

NOVEMBER 2022

PCC MONTH IN REVIEW



FROM THE EXECUTIVE DIRECTOR

PCC Members,

While we are still waiting for Final Program Regulations to be published in the PA Bulletin we did get some welcomed updates during last week's Medical Marijuana Advisory Board Meeting. Office of Medical Marijuana Director - Laura Mentch - announced that they are hiring more staff, examining processes and publishing guidance and fillable compliance forms on the website very soon. More information from the November MMAB Meeting is included on page three of the newsletter.

Election Day was a good day for cannabis in PA. Governor Elect Josh Shapiro and Lt. Governor Elect Austin Davis are both cannabis supporters. And while the Senate remains in Republican control, Democrats will hold a narrow majority in the House of Representatives even with the necessity of several special elections. We plan to share a more detailed analysis on our 4th Quarter Meeting on December 9, 2022 at 12:00 noon via Zoom. Please note the change to the meeting date.

Lastly, I am excited to announce that we are partnering with Duane Morris and the American Trade Association for Cannabis & Hemp to host an in-person conference on March 9, 2023. Our PCC First Quarter Membership Meeting will proceed the conference.

A few housekeeping items:

- You can add the 4th Quarter Membership Meeting to your calendar by clicking here. PLEASE NOTE THE CHANGE IN DATE FROM 12/2 to 12/9.
- Our address has changed! Please use this address for mail:
 - PCC | P.O. Box 11501 | Harrisburg, PA 17108
- Please get your Q4 Dues in!
- Save the Date: PCC First Quarter Meeting & PA Cannabis 2023 Conference - Thursday, March 9, 2023 in person in Philadelphia.

Thank you! Please reach out with feedback!

The signature is handwritten in black ink, appearing to read "Meredith V. Buettner".

Meredith Buettner, Executive Director

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FINAL PROGRAM REGULATIONS

On October 20, 2022 the Independent Regulatory Review Commission (IRRC) approved the Final Form Medical Marijuana Regulations (#10-219) ([Meeting Recording](#)). It was a spirited meeting with several Commissioners voicing concerns about the Department of Health's authority to require grower/processors to use two different laboratories to test at harvest and final form and instructing the Department to continue to work with the regulated industry to address the concerns related to the requirement. PCC will continue to engage the Department on this and other regulatory concerns.

Upon approval by IRRC the regulations were transmitted to the Attorney General for sign off. We anticipate this will take 30-45 days. Once approved by the Attorney General the Department will transmit the regulations for publication in the Pennsylvania Bulletin. The publication in the Bulletin will indicate the effective date of the regulations.

The Department has indicated to PCC that they are aware some regulations will take longer to implement than others but also stressed that compliance is expected in a timely manner following publication/effective date. We will continue to share information regarding the effective date and compliance expectations as we receive it.

Director Mentch has shared that she is working with the team at the Office of Medical Marijuana (Office) to produce several piece of sub-regulatory guidance as well as a series of FAQ documents to accompany the regulations.

PCC needs your help!!!

As you are reviewing the final regulations for implementation, updating SOPs or creating new ones and have questions please share those so that we may inform the Office's development of guidance and FAQs. Please email Meredith with your regulatory questions at Meredith@pcanna.org

[Link to Final Form Medical Marijuana Regulations \(#10-219\)](#)



Pa. pilot program gives some low-income medical marijuana patients a break at dispensaries | CAPITOLWIRE.COM

HARRISBURG — The state Department of Health has launched a pilot program to offer \$50 a month in financial assistance to help almost 1,400 senior citizens afford the cost of medical marijuana.

The payments are the first step toward establishing a third phase for the financial assistance program authorized to help low-income medical marijuana patients afford the drug. Because insurance companies don't include medical marijuana in their prescription drug coverage, medical marijuana patients are left to pony up the full cost of medical marijuana when they visit the state's dispensaries.

