

## CHAPTER 558-C

## MAINE MEDICAL USE OF MARIJUANA ACT

**§2421. Short title**

This chapter may be known and cited as "the Maine Medical Use of Marijuana Act." [PL 2009, c. 631, §7 (AMD); PL 2009, c. 631, §51 (AFF).]

## SECTION HISTORY

IB 2009, c. 1, §5 (NEW). PL 2009, c. 631, §7 (AMD). PL 2009, c. 631, §51 (AFF).

**§2422. Definitions****(CONFLICT)**

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [IB 2009, c. 1, §5 (NEW).]

**1. Cardholder.** "Cardholder" means a person who has been issued and possesses a valid registry identification card.  
[PL 2017, c. 452, §3 (AMD).]

**1-A. Collective.** "Collective" means an association, cooperative, affiliation or group of caregivers who physically assist each other in the act of cultivation, processing or distribution of marijuana for medical use for the benefit of the members of the collective.  
[PL 2017, c. 452, §3 (AMD).]

**1-B. Certified nurse practitioner.** "Certified nurse practitioner" means a registered professional nurse licensed under Title 32, chapter 31 who has received postgraduate education designed to prepare the nurse for advanced practice registered nursing in a clinical specialty in nursing that has a defined scope of practice and who has been certified in the clinical specialty by a national certifying organization acceptable to the State Board of Nursing.  
[PL 2013, c. 516, §1 (NEW).]

**1-C. Commissioner.** "Commissioner" means the Commissioner of Administrative and Financial Services.  
[PL 2017, c. 409, Pt. E, §2 (NEW).]

**1-D. Assistant.** "Assistant" means a person paid to perform a service for a caregiver, dispensary, manufacturing facility or marijuana testing facility in accordance with this chapter, whether as an employee or independent contractor.  
[PL 2017, c. 452, §3 (NEW).]

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

A. Specially designed or constructed to be significantly difficult for a typical child under 5 years of age to open and not to be significantly difficult for a typical adult to open and reseal; and [PL 2017, c. 452, §3 (NEW).]

B. With respect to any product intended for more than a single use or that contains multiple servings, resealable. [PL 2017, c. 452, §3 (NEW).]

[PL 2017, c. 452, §3 (NEW).]

**1-F. Caregiver retail store.** "Caregiver retail store" means a store that has attributes generally associated with retail stores, including, but not limited to, a fixed location, a sign, regular business

hours, accessibility to the public and sales of goods or services directly to a consumer, and that is used by a registered caregiver to offer marijuana plants or harvested marijuana for sale to qualifying patients. [PL 2019, c. 217, §1 (NEW).]

**2. Debilitating medical condition.**

[PL 2017, c. 452, §3 (RP).]

**2-A. Department.** "Department" means the Department of Administrative and Financial Services. [PL 2017, c. 409, Pt. E, §2 (NEW).]

**3. Cultivation area.** "Cultivation area" means an indoor or outdoor area used for cultivation in accordance with this chapter that is enclosed and equipped with locks or other security devices that permit access only by a person authorized to have access to the area under this chapter. [PL 2017, c. 452, §3 (AMD).]

**3-A. Extended inventory supply interruption.**

[PL 2017, c. 452, §3 (RP).]

**3-B. Edible marijuana product.** "Edible marijuana product" means a marijuana product intended to be consumed orally, including, but not limited to, any type of food, drink or pill containing harvested marijuana. "Edible marijuana product" does not include an edible product containing hemp as defined in Title 7, section 2231, subsection 1-A, paragraph D. [PL 2019, c. 528, §12 (AMD).]

**3-C. Harvested marijuana.** "Harvested marijuana" means the plant material harvested from a mature marijuana plant, except the stalks, leaves and roots of the plant that are not used for a qualifying patient's medical use. "Harvested marijuana" includes marijuana concentrate and marijuana products. "Harvested marijuana" does not include plant material harvested from hemp as defined in Title 7, section 2231, subsection 1-A, paragraph D. [PL 2019, c. 528, §12 (AMD).]

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

A. An offense for which the sentence, including any term of probation, incarceration or supervised release, was completed 10 or more years earlier; or [IB 2009, c. 1, §5 (NEW).]

B. An offense that consisted of conduct that would have been permitted under this chapter. [IB 2009, c. 1, §5 (NEW).]

[PL 2009, c. 631, §10 (AMD); PL 2009, c. 631, §51 (AFF).]

**4-A. Incidental amount of marijuana.**

[PL 2017, c. 452, §3 (RP).]

**4-B. Mature marijuana plant.** "Mature marijuana plant" means a flowering female marijuana plant. "Mature marijuana plant" does not include hemp as defined in Title 7, section 2231, subsection 1-A, paragraph D.

[PL 2019, c. 528, §13 (AMD).]

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

[PL 2017, c. 452, §3 (AMD).]

**4-D. Inherently hazardous substance.**

[PL 2019, c. 331, §1 (RP); PL 2019, c. 528, §14 (RP).]

**4-E. Manufacture or manufacturing.**

[PL 2019, c. 331, §1 (RP); PL 2019, c. 528, §14 (RP).]

**4-F. Manufacturing facility.**

[PL 2019, c. 331, §1 (RP); PL 2019, c. 528, §14 (RP).]

**4-G. Marijuana concentrate.**

[PL 2019, c. 331, §1 (RP); PL 2019, c. 528, §14 (RP).]

**4-H. Marijuana extraction.**

[PL 2019, c. 331, §1 (RP); PL 2019, c. 528, §14 (RP).]

**4-I. Marijuana product.**

[PL 2019, c. 331, §1 (RP); PL 2019, c. 528, §14 (RP).]

**4-J. Marijuana extraction.** "Marijuana extraction" means the process of extracting marijuana concentrate from harvested marijuana using water, lipids, gases, solvents or other chemicals or chemical processes. "Marijuana extraction" does not include the process of extracting concentrate from hemp as defined in Title 7, section 2231, subsection 1-A, paragraph D.

[PL 2019, c. 528, §15 (AMD).]

**4-K. Marijuana plant.** "Marijuana plant" means a plant of the genus Cannabis, including, but not limited to, Cannabis sativa, Cannabis indica and Cannabis ruderalis or their hybrids and the seeds of those plants. "Marijuana plant" does not include hemp as defined in Title 7, section 2231, subsection 1-A, paragraph D.

[PL 2019, c. 528, §15 (AMD).]

**4-L. Marijuana product.** "Marijuana product" means a product composed of harvested marijuana and other ingredients that is intended for medical use. "Marijuana product" includes, but is not limited to, an edible marijuana product, a marijuana ointment and a marijuana tincture. "Marijuana product" does not include marijuana concentrate or a product containing hemp as defined in Title 7, section 2231, subsection 1-A, paragraph D.

[PL 2019, c. 528, §15 (AMD).]

**4-M. Nonflowering marijuana plant.** "Nonflowering marijuana plant" means a marijuana plant that is in a stage of growth in which the plant's pistils are not showing or the pistils protrude in pairs from seed bracts that may be located on multiple nodes of the plant. "Nonflowering marijuana plant" does not include hemp as defined in Title 7, section 2231, subsection 1-A, paragraph D.

[PL 2019, c. 528, §15 (AMD).]

**4-N. (CONFLICT: Text as enacted by PL 2019, c. 331, §2) Immature marijuana plant.** "Immature marijuana plant" means a nonflowering marijuana plant that measures more than 24 inches from the base of the main plant stalk to the most distant point of the plant's leaf stems or branches.

[PL 2019, c. 331, §2 (NEW).]

**4-N. (CONFLICT: Text as enacted by PL 2019, c. 528, §16) Immature marijuana plant.** "Immature marijuana plant" means a nonflowering marijuana plant that measures more than 24 inches from the base of the main plant stalk to the most distant point of the plant's leaf stems or branches. "Immature marijuana plant" does not include hemp as defined in Title 7, section 2231, subsection 1-A, paragraph D.

[PL 2019, c. 528, §16 (NEW).]

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

[PL 2019, c. 331, §2 (NEW); PL 2019, c. 528, §16 (NEW).]

**4-P. Long-term care facility.** "Long-term care facility" means a hospice provider facility licensed under chapter 1681; a nursing facility licensed under chapter 405; an assisted living facility licensed under chapter 1663 or 1664; or a facility or program licensed under chapter 1663 that provides care for a qualifying patient in accordance with section 2423-A, subsection 1, paragraph F-1, subparagraph (2). [PL 2019, c. 331, §2 (NEW); PL 2019, c. 528, §16 (NEW).]

**4-Q. Manufacture or manufacturing.** "Manufacture" or "manufacturing" means the production, blending, infusing, compounding or other preparation of marijuana concentrate and marijuana products, including, but not limited to, marijuana extraction or preparation by means of chemical synthesis. [PL 2019, c. 331, §2 (NEW); PL 2019, c. 528, §16 (NEW).]

**4-R. Manufacturing facility.** "Manufacturing facility" means a registered tier 1 or tier 2 manufacturing facility or a person authorized to engage in marijuana extraction under section 2423-F. [PL 2019, c. 331, §2 (NEW); PL 2019, c. 528, §16 (NEW).]

**4-S. (CONFLICT: Text as enacted by PL 2019, c. 331, §2) Marijuana concentrate.** "Marijuana concentrate" means the resin extracted from any part of a marijuana plant and every compound, manufacture, salt, derivative, mixture or preparation from such resin, including, but not limited to, hashish. [PL 2019, c. 331, §2 (NEW).]

**4-S. (CONFLICT: Text as enacted by PL 2019, c. 528, §16) Marijuana concentrate.** "Marijuana concentrate" means the resin extracted from any part of a marijuana plant and every compound, manufacture, salt, derivative, mixture or preparation from such resin, including, but not limited to, hashish. "Marijuana concentrate" does not include resin extracted from hemp as defined in Title 7, section 2231, subsection 1-A, paragraph D or any compound, manufacture, salt, derivative, mixture or preparation therefrom. [PL 2019, c. 528, §16 (NEW).]

**5. Medical use.** "Medical use" means the acquisition, possession, cultivation, manufacture, use, delivery, transfer or transportation of marijuana or paraphernalia relating to the administration of marijuana to treat or alleviate a qualifying patient's medical diagnosis or symptoms for which a medical provider has provided the qualifying patient a written certification under this chapter. [PL 2017, c. 452, §3 (AMD).]

**5-A. Member of the family.** "Member of the family" means a person who is a resident of the State and who is a spouse, domestic partner, child, sibling, aunt, uncle, niece, nephew, parent, stepparent, grandparent or grandchild of another person. "Member of the family" includes a person who is a resident of the State and who is living with a person as a spouse and a natural parent of a child of a person. [PL 2017, c. 452, §3 (AMD).]

**5-B. Members of the same household.** "Members of the same household" means 2 or more people who are residents of the State and who reside in a shared dwelling unit. [PL 2017, c. 452, §3 (AMD).]

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

A. Is authorized in accordance with section 2423-A, subsection 10 to analyze contaminants in and the potency and cannabinoid profile of samples; and [PL 2017, c. 447, §2 (AMD); PL 2017, c. 452, §3 (AMD).]

B. Is accredited pursuant to standard ISO/IEC 17025 of the International Organization for Standardization by a 3rd-party accrediting body or is certified, registered or accredited by an organization approved by the department. [PL 2015, c. 475, §3 (NEW).]

[PL 2017, c. 447, §2 (AMD); PL 2017, c. 452, §3 (AMD).]

**6. Registered dispensary or dispensary.** "Registered dispensary" or "dispensary" means an entity registered under section 2425-A that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, sells, supplies or dispenses marijuana plants or harvested marijuana or related supplies and educational materials to qualifying patients and the caregivers of those patients.  
[PL 2019, c. 331, §3 (AMD).]

**6-A. Onsite assessment.**  
[PL 2011, c. 407, Pt. B, §8 (RP).]

**6-B. Officer or director.** "Officer or director" means, when used with respect to any nonprofit, for-profit or other organization governed by this chapter, a director, manager, shareholder, board member, partner or other person holding a management position or ownership interest in the organization.  
[PL 2017, c. 452, §3 (NEW).]

**7. Physician.** "Physician" means a person licensed as an osteopathic physician by the Board of Osteopathic Licensure pursuant to Title 32, chapter 36 or a person licensed as a physician or surgeon by the Board of Licensure in Medicine pursuant to Title 32, chapter 48 who is in good standing and who holds a valid federal Drug Enforcement Administration license to prescribe drugs.  
[PL 2009, c. 631, §14 (AMD); PL 2009, c. 631, §51 (AFF).]

**7-A. Physician assistant.** "Physician assistant" means a person licensed as a physician assistant by the Board of Osteopathic Licensure pursuant to Title 32, chapter 36 or a person licensed as a physician assistant by the Board of Licensure in Medicine pursuant to Title 32, chapter 48 who is in good standing and who holds a valid federal Drug Enforcement Administration license to prescribe drugs.  
[PL 2017, c. 452, §3 (NEW).]

**7-B. Plant canopy.** "Plant canopy" means the total surface area within a cultivation area that is dedicated to the cultivation of mature marijuana plants. The surface area of the plant canopy must be calculated in square feet and measured using the outside boundaries of the area and must include all of the area within the boundaries. If the surface area of the plant canopy consists of noncontiguous areas, each component area must be separated by identifiable boundaries. If a tiered or shelving system is used in the cultivation area the surface area of each tier or shelf must be included in calculating the area of the plant canopy. Calculation of the area of the plant canopy may not include the areas within the cultivation area that are used to cultivate immature marijuana plants and seedlings and that are not used at any time to cultivate mature marijuana plants.  
[PL 2019, c. 256, §1 (NEW).]

**8. Primary caregiver.**  
[PL 2009, c. 631, §15 (RP); PL 2009, c. 631, §51 (AFF).]

**8-A. Caregiver.** "Caregiver" means a person or an assistant of that person that provides care for a qualifying patient in accordance with section 2423-A, subsection 2.  
[PL 2017, c. 452, §3 (AMD).]

**9. Qualifying patient.** "Qualifying patient" or "patient" means a person who has been a resident of the State for at least 30 days and who possesses a valid written certification regarding medical use of marijuana in accordance with section 2423-B.  
[PL 2017, c. 452, §3 (AMD).]

**9-A. Registration certificate.** "Registration certificate" means a document issued by the department that identifies an entity as an entity that has registered with the department in accordance with this chapter.  
[PL 2017, c. 452, §3 (NEW).]

**9-B. Remuneration.** "Remuneration" means a donation or any other monetary payment received directly or indirectly by a person in exchange for goods or services as part of a transaction in which marijuana is transferred or furnished by that person to another person.  
[PL 2017, c. 452, §3 (NEW).]

**10. Registered nonprofit dispensary.**  
[PL 2017, c. 452, §3 (RP).]

**11. Registered caregiver.** "Registered caregiver" means a caregiver who is registered by the department pursuant to section 2425-A.  
[PL 2017, c. 452, §3 (AMD).]

**12. Registered patient.** "Registered patient" means a qualifying patient who is registered by the department pursuant to section 2425-A.  
[PL 2017, c. 452, §3 (AMD).]

**13. Registry identification card.** "Registry identification card" means a document issued by the department that identifies a person as a person who has registered with the department in accordance with this chapter.  
[PL 2017, c. 452, §3 (AMD).]

**13-A. Tamper-resistant paper.** "Tamper-resistant paper" means paper that possesses an industry-recognized feature that prevents copying of the paper, erasure or modification of information on the paper and the use of counterfeit documentation.  
[PL 2011, c. 407, Pt. B, §13 (NEW).]

**13-B. Resident of the State.** "Resident of the State" means a person who is domiciled in the State.  
[PL 2017, c. 452, §3 (NEW).]

