

STATE OF MAINE

—  
IN THE YEAR OF OUR LORD  
TWO THOUSAND TWENTY-FOUR

—  
H.P. 1421 - L.D. 2215

**An Act to Implement the Recommendations of the Right to Know Advisory  
Committee Regarding Public Records Exceptions**

Be it enacted by the People of the State of Maine as follows:

**Sec. 1. 22 MRSA §2425-A, sub-§12**, as amended by PL 2023, c. 365, §8, is repealed.

**Sec. 2. 22 MRSA §2425-A, sub-§14** is enacted to read:

**14. Confidentiality.** This subsection governs confidentiality.

**A.** For purposes of this subsection, "personal contact information" has the same meaning as in Title 1, section 402, subsection 3, paragraph O, subparagraph (1) and "caregiver exempt from registration" means a caregiver who is not required to register pursuant to section 2423-A, subsection 3, paragraph C.

**B.** Information that identifies a qualifying patient, a visiting qualifying patient or a registered patient under this chapter is confidential and may not be disclosed by the department, except:

- (1)** With the written consent of the patient; or
- (2)** Pursuant to a court order or a subpoena.

**C.** Information that identifies a caregiver exempt from registration is confidential and may not be disclosed by the department, except:

- (1)** With the written consent of the caregiver; or
- (2)** Pursuant to a court order or a subpoena or as provided in paragraph F.

**D.** Except as provided in this paragraph and in paragraphs B and C, applications, supporting information and other information regarding a registered caregiver, including any address where the registered caregiver cultivates, manufactures, tests, packages, stores or sells cannabis plants or harvested cannabis under this chapter, are not confidential. The personal contact information of a registered caregiver or of an applicant for registration as a registered caregiver is confidential and may not be disclosed by the department, except:

(1) With the written consent of the registered caregiver or applicant for registration as a registered caregiver;

(2) Pursuant to a court order or a subpoena;

(3) As provided in paragraph F; or

(4) If a registered caregiver resides at the same address where the registered caregiver cultivates, manufactures, tests, packages, stores or sells cannabis plants or harvested cannabis under this chapter, the department may disclose that address to a state, county or municipal employee responsible for the administration of this chapter or of rules, ordinances or warrant articles authorized under this chapter, including, but not limited to, law enforcement officers and code enforcement officers. Any information received by a state, county or municipal employee under this subparagraph is confidential and may not be further disclosed or disseminated, except as otherwise provided by law.

E. Except as provided in this paragraph and in paragraphs B and C, applications, supporting information and other information regarding a dispensary, manufacturing facility, cannabis testing facility and an assistant, officer or director of a registered caregiver, dispensary, manufacturing facility or cannabis testing facility under this chapter are not confidential. The personal contact information of a cardholder who is an assistant, officer or director of a registered caregiver, dispensary, manufacturing facility or cannabis testing facility and an applicant for a registry identification card as an assistant, officer or director of a registered caregiver, dispensary, manufacturing facility or cannabis testing facility or registration certificate for a dispensary, manufacturing facility or cannabis testing facility is confidential and may not be disclosed by the department, except:

(1) With the written consent of the cardholder or applicant; or

(2) Pursuant to a court order or a subpoena.

F. Notwithstanding any provision of this subsection to the contrary, the department may, when necessary to protect the public from a threat to public health or safety, notify the public of the following:

(1) The identity of a caregiver exempt from registration, a registered caregiver, a dispensary, a manufacturing facility or a cannabis testing facility associated with the threat to public health or safety and that person's status as a caregiver exempt from registration, registered caregiver, dispensary, manufacturing facility or cannabis testing facility; and

(2) The location where any cannabis plants or harvested cannabis associated with the threat to public health or safety were cultivated, manufactured, tested, packaged, stored or sold.

G. 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's Bureau of Revenue Services only for the administration and enforcement of taxes imposed under Title 36.

H. A final written decision of the department pursuant to section 2430-I imposing an administrative penalty; ordering forfeiture and destruction of cannabis plants, cannabis

or cannabis products; or suspending or revoking a registry identification card or registration certificate is not confidential.

I. A caregiver, dispensary, manufacturing facility or cannabis testing facility or an officer, director or assistant of a caregiver, dispensary, manufacturing facility or cannabis testing facility may not be required to disclose to a law enforcement officer information that could reasonably identify an individual's identity without a warrant requiring the disclosure.

J. A person who accompanies a patient to obtain cannabis plants or harvested cannabis may not be required to disclose to a law enforcement officer information that could reasonably identify an individual patient's identity without a warrant requiring the disclosure.

