

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

## An Act To Amend Maine's Medical Marijuana Law

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

**Sec. 1. 22 MRSA §2422, sub-§§1-C to 1-E** are enacted to read:

**1-C. Cannabis.** "Cannabis" or "marijuana" means any part of the cannabis plant including the leaves, seeds, stems and flowers of all species of the plant genus Cannabis, whether growing or not, and the resin and cannabinoids extracted for medical use from any part of that plant. "Cannabis" or "marijuana" includes prepared cannabis products, such as edibles, tinctures, infusions, extractions, distillations and purifications.

**1-D. Cannabis plant or marijuana plant.** "Cannabis plant" or "marijuana plant" means the genus of the plant that includes the 3 species of Cannabis sativa, Cannabis indica and Cannabis ruderalis or their hybrids.

**1-E. Clone.** "Clone" means a rooted cutting from a cannabis plant that is the same size as a seedling.

**Sec. 2. 22 MRSA §2422, sub-§2, ¶B,** as enacted by IB 2009, c. 1, §5, is amended to read:

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 or which is pain that, in the medical provider's opinion, is not managed effectively by prescription narcotics;

**Sec. 3. 22 MRSA §2422, sub-§2, ¶D,** as amended by PL 2013, c. 361, §1, is further amended to read:

D. Any other medical condition or its treatment as provided for in section 2424, subsection 2; ~~or~~

**Sec. 4. 22 MRSA §2422, sub-§2, ¶E,** as enacted by PL 2013, c. 361, §1, is amended to read:

E. Post-traumatic stress disorder, inflammatory bowel disease, dyskinetic and spastic movement disorders and other diseases causing severe and persistent muscle spasms; or

**Sec. 5. 22 MRSA §2422, sub-§2, ¶F** is enacted to read:

F. A diagnosed medical condition that, in the patient's medical provider's opinion, may be alleviated by the therapeutic use of cannabis.

**Sec. 6. 22 MRSA §2422, sub-§3,** as amended by PL 2011, c. 407, Pt. B, §3, is further amended to read:

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

**Sec. 7. 22 MRSA §2422, sub-§3-A**, as enacted by PL 2013, c. 503, §1, is amended to read:

**3-A. Extended inventory supply interruption.** "Extended inventory supply interruption" means any circumstance that prevents the patient's designated cultivation source from providing for an extended period of time marijuana for medical use for the patient's qualifying debilitating medical condition. "Extended inventory supply interruption" includes any circumstance that:

A. Requires a registered dispensary or a patient's designated primary caregiver 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~~

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;

C. Prevents an authorized primary caregiver who has been designated to cultivate marijuana from initially or consistently offering for a 2-week period or longer the strain of marijuana needed for the qualifying patient's medical use; or

D. Results in catastrophic crop failure.

**Sec. 8. 22 MRSA §2422, sub-§3-B** is enacted to read:

**3-B. Excess marijuana.** "Excess marijuana" means an amount of harvested marijuana or the number of cannabis plants that is greater than the quantities permitted under this chapter and rules adopted by the department. "Excess marijuana" includes any incidental amount of marijuana.

**Sec. 9. 22 MRSA §2422, sub-§4-A**, as amended by PL 2015, c. 475, §2, is further amended to read:

**4-A. Incidental amount of marijuana.** "Incidental amount of marijuana" means an amount of ~~nonflowering marijuana plants; marijuana, including the seeds, stalks, leaves, stems and roots; and harvested, dried unprepared marijuana defined by rules adopted by the department, that is not intended for medical use~~. An incidental amount of marijuana is considered disposable and is not included when calculating the total usable amount.

**Sec. 10. 22 MRSA §2422, sub-§4-B**, as enacted by PL 2011, c. 407, Pt. B, §4, is amended to read:

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

**Sec. 11. 22 MRSA §2422, sub-§§4-D and 4-E** are enacted to read:

**4-D. Harvested marijuana.** "Harvested marijuana" means marijuana including all forms of cannabis and cannabis concentrations, infusions, purifications and extractions, derived by physical means or solventless or solvent-based extractions, for medical use by a patient, but does not include the seeds, stalks, leaves and roots of the plant that are not dried for use and that are disposed of. In calculating the weight of harvested marijuana to determine the total amount in possession, the ingredients, other than cannabis, contained in prepared cannabis products, including ointments and other topicals, tinctures, extracts and edible products, are not included. The harvested marijuana intended for use by a patient that is not yet dried to be suitable for a patient's use is considered to be no more than 25% of the actual weight to account for moisture content.

**4-E. Immature plant.** "Immature plant" means a nonflowering plant of which the main stalk measures more than 24 inches from the grow medium to the apex of the plant or more than 18 inches measuring from the main stalk of the plant to the most distant point of the plant's leaf stem or branch.

**Sec. 12. 22 MRSA §2422, sub-§5-B,** as enacted by PL 2011, c. 407, Pt. B, §6, is amended to read:

**5-B. Members of the same household.** "Members of the same household" means 2 or more people residents of the State who share residence in a shared dwelling unit.

**Sec. 13. 22 MRSA §2422, sub-§5-D** is enacted to read:

**5-D. Nonflowering plant.** "Nonflowering plant" means a cannabis plant that is in a stage of growth where the plant's pistils are not showing or are in a preflowering stage, showing only pistils protruding in pairs from scattered calyxes.

