

Title 22: HEALTH AND WELFARE
Chapter 558-C: MAINE MEDICAL USE OF MARIJUANA ACT

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Maine Revised Statutes
Title 22: HEALTH AND WELFARE
Chapter 558-C: MAINE MEDICAL USE OF MARIJUANA ACT

§2421. SHORT TITLE

This chapter may be known and cited as "the Maine Medical Use of Marijuana Act." [2009, c. 631, §7 (AMD); 2009, c. 631, §51 (AFF).]

SECTION HISTORY

IB 2009, c. 1, §5 (NEW). 2009, c. 631, §7 (AMD). 2009, c. 631, §51 (AFF).

§2422. DEFINITIONS

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [2009, c. 1, §5 (NEW).]

1. Cardholder. "Cardholder" means a qualifying patient, a registered primary caregiver, an employee of a registered primary caregiver or a principal officer, board member or employee of a registered dispensary or a marijuana testing facility who has been issued and possesses a valid registry identification card.

[2015, c. 475, §1 (AMD) .]

1-A. Collective. "Collective" means an association, cooperative, affiliation or group of primary caregivers who physically assist each other in the act of cultivation, processing or distribution of marijuana for medical use for the benefit of the members of the collective.

[2011, c. 407, Pt. B, §1 (NEW) .]

1-B. Certified nurse practitioner. "Certified nurse practitioner" means a registered professional nurse licensed under Title 32, chapter 31 who has received postgraduate education designed to prepare the nurse for advanced practice registered nursing in a clinical specialty in nursing that has a defined scope of practice and who has been certified in the clinical specialty by a national certifying organization acceptable to the State Board of Nursing.

[2013, c. 516, §1 (NEW) .]

2. Debilitating medical condition. "Debilitating medical condition" means:

A. Cancer, glaucoma, positive status for human immunodeficiency virus, acquired immune deficiency syndrome, hepatitis C, amyotrophic lateral sclerosis, agitation of Alzheimer's disease, nail-patella syndrome or the treatment of these conditions; [2013, c. 361, §1 (AMD).]

B. A chronic or debilitating disease or medical condition or its treatment that produces intractable pain, which is pain that has not responded to ordinary medical or surgical measures for more than 6 months; [2009, c. 1, §5 (NEW).]

C. A chronic or debilitating disease or medical condition or its treatment that produces one or more of the following: cachexia or wasting syndrome; severe nausea; or seizures, including but not limited to those characteristic of epilepsy; [2013, c. 361, §1 (AMD).]

D. Any other medical condition or its treatment as provided for in section 2424, subsection 2; or [2013, c. 361, §1 (AMD).]

E. Post-traumatic stress disorder, inflammatory bowel disease, dyskinetic and spastic movement disorders and other diseases causing severe and persistent muscle spasms. [2013, c. 361, §1 (NEW) .]

[2013, c. 361, §1 (AMD) .]

3. Enclosed, locked facility. "Enclosed, locked facility" means a closet, room, building, greenhouse or other enclosed area that is equipped with locks or other security devices that permit access only by the individual authorized to cultivate the marijuana.

[2011, c. 407, Pt. B, §3 (AMD) .]

3-A. Extended inventory supply interruption. "Extended inventory supply interruption" means any circumstance that:

A. Requires a registered dispensary to limit for more than a 2-week period the amount that a patient may purchase to less than 2 1/2 ounces during a 15-day period; or [2013, c. 503, §1 (NEW) .]

B. Prevents a registered dispensary from consistently offering for a 2-week period or longer a full range of strains of marijuana, including but not limited to strains rich in cannabidiol, to a patient. [2013, c. 503, §1 (NEW) .]

[2013, c. 503, §1 (NEW) .]

4. Disqualifying drug offense. "Disqualifying drug offense" means a conviction for a violation of a state or federal controlled substance law that is a crime punishable by imprisonment for one year or more. It does not include:

A. An offense for which the sentence, including any term of probation, incarceration or supervised release, was completed 10 or more years earlier; or [2009, c. 1, §5 (NEW) .]

B. An offense that consisted of conduct that would have been permitted under this chapter. [2009, c. 1, §5 (NEW) .]

[2009, c. 631, §10 (AMD); 2009, c. 631, §51 (AFF) .]

4-A. Incidental amount of marijuana. "Incidental amount of marijuana" means an amount of nonflowering marijuana plants; marijuana seeds, stalks and roots; and harvested, dried unprepared marijuana defined by rules adopted by the department.

[2015, c. 475, §2 (AMD) .]

4-B. Mature marijuana plant. "Mature marijuana plant" means a harvestable female marijuana plant that is flowering.

[2011, c. 407, Pt. B, §4 (NEW) .]

4-C. Medical provider. "Medical provider" means a physician or a certified nurse practitioner.

[2013, c. 516, §2 (NEW) .]

5. Medical use. "Medical use" means the acquisition, possession, cultivation, manufacture, use, delivery, transfer or transportation of marijuana or paraphernalia relating to the administration of marijuana to treat or alleviate a qualifying patient's debilitating medical condition or symptoms associated with the patient's debilitating medical condition.

[2011, c. 407, Pt. B, §5 (AMD) .]

5-A. Member of the family. "Member of the family" means a person who is a spouse, domestic partner, child, sibling, aunt, uncle, niece, nephew, parent, stepparent, grandparent or grandchild of another person. "Member of the family" includes a person living with a person as a spouse and a natural parent of a child of a person.

[2011, c. 407, Pt. B, §6 (NEW) .]

5-B. Members of the same household. "Members of the same household" means 2 or more people who share a dwelling unit.

[2011, c. 407, Pt. B, §6 (NEW) .]

5-C. Marijuana testing facility. "Marijuana testing facility" means a public or private laboratory that:

A. Is licensed, certified or otherwise approved by the department in accordance with rules adopted by the department under section 2423-A, subsection 10, paragraph D to analyze contaminants in and the potency and cannabinoid profile of samples; and [2015, c. 475, §3 (NEW) .]

B. Is accredited pursuant to standard ISO/IEC 17025 of the International Organization for Standardization by a 3rd-party accrediting body or is certified, registered or accredited by an organization approved by the department. [2015, c. 475, §3 (NEW) .]

[2015, c. 475, §3 (NEW) .]

6. Registered dispensary. "Registered dispensary" or "dispensary" means a not-for-profit entity registered under section 2428 that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, sells, supplies or dispenses marijuana or related supplies and educational materials to qualifying patients and the primary caregivers of those patients.

[2011, c. 407, Pt. B, §7 (AMD) .]

6-A. Onsite assessment.

[2011, c. 407, Pt. B, §8 (RP) .]

7. Physician. "Physician" means a person licensed as an osteopathic physician by the Board of Osteopathic Licensure pursuant to Title 32, chapter 36 or a person licensed as a physician or surgeon by the Board of Licensure in Medicine pursuant to Title 32, chapter 48 who is in good standing and who holds a valid federal Drug Enforcement Administration license to prescribe drugs.

[2009, c. 631, §14 (AMD); 2009, c. 631, §51 (AFF) .]

8. Primary caregiver.

[2009, c. 631, §51 (AFF); 2009, c. 631, §15 (RP) .]

8-A. Primary caregiver. "Primary caregiver" means a person or an employee of that person, a hospice provider licensed under chapter 1681 or a nursing facility licensed under chapter 405 that provides care for a qualifying patient in accordance with section 2423-A, subsection 2. A person who is a primary caregiver must be at least 21 years of age and may not have been convicted of a disqualifying drug offense.

[2013, c. 396, §1 (AMD) .]

9. Qualifying patient. "Qualifying patient" or "patient" means a person who has been diagnosed by a medical provider as having a debilitating medical condition and who possesses a valid written certification regarding medical use of marijuana in accordance with section 2423-B.

[2013, c. 516, §3 (AMD) .]

10. Registered nonprofit dispensary. "Registered nonprofit dispensary" means a nonprofit dispensary that is registered by the department pursuant to section 2428, subsection 2, paragraph A.

[2009, c. 1, §5 (NEW) .]

11. Registered primary caregiver. "Registered primary caregiver" means a primary caregiver who is registered by the department pursuant to section 2425, subsection 4.

[2011, c. 407, Pt. B, §11 (AMD) .]

12. Registered patient. "Registered patient" means a qualifying patient who is registered by the department pursuant to section 2425, subsection 1.

[2011, c. 407, Pt. B, §12 (AMD) .]

13. Registry identification card. "Registry identification card" means a document issued by the department that identifies a person as a registered primary caregiver, an employee of a registered primary caregiver or a principal officer, board member or employee of a dispensary or a marijuana testing facility.

[2015, c. 475, §4 (AMD) .]

13-A. Tamper-resistant paper. "Tamper-resistant paper" means paper that possesses an industry-recognized feature that prevents copying of the paper, erasure or modification of information on the paper and the use of counterfeit documentation.

[2011, c. 407, Pt. B, §13 (NEW) .]

14. Prepared marijuana. "Prepared marijuana" means the dried leaves and flowers and the by-products of the dried leaves and flowers of the marijuana plant that require no further processing and any mixture or preparation of those dried leaves and flowers and by-products, including but not limited to tinctures, ointments and other preparations, but does not include the seeds, stalks, leaves that are disposed of and not dried for use and roots of the plant and does not include the ingredients, other than marijuana, in tinctures, ointments or other preparations that include marijuana as an ingredient or food or drink prepared with marijuana as an ingredient for human consumption.

[2013, c. 516, §4 (AMD) .]

14-A. Sample. "Sample" means any marijuana or product containing marijuana regulated under this chapter that is provided for testing or research purposes to a marijuana testing facility by a qualifying patient, designated primary caregiver or dispensary.

[2015, c. 475, §5 (NEW) .]

15. Visiting qualifying patient. "Visiting qualifying patient" means a patient with a debilitating medical condition who is not a resident of this State or who has been a resident of this State less than 30 days.

[2009, c. 1, §5 (NEW) .]

16. Written certification. "Written certification" means a document on tamper-resistant paper signed by a medical provider, that expires within one year and that states that in the medical provider's professional opinion a patient is likely to receive therapeutic or palliative benefit from the medical use of marijuana to treat or alleviate the patient's debilitating medical condition or symptoms associated with the debilitating medical condition. A written certification may be made only in the course of a bona fide medical provider-patient relationship after the medical provider has completed a full assessment of the qualifying patient's medical history.

[2013, c. 516, §5 (AMD) .]

SECTION HISTORY

IB 2009, c. 1, §5 (NEW). 2009, c. 631, §§8-19 (AMD). 2009, c. 631, §51 (AFF). 2011, c. 407, Pt. B, §§1-15 (AMD). 2013, c. 361, §1 (AMD). 2013, c. 396, §1 (AMD). 2013, c. 503, §1 (AMD). 2013, c. 516, §§1-5 (AMD). 2015, c. 475, §§1-5 (AMD).

