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Date: 4/13/18 Minority L.D. 1539 (Filing No. H-766)

HEALTH AND HUMAN SERVICES

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
128TH LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "B" to H.P. 1060, L.D. 1539, Bill, "An Act To Amend Maine's Medical Marijuana Law"

Amend the bill by striking out everything after the enacting clause and before the summary and inserting the following:

Sec. 1. 7 MRSA §2442, sub-§31-B, as enacted by PL 2017, c. 309, §2, is amended to read:

31-B. Registered caregiver. "Registered caregiver" means a primary caregiver who is registered by the Department of Health and Human Services pursuant to Title 22, section 2425, subsection 4 2425-A.

Sec. 2. 7 MRSA §2442, sub-§32, as amended by PL 2017, c. 309, §3, is further amended to read:

32. Registered dispensary. "Registered dispensary" means a nonprofit dispensary that is registered by the Department of Health and Human Services pursuant to Title 22, section 2428, subsection 2, paragraph A 2425-A.

Sec. 3. 7 MRSA §2454, sub-§1, as enacted by IB 2015, c. 5, §1, is amended to read:

1. Relation to the Maine Medical Use of Marijuana Act. This chapter may not be construed to limit any privileges or rights of a qualifying patient, primary caregiver, registered or otherwise, or registered dispensary under the Maine Medical Use of Marijuana Act.

Sec. 4. 22 MRSA §2152, sub-§4-A, as amended by PL 2011, c. 407, Pt. A, §2, is further amended to read:

4-A. Food establishment. "Food establishment" means a factory, plant, warehouse or store in which food and food products are manufactured, processed, packed, held for introduction into commerce or sold. "Food establishment" includes a primary caregiver, as defined in section 2422, subsection 8-A, and a registered dispensary, as defined in section 2422, subsection 6, that prepare food containing marijuana for medical use by a

COMMITTEE AMENDMENT

1 qualifying patient pursuant to chapter 558-C. The following establishments are not
2 considered food establishments required to be licensed under section 2167:

- 3 A. Eating establishments, as defined in section 2491, subsection 7;
- 4 B. Fish and shellfish processing establishments inspected under Title 12, section
5 6101, 6102 or 6856;
- 6 C. Storage facilities for native produce;
- 7 D. Establishments such as farm stands and farmers' markets primarily selling fresh
8 produce not including dairy and meat products;
- 9 E. Establishments engaged in the washing, cleaning or sorting of whole produce,
10 provided the produce remains in essentially the same condition as when harvested.
11 The whole produce may be packaged for sale, provided that packaging is not by a
12 vacuum packaging process or a modified atmosphere packaging process;
- 13 F. Establishments that are engaged in the drying of single herbs that are generally
14 recognized as safe under 21 Code of Federal Regulations, Sections 182 to 189. The
15 single herbs may be packaged for sale, provided that packaging is not by a vacuum
16 packaging process or a modified atmosphere packaging process; and
- 17 G. A ~~primary~~ caregiver, as defined in section 2422, subsection 8-A, conducting an
18 activity allowed in section 2423-A for a qualifying patient who is a member of the
19 family, as defined in section 2422, subsection 5-A, or member of the household, as
20 defined in section 2422, subsection 5-B, of the ~~primary~~ caregiver.

21 **Sec. 5. 22 MRSA §2158**, as amended by PL 2011, c. 407, Pt. A, §3 and c. 657, Pt.
22 W, §6, is further amended to read:

23 **§2158. Addition of certain substances limited**

24 Any poisonous or deleterious substance added to any food, except where such
25 substance is required in the production thereof or cannot be avoided by good
26 manufacturing practice, must be deemed to be unsafe for purposes of the application of
27 section 2156, subsection 1, paragraph B; but when such substance is so required or cannot
28 be avoided, the Commissioner of Agriculture, Conservation and Forestry shall adopt rules
29 limiting the quantity therein or thereon to such extent as the commissioner finds
30 necessary for the protection of public health, and any quantity exceeding the limits so
31 fixed must be deemed to be unsafe for purposes of the application of section 2156,
32 subsection 1, paragraph B. While such a rule is in effect limiting the quantity of any such
33 substance in the case of any food, such food may not, by reason of bearing or containing
34 any added amount of such substance, be considered to be adulterated within the meaning
35 of section 2156, subsection 1, paragraph A. In determining the quantity of such added
36 substance to be tolerated in or on different articles of food, the commissioner shall take
37 into account the extent to which the use of such substance is required or cannot be
38 avoided in the production of each such article and the other ways in which the consumer
39 may be affected by the same or other poisonous or deleterious substances. Goods that are
40 prepared by a ~~primary~~ caregiver under section 2152, subsection 4-A, paragraph G or in a
41 food establishment that is a licensed facility under section 2167 and that contain

1 marijuana for medical use by a qualifying patient, pursuant to chapter 558-C, are not
2 considered to be adulterated under this subchapter.

3 **Sec. 6. 22 MRSA §2422**, as amended by PL 2015, c. 475, §§1 to 5, is further
4 amended to read:

5 **§2422. Definitions**

6 As used in this chapter, unless the context otherwise indicates, the following terms
7 have the following meanings.

8 **1. Cardholder.** "Cardholder" means a ~~qualifying patient, a registered primary~~
9 ~~caregiver, an employee of a registered primary caregiver or a principal officer, board~~
10 ~~member or employee of a registered dispensary or a marijuana testing facility~~ person who
11 has been issued and possesses a valid registry identification card.

12 **1-A. Collective.** "Collective" means an association, cooperative, affiliation or group
13 of ~~primary~~ caregivers who physically assist each other in the act of cultivation, processing
14 or distribution of marijuana for medical use for the benefit of the members of the
15 collective.

16 **1-B. Certified nurse practitioner.** "Certified nurse practitioner" means a registered
17 professional nurse licensed under Title 32, chapter 31 who has received postgraduate
18 education designed to prepare the nurse for advanced practice registered nursing in a
19 clinical specialty in nursing that has a defined scope of practice and who has been
20 certified in the clinical specialty by a national certifying organization acceptable to the
21 State Board of Nursing.

22 **1-C. Assistant.** "Assistant" means a person paid to perform a service for a caregiver,
23 dispensary, manufacturing facility or marijuana testing facility in accordance with this
24 chapter, whether as an employee or independent contractor.

25 **1-D. Child-resistant.** "Child-resistant" means, with respect to packaging or a
26 container:

27 A. Specially designed or constructed to be significantly difficult for a typical child
28 under 5 years of age to open and not to be significantly difficult for a typical adult to
29 open and reseal; and

30 B. With respect to any product intended for more than a single use or that contains
31 multiple servings, resealable.

32 **2. Debilitating medical condition.** "Debilitating medical condition" means:

33 A. Cancer, glaucoma, positive status for human immunodeficiency virus, acquired
34 immune deficiency syndrome, hepatitis C, amyotrophic lateral sclerosis, agitation of
35 Alzheimer's disease, nail patella syndrome or the treatment of these conditions;

36 B. A chronic or debilitating disease or medical condition or its treatment that
37 produces intractable pain, which is pain that has not responded to ordinary medical or
38 surgical measures for more than 6 months;

1 ~~C. A chronic or debilitating disease or medical condition or its treatment that~~
2 ~~produces one or more of the following: cachexia or wasting syndrome; severe nausea;~~
3 ~~or seizures, including but not limited to those characteristic of epilepsy;~~

4 ~~D. Any other medical condition or its treatment as provided for in section 2424,~~
5 ~~subsection 2; or~~

6 ~~E. Post-traumatic stress disorder, inflammatory bowel disease, dyskinetic and spastic~~
7 ~~movement disorders and other diseases causing severe and persistent muscle spasms.~~

8 **3. Cultivation area.** ~~Enclosed, locked facility~~ Cultivation area means a closet,
9 room, building, greenhouse or other enclosed an indoor or outdoor area used for
10 cultivation in accordance with this chapter that is enclosed and equipped with locks or
11 other security devices that permit access only by ~~the individual~~ a person authorized to
12 cultivate the marijuana have access to the area under this chapter.

13 **3-A. Extended inventory supply interruption.** ~~Extended inventory supply~~
14 ~~interruption" means any circumstance that:~~

15 ~~A. Requires a registered dispensary to limit for more than a 2-week period the~~
16 ~~amount that a patient may purchase to less than 2 1/2 ounces during a 15-day period;~~
17 ~~or~~

18 ~~B. Prevents a registered dispensary from consistently offering for a 2-week period or~~
19 ~~longer a full range of strains of marijuana, including but not limited to strains rich in~~
20 ~~cannabidiol, to a patient.~~

21 **3-B. Edible marijuana product.** Edible marijuana product means a marijuana
22 product intended to be consumed orally, including, but not limited to, any type of food,
23 drink or pill containing harvested marijuana.

24 **3-C. Harvested marijuana.** Harvested marijuana means the plant material
25 harvested from a mature marijuana plant, except the stalks, leaves and roots of the plant
26 that are not used for a qualifying patient's medical use. "Harvested marijuana" includes
27 marijuana concentrate and marijuana products.

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

31 A. An offense for which the sentence, including any term of probation, incarceration
32 or supervised release, was completed 10 or more years earlier; or

33 B. An offense that consisted of conduct that would have been permitted under this
34 chapter.

35 **4-A. Incidental amount of marijuana.** ~~Incidental amount of marijuana" means an~~
36 ~~amount of nonflowering marijuana plants; marijuana seeds, stalks and roots; and~~
37 ~~harvested, dried unprepared marijuana defined by rules adopted by the department.~~

38 **4-B. Mature marijuana plant.** "Mature marijuana plant" means a harvestable
39 flowering female marijuana plant ~~that is flowering.~~

40 **4-C. Medical provider.** "Medical provider" means a physician ~~or~~ a certified nurse
41 practitioner or a physician assistant.

1 **4-D. Immature marijuana plant.** "Immature marijuana plant" means a
2 nonflowering marijuana plant that measures more than 24 inches from the base of the
3 main plant stalk to the most distant point of the plant's leaf stems or branches.

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

9 **4-F. Long-term care facility.** "Long-term care facility" means a hospice provider
10 facility licensed under chapter 1681; a nursing facility licensed under chapter 405; an
11 assisted living facility licensed under chapter 1663 or 1664; or a facility or program
12 licensed under chapter 1663 that provides care for a qualifying patient in accordance with
13 section 2423-A, subsection 1, paragraph F-1, subparagraph (2).

14 **4-G. Manufacture or manufacturing.** "Manufacture" or "manufacturing" means
15 the production, blending, infusing, compounding or other preparation of marijuana
16 concentrate and marijuana products, including, but not limited to, marijuana extraction or
17 preparation by means of chemical synthesis.

18 **4-H. Manufacturing facility.** "Manufacturing facility" means a registered tier 1 or
19 tier 2 manufacturing facility or a person authorized to engage in marijuana extraction
20 under section 2423-F.

21 **4-I. Marijuana concentrate.** "Marijuana concentrate" means the resin extracted
22 from any part of a marijuana plant and every compound, manufacture, salt, derivative,
23 mixture or preparation from such resin, including, but not limited to, hashish.

24 **4-J. Marijuana extraction.** "Marijuana extraction" means the process of extracting
25 marijuana concentrate from harvested marijuana using water, lipids, gases, solvents or
26 other chemicals or chemical processes.

27 **4-K. Marijuana plant.** "Marijuana plant" means a plant of the genus Cannabis,
28 including, but not limited to, Cannabis sativa, Cannabis indica and Cannabis ruderalis or
29 their hybrids and the seeds of those plants.

30 **4-L. Marijuana product.** "Marijuana product" means a product composed of
31 harvested marijuana and other ingredients that is intended for medical use. "Marijuana
32 product" includes, but is not limited to, an edible marijuana product, a marijuana
33 ointment and a marijuana tincture. "Marijuana product" does not include marijuana
34 concentrate.

35 **4-M. Nonflowering marijuana plant.** "Nonflowering marijuana plant" means a
36 marijuana plant that is in a stage of growth in which the plant's pistils are not showing or
37 the pistils protrude in pairs from seed bracts that may be located on multiple nodes of the
38 plant.

39 **5. Medical use.** "Medical use" means the acquisition, possession, cultivation,
40 manufacture, use, delivery, transfer or transportation of marijuana or paraphernalia
41 relating to the administration of marijuana to treat or alleviate a qualifying patient's
42 debilitating medical condition diagnosis or symptoms associated with the patient's

1 ~~debilitating medical condition for which a medical provider has provided the qualifying~~
2 ~~patient a written certification under this chapter.~~

3 **5-A. Member of the family.** "Member of the family" means a person who is a
4 resident of the State and who is a spouse, domestic partner, child, sibling, aunt, uncle,
5 niece, nephew, parent, stepparent, grandparent or grandchild of another person. "Member
6 of the family" includes a person who is a resident of the State and who is living with a
7 person as a spouse and a natural parent of a child of a person.

