

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

Amend the bill by striking out everything after the enacting clause and before the summary and inserting the following:

**Sec. 1. 7 MRSA §2442, sub-§31-B**, as enacted by PL 2017, c. 309, §2, is amended to read:

**31-B. Registered caregiver.** "Registered caregiver" means a ~~primary~~ caregiver who is registered by the Department of Health and Human Services pursuant to Title 22, section ~~2425~~, ~~subsection 42425-A~~.

**Sec. 2. 7 MRSA §2442, sub-§32**, as amended by PL 2017, c. 309, §3, is further amended to read:

**32. Registered dispensary.** "Registered dispensary" means a ~~nonprofit~~ dispensary that is registered by the Department of Health and Human Services pursuant to Title 22, section ~~2428~~, ~~subsection 2~~, ~~paragraph A~~~~2425-A~~.

**Sec. 3. 7 MRSA §2454, sub-§1**, as enacted by IB 2015, c. 5, §1, is amended to read:

**1. Relation to the Maine Medical Use of Marijuana Act.** This chapter may not be construed to limit any privileges or rights of a qualifying patient, ~~primary~~ caregiver, registered or otherwise, or registered dispensary under the Maine Medical Use of Marijuana Act.

**Sec. 4. 22 MRSA §2152, sub-§4-A**, as amended by PL 2011, c. 407, Pt. A, §2, is further amended to read:

**4-A. Food establishment.** "Food establishment" means a factory, plant, warehouse or store in which food and food products are manufactured, processed, packed, held for introduction into commerce or sold. "Food establishment" includes a ~~primary~~ caregiver, as defined in section 2422, subsection 8-A, and a registered dispensary, as defined in section 2422, subsection 6, that prepare food containing marijuana for medical use by a qualifying patient pursuant to chapter 558-C. The following establishments are not considered food establishments required to be licensed under section 2167:

- A. Eating establishments, as defined in section 2491, subsection 7;
- B. Fish and shellfish processing establishments inspected under Title 12, section 6101, 6102 or 6856;
- C. Storage facilities for native produce;
- D. Establishments such as farm stands and farmers' markets primarily selling fresh produce not including dairy and meat products;
- E. Establishments engaged in the washing, cleaning or sorting of whole produce, provided the produce remains in essentially the same condition as when harvested. The whole produce may be packaged for sale, provided that packaging is not by a vacuum packaging process or a modified atmosphere packaging process;

F. Establishments that are engaged in the drying of single herbs that are generally recognized as safe under 21 Code of Federal Regulations, Sections 182 to 189. The single herbs may be packaged for sale, provided that packaging is not by a vacuum packaging process or a modified atmosphere packaging process; and

G. A primary caregiver, as defined in section 2422, subsection 8-A, conducting an activity allowed in section 2423-A for a qualifying patient who is a member of the family, as defined in section 2422, subsection 5-A, or member of the household, as defined in section 2422, subsection 5-B, of the primary caregiver.

**Sec. 5. 22 MRSA §2158**, as amended by PL 2011, c. 407, Pt. A, §3 and c. 657, Pt. W, §6, is further amended to read:

### **§ 2158.Addition of certain substances limited**

Any poisonous or deleterious substance added to any food, except where such substance is required in the production thereof or cannot be avoided by good manufacturing practice, must be deemed to be unsafe for purposes of the application of section 2156, subsection 1, paragraph B; but when such substance is so required or cannot be avoided, the Commissioner of Agriculture, Conservation and Forestry shall adopt rules limiting the quantity therein or thereon to such extent as the commissioner finds necessary for the protection of public health, and any quantity exceeding the limits so fixed must be deemed to be unsafe for purposes of the application of section 2156, subsection 1, paragraph B. While such a rule is in effect limiting the quantity of any such substance in the case of any food, such food may not, by reason of bearing or containing any added amount of such substance, be considered to be adulterated within the meaning of section 2156, subsection 1, paragraph A. In determining the quantity of such added substance to be tolerated in or on different articles of food, the commissioner shall take into account the extent to which the use of such substance is required or cannot be avoided in the production of each such article and the other ways in which the consumer may be affected by the same or other poisonous or deleterious substances. Goods that are prepared by a primary caregiver under section 2152, subsection 4-A, paragraph G or in a food establishment that is a licensed facility under section 2167 and that contain marijuana for medical use by a qualifying patient, pursuant to chapter 558-C, are not considered to be adulterated under this subchapter.

**Sec. 6. 22 MRSA §2422**, as amended by PL 2015, c. 475, §§1 to 5, is further amended to read:

### **§ 2422.Definitions**

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

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

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

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

**1-C. Assistant.** "Assistant" means a person paid to perform a service for a caregiver, dispensary, manufacturing facility or marijuana testing facility in accordance with this chapter, whether as an employee or independent contractor.

**1-D. Child-resistant.** "Child-resistant" means, with respect to packaging or a container:

A. Specially designed or constructed to be significantly difficult for a typical child under 5 years of age to open and not to be significantly difficult for a typical adult to open and reseal; and

B. With respect to any product intended for more than a single use or that contains multiple servings, resealable.

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

~~A. Cancer, glaucoma, positive status for human immunodeficiency virus, acquired immune deficiency syndrome, hepatitis C, amyotrophic lateral sclerosis, agitation of Alzheimer's disease, nail-patella syndrome or the treatment of these conditions;~~

~~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;~~

~~C. A chronic or debilitating disease or medical condition or its treatment that produces one or more of the following: cachexia or wasting syndrome; severe nausea; or seizures, including but not limited to those characteristic of epilepsy;~~

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

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

**3. Cultivation area.** ~~"Enlosed, locked facility~~Cultivation area" means a closet, room, building, greenhouse or other enclosedan indoor or outdoor area used for cultivation in accordance with this chapter that is enclosed and equipped with locks or other security devices that permit access only by the individuala person authorized to cultivate the marijuanahave access to the area under this chapter.

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

- A. ~~Requires a registered dispensary to limit for more than a 2-week period the amount that a patient may purchase to less than 2 1/2 ounces during a 15-day period; or~~
- 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.~~

**3-B. Edible marijuana product.** "Edible marijuana product" means a marijuana product intended to be consumed orally, including, but not limited to, any type of food, drink or pill containing harvested marijuana.

**3-C. Harvested marijuana.** "Harvested marijuana" means the plant material harvested from a mature marijuana plant, except the stalks, leaves and roots of the plant that are not used for a qualifying patient's medical use. "Harvested marijuana" includes marijuana concentrate and marijuana products.

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

- A. An offense for which the sentence, including any term of probation, incarceration or supervised release, was completed 10 or more years earlier; or
- B. An offense that consisted of conduct that would have been permitted under this chapter.

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

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

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

**4-D. Immature marijuana plant.** "Immature marijuana plant" means a nonflowering marijuana plant that measures more than 24 inches from the base of the main plant stalk to the most distant point of the plant's leaf stems or branches.

**4-E. Inherently hazardous substance.** "Inherently hazardous substance" means a liquid chemical; a compressed gas; carbon dioxide; or a commercial product that has a flash point at or lower than 100 degrees Fahrenheit, including, but not limited to, butane, propane and diethyl ether. "Inherently hazardous substance" does not include any form of alcohol or ethanol.

**4-F. Long-term care facility.** "Long-term care facility" means a hospice provider facility licensed under chapter 1681; a nursing facility licensed under chapter 405; an assisted living facility licensed under chapter 1663 or 1664; or a facility or program licensed under chapter 1663 that provides care for a qualifying patient in accordance with section 2423-A, subsection 1, paragraph F-1, subparagraph (2).

**4-G. Manufacture or manufacturing.** "Manufacture" or "manufacturing" means the production, blending, infusing, compounding or other preparation of marijuana concentrate and marijuana products, including, but not limited to, marijuana extraction or preparation by means of chemical synthesis.

**4-H. Manufacturing facility.** "Manufacturing facility" means a registered tier 1 or tier 2 manufacturing facility or a person authorized to engage in marijuana extraction under section 2423-F.

**4-I. Marijuana concentrate.** "Marijuana concentrate" means the resin extracted from any part of a marijuana plant and every compound, manufacture, salt, derivative, mixture or preparation from such resin, including, but not limited to, hashish.

**4-J. Marijuana extraction.** "Marijuana extraction" means the process of extracting marijuana concentrate from harvested marijuana using water, lipids, gases, solvents or other chemicals or chemical processes.

**4-K. Marijuana plant.** "Marijuana plant" means a plant of the genus Cannabis, including, but not limited to, Cannabis sativa, Cannabis indica and Cannabis ruderalis or their hybrids and the seeds of those plants.

**4-L. Marijuana product.** "Marijuana product" means a product composed of harvested marijuana and other ingredients that is intended for medical use. "Marijuana product" includes, but is not limited to, an edible marijuana product, a marijuana ointment and a marijuana tincture. "Marijuana product" does not include marijuana concentrate.

**4-M. Nonflowering marijuana plant.** "Nonflowering marijuana plant" means a marijuana plant that is in a stage of growth in which the plant's pistils are not showing or the pistils protrude in pairs from seed bracts that may be located on multiple nodes of the plant.

**5. Medical use.** "Medical use" means the acquisition, possession, cultivation, manufacture, use, delivery, transfer or transportation of marijuana or paraphernalia relating to the administration of marijuana to treat or alleviate a qualifying patient's debilitating medical condition~~diagnosis~~ or symptoms associated with the patient's debilitating medical condition~~for which a medical provider has provided the~~ qualifying patient a written certification under this chapter.

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

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

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

A. ~~Is licensed, certified or otherwise approved by the department~~ authorized in accordance with rules adopted by the department under section 2423-A, subsection 10, paragraph D to analyze contaminants in and the potency and cannabinoid profile of samples; and

B. Is accredited pursuant to standard ISO/IEC 17025 of the International Organization for Standardization by a 3rd-party accrediting body or is certified, registered or accredited by an organization approved by the department.

**6. Registered dispensary.** "Registered dispensary" or "dispensary" means ~~a not-for-profit~~ entity registered under section 2428~~2425-A~~ that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, sells, supplies or dispenses marijuana or related supplies and educational materials to qualifying patients and the primary caregivers of those patients.

**6-B. Officer or director.** "Officer or director" means, when used with respect to any nonprofit, for-profit or other organization governed by this chapter, a director, manager, shareholder, board member, partner or other person holding a management position or ownership interest in the organization.

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

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

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

**9. Qualifying patient.** "Qualifying patient" or "patient" means a person who ~~has been diagnosed by a medical provider as having a debilitating medical condition~~ has been a resident of the State for at least 30 days and who possesses a valid written certification regarding medical use of marijuana in accordance with section 2423-B.

**9-A. Registration certificate.** "Registration certificate" means a document issued by the department that identifies an entity as an entity that has registered with the department in accordance with this chapter.

**9-B. Remuneration.** "Remuneration" means a donation or any other monetary payment received directly or indirectly by a person in exchange for goods or services as part of a transaction in which marijuana is transferred or furnished by that person to another person.

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

**11. Registered caregiver.** "Registered primary caregiver" means a primary caregiver who is registered by the department pursuant to section 2425, subsection 42425-A.

**12. Registered patient.** "Registered patient" means a qualifying patient who is registered by the department pursuant to section 2425, subsection 12425-A.

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

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

**13-B. Resident of the State.** "Resident of the State" means a person who is domiciled in the State.

**13-C. Tamper-evident.** "Tamper-evident" means, with respect to a device or process, bearing a seal, a label or a marking that makes unauthorized access to or tampering with a package, product or container easily detectable.

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

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

**14-B. Seedling.** "Seedling" means a nonflowering marijuana plant or rooted cutting that measures 24 inches or less from the base of the main plant stalk to the most distant point of the plant's leaf stems or branches.

**15. Visiting qualifying patient.** "Visiting qualifying patient" means a patient with a debilitating medical condition who is authorized for the medical use of marijuana in this State in accordance with section 2423-D and who is not a resident of this State or who has been a resident of this State less than 30 days.

**16. Written certification.** "Written certification" means a document on tamper-resistant paper signed by a medical provider; that expires within one year is valid for the term provided by the qualifying patient's medical provider, except that the term of a written certification may not exceed one year, and that states that in the medical provider's professional opinion a patient is likely to receive therapeutic or palliative benefit from the medical use of marijuana to treat or alleviate the patient's debilitating medical condition diagnosis or symptoms associated with the debilitating medical condition diagnosis. A written certification may be made only in the course of a bona fide medical provider-patient relationship after the medical provider has completed a full assessment of the qualifying patient's medical history.