§2423. PROTECTIONS FOR THE MEDICAL USE OF MARIJUANA **(REPEALED)**

SECTION HISTORY

IB 2009, c. 1, §5 (NEW). 2009, c. 631, §51 (AFF). 2009, c. 631, §20 (RP).

§2423-A. AUTHORIZED CONDUCT FOR THE MEDICAL USE OF MARIJUANA

1. Qualifying patient. Except as provided in section 2426, a qualifying patient may:

A. Possess up to 2 1/2 ounces of prepared marijuana and an incidental amount of marijuana as provided in subsection 5; [2009, c. 631, §21 (NEW); 2009, c. 631, §51 (AFF).]

B. Cultivate, or designate a primary caregiver to cultivate under paragraph F, up to a total of 6 mature marijuana plants for that qualifying patient. The total number of mature marijuana plants per qualifying patient, whether cultivated by the patient or by a primary caregiver, may not exceed 6. In addition to the 6 mature marijuana plants, the patient who is cultivating the patient's own marijuana may have harvested marijuana in varying stages of processing in order to ensure the patient is able to maintain supply and meet personal needs. Two or more qualifying patients who are members of the same household and cultivating their own marijuana may share one enclosed, locked facility for cultivation; [2011, c. 407, Pt. B, §16 (AMD).]

C. Possess marijuana paraphernalia; [2009, c. 631, §21 (NEW); 2009, c. 631, §51 (AFF).]

D. Furnish or offer to furnish to another qualifying patient for that patient's medical use of marijuana up to 2 1/2 ounces of prepared marijuana if nothing of value is offered or transferred in return; [2011, c. 407, Pt. B, §16 (AMD).]

E. Designate one person, hospice provider or nursing facility as a primary caregiver to assist with the qualifying patient's medical use of marijuana in a standardized written document, developed by the department, signed and dated by the qualifying patient, including a one-year expiration and the signed acknowledgment of the primary caregiver that the primary caregiver may be contacted to confirm the designation of the primary caregiver. A 2nd person or hospice provider or nursing facility may be designated as a 2nd primary caregiver if the patient is under 18 years of age. The primary caregivers for a patient are determined solely by the patient's preference except that a parent, guardian or person having legal custody shall serve as a primary caregiver for a minor child; [2011, c. 407, Pt. B, §16 (AMD).]

F. Designate one primary caregiver or a registered dispensary to cultivate marijuana for the medical use of the patient, except that a hospice provider or a nursing facility that is designated as a primary caregiver by a patient and the staff of the provider or facility may not be designated to cultivate marijuana for the patient. The qualifying patient must designate the primary caregiver or registered dispensary to cultivate for the patient in a standardized written document, developed by the department, signed and dated by the qualifying patient, which must include a one-year expiration, the total number of mature plants the primary caregiver is designated to cultivate and the signed acknowledgment of the primary caregiver that the primary caregiver may be contacted to confirm the designation of the primary caregiver to cultivate for the patient and the number of mature plants to be cultivated and being cultivated for the patient or the signed acknowledgment of a person on behalf of the registered dispensary that the registered dispensary may be contacted to confirm the designation of the dispensary to cultivate for the patient and the number of mature plants to be cultivated and being cultivated for the patient; [2013, c. 396, §2 (AMD).]

G. Be in the presence or vicinity of the medical use of marijuana and assist any qualifying patient with using or administering marijuana; [2015, c. 475, §6 (AMD).]

H. Accept excess prepared marijuana from a primary caregiver in accordance with subsection 2, paragraph H if nothing of value is provided to the primary caregiver; and [2015, c. 475, §7 (AMD).]

I. Provide samples to a marijuana testing facility for testing and research purposes. [2015, c. 475, §8 (NEW).]

[2015, c. 475, §§6-8 (AMD).]

2. Primary caregiver. Except as provided in section 2426, a primary caregiver, for the purpose of assisting a qualifying patient who has designated the primary caregiver as provided in subsection 1, may:

A. Possess up to 2 1/2 ounces of prepared marijuana and an incidental amount of marijuana as provided in subsection 5 for each qualifying patient who has designated the person as a primary caregiver; [2011, c. 407, Pt. B, §16 (AMD).]

B. Cultivate up to 6 mature marijuana plants for each qualifying patient who has designated the primary caregiver to cultivate marijuana on the patient's behalf, subject to the limitation in subsection 1, paragraph B on the total number of plants authorized per qualifying patient. A primary caregiver may not cultivate marijuana for a patient unless the patient has designated the primary caregiver for that purpose and the patient has not designated a registered dispensary to cultivate marijuana for the patient's medical use. In addition to the marijuana plants otherwise authorized under this paragraph, a primary caregiver may have harvested marijuana plants in varying stages of processing in order to ensure the primary caregiver is able to meet the needs of the primary caregiver's qualifying patients; [2011, c. 407, Pt. B, §16 (AMD).]

C. Assist a maximum of 5 patients who have designated the primary caregiver to cultivate marijuana for their medical use; [2013, c. 516, §6 (AMD).]

D. Receive reasonable monetary compensation for costs associated with assisting a qualifying patient who designated the primary caregiver; [2011, c. 407, Pt. B, §16 (AMD).]

E. Receive reasonable monetary compensation for costs associated with cultivating marijuana for a patient who designated the primary caregiver to cultivate marijuana; [2011, c. 407, Pt. B, §16 (AMD).]

F. Be in the presence or vicinity of the medical use of marijuana and assist any patient with the medical use, administration or preparation of marijuana; [2011, c. 407, Pt. B, §16 (AMD).]

G. Prepare food as defined in section 2152, subsection 4 containing marijuana, including tinctures of marijuana, for medical use by a qualifying patient pursuant to section 2152, subsection 4-A and section 2167; [2013, c. 516, §7 (AMD).]

H. For the purpose of disposing of excess prepared marijuana, transfer prepared marijuana to a registered dispensary, a qualifying patient or another primary caregiver if nothing of value is provided to the primary caregiver. A primary caregiver who transfers prepared marijuana pursuant to this paragraph does not by virtue of only that transfer qualify as a member of a collective; [2013, c. 588, Pt. A, §25 (RPR).]

I. Employ one person to assist in performing the duties of the primary caregiver; [2013, c. 588, Pt. A, §26 (AMD).]

(Paragraph I as enacted by PL 2013, c. 371, §3 is REALLOCATED TO TITLE 22, SECTION 2423-A, SUBSECTION 2, PARAGRAPH J) (Paragraph I as enacted by PL 2013, c. 393, §3 is REALLOCATED TO TITLE 22, SECTION 2423-A, SUBSECTION 2, PARAGRAPH K)

J. (REALLOCATED FROM T. 22, §2423-A, sub-§2, ¶I) Use a pesticide in the cultivation of marijuana if the pesticide is used consistent with federal labeling requirements, is registered with the Department of Agriculture, Conservation and Forestry, Board of Pesticides Control pursuant to Title 7, section 607 and is used consistent with best management practices for pest management approved by the Commissioner of Agriculture, Conservation and Forestry. A registered primary caregiver may not in the cultivation of marijuana use a pesticide unless the registered primary caregiver or the registered primary caregiver's employee is certified in the application of the pesticide pursuant to section 1471-D and any employee who has direct contact with treated plants has completed safety training pursuant to 40 Code of Federal Regulations, Section 170.130. An employee of the registered primary caregiver who is not certified pursuant to section 1471-D and who is involved in the application of the pesticide or handling of the pesticide or equipment must first complete safety training described in 40 Code of Federal Regulations, Section 170.230; [2015, c. 475, §9 (AMD).]

K. (REALLOCATED FROM T. 22, §2423-A, sub-§2, ¶I) For the purpose of disposing of excess prepared marijuana, transfer prepared marijuana to a registered dispensary for reasonable compensation. The transfer of prepared marijuana by a primary caregiver to one or more dispensaries under this paragraph is limited to a registered primary caregiver. A registered primary caregiver may not transfer more than 2 pounds of excess prepared marijuana for reasonable compensation under this paragraph in a calendar year. A primary caregiver who transfers prepared marijuana pursuant to this paragraph does not by virtue of only that transfer qualify as a member of a collective; [2015, c. 475, §10 (AMD).]

L. If the primary caregiver is a registered primary caregiver, provide samples to a marijuana testing facility for testing and research purposes; and [2015, c. 475, §11 (NEW).]

M. If the primary caregiver is a registered primary caregiver, conduct marijuana testing at the request of anyone authorized to possess marijuana under this chapter for research and development purposes only. [2015, c. 475, §11 (NEW).]

[2015, c. 475, §§9-11 (AMD).]

3. Cultivation of marijuana. The following provisions apply to the cultivation of marijuana by a qualifying patient under subsection 1 and a primary caregiver under subsection 2.

A. A patient who elects to cultivate marijuana plants must keep the plants in an enclosed, locked facility unless the plants are being transported because the patient is moving or taking the plants to the patient's own property in order to cultivate them. Access to the cultivation facility is limited to the patient, except that emergency services personnel, an employee of a marijuana testing facility or a person who needs to gain access to the cultivation facility in order to perform repairs or maintenance or to do construction may access the cultivation facility to provide those professional services while under the direct supervision of the patient. [2015, c. 475, §12 (AMD).]

B. A primary caregiver who has been designated by a patient to cultivate marijuana for the patient's medical use must keep all plants in an enclosed, locked facility unless the plants are being transported because the primary caregiver is moving or taking the plants to the primary caregiver's own property in order to cultivate them. The primary caregiver shall use a numerical identification system to enable the

primary caregiver to identify marijuana plants cultivated for a patient. Access to the cultivation facility is limited to the primary caregiver, except that an elected official invited by the primary caregiver for the purpose of providing education to the elected official on cultivation by the primary caregiver, emergency services personnel, an employee of a marijuana testing facility or a person who needs to gain access to the cultivation facility in order to perform repairs or maintenance or to do construction may access the cultivation facility to provide those professional services while under the direct supervision of the primary caregiver. [2015, c. 475, §13 (AMD).]

C. A primary caregiver designated to cultivate marijuana for a qualifying patient is required to register with the department, except that the following primary caregivers are not required to register:

- (1) A primary caregiver designated to cultivate for a qualifying patient if that qualifying patient is a member of the household of that primary caregiver;
- (2) Two primary caregivers who are qualifying patients, if those primary caregivers are members of the same household and assist one another with cultivation; and
- (3) A primary caregiver who cultivates for a qualifying patient if that qualifying patient is a member of the family of that primary caregiver. [2011, c. 407, Pt. B, §16 (NEW).]

D. Two primary caregivers who are members of the same family or household may share the same enclosed, locked facility. [2011, c. 407, Pt. B, §16 (NEW).]

E. A person who is authorized to cultivate marijuana under subsection 1 or 2 and who is employed by a primary caregiver pursuant to subsection 2, paragraph I may not cultivate that person's own marijuana in the location used for cultivation by the primary caregiver who employs that person. [2013, c. 396, §8 (NEW).]

