpene is not approved by the FDA for inhalation, it may not be used in a vaporized medical marijuana product.

96. The Terpene Recall Mandate creates a binding norm that, assuming without conceding the requisite statutory authority to impose it, may only be imposed through a properly promulgated regulation: “[i]f an interpretative rule or statement of policy functions as a regulation, then it will be nullified due to the agency's failure to obey the processes applicable to the promulgation of a regulation.” *Dep’t of Environmental Resources v. Rushton Mining Company*, 591 A.2d 1168, 1171 (Pa. Cmwlth. 1991).

97. The Terpene Recall Mandate adds a provision to the Act not enacted by or contemplated by the General Assembly, fails to track the statute, is an invalidly promulgated regulation, is not entitled to deference by this court and thus is void and of no effect.

**COUNT III: DECLARATORY JUDGMENT**  
**IMPROPER RELIANCE ON RECALL REGULATION**

98. Paragraphs 1-97 are incorporated herein by reference as if fully set forth.

99. As its source of authority to implement a mandatory recall, DOH purports to rely on the “mandatory recall procedures” set forth in 28 Pa. Code § 1151.42(c).

100. Section 1151.42(c) applies where a grower/processor “discovers that a condition relating to ... medical marijuana products ...processed at its facility poses a risk to public health and safety.” 28 Pa. Code § 1151.42(c).

101. Section 1151.42(c) does not grant authority to DOH to initiate a mandatory recall.

102. Petitioner's members that are grower/processors and dispensers do not believe that the vaporized products that are subject to the Terpene Recall Mandate pose "a risk to public health and safety" and have not otherwise discovered that they do pose a risk to public health and safety.

103. DOH did not declare in its February 4, 2022 Terpene Recall Mandate, or otherwise convey to grower/processors and dispensaries that the vaporized products that are subject to the Terpene Recall Mandate pose "a risk to public health and safety."

104. Petitioner's members that operate medical marijuana dispensaries and grower/processor facilities are not aware of any "complaint made ... by a patient, caregiver or practitioner" concerning an "adverse event from using" vaporized medical marijuana products within the meaning of 28 Pa. Code § 1151.42(a) that would trigger a voluntary or mandatory recall.

105. DOH has not identified an "adverse event from using" vaporized medical marijuana products that contain the terpenes that are the subject of the Terpene Recall Mandate.

106. Accordingly, 28 Pa. Code § 1151.42(c) does not provide the requisite regulatory authority for DOH to initiate the Terpene Recall Mandate, and no other DOH regulation confers that authority on DOH.

**COUNT IV: DECLARATORY JUDGMENT**  
**VESTED RIGHT, DETRIMENTAL RELIANCE,**  
**AND PROMISSORY ESTOPPEL**

107. Paragraphs 1-106 are incorporated herein by reference as if fully set forth.

108. Petitioner's members that operate medical marijuana grower/processors and dispensaries have a vested right in producing and dispensing the vaporized medical marijuana products that are the subject of the Terpene Recall Mandate.

109. The factors to be considered in establishing a vested right in prior government approval to take action that is subject to government regulation are:

- a. The entity's due diligence in attempting to comply with the law;
- b. The entity's own good faith throughout the proceedings;
- c. The expenditure of substantial unrecoverable sums;
- d. The expiration of the applicable appeal period (i.e., any appeal period related to the initial DOH approval to produce and dispense a vaporized medical marijuana product; and

- e. The insufficiency of the evidence to prove that the individual property rights or the public health, safety or welfare would be adversely affected by continued reliance on the prior approval.

*Dept. of Environmental Resources v. Flynn*, 344 A.2d 720 (Pa. Cmwlth. 1975).

110. Petitioner's members satisfy each of these factors:

- a. Each received prior approval from DOH to produce and dispense the vaporized medical marijuana products that are now the subject of the Terpene Recall Mandate;
- b. Each has complied in good faith with DOH's regulations concerning the production and dispensing of vaporized medical marijuana products;
- c. Each has expended substantial sums in producing and dispensing the vaporized medical marijuana products that are the subject of the Terpene Recall Mandate, such that imposition of the recall will result in the loss to Petitioner's members of a sum totaling hundreds of millions of dollars;
- d. There are no pending appeals associated with the prior approvals Petitioner's members received from DOH to produce and dispense the vaporized medical marijuana products that are the subject of the Terpene Recall Mandate; and

e. DOH has cited no evidence that public health, safety or welfare would be adversely affected by continued production and dispensing of the vaporized medical marijuana products that are the subject of the Terpene Recall Mandate.

111. Accordingly, DOH's Terpene Recall Mandate is barred by the doctrine of vested rights, in that Petitioner's members have relied to their detriment on DOH's prior approvals of the production and dispensing of the vaporized medical marijuana products that are the subject of the Terpene Recall Mandate.

#### **COUNT V: DECLARATORY JUDGMENT – TAKING**

112. Paragraphs 1-111 are incorporated herein by reference as if fully set forth.

113. DOH's Terpene Recall Mandate violates the Fifth Amendment of the United States Constitution and Article I, Section 10 of the Pennsylvania Constitution in that it effects an unconstitutional taking of private property without compensation.

114. Imposition of the Terpene Recall Mandate will result in the loss to Petitioner's members of a sum totaling tens of millions of dollars.

115. “[W]hile property may be regulated to a certain extent, if regulation goes too far it will be recognized as a taking.” *Pennsylvania Coal Company v. Mahon*, 260 U.S. 393 (1922).

116. “[W]hat constitutes ‘too far’ depends on the facts and circumstances of a particular case ... the United States Supreme Court identified the following as significant factors in determining whether a taking has occurred: “the economic impact of the regulation, ... and particularly, the extent to which the regulation has interfered with distinct investment-backed expectations ... [and] the character of the government action.” *Penn Cent. Transp. Co. v. City of New York*, 438 U.S. 104 (1978).

117. DOH’s Terpene Recall Mandate requiring the recall and destruction of products previously approved for sale, absent an adverse event and without a credible public health or safety concern, resulting in the total loss of the value of the products and forfeiture of funds expended to develop, market, create, and distribute these products, plainly interferes with “distinct investment-backed expectations” of Petitioner’s members.

118. Given the lack of authority to issue the recall order and DOH’s failure to demonstrate that the vaporized medical marijuana products that are the subject of the Terpene Recall Mandate are a known hazard or unsafe for inhalation, DOH’s Terpene Recall Mandate is not a legitimate exercise of the police power.

**COUNT VI: DECLARATORY JUDGMENT**  
**PROCEDURAL DUE PROCESS**

119. Paragraphs 1-118 are incorporated herein by reference as if fully set forth.

120. DOH's Terpene Recall Mandate violates the Fourteenth Amendment of the United States Constitution and Article I, Sections 1 and 11 of the Pennsylvania Constitution in that it deprives Petitioner's members of their constitutional right to due process.

121. "The essential elements of due process are notice and opportunity to be heard and to defend in an orderly proceeding adapted to the nature of the case before a tribunal having jurisdiction of the cause." *Com. Dep't of Transp., Bureau of Driver Licensing v. Clayton*, 546 Pa. 342, 351, 684 A.2d 1060, 1064 (Pa. 1996).

122. In addition, "When an individual is deprived of property by governmental action, he must be afforded at some point in the proceeding an opportunity to be heard." *Cedarbrook Realty, Inc. v. Nahill*, 399 A.2d 374, 377 (Pa. 1979).

123. The United States Supreme Court has expressed a preference for pre-deprivation hearings: "If the right to notice and a hearing is to serve its full purpose, then, it is clear that it must be granted at a time when the deprivation can still be prevented." *Fuentes v. Shevin*, 407 U.S. 67, 81-82 (1972).109.

124. DOH's Terpene Recall Mandate requires Petitioner's grower/processor and dispensary members to cease immediately the production and dispensing of the Terpene Infused Vaporization Products. Under the DOH action MMOs must immediately cease distributing terpene added products and return them to the

grower/processor. The absence of a supersedeas provision means that there is no meaningful pre-deprivation hearing before MMOs must surrender their property.

124. Also, because the products will be destroyed upon returning them to the grower/processor or expire if quarantined, an appeal absent a supersedeas provision does not provide adequate due process. For these same reasons, there is no adequate post-deprivation remedy where the product is destroyed or otherwise unusable for its intended purpose.

125. In its Terpene Recall Mandate, DOH instructs grower/processors and dispensaries that they may file an appeal with the Secretary of Health within 30 days of DOH's recall decision pursuant to Chapter 1230 of DOH's temporary regulations (relating to practice and procedure).

126. Neither DOH's regulations at Chapter 1230 nor the General Rules of Administrative Practice and Procedure, 1 Pa. Code § 35.1, *et seq.*, provide for a supersedeas to DOH's Terpene Recall Mandate upon filing of an administrative appeal.

127. Because the Terpene Recall Mandate is effective immediately and prior to Petitioner's grower/processor and dispensary members having had an opportunity to be heard and defend against the imposition of the mandate, Petitioner's member's due process rights have been violated.

**COUNT VII: DECLARATORY JUDGMENT**  
**DAMAGE TO REPUTATION**

128. Paragraphs 1-127 are incorporated herein by reference as if fully set forth.

129. Article I, Section 1 of the Pennsylvania Constitution designates the right to reputation as an inherent and inalienable right, and Article I, Section 11 provides for a remedy through the courts for injury to reputation.

130. As a fundamental right that the Pennsylvania Constitution protects, a claim that a state law or regulation infringes on the right to reputation triggers strict scrutiny. *Pennsylvania Bar Ass'n v. Com.*, 607 A.2d at 857 (“where the right affected is fundamental ... strict judicial scrutiny is applied”).

131. Petitioner’s members produced and dispensed vaporized medical marijuana products that are the subject of the Terpene Recall Mandate with full approval of DOH, and in so doing adhered to DOH’s regulations and the highest standards of quality.

132. DOH published on its website a list of over 670 vaporization products that are subject to the Terpene Recall Mandate that identifies the grower/processor of each product being recalled by name and thereby communicates to Pennsylvania medical marijuana patients that the identified grower/processor’s product is unsafe.

133. Petitioner’s members that operate medical marijuana dispensaries and grower/processor facilities are not aware of any “complaint made ... by a patient,

caregiver or practitioner” concerning an “adverse event from using” vaporized medical marijuana products within the meaning of 28 Pa. Code § 1151.42(a) that would trigger a voluntary or mandatory recall.

134. DOH has not identified an “adverse event from using” vaporized medical marijuana products that contain the terpenes that are the subject of the Terpene Recall Mandate.

135. Despite this lack of evidence and DOH’s own prior approval of the products subject to recall, DOH has issued the Terpene Recall Mandate and in so doing has caused mass confusion with medical marijuana patients and impugned the reputation of Petitioner’s members with their patients all while experiencing no reported adverse events during the lifespan of DOH’s medical marijuana program.

**COUNT VIII: PRELIMINARY INJUNCTION**

136. Paragraphs 1-135 are incorporated herein by reference as if fully set forth.

137. Petitioner is entitled to a preliminary injunction to enjoin enforcement of DOH’s Terpene Recall Mandate pending final resolution by this court that the recall mandate is unlawful; Petitioner and its members have established that they have a likelihood of succeeding on the merits of their claim that the Terpene Recall Mandate is unlawful and invalid, that they will suffer immediate and irreparable

harm if the Terpene Recall Mandate remains in effect pending resolution of this action, and that the balance of harms and the public interest weigh in their favor.

138. Petitioner separately is filing an application for a preliminary injunction that addresses these criteria in detail.

### **COUNT IX: PERMANENT INJUNCTION**

139. Paragraphs 1-138 are incorporated herein by reference as if fully set forth.

140. To establish a claim for a permanent injunction, Petitioners must establish a clear right to relief and that an injunction is necessary to prevent a legal wrong for which there is no adequate redress at law. *Arsenal Coal Co. v. DER*, 477 A.2d 1333 (Pa. 1984).

141. Petitioner has a clear right to relief in that DOH's Terpene Recall Mandate has no basis in statute or regulation, violates Petitioner's members' vested rights, effects an unconstitutional taking, and infringes on Petitioner's members' constitutionally protected right to reputation.

142. Petitioners have no adequate remedy at law because if the Terpene Recall Mandate is allowed to progress, all the vaporized medical marijuana products that are the subject of the recall will be recalled and destroyed, resulting in substantial uncompensated economic harm to Petitioners' members, damage to

Petitioners' members' reputations, and deprivation to medical marijuana patients of the form of medical marijuana on which they rely.

WHEREFORE, Petitioners respectfully request that the Court:

- (a) As to Counts I-VI, declare that DOH's Terpene Recall Mandate issued February 4, 2022 is unlawful;
- (b) As to Count VII, preliminarily enjoin DOH's enforcement of the Terpene Recall Mandate pending resolution of this petition for review; and
- (c) As to Count VIII, permanently enjoin DOH's enforcement of the Terpene Recall Mandate.

Respectfully submitted,

/s/ Kevin J. McKeon

Judith D. Cassel I.D. No. 209393  
Kevin J. McKeon, I.D. No. 30428  
Dennis A. Whitaker, I.D. No. 53975  
Micah R. Bucy, I.D. No. 320196  
Hawke McKeon & Sniscak, LLP  
100 North Tenth Street  
Harrisburg, PA 17101  
Telephone: 717-236-1300  
Facsimile: 717-236-4841  
[kjmckeon@hmslegal.com](mailto:kjmckeon@hmslegal.com)  
[jdcassel@hmslegal.com](mailto:jdcassel@hmslegal.com)  
[dawhitaker@hmslegal.com](mailto:dawhitaker@hmslegal.com)  
[mrbcy@hmslegal.com](mailto:mrbcy@hmslegal.com)

*Counsel for Petitioner*

DATED: February 10, 2022

# **EXHIBIT 1**

**From:** [Podolak, Sunny](#)  
**To:** [Podolak, Sunny](#)  
**Cc:** [Bosack, Tabitha](#); [Azar, Michael](#); [Dougherty, Danielle](#); [Elliott, Jaime](#)  
**Subject:** Important information regarding statewide review of all vaporization products containing added ingredients  
**Date:** Friday, February 4, 2022 11:14:37 AM

---

Hello,

The Department conducted a statewide review of all vaporization products containing added ingredients and has determined that certain vaporization products containing added ingredients, such as externally sourced flavorings or terpenes, have not been approved for inhalation by the United States Food and Drug Administration. 35 P.S. § 10231.702(a)(5), 28 Pa. Code § 1151.27(f).

The affected grower/processors have just been notified that these products meet the conditions for recall under 28 Pa. Code § 1151.42(c)(1); accordingly, mandatory recall procedures must be implemented. 28 Pa. Code § 1151.42(c). Certain vaporization products will no longer be available for dispensing to patients or caregivers. The list of affected products is posted on our website at [www.medicalmarijuana.pa.gov](http://www.medicalmarijuana.pa.gov).

You must return all recalled products to the grower/processor for proper disposal of these products in accordance with 28 Pa. Code § 1161.38(c). **You must provide proof of the return of all recalled products.** A manifest is acceptable as proof of return and should be emailed to [RA-DHMMRCompliance@pa.gov](mailto:RA-DHMMRCompliance@pa.gov). Failure to comply will result in the Department acting to impose sanctions against you under 28 Pa. Code § 1141.47.

You may appeal this action to the Secretary of Health in writing **within 30 days of the date of emailing** in accordance with 28 Pa. Code Chapter 1230 (relating to practice and procedure – temporary regulations).

If you have questions about specific products, please contact the grower/processor.

Thank you for your commitment to keeping patients safe.

Sunny

**Sunny D Podolak, MS**

Assistant Director and Chief Compliance Officer  
PA Department of Health | Office of Medical Marijuana  
Room 628, Health and Welfare Building  
625 Forster Street | Harrisburg, PA 17120 - 0701  
Phone: 717.547.3047 | Fax: 717.265.8280  
[www.medicalmarijuana.pa.gov](http://www.medicalmarijuana.pa.gov)

**[EXTERNAL]** Do not click any links or attachments unless you're expecting something from this sender and know the content is safe. If unsure, click the Report Message button above.