**Sec. 14. 22 MRSA §2422, sub-§6-B** is enacted to read:

**6-B. On-site assessment.** "On-site assessment" means an inspection of premises by the department for the purpose of assessing compliance with this chapter or rules adopted under this chapter.

**Sec. 15. 22 MRSA §2422, sub-§13-A,** as enacted by PL 2011, c. 407, Pt. B, §13, is amended to read:

**13-A. Tamper-resistant paper.** "Tamper-resistant paper" means paper issued by the department 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.

**Sec. 16. 22 MRSA §2422, sub-§14,** as amended by PL 2013, c. 516, §4, is further amended to read:

**14. Prepared marijuana.** "Prepared marijuana" means the dried harvested marijuana leaves and flowers and the by-products of the dried leaves and flowers of the marijuana cannabis 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, extracts, edibles 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.

**Sec. 17. 22 MRSA §2422, sub-§14-B** is enacted to read:

**14-B. Seedling.** "Seedling" means a nonflowering plant that measures 24 inches or less from the plant stalk at the grow medium to the apex of the plant and measures 18 inches or less from the plant stalk to the most distant point of the plant's leaf stem.

**Sec. 18. 22 MRSA §2423-A**, as amended by PL 2015, c. 475, §§6 to 14, is further amended to read:

### **§ 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~~ the allowable amount of harvested marijuana and an incidental amount of marijuana for medical use as provided in subsection 55-A;

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, except that a visiting qualifying patient may not cultivate.~~ 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. A qualifying patient, including a patient who cultivates, and a visiting qualifying patient may have one primary caregiver designated to cultivate on behalf of the patient. No more than a total of 6 mature marijuana plants may be cultivated for medical use for a qualifying patient whether cultivated by the patient or the primary caregiver on behalf of the patient. 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 to cultivate and process marijuana for medical use;

C. Possess marijuana paraphernalia;

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 or cannabis plants or seeds if nothing of value is offered or transferred in return;

E. Designate ~~one person~~ authorized persons, including hospice provider providers or a nursing facility, as ~~an~~ noncultivating primary caregiver caregivers 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~~ or the qualifying patient's legal guardian or representative, that includes an expiration date not to exceed the expiration date of the written certification and the signed acknowledgment of ~~the~~ each primary caregiver that the primary caregiver may be contacted to confirm the information on the designation of the primary caregiver form. ~~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 designation form must indicate that the authorized persons are acting as noncultivating primary caregivers for the patient. A primary caregiver who is not specified as a cultivation source on a patient's designation form may not cultivate on behalf of the patient. 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;~~

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~~an expiration date that does not exceed the expiration date of the written certification, the total number of mature plants ~~the primary caregiver is designated to cultivate~~the primary caregiver or registered dispensary and the signed acknowledgment of the primary caregiver or registered dispensary that the primary caregiver or registered dispensary may be contacted to confirm the information on 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~~form;

G. Be in the presence or vicinity of the medical use of marijuana and assist any qualifying patient with using or administering marijuana after verifying the written certification;

H. Accept excess ~~prepared~~ marijuana from a registered dispensary or a primary caregiver in accordance with subsection 2, paragraph H if nothing of value is provided ~~to the primary caregiver~~; and

I. Provide samples to a marijuana testing facility for testing and research purposes; and

J. Notwithstanding paragraphs B, E and F, acquire marijuana, including cannabis plants, clones and seedlings, in accordance with this chapter.

**1-A. Patient unauthorized conduct.** A patient who violates a provision of this chapter or a rule adopted by the department may be subject to fines, penalties, arrest and prosecution for the violation, regardless of the patient's possessing a current, valid written certification.

**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~~the allowable amount of harvested marijuana for medical use, as provided in subsection 5-A;
- B. Cultivate up to ~~As a registered primary caregiver, cultivate no more than 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~~per registry identification card up to a maximum of 30 mature plants, 60 immature plants and unlimited seedlings. 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 patientswho is not required to register under this chapter may possess marijuana on behalf of a patient up to the allowable amount pursuant to subsection 5-A, unlimited seedlings and no more than 6 mature plants and 12 immature plants for each of the maximum of 2 qualifying patients who are members of the primary caregiver's household or family;
- C. Assist a maximum of 5 patients who have designated the primary caregiver to cultivate marijuana for their medical use;
- D. Receive reasonable monetary compensation for costs associated with assisting a qualifying patient who designated the primary caregiver;
- E. Receive reasonable monetary compensation for costs associated with cultivating marijuana for a patient who designated the primary caregiver to cultivate marijuana;
- 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;
- 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;
- H. For the purpose of disposing of excess prepared marijuana, transfer prepared marijuana to a registered dispensary, a qualifying patient or another designated 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;
- I. ~~Employ one person~~If the primary caregiver is designated to cultivate and is registered under this chapter, employ persons 21 years of age or older to assist in performing the duties of~~designated by the qualifying patient to the registered primary caregiver. The number of employees may not exceed the number of active registry identification cards issued to the registered primary caregiver;~~