8 **5-B. Members of the same household.** "Members of the same household" means 2
9 or more people who ~~share a~~ are residents of the State and who reside in a shared dwelling
10 unit.

11 **5-C. Marijuana testing facility.** "Marijuana testing facility" means a public or
12 private laboratory that:

13 A. ~~Is licensed, certified or otherwise approved by the department authorized in~~
14 ~~accordance with rules adopted by the department under~~ section 2423-A, subsection
15 10, ~~paragraph D~~ to analyze contaminants in and the potency and cannabinoid profile
16 of samples; and

17 B. Is accredited pursuant to standard ISO/IEC 17025 of the International
18 Organization for Standardization by a 3rd-party accrediting body or is certified,
19 registered or accredited by an organization approved by the department.

20 **6. Registered dispensary.** "Registered dispensary" or "dispensary" means ~~a not for-~~
21 ~~profit an~~ entity registered under section ~~2428~~ 2425-A that acquires, possesses, cultivates,
22 manufactures, delivers, transfers, transports, sells, supplies or dispenses marijuana or
23 related supplies and educational materials to qualifying patients and the ~~primary~~
24 caregivers of those patients.

25 **6-B. Officer or director.** "Officer or director" means, when used with respect to
26 any nonprofit, for-profit or other organization governed by this chapter, a director,
27 manager, shareholder, board member, partner or other person holding a management
28 position or ownership interest in the organization.

29 **7. Physician.** "Physician" means a person licensed as an osteopathic physician by
30 the Board of Osteopathic Licensure pursuant to Title 32, chapter 36 or a person licensed
31 as a physician or surgeon by the Board of Licensure in Medicine pursuant to Title 32,
32 chapter 48 who is in good standing and who holds a valid federal Drug Enforcement
33 Administration license to prescribe drugs.

34 **7-A. Physician assistant.** "Physician assistant" means a person licensed as a
35 physician assistant by the Board of Osteopathic Licensure pursuant to Title 32, chapter 36
36 or a person licensed as a physician assistant by the Board of Licensure in Medicine
37 pursuant to Title 32, chapter 48 who is in good standing and who holds a valid federal
38 Drug Enforcement Administration license to prescribe drugs.

39 **8-A. Caregiver.** ~~"Primary caregiver~~ Caregiver" means a person or an ~~employee~~
40 ~~assistant~~ of that person, ~~a hospice provider licensed under chapter 1681 or a nursing~~
41 ~~facility licensed under chapter 405~~ that provides care for a qualifying patient in
42 accordance with section 2423-A, subsection 2. ~~A person who is a primary caregiver must~~

1 ~~be at least 21 years of age and may not have been convicted of a disqualifying drug~~
2 ~~offense.~~

3 **9. Qualifying patient.** ~~"Qualifying patient" or "patient" means a person who has~~
4 ~~been diagnosed by a medical provider as having a debilitating medical condition has been~~
5 ~~a resident of the State for at least 30 days and who possesses a valid written certification~~
6 ~~regarding medical use of marijuana in accordance with section 2423-B.~~

7 **9-A. Registration certificate.** "Registration certificate" means a document issued
8 by the department that identifies an entity as an entity that has registered with the
9 department in accordance with this chapter.

10 **9-B. Remuneration.** "Remuneration" means a donation or any other monetary
11 payment received directly or indirectly by a person in exchange for goods or services as
12 part of a transaction in which marijuana is transferred or furnished by that person to
13 another person.

14 ~~**10. Registered nonprofit dispensary.** "Registered nonprofit dispensary" means a~~
15 ~~nonprofit dispensary that is registered by the department pursuant to section 2428,~~
16 ~~subsection 2, paragraph A.~~

17 **11. Registered caregiver.** ~~"Registered primary caregiver" means a primary~~
18 ~~caregiver who is registered by the department pursuant to section 2425, subsection 4~~
19 ~~2425-A.~~

20 **12. Registered patient.** ~~"Registered patient" means a qualifying patient who is~~
21 ~~registered by the department pursuant to section 2425, subsection 1 2425-A.~~

22 **13. Registry identification card.** ~~"Registry identification card" means a document~~
23 ~~issued by the department that identifies a person as a registered primary caregiver, an~~
24 ~~employee of a registered primary caregiver or a principal officer, board member or~~
25 ~~employee of a dispensary or a marijuana testing facility person who has registered with~~
26 ~~the department in accordance with this chapter.~~

27 **13-A. Tamper-resistant paper.** ~~"Tamper-resistant paper" means paper that~~
28 ~~possesses an industry-recognized feature that prevents copying of the paper, erasure or~~
29 ~~modification of information on the paper and the use of counterfeit documentation.~~

30 **13-B. Resident of the State.** "Resident of the State" means a person who is
31 domiciled in the State.

32 **13-C. Tamper-evident.** "Tamper-evident" means, with respect to a device or
33 process, bearing a seal, a label or a marking that makes unauthorized access to or
34 tampering with a package, product or container easily detectable.

35 ~~**14. Prepared marijuana.** "Prepared marijuana" means the dried leaves and flowers~~
36 ~~and the by products of the dried leaves and flowers of the marijuana plant that require no~~
37 ~~further processing and any mixture or preparation of those dried leaves and flowers and~~
38 ~~by products, including but not limited to tinctures, ointments and other preparations, but~~
39 ~~does not include the seeds, stalks, leaves that are disposed of and not dried for use and~~
40 ~~roots of the plant and does not include the ingredients, other than marijuana, in tinctures,~~
41 ~~ointments or other preparations that include marijuana as an ingredient or food or drink~~
42 ~~prepared with marijuana as an ingredient for human consumption.~~

1 **14-A. Sample.** "Sample" means ~~any a marijuana plant or product containing~~
2 ~~marijuana regulated under this chapter~~ harvested marijuana that is provided for testing or
3 research purposes to a marijuana testing facility ~~by a qualifying patient, designated~~
4 ~~primary caregiver or dispensary.~~

5 **14-B. Seedling.** "Seedling" means a nonflowering marijuana plant or rooted cutting
6 that measures 24 inches or less from the base of the main plant stalk to the most distant
7 point of the plant's leaf stems or branches.

8 **15. Visiting qualifying patient.** "Visiting qualifying patient" means a patient ~~with a~~
9 ~~debilitating medical condition~~ who is authorized for the medical use of marijuana in this
10 State in accordance with section 2423-D and who is not a resident of ~~this~~ the State or who
11 has been a resident of ~~this~~ the State less than 30 days.

12 **16. Written certification.** "Written certification" means a document on tamper-
13 resistant paper signed by a medical provider; ~~that expires within one year is valid for the~~
14 ~~term provided by the qualifying patient's medical provider, except that the term of a~~
15 ~~written certification may not exceed one year,~~ and that states that in the medical
16 provider's professional opinion a patient is likely to receive therapeutic or palliative
17 benefit from the medical use of marijuana to treat or alleviate the patient's ~~debilitating~~
18 ~~medical condition~~ diagnosis or symptoms associated with the ~~debilitating~~
19 ~~medical condition~~ diagnosis. ~~A written certification may be made only in the course of a bona~~
20 ~~fide medical provider-patient relationship after the medical provider has completed a full~~
21 ~~assessment of the qualifying patient's medical history.~~

22 **Sec. 7. 22 MRSA §2423-A,** as amended by PL 2017, c. 271, §1, is further
23 amended to read:

24 **§2423-A. Authorized conduct for the medical use of marijuana**

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

26 A. Possess up to ~~2 1/2 ounces~~ 8 pounds of ~~prepared~~ harvested marijuana ~~and an~~
27 ~~incidental amount of marijuana as provided in subsection 5;~~

28 B. Cultivate, or designate a ~~primary caregiver to~~ operating under subsection 3,
29 paragraph C to cultivate under paragraph ~~F~~ F-1, subparagraph (1), up to a total of 6
30 mature marijuana plants, ~~12 immature marijuana plants and unlimited seedlings~~ for
31 that qualifying patient. The total number of mature marijuana plants per qualifying
32 patient, whether cultivated by the patient or by a ~~primary caregiver~~ operating under
33 subsection 3, paragraph C, may not exceed 6. ~~In addition to the 6 mature marijuana~~
34 ~~plants, the patient who is cultivating the patient's own marijuana may have harvested~~
35 ~~marijuana in varying stages of processing in order to ensure the patient is able to~~
36 ~~maintain supply and meet personal needs. The total number of immature marijuana~~
37 ~~plants per qualifying patient, whether cultivated by the patient or by a caregiver~~
38 ~~operating under subsection 3, paragraph C, may not exceed 12. Two or more~~
39 ~~qualifying patients who are members of the same household and cultivating their own~~
40 ~~marijuana plants may share one~~ enclosed, locked facility for cultivation area;

41 C. Possess marijuana paraphernalia;

1 D. Furnish or offer to furnish to another qualifying patient for that patient's medical
2 use of marijuana up to 2 1/2 ounces of prepared harvested marijuana if nothing of
3 value is offered or transferred in return for no remuneration;

4 ~~E. Designate one person, hospice provider or nursing facility as a primary caregiver~~
5 ~~to assist with the qualifying patient's medical use of marijuana in a standardized~~
6 ~~written document, developed by the department, signed and dated by the qualifying~~
7 ~~patient, including a one year expiration and the signed acknowledgment of the~~
8 ~~primary caregiver that the primary caregiver may be contacted to confirm the~~
9 ~~designation of the primary caregiver. A 2nd person or hospice provider or nursing~~
10 ~~facility may be designated as a 2nd primary caregiver if the patient is under 18 years~~
11 ~~of age. The primary caregivers for a patient are determined solely by the patient's~~
12 ~~preference except that a parent, guardian or person having legal custody shall serve as~~
13 ~~a primary caregiver for a minor child;~~

14 ~~F. Designate one primary caregiver or a registered dispensary to cultivate marijuana~~
15 ~~for the medical use of the patient, except that a hospice provider or a nursing facility~~
16 ~~that is designated as a primary caregiver by a patient and the staff of the provider or~~
17 ~~facility may not be designated to cultivate marijuana for the patient. The qualifying~~
18 ~~patient must designate the primary caregiver or registered dispensary to cultivate for~~
19 ~~the patient in a standardized written document, developed by the department, signed~~
20 ~~and dated by the qualifying patient, which must include a one year expiration, the~~
21 ~~total number of mature plants the primary caregiver is designated to cultivate and the~~
22 ~~signed acknowledgment of the primary caregiver that the primary caregiver may be~~
23 ~~contacted to confirm the designation of the primary caregiver to cultivate for the~~
24 ~~patient and the number of mature plants to be cultivated and being cultivated for the~~
25 ~~patient or the signed acknowledgment of a person on behalf of the registered~~
26 ~~dispensary that the registered dispensary may be contacted to confirm the designation~~
27 ~~of the dispensary to cultivate for the patient and the number of mature plants to be~~
28 ~~cultivated and being cultivated for the patient;~~

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

34 (1) A caregiver operating under subsection 3, paragraph C in order to have that
35 caregiver cultivate marijuana plants for the patient;

36 (2) A long-term care facility in order to have that facility assist with the
37 qualifying patient's medical use of harvested marijuana. A long-term care facility
38 that is designated by a patient may not be designated to cultivate marijuana plants
39 for the patient;

40 (3) A person in order to have that person obtain harvested marijuana on behalf of
41 the qualifying patient or transport the harvested marijuana to the qualifying
42 patient. The person must possess the person's government-issued photographic
43 identification that contains the person's address, the qualifying patient's written

1 certification and the qualifying patient's designation in order to engage in this
2 conduct; and

3 (4) A caregiver in order to have that caregiver possess and administer harvested
4 marijuana for the patient's medical use pursuant to section 2426, subsection 1-A
5 if the patient is enrolled in a preschool or primary or secondary school.