## **EXHIBIT 2**

From: Podolak, Sunny <[spodolak@pa.gov](mailto:spodolak@pa.gov)>

Sent: Tuesday, November 16, 2021 3:57 PM

To: Podolak, Sunny <[spodolak@pa.gov](mailto:spodolak@pa.gov)>

Cc: Bosack, Tabitha <[tbosack@pa.gov](mailto:tbosack@pa.gov)>; Elliott, Jaime <[jaielliott@pa.gov](mailto:jaielliott@pa.gov)>; Dougherty, Danielle <[danidoughe@pa.gov](mailto:danidoughe@pa.gov)>; Azar, Michael <[miazar@pa.gov](mailto:miazar@pa.gov)>

Subject: ACTION REQUIRED - review of vaporized medical marijuana products containing additional ingredients

Importance: High

EXTERNAL EMAIL: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Good Afternoon,

The Department is conducting a review of all vaporized medical marijuana products containing additional ingredients (anything that alters the dosage level, color, appearance, smell, taste, effect or weight of the medical marijuana). By this notice, the Department is requiring every grower/processor to submit for approval each vaporized product that contains additional ingredients, even if the product had previously been approved.

Please use the attached forms to submit each product for approval (1 form per product please). When completing the product approval request form, you must list each additional ingredient. You cannot simply list a third party terpene blend as an additional ingredient. Rather, each ingredient contained in the terpene blend must be identified. You must also list the amount of each additional ingredient to be used in the product formulation, as the amount must not exceed the maximum potency per unit dose (this information is found by using the "Linked References" number 1). In order to expedite review, which is limited to inhaled products, you may omit the section of the form stating, "Please indicate whether the added substance is permitted by the United States Food and Drug Administration for use in food or is generally recognized as safe under federal guidelines. 35 P.S. §§ 10231.102(3)(i) and 10231.702(a)(5) (See "Linked References" #2 and 4)." When submitting the product approval request forms, please place in the subject line of the email, "VAPORIZED MEDICAL MARIJUANA PRODUCT REVIEW" so that these requests receive urgent attention by the Compliance team.

All vaporized product submissions must be received no later than November 30, 2021. This request is made pursuant to 28 Pa. Code 1141.45.

If the Department becomes aware of a vaporized product being sold after November 30, 2021, and the permittee has not submitted the product for review pursuant to this email, disciplinary action may be taken under 28 Pa Code 1141.47, including possible permit suspension or revocation.

Regardless of the Department's review, you have a responsibility to ensure patient safety. If you are producing any vaporized medical marijuana products that contain additional ingredients that are not approved by the FDA for inhalation, you MUST recall these products pursuant to 28 Pa. Code 1151.42(c).

Failure to comply with any part of this communication may result in the Department suspending the sale of your entire line of vaporized products.

Sunny

Sunny D Podolak, MS

Assistant Director and Chief Compliance Officer PA Department of Health | Office of Medical Marijuana Room 628, Health and Welfare Building  
625 Forster Street | Harrisburg, PA 17120 - 0701  
Phone: 717.547.3047 | Fax: 717.265.8280

**EXHIBIT 3**

**From:** PA Medical Marijuana Program <[RA-DHMedMarijuana@pa.gov](mailto:RA-DHMedMarijuana@pa.gov)>

**Date:** December 2, 2021 at 1:31:27 AM EST

**To:** [REDACTED]

**Subject:** An Important Message to Medical Marijuana Patients

**Reply-To:** PA Medical Marijuana Program <[outreachmailbox@mailfg.rnmk.com](mailto:outreachmailbox@mailfg.rnmk.com)>

An important message to medical marijuana patients:

On November 16, 2021, the Department of Health instituted a state-wide review of vaporized products containing added ingredients such as externally sourced flavorings or terpenes. Grower/processors have submitted information regarding these products to the Department for review, to include whether these added ingredients are safe for inhalation. The Department will review this information as expeditiously as possible. Should the Department's review reveal products containing added ingredients that are not safe for inhalation, those products will be removed from the market. In the interim, you should be aware that products with added ingredients may not be safe for inhalation and you should make your own decision about whether to use these products. If you have any questions or concerns about products, you should consult with your medical professional.

Thank you,  
Office of Medical Marijuana

**EXHIBIT 4**

**Subject:**Pa Medical Marijuana Program Concerns

**Date:**Thu, 2 Dec 2021 13:14:26 -0500

**From:**Luke Shultz [REDACTED]

**To:**Collins, John <[john.collins@pa.gov](mailto:john.collins@pa.gov)>

**CC:** [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

Fellow Medical Marijuana Advisory Board Members,

I am sharing this email so that you are aware of a recent communication between the Office of Medical Marijuana and registered patients, and to help you understand concerns by the patient community as a result of the communication.

The following was sent yesterday:

“An important message to medical marijuana patients:

On November 16, 2021, the Department of Health instituted a state-wide review of vaporized products containing added ingredients such as externally sourced flavorings or terpenes. Grower/processors have submitted information regarding these products to the Department for review, to include whether these added ingredients are safe for inhalation. The Department will review this information as expeditiously as possible. Should the Department’s review reveal products containing added ingredients that are not safe for inhalation, those products will be removed from the market. In the interim, you should be aware that products with added ingredients may not be safe for inhalation and you should make your own decision about whether to use these products. If you have any questions or concerns about products, you should consult with your medical professional.

Thank you,  
Office of Medical Marijuana”

Director Collins,

I appreciate the above correspondence related to a regulatory and safety review of vaporized medical marijuana products. The patient community has long felt uninformed as it relates to

administration actions in the medical marijuana program that directly affect them. I hope you continue to keep patients in the loop. That said, the patients have two main concerns related to this action that I'd like you to address.

First and foremost, what prompted this review? Hasn't this type of product review been ongoing since the program's inception? Were there adverse effects associated with Pa vaporization products or their ingredients that prompted this? You recommend that patients make their own decisions about whether to use these products, however they currently don't feel as though they have enough information to properly do so.

Second, there are concerns that this review will result in product supply disruptions and shortages. This could directly impact patients who rely on certain vaporization products in their treatment protocol. Are measures being taken to address this?

Thank you for your attention to this important matter.

Sincerely,

Luke Shultz

**EXHIBIT 5**

**From:** Podolak, Sunny <[spodolak@pa.gov](mailto:spodolak@pa.gov)>

**Sent:** Monday, December 13, 2021 5:42:57 PM

**To:** Podolak, Sunny <[spodolak@pa.gov](mailto:spodolak@pa.gov)>

**Subject:** [EXTERNAL]:Follow-up on review of vaporized medical marijuana products containing additional ingredients

**CAUTION:** External Sender

Hello,

Patient safety is of utmost importance to the Medical Marijuana Office and those they serve.

As you are aware, the Pennsylvania Department of Health's Medical Marijuana Office instituted a statewide review of vaporized medical marijuana products on November 16, 2021, to ensure that permittees are not using additives that are not safe for inhalation. The Medical Marijuana Office has received initial feedback from all of the grower/processors actively shipping product.

In addition to what you may have already provided, and in order to continue our review, please provide any information you have regarding the determined safety of the externally sourced additives for inhalation, including artificial terpenes or flavorings, used in your vaporized products.

If you are using additives, including artificial terpenes or flavorings, in other states, please provide the product name and the state in which it is approved.

Please provide this information no later than close of business on Wednesday, December 15, 2021.

Thank you,  
Sunny

**Sunny D Podolak, MS**

Assistant Director and Chief Compliance Officer  
PA Department of Health | Office of Medical Marijuana  
Room 628, Health and Welfare Building  
625 Forster Street | Harrisburg, PA 17120 - 0701  
Phone: 717.547.3047 | Fax: 717.265.8280  
[www.medicalmarijuana.pa.gov](http://www.medicalmarijuana.pa.gov)

**EXHIBIT 6**

## Response for Pennsylvania Department of Health

### Initial Request:

Hello,

Patient safety is of utmost importance to the Medical Marijuana Office and those they serve.

As you are aware, the Pennsylvania Department of Health's Medical Marijuana Office instituted a statewide review of vaporized medical marijuana products on November 16, 2021, to ensure that permittees are not using additives that are not safe for inhalation. The Medical Marijuana Office has received initial feedback from all of the grower/processors actively shipping product.

In addition to what you may have already provided, and in order to continue our review, please provide any information you have regarding the determined safety of the externally sourced additives for inhalation, including artificial terpenes or flavorings, used in your vaporized products.

If you are using additives, including artificial terpenes or flavorings, in other states, please provide the product name and the state in which it is approved.

Please provide this information no later than close of business on Wednesday, December 15, 2021.

Thank you,  
Sunny

**Sunny D Podolak, MS**  
Assistant Director and Chief Compliance Officer  
PA Department of Health | Office of Medical Marijuana  
Room 628, Health and Welfare Building  
625 Forster Street | Harrisburg, PA 17120 - 0701  
Phone: 717.547.3047 | Fax: 717.265.8280  
[www.medicalmarijuana.pa.gov](http://www.medicalmarijuana.pa.gov)

## Safety Review

My name is Dr. Shawna Vreeke, and I am the Head of Research and lead Safety Chemist at True Terpenes. Here at True Terpenes, I study the toxicology of all materials used in our products and define guideline use levels to inform our formulations based on scientific research. I also collaborate with other toxicologists and scientists in the cannabis and consumer products fields. Previous to my employment at True Terpenes, I received my doctorate degree in chemistry under Professor Robert Strongin for the investigation of toxin formation in electronic cigarettes. I have investigated characteristics of vaping for potential health hazards to the user; such as flavor additives, thermal degradation, user topography, and device design.

I have performed toxicological risk assessments on over 150 substances used in True Terpenes products to provide guidance on ingredient safety. Toxicological risk is a function of the inherent toxicity of a substance and the amount someone consumes. If exposure is below this scientifically derived safety limit, the risk to the vast majority of consumers will be minimal; especially when compared to combustion (i.e., smoking a joint / flower). In cases where insufficient inhalation toxicity data is available, natural concentrations in the cannabis plant, route to route extrapolation, structure-activity relationships, safety factors, and other state-of-the-art toxicological methods were used to derive a conservative safety limit. See Toxicology Reference Values below.

During the process of deriving the safety limits of our products, I have collected and reviewed over 1,000 scientific literature papers and toxicological databases thus far. Below is a small list of references. This list is not conclusive nor representative of all materials that have been reviewed. The references are only provided as an example of the work which is being undertaken to minimize the risk to cannabis consumers.

We can appreciate the complexity around this topic and would be more than happy to support your team throughout the process. **Please feel free to reach out to me with any additional questions at my email [shawna@trueterpenes.com](mailto:shawna@trueterpenes.com) or mobile 805.657.7760.**

Best Regards

DocuSigned by:  
  
9F1FE8F0CFD142E...

Shawna Vreeke, PhD

Head of Research & Lead Safety Chemist

True Terpenes

Jiang, K. et al. Geraniol alleviates LPS-induced acute lung injury in mice via inhibiting inflammation and apoptosis. *Oncotarget* 8, 71038-71053, doi:10.18632/oncotarget.20298 (2017).

LaVoie, E. J., Adams, J. D., Reinhardt, J., Rivenson, A. & Hoffmann, D. Toxicity studies on clove cigarette smoke and constituents of clove: determination of the LD50 of eugenol by intratracheal instillation in rats and hamsters. *Arch Toxicol* 59, 78-81, doi:10.1007/bf00286727 (1986).

Sowndhararajan, K., et al.. Effect of olfactory stimulation of isomeric aroma compounds, (+)-limonene and terpinolene on human electroencephalographic activity. *European Journal of Integrative Medicine* 7, 561-566, doi:https://doi.org/10.1016/j.eujim.2015.08.006 (2015).

Di Giacomo, S., Mazzanti, G. & Di Sotto, A. Mutagenicity of cigarette butt waste in the bacterial reverse mutation assay: The protective effects of  $\beta$ -caryophyllene and  $\beta$ -caryophyllene oxide. *Environmental Toxicology* 31, 1319-1328, doi:10.1002/tox.22136 (2016).

Ito, K. & Ito, M. The sedative effect of inhaled terpinolene in mice and its structure-activity relationships. *Journal of Nat. Medicines* 67, 833-837, doi:10.1007/s11418-012-0732-1 (2013).

Falk, A. A., Hagberg, M. T., Löf, A. E., Wigaeus-Hjelm, E. M. & Zhiping, W. Uptake, distribution and elimination of  $\alpha$ -pinene in man after exposure by inhalation. *Scandinavian Journal of Work, Environment & Health* 16, 372-378 (1990).

Nielsen, G. D. et al. Mechanisms of Acute Inhalation Effects of (+) and(-)- $\alpha$ -Pinene in BALB/c Mice. *Basic & Clinical Pharmacology & Toxicology* 96, 420-428, doi:10.1111/j.1742-7843.2005.pto\_96604.x (2005).

Api, A. M. et al. RIFM fragrance ingredient safety assessment, Fenchyl alcohol, CAS registry number 1632-73-1. *Food and Chemical Toxicology* 84, S25-S32, doi:https://doi.org/10.1016/j.fct.2015.08.022 (2015).

Juergens, U. R. et al. Anti-inflammatory activity of 1,8-cineol (eucalyptol) in bronchial asthma: a double-blind placebo-controlled trial. *Respiratory Medicine* 97, 250-256, doi:https://doi.org/10.1053/rmed.2003.1432 (2003).

Kennedy-Feitosa, E. et al. Eucalyptol promotes lung repair in mice following cigarette smoke-induced emphysema. *Phytomedicine* 55, 70-79, doi:https://doi.org/10.1016/j.phymed.2018.08.012 (2019).

Falk, A., Löf, A., Hagberg, M., Hjelm, E. W. & Wang, Z. Human exposure to 3-carene by inhalation: toxicokinetics, effects on pulmonary function and occurrence of irritative and CNS symptoms. *Toxicol Appl Pharmacol* 110, 198-205, doi:10.1016/s0041-008x(05)80002-x (1991).

Guo, T. et al. Vanillin protects lipopolysaccharide-induced acute lung injury by inhibiting ERK1/2, p38 and NF- $\kappa$ B pathway. *Future Medicinal Chemistry* 11, 2081-2094, doi:10.4155/fmc-2018-0432 (2019).

Marrs, T. C., Colgrave, H. F., Edginton, J. A. G. & Cross, N. L. Repeated dose inhalation toxicity of cinnamic acid smoke. *Journal of Hazardous Materials* 21, 1-13, doi:https://doi.org/10.1016/0304-3894(89)85073-3 (1989).

Tsuchiya, T., Tanida, M., Uenoyama, S. & Nakayama, Y. Effects of olfactory stimulation with jasmin and its component chemicals on the duration of pentobarbital-induced sleep in mice. *Life Sciences* 50, 1097-1102, doi:https://doi.org/10.1016/0024-3205(92)90346-Q (1992).

Bezerra Rodrigues Dantas, L. et al. Nootkatone Inhibits Acute and Chronic Inflammatory Responses in Mice. *Molecules* 25, 2181, doi:10.3390/molecules25092181 (2020).

Gill, M. W., Tyler, T. R. & Beyrouthy, P. C. Subchronic inhalation neurotoxicity study of amyl acetate in rats. *Journal of Applied Toxicology* 20, 463-469, doi:https://doi.org/10.1002/1099-1263(200011/12)20:6<463::AID-JAT715>3.0.CO;2-C (2000).

### Toxicology Reference Values

Recommended levels in True Terpenes' products were extrapolated using the following assumptions, reference values and uncertainty factors, prioritizing regulatory bodies and inhalation studies, when available.

Exposure Assumptions	
Concentrate inhaled per day	80 mg/day (1)
Chronic user	5 days/week, 1 or more years

Comparative Reference Values	
Average human inhalation volume per minute	0.012 m <sup>3</sup> /min (2)
Average working human inhalation volume per 8 hours	10 m <sup>3</sup> /8 h (3)
Average human inhalation volume per day	16 m <sup>3</sup> /day (2)
Average rat inhalation volume per body weight per 4 hours	0.19 m <sup>3</sup> /kg /4h (3)
Average rat inhalation volume per body weight per 6 hours	0.2875 m <sup>3</sup> /kg /6h (3)
Average mouse inhalation volume per body weight per day	1.73 m <sup>3</sup> /kg/day (4)
Surface area of mouth	45.8 cm <sup>2</sup> (5)
60 kg average human weight(6)	Divide oral animal dose (mg/kg) by: (6)
Rat	6.2
Mouse	12.3
Guinea pig	4.6
Rabbit	3.1

TTC reference values will be used when insufficient data is available, or the available database is insufficient to derive a safe use level. If uncertainties exist in greater than 4 areas, and/or the UF is above 3000, the database will be concluded as insufficient and a TTC value will be applied to access margin of safety (7). If an LD50 is the only reported endpoint, TTC values and read-across materials will be applied instead.

