

MAINE STATE LEGISLATURE

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130th MAINE LEGISLATURE

SECOND REGULAR SESSION-2022

Legislative Document

No. 1948

S.P. 685

In Senate, January 26, 2022

**An Act To Enhance Access to, Education Regarding and Patient and
Community Safety in Maine's Marijuana Programs**

(EMERGENCY)

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

Reference to the Committee on Veterans and Legal Affairs suggested and ordered printed.

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

DAREK M. GRANT
Secretary of the Senate

Presented by Senator CLAXTON of Androscoggin.
Cosponsored by Representative WILLIAMS of Bar Harbor and
Senators: HICKMAN of Kennebec, President JACKSON of Aroostook, POULIOT of
Kennebec, TIMBERLAKE of Androscoggin, Representatives: DILLINGHAM of Oxford,
SUPICA of Bangor.

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

3 **Whereas,** this legislation is necessary to immediately increase access to and safety of
4 medical marijuana; and

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

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

10 **Sec. 1. 22 MRSA §2422, sub-§1-G** is enacted to read:

11 **1-G. Batch number.** "Batch number" means a unique combination of numbers and
12 letters associated with a batch of harvested marijuana. A batch number includes an 8-digit
13 number representing the year, month and day of the month followed by a description of the
14 harvested marijuana that is 2 to 8 letters in length followed by the registration number of
15 the caregiver, dispensary or manufacturing facility that harvested the plant material or
16 manufactured the marijuana product or marijuana concentrate.

17 **Sec. 2. 22 MRSA §2422, sub-§4-C,** as amended by PL 2017, c. 452, §3, is further
18 amended to read:

19 **4-C. Medical provider.** "Medical provider" means a physician licensed under Title
20 32, chapter 36 or 48, a naturopathic doctor licensed under Title 32, chapter 113-B, a
21 certified nurse practitioner licensed under Title 32, chapter 31 or a physician assistant
22 licensed under Title 32, chapter 36 or 48.

23 **Sec. 3. 22 MRSA §2422, sub-§4-T** is enacted to read:

24 **4-T. Marijuana tincture.** "Marijuana tincture" means a solution that is intended to
25 be consumed orally and is prepared from harvested marijuana blended with an edible
26 solvent. For the purposes of this subsection, "edible solvent" includes but is not limited to
27 edible oils, alcohol, glycerin, vinegar or witch hazel.

28 **Sec. 4. 22 MRSA §2422, sub-§5-D** is enacted to read:

29 **5-D. Packing slip.** "Packing slip" means a paper or card containing a batch number.

30 **Sec. 5. 22 MRSA §2422, sub-§14-C** is enacted to read:

31 **14-C. Telehealth services.** "Telehealth services" means health care services delivered
32 through the use of information technology and includes synchronous encounters,
33 asynchronous encounters, store and forward transfers and telemonitoring.

34 As used in this subsection, the following terms have the following meanings.

35 A. "Asynchronous encounter" means an interaction between an individual and a
36 medical provider through a system that has the ability to store digital information,
37 including, but not limited to, still images, video files, audio files, text files and other
38 relevant data, and to transmit such information without requiring the simultaneous
39 presence of the individual and the medical provider.

1 B. "Store and forward transfer" means the transmission of an individual's records
2 through a secure electronic system to a medical provider.

3 C. "Synchronous encounter" means a real-time interaction conducted with an
4 interactive audio or video connection between an individual and a medical provider or
5 between a medical provider and another medical provider.

6 D. "Telemonitoring" means the use of information technology to remotely monitor an
7 individual's health status via electronic means, allowing the medical provider to track
8 the individual's health data over time. Telemonitoring may be synchronous or
9 asynchronous.

10 **Sec. 6. 22 MRSA §2423-B, sub-§2-A**, as amended by PL 2021, c. 387, §4, is
11 further amended to read:

12 **2-A. Minor qualifying patient.** A medical provider who provides a written
13 certification to a patient who has not attained 18 years of age shall:

14 A. ~~Shall~~ Prior to providing written certification, inform the qualifying patient and the
15 parent, legal guardian or person having legal custody of the patient of the risks and
16 benefits of the medical use of marijuana and that the patient may benefit from the
17 medical use of marijuana; and

18 ~~B. May provide a written certification to a qualifying patient if the patient is eligible~~
19 ~~for hospice services and has a medical diagnosis that, in the medical provider's~~
20 ~~professional opinion, may be alleviated by the therapeutic or palliative medical use of~~
21 ~~marijuana;~~

22 ~~C. May provide a written certification to a qualifying patient if the patient has a~~
23 ~~medical diagnosis of epilepsy, cancer, a developmental disability or an intellectual~~
24 ~~disability that, in the medical provider's professional opinion, may be alleviated by the~~
25 ~~therapeutic or palliative medical use of marijuana; and~~

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

40 ~~The parent, legal guardian or person having legal custody of a qualifying patient who~~
41 ~~has not attained 18 years of age may submit a request to the department for~~
42 ~~reimbursement of the costs associated with obtaining a 2nd opinion required by this~~
43 ~~paragraph. Requests must be submitted on a form developed by the department. The~~
44 ~~department shall review the family's annual income and expenses in determining~~

1 whether to reimburse the family from the Medical Use of Marijuana Fund under section
2 2430 for the cost of the required 2nd consultation.

3 The department shall adopt routine technical rules as defined in Title 5, chapter 375,
4 subchapter 2-A to implement the reimbursement request under this paragraph, except
5 that, beginning July 1, 2021, rules adopted pursuant to this paragraph are major
6 substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

7 E. Provide the parent, legal guardian or person having legal custody of the qualifying
8 patient with a reliable method of communicating with the medical provider at all times,
9 including when the medical provider's office is closed, regarding the proper dosage of
10 and mitigation of any side effects caused by marijuana used by the qualifying patient
11 for medical purposes.