6 A designation pursuant to this paragraph must be in a standardized written document,
7 developed by the department, that is signed and dated by the qualifying patient or the
8 parent, legal guardian or person having legal custody of the qualifying patient and
9 expires on a date not to exceed the expiration date of the qualifying patient's written
10 certification. The document must include the signed acknowledgment of the person
11 or facility that the person or facility may be contacted to confirm the designation of
12 the person or facility to engage in the conduct authorized by the designation. The
13 document must also include, if applicable, the total number of mature marijuana
14 plants and immature marijuana plants the caregiver is cultivating for the patient;

15 F-2. Choose a caregiver based solely on the patient's preference, except that a parent,
16 legal guardian or person having legal custody of a qualifying patient who has not
17 attained 18 years of age must serve as one caregiver for the patient;

18 G. Be in the presence or vicinity of the medical use of marijuana and assist any
19 qualifying patient with using or administering marijuana;

20 H. Accept excess prepared marijuana plants or harvested marijuana from a primary
21 qualifying patient, caregiver in accordance with subsection 2, paragraph H or
22 registered dispensary if nothing of value no remuneration is provided to the primary
23 patient, caregiver or dispensary; and

24 I. Provide samples to a marijuana testing facility for testing and research purposes;

25 J. Manufacture marijuana products and marijuana concentrate for medical use,
26 except that a qualifying patient may not manufacture food, as defined in section 2152,
27 subsection 4, unless the qualifying patient is licensed pursuant to section 2167 and
28 except that a qualifying patient may not produce marijuana concentrate using
29 inherently hazardous substances unless authorized pursuant to section 2423-F,
30 subsection 3;

31 K. Provide harvested marijuana to a manufacturing facility and obtain marijuana
32 products and marijuana concentrate from the manufacturing facility that are produced
33 from the harvested marijuana the qualifying patient provided to the manufacturing
34 facility;

35 L. Transport marijuana plants or harvested marijuana for a qualifying patient's
36 medical use of marijuana in accordance with this chapter; and

37 M. Use harvested marijuana in any form, except as provided in subsection 4-A and
38 except that qualifying patients who have not attained 18 years of age may not engage
39 in smoking harvested marijuana. For the purposes of this paragraph, "smoking" has
40 the same meaning as in section 1541, subsection 6, except that "smoking" does not
41 include the use of a nebulizer.

1 2. **Caregiver.** Except as provided in section 2426, a primary caregiver, for the
2 purpose of assisting a qualifying patient who has designated the primary caregiver as
3 provided in subsection 4 with the patient's medical use of marijuana, may engage in the
4 following authorized conduct if the caregiver is a resident of the State, is 21 years of age
5 or older and has not been convicted of a disqualifying drug offense:

6 A. Possess up to ~~2 1/2~~ ounces of prepared marijuana and an incidental amount of
7 marijuana as provided in subsection 5 for each qualifying patient who has designated
8 the person as a primary caregiver all harvested marijuana produced by the caregiver's
9 cultivation of marijuana plants under paragraph B;

10 A-1. Transfer up to 2 1/2 ounces of harvested marijuana to a qualifying patient in
11 one transaction, except that a caregiver may not dispense more than 2 1/2 ounces of
12 harvested marijuana to a visiting qualifying patient during a 15-day period;

13 B. Cultivate up to 6 30 mature marijuana plants for each qualifying patient who has
14 designated the primary caregiver to cultivate marijuana on the patient's behalf,
15 subject to the limitation in subsection 1, paragraph B on the total number of plants
16 authorized per qualifying patient. A primary caregiver may not cultivate marijuana
17 for a patient unless the patient has designated the primary caregiver for that purpose
18 and the patient has not designated a registered dispensary to cultivate marijuana for
19 the patient's medical use. In addition to the marijuana plants otherwise authorized
20 under this paragraph, a primary caregiver may have harvested marijuana plants in
21 varying stages of processing in order to ensure the primary caregiver is able to meet
22 the needs of the primary caregiver's qualifying patients, 60 immature marijuana
23 plants and unlimited seedlings;

24 C. Assist a maximum of 5 patients who have designated the primary caregiver to
25 cultivate marijuana for their medical use;

26 C-1. Assist a qualifying patient with the patient's medical use of marijuana;

27 D. ~~Receive reasonable monetary compensation for costs associated with assisting a~~
28 ~~qualifying patient who designated the primary caregiver;~~

29 E. Receive reasonable monetary compensation for costs associated with cultivating
30 marijuana for a patient who designated the primary caregiver to cultivate plants or
31 assisting a qualifying patient with that patient's medical use of marijuana;

32 F. Be in the presence or vicinity of the medical use of marijuana and assist any
33 patient with the medical use, administration or preparation of marijuana;

34 G. Prepare food as defined in section 2152, subsection 4 containing marijuana,
35 including tinctures of marijuana, for medical use by a qualifying patient pursuant to
36 section 2152, subsection 4-A and section 2167 Manufacture marijuana products and
37 marijuana concentrate for medical use, except that a caregiver may not manufacture
38 food, as defined in section 2152, subsection 4, unless the caregiver is licensed
39 pursuant to section 2167 and except that a caregiver may not produce marijuana
40 concentrate using inherently hazardous substances unless authorized pursuant to
41 section 2423-F, subsection 3;

42 H. ~~For the purpose of disposing of excess prepared marijuana, transfer prepared~~
43 ~~marijuana to a registered dispensary, a qualifying patient or another primary~~

1 ~~caregiver if nothing of value is provided to the primary caregiver. A primary~~
2 ~~caregiver who transfers prepared marijuana pursuant to this paragraph does not by~~
3 ~~virtue of only that transfer qualify as a member of a collective;~~

4 I. ~~Employ one person~~ Hire any number of assistants to assist in performing the duties
5 of the primary caregiver;

6 J. Use a pesticide in the cultivation of marijuana plants if the pesticide is used
7 consistent with federal labeling requirements, is registered with the Department of
8 Agriculture, Conservation and Forestry, Board of Pesticides Control pursuant to Title
9 7, section 607 and is used consistent with best management practices for pest
10 management approved by the Commissioner of Agriculture, Conservation and
11 Forestry. A registered ~~primary~~ caregiver may not in the cultivation of marijuana
12 plants use a pesticide unless the registered ~~primary~~ caregiver or the registered
13 ~~primary~~ caregiver's employee assistant is certified in the application of the pesticide
14 pursuant to section 1471-D and any employee assistant who has direct contact with
15 treated plants has completed safety training pursuant to 40 Code of Federal
16 Regulations, Section 170.130. An employee assistant of the registered ~~primary~~
17 caregiver who is not certified pursuant to section 1471-D and who is involved in the
18 application of the pesticide or handling of the pesticide or equipment must first
19 complete safety training described in 40 Code of Federal Regulations, Section
20 170.230;

21 K. ~~For the purpose of disposing of excess prepared~~ Transfer marijuana, transfer
22 ~~prepared marijuana plants and harvested marijuana to a qualifying patient, another~~
23 ~~caregiver or a registered dispensary for reasonable compensation. The transfer of~~
24 ~~prepared marijuana by a primary caregiver to one or more dispensaries under this~~
25 ~~paragraph is limited to a registered primary caregiver. A registered primary caregiver~~
26 ~~may not transfer more than 2 pounds of excess prepared marijuana for reasonable~~
27 ~~compensation under this paragraph in a calendar year. A primary caregiver who~~
28 ~~transfers prepared marijuana pursuant to this paragraph does not by virtue of only that~~
29 ~~transfer qualify as a member of a collective~~ no remuneration;

30 K-1. Transfer to and accept from another registered caregiver or a dispensary
31 marijuana plants and harvested marijuana in a wholesale transaction in accordance
32 with this paragraph. A registered caregiver may transfer in wholesale transactions for
33 reasonable compensation or for no remuneration up to 30% of the mature marijuana
34 plants grown by the caregiver over the course of a calendar year, including any
35 marijuana products or marijuana concentrate manufactured from that 30% of the
36 mature marijuana plants grown by the caregiver. A registered caregiver may transfer
37 to or accept from other registered caregivers and dispensaries in wholesale
38 transactions an unlimited amount of immature marijuana plants and seedlings. A
39 registered caregiver that acquires mature marijuana plants, marijuana products or
40 marijuana concentrate in a wholesale transaction under this paragraph may not resell
41 the mature marijuana plants, marijuana products or marijuana concentrate except to a
42 qualifying patient or to another registered caregiver or dispensary to assist a
43 qualifying patient;

44 L. ~~If the primary caregiver is a registered primary caregiver, provide~~ Provide
45 ~~samples to a marijuana testing facility for testing and research purposes; and~~

- 1 M. ~~If the primary caregiver is a registered primary caregiver, conduct~~ Conduct
2 marijuana testing at the request of anyone authorized to possess marijuana under this
3 chapter for research and development purposes only;
- 4 N. Provide harvested marijuana to a manufacturing facility and obtain marijuana
5 products and marijuana concentrate from the manufacturing facility that are produced
6 from the harvested marijuana the caregiver provided to the manufacturing facility;
- 7 O. Transport marijuana plants or harvested marijuana for authorized conduct in
8 accordance with this chapter;
- 9 P. Operate a retail store to sell harvested marijuana to qualifying patients for the
10 patients' medical use in accordance with this chapter; and
- 11 Q. Be organized as any type of legal business entity recognized under the laws of the
12 State.

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

16 A. A patient who elects to cultivate marijuana plants must keep the plants in ~~an~~
17 ~~enclosed, locked facility~~ a cultivation area unless the plants are being transported
18 ~~because the patient is moving or taking the plants to the patient's own property in~~
19 ~~order to cultivate them pursuant to subsection 1, paragraph L.~~ Access to ~~the a~~
20 ~~cultivation facility~~ area is limited to the patient, except that emergency services
21 personnel, an employee assistant of a marijuana testing facility or a person who needs
22 to gain access to ~~the a~~ a cultivation facility area in order to perform repairs or
23 maintenance or to do construction may access ~~the a~~ a cultivation facility area to provide
24 those professional services while under the direct supervision of the patient.

25 B. A ~~primary caregiver who has been designated by a patient to cultivate~~ cultivating
26 marijuana plants for the a patient's medical use must keep all plants in ~~an enclosed,~~
27 ~~locked facility~~ a cultivation area unless the plants are being transported ~~because the~~
28 ~~primary caregiver is moving or taking the plants to the primary caregiver's own~~
29 ~~property in order to cultivate them pursuant to subsection 2, paragraph O.~~ The
30 ~~primary caregiver shall use a numerical identification system to enable the primary~~
31 ~~caregiver to identify marijuana plants cultivated for a patient.~~ Access to ~~the a~~
32 ~~cultivation facility~~ area is limited to the primary caregiver, except that an elected
33 official invited by the primary caregiver for the purpose of providing education to the
34 elected official on cultivation by the primary caregiver, emergency services
35 personnel, an employee assistant of a caregiver or a marijuana testing facility or a
36 person who needs to gain access to ~~the a~~ a cultivation facility area in order to perform
37 repairs or maintenance or to do construction may access ~~the a~~ a cultivation facility area
38 to provide those professional services while under the direct supervision of the
39 primary caregiver.

40 B-1. Except as provided in paragraph C, a caregiver is required to register with the
41 department.

1 C. ~~A primary caregiver designated to cultivate marijuana for a qualifying patient is~~
2 ~~required to register with the department, except that the~~ The following primary
3 ~~caregivers are not required to register with the department:~~

4 (1) ~~A primary caregiver designated to cultivate for a qualifying patient if that~~
5 ~~qualifying patient is a member of the household of that primary caregiver;~~

6 (2) ~~Two primary caregivers who are qualifying patients, if those primary~~
7 ~~caregivers are members of the same household and assist one another with~~
8 ~~cultivation; and~~

9 (3) ~~A primary caregiver who cultivates for a qualifying patient if that qualifying~~
10 ~~patient is a member of the family of that primary caregiver.~~

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

13 (1) Cultivate marijuana plants for more than 2 members of the family or members
14 of the same household;

15 (2) Cultivate more than 6 mature marijuana plants and 12 immature marijuana
16 plants for each qualifying patient who has designated the caregiver to cultivate
17 marijuana plants on the patient's behalf;

18 (3) Possess more than 8 pounds of harvested marijuana;

19 (4) Sell marijuana plants or harvested marijuana at wholesale under subsection 2,
20 paragraph K-1;

21 (5) Use a pesticide under subsection 2, paragraph J;

22 (6) Operate a retail store under subsection 2, paragraph P; or

23 (7) Organize as a business entity under subsection 2, paragraph Q.

24 D. ~~Two primary caregivers who are members of the same family or household may~~
25 ~~share the same enclosed, locked-facility cultivation area.~~

26 E. A person who is authorized to cultivate marijuana plants under subsection 1 or 2
27 and who is ~~employed by an assistant of a primary caregiver pursuant to subsection 2,~~
28 ~~paragraph I may not cultivate that person's own marijuana plants in the location used~~
29 ~~for cultivation area by the primary caregiver who employs that person.~~

30 **4. Long-term care facility.** ~~A registered qualifying patient may name designate a~~
31 ~~hospice provider licensed under chapter 1681 or a nursing facility licensed under chapter~~
32 ~~405 long-term care facility to serve as a registered primary caregiver assist with the~~
33 ~~qualifying patient's medical use of marijuana if that use is consistent with the facility's~~
34 ~~policy and is pursuant to subsection 1, paragraph F-1, subparagraph 2. If a hospice~~
35 ~~provider or nursing long-term care facility is named as a primary caregiver designated,~~
36 ~~the provider or facility shall complete the registration process with the department and~~
37 ~~obtain a primary caregiver registration card and the staff of the provider or facility shall~~
38 ~~obtain registry identification cards registration certificate for the facility. To For a long-~~
39 ~~term care facility to be issued a registry identification card registration certificate, a staff~~

1 ~~person~~ persons of a ~~hospice provider or nursing~~ the facility that has been named as a
2 primary caregiver who will be assisting a qualifying patient with the patient's medical use
3 of marijuana in accordance with this chapter must be at least 21 years of age and may not
4 have been convicted of a disqualifying drug offense. The ~~hospice provider or nursing~~
5 long-term care facility and the staff of the ~~provider or~~ facility may not cultivate marijuana
6 plants for the patient.