**Sec. 7. 22 MRSA §2423-A**, as amended by PL 2017, c. 271, §1, 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~~ 8 pounds of ~~prepared~~ harvested marijuana and an incidental amount of marijuana as provided in subsection 5;

B. Cultivate, or designate a ~~primary caregiver to~~ operating under subsection 3, paragraph C to cultivate under paragraph FF-1, subparagraph (1), up to a total of 6 mature marijuana plants, 12 immature marijuana plants and unlimited seedlings for that qualifying patient. The total number of mature marijuana plants per qualifying patient, whether cultivated by the patient or by a ~~primary caregiver operating under subsection 3, paragraph C~~, 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. The total number of immature marijuana plants per qualifying patient, whether cultivated by the patient or by a caregiver operating under subsection 3, paragraph C, may not exceed 12.~~ Two or more qualifying patients who are members of the same household and cultivating their own marijuana plants may share one enclosed, locked facility for cultivation area;

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~~ harvested marijuana if ~~nothing of value is offered or transferred in return~~ for no remuneration;

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

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

F-1. Obtain or receive harvested marijuana for the patient's medical use without designating a caregiver or a dispensary, except that a qualifying patient or the parent, legal guardian or person having legal custody of a qualifying patient who has not attained 18 years of age or who is enrolled in a preschool or primary or secondary school must designate, as applicable:

(1) A caregiver operating under subsection 3, paragraph C in order to have that caregiver cultivate marijuana plants for the patient;

(2) A long-term care facility in order to have that facility assist with the qualifying patient's medical use of harvested marijuana. A long-term care facility that is designated by a patient may not be designated to cultivate marijuana plants for the patient;

(3) A person in order to have that person obtain harvested marijuana on behalf of the qualifying patient or transport the harvested marijuana to the qualifying patient. The person must possess the person's government-issued photographic identification that contains the person's address, the qualifying patient's written certification and the qualifying patient's designation in order to engage in this conduct; and

(4) A caregiver in order to have that caregiver possess and administer harvested marijuana for the patient's medical use pursuant to section 2426, subsection 1-A if the patient is enrolled in a preschool or primary or secondary school.

A designation pursuant to this paragraph must be in a standardized written document, developed by the department, that is signed and dated by the qualifying patient or the parent, legal guardian or person having legal custody of the qualifying patient and expires on a date not to exceed the expiration date of the qualifying patient's written certification. The document must include the signed acknowledgment of the person or facility that the person or facility may be contacted to confirm the designation of the person or facility to engage in the conduct authorized by the designation. The document must also include, if applicable, the total number of mature marijuana plants and immature marijuana plants the caregiver is cultivating for the patient;

F-2. Choose a caregiver based solely on the patient's preference, except that a parent, legal guardian or person having legal custody of a qualifying patient who has not attained 18 years of age must serve as one caregiver for the patient;

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

H. ~~Accept excess-prepared marijuana plants or harvested marijuana from a primaryqualifying patient, caregiver in accordance with subsection 2, paragraph Hor registered dispensary if nothing of value no remuneration is provided to the primarypatient, caregiver or dispensary; and~~

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

J. Manufacture marijuana products and marijuana concentrate for medical use, except that a qualifying patient may not manufacture food, as defined in section 2152, subsection 4, unless the qualifying patient is licensed pursuant to section 2167 and except that a qualifying patient may not produce marijuana concentrate using inherently hazardous substances unless authorized pursuant to section 2423-F, subsection 3;

K. Provide harvested marijuana to a manufacturing facility and obtain marijuana products and marijuana concentrate from the manufacturing facility that are produced from the harvested marijuana the qualifying patient provided to the manufacturing facility;

L. Transport marijuana plants or harvested marijuana for a qualifying patient's medical use of marijuana in accordance with this chapter; and

M. Use harvested marijuana in any form, except as provided in subsection 4-A and except that qualifying patients who have not attained 18 years of age may not engage in smoking harvested marijuana. For the purposes of this paragraph, "smoking" has the same meaning as in section 1541, subsection 6, except that "smoking" does not include the use of a nebulizer.

**2. 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 with the patient's medical use of marijuana, may engage in the following authorized conduct if the caregiver is a resident of the State, is 21 years of age or older and has not been convicted of a disqualifying drug offense:

~~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~~all harvested marijuana produced by the caregiver's cultivation of marijuana plants under paragraph B;

A-1. Transfer up to 2 1/2 ounces of harvested marijuana to a qualifying patient in one transaction, except that a caregiver may not dispense more than 2 1/2 ounces of harvested marijuana to a visiting qualifying patient during a 15-day period;

~~B. Cultivate up to 630 mature marijuana plants for each qualifying patient who has designated the primary caregiver to cultivate marijuana on the patient's behalf, subject to the limitation in subsection 1, paragraph B on the total number of plants authorized per qualifying patient. A primary caregiver may not cultivate marijuana for a patient unless the patient has designated the primary caregiver for that purpose and the patient has not designated a registered dispensary to cultivate marijuana for the patient's medical use. In addition to the marijuana plants otherwise authorized under this paragraph, a primary caregiver may have harvested marijuana plants in varying stages of processing in order to ensure the primary caregiver is able to meet the needs of the primary caregiver's qualifying patients,~~60 immature marijuana plants and unlimited seedlings;

~~C. Assist a maximum of 5 patients who have designated the primary caregiver to cultivate marijuana for their medical use;~~

C-1. Assist a qualifying patient with the patient's medical use of marijuana;

~~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 plants or assisting a qualifying patient with that patient's medical use of 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~~Manufacture marijuana products and marijuana concentrate for medical use, except that a caregiver may not manufacture food, as defined in section 2152, subsection 4, unless the caregiver is licensed pursuant to section 2167 and except that a caregiver may not produce marijuana concentrate using inherently hazardous substances unless authorized pursuant to section 2423-F, subsection 3;

~~H. For the purpose of disposing of excess prepared marijuana, transfer prepared marijuana to a registered dispensary, a qualifying patient or another primary caregiver if nothing of value is provided to the primary caregiver. A primary caregiver who transfers prepared marijuana pursuant to this paragraph does not by virtue of only that transfer qualify as a member of a collective;~~

~~I. Employ one person~~Hire any number of assistants to assist in performing the duties of the primary caregiver;

J. Use a pesticide in the cultivation of marijuana plants 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 plants use a pesticide unless the registered ~~primary~~ caregiver or the registered ~~primary~~ caregiver's ~~employee~~assistant is certified in the application of the pesticide pursuant to section 1471-D and any ~~employee~~assistant who has direct contact with treated plants has completed safety training pursuant to 40 Code of Federal Regulations, Section 170.130. An ~~employee~~assistant 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~~Transfer marijuana, ~~transfer prepared marijuana~~plants and harvested marijuana to a qualifying patient, another caregiver or a registered dispensary for reasonable compensation. ~~The transfer of prepared marijuana by a primary caregiver to one or more dispensaries under this paragraph is limited to a registered primary caregiver. A registered primary caregiver may not transfer more than 2 pounds of excess prepared marijuana for reasonable compensation under this paragraph in a calendar year. A primary caregiver who transfers prepared marijuana pursuant to this paragraph does not by virtue of only that transfer qualify as a member of a collective~~no remuneration;

K-1. Transfer to and accept from another registered caregiver or a dispensary marijuana plants and harvested marijuana in a wholesale transaction in accordance with this paragraph. A registered caregiver may transfer in wholesale transactions for reasonable compensation or for no remuneration up to 30% of the mature marijuana plants grown by the caregiver over the course of a calendar year, including any marijuana products or marijuana concentrate manufactured from that 30% of the mature marijuana plants grown by the caregiver. A registered caregiver may transfer to or accept from other registered caregivers and dispensaries in wholesale transactions an unlimited amount of immature marijuana plants and seedlings. A registered caregiver that acquires mature marijuana plants, marijuana products or marijuana concentrate in a wholesale transaction under this paragraph may not resell the mature marijuana plants, marijuana products or marijuana concentrate except to a qualifying patient or to another registered caregiver or dispensary to assist a qualifying patient;

~~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~~Conduct marijuana testing at the request of anyone authorized to possess marijuana under this chapter for research and development purposes only;

~~N. Provide harvested marijuana to a manufacturing facility and obtain marijuana products and marijuana concentrate from the manufacturing facility that are produced from the harvested marijuana the caregiver provided to the manufacturing facility;~~

~~O. Transport marijuana plants or harvested marijuana for authorized conduct in accordance with this chapter;~~

~~P. Operate a retail store to sell harvested marijuana to qualifying patients for the patients' medical use in accordance with this chapter; and~~

~~Q. Be organized as any type of legal business entity recognized under the laws of the State.~~

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

~~A. A patient who elects to cultivate marijuana plants must keep the plants in an enclosed, locked facility~~a cultivation area 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

~~pursuant to subsection 1, paragraph L.~~ Access to ~~the~~a cultivation facilityarea is limited to the patient, except that emergency services personnel, an ~~employee~~assistant of a marijuana testing facility or a person who needs to gain access to ~~the~~a cultivation facilityarea in order to perform repairs or maintenance or to do construction may access ~~the~~a cultivation facilityarea 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~~cultivating marijuana plants for ~~the~~a patient's medical use must keep all plants in an enclosed, locked facility

~~a cultivation area~~ 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

~~pursuant to subsection 2, paragraph O.~~ The primary caregiver shall use a numerical identification system to enable the primary caregiver to identify marijuana plants cultivated for a patient. Access to ~~the~~a cultivation facilityarea is limited to the primary caregiver, except that an elected official invited by the primary caregiver for the purpose of providing education to the elected official on cultivation by the primary caregiver, emergency services personnel, an ~~employee~~assistant of a caregiver or a marijuana testing facility or a person who needs to gain access to ~~the~~a cultivation facilityarea in order to perform repairs or maintenance or to do construction may access ~~the~~a cultivation facilityarea to provide those professional services while under the direct supervision of the primary caregiver.

~~B-1. Except as provided in paragraph C, a caregiver is required to register with the department.~~

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

- (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.

C-1. A caregiver operating under paragraph C may engage in the conduct authorized in subsection 2, except that a caregiver operating under paragraph C may not:

- (1) Cultivate marijuana plants for more than 2 members of the family or members of the same household;
- (2) Cultivate more than 6 mature marijuana plants and 12 immature marijuana plants for each qualifying patient who has designated the caregiver to cultivate marijuana plants on the patient's behalf;
- (3) Possess more than 8 pounds of harvested marijuana;
- (4) Sell marijuana plants or harvested marijuana at wholesale under subsection 2, paragraph K-1;
- (5) Use a pesticide under subsection 2, paragraph J;
- (6) Operate a retail store under subsection 2, paragraph P; or
- (7) Organize as a business entity under subsection 2, paragraph Q.

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

E. A person who is authorized to cultivate marijuana plants under subsection 1 or 2 and who is ~~employed by an assistant of a primary caregiver pursuant to subsection 2, paragraph I~~ may not cultivate that person's own marijuana plants in the ~~location used for cultivation area~~ by the primary caregiver who employs that person.

**4. Long-term care facility.** ~~A registered qualifying patient may name designate a hospice provider licensed under chapter 1681 or a nursing facility licensed under chapter 405 long-term care facility to serve as a registered primary caregiver assist with the qualifying patient's medical use of marijuana if that use is consistent with the facility's policy and is pursuant to subsection 1, paragraph F-1, subparagraph 2. If a hospice provider or nursing long-term care facility is named as a primary caregiver designated, 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 registration certificate for the facility. For a long-term care facility to be issued a registry identification card registration certificate, a staff person persons of a hospice provider or nursing the facility that has been named as a primary caregiver who will be assisting a qualifying patient with the patient's medical use of marijuana in accordance with this chapter must be at least 21 years of age and may not have been convicted of a disqualifying drug offense. The hospice provider or nursing long-term care facility and the staff of the provider or facility may not cultivate marijuana plants for the patient.~~

**4-A. Use and storage in inpatient long-term care facility permitted.** ~~A qualifying patient who is a resident of a hospice provider long-term care 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 that are not smoked, including, but not limited to, vaporized marijuana, edible marijuana and tinctures and salves of marijuana consistent with the facility's policy. A qualifying patient who uses a form of prepared harvested marijuana pursuant to this subsection may store the prepared harvested 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 long-term care facility as a primary caregiver under subsection 4 subsection 1, paragraph F-1, subparagraph (2). A hospice provider or nursing long-term care facility is not required to be named as a primary caregiver designated by a qualifying patient who uses prepared harvested marijuana pursuant to this subsection. This subsection does not limit the ability of a hospice provider or nursing long-term care facility to prohibit or restrict the use or storage of prepared harvested 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.~~

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

- ~~A. Possession of marijuana in an excess amount up to 2 1/2 ounces is a violation of section 2383; and~~
- ~~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, marijuana plants and prepared marijuana must be forfeited to a law enforcement officer. The department shall adopt rules to implement this subsection. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.~~

**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 that meets the requirements of this subsection and any rules adopted under paragraph D may receive and possess samples from qualifying patients, ~~designated primary caregivers and~~ dispensaries and manufacturing facilities 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 ~~employeeassistant~~ of a marijuana testing facility may have access to ~~cultivation facilities~~areas pursuant to subsection 3, paragraphs A and B and section 2428, subsection 6, paragraph I.