J. 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;

K. For the purpose of disposing of excess ~~prepared~~ marijuana, transfer ~~prepared~~ marijuana to an authorized registered dispensary or designated primary caregiver for reasonable compensation. The transfer of ~~prepared~~ marijuana by a primary caregiver to one or more dispensaries or primary caregivers under this paragraph is limited to a registered primary caregiver designated to cultivate. 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 at one time~~. For the purpose of disposing of excess plants, a transfer of cannabis plants may not exceed 6 mature plants and 12 nonflowering plants. 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;

L. ~~If the primary caregiver is a registered primary caregiver, provide~~Provide samples to a marijuana testing facility for testing and research purposes; ~~and~~

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, as long as the primary caregiver does not exceed the allowable amounts of marijuana permitted under this chapter; and

N. May acquire and possess seeds and cannabis plants in accordance with this chapter and rules adopted by the department for the purpose of cultivating marijuana for a patient's medical use if the primary caregiver is experiencing an extended inventory supply interruption. The primary caregiver designated by a patient to cultivate may acquire harvested marijuana on behalf of the patient during the period of the extended inventory supply interruption to ensure the qualifying patient's access to marijuana for medical use.

A registered primary caregiver designated to cultivate for a patient may furnish seeds and cannabis plants to a person authorized to cultivate for reasonable compensation as long as the transfer of cannabis plants does not exceed 6 mature plants and 12 nonflowering plants or 2 1/2 ounces of seeds. A primary caregiver or dispensary must be designated to cultivate by a patient to acquire and possess the cannabis seeds and plants on behalf of the patient. Any person acquiring seeds and

cannabis plants as described in this paragraph must maintain a record of the lawful transfer that includes the registry identification card number of the primary caregiver furnishing the marijuana, date of transfer and cost.

A registered primary caregiver may assist a qualifying patient and the qualifying patient's designated primary caregiver with the medical use of marijuana, including the acquisition, preparation or administration of marijuana, for reasonable compensation. The transfer of harvested marijuana or product containing prepared marijuana by a registered primary caregiver to a patient's designated primary caregiver under this paragraph for reasonable compensation is limited to a registered caregiver who is designated to cultivate, and the transfer of harvested marijuana may not exceed 2 pounds. A primary caregiver not designated to cultivate is prohibited from acquiring harvested marijuana or product containing marijuana to furnish to a patient, except from that patient or that patient's designated cultivation source. The primary caregiver must maintain a record of lawful transfer or the sale of harvested marijuana that includes the registry identification card number of the source of the marijuana, date of transfer and cost.

**2-A. Authorized conduct for cultivating primary caregivers.** A primary caregiver may be issued a registry identification card to cultivate marijuana for a patient's medical use. A primary caregiver may be issued up to a maximum of 5 registry identification cards and is required to have one valid patient designation for each registry identification card to support cultivation. A primary caregiver may not cultivate without a designation by a patient to cultivate. A primary caregiver is authorized to cultivate marijuana for medical use when the primary caregiver is in possession of a registry identification card and a designation by a patient to cultivate. The primary caregiver shall lawfully dispose of excess marijuana and cannabis plants and seeds within 10 days of the designated termination date, unless another patient designates the primary caregiver to cultivate. The primary caregiver whose registry identification card is revoked by the department due to noncompliance shall lawfully dispose of all marijuana or forfeit marijuana within 10 days of notice of revocation. A registered primary caregiver designated to cultivate is authorized to cultivate up to 6 mature marijuana plants and 12 immature plants and to possess unlimited seeds and seedlings per registry identification card. A registered primary caregiver cultivating marijuana shall tag all plants with the primary caregiver's registry identification card number. A primary caregiver designated to cultivate who is not required to register under this chapter may cultivate up to 6 mature plants and 12 immature plants and possess unlimited seeds and seedlings for each patient who is a family member or a member of the primary caregiver's household up to a maximum of 2 patients.

A. A primary caregiver shall track the number of patients who designate the primary caregiver to cultivate marijuana for the patient's medical use and shall submit to the department, at least annually, a written statement of the number of patients who have designated the primary caregiver to cultivate marijuana for medical use. The statement may be transmitted electronically. The department may provide by rule that written statements are not required to be submitted more frequently than once a quarter.

**2-B. Authorized conduct of an employee of a registered primary caregiver.**

Except as provided in section 2426, an employee of a registered primary caregiver designated to cultivate marijuana for a patient's medical use may assist in duties designated to the primary caregiver by a qualifying patient. The time worked for a primary caregiver may not be concurrent with time worked for another primary caregiver or dispensary. An employee of a primary caregiver must be authorized to work in the United States, and the primary caregiver shall maintain a record of hours worked for payroll and compliance monitoring purposes.

**2-C. Authorized conduct for noncultivating primary caregiver.** A primary caregiver who does not cultivate marijuana is required to possess one registry identification card indicating authorized conduct as a primary caregiver. A registry identification card issued to a primary caregiver not designated to cultivate authorizes the primary caregiver to possess and transfer harvested marijuana on behalf of a patient. A primary caregiver not designated to cultivate may not possess more than the allowable amount of marijuana per patient pursuant to subsection 5-A and may not exceed the allowable amount for 5 patients at any time.

A. A primary caregiver designated to assist a qualifying patient is required to register with the department, except that the following primary caregivers who assist no more than 2 patients are not required to register:

(1) A primary caregiver designated to assist 2 or fewer qualifying patients if the qualifying patients are members 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 designated to assist 2 or fewer qualifying patients if the qualifying patients are members of the family of that primary caregiver.

