

MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION
2

3 ONE HUNDRED AND ELEVENTH LEGISLATURE
4

5 Legislative Document

No. 1025

6
7 S.P. 351

In Senate, March 4, 1983

8 Referred to the Committee on Health and Institutional Services. Sent
9 down for concurrence and ordered printed.

10 JOY J. O'BRIEN, Secretary of the Senate

Presented by Senator Gill of Cumberland.

Cosponsors: Senator Carpenter of Aroostook, Senator Diamond of
11 Cumberland and Representative MacBride of Presque Isle.

12 STATE OF MAINE
13

14 IN THE YEAR OF OUR LORD
15 NINETEEN HUNDRED AND EIGHTY-THREE
16

17 AN ACT to Establish a Program for Thera-
18 peutic Use of Marijuana.
19

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

22 22 MRSA c. 558-B is enacted to read:

23 CHAPTER 558-B

24 MARIJUANA THERAPEUTIC RESEARCH PROGRAM

25 §2411. Short title

26 This chapter may be cited as the "Marijuana
27 Therapeutic Research Act."

28 §2412. Findings and purpose

1 The Legislature finds that research has recently
2 indicated that the use of marijuana may alleviate
3 nausea and certain other side effects of cancer
4 chemotherapy as well as some symptoms of glaucoma.
5 The Legislature also finds that further research and
6 strictly controlled experimentation regarding the
7 therapeutic uses of marijuana is necessary and desir-
8 able. The purpose of this chapter is to facilitate
9 and encourage this research and experimentation.

10 §2413. Definitions

11 As used in this chapter, unless the context indi-
12 cates otherwise, the following terms have the follow-
13 ing meanings.

14 1. Board. "Board" means the Participation
15 Review Board.

16 2. Commissioner. "Commissioner" means the Com-
17 missioner of Human Services.

18 3. Department. "Department" means the Depart-
19 ment of Human Services.

20 4. Marijuana. "Marijuana" means marijuana,
21 tetrahydrocannabinols or a chemical derivative of
22 tetrahydrocannabinols.

23 5. Practitioner. "Practitioner" means an
24 allopathic or osteopathic physician licensed to prac-
25 tice in this State.

26 6. Program. "Program" means the Marijuana
27 Therapeutic Research Program.

28 §2414. Marijuana Therapeutic Research Program

29 1. Establishment; administration. There is
30 established within the department a Marijuana
31 Therapeutic Research Program which shall be adminis-
32 tered by the commissioner.

33 2. Rules. Subject to Title 5, chapter 375, the
34 department shall adopt rules necessary for the proper
35 administration of the program. In adopting rules, the
36 department shall consider pertinent rules adopted by

1 the Drug Enforcement Agency, the Food and Drug Admin-
2 istration, the National Institute on Drug Abuse and
3 any other federal agency concerned with the subject
4 of this chapter.

5 3. Supply. The commissioner shall contract with
6 the National Institute on Drug Abuse for the receipt
7 of marijuana under rules adopted by the National
8 Institute on Drug Abuse, the Food and Drug Adminis-
9 tration and the Drug Enforcement Agency. If, within a
10 reasonable period of time, the commissioner is unable
11 to obtain marijuana as provided in this subsection,
12 he shall contract with appropriate law enforcement
13 agencies in this State for the receipt of confiscated
14 marijuana not intended for use as evidence in any
15 criminal proceeding. Any marijuana so received shall
16 be made free of impurities and analyzed for potency
17 by the department.

18 4. Distribution. The commissioner shall deliver
19 marijuana received under subsection 3 to appropriate
20 state or privately operated licensed pharmacies des-
21 ignated by the commissioner. Any marijuana so deliv-
22 ered shall be distributed to patients upon the writ-
23 ten prescription of their approved practitioner. Any
24 privately operated licensed pharmacy designated by
25 the commissioner under this section shall not be lia-
26 ble, except for gross negligence, in any civil action
27 on account of marijuana distributed to patients under
28 this chapter.

29 §2415. Participation Review Board

30 The commissioner shall appoint a Participation
31 Review Board to review practitioners for participa-
32 tion in the program. The board shall serve at the
33 commissioner's pleasure and shall consist of:

34 1. Physician licensed to practice in this State;
35 American Board of Ophthalmology. A physician li-
36 censed to practice in this State and certified by the
37 American Board of Ophthalmology;

38 2. Physician licensed to practice in this State;
39 American Board of Internal Medicine. A physician li-
40 censed to practice in this State and certified by the
41 American Board of Internal Medicine and also certi-
42 fied in the subspecialty of medical oncology; and

1 3. Physician licensed to practice in this State;
2 American Board of Psychiatry. A physician licensed
3 to practice in this State and certified by the Ameri-
4 can Board of Psychiatry.

