



130th MAINE LEGISLATURE

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Legislative Document

No. 1582

S.P. 496

In Senate, April 27, 2021

An Act To Enact the Maine Psilocybin Services Act

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

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT
Secretary of the Senate

Presented by Senator BAILEY of York.

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

2 **Sec. 1. 5 MRSA §12004-I, sub-§47-J** is enacted to read:

3 **47-J.**

4 <u>Human</u>	<u>Maine Psilocybin Advisory Board</u>	<u>Expenses/</u>	<u>28-B MRSA</u>
5 <u>Services</u>		<u>Legislative Per</u>	<u>§2142</u>
6		<u>Diem</u>	

7 **Sec. 2. 17-A MRSA §1111-A, sub-§1**, as amended by PL 2017, c. 409, Pt. B, §6,
8 is further amended to read:

9 **1.** As used in this section the term "drug paraphernalia" means all equipment, products
10 and materials of any kind that are used or intended for use in planting, propagating,
11 cultivating, growing, harvesting, manufacturing, compounding, converting, producing,
12 processing, preparing, testing, analyzing, packaging, repackaging, storing, containing,
13 concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a
14 scheduled drug in violation of this chapter or Title 22, section 2383, except that this section
15 does not apply to a person who is authorized to possess marijuana for medical use pursuant
16 to Title 22, chapter 558-C, to the extent the drug paraphernalia is used for that person's
17 medical use of marijuana; to a person who is authorized to possess marijuana pursuant to
18 Title 28-B, to the extent the drug paraphernalia is used for that person's adult use of
19 marijuana; ~~or to a marijuana store licensed pursuant to Title 28-B, to the extent that the~~
20 ~~drug paraphernalia relates to the sale or offering for sale of marijuana by the marijuana~~
21 ~~store; or to a licensee pursuant to Title 28-B, to the extent the licensee is authorized to~~
22 ~~possess psilocybin.~~ It includes, but is not limited to:

- 23 A. Kits used or intended for use in planting, propagating, cultivating, growing or
24 harvesting of any species of plant which is a scheduled drug or from which a scheduled
25 drug can be derived;
- 26 B. Kits used or intended for use in manufacturing, compounding, converting,
27 producing, processing or preparing scheduled drugs;
- 28 C. Isomerization devices used or intended for use in increasing the potency of any
29 species of plant that is a scheduled drug;
- 30 D. Testing equipment used or intended for use in identifying or in analyzing the
31 strength, effectiveness or purity of scheduled drugs;
- 32 E. Scales and balances used or intended for use in weighing or measuring scheduled
33 drugs;
- 34 F. Dilutants and adulterants, such as quinine hydrochloride, mannitol, mannite,
35 dextrose and lactose, used or intended for use in cutting scheduled drugs;
- 36 G. Separation gins and sifters, used or intended for use in removing twigs and seeds
37 from, or in otherwise cleaning or refining, marijuana;
- 38 H. Blenders, bowls, containers, spoons and mixing devices used or intended for use in
39 compounding scheduled drugs;
- 40 I. Capsules, balloons, envelopes and other containers used or intended for use in
41 packaging small quantities of scheduled drugs;

1 J. Containers and other objects used or intended for use in storing or concealing
2 scheduled drugs; and

3 K. Objects used or intended for use in ingesting, inhaling or otherwise introducing
4 marijuana, cocaine, hashish or hashish oil into the human body, such as:

5 (1) Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without
6 screens, permanent screens, hashish heads or punctured metal bowls;

7 (2) Water pipes;

8 (3) Carburetion tubes and devices;

9 (4) Smoking and carburetion masks;

10 (5) Roach clips, meaning objects used to hold burning material, such as a
11 marijuana cigarette that has become too small or too short to be held in the hand;

12 (6) Miniature cocaine spoons and cocaine vials;

13 (7) Chamber pipes;

14 (8) Carburetor pipes;

15 (9) Electric pipes;

16 (10) Air-driven pipes;

17 (11) Chillums;

18 (12) Bong; or

19 (13) Ice pipes or chillers.

20 **Sec. 3. 25 MRSA §1542-A, sub-§1, ¶R**, as amended by PL 2019, c. 343, Pt. G,
21 §5; c. 399, §3; c. 402, §3; and c. 416, §3, is repealed and the following enacted in its place:

22 R. Who is required to have a criminal background check under Title 22, section
23 8302-A or 8302-B.

24 **Sec. 4. 25 MRSA §1542-A, sub-§1, ¶S**, as enacted by PL 2019, c. 399, §4 and c.
25 402, §4 and reallocated by c. 343, Pt. G, §4 and c. 416, §2, is repealed and the following
26 enacted in its place:

27 S. Who is required to have a criminal history record check under Title 22, section
28 2425-A, subsection 3-A.

29 **Sec. 5. 25 MRSA §1542-A, sub-§1, ¶T**, as enacted by PL 2019, c. 399, §4; c. 402,
30 §4; and c. 416, §4, is repealed and the following enacted in its place:

31 T. Who is required to have a criminal history record check under Title 22, section
32 8110.

33 **Sec. 6. 25 MRSA §1542-A, sub-§1, ¶U**, as enacted by PL 2019, c. 616, Pt. S, §2,
34 is reallocated to 25 MRSA §1542-A, sub-§1, ¶X.

35 **Sec. 7. 25 MRSA §1542-A, sub-§1, ¶V** is enacted to read:

36 V. Who is employed or may be offered employment by the Office of the State Auditor
37 as required under Title 5, section 247.

38 **Sec. 8. 25 MRSA §1542-A, sub-§1, ¶W** is enacted to read:

1 W. Who is required to have a criminal history record check under Title 19-A, section
2 2111.

3 **Sec. 9. 25 MRSA §1542-A, sub-§1, ¶Y** is enacted to read:

4 Y. Who is required to submit to a criminal history record check pursuant to Title 28-B,
5 Part 2.

6 **Sec. 10. 25 MRSA §1542-A, sub-§3, ¶O**, as repealed by PL 2019, c. 343, Pt. G,
7 §8 and c. 416, §5 and repealed and replaced by c. 399, §5 and c. 402, §5, is repealed and
8 the following enacted in its place:

9 O. The State Police shall take or cause to be taken the fingerprints of the person named
10 in subsection 1, paragraph P at the request of that person and upon payment of the
11 expenses by that person as required by Title 32, section 2571-A.

12 **Sec. 11. 25 MRSA §1542-A, sub-§3, ¶S**, as enacted by PL 2019, c. 399, §6; c.
13 402, §6; and c. 416, §7, is repealed and the following enacted in its place:

14 S. The State Police shall take or cause to be taken the fingerprints of the person named
15 in subsection 1, paragraph T at the request of that person or the Department of Health
16 and Human Services pursuant to Title 22, section 8110.

17 **Sec. 12. 25 MRSA §1542-A, sub-§3, ¶T**, as enacted by PL 2019, c. 616, Pt. S, §3
18 and c. 644, §2, is repealed and the following enacted in its place:

19 T. The State Police shall take or cause to be taken the fingerprints of the person named
20 in subsection 1, paragraph U at the request of that person and upon payment of the
21 expenses by the Department of Labor, Bureau of Unemployment Compensation as
22 specified under Title 26, section 1085, subsection 3.

23 **Sec. 13. 25 MRSA §1542-A, sub-§3, ¶U** is enacted to read:

24 U. The State Police shall take or cause to be taken the fingerprints of the person named
25 in subsection 1, paragraph V at the request of that person or the Office of the State
26 Auditor and upon payment by the Office of the State Auditor of the fee established in
27 Title 5, section 247, subsection 3.

28 **Sec. 14. 25 MRSA §1542-A, sub-§3, ¶V** is enacted to read:

29 V. The State Police shall take or cause to be taken the fingerprints of the person named
30 in subsection 1, paragraph W at the request of that person or the Department of Health
31 and Human Services pursuant to Title 19-A, section 2111.

32 **Sec. 15. 25 MRSA §1542-A, sub-§3, ¶W** is enacted to read:

33 W. The State Police shall take or cause to be taken the fingerprints of the person named
34 in subsection 1, paragraph X at the request of that person or the Department of
35 Administrative and Financial Services, Office of Information Technology, and upon
36 payment of the fee as provided under Title 5, section 1986.

37 **Sec. 16. 25 MRSA §1542-A, sub-§3, ¶X** is enacted to read:

38 X. The State Police shall take or cause to be taken the fingerprints of the person named
39 in subsection 1, paragraph Y at the request of that person and upon payment of the
40 expenses by that person.

1 **8. Licensee.** "Licensee" means a person holding a current, valid license issued under
2 this chapter.

3 **9. Licensee representative.** "Licensee representative" means an owner, director,
4 officer, manager, employee, agent or other representative of a licensee to the extent that
5 person acts in a representative capacity.

6 **10. Manufacture.** "Manufacture" means the cultivation, harvesting, production,
7 preparation, propagation, compounding, conversion or processing of a psilocybin product
8 by extraction from substances of natural origin or by means of chemical synthesis, or by a
9 combination of extraction and chemical synthesis, and includes any packaging of the
10 psilocybin product or labeling of its container.

11 **11. Premises.** "Premises" means all public and private enclosed areas as well as areas
12 outside of a building at a location, other than a person's primary residence, that are used for
13 activities licensed under this chapter, including manufacturing psilocybin products,
14 operating a psilocybin service center or providing psilocybin services to clients, and
15 includes but is not limited to offices, kitchens, rest rooms and storerooms.