Threshold of Toxicological Concern Reference Values	
TTC by inhalation for Cramer Class 1	865 ug/day (8)
TTC by inhalation for Cramer Class 2 and 3	145 ug/day (8)
TTC for substances known to be genotoxic or with structural alerts for genotoxicity	0.15 ug/day (9, 10)
TTC for substances without alerts for genotoxic carcinogenicity	1.5 ug/day (9, 10)

Uncertainty Factors	
Safety factor for oral to inhalation	2 (3, 11)
Safety factor for LOAEL	10 (12)
Safety factor for interspecies extrapolation	10 (12, 13)
Safety factor intraspecies extrapolation	10 (12, 13)
Safety factor for subacute to chronic	6 (3, 11)

Safety factor for subchronic to chronic	2 (3, 11)
Sensitization Assessment Factor for skin sensitization endpoint	100 (14)

For materials which have known aggregate exposures, the safety risk analysis will take into consideration the average adult daily consumption and exposure. The average exposure will be subtracted from the derived safety limit to produce the allowable level within our products. If the material has no significant use elsewhere, no such safety factor will be used.

## References

1. Meehan-Atrash J, Luo W, McWhirter KJ, Strongin RM. Aerosol Gas-Phase Components from Cannabis E-Cigarettes and Dabbing: Mechanistic Insight and Quantitative Risk Analysis. *ACS Omega*. 2019;4(14):16111-20.
2. EPA U. Exposure Factors Handbook 2011 Edition (Final Report). US Environmental Protection Agency, Washington, DC, EPA. 2011;/600/R-09/052F.
3. EuropeanChemicalsAgency. Guidance on information requirements and chemical safety assessment. 2012.
4. Derelanko MJ. *The Toxicologist's Pocket Handbook*. 2nd ed. Boca Raton: CRC Press; 2008. 362 p.
5. Collins LM, Dawes C. The surface area of the adult human mouth and thickness of the salivary film covering the teeth and oral mucosa. *J Dent Res*. 1987;66(8):1300-2.
6. Guidance for Industry: Estimating the Maximum Safe Starting Dose in Initial Clinical Trials for Therapeutics in Adult Healthy Volunteers In: Administration FaD, editor. 2005.
7. Benson B, Ohanian E, Foureman G, Orme-Zavaleta J, Hofmann L, Rice D, et al. A Review of the Reference Dose and Reference Concentration Process. In: Agency USEP, editor. 2002.
8. Nelms MD, Patlewicz G. Derivation of New Threshold of Toxicological Concern Values for Exposure via Inhalation for Environmentally-Relevant Chemicals. *Frontiers in Toxicology*. 2020;2(5).
9. Hartung T. Thresholds of Toxicological Concern - Setting a threshold for testing below which there is little concern. *Altex*. 2017;34(3):331-51.
10. More S, Bampidis V, Benford D, Bragard C, Halldorsson T, Hernandez Jerez A, et al. Guidance on the use of the Threshold of Toxicological Concern approach in food safety assessment. 2019.
11. Guidance on Assessment Factors to Derive a DNEL. In: Chemicals ECfEaTo, editor. 2010.
12. Dorne JLCM, Renwick AG. The Refinement of Uncertainty/Safety Factors in Risk Assessment by the Incorporation of Data on Toxicokinetic Variability in Humans. *Toxicological Sciences*. 2005;86(1):20-6.
13. International Programme on Chemical S, Uncertainty IWol, Variability into Risk Assessment. Chemical-specific adjustment factors for interspecies differences and human variability : guidance document for use of data in dose/concentration-response assessment. Geneva: World Health Organization; 2005.
14. Api AM, Basketter DA, Cadby PA, Cano MF, Ellis G, Gerberick GF, et al. Dermal sensitization quantitative risk assessment (QRA) for fragrance ingredients. *Regul Toxicol Pharmacol*. 2008;52(1):3-23.

# Regulatory Review

True Terpenes blends are currently sold into all 50 states for various types of products and industries. Please find below the list of blends that we are currently selling to the company indicated.

In addition to the domestic United States, we sell into a number of territories (i.e. Washington D.C.) and 50+ international markets. Requirements for oversight vary for each regulated market, but our current packet of compliance material has been satisfactory for even the most advanced regulatory review.

Names of Items Purchased by 

Grape Goji OG  
24k Gold Punch  
Thin Mint Cookies  
Wedding Cake  
Granddaddy Purple  
Wifi OG  
Blue Zkittles  
Blue Raspberry  
Blackberry Kush  
Blueberry Up  
Grape  
Pineapple Diesel  
Strawberry Cough  
Wedding Cake  
Northern Lights  
SFV OG  
Super Lemon Haze  
Sunset Sherbet

**EXHIBIT 7**

**From:** PA Medical Marijuana Program <[RA-DHMedMarijuana@pa.gov](mailto:RA-DHMedMarijuana@pa.gov)>

**Sent:** Friday, February 4, 2022 1:18 PM

**To:** [REDACTED]

**Subject:** Important Information for Patients and Caregivers

Dear Medical Marijuana Patient/Caregiver,

The Department of Health is committed to ensuring that the Medical Marijuana Program is operating appropriately and effectively. As you know, the Department recently conducted a statewide review of all vaporized medical marijuana products containing added ingredients. After finishing this review, the Department has determined that certain vaporized medical marijuana products containing some added ingredients have not been approved for inhalation by the United States Food and Drug Administration (FDA).

Although some of these added ingredients may be considered safe in other non-inhaled products, patient safety is the top priority of the Medical Marijuana Program. Therefore, the Department has issued mandatory recall for all affected vaporized products. The lists of affected products and added ingredients are posted on our website at [www.medicalmarijuana.pa.gov](http://www.medicalmarijuana.pa.gov).

If you have previously used these recalled products, please consult with the medical professional at the dispensary to help identify which alternative products may be appropriate for you. We are committed to your continued access to safe and effective medical marijuana products.

PA Department of Health | Office of Medical Marijuana

**[EXTERNAL]** Do not click any links or attachments unless you're expecting something from this sender and know the content is safe. If unsure, click the Report Message button above.

**EXHIBIT 8**

PA S. Jour., 2016 Reg. Sess. No. 6

 Image 1 within document in PDF format.

Senate Journal, Session of 2016, No. 6

Monday, February 8, 2016  
Pennsylvania Senate  
200th General Assembly, 2016 Regular Session

**SENATE**

MONDAY, February 8, 2016

The Senate met at 1 p.m., Eastern Standard Time.

The PRESIDENT pro tempore (Senator Joseph B. Scarnati III) in the Chair.

**PRAYER**

The Chaplain, Captain MATTHEW GUNCHEON, U.S. Army, Erie, offered the following prayer:

As I pray in my tradition, please feel free to honor the practices of your own spiritual discipline or faith tradition.

Almighty God, today we ask You to bless this Chamber and those who enter and dwell within it. May it stand and serve this Commonwealth as its Founders intended, as a refuge from persecution, a beacon of hope, and an exemplar of law and justice. May it continue to be the home of those who author freedom and the birthplace of liberty.

Today, Lord, we honor the lives of four of Your servants who perished 73 years ago in the cold waters of the North Atlantic. Father John Washington, Rabbi Alex Goode, Reverend Clark Poling, and Reverend George Fox, a native Pennsylvanian, saw no higher calling than that of serving their God and their country. Each one true to their faith and charge gave the last full measure of devotion that their comrades might have a chance of life in their stead. May we be filled with courage, strength, and devotion to rise to life's great challenges, that our actions may inspire others in times of hardship, fear, and struggle as the four chaplains did. We pray for all of those who defend freedom at home and abroad, and all of those men and women who are even now in harm's way.

Almighty God, You have given us this good land as our heritage. May we prove ourselves as people mindful of Your generosity and glad to do Your will. Bless our land with honest industry, truthful education, and an honorable way of life. Save us from violence, discord, and confusion, from pride and arrogance, and from every evil course of action. Make us, who came from many cultures with many different languages, a united people. Defend our liberties and give those whom we have entrusted with the authority of government wisdom that there may be justice and peace in our Commonwealth. When times are prosperous, let our hearts be thankful, and in troubled times, do not let our trust in You fail. Be with us today and evermore, Almighty God. Amen.

The PRESIDENT pro tempore. The Chair thanks Captain Guncheon, who is the guest today of Senator Wiley.

**PLEDGE OF ALLEGIANCE**

(The Pledge of Allegiance was recited by those assembled.)

**COMMUNICATIONS FROM THE GOVERNOR**

**NOMINATIONS REFERRED TO COMMITTEE**

The PRESIDENT pro tempore laid before the Senate the following communications in writing from His Excellency, the Governor of the Commonwealth, which were read as follows and referred to the Committee on Rules and Executive Nominations:

**JUDGE, COURT OF COMMON PLEAS**

*[data missing]*

January 29, 2016

To the Honorable, the Senate

of the Commonwealth of Pennsylvania:

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Mary K. Topper, Esq., 223 Pine Street, Apt. 3A, Harrisburg 17101, Dauphin County, Fifteenth Senatorial District, for appointment as Judge, Court of Common Pleas, Allegheny County, to serve until the first Monday of January 2018, vice The Honorable Kathleen Mulligan, resigned.

TOM WOLF  
Governor

**MAGISTERIAL DISTRICT JUDGE**

January 29, 2016

To the Honorable, the Senate

of the Commonwealth of Pennsylvania:

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Thomas J. Yablonski, Jr., 901 Capital Street, Harrisburg 17102, Dauphin County, Fifteenth Senatorial District, for appointment as Magisterial District Judge, in and for the County of Centre, Magisterial District 49-2-01, to serve until the first Monday of January 2018, vice The Honorable Leslie A. Dutchcot, resigned.

TOM WOLF  
Governor

**MEMBER OF THE APPALACHIAN STATES LOW-LEVEL RADIOACTIVE WASTE COMMISSION**

February 2, 2016

To the Honorable, the Senate

of the Commonwealth of Pennsylvania:

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Thomas J. Yablonski, Jr., 901 Capital Street, Harrisburg, 17102, Dauphin County, Fifteenth Senatorial District, for appointment as a member of the Appalachian States Low-Level Radioactive Waste Commission, to serve at the pleasure of the Governor, vice E. Christopher Abruzzo, Hershey, resigned.

TOM WOLF  
Governor

MEMBER OF THE STATE BOARD OF COSMETOLOGY

February 2, 2016

To the Honorable, the Senate

of the Commonwealth of Pennsylvania:

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Brenda L. Rios (Public Member), 1224 N. 3rd Street, Unit 502, Harrisburg 17102, Dauphin County, Fifteenth Senatorial District, for appointment as a member of the State Board of Cosmetology, to serve for *[data missing]* of three years and until her successor is appointed and qualified, but not longer than six months beyond that period, vice Ann Catalano, Camp Hill, resigned.

TOM WOLF

Governor

MEMBER OF THE BOARD OF TRUSTEES OF EBENSBURG CENTER

February 2, 2016

To the Honorable, the Senate

of the Commonwealth of Pennsylvania:

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Leah J. Sheppard, 214 Cumberland Street, Harrisburg 17102, Dauphin County, Fifteenth Senatorial District, for appointment as a member of the Board of Trustees of Ebensburg Center, to serve until January 16, 2019, and until her successor is appointed and qualified, vice Rose Planinsek, Ligonier, resigned.

TOM WOLF

Governor

MEMBER OF THE BOARD OF TRUSTEES OF EBENSBURG CENTER

February 2, 2016

To the Honorable, the Senate

of the Commonwealth of Pennsylvania:

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Thomas J. Yablonski, Jr., 901 Capital Street, Harrisburg, 17102, Dauphin County, Fifteenth Senatorial District, for appointment as a member of the Board of Trustees of Ebensburg Center, to serve until January 21, 2021, and until his successor is appointed and qualified, vice Dixie Henry, Mount Union, resigned.

TOM WOLF

Governor

MEMBER OF THE PENNSYLVANIA ENERGY DEVELOPMENT AUTHORITY

February 2, 2016

To the Honorable, the Senate

of the Commonwealth of Pennsylvania:

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Leah J. Sheppard, 214 Cumberland Street, Harrisburg 17102, Dauphin County, Fifteenth Senatorial District, for appointment as a member of the Pennsylvania Energy Development Authority, to serve for *[data missing]* four years and until her successor is appointed and qualified, vice Robert Sanders, Philadelphia, resigned.

TOM WOLF  
Governor

MEMBER OF THE BOARD OF TRUSTEES -OF HAMBURG CENTER

February 2, 2016

To the Honorable, the Senate

of the Commonwealth of Pennsylvania:

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Thomas J. Yablonski, Jr., 901 Capital Street, Harrisburg 17102, Dauphin County, Fifteenth Senatorial District, for appointment as a member of the Board of Trustees of Hamburg Center, to serve until January 21, 2021, and until his successor is appointed and qualified, vice Joanne D. Reckley, Temple, resigned.

TOM WOLF  
Governor

MEMBER OF THE HEALTH POLICY BOARD

February 2, 2016

To the Honorable, the Senate

of the Commonwealth of Pennsylvania:

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Leah J. Sheppard, 214 Cumberland Street, Harrisburg 17102, Dauphin County, Fifteenth Senatorial District, for appointment as a member of the Health Policy Board, to serve for *[data missing]* three years and until her successor is appointed and qualified, vice C. Michael Blackwood, Mars, resigned.

TOM WOLF  
Governor

MEMBER OF THE INDUSTRIAL BOARD

February 2, 2016

To the Honorable, the Senate

of the Commonwealth of Pennsylvania:

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Leah J. Sheppard, 214 Cumberland Street, Harrisburg 17102, Dauphin County, Fifteenth Senatorial District, for appointment as a member of the Industrial Board, to serve until the third Tuesday in January 2019, and until her successor is appointed and qualified, vice Bony Dawood, Mechanicsburg, resigned.

TOM WOLF  
Governor

MEMBER OF THE COUNCIL OF TRUSTEES OF KUTZTOWN UNIVERSITY  
OF PENNSYLVANIA OF THE STATE SYSTEM OF HIGHER EDUCATION

February 2, 2016

To the Honorable, the Senate

of the Commonwealth of Pennsylvania:

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Leah J. Sheppard, 214 Cumberland Street, Harrisburg 17102, Dauphin County, Fifteenth Senatorial District, for appointment as a member of the Council of Trustees of Kutztown University of Pennsylvania of the State System of Higher Education, to serve for *[data missing]* six years and until her successor is appointed and qualified, vice Richard Orwig, Wyomissing, resigned.

TOM WOLF  
Governor

MEMBER OF THE STATE BOARD OF MASSAGE THERAPY

February 2, 2016

To the Honorable, the Senate

of the Commonwealth of Pennsylvania:

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Leah J. Sheppard (Public Member), 214 Cumberland Street, Harrisburg 17102, Dauphin County, Fifteenth Senatorial District, for appointment as a member of the State Board of Massage Therapy, to serve October 9, 2018, and until her successor is appointed and qualified, but not longer than six months beyond that period, vice Tammy Gilette, Blooming Grove, whose term expired.

TOM WOLF  
Governor

MEMBER OF THE MUNICIPAL POLICE OFFICERS' EDUCATION AND TRAINING COMMISSION

February 2, 2016

To the Honorable, the Senate

of the Commonwealth of Pennsylvania:

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Leah J. Sheppard, 214 Cumberland Street, Harrisburg 17102, Dauphin County, Fifteenth Senatorial District, for appointment as a member of the Municipal Police Officers' Education and Training Commission, to serve for *[data missing]* three years and until her successor is appointed and qualified, vice Ray Morrow, Pittsburgh, resigned.