But under the pilot program, the nearly 1,400 medical marijuana patients enrolled in the state's PACE and PACENET programs will get \$50 a month until next June to help with the cost of medical marijuana, Medical Marijuana Program Director Laura Menth said at the quarterly meeting of the state's Medical Marijuana Advisory Board.

Ms. Menth said that the average patient spends about \$275 a month on medical marijuana.

The number of patients receiving the benefit is just a fraction of the number of patients who would be eligible if the program covered all low-income patients. In addition to the senior program, patients qualify as low-income if they are enrolled in these other safety net programs as well: Medicaid, Children's Health Insurance Program, the Supplemental Nutrition Assistance Program and the Women, Infants and Children program.

The state in March began waiving the cost of the medical marijuana cards and the costs of background checks for caregivers of medical marijuana. The move to offer discounts on medical marijuana purchases is the third phase of the assistance program but the program's fund doesn't have sufficient funding to provide meaningful assistance to all of the patients identified as being low-income.

According to the Treasury website, the Medical Marijuana Program Fund currently has a balance of over \$96 million — up from \$55 million at the beginning of the year. But only a small portion of the program fund is available to provide the financial assistance payments.

"The Medical Marijuana Program Fund provides funding for more than just financial assistance," Maggi Barton, a DOH spokeswoman said in an email. "The Medical Marijuana Act imposes limitations on the uses of funding in the Medical Marijuana Program Fund. The division of operating funds is limited by regulation and only a small portion . . . can be used for all three phases of the MM Assistance Program."

The Department of Health has previously indicated that about 23% of medical marijuana patients qualify as low-income. Ms. Menth said Tuesday that there are 423,443 active patient certifications.

Providing \$50 a month through June to the patients in the pilot program will carry a price tag of about \$560,000, whereas providing the same benefit to all of the patients who would seem to qualify as low-income would cost closer to \$39 million.



November MMAB Meeting Notes

- 2023 Board Meetings
 - MMAB voted to hold bi-monthly in person meetings for 2023. PCC will share scheduled upon release
- Program Update
 - Final Form Regulations under Attorney General Consideration
 - OMM preparing guidance & FAQs on regs
 - OMM adding staff
 - Improved processes including fillable compliance forms to be issued by 12/1/22
 - Increasing reminder communications
 - 30 Day Window will open on 12/1/22
 - Medical Marijuana Assistance Program (MMAP) Phase 3
 - Implemented 11/14/22
 - \$50/Month for PACE/PACENET Patients (1,400 patients) through the remainder of the fiscal year (6/23)
 - Expansion timing, patient applicability, and monthly benefit amount is dependent on future funding
 - Magellan Health (PACE Program Provider via Dept. of Aging) - provided infrastructure and is responsible for execution and management of benefit transactions
 - Serious Medical Conditions for Research (SMCR) Guidance finalized
- Program Demographics (TO DATE)
 - 842,021 Patients and Caregivers Registered
 - 423,443 Active Patient Certifications
 - 1,870 Approved Practitioners
 - 26.5 Million Patients Dispensing Events
 - 75.9 Million Products Dispensed
 - \$6.3 Billion in Total Sales
 - \$2.5 Billion by GPs to Dispensaries
 - \$3.8 Billion by Dispensaries
 - 171 Operational Dispensaries
- Program Trends
 - Dry Leaf followed by Vape are top selling products
 - Wholesale Price/Gram: \$4.16 v. Retail Price/Gram: \$10.95

Q4 2021 v. November 2022		
	Q4 2021	Nov-22
Active Patients Certificates	384,254	423,443
Approved Practitioners	1,678	1,870
Dispensing Events	14.1	26.5
Products Dispensed	47M	75.9M
Total Sales	4B	6.3B
G/Ps to Dispensaries	1.6B	2.5B
Dispensaries to Patients	2.4B	3.8B
Operational Dispensaries	138	171
Retail Price per Gram	\$14.05	\$10.95
Wholesale Price per Gram	\$8.17	\$4.16

Pennsylvania House Democrats will lose their majority for at least a few weeks. Here's why. by Stephen Caruso of Spotlight PA | Nov. 24, 2022



HARRISBURG — Democrats won control of the Pennsylvania state House on Nov. 8, but their majority is going to disappear for at least a few weeks in the new year. Republicans will have a temporary 101-99 edge in the 203-seat chamber, in part because of the death of a longtime lawmaker whose seat must be filled in a special election.