7 **4-A. Use and storage in inpatient long-term care facility permitted.** A qualifying
8 patient who is a resident of a ~~hospice provider~~ long-term care facility licensed under
9 ~~chapter 1681 or nursing facility licensed under chapter 405~~, while in the ~~hospice provider~~
10 ~~facility or nursing facility~~, may use forms of ~~prepared~~ harvested marijuana that are not
11 smoked, including, but not limited to, vaporized marijuana, edible marijuana and
12 tinctures and salves of marijuana consistent with the facility's policy. A qualifying
13 patient who uses a form of ~~prepared~~ harvested marijuana pursuant to this subsection may
14 store the ~~prepared~~ harvested marijuana in the qualifying patient's room and is not required
15 to obtain a registry identification card or to designate the ~~hospice provider or nursing~~
16 long-term care facility as a ~~primary caregiver~~ under subsection 4 subsection 1, paragraph
17 F-1, subparagraph (2). A ~~hospice provider or nursing~~ long-term care facility is not
18 required to be named as a ~~primary caregiver~~ designated by a qualifying patient who uses
19 ~~prepared~~ harvested marijuana pursuant to this subsection. This subsection does not limit
20 the ability of a ~~hospice provider or nursing~~ long-term care facility to prohibit or restrict
21 the use or storage of ~~prepared~~ harvested marijuana by a qualifying patient.

22 **5. Incidental amount of marijuana.** For purposes of this section, any incidental
23 amount of marijuana is lawful for a qualifying patient or a primary caregiver to possess
24 and is not included in the amounts of prepared marijuana specified in this section.

25 **7. Excess marijuana; forfeiture.** A person who possesses marijuana seedlings,
26 marijuana plants or prepared marijuana in excess of the limits provided in this section and
27 rules adopted under this section must forfeit the excess amounts to a law enforcement
28 officer. The law enforcement officer is authorized to remove all excess marijuana
29 seedlings, marijuana plants and prepared marijuana in order to catalog the amount of
30 excess marijuana. Possession of marijuana in excess of the limits provided in this section
31 and rules adopted under this section is a violation as follows:

32 A. Possession of marijuana in an excess amount up to 2 1/2 ounces is a violation of
33 section 2383; and

34 B. Possession of marijuana in an excess amount over 2 1/2 ounces is a violation of
35 Title 17 A, chapter 45.

36 **8. Repeat forfeiture.** If a cardholder has previously forfeited excess marijuana
37 pursuant to subsection 7 and a subsequent forfeiture occurs, the department shall revoke
38 the registry identification card of the cardholder and the entire amount of marijuana
39 seedlings, marijuana plants and prepared marijuana must be forfeited to a law
40 enforcement officer. The department shall adopt rules to implement this subsection.
41 Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5,
42 chapter 375, subchapter 2 A.

43 **9. Collectives prohibited.** Collectives are prohibited under this chapter. A person
44 may not form or participate in a collective.

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

3 A. A marijuana testing facility that meets the requirements of this subsection and any
4 rules adopted under paragraph D may receive and possess samples from qualifying
5 patients, ~~designated primary caregivers and, dispensaries and manufacturing facilities~~
6 to provide testing for the cannabinoid profile and potency of the samples and for
7 contaminants in the samples, including but not limited to mold, mildew, heavy
8 metals, plant regulators and illegal pesticides. For the purposes of this paragraph,
9 "plant regulator" has the same meaning as in Title 7, section 604, subsection 26.

10 B. An ~~employee~~ assistant of a marijuana testing facility may have access to
11 cultivation ~~facilities~~ areas pursuant to subsection 3, paragraphs A and B and section
12 2428, subsection 6, paragraph I.

13 C. A marijuana testing facility shall:

14 (1) ~~Properly dispose~~ Dispose of ~~marijuana residue in compliance with~~
15 ~~department rules~~ samples in a manner that prevents diversion of samples to
16 persons not authorized to possess the samples tested by the facility;

17 (2) House and store marijuana samples in the facility's possession or control
18 during the process of testing, transport or analysis in a manner to prevent
19 diversion, theft or loss;

20 (3) Label marijuana samples being transported to and from the facility with the
21 following statement: "For Testing Purposes Only";

22 (4) Maintain testing results as part of the facility's business books and records;
23 and

24 (5) Operate in accordance with any rules adopted by the department.

25 D. The department shall adopt routine technical rules as defined in Title 5, chapter
26 375, subchapter 2-A governing marijuana testing facilities, including but not limited
27 to:

28 (1) Marijuana testing facility officer or director qualification requirements;

29 (2) Required security for marijuana testing facilities; and

30 (3) Requirements for the licensing, certifying or other approval of marijuana
31 testing facilities.

32 The failure of the department to adopt rules under this paragraph does not prevent a
33 marijuana testing facility from engaging in activities in compliance with this chapter.

34 E. A marijuana testing facility shall obtain and must be able to produce, upon
35 demand of the department or a municipal code enforcement officer, documentation of
36 the facility's accreditation pursuant to standard ISO/IEC 17025 of the International
37 Organization for Standardization by a 3rd-party accrediting body. The department
38 may inspect a marijuana testing facility during regular business hours and hours of
39 apparent activity for compliance with this chapter.

1 ~~11. Immunity. The immunity provisions in this subsection apply to a marijuana~~
2 ~~testing facility's principal officers, board members, agents and employees. Any immunity~~
3 ~~provision in this chapter in conflict with this subsection does not apply to a marijuana~~
4 ~~testing facility.~~

5 ~~A. A marijuana testing facility is not subject to prosecution, search, seizure or~~
6 ~~penalty in any manner, including but not limited to a civil penalty or disciplinary~~
7 ~~action by a business or an occupational or professional licensing board or entity, and~~
8 ~~may not be denied any right or privilege solely for acting in accordance with this~~
9 ~~chapter.~~

10 ~~B. A principal officer, board member, agent or employee of a marijuana testing~~
11 ~~facility is not subject to arrest, prosecution, search, seizure or penalty in any manner,~~
12 ~~including but not limited to a civil penalty or disciplinary action by a business or an~~
13 ~~occupational or professional licensing board or entity, and may not be denied any~~
14 ~~right or privilege solely for working for or with a marijuana testing facility to test~~
15 ~~marijuana provided by a qualifying patient, registered primary caregiver or~~
16 ~~dispensary.~~

17 ~~12. Interest. A principal officer, board member or employee caregiver or an officer~~
18 ~~or director of a registered dispensary or primary, registered caregiver or manufacturing~~
19 ~~facility may not have a financial or other interest in a marijuana testing facility providing~~
20 ~~services associated with product labeling for that dispensary or primary, caregiver or~~
21 ~~manufacturing facility.~~

22 ~~13. Moratorium ordinance. Notwithstanding any other provision of this chapter or~~
23 ~~any other provision of law to the contrary, a municipality may adopt and enforce an~~
24 ~~ordinance that establishes a moratorium on the location within 500 feet of the property~~
25 ~~line of a preexisting public or private school of new facilities or expansion of existing~~
26 ~~facilities where registered primary caregivers cultivate marijuana plants. This subsection~~
27 ~~does not affect any permit that has been granted to a registered primary caregiver prior to~~
28 ~~the effective date of this subsection.~~

29 ~~This subsection is repealed July 1, 2018. Any ordinances adopted pursuant to this~~
30 ~~subsection are not authorized and are void after July 1, 2018.~~

31 **Sec. 8. 22 MRSA §2423-B**, as amended by PL 2015, c. 475, §15, is further
32 amended to read:

33 **§2423-B. Authorized conduct by a medical provider**

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

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

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

21 2-A. **Minor qualifying patient.** A medical provider who provides a written
22 certification to a patient who has not attained 18 years of age:

23 A. Shall inform the qualifying patient and the parent, legal guardian or person having
24 legal custody of the patient of the risks and benefits of the medical use of marijuana
25 and that the patient may benefit from the medical use of marijuana;

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

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

34 D. If a patient does not satisfy the requirements of paragraphs B and C, may provide
35 a written certification to a qualifying patient after consulting with a physician from a
36 list of physicians who may be willing to consult with a medical provider maintained
37 by the department that is compiled by the department after consultation with
38 statewide associations representing licensed medical professionals. The consultation
39 between the medical provider and the consulting physician may consist of
40 examination of the patient or review of the patient's medical file. The consulting
41 physician shall provide an advisory opinion to the medical provider and the parent,
42 legal guardian or person having legal custody of the qualifying patient concerning
43 whether the patient is likely to receive therapeutic or palliative benefit from the
44 medical use of marijuana to treat or alleviate the patient's medical diagnosis. If the
45 department or the consulting physician does not respond to a request by the medical

1 provider within 10 days of receipt of the request, the medical provider may provide a
2 written certification without consultation with a physician.

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

10 The department shall adopt routine technical rules as defined in Title 5, chapter 375,
11 subchapter 2-A to implement the reimbursement request under this paragraph.

12 **2-B. Adult and minor patients with substance use disorder.** Prior to providing
13 written certification for the medical use of marijuana under this section for a medical
14 diagnosis of substance use disorder that, in the medical provider's professional opinion,
15 may be alleviated by the therapeutic or palliative medical use of marijuana, the medical
16 provider shall develop a recovery plan with the patient. For purposes of this subsection,
17 "substance use disorder" means a diagnosis related to alcohol or drug abuse covered by
18 Title 5, chapter 521.

19 **2-C. Bona fide provider-patient relationship.** A written certification may be made
20 only in the course of a bona fide medical provider-patient relationship after the medical
21 provider has completed a full assessment of the patient's medical history. If a patient has
22 not provided a medical provider who is not the patient's primary care provider with the
23 name and contact information of the patient's primary care provider, a medical provider
24 shall conduct an in-person consultation with the patient prior to providing a written
25 certification.

26 **3. Expiration.** A written certification form for the medical use of marijuana under
27 this section ~~expires within one year after issuance~~ is valid for the term provided by the
28 qualifying patient's medical provider.

29 **4. Form; content.** A written certification under this section must be in the form
30 required by rule adopted by the department and may not require a qualifying patient's
31 medical provider to state the patient's specific medical ~~condition~~ diagnosis.

32 **5. Possible sanctions.** Nothing in this chapter prevents a professional licensing
33 board from sanctioning a medical provider for failing to properly evaluate or treat a
34 patient's medical ~~condition~~ diagnosis or otherwise violating the applicable standard of
35 care for evaluating or treating medical ~~conditions~~ diagnoses.

36 **6. Certification issued based on medical diagnosis.** A medical provider may not
37 condition the issuance of a written certification for the medical use of marijuana on any
38 requirements other than that the patient's ~~debilitating~~ medical ~~condition~~ diagnosis may be
39 alleviated by the therapeutic or palliative medical use of marijuana. Nothing in this
40 section may be construed to prevent a medical provider from exercising professional
41 judgment in declining to issue a certification for the medical use of marijuana.

42 **7. Patient referral disclosure of interest.** Prior to providing a referral to a
43 qualifying patient for goods and services associated with a certification for the medical

1 use of marijuana to an entity in which the medical provider has a direct or indirect
2 financial interest, a medical provider shall provide written disclosure to the qualifying
3 patient regarding any direct or indirect financial interest the medical provider has or may
4 have in the resulting referral and shall maintain a copy of this disclosure in the qualifying
5 patient's record.

6 **8. Continuing medical education.** A medical provider who has not previously
7 provided a written certification to a qualifying patient for the medical use of marijuana
8 shall, prior to providing a written certification to a qualifying patient, submit evidence,
9 satisfactory to the department, of successful completion of a one-hour course of
10 continuing medical education relating to medical marijuana within the preceding 24
11 months.

12 **Sec. 9. 22 MRSA §2423-C**, as amended by PL 2011, c. 407, Pt. B, §18, is further
13 amended to read:

14 **§2423-C. Authorized conduct**

15 A person may provide a qualifying patient or a primary caregiver with marijuana
16 paraphernalia for purposes of the qualifying patient's medical use of marijuana in
17 accordance with this chapter and be in the presence or vicinity of the medical use of
18 marijuana as allowed under this chapter.