TOM WOLF  
Governor

MEMBER OF THE STATE BOARD OF EXAMINERS OF NURSING HOME ADMINISTRATORS

February 2, 2016

To the Honorable, the Senate

of the Commonwealth of Pennsylvania:

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Leah J. Sheppard, 214 Cumberland Street, Harrisburg 17102, Dauphin County, Fifteenth Senatorial District, for appointment as a member of the State Board of Examiners of Nursing Home Administrators, to serve for a term of four years and until her successor is appointed and qualified, but not longer than six months beyond that period, vice Richard Bruno, Brockway, whose term expired.

TOM WOLF  
Governor

MEMBER OF THE STATE BOARD OF PHARMACY

February 2, 2016

To the Honorable, the Senate

of the Commonwealth of Pennsylvania:

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Thomas J. Yablonski, Jr. (Public Member), 901 Capital Street, Harrisburg 17102, Dauphin County, Fifteenth Senatorial District, for appointment as a member of the State Board of Pharmacy, to serve until June 11, 2018, and until his successor is appointed and qualified, but not longer than six months beyond that period, vice Craig DeFranco, Roseto, resigned.

TOM WOLF  
Governor

MEMBER OF THE STATE BOARD OF PODIATRY

February 2, 2016

To the Honorable, the Senate

of the Commonwealth of Pennsylvania:

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Thomas J. Yablonski, Jr. (Public Member), 901 Capital Street, Harrisburg 17102, Dauphin County, Fifteenth Senatorial District, for appointment as a member of the State Board of Podiatry, to serve for a term of four years and until his successor is appointed and qualified, but not longer than six months beyond that period, vice Barbara Wiggin, Mechanicsburg, whose term expired.

TOM WOLF  
Governor

MEMBER OF THE STATE REGISTRATION BOARD FOR  
PROFESSIONAL ENGINEERS, LAND SURVEYORS AND GEOLOGISTS

February 2, 2016

To the Honorable, the Senate

of the Commonwealth of Pennsylvania:

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Leah J. Sheppard (Public Member), 214 Cumberland Street, Harrisburg 17102, Dauphin County, Fifteenth Senatorial District, for appointment as a member of the State Registration Board for Professional Engineers, Land Surveyors and Geologists, to serve for *[data missing]* six years and until her successor is appointed and qualified, but not longer than six months beyond that period, vice Joseph Mackey, Mount Bethel, resigned.

TOM WOLF  
Governor

MEMBER OF THE BOARD OF TRUSTEES OF THE WESTERN YOUTH DEVELOPMENT CENTERS

February 2, 2016

To the Honorable, the Senate

of the Commonwealth of Pennsylvania:

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Thomas J. Yablonski, Jr., 901 Capital Street, Harrisburg 17102, Dauphin County, Fifteenth Senatorial District, for appointment as a member of the Board of Trustees of the Western Youth Development Centers, to serve until the third Tuesday of January 2021, and until his successor is appointed and qualified, vice Loretta Hogans, New Castle, resigned.

TOM WOLF

Governor

MEMBER OF THE BOARD OF TRUSTEES OF WHITE HAVEN CENTER

February 2, 2016

To the Honorable, the Senate

of the Commonwealth of Pennsylvania:

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Thomas J. Yablonski, Jr., 901 Capital Street, Harrisburg 17102, Dauphin County, Fifteenth Senatorial District, for appointment as a member of the Board of Trustees of White Haven Center, to serve until January 21, 2017, and until his successor is appointed and qualified, vice Louise Powell-McLafferty, Clarks Summit, resigned.

TOM WOLF

Governor

MEMBER OF THE STATE BOARD OF ACCOUNTANCY

February 4, 2016

To the Honorable, the Senate

of the Commonwealth of Pennsylvania:

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Leah J. Sheppard (Public Member), 214 Cumberland Street, Harrisburg 17102, Dauphin County, Fifteenth Senatorial District, for appointment as a member of the State Board of Accountancy, to serve until June 23, 2018, and *[data missing]* her successor is appointed and qualified, but not longer than six months beyond that period, vice Tina Miller, Pittsburgh, resigned.

TOM WOLF

Governor

MEMBER OF THE ARCHITECTS LICENSURE BOARD

February 4, 2016

To the Honorable, the Senate

of the Commonwealth of Pennsylvania:

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Leah J. Sheppard, 214 Cumberland Street, Harrisburg 17102, Dauphin County, Fifteenth Senatorial District, for appointment as a member of the Architects Licensure Board, to serve for a term of four years, and until her successor is appointed and qualified, but not longer than six months beyond that period, vice John Martine, Pittsburgh, resigned.

TOM WOLF  
Governor

MEMBER OF THE COMMONWEALTH OF PENNSYLVANIA COUNCIL ON THE ARTS

February 4, 2016

To the Honorable, the Senate

of the Commonwealth of Pennsylvania:

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Leah J. Sheppard, 214 Cumberland Street, Harrisburg 17102, Dauphin County, Fifteenth Senatorial District, for appointment as a member of the Commonwealth of Pennsylvania Council on the Arts, to serve until July 1, 2017, and *[data missing]* her successor is appointed and qualified, vice Susan Corbett, Glenshaw, resigned.

TOM WOLF  
Governor

MEMBER OF THE BANKING AND SECURITIES COMMISSION

February 4, 2016

To the Honorable, the Senate

of the Commonwealth of Pennsylvania:

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Leah J. Sheppard, 214 Cumberland Street, Harrisburg 17102, Dauphin County, Fifteenth Senatorial District, for appointment as a member of the Banking and Securities Commission, to serve at the pleasure of the Governor, vice Gerald Pappert, Plymouth Meeting, resigned.

TOM WOLF  
Governor

MEMBER OF THE STATE CONSERVATION COMMISSION

February 4, 2016

To the Honorable, the Senate

of the Commonwealth of Pennsylvania:

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Thomas J. Yablonski, Jr., 901 Capital Street, Harrisburg 17102, Dauphin County, Fifteenth Senatorial District, for appointment as a member of the State Conservation Commission, to serve until May 30, 2018, and until his successor is appointed and qualified, but not longer than six months beyond that period, vice Edward Kuckuck, Indiana, whose term expired.

TOM WOLF  
Governor

MEMBER OF THE STATE BOARD OF CRANE OPERATORS

February 4, 2016

To the Honorable, the Senate

of the Commonwealth of Pennsylvania:

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Leah J. Sheppard (Public Member), 214 Cumberland Street, Harrisburg 17102, Dauphin County, Fifteenth Senatorial District, for appointment as a member of the State Board of

Crane Operators, to serve until December 8, 2018, and until her successor is appointed and qualified, but not longer than six months beyond that period, vice Jason Giurintano, Camp Hill, whose term expired.

TOM WOLF  
Governor

MEMBER OF THE PENNSYLVANIA DRUG, DEVICE AND COSMETIC BOARD

February 4, 2016

To the Honorable, the Senate

of the Commonwealth of Pennsylvania:

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Brenda L. Rios, 1224 N. 3rd Street, Unit 502, Harrisburg 17102, Dauphin County, Fifteenth Senatorial District, for appointment as a member of the Pennsylvania Drug, Device and Cosmetic Board, to serve until October 15, 2016, and until her successor is appointed and qualified, but not longer than six months beyond that period, vice Joan Tarloff, Collegeville, deceased.

TOM WOLF  
Governor

MEMBER OF THE BOARD OF TRUSTEES OF EBENSBURG CENTER

February 4, 2016

To the Honorable, the Senate

of the Commonwealth of Pennsylvania:

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Brenda L. Rios, 1224 N. 3rd Street, Unit 502, Harrisburg 17102, Dauphin County, Fifteenth Senatorial District, for appointment as a member of the Board of Trustees of Ebensburg Center, to serve until January 20, 2021, and until her successor is appointed and qualified, vice Marcelle Cooney, Cresson, resigned.

TOM WOLF  
Governor

MEMBER OF THE PENNSYLVANIA FISH AND BOAT COMMISSION

February 4, 2016

To the Honorable, the Senate

of the Commonwealth of Pennsylvania:

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Leah J. Sheppard (District 6), 214 Cumberland Street, Harrisburg 17102, Dauphin County, Fifteenth Senatorial District, for appointment as a member of the Pennsylvania Fish and Boat Commission, to serve for a term of four years, and *[data missing]* her successor is appointed and qualified, but not longer than six months beyond that period, vice Robert Bachman, Denver, resigned.

TOM WOLF  
Governor

MEMBER OF THE STATE HARNESS RACING COMMISSION

February 4, 2016

To the Honorable, the Senate

of the Commonwealth of Pennsylvania:

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Thomas J. Yablonski, Jr., 901 Capital Street, Harrisburg 17102, Dauphin County, Fifteenth Senatorial District, for appointment as a member of the State Harness Racing Commission, to serve for a term of three years and until his successor is appointed and qualified, vice C. Edward Rogers, Mechanicsburg, resigned.

TOM WOLF  
Governor

MEMBER OF THE HEALTH POLICY BOARD

February 4, 2016

To the Honorable, the Senate

of the Commonwealth of Pennsylvania:

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Brenda L. Rios, 1224 N. 3rd Street, Unit 502, Harrisburg 17102, Dauphin County, Fifteenth Senatorial District, for appointment as a member of the Health Policy Board, to serve for a term of three years and until her successor is appointed and qualified, vice Cecelia Dougherty, Philadelphia, resigned.

TOM WOLF  
Governor

MEMBER OF THE STATE BOARD OF LANDSCAPE ARCHITECTS

February 4, 2016

To the Honorable, the Senate

of the Commonwealth of Pennsylvania:

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Leah J. Sheppard, 214 Cumberland Street, Harrisburg 17102, Dauphin County, Fifteenth Senatorial District, for appointment as a member of the State Board of Landscape Architects, to serve for a term of three years and until her successor is appointed and qualified, but not longer than six months beyond that period, vice Daniel DiMucci, West Chester, whose term expired.

TOM WOLF  
Governor

MEMBER OF THE STATE BOARD OF OPTOMETRY

February 4, 2016

To the Honorable, the Senate

of the Commonwealth of Pennsylvania:

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Leah J. Sheppard (Public Member), 214 Cumberland Street, Harrisburg 17102, Dauphin County, Fifteenth Senatorial District, for appointment as a member of the State Board of Optometry, to serve for a term of four years and until her successor is appointed and qualified, but not longer than six months beyond that period vice Lisa Hegedus, Jeannette, resigned.

TOM WOLF

Governor

MEMBER OF THE STATE REGISTRATION BOARD FOR  
PROFESSIONAL ENGINEERS, LAND SURVEYORS AND GEOLOGISTS

February 4, 2016

To the Honorable, the Senate

of the Commonwealth of Pennsylvania:

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Thomas J. Yablonski, Jr. (Public Member), 901 Capital Street, Harrisburg 17102, Dauphin County, Fifteenth Senatorial District, for appointment as a member of the State Registration Board for Professional Engineers, Land Surveyors and Geologists, to serve for a term of six years and until his successor is appointed and qualified, but not longer than six months beyond that period, vice Earnest Long, Gettysburg, resigned.

TOM WOLF

Governor

MEMBER OF THE BOARD OF TRUSTEES OF SOUTH MOUNTAIN RESTORATION CENTER

February 4, 2016

To the Honorable, the Senate

of the Commonwealth of Pennsylvania:

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Brenda L. Rios, 1224 N. 3rd Street, Unit 502, Harrisburg 17102, Dauphin County, Fifteenth Senatorial District, for appointment as a member of the Board of Trustees of South Mountain Restoration Center, to serve until January 21, 2019, and until her successor is appointed and qualified, vice William Shank, Chambersburg, resigned.

TOM WOLF

Governor

MEMBER OF THE STATE BOARD OF VEHICLE MANUFACTURERS, DEALERS AND SALESPERSONS

February 4, 2016

To the Honorable, the Senate

of the Commonwealth of Pennsylvania:

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Thomas J. Yablonski, Jr., 901 Capital Street, Harrisburg, 17102, Dauphin County, Fifteenth Senatorial District, for appointment as a member of the State Board of Vehicle Manufacturers, Dealers and Salespersons, to serve for a term of four years and until his successor is appointed and qualified, but not longer than six months beyond that period, vice Frank Snyder, Reynoldsville, whose term expired.

TOM WOLF

Governor

MEMBER OF THE BOARD OF TRUSTEES OF THE WESTERN YOUTH DEVELOPMENT CENTER *[sic]*

February 4, 2016

To the Honorable, the Senate

of the Commonwealth of Pennsylvania:

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Leah J. Sheppard, 214 Cumberland Street, Harrisburg 17102, Dauphin County, Fifteenth Senatorial District, for appointment as a member of the *[data missing]* Western Youth Development Centers, to serve until the third Tuesday of January 2021, and until her successor is appointed and qualified, vice Joseph Fragle, Sharon, resigned.

TOM WOLF

Governor

#### **CORRECTIONS TO NOMINATIONS REFERRED TO COMMITTEE**

The PRESIDENT pro tempore laid before the Senate the following communications in writing from His Excellency, the Governor of the Commonwealth, which were read as follows and referred to the Committee on Rules and Executive Nominations:

MEMBER OF THE STATE BOARD OF ACCOUNTANCY

January 29, 2016

To the Honorable, the Senate

of the Commonwealth of Pennsylvania:

Please note that the letter dated November 18, 2015, for the nomination of Keri Ellis, 109 Carriage Lane, Pittsburgh 15241, Allegheny County, Thirty-seventh Senatorial District, for reappointment as a member of the State Board of Accountancy, to serve for a term of four years, and until her successor is appointed and qualified, but not longer than six months beyond that period, should be corrected to read:

Keri Ellis, 190 Carriage Lane, Pittsburgh 15241, Allegheny County, Thirty-seventh Senatorial District, for reappointment as a member of the State Board of Accountancy, to serve for a term of four years, and until her successor is appointed and qualified, but not longer than six months beyond that period, resigned *[sic]*.

TOM WOLF

Governor

MEMBER OF THE STATE BOARD OF OPTOMETRY

January 29, 2016

To the Honorable, the Senate

of the Commonwealth of Pennsylvania:

Please note that the letter dated November 18, 2015, for the nomination of Anthony Diecidue, O.D., 103 McMichael Drive, Stroudsburg 18360, Monroe County, Fortieth Senatorial District, for appointment as a member of the State Board of Optometry, to serve until March 20, 2017, and until his successor is appointed and qualified, but not longer than six months beyond that period, vice Lawrence Sylvester, O.D., Chambersburg, resigned, should be corrected to read:

Anthony Diecidue, O.D., 103 McMichael's Drive, Stroudsburg 18360, Monroe County, Fortieth Senatorial District, for appointment as a member of the State Board of Optometry, to serve until March 20, 2017, and until his successor is appointed and qualified, but not longer than six months beyond that period, vice Lawrence Sylvester, O.D., Chambersburg, resigned.

TOM WOLF

Governor

MEMBER OF THE STATE BOARD OF OSTEOPATHIC MEDICINE.

January 29, 2016

To the Honorable, the Senate

of the Commonwealth of Pennsylvania:

Please note that the letter dated November 18, 2015, for the nomination of Burton Mark, D.O., 203 West Chestnut Street, West Chester 19380, Chester County, Nineteenth Senatorial District, for reappointment as a member of the State Board of Osteopathic Medicine, to serve for a term of four years, and until his successor is appointed and qualified, but not longer than six months beyond that period, should be corrected to read:

Burton Mark, D.O., 25 Stoneridge Road, Thornton 19373, Delaware County, Ninth Senatorial District, for reappointment as a member of the State Board of Osteopathic Medicine, to serve for a term of four years, and until his successor is appointed and qualified, but not longer than six months beyond that period.

TOM WOLF

Governor

MEMBER OF THE STATE BOARD OF SOCIAL WORKERS, MARRIAGE  
AND FAMILY THERAPISTS AND PROFESSIONAL COUNSELORS

January 29, 2016

To the Honorable, the Senate

of the Commonwealth of Pennsylvania:

Please note that the letter dated November 18, 2015, for the nomination of Renee J. Cardone, 40 College Avenue, Collegeville 19426, Montgomery County, Twenty-fourth Senatorial District, for reappointment as a member of the State Board of Social Workers, Marriage and Family Therapists and Professional Counselors, to serve for a term of four years, and until her successor is appointed and qualified, but not longer than six months beyond that period, should be corrected to read:

Renee J. Cardone, 40 College Avenue. Trappe 19426, Montgomery County, Twenty-fourth Senatorial District, for reappointment as a member of the State Board of Social Workers, Marriage and Family Therapists and Professional Counselors, to serve for a term of four years, and until her successor is appointed and qualified, but not longer than six months beyond that period.