**13-C. Tamper-evident.** "Tamper-evident" means, with respect to a device or process, bearing a seal, a label or a marking that makes unauthorized access to or tampering with a package, product or container easily detectable.  
[PL 2017, c. 452, §3 (NEW).]

**14. Prepared marijuana.**  
[PL 2017, c. 452, §3 (RP).]

**14-A. Sample.** "Sample" means a marijuana plant or harvested marijuana that is provided for testing or research purposes to a marijuana testing facility.  
[PL 2019, c. 331, §4 (RPR).]

**14-B. Seedling.** "Seedling" means a nonflowering marijuana plant or rooted cutting that measures 24 inches or less from the base of the main plant stalk to the most distant point of the plant's leaf stems or branches.  
[PL 2017, c. 452, §3 (NEW).]

**15. Visiting qualifying patient.** "Visiting qualifying patient" means a patient who is authorized for the medical use of marijuana in this State in accordance with section 2423-D and who is not a resident of the State or who has been a resident of the State less than 30 days.  
[PL 2017, c. 452, §3 (AMD).]

**16. Written certification.** "Written certification" means a document on tamper-resistant paper signed by a medical provider that is valid for the term provided by the qualifying patient's medical provider, except that the term of a written certification may not exceed one year, and that states that in the medical provider's professional opinion a patient is likely to receive therapeutic or palliative benefit from the medical use of marijuana to treat or alleviate the patient's medical diagnosis or symptoms associated with the medical diagnosis.  
[PL 2017, c. 452, §3 (AMD).]

## SECTION HISTORY

IB 2009, c. 1, §5 (NEW). PL 2009, c. 631, §§8-19 (AMD). PL 2009, c. 631, §51 (AFF). PL 2011, c. 407, Pt. B, §§1-15 (AMD). PL 2013, c. 361, §1 (AMD). PL 2013, c. 396, §1 (AMD). PL 2013, c. 503, §1 (AMD). PL 2013, c. 516, §§1-5 (AMD). PL 2015, c. 475, §§1-5 (AMD). PL 2017, c. 409, Pt. E, §2 (AMD). PL 2017, c. 447, §§1-3 (AMD). PL 2017, c. 452, §3 (AMD). PL 2019, c. 217, §1 (AMD). PL 2019, c. 256, §1 (AMD). PL 2019, c. 331, §§1-4 (AMD). PL 2019, c. 528, §§12-16 (AMD).

**§2422-A. Administration and enforcement; rulemaking**

**1. Administration and enforcement.** The department shall administer and enforce this chapter and the rules adopted pursuant to this chapter, except that the administration and enforcement by the department of this chapter and the rules adopted pursuant to this chapter may not be assigned to any bureau or division within the department responsible for the administration and enforcement of the laws governing the manufacture, sale and distribution of liquor.

[PL 2017, c. 409, Pt. E, §3 (NEW).]

**2. Rulemaking.** The department, after consultation with the Department of Health and Human Services, may adopt rules as necessary to administer and enforce this chapter or amend rules previously adopted pursuant to this chapter. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[PL 2017, c. 409, Pt. E, §3 (NEW).]

## SECTION HISTORY

PL 2017, c. 409, Pt. E, §3 (NEW).

**§2423. Protections for the medical use of marijuana**

**(REPEALED)**

## SECTION HISTORY

IB 2009, c. 1, §5 (NEW). PL 2009, c. 631, §20 (RP). PL 2009, c. 631, §51 (AFF).

**§2423-A. Authorized conduct for the medical use of marijuana**

**(CONFLICT)**

**1. Qualifying patient.** Except as provided in section 2426, a qualifying patient may:

A. Possess up to 8 pounds of harvested marijuana; [PL 2017, c. 452, §4 (AMD).]

B. Cultivate, or designate a caregiver operating under subsection 3, paragraph C to cultivate under paragraph F-1, subparagraph (1), up to a total of 6 mature marijuana plants, 12 immature marijuana plants and unlimited seedlings for that qualifying patient. The total number of mature marijuana plants per qualifying patient, whether cultivated by the patient or by a caregiver operating under subsection 3, paragraph C, may not exceed 6. The total number of immature marijuana plants per qualifying patient, whether cultivated by the patient or by a caregiver operating under subsection 3, paragraph C, may not exceed 12. Two or more qualifying patients who are members of the same household and cultivating their own marijuana plants may share one cultivation area; [PL 2017, c. 452, §4 (AMD).]

C. Possess marijuana paraphernalia; [PL 2009, c. 631, §21 (NEW); PL 2009, c. 631, §51 (AFF).]

D. Furnish or offer to furnish to another qualifying patient for that patient's medical use of marijuana up to 2 1/2 ounces of harvested marijuana for no remuneration; [PL 2017, c. 452, §4 (AMD).]

E. [PL 2017, c. 452, §4 (RP).]

## F. [PL 2017, c. 452, §4 (RP).]

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

- (1) A caregiver operating under subsection 3, paragraph C in order to have that caregiver cultivate marijuana plants for the patient;
- (2) A long-term care facility in order to have that facility assist with the qualifying patient's medical use of harvested marijuana. A long-term care facility that is designated by a patient may not be designated to cultivate marijuana plants for the patient;
- (3) A person in order to have that person obtain harvested marijuana on behalf of the qualifying patient or transport the harvested marijuana to the qualifying patient. The person must possess the person's government-issued photographic identification that contains the person's address, the qualifying patient's written certification and the qualifying patient's designation in order to engage in this conduct; and
- (4) A caregiver in order to have that caregiver possess and administer harvested marijuana for the patient's medical use pursuant to section 2426, subsection 1-A if the patient is enrolled in a preschool or primary or secondary school.

A designation pursuant to this paragraph must be in a standardized written document, developed by the department, that is signed and dated by the qualifying patient or the parent, legal guardian or person having legal custody of the qualifying patient and expires on a date not to exceed the expiration date of the qualifying patient's written certification. The document must include the signed acknowledgment of the person or facility that the person or facility may be contacted to confirm the designation of the person or facility to engage in the conduct authorized by the designation. The document must also include, if applicable, the total number of mature marijuana plants and immature marijuana plants the caregiver is cultivating for the patient; [PL 2017, c. 452, §4 (NEW).]

F-2. Choose a caregiver based solely on the patient's preference, except that a parent, legal guardian or person having legal custody of a qualifying patient who has not attained 18 years of age must serve as one caregiver for the patient; [PL 2017, c. 452, §4 (NEW).]

G. Be in the presence or vicinity of the medical use of marijuana and assist any qualifying patient with using or administering harvested marijuana; [PL 2019, c. 331, §5 (AMD).]

H. Accept marijuana plants or harvested marijuana from a qualifying patient, caregiver or registered dispensary if no remuneration is provided to the patient, caregiver or dispensary; [PL 2019, c. 331, §6 (RPR).]

I. Provide samples to a marijuana testing facility for testing and research purposes; [PL 2017, c. 447, §5 (AMD); PL 2017, c. 452, §4 (AMD).]

J. Manufacture marijuana products and marijuana concentrate for medical use, except that a qualifying patient may not manufacture food, as defined in section 2152, subsection 4, unless the qualifying patient is licensed pursuant to section 2167 and except that a qualifying patient may not produce marijuana concentrate using inherently hazardous substances unless authorized pursuant to section 2423-F, subsection 3; [PL 2019, c. 331, §7 (RPR).]

K. Provide harvested marijuana to a manufacturing facility and obtain marijuana products and marijuana concentrate from the manufacturing facility that are produced from the harvested marijuana the qualifying patient provided to the manufacturing facility; [PL 2019, c. 331, §8 (RPR).]



L. Transport marijuana plants or harvested marijuana for a qualifying patient's medical use of marijuana in accordance with this chapter; and [PL 2017, c. 452, §4 (NEW).]

M. Use harvested marijuana in any form, except as provided in subsection 4-A and except that qualifying patients who have not attained 18 years of age may not engage in smoking harvested marijuana. For the purposes of this paragraph, "smoking" has the same meaning as in section 1541, subsection 6, except that "smoking" does not include the use of a nebulizer. [PL 2017, c. 452, §4 (NEW).]

[PL 2019, c. 331, §§5-8 (AMD).]

**2. Caregiver.** Except as provided in section 2426, a caregiver, for the purpose of assisting a qualifying patient with the patient's medical use of marijuana, may engage in the following authorized conduct if the caregiver is a resident of the State, is 21 years of age or older and has not been convicted of a disqualifying drug offense:

A. Possess all harvested marijuana produced by the caregiver's cultivation of marijuana plants under paragraph B; [PL 2017, c. 452, §4 (AMD).]

A-1. Transfer up to 2 1/2 ounces of harvested marijuana to a qualifying patient in one transaction, except that a caregiver may not dispense more than 2 1/2 ounces of harvested marijuana to a visiting qualifying patient during a 15-day period; [PL 2017, c. 452, §4 (NEW).]

B. Cultivate up to 30 mature marijuana plants or 500 square feet of plant canopy, 60 immature marijuana plants and unlimited seedlings; [PL 2019, c. 256, §2 (AMD).]

C. [PL 2017, c. 452, §4 (RP).]

C-1. Assist a qualifying patient with the patient's medical use of marijuana; [PL 2017, c. 452, §4 (NEW).]

D. [PL 2017, c. 452, §4 (RP).]

E. Receive reasonable monetary compensation for costs associated with cultivating marijuana plants or assisting a qualifying patient with that patient's medical use of marijuana; [PL 2017, c. 452, §4 (AMD).]

F. Be in the presence or vicinity of the medical use of marijuana and assist any patient with the medical use, administration or preparation of marijuana; [PL 2011, c. 407, Pt. B, §16 (AMD).]

G. Manufacture marijuana products and marijuana concentrate for medical use, except that a caregiver may not manufacture food, as defined in section 2152, subsection 4, unless the caregiver is licensed pursuant to section 2167 and except that a caregiver may not produce marijuana concentrate using inherently hazardous substances unless authorized pursuant to section 2423-F, subsection 3; [PL 2019, c. 331, §9 (RPR).]

H. [PL 2017, c. 452, §4 (RP).]

I. Hire any number of assistants to assist in performing the duties of the caregiver; [PL 2017, c. 452, §4 (AMD).]

**REVISOR'S NOTE:** (Paragraph I as enacted by PL 2013, c. 371, §3 is REALLOCATED TO TITLE 22, SECTION 2423-A, SUBSECTION 2, PARAGRAPH J) (Paragraph I as enacted by PL 2013, c. 393, §3 is REALLOCATED TO TITLE 22, SECTION 2423-A, SUBSECTION 2, PARAGRAPH K)

J. **(REALLOCATED FROM T. 22, §2423-A, sub-§2, ¶I)** Use a pesticide in the cultivation of marijuana plants if the pesticide is used consistent with federal labeling requirements, is registered with the Department of Agriculture, Conservation and Forestry, Board of Pesticides Control pursuant to Title 7, section 607 and is used consistent with best management practices for pest management approved by the Commissioner of Agriculture, Conservation and Forestry. A

registered caregiver may not in the cultivation of marijuana plants use a pesticide unless the registered caregiver or the registered caregiver's assistant is certified in the application of the pesticide pursuant to section 1471-D and any assistant who has direct contact with treated plants has completed safety training pursuant to 40 Code of Federal Regulations, Section 170.130. An assistant of the registered caregiver who is not certified pursuant to section 1471-D and who is involved in the application of the pesticide or handling of the pesticide or equipment must first complete safety training described in 40 Code of Federal Regulations, Section 170.230; [PL 2017, c. 452, §4 (AMD).]

K. **(REALLOCATED FROM T. 22, §2423-A, sub-§2, ¶I)** Transfer marijuana plants and harvested marijuana to a qualifying patient, another caregiver or a registered dispensary for no remuneration; [PL 2017, c. 452, §4 (AMD).]

K-1. Transfer to and accept from another registered caregiver or a dispensary marijuana plants and harvested marijuana in a wholesale transaction in accordance with this paragraph. A registered caregiver may transfer in wholesale transactions for reasonable compensation or for no remuneration up to 75% of the mature marijuana plants grown by the caregiver over the course of a calendar year, including any marijuana products or marijuana concentrate manufactured from that 75% of the mature marijuana plants grown by the caregiver. A registered caregiver may transfer to or accept from other registered caregivers and dispensaries in wholesale transactions an unlimited amount of immature marijuana plants and seedlings. A registered caregiver that acquires mature marijuana plants, marijuana products or marijuana concentrate in a wholesale transaction under this paragraph may not resell the mature marijuana plants, marijuana products or marijuana concentrate except to a qualifying patient or to another registered caregiver or dispensary to assist a qualifying patient; [PL 2019, c. 354, §2 (AMD).]

L. Provide samples to a marijuana testing facility for testing and research purposes; [PL 2019, c. 331, §10 (RPR).]

M. Conduct marijuana testing at the request of anyone authorized to possess marijuana under this chapter for research and development purposes only; [PL 2019, c. 331, §11 (RPR).]

N. Provide harvested marijuana to a manufacturing facility and obtain marijuana products and marijuana concentrate from the manufacturing facility that are produced from the harvested marijuana the caregiver provided to the manufacturing facility; [PL 2019, c. 331, §12 (RPR).]

O. Transport marijuana plants or harvested marijuana for authorized conduct in accordance with this chapter; [PL 2017, c. 452, §4 (NEW).]

P. Operate one caregiver retail store to sell harvested marijuana to qualifying patients for the patients' medical use in accordance with this chapter; and [PL 2019, c. 217, §2 (AMD).]

Q. Be organized as any type of legal business entity recognized under the laws of the State. [PL 2017, c. 452, §4 (NEW).]

[PL 2019, c. 217, §2 (AMD); PL 2019, c. 256, §2 (AMD); PL 2019, c. 331, §§9-12 (AMD); PL 2019, c. 354, §2 (AMD).]

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

A. A patient who elects to cultivate marijuana plants must keep the plants in a cultivation area unless the plants are being transported pursuant to subsection 1, paragraph L. Access to a cultivation area is limited to the patient, except that emergency services personnel, an assistant of a marijuana testing facility or a person who needs to gain access to a cultivation area in order to perform repairs or maintenance or to do construction may access a cultivation area to provide those professional services while under the direct supervision of the patient. [PL 2017, c. 452, §4 (AMD).]

B. A caregiver cultivating marijuana plants for a patient's medical use must keep all plants in a cultivation area unless the plants are being transported pursuant to subsection 2, paragraph O. Access to a cultivation area is limited to the caregiver, except that an elected official invited by the caregiver for the purpose of providing education to the elected official on cultivation by the caregiver, emergency services personnel, an assistant of a caregiver or a marijuana testing facility or a person who needs to gain access to a cultivation area in order to perform repairs or maintenance or to do construction may access a cultivation area to provide those professional services while under the direct supervision of the caregiver. [PL 2017, c. 452, §4 (AMD).]

B-1. Except as provided in paragraph C, a caregiver is required to register with the department. [PL 2017, c. 452, §4 (NEW).]

C. The following caregivers are not required to register with the department:

- (1) A caregiver designated to cultivate for a qualifying patient if that qualifying patient is a member of the household of that caregiver;
- (2) Two caregivers who are qualifying patients, if those caregivers are members of the same household and assist one another with cultivation; and
- (3) A caregiver who cultivates for a qualifying patient if that qualifying patient is a member of the family of that caregiver. [PL 2017, c. 452, §4 (AMD).]

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

- (1) Cultivate marijuana plants for more than 2 members of the family or members of the same household;
- (2) Cultivate more than 6 mature marijuana plants and 12 immature marijuana plants for each qualifying patient who has designated the caregiver to cultivate marijuana plants on the patient's behalf;
- (3) Possess more than 8 pounds of harvested marijuana;
- (4) Sell marijuana plants or harvested marijuana at wholesale under subsection 2, paragraph K-1;
- (5) Use a pesticide under subsection 2, paragraph J;
- (6) Operate a caregiver retail store under subsection 2, paragraph P; or
- (7) Organize as a business entity under subsection 2, paragraph Q. [PL 2019, c. 217, §3 (AMD).]