19 **Sec. 10. 22 MRSA §2423-D**, as amended by PL 2013, c. 516, §9, is further
20 amended to read:

21 **§2423-D. Authorized conduct by a visiting qualifying patient**

22 A visiting qualifying patient ~~who is visiting the State~~ from another jurisdiction that
23 authorizes the medical use of marijuana pursuant to a law recognized by the department
24 who possesses a valid written certification as described in section 2423-B from the
25 visiting qualifying patient's treating medical provider and a valid medical marijuana
26 certification from that other jurisdiction and photographic identification or a driver's
27 license from that jurisdiction may engage in conduct authorized for a qualifying patient
28 under this chapter, ~~except that a visiting qualifying patient may not:~~

29 **1. Cultivate.** Cultivate marijuana plants;

30 **2. Possess.** Possess more than 2 1/2 ounces of harvested marijuana in a 15-day
31 period;

32 **3. Transfer or furnish.** Transfer or furnish harvested marijuana to another person;

33 **4. Obtain.** Obtain harvested marijuana from a registered caregiver or dispensary
34 unless the visiting qualifying patient has designated the registered caregiver or dispensary
35 in order to have that caregiver or dispensary provide harvested marijuana to the visiting
36 qualifying patient. A designation pursuant to this subsection must be in a standardized
37 written document, developed by the department, and signed and dated by the visiting
38 qualifying patient. The designation is valid for the term provided by the visiting
39 qualifying patient's medical provider pursuant to section 2423-B. The document must
40 include the signed acknowledgment of the registered caregiver or dispensary that the
41 caregiver or dispensary may be contacted to confirm the designation of the caregiver or
42 dispensary to provide harvested marijuana to the visiting qualifying patient.

1 **Sec. 11. 22 MRSA §2423-E**, as amended by PL 2017, c. 252, §1, is repealed.

2 **Sec. 12. 22 MRSA §2423-F** is enacted to read:

3 **§2423-F. Marijuana manufacturing facilities**

4 A person may not manufacture marijuana products or marijuana concentrate or
5 engage in marijuana extraction except as provided in this chapter.

6 **1. Tier 1 manufacturing facility.** A tier 1 manufacturing facility registered
7 pursuant to subsection 8 may engage in the activities authorized under subsection 4 in
8 accordance with rules adopted pursuant to subsection 10 and may possess up to 40
9 pounds of harvested marijuana.

10 **2. Tier 2 manufacturing facility.** A tier 2 manufacturing facility registered
11 pursuant to subsection 8 may engage in the activities authorized under subsection 4 in
12 accordance with rules adopted pursuant to subsection 10 and may possess up to 200
13 pounds of harvested marijuana.

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

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

20 (1) Certification from a professional engineer licensed in this State of the safety
21 of the equipment used for marijuana extraction and the location of the equipment
22 and the professional engineer's approval of the standard operating procedures for
23 the marijuana extraction;

24 (2) Documentation from a professional engineer licensed in this State or a state
25 or local official authorized to certify compliance that the equipment used for
26 marijuana extraction and the location of the equipment comply with state law and
27 all applicable local and state building codes, electrical codes and fire codes,
28 including the chapters of the most recent National Fire Protection Association
29 Fire Code relating to marijuana extraction facilities;

30 (3) Documentation from the manufacturer of the marijuana extraction system or
31 a professional engineer licensed in this State showing that a professional grade,
32 closed-loop extraction system that is capable of recovering the solvents used to
33 produce marijuana concentrate is used by the person; and

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

38 A person who intends to engage in marijuana extraction using inherently hazardous
39 substances shall notify the department of that intention prior to engaging in marijuana
40 extraction using inherently hazardous substances. The department may deny an
41 application of a person authorized under this paragraph to register pursuant to rules

1 adopted under subsection 10 if the person did not notify the department in accordance
2 with this paragraph.

3 B. A person who is not a qualifying patient, caregiver or dispensary and that meets
4 the requirements of a person authorized under paragraph A, pays the fee required by
5 section 2425-A, subsection 10 and meets the requirements of rules adopted under
6 subsection 10 is authorized to engage in marijuana extraction using inherently
7 hazardous substances and may possess up to 40 pounds of harvested marijuana in
8 accordance with subsection 5.

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

11 A. May manufacture marijuana products and marijuana concentrate for medical use
12 using any method that does not involve an inherently hazardous substance, except
13 that a registered manufacturing facility may manufacture marijuana concentrate using
14 inherently hazardous substances if authorized under subsection 3;

15 B. May obtain harvested marijuana from a qualifying patient, a caregiver or a
16 registered dispensary and may transfer marijuana products and marijuana concentrate
17 to the person that provided the harvested marijuana used to manufacture the
18 marijuana product or marijuana concentrate;

19 C. May transfer samples to a marijuana testing facility for testing;

20 D. May conduct testing of marijuana products or marijuana concentrate
21 manufactured by the facility for research and development purposes;

22 E. May receive reasonable compensation for manufacturing marijuana products or
23 marijuana concentrate;

24 F. Shall dispose of harvested marijuana used in the manufacturing process in a
25 manner that prevents its diversion to persons not authorized to possess harvested
26 marijuana possessed by the facility and in accordance with rules adopted by the
27 department; and

28 G. May hire any number of assistants to assist in performing the duties of the
29 manufacturing facility.

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

33 A. May engage in marijuana extraction to produce marijuana concentrate for medical
34 use;

35 B. May obtain harvested marijuana from a qualifying patient, a caregiver or a
36 dispensary and may transfer marijuana concentrate to the person that provided the
37 harvested marijuana used to produce the marijuana concentrate;

38 C. May transfer samples to a marijuana testing facility for testing;

39 D. May conduct testing of marijuana concentrate produced by the person for
40 research and development purposes;

- 1 E. May receive reasonable compensation for producing marijuana concentrate;
- 2 F. Shall dispose of harvested marijuana used in the extraction process in a manner
3 that prevents its diversion to persons not authorized to possess harvested marijuana
4 possessed by the person and in accordance with rules adopted by the department; and
- 5 G. May hire any number of assistants to assist in performing the activities authorized
6 under this subsection, except that a qualifying patient authorized under subsection 3
7 may not hire an assistant.
- 8 Notwithstanding the authorizations established in this subsection, a person that is
9 authorized to engage in marijuana extraction using inherently hazardous substances
10 pursuant to subsection 3 shall comply with any rules adopted pursuant to subsection 10.
- 11 **6. Retail sale prohibited.** A registered manufacturing facility or a person authorized
12 to engage in marijuana extraction using inherently hazardous substances under subsection
13 3 may not engage in retail sales of marijuana products or marijuana concentrate unless the
14 person is authorized to engage in retail sales under this chapter.
- 15 **7. Food establishment license required to manufacture food products.** A
16 registered manufacturing facility or a person authorized to produce marijuana concentrate
17 using inherently hazardous substances may not manufacture edible marijuana products or
18 marijuana tinctures unless licensed pursuant to section 2167.
- 19 **8. Registration requirements.** This subsection governs registration requirements of
20 a manufacturing facility or a person authorized to engage in marijuana extraction using
21 inherently hazardous substances under subsection 3 and the officer or director or assistant
22 of the facility or person.
- 23 A. In accordance with rules adopted under subsection 10, the department shall
24 register and issue a registration certificate with a registry identification number to a
25 manufacturing facility or a person authorized to engage in marijuana extraction
26 within 30 days to the facility or person if the facility or person provides:
- 27 (1) The annual fee required pursuant to section 2425-A, subsection 10;
- 28 (2) The legal name of the facility or person and, if incorporated, evidence of
29 incorporation and evidence that the corporation is in good standing with the
30 Secretary of State;
- 31 (3) The physical address of the facility or person or the physical address where
32 an applicant who is an individual will engage in the activities authorized under
33 this section. If the facility or person changes its physical location, or if a person
34 registered under this subsection changes the location at which the person engages
35 in activities authorized under this section, the facility or person shall notify the
36 department of the new location; and
- 37 (4) The name, address and date of birth of each officer or director of the facility
38 or person.
- 39 B. In accordance with rules adopted under subsection 10, the department shall issue
40 registry identification cards to the officer or director or assistant of a registered
41 manufacturing facility or person authorized to engage in marijuana extraction using

1 inherently hazardous substances within 5 business days of approving an application
2 or renewal under this subsection. A registry identification card is required to be
3 issued to an officer or director or assistant of a registered manufacturing facility or
4 person authorized to engage in marijuana extraction using inherently hazardous
5 substances. A registry identification card expires one year after the date of issuance.
6 A registry identification card issued under this paragraph must contain:

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

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

17 If the department determines not to issue a registry identification card for a person,
18 officer or director or assistant, the department shall notify the registered
19 manufacturing facility or person authorized to engage in marijuana extraction using
20 inherently hazardous substances in writing of the reason for denying the registry
21 identification card.

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

- 26 A. The registry identification number of the manufacturing facility;
27 B. Information that allows the provider of the marijuana to the manufacturing facility
28 to confirm that the marijuana provided was used to manufacture the marijuana
29 product or marijuana concentrate transferred back to that provider;
30 C. Ingredients other than material derived from marijuana plants contained in the
31 marijuana product or marijuana concentrate; and
32 D. Any chemicals, solvents or other substances used to manufacture the marijuana
33 product or marijuana concentrate.

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

- 37 A. Requirements for the registration of a manufacturing facility and an officer or
38 director or assistant of a registered manufacturing facility;
39 B. Requirements for engaging in marijuana extraction using inherently hazardous
40 substances;

- 1 C. Manufacturing facility officer or director qualification requirements;
- 2 D. Required security for manufacturing facilities;
- 3 E. Requirements of a disposal plan for harvested marijuana used in the
4 manufacturing process; and
- 5 F. Minimum record-keeping requirements, including an annual audit requirement.

6 The failure of the department to adopt rules under this subsection does not prevent a
7 person authorized pursuant to subsection 3, paragraph A from engaging in conduct
8 authorized under this section.

9 **11. Multiple authorizations.** A facility or person registered pursuant to subsection
10 8 may also be a qualifying patient, a caregiver or a registered dispensary. A facility or
11 person authorized to possess marijuana under this chapter may possess the amount
12 allowed for that facility or person in addition to the possession amount allowed under this
13 section if the facility or person is registered pursuant to this section. The marijuana
14 possessed must be distinguishable with respect to the purposes for which it is authorized
15 to be possessed.

16 **12. Record keeping.** A registered manufacturing facility or person authorized to
17 engage in marijuana extraction using inherently hazardous substances under subsection 3
18 shall maintain records of all transactions in accordance with section 2430-G.

19 **13. Colocation of facilities.** A manufacturing facility that is also licensed as a retail
20 marijuana products manufacturing facility under Title 7, chapter 417 may manufacture
21 marijuana products and marijuana concentrate within the same facility in which the
22 licensee also manufactures marijuana products or marijuana concentrate for medical use
23 pursuant to this chapter. The following items or areas within the shared facility may be
24 shared for both manufacturing pursuant to this chapter and pursuant to Title 7, chapter
25 417:

26 A. Manufacturing-related and nonmanufacturing-related equipment, except that
27 manufacturing-related equipment may not be simultaneously used for manufacturing
28 pursuant to this chapter and pursuant to Title 7, chapter 417;

29 B. Manufacturing-related and nonmanufacturing-related supplies or products not
30 containing harvested marijuana and the storage areas for those supplies or products;
31 and

32 C. General office space, bathrooms, entryways and walkways.

33 **Sec. 13. 22 MRSA §2424**, as amended by PL 2013, c. 394, §1, is further amended
34 to read:

35 **§2424. Rules**

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

39 ~~**2. Adding debilitating medical conditions.** The department in accordance with~~
40 ~~section 2422, subsection 2, paragraph D shall adopt rules regarding the consideration of~~

1 ~~petitions from the public to add medical conditions or treatments to the list of debilitating~~
2 ~~medical conditions set forth in section 2422, subsection 2. In considering those petitions,~~
3 ~~the department shall provide an opportunity for public hearing of, and an opportunity to~~
4 ~~comment on those petitions. After the hearing, the commissioner shall approve or deny a~~
5 ~~petition within 180 days of its submission. The approval or denial of such a petition~~
6 ~~constitutes final agency action, subject to judicial review. Jurisdiction and venue for~~
7 ~~judicial review are vested in the Superior Court.~~

8 **3. Registration.** The department shall adopt rules governing the manner in which it
9 considers applications for and renewals of registry identification cards or registration
10 certificates for registered patients, registered primary caregivers, principal officers, board
11 members and employees of dispensaries and staff of hospice providers and nursing
12 facilities designated as primary caregivers a person required to obtain a registry
13 identification card or registration certificate under this chapter. The department's rules
14 must require the submission of an application, must require replacement of a registry
15 identification card or registration certificate that has been lost, destroyed or stolen or that
16 contains information that is no longer accurate and must establish application and renewal
17 fees that generate revenues sufficient to offset all expenses of implementing and
18 administering this chapter and that are consistent with the provisions of section 2425
19 2425-A, subsection ~~12~~ 10. The department may establish a sliding scale of application
20 and renewal fees based upon a registered patient's family income and status as a veteran
21 of the Armed Forces of the United States. The department may accept donations from
22 private sources in order to reduce the application and renewal fees.