TOM WOLF

Governor

JUDGE, COURT OF COMMON PLEAS

*[data missing]*

February 4, 2016

To the Honorable, the Senate

of the Commonwealth of Pennsylvania:

Please note that the letter dated January 29, 2016, for the nomination of Mary K. Topper, Esq., 223 Pine Street, Apt. 3A, Harrisburg 17101, Dauphin County, Fifteenth Senatorial District, for appointment as Judge, Court of Common Pleas, Allegheny County, to serve until the first Monday of January 2018, vice The Honorable Kathleen Mulligan, resigned, should be corrected to read:

JUDGE, COURT OF COMMON PLEAS, ALLEGHENY COUNTY

Mary K. Topper, Esq., 223 Pine Street, Apt. 3A, Harrisburg 17101, Dauphin County, Fifteenth Senatorial District, for appointment as Judge, Court of Common Pleas, Allegheny County, to serve until the first Monday of January 2018, vice The Honorable Kathleen Mulligan, resigned.

TOM WOLF

Governor

**CORRECTION TO CORRECTION TO NOMINATION REFERRED TO COMMITTEE**

The PRESIDENT pro tempore laid before the Senate the following communication in writing from His Excellency, the Governor of the Commonwealth, which was read as follows and referred to the Committee on Rules and Executive Nominations:

MEMBER OF THE STATE BOARD OF ACCOUNTANCY

February 4, 2016

To the Honorable, the Senate

of the Commonwealth of Pennsylvania:

Please note that the letter dated November 18, 2015, then corrected on January 29, 2016, for the nomination of Keri Ellis, 190 Carriage Lane, Pittsburgh 15241, Allegheny County, Thirty-seventh Senatorial District, for reappointment as a member of the State Board of Accountancy, to serve for a term of four years, and until her successor is appointed and qualified, but not longer than six months beyond that period, resigned *[sic]*, should be corrected to read:

Keri Ellis, 190 Carriage Lane, Pittsburgh 15241, Allegheny County, Thirty-seventh Senatorial District, for reappointment as a member of the State Board of Accountancy, to serve for a term of four years and until her successor is appointed and qualified, but not longer than six months beyond that period.

TOM WOLF

Governor

**The PRESIDENT (Lieutenant Governor Mike Stack) in the Chair.**

**SENATE CONCURRENT RESOLUTION**

**JOINT SESSION**

Senator CORMAN, by unanimous consent, offered the following resolution, which was read, considered, and adopted by voice vote:

In the Senate, January 27, 2016

RESOLVED, (the House of Representatives concurring), That the Senate and House of Representatives meet in Joint Session on Tuesday, February 9, 2016, at 11:30 a.m., in the Hall of the House of Representatives for the purpose of hearing an address by His Excellency, Governor Tom Wolf; and be it further

RESOLVED, That a committee of three, on the part of the Senate, be appointed to act with a similar committee on the part of the House of Representatives, to escort His Excellency, the Governor of the Commonwealth of Pennsylvania, to the Hall of the House of Representatives.

Ordered, That the Secretary of the Senate present the same to the House of Representatives for concurrence.

### HOUSE MESSAGES

#### HOUSE CONCURS IN SENATE AMENDMENTS TO HOUSE AMENDMENTS TO SENATE BILL

The Clerk of the House of Representatives informed the Senate that the House has concurred in amendments made by the Senate to the House amendments to **SB 166**.

#### HOUSE CONCURS IN SENATE AMENDMENTS TO HOUSE BILL

The Clerk of the House of Representatives informed the Senate that the House has concurred in amendments made by the Senate to **HB 158**.

### HOUSE BILLS FOR CONCURRENCE

The Clerk of the House of Representatives presented to the Senate the following bills for concurrence, which were referred to the committees indicated:

January 28, 2016

**HB 824** -- Committee on State Government.

**HB 1330** and **1331** -- Committee on Finance.

February 3, 2016

**HB 1062** -- Committee on Public Health and Welfare.

**HB 1087**, **1413** and **1418** -- Committee on Transportation.

**HB 1661** -- Committee on Local Government.

### BILLS INTRODUCED AND REFERRED

The PRESIDENT laid before the Senate the following Senate Bills numbered, entitled, and referred as follows, which were read by the Clerk:

January 28, 2016

Senators BLAKE, BREWSTER, TARTAGLIONE, SABATINA, FONTANA, YUDICHAK, COSTA, BOSCOLA, HAYWOOD, BROWNE, HUGHES, ARGALL and SCAVELLO presented to the Chair **SB 1069**, entitled:

An Act amending Title 12 (Commerce and Trade) of the Pennsylvania Consolidated Statutes, authorizing assessments for energy improvements in districts designated by municipalities; and imposing a fee.

Which was committed to the Committee on COMMUNITY, ECONOMIC AND RECREATIONAL DEVELOPMENT, January 28, 2016.

Senators DINNIMAN, COSTA, BREWSTER, VULAKOVICH and HAYWOOD presented to the Chair **SB 1102**, entitled:

An Act providing immunity for providers of free or low-cost health care.

Which was committed to the Committee on PUBLIC HEALTH AND WELFARE, January 28, 2016.

Senators BAKER, VULAKOVICH, GREENLEAF, RAF-FERTY, BARTOLOTTA, BLAKE, TEPLITZ, TOMLINSON, SCHWANK, FONTANA, COSTA, SCARNATI, TARTAGLIONE, BREWSTER, ALLOWAY, WOZNAK, VOGEL, LEACH, WHITE and BROWNE presented to the Chair **SB 1109**, entitled:

A Joint Resolution proposing an amendment to the Constitution of the Commonwealth of Pennsylvania, in taxation and finance, further providing for exemptions and special provisions.

Which was committed to the Committee on FINANCE, January 28, 2016.

Senators ARGALL, YUDICHAK, VULAKOVICH, COSTA, RAFFERTY, SCHWANK and BAKER presented to the Chair **SB 1112**, entitled:

An Act amending Title 61 (Prisons and Parole) of the Pennsylvania Consolidated Statutes, in preliminary provisions, further providing for definitions; and, in general administration relating to correctional institutions, providing for salary of corrections managers.

Which was committed to the Committee on JUDICIARY, January 28, 2016.

Senators VOGEL, AUMENT, YAW, ARGALL, SMUCKER, MENSCH, EICHELBERGER, SCARNATI, BROOKS, BAKER, CORMAN, GORDNER, McILHINNEY, FOLMER, GREENLEAF, HUTCHINSON, BARTOLOTTA, WARD, RAFFERTY, WHITE, RESCHENTHALER and TOMLINSON presented to the Chair **SB 1120**, entitled:

An Act to provide additional appropriations from the General Fund for the expenses of the Executive Department for the fiscal year July 1, 2015, to June 30, 2016, and for the payment of bills incurred and remaining unpaid at the close of the fiscal year ending June 30, 2015.

Which was committed to the Committee on APPROPRIATIONS, January 28, 2016.

Senators BAKER, YAW, ARGALL, EICHELBERGER, VULAKOVICH, BROOKS, SCARNATI, STEFANO, HUTCHINSON, BARTOLOTTA, AUMENT, RAFFERTY, VANCE, WARD and RESCHENTHALER presented to the Chair **SB 1121**, entitled:

An Act making a supplemental appropriation from the General Fund to the Department of Human Services for the purpose of medical assistance payments to critical access hospitals for the fiscal year beginning July 1, 2015.

Which was committed to the Committee on APPROPRIATIONS, January 28, 2016.

Senators SCAVELLO and BOSCOLA presented to the Chair **SB 1122**, entitled:

An Act amending the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, in community colleges, further providing for election or appointment and term and organization of board of trustees.

Which was committed to the Committee on EDUCATION, January 28, 2016.

February 3, 2016

Senators BREWSTER, TEPLITZ, EICHELBERGER, FONTANA, YUDICHAK, SCHWANK, VOGEL, WARD, AUMENT and HAYWOOD presented to the Chair **SB 1116**, entitled:

An Act amending the act of September 30, 1983 (P.L.160, No.39), known as the Public Official Compensation Law, further providing for members of the General Assembly.

Which was committed to the Committee on STATE GOVERNMENT, February 3, 2016.

Senators BREWSTER, TEPLITZ, EICHELBERGER, FONTANA, YUDICHAK, SCHWANK, VOGEL, WARD, FOLMER, BLAKE and AUMENT presented to the Chair **SB 1117**, entitled:

An Act prohibiting certain per diem payments to members of the General Assembly.

Which was committed to the Committee on STATE GOVERNMENT, February 3, 2016.

Senators BREWSTER, TEPLITZ, EICHELBERGER, SCHWANK, VOGEL, WARD, FOLMER and AUMENT presented to the Chair **SB 1118**, entitled:

An Act prohibiting the lease or conveyance of motor vehicles by the General Assembly.

Which was committed to the Committee on STATE GOVERNMENT, February 3, 2016.

Senators BREWSTER, TEPLITZ, EICHELBERGER, SCHWANK, VOGEL, WARD, FOLMER and AUMENT presented to the Chair **SB 1119**, entitled:

An Act prohibiting certain gifts to members of the General Assembly.

Which was committed to the Committee on STATE GOVERNMENT, February 3, 2016.

February 5, 2016

Senators DINNIMAN, EICHELBERGER, SCHWANK, COSTA, HUTCHINSON, BARTOLOTTA and RAFFERTY presented to the Chair **SB 1125**, entitled:

An Act amending the act of July 28, 1988 (P.L.556, No.101), known as the Municipal Waste Planning, Recycling and Waste Reduction Act, in recycling and waste reduction, further providing for Commonwealth recycling and waste reduction.

Which was committed to the Committee on ENVIRONMENTAL RESOURCES AND ENERGY, February 5, 2016.

February 8, 2016

Senators VOGEL, SCARNATI, HUTCHINSON, BARTOLOTTA, YAW, WHITE, MENSCH and WARD presented to the Chair **SB 1123**, entitled:

An Act amending Title 3 (Agriculture) of the Pennsylvania Consolidated Statutes, in weights and measures, further providing for standards for automotive fuel.

Which was committed to the Committee on AGRICULTURE AND RURAL AFFAIRS, February 8, 2016.

Senator DINNIMAN presented to the Chair **SB 1124**, entitled:

An Act amending the act of April 9, 1929 (P.L. 177, No. 175), known as The Administrative Code of 1929, in Commonwealth budget procedures, providing for General Assembly general appropriation procedure and further providing for revenue estimates.

Which was committed to the Committee on APPROPRIATIONS, February 8, 2016.

Senators STEFANO, SABATINA, BREWSTER, VOGEL, TARTAGLIONE, TEPLITZ, COSTA, RAFFERTY, DINNIMAN, WHITE, KITCHEN, MENSCH, YUDICHAK, BAKER, VULAKOVICH, WARD, HUGHES and SCARNATI presented to the Chair **SB 1126**, entitled:

An Act amending the act of April 12, 1951 (P.L.90, No.21), known as the Liquor Code, in licenses and regulations for liquor, alcohol and malt and brewed beverages, further providing for special occasion permits.

Which was committed to the Committee on LAW AND JUSTICE, February 8, 2016.

Senators STEFANO, SABATINA, BREWSTER, EICHELBERGER, VOGEL, TARTAGLIONE, TEPLITZ, HUTCHINSON, COSTA, RAFFERTY, DINNIMAN, WHITE, KITCHEN, MENSCH, YUDICHAK, BAKER, VULAKOVICH, WARD, AUMENT, HUGHES and SCARNATI presented to the Chair **SB 1127**, entitled:

An Act amending the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, in sales and use tax, further providing for exclusions.

Which was committed to the Committee on FINANCE, February 8, 2016.

Senators WILLIAMS and YUDICHAK presented to the Chair **SB 1128**, entitled:

A Joint Resolution proposing an amendment to the Constitution of the Commonwealth of Pennsylvania, in taxation and finance, further providing for exemptions and special provisions.

Which was committed to the Committee on FINANCE, February 8, 2016.

### **RESOLUTIONS INTRODUCED AND REFERRED**

The PRESIDENT laid before the Senate the following Senate Resolutions numbered, entitled, and referred as follows, which were read by the Clerk:

January 28, 2016

Senators ARGALL, FOLMER, YUDICHAK, VULAKOVICH, RAFFERTY, MENSCH, HAYWOOD and WAGNER presented to the Chair **SR 263**, entitled:

A Resolution directing the Legislative Budget and Finance Committee to conduct a study regarding overtime costs incurred by the Department of Corrections relating to staffing shortages.

Which was committed to the Committee on JUDICIARY, January 28, 2016.

Senators SCHWANK, SABATINA, TEPLITZ, VULAKOVICH, GREENLEAF, FARNESE, COSTA, FONTANA, BREWSTER, RESCHENTHALER, STEFANO, DINNIMAN, BARTOLOTTA, RAFFERTY, YUDICHAK, BAKER, YAW, LEACH, BROOKS, WHITE, EICHELBERGER, McGARRIGLE, WILEY, AUMENT, GORDNER, MENSCH, HAYWOOD, WAGNER, HUGHES and WARD presented to the Chair **SR 267**, entitled:

A Resolution directing the Joint State Government Commission to establish an advisory committee to study issues relating to the need for, availability of and access to effective drug addiction treatment in this Commonwealth.

Which was committed to the Committee on PUBLIC HEALTH AND WELFARE, January 28, 2016.

Senators RESCHENTHALER, TOMLINSON, ARGALL, COSTA, MENSCH, McILHINNEY, GREENLEAF, RAFFERTY, BARTOLOTTA, SCAVELLO, SABATINA, ALLOWAY, HAYWOOD, AUMENT and WARD presented to the Chair **SR 275**, entitled:

A Resolution urging the Congress of the United States to pass H.R. 2646, the Helping Families in Mental Health Crisis Act of 2015.

Which was committed to the Committee on PUBLIC HEALTH AND WELFARE, January 28, 2016.

February 5, 2016

Senators STEFANO, EICHELBERGER, ARGALL, BARTOLOTTA, GORDNER, WHITE, VOGEL, HUTCHINSON, FOLMER, VULAKOVICH, WARD, YAW, SCARNATI and WOZNIAK presented to the Chair **SR 277**, entitled:

A Resolution urging the Department of Environmental Protection to request a two-year extension for submitting a plan to comply with the Federal Clean Power Plan, and directing the Legislative Budget and Finance Committee to conduct a cost compliance study prior to submission of the final implementation plan to the Environmental Protection Agency.

Which was committed to the Committee on ENVIRONMENTAL RESOURCES AND ENERGY, February 5, 2016.

February 8, 2016

Senators EICHELBERGER, WARD and WAGNER presented to the Chair **SR 276**, entitled:

A Concurrent Resolution petitioning the Congress of the United States to call a convention of states limited to proposing a regulation freedom amendment to the Constitution of the United States.

Which was committed to the Committee on STATE GOVERNMENT, February 8, 2016.

### **GENERAL COMMUNICATION**

#### **INDEPENDENT FISCAL OFFICE'S ASSESSMENT OF THE STATE'S FISCAL CONDITION AND PROJECTION**

The PRESIDENT laid before the Senate the following communication, which was read by the Clerk as follows:

COMMONWEALTH OF PENNSYLVANIA

Independent Fiscal Office

Second Floor, Rachel Carson State Office Building

400 Market Street

Harrisburg, PA 17105

February 2, 2016

The Honorable Joseph B. Scarnati, III

President Pro Tempore

Senate of Pennsylvania

292 Main Capitol Building

Harrisburg, PA 17120

The Honorable Mike Turzai

Speaker

Pennsylvania House of Representatives

139 Main Capitol Building

Harrisburg, PA 17120

Dear Sirs:

Enclosed please find a copy of the Independent Fiscal Office's assessment of the state's current fiscal condition and a projection of the fiscal condition during the next five years. The enclosed report, entitled *Economic & Budget Outlook: Commonwealth of Pennsylvania Fiscal Years 2015-16 to 2020-21*, was produced in accordance with [71 Pa.C.S. §4104](#).

Sincerely,

MATTHEW J. KNITTEL

Director

The PRESIDENT. This report will be filed in the Library.