C. A marijuana testing facility shall:

(1) ~~Properly dispose~~Dispose of marijuana residue in compliance with department rules samples in a manner that prevents diversion of samples to persons not authorized to possess the samples tested by the facility;

(2) ~~House and store~~ marijuana samples 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~~samples 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 any 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 officer or director qualification requirements;

(2) Required security for marijuana testing facilities; and

(3) Requirements for the licensing, certifying or other approval of marijuana testing facilities.

The failure of the department to adopt rules under this paragraph does not prevent a marijuana testing facility from engaging in activities in compliance with this chapter.

E. A marijuana testing facility shall obtain and must be able to produce, upon demand of the department or a municipal code enforcement officer, documentation of the facility's accreditation pursuant to standard ISO/IEC 17025 of the International Organization for Standardization by a 3rd-party accrediting body. The department may inspect a marijuana testing facility during regular business hours and hours of apparent activity for compliance with this chapter.

**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 caregiver or an officer or director of a registered dispensary or primary, registered caregiver or manufacturing facility 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 or manufacturing facility.~~

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

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

**Sec. 8. 22 MRSA §2423-B**, as amended by PL 2015, c. 475, §15, is further amended to read:

**§ 2423-B. Authorized conduct by a medical provider**

A medical provider may provide a written certification in accordance with this section 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 or palliative benefit from the medical use of marijuana to treat or alleviate the patient's debilitating medical condition diagnosis.

**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.

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

**2-A. Minor qualifying patient.** A medical provider who provides a written certification to a patient who has not attained 18 years of age:

A. Shall inform the qualifying patient and the parent, legal guardian or person having legal custody 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;

B. May provide a written certification to a qualifying patient if the patient is eligible for hospice services and has a medical diagnosis that, in the medical provider's professional opinion, may be alleviated by the therapeutic or palliative medical use of marijuana;

C. May provide a written certification to a qualifying patient if the patient has a medical diagnosis of epilepsy, cancer, a developmental disability or an intellectual disability that, in the medical provider's professional opinion, may be alleviated by the therapeutic or palliative medical use of marijuana; and

D. If a patient does not satisfy the requirements of paragraphs B and C, may provide a written certification to a qualifying patient after consulting with a physician from a list of physicians who may be willing to consult with a medical provider maintained by the department that is compiled by the department after consultation with statewide associations representing licensed medical professionals. The consultation between the 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 medical provider and the parent, legal guardian or person having legal custody of the 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 medical diagnosis. If the department or the consulting physician does not respond to a request by the medical provider within 10 days of receipt of the request, the medical provider may provide a written certification without consultation with a physician.

The parent, legal guardian or person having legal custody of a qualifying patient who has not attained 18 years of age may submit a request to the department for reimbursement of the costs associated with obtaining a 2nd opinion required by this paragraph. 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 from the Medical Use of Marijuana Fund under section 2430 for the cost of the required 2nd consultation.

The department shall adopt routine technical rules as defined in Title 5, chapter 375, subchapter 2-A to implement the reimbursement request under this paragraph.

**2-B. Adult and minor patients with substance use disorder.** Prior to providing written certification for the medical use of marijuana under this section for a medical diagnosis of substance use disorder that, in the medical provider's professional opinion, may be alleviated by the therapeutic or palliative medical use of marijuana, the medical provider shall develop a recovery plan with the patient. For purposes of this subsection, "substance use disorder" means a diagnosis related to alcohol or drug abuse covered by Title 5, chapter 521.

**2-C. Bona fide provider-patient relationship.** A written certification may be made only in the course of a bona fide medical provider-patient relationship after the medical provider has completed a full assessment of the patient's medical history. If a patient has not provided a medical provider who is not the patient's primary care provider with the name and contact information of the patient's primary care provider, a medical provider shall conduct an in-person consultation with the patient prior to providing a written certification.

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

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

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

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

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

**8. Continuing medical education.** A medical provider who has not previously provided a written certification to a qualifying patient for the medical use of marijuana shall, prior to providing a written certification to a qualifying patient, submit evidence, satisfactory to the department, of successful completion of a one-hour course of continuing medical education relating to medical marijuana within the preceding 24 months.

**Sec. 9. 22 MRSA §2423-C**, as amended by PL 2011, c. 407, Pt. B, §18, is further amended to read:

**§ 2423-C. Authorized conduct**

A person may provide a qualifying patient or a ~~primary~~ caregiver with marijuana paraphernalia for purposes of the qualifying patient's medical use of marijuana in accordance with this chapter and be in the presence or vicinity of the medical use of marijuana as allowed under this chapter.

**Sec. 10. 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 visiting 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 visiting qualifying patient's treating medical provider and a valid medical marijuana certification from that other jurisdiction and photographic identification or a driver's license from that jurisdiction may engage in conduct authorized for a qualifying patient under this chapter., except that a visiting qualifying patient may not:

- 1. Cultivate.** Cultivate marijuana plants;
- 2. Possess.** Possess more than 2 1/2 ounces of harvested marijuana in a 15-day period;
- 3. Transfer or furnish.** Transfer or furnish harvested marijuana to another person;
- 4. Obtain.** Obtain harvested marijuana from a registered caregiver or dispensary unless the visiting qualifying patient has designated the registered caregiver or dispensary in order to have that caregiver or dispensary provide harvested marijuana to the visiting qualifying patient. A designation pursuant to this subsection must be in a standardized written document, developed by the department, and signed and dated by the visiting qualifying patient. The designation is valid for the term provided by the visiting qualifying patient's medical provider pursuant to section 2423-B. The document must include the signed acknowledgment of the registered caregiver or dispensary that the caregiver or dispensary may be contacted to confirm the designation of the caregiver or dispensary to provide harvested marijuana to the visiting qualifying patient.

**Sec. 11. 22 MRSA §2423-E**, as amended by PL 2017, c. 252, §1, is repealed.

**Sec. 12. 22 MRSA §2423-F** is enacted to read:

### **§ 2423-F. Marijuana manufacturing facilities**

A person may not manufacture marijuana products or marijuana concentrate or engage in marijuana extraction except as provided in this chapter.

- 1. Tier 1 manufacturing facility.** A tier 1 manufacturing facility registered pursuant to subsection 8 may engage in the activities authorized under subsection 4 in accordance with rules adopted pursuant to subsection 10 and may possess up to 40 pounds of harvested marijuana.
- 2. Tier 2 manufacturing facility.** A tier 2 manufacturing facility registered pursuant to subsection 8 may engage in the activities authorized under subsection 4 in accordance with rules adopted pursuant to subsection 10 and may possess up to 200 pounds of harvested marijuana.
- 3. Authorization for extraction using inherently hazardous substances.** This subsection governs the authority of a person to engage in marijuana extraction using inherently hazardous substances in accordance with subsection 5.

A. A qualifying patient, caregiver, registered dispensary or manufacturing facility may engage in marijuana extraction using inherently hazardous substances if the person can produce, upon demand of the department:

(1) Certification from a professional engineer licensed in this State of the safety of the equipment used for marijuana extraction and the location of the equipment and the professional engineer's approval of the standard operating procedures for the marijuana extraction;

(2) Documentation from a professional engineer licensed in this State or a state or local official authorized to certify compliance that the equipment used for marijuana extraction and the location of the equipment comply with state law and all applicable local and state building codes, electrical codes and fire codes, including the chapters of the most recent National Fire Protection Association Fire Code relating to marijuana extraction facilities;

(3) Documentation from the manufacturer of the marijuana extraction system or a professional engineer licensed in this State showing that a professional grade, closed-loop extraction system that is capable of recovering the solvents used to produce marijuana concentrate is used by the person; and

(4) Evidence that the person has provided notice to the department of the person's intent to engage in marijuana extraction using inherently hazardous substances and the location where the marijuana extraction will occur prior to engaging in marijuana extraction using inherently hazardous substances.

A person who intends to engage in marijuana extraction using inherently hazardous substances shall notify the department of that intention prior to engaging in marijuana extraction using inherently hazardous substances. The department may deny an application of a person authorized under this paragraph to register pursuant to rules adopted under subsection 10 if the person did not notify the department in accordance with this paragraph.

B. A person who is not a qualifying patient, caregiver or dispensary and that meets the requirements of a person authorized under paragraph A, pays the fee required by section 2425-A, subsection 10 and meets the requirements of rules adopted under subsection 10 is authorized to engage in marijuana extraction using inherently hazardous substances and may possess up to 40 pounds of harvested marijuana in accordance with subsection 5.

**4. Authorized conduct; manufacturing facilities.** A registered manufacturing facility:

- A. May manufacture marijuana products and marijuana concentrate for medical use using any method that does not involve an inherently hazardous substance, except that a registered manufacturing facility may manufacture marijuana concentrate using inherently hazardous substances if authorized under subsection 3;
- B. May obtain harvested marijuana from a qualifying patient, a caregiver or a registered dispensary and may transfer marijuana products and marijuana concentrate to the person that provided the harvested marijuana used to manufacture the marijuana product or marijuana concentrate;
- C. May transfer samples to a marijuana testing facility for testing;
- D. May conduct testing of marijuana products or marijuana concentrate manufactured by the facility for research and development purposes;
- E. May receive reasonable compensation for manufacturing marijuana products or marijuana concentrate;
- F. Shall dispose of harvested marijuana used in the manufacturing process in a manner that prevents its diversion to persons not authorized to possess harvested marijuana possessed by the facility and in accordance with rules adopted by the department; and
- G. May hire any number of assistants to assist in performing the duties of the manufacturing facility.

**5. Authorized conduct; extraction using inherently hazardous substances.** A person that is authorized to engage in marijuana extraction using inherently hazardous substances pursuant to subsection 3:

- A. May engage in marijuana extraction to produce marijuana concentrate for medical use;
- B. May obtain harvested marijuana from a qualifying patient, a caregiver or a dispensary and may transfer marijuana concentrate to the person that provided the harvested marijuana used to produce the marijuana concentrate;
- C. May transfer samples to a marijuana testing facility for testing;
- D. May conduct testing of marijuana concentrate produced by the person for research and development purposes;
- E. May receive reasonable compensation for producing marijuana concentrate;
- F. Shall dispose of harvested marijuana used in the extraction process in a manner that prevents its diversion to persons not authorized to possess harvested marijuana possessed by the person and in accordance with rules adopted by the department; and
- G. May hire any number of assistants to assist in performing the activities authorized under this subsection, except that a qualifying patient authorized under subsection 3 may not hire an assistant.

Notwithstanding the authorizations established in this subsection, a person that is authorized to engage in marijuana extraction using inherently hazardous substances pursuant to subsection 3 shall comply with any rules adopted pursuant to subsection 10.

**6. Retail sale prohibited.** A registered manufacturing facility or a person authorized to engage in marijuana extraction using inherently hazardous substances under subsection 3 may not engage in retail sales of marijuana products or marijuana concentrate unless the person is authorized to engage in retail sales under this chapter.

**7. Food establishment license required to manufacture food products.** A registered manufacturing facility or a person authorized to produce marijuana concentrate using inherently hazardous substances may not manufacture edible marijuana products or marijuana tinctures unless licensed pursuant to section 2167.

**8. Registration requirements.** This subsection governs registration requirements of a manufacturing facility or a person authorized to engage in marijuana extraction using inherently hazardous substances under subsection 3 and the officer or director or assistant of the facility or person.

A. In accordance with rules adopted under subsection 10, the department shall register and issue a registration certificate with a registry identification number to a manufacturing facility or a person authorized to engage in marijuana extraction within 30 days to the facility or person if the facility or person provides:

(1) The annual fee required pursuant to section 2425-A, subsection 10;

(2) The legal name of the facility or person and, if incorporated, evidence of incorporation and evidence that the corporation is in good standing with the Secretary of State;

(3) The physical address of the facility or person or the physical address where an applicant who is an individual will engage in the activities authorized under this section. If the facility or person changes its physical location, or if a person registered under this subsection changes the location at which the person engages in activities authorized under this section, the facility or person shall notify the department of the new location; and

(4) The name, address and date of birth of each officer or director of the facility or person.

B. In accordance with rules adopted under subsection 10, the department shall issue registry identification cards to the officer or director or assistant of a registered manufacturing facility or person authorized to engage in marijuana extraction using inherently hazardous substances within 5 business days of approving an application or renewal under this subsection. A registry identification card is required to be issued to an officer or director or assistant of a registered manufacturing facility

or person authorized to engage in marijuana extraction using inherently hazardous substances. A registry identification card expires one year after the date of issuance. A registry identification card issued under this paragraph must contain:

- (1) The name of the cardholder;
- (2) The date of issuance and expiration date of the registry identification card; and
- (3) A random identification number that is unique to the cardholder.

The department may not issue a registry identification card to an officer or director or assistant of a registered manufacturing facility or person authorized to engage in marijuana extraction using inherently hazardous substances who has been convicted of a disqualifying drug offense. The department shall conduct a criminal history record check of each person, officer or director or assistant subject to this subsection on an annual basis.