D. Two caregivers who are members of the same family or household may share the same cultivation area. [PL 2017, c. 452, §4 (AMD).]

E. A person who is authorized to cultivate marijuana plants under subsection 1 or 2 and who is an assistant of a caregiver pursuant to subsection 2, paragraph I may not cultivate that person's own marijuana plants in the cultivation area by the caregiver who employs that person. [PL 2017, c. 452, §4 (AMD).]

[PL 2019, c. 217, §3 (AMD).]

**4. Long-term care facility.** A qualifying patient may designate a long-term care facility to assist with the qualifying patient's medical use of marijuana if that use is consistent with the facility's policy and is pursuant to subsection 1, paragraph F-1, subparagraph (2). If a long-term care facility is designated, the facility shall complete the registration process with the department and obtain a registration certificate for the facility. For a long-term care facility to be issued a registration certificate, staff persons of the facility who will be assisting a qualifying patient with the patient's medical use of

marijuana in accordance with this chapter must be at least 21 years of age and may not have been convicted of a disqualifying drug offense. The long-term care facility and the staff of the facility may not cultivate marijuana plants for the patient.

[PL 2019, c. 501, §12 (AMD).]

**4-A. Use and storage in inpatient long-term care facility permitted.** A qualifying patient who is a resident of a long-term care facility while in the facility may use forms of harvested marijuana consistent with the facility's policy. A qualifying patient who uses a form of harvested marijuana pursuant to this subsection may store the harvested marijuana in the qualifying patient's room and is not required to obtain a registry identification card or to designate the long-term care facility under subsection 1, paragraph F-1, subparagraph (2). A long-term care facility is not required to be designated by a qualifying patient who uses harvested marijuana pursuant to this subsection. This subsection does not limit the ability of a long-term care facility to prohibit or restrict the use or storage of harvested marijuana by a qualifying patient.

[PL 2017, c. 452, §4 (AMD).]

**5. Incidental amount of marijuana.**

[PL 2017, c. 452, §4 (RP).]

**6. Onsite assessments by the department.**

[PL 2011, c. 407, Pt. B, §16 (RP).]

**7. Excess marijuana; forfeiture.**

[PL 2017, c. 452, §4 (RP).]

**8. Repeat forfeiture.**

[PL 2017, c. 452, §4 (RP).]

**9. (REALLOCATED FROM T. 22, §2423-A, sub-§7) Collectives prohibited.**

[PL 2017, c. 452, §4 (RP).]

**10. Marijuana testing facility.** The following provisions apply to a marijuana testing facility.

A. A marijuana testing facility that meets the requirements of this subsection and any rules adopted under paragraph D may receive and possess samples from qualifying patients, caregivers, dispensaries and manufacturing facilities to provide testing for the cannabinoid profile and potency of the samples and for contaminants in the samples, including but not limited to mold, mildew, heavy metals, plant regulators and illegal pesticides. For the purposes of this paragraph, "plant regulator" has the same meaning as in Title 7, section 604, subsection 26. [PL 2019, c. 331, §13 (RPR).]

B. An assistant of a marijuana testing facility may have access to cultivation areas pursuant to subsection 3, paragraphs A and B and section 2428, subsection 6, paragraph I. [PL 2019, c. 331, §13 (RPR).]

C. A marijuana testing facility shall:

- (1) Dispose of samples in a manner that prevents diversion of samples to persons not authorized to possess the samples tested by the facility;
- (2) House and store samples in the facility's possession or control during the process of testing, transport or analysis in a manner to prevent diversion, theft or loss;
- (3) Label samples being transported to and from the facility with the following statement: "For Testing Purposes Only";
- (4) Maintain testing results as part of the facility's business books and records; and

(5) Operate in accordance with any rules adopted by the department. [PL 2019, c. 331, §13 (RPR).]

D. **(CONFLICT: Text as repealed and replaced by PL 2019, c. 354, §3)** The department shall adopt routine technical rules as defined in Title 5, chapter 375, subchapter 2-A governing marijuana testing facilities, including but not limited to:

- (1) Marijuana testing facility officer or director qualification requirements;
- (2) Required security for marijuana testing facilities; and
- (3) Requirements for the registration, certification or other approval of marijuana testing facilities.

The failure of the department to adopt rules under this paragraph does not prevent a marijuana testing facility from engaging in activities in compliance with this chapter. [PL 2019, c. 354, §3 (RPR).]

D. **(CONFLICT: Text as repealed and replaced by PL 2019, c. 331, §13)** The department shall adopt routine technical rules as defined in Title 5, chapter 375, subchapter 2-A governing marijuana testing facilities, including but not limited to:

- (1) Marijuana testing facility officer or director qualification requirements;
- (2) Required security for marijuana testing facilities; and
- (3) Requirements for the licensing, certifying or other approval of marijuana testing facilities.

The failure of the department to adopt rules under this paragraph does not prevent a marijuana testing facility from engaging in activities in compliance with this chapter. [PL 2019, c. 331, §13 (RPR).]

D-1. Upon the adoption of rules pursuant to paragraph D and this paragraph, a marijuana testing facility must be certified by the certification program established pursuant to section 569 as meeting all operational and technical requirements in accordance with rules adopted by the department after consultation with the Maine Center for Disease Control and Prevention. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. A marijuana testing facility operating in compliance with this chapter on the date of the adoption of rules pursuant to this paragraph and paragraph D may continue to operate pending completion of certification under this paragraph. The failure of the department to adopt rules under this paragraph does not prevent a marijuana testing facility from engaging in activities in compliance with this chapter. [PL 2019, c. 354, §4 (NEW).]

E. **(CONFLICT: Text as repealed and replaced by PL 2019, c. 331, §13)** A marijuana testing facility shall obtain and must be able to produce, upon demand of the department or a municipal code enforcement officer, documentation of the facility's accreditation pursuant to standard ISO/IEC 17025 of the International Organization for Standardization by a 3rd-party accrediting body. The department may inspect a marijuana testing facility during regular business hours and hours of apparent activity for compliance with this chapter. [PL 2019, c. 331, §13 (RPR).]

E. **(CONFLICT: Text as repealed and replaced by PL 2019, c. 354, §5)** A marijuana testing facility shall obtain and must be able to produce, upon demand of the department or a municipal code enforcement officer, documentation of the facility's accreditation pursuant to standard ISO/IEC 17025 of the International Organization for Standardization by a 3rd-party accrediting body. [PL 2019, c. 354, §5 (RPR).]

F. The department and the Maine Center for Disease Control and Prevention may inspect a marijuana testing facility during regular business hours and hours of apparent activity for compliance with this chapter. [PL 2019, c. 354, §6 (NEW).]

[PL 2019, c. 331, §13 (AMD); PL 2019, c. 354, §§3-6 (AMD).]

**11. Immunity.**

[PL 2019, c. 331, §14 (RP).]

**12. Interest.** A caregiver or an officer or director of a registered dispensary, registered caregiver or manufacturing facility may not have a financial or other interest in a marijuana testing facility providing services associated with product labeling for that dispensary, caregiver or manufacturing facility.

[PL 2019, c. 331, §15 (RPR).]

**13. Moratorium ordinance.**

[PL 2017, c. 447, §13 (RP); PL 2017, c. 452, §4 (RP); MRSA T. 22 §2423-A, sub-§13 (RP).]

**14. Municipal regulation.**

[PL 2019, c. 331, §16 (RP).]

SECTION HISTORY

PL 2009, c. 631, §21 (NEW). PL 2009, c. 631, §51 (AFF). RR 2011, c. 1, §31 (COR). PL 2011, c. 383, §1 (AMD). PL 2011, c. 407, Pt. B, §16 (AMD). RR 2013, c. 1, §§39, 40 (COR). PL 2013, c. 371, §§1-3 (AMD). PL 2013, c. 374, §1 (AMD). PL 2013, c. 393, §§1-3 (AMD). PL 2013, c. 396, §§2-8 (AMD). PL 2013, c. 424, Pt. G, §1 (AMD). PL 2013, c. 424, Pt. G, §2 (AFF). PL 2013, c. 498, §1 (AMD). PL 2013, c. 501, §1 (AMD). PL 2013, c. 516, §§6, 7 (AMD). PL 2013, c. 520, §1 (AMD). PL 2013, c. 588, Pt. A, §§25, 26 (AMD). PL 2013, c. 588, Pt. D, §3 (AMD). PL 2015, c. 475, §§6-14 (AMD). PL 2017, c. 271, §1 (AMD). PL 2017, c. 447, §§4-14 (AMD). PL 2017, c. 452, §4 (AMD). PL 2019, c. 217, §§2, 3 (AMD). PL 2019, c. 256, §2 (AMD). PL 2019, c. 331, §§5-16 (AMD). PL 2019, c. 354, §§2-6 (AMD). PL 2019, c. 501, §12 (AMD).

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

A medical provider may provide a written certification in accordance with this section for the medical use of marijuana under this chapter and, after having done so, may otherwise state that in the medical provider's professional opinion a qualifying patient is likely to receive therapeutic or palliative benefit from the medical use of marijuana to treat or alleviate the patient's medical diagnosis. [PL 2017, c. 452, §5 (AMD).]

**1. Adult qualifying patient.** Prior to providing written certification for the medical use of marijuana under this section, a medical provider shall inform an adult qualifying patient or the patient's legal guardian or representative of the risks and benefits of the medical use of marijuana and that the patient may benefit from the medical use of marijuana.

[PL 2017, c. 452, §5 (AMD).]

**2. Minor qualifying patient.**

[PL 2017, c. 452, §5 (RP).]

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

A. Shall inform the qualifying patient and the parent, legal guardian or person having legal custody of the patient of the risks and benefits of the medical use of marijuana and that the patient may benefit from the medical use of marijuana; [PL 2017, c. 452, §5 (NEW).]

B. May provide a written certification to a qualifying patient if the patient is eligible for hospice services and has a medical diagnosis that, in the medical provider's professional opinion, may be alleviated by the therapeutic or palliative medical use of marijuana; [PL 2017, c. 452, §5 (NEW).]

C. May provide a written certification to a qualifying patient if the patient has a medical diagnosis of epilepsy, cancer, a developmental disability or an intellectual disability that, in the medical provider's professional opinion, may be alleviated by the therapeutic or palliative medical use of marijuana; and [PL 2017, c. 452, §5 (NEW).]

D. If a patient does not satisfy the requirements of paragraphs B and C, may provide a written certification to a qualifying patient after consulting with a physician from a list of physicians who may be willing to consult with a medical provider maintained by the department that is compiled by the department after consultation with the Department of Health and Human Services and statewide associations representing licensed medical professionals. The consultation between the medical provider and the consulting physician may consist of examination of the patient or review of the patient's medical file. The consulting physician shall provide an advisory opinion to the medical provider and the parent, legal guardian or person having legal custody of the qualifying patient concerning whether the patient is likely to receive therapeutic or palliative benefit from the medical use of marijuana to treat or alleviate the patient's medical diagnosis. If the department or the consulting physician does not respond to a request by the medical provider within 10 days of receipt of the request, the medical provider may provide a written certification without consultation with a physician.

The parent, legal guardian or person having legal custody of a qualifying patient who has not attained 18 years of age may submit a request to the department for reimbursement of the costs associated with obtaining a 2nd opinion required by this paragraph. Requests must be submitted on a form developed by the department. The department shall review the family's annual income and expenses in determining whether to reimburse the family from the Medical Use of Marijuana Fund under section 2430 for the cost of the required 2nd consultation.

The department shall adopt routine technical rules as defined in Title 5, chapter 375, subchapter 2-A to implement the reimbursement request under this paragraph. [PL 2017, c. 452, §5 (NEW).]  
[PL 2017, c. 452, §5 (NEW).]

**2-B. Adult and minor patients with substance use disorder.** Prior to providing written certification for the medical use of marijuana under this section for a medical diagnosis of substance use disorder that, in the medical provider's professional opinion, may be alleviated by the therapeutic or palliative medical use of marijuana, the medical provider shall develop a recovery plan with the patient. For purposes of this subsection, "substance use disorder" means a diagnosis related to alcohol or drug abuse covered by Title 5, chapter 521.  
[PL 2017, c. 452, §5 (NEW).]

**2-C. Bona fide provider-patient relationship.** A written certification may be made only in the course of a bona fide medical provider-patient relationship after the medical provider has completed a full assessment of the patient's medical history. If a patient has not provided a medical provider who is not the patient's primary care provider with the name and contact information of the patient's primary care provider, a medical provider shall conduct an in-person consultation with the patient prior to providing a written certification.  
[PL 2017, c. 452, §5 (NEW).]

**3. Expiration.** A written certification form for the medical use of marijuana under this section is valid for the term provided by the qualifying patient's medical provider.  
[PL 2017, c. 452, §5 (AMD).]

**4. Form; content.** A written certification under this section must be in the form required by rule adopted by the department and may not require a qualifying patient's medical provider to state the patient's specific medical diagnosis.  
[PL 2017, c. 452, §5 (AMD).]

**5. Possible sanctions.** Nothing in this chapter prevents a professional licensing board from sanctioning a medical provider for failing to properly evaluate or treat a patient's medical diagnosis or otherwise violating the applicable standard of care for evaluating or treating medical diagnoses. [PL 2017, c. 452, §5 (AMD).]

**6. Certification issued based on medical diagnosis.** A medical provider may not condition the issuance of a written certification for the medical use of marijuana on any requirements other than that the patient's medical diagnosis may be alleviated by the therapeutic or palliative medical use of marijuana. Nothing in this section may be construed to prevent a medical provider from exercising professional judgment in declining to issue a certification for the medical use of marijuana. [PL 2017, c. 452, §5 (AMD).]

**7. Patient referral disclosure of interest.** Prior to providing a referral to a qualifying patient for goods and services associated with a certification for the medical use of marijuana to an entity in which the medical provider has a direct or indirect financial interest, a medical provider shall provide written disclosure to the qualifying patient regarding any direct or indirect financial interest the medical provider has or may have in the resulting referral and shall maintain a copy of this disclosure in the qualifying patient's record. [PL 2015, c. 475, §15 (NEW).]

**8. Continuing medical education.** A medical provider who has not previously provided a written certification to a qualifying patient for the medical use of marijuana shall, prior to providing a written certification to a qualifying patient, submit evidence, satisfactory to the department, of successful completion of a one-hour course of continuing medical education relating to medical marijuana within the preceding 24 months. [PL 2017, c. 452, §5 (NEW).]

#### SECTION HISTORY

PL 2009, c. 631, §22 (NEW). PL 2009, c. 631, §51 (AFF). PL 2011, c. 407, Pt. B, §17 (RPR). PL 2013, c. 516, §8 (AMD). PL 2015, c. 475, §15 (AMD). PL 2017, c. 409, Pt. E, §4 (AMD). PL 2017, c. 452, §5 (AMD).

#### §2423-C. Authorized conduct

A person may provide a qualifying patient or a caregiver with marijuana paraphernalia for purposes of the qualifying patient's medical use of marijuana in accordance with this chapter and be in the presence or vicinity of the medical use of marijuana as allowed under this chapter. [PL 2017, c. 452, §6 (AMD).]

#### SECTION HISTORY

PL 2009, c. 631, §23 (NEW). PL 2009, c. 631, §51 (AFF). PL 2011, c. 407, Pt. B, §18 (AMD). PL 2017, c. 452, §6 (AMD).

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

A visiting qualifying patient from another jurisdiction that authorizes the medical use of marijuana pursuant to a law recognized by the department who possesses a valid medical marijuana certification from that other jurisdiction and photographic identification or a driver's license from that jurisdiction may engage in conduct authorized for a qualifying patient under this chapter, except that a visiting qualifying patient may not: [PL 2019, c. 209, §1 (AMD).]

