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Legislative Document

No. 35

S.P. 17

In Senate, January 13, 2015

An Act To Allow a Qualifying Patient To Use Medical Marijuana in a Hospital

Reference to the Committee on Health and Human Services suggested and ordered printed.

A handwritten signature in cursive script that reads "Heather J.R. Priest".

HEATHER J.R. PRIEST
Secretary of the Senate

Presented by Senator BRAKEY of Androscoggin.
Cosponsored by Representative RUSSELL of Portland and
Senators: HASKELL of Cumberland, McCORMICK of Kennebec, SAVIELLO of Franklin,
Representatives: BEAVERS of South Berwick, GATTINE of Westbrook, O'CONNOR of
Berwick, SANDERSON of Chelsea.

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

2 **Sec. 1. 22 MRSA §2422, sub-§8-A,** as amended by PL 2013, c. 396, §1, is
3 further amended to read:

4 **8-A. Primary caregiver.** "Primary caregiver" means a person or an employee of
5 that person, a hospice provider licensed under chapter 1681 ~~or~~, a nursing facility licensed
6 under chapter 405 or a hospital licensed under chapter 405 that provides care for a
7 qualifying patient in accordance with section 2423-A, subsection 2. A person who is a
8 primary caregiver must be at least 21 years of age and may not have been convicted of a
9 disqualifying drug offense.

10 **Sec. 2. 22 MRSA §2423-A, sub-§1, ¶E,** as amended by PL 2011, c. 407, Pt. B,
11 §16, is further amended to read:

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

22 **Sec. 3. 22 MRSA §2423-A, sub-§1, ¶F,** as amended by PL 2013, c. 396, §2, is
23 further amended to read:

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

39 **Sec. 4. 22 MRSA §2423-A, sub-§4,** as enacted by PL 2009, c. 631, §21 and
40 affected by §51, is amended to read:

1 **4. Hospice provider, nursing facility or hospital.** A registered patient may name a
2 hospice provider licensed under chapter 1681 ~~or~~ a nursing facility licensed under chapter
3 405 or a hospital licensed under chapter 405 to serve as a registered primary caregiver. If
4 a hospice provider ~~or~~ nursing facility or hospital is named as a primary caregiver, the
5 provider ~~or~~ facility or hospital shall complete the registration process with the
6 department and obtain a primary caregiver registration card and the staff of the provider
7 ~~or~~ facility or hospital shall obtain registry identification cards. To be issued a registry
8 identification card, a staff person of a hospice provider ~~or~~ nursing facility or hospital that
9 has been named as a primary caregiver must be at least 21 years of age and may not have
10 been convicted of a disqualifying drug offense. The hospice provider ~~or~~ nursing facility
11 or hospital and the staff of the provider ~~or~~ facility or hospital may not cultivate marijuana
12 for the patient.

13 **Sec. 5. 22 MRSA §2423-A, sub-§4-A,** as enacted by PL 2013, c. 520, §1, is
14 amended to read:

15 **4-A. Use and storage in inpatient hospice provider, nursing facility or hospital**
16 **permitted.** A qualifying patient who is a resident of a hospice provider facility licensed
17 under chapter 1681 or a nursing facility licensed under chapter 405 or who is an admitted
18 patient of a hospital licensed under chapter 405, while in the hospice provider facility ~~or~~
19 nursing facility or hospital, may use forms of prepared marijuana that are not smoked,
20 including, but not limited to, vaporized marijuana, edible marijuana and tinctures and
21 salves of marijuana. A qualifying patient who uses a form of prepared marijuana
22 pursuant to this subsection may store the prepared marijuana in the qualifying patient's
23 room and is not required to obtain a registry identification card or to designate the
24 hospice provider ~~or~~ nursing facility or hospital as a primary caregiver under subsection 4.
25 A hospice provider ~~or~~ nursing facility or hospital is not required to be named as a
26 primary caregiver by a qualifying patient who uses prepared marijuana pursuant to this
27 subsection. ~~This subsection does not limit the ability of a hospice provider or nursing~~
28 ~~facility to prohibit or restrict the use or storage of prepared marijuana by a qualifying~~
29 ~~patient.~~

30 **Sec. 6. 22 MRSA §2424, sub-§3,** as amended by PL 2013, c. 394, §1, is further
31 amended to read:

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

1 department may accept donations from private sources in order to reduce the application
2 and renewal fees.

3 **Sec. 7. 22 MRSA §2425, sub-§5**, as amended by PL 2013, c. 396, §11, is further
4 amended to read:

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

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

19 **Sec. 8. 22 MRSA §2425, sub-§8, ¶K**, as amended by PL 2013, c. 516, §13, is
20 further amended to read:

21 K. Except as otherwise provided in this subsection, a person who knowingly violates
22 the confidentiality of information protected under this chapter commits a civil
23 violation for which a fine of up to \$1,000 may be imposed. This paragraph does not
24 apply to a medical provider or staff of a hospice provider ~~or~~ nursing facility or
25 hospital named as a primary caregiver or any other person directly associated with a
26 medical provider or a hospice provider ~~or~~ nursing facility or hospital that provides
27 services to a registered patient.

28 **SUMMARY**

29 This bill adds hospitals to the list of eligible primary caregivers for qualifying
30 patients, adds hospitals to the universe of medical facilities where qualifying patients may
31 use and store forms of smokeless, prepared marijuana and eliminates the ability of these
32 medical facilities to prohibit or restrict the use or storage of smokeless, prepared
33 marijuana by a qualifying patient.