

## STATE OF MAINE

IN THE YEAR OF OUR LORD  
TWO THOUSAND AND FOURTEEN

H.P. 1245 - L.D. 1739

**An Act To Amend the Maine Medical Use of Marijuana Act****Be it enacted by the People of the State of Maine as follows:****Sec. 1. 22 MRSA §2422, sub-§1-B** is enacted to read:

**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.

**Sec. 2. 22 MRSA §2422, sub-§4-C** is enacted to read:

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

**Sec. 3. 22 MRSA §2422, sub-§9**, as amended by PL 2011, c. 407, Pt. B, §10, is further amended to read:

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

**Sec. 4. 22 MRSA §2422, sub-§14**, as amended by PL 2011, c. 407, Pt. B, §14, is further amended to read:

**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.

**Sec. 5. 22 MRSA §2422, sub-§16**, as amended by PL 2011, c. 407, Pt. B, §15, is further amended to read:

**16. Written certification.** "Written certification" means a document on tamper-resistant paper signed by a ~~physician~~ medical provider, that expires ~~in~~ within one year and that states that in the ~~physician's~~ 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 or symptoms associated with the debilitating medical condition. A written certification may be made only in the course of a bona fide ~~physician-patient~~ medical provider-patient relationship after the ~~physician~~ medical provider has completed a full assessment of the qualifying patient's medical history.

**Sec. 6. 22 MRSA §2423-A, sub-§2, ¶C**, as enacted by PL 2009, c. 631, §21 and affected by §51, is amended to read:

C. Assist ~~no more than a maximum of 5 patients at any one time with~~ who have designated the primary caregiver to cultivate marijuana for their medical use of marijuana;

**Sec. 7. 22 MRSA §2423-A, sub-§2, ¶G**, as amended by PL 2013, c. 371, §1; c. 393, §1 and c. 396, §5, is further amended to read:

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;

**Sec. 8. 22 MRSA §2423-B**, as repealed and replaced by PL 2011, c. 407, Pt. B, §17, is amended to read:

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

A ~~physician~~ medical provider may provide a written certification for the medical use of marijuana under this chapter and, after having done so, may otherwise state that in the ~~physician's~~ medical provider's professional opinion a qualifying patient is likely to receive therapeutic benefit from the medical use of marijuana to treat or alleviate the patient's debilitating medical condition.

**1. Adult qualifying patient.** Prior to providing written certification for the medical use of marijuana under this section, a ~~physician~~ medical provider shall inform an adult qualifying patient 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 ~~physician~~ medical provider, referred to in this subsection as "the treating ~~physician~~ 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 ~~physician~~ 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 ~~physician~~ 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 ~~physician~~ 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 a the treating physician medical provider within 10 days of receipt of the request, the treating ~~physician~~ medical provider may provide written certification for treatment without consultation with ~~another~~ a physician.

**3. Expiration.** A written certification form for the medical use of marijuana under this section expires within one year after issuance by the qualifying patient's ~~physician~~ 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 ~~physician~~ medical provider to state the patient's specific medical condition.

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

**Sec. 9. 22 MRSA §2423-D**, as amended by PL 2011, c. 407, Pt. B, §19, is further amended to read:

**§2423-D. Authorized conduct by a visiting qualifying patient**

A qualifying patient who is visiting the State from another jurisdiction that authorizes the medical use of marijuana pursuant to a law recognized by the department who possesses a valid written certification as described in section 2423-B from the patient's treating ~~physician~~ 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.

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

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

**Sec. 11. 22 MRSA §2425, sub-§2, ¶A**, as amended by PL 2009, c. 631, §29 and affected by §51, is further amended to read:

A. The qualifying patient's ~~physician~~ medical provider has explained the potential risks and benefits of the medical use of marijuana to the qualifying patient and to a parent, guardian or person having legal custody of the qualifying patient;

**Sec. 12. 22 MRSA §2425, sub-§6, ¶B**, as enacted by IB 2009, c. 1, §5, is amended to read:

B. A registered qualifying patient who fails to notify the department as required under paragraph A commits a civil violation for which a fine of not more than \$150 may be adjudged. If the registered qualifying patient's certifying ~~physician~~ medical provider notifies the department in writing that the registered qualifying patient has ceased to suffer from a debilitating medical condition, the registered qualifying patient's registry identification card becomes void upon notification by the department to the qualifying patient.

**Sec. 13. 22 MRSA §2425, sub-§8**, as amended by PL 2011, c. 691, Pt. A, §22, is further amended to read:

**8. Confidentiality.** This subsection governs confidentiality.

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

B. Applications and supporting information submitted by primary caregivers and ~~physicians~~ 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 without disclosing more information than is reasonably necessary to verify the authenticity of the registry identification card.

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, the registered patient's ~~physician~~ medical provider and the primary caregiver of the 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 primary caregivers and registered patients' ~~physicians~~ 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 ~~physician~~ medical provider and to a registered patient's registered primary caregiver for the purpose of carrying out this chapter.

H. This subsection does not prohibit a ~~physician~~ medical provider from notifying the department if the ~~physician~~ 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 ~~physician's~~ 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 revocation of a registry identification card under subsection 3-A 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 ~~physician~~ medical provider or staff of a hospice provider or nursing facility named as a primary caregiver or any other person directly associated with a ~~physician~~ medical provider or a hospice provider or nursing 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.

**Sec. 14. 22 MRSA §2425, sub-§10, ¶E,** as enacted by IB 2009, c. 1, §5, is amended to read:

E. The number of ~~physicians~~ medical providers providing written certifications for qualifying patients;

**Sec. 15. 22 MRSA §2428, sub-§6, ¶J,** as amended by PL 2011, c. 407, Pt. B, §32, is further amended to read:

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.

**Sec. 16. 22 MRSA §2430-A**, as enacted by PL 2009, c. 631, §46 and affected by §51, is repealed and the following enacted in its place:

**§2430-A. Compliance**

The department may take action necessary to ensure compliance with this chapter, including, but not limited to, collecting, possessing, transporting and performing laboratory testing on soil and marijuana plant samples and samples of products containing marijuana from registered primary caregivers and registered dispensaries to determine compliance with this chapter and for evidence purposes.

**Sec. 17. Framework for processing, documenting and investigating complaints regarding the Maine Medical Use of Marijuana Act.** The Department of Health and Human Services shall develop a framework for processing, documenting and investigating complaints concerning the implementation of the Maine Medical Use of Marijuana Act. The department shall review mechanisms for processing, documenting and investigating complaints and shall report its recommendations to the joint standing committee of the Legislature having jurisdiction over health and human services matters by December 1, 2014. The department shall include in its report whether enacting new laws or authorizing new rules, either routine technical or major substantive, is required to implement the recommendations of the department.