16 **12. Preparation session.** "Preparation session" means a meeting between a client and
17 a psilocybin service facilitator that must occur before the client participates in an
18 administration session.

19 **13. Psilocybin.** "Psilocybin" means the naturally occurring compound produced by
20 various species of fungi as well as psilocin, the substance into which psilocybin is
21 converted in the human body.

22 **14. Psilocybin Control and Regulation Fund.** "Psilocybin Control and Regulation
23 Fund" means the fund established under subchapter 13.

24 **15. Psilocybin manufacturing facility.** "Psilocybin manufacturing facility" means a
25 facility licensed under subchapter 4.

26 **16. Psilocybin product.** "Psilocybin product" means psilocybin-producing fungi or
27 mixtures or substances containing a detectable amount of psilocybin. "Psilocybin product"
28 does not include psilocybin services.

29 **17. Psilocybin service center.** "Psilocybin service center" means a place where the
30 activities licensed under subchapter 5 may be conducted.

31 **18. Psilocybin service center operator.** "Psilocybin service center operator" means a
32 person or entity that operates a psilocybin service center.

33 **19. Psilocybin service facilitator.** "Psilocybin service facilitator" means a person or
34 entity licensed in accordance with subchapter 6.

35 **20. Psilocybin services.** "Psilocybin services" means services provided to a client
36 before, during and after the client's consumption of a psilocybin product, including a
37 preparation session, administration session and integration session.

38 **21. Testing facility.** "Testing facility" means a facility licensed under subchapter 7.

39 **§2003. Scope**

40 **1. Limitations.** A person may not use, possess or manufacture psilocybin if that person
41 is not a licensee, client or other person authorized to use, possess or manufacture psilocybin
42 under this chapter.

- 1 **2. Construction.** This chapter may not be construed to:
- 2 A. Require MaineCare or private health insurance coverage to reimburse a person for
- 3 costs associated with the use of psilocybin products;
- 4 B. Amend or affect state or federal law pertaining to employment matters;
- 5 C. Amend or affect state or federal law pertaining to landlord-tenant matters;
- 6 D. Prohibit a recipient or applicant of a federal grant from prohibiting the use,
- 7 possession or manufacture of psilocybin products to the extent necessary to satisfy
- 8 federal requirements for the grant;
- 9 E. Prohibit a party to a federal contract or a person applying to be a party to a federal
- 10 contract from prohibiting the use, possession or manufacture of psilocybin products to
- 11 the extent necessary to comply with the terms and conditions of the contract or to
- 12 satisfy federal requirements for the contract;
- 13 F. Require a person to violate federal law;
- 14 G. Exempt a person from a federal law or allow the person to obstruct the enforcement
- 15 of a federal law; or
- 16 H. Otherwise authorize any activity that is not expressly authorized under this chapter.

17 **§2004. Rulemaking**

18 The department shall adopt all rules necessary to implement, administer and enforce

19 this chapter, including but not limited to rules governing the following:

20 **1. Possession limits.** The quantity of psilocybin permitted on premises at one time. In

21 adopting rules pursuant to this subsection, the department shall take into consideration the

22 demand for psilocybin services in the State, the number of licensees that operate

23 manufacturing facilities and whether the availability of psilocybin products in this State is

24 commensurate with the demand for psilocybin services;

25 **2. Age verification.** The manner in which a licensee verifies a person's age for the

26 purpose of ensuring that a client is 21 years of age or older;

27 **3. Licensing requirements.** The application process for licensure under this chapter

28 and annual renewal of licensure;

29 **4. License fees.** License fees required for applicants applying for licensure in

30 accordance with this chapter. License fees set by the department may not exceed the cost

31 of administering this chapter. Rules adopted pursuant to this subsection are major

32 substantive rules as defined in Title 5, chapter 375, subchapter 2-A;

33 **5. Medical diagnosis not required.** Requirements for a person to receive psilocybin

34 services. The department may not require a client to be diagnosed with or have any

35 particular medical condition in order to receive psilocybin services; and

36 **6. Tracking.** The tracking system and tracking requirements for licensees.

37 In adopting rules, the department shall consider the recommendations of the board.

38 Except as otherwise provided in this chapter, rules adopted pursuant to this chapter are

39 routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

40 **§2005. Tracking system**

1 The department shall develop, implement and administer a system, referred to in this
2 section as "the tracking system," for the tracking of psilocybin products.

3 **1. Purposes.** The tracking system must be implemented to prevent diversion of
4 psilocybin products to other states, prevent persons from substituting or tampering with
5 psilocybin products, ensure an accurate accounting of the manufacture and sale of
6 psilocybin products, ensure that laboratory testing results are accurately reported and
7 ensure compliance with this Act.

8 **2. Functionality.** The tracking system must be capable of tracking, at a minimum, the
9 manufacture of psilocybin products, the sale of psilocybin products by a psilocybin service
10 center to a client, the sale, transfer and purchase of psilocybin products between licensees
11 and premises, the tracking of psilocybin products to be tested, the documenting and
12 reporting of test results and the disposing of samples of psilocybin products that have been
13 tested. Rules adopted by the department to implement this subsection may require tracking
14 of any other transactions permitted under this chapter.

15 **3. Coordination with marijuana tracking system.** The department shall enter into
16 an agreement with the Department of Administrative and Financial Services under which
17 the department may use the tracking system used under section 105 to track the transfer of
18 psilocybin products.

19 **§2006. Record keeping and inspection of records and premises; notice**

20 **1. Record keeping; inspection of records.** A licensee shall maintain a complete set
21 of all records of the licensee's business transactions, which must be open to inspection and
22 examination by the department upon demand and with 72 hours' notice during all business
23 hours. The department may not require the records of a licensee to be maintained on the
24 premises of the licensee.

25 **2. Inspection of premises.** The department may at any time make an examination of
26 premises for which a license has been issued for the purpose of determining compliance
27 with the provisions of this chapter and the rules adopted pursuant to this chapter.

28 **§2007. Purchasing, possessing or consuming a psilocybin product outside licensed**
29 **premises prohibited**

30 A client may purchase, possess or consume a psilocybin product only at a psilocybin
31 service center and under the supervision of a psilocybin service facilitator.

32 **§2008. Delivery of psilocybin to persons under 21 years of age prohibited**

33 **1. Licensee prohibition.** A licensee or licensee representative may not sell or deliver
34 a psilocybin product to a person under 21 years of age, unless authorized to do so by the
35 department by rule. Before selling or providing a psilocybin product to a client, the licensee
36 must require the person to produce one of the following pieces of identification:

37 A. A passport;

38 B. A driver's license;

39 C. A nondriver identification card issued under Title 29-A, section 1410;

40 D. A United States military identification card;

41 E. An identification card issued by one of the federally recognized Indian tribes in this
42 State; or

1 F. Any other identification card issued by a state or territory of the United States that
2 bears a photograph of the person, the name of the person, the person's date of birth and
3 a physical description of the person.

4 A licensee or licensee representative is not in violation of this subsection if the licensee or
5 licensee representative reasonably relied on an identification provided by a person that did
6 not accurately provide that person's age.

7 A person who violates this subsection commits a civil violation for which a penalty of not
8 more than \$500 may be adjudged.

9 **2. Persons under 21 years of age entering premises prohibited.** A person under 21
10 years of age may not enter or attempt to enter any portion of premises that are posted or
11 otherwise identified as being closed to persons under 21 years of age except:

12 A. When the person is acting under direction of the department or state or local law
13 enforcement or a licensee for the purposes of investigating possible violations of this
14 section;

15 B. When the person has entered the premises after having contacted emergency
16 medical services or a law enforcement agency in order to obtain medical assistance for
17 another person in need of medical assistance who consumed a psilocybin product and
18 the evidence of the person's entering the premises was obtained as a result of the
19 person's having contacted emergency medical services or a law enforcement agency;

20 C. When the person has entered the premises because the person is in need of medical
21 assistance as a result of having consumed a psilocybin product and the evidence of the
22 person's entering the premises was obtained as a result of the person's receiving medical
23 assistance;

24 D. In the case of an emergency, as defined by the department by rule; or

25 E. When otherwise authorized to do so by rules adopted by the department.

26 The exceptions in paragraphs A and B may not be interpreted to require exclusion in
27 another civil or criminal proceeding of any evidence obtained as a result of the person
28 seeking medical assistance.

29 A person who violates this subsection commits a civil violation for which a penalty of not
30 more than \$500 may be adjudged.

31 **3. False identification.** A person may not produce a piece of identification under
32 subsection 1 that falsely indicates the person's age.

33 A person who violates this subsection commits a Class E crime.

34 **§2009. Psilocybin product to visibly intoxicated person prohibited**

35 A person may not sell, give or otherwise make available a psilocybin product to a
36 person who is visibly intoxicated.

37 A person who violates this section commits a Class E crime.

38 **§2010. Psilocybin as a prize prohibited**

39 A person may not give a psilocybin product as a prize, premium or consideration for a
40 lottery, contest, game of chance, game of skill or competition of any kind.

