# ADULT USE PRINCIPLES FOR THE COMMONWEALTH

## STANDING UP AN ADULT USE MARKET

- Within 90 days of enactment, the state must establish a legal access point for adult consumers 21 and over to purchase cannabis. Current grow/process and dispensary operators must be swiftly licensed by operation of law to supply and be able to supply products for adult-use consumers. This allows the Commonwealth to curb illegal activity and generate tax revenue by quickly capturing illicit market sales, and avoids the proliferation of illegal operators entering the market, as was experienced in neighboring jurisdictions like New York and Washington D.C.

- Within the first 90 days, all current grow/process and dispensary operators should be grandfathered into an adult use regulatory framework. For consistency across the state, and to allow for as many legal points of access to the regulated market as possible, municipalities should not be allowed to refuse or delay currently licensed medical dispensaries from the ability to sell adult use.

- Temporary regulations should be promptly promulgated to allow for a safe and expedited adult use rollout. Regulations should be consistent with existing medical standards and evolve with national best practices. Development and adoption of permanent regulations should be deliberate, timely, and include ample opportunity for stakeholder and industry input.

## TRANSITIONING THE CURRENT MEDICAL INFRASTRUCTURE

- No artificial distinctions should be made between medical and adult use cannabis products. In all cases, these products are made and tested to the same standards. The only distinction between medical and adult use cannabis exists at the point of retail sale, where the purchaser is verified as a registered patient or adult use consumer 21 years of age and older, and where medical patients should continue to enjoy a zero-sales tax policy. All cannabis products should be cultivated, manufactured, and distributed in the same way throughout the same supply chain.

- To address any concern with patient access in the early stages of an adult use program, the legislation may require dispensaries to reserve a percentage of all products for medical patients. If any of the reserved medical product does not sell after a few months, then dispensaries should be allowed to sell those products to adult use consumers.

- In a high-demand and high-volume industry, the requirement for pre-approval of packaging, labeling, advertising, and devices should be removed to allow for cannabis businesses to operate efficiently and effectively in serving both patients and adult use consumers. Otherwise, operators should be held accountable for these matters the same way they are held accountable for all other matters – through open and transparent facility and record access, regulatory inspection, and enforcement where appropriate.

## NEW REGULATORY BODY

- The Commonwealth should establish a new and independent regulatory body to bring focused oversight to the regulated adult use and medical cannabis program, as well as cannabinoid hemp-derived consumer products (excluding hemp for industrial uses). The body should be independent from any current administrative agency. The regulatory body should include one or more industry representatives with experience operating a cannabis business in a strictly regulated cannabis program.


## ADULT USE PRINCIPLES FOR THE COMMONWEALTH

- The new regulatory body should begin to form immediately upon passage of an adult use bill and assume unified authority over the current medical program and funds and the newly created adult-use program as soon as the law is passed.

- In the absence of adequate federal regulation over hemp-derived products, the regulatory body should also oversee safety standards for non-intoxicating consumer hemp products, such as CBD, CBN, and CBG. With a proliferation of untaxed, unregulated, and intoxicating THC products being marketed as legal hemp, such as delta-8 THC, the regulatory body should also focus efforts on bringing all intoxicating forms of THC, however derived, into the regulated adult use marketplace. Industrial hemp (non-consumer products manufactured from hemp) should remain under the Department of Agriculture.

- The new regulatory body should be given the authority to regulate the licensed labs that conduct testing for the cannabis products allowed on the market.

- The new regulatory body should be required to confer with the Department of Agriculture in developing rules related to integrated pest management. There must be a process for continued development of an approved pesticides list – Act 44 of 2021 contains a provision for this concept.

### HEALTH AND PUBLIC SAFETY

- The legislation should ban all synthetic cannabinoids and isomers manufactured outside the regulated marketplace, including those intoxicating THC compounds marketed as federally legal hemp. These untested and unregulated THC products are currently being sold without age verification in retail markets, gas stations, and online. The new regulatory body should be required to develop a regulatory framework to bring all intoxicating THC products and novel cannabinoids into the safeguards of the regulated market. The regulatory body should have the discretion to ban certain synthetic cannabinoid derivatives outright. This result will ensure oversight of safe manufacturing practices, age or patient verification, advertising and marketing standards, third-party lab testing for contaminants and dangerous chemicals, and applicable licensing fees and taxation through regulated channels.

- Methods of skirting the regulated market that have become widespread in jurisdictions like New York and Washington D.C., such as gifting, membership fees, or selling unregulated cannabis and "hemp-derived" THC products online should be made explicitly unlawful in the Commonwealth, as these products are also not tested and can lead to public health issues.

- Testing should be limited to final form products (flower for sale and concentrates) and should include testing for cannabinoids and terpenes, as well as contaminants such as heavy metals, pesticides, residual solvents, mold, and mildew. If testing is required to occur before final form, it should be limited to pesticides and heavy metals.

- Flower that fails for microbial contamination should be allowed to be manufactured into cannabis products through a process that removes the microbial contamination. However, any flower that fails for heavy metals or pesticides should be properly disposed. All products must ultimately pass quality assurance testing before introduction into the stream of commerce.

## ADULT USE PRINCIPLES FOR THE COMMONWEALTH

- All quality assurance testing for cannabis products should be in accordance with the *American Herbal Pharmacopoeia*, and/or based on national best practices and the most recent scientific evidence.

### FAIRNESS AND EQUITY IN THE CANNABIS INDUSTRY

- Cannabis should only be sold in dispensaries that are licensed and regulated by the new regulatory body, and not be sold in state liquor stores or any other retail outlet. The significant investment the industry has and will continue to make in the Commonwealth should not be overlooked.

- Adult-use cannabis legislation should address ordinary and necessary state-level business tax deductions, allowing operators to receive the same tax treatment as any other business in the Commonwealth. Federal tax law applies a penalty to state-legal cannabis businesses preventing the standard ordinary and necessary deductions that all businesses rely upon to sustain themselves, such as tax deductions for payroll, staff, utilities, and the like. In effect, the current tax structure imposes up to an estimated 75% tax rate on state-legal cannabis operators at the state and federal levels.

- Non-vertical GPs in the Commonwealth should receive one non-competitive dispensary license in the adult-use bill to help rectify the market conditions caused by the Department of Health's failure to enforce the medical cannabis statute's §616(5), under Act 16 of 2016, which prevents more than five (5) medical grower/processors from obtaining dispensary permits.

- The legislation should embrace and enhance the cannabis research model established by Chapter 20 of Act 16 while allowing Clinical Registrants to participate in the adult use market.

- New licenses that immediately result from the passage of an adult use bill should reflect principles that are important to Pennsylvanians, such as reduced fees, targeted incentives, and application training for cannabis businesses owned by women, minorities, small farmers, or those with prior cannabis-related arrests due to state prohibition.

- Statutory authority for the issuance of all new licenses should be granted to the newly formed regulatory body; the regulatory body should release additional licenses only after full and fair evaluation of market demand and capacity. Before commencing a new licensing process, the regulatory body should evaluate the successes and failures of Act 16's permitting process and emphasize priority award to historically disadvantaged and veteran applicants.