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

26 A. Minimum oversight requirements for dispensaries and registered caregivers and
27 the one permitted additional location at which a dispensary cultivates marijuana
28 plants for medical use by qualifying patients; and

29 B. Minimum security requirements for registered caregivers operating retail stores
30 pursuant to section 242-A, subsection 2, paragraph P and registered dispensaries and
31 any additional location at which a dispensary cultivates marijuana plants for medical
32 use by qualifying patients.

33 **Sec. 14.** ~~22 MRSA §2425~~, as corrected by RR 2017, c. 1, §13, is repealed.

34 **Sec. 15.** ~~22 MRSA §2425-A~~ is enacted to read:

35 **§2425-A. Registry identification cards and registration certificates**

36 This section governs registry identification cards and registration certificates, except
37 that registration of manufacturing facilities and persons authorized to engage in marijuana
38 extraction is governed by section 2423-F and registration of marijuana testing facilities is
39 governed by section 2423-A, subsection 10.

40 **1. Voluntary registration.** Registration under this section is voluntary for a
41 qualifying patient, for a visiting qualifying patient and for a caregiver who is operating
42 under section 2423-A, subsection 3, paragraph C. If a qualifying patient or visiting
43 qualifying patient or a caregiver who is operating under section 2423-A, subsection 3,

1 paragraph C does not register with the department, the patient's or caregiver's ability to
2 engage in authorized conduct in accordance with this chapter is not affected.

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

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

13 The department shall conduct a criminal history record check for any applicant for a
14 registry identification card. The department may not issue a registry identification card to
15 an applicant who is not permitted under this chapter to have a disqualifying drug offense.

16 An application must include, as applicable:

17 A. The annual fee required pursuant to subsection 10; and

18 B. A statement that the requirements of section 2423-B have been met if the
19 qualifying patient applying for the registry identification card has not attained 18
20 years of age and the qualifying patient's parent, guardian or person having legal
21 custody of the patient consents in writing to:

22 (1) The qualifying patient's medical use of marijuana;

23 (2) Serving as one of the qualifying patient's caregivers; and

24 (3) Controlling the acquisition of the marijuana plants or harvested marijuana and
25 the dosage and the frequency of the medical use of marijuana by the qualifying
26 patient.

27 **4. Issuance or denial of registry identification cards.** The department shall verify
28 the information contained in an application for a registry identification card or for
29 renewal of a card submitted pursuant to subsection 3 and shall approve or deny an
30 application for a card or for renewal of a card in accordance with this subsection within
31 30 days of receiving it.

32 A. Within 5 business days of approving a completed application, the department
33 shall issue a registry identification card to the applicant.

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

36 (1) The applicant did not provide the information required pursuant to subsection
37 3;

38 (2) The department determines that the applicant does not qualify; or

39 (3) The department determines that the information provided by the applicant
40 was falsified.

1 C. The department shall notify the applicant and, if the applicant is an officer or
2 director or assistant of a registered dispensary, the registered dispensary, in writing of
3 the reason for denying the registry identification card.

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

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

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

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

15 (1) The name of the cardholder;

16 (2) The date of issuance and expiration date;

17 (3) A random identification number that is unique to the cardholder; and

18 (4) A clear designation showing whether the cardholder is allowed under this
19 chapter to cultivate marijuana plants.

20 B. If a caregiver is organized as a legal business entity pursuant to section 2423-A,
21 subsection 2, paragraph Q, the caregiver may obtain a registry identification card in
22 the name of the business entity if the caregiver submits evidence of the business
23 entity's registration with the Secretary of State and evidence that the business entity is
24 in good standing with the Secretary of State.

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

27 (1) The legal name of the registered dispensary with which the officer or director
28 or assistant is affiliated;

29 (2) The address and date of birth of the officer or director or assistant; and

30 (3) A photograph of the officer or director or assistant, if required by the
31 department.

32 D. The registry identification card of an officer or director or assistant of a registered
33 dispensary expires 10 days after notification is given to the department by the
34 registered dispensary that the person has ceased to work at the dispensary.

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

39 A. The annual fee required pursuant to subsection 10;

1 B. Evidence of the applicant's registration with the Secretary of State and evidence
2 that the applicant is in good standing with the Secretary of State; and

3 C. The name, address and date of birth of each officer or director of the applicant.

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

9 A. Within 10 days of approving a completed application, the department shall issue a
10 registration certificate to the applicant.

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

13 (1) The applicant did not provide the information required pursuant to subsection
14 6;

15 (2) The department determines that the applicant does not qualify; or

16 (3) The department determines that the information provided by the applicant
17 was falsified.

18 C. The department shall notify the applicant in writing of the reason for denying the
19 registration certificate.

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

22 If the department fails to issue or deny a registration certificate in response to a valid
23 application for a certificate or for renewal of a certificate submitted pursuant to
24 subsection 6 within 45 days of its submission, the registration certificate is deemed
25 granted and a copy of the application for a registration certificate or for renewal of the
26 certificate is deemed a valid registration certificate.

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

29 A. The name of the certificate holder;

30 B. The date of issuance and expiration date of the registration certificate;

31 C. A random identification number that is unique to the certificate holder;

32 D. The physical address of the certificate holder and, if the certificate holder is a
33 dispensary, the physical address of one additional location, if any, where marijuana
34 will be cultivated; and

35 E. A clear designation showing whether the certificate holder is allowed under this
36 chapter to cultivate marijuana plants.

37 9. Drug testing. The department may not require an assistant of a caregiver,
38 dispensary, manufacturing facility or marijuana testing facility who is an applicant for a
39 registry identification card to submit to a drug test as a condition of receiving a registry

1 identification card. This subsection does not prevent a caregiver, dispensary,
2 manufacturing facility or marijuana testing facility from requiring drug testing of its
3 assistants as a condition of employment.

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

8 A. There is no annual registration fee for a qualifying patient or visiting qualifying
9 patient or a caregiver who is not required to register pursuant to section 2423-A,
10 subsection 3, paragraph C. There is no annual registration fee for a caregiver who
11 does not cultivate marijuana plants for a qualifying patient.

12 B. There is an annual registration fee for a caregiver who cultivates marijuana plants
13 on behalf of a qualifying patient pursuant to section 2423-A, subsection 2, paragraph
14 B. The fee may not be less than \$50 or more than \$240 for each group of up to 6
15 mature marijuana plants cultivated by the caregiver. The caregiver shall notify the
16 department of the number of marijuana plants the caregiver cultivates.

17 C. There is an annual registration fee for a dispensary, which may not be less than
18 \$5,000 or more than \$12,000. There is a fee to change the location of a registered
19 dispensary or the location at which a registered dispensary cultivates marijuana
20 plants, which may not be less than \$3,000 or more than \$4,000.

21 D. There is an annual registration fee for a tier 1 manufacturing facility, which may
22 not be less than \$50 or more than \$150.

23 E. There is an annual registration fee for a tier 2 manufacturing facility, which may
24 not be less than \$150 or more than \$250.

25 F. There is an annual registration fee to engage in marijuana extraction under section
26 2423-F, subsection 3, which may not be less than \$250 or more than \$350.

27 G. There is an annual registration fee for a marijuana testing facility, which may not
28 be less than \$250 or more than \$1,000, except that there is no fee if the testing facility
29 is licensed in accordance with Title 7, chapter 417.

30 H. There is an annual registration fee for an officer or director or assistant of a
31 registered caregiver or registered dispensary, which may not be less than \$20 or more
32 than \$50.

33 I. There is a fee to replace a registry identification card that has been lost, stolen or
34 destroyed or a card that contains information that is no longer accurate, which may
35 not be less than \$10 or more than \$20. Replacement of a registry identification card
36 does not extend the expiration date.

37 J. There is an annual fee for a criminal history record check for a caregiver or an
38 officer or director or assistant of a registered dispensary, marijuana testing facility or
39 manufacturing facility, which may not be less than \$31 or more than \$60. The fee
40 must be paid by the caregiver or by the registered dispensary, marijuana testing
41 facility or manufacturing facility for an officer or director or assistant of the
42 registered dispensary, marijuana testing facility or manufacturing facility.

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

4 A. If a cardholder loses the cardholder's registry identification card, the cardholder
5 shall notify the department within 10 days of losing the card and submit the fee
6 required by subsection 10, paragraph I. Within 5 days after such notification, the
7 department shall issue a replacement registry identification card.

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

15 C. A registered dispensary shall notify the department in writing of the name,
16 address and date of birth of an officer or director or assistant who ceases to work at
17 the dispensary or marijuana testing facility and of any new officer or director or
18 assistant before the officer or director or assistant begins working at the dispensary or
19 marijuana testing facility.

20 D. A registered dispensary shall notify the department in writing if the dispensary
21 changes the physical location of the dispensary or the location at which the
22 dispensary cultivates marijuana plants.

23 12. Confidentiality. This subsection governs confidentiality.

24 A. Applications and supporting information submitted by qualifying patients and
25 registered patients under this chapter, including information regarding their
26 caregivers and medical providers, are confidential.

27 B. Applications and supporting information submitted by caregivers and medical
28 providers operating in compliance with this chapter are confidential.

29 C. The department shall maintain a confidential list of the persons to whom the
30 department has issued registry identification cards. Individual names and other
31 identifying information on the list are confidential, exempt from the freedom of
32 access laws, Title 1, chapter 13, and not subject to disclosure except as provided in
33 this subsection and to authorized employees of the department as necessary to
34 perform official duties of the department.

35 D. The department shall verify to law enforcement personnel whether a registry
36 identification card is valid and whether the conduct is authorized without disclosing
37 more information than is reasonably necessary to verify the authenticity of the
38 registry identification card.

39 E. Upon request of a code enforcement officer or, if a municipality does not employ
40 a code enforcement officer, another municipal officer, the department shall verify
41 whether a registry identification card is valid and whether the conduct is authorized
42 without disclosing more information than is reasonably necessary to verify the
43 authenticity of the registry identification card. The department may disclose the

1 location at which the conduct is authorized if necessary to verify the registry
2 identification card to the code enforcement officer or other municipal officer. The
3 department shall provide this information within 2 business days of the request. The
4 code enforcement officer or other municipal officer shall keep the information
5 received under this paragraph confidential except as necessary to verify whether the
6 registry identification card is valid and whether the conduct is authorized.

7 F. Applications, supporting information and other information regarding a registered
8 dispensary are not confidential, except that information that is contained within
9 dispensary information that identifies a qualifying patient, a registered patient, a
10 registered patient's medical provider or a caregiver of a qualifying patient or
11 registered patient is confidential.

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

16 (1) To department employees who are responsible for carrying out this chapter;

17 (2) Pursuant to court order or subpoena issued by a court;

18 (3) With written permission of the registered patient or the patient's guardian, if
19 the patient is under guardianship, or a parent, if the patient has not attained 18
20 years of age;

21 (4) As permitted or required for the disclosure of health care information
22 pursuant to section 1711-C;

23 (5) To a law enforcement official for verification purposes. The records may not
24 be disclosed further than necessary to achieve the limited goals of a specific
25 investigation; and

26 (6) To a registered patient's treating medical provider and to a registered patient's
27 registered caregiver for the purpose of carrying out this chapter.

28 H. This subsection does not prohibit a medical provider from notifying the
29 department if the medical provider acquires information indicating that a registered
30 patient or qualifying patient is no longer eligible to use marijuana for medical
31 purposes or that a registered patient or qualifying patient falsified information that
32 was the basis of the medical provider's certification of eligibility for use.

33 I. The department may disclose to an agency of State Government designated by the
34 commissioner and employees of that agency any information necessary to produce
35 registry identification cards or manage the identification card program and may
36 disclose data for statistical or research purposes in such a manner that individuals
37 cannot be identified.

38 J. A hearing concerning the suspension or revocation of a registry identification card
39 under section 2430-E is confidential.

40 K. Except as otherwise provided in this subsection, a person who knowingly violates
41 the confidentiality of information protected under this chapter commits a civil

1 violation for which a fine of up to \$1,000 may be imposed. This paragraph does not
2 apply to a medical provider or staff of a long-term care facility or any other person
3 directly associated with a medical provider or long-term care facility that provides
4 services to a registered patient.

5 L. Notwithstanding any provision of this subsection to the contrary, the department
6 shall comply with Title 36, section 175. Information provided by the department
7 pursuant to this paragraph may be used by the Department of Administrative and
8 Financial Services, Bureau of Revenue Services only for the administration and
9 enforcement of taxes imposed under Title 36.