1 A person who violates this section commits a Class E crime.

2 **§2011. Employment of persons under 21 years of age prohibited**

3 A licensee may not employ a person under 21 years of age.

4 **1. Verification.** The department may verify a person's age in accordance with this
5 section. During an inspection in accordance with this chapter, the department may require
6 proof that a person performing work at the premises is 21 years of age or older. If the
7 person does not provide the department with acceptable proof of age upon request, the
8 department may require the person to immediately cease any activity and leave the
9 premises until the department receives acceptable proof of age. The department may
10 request that the licensee provide proof that the person is 21 years of age or older. Failure
11 of the licensee to respond to the request is prima facie evidence that the licensee has allowed
12 the person to perform work at the premises for which a license has been issued, except that
13 it is an affirmative defense that the person is only temporarily at the premises to make a
14 service, maintenance or repair call or for other purposes and is not an employee of the
15 licensee.

16 A person who violates this section commits a Class E crime.

17 **§2012. Publication of information related to the use of psilocybin**

18 The department shall publish on a publicly accessible website available medical,
19 psychological and scientific studies, research and other information, including but not
20 limited to information submitted to the department by the board, relating to the safety and
21 efficacy of psilocybin in treating mental health conditions, including but not limited to
22 substance use disorder, depression, anxiety disorders and end-of-life psychological
23 distress.

24 **§2013. Investigation by a criminal justice agency of unlawful activity**

25 A criminal justice agency may investigate unlawful activity under this chapter and may
26 conduct a criminal history record check of a licensee or its employees during an
27 investigation of unlawful activity in relation to a licensee. A law enforcement officer may
28 enforce any provision of this chapter and may assist the department in enforcing this
29 chapter.

30 A law enforcement officer who has notice, knowledge or reasonable suspicion of a
31 violation of this chapter shall immediately notify the district attorney who has jurisdiction
32 over the violation and furnish that district attorney with names and addresses of any
33 witnesses to the violation or other information related to the violation.

34 **§2014. Cooperation of other state entities; immunity**

35 All state agencies, including but not limited to the Department of Administrative and
36 Financial Services, shall upon request of the department assist and cooperate with the
37 department to the extent necessary for the department to carry out its duties under this
38 chapter. The Department of Agriculture, Conservation and Forestry may possess, test and
39 dispose of psilocybin products on behalf of the department.

40 Notwithstanding any provision of law to the contrary, the State, its agencies and
41 employees are immune from any liability arising out of the performance or nonperformance
42 of any duty or function, or the exercise of any power, under this chapter or any other law
43 of this State relating to psilocybin products.

1 Except as otherwise provided in this chapter, the department may not impose any limitation
2 on the number of each type of license that it issues to a qualified applicant or on the total
3 number of each type of license that it issues to qualified applicants pursuant to this chapter.

4 **§2032. General licensing criteria**

5 An applicant for a license under this chapter shall meet each of the requirements of this
6 section. An applicant shall disclose in or include with its application the name and address
7 of the applicant and each natural person and business entity that would have a direct or
8 indirect financial interest in the license and the nature and extent of that financial interest
9 and, if applicable, the nature and extent of any financial interest the person or entity has in
10 any other license applied for or issued under this chapter.

11 **1. Age.** The applicant must be at least 21 years of age. If the applicant is a business
12 entity, every officer, director, manager and general partner of the business entity must meet
13 this requirement.

14 **2. Resident.** The applicant must be a resident of the State and have been a resident of
15 the State for the 2 years preceding the application. If the applicant is a business entity:

16 A. Every officer, director, manager and general partner of the business entity must be
17 a natural person who is a resident of the State and has been a resident of the State for
18 the 2 years preceding the application; and

19 B. A majority of the shares, membership interests, partnership interests or other equity
20 ownership interests as applicable to the business entity must be owned by natural
21 persons who are residents of the State or business entities all of whose owners are
22 natural persons who are residents of the State and who have been residents of the State
23 for the 2 years preceding the application.

24 This subsection does not apply to an applicant for a testing facility license.

25 This subsection is repealed January 15, 2025.

26 **3. Incorporated in State.** If the applicant is a business entity, the business entity must
27 be incorporated in the State or otherwise formed or organized under the laws of the State.

28 **4. No disqualifying drug offense.** The applicant may not have been previously
29 convicted of violating a federal law, state law or local ordinance if the conviction is
30 substantially related to the fitness and ability of the applicant to lawfully carry out activities
31 under the license, as determined by the department by rule. If the applicant is a business
32 entity, every officer, director, manager and general partner of the business entity must
33 satisfy this requirement. Rules adopted by the department to implement this subsection
34 may not determine that a conviction for manufacturing psilocybin or a marijuana product
35 or for possessing a controlled substance or marijuana product, if the conviction is 2 or more
36 years before the date of the application and the person has not been convicted of such an
37 offense more than once, relates to the fitness and ability of the applicant to lawfully carry
38 out activities under the license.

39 **5. Criminal history record check.** The applicant must have submitted to a criminal
40 history record check in accordance with section 2034. If the applicant is a business entity,
41 every officer, director, manager and general partner of the business entity must satisfy this
42 requirement.

1 **6. Compliance.** An applicant who has previously held a license under this chapter
2 must have a good record of compliance with this chapter and any rules adopted in
3 accordance with this chapter and may not have had a license issued under this chapter
4 revoked for any reason.

5 **7. Land use compatibility.** The applicant must present a land use compatibility
6 statement for the proposed licensed activity from the municipality that authorizes land use.
7 The statement must demonstrate that the requested licensed activity on land in that
8 municipality is allowable as a permitted or conditional use on that land. A municipality
9 that receives a request for a land use compatibility statement under this subsection must act
10 on that request within 21 days of receipt of the request if the land use is an allowable use
11 or upon final local permit approval if the land use is allowable with a permit and a permit
12 is issued. A municipality is not required to act on a request during any period that the
13 department is not issuing licenses for the proposed activity. A land use compatibility
14 statement does not constitute a land use decision for any other purpose under state or local
15 law.

16 **8. Financial responsibility.** The applicant must demonstrate financial responsibility
17 sufficient to adequately meet the requirements of the license, as established by the
18 department by rule.

19 **9. Applicant's character.** The applicant must be of good repute and moral character,
20 as determined by the department by rule. If the applicant is a business entity, every officer,
21 director, manager and general partner of the business entity must satisfy this requirement.

22 **10. Truthfulness.** The applicant may not make any false statements to the department.
23 If the applicant is a business entity, every officer, director, manager and general partner of
24 the business entity is subject to this requirement.

25 **11. Competency.** The applicant must demonstrate that the applicant is competent and
26 physically able to carry on the management of the activities to be licensed. The applicant
27 must be able to understand the laws and rules governing use of the license.

28 **12. Substance use disorder.** The applicant must affirm that the applicant is not in the
29 habit of using alcoholic beverages, habit-forming drugs or controlled substances to excess.
30 If the applicant is a business entity, every officer, director, manager and general partner of
31 the business entity must satisfy this requirement.

32 **13. Health and safety.** The applicant must demonstrate an ability to meet any public
33 health and safety standards and industry best practices established by the department by
34 rule.

35 **14. Form.** The applicant must disclose the applicant's name, address, location where
36 the licensed activities will be conducted and any other information requested by the
37 department in the manner required by the department, except that an applicant for a
38 psilocybin service facilitator license need not identify a location where the licensed
39 activities will be conducted.

40 **15. Payment of fees.** The applicant must pay the fees established by the department
41 by rule. Fees collected pursuant to this subsection must be deposited into the Psilocybin
42 Control and Regulation Fund.

43 **§2033. Additional licensing considerations**

1 **1. Financial disclosures.** An applicant for a license under this chapter must submit, at
2 the request of the department, the name and address of each person that has a financial
3 interest in the business that will be operated under the license and the nature and extent of
4 that financial interest.

5 **2. Premises.** The department may not issue a license for a psilocybin service center,
6 psilocybin manufacturing facility or testing facility that does not have premises with
7 defined boundaries in a fixed location. The department may require the premises to be
8 enclosed by a wall, fence or other structure as a condition of issuing or renewing a license
9 and may not issue or renew a license for mobile premises. The department may require the
10 premises to be segregated into separate areas for conducting the activities permitted under
11 each license as necessary to protect the public health and safety.

12 **3. Limitations on psilocybin service centers.** A psilocybin service center may not be
13 located:

14 A. In any area that is not within the limits of an incorporated municipality;

15 B. In any area that is zoned exclusively for residential use; or

16 C. Within 1,000 feet of a public or private elementary or secondary school, unless:

17 (1) The department determines that there is a physical or geographic barrier capable
18 of preventing children from reaching the premises of the psilocybin service center;
19 or

20 (2) The school had not previously been attended by children and was not attended
21 by children at the time the license was issued.

22 A psilocybin service center must meet any other requirements for the facility established
23 by the department by rule.

24 **§2034. Criminal history record check**

25 The department shall request a criminal history record check for each applicant for a
26 license or permit under this chapter and may at any time require a person applying for a
27 license or permit to submit to a criminal history record check in accordance with this
28 section. If the applicant is a business entity, every officer, director, manager and general
29 partner of the business entity and any individual who holds a financial interest in the
30 business entity of at least 10% must submit to a criminal history record check in accordance
31 with this section. A criminal history record check conducted pursuant to this section must
32 include criminal history record information obtained from the Maine Criminal Justice
33 Information System established in Title 16, section 631 and the Federal Bureau of
34 Investigation.

35 **1. Record of public criminal history information required.** Criminal history record
36 information obtained from the Maine Criminal Justice Information System pursuant to this
37 section must include a record of public criminal history record information as defined in
38 Title 16, section 703, subsection 8.

