



The Pennsylvania Cannabis Coalition (“PCC”) requests leave pursuant to Pennsylvania Rule of Appellate Procedure (“Pa. R.A.P.”) 531 to file the attached amicus curiae brief in support of Petitioner Medical Marijuana Access & Patient Safety, Inc.’s (“Petitioner”), Application for Special Relief in the Nature of a Preliminary Injunction, incident to Petitioner’s Petition for Review in the Nature of a Complaint in Equity Seeking Declaratory Relief and Injunctive Relief (the “Application”).

The Application requests that this Court grant relief from the Department of Health, Office of Medical Marijuana’s (“DOH”) “Terpene Recall Mandate,” as that term is defined in the Application, which is inflicting irreparable harm on medical marijuana grower/processors and dispensaries throughout Pennsylvania, and which was issued in contravention of the DOH’s authority under the Pennsylvania Medical Marijuana Act, 35 P.S. § 10231.101, *et seq.* (the “Act”). The Terpene Recall Mandate purports to rescind the DOH’s prior approval of vapor products containing certain added ingredients, including botanically sourced terpenes, and requires the recall of those products.

PCC has a significant interest in protecting the economic interests and statutory rights of the grower/processors and dispensaries affected by the Terpene Recall Mandate, many of whom are PCC members. PCC and its members also have an interest in the Pennsylvania Medical Marijuana market as a whole, which in addition to grower/processors and dispensaries, such as PCC’s members, is comprised of approximately 680,000 medical marijuana patients and caregivers and approximately 1,700 physicians approved to recommend medical marijuana products for the alternative treatment of 23 serious medical conditions approved for treatment with medical marijuana.

A denial of the preliminary injunction requested by Petitioner will result in irreparable injury to medical marijuana grower/processors and dispensaries, including PCC members, who are not before this Court, and will injure the physicians and patients who, respectively, recommend for treatment and treat the 23 serious medical condition with the vapor products now at issue, and who also are not before this Court.

**I. IDENTITY AND INTEREST OF AMICUS CURIAE**

PCC is a 501(c)(6) trade organization comprised of Pennsylvania-licensed medical marijuana permit holders representing all sectors of the cannabis industry in Pennsylvania. Its purposes are to protect and preserve Pennsylvania's medical marijuana market, and to support the modernization of Pennsylvania's medical marijuana program through lobbying, advocacy, and direct interaction with legislative leaders and regulatory agencies. PCC was formed in 2017, shortly after the first medical marijuana permits were issued in Pennsylvania. PCC's members include dozens of medical marijuana grower/processors and dispensaries licensed to operate under the Act who are not represented by Petitioner, and who are being irreparably harmed by the Terpene Recall Mandate.

**II. THE COURT SHOULD GRANT LEAVE TO FILE THE BRIEF OF AMICUS PCC**

The Court should grant leave to PCC to file the attached brief because a ruling on the Application regarding DOH's issuance of the Terpene Recall Mandate will likely affect the rights, economic interests, and livelihoods of PCC members. Many of those members have been producing medical marijuana products containing certain added ingredients, including botanically derived terpenes, with the prior written approval of DOH, which products are now subject to the Terpene Recall Mandate. Those PCC members have been forced to recall those products and halt further production of them, thereby ceasing to provide them to patients; or act

in derogation of the recall, which would carry the substantial risks of license suspension or revocation and/or fines.

Prior to the recall, DOH routinely approved medical marijuana products containing botanically derived terpenes; physicians registered with DOH to recommend medical marijuana to patients have been recommending such products; and patients, at their physicians' recommendation, have been treating with such medical marijuana products. In issuing the recall, DOH did not provide the grower/processors, dispensaries, physicians, or patients affected by it with any specific information demonstrating that the "added ingredients" now at issue, including botanically sourced terpenes, posed a threat to public health and safety, which it was required to do under the temporary regulations. *See* 28 Pa. Code § 1151.42(c). Thus, the recall is an unnecessary and unsupported restriction on the activities of permittees, such as PCC's grower/processor and dispensary members, and on the Pennsylvania medical marijuana market as a whole.

PCC believes that the attached brief, which details the legislation permitting the use of added ingredients, including botanically sourced terpenes, in medical marijuana and adult-use marijuana products in a number of other states, would assist the Court in considering the regulatory landscape regarding botanically derived terpenes in Pennsylvania. Moreover, the attached brief details PCC's unsuccessful efforts in November 2021 to obtain from DOH information demonstrating that the vapor products and added ingredients, including botanically sourced terpenes, now at issue under the Terpene Recall Mandate were, in fact, posing a health and safety risk warranting action by DOH. DOH ignored PCC's requests, and has never supplied such information.

PCC suggests that the legislation in other states permitting the use of added ingredients, including botanically sourced terpenes, in medical marijuana and adult-use marijuana products in those states, and DOH's refusal to provide PCC with information in November 2021 demonstrating that the vapor products and added ingredients, including botanically sourced terpenes, now at issue were causing a public health and safety risk, should assist the Court in determining whether the added ingredients at issue, including botanically sourced terpenes, should be permitted for use in Pennsylvania.

WHEREFORE, PCC respectfully requests that its motion for leave to file an amicus curiae brief be granted.

Respectfully submitted,

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