**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~~subsections 2 and 2-A.

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~~the marijuana. Access to the cultivation facility is limited to the patient, except that a primary caregiver designated by the patient, 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.

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 marijuana. Marijuana plants may be transported by an authorized person for the purpose of a lawful transfer in accordance with this chapter. The primary caregiver shall use a numerical identification system to enable the primary caregiver to identify marijuana plants cultivated for a patient. The numerical identification system must include the primary caregiver's registry identification card number, if applicable, from a designation form executed under section 2423-A, subsection 1, paragraph E or F, the number of marijuana plants and all transaction records. Access to the cultivation facility is limited to the primary caregiver and a primary caregiver's employee, 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.

~~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.~~

D. Two primary caregivers who are members of the same family or household may share the same enclosed, locked facility.

E. A person who is authorized to cultivate marijuana under subsection 1 ~~or~~ 2 or 2-A 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, except that an employee who is a member of the registered primary caregiver's family or household may share the same enclosed, locked facility.

**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~~for staff

providing direct care for the qualifying patient. 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.

**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~~harvested marijuana for medical use that are not smoked~~permitted by the facility's policy,~~ including, but not limited to, vaporized marijuana,and products in the form of 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.

**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.~~

**5-A. Allowable amount of marijuana.** For the purpose of this chapter, the allowable amount of harvested marijuana for medical use by a patient includes all harvested marijuana and prepared forms, including tinctures, edibles, topicals and other products containing infusions, extractions and purifications of cannabis. An authorized person may possess up to 8 pounds of harvested marijuana in accordance with this chapter. The amount of seeds, leaves, stems, roots or other parts of the cannabis plant that is not intended for use possessed by an authorized person is considered an incidental amount of marijuana and is not included when calculating the total amount in possession. Any amount of excess marijuana must be lawfully disposed of or the person may be subject to enforcement action, including revocation of any authorization for conduct. Lawful transfers of harvested marijuana may not exceed 2 pounds of harvested marijuana in any one transfer, and a visiting qualifying patient may not be dispensed more than 2 1/2 ounces of harvested marijuana during a 15-day period.

A. A registered primary caregiver designated to assist a patient may possess up to 8 pounds of harvested marijuana per registry identification card and may be issued a maximum of 5 cards.

B. A primary caregiver who is not required to register under this chapter and who is designated to assist a patient may possess up to 8 pounds of harvested marijuana on behalf of the patient who is a member of the primary caregiver's family or household.

C. A registered dispensary may possess no more than 8 pounds of harvested marijuana on behalf of a patient who has designated the dispensary to cultivate marijuana for the patient.

**6-A. On-site assessments.** The department may conduct an inspection or on-site assessment to determine compliance with the provisions of this chapter and rules adopted by the department. The department may initiate an on-site assessment to ensure compliance, including conducting an inspection prior to issuing a registry identification card and in response to a report alleging noncompliance. The department shall request permission to enter a person's private residence, and entry or inspection of a person's private residence may not occur without the presence of the primary caregiver or patient. The department shall make reasonable efforts to coordinate an agreeable time for an on-site assessment or inspection that is within 10 days of the department's notice to inspect, unless the department has determined that the alleged conduct jeopardizes health or safety. Access to an enclosed, locked facility may require that specific measures be taken to reduce potential contamination prior to entry. The department shall disclose the reason for the on-site assessment to the authorized person prior to inspecting an enclosed, locked facility. Failure to comply with the department's request to access the enclosed, locked facility for the purpose of ensuring compliance may be grounds for revocation of authorization for conduct in accordance with this chapter. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**7. Excess marijuana; forfeiture.** A person who possesses ~~marijuana seedlings, marijuanacannabis plants or preparedharvested~~ 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 or to the department at the time of an inspection. The law enforcement officer or department is authorized to remove all excess ~~marijuana seedlings, marijuanacannabis plants and preparedharvested~~ marijuana in order to catalog the amount of excess marijuana. An authorized person in possession of excess marijuana must have the opportunity to lawfully dispose of the marijuana that is in excess of the limits permitted before the law enforcement officer or department removes it. Possession of marijuana in excess of the limits ~~provided in this section and rules adopted under this section~~ is subject to department review. Possession of an amount determined to be excess marijuana, and only the excess, 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~~this subsection; and
- B. Possession of marijuana in an excess amount over 2 1/2 ounces is a violation of Title 17-A, chapter 45.

**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, ~~marijuanacannabis plants and prepared, harvested~~ marijuana and products containing 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.

**9. Collectives prohibited.** Collectives are prohibited under this chapter. A person may not form or participate in a collective.

**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.

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.

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.

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.

**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.

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.

**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.

**Sec. 19. 22 MRSA §2423-B, first ¶**, as amended by PL 2013, c. 516, §8, is further amended to read:

A medical provider who is in good standing with the appropriate licensing board 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.

**Sec. 20. 22 MRSA §2423-B, sub-§1**, as amended by PL 2013, c. 516, §8, is further amended to read:

**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 or the patient's legal guardian or representative of the risks and benefits of the medical use of marijuana and that the patient may benefit from the medical use of marijuana.