39 **2. Other state and national criminal history record information required.**
40 Criminal history record information obtained from the Federal Bureau of Investigation
41 pursuant to this section must include other state and national criminal history record
42 information.

1 **3. Fingerprinting.** An individual required to submit to a criminal history record check
2 under this section shall submit to having the individual's fingerprints taken. The State
3 Police, upon payment by the individual of the fee required under subsection 4, shall take
4 or cause to be taken the individual's fingerprints and shall immediately forward the
5 fingerprints to the Department of Public Safety, Bureau of State Police, State Bureau of
6 Identification. The State Bureau of Identification shall conduct the state and national
7 criminal history record checks required under this section. Except for the portion of a
8 payment, if any, that constitutes the processing fee for a criminal history record check
9 charged by the Federal Bureau of Investigation, all money received by the State Police
10 under this section must be paid to the Treasurer of State, who shall apply the money to the
11 expenses incurred by the Department of Public Safety in the administration of this section.

12 **4. Fees.** The department shall by rule set the amount of the fee to be paid by an
13 individual under subsection 3 for each criminal history record check required to be
14 performed under this section.

15 **5. Availability of criminal history record information.** The subject of a Federal
16 Bureau of Investigation criminal history record check may obtain a copy of the criminal
17 history record check by following the procedures outlined in 28 Code of Federal
18 Regulations, Sections 16.32 and 16.33. The subject of a state criminal history record check
19 may inspect and review the criminal history record information pursuant to Title 16, section
20 709.

21 **6. Use of criminal history record information.** State and national criminal history
22 record information obtained by the department under this section may be used only for the
23 purpose of screening an applicant for a license or permit under this chapter.

24 **7. Confidentiality.** All criminal history record information obtained by the
25 department pursuant to this section is confidential, is for the official use of the department
26 only and may not be disseminated outside of the department or disclosed to any other
27 person or entity except as provided in subsection 5.

28 **8. Rules.** The department, after consultation with the Department of Public Safety,
29 Bureau of State Police, State Bureau of Identification, shall adopt rules to implement this
30 section.

31 **§2035. Application process; issuance of license**

32 **1. Forms; payment of fees.** An applicant for a license under this chapter shall file an
33 application on a form prepared and furnished by the department for the license sought along
34 with the appropriate application fee.

35 **2. Application for multiple licenses.** An applicant may apply for and be granted
36 multiple licenses of any license type under this chapter, except that a person may not have
37 a financial interest in:

38 A. More than one psilocybin manufacturing facility; or

39 B. More than 5 psilocybin service centers.

40 **3. Each license separate; locations.** Each license issued by the department to an
41 applicant under this chapter is separate and distinct from any other license issued by the
42 department to that same applicant under this chapter.

1 A. Except in the case of a psilocybin service facilitator's license, a person must obtain
2 a separate license under this chapter for each geographic location where the licensed
3 activities will occur.

4 B. A person may hold a psilocybin manufacturing license and a psilocybin service
5 center license at the same or different locations.

6 **4. Licensee must maintain possession of premises.** As a condition of licensure, a
7 licensee must at all times maintain possession of the licensed premises under the license,
8 whether pursuant to a lease, rental agreement or other arrangement for possession of the
9 premises or by virtue of ownership of the premises. If a licensee fails to maintain
10 possession of the licensed premises, the licensee shall immediately cease all licensed
11 activities and may either apply to the department for relocation of the licensed premises or
12 may terminate its license in accordance with this chapter.

13 **§2036. Denial of license**

14 **1. Denial for good cause.** The department, for good cause, may deny an application
15 for an initial license, a license renewal, a transfer of ownership interests or a relocation of
16 licensed premises. Denial of an application by the department pursuant to this section
17 constitutes a final agency action as defined in Title 5, section 8002, subsection 4.

18 **2. Good cause defined.** As used in this section, "good cause" means a finding by the
19 department that an applicant or licensee:

20 A. Has violated any provisions of this chapter or any rules adopted in accordance with
21 this chapter; or

22 B. Has been convicted of a crime or an offense under this chapter, except that the
23 department may not consider a conviction for an offense under this chapter if the date
24 of the conviction is 2 or more years before the date of the application.

25 "Good cause" does not include a violation by an applicant or licensee of a federal law
26 prohibiting manufacture, use or possession of psilocybin products.

27 **3. Grounds for suspension or revocation.** The department may suspend or revoke a
28 license issued under this chapter for a violation by the licensee, or by an agent or employee
29 of the licensee, of the provisions of this chapter, rules adopted pursuant to this chapter or
30 the terms, conditions or provisions of the licensee's license or if the department finds:

31 A. That the licensee or an agent or employee of the licensee has made a false
32 representation or statement to the department in order to induce or prevent action by
33 the department;

34 B. That the licensee is insolvent or incompetent or physically unable to carry on the
35 licensed activities;

36 C. That the licensee is in the habit of using alcohol, habit-forming drugs, marijuana,
37 psilocybin products or controlled substances to excess;

38 D. That the licensee or an agent or employee of the licensee has misrepresented to a
39 person or the public any psilocybin products sold by the licensee;

40 E. That the licensee or an agent or employee of the licensee has been convicted of any
41 crime or found by a court of competent jurisdiction to have violated any provision of

1 this chapter or of a municipal ordinance, if the violation of that ordinance occurred on
2 the premises for which the license was issued;

3 F. That the licensee or an agent or employee of the licensee has diverted psilocybin
4 products to an entity that is not operating legally under the laws of this State;

5 G. That the licensee or an agent or employee of the licensee has purchased or received
6 a psilocybin product from an unlicensed source or has sold, stored or transferred a
7 psilocybin product in a manner that is not permitted by the licensee's license; or

8 H. That a person with a financial interest in the business operating or to be operated
9 under the license committed or failed to take an act if that act or failure to act would
10 constitute grounds for the department to refuse to issue, or to suspend, revoke or refuse
11 to renew, the license if the person were the licensee or applicant for the license.

12 **§2037. License term; renewal**

13 A license issued by the department pursuant to this chapter is effective for a period of
14 one year from the date of issuance and may be renewed pursuant to this section.

15 **1. Application.** A licensee seeking to renew an existing license must file an application
16 for renewal with the department, on forms prepared and furnished by the department, not
17 less than 30 days prior to the date of expiration of the license.

18 **2. Expired license.** A person whose license has expired shall immediately cease all
19 activities authorized under that license and ensure that all psilocybin in the possession of
20 the person pursuant to that license is forfeited to the department for destruction in
21 accordance with this chapter.

22 **§2038. License properties; transfer; leftover product**

23 A license issued under this chapter is a personal privilege, expires upon the death of
24 the licensee except as otherwise expressly provided in this chapter, does not constitute
25 property, is not alienable, is not subject to attachment or execution and may not be
26 transferred by will, devise or intestate succession.

27 **1. Decedents; insolvent or bankrupt persons.** The department may by rule provide
28 for the manner and conditions under which:

29 A. Psilocybin products left by a deceased, insolvent or bankrupt person or licensee may
30 be sold or otherwise disposed of and any security interest in the products foreclosed or
31 settled;

32 B. The business of a deceased, insolvent or bankrupt licensee may be operated for a
33 reasonable period following the death, insolvency or bankruptcy; and

34 C. A person with a security interest in relevant property may continue to operate at
35 premises for which a license has been issued under this chapter for a reasonable period
36 after default on the indebtedness by the licensee.

37 **SUBCHAPTER 3**

38 **PERMIT REQUIREMENTS; PERMIT VIOLATIONS**

39 **§2051. Permit required**

1 Subject to the requirements and restrictions of this subchapter and the other applicable
2 requirements of this chapter, the department may issue to an applicant a psilocybin
3 manufacturing facility license. The department may by rule establish different types of
4 psilocybin manufacturing facility licenses that allow the licensee to engage in different
5 types of manufacturing activities. The department may by rule require information from
6 an applicant in addition to what is required under this chapter as a prerequisite to issuing
7 psilocybin manufacturing facility licenses.

8 **1. Authorized conduct.** A psilocybin manufacturing facility licensee may engage in
9 the following activities in accordance with rules adopted by the department:

10 A. Deliver psilocybin products to premises for which a license has been issued under
11 this chapter; and

12 B. Receive psilocybin products from another psilocybin manufacturing facility
13 licensee.

14 A psilocybin manufacturing facility licensee is not required to manufacture a psilocybin
15 product by means of chemical synthesis.

16 **2. Prohibited conduct.** A psilocybin manufacturing facility licensee may not:

17 A. Manufacture psilocybin products outdoors;

18 B. Sell or deliver a psilocybin product to a person under 21 years of age;

19 C. Employ a person under 21 years of age in manufacturing psilocybin products;

20 D. Make false representations or statements to the department in order to induce or
21 prevent action by the department;

22 E. Allow licensed premises to be noisy or unsanitary or permit any person on the
23 premises to be lewd or disorderly;

24 F. Supply or sell impure or otherwise deleterious psilocybin products;

25 G. Misrepresent to a person or to the public any psilocybin products;

26 H. Use information obtained to verify a person's age for any purpose other than
27 verifying a person's age; or

28 I. On land designated for exclusive farm use by a municipality:

29 (1) Conduct licensed activities in a new dwelling in conjunction with growing
30 psilocybin-producing fungi;

31 (2) Conduct licensed activities at a farm stand in conjunction with growing
32 psilocybin-producing fungi; or

33 (3) Conduct any commercial activity other than operating a psilocybin service
34 center in conjunction with growing psilocybin-producing fungi.