If the department determines not to issue a registry identification card for a person, officer or director or assistant, the department shall notify the registered manufacturing facility or person authorized to engage in marijuana extraction using inherently hazardous substances in writing of the reason for denying the registry identification card.

**9. Packaging and labeling requirements.** A manufacturing facility shall package and label its marijuana products and marijuana concentrate prior to transfer from the manufacturing facility in a form intended for use or consumption by a qualifying patient in tamper-evident packaging and with a label that includes the following information:

- A. The registry identification number of the manufacturing facility;
- B. Information that allows the provider of the marijuana to the manufacturing facility to confirm that the marijuana provided was used to manufacture the marijuana product or marijuana concentrate transferred back to that provider;
- C. Ingredients other than material derived from marijuana plants contained in the marijuana product or marijuana concentrate; and
- D. Any chemicals, solvents or other substances used to manufacture the marijuana product or marijuana concentrate.

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

- A. Requirements for the registration of a manufacturing facility and an officer or director or assistant of a registered manufacturing facility;

- B. Requirements for engaging in marijuana extraction using inherently hazardous substances;
- C. Manufacturing facility officer or director qualification requirements;
- D. Required security for manufacturing facilities;
- E. Requirements of a disposal plan for harvested marijuana used in the manufacturing process; and
- F. Minimum record-keeping requirements, including an annual audit requirement.

The failure of the department to adopt rules under this subsection does not prevent a person authorized pursuant to subsection 3, paragraph A from engaging in conduct authorized under this section.

**11. Multiple authorizations.** A facility or person registered pursuant to subsection 8 may also be a qualifying patient, a caregiver or a registered dispensary. A facility or person authorized to possess marijuana under this chapter may possess the amount allowed for that facility or person in addition to the possession amount allowed under this section if the facility or person is registered pursuant to this section. The marijuana possessed must be distinguishable with respect to the purposes for which it is authorized to be possessed.

**12. Record keeping.** A registered manufacturing facility or person authorized to engage in marijuana extraction using inherently hazardous substances under subsection 3 shall maintain records of all transactions in accordance with section 2430-G.

**13. Colocation of facilities.** A manufacturing facility that is also licensed as a retail marijuana products manufacturing facility under Title 7, chapter 417 may manufacture marijuana products and marijuana concentrate within the same facility in which the licensee also manufactures marijuana products or marijuana concentrate for medical use pursuant to this chapter. The following items or areas within the shared facility may be shared for both manufacturing pursuant to this chapter and pursuant to Title 7, chapter 417:

- A. Manufacturing-related and nonmanufacturing-related equipment, except that manufacturing-related equipment may not be simultaneously used for manufacturing pursuant to this chapter and pursuant to Title 7, chapter 417;
- B. Manufacturing-related and nonmanufacturing-related supplies or products not containing harvested marijuana and the storage areas for those supplies or products; and
- C. General office space, bathrooms, entryways and walkways.

**Sec. 13. 22 MRSA §2424,** as amended by PL 2013, c. 394, §1, is further amended to read:

## **§ 2424.Rules**

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

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

**3. Registration.** The department shall adopt rules governing the manner in which it considers applications for and renewals of registry identification cards or registration certificates for registered patients, registered primary caregivers, principal officers, board members and employees of dispensaries and staff of hospice providers and nursing facilities designated as primary caregivers a person required to obtain a registry identification card or registration certificate under this chapter. The department's rules must require the submission of an application, must require replacement of a registry identification card or registration certificate that has been lost, destroyed or stolen or that contains information that is no longer accurate and must establish application and renewal fees that generate revenues sufficient to offset all expenses of implementing and administering this chapter and that are consistent with the provisions of section ~~2425~~2425-A, subsection ~~4~~10. The department may establish a sliding scale of application and renewal fees based upon a registered patient's family income and status as a veteran of the Armed Forces of the United States. The department may accept donations from private sources in order to reduce the application and renewal fees.

**4. Enforcement and compliance.** The department shall adopt routine technical rules as defined in Title 5, chapter 375, subchapter 2-A regarding enforcement and compliance of authorized conduct under this chapter, including rules governing:

A. Minimum oversight requirements for dispensaries and registered caregivers and the one permitted additional location at which a dispensary cultivates marijuana plants for medical use by qualifying patients; and

B. Minimum security requirements for registered caregivers operating retail stores pursuant to section 242-A, subsection 2, paragraph P and registered dispensaries and any additional location at which a dispensary cultivates marijuana plants for medical use by qualifying patients.

**Sec. 14. 22 MRSA §2425**, as corrected by RR 2017, c. 1, §13, is repealed.

**Sec. 15. 22 MRSA §2425-A** is enacted to read:

**§ 2425-A. Registry identification cards and registration certificates**

This section governs registry identification cards and registration certificates, except that registration of manufacturing facilities and persons authorized to engage in marijuana extraction is governed by section 2423-F and registration of marijuana testing facilities is governed by section 2423-A, subsection 10.

**1. Voluntary registration.** Registration under this section is voluntary for a qualifying patient, for a visiting qualifying patient and for a caregiver who is operating under section 2423-A, subsection 3, paragraph C. If a qualifying patient or visiting qualifying patient or a caregiver who is operating under section 2423-A, subsection 3, paragraph C does not register with the department, the patient's or caregiver's ability to engage in authorized conduct in accordance with this chapter is not affected.

**2. Required registration.** A caregiver, other than a caregiver operating under section 2423-A, subsection 3, paragraph C, and an officer or director or assistant of a dispensary or a caregiver, other than a caregiver operating under section 2423-A, subsection 3, paragraph C, shall obtain a registry identification card in accordance with subsections 3, 4 and 5. A long-term care facility designated by a qualifying patient pursuant to section 2423-A, subsection 1, paragraph F-1, subparagraph (2) and a dispensary shall obtain a registration certificate in accordance with subsections 6, 7 and 8.

**3. Application for registry identification card; qualifications.** The department shall register and issue a registry identification card to an applicant who submits a complete application that meets the requirements of this subsection.

The department shall conduct a criminal history record check for any applicant for a registry identification card. The department may not issue a registry identification card to an applicant who is not permitted under this chapter to have a disqualifying drug offense.

An application must include, as applicable:

A. The annual fee required pursuant to subsection 10; and

B. A statement that the requirements of section 2423-B have been met if the qualifying patient applying for the registry identification card has not attained 18 years of age and the qualifying patient's parent, guardian or person having legal custody of the patient consents in writing to:

(1) The qualifying patient's medical use of marijuana;

(2) Serving as one of the qualifying patient's caregivers; and

(3) Controlling the acquisition of the marijuana plants or harvested marijuana and the dosage and the frequency of the medical use of marijuana by the qualifying patient.

**4. Issuance or denial of registry identification cards.** The department shall verify the information contained in an application for a registry identification card or for renewal of a card submitted pursuant to subsection 3 and shall approve or deny an application for a card or for renewal of a card in accordance with this subsection within 30 days of receiving it.

A. Within 5 business days of approving a completed application, the department shall issue a registry identification card to the applicant.

B. The department may deny an application for a card or for renewal of a card only if:

(1) The applicant did not provide the information required pursuant to subsection 3;

(2) The department determines that the applicant does not qualify; or

(3) The department determines that the information provided by the applicant was falsified.

C. The department shall notify the applicant and, if the applicant is an officer or director or assistant of a registered dispensary, the registered dispensary, in writing of the reason for denying the registry identification card.

An applicant whose application is denied pursuant to this subsection may request an administrative hearing in accordance with Title 5, chapter 375, subchapter 4.

If the department fails to issue or deny a valid registry identification card in response to a valid application for a card or for renewal of a card submitted pursuant to subsection 3 within 45 days of its submission, the registry identification card is deemed granted and a copy of the application for a registry identification card or for renewal of the card is deemed a valid registry identification card.

**5. Requirements for issuance of registry identification cards.** The following provisions apply to the issuance of registry identification cards.

A. A registry identification card expires one year after the date of issuance. The card must contain:

(1) The name of the cardholder;

(2) The date of issuance and expiration date;

(3) A random identification number that is unique to the cardholder; and

(4) A clear designation showing whether the cardholder is allowed under this chapter to cultivate marijuana plants.

B. If a caregiver is organized as a legal business entity pursuant to section 2423-A, subsection 2, paragraph Q, the caregiver may obtain a registry identification card in the name of the business entity if the caregiver submits evidence of the business entity's registration with the Secretary of State and evidence that the business entity is in good standing with the Secretary of State.

C. Registry identification cards issued to an officer or director or assistant of a registered dispensary must also contain:

(1) The legal name of the registered dispensary with which the officer or director or assistant is affiliated;

(2) The address and date of birth of the officer or director or assistant; and

(3) A photograph of the officer or director or assistant, if required by the department.

D. The registry identification card of an officer or director or assistant of a registered dispensary expires 10 days after notification is given to the department by the registered dispensary that the person has ceased to work at the dispensary.

**6. Application for registration certificate; qualifications.** The department shall register and issue a registration certificate to an applicant who submits a complete application that meets the requirements of this subsection. An application must include, as applicable:

A. The annual fee required pursuant to subsection 10;

B. Evidence of the applicant's registration with the Secretary of State and evidence that the applicant is in good standing with the Secretary of State; and

C. The name, address and date of birth of each officer or director of the applicant.

**7. Issuance or denial of registration certificate.** The department shall verify the information contained in an application for a registration certificate or for renewal of a certificate submitted pursuant to subsection 6 and shall approve or deny an application for a certificate or for renewal of a certificate in accordance with this subsection within 30 days of receiving it.

A. Within 10 days of approving a completed application, the department shall issue a registration certificate to the applicant.

B. The department may deny an application for a certificate or for renewal of a certificate only if:

(1) The applicant did not provide the information required pursuant to subsection 6;

(2) The department determines that the applicant does not qualify; or

(3) The department determines that the information provided by the applicant was falsified.

C. The department shall notify the applicant in writing of the reason for denying the registration certificate.

An applicant whose application is denied pursuant to this subsection may request an administrative hearing in accordance with Title 5, chapter 375, subchapter 4.

If the department fails to issue or deny a registration certificate in response to a valid application for a certificate or for renewal of a certificate submitted pursuant to subsection 6 within 45 days of its submission, the registration certificate is deemed granted and a copy of the application for a registration certificate or for renewal of the certificate is deemed a valid registration certificate.

**8. Requirements for issuance of registration certificates.** A registration certificate expires one year after the date of issuance. The certificate must contain:

A. The name of the certificate holder;

B. The date of issuance and expiration date of the registration certificate;

C. A random identification number that is unique to the certificate holder;

D. The physical address of the certificate holder and, if the certificate holder is a dispensary, the physical address of one additional location, if any, where marijuana will be cultivated; and

E. A clear designation showing whether the certificate holder is allowed under this chapter to cultivate marijuana plants.

**9. Drug testing.** The department may not require an assistant of a caregiver, dispensary, manufacturing facility or marijuana testing facility who is an applicant for a registry identification card to submit to a drug test as a condition of receiving a registry identification card. This subsection does not prevent a caregiver, dispensary, manufacturing facility or marijuana testing facility from requiring drug testing of its assistants as a condition of employment.

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

A. There is no annual registration fee for a qualifying patient or visiting qualifying patient or a caregiver who is not required to register pursuant to section 2423-A, subsection 3, paragraph C. There is no annual registration fee for a caregiver who does not cultivate marijuana plants for a qualifying patient.

B. There is an annual registration fee for a caregiver who cultivates marijuana plants on behalf of a qualifying patient pursuant to section 2423-A, subsection 2, paragraph B. The fee may not be less than \$50 or more than \$240 for each group of up to 6 mature marijuana plants cultivated by the caregiver. The caregiver shall notify the department of the number of marijuana plants the caregiver cultivates.

C. There is an annual registration fee for a dispensary, which may not be less than \$5,000 or more than \$12,000. There is a fee to change the location of a registered dispensary or the location at which a registered dispensary cultivates marijuana plants, which may not be less than \$3,000 or more than \$4,000.

D. There is an annual registration fee for a tier 1 manufacturing facility, which may not be less than \$50 or more than \$150.

E. There is an annual registration fee for a tier 2 manufacturing facility, which may not be less than \$150 or more than \$250.

F. There is an annual registration fee to engage in marijuana extraction under section 2423-F, subsection 3, which may not be less than \$250 or more than \$350.

G. There is an annual registration fee for a marijuana testing facility, which may not be less than \$250 or more than \$1,000, except that there is no fee if the testing facility is licensed in accordance with Title 7, chapter 417.

H. There is an annual registration fee for an officer or director or assistant of a registered caregiver or registered dispensary, which may not be less than \$20 or more than \$50.

I. There is a fee to replace a registry identification card that has been lost, stolen or destroyed or a card that contains information that is no longer accurate, which may not be less than \$10 or more than \$20. Replacement of a registry identification card does not extend the expiration date.