[2015, c. 475, §§12, 13 (AMD) .]

4. Hospice provider or nursing facility. A registered patient may name a hospice provider licensed under chapter 1681 or a nursing facility licensed under chapter 405 to serve as a registered primary caregiver. If a hospice provider or nursing facility is named as a primary caregiver, the provider or facility shall complete the registration process with the department and obtain a primary caregiver registration card and the staff of the provider or facility shall obtain registry identification cards. To be issued a registry identification card, a staff person of a hospice provider or nursing facility that has been named as a primary caregiver must be at least 21 years of age and may not have been convicted of a disqualifying drug offense. The hospice provider or nursing facility and the staff of the provider or facility may not cultivate marijuana for the patient.

[2009, c. 631, §21 (NEW); 2009, c. 631, §51 (AFF) .]

4-A. Use and storage in inpatient hospice facility or nursing facility permitted. A qualifying patient who is a resident of a hospice provider facility licensed under chapter 1681 or nursing facility licensed under chapter 405, while in the hospice provider facility or nursing facility, may use forms of prepared marijuana that are not smoked, including, but not limited to, vaporized marijuana, edible marijuana and tinctures and salves of marijuana. A qualifying patient who uses a form of prepared marijuana pursuant to this subsection may store the prepared marijuana in the qualifying patient's room and is not required to obtain a registry identification card or to designate the hospice provider or nursing facility as a primary caregiver under subsection 4. A hospice provider or nursing facility is not required to be named as a primary caregiver by a qualifying patient who uses prepared marijuana pursuant to this subsection. This subsection does not limit the ability of a hospice provider or nursing facility to prohibit or restrict the use or storage of prepared marijuana by a qualifying patient.

[2013, c. 520, §1 (NEW) .]

5. Incidental amount of marijuana. For purposes of this section, any incidental amount of marijuana is lawful for a qualifying patient or a primary caregiver to possess and is not included in the amounts of prepared marijuana specified in this section.

[2011, c. 407, Pt. B, §16 (AMD) .]

6. Onsite assessments by the department.

[2011, c. 407, Pt. B, §16 (RP) .]

7. Excess marijuana; forfeiture. A person who possesses marijuana seedlings, marijuana plants or prepared marijuana in excess of the limits provided in this section and rules adopted under this section must forfeit the excess amounts to a law enforcement officer. The law enforcement officer is authorized to remove all excess marijuana seedlings, marijuana plants and prepared marijuana in order to catalog the amount of excess marijuana. Possession of marijuana in excess of the limits provided in this section and rules adopted under this section is a violation as follows:

A. Possession of marijuana in an excess amount up to 2 1/2 ounces is a violation of section 2383; and [2011, c. 383, §1 (NEW) .]

B. Possession of marijuana in an excess amount over 2 1/2 ounces is a violation of Title 17-A, chapter 45. [2011, c. 383, §1 (NEW) .]

(Subsection 7 as enacted by PL 2011, c. 407, Pt. B, §16 is REALLOCATED TO TITLE 22, SECTION 2423-A, SUBSECTION 9)

[2011, c. 383, §1 (NEW) .]

8. Repeat forfeiture. If a cardholder has previously forfeited excess marijuana pursuant to subsection 7 and a subsequent forfeiture occurs, the department shall revoke the registry identification card of the cardholder and the entire amount of marijuana seedlings, marijuana plants and prepared marijuana must be forfeited to a law enforcement officer. The department shall adopt rules to implement this subsection. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[2011, c. 383, §1 (NEW) .]

9. (REALLOCATED FROM T. 22, §2423-A, sub-§7) Collectives prohibited. Collectives are prohibited under this chapter. A person may not form or participate in a collective.

[2011, c. 1, §31 (RAL) .]

10. Marijuana testing facility. The following provisions apply to a marijuana testing facility.

A. A marijuana testing facility may receive and possess samples from qualifying patients, designated primary caregivers and dispensaries to provide testing for the cannabinoid profile and potency of the samples and for contaminants in the samples, including but not limited to mold, mildew, heavy metals, plant regulators and illegal pesticides. For the purposes of this paragraph, "plant regulator" has the same meaning as in Title 7, section 604, subsection 26. [2015, c. 475, §14 (NEW) .]

B. An employee of a marijuana testing facility may have access to cultivation facilities pursuant to subsection 3, paragraphs A and B and section 2428, subsection 6, paragraph I. [2015, c. 475, §14 (NEW) .]

C. A marijuana testing facility shall:

(1) Properly dispose of marijuana residue in compliance with department rules;

(2) House and store marijuana in the facility's possession or control during the process of testing, transport or analysis in a manner to prevent diversion, theft or loss;

(3) Label marijuana being transported to and from the facility with the following statement: "For Testing Purposes Only";

(4) Maintain testing results as part of the facility's business books and records; and

(5) Operate in accordance with rules adopted by the department. [2015, c. 475, §14 (NEW) .]

D. The department shall adopt routine technical rules as defined in Title 5, chapter 375, subchapter 2-A governing marijuana testing facilities, including but not limited to:

(1) Marijuana testing facility director qualification requirements;

(2) Required security for marijuana testing facilities; and

(3) Requirements for the licensing, certifying or other approval of marijuana testing facilities. [2015, c. 475, §14 (NEW) .]

[2015, c. 475, §14 (NEW) .]

11. Immunity. The immunity provisions in this subsection apply to a marijuana testing facility's principal officers, board members, agents and employees. Any immunity provision in this chapter in conflict with this subsection does not apply to a marijuana testing facility.

A. A marijuana testing facility is not subject to prosecution, search, seizure or penalty in any manner, including but not limited to a civil penalty or disciplinary action by a business or an occupational or professional licensing board or entity, and may not be denied any right or privilege solely for acting in accordance with this chapter. [2015, c. 475, §14 (NEW) .]

B. A principal officer, board member, agent or employee of a marijuana testing facility is not subject to arrest, prosecution, search, seizure or penalty in any manner, including but not limited to a civil penalty or disciplinary action by a business or an occupational or professional licensing board or entity, and may not be denied any right or privilege solely for working for or with a marijuana testing facility to test marijuana provided by a qualifying patient, registered primary caregiver or dispensary. [2015, c. 475, §14 (NEW) .]

[2015, c. 475, §14 (NEW) .]

12. Interest. A principal officer, board member or employee of a registered dispensary or primary caregiver may not have a financial or other interest in a marijuana testing facility providing services associated with product labeling for that dispensary or primary caregiver.

[2015, c. 475, §14 (NEW) .]

13. (TEXT REPEALED 7/1/18) (TEXT EFFECTIVE UNTIL 7/1/18) Moratorium ordinance.

Notwithstanding any other provision of this chapter or any other provision of law to the contrary, a municipality may adopt and enforce an ordinance that establishes a moratorium on the location within 500 feet of the property line of a preexisting public or private school of new facilities or expansion of existing facilities where registered primary caregivers cultivate marijuana plants. This subsection does not affect any permit that has been granted to a registered primary caregiver prior to the effective date of this subsection.

This subsection is repealed July 1, 2018. Any ordinances adopted pursuant to this subsection are not authorized and are void after July 1, 2018.

[2017, c. 271, §1 (NEW) .]

SECTION HISTORY

2009, c. 631, §21 (NEW). 2009, c. 631, §51 (AFF). RR 2011, c. 1, §31 (COR). 2011, c. 383, §1 (AMD). 2011, c. 407, Pt. B, §16 (AMD). RR 2013, c. 1, §§39, 40 (COR). 2013, c. 371, §§1-3 (AMD). 2013, c. 374, §1 (AMD). 2013, c. 393, §§1-3 (AMD). 2013, c. 396, §§2-8 (AMD). 2013, c. 424, Pt. G, §1 (AMD). 2013, c. 424, Pt. G, §2 (AFF). 2013, c. 498, §1 (AMD). 2013, c. 501, §1 (AMD). 2013, c. 516, §§6, 7 (AMD). 2013, c. 520, §1 (AMD). 2013, c. 588, Pt. A, §§25, 26 (AMD). 2013, c. 588, Pt. D, §3 (AMD). 2015, c. 475, §§6-14 (AMD). 2017, c. 271, §1 (AMD).

§2423-B. AUTHORIZED CONDUCT BY A MEDICAL PROVIDER

A medical provider may provide a written certification for the medical use of marijuana under this chapter and, after having done so, may otherwise state that in the medical provider's professional opinion a qualifying patient is likely to receive therapeutic benefit from the medical use of marijuana to treat or alleviate the patient's debilitating medical condition. [2013, c. 516, §8 (AMD).]

1. Adult qualifying patient. Prior to providing written certification for the medical use of marijuana under this section, a medical provider shall inform an adult qualifying patient of the risks and benefits of the medical use of marijuana and that the patient may benefit from the medical use of marijuana.

[2013, c. 516, §8 (AMD) .]

2. Minor qualifying patient. Prior to providing written certification for the medical use of marijuana by a minor qualifying patient under this section, a medical provider, referred to in this subsection as "the treating medical provider," shall inform the minor qualifying patient and the parent or legal guardian of the patient of the risks and benefits of the medical use of marijuana and that the patient may benefit from the medical use of marijuana. Except with regard to a minor qualifying patient who is eligible for hospice care, prior to providing a written certification under this section, the treating medical provider shall consult with a qualified physician, referred to in this paragraph as "the consulting physician," from a list of physicians who may be willing to act as consulting physicians maintained by the department that is compiled by the department after consultation with statewide associations representing licensed medical professionals. The consultation between the treating medical provider and the consulting physician may consist of examination of the patient or review of the patient's medical file. The consulting physician shall provide an advisory opinion to the treating medical provider and the parent or legal guardian of the minor qualifying patient concerning whether the patient is likely to receive therapeutic or palliative benefit from the medical use of marijuana to treat or alleviate the patient's debilitating medical condition. If the department or the consulting physician does not respond to a request by the treating medical provider within 10 days of receipt of the request, the treating medical provider may provide written certification for treatment without consultation with a physician.

[2013, c. 516, §8 (AMD) .]

3. Expiration. A written certification form for the medical use of marijuana under this section expires within one year after issuance by the qualifying patient's medical provider.

[2013, c. 516, §8 (AMD) .]

4. Form; content. A written certification under this section must be in the form required by rule adopted by the department and may not require a qualifying patient's medical provider to state the patient's specific medical condition.

[2013, c. 516, §8 (AMD) .]

5. Possible sanctions. Nothing in this chapter prevents a professional licensing board from sanctioning a medical provider for failing to properly evaluate or treat a patient's medical condition or otherwise violating the applicable standard of care for evaluating or treating medical conditions.

[2013, c. 516, §8 (AMD) .]