5 Members of the board may be reimbursed for their
6 attendance at meetings at the rate of \$40 per day.

7 §2416. Participation in the program

8 1. Application. Any practitioner who wants to
9 participate in the program shall apply to the board
10 for approval and pay a \$25 application fee.

11 2. Review and approval. The board shall review
12 all applicants and, if they are eligible under sub-
13 section 3 and the rules adopted by the department
14 under section 2414, subsection 2, shall approve them
15 for participation. In performing these duties, the
16 board shall be subject to Title 5, chapter 375.

17 3. Prescriptions. A practitioner approved for
18 participation in the program may prescribe marijuana
19 to only those patients who are undergoing cancer
20 chemotherapy or suffering from glaucoma and are in a
21 life-threatening or sense-threatening situation, and
22 who are not responding to conventional treatment or
23 who are suffering severe side effects even though
24 conventional treatment is proving effective.

25 §2417. Expressly authorized possession, prescription
26 and distribution

27 A practitioner approved for participation in the
28 program is expressly authorized to prescribe mari-
29 juana under this chapter. A patient for whom mari-
30 juana has been prescribed by a practitioner approved
31 for participation in the program is expressly author-
32 ized to possess marijuana under this chapter. A state
33 or privately operated licensed pharmacy designated by
34 the commissioner is expressly authorized to possess
35 and distribute marijuana under this chapter.

36 §2418. Confidentiality

37 1. Access to information. Only the following
38 persons shall have access to the names and other

1 identifying characteristics of patients for whom mar-
2 ijuana has been prescribed under this chapter:

3 A. The commissioner;

4 B. The board;

5 C. The Attorney General or his designee;

6 D. Any person directly connected with the pro-
7 gram who has a legitimate need for the informa-
8 tion; and

9 E. Any person for whom access has been specifi-
10 cally authorized by a patient.

11 Meetings and records of the board shall not be sub-
12 ject to the requirements of Title 1, chapter 13.

13 2. Exceptions. Nothing in this section may
14 affect the right to inspect the records of any phar-
15 macy under Title 17-A, section 1113, or prohibit ac-
16 cess to or release of information concerning any per-
17 sons acting under color of this chapter with respect
18 to conduct not expressly authorized by this chapter.

19 §2419. Reports

20 The commissioner and the board shall annually
21 report their findings and recommendations regarding
22 the program to the Governor and the Legislature.

23 §2420. Two-year sunset

24 This chapter shall be repealed 2 years after it
25 becomes effective.

26 STATEMENT OF FACT

27 It is now a medically accepted fact that some
28 patients benefit significantly from the controlled
29 use of analyzed marijuana under a physician's super-
30 vision. Research has shown that nausea and other
31 side effects of chemotherapy as well as the symptoms
32 of glaucoma, may be relieved by its use in certain

1 instances. Recent experiments also indicate that
2 there are some other conditions which can be simi-
3 larly alleviated. This bill acknowledges these medi-
4 cal findings and establishes a mechanism by which the
5 use of marijuana for medical purposes can be strictly
6 controlled. It is modeled after legislation in
7 several other states, such as Florida, Louisiana,
8 Illinois and New Mexico.

9 Specifically, the bill creates a Marijuana
10 Therapeutic Research Program administered by the Com-
11 missioner of Human Services. The Board of Registra-
12 tion in Medicine must review any patient wishing to
13 participate in the program, and participation is
14 limited to cancer chemotherapy and glaucoma patients
15 who are not responding to conventional treatment or
16 who are suffering severe side effects, and any other
17 patients where medical evidence presented to the
18 board justifies their participation. If the board
19 approves a patient, his physician may write a pre-
20 scription which can be filled at a state-operated
21 licensed pharmacy designated by the board. The com-
22 missioner may obtain analyzed marijuana available
23 from the Federal Government and deliver it to the
24 pharmacy for dispensing to any approved patient with
25 a written prescription from his physician. The com-
26 missioner and the board shall make an annual report
27 to the Governor and the Legislature, enabling both
28 the Legislative and Executive branches to monitor the
29 program closely.

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