

MAINE STATE LEGISLATURE

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119th MAINE LEGISLATURE

SECOND REGULAR SESSION-2000

Legislative Document

No. 2580

S.P. 1012

In Senate, February 22, 2000

An Act to Provide Legal Access to Marijuana for Medical Use.

(AFTER DEADLINE)

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.

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

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator RAND of Cumberland.
Cosponsored by Representative QUINT of Portland and
Senators: DAGGETT of Kennebec, PINGREE of Knox, Representatives: COWGER of
Hallowell, DUDLEY of Portland, MITCHELL of Vassalboro, SAXL of Portland, VOLENIK
of Brooklin.

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

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4 **Sec. 1. 22 MRSA §2383-B, sub-§3, ¶¶A-3 and A-4** are enacted to read:

6 A-3. "Agency" means the Department of Public Safety, Maine Drug Enforcement Agency.

8 A-4. "Division" means the Department of Human Services, Bureau of Medical Services, Division of Licensing and Certification.

12 **Sec. 2. 22 MRSA §2383-B, sub-§3, ¶C-1** is enacted to read:

14 C-1. "Registry identification card" means a document issued by the division that identifies a person authorized to engage in the medical use of marijuana and the person's designated caregiver, if any.

18 **Sec. 3. 22 MRSA §2383-B, sub-§3, ¶F** is enacted to read:

20 F. "Written documentation" means either:

22 (1) A statement signed by a physician who is providing treatment to an eligible patient; or

24 (2) An eligible patient's relevant medical records.

26 **Sec. 4. 22 MRSA §2383-B, sub-§§6 and 7** are enacted to read:

28 6. Voluntary patient registry. The division shall establish and maintain a system for the issuance of registry identification cards to eligible patients who submit to the division the information described in this subsection.

30 A. Except as otherwise provided in this subsection, the division shall issue a registry identification card to any eligible patient who pays an annual fee in an amount established by the division, but not to exceed \$50, and submits to the division the following information:

32 (1) Written documentation establishing that the eligible patient's physician has:

34 (a) Diagnosed the eligible patient with one or more of the conditions described in subsection 5, paragraph A, subparagraph (1);

2 (b) Discussed with the eligible patient the
issues identified in subsection 5, paragraph A,
subparagraph (2), division (a); and

4
6 (c) Provided the eligible patient with the
opinions and advice identified in subsection 5,
paragraph A, subparagraph (2), divisions (b) and
8 (c).

10 (2) The name, address and date of birth of the
eligible patient;

12
14 (3) The name, address and telephone number of the
physician providing the written documentation; and

16 (4) The name and address of the eligible patient's
designated caregiver, as defined in subsection 3,
18 paragraph A-1, if the eligible patient has designated
such a caregiver at the time of application.

20
22 B. An eligible patient applying for a registry
identification card pursuant to this subsection shall submit
24 the information required in this subsection to the
division. An eligible patient need not appear in person
26 before the division to apply for a registry identification
card.

28 C. The division may verify the information contained in an
application submitted pursuant to this subsection by
30 contacting the eligible patient's physician. The division
shall approve or deny application for a registry
32 identification card within 30 days of receipt of the
application.

34 D. The division may deny an application only for the
36 following reasons:

38 (1) The eligible patient did not provide the
information required by subsection 5, paragraph A; or,

40
42 (2) The division determines that the information
provided by the eligible patient was falsified.

44 E. Denial of a registry identification card is considered
final agency action and is subject to judicial review
46 pursuant to Title 5, chapter 375, subchapter VII. Only the
person whose application has been denied or, in the case of
48 a person under 18 years of age whose application has been
denied, the person's parent or legal guardian has standing
50 to contest the division's action.

2 F. Any person whose application has been denied may not
3 reapply for 6 months from the day of the denial unless so
4 authorized by the division or a court of competent
5 jurisdiction.

6
7 G. If the division has verified the information submitted
8 pursuant to this subsection and none of the reasons for
9 denial listed in paragraph D is applicable, the division
10 shall issue a serially numbered registry identification card
11 within 5 days of verification of the information. The
12 registry identification card must state:

13 (1) The eligible patient's address and date of birth;

14 (2) The date of issuance and expiration date of the
15 registry identification card; and

16 (3) The name and address of the eligible patient's
17 designated caregiver, if any.

18
19 H. If an eligible patient who possesses a registry
20 identification card issued pursuant to this subsection
21 chooses to have a designated caregiver, as defined in
22 subsection 3, paragraph A-1, the eligible patient must
23 designate the caregiver by including the designated
24 caregiver's name and address:

25 (1) On the eligible patient's application for a
26 registry identification card;

27 (2) In the annual updated information required under
28 paragraph J; or

29 (3) In a written signed statement submitted to the
30 division.

31
32 I. When the eligible patient to whom the division has
33 issued a registry identification card pursuant to this
34 subsection has specified a designated caregiver, the
35 division shall issue a registry identification card to the
36 designated caregiver as well as to the eligible patient.
37 The designated caregiver's registry identification card must
38 contain the information provided in paragraph G and must
39 bear the same serial number assigned by the division to the
40 designated caregiver's eligible patient followed by the
41 letter "C" to distinguish the designated caregiver's
42 registry identification card from that of the eligible
43 patient.