J. There is an annual fee for a criminal history record check for a caregiver or an officer or director or assistant of a registered dispensary, marijuana testing facility or manufacturing facility, which may not be less than \$31 or more than \$60. The fee must be paid by the caregiver or by the registered dispensary, marijuana testing facility or manufacturing facility for an officer or director or assistant of the registered dispensary, marijuana testing facility or manufacturing facility.

**11. Notification of change in status or loss of registry identification card or registration certificate.** This subsection governs notification of a change in status or the loss of a registry identification card or registration certificate.

A. If a cardholder loses the cardholder's registry identification card, the cardholder shall notify the department within 10 days of losing the card and submit the fee required by subsection 10, paragraph I. Within 5 days after such notification, the department shall issue a replacement registry identification card.

B. If the information appearing on the cardholder's registry identification card is inaccurate or changes, the cardholder shall notify the department of the inaccuracy or change and submit the fee required by subsection 10, paragraph I. Within 5 days after such notification, the department shall issue a replacement 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.

C. A registered dispensary shall notify the department in writing of the name, address and date of birth of an officer or director or assistant who ceases to work at the dispensary or marijuana testing facility and of any new officer or director or assistant before the officer or director or assistant begins working at the dispensary or marijuana testing facility.

D. A registered dispensary shall notify the department in writing if the dispensary changes the physical location of the dispensary or the location at which the dispensary cultivates marijuana plants.

**12. Confidentiality.** This subsection governs confidentiality.

A. Applications and supporting information submitted by qualifying patients and registered patients under this chapter, including information regarding their caregivers and medical providers, are confidential.

B. Applications and supporting information submitted by caregivers and medical providers operating in compliance with this chapter are confidential.

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

D. The department shall verify to law enforcement personnel whether a registry identification card is valid and whether the conduct is authorized without disclosing more information than is reasonably necessary to verify the authenticity of the registry identification card.

E. Upon request of a code enforcement officer or, if a municipality does not employ a code enforcement officer, another municipal officer, the department shall verify whether a registry identification card is valid and whether the conduct is authorized without disclosing more information than is reasonably necessary to verify the authenticity of the registry identification card. The department may disclose the location at which the conduct is authorized if necessary to verify the registry identification card to the code enforcement officer or other municipal officer.

The department shall provide this information within 2 business days of the request. The code enforcement officer or other municipal officer shall keep the information received under this paragraph confidential except as necessary to verify whether the registry identification card is valid and whether the conduct is authorized.

F. Applications, supporting information and other information regarding a registered dispensary are not confidential, except that information that is contained within dispensary information that identifies a qualifying patient, a registered patient, a registered patient's medical provider or a caregiver of a qualifying patient or registered patient is confidential.

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

(1) To department employees who are responsible for carrying out this chapter;

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

(3) With written permission of the registered patient or the patient's guardian, if the patient is under guardianship, or a parent, if the patient has not attained 18 years of age;

(4) As permitted or required for the disclosure of health care information pursuant to section 1711-C;

(5) To a law enforcement official for verification purposes. The records may not be disclosed further than necessary to achieve the limited goals of a specific investigation; and

(6) To a registered patient's treating medical provider and to a registered patient's registered caregiver for the purpose of carrying out this chapter.

H. This subsection does not prohibit a medical provider from notifying the department if the medical provider acquires information indicating that a registered patient or qualifying patient is no longer eligible to use marijuana for medical purposes or that a registered patient or qualifying patient falsified information that was the basis of the medical provider's certification of eligibility for use.

I. The department may disclose to an agency of State Government designated by the commissioner and employees of that agency any information necessary to produce registry identification cards or manage the identification card program and may disclose data for statistical or research purposes in such a manner that individuals cannot be identified.

J. A hearing concerning the suspension or revocation of a registry identification card under section 2430-E is confidential.

K. Except as otherwise provided in this subsection, a person who knowingly violates the confidentiality of information protected under this chapter commits a civil violation for which a fine of up to \$1,000 may be imposed. This paragraph does not apply to a medical provider or staff of a long-term care facility or any other person directly associated with a medical provider or long-term care facility that provides services to a registered patient.

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

**13. Reporting requirements.** This subsection governs the reporting of patient access information by registered caregivers and dispensaries and the department's annual report to the Legislature.

A. A registered caregiver or a dispensary shall submit annually a report of the number of qualifying patients and visiting qualifying patients assisted by the caregiver or dispensary. A report may not directly or indirectly disclose patient identity. 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.

B. The department shall submit to the joint standing committee of the Legislature having jurisdiction over health and human services matters an annual report by April 1st each year that does not disclose any identifying information about cardholders or medical providers, but that does contain, at a minimum:

(1) The number of applications and renewals filed for registry identification cards and registration certificates;

(2) The number of qualifying patients and registered caregivers approved in each county;

(3) The number of registry identification cards suspended or revoked;

(4) The number of medical providers providing written certifications for qualifying patients;

(5) The number of registered dispensaries, manufacturing facilities and marijuana testing facilities approved in each county;

(6) The number of officers or directors or assistants of registered caregivers, registered dispensaries, manufacturing facilities and marijuana testing facilities; and

(7) The revenue and expenses of the Medical Use of Marijuana Fund established in section 2430.

**Sec. 16. 22 MRSA §2426, sub-§1, ¶E**, as amended by PL 2011, c. 407, Pt. B, §30, is further amended to read:

E. Use or possess marijuana if that person is not a qualifying patient, ~~primary~~ caregiver, registered dispensary or other person authorized to use or possess marijuana under this chapter.

**Sec. 17. 22 MRSA §2426, sub-§1-A**, as enacted by PL 2015, c. 369, §3, is amended to read:

**1-A. School exceptions.** Notwithstanding subsection 1, paragraph B, a ~~primary~~ caregiver designated pursuant to section 2423-A, subsection 1, paragraph ~~EF-1~~, subparagraph (4) may, for the benefit of a qualifying patient, possess and administer harvested marijuana ~~in a nonsmokeable form~~ in a school bus and on the grounds of the preschool or primary or secondary school in which a ~~minor~~ qualifying patient is enrolled only if:

A. A medical provider has provided the ~~minor~~ qualifying patient with a current written certification for the medical use of marijuana under this chapter; ~~and~~

B. Possession of harvested marijuana ~~in a nonsmokeable form~~ is for the purpose of administering marijuana ~~in a nonsmokeable form~~ to the ~~minor~~ qualifying patient; ~~and~~

C. The parent, legal guardian or person having legal custody of a qualifying patient enrolled in the preschool or primary or secondary school has notified the school that a caregiver has been designated on behalf of the qualifying patient to possess and administer harvested marijuana to the qualifying patient.

Harvested marijuana possessed or administered in accordance with this subsection may not be in a form that permits the qualifying patient to engage in smoking. For the purposes of this subsection, "smoking" has the same meaning as in section 1541, subsection 6, except that "smoking" does not include the use of a nebulizer.

**Sec. 18. 22 MRSA §2426, sub-§3-A**, as enacted by PL 2011, c. 407, Pt. B, §31, is repealed.

**Sec. 19. 22 MRSA §2428**, as amended by PL 2015, c. 475, §§22 to 24, is further amended to read:

## **§ 2428. Registered dispensaries**

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

~~A. Possess and dispense~~Dispense up to 2 1/2 ounces of prepared~~harvested~~ marijuana and possess an incidental amount of marijuana for each ~~to the~~ qualifying patient who has designated the dispensary. For the purposes of this chapter, any incidental amount of marijuana is lawful for a registered dispensary to possess and is not included in the amounts of prepared marijuana specified in this paragraph ~~in one transaction, except that a dispensary may not dispense more than 2 1/2 ounces of harvested marijuana to a visiting qualifying patient during a 15-day period;~~

~~B. Cultivate up to 6 mature~~marijuana plants and possess all harvested marijuana from those 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 plants for a~~ the qualifying patient who designated the dispensary;

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

~~E. Obtain prepared~~harvested 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.K;

~~F. Except as provided in section 2426:~~

(1) Transfer marijuana plants and harvested marijuana to a qualifying patient and to a caregiver on behalf of a qualifying patient in a retail sale for reasonable compensation;

(2) Transfer marijuana plants and harvested marijuana to a qualifying patient, caregiver or dispensary for no remuneration;

(3) Acquire marijuana plants and harvested marijuana from another dispensary for no remuneration;

(4) Transfer to and accept from a registered caregiver or another dispensary marijuana plants and harvested marijuana in a wholesale transaction in accordance with this paragraph. A dispensary may transfer in wholesale transactions for reasonable compensation or for no remuneration up to 30% of the mature marijuana plants grown by the dispensary over the course of a calendar year, including any marijuana products or marijuana concentrate manufactured from that 30% of the mature marijuana plants grown by the dispensary. A dispensary may transfer to or accept from registered caregivers and dispensaries in wholesale transactions an unlimited amount of immature marijuana plants and seedlings. A dispensary that acquires mature marijuana plants, marijuana products or marijuana concentrate in a wholesale

transaction under this subparagraph may not resell the mature marijuana plants, marijuana products or marijuana concentrate except to a qualifying patient or to a caregiver or dispensary to assist a qualifying patient;

(5) Transfer harvested marijuana to a manufacturing facility and accept marijuana products and marijuana concentrate from the manufacturing facility that are produced from the harvested marijuana the dispensary provided to the manufacturing facility; and

(6) Provide samples to a marijuana testing facility for testing and research purposes;

G. Conduct marijuana testing at the request of anyone authorized to possess marijuana under this chapter for research and development purposes only;

H. Manufacture marijuana products for medical use, except that a dispensary may not prepare food, as defined in section 2152, subsection 4, unless licensed pursuant to section 2167;

I. Manufacture marijuana concentrate for medical use, except that a dispensary may not produce marijuana concentrate using inherently hazardous substances unless authorized pursuant to section 2423-F, subsection 3;

J. Provide harvested marijuana to a manufacturing facility and obtain marijuana products and marijuana concentrate from the manufacturing facility that is produced from the harvested marijuana the registered dispensary provided to the manufacturing facility;

K. Hire any number of assistants to assist in performing the duties of the dispensary; and

L. Transport marijuana plants and harvested marijuana as necessary to carry out the activities authorized under this section.

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

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

~~(1) An annual fee paid to the department as set by rule pursuant to section 2425, subsection 12, paragraph C;~~

~~(2) The legal name of the dispensary, evidence of incorporation under Title 13-B and evidence that the corporation is in good standing with the Secretary of State;~~

~~(3) The physical address of the dispensary and the physical address of a maximum of one additional location, if any, where marijuana will be cultivated for patients who have designated the dispensary to cultivate for them. If a registered dispensary changes the physical location of the dispensary or the location at which it cultivates marijuana, the dispensary shall notify the department on a location change form provided by the department, pay a change fee as established in section 2425, subsection 12, paragraph C and obtain a new registration certificate from the department;~~

~~(4) The name, address and date of birth of each principal officer and board member of the dispensary; and~~

~~(5) The name, address and date of birth of any person who is employed by the dispensary.~~

~~B. The department shall track the number of registered patients who designate a dispensary to cultivate marijuana for them and issue to each dispensary a written statement of the number of patients who have designated the dispensary to cultivate marijuana for them. This statement must be updated each time a new registered patient designates the dispensary or ceases to designate the dispensary. The statement may be transmitted electronically if the department's rules so provide. The department may provide by rule that the updated written statements may not be issued more frequently than once each week.~~

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

~~(1) The name, address and date of birth of the principal officer, board member or employee;~~

~~(2) The legal name of the dispensary with which the principal officer, board member or employee is affiliated;~~

~~(3) A random identification number that is unique to the cardholder;~~

~~(4) The date of issuance and expiration date of the registry identification card; and~~

~~(5) A photograph if required by the department.~~

~~D. The department may not issue a registry identification card to any principal officer, board member or employee of a dispensary who has been convicted of a disqualifying drug offense. The department shall conduct a criminal history record check of each principal officer, board member or employee~~

~~on an annual basis in order to carry out this provision. If the department determines not to issue a registry identification card for a principal officer, board member or employee, the department shall notify the dispensary in writing of the reason for denying the registry identification card.~~

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

~~A. The form and content of registration and renewal applications;~~

~~B. Minimum oversight requirements for dispensaries and the one permitted additional location at which the dispensary cultivates marijuana for medical use by qualifying patients who have designated the dispensary to cultivate for them;~~

~~C. Minimum record-keeping requirements for dispensaries, including recording the disposal of marijuana that is not distributed by the dispensary to qualifying patients who have designated the dispensary to cultivate for them;~~

~~D. Minimum security requirements for dispensaries and any additional location at which the dispensary cultivates marijuana for medical use by qualifying patients who have designated the dispensary to cultivate for them; and~~

~~E. Procedures for suspending or terminating the registration of dispensaries that violate the provisions of this section or the rules adopted pursuant to this subsection.~~

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

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

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

~~A. A dispensary must be operated on a not-for-profit basis for the mutual benefit of qualifying patients who have designated the dispensary to cultivate marijuana. The bylaws of a dispensary and its contracts with qualifying patients must contain such provisions relative to the disposition of revenues and receipts as may be necessary and appropriate to establish and maintain its not-for-~~

~~profit status. A dispensary need not be recognized as a tax-exempt organization under 26 United States Code, Section 501(c)(3) but is required to incorporate pursuant to Title 13-B and to maintain the corporation in good standing with the Secretary of State.~~

B. A dispensary may not be located within 500 feet of the property line of a preexisting public or private school.

~~C. A dispensary shall notify the department within 10 days of when a principal officer, board member or employee ceases to work at the dispensary.~~

~~D. A dispensary shall notify the department in writing of the name, address and date of birth of any new principal officer, board member or employee and shall submit a fee in an amount established by the department for a new registry identification card before the new principal officer, board member or employee begins working at the dispensary.~~

E. A dispensary shall implement appropriate security measures to deter and prevent unauthorized entrance into areas containing marijuana and the theft of marijuana at the dispensary and the one permitted additional location at which the dispensary cultivates marijuana plants for medical use by qualifying patients who have designated the dispensary to cultivate for them.