**Sec. 3. 22 MRSA §3022, sub-§8**, as amended by PL 2017, c. 475, Pt. A, §33, is further amended to read:

**8. Certain information confidential.** The following records ~~in the possession or custody of a medical examiner or the Office of Chief Medical Examiner are not public records within the meaning of Title 1, section 402, subsection 3 and~~ are confidential:

- A. Medical records relating to a medical examiner case;
- B. Law enforcement agency reports or records relating to a medical examiner case;
- C. Communications with the Department of the Attorney General relating to a medical examiner case;
- D. Communications with the office of a district attorney relating to a medical examiner case;
- E. Death certificates and amendments made to the certificates, except for the information for which the medical examiner is responsible, as listed in section 2842, subsection 3, and not ordered withheld by the Attorney General relating to a medical examiner case or missing person;
- F. Photographs and transparencies, histological slides, videotapes and other like items relating to a medical examiner case; and
- G. Written or otherwise recorded communications that express or are evidence of suicidal intent obtained under section 3028, subsections 4 and 5.

**Sec. 4. 22 MRSA §3294**, as enacted by PL 1987, c. 714, §2, is amended to read:

**§3294. Confidential information provided to professional and occupational licensing boards**

If confidential information regarding a person subject to or seeking licensure, certification or registration by a licensing board indicates that the person may have engaged in unlawful activity, professional misconduct or conduct ~~which~~ that may be in violation of the laws or rules relating to the licensing board, the director may release this information to the appropriate licensing board. Confidential information ~~shall~~ must be disclosed and used in accordance with section 3292 and may also be disclosed to members, employees and agents of a licensing board who are directly related to the matter at issue.

**1. Notice to the licensee or applicant.** Notice of the release of confidential information ~~shall~~ must be provided by the board to the licensee or applicant in accordance with the law and rules relating to the licensing board. If the law or rules relating to a licensing board do not provide for notice to licensees or applicants subject to or seeking licensure, certification or registration, the licensing board shall provide notice to the licensee or applicant upon determination of the board to take further action following its investigation.

**2. Licensing board requests for confidential information.** Any licensing board pursuing action within the scope of the board's authority or conducting an investigation of any person subject to or seeking licensure, certification or registration by the board for engaging in unlawful activity, professional misconduct or conduct ~~which~~ that may be in violation of the laws or rules relating to the board may request confidential information from the bureau. Any information provided to the board for an investigation ~~shall be~~ is governed by section 3292 and this section.

**3. Use of confidential information in proceedings and investigations.** The use of confidential information in proceedings, informal conferences and adjudicatory hearings ~~shall be~~ is governed by Title 5, section 9057, subsection 6. The use of confidential information in investigations is governed by Title 10, section 8003-B, subsection 2, paragraph G as long as any confidential information disclosed under that paragraph is not further disclosed by any person for purposes other than an investigation by a licensing board.

**Sec. 5. 22 MRSA §5409**, as enacted by PL 2019, c. 653, Pt. A, §1, is amended to read:

#### **§5409. Records**

Except as provided in this section or by other provision of law, information obtained by the marketplace under this chapter is a public record within the meaning of Title 1, chapter 13, subchapter 1.

**1. Financial information.** Any personally identifiable financial information, supporting data or tax return of any person obtained by the marketplace under this chapter is confidential ~~and not open to public inspection~~ pursuant to 26 United States Code, Section 6103 and Title 36, section 191.

**2. Health information.** Health information obtained by the marketplace under this chapter that is covered by the federal Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, or information covered by ~~Title 22~~, section 1711-C is confidential ~~and not open to public inspection~~.

**3. Personally identifiable information.** Personally identifiable information not otherwise described in subsection 1 or 2 that is obtained by the marketplace under this chapter is confidential. As used in this subsection, "personally identifiable information" means information that permits the identity of an individual to whom the information applies to be able to be reasonably inferred or known by either direct or indirect means.

**Sec. 6. 36 MRSA §191, sub-§3-B**, as amended by PL 2017, c. 452, §29, is further amended to read:

**3-B. Additional restrictions for certain information provided by the Department of Administrative and Financial Services.** Information provided to the assessor by the Department of Administrative and Financial Services pursuant to section 175 and Title 22, section 2425-A, subsection ~~12~~ 14, paragraph ~~L~~ G may be used by the bureau only for the administration and enforcement of taxes imposed under this Title. These restrictions are in addition to those imposed by subsection 1.