**1. Cultivate.** Cultivate marijuana plants; [PL 2017, c. 452, §7 (NEW).]

**2. Possess.** Possess more than 2 1/2 ounces of harvested marijuana in a 15-day period; or [PL 2019, c. 209, §1 (AMD).]



**3. Transfer or furnish.** Transfer or furnish harvested marijuana to another person. [PL 2019, c. 209, §1 (AMD).]

**4. Obtain.**  
[PL 2019, c. 209, §1 (RP).]

The department shall maintain a list of other jurisdictions that authorize the medical use of marijuana and the images of the valid medical marijuana certifications from those jurisdictions and make that information available to registered caregivers and registered dispensaries. [PL 2019, c. 209, §1 (NEW).]

#### SECTION HISTORY

PL 2009, c. 631, §24 (NEW). PL 2009, c. 631, §51 (AFF). PL 2011, c. 407, Pt. B, §19 (AMD). PL 2013, c. 516, §9 (AMD). PL 2017, c. 452, §7 (AMD). PL 2019, c. 209, §1 (AMD).

#### §2423-E. Requirements

(REPEALED)

#### SECTION HISTORY

PL 2009, c. 631, §25 (NEW). PL 2009, c. 631, §51 (AFF). PL 2011, c. 407, Pt. B, §20 (AMD). PL 2015, c. 475, §§16-18 (AMD). PL 2017, c. 252, §1 (AMD). PL 2017, c. 452, §8 (RP).

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

A person may not manufacture marijuana products or marijuana concentrate or engage in marijuana extraction except as provided in this chapter. [PL 2019, c. 331, §17 (RPR).]

**1. Tier 1 manufacturing facility.** A tier 1 manufacturing facility registered pursuant to subsection 8 may engage in the activities authorized under subsection 4 in accordance with rules adopted pursuant to subsection 10 and may possess up to 40 pounds of harvested marijuana. [PL 2019, c. 331, §17 (RPR).]

**2. Tier 2 manufacturing facility.** A tier 2 manufacturing facility registered pursuant to subsection 8 may engage in the activities authorized under subsection 4 in accordance with rules adopted pursuant to subsection 10 and may possess up to 200 pounds of harvested marijuana. [PL 2019, c. 331, §17 (RPR).]

**3. Authorization for extraction using inherently hazardous substances.** This subsection governs the authority of a person to engage in marijuana extraction using inherently hazardous substances in accordance with subsection 5.

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

- (1) Certification from a professional engineer licensed in this State of the safety of the equipment used for marijuana extraction and the location of the equipment and the professional engineer's approval of the standard operating procedures for the marijuana extraction;
- (2) Documentation from a professional engineer licensed in this State or a state or local official authorized to certify compliance that the equipment used for marijuana extraction and the location of the equipment comply with state law and all applicable local and state building codes, electrical codes and fire codes, including the chapters of the most recent National Fire Protection Association Fire Code relating to marijuana extraction facilities;
- (3) Documentation from the manufacturer of the marijuana extraction system or a professional engineer licensed in this State showing that a professional grade, closed-loop extraction system

that is capable of recovering the solvents used to produce marijuana concentrate is used by the person; and

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

A person that intends to engage in marijuana extraction using inherently hazardous substances shall notify the department of that intention prior to engaging in marijuana extraction using inherently hazardous substances. The department may deny an application of a person authorized under this paragraph to register pursuant to rules adopted under subsection 10 if the person did not notify the department in accordance with this paragraph. [PL 2019, c. 331, §17 (RPR).]

B. A person that is not a qualifying patient, caregiver or dispensary and that meets the requirements of a person authorized under paragraph A, pays the fee required by section 2425-A, subsection 10 and meets the requirements of rules adopted under subsection 10 is authorized to engage in marijuana extraction using inherently hazardous substances and may possess up to 40 pounds of harvested marijuana in accordance with subsection 5. [PL 2019, c. 331, §17 (RPR).]  
[PL 2019, c. 331, §17 (RPR).]

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

A. May manufacture marijuana products and marijuana concentrate for medical use using any method that does not involve an inherently hazardous substance, except that a registered manufacturing facility may manufacture marijuana concentrate using inherently hazardous substances if authorized under subsection 3; [PL 2019, c. 331, §17 (RPR).]

B. May obtain harvested marijuana from a qualifying patient, a caregiver or a registered dispensary and may transfer marijuana products and marijuana concentrate to the person that provided the harvested marijuana used to manufacture the marijuana product or marijuana concentrate; [PL 2019, c. 331, §17 (RPR).]

C. May transfer samples to a marijuana testing facility for testing; [PL 2019, c. 331, §17 (RPR).]

D. May conduct testing of marijuana products or marijuana concentrate manufactured by the facility for research and development purposes; [PL 2019, c. 331, §17 (RPR).]

E. May receive reasonable compensation for manufacturing marijuana products or marijuana concentrate; [PL 2019, c. 331, §17 (RPR).]

F. Shall dispose of harvested marijuana used in the manufacturing process in a manner that prevents its diversion to persons not authorized to possess harvested marijuana possessed by the facility and in accordance with rules adopted by the department; and [PL 2019, c. 331, §17 (RPR).]

G. May hire any number of assistants to assist in performing the duties of the manufacturing facility. [PL 2019, c. 331, §17 (RPR).]  
[PL 2019, c. 331, §17 (RPR).]

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

A. May engage in marijuana extraction to produce marijuana concentrate for medical use; [PL 2019, c. 331, §17 (RPR).]

- B. May obtain harvested marijuana from a qualifying patient, a caregiver or a dispensary and may transfer marijuana concentrate to the person that provided the harvested marijuana used to produce the marijuana concentrate; [PL 2019, c. 331, §17 (RPR).]
- C. May transfer samples to a marijuana testing facility for testing; [PL 2019, c. 331, §17 (RPR).]
- D. May conduct testing of marijuana concentrate produced by the person for research and development purposes; [PL 2019, c. 331, §17 (RPR).]
- E. May receive reasonable compensation for producing marijuana concentrate; [PL 2019, c. 331, §17 (RPR).]
- F. Shall dispose of harvested marijuana used in the extraction process in a manner that prevents its diversion to persons not authorized to possess harvested marijuana possessed by the person and in accordance with rules adopted by the department; and [PL 2019, c. 331, §17 (RPR).]
- G. May hire any number of assistants to assist in performing the activities authorized under this subsection, except that a qualifying patient authorized under subsection 3 may not hire an assistant. [PL 2019, c. 331, §17 (RPR).]

Notwithstanding the authorizations established in this subsection, a person that is authorized to engage in marijuana extraction using inherently hazardous substances pursuant to subsection 3 shall comply with any rules adopted pursuant to subsection 10.  
[PL 2019, c. 331, §17 (RPR).]

**6. Retail sale prohibited.** A registered manufacturing facility or a person authorized to engage in marijuana extraction using inherently hazardous substances under subsection 3 may not engage in retail sales of marijuana products or marijuana concentrate unless the person is authorized to engage in retail sales under this chapter.  
[PL 2019, c. 331, §17 (RPR).]

**7. Food establishment license required to manufacture food products.** A registered manufacturing facility or a person authorized to produce marijuana concentrate using inherently hazardous substances may not manufacture edible marijuana products or marijuana tinctures unless licensed pursuant to section 2167.  
[PL 2019, c. 331, §17 (RPR).]

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

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

- (1) The annual fee required pursuant to section 2425-A, subsection 10;
- (2) The legal name of the facility or person and, if incorporated, evidence of incorporation and evidence that the corporation is in good standing with the Secretary of State;
- (3) The physical address of the facility or person or the physical address where an applicant who is an individual will engage in the activities authorized under this section. If the facility or person changes its physical location, or if a person registered under this subsection changes the location at which the person engages in activities authorized under this section, the facility or person shall notify the department of the new location; and
- (4) The name, address and date of birth of each officer or director of the facility or person.  
[PL 2019, c. 331, §17 (RPR).]

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

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

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

If the department determines not to issue a registry identification card for a person, officer or director or assistant, the department shall notify the registered manufacturing facility or person authorized to engage in marijuana extraction using inherently hazardous substances in writing of the reason for denying the registry identification card. [PL 2019, c. 331, §17 (RPR).]

[PL 2019, c. 331, §17 (RPR).]

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

- A. The registry identification number of the manufacturing facility; [PL 2019, c. 331, §17 (RPR).]
- B. Information that allows the provider of the marijuana to the manufacturing facility to confirm that the marijuana provided was used to manufacture the marijuana product or marijuana concentrate transferred back to that provider; [PL 2019, c. 331, §17 (RPR).]
- C. Ingredients other than material derived from marijuana plants contained in the marijuana product or marijuana concentrate; and [PL 2019, c. 331, §17 (RPR).]
- D. Any chemicals, solvents or other substances used to manufacture the marijuana product or marijuana concentrate. [PL 2019, c. 331, §17 (RPR).]

[PL 2019, c. 331, §17 (RPR).]

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

- A. Requirements for the registration of a manufacturing facility and an officer or director or assistant of a registered manufacturing facility; [PL 2019, c. 331, §17 (RPR).]
- B. Requirements for engaging in marijuana extraction using inherently hazardous substances; [PL 2019, c. 331, §17 (RPR).]
- C. Manufacturing facility officer or director qualification requirements; [PL 2019, c. 331, §17 (RPR).]
- D. Required security for manufacturing facilities; [PL 2019, c. 331, §17 (RPR).]

E. Requirements of a disposal plan for harvested marijuana used in the manufacturing process; and [PL 2019, c. 331, §17 (RPR).]

F. Minimum record-keeping requirements, including an annual audit requirement. [PL 2019, c. 331, §17 (RPR).]

G. [PL 2019, c. 331, §17 (RP).]

The failure of the department to adopt rules under this subsection does not prevent a person authorized pursuant to subsection 3, paragraph A from engaging in conduct authorized under this section. [PL 2019, c. 331, §17 (RPR).]

**11. Multiple authorizations.** A manufacturing facility or person registered pursuant to subsection 8 may also be a qualifying patient, a caregiver or a registered dispensary. A manufacturing facility or person authorized to possess marijuana under this chapter may possess the amount allowed for that manufacturing facility or person in addition to the possession amount allowed under this section if the manufacturing facility or person is registered pursuant to this section. The marijuana possessed must be distinguishable with respect to the purposes for which it is authorized to be possessed. [PL 2019, c. 331, §17 (RPR).]

**12. Record keeping.** A registered manufacturing facility or person authorized to engage in marijuana extraction using inherently hazardous substances under subsection 3 shall maintain records of all transactions in accordance with section 2430-G. [PL 2019, c. 331, §17 (RPR).]

**13. Colocation of facilities.** A manufacturing facility that is also licensed as an adult use marijuana products manufacturing facility under Title 28-B, chapter 1 may manufacture marijuana products and marijuana concentrate for adult use within the same facility in which the licensee also manufactures marijuana products or marijuana concentrate for medical use pursuant to this chapter. The following items or areas within the shared facility may be shared for both manufacturing pursuant to this chapter and pursuant to Title 28-B, chapter 1:

A. Manufacturing-related and nonmanufacturing-related equipment, except that manufacturing-related equipment may not be simultaneously used for manufacturing pursuant to this chapter and pursuant to Title 28-B, chapter 1; [PL 2019, c. 331, §17 (RPR).]

B. Manufacturing-related and nonmanufacturing-related supplies or products not containing harvested marijuana and the storage areas for those supplies or products; and [PL 2019, c. 331, §17 (RPR).]

C. General office space, bathrooms, entryways and walkways. [PL 2019, c. 331, §17 (RPR).]  
[PL 2019, c. 331, §17 (RPR).]

#### **14. Immunity.**

[PL 2019, c. 331, §17 (RP).]

#### SECTION HISTORY

PL 2017, c. 447, §15 (NEW). PL 2017, c. 452, §9 (NEW). PL 2019, c. 331, §17 (RPR).

#### §2424. Rules

##### **1. Rulemaking.**

[PL 2017, c. 409, Pt. E, §5 (RP).]

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

[PL 2017, c. 452, §10 (NEW).]

## 2. Adding debilitating medical conditions.

[PL 2017, c. 452, §10 (RP).]

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

[PL 2017, c. 452, §10 (AMD).]

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

A. Minimum oversight requirements for dispensaries and registered caregivers and the one permitted additional location at which a dispensary cultivates marijuana plants for medical use by qualifying patients; and [PL 2017, c. 452, §10 (NEW).]

B. Minimum security requirements for registered caregivers operating caregiver retail stores pursuant to section 2423-A, subsection 2, paragraph P and registered dispensaries and any additional location at which a dispensary cultivates marijuana plants for medical use by qualifying patients. [PL 2019, c. 217, §4 (AMD).]

[PL 2019, c. 217, §4 (AMD).]

### SECTION HISTORY

IB 2009, c. 1, §5 (NEW). PL 2009, c. 631, §§26, 27 (AMD). PL 2009, c. 631, §51 (AFF). PL 2011, c. 407, Pt. B, §§21, 22 (AMD). PL 2013, c. 394, §1 (AMD). PL 2017, c. 409, Pt. E, §§5, 6 (AMD). PL 2017, c. 452, §10 (AMD). PL 2019, c. 217, §4 (AMD).

### §2425. Registry identification cards

**(REPEALED)**

### SECTION HISTORY

IB 2009, c. 1, §5 (NEW). PL 2009, c. 631, §§28-36 (AMD). PL 2009, c. 631, §51 (AFF). PL 2011, c. 383, §§2-4 (AMD). PL 2011, c. 407, Pt. B, §§23-29 (AMD). PL 2011, c. 691, Pt. A, §§21, 22 (AMD). RR 2013, c. 2, §33 (COR). PL 2013, c. 394, §§2-6 (AMD). PL 2013, c. 396, §§9-11 (AMD). PL 2013, c. 516, §§10-14 (AMD). PL 2013, c. 595, Pt. J, §1 (AMD). PL 2013, c. 595, Pt. J, §4 (AFF). PL 2015, c. 475, §§19-21 (AMD). RR 2017, c. 1, §13 (COR). PL 2017, c. 409, Pt. E, §§7, 8 (AMD). PL 2017, c. 447, §§16-18 (AMD). PL 2017, c. 452, §11 (RP). PL 2019, c. 331, §18 (RP).

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

This section governs registry identification cards and registration certificates, except that registration of manufacturing facilities and persons authorized to engage in marijuana extraction is governed by section 2423-F and registration of marijuana testing facilities is governed by section 2423-A, subsection 10. [PL 2017, c. 452, §12 (NEW).]

**1. Voluntary registration.** Registration under this section is voluntary for a qualifying patient, for a visiting qualifying patient and for a caregiver who is operating under section 2423-A, subsection 3, paragraph C. If a qualifying patient or visiting qualifying patient or a caregiver who is operating under section 2423-A, subsection 3, paragraph C does not register with the department, the patient's or caregiver's ability to engage in authorized conduct in accordance with this chapter is not affected. [PL 2017, c. 452, §12 (NEW).]

**2. Required registration.** A caregiver, other than a caregiver operating under section 2423-A, subsection 3, paragraph C, and an officer or director or assistant of a dispensary or a caregiver, other than a caregiver operating under section 2423-A, subsection 3, paragraph C, shall obtain a registry identification card in accordance with subsections 3, 4 and 5. A long-term care facility designated by a qualifying patient pursuant to section 2423-A, subsection 1, paragraph F-1, subparagraph (2) and a dispensary shall obtain a registration certificate in accordance with subsections 6, 7 and 8. [PL 2017, c. 452, §12 (NEW).]

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

The department shall conduct a criminal history record check for any applicant for a registry identification card. Except as provided in subsection 3-A, the department may not issue a registry identification card to an applicant who is not permitted under this chapter to have a disqualifying drug offense.