6. Certification issued based on debilitating condition. A medical provider may not condition the issuance of a certification for the medical use of marijuana on any requirements other than the patient's debilitating medical condition. Nothing in this section may be construed to prevent a medical provider from exercising professional judgment in declining to issue a certification for the medical use of marijuana.

[2015, c. 475, §15 (NEW) .]

7. Patient referral disclosure of interest. Prior to providing a referral to a qualifying patient for goods and services associated with a certification for the medical use of marijuana to an entity in which the medical provider has a direct or indirect financial interest, a medical provider shall provide written disclosure to the qualifying patient regarding any direct or indirect financial interest the medical provider has or may have in the resulting referral and shall maintain a copy of this disclosure in the qualifying patient's record.

[2015, c. 475, §15 (NEW) .]

SECTION HISTORY

2009, c. 631, §22 (NEW). 2009, c. 631, §51 (AFF). 2011, c. 407, Pt. B, §17 (RPR). 2013, c. 516, §8 (AMD). 2015, c. 475, §15 (AMD).

§2423-C. AUTHORIZED CONDUCT

A person may provide a qualifying patient or a primary caregiver with marijuana paraphernalia for purposes of the qualifying patient's medical use of marijuana in accordance with this chapter and be in the presence or vicinity of the medical use of marijuana as allowed under this chapter. [2011, c. 407, Pt. B, §18 (AMD).]

SECTION HISTORY

2009, c. 631, §23 (NEW). 2009, c. 631, §51 (AFF). 2011, c. 407, Pt. B, §18 (AMD).

§2423-D. AUTHORIZED CONDUCT BY A VISITING QUALIFYING PATIENT

A qualifying patient who is visiting the State from another jurisdiction that authorizes the medical use of marijuana pursuant to a law recognized by the department who possesses a valid written certification as described in section 2423-B from the patient's treating medical provider and a valid medical marijuana certification from that other jurisdiction and photographic identification or a driver's license from that jurisdiction may engage in conduct authorized for a qualifying patient under this chapter. [2013, c. 516, §9 (AMD).]

SECTION HISTORY

2009, c. 631, §24 (NEW). 2009, c. 631, §51 (AFF). 2011, c. 407, Pt. B, §19 (AMD). 2013, c. 516, §9 (AMD).

§2423-E. REQUIREMENTS

1. Rights of persons or entities acting pursuant to this chapter. A person whose conduct is authorized under this chapter may not be denied any right or privilege or be subjected to arrest, prosecution, penalty or disciplinary action, including but not limited to a civil penalty or disciplinary action by a business or occupational or professional licensing board or bureau, for lawfully engaging in conduct involving the medical use of marijuana authorized under this chapter.

[2011, c. 407, Pt. B, §20 (AMD) .]

1-A. Legal protection for hospitals. The immunity provisions in this subsection apply to a hospital licensed under chapter 405 and to principal officers, board members, agents and employees of the hospital. Any immunity provision in this chapter in conflict with this subsection does not apply to a hospital. The legal protection for hospitals applies in accordance with the following.

A. If the use of forms of prepared marijuana that are not smoked or vaporized, including but not limited to edible marijuana and tinctures and salves of marijuana, by admitted patients who have been certified under section 2423-B occurs in a hospital, that hospital is not subject to prosecution, search, seizure or penalty in any manner, including but not limited to a civil penalty or disciplinary action by an occupational or professional licensing board or entity, and may not be denied any license, registration, right or privilege solely because the admitted patient lawfully engages in conduct involving the medical use of marijuana authorized under this chapter. [2015, c. 475, §16 (NEW) .]

B. A principal officer, board member or employee of a hospital where the use of forms of prepared marijuana that are not smoked or vaporized, including but not limited to edible marijuana and tinctures and salves of marijuana, by admitted patients who have been certified under section 2423-B occurs is not subject to arrest, prosecution, search, seizure or penalty in any manner, including but not limited to a civil penalty or disciplinary action by an occupational or professional licensing board or entity, and may not be denied any license, registration, right or privilege solely because the admitted patient lawfully engages in conduct involving the medical use of marijuana authorized under this chapter. [2015, c. 475, §16 (NEW) .]

[2015, c. 475, §16 (NEW) .]

2. School, employer or landlord may not discriminate. A school, employer or landlord may not refuse to enroll or employ or lease to or otherwise penalize a person solely for that person's status as a qualifying patient or a primary caregiver unless failing to do so would put the school, employer or landlord in violation of federal law or cause it to lose a federal contract or funding. This subsection does not prohibit a restriction on the administration or cultivation of marijuana on premises when that administration or cultivation would be inconsistent with the general use of the premises. A landlord or business owner may prohibit the smoking of marijuana for medical purposes on the premises of the landlord or business if the landlord or business owner prohibits all smoking on the premises and posts notice to that effect on the premises.

[2011, c. 407, Pt. B, §20 (AMD) .]

3. Person may not be denied parental rights and responsibilities or contact with a minor child. A person may not be denied parental rights and responsibilities with respect to or contact with a minor child as a result of acting in accordance with this chapter, unless the person's conduct is contrary to the best interests of the minor child as set out in Title 19-A, section 1653, subsection 3.

[2009, c. 631, §25 (NEW); 2009, c. 631, §51 (AFF) .]

4. Prohibition on seizure and retention. Except when necessary for an ongoing criminal or civil investigation, a law enforcement officer may not seize marijuana that is in the possession of a qualifying patient, primary caregiver, marijuana testing facility or registered dispensary as authorized by this chapter. A law enforcement officer in possession of marijuana in violation of this subsection must return the marijuana within 7 days after receiving a written request for return by the owner of the marijuana. Notwithstanding the provisions of Title 14, chapter 741, if the law enforcement officer fails to return marijuana possessed in violation of this subsection within 7 days of receiving a written request for return of the marijuana under this subsection, the owner of the marijuana may file a claim in the District Court in the district where the owner lives or where the law enforcement officer is employed.

[2015, c. 475, §17 (AMD) .]

5. Requirements for protection. To receive protection under this section for conduct authorized under this chapter, a person must:

A. If the person is a qualifying patient, present upon request of a law enforcement officer the original written certification for the patient and the patient's driver's license as described under Title 29-A, section 1401 or a nondriver identification card as described under Title 29-A, section 1410 or, if the person is a visiting patient under section 2423-D, the equivalent proof of identity from the visiting patient's state of residence; and [2011, c. 407, Pt. B, §20 (NEW).]

B. If the person is a primary caregiver, present upon request of a law enforcement officer the original written document designating the person as a primary caregiver by the qualifying patient under section 2423-A, subsection 1, paragraph E or F and the primary caregiver's driver's license described under Title 29-A, section 1401 or a nondriver identification card as described under Title 29-A, section 1410. [2011, c. 407, Pt. B, §20 (NEW).]

[2011, c. 407, Pt. B, §20 (NEW) .]

6. Excess marijuana; forfeiture. A person who possesses marijuana in excess of the limits provided in section 2423-A and rules adopted under that section must forfeit the excess amounts to a law enforcement officer. The law enforcement officer is authorized to remove all excess marijuana seedlings, marijuana plants and prepared marijuana in order to catalog the amount of excess marijuana. Possession of marijuana in excess of the limits provided in section 2423-A and rules adopted under that section is a violation as follows:

A. Possession of prepared marijuana in an excess amount up to 2 1/2 ounces is a violation of section 2383; and [2011, c. 407, Pt. B, §20 (NEW).]

B. Possession of marijuana in an excess amount over 2 1/2 ounces is a violation of Title 17-A, chapter 45. [2011, c. 407, Pt. B, §20 (NEW).]

[2011, c. 407, Pt. B, §20 (NEW) .]

7. Repeat forfeiture. If a cardholder has previously forfeited excess marijuana pursuant to subsection 6 and a subsequent forfeiture occurs, the department shall revoke the registry identification card of the cardholder and the entire amount of marijuana seedlings, marijuana plants and prepared marijuana must be forfeited to a law enforcement officer. The department shall adopt rules to implement this subsection. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[2011, c. 407, Pt. B, §20 (NEW) .]

8. Defense for possession of excess marijuana. Except as provided in section 2426, a qualifying patient may assert the medical purpose for using marijuana as a defense to any prosecution involving marijuana possession and may present evidence in court that the patient's necessary medical use or cultivation circumstances warranted exceeding the amount of marijuana allowed under section 2423-A and was

reasonably necessary to ensure the uninterrupted availability of marijuana for the purpose of treating or alleviating the patient's debilitating medical condition or symptoms associated with the patient's debilitating medical condition.

[2011, c. 407, Pt. B, §20 (NEW) .]

9. Labels. If a registered primary caregiver affixes a label on the packaging of any marijuana or product containing marijuana provided to a qualifying patient and that label includes information about contaminants, the cannabinoid profile or potency of the marijuana or product containing marijuana, the label must be verified by a marijuana testing facility that is not owned by the caregiver if there is a marijuana testing facility licensed, certified or approved in accordance with this chapter.

[2015, c. 475, §18 (NEW) .]

10. Receiving an anatomical gift. In reviewing a qualifying patient's suitability for receiving an anatomical gift, a transplant evaluator shall treat the qualifying patient's medical use of marijuana as the equivalent of the authorized use of any other medications used at the direction of a medical provider. A transplant evaluator may determine a qualifying patient to be unsuitable to receive an anatomical gift if the qualifying patient does not limit the qualifying patient's medical use of marijuana to the use of forms of prepared marijuana that are not smoked or vaporized, including, but not limited to, edible marijuana and tinctures and salves of marijuana. A transplant evaluator may require medical marijuana used by a qualifying patient to be tested for fungal contamination by a marijuana testing facility. For purposes of this subsection, "transplant evaluator" means a person responsible for determining another person's suitability for receiving an anatomical gift. For the purposes of this subsection, "anatomical gift" has the same meaning as in section 2942, subsection 2.

[2017, c. 252, §1 (NEW) .]

SECTION HISTORY

2009, c. 631, §25 (NEW). 2009, c. 631, §51 (AFF). 2011, c. 407, Pt. B, §20 (AMD). 2015, c. 475, §§16-18 (AMD). 2017, c. 252, §1 (AMD).

§2424. RULES

1. Rulemaking. The department may adopt rules to carry out the purposes of this chapter. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[2009, c. 1, §5 (NEW) .]

2. Adding debilitating medical conditions. The department in accordance with section 2422, subsection 2, paragraph D shall adopt rules regarding the consideration of petitions from the public to add medical conditions or treatments to the list of debilitating medical conditions set forth in section 2422, subsection 2. In considering those petitions, the department shall provide an opportunity for public hearing of, and an opportunity to comment on those petitions. After the hearing, the commissioner shall approve or deny a petition within 180 days of its submission. The approval or denial of such a petition constitutes final agency action, subject to judicial review. Jurisdiction and venue for judicial review are vested in the Superior Court.

