

MAINE STATE LEGISLATURE

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127th MAINE LEGISLATURE

FIRST REGULAR SESSION-2015

Legislative Document

No. 23

H.P. 22

House of Representatives, January 13, 2015

**An Act To Remove from the Maine Medical Use of Marijuana Act
the Requirement That a Patient's Medical Condition Be Debilitating**

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

Robert B. Hunt
ROBERT B. HUNT
Clerk

Presented by Representative RUSSELL of Portland.

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

2 **Sec. 1. 22 MRSA §2422, sub-§2**, as amended by PL 2013, c. 361, §1, is repealed.

3 **Sec. 2. 22 MRSA §2422, sub-§5**, as amended by PL 2011, c. 407, Pt. B, §5, is
4 further amended to read:

5 **5. Medical use.** "Medical use" means the acquisition, possession, cultivation,
6 manufacture, use, delivery, transfer or transportation of marijuana or paraphernalia
7 relating to the administration of marijuana to treat or alleviate a qualifying patient's
8 ~~debilitating~~ medical condition or symptoms associated with the patient's ~~debilitating~~
9 medical condition.

10 **Sec. 3. 22 MRSA §2422, sub-§9**, as amended by PL 2013, c. 516, §3, is further
11 amended to read:

12 **9. Qualifying patient.** "Qualifying patient" or "patient" means a person who has
13 been diagnosed by a medical provider as having a ~~debilitating~~ medical condition and who
14 possesses a valid written certification regarding medical use of marijuana in accordance
15 with section 2423-B.

16 **Sec. 4. 22 MRSA §2422, sub-§15**, as enacted by IB 2009, c. 1, §5, is amended to
17 read:

18 **15. Visiting qualifying patient.** "Visiting qualifying patient" means a qualifying
19 patient ~~with a debilitating medical condition~~ who is not a resident of this State or who has
20 been a resident of this State less than 30 days.

21 **Sec. 5. 22 MRSA §2422, sub-§16**, as amended by PL 2013, c. 516, §5, is further
22 amended to read:

23 **16. Written certification.** "Written certification" means a document on tamper-
24 resistant paper signed by a medical provider, that expires within one year and that states
25 that in the medical provider's professional opinion a patient is likely to receive therapeutic
26 or palliative benefit from the medical use of marijuana to treat or alleviate the patient's
27 ~~debilitating~~ medical condition or symptoms associated with the ~~debilitating~~ medical
28 condition. A written certification may be made only in the course of a bona fide medical
29 provider-patient relationship after the medical provider has completed a full assessment
30 of the qualifying patient's medical history.

31 **Sec. 6. 22 MRSA §2423-B, first ¶**, as amended by PL 2013, c. 516, §8, is further
32 amended to read:

33 A medical provider may provide a written certification for the medical use of
34 marijuana under this chapter and, after having done so, may otherwise state that in the
35 medical provider's professional opinion a qualifying patient is likely to receive
36 therapeutic benefit from the medical use of marijuana to treat or alleviate the patient's
37 ~~debilitating~~ medical condition.

1 **Sec. 7. 22 MRSA §2423-B, sub-§2**, as amended by PL 2013, c. 516, §8, is
2 further amended to read:

3 **2. Minor qualifying patient.** Prior to providing written certification for the medical
4 use of marijuana by a minor qualifying patient under this section, a medical provider,
5 referred to in this subsection as "the treating medical provider," shall inform the minor
6 qualifying patient and the parent or legal guardian of the patient of the risks and benefits
7 of the medical use of marijuana and that the patient may benefit from the medical use of
8 marijuana. Except with regard to a minor qualifying patient who is eligible for hospice
9 care, prior to providing a written certification under this section, the treating medical
10 provider shall consult with a qualified physician, referred to in this ~~paragraph~~ subsection
11 as "the consulting physician," from a list of physicians who may be willing to act as
12 consulting physicians maintained by the department that is compiled by the department
13 after consultation with statewide associations representing licensed medical professionals.
14 The consultation between the treating medical provider and the consulting physician may
15 consist of examination of the patient or review of the patient's medical file. The
16 consulting physician shall provide an advisory opinion to the treating medical provider
17 and the parent or legal guardian of the minor qualifying patient concerning whether the
18 patient is likely to receive therapeutic or palliative benefit from the medical use of
19 marijuana to treat or alleviate the patient's ~~debilitating~~ medical condition. If the
20 department or the consulting physician does not respond to a request by the treating
21 medical provider within 10 days of receipt of the request, the treating medical provider
22 may provide written certification for treatment without consultation with a physician.

23 **Sec. 8. 22 MRSA §2423-E, sub-§8**, as enacted by PL 2011, c. 407, Pt. B, §20, is
24 amended to read:

25 **8. Defense for possession of excess marijuana.** Except as provided in section
26 2426, a qualifying patient may assert the medical purpose for using marijuana as a
27 defense to any prosecution involving marijuana possession and may present evidence in
28 court that the patient's necessary medical use or cultivation circumstances warranted
29 exceeding the amount of marijuana allowed under section 2423-A and was reasonably
30 necessary to ensure the uninterrupted availability of marijuana for the purpose of treating
31 or alleviating the patient's ~~debilitating~~ medical condition or symptoms associated with the
32 patient's ~~debilitating~~ medical condition.

33 **Sec. 9. 22 MRSA §2424, sub-§2**, as repealed and replaced by PL 2011, c. 407,
34 Pt. B, §21, is repealed.

35 **Sec. 10. 22 MRSA §2425, sub-§6, ¶A**, as amended by PL 2013, c. 394, §5, is
36 further amended to read:

37 A. A registered qualifying patient shall notify the department within 10 days of any
38 change in the registered qualifying patient's name, address, primary caregiver or
39 preference regarding who may cultivate marijuana for the registered qualifying
40 patient, if the registry identification card is no longer accurate, if the change renders
41 the registry identification card inaccurate or if the registered qualifying patient ceases
42 to have a ~~debilitating~~ the medical condition for which the registered qualifying
43 patient obtained certification pursuant to section 2423-B.