**Sec. 21. 22 MRSA §2423-B, sub-§2**, as amended by PL 2013, c. 516, §8, is further amended to read:

**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 403 business days of receipt of the request,~~ the treating medical provider may

provide written certification for treatment without consultation with a physician. In the absence of a list of physicians willing to consult on certifications for minors, the department shall inform the treating medical provider within one business day of the treating medical provider's request for consultation that the treating medical provider may proceed with the certification process.

A. The parent or legal guardian of a minor may submit a request to the department for reimbursement of the cost associated with obtaining a 2nd opinion required by this chapter. Requests must be submitted on a form developed by the department. The department shall review the family's annual income and expenses in determining whether to reimburse the family for the cost of the required 2nd consultation from the Medical Use of Marijuana Fund under section 2430. The department shall adopt rules to implement this paragraph. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**Sec. 22. 22 MRSA §2423-B, sub-§5**, as amended by PL 2013, c. 516, §8, is further amended to read:

**5. Possible sanctions.** A person who violates this section is subject to sanctions by the department. Sanctions may include revocation of authorization for conduct, fines and prohibiting a physician from participation in the written certification process. 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. 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.

**Sec. 23. 22 MRSA §2423-D**, as amended by PL 2013, c. 516, §9, is further amended to read:

**§ 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 or a government-issued identification that includes a photo and proof of address may engage in conduct authorized for a qualifying patient under this chapter while in the State. The visiting qualifying patient must use the designation form approved by the department to designate either a registered primary caregiver or registered dispensary to assist with the administration of marijuana for medical use. A visiting patient is prohibited from furnishing marijuana to any person, may not cultivate marijuana and may not possess more than 2 1/2 ounces of harvested marijuana during a 15-day period.

**Sec. 24. 22 MRSA §2423-E, sub-§5, ¶A**, as enacted by PL 2011, c. 407, Pt. B, §20, is amended to read:

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

**Sec. 25. 22 MRSA §2423-E, sub-§5, ¶B**, as enacted by PL 2011, c. 407, Pt. B, §20, is amended to read:

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; and

**Sec. 26. 22 MRSA §2423-E, sub-§5, ¶C** is enacted to read:

C. Be authorized by the department or be a cardholder.

**Sec. 27. 22 MRSA §2423-E, sub-§6**, as enacted by PL 2011, c. 407, Pt. B, §20, is amended to read:

**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 or the department. The law enforcement officer or the department is authorized to remove all excess ~~marijuana seedlings, marijuanacannabis plants and preparedharvested~~ 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 subject to department review. Possession of an amount determined to be excess marijuana, and only the excess, 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~~this subsection; and

B. Possession of marijuana in an excess amount over 2 1/2 ounces is a violation of Title 17-A, chapter 45.

**Sec. 28. 22 MRSA §2423-E, sub-§7**, as enacted by PL 2011, c. 407, Pt. B, §20, is amended to read:

**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, ~~marijuanacannabis~~ plants and ~~preparedharvested~~ 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.

**Sec. 29. 22 MRSA §2423-E, sub-§10** is enacted to read:

**10. Immunity for cardholders.** The immunity provisions in this subsection apply to a registered primary caregiver and a registered primary caregiver employee. A registered primary caregiver or a registered primary caregiver employee 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.

**Sec. 30. 22 MRSA §2424, sub-§2**, as repealed and replaced by PL 2011, c. 407, Pt. B, §21, is amended to read:

**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 consider counsel of a medical provider panel comprising a minimum of 3 medical providers, one of whom may be selected by the petitioner, and 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.[PL 2011, c. 407, Pt. B, § 21 (RPR).]

**Sec. 31. 22 MRSA §2425, sub-§1**, as amended by PL 2013, c. 516, §10, is further amended to read:

**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:~~eligible applicants who submit a complete application.

~~A. Written certification;~~

~~C. Name, address and date of birth of the qualifying patient, except that if the applicant is homeless no address is required;~~

~~D. Name, address and telephone number of the qualifying patient's medical provider;~~

~~E. Name, address and date of birth of each primary caregiver, if any, named by the qualifying patient;~~

~~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~~

~~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.~~

**Sec. 32. 22 MRSA §2425, sub-§3**, as amended by PL 2013, c. 394, §4, is further amended to read:

**3. Department approval or denial.** The department shall verify the information contained in an application or renewal of a registry identification card submitted pursuant to this section and shall approve or deny an application or renewal within 30 days of receiving it. The department shall issue a registry identification card within 5 days of approving a completed application. 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.~~ A qualified applicant whose registry identification card application is denied pursuant to this subsection may request an administrative hearing.

**Sec. 33. 22 MRSA §2425, sub-§3-A,** as enacted by PL 2009, c. 631, §30 and affected by §51, is amended to read:

**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 in accordance with section 2423-A, subsection 8 is considered a final agency action, subject to judicial review under Title 5, chapter 375, subchapter 7. Unless otherwise specified as final agency action, persons who have had authorization for conduct under this chapter revoked due to failure to comply with this chapter and rules adopted by the department must be able to request an informal hearing. The department shall adopt rules to specify the period of time, which may not exceed one year, that the person whose registry identification card was revoked is ineligible for reauthorization under this chapter. The person must demonstrate compliance prior to being issued a new registry identification card. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**Sec. 34. 22 MRSA §2425, sub-§4,** as amended by PL 2013, c. 396, §10, is further amended to read:

**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~~ an 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.

**Sec. 35. 22 MRSA §2425, sub-§4-A,** as enacted by PL 2015, c. 475, §20, is amended to read:

**4-A. Marijuana testing facility and dispensary identification card.** The department shall issue registry identification cards to principal officers, board members and employees of a marijuana testing facility or registered dispensary 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;
- B. The date of issuance and expiration date of the registry identification card; and
- C. A random identification number that is unique to the cardholder.