35 **SUBCHAPTER 5**

36 **LICENSING AND OPERATING REQUIREMENTS FOR PSILOCYBIN**
37 **SERVICE CENTERS**

1 examinations of applicants. An applicant may retake any failed section of the
2 examination in accordance with rules adopted by the department; and

3 D. Meet any other training, education, skill or fitness requirements adopted by the
4 department by rule, such as:

5 (1) Facilitation skills that are affirming, nonjudgmental and nondirective; and

6 (2) Support skills for clients during an administration session, including specialized
7 skills relating to client safety and clients who may have mental health conditions,
8 ability to establish a proper environment in which psilocybin services occur and
9 social and cultural skills.

10 **2. Training course approval.** The department shall establish a process to approve
11 training courses for psilocybin service facilitators. To obtain approval of a course, the
12 person providing the course must submit an outline of instruction to the department and to
13 the Department of Education that includes the course topics, total hours of instruction,
14 hours of lectures in theory and hours of instruction in application of practical skills.

15 **3. Professional conduct.** The department shall establish by rule a code of professional
16 conduct, including a code of ethics, for psilocybin service facilitators. The department
17 shall establish standards of practice and professional responsibility for psilocybin service
18 facilitators.

19 **4. Authorized conduct; generally.** A psilocybin service facilitator licensee may
20 engage in the following activities in accordance with rules adopted by the department:

21 A. Deliver psilocybin products to premises for which a license has been issued under
22 this chapter;

23 B. Receive psilocybin products from a psilocybin manufacturing facility licensee or
24 another psilocybin service center licensee; and

25 C. Sell psilocybin products to a client on the premises for which the license has been
26 issued.

27 **SUBCHAPTER 7**

28 **LICENSING AND OPERATING REQUIREMENTS FOR TESTING FACILITIES**

29 **§2091. Qualifications**

30 In addition to meeting the licensing requirements under this chapter, an applicant for a
31 testing facility license must meet qualifications, including accreditation standards,
32 established by the department by rule.

33 **§2092. Testing standards**

34 The department may adopt rules requiring a testing facility licensee to test psilocybin
35 products sold or transferred to others by a psilocybin manufacturing facility licensee. The
36 department may not require a psilocybin product to undergo the same test more than once
37 unless the product is processed into a different type of psilocybin product or the condition
38 of the psilocybin product has fundamentally changed. In adopting rules under this section,
39 the department shall consider the cost of a potential testing procedure and how that cost

1 will affect the cost to clients. The department may not adopt rules that are more restrictive
2 than is reasonably necessary to protect the public health and safety.

3 The department shall adopt rules establishing standards for testing psilocybin products
4 and identify appropriate tests for different types of psilocybin products and manufacturing
5 processes that are necessary to protect the public health and safety, including but not limited
6 to protection from microbiological contaminants, pesticides, other contaminants, solvents
7 and excessive psilocybin concentration.

8 **§2093. Conduct of testing facility licensees**

9 **1. Authorized conduct.** A testing facility licensee may engage in the following
10 activities in accordance with rules adopted by the department:

11 A. Deliver psilocybin products to premises for which a license has been issued under
12 this chapter; and

13 B. Receive psilocybin products from a psilocybin manufacturing facility licensee or
14 another psilocybin service center licensee.

15 **2. Prohibited conduct.** A testing facility licensee may not:

16 A. Sell or deliver a psilocybin product to a person under 21 years of age;

17 B. Employ a person under 21 years of age in the testing facility;

18 C. Make false representations or statements to the department in order to induce or
19 prevent action by the department;

20 D. Allow licensed premises to be noisy or unsanitary or permit any person on the
21 premises to be lewd or disorderly;

22 E. Supply or sell impure or otherwise deleterious psilocybin products;

23 F. Misrepresent to a person or to the public any psilocybin products; or

24 G. Use information obtained to verify a person's age for any purpose other than
25 verifying a person's age.

26 **SUBCHAPTER 8**

27 **OPERATING REQUIREMENTS FOR PROVIDING PSILOCYBIN SERVICES**

28 **§2101. Psilocybin services**

29 **1. Requirements.** A psilocybin service center and psilocybin service facilitator must
30 comply with the requirements of this section. The department shall adopt rules regarding
31 the services provided by psilocybin service centers and the provision of psilocybin services
32 to a client by a psilocybin service facilitator. The rules must:

33 A. Require a psilocybin service facilitator to hold a preparation session with a client
34 before the client participates in an administration session;

35 B. Require a psilocybin service facilitator to certify, in a form and manner prescribed
36 by the department, that the client completed a preparation session; and

1 C. Permit a preparation session to be held at a psilocybin service center or another
2 location.

3 **2. Client information form.** The department shall adopt rules governing client
4 information. The rules must:

5 A. Require a client to complete and sign a client information form prescribed by the
6 department before a client participates in an administration session. The form must:

7 (1) Solicit from the client such information as may necessary to enable a psilocybin
8 service center licensee and a psilocybin service facilitator to determine whether the
9 client should participate in an administration session, including information that
10 may identify risk factors and contraindications, or that will assist the licensees in
11 meeting any public health and safety standards and industry best practices during
12 the administration session; and

13 (2) Contain health and safety warnings and disclosures to the client; and

14 B. Require a psilocybin service facilitator to deliver a copy of the completed and signed
15 client information form to the psilocybin service center licensee at which the
16 administration session will be held and to the psilocybin service facilitator supervising
17 the administration session.

18 **3. Administration session.** The department shall adopt rules governing administration
19 sessions. The rules must:

20 A. Require that a client complete a preparation session and a client information form
21 prior to an administration session;

22 B. Require an administration session to occur at a psilocybin service center;

23 C. Require a psilocybin service facilitator to certify, in a form and manner prescribed
24 by the department, that the client completed an administration session; and

25 D. Prohibit a psilocybin service facilitator from consuming a psilocybin product during
26 an administration session that the psilocybin service facilitator is supervising.

27 **4. Integration session.** The department shall adopt rules defining and governing
28 integration sessions. The rules must:

29 A. Require, upon completion of an administration session, that a psilocybin service
30 facilitator offer to the client the opportunity to participate in an integration session;

31 B. Allow a client to decline to participate in an integration session;

32 C. Allow any integration session to occur at a psilocybin service center or another
33 location; and

34 D. Require a psilocybin service facilitator to certify, in a form and manner prescribed
35 by the department, if a client completed an integration session.

36 **5. Confidentiality.** A psilocybin service center and psilocybin service facilitator may
37 not disclose any information that may be used to identify a client or any communication
38 made by a client during the course of providing psilocybin services or selling psilocybin
39 products to the client, except when:

40 A. The client or a person authorized to act on behalf of the client gives consent to the
41 disclosure;

1 prohibit the establishment and operation of a psilocybin manufacturing facility or remove
2 such a prohibition previously established under this subsection, within an area subject to
3 the jurisdiction of the Maine Land Use Planning Commission. For purposes of this
4 subsection, "governing body" means the governing body of a municipality or the Maine
5 Land Use Planning Commission, as applicable.

6 A. If a governing body adopts a measure prohibiting or removing a prohibition under
7 this subsection, that measure must be submitted to the electors of the municipality, or
8 within the affected unorganized territory, for approval at the next statewide general
9 election. The measure takes effect only if approved by a majority of the electors voting
10 at that election.

11 B. If a governing body adopts a measure establishing a prohibition under this
12 subsection and the measure is approved in accordance with paragraph A, the governing
13 body must provide the text of the measure to the department. Upon receiving notice
14 of the prohibition, the department shall discontinue licensing any premises to which
15 the prohibition applies.

16 C. If a governing body adopts a measure removing a prohibition under this subsection
17 and the measure is approved in accordance with paragraph A, the department shall
18 begin accepting relevant applications for licenses in the affected area no later than the
19 first business day of January immediately following the date of the statewide general
20 election.

21 SUBCHAPTER 10

22 LABELING AND PACKAGING; SIGNS; ADVERTISING AND MARKETING; 23 HEALTH AND SAFETY

24 §2121. Labeling requirements

25 The department shall adopt rules necessary to protect the public health and safety that
26 establish standards for the labeling of psilocybin products, including but not limited to
27 standards that ensure psilocybin products have labeling that communicates health and
28 safety warnings, activation time, potency, serving size, the number of servings and content
29 and other labeling in accordance with requirements for food products or potable liquid. In
30 adopting rules under this section, the department shall consult with the Department of
31 Agriculture, Conservation and Forestry and the Department of Administrative and
32 Financial Services.

33 1. Labeling standards. The department may establish different labeling standards for
34 different varieties and types of psilocybin products.

35 2. Preapproval; fee. The department may require a licensee to submit a label intended
36 for use on a psilocybin product for preapproval before the licensee may sell or transfer a
37 psilocybin product bearing the label and the department may impose a fee for the
38 preapproval process.

39 3. Cost. The department shall consider the cost of meeting a potential requirement and
40 how that cost will affect the cost to the client.

1 **4. Rules not more restrictive than necessary.** The department may not adopt rules
2 governing labeling that are more restrictive than reasonably necessary to protect the public
3 health and safety.

4 **5. Imprecise labeling.** The department shall by rule prohibit a licensee from placing
5 or allowing the placement of a mark or label on the container of a psilocybin product that
6 is kept for sale if the mark or label does not precisely and clearly indicate the nature of the
7 container's contents or if the mark or label in any way might deceive a person about the
8 nature, composition, quantity, age or quality of the container's contents.