44

2 J. A person who possesses a registry identification card shall:

4 (1) Notify the division of any change in the eligible
6 patient's name, address, attending physician or
designated primary caregiver; and

8 (2) Annually submit to the division:

10 (a) Updated written documentation of the eligible
12 patient's medical condition;

14 (b) The name of the eligible patient's caregiver
if a designated caregiver has been designated for
16 the upcoming year; and

18 (c) The annual fee under paragraph A.

20 K. The initial expiration date of any registry
identification card is one year from the date of issuance.
22 If a person who possesses a registry identification card
fails to comply with this subsection, the card is deemed
24 expired. If a registry identification card expires, the
registry identification card of any designated caregiver of
26 the eligible patient also expires.

28 L. A person who possesses a registry identification card
pursuant to this subsection and who no longer satisfies the
30 requirements of an eligible patient as described by
subsection 5 shall return the registry identification card
32 to the division within 7 calendar days of receiving
notification that that person no longer satisfies these
34 requirements. Any designated caregiver shall return that
designated caregiver's registry identification card within
36 the same period of time.

38 M. The division shall create and maintain a list of the
eligible patients to whom the division has issued registry
40 identification cards pursuant to this subsection and the
names of any designated caregivers. Except as provided in
42 paragraph N, the list is confidential and not subject to
public disclosure.

44 N. Names and other identifying information from the list
established pursuant to paragraph M may be released to:

46 (1) Authorized employees of the division as necessary
48 to perform official duties of the division; and

2 (2) Authorized employees of state or local law
3 enforcement agencies only as necessary:

4 (a) To verify that a person presenting a registry
5 identification card to a state or local law
6 enforcement officer is an eligible patient or a
7 designated caregiver to whom the division has
8 issued a valid registry identification card
9 pursuant to this subsection; or

10 (b) To respond to an inquiry from a state or
11 local law enforcement agency that seeks to obtain
12 or enforce a search warrant that may target an
13 eligible patient.

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16 O. Notwithstanding this subsection, an eligible patient is
17 not required to obtain a registry identification card and an
18 eligible patient does not lose the protections afforded
19 under subsection 5 if the patient does not obtain a registry
20 identification card.

21
22 P. Any eligible patient possessing a valid registry
23 identification card is immune from arrest and prosecution
24 for the possession of marijuana pursuant to the limits and
25 restrictions created by subsection 5.

26
27 Q. Possession of a valid registry identification card
28 pursuant to this subsection does not alone constitute
29 probable cause to search the person or property of the
30 cardholder or otherwise subject the personal property of the
31 cardholder to inspection by any government agency.

32
33 7. Distribution. The agency is responsible for
34 administering a distribution program to provide marijuana from
35 the agency's supply of confiscated marijuana to eligible patients
36 and designated caregivers who hold valid registry identification
37 cards.

38
39 A. Any eligible patient or eligible patient's designated
40 caregiver presenting a valid registry identification card
41 along with a state-issued identification card or driver's
42 license to any of the agency's various regional task force
43 offices may obtain up to one ounce of marijuana from that
44 office.

45
46 B. The agency may verify the validity of a registry
47 identification card with the division but may not refuse to
48 provide marijuana or unreasonably delay the provision of
49 marijuana under this subsection pending completion of such
50 verification. The eligible patient or the designated

2 caregiver may not be required by the agency to provide any
4 additional identification or documentation at the time of
6 the request for marijuana other than a valid registry
8 identification card and a state-issued registry
10 identification card or driver's license.

12 C. No eligible patient, either individually or in
14 combination with the eligible patient's designated
16 caregiver, may receive more than 4 ounces of marijuana from
18 the agency within a 30-day period. For the purposes of
20 enforcing this limitation, the agency may maintain a list of
22 the serial numbers, as issued by the division pursuant to
24 subsection 6, of all eligible patients and designated
26 caregivers receiving marijuana, along with the amounts
28 received by such persons. The list may not contain any
30 identifying information, including but not limited to names
32 and addresses, other than serial numbers and amounts of
34 marijuana received.

36 D. The identity of eligible patients and designated
38 caregivers using the agency's distribution program is
40 confidential and is not subject to public disclosure.
42 Except as permitted by paragraph C, the agency and its
44 employees may not record or convey to nonagency employees
46 any information regarding the identity of persons receiving
48 marijuana from the agency pursuant to this subsection.

28 E. The agency shall make reasonable efforts to ensure that
30 all agency regional task force offices maintain a sufficient
32 supply of confiscated marijuana to satisfy requests for
34 marijuana from eligible patients and their designated
36 caregivers. An agency regional task force office that is
38 unable to fulfill a request for marijuana from an eligible
40 patient or a designated caregiver shall make reasonable
42 efforts to obtain sufficient confiscated marijuana to
44 satisfy the request.

46 F. The agency and its employees are free of all liability
48 related to the purity of the marijuana distributed under
2 this subsection and any other liability, whether civil or
4 criminal, related to the distribution of marijuana under
6 this subsection to an eligible patient or designated
8 caregiver with a valid registry identification card.

10 G. The eligible patient or designated caregiver assumes all
12 risk of impurities upon accepting marijuana from the agency.

SUMMARY

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This bill creates a voluntary registry for eligible patients and designated caregivers under the Maine Medical Marijuana Act of 1998 in the Department of Human Services, Bureau of Medical Services, Division of Licensing and Certification. The bill also creates a distribution system for such individuals to secure marijuana from the Department of Public Safety, Maine Drug Enforcement Agency. An eligible patient or designated caregiver would need a valid registry identification card in order to secure marijuana from the Maine Drug Enforcement Agency.