**Sec. 36. 22 MRSA §2425, sub-§5**, as amended by PL 2013, c. 396, §11, is further amended to read:

**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;
- C. The date of issuance and expiration date of the registry identification card;
- D. A random identification number that is unique to the cardholder; and
- F. A clear designation showing whether the cardholder is allowed under this chapter to cultivate marijuana.

**Sec. 37. 22 MRSA §2425, sub-§6**, as amended by PL 2013, c. 516, §12, is further amended to read:

**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.~~
- 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.~~
- 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.~~

~~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.~~

~~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.~~

~~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.~~

~~G. If the information appearing on the cardholder's registry identification card is incorrect or changes, the cardholder shall notify the department of the inaccuracy or change. The fee required by subsection 12, paragraph E must be submitted with the corrected or changed information within 10 days of the correction or change in information. Within 5 days after such notification, the department shall issue a new registry identification card. A cardholder who fails to notify the department as required under this paragraph commits a civil violation for which a fine of not more than \$150 may be adjudged.~~

**Sec. 38. 22 MRSA §2425, sub-§8, ¶D**, as enacted by IB 2009, c. 1, §5, is amended to read:

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 and authorized conduct.

**Sec. 39. 22 MRSA §2425, sub-§8-A** is enacted to read:

**8-A. Patient records.** Patient records specific to marijuana for medical use are confidential and may not be disclosed except as provided in this chapter. Primary caregivers and dispensaries are required to maintain patient records of transactions occurring during the most recent 12 months and shall develop a record management system that includes a unique identifier corresponding to the patient for whom the marijuana was dispensed. As evidence of compliance by the primary caregiver or dispensary, patient records must include valid copies of the written certification, designation form and driver's license or Maine-issued photo identification. Records of the patient's protected health information are not subject to review by the department.

**Sec. 40. 22 MRSA §2425, sub-§9**, as amended by PL 2009, c. 631, §35 and affected by §51, is further amended to read:

**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~~authorized to possess marijuana for medical purposes under this chapter. A cardholder who sells, furnishes or gives marijuana to a person who is not ~~allowed~~authorized 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.

**Sec. 41. 22 MRSA §2425, sub-§9-A**, as enacted by PL 2011, c. 407, Pt. B, §28, is amended to read:

**9-A. Registration requirement.** Registration under this section is voluntary for a qualifying patient, for a visiting qualifying patient and for a primary caregiver who is exempt under section 2423-A, subsection 32-C, paragraph €A. Failure to register under this section does not affect authorized conduct for a qualifying patient, for a visiting qualifying patient or for a primary caregiver who is exempt under section 2423-A, subsection 32-C, paragraph €A.

**Sec. 42. 22 MRSA §2425, sub-§10, ¶B**, as enacted by IB 2009, c. 1, §5, is amended to read:

B. The number of qualifying patients and registered primary caregivers approved in each county;

**Sec. 43. 22 MRSA §2425, sub-§10, ¶F**, as amended by PL 2009, c. 631, §36 and affected by §51, is further amended to read:

F. The number of registered dispensaries; and

**Sec. 44. 22 MRSA §2425, sub-§10, ¶G**, as amended by PL 2009, c. 631, §36 and affected by §51, is further amended to read:

G. The number of primary caregiver and marijuana testing facility employees and the number of principal officers, board members and employees of dispensaries; and

**Sec. 45. 22 MRSA §2425, sub-§10, ¶H** is enacted to read:

H. The number of patients served by primary caregivers and dispensaries.

**Sec. 46. 22 MRSA §2425, sub-§11**, as enacted by PL 2011, c. 383, §4, is amended to read:

**11. Valid identification.** ~~A registered patient, registered primary caregiver or a principal officer, board member or employee of a registered dispensary~~ Any person 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 residency in this State and for authorized participation in the medical use of marijuana under this chapter.

**Sec. 47. 22 MRSA §2425, sub-§12**, as amended by PL 2015, c. 475, §21, is further amended to read:

**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. Any fines collected pursuant to this chapter and rules adopted by the department must be credited to the Medical Use of Marijuana Fund. 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 or primary caregiver who is not required to register under section 2423-A, subsection 2-C, paragraph A.

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 ~~subsection~~section 2423-A, subsection 1, paragraph F. The fee must be not less than \$50 and not more than ~~\$300~~\$240 for each ~~qualifying patient who has designated the primary caregiver~~registry identification card issued.

~~(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.~~

C. There is an annual fee to register a dispensary of not less than \$5,000 and not more than ~~\$15,000~~\$12,000. 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~~\$4,000.

D. There is an annual fee to register a primary caregiver employee or a principal officer, board member or employee of a registered dispensary or a marijuana testing facility of not less than ~~\$25~~\$20 and not more than \$50. The fee must be paid by the ~~registered dispensary applicant.~~

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.