But the Democratic majority will also take a hit because two state lawmakers ran for reelection while also vying for different elected offices — a completely legal decision that some good-government advocates say shouldn't be an option.

The Pennsylvania Constitution specifically forbids General Assembly lawmakers from holding any other salaried local, state, or federal office.

Despite this ban, nothing prohibits state lawmakers from running for reelection and another elected office at the same time, which state Reps. Austin Davis (D., Allegheny) and Summer Lee (D., Allegheny) both did. Davis will be the next lieutenant governor, while Lee won her race to become Pittsburgh's next member of Congress.

What Davis and Lee did is not uncommon, and politicos said it provides an insurance policy: Even if the candidate loses their bid for a different elected office, they will likely hold onto their old seat.

But if a state lawmaker wins a different office, replacing them requires a special election that can cost hundreds of thousands of dollars to administer. The lawmaker's constituents are also left without Harrisburg representation for months, said Pat Christmas, a policy analyst with the Philadelphia-based good-government group Committee of Seventy.

"Seeking higher office should still require taking a leap," Christmas said in an email. (The committee, however, opposes resign-to-run laws like the one on the books for Philadelphia elected officials and government employees, arguing they give an unfair advantage to officer holders not affected by such a requirement and the independently wealthy.)

State law regarding vacancies during lawmakers' terms also favors political parties instead of voters, Christmas noted. The law gives local leaders of major parties the ability to choose nominees, often in private meetings.

Normally, in a body as large as the Pennsylvania House, being down a member of two means little, and openings sometimes emerge as lawmakers pursue different opportunities mid-session. Department of State data show the state has averaged 4.5 legislative special elections each year for the past decade.

But because Democrats won just 102 seats in the state House — giving them a one-seat majority — every lawmaker matters as legislators prepare to pick a speaker to preside over the chamber and set the rules for the coming session.

Democrats will have at most 101 votes on swearing-in day, Jan. 3., because of the sudden death of state Rep. Anthony DeLuca (D., Allegheny) a month before the midterm election — too close to Nov. 8 to take his name off the ballot.

Davis' and Lee's pending resignations could end Democrats' hold on power before it begins if the party doesn't secure buy-in from a few Republican lawmakers to back state Rep. Joanna McClinton (D., Philadelphia) for speaker and to advance legislation in the first few months.

That will likely mean some horsetrading, said Bill DeWeese, a former Democratic House speaker who lost the spot in 2006 after some members of his own party, including then-state Rep. Josh Shapiro, threw their support behind a moderate Philadelphia Republican.

DeWeese told Spotlight PA that he expects a "vertiginous volume of phone conversations during the ensuing days, up until high noon on swearing-in day, to try and wheedle and cajole and inveigle people of the opposite party to vote against their caucus for the speakership."

Davis', DeLuca's, and Lee's seats will remain vacant until the new state House speaker schedules special elections to replace them.

Under guidelines set out under state law, the three special elections must be held, at the latest, by the May 2023 primary.

Asked why Davis stood for both offices, the Shapiro campaign pointed to earlier comments from the lawmaker. "I've dedicated my life and my career to public service," Davis told WESA in January. "And I want to continue that service either way, so I will be a candidate for both."

Lee's campaign spokesperson, Abigail Gardner, said the campaign hasn't "had anybody give us negative feedback on it."

"It's a pretty understandable situation," she said.

There's also no legal requirement for state elected officials who aren't up for reelection to resign while seeking a different office. Both major party nominees for governor — Democratic Attorney General Josh Shapiro and Republican state Sen. Doug Mastriano of Franklin County — kept their current jobs while running this year.