An application must include, as applicable:

- A. The annual fee required pursuant to subsection 10; and [PL 2017, c. 452, §12 (NEW).]
- B. A statement that the requirements of section 2423-B have been met if the qualifying patient applying for the registry identification card has not attained 18 years of age and the qualifying patient's parent, guardian or person having legal custody of the patient consents in writing to:
  - (1) The qualifying patient's medical use of marijuana;
  - (2) Serving as one of the qualifying patient's caregivers; and
  - (3) Controlling the acquisition of the marijuana plants or harvested marijuana and the dosage and the frequency of the medical use of marijuana by the qualifying patient. [PL 2017, c. 452, §12 (NEW).]

[PL 2017, c. 452, §12 (NEW).]

**3-A. Criminal history record check for caregivers administering medical marijuana on school grounds.** The department shall request a criminal history record check for a caregiver designated under section 2423-A, subsection 1, paragraph F-1, subparagraph (4), except for a caregiver who is a parent, a legal guardian or a person having legal custody of the qualifying patient. The department may not issue a registry identification card to an applicant who is not permitted to have a disqualifying drug offense or who would be denied an approval, credential, certification, authorization or renewal under Title 20-A, section 6103 or 13011 based on that criminal history record check.

The criminal history record check requested under this subsection must include criminal history record information obtained from the Maine Criminal Justice Information System established in Title 16, section 631 and the Federal Bureau of Investigation. The following provisions apply.

- A. The criminal history record information obtained from the Maine Criminal Justice Information System must include a record of public criminal history record information as defined in Title 16, section 703, subsection 8. [PL 2017, c. 452, §12 (NEW).]

B. The criminal history record information obtained from the Federal Bureau of Investigation must include other state and national criminal history record information. [PL 2017, c. 452, §12 (NEW).]

C. A person subject to a criminal history record check under this section shall submit to having fingerprints taken. The State Police, upon payment of the fee, shall take or cause to be taken the person's fingerprints and shall forward the fingerprints to the State Bureau of Identification so that the bureau can conduct state and national criminal history record checks. Except for the portion of the payment, if any, that constitutes the processing fee charged by the Federal Bureau of Investigation, all money received by the State Police for purposes of this paragraph must be paid over to the Treasurer of State. The money must be applied to the expenses of administration incurred by the Department of Public Safety. [PL 2017, c. 452, §12 (NEW).]

D. The subject of a Federal Bureau of Investigation criminal history record check may obtain a copy of the criminal history record check by following the procedures outlined in 28 Code of Federal Regulations, Sections 16.32 and 16.33. The subject of a state criminal history record check may inspect and review the criminal history record information pursuant to Title 16, section 709. [PL 2017, c. 452, §12 (NEW).]

E. State and federal criminal history record information may be used by the department for the purpose of screening a person in accordance with this chapter. [PL 2019, c. 331, §19 (AMD).]

F. Information obtained pursuant to this subsection is confidential. The results of criminal history record checks received by the department are for official use only and may not be disseminated to any other person. [PL 2019, c. 331, §19 (AMD).]

G. If a person is no longer subject to this chapter that person may request in writing that the State Bureau of Identification remove the person's fingerprints from the bureau's fingerprint file. In response to a written request, the bureau shall remove the person's fingerprints from the fingerprint file and provide written confirmation of that removal. [PL 2017, c. 452, §12 (NEW).]

The department, with the Department of Public Safety, Bureau of State Police, State Bureau of Identification, shall adopt rules to implement this subsection. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. [PL 2019, c. 331, §19 (AMD).]

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

A. Within 5 business days of approving a completed application, the department shall issue a registry identification card to the applicant. [PL 2017, c. 452, §12 (NEW).]

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

- (1) The applicant did not provide the information required pursuant to subsection 3;
  - (2) The department determines that the applicant does not qualify; or
  - (3) The department determines that the information provided by the applicant was falsified.
- [PL 2017, c. 452, §12 (NEW).]

C. The department shall notify the applicant and, if the applicant is an officer or director or assistant of a registered dispensary, the registered dispensary, in writing of the reason for denying the registry identification card. [PL 2017, c. 452, §12 (NEW).]

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



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

[PL 2017, c. 452, §12 (NEW).]

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

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

- (1) The name of the cardholder;
- (2) The date of issuance and expiration date;
- (3) A random identification number that is unique to the cardholder; and
- (4) A clear designation showing whether the cardholder is allowed under this chapter to cultivate marijuana plants. [PL 2017, c. 452, §12 (NEW).]

B. If a caregiver is organized as a legal business entity pursuant to section 2423-A, subsection 2, paragraph Q, the caregiver may obtain a registry identification card in the name of the business entity if the caregiver submits evidence of the business entity's registration with the Secretary of State and evidence that the business entity is in good standing with the Secretary of State. [PL 2017, c. 452, §12 (NEW).]

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

- (1) The legal name of the registered dispensary with which the officer or director or assistant is affiliated;
- (2) The address and date of birth of the officer or director or assistant; and
- (3) A photograph of the officer or director or assistant, if required by the department. [PL 2017, c. 452, §12 (NEW).]

D. The registry identification card of an officer or director or assistant of a registered dispensary expires 10 days after notification is given to the department by the registered dispensary that the person has ceased to work at the dispensary. [PL 2017, c. 452, §12 (NEW).]

[PL 2017, c. 452, §12 (NEW).]

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

A. The annual fee required pursuant to subsection 10; [PL 2017, c. 452, §12 (NEW).]

B. Evidence of the applicant's registration with the Secretary of State and evidence that the applicant is in good standing with the Secretary of State; and [PL 2017, c. 452, §12 (NEW).]

C. The name, address and date of birth of each officer or director of the applicant. [PL 2017, c. 452, §12 (NEW).]

[PL 2017, c. 452, §12 (NEW).]

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

A. Within 10 days of approving a completed application, the department shall issue a registration certificate to the applicant. [PL 2017, c. 452, §12 (NEW).]

- B. The department may deny an application for a certificate or for renewal of a certificate only if:
- (1) The applicant did not provide the information required pursuant to subsection 6;
  - (2) The department determines that the applicant does not qualify; or
  - (3) The department determines that the information provided by the applicant was falsified. [PL 2017, c. 452, §12 (NEW).]
- C. The department shall notify the applicant in writing of the reason for denying the registration certificate. [PL 2017, c. 452, §12 (NEW).]

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

If the department fails to issue or deny a registration certificate in response to a valid application for a certificate or for renewal of a certificate submitted pursuant to subsection 6 within 45 days of its submission, the registration certificate is deemed granted and a copy of the application for a registration certificate or for renewal of the certificate is deemed a valid registration certificate. [PL 2017, c. 452, §12 (NEW).]

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

- A. The name of the certificate holder; [PL 2017, c. 452, §12 (NEW).]
  - B. The date of issuance and expiration date of the registration certificate; [PL 2017, c. 452, §12 (NEW).]
  - C. A random identification number that is unique to the certificate holder; [PL 2017, c. 452, §12 (NEW).]
  - D. The physical address of the certificate holder and, if the certificate holder is a dispensary, the physical address of one additional location, if any, where marijuana plants will be cultivated; and [PL 2019, c. 331, §20 (AMD).]
  - E. A clear designation showing whether the certificate holder is allowed under this chapter to cultivate marijuana plants. [PL 2017, c. 452, §12 (NEW).]
- [PL 2019, c. 331, §20 (AMD).]

**9. Drug testing.** The department may not require an assistant of a caregiver, dispensary, manufacturing facility or marijuana testing facility who is an applicant for a registry identification card to submit to a drug test as a condition of receiving a registry identification card. This subsection does not prevent a caregiver, dispensary, manufacturing facility or marijuana testing facility from requiring drug testing of its assistants as a condition of employment. [PL 2017, c. 452, §12 (NEW).]

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

- A. There is no annual registration fee for a qualifying patient or visiting qualifying patient or a caregiver who is not required to register pursuant to section 2423-A, subsection 3, paragraph C. There is no annual registration fee for a caregiver who does not cultivate marijuana plants for a qualifying patient. [PL 2017, c. 452, §12 (NEW).]
- B. There is an annual registration fee for a caregiver who cultivates marijuana plants on behalf of a qualifying patient pursuant to section 2423-A, subsection 2, paragraph B. The fee may not be less than \$50 or more than \$240 for each group of up to 6 mature marijuana plants cultivated by

the caregiver. The caregiver shall notify the department of the number of marijuana plants the caregiver cultivates. [PL 2017, c. 452, §12 (NEW).]

C. There is an annual registration fee for a dispensary, which may not be less than \$5,000 or more than \$12,000. There is a fee to change the location of a registered dispensary or the location at which a registered dispensary cultivates marijuana plants, which may not be less than \$3,000 or more than \$4,000. [PL 2017, c. 452, §12 (NEW).]

D. There is an annual registration fee for a tier 1 manufacturing facility, which may not be less than \$50 or more than \$150. [PL 2017, c. 452, §12 (NEW).]

E. There is an annual registration fee for a tier 2 manufacturing facility, which may not be less than \$150 or more than \$250. [PL 2017, c. 452, §12 (NEW).]

F. There is an annual registration fee to engage in marijuana extraction under section 2423-F, subsection 3, which may not be less than \$250 or more than \$350. [PL 2017, c. 452, §12 (NEW).]

G. There is an annual registration fee for a marijuana testing facility, which may not be less than \$250 or more than \$1,000, except that there is no fee if the testing facility is licensed in accordance with Title 28-B, chapter 1. [PL 2017, c. 452, §12 (NEW).]

H. There is an annual registration fee for an officer or director or assistant of a registered caregiver or registered dispensary, which may not be less than \$20 or more than \$50. [PL 2017, c. 452, §12 (NEW).]

I. There is a fee to replace a registry identification card that has been lost, stolen or destroyed or a card that contains information that is no longer accurate, which may not be less than \$10 or more than \$20. Replacement of a registry identification card does not extend the expiration date. [PL 2017, c. 452, §12 (NEW).]

J. There is an annual fee for a criminal history record check for a caregiver or an officer or director or assistant of a registered dispensary, marijuana testing facility or manufacturing facility, which may not be less than \$31 or more than \$60. The fee must be paid by the caregiver or by the registered dispensary, marijuana testing facility or manufacturing facility for an officer or director or assistant of the registered dispensary, marijuana testing facility or manufacturing facility. [PL 2017, c. 452, §12 (NEW).]

[PL 2017, c. 452, §12 (NEW).]

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

A. If a cardholder loses the cardholder's registry identification card, the cardholder shall notify the department within 10 days of losing the card and submit the fee required by subsection 10, paragraph I. Within 5 days after such notification, the department shall issue a replacement registry identification card. [PL 2017, c. 452, §12 (NEW).]

B. If the information appearing on the cardholder's registry identification card is inaccurate or changes, the cardholder shall notify the department of the inaccuracy or change and submit the fee required by subsection 10, paragraph I. Within 5 days after such notification, the department shall issue a replacement registry identification card. A cardholder who fails to notify the department as required under this paragraph commits a civil violation for which a fine of not more than \$150 may be adjudged. [PL 2017, c. 452, §12 (NEW).]

C. A registered dispensary shall notify the department in writing of the name, address and date of birth of an officer or director or assistant who ceases to work at the dispensary or marijuana testing facility and of any new officer or director or assistant before the officer or director or assistant begins working at the dispensary or marijuana testing facility. [PL 2017, c. 452, §12 (NEW).]

D. A registered dispensary shall notify the department in writing if the dispensary changes the physical location of the dispensary or the location at which the dispensary cultivates marijuana plants. [PL 2017, c. 452, §12 (NEW).]  
[PL 2017, c. 452, §12 (NEW).]

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

A. Applications and supporting information submitted by qualifying patients and registered patients under this chapter, including information regarding their caregivers and medical providers, are confidential. [PL 2017, c. 452, §12 (NEW).]

B. Applications and supporting information submitted by caregivers and medical providers operating in compliance with this chapter are confidential. [PL 2017, c. 452, §12 (NEW).]

C. The department shall maintain a confidential list of the persons to whom the department has issued registry identification cards. Individual names and other identifying information on the list are confidential, exempt from the freedom of access laws, Title 1, chapter 13, and not subject to disclosure except as provided in this subsection and to authorized employees of the department as necessary to perform official duties of the department. [PL 2017, c. 452, §12 (NEW).]

D. The department shall verify to law enforcement personnel whether a registry identification card is valid and whether the conduct is authorized without disclosing more information than is reasonably necessary to verify the authenticity of the registry identification card. [PL 2017, c. 452, §12 (NEW).]

E. Upon request of a code enforcement officer or, if a municipality does not employ a code enforcement officer, another municipal officer, the department shall verify whether a registry identification card is valid and whether the conduct is authorized without disclosing more information than is reasonably necessary to verify the authenticity of the registry identification card. The department may disclose the location at which the conduct is authorized if necessary to verify the registry identification card to the code enforcement officer or other municipal officer. The department shall provide this information within 2 business days of the request. The code enforcement officer or other municipal officer shall keep the information received under this paragraph confidential except as necessary to verify whether the registry identification card is valid and whether the conduct is authorized. [PL 2017, c. 452, §12 (NEW).]

F. Applications, supporting information and other information regarding a registered dispensary are not confidential, except that information that is contained within dispensary information that identifies a qualifying patient, a registered patient, a registered patient's medical provider or a caregiver of a qualifying patient or registered patient is confidential. [PL 2017, c. 452, §12 (NEW).]

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

- (1) To department employees who are responsible for carrying out this chapter;
- (2) Pursuant to court order or subpoena issued by a court;
- (3) With written permission of the registered patient or the patient's guardian, if the patient is under guardianship, or a parent, if the patient has not attained 18 years of age;
- (4) As permitted or required for the disclosure of health care information pursuant to section 1711-C;
- (5) To a law enforcement official for verification purposes. The records may not be disclosed further than necessary to achieve the limited goals of a specific investigation; and

(6) To a registered patient's treating medical provider and to a registered patient's registered caregiver for the purpose of carrying out this chapter. [PL 2017, c. 452, §12 (NEW).]

H. This subsection does not prohibit a medical provider from notifying the department if the medical provider acquires information indicating that a registered patient or qualifying patient is no longer eligible to use marijuana for medical purposes or that a registered patient or qualifying patient falsified information that was the basis of the medical provider's certification of eligibility for use. [PL 2017, c. 452, §12 (NEW).]

I. The department may disclose to an agency of State Government designated by the commissioner and employees of that agency any information necessary to produce registry identification cards or manage the identification card program and may disclose data for statistical or research purposes in such a manner that individuals cannot be identified. [PL 2017, c. 452, §12 (NEW).]

J. A hearing concerning the suspension or revocation of a registry identification card under section 2430-E is confidential. [PL 2017, c. 452, §12 (NEW).]

K. Except as otherwise provided in this subsection, a person who knowingly violates the confidentiality of information protected under this chapter commits a civil violation for which a fine of up to \$1,000 may be imposed. This paragraph does not apply to a medical provider or staff of a long-term care facility or any other person directly associated with a medical provider or long-term care facility that provides services to a registered patient. [PL 2017, c. 452, §12 (NEW).]

L. Notwithstanding any provision of this subsection to the contrary, the department shall comply with Title 36, section 175. Information provided by the department pursuant to this paragraph may be used by the Department of Administrative and Financial Services, Bureau of Revenue Services only for the administration and enforcement of taxes imposed under Title 36. [PL 2017, c. 452, §12 (NEW).]

[PL 2017, c. 452, §12 (NEW).]

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

A. A registered caregiver or a dispensary shall submit annually a report of the number of qualifying patients and visiting qualifying patients assisted by the caregiver or dispensary. A report may not directly or indirectly disclose patient identity. The department shall adopt rules to implement this paragraph. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. [PL 2017, c. 452, §12 (NEW).]