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.

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.

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, D and E for a 2-year period beginning with the calendar year following the review.

**Sec. 48. 22 MRSA §2425, sub-§13** is enacted to read:

**13. Reporting patient access.** A registered primary caregiver and a registered dispensary must submit annually the number of qualifying patients and visiting qualifying patients who have designated the primary caregiver or dispensary for assistance with the access to and administration of marijuana for medical use. Reporting may not disclose patient identity, directly or indirectly. 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.

**Sec. 49. 22 MRSA §2426, sub-§3-A, ¶B,** as enacted by PL 2011, c. 407, Pt. B, §31, is amended to read:

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 during one transfer or is in the possession of marijuana in excess of limits specified in this chapter commits a civil violation for which a fine of \$200 must be adjudged.

**Sec. 50. 22 MRSA §2426, sub-§3-A, ¶¶C and D** are enacted to read:

C. A visiting qualifying patient who obtains marijuana under this chapter with the result that the visiting qualifying patient is in possession of more than 2 1/2 ounces during a 15-day period commits a civil violation for which a fine of \$200 must be adjudged.

D. A person who misrepresents the possession of a registry identification card or misrepresents the person's authorized conduct commits a civil violation for which a fine of \$200 must be adjudged, and the person may be liable for other penalties and sanctions under this chapter.

**Sec. 51. 22 MRSA §2428, sub-§1-A,** as amended by PL 2013, c. 503, §2, is further amended to read:

**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 and assist with the patient's medical use of marijuana, 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 marijuana for medical use to a qualifying patient who has designated the dispensary or to that patient's designated primary caregiver. 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 paragraphA dispensary may transfer up to 2 pounds of harvested marijuana to a qualifying patient, except that a dispensary may not dispense more than 2 1/2 ounces during a 15-day period to a visiting qualifying patient;

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;

C. Receive reasonable monetary compensation for costs associated with assisting or for cultivating marijuana for a patient who designated the dispensary;

D. Assist any patient who designated the dispensary to cultivate marijuana with the medical use or administration of marijuana; and

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.

**Sec. 52. 22 MRSA §2428, sub-§2, ¶B**, as amended by PL 2009, c. 631, §42 and affected by §51, is further amended to read:

B. ~~The department~~A dispensary shall track the number of registered patients who designate ~~at the dispensary to cultivate marijuana for them and issue to each dispensary~~submit 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~~a month.

**Sec. 53. 22 MRSA §2428, sub-§2, ¶C**, as amended by PL 2009, c. 631, §42 and affected by §51, is further amended to read:

C. The department shall issue each principal officer, board member and employee of a dispensary a registry identification card within ~~10~~30 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.

**Sec. 54. 22 MRSA §2428, sub-§7**, as amended by PL 2011, c. 407, Pt. B, §32, is further amended to read:

**7. Maximum amount of marijuana to be dispensed.** A transfer by a dispensary or a principal officer, board member or employee of a dispensary may not consist of more than 2 pounds to a qualifying patient or to that patient's designated primary caregiver. 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 during a 15-day period to a visiting 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.

**Sec. 55. 22 MRSA §2430-A**, as amended by PL 2015, c. 475, §26, is further amended to read:

### **§ 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.

**1. Responding to a complaint alleging noncompliance.** The department shall respond to a valid report regarding an alleged violation of this chapter or rules adopted by the department or a valid complaint of conduct related to the medical use of marijuana that poses potential risk to public health and safety.

A. A report alleging violation of this chapter or rules adopted by the department and complaints of conduct related to the medical use of marijuana that poses potential risk to public health and safety must be entered into an electronic database maintained by the department within one business day of receipt.

B. The department shall document the assignment of each report. The department shall screen and assign or refer a valid report within 3 business days of receipt. Prior to referring the report to another entity, the department shall determine the protections given to the authorized conduct under this chapter of a person against whom a report has been entered.

C. Department staff may be assigned to assess the compliance of a patient, primary caregiver or cardholder who is alleged to be in violation of this chapter or rules adopted by the department. The department may refer a report to a law enforcement agency when the department determines the conduct is criminal activity, including diversion. For the purpose of a criminal investigation, the department shall disclose to the law enforcement agency the unlawful conduct by the person who is the subject of the report.

D. The department must provide notification of receipt of the complaint to the subject of the report within 3 business days of assignment under paragraph B. The department notification must inform the subject of the report of the nature of the report and whether the department is conducting an on-site assessment or has referred the report to another entity. This paragraph does not restrict the department from conducting an on-site assessment under section 2423-A, subsection 6-A without prior notice to assess compliance at any location where conduct described under this chapter is occurring if the report indicates jeopardy to health and safety.

E. The department must provide the outcome of an on-site assessment under paragraph D to the subject of the report within 30 days of performing the assessment. A person aggrieved by the department's actions may file a request for an informal hearing under subsection 2 to dispute the department's findings from an on-site assessment in accordance with this chapter and rules adopted by the department. Failure of the department to issue a notice of findings within 30 days of an on-site assessment voids the initial findings and requires the department to complete an additional on-site assessment before taking further action. The department may revoke authorization for conduct described under this chapter for a violation of this chapter and rules adopted by the department, and the department shall provide the person a period of 10 days, unless otherwise stated, to remedy a violation identified by the department prior to revoking authorization for conduct. The department may revoke a registry identification card issued to any person who the department has determined is noncompliant, with no plan of correction, or has repeated the same violation within one year.