Mastriano will remain in the General Assembly and is up for reelection in 2024. Shapiro will remain attorney general until he's sworn in on Jan. 17. He will then be able to appoint his own successor to complete his term, though the Republican-controlled state Senate must approve his pick.



MEMBER SPOTLIGHT



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**Dispensary Call:
First Tuesday of the Month**
Tuesday, December 6 @ 1pm via Zoom

**Grower/Processor Call:
Second Tuesday of the Month**
Tuesday, December 13 @ 1pm via Zoom

Legislative Input Call:
No December Mtg.

MMAB November Meeting
Tuesday, November 22nd @ 10am Via Zoom

**PCC Fourth Quarter Membership Meeting
Friday, December 9th @ 12noon Via Zoom**

*All times are EST



[Click Here to Add PCC Events to Your Calendar!](#)



Could a Small Town in Pennsylvania Force Congress to Deschedule Cannabis?

William Hackney, Amundsen Davis LLC | JD Supra 11/15/22

Last Thursday, November 10, 2022, a court-appointed receiver threw the City of Chester, Pennsylvania into bankruptcy. At its most basic, a chapter 9 bankruptcy case is a rarely used provision of the Bankruptcy Code which is designed to protect a financially-distressed municipality from its creditors while it develops a plan to repay them. While chapter 9 filings are currently relatively rare, the combustible mix of the current state of the economy and this case filing could be a portent for a wave of similar filings in the next few years. But what truly separates this chapter 9 filing from those of the past (and gives rise to this alert) is the intersection of chapter 9 and the increasing legalization and taxation of cannabis by states and municipalities across the country. The State of Pennsylvania has not yet legalized so-called adult use cannabis, which is generating truly unprecedented amounts of tax revenue for many states, but it has enjoyed a fully functioning, legal, medicinal cannabis program for several years now, and enjoys the concomitant tax revenue therefrom. The City of Chester, Pennsylvania is therefore deriving tax revenue from the state's medicinal cannabis program – a program centered around federally illegal conduct and the cash it creates.

Anyone who has heard me speak on this topic or read any of my articles on the subject is aware that to date bankruptcy relief has been universally denied to both individuals and business entities who derive even a small portion of their income or revenue from involvement in the cannabis industry. Whether under chapter 7, chapter 13, or chapter 11, bankruptcy courts have almost exclusively prohibited cannabis-related businesses, and those even remotely related to them, from accessing the protections of the Bankruptcy Code. Bankruptcy courts have held that chapter 7 trustees cannot be forced to possess or sell cannabis and that a federal court cannot be used as a tool to support federally illegal conduct. They have also held that chapter 13 trustees cannot be forced to assist in ongoing violations of federal law by participating in plans which utilize cash derived from cannabis-related activities. In the chapter 11 context, bankruptcy courts have dismissed bankruptcy cases calling the operation of a cannabis-related business "gross mismanagement" of the business and finding that any plan of reorganization dependent on revenue derived from cannabis cannot be proposed in good faith, thus making those businesses ineligible for bankruptcy relief.

Moreover, the Office of the United States Trustee which oversees the operations of the bankruptcy process in general has repeatedly appeared in these cases and requested their dismissal. And while the bankruptcy court's role in a chapter 9 case is admittedly less intrusive than in the chapters discussed above, a bankruptcy court in a chapter 9 case will still have to approve the bankruptcy petition and eventually, perhaps most importantly, confirm the municipality's debt adjustment plan.

And therein lies the rub. Will bankruptcy courts, which routinely bar access to the protections of the Bankruptcy Code to individuals and business entities with even the slightest connection to cannabis or cannabis revenue, similarly bar governmental entities from those protections? Should they? Will the Office of the United States Trustee change its stance to allow these governmental entities to restructure when anyone and everyone else involved in the cannabis industry cannot? Medicinal cannabis is now legal in 37 states and adult use cannabis is now legal in 21 states. Every single one of those states imposes taxes of one shape or another on the cannabis industry operating within its borders. In all likelihood, every single city, town, or municipality in those states derive a portion of their annual revenue from their state's taxation of cannabis. Many probably have direct sales and or use taxes imposed within their own jurisdictions. These cities, towns, and municipalities need access to the nation's bankruptcy laws now more than ever; as do the individuals and businesses involved in this billion dollar industry in general. Only Congress can ensure that ability. The Chester, Pennsylvania bankruptcy case is still in its infancy, but it may very well serve as a bellwether for many chapter 9 cases to come. The good men and women who currently walk the halls of Congress may want to pay close attention to this case; the good people of Chester, Pennsylvania may soon need you.