#### **LEGISLATIVE LEAVE**

The PRESIDENT. The Chair recognizes the gentleman from Centre, Senator Corman.

Senator CORMAN. Mr. President, I request a legislative leave for Senator Smucker.

The PRESIDENT. Senator Corman requests a legislative leave for Senator Smucker. Without objection, the leave will be granted.

#### **LEAVES OF ABSENCE**

Senator CORMAN asked and obtained leaves of absence for Senator McILHINNEY and Senator WHITE, for today's Session, for personal reasons.

#### **SENATE CONCURRENT RESOLUTION**

#### **WEEKLY RECESS**

Senator CORMAN offered the following resolution, which was read as follows:

In the Senate, February 8, 2016

RESOLVED, (the House of Representatives concurring), Pursuant to Article II, Section 14 of the Pennsylvania Constitution, that when the Senate recesses this week, it reconvene on Monday, March 14, 2016, unless sooner recalled by the President Pro Tempore of the Senate; and be it further

RESOLVED, Pursuant to Article II, Section 14 of the Pennsylvania Constitution, that when the House of Representatives recesses this week, it reconvene on Monday, March 14, 2014, unless sooner recalled by the Speaker of the House of Representatives.

On the question,

Will the Senate adopt the resolution?

The yeas and nays were required by Senator CORMAN and were as follows, viz:

YEA-47

Alloway	Dinniman	McGarrigle	Tomlinson
Argall	Eichelberger	Mensch	Vance
Aument	Farnese	Rafferty	Vogel
Baker	Folmer	Reschenthaler	Vulakovich
Bartolotta	Fontana	Sabatina	Wagner
Blake	Gordner	Scarnati	Ward
Boscola	Greenleaf	Scavello	Wiley
Brewster	Haywood	Schwank	Williams
Brooks	Hughes	Smucker	Wozniak
Browne	Hutchinson	Stefano	Yaw
Corman	Kitchen	Tartaglione	Yudichak
Costa	Leach	Teplitz	

NAY-0

A majority of the Senators having voted “aye,” the question was determined in the affirmative.

Ordered, That the Secretary of the Senate present the same to the House of Representatives for concurrence.

**LEGISLATIVE LEAVE CANCELLED**

The PRESIDENT. Senator Smucker has returned, and his legislative leave is cancelled.

**GUESTS OF SENATOR JUDY SCHWANK PRESENTED TO THE SENATE**

The PRESIDENT. The Chair recognizes the gentlewoman from Berks, Senator Schwank.

Senator SCHWANK. Mr. President, I am back again within one week with another championship team from Berks County, another group of young women who have made us very proud. Today I am honored to have the privilege of introducing the Berks Catholic Volleyball Team. Not only did the Saints win the PIAA Class AA Championship with an impressive 23-0 record, they also won the first State title in their school's history and have the honor of being the greatest Berks Catholic volleyball team of all time. The remarkable success they have achieved is a tribute to the hard work, dedication, and perseverance of each and every team member. Under the direction of their coach, Rick Fidler, this team competed with poise and confidence which allowed them to set a standard of excellence that future volleyball teams across the Commonwealth will be hard-pressed to equal.

By the way, Mr. President, I mention that one of the schools that these students bested in this tournament was Fort LeBoeuf, which, I believe, is one of the schools in Senator Wiley's district, as well as Senator Brooks' district. Please join me in welcoming the Saints, their managers, and coaches to the Capitol today.

The PRESIDENT. Would the guests of Senator Schwank, the Saints volleyball champions, please rise so that we may welcome you to the State Senate. Take that, Senator Wiley.

(Applause.)

Senator SCHWANK. Mr. President, I also have the pleasure of introducing Michael McLaughlin. Michael is an aspiring public servant from Berks County. He is a graduate of Twin Valley High School and from Penn State University in 2013 with a B.S. in biology. While at Penn State, he had the opportunity to be elected as public relations chair for the Penn State Berks Chemical Society. After graduating, Michael went on to work at a biotech company as a research intern studying treatments for multiple forms of cancer.

Michael came to the realization that his passions were focused more toward public service and making a difference in the future of our county. He went on to work for his current employer, VWR Catalyst, while also applying to graduate school for his masters in public administration. He recently began his program through the Penn State World Campus and hopes to complete his internship requirement here in Harrisburg through the Legislative Fellowship Program.

Michael has felt the Bern. He is a volunteer on the Sanders presidential campaign and is currently seeking to play a more active role within the county politically. His goal is to one day enter State politics here in Harrisburg as a public servant for the people of Pennsylvania. Please join me in welcoming a very nice young man, Mr. President, Michael McLaughlin, to the Senate.

The PRESIDENT. Would the guest of Senator Schwank, Michael McLaughlin, please rise so that we may welcome you to the Pennsylvania State Senate.

(Applause.)

#### **GUEST OF SENATOR RYAN AUMENT PRESENTED TO THE SENATE**

The PRESIDENT. The Chair recognizes the gentleman from Lancaster, Senator Aument.

Senator AUMENT. Mr. President, it is my pleasure to introduce my guest today, Mitchell Bawell. Mitchell lives in New Holland and is a senior at Garden Spot High School. He is a prime example of a scholar athlete, as he has a cumulative GPA of 4.34 while playing numerous sports including football, track and field, and wrestling. He also served in numerous leadership roles such as vice president of student council, varsity football captain, and evangelist leader. Upon graduation, Mitchell, who has been nominated by Congressman Joe Pitts to attend the Air Force Academy, looks forward to one day serving our great country in the United States Air Force. Please join me in welcoming Mitchell to the Senate.

The PRESIDENT. Would the guest of Senator Aument, Mitchell, please rise so that we may welcome you to the Pennsylvania State Senate.

(Applause.)

#### **GUESTS OF SENATOR SEAN D. WILEY PRESENTED TO THE SENATE**

The PRESIDENT. The Chair recognizes the gentleman from Erie, Senator Wiley.

Senator WILEY. Mr. President, it is my honor today to welcome our guest Chaplain, Captain Matthew Guncheon, to the Senate of Pennsylvania. Captain Guncheon is a native of Port Allegany, Pennsylvania, in the Commonwealth's 25th Senatorial District. He is an ordained minister of the Evangelical Covenant Church of America.

Captain Guncheon began his service in the United States Army in 2000, first enlisting and completing 19 Delta Cavalry Scout One Station Unit training in January 2001. He went on to serve in the 1st Infantry Division in Vilseck, Germany, before receiving a direct commission as 2nd Lieutenant upon entrance to the U.S. Army Chaplain Candidate Program. Upon completion of the program and returning to active duty in 2007, Captain Guncheon was the Squadron Chaplain of the 10th Cavalry Regiment, 2nd Brigade, 4th Infantry Division of Fort Carson, Colorado, and deployed with the squadron in support of Operation Iraqi Freedom from 2009 to 2010. Following that deployment, Chaplain Guncheon was assigned as the very first chaplain for the 303 Delta Ordinance Battalion in Schofield Barracks, Hawaii. Chaplain Guncheon and the battalion then deployed as part of the Combined Joint Task Force Troy Center in support of Operation New Dawn from 2010 to November of 2011. Upon return, Chaplain Guncheon was assigned as the 1st Battalion, 19th Field Artillery Regiment Chaplain at Fort Sill, Oklahoma, and completed the career course at the Army Chaplain Center and School in Fort Jackson, South Carolina, this past summer. Chaplain Guncheon is currently serving as Deputy Brigade Chaplain, 3rd Recruiting Brigade, Army Recruiting Command in Fort Knox, Kentucky.

We are honored to have with us today a decorated war hero. I repeat, we are honored today to have with us a decorated war hero. Chaplain Guncheon is not technically a resident of my district. He and his wife, Jennifer, maintain a residence in Greensburg, Pennsylvania, in Senator Ward's district. However, he is the brother of Laura Guncheon, the director of community affairs and public relations in my district, and we consider him part of the 49th Senatorial District family. Mr. President, I ask that my colleagues join me in welcoming Chaplain Guncheon to the Senate of Pennsylvania. Thank you.

The PRESIDENT. Would the guest of Senator Wiley, Captain and Chaplain Guncheon, please rise so that we may thank you and welcome you to the Pennsylvania State Senate. Thank you for a wonderful prayer, Chaplain.

(Applause.)

#### **GUESTS OF SENATOR GENE YAW PRESENTED TO THE SENATE**

The PRESIDENT. The Chair recognizes the gentleman from Lycoming, Senator Yaw.

Senator YAW. Mr. President, I am very proud to introduce the Lewisburg High School Boys' Soccer Team. They are not seated in the gallery because for some reason they are being held up in the House of Representatives. They captured the 2015 PIAA Class AA Boys' Soccer Championship after completing an undefeated season of 25 and 0. In fact, they are only the fifth team since 1973 in the State to finish with an unbeaten or untied record. So, this team of 26 players deserve to be congratulated publicly, and even though they are not physically here, I want them to be recognized for their extreme accomplishment.

Thank you, Mr. President.

The PRESIDENT. Everyone is watching on PCN and they will know that we are recognizing the great Lewisburg High School Boys' Soccer Team, and let us do so by showing our appreciation with applause for the guests of Senator Yaw.

(Applause.)

#### **RECESS**

The PRESIDENT. The Chair recognizes the gentleman from Centre, Senator Corman.

Senator CORMAN. Mr. President, I request a recess of the Senate for the purpose of a Republican caucus to be held in the Majority Caucus Room starting at 2:30 p.m.

The PRESIDENT. The Chair recognizes the gentleman from Allegheny, Senator Costa.

Senator COSTA. Mr. President, Senate Democrats will meet in the rear of the Chamber immediately.

The PRESIDENT. For purposes of Republican and Democratic caucuses, without objection, the Senate stands in recess.

**AFTER RECESS**

The PRESIDENT. The time of recess having expired, the Senate will come to order.

**CALENDAR**

**THIRD CONSIDERATION CALENDAR**

**PREFERRED APPROPRIATION BILL OVER IN ORDER**

**SB 1106** -- Without objection, the bill was passed over in its order at the request of Senator CORMAN.

**BILLS OVER IN ORDER**

**HB 57, SB 489 and HB 561** -- Without objection, the bills were passed over in their order at the request of Senator CORMAN.

**BILL ON THIRD CONSIDERATION AND FINAL PASSAGE**

**SB 568 (Pr. No. 541)** -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 20 (Decedents, Estates and Fiduciaries) of the Pennsylvania Consolidated Statutes, in orphans' court divisions, further providing for appointment and purpose and for compensation; and, in incapacitated persons, providing for venue and for confidentiality and disclosure of information, further providing for petition and hearing and independent evaluation, repealing provisions relating to county of appointment and qualifications, further providing for review hearing, providing for affidavit in uncontested termination matters and for counsel, further providing for emergency guardian, repealing provisions relating to provisions similar to other estates, providing for removal and discharge of guardian, for appointment of guardian in conveyance and for bond, further providing for evidence of incapacity, for cross-examination of witnesses and for provisions concerning powers, duties and liabilities, providing for protection of person dealing with guardian, and further providing for when accounting filed, for distributions of income and principal during incapacity and for guardianship services.

Considered the third time and agreed to,

On the question,

Shall the bill pass finally?

The yeas and nays were taken agreeably to the provisions of the Constitution and were as follows, viz:

**YEA-47**

Alloway	Dinniman	McGarrigle	Tomlinson
Argall	Eichelberger	Mensch	Vance
Aument	Farnese	Rafferty	Vogel
Baker	Folmer	Reschenthaler	Vulakovich
Bartolotta	Fontana	Sabatina	Wagner
Blake	Gordner	Scarnati	Ward
Boscola	Greenleaf	Scavello	Wiley
Brewster	Haywood	Schwank	Williams

Brooks	Hughes	Smucker	Wozniak
Browne	Hutchinson	Stefano	Yaw
Corman	Kitchen	Tartaglione	Yudichak
Costa	Leach	Teplitz	

NAY-0

A constitutional majority of all the Senators having voted "aye," the question was determined in the affirmative.

Ordered, That the Secretary of the Senate present said bill to the House of Representatives for concurrence.

**BILL OVER IN ORDER TEMPORARILY**

**SB 606** -- Without objection, the bill was passed over in its order temporarily at the request of Senator CORMAN.

**BILLS OVER IN ORDER**

**SB 691, HB 837, SB 1013, SB 1056, SB 1104 and HB 1296** -- Without objection, the bills were passed over in their order at the request of Senator CORMAN.

**SECOND CONSIDERATION CALENDAR**

**BILLS OVER IN ORDER**

**SB 50, HB 400 and SB 488** -- Without objection, the bills were passed over in their order at the request of Senator CORMAN.

**BILL LAID ON THE TABLE**

**SB 805 (Pr. No. 922)** -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 66 (Public Utilities) of the Pennsylvania Consolidated Statutes, in restructuring of electric utility industry, further providing for energy efficiency and conservation program.

Upon motion of Senator CORMAN, and agreed to by voice vote, the bill was laid on the table.

**SB 805 TAKEN FROM THE TABLE**

Senator CORMAN. Mr. President, I move that Senate Bill No. 805, Printer's No. 922, be taken from the table and placed on the Calendar.

The motion was agreed to by voice vote.

The PRESIDENT. The bill will be placed on the Calendar.

**BILL ON SECOND CONSIDERATION**

**SB 889 (Pr. No. 1519)** -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of June 28, 1935 (P.L.477, No.193), referred to as the Enforcement Officer Disability Benefits Law, extending benefits to certain employees of the Pennsylvania Game Commission and the Pennsylvania Fish and Boat Commission; and making editorial changes.

Considered the second time and agreed to,

Ordered, To be printed on the Calendar for third consideration.

**BILLS OVER IN ORDER AND LAID ON THE TABLE**

**HB 950 (Pr. No. 2625)** -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes, in general provisions relating to operation of vehicles, further providing for traffic-control signals and for expiration of automated red light enforcement systems provisions.

Without objection, the bill was passed over in its order at the request of Senator CORMAN.

Pursuant to Senate Rule 9, the bill was laid on the table.

**SB 976 (Pr. No. 1372)** -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, in wiretapping and electronic surveillance, further providing for definitions and for exceptions to prohibition of interception and disclosure of communications.

Without objection, the bill was passed over in its order at the request of Senator CORMAN.

Pursuant to Senate Rule 9, the bill was laid on the table.

**BILL ON SECOND CONSIDERATION**

**HB 1199 (Pr. No. 1574)** -- The Senate proceeded to consideration of the bill, entitled:

An Act repealing the act of May 27, 1965 (P.L.63, No.50), entitled "An act authorizing the Department of Highways, with the approval of the Governor, to erect and maintain a bridge over the Monongahela River in Washington and Allegheny Counties, and to provide the necessary approaches and connections with State highways; empowering counties to pay certain damages, and making an appropriation."

Considered the second time and agreed to,

Ordered, To be printed on the Calendar for third consideration.

**BILLS OVER IN ORDER**

**HB 1229, HB 1484 and HB 1660** -- Without objection, the bills were passed over in their order at the request of Senator CORMAN.

**THIRD CONSIDERATION CALENDAR RESUMED**

**SB 606 CALLED UP**

**SB 606 (Pr. No. 598)** -- Without objection, the bill, which previously went over in its order temporarily, was called up, from page 2 of the Third Consideration Calendar, by Senator CORMAN.

**BILL AMENDED**

**SB 606 (Pr. No. 598)** -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, in particular rights and immunities, providing for limited liability for pilots and apprentices.

On the question,

Will the Senate agree to the bill on third consideration?

Senator McGARRIGLE offered the following amendment No. A5867:

Amend Bill, page 1, lines 1 through 4, by striking out all of said lines and inserting:

Amending the act of March 29, 1803 (P.L.542, No.156), entitled "An act to establish a Board of Wardens for the port of Philadelphia, and for the regulation of pilots and pilotages, and for other purposes therein mentioned," providing for licensed pilot and apprentice liability.

Amend Bill, page 1, lines 7 through 19; page 2, lines 1 through 30; page 3, lines 1 through 22; by striking out all of said lines on said pages and inserting:

Section 1. The act of March 29, 1803 (P.L.542, No.156), entitled "An act to establish a Board of Wardens for the port of Philadelphia, and for the regulation of pilots and pilotages, and for other purposes therein mentioned," is amended by adding a section to read:

Section 31.2. (a) The purpose of this section is to stimulate and preserve maritime commerce on the pilotage grounds of this Commonwealth by limiting and regulating the liability of certain pilots, which commerce is essential to the economic viability of this Commonwealth's maritime commerce and serves the public interests.