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

- (1) The number of applications and renewals filed for registry identification cards and registration certificates;
- (2) The number of qualifying patients and registered caregivers approved in each county;
- (3) The number of registry identification cards suspended or revoked;
- (4) The number of medical providers providing written certifications for qualifying patients;
- (5) The number of registered dispensaries, manufacturing facilities and marijuana testing facilities approved in each county;
- (6) The number of officers or directors or assistants of registered caregivers, registered dispensaries, manufacturing facilities and marijuana testing facilities; and

(7) The revenue and expenses of the Medical Use of Marijuana Fund established in section 2430. [PL 2017, c. 452, §12 (NEW).]  
[PL 2017, c. 452, §12 (NEW).]

## SECTION HISTORY

PL 2017, c. 452, §12 (NEW). PL 2019, c. 331, §§19, 20 (AMD).

### §2426. Scope

**1. Limitations.** This chapter does not permit any person to:

A. Undertake any task under the influence of marijuana when doing so would constitute negligence or professional malpractice or would otherwise violate any professional standard; [PL 2009, c. 631, §37 (AMD); PL 2009, c. 631, §51 (AFF).]

B. Except as provided in subsection 1-A, possess marijuana or otherwise engage in the medical use of marijuana:

- (1) In a school bus;
- (2) On the grounds of any preschool or primary or secondary school; or
- (3) In any correctional facility; [PL 2015, c. 369, §2 (AMD).]

C. Smoke marijuana:

- (1) On any form of public transportation; or
- (2) In any public place; [IB 2009, c. 1, §5 (NEW).]

D. Operate, navigate or be in actual physical control of any motor vehicle, aircraft, motorboat, snowmobile or all-terrain vehicle while under the influence of marijuana; or [PL 2009, c. 631, §38 (AMD); PL 2009, c. 631, §51 (AFF).]

E. Use or possess marijuana plants or harvested marijuana if that person is not a qualifying patient, caregiver, registered dispensary or other person authorized to use or possess marijuana under this chapter. [PL 2019, c. 331, §21 (AMD).]

[PL 2019, c. 331, §21 (AMD).]

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

A. A medical provider has provided the qualifying patient with a current written certification for the medical use of marijuana under this chapter; [PL 2017, c. 452, §14 (AMD).]

B. Possession of harvested marijuana is for the purpose of administering marijuana to the qualifying patient; and [PL 2017, c. 452, §14 (AMD).]

C. The parent, legal guardian or person having legal custody of a qualifying patient enrolled in the preschool or primary or secondary school has notified the school that a caregiver has been designated on behalf of the qualifying patient to possess and administer harvested marijuana to the qualifying patient. [PL 2017, c. 452, §14 (NEW).]

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

[PL 2017, c. 452, §14 (AMD).]

**2. Construction.** This chapter may not be construed to require:

A. A government medical assistance program or private health insurer to reimburse a person for costs associated with the medical use of marijuana; or [IB 2009, c. 1, §5 (NEW).]

B. An employer to accommodate the ingestion of marijuana in any workplace or any employee working while under the influence of marijuana. [IB 2009, c. 1, §5 (NEW).]

[IB 2009, c. 1, §5 (NEW).]

**3. Penalty for fraudulent representation.**

[PL 2009, c. 631, §39 (RP); PL 2009, c. 631, §51 (AFF).]

**3-A. Penalty for fraud.**

[PL 2017, c. 452, §15 (RP).]

## SECTION HISTORY

IB 2009, c. 1, §5 (NEW). PL 2009, c. 631, §§37-39 (AMD). PL 2009, c. 631, §51 (AFF). PL 2011, c. 407, Pt. B, §§30, 31 (AMD). PL 2015, c. 369, §§2, 3 (AMD). PL 2017, c. 452, §§13-15 (AMD). PL 2019, c. 331, §32 (AMD).

**§2427. Affirmative defense and dismissal for medical marijuana**

**(REPEALED)**

## SECTION HISTORY

IB 2009, c. 1, §5 (NEW). PL 2009, c. 631, §51 (AFF). PL 2009, c. 631, §§40, 41 (AMD). MRSA T. 22 §2427, sub-§4 (RP).

**§2428. Registered dispensaries**

**(CONFLICT)**

**1. Provisions pertaining to primary caregiver apply to nonprofit dispensary.**

[PL 2009, c. 631, §42 (RP); PL 2009, c. 631, §51 (AFF).]

**1-A. Provisions pertaining to registered dispensary.** For the purpose of assisting a qualifying patient, a registered dispensary may in accordance with rules adopted by the department:

A. Dispense up to 2 1/2 ounces of harvested marijuana to the qualifying patient in one transaction, except that a dispensary may not dispense more than 2 1/2 ounces of harvested marijuana to a visiting qualifying patient during a 15-day period; [PL 2017, c. 452, §16 (AMD).]

B. Cultivate marijuana plants and possess all harvested marijuana from those marijuana plants; [PL 2017, c. 452, §16 (AMD).]

C. Receive reasonable monetary compensation for costs associated with assisting or for cultivating marijuana plants for the qualifying patient; [PL 2017, c. 452, §16 (AMD).]

D. Assist the qualifying patient with the medical use or administration of harvested marijuana; [PL 2019, c. 331, §22 (RPR).]

E. Obtain harvested marijuana from a caregiver under section 2423-A, subsection 2, paragraph K; [PL 2019, c. 331, §23 (RPR).]

F. Except as provided in section 2426:

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

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

- (3) Acquire marijuana plants and harvested marijuana from another dispensary for no remuneration;
- (4) **(CONFLICT: Text as repealed and replaced by PL 2019, c. 331, §24)** Transfer to and accept from a registered caregiver or another dispensary marijuana plants and harvested marijuana in a wholesale transaction in accordance with this paragraph. A dispensary may transfer in wholesale transactions for reasonable compensation or for no remuneration up to 30% of the mature marijuana plants grown by the dispensary over the course of a calendar year, including any marijuana products or marijuana concentrate manufactured from that 30% of the mature marijuana plants grown by the dispensary. A dispensary may transfer to or accept from registered caregivers and dispensaries in wholesale transactions an unlimited amount of immature marijuana plants and seedlings. A dispensary that acquires mature marijuana plants, marijuana products or marijuana concentrate in a wholesale transaction under this subparagraph may not resell the mature marijuana plants, marijuana products or marijuana concentrate except to a qualifying patient or to a caregiver or dispensary to assist a qualifying patient;
- (4) **(CONFLICT: Text as repealed and replaced by PL 2019, c. 354, §7)** Transfer to and accept from a registered caregiver or another dispensary marijuana plants and harvested marijuana in a wholesale transaction in accordance with this paragraph. A dispensary may transfer in wholesale transactions for reasonable compensation or for no remuneration up to 75% of the mature marijuana plants grown by the dispensary over the course of a calendar year, including any marijuana products or marijuana concentrate manufactured from that 75% of the mature marijuana plants grown by the dispensary. A dispensary may transfer to or accept from registered caregivers and dispensaries in wholesale transactions an unlimited amount of immature marijuana plants and seedlings. A dispensary that acquires mature marijuana plants, marijuana products or marijuana concentrate in a wholesale transaction under this subparagraph may not resell the mature marijuana plants, marijuana products or marijuana concentrate except to a qualifying patient or to a caregiver or dispensary to assist a qualifying patient;
- (5) Transfer harvested marijuana to a manufacturing facility and accept marijuana products and marijuana concentrate from the manufacturing facility that are produced from the harvested marijuana the dispensary provided to the manufacturing facility; and
- (6) Provide samples to a marijuana testing facility for testing and research purposes; [PL 2019, c. 331, §24 (AMD); PL 2019, c. 354, §7 (RPR).]
- G. Conduct marijuana testing at the request of anyone authorized to possess marijuana plants or harvested marijuana under this chapter for research and development purposes only; [PL 2019, c. 331, §25 (RPR).]
- H. Manufacture marijuana products for medical use, except that a dispensary may not prepare food, as defined in section 2152, subsection 4, unless licensed pursuant to section 2167; [PL 2017, c. 452, §16 (NEW).]
- I. Manufacture marijuana concentrate for medical use, except that a dispensary may not produce marijuana concentrate using inherently hazardous substances unless authorized pursuant to section 2423-F, subsection 3; [PL 2017, c. 452, §16 (NEW).]
- J. Provide harvested marijuana to a manufacturing facility and obtain marijuana products and marijuana concentrate from the manufacturing facility that is produced from the harvested marijuana the registered dispensary provided to the manufacturing facility; [PL 2017, c. 452, §16 (NEW).]



K. Hire any number of assistants to assist in performing the duties of the dispensary; and [PL 2017, c. 452, §16 (NEW).]

L. Transport marijuana plants and harvested marijuana as necessary to carry out the activities authorized under this section. [PL 2017, c. 452, §16 (NEW).]  
[PL 2019, c. 331, §§22-25 (AMD); PL 2019, c. 354, §7 (AMD).]

**2. Registration requirements.**

[PL 2017, c. 452, §16 (RP).]

**3. Rules.**

[PL 2017, c. 452, §16 (RP).]

**4. Expiration.**

[PL 2017, c. 452, §16 (RP).]

**5. Inspection.**

[PL 2017, c. 452, §16 (RP).]

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

A. [PL 2017, c. 452, §16 (RP).]

B. A dispensary may not be located within 500 feet of the property line of a preexisting public or private school. [PL 2009, c. 631, §42 (AMD); PL 2009, c. 631, §51 (AFF).]

C. [PL 2017, c. 452, §16 (RP).]

D. [PL 2017, c. 452, §16 (RP).]

E. A dispensary shall implement appropriate security measures to deter and prevent unauthorized entrance into areas containing marijuana plants and harvested marijuana and the theft of marijuana plants and harvested marijuana at the dispensary and the one permitted additional location at which the dispensary cultivates marijuana plants for medical use by qualifying patients. [PL 2019, c. 331, §26 (AMD).]

F. The operating documents of a dispensary must include procedures for the oversight of the dispensary and procedures to ensure accurate record keeping in accordance with section 2430-G. [PL 2017, c. 452, §16 (AMD).]

G. [PL 2017, c. 452, §16 (RP).]

H. All officers or directors of a dispensary must be residents of this State. [PL 2017, c. 452, §16 (AMD).]

I. All cultivation of marijuana plants must take place in a cultivation area unless the marijuana plants are being transported pursuant to subsection 1-A, paragraph L. Access to the cultivation area is limited to a cardholder who is an officer or director or assistant of the dispensary when acting in that cardholder's official capacity, except that an elected official invited by an officer or director or assistant for the purpose of providing education to the elected official on cultivation by the dispensary, emergency services personnel, an assistant of a marijuana testing facility or a person who needs to gain access to the cultivation area in order to perform repairs or maintenance or to do construction may access the cultivation area to provide professional services while under the direct supervision of a cardholder who is an officer or director or assistant of the dispensary. [PL 2017, c. 452, §16 (AMD).]

J. [PL 2017, c. 452, §16 (RP).]

K. A dispensary shall display the dispensary's registration certificate issued under section 2425-A in a publicly visible location in the dispensary. [PL 2017, c. 452, §16 (AMD).]

L. [PL 2017, c. 452, §16 (RP).]

M. [PL 2017, c. 452, §16 (RP).]

N. [PL 2017, c. 452, §16 (RP).]  
[PL 2019, c. 331, §26 (AMD).]

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

[PL 2017, c. 452, §16 (AMD).]

### **8. Immunity.**

[PL 2009, c. 631, §42 (RP); PL 2009, c. 631, §51 (AFF).]

#### **8-A. Immunity.**

[PL 2017, c. 452, §16 (RP).]

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

A. [PL 2017, c. 452, §16 (RP).]

B. A dispensary may not dispense, deliver or otherwise transfer marijuana plants or harvested marijuana except as provided in this chapter. [PL 2019, c. 331, §27 (AMD).]

C. [PL 2017, c. 452, §16 (RP).]

D. A person who has been convicted of a disqualifying drug offense may not be an officer or director or assistant of a dispensary.

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

(2) A person who is an officer or director or assistant of a dispensary in violation of this paragraph and who at the time of the violation has been previously found to have violated this paragraph commits a Class D crime. [PL 2017, c. 452, §16 (AMD).]

E. [PL 2017, c. 452, §16 (RP).]

F. A dispensary may not contract for the cultivation of seeds of a marijuana plant, seedlings or immature marijuana plants, except that a dispensary may engage in wholesale transactions in accordance with subsection 1-A, paragraph F, subparagraph (4). [PL 2017, c. 452, §16 (AMD).]

G. A registered dispensary may not use a pesticide on marijuana plants except a pesticide that is used consistent with federal labeling requirements, is registered with the Department of Agriculture, Conservation and Forestry, Board of Pesticides Control pursuant to Title 7, section 607 and is used consistent with best management practices for pest management approved by the Commissioner of Agriculture, Conservation and Forestry. A registered dispensary may not in the cultivation of marijuana plants use a pesticide unless at least one registered dispensary assistant involved in the application of the pesticide is certified pursuant to section 1471-D and all other registered dispensary assistants who have direct contact with treated plants have completed safety training pursuant to 40 Code of Federal Regulations, Section 170.130. A registered dispensary assistant who is not certified pursuant to section 1471-D and who is involved in the application of the pesticide or handling of the pesticide or equipment must first complete safety training described in 40 Code of Federal Regulations, Section 170.230. [PL 2017, c. 452, §16 (AMD).]

[PL 2019, c. 331, §27 (AMD).]

**10. Local regulation.**

[PL 2017, c. 447, §22 (RP); PL 2017, c. 452, §16 (RP).]

**11. Limitation on number of dispensaries.**

[PL 2017, c. 452, §16 (RP).]

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

A. In addition to the 8 dispensary registration certificates issued as of April 1, 2018, the department shall issue 6 dispensary registration certificates to applicants that the department determines meet all criteria established in rule. Of the new registration certificates issued after April 1, 2018, the department may not issue more than one additional registration certificate to any dispensary operating in the State on April 1, 2018 or to its successor in interest and the department may not issue more than one dispensary registration certificate to any person that did not hold a dispensary registration certificate as of April 1, 2018. After January 1, 2021, the department may not limit the number of registration certificates it issues to a person to operate as a dispensary. [PL 2017, c. 452, §16 (NEW).]

B. The department shall issue a registration certificate to a dispensary that operated as a nonprofit entity prior to April 1, 2018 if 2/3 of the officers or directors of the entity that is the successor in interest of that nonprofit entity were officers or directors of the nonprofit entity at the time the nonprofit entity ceased existing as a nonprofit entity. The registration certificate of a dispensary operating as a nonprofit entity prior to April 1, 2018 expires upon the cessation of existence of the nonprofit entity unless an entity that is the successor in interest to that nonprofit entity and that meets the requirements of this paragraph is capable of operating under the registration certificate at substantially the same time the nonprofit entity ceases existence. The registration certificate issued to the entity that is the successor in interest to the nonprofit entity under this paragraph expires on the date the registration certificate issued to the nonprofit entity would have expired. [PL 2017, c. 452, §16 (NEW).]

[PL 2017, c. 452, §16 (NEW).]

**12. Labels.**

[PL 2017, c. 452, §16 (RP).]

**13. Reorganization to for-profit status.** Any of the 8 registered dispensaries that were issued registration certificates as of April 1, 2018 and that are operating as nonprofit entities may convert to a for-profit entity pursuant to this subsection. A registered dispensary established pursuant to subsection 11-A, paragraph A that was not issued a dispensary registration certificate before April 1, 2018 and operates as a nonprofit entity may not convert to a for-profit entity.