F. The operating documents of a dispensary must include procedures for the oversight of the dispensary and procedures to ensure accurate record keeping in accordance with section 2430-G.

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

H. All ~~principal officers and board members~~officers or directors of a dispensary must be residents of this State.

I. All cultivation of marijuana plants must take place in an ~~enclosed, locked facility~~a cultivation area unless the marijuana plants are being transported between the dispensary and a location at which the dispensary cultivates the marijuana plants, as disclosed to the department in subsection 2, paragraph A, subparagraph (3). The dispensary shall use a numerical identification system to enable the dispensary to track marijuana plants from cultivation to sale and to track prepared marijuana obtained pursuant to section 2423-A, subsection 2, paragraph H from acquisition to sale

~~pursuant to subsection 1-A, paragraph L~~. Access to the cultivation ~~facility~~area is limited to a cardholder who is a ~~principal officer, board member or employee~~an officer or director or assistant of the dispensary when acting in that cardholder's official capacity, except that an elected official invited by a ~~principal officer, board member or employee~~an officer or director or assistant for the purpose of providing education to the elected official on cultivation by the dispensary, emergency services personnel, an ~~employee~~assistant of a marijuana testing facility or a person who needs to gain access to the cultivation ~~facility~~area in order to perform repairs or maintenance or to do construction may access

the cultivation facility area to provide professional services while under the direct supervision of a cardholder who is a principal officer, board member or employee an officer or director or assistant of the dispensary.

J. ~~A dispensary that is required to obtain a license for the preparation of food pursuant to section 2167 shall obtain the license prior to preparing goods containing marijuana, including tinctures of marijuana, for medical use by a qualifying patient.~~

K. A dispensary shall display the dispensary's registration certificate issued under ~~subsection 2,~~ paragraph A section 2425-A in a publicly visible location in the dispensary.

L. ~~A dispensary may provide excess prepared marijuana to another dispensary that is experiencing an extended inventory supply interruption.~~

M. ~~A dispensary may provide samples to a marijuana testing facility for testing and research purposes.~~

N. ~~A dispensary may conduct marijuana testing at the request of anyone authorized to possess marijuana under this chapter for research and development purposes only.~~

**7. Maximum amount of marijuana to be dispensed.** A dispensary or a principal officer, board member or employee an officer or director or assistant of a dispensary may not dispense more than 2 1/2 ounces of ~~prepared~~ harvested marijuana in one transaction to a qualifying patient who has designated the dispensary or to a primary caregiver on behalf of a qualifying patient who has designated the dispensary, except that a dispensary or an officer or director or assistant of a dispensary may not dispense more than 2 1/2 ounces of harvested marijuana to a visiting qualifying patient during a 15-day period.

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

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

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

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

~~A. A dispensary may not possess more than 6 mature marijuana plants for each qualifying patient who has designated the dispensary to cultivate marijuana for the qualifying patient's medical use subject to a limit of 6 mature plants total for a patient who also cultivates marijuana.~~

~~B. A dispensary may not dispense, deliver or otherwise transfer marijuana to a person other than a qualifying patient who has designated the dispensary to cultivate marijuana for the patient, to the patient's primary caregiver or to a dispensary as provided in subsection 6, paragraphs G and L except as provided in this chapter.~~

~~C. The department shall immediately revoke the registry identification card of a principal officer, board member or employee of a dispensary who is found to have violated paragraph B, and such a person is disqualified from serving as a principal officer, board member or employee of a dispensary.~~

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

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

(2) A person who is employed by or is a principal officer or board member an officer or director or assistant of a dispensary in violation of this paragraph and who at the time of the violation has been previously found to have violated this paragraph commits a Class D crime.

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

~~F. A dispensary may not contract for the cultivation of seeds of a marijuana plant, seedlings or small plants or the cultivation, production or preparation of marijuana or food containing marijuana for medical use immature marijuana plants, except that a dispensary may engage in wholesale transactions in accordance with subsection 1-A, paragraph F, subparagraph (4).~~

G. A registered dispensary may not use a pesticide on marijuana plants except a pesticide that is used consistent with federal labeling requirements, is registered with the Department of Agriculture, Conservation and Forestry, Board of Pesticides Control pursuant to Title 7, section 607 and is used consistent with best management practices for pest management approved by the Commissioner of Agriculture, Conservation and Forestry. A registered dispensary may not in the cultivation of marijuana plants use a pesticide unless at least one registered dispensary employee assistant involved in the application of the pesticide is certified pursuant to section 1471-D and all other registered dispensary employees assistants who have direct contact with treated plants have completed safety training pursuant to 40 Code of Federal Regulations, Section 170.130. A registered dispensary

employeeassistant 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.

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

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

**11-A. Limitation on number of dispensaries registered.** This subsection governs the limits on the number of dispensary registration certificates that may be issued by the department.

A. The department may not limit the total number of dispensary registration certificates it issues.

B. The department shall issue a registration certificate to a dispensary that operated as a nonprofit entity prior to April 1, 2018 if 2/3 of the officers or directors of the entity that is the successor in interest of that nonprofit entity were officers or directors of the nonprofit entity at the time the nonprofit entity ceased existing as a nonprofit entity. The registration certificate of a dispensary operating as a nonprofit entity prior to April 1, 2018 expires upon the cessation of existence of the nonprofit entity unless an entity that is the successor in interest to that nonprofit entity and that meets the requirements of this paragraph is capable of operating under the registration certificate at substantially the same time the nonprofit entity ceases existence. The registration certificate issued to the entity that is the successor in interest to the nonprofit entity under this paragraph expires on the date the registration certificate issued to the nonprofit entity would have expired.

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

**Sec. 20. 22 MRSA §2429**, as amended by PL 2011, c. 407, Pt. B, §§33 and 34, is repealed.

**Sec. 21. 22 MRSA §§2429-A to 2429-D** are enacted to read:

**§ 2429-A. Packaging and labeling requirements**

**1. Packaging requirements.** As applicable based on the form of the item sold, harvested marijuana sold in a retail transaction under this chapter must be:

- A. Prepackaged in child-resistant and tamper-evident packaging or placed in child-resistant and tamper-evident packaging with a signifier that the package contains harvested marijuana at the final point of sale to a qualifying patient;
- B. Prepackaged in opaque packaging or an opaque container or placed in opaque packaging or an opaque container with a signifier that the package contains harvested marijuana at the final point of sale to a qualifying patient;
- C. Packaged in a container with an integral measurement component and child-resistant cap if the marijuana product is a multiserving liquid; and
- D. In conformity with all other applicable requirements and restrictions imposed by rule by the department.

Any package required under this subsection that contains edible marijuana products must include a signifier that the package contains harvested marijuana.

**2. Packaging prohibitions.** Harvested marijuana sold in a retail transaction under this chapter may not be:

- A. Labeled or packaged in violation of a federal trademark law or regulation or in a manner that would cause a reasonable consumer confusion as to whether the harvested marijuana was a trademarked product;
- B. Labeled or packaged in a manner that is specifically designed to appeal particularly to a person under 21 years of age;
- C. Labeled or packaged in a manner that obscures identifying information on the label or uses a false or deceptive label;
- D. Sold or offered for sale using a label or packaging that depicts a human, animal or fruit; or
- E. Labeled or packaged in violation of any other labeling or packaging requirement or restriction imposed by rule by the department.

**3. Labels.** If a registered caregiver, dispensary or manufacturing facility affixes a label on the packaging of any harvested marijuana provided to a qualifying patient and that label includes information about contaminants, the cannabinoid profile or potency of the harvested marijuana, the label must be verified by a marijuana testing facility. This subsection does not apply if there is no marijuana testing facility operating in accordance with section 2423-A, subsection 10.

**4. Educational materials.** A person that provides harvested marijuana to a qualifying patient must make educational materials about medical marijuana available to the qualifying patient at the time of the transaction. The department shall develop the minimum content of the educational materials provided under this subsection and make that content available publicly.

## **§ 2429-B. Signs, advertising and marketing**

**1. Prohibitions.** Signs, advertising and marketing used by or on behalf of a registered caregiver or dispensary may not:

A. Be misleading, deceptive or false;

B. Involve mass-market advertising or marketing campaigns that have a high likelihood of reaching persons under 21 years of age or that are specifically designed to appeal particularly to persons under 21 years of age;

C. Be placed or otherwise used within 1,000 feet of the property line of a preexisting public or private school, except that, if a municipality chooses to prohibit the placement or use of signs or advertising by or on behalf of a registered caregiver or dispensary at distances greater than or less than 1,000 feet but not less than 500 feet from the property line of a preexisting public or private school, that greater or lesser distance applies;

D. Violate any other requirement or restriction on signs, advertising and marketing imposed by the department by rule pursuant to subsection 2; or

E. Market to any person authorized to possess marijuana under this chapter and specifically to any adult use or recreational marijuana market within the same sign, advertisement or marketing material.

**2. Rules on signs, advertising and marketing.** The department shall adopt rules regarding the placement and use of signs, advertising and marketing by or on behalf of a registered caregiver or dispensary, which may include, but are not limited to:

A. A prohibition on health or physical benefit claims in advertising or marketing, including, but not limited to, health or physical benefit claims on the label or packaging of harvested marijuana;

B. A prohibition on unsolicited advertising or marketing on the Internet, including, but not limited to, banner advertisements on mass-market websites;

C. A prohibition on opt-in advertising or marketing that does not permit an easy and permanent opt-out feature; and

D. A prohibition on advertising or marketing directed toward location-based devices, including, but not limited to, cellular telephones, unless the marketing is a mobile device application installed on the device by the owner of the device who is 21 years of age or older and includes a permanent and easy opt-out feature.

## **§ 2429-C. Edible marijuana products health and safety requirements and restrictions**

In addition to all other applicable provisions of this chapter, edible marijuana products to be sold or offered for sale in a retail transaction in accordance with this chapter:

**1. Cannabinoid content.** Must be manufactured in a manner that results in the cannabinoid content within the product being homogeneous throughout the product or throughout each element of the product that has a cannabinoid content;

**2. Marijuana content.** Must be manufactured in a manner that results in the amount of marijuana concentrate within the product being homogeneous throughout the product or throughout each element of the product that contains marijuana concentrate;

**3. Shape.** May not be manufactured in the distinct shape of a human, animal or fruit;

**4. Additives.** May not contain additives that are:

A. Toxic or harmful to human beings; or

B. Specifically designed to make the product appeal particularly to a person under 21 years of age; and

**5. Addition to trademarked food or drink.** May not involve the addition of marijuana to a trademarked food or drink product, except when the trademarked product is used as a component of or ingredient in the edible marijuana product and the edible marijuana product is not advertised or described for sale as containing the trademarked product.

## **§ 2429-D. Local regulation**

Pursuant to the home rule authority granted under the Constitution of Maine, Article VIII, Part Second and Title 30-A, section 3001, a municipality may regulate registered caregivers, registered caregiver retail stores operating pursuant to section 2423-A, subsection 2, paragraph P, registered dispensaries, marijuana testing facilities and manufacturing facilities, except that municipalities may not prohibit or limit the number of registered caregivers.