(b) A licensed pilot or apprentice providing pilot services shall not be liable for more than five thousand dollars for damage or loss caused by the licensed pilot's or apprentice's error, omission fault or neglect in the performance of the pilot services, except for the following

(1) damage or loss that arises because of the willful misconduct or reckless disregard for safety by the licensed pilot or apprentice: or

(2) an act or omission relating to the ownership and operation of a pilot boat unless the pilot boat is directly involved in pilot services other than the transportation of licensed pilots.

(c) This section does not exempt a vessel or its owner or operator from liability for damage or loss caused by the vessel to a person or property on the grounds that:

(1) the vessel was piloted by a licensed pilot or apprentice: or

(2) the damage or loss was caused by the error, omission, fault or neglect of a licensed pilot or apprentice.

(d) In a proceeding brought against a licensed pilot or apprentice for an act or omission for which liability is limited as provided by this section and in which other claims are made or anticipated with respect to the same act or omission, the court shall dismiss the proceedings as to the licensed pilot or apprentice to the extent the pleadings allege liability of the pilot that exceeds five thousand dollars.

(e) Liability under this section shall also be limited as follows:

(1) A Pilot or apprentice shall not be liable directly or as a member of an organization of pilots for any claim that:

(i) arises from an act or omission of another pilot, apprentice or organization of pilots: and

(i) relates directly or indirectly to pilot services.

(2) An organization of pilots shall not be liable for any damages caused by a licensed pilot's or apprentice's error, omission, fault or neglect in the performance of pilotage

(f) For the sole purpose of occasions when this section is applicable as a defense to liability by a licensed pilot or apprentice, the licensed pilot or apprentice asserting the defense shall be considered to have been acting as the servant of the vessel its owner and its operator.

(g) This section shall apply to all causes of action that occur on or after the effective date of this section.

(h) As used in this section, the following words and phrases shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

“Apprentice.” A person appointed as an apprentice pilot under 4 Pa. Code § 405.9 (relating to apprentices).

“Pilot.” A person licensed under 4 Pa. Code Ch. 405 (relating to pilots and pilotage) by the Navigation Commission for the Delaware River and its Navigable Tributaries.

Section 2. This act shall take effect immediately.

On the question,

Will the Senate agree to the amendment?

It was agreed to.

Without objection, the bill, as amended, was passed over in its order at the request of Senator CORMAN.

### **SENATE RESOLUTION No. 262, ADOPTED**

Senator CORMAN, without objection, called up from page 5 of the Calendar, **Senate Resolution No. 262**, entitled:

A Resolution urging the United States Surface Transportation Board, the United States Department of Justice, the United States Department of Transportation and the Congress of the United States to reject any plans submitted by Canadian Pacific Railway to acquire Norfolk Southern Corporation and to consider the potential negative impact of the proposal with respect to building a more efficient freight network in this Commonwealth.

On the question,

Will the Senate adopt the resolution?

The PRESIDENT. The Chair recognizes the gentleman from Montgomery, Senator Rafferty.

Senator RAFFERTY. Mr. President, this resolution calls on the United States Congress, the United States Department of Justice, and the United States Department of Transportation to take a good look and to do due diligence on the Canadian Pacific Railway's attempt to take over Norfolk Southern. Norfolk Southern, many of us in Pennsylvania are very familiar with them. This would form a huge conglomeration that would control a very important aspect of our transportation system here in the Commonwealth. We are asking them to do their due diligence to make sure that this attempt by a large corporation to take over Norfolk Southern is in the best interest of the people of this Commonwealth.

Thank you, Mr. President. I ask for an affirmative vote.

The PRESIDENT. The Chair recognizes the gentleman from Cambria, Senator Wozniak.

Senator WOZNIAK. Mr. President, in keeping with the bipartisan effort of our transportation issues, I rise to support this resolution. If you look back in the history of the United States, we have had the monopolies of our railroads. In the infancy of our nation, we had the railroad monopolies. This would make this railroad, the Canadian Pacific, the third-largest rail corporation in the United States. I think we need to take a serious look at it. I am concerned about the effect it has on eastern Pennsylvania, but I have even more concern about what happens to western Pennsylvania.

So, let us not be in any hurry. There are billions of dollars at stake here and thousands of jobs. No hurry. Let us take a look at this and be slow, patient, and deliberate. I ask for an affirmative vote on this resolution to send this off to Congress to be cautious in their decisionmaking process. Thank you very much.

And the question recurring,

Will the Senate adopt the resolution?

A voice vote having been taken, the question was determined in the affirmative.

#### UNFINISHED BUSINESS SENATE RESOLUTIONS ADOPTED

Senators KITCHEN, COSTA, SABATINA, GREENLEAF, SCAVELLO, DINNIMAN, TEPLITZ, BREWSTER, EICHELBERGER, ARGALL, VULAKOVICH, AUMENT, SCHWANK, WOZNIAK, FONTANA, HAYWOOD, BARTOLOTTA, WILLIAMS, YUDICHAK, VANCE, RAFFERTY, HUTCHINSON, FARNESE, BLAKE, BOSCOLA, LEACH, HUGHES, WILEY and TARTAGLIONE, by unanimous consent, offered **Senate Resolution No. 279**, entitled:

A Resolution designating the month of February 2016 as “Black History Month” in Pennsylvania.

On the question,

Will the Senate adopt the resolution?

The PRESIDENT. The Chair recognizes the gentlewoman from Philadelphia, Senator Kitchen.

Senator KITCHEN. Mr. President, it is with great honor that I rise for the last time as State Senator to ask for unanimous support on my resolution marking February as “Black History Month” in Pennsylvania. It has been quite an honor to present such important history to this body. Advancements, Mr. President, in any field or any vocation or any civil society happen because people before us made the commitment and sacrificed to improve life for all of us. We do that every day here in this Capitol, and we cannot stop working to improve life for all Pennsylvanians. Some of the African Americans who have blazed new trails for us were born right here in Pennsylvania. Bayard Rustin grew up in Chester before he joined the national civil rights movement in the 1960s; C. Delores Tucker, a fellow Philadelphian, walked with Dr. Martin Luther King from Selma to Montgomery, Alabama; artist Henry Ossawa Tanner was from Pittsburgh; “60 Minutes” broadcast journalist Ed Bradley was from Philly; and Dr. Daniel Hale Williams, who was born in this great State, performed the world’s first successful heart surgery.

Besides the famous African American Pennsylvanians, we would not be here today, Mr. President, had it not been for the contributions of farmers, homemakers, explorers, and other educators who worked to make a difference even today. So, I ask, once more, to approve my resolution making February Black History Month in Pennsylvania.

Thank you, Mr. President.

The PRESIDENT. The Chair thanks the gentlewoman, the great public servant from the city of Philadelphia. In the time you have offered the resolution, Senator, I have not once ever seen it fail. It has been personally enriching and a learning experience all of the times that you have offered it, and, of course, to be your friend and colleague.

The Chair recognizes the gentleman from Chester, Senator Dinniman.

Senator DINNIMAN. Mr. President, I also thank Senator Kitchen for bringing this information to our attention and helping us gain wisdom and understanding. It has been my privilege for the last 6 years to also rise when Senator Kitchen does this resolution because I want to emphasize the importance of knowing African American history for all people, both black and white. I had the privilege for 30 years at West Chester University of teaching African American history. We have all been tied in this knot of misunderstanding together. Sometimes the way to untie that knot, the way to increase our understanding of each other, is to understand our history, to understand how misunderstanding and racism evolved in the first place. When we study African American history, it is liberating for all of us, whether we be black, white, or in between.

When our Constitution was founded and when we did the Declaration of Independence, in that Declaration of Independence we said that all men are created equal, but we did not include women and we did not include people of color. As a nation, there were people at that time who knew that we could expand this concept of equality and equity. Thus, we had the Women's Suffrage Movement that eventually resulted in the integration of this Chamber in 1920. We have the paintings here, by the way, which were the first given to any woman as a public commission in the United States. We also have seen, and the fight continues for equity for people of color, and we need to understand the history as we go forward. Black history is part and parcel of Pennsylvania history, and we cannot understand the meaning of being a Pennsylvanian today without understanding the meaning of African American history. In this very Chamber, the very paintings that Violet Oakley did before us are a statement about African American history and a statement that all of us are part of what makes up the beautiful name of Pennsylvania.

We have to continue to be welcoming to new people, and to continue to treat everyone with equity and with respect, and when we do so, we will keep William Penn's legacy alive, and the study of black history helps us keep that legacy alive.

Thank you, Mr. President.

And the question recurring,

Will the Senate adopt the resolution?

A voice vote having been taken, the question was determined in the affirmative.

Senators WARD, FARNESE, EICHELBERGER, GREEN-LEAF, SABATINA, BROWNE, GORDNER, SCHWANK, YUDICHAK, VULAKOVICH, FONTANA, COSTA, TEPLITZ, RESCHENTHALER, BARTOLOTTA, AUMENT, RAFFERTY and HUGHES, by unanimous consent, offered **Senate Resolution No. 280**, entitled:

A Resolution designating the month of March 2016 as "Problem Gambling Awareness Month" in Pennsylvania and observing the month of March 2016 as "National Problem Gambling Awareness Month."

On the question,

Will the Senate adopt the resolution?

The PRESIDENT. The Chair recognizes the gentlewoman from Westmoreland, Senator Ward.

Senator WARD. Mr. President, Senator Farnese and I are offering a resolution that designates the month of March 2016 as "Problem Gambling Awareness Month" in Pennsylvania, and observes March as the "National Problem Gambling Awareness Month." The purpose of this resolution is to acknowledge that while many people can and do responsibly enjoy gaming as a legitimate form of entertainment, there are some individuals who suffer from the very real issue of problem gambling. It is our sincere hope that this resolution will help make people aware of the public health issue of problem gambling both in terms of prevention and treatment. While the Pennsylvania gaming industry has been quite successful in terms of job creation, revenue generation, and economic development, the Commonwealth must insure that it addresses any accompanying social issues in a responsible and effective manner. I ask for your consideration of this resolution. Thank you.

The PRESIDENT. The Chair recognizes the gentleman from Philadelphia, Senator Farnese.

Senator FARNESE. Mr. President, I am pleased to stand here with my colleague and good friend, and, of course, co-chair of the Committee on Community, Economic and Recreational Development, Senator Ward, to lend support to the issue of problem gambling in Pennsylvania. The gaming industry here in Pennsylvania is one we are proud of, and an industry that has been a good steward of the economy and the communities in which it operates. However, with this industry comes issues for some people with problem gambling. Problem gambling is a public health concern, Mr. President, for people across ages, races, and ethnic backgrounds. It is, however, effectively treatable. Today's resolution is meant to increase education around this issue and to encourage our health and regulatory agencies to continue their outreach and education efforts in order to prevent problem gambling in the Commonwealth and the country.

Thank you again to Senator Ward for her leadership on this issue, and thank you to my colleagues in this body for lending your support to this resolution.

Thank you, Mr. President.

And the question recurring,

Will the Senate adopt the resolution?

A voice vote having been taken, the question was determined in the affirmative.

Senators WILEY, FONTANA, RAFFERTY, SABATINA, SCAVELLO, DINNIMAN, TEPLITZ, SCHWANK, GREEN-LEAF, VULAKOVICH, BROWNE, FARNESE, YUDICHAK, WHITE, COSTA, RESCHENTHALER and BARTOLOTTA, by unanimous consent, offered **Senate Resolution No. 281**, entitled:

A Resolution designating February 3, 2016, as “Four Chaplains Day” in Pennsylvania.

On the question,

Will the Senate adopt the resolution?

The PRESIDENT. The Chair recognizes the gentleman from Erie, Senator Wiley.

Senator WILEY. Mr. President, each February this country honors the ultimate sacrifice of four men who lost their lives one fateful night off of the coast of Greenland. The four chaplains, as they are commonly known, were each a lieutenant in their respective branches of the United States Armed Forces during World War II. They were traveling by boat with 900 men to a base in Greenland. Their boat was struck by a German torpedo and quickly began to sink. Putting the needs of their men above their own, the four chaplains shepherded the wounded and the living to lifeboats, guiding them in the dark. They prayed with the dying and comforted all in their last hours as many clung to life. In their final act of heroism, the four chaplains gave their own life jackets to others, insuring their own certain death as the lifeboats were full. Nearly 230 survivors were later rescued by nearby ships. The four chaplains are now memorialized across our nation for their selfless bravery.

It is fitting, Mr. President, that we had with us here today a U.S. Army Chaplain as our Senate guest Chaplain. As he serves his country and our freedoms each day in honor of those who came before him, it is also fitting that each of us in this Chamber remember the message of the four chaplains: No matter your faith or your beliefs, you can work as one for the greater good. A Methodist, a Jew, a Catholic, and a Dutchman can parallel a Democrat, a Republican, and an Independent as we work together in service of the people of this great Commonwealth.

Mr. President, I ask that my colleagues join me in support of this resolution marking February 3, 2016, as “Four Chaplains Day” in Pennsylvania. Thank you.

And the question recurring,

Will the Senate adopt the resolution?

A voice vote having been taken, the question was determined in the affirmative.

Senators TEPLITZ, SABATINA, DINNIMAN, RAFFERTY, GREENLEAF, FONTANA, SCHWANK, VULAKOVICH, FOLMER, HUGHES, FARNESE, COSTA and RESCHENTHALER, by unanimous consent, offered **Senate Resolution No. 282**, entitled:

A Resolution designating the month of February 2016 as “USO Month” in Pennsylvania in recognition of the 75th anniversary of the United Service Organizations and its mission to enhance the quality of life of military members and their families.

On the question,

Will the Senate adopt the resolution?

The PRESIDENT The Chair recognizes the gentleman from Dauphin, Senator Teplitz.

Senator TEPLITZ. Mr. President, my resolution designates the month of February 2016 as “USO Month” in Pennsylvania. This year marks the 75th anniversary of the United Service Organizations, or USO, and its mission to enhance the quality of life of military members and their families. The USO was founded in 1941 by President Franklin Delano Roosevelt to lift the morale of our military and nourish support on the home front. Today's USO continuously adapts to the needs of our men and women in uniform and their families. USO centers operate at or near military installations across the United States and throughout the world, including combat zones. USO airport centers also offer around-the-clock hospitality for traveling service members and their families. The trademark USO tours bring America and its celebrities to service members who are assigned far from home to entertain them and convey the support of our nation. Its many specialized programs offer a continuum of support to service members throughout their journey of service.

So, Mr. President, I ask that my colleagues join me in celebrating the USO's dedication to our troops and their families for 75 years by designating the month of February 2016 as USO Month in Pennsylvania.

Thank you, Mr. President.

And the question recurring,

Will the Senate adopt the resolution?

A voice vote having been taken, the question was determined in the affirmative.

Senators EICHELBERGER, DINNIMAN, SCARNATI, GREENLEAF, SCAVELLO, SABATINA, MENSCH, ARGALL, TEPLITZ, BAKER, AUMENT, SCHWANK, BREWSTER, GORDNER, VULAKOVICH, McILHINNEY, FOLMER, BARTOLOTTA, HAYWOOD, FONTANA, COSTA, YUDICHAK, WARD, RAFFERTY, YAW, HUTCHINSON, WHITE, FARNESE, BOSCOLA, RESCHENTHALER and HUGHES, by unanimous consent, offered **Senate Resolution No. 283**, entitled:

A Resolution designating the week of January 31 through February 6, 2016, as “Catholic Schools Week” in Pennsylvania.

On the question,

Will the Senate adopt the resolution?

The PRESIDENT. The Chair recognizes the gentleman from Blair, Senator Eichelberger.

Senator EICHELBERGER. Mr. President, not being Catholic and not being a former student of a Catholic school, one may wonder why I am offering this resolution today. But, I am a big admirer and supporter of the products that come out of many of these schools across our Commonwealth. They do a great service for our citizenry. I know in my local area they do a tremendous

job for the folks there. In Pennsylvania, they educate about 153,000 students annually and save the Commonwealth taxpayers about \$2 billion each year by people attending Catholic schools. They have a great success rate. In fact, less than 3 percent of their attendees drop out, and 90 percent seek higher education in some form.