12 The department shall adopt major substantive rules as defined in Title 5, chapter 375,
13 subchapter 2-A as necessary to implement the requirements of this subsection.

14 **Sec. 7. 22 MRSA §2423-B, sub-§9** is enacted to read:

15 **9. Telehealth.** A medical provider providing a written certification for the medical
16 use of marijuana under this section may consult with a patient seeking a written certification
17 using telehealth services.

18 **Sec. 8. 22 MRSA §2429-A, sub-§1, ¶C**, as enacted by PL 2017, c. 452, §18, is
19 amended to read:

20 C. Packaged in a container with an integral measurement component and child-
21 resistant cap if the marijuana product is a multiserving liquid; and

22 **Sec. 9. 22 MRSA §2429-A, sub-§1, ¶C-1** is enacted to read:

23 C-1. Packaged in packaging or a container that is labeled with a batch number that
24 must appear in a print no smaller in size than 8-point print, Times New Roman font. If
25 the packaging or container for the harvested marijuana is too small to accommodate
26 the batch number, a packing slip must be given to the qualifying patient as part of the
27 sale; and

28 **Sec. 10. 22 MRSA §2429-E** is enacted to read:

29 **§2429-E. Wholesale packing slips**

30 Harvested marijuana transferred in a wholesale transaction under section 2423-A or
31 2428 must be accompanied by a packing slip.

32 **Sec. 11. 22 MRSA §2430-G, sub-§1, ¶D** is enacted to read:

33 D. A registered caregiver or registered dispensary engaging in the retail sale of
34 harvested marijuana shall report to the department by the 2nd Monday of each month
35 the total number of wholesale transactions and retail sales made by the registered
36 caregiver or registered dispensary and the total revenue generated by those transactions
37 and sales.

38 **Sec. 12. 22 MRSA §2430-G, sub-§1, ¶E** is enacted to read:

39 E. A registered caregiver or registered dispensary engaging in the retail sale of
40 harvested marijuana shall maintain a record of each batch number associated with a
41 retail sale, including a record of all ingredients included in the marijuana product sold

1 and the origin of all harvested marijuana included in the marijuana product sold. A
2 registered caregiver or registered dispensary must make the records maintained under
3 this paragraph available for inspection by the department upon the department's
4 demand.

5 **Sec. 13. 22 MRSA §2430-G, sub-§5** is enacted to read:

6 **5. Sales data reporting.** The department shall produce and publish each month on its
7 publicly accessible website a report summarizing the total number of wholesale
8 transactions and retail sales under this chapter and the total revenue generated by those
9 transactions and sales. Reports required under this section must also include separate
10 summaries of revenues accrued to the Medical Use of Marijuana Fund under section 2430,
11 as generated by registered caregivers and generated by registered dispensaries,
12 respectively. Data reported under this subsection may be represented only in aggregate
13 form and may not contain any information identifying registered caregivers, registered
14 dispensaries or qualifying patients.

15 **Sec. 14. 28-B MRSA §102, sub-§34-A** is enacted to read:

16 **34-A. Marijuana tincture.** "Marijuana tincture" means a marijuana product that is a
17 solution that is intended to be consumed orally and is prepared from marijuana plants
18 blended with an edible solvent. For the purposes of this subsection, "edible solvent"
19 includes but is not limited to edible oils, alcohol, glycerin, vinegar or witch hazel.

20 **Sec. 15. 28-B MRSA §105, sub-§3** is enacted to read:

21 **3. Sales data reporting requirements.** A licensee engaging in the retail sale of adult
22 use marijuana under this chapter shall report to the department by the 2nd Monday of each
23 month the total number of retail sales made by the licensee and the total revenue generated
24 by those sales.

25 **Sec. 16. 28-B MRSA §114** is enacted to read:

26 **§114. Sales data reporting**

27 The department shall produce and publish each month on its publicly accessible
28 website a report summarizing the total number of retail sales made by licensees under this
29 chapter and revenue generated by those sales. Data reported under this section may be
30 represented only in aggregate form and may not contain any information identifying
31 individual licensees or customers.

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

34 **SUMMARY**

35 This bill makes the following changes to the Maine Medical Use of Marijuana Act:

- 36 1. It defines the terms "batch number," "marijuana tincture," "packing slip" and
37 "telehealth services" and amends the definition of "medical provider";
- 38 2. It establishes requirements for the inclusion of batch numbers on the packaging or
39 container or on a packing slip for retail and wholesale transactions of harvested marijuana;
- 40 3. It amends the requirements for medical providers providing written certification to
41 qualifying patients who are minors including by imposing a requirement for medical

1 providers to be available after hours for questions about a minor patient's use of medical
2 marijuana;

3 4. It authorizes the use of telehealth services for medical providers to meet with
4 patients seeking a written certification for the medical use of marijuana;

5 5. It adds naturopathic doctors to the list of medical providers that may issue written
6 certifications and clarifies that medical providers who issue written certifications must be
7 licensed in Maine; and

8 6. It requires the Department of Administrative and Financial Services to publish on
9 its website a monthly report on sales data, as well as a breakdown of revenues generated
10 by registered caregivers and dispensaries.

11 The bill makes the following changes to the Marijuana Legalization Act:

12 1. It defines the term "marijuana tincture"; and

13 2. It requires the Department of Administrative and Financial Services to publish on
14 its website a monthly report on retail sales data.