**Sec. 22. 22 MRSA §2430, sub-§2, ¶A,** as enacted by PL 2009, c. 631, §45 and affected by §51, is amended to read:

A. All money received as a result of applications and reapplications for registration as a qualifying patient, ~~primary caregiver and,~~ dispensary, manufacturing facility and marijuana testing facility;

**Sec. 23. 22 MRSA §2430, sub-§2, ¶B,** as amended by PL 2015, c. 475, §25, is further amended to read:

B. All money received as a result of applications and reapplications for registry identification cards for registered patients, ~~primary caregivers and,~~ dispensaries and board members, officers and employees~~officers or directors or assistants of registered caregivers, dispensaries or, manufacturing facilities and marijuana testing facilities;~~

**Sec. 24. 22 MRSA §2430, sub-§3**, as enacted by PL 2009, c. 631, §45 and affected by §51, is amended to read:

**3. Uses of the fund.** The fund may be used for expenses of the department to administer this chapter or for research in accordance with subsection 5, as allocated by the Legislature. To the extent that funds remain in the fund after the expenses of the department to administer this chapter and for research in accordance with subsection 5, any remaining funds must be used to fund:

A. The cost of the tax deductions provided pursuant to Title 36, section 5122, subsection 2, paragraph PP and Title 36, section 5200-A, subsection 2, paragraph BB. By June 1st annually, the State Tax Assessor shall determine the cost of those deductions during the prior calendar year and report that amount to the State Controller, who shall transfer that amount from the remaining funds in the fund to the General Fund; and

B. The cost of the position in the Department of Administrative and Financial Services, Bureau of Revenue Services to administer the tax deductions provided pursuant to Title 36, section 5122, subsection 2, paragraph PP and Title 36, section 5200-A, subsection 2, paragraph BB. By June 1st annually, the Commissioner of Administrative and Financial Services shall determine the cost of the position in the bureau to administer those deductions during the prior calendar year and report that amount to the State Controller, who shall transfer that amount from the remaining funds in the fund to the General Fund.

**Sec. 25. 22 MRSA §2430, sub-§§4 and 5** are enacted to read:

**4. Review of fund balance.** Beginning January 2018 and every 2 years thereafter, the department shall review the balance in the fund. If the balance in the fund exceeds \$400,000, the department shall reduce the fees established under section 2425-A, subsection 10 for a 2-year period beginning with the calendar year following the review.

**5. Medical marijuana research grant program established.** The medical marijuana research grant program, referred to in this subsection as "the program," is established within the department to provide grant money to support objective scientific research, including observational and clinical trials and existing research, on the efficacy of marijuana as part of medical treatment and the health effects of marijuana used as part of medical treatment. The program must be funded from the fund. The department shall adopt rules necessary to implement the program, including, but not limited to, required qualifications of persons conducting the research; determining the scientific merit and objectivity of a research proposal; criteria for determining the amount of program funds distributed; criteria for determining the duration of the research; procedures for soliciting research participants, including outreach to patients, and for obtaining the informed consent of participants; and reporting requirements for the results of the research and evaluation of the research results. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**Sec. 26. 22 MRSA §2430-A**, as amended by PL 2015, c. 475, §26, is repealed.

**Sec. 27. 22 MRSA §§2430-C to 2430-G** are enacted to read:

## **§ 2430-C. Protections for authorized activity**

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

**2. Legal protection for hospitals and long-term care facilities.** The immunity provisions in this subsection apply to a hospital licensed under chapter 405 and an officer or director, employee or agent of the hospital and a long-term care facility and an officer or director, employee or agent of the long-term care facility. Any immunity provision in this chapter in conflict with this subsection does not apply to a hospital or long-term care facility. The legal protection for hospitals and long-term care facilities applies in accordance with the following.

A. If the use of a form of harvested marijuana that is not smoked, including but not limited to edible marijuana products and tinctures and salves of marijuana, by an admitted patient who has been certified under section 2423-B occurs in a hospital, that hospital is not subject to prosecution, search, seizure or penalty in any manner, including but not limited to a civil penalty or disciplinary action by an occupational or professional licensing board or entity, and may not be denied any license, registration, right or privilege solely because the admitted patient lawfully engages in conduct involving the medical use of marijuana authorized under this chapter.

B. If the use of a form of harvested marijuana consistent with a long-term facility's policy by an admitted patient who has been certified under section 2423-B occurs in the long-term care facility, that long-term care 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 an occupational or professional licensing board or entity, and may not be denied any license, registration, right or privilege solely because the admitted patient lawfully engages in conduct involving the medical use of marijuana authorized under this chapter.

C. An officer or director, employee or agent of a hospital or long-term care facility where the use of a form of harvested marijuana that is not smoked or vaporized, including but not limited to edible marijuana products and tinctures and salves of marijuana, by an admitted patient who has been certified under section 2423-B occurs is not subject to arrest, prosecution, search, seizure or penalty in any manner, including but not limited to a civil penalty or disciplinary action by an occupational or professional licensing board or entity, and may not be denied any license, registration, right or privilege solely because the admitted patient lawfully engages in conduct involving the medical use of marijuana authorized under this chapter.

**3. School, employer or landlord may not discriminate.** A school, employer or landlord may not refuse to enroll or employ or lease to or otherwise penalize a person solely for that person's status as a qualifying patient or a caregiver unless failing to do so would put the school, employer or landlord in violation of federal law or cause it to lose a federal contract or funding. This subsection does not prohibit

a restriction on the administration or cultivation of marijuana on premises when that administration or cultivation would be inconsistent with the general use of the premises. A landlord or business owner may prohibit the smoking of marijuana for medical purposes on the premises of the landlord or business if the landlord or business owner prohibits all smoking on the premises and posts notice to that effect on the premises.

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

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

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

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

A. If the person is a qualifying patient or visiting qualifying patient, present upon request of a law enforcement officer the original written certification for the patient and the patient's government-issued identification that includes a photo and proof of address; or

B. If the person is a caregiver, present upon request of a law enforcement officer the original written document designating the person as a caregiver by the qualifying patient under section 2423-A, subsection 1, paragraph F-1 and the caregiver's government-issued identification that includes a photo and proof of address.

**8. Evidence of lawful conduct.** A person who has been issued a registry identification card pursuant to section 2425-A must also possess a valid government-issued identification that includes a photo and proof of address in order to establish proof of authorized participation in the medical use of marijuana under this chapter. Possession of a registry identification card by a cardholder, the act of applying for such a registry identification card, possession of a written certification issued under section 2423-B or possession of a designation document executed under section 2423-A, subsection 1, paragraph F-1 is not evidence of unlawful conduct and may not be used to support the search of that person or that person's property. The possession of or application for a registry identification card or possession of a written certification does not prevent the issuance of a warrant if probable cause exists on other grounds.

**9. Immunity.** The immunity provisions in this subsection apply to caregivers, marijuana testing facilities, manufacturing facilities and dispensaries and the officers or directors or assistants of caregivers, marijuana testing facilities, manufacturing facilities and dispensaries.

A. A caregiver, marijuana testing facility, manufacturing facility or dispensary is not subject to prosecution, search, seizure or penalty in any manner, including but not limited to a civil penalty or disciplinary action by a business or an occupational or professional licensing board or entity, and may not be denied any right or privilege solely for acting in accordance with this section to assist with the medical use of marijuana in accordance with this chapter.

B. An officer or director or assistant of a caregiver, marijuana testing facility, manufacturing facility or dispensary is not subject to arrest, prosecution, search, seizure or penalty in any manner, including but not limited to a civil penalty or disciplinary action by a business or an occupational or professional licensing board or entity, and may not be denied any right or privilege solely for working for or with a caregiver, marijuana testing facility, manufacturing facility or dispensary to provide marijuana plants and marijuana products to qualifying patients, caregivers, dispensaries, manufacturing facilities or marijuana testing facilities or to otherwise assist with the medical use of marijuana in accordance with this chapter.

### **§ 2430-D. Collectives prohibited**

Collectives are prohibited under this chapter. A person may not form or participate in a collective. The following relationships are not collectives and are not prohibited:

**1. Caregivers assisting for the benefit of a mutual qualifying patient.** Two caregivers to the extent the relationship is to:

A. Consult with each other to assist the same qualifying patient;

B. Refer a qualifying patient to a caregiver to obtain specialized marijuana plants or harvested marijuana;

C. Obtain specialized marijuana plants or harvested marijuana from another caregiver to assist the same qualifying patient; or

D. Transfer harvested marijuana pursuant to section 2423-A, subsection 2, paragraph K;

**2. Employer and assistant relationship.** Two caregivers to the extent the relationship is as employer and assistant; or

**3. Caregivers sharing common areas.** Any number of caregivers who are operating separately and occupying separate spaces within a common facility to engage in activities authorized under section 2423-A, subsection 2, even if they also share utilities or common areas, including but not limited to storage areas and building facilities, and who do not share marijuana plants or harvested marijuana resulting from the cultivation of those plants.

### **§ 2430-E. Possession penalties; fraud penalty**

**1. Excess marijuana; forfeiture.** A person who possesses marijuana plants or harvested marijuana in excess of the limits provided in this section shall forfeit the excess amounts to a law enforcement officer. The law enforcement officer is authorized to remove all excess marijuana plants or harvested marijuana possessed by that person in order to catalog the amount of excess marijuana. Possession of marijuana in excess of the limits provided in this section is a violation as follows:

A. Possession of harvested marijuana by a qualifying patient or a caregiver operating under section 2423-A, subsection 3, paragraph C in an excess amount up to 1 1/4 ounces commits a civil violation for which a fine of not less than \$350 and not more than \$600 must be adjudged, none of which may be suspended;

B. Possession of harvested marijuana by a qualifying patient or a caregiver operating under section 2423-A, subsection 3, paragraph C in an excess amount over 1 1/4 ounces and up to 2 1/2 ounces commits a civil violation for which a fine of not less than \$700 and not more than \$1,000 must be adjudged, none of which may be suspended; and

C. Possession of harvested marijuana by a qualifying patient or a caregiver operating under section 2423-A, subsection 3, paragraph C in an excess amount over 2 1/2 ounces is a violation of Title 17-A, chapter 45.

**2. Repeat forfeiture.** If a cardholder has previously forfeited excess marijuana pursuant to subsection 1 and a subsequent forfeiture occurs, the department shall revoke the registry identification card of the cardholder and the entire amount of marijuana plants or harvested marijuana possessed by that cardholder 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.

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

treating or alleviating the patient's medical diagnosis or symptoms associated with the patient's medical diagnosis that, in a medical provider's professional opinion, may be alleviated by the therapeutic or palliative medical use of marijuana.

**4. Calculation of marijuana weight.** The amount of marijuana possessed under this chapter must be calculated by the weight of dried harvested marijuana. A calculation of the weight of marijuana that is not dried must reduce the weight by at least 75% to account for moisture content. A calculation of the weight of marijuana in a marijuana product may not include ingredients in the product other than marijuana, except that the weight of marijuana concentrate must be included whether the marijuana concentrate is possessed by itself or within a marijuana product.

**5. Penalty for fraud.** Fraudulent misrepresentation regarding lawful possession or medical use of marijuana and fraudulent procurement under this chapter are governed by this subsection. A person who misrepresents to a law enforcement official any fact or circumstance relating to the possession or medical use of marijuana under this chapter to avoid arrest or prosecution commits a civil violation for which a fine of \$200 must be adjudged.

#### **§ 2430-F. Registration suspension or revocation**

**1. Department suspension or revocation.** The department may suspend or revoke a registry identification card for violation of this chapter and the rules adopted under this chapter. Revocation in accordance with section 2430-E, subsection 2 is considered a final agency action, subject to judicial review under Title 5, chapter 375, subchapter 7. Unless otherwise specified as final agency action, a person who has had authorization for conduct under this chapter revoked due to failure to comply with this chapter and rules adopted by the department may 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. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

The department shall immediately revoke the registry identification card of an officer or director or assistant of a dispensary who is found to have violated section 2428, subsection 9, paragraph B, and that person is disqualified from serving as an officer or director or assistant of a dispensary.

**2. Suspension or 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 authorized to possess marijuana for medical purposes under this chapter. A cardholder who sells, furnishes or gives marijuana to a person who is not 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 suspend or revoke the registry identification card of any cardholder who violates this chapter, and the cardholder is liable for any other penalties for the violation.

#### **§ 2430-G. Record keeping; inspections; reporting requirements**

**1. Tracking; record keeping.** This subsection governs the tracking, record-keeping and disclosure requirements of registered caregivers, registered dispensaries, marijuana testing facilities and manufacturing facilities.

A. A registered caregiver, a registered dispensary, a marijuana testing facility and a manufacturing facility shall:

(1) Keep a record of all transfers of marijuana plants and harvested marijuana;

(2) Keep the books and records maintained by the registered caregiver, registered dispensary, marijuana testing facility or manufacturing facility for a period of 7 years;

(3) Complete an annual audit of business transactions of the registered caregiver, registered dispensary, marijuana testing facility or manufacturing facility by an independent 3rd party; and

(4) Make the books and records maintained under this subsection available to inspection by the department upon the department's demand.

Records kept under this paragraph must avoid identifying qualifying patients.

B. The department shall develop and implement a statewide electronic portal through which registered caregivers, registered dispensaries, marijuana testing facilities and manufacturing facilities may submit to the department the records required under paragraph A and in accordance with rules adopted by the department. The department shall adopt rules regarding the process and content of records to be submitted, the frequency with which the records must be submitted and any other requirements necessary to implement this paragraph.

C. A registered caregiver, registered dispensary, marijuana testing facility and manufacturing facility shall accompany all marijuana plants and harvested marijuana being transported pursuant to this chapter with a label that identifies:

(1) The person transferring the marijuana plants or harvested marijuana, including the person's registry identification number;

(2) The person receiving the marijuana plants or harvested marijuana, including the person's registry identification number or, if the person is not required to register under this chapter, a unique identifier assigned to the person;

(3) A description of the marijuana plants or harvested marijuana being transferred, including the amount and form;

(4) The time and date of the transfer; and

(5) The destination of the marijuana plants or harvested marijuana.