A. A registered dispensary that is operating as a nonprofit entity may enter into any of the following transactions to reorganize the registered dispensary as a for-profit entity:

- (1) A registered dispensary operating as a nonprofit entity may merge with and into a business corporation formed pursuant to Title 13-C;
- (2) A business corporation formed pursuant to the laws of this State may purchase substantially all of the assets of a registered dispensary operating as a nonprofit entity; and
- (3) Notwithstanding any provision of the law to the contrary in this Title, Title 13-B or Title 13-C, a registered dispensary operating as a nonprofit entity is entitled to convert into a domestic business corporation by adopting a plan of entity conversion in accordance with Title 13-C, section 953 that is approved by a vote of 2/3 of the members of the board of directors of the nonprofit entity at a meeting duly called for that purpose or by unanimous written consent.

A plan of entity conversion adopted pursuant to this subparagraph must be signed and submitted to the Secretary of State on a form prescribed by the Secretary of State, must be executed and filed in the manner prescribed in Title 13-C, section 955 and is subject to Title 13-C, section 957. If the Secretary of State finds that such filings comply with this subparagraph, the Secretary of State shall accept the filings. [PL 2019, c. 312, §1 (NEW).]

B. Notwithstanding Title 13-B, section 718, and notwithstanding any provision to the contrary in the articles of incorporation or the bylaws of a registered dispensary operating as a nonprofit entity, there exists no conflict of interest nor violation of fiduciary duty for the directors of a registered dispensary operating as a nonprofit entity for the limited purposes of:

- (1) Approving a transaction in order to reorganize pursuant to this section as set forth in paragraph A, subparagraph (1), (2) or (3);
- (2) Issuing any shares, membership interests or other securities, obligations, rights to acquire interests or other securities, cash or other property in order to reorganize pursuant to this section; or
- (3) Designating the directors or a business corporation in which the directors hold interests as members of a nonprofit entity that previously had no members in order to reorganize pursuant to this section. [PL 2019, c. 312, §1 (NEW).]

C. The patients of a registered dispensary that is operating as a nonprofit entity may not be deemed members entitled to vote under Title 13-B, section 604, nor may such patients be deemed members for purposes of a merger, purchase or conversion reorganization transaction pursuant to this subsection. [PL 2019, c. 312, §1 (NEW).]

D. If a registered dispensary reorganizes as a for-profit entity pursuant to this section and subsequently sells or transfers its interest in the reorganized registered dispensary, the registered dispensary or the dispensary's successor in interest, shall pay to the Medical Use of Marijuana Fund established under section 2430 a percentage of the value of the sale or transfer of interest, as determined by an independent appraisal at the time of the sale or transfer of interest, in accordance with this paragraph:

- (1) If the sale or transfer of interest is completed in the first year after the reorganization, the amount paid to the Medical Use of Marijuana Fund must equal 10% of the value of the sale or transfer of interest;
- (2) If the sale or transfer of interest is completed in the 2nd year after the reorganization, the amount paid to the Medical Use of Marijuana Fund must equal 7.5% of the value of the sale or transfer of interest;
- (3) If the sale or transfer of interest is completed in the 3rd year after the reorganization, the amount paid to the Medical Use of Marijuana Fund must equal 5% of the value of the sale or transfer of interest; and
- (4) If the sale or transfer of interest is completed in the 4th year after the reorganization, the amount paid to the Medical Use of Marijuana Fund must equal 2.5% of the value of the sale or transfer of interest.

The cost of an appraisal required under this paragraph must be paid from the Medical Use of Marijuana Fund. [PL 2019, c. 312, §1 (NEW).]

E. A registered dispensary that reorganizes as a for-profit entity pursuant to this section, or the dispensary's successor in interest if the dispensary sells or transfers its interest in the reorganized registered dispensary, shall demonstrate to the department as a condition of registration pursuant to section 2425 that the registered dispensary or the dispensary's successor in interest has provided

discounts in an amount that is not less than 2% of gross sales of the registered dispensary in the previous year to qualifying patients who:

- (1) Are receiving hospice care;
- (2) Are 65 years of age or older;
- (3) Have a family income that is equal to or below 400% of the nonfarm income official poverty line; or
- (4) Are veterans of the United States Armed Forces.

The department shall submit a report to the joint standing committee of the Legislature having jurisdiction over health and human services matters by January 15, 2023 regarding the discounts provided by registered dispensaries or the dispensary's successor in interest pursuant to this paragraph. A registered dispensary subject to this paragraph shall provide to the commissioner an annual accounting demonstrating compliance with this paragraph.

This paragraph is repealed July 1, 2023. [PL 2019, c. 312, §1 (NEW).]

F. A registered dispensary subject to paragraph D shall provide to the Attorney General the independent appraisal required in paragraph D. [PL 2019, c. 312, §1 (NEW).]

G. Except as provided in paragraph F, a transaction pursuant to this subsection does not require any approval or notice under the provisions of Title 5, chapter 9. [PL 2019, c. 312, §1 (NEW).]

H. The registration status of a registered dispensary that has completed a reorganization transaction pursuant to this subsection is governed by subsection 11-A, paragraph B. [PL 2019, c. 312, §1 (NEW).]

[PL 2019, c. 312, §1 (NEW).]

#### SECTION HISTORY

IB 2009, c. 1, §5 (NEW). PL 2009, c. 631, §42 (AMD). PL 2009, c. 631, §51 (AFF). PL 2011, c. 407, Pt. B, §32 (AMD). RR 2013, c. 1, §41 (COR). PL 2013, c. 371, §4 (AMD). PL 2013, c. 374, §2 (AMD). PL 2013, c. 393, §4 (AMD). PL 2013, c. 394, §§7, 8 (AMD). PL 2013, c. 498, §2 (AMD). PL 2013, c. 501, §2 (AMD). PL 2013, c. 503, §§2-6 (AMD). PL 2013, c. 516, §15 (AMD). PL 2015, c. 475, §§ 22-24 (AMD). PL 2017, c. 409, Pt. E, §9 (AMD). PL 2017, c. 447, §§19-22 (AMD). PL 2017, c. 452, §16 (AMD). PL 2019, c. 312, §1 (AMD). PL 2019, c. 331, §§22-27 (AMD). PL 2019, c. 354, §7 (AMD).

#### §2429. Enforcement

#### (REPEALED)

#### SECTION HISTORY

IB 2009, c. 1, §5 (NEW). PL 2009, c. 631, §51 (AFF). PL 2009, c. 631, §§43, 44 (AMD). PL 2011, c. 407, Pt. B, §§33, 34 (AMD). PL 2017, c. 452, §17 (RP).

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

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

- A. Prepackaged in child-resistant and tamper-evident packaging or placed in child-resistant and tamper-evident packaging with a signifier that the package contains harvested marijuana at the final point of sale to a qualifying patient; [PL 2017, c. 452, §18 (NEW).]
- B. Prepackaged in opaque packaging or an opaque container or placed in opaque packaging or an opaque container with a signifier that the package contains harvested marijuana at the final point of sale to a qualifying patient; [PL 2017, c. 452, §18 (NEW).]

C. Packaged in a container with an integral measurement component and child-resistant cap if the marijuana product is a multiserving liquid; and [PL 2017, c. 452, §18 (NEW).]

D. In conformity with all other applicable requirements and restrictions imposed by rule by the department. [PL 2017, c. 452, §18 (NEW).]

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

[PL 2017, c. 452, §18 (NEW).]

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

A. Labeled or packaged in violation of a federal trademark law or regulation or in a manner that would cause a reasonable consumer confusion as to whether the harvested marijuana was a trademarked product; [PL 2017, c. 452, §18 (NEW).]

B. Labeled or packaged in a manner that is specifically designed to appeal particularly to a person under 21 years of age; [PL 2017, c. 452, §18 (NEW).]

C. Labeled or packaged in a manner that obscures identifying information on the label or uses a false or deceptive label; [PL 2017, c. 452, §18 (NEW).]

D. Sold or offered for sale using a label or packaging that depicts a human, animal or fruit; or [PL 2017, c. 452, §18 (NEW).]

E. Labeled or packaged in violation of any other labeling or packaging requirement or restriction imposed by rule by the department. [PL 2017, c. 452, §18 (NEW).]

[PL 2017, c. 452, §18 (NEW).]

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

[PL 2017, c. 452, §18 (NEW).]

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

[PL 2019, c. 331, §28 (AMD).]

## SECTION HISTORY

PL 2017, c. 452, §18 (NEW). PL 2019, c. 331, §28 (AMD).

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

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

A. Be misleading, deceptive or false; [PL 2017, c. 452, §18 (NEW).]

B. Involve mass-market advertising or marketing campaigns that have a high likelihood of reaching persons under 21 years of age or that are specifically designed to appeal particularly to persons under 21 years of age; [PL 2017, c. 452, §18 (NEW).]

C. Be placed or otherwise used within 1,000 feet of the property line of a preexisting public or private school, except that, if a municipality chooses to prohibit the placement or use of signs or advertising by or on behalf of a registered caregiver or dispensary at distances greater than or less

than 1,000 feet but not less than 500 feet from the property line of a preexisting public or private school, that greater or lesser distance applies; [PL 2017, c. 452, §18 (NEW).]

D. Violate any other requirement or restriction on signs, advertising and marketing imposed by the department by rule pursuant to subsection 2; or [PL 2017, c. 452, §18 (NEW).]

E. Market to any person authorized to possess marijuana plants or harvested marijuana under this chapter and specifically to any adult use or recreational marijuana market within the same sign, advertisement or marketing material. [PL 2019, c. 331, §29 (AMD).]

[PL 2019, c. 331, §29 (AMD).]

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

A. A prohibition on health or physical benefit claims in advertising or marketing, including, but not limited to, health or physical benefit claims on the label or packaging of harvested marijuana; [PL 2017, c. 452, §18 (NEW).]

B. A prohibition on unsolicited advertising or marketing on the Internet, including, but not limited to, banner advertisements on mass-market websites; [PL 2017, c. 452, §18 (NEW).]

C. A prohibition on opt-in advertising or marketing that does not permit an easy and permanent opt-out feature; and [PL 2017, c. 452, §18 (NEW).]

D. A prohibition on advertising or marketing directed toward location-based devices, including, but not limited to, cellular telephones, unless the marketing is a mobile device application installed on the device by the owner of the device who is 21 years of age or older and includes a permanent and easy opt-out feature. [PL 2017, c. 452, §18 (NEW).]

[PL 2017, c. 452, §18 (NEW).]

## SECTION HISTORY

PL 2017, c. 452, §18 (NEW). PL 2019, c. 331, §29 (AMD).

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

In addition to all other applicable provisions of this chapter, edible marijuana products to be sold or offered for sale in a retail transaction in accordance with this chapter: [PL 2017, c. 452, §18 (NEW).]

**1. Cannabinoid content.** Must be manufactured in a manner that results in the cannabinoid content within the product being homogeneous throughout the product or throughout each element of the product that has a cannabinoid content; [PL 2017, c. 452, §18 (NEW).]

**2. Marijuana content.** Must be manufactured in a manner that results in the amount of marijuana concentrate within the product being homogeneous throughout the product or throughout each element of the product that contains marijuana concentrate; [PL 2017, c. 452, §18 (NEW).]

**3. Shape.** May not be manufactured in the distinct shape of a human, animal or fruit; [PL 2017, c. 452, §18 (NEW).]

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

A. Toxic or harmful to human beings; or [PL 2017, c. 452, §18 (NEW).]

B. Specifically designed to make the product appeal particularly to a person under 21 years of age; and [PL 2017, c. 452, §18 (NEW).]

[PL 2017, c. 452, §18 (NEW).]

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

[PL 2019, c. 331, §30 (AMD).]

#### SECTION HISTORY

PL 2017, c. 452, §18 (NEW). PL 2019, c. 331, §30 (AMD).

#### §2429-D. Local regulation

Pursuant to the home rule authority granted under the Constitution of Maine, Article VIII, Part Second and Title 30-A, section 3001, a municipality may regulate registered caregivers, caregiver retail stores operating pursuant to section 2423-A, subsection 2, paragraph P, registered dispensaries, marijuana testing facilities and manufacturing facilities. [PL 2019, c. 217, §5 (AMD).]

A municipality may not: [PL 2017, c. 452, §18 (NEW).]

**1. Registered caregivers.** Prohibit or limit the number of registered caregivers; [PL 2017, c. 452, §18 (NEW).]

**2. Stores, dispensaries, testing and manufacturing facilities.** Prohibit caregiver retail stores, registered dispensaries, marijuana testing facilities and manufacturing facilities that are operating with municipal approval in the municipality prior to the effective date of this section. For purposes of this subsection, "municipal approval" means an examination and approval of the store, dispensary or facility for the use of the premises consistent with conduct authorized under this chapter, including, but not limited to, a conditional use approval or site plan approval. "Municipal approval" does not include issuance of a building, electrical or other similar permit or authorization that does not address the use of the structure or facility for which the permit or authorization is issued; or [PL 2019, c. 217, §5 (AMD).]

**3. Municipal authorization needed.** Authorize caregiver retail stores, registered dispensaries, marijuana testing facilities and manufacturing facilities that are not operating on the effective date of this section to operate in the municipality unless the municipal legislative body, as defined in Title 30-A, section 2001, subsection 9, has voted to adopt or amend an ordinance or approve a warrant article allowing caregiver retail stores, registered dispensaries, marijuana testing facilities or manufacturing facilities, as applicable, to operate within the municipality. [PL 2019, c. 217, §5 (AMD).]

#### SECTION HISTORY

PL 2017, c. 452, §18 (NEW). PL 2019, c. 217, §5 (AMD).

#### §2430. Medical Use of Marijuana Fund established

**1. Fund established.** The Medical Use of Marijuana Fund, referred to in this section as "the fund," is established as an Other Special Revenue Funds account in the department for the purposes specified in this section.

[PL 2017, c. 409, Pt. E, §10 (AMD).]

**2. Sources of fund.** The State Controller shall credit to the fund:

A. All money received as a result of applications and reapplications for registration as a qualifying patient, caregiver, dispensary, manufacturing facility and marijuana testing facility; [PL 2017, c. 452, §19 (AMD).]

B. All money received as a result of applications and reapplications for registry identification cards for registered patients, caregivers, dispensaries and officers or directors or assistants of registered



caregivers, dispensaries, manufacturing facilities and marijuana testing facilities; [PL 2017, c. 452, §20 (AMD).]

C. All penalties and fines assessed for violations of this chapter; [PL 2009, c. 631, §45 (NEW); PL 2009, c. 631, §51 (AFF).]

D. All money from any other source, whether public or private, designated for deposit into or credited to the fund; [PL 2019, c. 312, §2 (AMD).]

E. Interest earned or other investment income on balances in the fund; and [PL 2019, c. 312, §2 (AMD).]

F. All money received as a result of a reorganization of a registered dispensary operating as a nonprofit entity to a for-profit entity pursuant to section 2428, subsection 13, paragraph D. [PL 2019, c. 312, §3 (NEW).]

[PL 2019, c. 312, §§2, 3 (AMD).]

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

A. The cost of the tax deductions provided pursuant to Title 36, section 5122, subsection 2, paragraph PP and Title 36, section 5200-A, subsection 2, paragraph BB. By June 1st annually, the State Tax Assessor shall determine the cost of those deductions during the prior calendar year and report that amount to the State Controller, who shall transfer that amount from the remaining funds in the fund to the General Fund; and [PL 2017, c. 452, §21 (NEW).]

B. The cost of the position in the Department of Administrative and Financial Services, Bureau of Revenue Services to administer the tax deductions provided pursuant to Title 36, section 5122, subsection 2, paragraph PP and Title 36, section 5200-A, subsection 2, paragraph BB. By June 1st annually, the Commissioner of Administrative and Financial Services shall determine the cost of the position in the bureau to administer those deductions during the prior calendar year and report that amount to the State Controller, who shall transfer that amount from the remaining funds in the fund to the General Fund. [PL 2017, c. 452, §21 (NEW).]