9 **6. Deceptive labeling; injurious or adulterated ingredients.** The department shall
10 by rule prohibit a licensee from selling any psilocybin product that, in the department's
11 judgment, is deceptively labeled or contains injurious or adulterated ingredients.

12 **§2122. Packaging requirements**

13 As necessary to protect the public health and safety, the department shall adopt rules
14 establishing standards for the packaging of psilocybin products, including but not limited
15 to ensuring that psilocybin products are not marketed in a manner that is untruthful or
16 misleading or otherwise creates a significant risk of harm to public health and safety. In
17 adopting rules under this section, the department shall consult with the Department of
18 Agriculture, Conservation and Forestry and the Department of Administrative and
19 Financial Services.

20 **1. Prohibiting advertising.** The department may adopt rules prohibiting advertising
21 psilocybin products to the public.

22 **2. Regulating advertising.** The department may adopt rules regulating and prohibiting
23 advertising psilocybin services in a manner that is appealing to minors, promotes excessive
24 use, promotes illegal activity, violates the code of professional conduct for psilocybin
25 service facilitator licensees established by the department or otherwise presents a
26 significant risk to public health and safety.

27 **3. Packaging standards.** The department may establish different packaging standards
28 for different varieties and types of psilocybin products.

29 **4. Labeling standards.** The department may establish different labeling standards for
30 different varieties and types of psilocybin packages and may consider the effect on the
31 environment of requiring certain packaging.

32 **5. Preapproval; fee.** The department may require a licensee to submit packaging
33 intended for use on a psilocybin product for preapproval before the licensee may sell or
34 transfer a psilocybin product packaged in the packaging and the department may impose a
35 fee for the preapproval process.

36 **6. Cost.** The department shall consider the cost of meeting a potential requirement and
37 how that cost will affect the cost to the client.

38 **7. Rules not more restrictive than necessary.** The department may not adopt rules
39 governing labeling that are more restrictive than is reasonably necessary to protect the
40 public health and safety.

41 **§2123. Dosage requirements**

1 G. That the licensee or an agent or employee of the licensee has purchased or received
2 a psilocybin product from an unlicensed source or has sold, stored or transferred a
3 psilocybin product in a manner that is not permitted by the licensee's license; or

4 H. That a person with a financial interest in the business operating or to be operated
5 under the license committed or failed to commit an act if that act or failure to act would
6 constitute grounds for the department to refuse to issue, or to suspend, revoke or refuse
7 to renew, the license if the person were the licensee or applicant for the license.

8 The department may not impose any penalty under this section on the basis of a finding
9 that the licensee or an agent or employee of the licensee has violated a provision of federal
10 law governing psilocybin products.

11 **2. Amounts; deposit.** An administrative penalty imposed by the department on a
12 licensee pursuant to this subchapter may not exceed \$5,000 per license violation. The
13 department shall adopt rules setting forth amounts of administrative penalties to be imposed
14 on a licensee based upon specific categories of violations by the licensee. All
15 administrative penalties paid to the department pursuant to this subchapter must be
16 deposited into the Psilocybin Control and Regulation Fund.

17 **3. License suspension.** A licensee whose license has been suspended pursuant to this
18 subchapter may not, for the duration of the period of suspension, engage in any activities
19 authorized by that license.

20 **4. License revocation.** A licensee whose license has been revoked pursuant to this
21 subchapter shall cease immediately all activities authorized by the license and shall ensure
22 that all psilocybin and psilocybin products in the possession of the licensee are forfeited to
23 the department for destruction in accordance with this subchapter.

24 **5. Enforcement actions may be cumulative.** In addition to suspending or revoking a
25 licensee's license, the department may impose an administrative penalty on the licensee
26 consistent with this section.

27 **6. Additional penalties may be imposed.** Any penalties imposed by the department
28 on a licensee pursuant to this subchapter are in addition to any criminal or civil penalties
29 that may be imposed pursuant to other applicable laws or rules.

30 **7. Maine Administrative Procedure Act; appeals.** The imposition of an
31 administrative penalty or the suspension or revocation of a licensee by the department is
32 governed by the Maine Administrative Procedure Act. A final order of the department
33 imposing an administrative penalty on a licensee or suspending or revoking the licensee's
34 license is a final agency action, as defined in Title 5, section 8002, subsection 4, and the
35 licensee may appeal that final order to the Superior Court in accordance with Rule 80C of
36 the Maine Rules of Civil Procedure.

37 **§2133. Disposition of unauthorized psilocybin or psilocybin products of licensee**

38 **1. Order; destruction of psilocybin or psilocybin products.** If the department issues
39 a final order imposing an administrative penalty on or a license suspension or revocation
40 against a licensee pursuant to this subchapter, the department may specify in the order, in
41 addition to any other penalties imposed in the order, that all or a portion of the psilocybin
42 or psilocybin products in the possession of the licensee are subject to destruction. A
43 licensee subject to a final order directing the destruction of psilocybin or psilocybin

1 products in the possession of the licensee shall forfeit the psilocybin or psilocybin products
2 described in the order to the department for destruction.

3 **2. Investigation.** If the department is notified by a criminal justice agency that there
4 is a pending investigation of a licensee subject to an order imposed under subsection 1, the
5 department may not destroy any psilocybin or psilocybin products of that licensee until the
6 destruction is approved by the criminal justice agency.

7 **3. Conviction of licensee.** A court, district attorney or municipal authority involved
8 in trying or finding a violation of this chapter shall notify the department upon final
9 adjudication or conviction of the offense.

10 **4. Rules.** The department shall adopt rules governing the imposition of administrative
11 penalties, suspensions and revocations under this subchapter, which must include, but are
12 not limited to, provisions relating to notice and conduct of hearings consistent with the
13 Maine Administrative Procedure Act and provisions relating to the disposition of
14 unauthorized psilocybin and psilocybin products of a licensee.

15 **SUBCHAPTER 12**

16 **MAINE PSILOCYBIN ADVISORY BOARD**

17 **§2141. Definition**

18 For purposes of this subchapter, "program development period" means the period
19 beginning on the effective date of this subchapter and continuing until all rules required
20 under this chapter have been initially adopted.

21 **§2142. Establishment; purposes**

22 The Maine Psilocybin Advisory Board, established in Title 5, section 12004-I,
23 subsection 47-J, is established within the department for the purposes of advising and
24 making recommendations to the department regarding the administration of this chapter in
25 a manner that promotes the public health and safety. Recommendations by the board
26 require the approval of a majority of the board's voting members.

27 **§2143. Membership**

28 The board consists of 19 members in accordance with this section.

29 **1. Ex officio nonvoting members.** The following members serve as ex officio
30 nonvoting members:

31 A. The Director of the Maine Center for Disease Control and Prevention within the
32 department or the director's designee;

33 B. The State Health Officer within the Maine Center for Disease Control and
34 Prevention within the department or the officer's designee, who must be a physician
35 licensed in accordance with Title 32, chapters 36 or 48; and

36 C. The chair of the Statewide Coordinating Council for Public Health, established in
37 Title 5, section 12004-G, subsection 14-G.

38 **2. Ex officio voting member.** The Attorney General or the Attorney General's
39 designee serves as an ex officio voting member.

1 **3. Voting members appointed by the Governor.** The Governor shall appoint voting
2 members in accordance with this subsection. The Governor shall appoint:

3 A. Any 4 of the following individuals:

4 (1) A state employee who has technical expertise in the field of public health;

5 (2) A representative from a district coordinating council for public health
6 established pursuant to Title 22, section 412, subsection 4;

7 (3) A representative of one of the federally recognized Indian tribes in the State;

8 (4) A member of the Substance Use Disorder Services Commission, established in
9 Title 5, section 12004-G, subsection 13-C;

10 (5) A member of the Permanent Commission on the Status of Racial, Indigenous
11 and Maine Tribal Populations, established in Title 5, section 12004-I, subsection
12 74-J;

13 (6) A member of the Palliative Care and Quality of Life Interdisciplinary Advisory
14 Council, established in Title 5, section 12004-I, subsection 47-I; or

15 (7) An individual who represents individuals who provide public health services
16 directly to the public;

17 B. A psychologist licensed under Title 32, chapter 56 who has professional experience
18 engaging in behavioral health;

19 C. A physician licensed under Title 32, chapter 48;

20 D. A naturopathic doctor licensed under Title 32, chapter 113-B;

21 E. An individual with expertise in the field of public health who has a background in
22 academia;

23 F. Any 3 of the following individuals:

24 (1) A person with professional expertise conducting scientific research regarding
25 the use of psychedelic compounds in clinical therapy;

26 (2) A person who has experience in the field of mycology;

27 (3) A person who has experience in the field of ethnobotany;

28 (4) A person who has experience in the field of psychopharmacology; or

29 (5) A person who has experience in the field of psilocybin harm reduction;

30 G. An individual representing the Department of Administrative and Financial Services
31 who has expertise working with the system developed and maintained by the
32 department for tracking marijuana in accordance with section 105 or Title 22, section
33 2430-G, subsection 1, paragraph B; and

34 H. Three at-large members.

35 **4. Terms; vacancies.** Board members, other than ex officio members, serve 4-year
36 terms and are eligible for reappointment. Before the expiration of the term of a member,
37 the Governor shall appoint a successor whose term begins on the next January 1st. Board
38 members serve at the pleasure of the Governor and are not subject to legislative

1 confirmation. If there is a vacancy for cause, the Governor shall make an appointment to
2 become immediately effective for the unexpired term.