A. [2011, c. 407, Pt. B, §21 (RP).]

B. [2011, c. 407, Pt. B, §21 (RP).]

C. [2011, c. 407, Pt. B, §21 (RP).]

D. [2011, c. 407, Pt. B, §21 (RP).]

[2011, c. 407, Pt. B, §21 (RPR) .]

3. Registry identification cards. The department shall adopt rules governing the manner in which it considers applications for and renewals of registry identification cards for registered patients, registered primary caregivers, principal officers, board members and employees of dispensaries and staff of hospice providers and nursing facilities designated as primary caregivers. The department's rules must require the submission of an application, must require replacement of a registry identification card that has been lost, destroyed or stolen or that contains information that is no longer accurate and must establish application and renewal fees that generate revenues sufficient to offset all expenses of implementing and administering this chapter and that are consistent with the provisions of section 2425, subsection 12. The department may establish a sliding scale of application and renewal fees based upon a registered patient's family income and status as a veteran of the Armed Forces of the United States. The department may accept donations from private sources in order to reduce the application and renewal fees.

[2013, c. 394, §1 (AMD) .]

SECTION HISTORY

IB 2009, c. 1, §5 (NEW). 2009, c. 631, §§26, 27 (AMD). 2009, c. 631, §51 (AFF). 2011, c. 407, Pt. B, §§21, 22 (AMD). 2013, c. 394, §1 (AMD).

§2425. REGISTRY IDENTIFICATION CARDS

1. Application for patient registry identification card; qualifications. The department shall register and issue registry identification cards to qualifying patients who submit the documents and information described in this subsection, in accordance with the department's rules:

A. Written certification; [2009, c. 1, §5 (NEW) .]

B. [2013, c. 394, §2 (RP) .]

C. Name, address and date of birth of the qualifying patient, except that if the applicant is homeless no address is required; [2009, c. 631, §28 (AMD); 2009, c. 631, §51 (AFF) .]

D. Name, address and telephone number of the qualifying patient's medical provider; [2013, c. 516, §10 (AMD) .]

E. Name, address and date of birth of each primary caregiver, if any, named by the qualifying patient; [2009, c. 631, §28 (AMD); 2009, c. 631, §51 (AFF) .]

F. If the qualifying patient names one or 2 primary caregivers, an indication of which person, if any, is designated to cultivate marijuana for the qualifying patient's medical use. Only one primary caregiver, including an employee of that caregiver, is allowed to cultivate marijuana for a registered patient; and [2013, c. 396, §9 (AMD) .]

G. If the qualifying patient elects to cultivate marijuana for the qualifying patient's own medical use, the qualifying patient shall indicate that choice on the application. [2009, c. 631, §28 (NEW); 2009, c. 631, §51 (AFF) .]

[2013, c. 516, §10 (AMD) .]

1-A. Criminal history record check. An applicant for a registry identification card who is a primary caregiver or an employee of a primary caregiver or who is a principal officer, board member or employee of a registered dispensary or a marijuana testing facility must undergo a criminal history record check annually.

[2015, c. 475, §19 (AMD) .]

2. Issuing patient registry identification card to minor child. The department may not register and issue a registry identification card to a qualifying patient who is under 18 years of age unless:

A. The qualifying patient's medical provider has explained the potential risks and benefits of the medical use of marijuana to the qualifying patient and to a parent, guardian or person having legal custody of the qualifying patient; [2013, c. 516, §11 (AMD).]

B. The parent, guardian or person having legal custody consents in writing to:

- (1) The qualifying patient's medical use of marijuana;
- (2) Serving as one of the qualifying patient's primary caregivers; and
- (3) Controlling the acquisition of the marijuana and the dosage and the frequency of the medical use of marijuana by the qualifying patient; and [2011, c. 407, Pt. B, §23 (AMD).]

C. [2011, c. 407, Pt. B, §23 (RP).]

D. The requirements of section 2423-B, subsection 2 have been met. [2011, c. 407, Pt. B, §23 (NEW).]

[2013, c. 516, §11 (AMD).]

3. Department approval or denial. The department shall verify the information contained in an application or renewal submitted pursuant to this section and shall approve or deny an application or renewal within 30 days of receiving it. The department may deny an application or renewal only if the applicant did not provide the information required pursuant to this section or the department determines that the applicant does not qualify for a registry identification card or that the information provided was falsified. Rejection of an application or renewal is considered a final agency action, subject to judicial review. Jurisdiction and venue for judicial review are vested in the Superior Court.

[2013, c. 394, §4 (AMD).]

3-A. Department revocation. The department may revoke a registry identification card for violation of this chapter and the rules adopted under this chapter. Revocation is considered a final agency action, subject to judicial review under Title 5, chapter 375, subchapter 7.

[2009, c. 631, §30 (NEW); 2009, c. 631, §51 (AFF).]

4. Primary caregiver registry identification card. The department shall issue a registry identification card to each registered primary caregiver, if any, who is named in a registered patient's approved application pursuant to subsection 1, paragraph E and, if the registered primary caregiver employs an employee pursuant to section 2423-A, subsection 2, paragraph I, to that employee.

[2013, c. 396, §10 (AMD).]

4-A. Marijuana testing facility identification card. The department shall issue registry identification cards to principal officers, board members and employees of a marijuana testing facility within 5 business days of approving an application or renewal under this section in accordance with department rules. Registry identification cards expire one year after the date of issuance. Registry identification cards must contain:

- A. The name of the cardholder; [2015, c. 475, §20 (NEW).]
- B. The date of issuance and expiration date of the registry identification card; and [2015, c. 475, §20 (NEW).]
- C. A random identification number that is unique to the cardholder. [2015, c. 475, §20 (NEW).]

[2015, c. 475, §20 (NEW).]

5. Registry identification card issuance. The department shall issue registry identification cards to registered patients, to registered primary caregivers, to employees of registered caregivers and to staff of hospice providers and nursing facilities designated by registered patients as primary caregivers within 5 days of approving an application or renewal under this section. Registry identification cards expire one year after the date of issuance except that the date of issuance and expiration date of a registered primary caregiver's registry identification card must be the same as the issuance and expiration dates on the patient's registry identification card. Registry identification cards must contain:

- A. The name of the cardholder; [2011, c. 691, Pt. A, §21 (RPR).]
- B. [2011, c. 383, §2 (RP); 2011, c. 407, Pt. B, §24 (RP).]
- C. The date of issuance and expiration date of the registry identification card; [2011, c. 691, Pt. A, §21 (RPR).]
- D. A random identification number that is unique to the cardholder; and [2011, c. 691, Pt. A, §21 (RPR).]
- E. [2011, c. 383, §2 (RP); 2011, c. 407, Pt. B, §24 (RP).]
- F. A clear designation showing whether the cardholder is allowed under this chapter to cultivate marijuana. [2011, c. 691, Pt. A, §21 (RPR).]

[2013, c. 396, §11 (AMD) .]

6. Notification of changes in status or loss of card. This subsection governs notification of changes in status or the loss of a registry identification card.

- A. A registered qualifying patient shall notify the department within 10 days of any change in the registered qualifying patient's name, address, primary caregiver or preference regarding who may cultivate marijuana for the registered qualifying patient, if the registry identification card is no longer accurate, if the change renders the registry identification card inaccurate or if the registered qualifying patient ceases to have a debilitating medical condition. [2013, c. 394, §5 (AMD).]
- B. A registered qualifying patient who fails to notify the department as required under paragraph A commits a civil violation for which a fine of not more than \$150 may be adjudged. If the registered qualifying patient's certifying medical provider notifies the department in writing that the registered qualifying patient has ceased to suffer from a debilitating medical condition, the registered qualifying patient's registry identification card becomes void upon notification by the department to the qualifying patient. [2013, c. 516, §12 (AMD).]
- C. A registered primary caregiver shall notify the department if the card of the registered primary caregiver is no longer accurate within 10 days of the event that caused the inaccuracy and of any change in the caregiver's name or address within 10 days of such change. A registered primary caregiver who fails to notify the department of any of these changes commits a civil violation for which a fine of not more than \$150 may be adjudged. [2013, c. 394, §5 (AMD).]
- D. When a registered qualifying patient or registered primary caregiver notifies the department of any changes listed in this subsection, the department shall issue the registered qualifying patient and each registered primary caregiver a new registry identification card within 10 days of receiving the updated information and the fee required by subsection 12, paragraph E. [2013, c. 394, §5 (AMD).]
- E. When a registered qualifying patient changes the patient's registered primary caregiver, the department shall notify the old primary caregiver within 10 days. The old primary caregiver's protections as provided in this chapter expire 10 days after notification by the department. [2009, c. 1, §5 (NEW) .]

F. If a cardholder loses the cardholder's registry identification card, the cardholder shall notify the department and submit the fee required by subsection 12, paragraph E within 10 days of losing the card. Within 5 days after such notification, the department shall issue a new registry identification card with a new random identification number. [2013, c. 394, §5 (AMD).]

[2013, c. 516, §12 (AMD) .]

7. Possession of certain documents; application for registry identification card. Possession of a registry identification card by a cardholder, the act of applying for such a registry identification card, possession of a written certification issued under section 2423-B or possession of a designation form executed under section 2423-A, subsection 1, paragraph E or F is not evidence of unlawful conduct and may not be used to support the search of that person or that person's property. The possession of or application for a registry identification card or possession of a written certification does not prevent the issuance of a warrant if probable cause exists on other grounds.

[2011, c. 407, Pt. B, §25 (RPR) .]

8. Confidentiality. This subsection governs confidentiality.

A. Applications and supporting information submitted by qualifying patients and registered patients under this chapter, including information regarding their primary caregivers and medical providers, are confidential. [2013, c. 516, §13 (AMD).]

B. Applications and supporting information submitted by primary caregivers and medical providers operating in compliance with this chapter are confidential. [2013, c. 516, §13 (AMD).]

C. The department shall maintain a confidential list of the persons to whom the department has issued registry identification cards. Individual names and other identifying information on the list are confidential, exempt from the freedom of access laws, Title 1, chapter 13, and not subject to disclosure except as provided in this subsection and to authorized employees of the department as necessary to perform official duties of the department. [2009, c. 631, §34 (AMD); 2009, c. 631, §51 (AFF) .]

D. The department shall verify to law enforcement personnel whether a registry identification card is valid without disclosing more information than is reasonably necessary to verify the authenticity of the registry identification card. [2009, c. 1, §5 (NEW).]

E. [2009, c. 631, §51 (AFF); 2009, c. 631, §34 (RP).]

F. Applications, supporting information and other information regarding a registered dispensary are not confidential except that information that is contained within dispensary information that identifies a qualifying patient, a registered patient, the registered patient's medical provider and the primary caregiver of the qualifying patient or registered patient is confidential. [2013, c. 516, §13 (AMD) .]