So, last week was the week, and we were not in Session, but I wish them well and continued success as they do a lot of work for the young people of this great State. So, I ask for support from my colleagues today for their recognition. Thank you.

And the question recurring,

Will the Senate adopt the resolution?

A voice vote having been taken, the question was determined in the affirmative.

### **CONGRATULATORY RESOLUTIONS**

The PRESIDENT laid before the Senate the following resolutions, which were read, considered, and adopted by voice vote:

Congratulations of the Senate were extended to E. Lois Hohl by Senator Aument.

Congratulations of the Senate were extended to Michael Casey by Senator Brewster.

Congratulations of the Senate were extended to Chief Riley Smoot, Jr., by Senator Brooks.

Congratulations of the Senate were extended to Chief Edward Zunino by Senator Dinniman.

Congratulations of the Senate were extended to Brennan J. Sullivan by Senator McGarrigle.

Congratulations of the Senate were extended to Keenan Lemay by Senator McIlhinney.

Congratulations of the Senate were extended to Jennie Elias, Gertrude Yuknis and to Evelyn Milgram by Senator Tomlinson.

Congratulations of the Senate were extended to Robert Womer, Mary Sibley, Connie Metz, Tim Tabisz and to Scott Jones by Senator White.

Congratulations of the Senate were extended to Joseph J. Bruni by Senator Williams.

Congratulations of the Senate were extended to Tristan Sokach-Minnick by Senator Yudichak.

### **CONDOLENCE RESOLUTION**

The PRESIDENT laid before the Senate the following resolution, which was read, considered, and adopted by voice vote:

Condolences of the Senate were extended to the family of the late Maxine Baram by Senator McIlhinney and others.

### **ANNOUNCEMENTS BY THE SECRETARY**

The following announcements were read by the Secretary of the Senate:

SENATE OF PENNSYLVANIA

COMMITTEE MEETINGS

TUESDAY, FEBRUARY 9, 2016

Off the Floor

COMMUNITY, ECONOMIC AND  
RECREATIONAL DEVELOPMENT (to  
consider House Bill No. 944)

Rules Cmte. Conf. Room

Off the Floor                      GAME AND FISHERIES (to consider                      Rules Cmte. Conf. Room  
Senate Bills No. 979 and 1115; and House  
Bill No. 1168)

WEDNESDAY, FEBRUARY 10, 2016

9:00 A.M.                      AGRICULTURE AND RURAL AFFAIRS                      Room 8E-B East Wing  
(public hearing on Senate Bill No. 1055)

10:30 A.M.                      CONSUMER PROTECTION AND                      Room 461 Main Capitol  
PROFESSIONAL LICENSURE (to consider  
House Bill No. 31)

MONDAY, FEBRUARY 22, 2016

10:00 A.M.                      APPROPRIATIONS (Budget Hearing -                      Hrg. Rm. 1 North Off.  
Governor's Office/Governor's Budget Office/  
Executive Offices)

1:00 P.M.                      APPROPRIATIONS (Budget Hearing -                      Hrg. Rm. 1 North Off.  
Independent Fiscal Office - Economic  
Outlook & Revenue Overview)

3:00 P.M.                      APPROPRIATIONS (Budget Hearing -                      Hrg. Rm. 1 North Off.  
Department of Health)

TUESDAY, FEBRUARY 23, 2016

10:00 A.M.                      APPROPRIATIONS (Budget Hearing -                      Hrg. Rm. 1 North Off.  
Judiciary)

1:00 P.M.                      APPROPRIATIONS (Budget Hearing                      Hrg. Rm. 1 North Off.  
Treasury Department)

3:00 P.M.                      APPROPRIATIONS (Budget Hearing -                      Hrg. Rm. 1 North Off.  
Auditor General)

WEDNESDAY, FEBRUARY 24, 2016

10:00 A.M.                      APPROPRIATIONS (Budget Hearing -                      Hrg. Rm. 1 North Off.  
Department of Conservation and Natural  
Resources)

1:00 P.M.                      APPROPRIATIONS (Budget Hearing -State                      Hrg. Rm. 1 North Off.  
Police/Homeland Security)

3:00 P.M.                      APPROPRIATIONS (Budget Hearing -                      Hrg. Rm. 1 North Off.  
Department of Drug & Alcohol Programs)

THURSDAY, FEBRUARY 25, 2016

10:00 A.M.                      APPROPRIATIONS (Budget Hearing -                      Hrg. Rm. 1 North Off.  
Department of Environmental Protection)

1:00 P.M.                      APPROPRIATIONS (Budget Hearing                      Hrg. Rm. 1 North Off.  
Department of Community & Economic  
Development)

3:00 P.M.                      APPROPRIATIONS (Budget Hearing -                      Hrg. Rm. 1 North Off.  
    Attorney General)

MONDAY, FEBRUARY 29, 2016

10:00 A.M.                      APPROPRIATIONS (Budget Hearing                      Hrg. Rm. 1 North Off.  
    -Department of Corrections/Board of  
    Probation and Parole)

1:00 P.M.                      APPROPRIATIONS (Budget Hearing -                      Hrg. Rm. 1 North Off.  
    Department of Transportation)

3:00 P.M.                      APPROPRIATIONS (Budget Hearing -                      Hrg. Rm. 1 North Off.  
    Department of Aging)

TUESDAY, MARCH 1, 2016

10:00 A.M.                      APPROPRIATIONS (Budget Hearing -                      Hrg. Rm. 1 North Off.  
    Department of General Services)

1:00 P.M.                      APPROPRIATIONS (Budget Hearing -                      Hrg. Rm. 1 North Off.  
    Department of Labor & Industry)

3:00 P.M.                      APPROPRIATIONS (Budget Hearing -                      Hrg. Rm. 1 North Off.  
    Department of Agriculture)

WEDNESDAY, MARCH 2, 2016

10:00 A.M.                      APPROPRIATIONS (Budget Hearing State                      Hrg. Rm. 1 North Off.  
    Related Universities)

1:00 P.M.                      APPROPRIATIONS (Budget Hearing -PA                      Hrg. Rm. 1 North Off.  
    State System of Higher Education)

3:00 P.M.                      APPROPRIATIONS (Budget Hearing -                      Hrg. Rm. 1 North Off.  
    PA Emergency Management Agency/Fire  
    Commissioner)

MONDAY, MARCH 7, 2016

10:00 A.M.                      APPROPRIATIONS (Budget Hearing -                      Hrg. Rm. 1 North Off.  
    Department of Human Services)

1:00 P.M.                      APPROPRIATIONS (Budget Hearing -                      Hrg. Rm. 1 North Off.  
    Department of Revenue/Lottery)

3:00 P.M.                      APPROPRIATIONS (Budget Hearing -                      Hrg. Rm. 1 North Off.  
    Department of Military and Veterans Affairs)

TUESDAY, MARCH 8, 2016

10:00 A.M.                      APPROPRIATIONS (Budget Hearing -                      Hrg. Rm. 1 North Off.  
    Department of Education)

1:00 P.M.                      APPROPRIATIONS (Budget Hearing PA                      Hrg. Rm. 1 North Off.  
    Liquor Control Board)

## PETITIONS AND REMONSTRANCES

The PRESIDENT. The Chair recognizes the gentleman from Lebanon, Senator Folmer.

Senator FOLMER. Mr. President, as you and the Members of the Senate know, from time to time I rise to talk about an agricultural issue relating to a certain plant that can be used to help sick people with various diseases and other medical conditions. Of course, I am talking about cannabis and its use for medical purposes. On a number of occasions, I have questioned those who fear medical cannabis for a variety of different reasons and I wonder why these fears have delayed consideration of Senate Bill No. 3, which overwhelmingly passed this Chamber last May and has languished in the House since then. Mr. President, while Senate Bill No. 3 continues to sit in the House, people, including children, are dying. Yes, there have been discussions. Yes, there has been a special House task force to discuss the use of medical cannabis. Yes, there has been a handful of House committee votes, but there has been no vote on Senate Bill No. 3 by the full House, despite numerous promises to do so. We were promised a vote last October. No vote. We were promised a vote last November. No vote. We were promised a vote the first week of December. No vote. It is now February 2016, nearly a year since Senate Bill No. 3 passed the Senate, and, yet, it sits in the House with no vote scheduled. No vote, Mr. President, despite all of the protections built into Senate Bill No. 3 to insure medical cannabis will be properly used. These protections include licensing, testing, tracking, State oversight, rigorous reporting requirements, and other restrictions on the use of medical cannabis.

Meanwhile, Mr. President, does anybody believe that desperate patients, and especially desperate parents, are sitting around just waiting for us to act? No, Mr. President, many patients are self-medicating, and desperate parents are taking matters into their own hands. Consider this: a recent story from the *Salt Lake Tribune* about a Utah mother in hiding--imagine this, in hiding--with her children, unable to return to her home out of fear she could lose her children and face criminal charges because for nearly a year she has been administering small doses of cannabis oils to her daughter who suffers from congenital pituitary disease. The mother, Sarah Ellett, is in contact with the State Division of Child and Family Services in Utah and she hopes and prays that she will be able to work through these issues. Her case points to a dilemma parents face in watching their children suffer and the fear of violating State and Federal laws by turning to medical cannabis to ease their suffering.

As a strong supporter of both the United States and Pennsylvania Constitutions, I understand and I appreciate the legislature was established to be a deliberate body of our constitutional republic. It is why we have two Chambers, both the House and Senate, to insure all points of view, including the minority viewpoints, are being considered. On Senate Bill No. 3, Mr. President, the Pennsylvania General Assembly can honestly say it has done its due diligence as we have not only deliberated, but we have reached the point where I believe we have now reached -paralysis from over-analysis. That is not what our Founding Fathers intended, Mr. President. Both the U.S. and Pennsylvania Constitutions begin with three words, three very important words: "We, the people." Unfortunately, Mr. President, I am starting to feel like Jimmy Stewart's character from the movie *Mr. Smith Goes to Washington*. In that movie, an idealistic young man is sent to Washington by the powers that be because they believe they can control him. However, they turn out to be wrong, because Jefferson Smith stands by his principles and runs into those powers and is discredited, humiliated, and threatened with expulsion from the United States Senate. So, he fights by standing up and filibustering in support of his principles, just like I am doing now, but not nearly as long as Jimmy Stewart's character, Mr. Smith, who held the floor for nearly 24 hours. I promise I will be concluding in 5 minutes or so.

However, before I end my comments today, Mr. President, I will repeat the words of the fictional character, Senator Smith, because some days I feel overcome by the many questions and the countless delays I have faced in getting Senate Bill No. 3 signed into law. Stewart's character faced his mentor, Senator Paine, who set him up for his ouster from the Senate, and Mr. Smith addresses Senator Paine and the rest of the Senate and he says, "I guess this is just another lost cause, Mr. Paine. All you people don't know about lost causes. Mr. Paine does. He said once they were the only causes worth fighting for. And he fought for them once, for the only reason any man ever fights for them; because of just one plain simple rule: 'Love thy neighbor.' And you know that you fight for the lost causes harder than any other. Yes, you even die for them."

Unfortunately, Mr. President, this is not a movie. I am not Jimmy Stewart, I am not filibustering, and I do not know if, or when, Senate Bill No. 3 will ever become law. However, Mr. President, I do know this: I do know that the delays in getting a vote in the House are hurting people, which, again, is not what our Founding Fathers intended when they established this legislature to be a deliberative body.

So, let me return to the words of the Utah mom who decided to treat her daughter with medical cannabis, who saw that a week after her daughter started receiving medical cannabis, she was able to take 20 steps without her walker; whose daughter later started taking swimming lessons; after 2 weeks of classes, her focus improved, she was able to sit down with a book and concentrate; Remie's digestion improved and for 8 hours a day, Ms. Ellett was able to remove the tube and bag that gave her daughter continuous feeding and her child gained three pounds. She quotes saying, "She started jumping on the trampoline. She just started being able to make movements. Instead of sitting there and being the observer she started being a participant in the family."

Now this same mother has a decision to make. Her words, not mine: "I'm a stable person. I don't want to just up and leave with my children, move them away from the State, move them away from their father. I know her health is more important than our location. I have been trying to be patient with the State of Utah, but the more this is going on, the more I know I am going to be forced into not giving [Remie] the oil." This story was from Utah, but there are similar stories all across the great Commonwealth of Pennsylvania. I have met these folks. I am going to continue this fight, just like Jefferson Smith, played by that Indiana County, Pennsylvania, resident, Jimmy Stewart, who said, "You think I'm licked? You all think I'm licked? Well, I'm not licked. And I'm going to stay right here and fight for this lost cause. Even if the room gets filled with lies."

Thank you, Mr. President.

The PRESIDENT. The Chair thanks the gentleman for an excellent speech.

#### **BILLS SIGNED**

The PRESIDENT (Lieutenant Governor Mike Stack) in the presence of the Senate signed the following bills:

**SB 166, HB 153 and HB 158.**

#### **RECESS**

The PRESIDENT. The Chair recognizes the gentleman from Monroe, Senator Scavello.

Senator SCAVELLO. Mr. President, I move that the Senate do now recess until Tuesday, February 9, 2016, at 11 a.m., Eastern Standard Time, unless sooner recalled by the President pro tempore.

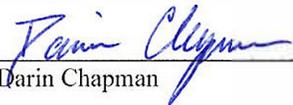
The motion was agreed to by voice vote.

The Senate recessed at 5:11 p.m., Eastern Standard Time.

PA S. Jour., 2016 Reg. Sess. No. 6

**VERIFICATION**

I, Darin Chapman, certify that I am a member of Medical Marijuana Access & Patient Safety, Inc., and that in this capacity I am authorized to, and do make this Verification on its behalf, that the facts set forth in the foregoing Petition for Review in the Nature of a Complaint in Equity Seeking Declaratory Relief and Injunctive Relief and its attachments are true and correct to the best of my knowledge, information and belief. I understand that false statements made therein are made subject to the penalties of 18 Pa. C.S. §4904, relating to unsworn falsifications to authorities.

 2/10/2022  
Darin Chapman

Dated: February 10, 2022

**NOTICE TO PLEAD**

You are hereby notified to file a written response to the enclosed Petition for Review within thirty (30) days from service hereof or a judgment may be entered against you.

Respectfully submitted,

/s / Kevin J. McKeon

Judith D. Cassel I.D. No. 209393  
Kevin J. McKeon, I.D. No. 30428  
Dennis A. Whitaker, I.D. No. 53975  
Micah R. Bucy, I.D. No. 320196  
Hawke McKeon & Sniscak, LLP  
100 North Tenth Street  
Harrisburg, PA 17101  
Telephone: 717-236-1300  
Facsimile: 717-236-4841  
[kjmckeon@hmslegal.com](mailto:kjmckeon@hmslegal.com)  
[jdcassel@hmslegal.com](mailto:jdcassel@hmslegal.com)  
[dawhitaker@hmslegal.com](mailto:dawhitaker@hmslegal.com)  
[mrbcy@hmslegal.com](mailto:mrbcy@hmslegal.com)

*Counsel for Petitioner*

DATED: February 10, 2022

**CERTIFICATE OF COMPLIANCE WITH PUBLIC ACCESS POLICY**

I certify that this filing complies with the provisions of the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts that require filing confidential information and documents differently than non-confidential information and documents.

Respectfully submitted,

/s / Kevin J. McKeon

Judith D. Cassel I.D. No. 209393  
Kevin J. McKeon, I.D. No. 30428  
Dennis A. Whitaker, I.D. No. 53975  
Micah R. Bucy, I.D. No. 320196  
Hawke McKeon & Sniscak, LLP  
100 North Tenth Street  
Harrisburg, PA 17101  
Telephone: 717-236-1300  
Facsimile: 717-236-4841  
[kjmckeon@hmslegal.com](mailto:kjmckeon@hmslegal.com)  
[jdcassel@hmslegal.com](mailto:jdcassel@hmslegal.com)  
[dawhitaker@hmslegal.com](mailto:dawhitaker@hmslegal.com)  
[mrbucy@hmslegal.com](mailto:mrbucy@hmslegal.com)

*Counsel for Petitioner*

DATED: February 10, 2022