3 **5. Chair.** The board shall elect one of its voting members to serve as chair. The chair
4 serves a one-year term in that office and is eligible for reelection.

5 **6. Meeting frequency.** Until all rules necessary to implement this chapter have been
6 adopted, the board shall meet at least once every 2 calendar months at a time and place
7 determined by the chair or a majority of the voting members of the board. Thereafter the
8 board shall meet at least 4 times each year at regular intervals at a time and place determined
9 by the chair or a majority of the voting members of the board. The board may meet at other
10 times and places by the call of the chair or a majority of the voting members of the board.

11 **7. Quorum.** A majority of the board's voting members constitutes a quorum.

12 **8. Establishment of subcommittees.** The board may establish subcommittees
13 necessary for the operation of the board.

14 **9. Expenses; reimbursement.** Board members are entitled to compensation for service
15 on the board and for travel and board-related expenses in accordance with Title 5, section
16 12004-I, subsection 47-J.

17 **§2144. Powers and duties**

18 **1. Powers.** The board may:

19 A. Adopt rules necessary for the operation of the board. Rules adopted pursuant to this
20 section are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A; and

21 B. Make recommendations to the department related to:

22 (1) Administration of this chapter;

23 (2) Available medical, psychological and scientific studies, research and other
24 information on the safety and efficacy of psilocybin in treating behavioral health
25 conditions, including but not limited to substance use disorder, depression, anxiety
26 disorders and end-of-life psychological distress;

27 (3) Working with clients receiving psilocybin services, including:

28 (a) The requirements, specifications and guidelines for providing psilocybin
29 services to a client, including but not limited to holding and verifying the
30 completion of a preparation session, an administration session and an
31 integration session;

32 (b) The information that must be provided to a client before the client
33 participates in an administration session, including health and safety warnings
34 or other disclosures;

35 (c) The information that must be received from a client to determine whether
36 the client should participate in an administration session, including information
37 that may identify risk factors and contraindications and information related to
38 any public health or safety standards or industry best practices during the
39 administration session;

40 (d) Transportation needs of a client after the completion of an administration
41 session; or

- 1 (e) Client access to common or outside areas on the premises of a psilocybin
- 2 service center;
- 3 (4) Public health and safety standards and industry best practices for each type of
- 4 licensee; and
- 5 (5) Required qualifications and practices of psilocybin service facilitators,
- 6 including:
- 7 (a) Adherence to a code of professional and ethical conduct;
- 8 (b) Required education and training, including but not limited to:
- 9 (i) Client facilitation skills that are affirming, nonjudgmental and
- 10 nondirective;
- 11 (ii) Providing support to clients during an administration session with
- 12 specialized skills for client safety and clients who may have a mental
- 13 health condition;
- 14 (iii) On the appropriate environment in which to provide psilocybin
- 15 services;
- 16 (iv) Social and cultural considerations;
- 17 (v) The form of required training and education; or
- 18 (vi) Examinations or other requirements; and
- 19 (c) Holding an administration session, including but not limited to:
- 20 (i) Individual or group administration sessions; or
- 21 (ii) Circumstances under which an administration session is considered
- 22 complete.

23 **2. Duties.** The board shall:

- 24 A. Develop and maintain a long-term strategic plan for ensuring that psilocybin
- 25 services will become and remain a safe, accessible and affordable therapeutic option
- 26 for all persons who are 21 years of age or older and for whom psilocybin services may
- 27 be appropriate;
- 28 B. Monitor and study federal laws, regulations and policies regarding psilocybin; and
- 29 C. Attempt to meet with the United States Attorney for the District of Maine to discuss
- 30 this chapter and potential federal enforcement policies regarding psilocybin in this
- 31 State after the program development period.

32 **3. Report.** The board shall submit annually a report to the department that contains

33 the recommendations to the department described in subsection 1, paragraph B, the board's

34 long-term strategic plan described in subsection 2, paragraph A and information and

35 updates on federal laws, regulations and policies regarding psilocybin described in

36 subsection 2, paragraphs B and C.

37 **SUBCHAPTER 13**

38 **PSILOCYBIN CONTROL AND REGULATION FUND**

1 **6. Psilocybin service center.** "Psilocybin service center" has the same meaning as in
2 Title 28-B, section 2002, subsection 17.

3 **7. Psilocybin service center operator.** "Psilocybin service center operator" has the
4 same meaning as in Title 28-B, section 2002, subsection 18.

5 **8. Retail sale.** "Retail sale" means any transfer, exchange, gift or barter of a psilocybin
6 product by any person to a client.

7 **9. Retail sales price.** "Retail sales price" means the price paid for a psilocybin product,
8 excluding tax, to a psilocybin service center operator by or on behalf of a client.

9 **§4962. Imposition of tax on retail sale of psilocybin products**

10 **1. Tax imposed.** A tax is imposed upon the retail sale of psilocybin products in this
11 State. The tax imposed by this section is a direct tax on the client, for which payment upon
12 retail sale is required. The tax must be collected at the point of sale of a psilocybin product
13 by a psilocybin service center operator at the time at which the retail sale occurs.

14 A. The tax imposed under this section is at the rate of 15% of the retail sales price of
15 psilocybin products.

16 B. If the tax imposed under this section does not equal an amount calculable to a whole
17 cent, the tax is equal to the next higher whole cent.

18 **2. Stated separately.** Except as otherwise provided by the State Tax Assessor by rule,
19 the amount of the tax must be separately stated on an invoice, receipt or other similar
20 document that the psilocybin service center operator provides to the client at the time at
21 which the retail sale occurs.

22 **3. Prohibitions.** The following prohibitions apply.

23 A. A person may not knowingly sell, purchase, install, transfer or possess electronic
24 devices or software programs for the purposes of hiding or removing records of retail
25 sales of psilocybin products or falsifying records of retail sales of psilocybin products.

26 B. A psilocybin service center operator may not discount a psilocybin product or offer
27 a psilocybin product for free if the retail sale of the psilocybin product is made in
28 conjunction with the retail sale of any other item or service.

29 **4. Review of rate.** The department shall regularly review the rate of tax under this
30 section and make recommendations to the Legislature regarding appropriate adjustments
31 to the rate to ensure the department has sufficient funds to administer and enforce Title
32 28-B, chapter 5 but that the amount of funds, together with fees collected under that chapter,
33 do not exceed the costs of administering and enforcing that chapter.

34 **§4963. Collection of tax; refund; credit; penalties**

35 The tax imposed upon the client under this chapter must be collected at the point of
36 sale and remitted by each psilocybin service center operator that engages in the retail sale
37 of psilocybin products. The tax is imposed upon the psilocybin service center operator that
38 is required to collect the tax, and the psilocybin service center operator is liable for the tax
39 as the taxpayer. For the purpose of compensating psilocybin service center operators for
40 expenses incurred in collecting the tax imposed under this chapter, each psilocybin service
41 center operator may deduct and retain 2% of the amount of taxes that are collected by the

1 psilocybin service center operator from all retail sales of psilocybin products conducted by
2 the psilocybin service center operator.

3 **1. Filing.** A psilocybin service center operator shall file a return with the State Tax
4 Assessor on or before the last day of January, April, July and October of each year for the
5 previous calendar quarter. A psilocybin service center operator shall file each return
6 required under this section regardless of whether any tax is owed.

7 A. The psilocybin service center operator shall pay the tax to the State Tax Assessor
8 in the form and manner prescribed by the State Tax Assessor, but not later than with
9 each quarterly return, without regard to an extension granted under this subsection.

10 B. For good cause, the State Tax Assessor may extend the time for filing a return under
11 this section. The extension may be granted at any time if a written request is filed with
12 the State Tax Assessor during or prior to the period for which the extension may be
13 granted. The State Tax Assessor may not grant an extension of more than 30 days.
14 Interest accumulates on late-filed returns at the rate established in section 186.

15 C. If a psilocybin service center operator fails to file a return or pay the tax as required
16 by this section, the State Tax Assessor may impose penalties or take actions as provided
17 in this chapter.

18 D. Refunds of any overpayment of tax are governed by section 2011, except as follows:

19 (1) The State Tax Assessor shall first apply any overpayment of tax by a psilocybin
20 service center operator to any tax imposed under this chapter that is owed by the
21 psilocybin service center operator;

22 (2) If after any offset under subparagraph (1) the overpayment of tax remains
23 greater than \$1,000, the remaining refund must be applied as a credit against the
24 next subsequent calendar quarter as an estimated payment; and

25 (3) The State Tax Assessor may not make a refund of, or credit, any overpayment
26 of tax that was credited to the account of a psilocybin service center operator under
27 subparagraph (2) if the return for that tax period is not filed within 3 years after the
28 due date of that return.

29 **§4964. Psilocybin revenue estimate**

30 Not later than 30 days before the beginning of each calendar quarter, the department
31 shall forecast and prepare an estimate of the revenue that will be received during the
32 remainder of the current biennium and subsequent 3 biennia pursuant to the tax imposed
33 under this chapter. The estimate may be made on the basis of all pertinent information
34 available to the department. Upon making the estimate, the department shall report the
35 estimate to the Office of Fiscal and Program Review and the State Tax Assessor. The State
36 Tax Assessor shall provide the department any information necessary for the department
37 to perform its duties under this section.