The department may adopt rules to implement this subsection.

**2. Inspections.** This subsection governs inspections of registered caregivers, registered dispensaries, including the additional location where cultivation of marijuana plants may occur, marijuana testing facilities and manufacturing facilities.

A. Notwithstanding section 2423-A, subsection 3, paragraph B and section 2428, subsection 6, paragraph I, to ensure compliance with this chapter or in response to a complaint, the department may inspect the premises where a registered caregiver conducts activity authorized under this chapter, a registered dispensary including the additional location where cultivation may occur, a marijuana testing facility and a manufacturing facility without notice during regular business hours or during hours of apparent activity, except that the department:

(1) May not enter the dwelling unit of a registered caregiver if the registered caregiver is not present; and

(2) May inspect only the area of a dwelling unit where activity authorized under this chapter occurs.

The department shall specify in writing to the registered caregiver or an officer or director or assistant of a registered caregiver, registered dispensary, marijuana testing facility or manufacturing facility the grounds contained in the complaint when conducting an inspection in response to a complaint.

B. The department shall adopt rules:

(1) Establishing standards for compliance with this chapter that are available publicly;

(2) Establishing inspection procedures that prevent contamination of any operations undertaken by the registered caregiver, registered dispensary, marijuana testing facility or manufacturing facility in compliance with this chapter; and

(3) Requiring a registered caregiver to report on the location within the registered caregiver's home where activity authorized under this chapter is occurring.

Rules adopted by the department pursuant to this paragraph may require that an annual compliance inspection is a condition of eligibility for renewal of a registration under this chapter.

C. The department may suspend, revoke or refuse to renew the registration identification card or registration certificate of a registered caregiver, a registered dispensary, a marijuana testing facility or a manufacturing facility that refuses or willfully avoids 2 or more inspections under this subsection. A person whose registry identification card or registration certificate has been suspended, revoked or not renewed under this subsection may request a hearing in accordance with Title 5, chapter 375, subchapter 4.

D. The department may not conduct inspections of a qualifying patient or caregiver operating under section 2423-A, subsection 2, paragraph C.

**3. Incident and illegal activity reporting.** A registered caregiver, registered dispensary, marijuana testing facility and manufacturing facility shall report:

A. Any violation of this chapter or rule adopted under this chapter governing the operations of the registered caregiver, registered dispensary, marijuana testing facility or manufacturing facility to the department within one business day of discovering the violation; and

B. Any suspected illegal activity involving the operations of the registered caregiver, registered dispensary, marijuana testing facility or manufacturing facility to the department and law enforcement within 24 hours of discovering the suspected illegal activity.

**4. Procedures for suspending or terminating registration.** The department shall adopt rules establishing procedures for suspending or terminating the registration of a registered dispensary or a registered caregiver that violates the provisions of this section or the rules adopted pursuant to this subsection.

Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

### **§ 2430-H. Fines collected**

Fines collected pursuant to this chapter and rules adopted by the department must be credited to the Medical Use of Marijuana Fund pursuant to section 2430.

**Sec. 28. 36 MRSA §191, sub-§3-B,** as enacted by PL 2013, c. 595, Pt. J, §2 and affected by §4, is amended to read:

**3-B. Additional restrictions for certain information provided by the Department of Health and Human Services.** Information provided to the assessor by the Department of Health and Human Services pursuant to section 175 and Title 22, section ~~2425~~, ~~subsection 82425-A~~, subsection ~~12~~, paragraph L 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.

**Sec. 29. 36 MRSA §1817, sub-§5,** as enacted by IB 2015, c. 5, §3, is amended to read:

**5. Exemption.** The tax on marijuana imposed pursuant to this section may not be levied on marijuana sold by a registered nonprofit dispensary or registered caregiver to a qualifying patient or primary caregiver pursuant to Title 22, chapter 558-C.

**Sec. 30. 36 MRSA §5122, sub-§2, ¶PP** is enacted to read:

PP. For taxable years beginning on or after January 1, 2018, for business expenses related to carrying on a trade or business as a registered caregiver or a registered dispensary, as defined in Title 22, section 2422, an amount equal to the deduction that would otherwise be allowable under this Part to the extent that the deduction is disallowed under the Code, Section 280E.

**Sec. 31. 36 MRSA §5200-A, sub-§2, ¶BB** is enacted to read:

BB. For taxable years beginning on or after January 1, 2018, for business expenses related to carrying on a trade or business as a registered caregiver or a registered dispensary, as defined in Title 22, section 2422, an amount equal to the deduction that would otherwise be allowable under this chapter to the extent that the deduction is disallowed under the Code, Section 280E.

**Sec. 32. Tax forms.** The Department of Administrative and Financial Affairs, Bureau of Revenue Services shall amend as necessary any form on which retail sales of medical marijuana under the Maine Revised Statutes, Title 22, chapter 558-C may be reported to the department to clearly indicate that those sales are subject to the sales tax imposed under Title 36, section 1811.

**Sec. 33. Rulemaking; medical marijuana research grant program.** No later than March 1, 2019, the Department of Health and Human Services shall adopt rules to implement the medical marijuana research grant program established in the Maine Revised Statutes, Title 22, section 2430, subsection 5.

**Sec. 34. Report on statewide electronic tracking portal.** The Department of Health and Human Services shall report in writing to the joint standing committee of the Legislature having jurisdiction over health and human services matters by January 1, 2019 on the progress of the department in adopting rules and otherwise implementing the statewide electronic tracking portal established in the Maine Revised Statutes, Title 22, section 2430-G, subsection 1, paragraph B.

**Sec. 35. Outreach to medical providers.** The Department of Health and Human Services shall consult with statewide associations representing licensed medical professionals to develop and provide educational materials related to medical marijuana to medical providers, as defined in the Maine Revised Statutes, Title 22, section 2422, who provide written certifications for the medical use of marijuana in accordance with Title 22, section 2423-B.

**Sec. 36. Appropriations and allocations.** The following appropriations and allocations are made.

**ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF  
Revenue Services, Bureau of 0002**

Initiative: Provides funding for one Tax Examiner position and related costs to review and process income tax returns.

<b>GENERAL FUND</b>	<b>2017-18</b>	<b>2018-19</b>
POSITIONS - LEGISLATIVE COUNT	0.000	1.000
Personal Services	\$0	\$61,865
All Other	\$0	\$49,429
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>\$111,294</b>

<b>ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF DEPARTMENT TOTALS GENERAL FUND</b>	<b>2017-18</b>	<b>2018-19</b>
	<b>\$0</b>	<b>\$111,294</b>
<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<b>\$0</b>	<b>\$111,294</b>

**ATTORNEY GENERAL, DEPARTMENT OF THE**

**Human Services Division 0696**

Initiative: Allocates funds for the costs of one full-time Assistant Attorney General position to advise the Department of Health and Human Services on the interpretation of new medical marijuana program provisions and to assist with enforcement thereof and provides funding for related All Other costs.

<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2017-18</b>	<b>2018-19</b>
POSITIONS - LEGISLATIVE COUNT	0.000	1.000
Personal Services	\$0	\$99,306
All Other	\$0	\$11,670
<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<b>\$0</b>	<b>\$110,976</b>

<b>ATTORNEY GENERAL, DEPARTMENT OF THE DEPARTMENT TOTALS OTHER SPECIAL REVENUE FUNDS</b>	<b>2017-18</b>	<b>2018-19</b>
	<b>\$0</b>	<b>\$110,976</b>
<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<b>\$0</b>	<b>\$110,976</b>

**HEALTH AND HUMAN SERVICES, DEPARTMENT OF**

**Medical Use of Marijuana Fund Z118**

Initiative: Provides funding for increased legal services.

<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2017-18</b>	<b>2018-19</b>
All Other	\$0	\$110,976
<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<b>\$0</b>	<b>\$110,976</b>

**Medical Use of Marijuana Fund Z118**

Initiative: Provides allocation to establish 2 Field Investigator positions and one Office Specialist I position for an increased number of investigations.

<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2017-18</b>	<b>2018-19</b>
POSITIONS - LEGISLATIVE COUNT	0.000	3.000
Personal Services	\$0	\$216,969
All Other	\$0	\$18,858
<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<b>\$0</b>	<b>\$235,827</b>

**HEALTH AND HUMAN SERVICES, DEPARTMENT OF**

<b>DEPARTMENT TOTALS</b>	<b>2017-18</b>	<b>2018-19</b>
OTHER SPECIAL REVENUE FUNDS	\$0	\$346,803
<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<b>\$0</b>	<b>\$346,803</b>

<b>SECTION TOTALS</b>	<b>2017-18</b>	<b>2018-19</b>
GENERAL FUND	\$0	\$111,294
OTHER SPECIAL REVENUE FUNDS	\$0	\$457,779
<b>SECTION TOTAL - ALL FUNDS</b>	<b>\$0</b>	<b>\$569,073</b>

**SUMMARY**

This amendment, which is the minority report of the committee, replaces the bill and makes the following changes to the Maine Medical Use of Marijuana Act. The amendment:

1. Eliminates the list of debilitating medical conditions for which a medical provider may provide a written certification and instead allows a medical provider to certify use to patients who have a medical diagnosis that may be alleviated by the therapeutic or palliative use of marijuana;
2. Eliminates the requirement that qualifying patients designate a primary caregiver or dispensary as the sole provider of cultivation services or medical marijuana;
3. Increases the possession limit in law for qualifying patients and unregistered caregivers from 2.5 ounces to 8 pounds, which was the amount previously authorized in rules adopted by the Department of Health and Human Services;
4. Increases the possession limit for registered caregivers and dispensaries from an amount based on the number of patients who have designated the registered caregiver or dispensary to the amount that the registered caregiver or dispensary cultivated or otherwise lawfully acquired;
5. Allows registered caregivers and dispensaries to sell up to 30% of the marijuana the registered caregiver or dispensary cultivated to another registered caregiver or dispensary in wholesale transactions;
6. Authorizes qualifying patients, caregivers and dispensaries to manufacture marijuana products as long as certain substances that are considered hazardous are not used;
7. Authorizes qualifying patients, caregivers and dispensaries to produce marijuana concentrate using substances that are considered hazardous if certain safety and inspection requirements are met;
8. Establishes a registration process for persons and entities that are not qualifying patients, caregivers or dispensaries to manufacture marijuana products and to engage in marijuana extraction using substances that are considered hazardous if certain safety and inspection requirements are met;
9. Expands the authorization of a qualifying patient to use medical marijuana in certain assisted living and residential care facilities, in addition to hospice and nursing facilities, as long as that use is consistent with the facility's policy;
10. Allows medical marijuana testing facilities to operate in the absence of rules adopted by the Department of Health and Human Services if the facilities meet certain standards;
11. Establishes packaging, labeling and marketing requirements for the sale of medical marijuana;
12. Requires registered caregivers, dispensaries, marijuana testing facilities and manufacturing facilities to track marijuana within the medical marijuana program from seeds to final user;
13. Requires registered caregivers, dispensaries, marijuana testing facilities and manufacturing facilities to maintain books and records and allows the Department of Health and Human Services to inspect those books and records;
14. Establishes additional authority for the Department of Health and Human Services to oversee medical marijuana-related activities, including the authority to inspect registered caregiver operations, dispensaries, marijuana testing facilities and manufacturing facilities during regular business hours or hours of apparent activity without notice, except that the department may not enter the dwelling unit of a registered caregiver to undertake an inspection if the caregiver is not present;
15. Requires that records containing patient information be kept in a manner that does not allow identification of the patient or be kept confidential;

16. Removes the limit on the number of dispensaries that may operate;

17. Prohibits the Department of Health and Human Services from limiting the number of dispensary registration certificates issued after January 1, 2021;

18. Removes the requirement in current law that a dispensary must operate as a nonprofit business entity;

19. Clarifies that municipalities may regulate registered caregivers, registered dispensaries, medical marijuana manufacturing facilities and marijuana testing facilities, except that municipalities may not prohibit or limit the number of registered caregivers; and

20. Establishes a grant program to support objective scientific research funded by revenue from the Medical Use of Marijuana Fund and requires the Department of Health and Human Services to adopt rules to implement the grant program by March 1, 2019.

The amendment also allows businesses that are not permitted to deduct business expenses under federal law due to the United States Internal Revenue Code of 1986, Section 280E to deduct business expenses to the same extent as if those expenses were not excluded from deduction for federal tax purposes and requires the cost of these deductions, as well as the cost of administering these deductions, to be paid from the Medical Use of Marijuana Fund, to the extent that funds are available in the fund for those purposes.

The amendment also requires the Department of Health and Human Services to consult with statewide associations representing licensed medical professionals to develop and provide educational materials related to medical marijuana.

The amendment adds an appropriations and allocations section.

**FISCAL NOTE REQUIRED**  
**(See attached)**