**2. Findings; notification.** When the department completes an on-site assessment and issues findings of noncompliance pursuant to subsection 1 to a person authorized under this chapter, the department shall notify the person that, within 10 days of receipt of the department's notice of findings of noncompliance, the person may file a written request with the department for an informal hearing. The informal hearing must be held in accordance with the rules and procedures of the department's office of administrative hearings, and the hearing officer shall issue a recommended decision within the applicable time frames as provided by statute or rule. All hearing officer decisions must be in the form of recommended decisions, with final agency action reserved to the commissioner. The hearing officer shall furnish the recommended decision to the person aggrieved, the department and the Office of the Attorney General. The commissioner shall issue a final decision either adopting, modifying or rejecting the hearing officer's recommended decision within 30 business days of the date of the recommended decision. In the event the final decision of the commissioner results in the modification or rejection of the recommended decision, the commissioner shall state in writing the basis for the decision. In the event the commissioner fails to issue a written final decision within 30 business days of the date of the recommended decision, the recommended decision of the hearing officer is deemed the final decision of the commissioner. The commissioner's decision constitutes final agency action, subject to judicial review. Jurisdiction and venue for judicial review are vested in the Superior Court. All decisions of the commissioner must include notice of the aggrieved party's right to judicial review, including the requisite time frame for filing an appeal. A person aggrieved by a decision issued may file, within 30 days of the notice of the decision, a complaint with the Superior Court as provided in Title 5, section 11002.

## SUMMARY

This bill amends the laws governing the cultivation, possession and use of medical marijuana. It:

1. Amends definitions to add terms and to expand upon or provide clarity for existing terms;
2. Amends the qualifying condition of intractable pain to include pain that a medical provider determines is not managed effectively by prescription narcotics and allows a medical provider the discretion to issue a written certification for any medical condition that the physician believes may be alleviated by the patient's using marijuana for medical use. It also requires consultation with a minimum

of 3 medical professionals, one of whom may be selected by the petitioner, prior to accepting or denying a petition to add a debilitating medical condition as a qualifying condition;

3. Replaces the limit of 2 1/2 ounces of marijuana that may be dispensed to a qualifying patient who is a Maine resident during a 15-day period with a limit of no more than 2 pounds in one transfer;

4. Allows a qualifying patient who is cultivating marijuana to furnish seeds and plants to another qualifying patient;

5. Permits a qualifying patient to designate more than one primary caregiver to assist the patient; the additional primary caregivers may not cultivate marijuana for the patient;

6. Prohibits a visiting qualifying patient, who is not a resident of Maine, from cultivating marijuana;

7. Permits a primary caregiver designated to cultivate marijuana to furnish seeds and plants to an authorized person;

8. Increases the number of employees that a registered cultivating primary caregiver may employ. A primary caregiver designated to cultivate can employ one person for each registry identification card the caregiver is issued;

9. Permits a primary caregiver designated to cultivate marijuana to dispose of marijuana by transferring the marijuana to a designated primary caregiver; current law allows the transfer to a dispensary;

10. Allows for certain authorized transfers of marijuana by a primary caregiver designated to cultivate marijuana for reasonable compensation;

11. Allows a primary caregiver who is assisting no more than 2 patients who are members of the primary caregiver's household or family to not register with the department;

12. Authorizes a primary caregiver designated to cultivate marijuana to cultivate up to 6 mature marijuana plants per registry identification card. The maximum number of plants allowed for cultivation is the same as in current law;

13. Removes the limit of 2 1/2 ounces of prepared marijuana and establishes the allowable amount of harvested marijuana to be up to 8 pounds that may be possessed by a patient or authorized person on behalf of a patient. It also establishes the allowable amount of marijuana to be up to 8 pounds per registry identification card for a designated primary caregiver required to register, no more than 8 pounds per patient, up to 2 patients, for a primary caregiver not required to register and 8 pounds per patient for a dispensary designated by a patient;

14. Establishes tracking and reporting requirements for primary caregivers and dispensaries;

15. Permits the Department of Health and Human Services to inspect areas related to marijuana for medical use to assess compliance with the laws regulating marijuana;

16. Reduces the review period from 10 days to 3 business days for a 2nd physician consultation in order for a qualifying patient who is a minor to obtain a written certification when there is a list of consulting physicians and permits a physician to proceed with certification for a minor in the absence of a consulting physician list maintained by the department. It allows the Medical Use of Marijuana Fund

to be used at the department's discretion to reimburse families for the cost of the required consultation by a 2nd physician;

17. Extends the immunity existing for dispensary employees, principal officers and board members to registered primary caregivers and their employees;

18. Authorizes the department, in addition to law enforcement agencies, to remove marijuana determined to be in excess of allowable limits;

19. Permits the department to establish a period of time when persons who have had authorizations denied or revoked are ineligible for reauthorization;

20. Requires a cardholder to notify the department when the information on the card issued by the department is inaccurate or changes;

21. Amends fees for various registrations;

22. Adds a sanction for a person found to be in possession of a registry identification card issued to another person; and

23. Provides for an opportunity for an informal hearing process for specified persons aggrieved by a department enforcement action.