38 **§4965. Enforcement; liability; notice of liability; notices of determination and**
39 **assessment**

40 **1. Trust.** A person who collects any tax under this chapter shall hold the tax in trust
41 for the State and for payment to the State Tax Assessor in accordance with this chapter.

1 **2. Enforcement.** Except as otherwise provided in this section, the State Tax Assessor
2 may impose penalties or take actions as provided in chapter 7 against a person who fails to
3 pay taxes required under this chapter in accordance with this chapter.

4 **3. Joint liability.** More than one officer or employee of a corporation may be held
5 jointly and severally liable for payment of taxes under this chapter.

6 A. Notwithstanding any provision of law to the contrary, if more than one officer or
7 employee of a corporation is jointly and severally liable for payment of taxes, the State
8 Tax Assessor may require any or all of the officers or employees who may be held
9 liable to appear before the State Tax Assessor for a joint determination of liability. The
10 State Tax Assessor shall notify each officer or employee of the time and place set for
11 the determination of liability. Each person notified of a joint determination under this
12 subsection shall appear and present such information as is necessary to establish that
13 person's liability or nonliability for payment of taxes to the State Tax Assessor. If a
14 person who was notified fails to appear, the State Tax Assessor shall make its
15 determination on the basis of all the information and evidence presented. The
16 department's determination is binding on all persons notified and required to appear
17 under this subsection and is a final agency action that may be appealed for review
18 pursuant to Title 5, section 11001.

19 B. If an appeal is taken from the decision of the State Tax Assessor by any person
20 determined to be liable for unpaid taxes under this subsection, each person required to
21 appear before the department under this subsection must be impleaded by the plaintiff.
22 The State Tax Assessor may implead any officer or employee who may be held jointly
23 and severally liable for the payment of taxes. Each person impleaded under this
24 subsection must be made a party to the action and shall make available to all parties in
25 the appeal the information that was presented to the State Tax Assessor. The court may
26 determine that one or more persons impleaded under this subsection are liable for
27 unpaid taxes without regard to any earlier determination by the State Tax Assessor that
28 an impleaded person was not liable for unpaid taxes.

29 C. If a person required to appear before the court on appeal fails or refuses to appear
30 or bring required information in part or in whole, or is outside the jurisdiction of the
31 court, the court shall make its determination on the basis of all the evidence introduced.
32 All evidence presented in the court constitutes a public record and must be available to
33 the parties and the court. The determination of the court is binding on all persons made
34 parties to the action under this subsection.

35 D. This subsection does not preclude a determination by the State Tax Assessor or the
36 court on appeal that more than one officer or employee are jointly and severally liable
37 for unpaid taxes.

38 **§4966. Duty to keep receipts, invoices and other records**

39 A psilocybin service center operator shall keep receipts, invoices and other pertinent
40 records related to retail sales of psilocybin products in accordance with chapter 7 and in the
41 form required by the State Tax Assessor. Each record must be preserved as provided in
42 section 135 or for as long as the psilocybin service center operator retains the psilocybin
43 products to which the record relates, whichever is later. During the retention period and at
44 any time prior to the destruction of records, the State Tax Assessor may give written notice
45 to the psilocybin service center operator not to destroy records described in the notice

1 without written permission of the State Tax Assessor. Notwithstanding any provision of
2 law to the contrary, the State Tax Assessor shall preserve reports and returns filed with the
3 department for at least 5 years.

4 **§4967. Disclosure of information**

5 Notwithstanding any provision of law to the contrary, the State Tax Assessor may
6 disclose information received under this chapter to the department as necessary for the
7 department to carry out the provisions of Title 28-B, chapter 5.

8 **§4968. Right to appeal determination of tax liability**

9 Except as otherwise provided in this chapter or chapter 7, a final determination of tax
10 liability by the State Tax Assessor under this chapter is a final agency action that may be
11 appealed for review pursuant to Title 5, section 11001.

12 **§4969. Duty to return excess tax collected**

13 When an amount represented by a psilocybin service center operator at retail to a client
14 as constituting the tax imposed under this chapter is computed upon an amount that is not
15 taxable or is in excess of the taxable amount and is actually paid by the client to the
16 psilocybin service center operator, the excess tax paid must be returned by the psilocybin
17 service center operator to the client upon written notification by the State Tax Assessor or
18 the client. The written notification must contain information necessary to determine the
19 validity of the client's claim. If the psilocybin service center operator does not return the
20 excess tax within 60 days after the mailing of the written notification, the client may appeal
21 to the State Tax Assessor for a refund of the amount of the excess tax, in the manner and
22 within the time allowed under rules adopted by the State Tax Assessor. If excess tax is
23 returned to the client by the State Tax Assessor, the assessor may issue a notice of
24 deficiency for the excess tax to the psilocybin service center operator.

25 **§4970. Duties and powers of assessor; rules; interagency cooperation**

26 The State Tax Assessor shall administer and enforce this chapter and may adopt rules
27 and procedures necessary for the implementation and enforcement of this chapter. Except
28 as otherwise expressly provided in this chapter, the State Tax Assessor may take any
29 actions under chapter 7 necessary to the proper discharge of the State Tax Assessor's duties
30 under this chapter. The department shall enter into an agreement with the State Tax
31 Assessor for the purpose of administering and enforcing the provisions of this chapter and
32 rules or procedures established by the assessor under this section.

33 **§4971. Administrative account; payment of expenses; crediting balance to Psilocybin**
34 **Control and Regulation Fund**

35 All money received by the State Tax Assessor under this chapter must be deposited in
36 a nonlapsing administrative account. The State Tax Assessor may pay expenses for the
37 administration and enforcement of this chapter from the account. After the payment of
38 administrative and enforcement expenses and refunds or credits arising from erroneous
39 overpayments, the State Tax Assessor shall transfer on a quarterly basis the balance of the
40 funds to the Psilocybin Control and Regulation Fund.

41 **Sec. 22. Maine Psilocybin Advisory Board; initial board.** Notwithstanding
42 the Maine Revised Statutes, Title 28-B, chapter 5, subchapter 12, the following provisions
43 apply to the Maine Psilocybin Advisory Board.

1 **1. Staggered terms for members of the Maine Psilocybin Advisory Board.** Except
2 as provided in subsection 2, at the first meeting of the Maine Psilocybin Advisory Board,
3 board members shall draw lots to determine members' initial term lengths so that the initial
4 terms of 4 members expire after one year, the initial terms of 4 members expire after 2
5 years, the initial terms of 4 members expire after 3 years and the initial terms of 4 members
6 expire after 4 years.

7 **2. Initial appointments to the Maine Psilocybin Advisory Board.** The Governor
8 shall nominate initial board members to the Maine Psilocybin Advisory Board no later than
9 October 15, 2021, and the initial appointment of at-large members must include the
10 Legislator who sponsored this legislation, who serves a 4-year term, and 2 other at-large
11 members. At the end of that Legislator's 4-year term on the board, the Governor shall
12 appoint another at-large member.

13 **3. Initial meeting of the Maine Psilocybin Advisory Board.** The Maine Psilocybin
14 Advisory Board shall hold its first meeting no later than November 15, 2021 at a time and
15 place specified by the Governor.

16 **4. Initial reports of the Maine Psilocybin Advisory Board.** The Maine Psilocybin
17 Advisory Board shall submit no later than April 15, 2022 its findings and recommendations
18 to the Department of Health and Human Services regarding available medical,
19 psychological and scientific studies, research and other information related to the safety
20 and efficacy of psilocybin in treating mental health conditions, including but not limited to
21 substance use disorder, depression, anxiety disorders and end-of-life psychological
22 distress. The Maine Psilocybin Advisory Board shall submit no later than April 15, 2023
23 its findings and recommendations to the Department of Health and Human Services
24 regarding the board's long-term strategic plan described in Title 28-B, section 2144,
25 subsection 2, paragraph A, information and updates on federal laws, regulations and
26 policies regarding psilocybin as described in Title 28-B, section 2144, subsection 2,
27 paragraphs B and C and proposed rules for the implementation of this Act.

28 **Sec. 23. Rulemaking by the Department of Health and Human Services.**
29 The Department of Health and Human Services shall adopt rules no later than November
30 15, 2023 in order to implement, administer and enforce the Maine Revised Statutes, Title
31 28-B, chapter 5.

32 **Sec. 24. Publicly available information regarding psilocybin.** No later than
33 June 15, 2022, the Department of Health and Human Services shall first publish
34 information about psilocybin in accordance with the Maine Revised Statutes, Title 28-B,
35 section 2012.

36 **Sec. 25. Conforming amendments.** The Department of Health and Human
37 Services, in consultation with the Department of Agriculture, Conservation and Forestry
38 and the State Tax Assessor, shall examine laws of this State and develop recommendations
39 for any amendments to those laws to conform to this Act and to otherwise make this Act
40 as consistent as possible in substance to the laws governing psilocybin in Oregon. No later
41 than December 1, 2021, the department shall submit its recommendations together with
42 suggested legislation to the Joint Standing Committee on Health and Human Services. The
43 Joint Standing Committee on Health and Human Services may report out a bill related to
44 the recommendations of the department to the Second Regular Session of the 130th
45 Legislature.

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SUMMARY

This bill enacts the Maine Psilocybin Services Act, which establishes a regulatory framework in order to provide psilocybin products to clients in Maine.