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

13 A. A registered caregiver or a dispensary shall submit annually a report of the
14 number of qualifying patients and visiting qualifying patients assisted by the
15 caregiver or dispensary. A report may not directly or indirectly disclose patient
16 identity. The department shall adopt rules to implement this paragraph. Rules
17 adopted pursuant to this paragraph are routine technical rules as defined in Title 5,
18 chapter 375, subchapter 2-A.

19 B. The department shall submit to the joint standing committee of the Legislature
20 having jurisdiction over health and human services matters an annual report by April
21 1st each year that does not disclose any identifying information about cardholders or
22 medical providers, but that does contain, at a minimum:

23 (1) The number of applications and renewals filed for registry identification
24 cards and registration certificates;

25 (2) The number of qualifying patients and registered caregivers approved in each
26 county;

27 (3) The number of registry identification cards suspended or revoked;

28 (4) The number of medical providers providing written certifications for
29 qualifying patients;

30 (5) The number of registered dispensaries, manufacturing facilities and
31 marijuana testing facilities approved in each county;

32 (6) The number of officers or directors or assistants of registered caregivers,
33 registered dispensaries, manufacturing facilities and marijuana testing facilities;
34 and

35 (7) The revenue and expenses of the Medical Use of Marijuana Fund established
36 in section 2430.

37 **Sec. 16. 22 MRSA §2426, sub-§1, ¶E, as amended by PL 2011, c. 407, Pt. B,**
38 **§30, is further amended to read:**

1 E. Use or possess marijuana if that person is not a qualifying patient, ~~primary~~
2 caregiver, registered dispensary or other person authorized to use or possess
3 marijuana under this chapter.

4 **Sec. 17. 22 MRSA §2426, sub-§1-A**, as enacted by PL 2015, c. 369, §3, is
5 amended to read:

6 **1-A. School exceptions.** Notwithstanding subsection 1, paragraph B, a ~~primary~~
7 caregiver designated pursuant to section 2423-A, subsection 1, paragraph ~~B~~ F-1,
8 subparagraph (4) may, for the benefit of a qualifying patient, possess and administer
9 harvested marijuana in a nonsmokeable form in a school bus and on the grounds of the
10 preschool or primary or secondary school in which a ~~minor~~ qualifying patient is enrolled
11 only if:

12 A. A medical provider has provided the ~~minor~~ qualifying patient with a current
13 written certification for the medical use of marijuana under this chapter; ~~and~~

14 B. Possession of harvested marijuana in a nonsmokeable form is for the purpose of
15 administering marijuana ~~in a nonsmokeable form~~ to the ~~minor~~ qualifying patient; ~~and~~

16 C. The parent, legal guardian or person having legal custody of a qualifying patient
17 enrolled in the preschool or primary or secondary school has notified the school that a
18 caregiver has been designated on behalf of the qualifying patient to possess and
19 administer harvested marijuana to the qualifying patient.

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

24 **Sec. 18. 22 MRSA §2426, sub-§3-A**, as enacted by PL 2011, c. 407, Pt. B, §31,
25 is repealed.

26 **Sec. 19. 22 MRSA §2428**, as amended by PL 2015, c. 475, §§22 to 24, is further
27 amended to read:

28 **§2428. Registered dispensaries**

29 **1-A. Provisions pertaining to registered dispensary.** For the purpose of assisting a
30 qualifying patient ~~who has designated a registered dispensary to cultivate marijuana for~~
31 ~~the patient's medical use~~, a registered dispensary may in accordance with rules adopted by
32 the department:

33 A. ~~Possess and dispense~~ Dispense up to 2 1/2 ounces of ~~prepared harvested~~
34 ~~marijuana and possess an incidental amount of marijuana for each to the qualifying~~
35 ~~patient who has designated the dispensary. For the purposes of this chapter, any~~
36 ~~incidental amount of marijuana is lawful for a registered dispensary to possess and is~~
37 ~~not included in the amounts of prepared marijuana specified in this paragraph~~ in one
38 transaction, except that a dispensary may not dispense more than 2 1/2 ounces of
39 harvested marijuana to a visiting qualifying patient during a 15-day period;

40 B. ~~Cultivate up to 6 mature~~ marijuana plants and possess all harvested marijuana
41 from those marijuana plants for each patient who has designated the dispensary to

- 1 cultivate the plants on the patient's behalf subject to the limit of 6 mature plants total
2 for a patient who also cultivates marijuana;
- 3 C. Receive reasonable monetary compensation for costs associated with assisting or
4 for cultivating marijuana plants for a the qualifying patient ~~who designated the~~
5 ~~dispensary~~;
- 6 D. Assist ~~any the qualifying~~ patient ~~who designated the dispensary~~ to cultivate
7 marijuana with the medical use or administration of marijuana; and
- 8 E. Obtain ~~prepared harvested~~ marijuana from a primary caregiver under section
9 2423-A, subsection 2, paragraph H ~~or from another registered dispensary for the~~
10 ~~purposes of addressing an extended inventory supply interruption under subsection 6,~~
11 ~~paragraph G, K~~;
- 12 F. Except as provided in section 2426:
- 13 (1) Transfer marijuana plants and harvested marijuana to a qualifying patient and
14 to a caregiver on behalf of a qualifying patient in a retail sale for reasonable
15 compensation;
- 16 (2) Transfer marijuana plants and harvested marijuana to a qualifying patient,
17 caregiver or dispensary for no remuneration;
- 18 (3) Acquire marijuana plants and harvested marijuana from another dispensary
19 for no remuneration;
- 20 (4) Transfer to and accept from a registered caregiver or another dispensary
21 marijuana plants and harvested marijuana in a wholesale transaction in
22 accordance with this paragraph. A dispensary may transfer in wholesale
23 transactions for reasonable compensation or for no remuneration up to 30% of the
24 mature marijuana plants grown by the dispensary over the course of a calendar
25 year, including any marijuana products or marijuana concentrate manufactured
26 from that 30% of the mature marijuana plants grown by the dispensary. A
27 dispensary may transfer to or accept from registered caregivers and dispensaries
28 in wholesale transactions an unlimited amount of immature marijuana plants and
29 seedlings. A dispensary that acquires mature marijuana plants, marijuana
30 products or marijuana concentrate in a wholesale transaction under this
31 subparagraph may not resell the mature marijuana plants, marijuana products or
32 marijuana concentrate except to a qualifying patient or to a caregiver or
33 dispensary to assist a qualifying patient;
- 34 (5) Transfer harvested marijuana to a manufacturing facility and accept
35 marijuana products and marijuana concentrate from the manufacturing facility
36 that are produced from the harvested marijuana the dispensary provided to the
37 manufacturing facility; and
- 38 (6) Provide samples to a marijuana testing facility for testing and research
39 purposes;
- 40 G. Conduct marijuana testing at the request of anyone authorized to possess
41 marijuana under this chapter for research and development purposes only;

1 H. Manufacture marijuana products for medical use, except that a dispensary may
2 not prepare food, as defined in section 2152, subsection 4, unless licensed pursuant to
3 section 2167;

4 I. Manufacture marijuana concentrate for medical use, except that a dispensary may
5 not produce marijuana concentrate using inherently hazardous substances unless
6 authorized pursuant to section 2423-F, subsection 3;

7 J. Provide harvested marijuana to a manufacturing facility and obtain marijuana
8 products and marijuana concentrate from the manufacturing facility that is produced
9 from the harvested marijuana the registered dispensary provided to the manufacturing
10 facility;

11 K. Hire any number of assistants to assist in performing the duties of the dispensary;
12 and

13 L. Transport marijuana plants and harvested marijuana as necessary to carry out the
14 activities authorized under this section.

15 **2. Registration requirements.** ~~Subject to limitations on the number and location of~~
16 ~~dispensaries in subsection 11 and rules adopted pursuant to this section, this subsection~~
17 ~~governs the registration of a dispensary.~~

18 ~~A. The department shall register a dispensary and issue a registration certificate or~~
19 ~~renew a registration certificate within 30 days to any person or entity that provides:~~

20 ~~(1) An annual fee paid to the department as set by rule pursuant to section 2425,~~
21 ~~subsection 12, paragraph C;~~

22 ~~(2) The legal name of the dispensary, evidence of incorporation under Title 13-B~~
23 ~~and evidence that the corporation is in good standing with the Secretary of State;~~

24 ~~(3) The physical address of the dispensary and the physical address of a~~
25 ~~maximum of one additional location, if any, where marijuana will be cultivated~~
26 ~~for patients who have designated the dispensary to cultivate for them. If a~~
27 ~~registered dispensary changes the physical location of the dispensary or the~~
28 ~~location at which it cultivates marijuana, the dispensary shall notify the~~
29 ~~department on a location change form provided by the department, pay a change~~
30 ~~fee as established in section 2425, subsection 12, paragraph C and obtain a new~~
31 ~~registration certificate from the department;~~

32 ~~(4) The name, address and date of birth of each principal officer and board~~
33 ~~member of the dispensary; and~~

34 ~~(5) The name, address and date of birth of any person who is employed by the~~
35 ~~dispensary.~~

36 ~~B. The department shall track the number of registered patients who designate a~~
37 ~~dispensary to cultivate marijuana for them and issue to each dispensary a written~~
38 ~~statement of the number of patients who have designated the dispensary to cultivate~~
39 ~~marijuana for them. This statement must be updated each time a new registered~~
40 ~~patient designates the dispensary or ceases to designate the dispensary. The~~
41 ~~statement may be transmitted electronically if the department's rules so provide. The~~

1 ~~department may provide by rule that the updated written statements may not be~~
2 ~~issued more frequently than once each week.~~

3 ~~C. The department shall issue each principal officer, board member and employee of~~
4 ~~a dispensary a registry identification card within 10 days of receipt of the person's~~
5 ~~name, address and date of birth under paragraph A and a fee in an amount established~~
6 ~~by the department. Each card must specify that the cardholder is a principal officer,~~
7 ~~board member or employee of a dispensary and must contain:~~

8 ~~(1) The name, address and date of birth of the principal officer, board member or~~
9 ~~employee;~~

10 ~~(2) The legal name of the dispensary with which the principal officer, board~~
11 ~~member or employee is affiliated;~~

12 ~~(3) A random identification number that is unique to the cardholder;~~

13 ~~(4) The date of issuance and expiration date of the registry identification card;~~
14 ~~and~~

15 ~~(5) A photograph if required by the department.~~

16 ~~D. The department may not issue a registry identification card to any principal~~
17 ~~officer, board member or employee of a dispensary who has been convicted of a~~
18 ~~disqualifying drug offense. The department shall conduct a criminal history record~~
19 ~~check of each principal officer, board member or employee on an annual basis in~~
20 ~~order to carry out this provision. If the department determines not to issue a registry~~
21 ~~identification card for a principal officer, board member or employee, the department~~
22 ~~shall notify the dispensary in writing of the reason for denying the registry~~
23 ~~identification card.~~

24 ~~**3. Rules.** The department shall adopt routine technical rules as defined in Title 5,~~
25 ~~chapter 375, subchapter 2 A governing the manner in which it considers applications for~~
26 ~~and renewals of registration certificates for dispensaries, including rules governing:~~

27 ~~A. The form and content of registration and renewal applications;~~

28 ~~B. Minimum oversight requirements for dispensaries and the one permitted~~
29 ~~additional location at which the dispensary cultivates marijuana for medical use by~~
30 ~~qualifying patients who have designated the dispensary to cultivate for them;~~

31 ~~C. Minimum record-keeping requirements for dispensaries, including recording the~~
32 ~~disposal of marijuana that is not distributed by the dispensary to qualifying patients~~
33 ~~who have designated the dispensary to cultivate for them;~~

34 ~~D. Minimum security requirements for dispensaries and any additional location at~~
35 ~~which the dispensary cultivates marijuana for medical use by qualifying patients who~~
36 ~~have designated the dispensary to cultivate for them; and~~

37 ~~E. Procedures for suspending or terminating the registration of dispensaries that~~
38 ~~violate the provisions of this section or the rules adopted pursuant to this subsection.~~

39 ~~**4. Expiration.** A dispensary registration certificate and the registry identification~~
40 ~~card for each principal officer, board member or employee expire one year after the date~~

1 ~~of issuance. The department shall issue a renewal dispensary registration certificate and~~
2 ~~renewal registry identification cards within 10 days to any person who complies with the~~
3 ~~requirements contained in subsection 2. A registry identification card of a principal~~
4 ~~officer, board member or employee expires 10 days after notification by a dispensary that~~
5 ~~such person ceases to work at the dispensary.~~

6 ~~**5. Inspection.** A dispensary and any additional location at which the dispensary~~
7 ~~cultivates marijuana for medical use by a qualifying patient who has designated the~~
8 ~~dispensary to cultivate for the patient are subject to reasonable inspection by the~~
9 ~~department. The department may enter the dispensary and the one permitted additional~~
10 ~~location at which the dispensary cultivates marijuana at any time, without notice, to carry~~
11 ~~out an inspection under this subsection.~~