G. Records maintained by the department pursuant to this chapter that identify applicants for a registry identification card, registered patients, registered primary caregivers and registered patients' medical providers are confidential and may not be disclosed except as provided in this subsection and as follows:

- (1) To department employees who are responsible for carrying out this chapter;
- (2) Pursuant to court order or subpoena issued by a court;
- (3) With written permission of the registered patient or the patient's guardian, if the patient is under guardianship, or a parent, if the patient has not attained 18 years of age;
- (4) As permitted or required for the disclosure of health care information pursuant to section 1711-C;
- (5) To a law enforcement official for verification purposes. The records may not be disclosed further than necessary to achieve the limited goals of a specific investigation; and

(6) To a registered patient's treating medical provider and to a registered patient's registered primary caregiver for the purpose of carrying out this chapter. [2013, c. 516, §13 (AMD).]

H. This subsection does not prohibit a medical provider from notifying the department if the medical provider acquires information indicating that a registered patient or qualifying patient is no longer eligible to use marijuana for medical purposes or that a registered patient or qualifying patient falsified information that was the basis of the medical provider's certification of eligibility for use. [2013, c. 516, §13 (AMD).]

I. The department may disclose to an agency of State Government designated by the commissioner and employees of that agency any information necessary to produce registry identification cards or manage the identification card program and may disclose data for statistical or research purposes in such a manner that individuals cannot be identified. [2009, c. 631, §34 (NEW); 2009, c. 631, §51 (AFF).]

J. A hearing concerning the revocation of a registry identification card under subsection 3-A is confidential. [2011, c. 407, Pt. B, §27 (AMD).]

K. Except as otherwise provided in this subsection, a person who knowingly violates the confidentiality of information protected under this chapter commits a civil violation for which a fine of up to \$1,000 may be imposed. This paragraph does not apply to a medical provider or staff of a hospice provider or nursing facility named as a primary caregiver or any other person directly associated with a medical provider or a hospice provider or nursing facility that provides services to a registered patient. [2013, c. 516, §13 (AMD).]

L. Notwithstanding any provision of this subsection to the contrary, the department shall comply with Title 36, section 175. Information provided by the department pursuant to this paragraph may be used by the Department of Administrative and Financial Services, Bureau of Revenue Services only for the administration and enforcement of taxes imposed under Title 36. [2013, c. 2, §33 (COR).]

[2013, c. 2, §33 (COR).]

9. Revocation of registry identification card. The department shall revoke the registry identification card of a cardholder who sells, furnishes or gives marijuana to a person who is not allowed to possess marijuana for medical purposes under this chapter. A cardholder who sells, furnishes or gives marijuana to a person who is not allowed to possess marijuana for medical purposes under this chapter is liable for any other penalties for selling, furnishing or giving marijuana to a person. The department may revoke the registry identification card of any cardholder who violates this chapter, and the cardholder is liable for any other penalties for the violation.

[2009, c. 631, §35 (AMD); 2009, c. 631, §51 (AFF).]

9-A. Registration requirement. Registration under this section is voluntary for a qualifying patient and for a primary caregiver who is exempt under section 2423-A, subsection 3, paragraph C. Failure to register under this section does not affect authorized conduct for a qualifying patient or for a primary caregiver who is exempt under section 2423-A, subsection 3, paragraph C.

[2011, c. 407, Pt. B, §28 (NEW).]

10. Annual report. The department shall submit to the Legislature an annual report by April 1st each year that does not disclose any identifying information about cardholders or physicians, but does contain, at a minimum:

A. The number of applications and renewals filed for registry identification cards; [2009, c. 1, §5 (NEW).]

B. The number of qualifying patients and primary caregivers approved in each county; [2009, c. 1, §5 (NEW).]

C. [2011, c. 407, Pt. B, §29 (RP).]

D. The number of registry identification cards revoked; [2009, c. 1, §5 (NEW).]

E. The number of medical providers providing written certifications for qualifying patients; [2013, c. 516, §14 (AMD).]

F. The number of registered dispensaries; and [2009, c. 631, §36 (AMD); 2009, c. 631, §51 (AFF).]

G. The number of principal officers, board members and employees of dispensaries. [2009, c. 631, §36 (AMD); 2009, c. 631, §51 (AFF).]

[2013, c. 516, §14 (AMD) .]

11. Valid identification. A registered patient, registered primary caregiver or a principal officer, board member or employee of a registered dispensary who has been issued a valid registry identification card pursuant to this section must also possess a valid Maine-issued driver's license with a photo or other Maine-issued photo identification in order to establish proof of authorized participation in the medical use of marijuana under this chapter.

[2011, c. 383, §4 (NEW) .]

12. Registration and related fees. The department by rule shall establish fees in accordance with this subsection. The fees must be credited to the Medical Use of Marijuana Fund pursuant to section 2430. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

A. There is no annual fee to register a qualifying patient. [2013, c. 394, §6 (NEW).]

B. Primary caregiver fees are as follows.

(1) There is no annual fee to register a primary caregiver who does not cultivate marijuana for a qualifying patient.

(2) There is an annual fee to register a primary caregiver who has been designated to cultivate marijuana under section 2423-A, subsection 1, paragraph F. The fee must be not less than \$50 and not more than \$300 for each qualifying patient who has designated the primary caregiver.

(3) There is no fee for a registered primary caregiver to register for the remainder of the registration period a new qualifying patient in place of a former qualifying patient who has revoked the designation of the primary caregiver. [2017, c. 1, §13 (COR).]

C. There is an annual fee to register a dispensary of not less than \$5,000 and not more than \$15,000. There is a fee to change the location of a registered dispensary or the location at which a registered dispensary cultivates marijuana of not less than \$3,000 and not more than \$5,000. [2013, c. 394, §6 (NEW).]

D. There is an annual fee to register a principal officer, board member or employee of a registered dispensary of not less than \$25 and not more than \$50. The fee must be paid by the registered dispensary. [2013, c. 394, §6 (NEW).]

E. There is a fee to replace a registry card that has been lost, stolen or destroyed or a card that contains information that is no longer accurate of not less than \$10 and not more than \$20. [2013, c. 394, §6 (NEW).]

F. There is an annual fee for a criminal history record check for a primary caregiver or a principal officer, board member or employee of a registered dispensary of not less than \$31 and not more than \$60. The fee must be paid by the primary caregiver or by the registered dispensary for a principal officer, board member or employee of the registered dispensary. [2013, c. 394, §6 (NEW).]

G. There is a fee for laboratory testing of marijuana that is cultivated, harvested, processed, prepared or provided by a registered primary caregiver or registered dispensary of not less than \$50 and not more than \$300 per test specimen. [2015, c. 475, §21 (AMD).]

Beginning January 2014 and every 2 years thereafter, the department shall review the balance in the Medical Use of Marijuana Fund established under section 2430. If the balance in the Medical Use of Marijuana Fund exceeds \$400,000, the department shall reduce the fees established under paragraphs B and C for a 2-year period beginning with the calendar year following the review.

[2017, c. 1, §13 (COR) .]

SECTION HISTORY

IB 2009, c. 1, §5 (NEW). 2009, c. 631, §§28-36 (AMD). 2009, c. 631, §51 (AFF). 2011, c. 383, §§2-4 (AMD). 2011, c. 407, Pt. B, §§23-29 (AMD). 2011, c. 691, Pt. A, §§21, 22 (AMD). RR 2013, c. 2, §33 (COR). 2013, c. 394, §§2-6 (AMD). 2013, c. 396, §§9-11 (AMD). 2013, c. 516, §§10-14 (AMD). 2013, c. 595, Pt. J, §1 (AMD). 2013, c. 595, Pt. J, §4 (AFF). 2015, c. 475, §§19-21 (AMD). RR 2017, c. 1, §13 (COR).

§2426. SCOPE

1. Limitations. This chapter does not permit any person to:

A. Undertake any task under the influence of marijuana when doing so would constitute negligence or professional malpractice or would otherwise violate any professional standard; [2009, c. 631, §37 (AMD); 2009, c. 631, §51 (AFF).]

B. Except as provided in subsection 1-A, possess marijuana or otherwise engage in the medical use of marijuana:

- (1) In a school bus;
- (2) On the grounds of any preschool or primary or secondary school; or
- (3) In any correctional facility; [2015, c. 369, §2 (AMD).]

C. Smoke marijuana:

- (1) On any form of public transportation; or
- (2) In any public place; [2009, c. 1, §5 (NEW).]

D. Operate, navigate or be in actual physical control of any motor vehicle, aircraft, motorboat, snowmobile or all-terrain vehicle while under the influence of marijuana; or [2009, c. 631, §38 (AMD); 2009, c. 631, §51 (AFF).]

E. Use or possess marijuana if that person is not a qualifying patient, primary caregiver, registered dispensary or other person authorized to use or possess marijuana under this chapter. [2011, c. 407, Pt. B, §30 (AMD).]

[2015, c. 369, §2 (AMD) .]

1-A. School exceptions. Notwithstanding subsection 1, paragraph B, a primary caregiver designated pursuant to section 2423-A, subsection 1, paragraph E may possess and administer marijuana in a nonsmokeable form in a school bus and on the grounds of the preschool or primary or secondary school in which a minor qualifying patient is enrolled only if:

A. A medical provider has provided the minor qualifying patient with a current written certification for the medical use of marijuana under this chapter; and [2015, c. 369, §3 (NEW).]

B. Possession of marijuana in a nonsmokeable form is for the purpose of administering marijuana in a nonsmokeable form to the minor qualifying patient. [2015, c. 369, §3 (NEW).]

[2015, c. 369, §3 (NEW) .]

2. Construction. This chapter may not be construed to require:

A. A government medical assistance program or private health insurer to reimburse a person for costs associated with the medical use of marijuana; or [2009, c. 1, §5 (NEW).]

B. An employer to accommodate the ingestion of marijuana in any workplace or any employee working while under the influence of marijuana. [2009, c. 1, §5 (NEW).]

[2009, c. 1, §5 (NEW) .]

3. Penalty for fraudulent representation.

[2009, c. 631, §51 (AFF); 2009, c. 631, §39 (RP) .]

3-A. Penalty for fraud. Fraudulent misrepresentation regarding lawful possession or medical use of marijuana and fraudulent procurement under this chapter are governed by this subsection.

A. A person who misrepresents to a law enforcement official any fact or circumstance relating to the possession or medical use of marijuana under this chapter to avoid arrest or prosecution commits a civil violation for which a fine of \$200 must be adjudged. [2011, c. 407, Pt. B, §31 (NEW).]

B. A qualifying patient who obtains marijuana from more than one source with the result that the person receives more than 2 1/2 ounces of prepared marijuana in a 15-day period commits a civil violation for which a fine of \$200 must be adjudged. [2011, c. 407, Pt. B, §31 (NEW).]

[2011, c. 407, Pt. B, §31 (NEW) .]

SECTION HISTORY

IB 2009, c. 1, §5 (NEW). 2009, c. 631, §§37-39 (AMD). 2009, c. 631, §51 (AFF). 2011, c. 407, Pt. B, §§30, 31 (AMD). 2015, c. 369, §§2, 3 (AMD).