[PL 2017, c. 452, §21 (AMD).]

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

[PL 2017, c. 452, §22 (NEW).]

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

[PL 2019, c. 331, §31 (AMD).]

#### SECTION HISTORY

PL 2009, c. 631, §45 (NEW). PL 2009, c. 631, §51 (AFF). PL 2015, c. 475, §25 (AMD). PL 2017, c. 409, Pt. E, §10 (AMD). PL 2017, c. 452, §§19-22 (AMD). PL 2019, c. 312, §§2, 3 (AMD). PL 2019, c. 331, §31 (AMD).

#### §2430-A. Compliance

**(REPEALED)**

#### SECTION HISTORY

PL 2009, c. 631, §46 (NEW). PL 2009, c. 631, §51 (AFF). PL 2013, c. 516, §16 (RPR). PL 2015, c. 475, §26 (AMD). PL 2017, c. 452, §23 (RP).

#### §2430-B. Admissibility of records

A certificate, signed by the commissioner or the commissioner's designee, stating what the records of the department show on any given matter related to this chapter is admissible in evidence in all courts of this State to prove what the records of the department are on that matter. Upon testimony of a law enforcement officer that the certificate and records were obtained by that law enforcement officer from the department, the court shall admit that certificate and those records as evidence without any further foundation or testimony. If the department stores records in a computer or similar device, a printout or other output readable by sight of information stored in the department's computer or similar device, certified by the commissioner or the commissioner's designee as an accurate reflection of the stored information, is admissible in evidence to prove the content of the records. [PL 2011, c. 383, §5 (NEW); PL 2011, c. 407, Pt. B, §35 (NEW).]

#### SECTION HISTORY

PL 2011, c. 383, §5 (NEW). PL 2011, c. 407, Pt. B, §35 (NEW).

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

**1. Rights of persons or entities acting pursuant to this chapter.** A person whose conduct is authorized under this chapter may not be denied any right or privilege or be subjected to arrest, prosecution, penalty or disciplinary action, including but not limited to a civil penalty or disciplinary action by a business or occupational or professional licensing board or bureau, for lawfully engaging in conduct involving the medical use of marijuana authorized under this chapter. [PL 2017, c. 452, §24 (NEW).]

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

A. If the use of a form of harvested marijuana that is not smoked, including but not limited to edible marijuana products and tinctures and salves of marijuana, by an admitted patient who has been certified under section 2423-B occurs in a hospital, that hospital is not subject to prosecution, search, seizure or penalty in any manner, including but not limited to a civil penalty or disciplinary action by an occupational or professional licensing board or entity, and may not be denied any license, registration, right or privilege solely because the admitted patient lawfully engages in conduct involving the medical use of marijuana authorized under this chapter. [PL 2017, c. 452, §24 (NEW).]

B. If the use of a form of harvested marijuana consistent with a long-term facility's policy by an admitted patient who has been certified under section 2423-B occurs in the long-term care facility, that long-term care facility is not subject to prosecution, search, seizure or penalty in any manner, including but not limited to a civil penalty or disciplinary action by an occupational or professional licensing board or entity, and may not be denied any license, registration, right or privilege solely because the admitted patient lawfully engages in conduct involving the medical use of marijuana authorized under this chapter. [PL 2017, c. 452, §24 (NEW).]

C. An officer or director, employee or agent of a hospital or long-term care facility where the use of a form of harvested marijuana that is not smoked or vaporized, including but not limited to edible marijuana products and tinctures and salves of marijuana, by an admitted patient who has been certified under section 2423-B occurs is not subject to arrest, prosecution, search, seizure or penalty in any manner, including but not limited to a civil penalty or disciplinary action by an occupational or professional licensing board or entity, and may not be denied any license, registration, right or privilege solely because the admitted patient lawfully engages in conduct involving the medical use of marijuana authorized under this chapter. [PL 2017, c. 452, §24 (NEW).]

[PL 2017, c. 452, §24 (NEW).]

**3. School, employer or landlord may not discriminate.** A school, employer or landlord may not refuse to enroll or employ or lease to or otherwise penalize a person solely for that person's status as a qualifying patient or a caregiver unless failing to do so would put the school, employer or landlord in violation of federal law or cause it to lose a federal contract or funding. This subsection does not prohibit a restriction on the administration or cultivation of marijuana on premises when that administration or cultivation would be inconsistent with the general use of the premises. A landlord or business owner may prohibit the smoking of marijuana for medical purposes on the premises of the landlord or business if the landlord or business owner prohibits all smoking on the premises and posts notice to that effect on the premises.

[PL 2017, c. 452, §24 (NEW).]

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

[PL 2017, c. 452, §24 (NEW).]

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

[PL 2017, c. 452, §24 (NEW).]

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

officer fails to return marijuana possessed in violation of this subsection within 7 days of receiving a written request for return of the marijuana under this subsection, the owner of the marijuana may file a claim in the District Court in the district where the owner lives or where the law enforcement officer is employed.

[PL 2017, c. 452, §24 (NEW).]

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

A. If the person is a qualifying patient or visiting qualifying patient, present upon request of a law enforcement officer the original written certification for the patient and the patient's government-issued identification that includes a photo and proof of address; or [PL 2017, c. 452, §24 (NEW).]

B. If the person is a caregiver, present upon request of a law enforcement officer the original written document designating the person as a caregiver by the qualifying patient under section 2423-A, subsection 1, paragraph F-1 and the caregiver's government-issued identification that includes a photo and proof of address. [PL 2017, c. 452, §24 (NEW).]

[PL 2017, c. 452, §24 (NEW).]

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

[PL 2017, c. 452, §24 (NEW).]

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

A. A caregiver, marijuana testing facility, manufacturing facility or dispensary is not subject to prosecution, search, seizure or penalty in any manner, including but not limited to a civil penalty or disciplinary action by a business or an occupational or professional licensing board or entity, and may not be denied any right or privilege solely for acting in accordance with this section to assist with the medical use of marijuana in accordance with this chapter. [PL 2017, c. 452, §24 (NEW).]

B. An officer or director or assistant of a caregiver, marijuana testing facility, manufacturing facility or dispensary is not subject to arrest, prosecution, search, seizure or penalty in any manner, including but not limited to a civil penalty or disciplinary action by a business or an occupational or professional licensing board or entity, and may not be denied any right or privilege solely for working for or with a caregiver, marijuana testing facility, manufacturing facility or dispensary to provide marijuana plants and marijuana products to qualifying patients, caregivers, dispensaries, manufacturing facilities or marijuana testing facilities or to otherwise assist with the medical use of marijuana in accordance with this chapter. [PL 2017, c. 452, §24 (NEW).]

[PL 2017, c. 452, §24 (NEW).]

## SECTION HISTORY

PL 2017, c. 452, §24 (NEW).

### §2430-D. Collectives prohibited

Collectives are prohibited under this chapter. A person may not form or participate in a collective. The following relationships are not collectives and are not prohibited: [PL 2017, c. 452, §24 (NEW).]

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

- A. Consult with each other to assist the same qualifying patient; [PL 2017, c. 452, §24 (NEW).]
- B. Refer a qualifying patient to a caregiver to obtain specialized marijuana plants or harvested marijuana; [PL 2017, c. 452, §24 (NEW).]
- C. Obtain specialized marijuana plants or harvested marijuana from another caregiver to assist the same qualifying patient; or [PL 2017, c. 452, §24 (NEW).]
- D. Transfer harvested marijuana pursuant to section 2423-A, subsection 2, paragraph K; [PL 2017, c. 452, §24 (NEW).]  
[PL 2017, c. 452, §24 (NEW).]

**2. Employer and assistant relationship.** Two caregivers to the extent the relationship is as employer and assistant; or  
[PL 2017, c. 452, §24 (NEW).]

**3. Caregivers sharing common areas.** Any number of caregivers who are operating separately and occupying separate spaces within a common facility to engage in activities authorized under section 2423-A, subsection 2, even if they also share utilities or common areas, including but not limited to storage areas and building facilities, and who do not share marijuana plants or harvested marijuana resulting from the cultivation of those plants.  
[PL 2017, c. 452, §24 (NEW).]

#### SECTION HISTORY

PL 2017, c. 452, §24 (NEW).

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

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

- A. Possession of harvested marijuana by a qualifying patient or a caregiver operating under section 2423-A, subsection 3, paragraph C in an excess amount up to 1 1/4 ounces commits a civil violation for which a fine of not less than \$350 and not more than \$600 must be adjudged, none of which may be suspended; [PL 2017, c. 452, §24 (NEW).]
- B. Possession of harvested marijuana by a qualifying patient or a caregiver operating under section 2423-A, subsection 3, paragraph C in an excess amount over 1 1/4 ounces and up to 2 1/2 ounces commits a civil violation for which a fine of not less than \$700 and not more than \$1,000 must be adjudged, none of which may be suspended; and [PL 2017, c. 452, §24 (NEW).]
- C. Possession of harvested marijuana by a qualifying patient or a caregiver operating under section 2423-A, subsection 3, paragraph C in an excess amount over 2 1/2 ounces is a violation of Title 17-A, chapter 45. [PL 2017, c. 452, §24 (NEW).]  
[PL 2017, c. 452, §24 (NEW).]

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

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

[PL 2017, c. 452, §24 (NEW).]

**3. Defense for possession of excess marijuana.** Except as provided in section 2426, a qualifying patient may assert the medical purpose for using marijuana as a defense to any prosecution involving marijuana possession and may present evidence in court that the patient's necessary medical use or cultivation circumstances warranted exceeding the amount of marijuana allowed under section 2423-A and was reasonably necessary to ensure the uninterrupted availability of marijuana for the purpose of treating or alleviating the patient's medical diagnosis or symptoms associated with the patient's medical diagnosis that, in a medical provider's professional opinion, may be alleviated by the therapeutic or palliative medical use of marijuana.

[PL 2017, c. 452, §24 (NEW).]

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

[PL 2017, c. 452, §24 (NEW).]

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

[PL 2017, c. 452, §24 (NEW).]

## SECTION HISTORY

PL 2017, c. 452, §24 (NEW).

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

**1. Department suspension or revocation.** The department may suspend or revoke a registry identification card for violation of this chapter and the rules adopted under this chapter. Revocation in accordance with section 2430-E, subsection 2 is considered a final agency action, subject to judicial review under Title 5, chapter 375, subchapter 7. Unless otherwise specified as final agency action, a person who has had authorization for conduct under this chapter revoked due to failure to comply with this chapter and rules adopted by the department may request an informal hearing. The department shall adopt rules to specify the period of time, which may not exceed one year, that the person whose registry identification card was revoked is ineligible for reauthorization under this chapter. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

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

[PL 2017, c. 452, §24 (NEW).]

**2. Suspension or revocation of registry identification card.** The department shall revoke the registry identification card of a cardholder who sells, furnishes or gives marijuana to a person who is not authorized to possess marijuana for medical purposes under this chapter. A cardholder who sells, furnishes or gives marijuana to a person who is not authorized to possess marijuana for medical purposes under this chapter is liable for any other penalties for selling, furnishing or giving marijuana

to a person. The department may suspend or revoke the registry identification card of any cardholder who violates this chapter, and the cardholder is liable for any other penalties for the violation.

[PL 2017, c. 452, §24 (NEW).]

#### SECTION HISTORY

PL 2017, c. 452, §24 (NEW).

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

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

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

- (1) Keep a record of all transfers of marijuana plants and harvested marijuana;
- (2) Keep the books and records maintained by the registered caregiver, registered dispensary, marijuana testing facility or manufacturing facility for a period of 7 years;
- (3) Complete an annual audit of business transactions of the registered caregiver, registered dispensary, marijuana testing facility or manufacturing facility by an independent 3rd party; and
- (4) Make the books and records maintained under this subsection available to inspection by the department upon the department's demand.

Records kept under this paragraph must avoid identifying qualifying patients. [PL 2017, c. 452, §24 (NEW).]

B. The department shall develop and implement a statewide electronic portal through which registered caregivers, registered dispensaries, marijuana testing facilities and manufacturing facilities may submit to the department the records required under paragraph A and in accordance with rules adopted by the department. A registered caregiver, registered dispensary, marijuana testing facility and manufacturing facility shall pay all costs and fees associated with the use of this electronic portal and all other fees associated with the keeping of records required in this section in accordance with rules adopted by the department. The department shall adopt rules regarding the process and content of records to be submitted, the frequency with which the records must be submitted, the costs and fees associated with using the electronic portal and any other requirements necessary to implement this paragraph. [PL 2019, c. 331, §32 (AMD).]

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

- (1) The person transferring the marijuana plants or harvested marijuana, including the person's registry identification number;
- (2) The person receiving the marijuana plants or harvested marijuana, including the person's registry identification number or, if the person is not required to register under this chapter, a unique identifier assigned to the person;
- (3) A description of the marijuana plants or harvested marijuana being transferred, including the amount and form;
- (4) The time and date of the transfer; and
- (5) The destination of the marijuana plants or harvested marijuana. [PL 2017, c. 452, §24 (NEW).]

The department may adopt rules to implement this subsection.  
[PL 2019, c. 331, §32 (AMD).]

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

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

- (1) May not enter the dwelling unit of a registered caregiver if the registered caregiver is not present; and
- (2) May inspect only the area of a dwelling unit where activity authorized under this chapter occurs.

The department shall specify in writing to the registered caregiver or an officer or director or assistant of a registered caregiver, registered dispensary, marijuana testing facility or manufacturing facility the grounds contained in the complaint when conducting an inspection in response to a complaint. [PL 2017, c. 452, §24 (NEW).]

B. The department shall adopt rules:

- (1) Establishing standards for compliance with this chapter that are available publicly;
- (2) Establishing inspection procedures that prevent contamination of any operations undertaken by the registered caregiver, registered dispensary, marijuana testing facility or manufacturing facility in compliance with this chapter; and
- (3) Requiring a registered caregiver to report on the location within the registered caregiver's home where activity authorized under this chapter is occurring.

Rules adopted by the department pursuant to this paragraph may require that an annual compliance inspection is a condition of eligibility for renewal of a registration under this chapter. [PL 2017, c. 452, §24 (NEW).]

C. The department may suspend, revoke or refuse to renew the registration identification card or registration certificate of a registered caregiver, a registered dispensary, a marijuana testing facility or a manufacturing facility that refuses or willfully avoids 2 or more inspections under this subsection. A person whose registry identification card or registration certificate has been suspended, revoked or not renewed under this subsection may request a hearing in accordance with Title 5, chapter 375, subchapter 4. [PL 2017, c. 452, §24 (NEW).]

D. The department may not conduct inspections of a qualifying patient or caregiver operating under section 2423-A, subsection 2, paragraph C. [PL 2017, c. 452, §24 (NEW).]  
[PL 2017, c. 452, §24 (NEW).]

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

A. Any violation of this chapter or rule adopted under this chapter governing the operations of the registered caregiver, registered dispensary, marijuana testing facility or manufacturing facility to the department within one business day of discovering the violation; and [PL 2017, c. 452, §24 (NEW).]



B. Any suspected illegal activity involving the operations of the registered caregiver, registered dispensary, marijuana testing facility or manufacturing facility to the department and law enforcement within 24 hours of discovering the suspected illegal activity. [PL 2017, c. 452, §24 (NEW).]

[PL 2017, c. 452, §24 (NEW).]

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

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

[PL 2017, c. 452, §24 (NEW).]

#### SECTION HISTORY

PL 2017, c. 452, §24 (NEW). PL 2019, c. 331, §32 (AMD).

#### §2430-H. Fines collected

Fines collected pursuant to this chapter and rules adopted by the department must be credited to the Medical Use of Marijuana Fund pursuant to section 2430. [PL 2017, c. 452, §24 (NEW).]

#### SECTION HISTORY

PL 2017, c. 452, §24 (NEW).

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