NOVEMBER 2022

PCC PAC

BIG GOALS REQUIRE BIG BUDGETS

Who can contribute?

- Individuals
- PACs
- Certain LLCs

How much can you contribute?

- Any amount helps
- There is no limit
- Average 2021 contribution was \$1,000

REASONS TO GIVE TO PCC PAC

- We need to stand up for those who stand up for us
- We must continue to build a coalition of legislative support
 - PAC Dollars grab legislators attention and allow our lobbying team and staff more facetime with more legislators
- Other PACS WILL spend against us
- There is legislation being considered NOW that affects MMOs

Please consider contributing to PCC PAC
by mailing personal or LLC check to :

PCC PAC
P.O. Box 11501
Harrisburg, PA 17108

[CLICK HERE TO CONTRIBUTE NOW](#)

PAC SPENDING BY ACTIVE ASSOCIATIONS

Organization	2021 Spend	2020 Spend
PA Realtors	\$ 1,158,281.00	\$ 873,216.00
PA State Education Association	\$ 622,836.00	\$ 2,069,327.00
Operators for Skill	\$ 313,618.00	\$ 365,420.00
PA Trial Lawyers	\$ 228,459.00	\$ 857,093.00
PA Chamber PAC	\$ 209,669.00	\$ 137,750.00
PA State Police (State Lodge)	\$ 116,685.00	\$ 54,925.00
Horseman	\$ 109,536.00	\$ 74,406.00
PA Health Care Association	\$ 102,415.00	\$ 32,158.00
P.C. PAC	\$ 14,207.00	\$ 4,865.00

WANTED NEWSLETTER CONTENT

JUNE 2022

PCC MONTH IN REVIEW



FROM THE EXECUTIVE DIRECTOR

PCC Members -

Well, we are still without a budget here in Pennsylvania. The parties have failed to reach an agreement on the amount of spending. The House was in session today and is expected to complete their calendar. Both the House and Senate will both be adjourned to a 24 hour call of the Chair and are expected back early next week. We will continue to monitor the budget process for items relevant to cannabis and report any pertinent developments including those related to the issuance of new permits through a code vehicle and movement on 280z.

As I am writing this update the House has just passed SAFE Banking Legislation via HB 331 which will go to the Governor's desk for signature. I am proud that PCC was able to work with many of the banking associations in Pennsylvania to get this across the finish line - now to get it done in Washington. Please consider reaching out to Senators DiSanto & Street to thank them for their work on this bill.

We have now had two monthly meetings with the Pennsylvania Department of Health. We are working hard to redefine the relationship between regulated and regulator as one focused on the mutual goal of improving the medical marijuana program in the best interest of patients. We were able to address several of our concerns related to the final regulations. DOH is not able to change the package as submitted but our meeting did provide an opportunity to address areas where further guidance is necessary if the regulations are approved by IIRC.

We are cancelling both the Dispensary & Grower/Processor calls for the month of July - attendance has been waning during the summer months.

Additionally, we are considering holding our Third Quarter Meeting in person, in Harrisburg. Please keep an eye on your email for updates!

Happy 4th of July to you and yours!

Meredith V. Buettner

Meredith Buettner, Executive Director

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PCC IS SEEKING ARTICLES, OP-EDS, WHITE PAPERS AND RESEARCH FOR INCLUSION IN THE MONTHLY NEWSLETTER.

SUBMIT YOUR CONTENT TO MEREDITH VIA EMAIL AT
MEREDITH@PCANNA.ORG