

STATE OF MAINE

—
IN THE YEAR OF OUR LORD
TWO THOUSAND AND THIRTEEN

—
H.P. 1000 - L.D. 1404

An Act To Ensure the Integrity of Maine's Medical Marijuana Program

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, under the Maine Medical Use of Marijuana Act, the restrictions on primary caregivers result in shorter supply, raising the price for patients with debilitating medical conditions; and

Whereas, allowing primary caregivers to employ staff will benefit the economy; and

Whereas, these measures need to be enacted as soon as possible to bring relief to the patients and to stimulate the economy; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 22 MRSA §2422, sub-§8-A, as enacted by PL 2011, c. 407, Pt. B, §9, is amended to read:

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

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

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; ~~and~~

Sec. 3. 22 MRSA §2423-A, sub-§1, ¶G, as amended by PL 2011, c. 407, Pt. B, §16, is further amended to read:

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

Sec. 4. 22 MRSA §2423-A, sub-§1, ¶H is enacted to read:

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

Sec. 5. 22 MRSA §2423-A, sub-§2, ¶G, as amended by PL 2011, c. 407, Pt. B, §16, is further amended to read:

G. Prepare food as defined in section 2152, subsection 4 containing marijuana for medical use by a qualifying patient pursuant to section 2152, subsection 4-A and section 2167; ~~and~~

Sec. 6. 22 MRSA §2423-A, sub-§2, ¶H, as enacted by PL 2011, c. 407, Pt. B, §16, is amended to read:

H. For the purpose of disposing of excess prepared marijuana, transfer marijuana to a registered dispensary, a qualifying patient or another primary caregiver if nothing of value is ~~received~~ 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; ~~and~~

Sec. 7. 22 MRSA §2423-A, sub-§2, ¶I is enacted to read:

I. Employ one person to assist in performing the duties of the primary caregiver.

Sec. 8. 22 MRSA §2423-A, sub-§3, ¶E is enacted to read:

E. A person who is authorized to cultivate marijuana under subsection 1 or 2 and who is employed by a primary caregiver pursuant to subsection 2, paragraph I may

not cultivate that person's own marijuana in the location used for cultivation by the primary caregiver who employs that person.

Sec. 9. 22 MRSA §2425, sub-§1, ¶F, as amended by PL 2009, c. 631, §28 and affected by §51, is further amended to read:

F. If the qualifying patient names one or 2 primary caregivers, an indication of which person, if any, is designated to cultivate marijuana for the qualifying patient's medical use. Only one ~~person may be~~ primary caregiver, including an employee of that caregiver, is allowed to cultivate marijuana for a registered patient; and

Sec. 10. 22 MRSA §2425, sub-§4, as amended by PL 2009, c. 631, §31 and affected by §51, is further amended to read:

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

Sec. 11. 22 MRSA §2425, sub-§5, as repealed and replaced by PL 2011, c. 691, Pt. A, §21, is amended to read:

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

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

Sec. 12. Adoption of rules. The Department of Health and Human Services shall adopt rules within its medical use of marijuana program with regard to a person who is employed by a primary caregiver pursuant to the Maine Revised Statutes, Title 22, section 2423-A, subsection 2, paragraph I to establish an annual registration fee of no less than \$25 and no more than \$50, to require a criminal history record check of the employee prior to registration and annually thereafter and to establish a criminal history record check fee of no less than \$31 and no more than \$60.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.