§2427. AFFIRMATIVE DEFENSE AND DISMISSAL FOR MEDICAL MARIJUANA (REPEALED)

SECTION HISTORY

IB 2009, c. 1, §5 (NEW). 2009, c. 631, §§40, 41 (AMD). 2009, c. 631, §51 (AFF). MRSA T. 22, §2427, sub-§4 (RP).

§2428. REGISTERED DISPENSARIES

1. Provisions pertaining to primary caregiver apply to nonprofit dispensary.

[2009, c. 631, §51 (AFF); 2009, c. 631, §42 (RP) .]

1-A. Provisions pertaining to registered dispensary. For the purpose of assisting a qualifying patient who has designated a registered dispensary to cultivate marijuana for the patient's medical use, a registered dispensary may in accordance with rules adopted by the department:

A. Possess and dispense up to 2 1/2 ounces of prepared marijuana and possess an incidental amount of marijuana for each qualifying patient who has designated the dispensary. For the purposes of this chapter, any incidental amount of marijuana is lawful for a registered dispensary to possess and is not included in the amounts of prepared marijuana specified in this paragraph; [2011, c. 407, Pt. B, §32 (AMD).]

B. Cultivate up to 6 mature marijuana plants for each patient who has designated the dispensary to cultivate the plants on the patient's behalf subject to the limit of 6 mature plants total for a patient who also cultivates marijuana; [2011, c. 407, Pt. B, §32 (AMD).]

C. Receive reasonable monetary compensation for costs associated with assisting or for cultivating marijuana for a patient who designated the dispensary; [2011, c. 407, Pt. B, §32 (AMD).]

D. Assist any patient who designated the dispensary to cultivate marijuana with the medical use or administration of marijuana; and [2011, c. 407, Pt. B, §32 (AMD).]

E. Obtain prepared marijuana from a primary caregiver under section 2423-A, subsection 2, paragraph H or from another registered dispensary for the purposes of addressing an extended inventory supply interruption under subsection 6, paragraph G. [2013, c. 503, §2 (AMD).]

[2013, c. 503, §2 (AMD).]

2. Registration requirements. Subject to limitations on the number and location of dispensaries in subsection 11 and rules adopted pursuant to this section, this subsection governs the registration of a dispensary.

A. The department shall register a dispensary and issue a registration certificate or renew a registration certificate within 30 days to any person or entity that provides:

- (1) An annual fee paid to the department as set by rule pursuant to section 2425, subsection 12, paragraph C;
 - (2) The legal name of the dispensary, evidence of incorporation under Title 13-B and evidence that the corporation is in good standing with the Secretary of State;
 - (3) The physical address of the dispensary and the physical address of a maximum of one additional location, if any, where marijuana will be cultivated for patients who have designated the dispensary to cultivate for them. If a registered dispensary changes the physical location of the dispensary or the location at which it cultivates marijuana, the dispensary shall notify the department on a location change form provided by the department, pay a change fee as established in section 2425, subsection 12, paragraph C and obtain a new registration certificate from the department;
 - (4) The name, address and date of birth of each principal officer and board member of the dispensary; and
 - (5) The name, address and date of birth of any person who is employed by the dispensary.
- [2013, c. 394, §7 (AMD).]

B. The department shall track the number of registered patients who designate a dispensary to cultivate marijuana for them and issue to each dispensary a written statement of the number of patients who have designated the dispensary to cultivate marijuana for them. This statement must be updated each time a new registered patient designates the dispensary or ceases to designate the dispensary. The statement may be transmitted electronically if the department's rules so provide. The department may provide by rule that the updated written statements may not be issued more frequently than once each week. [2009, c. 631, §42 (AMD); 2009, c. 631, §51 (AFF).]

C. The department shall issue each principal officer, board member and employee of a dispensary a registry identification card within 10 days of receipt of the person's name, address and date of birth under paragraph A and a fee in an amount established by the department. Each card must specify that the cardholder is a principal officer, board member or employee of a dispensary and must contain:

- (1) The name, address and date of birth of the principal officer, board member or employee;
- (2) The legal name of the dispensary with which the principal officer, board member or employee is affiliated;
- (3) A random identification number that is unique to the cardholder;
- (4) The date of issuance and expiration date of the registry identification card; and
- (5) A photograph if required by the department. [2009, c. 631, §42 (AMD); 2009, c. 631, §51 (AFF).]

D. The department may not issue a registry identification card to any principal officer, board member or employee of a dispensary who has been convicted of a disqualifying drug offense. The department shall conduct a criminal history record check of each principal officer, board member or employee on an annual basis in order to carry out this provision. If the department determines not to issue a registry identification card for a principal officer, board member or employee, the department shall notify the dispensary in writing of the reason for denying the registry identification card. [2013, c. 394, §8 (AMD).]

[2013, c. 394, §§7, 8 (AMD) .]

3. Rules. The department shall adopt routine technical rules as defined in Title 5, chapter 375, subchapter 2-A governing the manner in which it considers applications for and renewals of registration certificates for dispensaries, including rules governing:

- A. The form and content of registration and renewal applications; [2009, c. 1, §5 (NEW).]
- B. Minimum oversight requirements for dispensaries and the one permitted additional location at which the dispensary cultivates marijuana for medical use by qualifying patients who have designated the dispensary to cultivate for them; [2011, c. 407, Pt. B, §32 (AMD).]
- C. Minimum record-keeping requirements for dispensaries, including recording the disposal of marijuana that is not distributed by the dispensary to qualifying patients who have designated the dispensary to cultivate for them; [2011, c. 407, Pt. B, §32 (AMD).]
- D. Minimum security requirements for dispensaries and any additional location at which the dispensary cultivates marijuana for medical use by qualifying patients who have designated the dispensary to cultivate for them; and [2011, c. 407, Pt. B, §32 (AMD).]
- E. Procedures for suspending or terminating the registration of dispensaries that violate the provisions of this section or the rules adopted pursuant to this subsection. [2009, c. 631, §42 (AMD); 2009, c. 631, §51 (AFF).]

[2011, c. 407, Pt. B, §32 (AMD) .]

4. Expiration. A dispensary registration certificate and the registry identification card for each principal officer, board member or employee expire one year after the date of issuance. The department shall issue a renewal dispensary registration certificate and renewal registry identification cards within 10 days to any person who complies with the requirements contained in subsection 2. A registry identification card of a principal officer, board member or employee expires 10 days after notification by a dispensary that such person ceases to work at the dispensary.

[2009, c. 631, §42 (AMD); 2009, c. 631, §51 (AFF) .]

5. Inspection. A dispensary and any additional location at which the dispensary cultivates marijuana for medical use by a qualifying patient who has designated the dispensary to cultivate for the patient are subject to reasonable inspection by the department. The department may enter the dispensary and the one permitted additional location at which the dispensary cultivates marijuana at any time, without notice, to carry out an inspection under this subsection.

[2011, c. 407, Pt. B, §32 (AMD) .]

6. Registered dispensary requirements. This subsection governs the operations of registered dispensaries.

A. A dispensary must be operated on a not-for-profit basis for the mutual benefit of qualifying patients who have designated the dispensary to cultivate marijuana. The bylaws of a dispensary and its contracts with qualifying patients must contain such provisions relative to the disposition of revenues and receipts as may be necessary and appropriate to establish and maintain its not-for-profit status. A dispensary need not be recognized as a tax-exempt organization under 26 United States Code, Section 501(c)(3) but is required to incorporate pursuant to Title 13-B and to maintain the corporation in good standing with the Secretary of State. [2011, c. 407, Pt. B, §32 (AMD) .]

B. A dispensary may not be located within 500 feet of the property line of a preexisting public or private school. [2009, c. 631, §42 (AMD); 2009, c. 631, §51 (AFF) .]

C. A dispensary shall notify the department within 10 days of when a principal officer, board member or employee ceases to work at the dispensary. [2009, c. 631, §42 (AMD); 2009, c. 631, §51 (AFF) .]

D. A dispensary shall notify the department in writing of the name, address and date of birth of any new principal officer, board member or employee and shall submit a fee in an amount established by the department for a new registry identification card before the new principal officer, board member or employee begins working at the dispensary. [2009, c. 631, §42 (AMD); 2009, c. 631, §51 (AFF) .]

E. A dispensary shall implement appropriate security measures to deter and prevent unauthorized entrance into areas containing marijuana and the theft of marijuana at the dispensary and the one permitted additional location at which the dispensary cultivates marijuana for medical use by qualifying patients who have designated the dispensary to cultivate for them. [2011, c. 407, Pt. B, §32 (AMD) .]

F. The operating documents of a dispensary must include procedures for the oversight of the dispensary and procedures to ensure accurate record keeping. [2009, c. 631, §42 (AMD); 2009, c. 631, §51 (AFF) .]

G. A dispensary is prohibited from acquiring, possessing, cultivating, manufacturing, delivering, transferring, transporting, supplying or dispensing marijuana for any purpose except to assist qualifying patients who have designated the dispensary to cultivate marijuana for them for the medical use of marijuana directly or through the qualifying patients' primary caregivers, to obtain prepared marijuana as provided in subsection 1-A, paragraph E or to provide prepared marijuana as provided in paragraph L and subsection 9, paragraph B. [2013, c. 503, §3 (AMD) .]

H. All principal officers and board members of a dispensary must be residents of this State. [2009, c. 631, §42 (AMD); 2009, c. 631, §51 (AFF) .]

I. All cultivation of marijuana must take place in an enclosed, locked facility unless the marijuana plants are being transported between the dispensary and a location at which the dispensary cultivates the marijuana plants, as disclosed to the department in subsection 2, paragraph A, subparagraph (3). The dispensary shall use a numerical identification system to enable the dispensary to track marijuana plants from cultivation to sale and to track prepared marijuana obtained pursuant to section 2423-A, subsection 2, paragraph H from acquisition to sale. Access to the cultivation facility is limited to a cardholder who is a principal officer, board member or employee of the dispensary when acting in that cardholder's

official capacity, except that an elected official invited by a principal officer, board member or employee for the purpose of providing education to the elected official on cultivation by the dispensary, emergency services personnel, an employee of a marijuana testing facility or a person who needs to gain access to the cultivation facility in order to perform repairs or maintenance or to do construction may access the cultivation facility to provide professional services while under the direct supervision of a cardholder who is a principal officer, board member or employee of the dispensary. [2015, c. 475, §22 (AMD).]

J. A dispensary that is required to obtain a license for the preparation of food pursuant to section 2167 shall obtain the license prior to preparing goods containing marijuana, including tinctures of marijuana, for medical use by a qualifying patient. [2013, c. 516, §15 (AMD).]

K. A dispensary shall display the dispensary's registration certificate issued under subsection 2, paragraph A in a publicly visible location in the dispensary. [2011, c. 407, Pt. B, §32 (NEW).]

L. A dispensary may provide excess prepared marijuana to another dispensary that is experiencing an extended inventory supply interruption. [2013, c. 503, §4 (NEW).]

M. A dispensary may provide samples to a marijuana testing facility for testing and research purposes. [2015, c. 475, §23 (NEW).]

N. A dispensary may conduct marijuana testing at the request of anyone authorized to possess marijuana under this chapter for research and development purposes only. [2015, c. 475, §23 (NEW).]

[2015, c. 475, §§22, 23 (AMD).]

7. Maximum amount of marijuana to be dispensed. A dispensary or a principal officer, board member or employee of a dispensary may not dispense more than 2 1/2 ounces of prepared marijuana to a qualifying patient who has designated the dispensary or to a primary caregiver on behalf of a qualifying patient who has designated the dispensary during a 15-day period.

[2011, c. 407, Pt. B, §32 (AMD).]

8. Immunity.

[2009, c. 631, §51 (AFF); 2009, c. 631, §42 (RP).]

8-A. Immunity. The immunity provisions in this subsection apply to a registered dispensary and officers, board members, agents and employees of the dispensary.

A. A registered dispensary is not subject to prosecution, search, seizure or penalty in any manner, including but not limited to a civil penalty or disciplinary action by a business or an occupational or professional licensing board or entity, and may not be denied any right or privilege solely for acting in accordance with this section to assist qualifying patients with the medical use of marijuana in accordance with this chapter. [2011, c. 407, Pt. B, §32 (NEW).]

B. A principal officer, board member, agent or employee of a registered dispensary is not subject to arrest, prosecution, search, seizure or penalty in any manner, including but not limited to a civil penalty or disciplinary action by a business or an occupational or professional licensing board or entity, and may not be denied any right or privilege solely for working for or with a registered dispensary to provide prepared marijuana to qualifying patients or to otherwise assist qualifying patients with the medical use of marijuana in accordance with this chapter. [2011, c. 407, Pt. B, §32 (NEW).]

[2011, c. 407, Pt. B, §32 (NEW).]

9. Prohibitions. The prohibitions in this subsection apply to a registered dispensary.

A. A dispensary may not possess more than 6 mature marijuana plants for each qualifying patient who has designated the dispensary to cultivate marijuana for the qualifying patient's medical use subject to a limit of 6 mature plants total for a patient who also cultivates marijuana. [2011, c. 407, Pt. B, §32 (AMD).]

B. A dispensary may not dispense, deliver or otherwise transfer marijuana to a person other than a qualifying patient who has designated the dispensary to cultivate marijuana for the patient, to the patient's primary caregiver or to a dispensary as provided in subsection 6, paragraphs G and L. [2013, c. 503, §5 (AMD).]

C. The department shall immediately revoke the registry identification card of a principal officer, board member or employee of a dispensary who is found to have violated paragraph B, and such a person is disqualified from serving as a principal officer, board member or employee of a dispensary. [2009, c. 631, §42 (AMD); 2009, c. 631, §51 (AFF).]

D. A person who has been convicted of a disqualifying drug offense may not be a principal officer, board member or employee of a dispensary.

(1) A person who is employed by or is a principal officer or board member of a dispensary in violation of this paragraph commits a civil violation for which a fine of not more than \$1,000 may be adjudged.

(2) A person who is employed by or is a principal officer or board member of a dispensary in violation of this paragraph and who at the time of the violation has been previously found to have violated this paragraph commits a Class D crime. [2009, c. 631, §42 (AMD); 2009, c. 631, §51 (AFF).]

E. A dispensary may acquire prepared marijuana only from a primary caregiver in accordance with section 2423-A, subsection 2, paragraph H or K, through the cultivation of marijuana by that dispensary either at the location of the dispensary or at the one permitted additional location at which the dispensary cultivates marijuana for medical use by qualifying patients who have designated the dispensary to cultivate for them or from a dispensary as provided in subsection 1-A, paragraph E. [2013, c. 503, §6 (AMD).]

F. A dispensary may not contract for the cultivation of seeds, seedlings or small plants or the cultivation, production or preparation of marijuana or food containing marijuana for medical use. [2009, c. 631, §42 (NEW); 2009, c. 631, §51 (AFF).]

G. A registered dispensary may not use a pesticide on marijuana except a pesticide that is used consistent with federal labeling requirements, is registered with the Department of Agriculture, Conservation and Forestry, Board of Pesticides Control pursuant to Title 7, section 607 and is used consistent with best management practices for pest management approved by the Commissioner of Agriculture, Conservation and Forestry. A registered dispensary may not in the cultivation of marijuana use a pesticide unless at least one registered dispensary employee involved in the application of the pesticide is certified pursuant to section 1471-D and all other registered dispensary employees who have direct contact with treated plants have completed safety training pursuant to 40 Code of Federal Regulations, Section 170.130. A registered dispensary employee who is not certified pursuant to section 1471-D and who is involved in the application of the pesticide or handling of the pesticide or equipment must first complete safety training described in 40 Code of Federal Regulations, Section 170.230. [2013, c. 498, §2 (AMD).]

[2013, c. 498, §2 (AMD); 2013, c. 503, §§5, 6 (AMD).]

10. Local regulation. This chapter does not prohibit a political subdivision of this State from limiting the number of dispensaries that may operate in the political subdivision or from enacting reasonable regulations applicable to dispensaries. A local government may not adopt an ordinance that is duplicative of or more restrictive than the provisions of this Act. An ordinance that violates this subsection is void and of no effect.

[2011, c. 407, Pt. B, §32 (AMD) .]

11. Limitation on number of dispensaries. The department shall adopt rules limiting the number and location of registered dispensaries. During the first year of operation of dispensaries the department may not issue more than one registration certificate for a dispensary in each of the 8 public health districts of the department, as defined in section 411. After review of the first full year of operation of dispensaries and periodically thereafter, the department may amend the rules on the number and location of dispensaries; however, the number of dispensaries may not be less than 8.

[2011, c. 407, Pt. B, §32 (AMD) .]

12. Labels. If a dispensary affixes a label on the packaging of any marijuana or product containing marijuana provided to a qualifying patient and that label includes information about contaminants, the cannabinoid profile or potency of the marijuana or product containing marijuana, the label must be verified by a marijuana testing facility that is not owned by the dispensary if there is a marijuana testing facility licensed, certified or approved in accordance with this chapter.

[2015, c. 475, §24 (NEW) .]

SECTION HISTORY

IB 2009, c. 1, §5 (NEW). 2009, c. 631, §42 (AMD). 2009, c. 631, §51 (AFF). 2011, c. 407, Pt. B, §32 (AMD). RR 2013, c. 1, §41 (COR). 2013, c. 371, §4 (AMD). 2013, c. 374, §2 (AMD). 2013, c. 393, §4 (AMD). 2013, c. 394, §§7, 8 (AMD). 2013, c. 498, §2 (AMD). 2013, c. 501, §2 (AMD). 2013, c. 503, §§2-6 (AMD). 2013, c. 516, §15 (AMD). 2015, c. 475, §§ 22-24 (AMD).

§2429. ENFORCEMENT

1. Department fails to adopt rules.

[2011, c. 407, Pt. B, §33 (RP) .]

2. Department fails to issue a valid registry identification card. If the department fails to issue a valid registry identification card or a registration certificate in response to a valid application or renewal submitted pursuant to this chapter within 45 days of its submission, the registry identification card or registration certificate is deemed granted, and a copy of the registry identification application or renewal is deemed a valid registry identification card.

[2009, c. 1, §5 (NEW) .]

3. Department fails to accept applications.

[2011, c. 407, Pt. B, §34 (RP) .]

SECTION HISTORY

IB 2009, c. 1, §5 (NEW). 2009, c. 631, §§43, 44 (AMD). 2009, c. 631, §51 (AFF). 2011, c. 407, Pt. B, §§33, 34 (AMD).

§2430. MEDICAL USE OF MARIJUANA FUND ESTABLISHED

1. Fund established. The Medical Use of Marijuana Fund, referred to in this section as "the fund," is established as an Other Special Revenue Funds account in the Department of Health and Human Services for the purposes specified in this section.

[2009, c. 631, §45 (NEW); 2009, c. 631, §51 (AFF) .]

2. Sources of fund. The State Controller shall credit to the fund:

A. All money received as a result of applications and reapplications for registration as a qualifying patient, primary caregiver and dispensary; [2009, c. 631, §45 (NEW); 2009, c. 631, §51 (AFF) .]

B. All money received as a result of applications and reapplications for registry identification cards for registered patients, primary caregivers and dispensaries and board members, officers and employees of dispensaries or marijuana testing facilities; [2015, c. 475, §25 (AMD) .]

C. All penalties and fines assessed for violations of this chapter; [2009, c. 631, §45 (NEW); 2009, c. 631, §51 (AFF) .]

D. All money from any other source, whether public or private, designated for deposit into or credited to the fund; and [2009, c. 631, §45 (NEW); 2009, c. 631, §51 (AFF) .]

E. Interest earned or other investment income on balances in the fund. [2009, c. 631, §45 (NEW); 2009, c. 631, §51 (AFF) .]

[2015, c. 475, §25 (AMD) .]

3. Uses of the fund. The fund may be used for expenses of the department to administer this chapter, as allocated by the Legislature.

[2009, c. 631, §45 (NEW); 2009, c. 631, §51 (AFF) .]

SECTION HISTORY

2009, c. 631, §45 (NEW). 2009, c. 631, §51 (AFF). 2015, c. 475, §25 (AMD) .

§2430-A. COMPLIANCE

The department may take action necessary to ensure compliance with this chapter, including, but not limited to, collecting, possessing, transporting and performing laboratory testing on soil and marijuana plant specimens and portions of products containing marijuana from registered primary caregivers and registered dispensaries to determine compliance with this chapter and for evidence purposes. [2015, c. 475, §26 (AMD) .]

SECTION HISTORY

2009, c. 631, §46 (NEW). 2009, c. 631, §51 (AFF). 2013, c. 516, §16 (RPR). 2015, c. 475, §26 (AMD) .

§2430-B. ADMISSIBILITY OF RECORDS

A certificate, signed by the commissioner or the commissioner's designee, stating what the records of the department show on any given matter related to this chapter is admissible in evidence in all courts of this State to prove what the records of the department are on that matter. Upon testimony of a law enforcement officer that the certificate and records were obtained by that law enforcement officer from the department, the court shall admit that certificate and those records as evidence without any further foundation or testimony.

If the department stores records in a computer or similar device, a printout or other output readable by sight of information stored in the department's computer or similar device, certified by the commissioner or the commissioner's designee as an accurate reflection of the stored information, is admissible in evidence to prove the content of the records. [2011, c. 383, §5 (NEW); 2011, c. 407, Pt. B, §35 (NEW).]

SECTION HISTORY

2011, c. 383, §5 (NEW). 2011, c. 407, Pt. B, §35 (NEW).

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