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

14 ~~A. A dispensary must be operated on a not for profit basis for the mutual benefit of~~
15 ~~qualifying patients who have designated the dispensary to cultivate marijuana. The~~
16 ~~bylaws of a dispensary and its contracts with qualifying patients must contain such~~
17 ~~provisions relative to the disposition of revenues and receipts as may be necessary~~
18 ~~and appropriate to establish and maintain its not for profit status. A dispensary need~~
19 ~~not be recognized as a tax exempt organization under 26 United States Code, Section~~
20 ~~501(e)(3) but is required to incorporate pursuant to Title 13-B and to maintain the~~
21 ~~corporation in good standing with the Secretary of State.~~

22 ~~B. A dispensary may not be located within 500 feet of the property line of a~~
23 ~~preexisting public or private school.~~

24 ~~C. A dispensary shall notify the department within 10 days of when a principal~~
25 ~~officer, board member or employee ceases to work at the dispensary.~~

26 ~~D. A dispensary shall notify the department in writing of the name, address and date~~
27 ~~of birth of any new principal officer, board member or employee and shall submit a~~
28 ~~fee in an amount established by the department for a new registry identification card~~
29 ~~before the new principal officer, board member or employee begins working at the~~
30 ~~dispensary.~~

31 ~~E. A dispensary shall implement appropriate security measures to deter and prevent~~
32 ~~unauthorized entrance into areas containing marijuana and the theft of marijuana at~~
33 ~~the dispensary and the one permitted additional location at which the dispensary~~
34 ~~cultivates marijuana plants for medical use by qualifying patients who have~~
35 ~~designated the dispensary to cultivate for them.~~

36 ~~F. The operating documents of a dispensary must include procedures for the~~
37 ~~oversight of the dispensary and procedures to ensure accurate record keeping in~~
38 ~~accordance with section 2430-G.~~

39 ~~G. A dispensary is prohibited from acquiring, possessing, cultivating, manufacturing,~~
40 ~~delivering, transferring, transporting, supplying or dispensing marijuana for any~~
41 ~~purpose except to assist qualifying patients who have designated the dispensary to~~
42 ~~cultivate marijuana for them for the medical use of marijuana directly or through the~~
43 ~~qualifying patients' primary caregivers, to obtain prepared marijuana as provided in~~

- 1 subsection 1-A, paragraph E or to provide prepared marijuana as provided in
2 paragraph L and subsection 9, paragraph B.
- 3 H. All ~~principal officers and board members~~ officers or directors of a dispensary
4 must be residents of this State.
- 5 I. All cultivation of marijuana plants must take place in ~~an enclosed, locked facility a~~
6 cultivation area unless the marijuana plants are being transported ~~between the~~
7 dispensary and a location at which the dispensary cultivates the marijuana plants, as
8 disclosed to the department in subsection 2, paragraph A, subparagraph (3). The
9 dispensary shall use a numerical identification system to enable the dispensary to
10 track marijuana plants from cultivation to sale and to track prepared marijuana
11 obtained pursuant to section 2423-A, subsection 2, paragraph H from acquisition to
12 sale pursuant to subsection 1-A, paragraph L. Access to the cultivation facility area
13 is limited to a cardholder who is a principal officer, board member or employee an
14 officer or director or assistant of the dispensary when acting in that cardholder's
15 official capacity, except that an elected official invited by a ~~principal officer, board~~
16 ~~member or employee~~ an officer or director or assistant for the purpose of providing
17 education to the elected official on cultivation by the dispensary, emergency services
18 personnel, an ~~employee~~ assistant of a marijuana testing facility or a person who needs
19 to gain access to the cultivation ~~facility~~ area in order to perform repairs or
20 maintenance or to do construction may access the cultivation ~~facility~~ area to provide
21 professional services while under the direct supervision of a cardholder who is a
22 ~~principal officer, board member or employee~~ an officer or director or assistant of the
23 dispensary.
- 24 J. ~~A dispensary that is required to obtain a license for the preparation of food~~
25 ~~pursuant to section 2167 shall obtain the license prior to preparing goods containing~~
26 ~~marijuana, including tinctures of marijuana, for medical use by a qualifying patient.~~
- 27 K. A dispensary shall display the dispensary's registration certificate issued under
28 ~~subsection 2, paragraph A~~ section 2425-A in a publicly visible location in the
29 dispensary.
- 30 L. ~~A dispensary may provide excess prepared marijuana to another dispensary that is~~
31 ~~experiencing an extended inventory supply interruption.~~
- 32 M. ~~A dispensary may provide samples to a marijuana testing facility for testing and~~
33 ~~research purposes.~~
- 34 N. ~~A dispensary may conduct marijuana testing at the request of anyone authorized~~
35 ~~to possess marijuana under this chapter for research and development purposes only.~~
- 36 **7. Maximum amount of marijuana to be dispensed.** A dispensary or a ~~principal~~
37 ~~officer, board member or employee~~ an officer or director or assistant of a dispensary may
38 not dispense more than 2 1/2 ounces of ~~prepared~~ harvested marijuana in one transaction
39 to a qualifying patient who has designated the dispensary or to a primary caregiver on
40 behalf of a qualifying patient who has designated the dispensary, except that a dispensary
41 or an officer or director or assistant of a dispensary may not dispense more than 2 1/2
42 ounces of harvested marijuana to a visiting qualifying patient during a 15-day period.

1 ~~8-A. Immunity. The immunity provisions in this subsection apply to a registered~~
2 ~~dispensary and officers, board members, agents and employees of the dispensary.~~

3 ~~A. A registered dispensary is not subject to prosecution, search, seizure or penalty in~~
4 ~~any manner, including but not limited to a civil penalty or disciplinary action by a~~
5 ~~business or an occupational or professional licensing board or entity, and may not be~~
6 ~~denied any right or privilege solely for acting in accordance with this section to assist~~
7 ~~qualifying patients with the medical use of marijuana in accordance with this chapter.~~

8 ~~B. A principal officer, board member, agent or employee of a registered dispensary~~
9 ~~is not subject to arrest, prosecution, search, seizure or penalty in any manner,~~
10 ~~including but not limited to a civil penalty or disciplinary action by a business or an~~
11 ~~occupational or professional licensing board or entity, and may not be denied any~~
12 ~~right or privilege solely for working for or with a registered dispensary to provide~~
13 ~~prepared marijuana to qualifying patients or to otherwise assist qualifying patients~~
14 ~~with the medical use of marijuana in accordance with this chapter.~~

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

16 ~~A. A dispensary may not possess more than 6 mature marijuana plants for each~~
17 ~~qualifying patient who has designated the dispensary to cultivate marijuana for the~~
18 ~~qualifying patient's medical use subject to a limit of 6 mature plants total for a patient~~
19 ~~who also cultivates marijuana.~~

20 ~~B. A dispensary may not dispense, deliver or otherwise transfer marijuana to a~~
21 ~~person other than a qualifying patient who has designated the dispensary to cultivate~~
22 ~~marijuana for the patient, to the patient's primary caregiver or to a dispensary as~~
23 ~~provided in subsection 6, paragraphs G and L except as provided in this chapter.~~

24 ~~C. The department shall immediately revoke the registry identification card of a~~
25 ~~principal officer, board member or employee of a dispensary who is found to have~~
26 ~~violated paragraph B, and such a person is disqualified from serving as a principal~~
27 ~~officer, board member or employee of a dispensary.~~

28 ~~D. A person who has been convicted of a disqualifying drug offense may not be a~~
29 ~~principal officer, board member or employee an officer or director or assistant of a~~
30 ~~dispensary.~~

31 ~~(1) A person who is employed by or is a principal officer or board member an~~
32 ~~officer or director or assistant of a dispensary in violation of this paragraph~~
33 ~~commits a civil violation for which a fine of not more than \$1,000 may be~~
34 ~~adjudged.~~

35 ~~(2) A person who is employed by or is a principal officer or board member an~~
36 ~~officer or director or assistant of a dispensary in violation of this paragraph and~~
37 ~~who at the time of the violation has been previously found to have violated this~~
38 ~~paragraph commits a Class D crime.~~

39 ~~E. A dispensary may acquire prepared marijuana only from a primary caregiver in~~
40 ~~accordance with section 2423 A, subsection 2, paragraph H or K, through the~~
41 ~~cultivation of marijuana by that dispensary either at the location of the dispensary or~~
42 ~~at the one permitted additional location at which the dispensary cultivates marijuana~~

1 ~~for medical use by qualifying patients who have designated the dispensary to~~
2 ~~cultivate for them or from a dispensary as provided in subsection 1-A, paragraph E.~~

3 F. A dispensary may not contract for the cultivation of seeds of a marijuana plant,
4 seedlings or small plants or the cultivation, production or preparation of marijuana or
5 food containing marijuana for medical use immature marijuana plants, except that a
6 dispensary may engage in wholesale transactions in accordance with subsection 1-A,
7 paragraph F, subparagraph (4).

8 G. A registered dispensary may not use a pesticide on marijuana plants except a
9 pesticide that is used consistent with federal labeling requirements, is registered with
10 the Department of Agriculture, Conservation and Forestry, Board of Pesticides
11 Control pursuant to Title 7, section 607 and is used consistent with best management
12 practices for pest management approved by the Commissioner of Agriculture,
13 Conservation and Forestry. A registered dispensary may not in the cultivation of
14 marijuana plants use a pesticide unless at least one registered dispensary employee
15 assistant involved in the application of the pesticide is certified pursuant to section
16 1471-D and all other registered dispensary employees assistants who have direct
17 contact with treated plants have completed safety training pursuant to 40 Code of
18 Federal Regulations, Section 170.130. A registered dispensary employee assistant
19 who is not certified pursuant to section 1471-D and who is involved in the application
20 of the pesticide or handling of the pesticide or equipment must first complete safety
21 training described in 40 Code of Federal Regulations, Section 170.230.

22 ~~**10. Local regulation.** This chapter does not prohibit a political subdivision of this~~
23 ~~State from limiting the number of dispensaries that may operate in the political~~
24 ~~subdivision or from enacting reasonable regulations applicable to dispensaries. A local~~
25 ~~government may not adopt an ordinance that is duplicative of or more restrictive than the~~
26 ~~provisions of this Act. An ordinance that violates this subsection is void and of no effect.~~

27 ~~**11. Limitation on number of dispensaries.** The department shall adopt rules~~
28 ~~limiting the number and location of registered dispensaries. During the first year of~~
29 ~~operation of dispensaries the department may not issue more than one registration~~
30 ~~certificate for a dispensary in each of the 8 public health districts of the department, as~~
31 ~~defined in section 411. After review of the first full year of operation of dispensaries and~~
32 ~~periodically thereafter, the department may amend the rules on the number and location~~
33 ~~of dispensaries; however, the number of dispensaries may not be less than 8.~~

34 **11-A. Limitation on number of dispensaries registered.** This subsection governs
35 the limits on the number of dispensary registration certificates that may be issued by the
36 department.

37 A. The department may not limit the total number of dispensary registration
38 certificates it issues.

39 B. The department shall issue a registration certificate to a dispensary that operated
40 as a nonprofit entity prior to April 1, 2018 if 2/3 of the officers or directors of the
41 entity that is the successor in interest of that nonprofit entity were officers or directors
42 of the nonprofit entity at the time the nonprofit entity ceased existing as a nonprofit
43 entity. The registration certificate of a dispensary operating as a nonprofit entity prior
44 to April 1, 2018 expires upon the cessation of existence of the nonprofit entity unless

1 an entity that is the successor in interest to that nonprofit entity and that meets the
2 requirements of this paragraph is capable of operating under the registration
3 certificate at substantially the same time the nonprofit entity ceases existence. The
4 registration certificate issued to the entity that is the successor in interest to the
5 nonprofit entity under this paragraph expires on the date the registration certificate
6 issued to the nonprofit entity would have expired.

7 ~~12. Labels. If a dispensary affixes a label on the packaging of any marijuana or~~
8 ~~product containing marijuana provided to a qualifying patient and that label includes~~
9 ~~information about contaminants, the cannabinoid profile or potency of the marijuana or~~
10 ~~product containing marijuana, the label must be verified by a marijuana testing facility~~
11 ~~that is not owned by the dispensary if there is a marijuana testing facility licensed,~~
12 ~~certified or approved in accordance with this chapter.~~

13 **Sec. 20. 22 MRSA §2429**, as amended by PL 2011, c. 407, Pt. B, §§33 and 34, is
14 repealed.

15 **Sec. 21. 22 MRSA §§2429-A to 2429-D** are enacted to read:

16 **§2429-A. Packaging and labeling requirements**

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

19 A. Prepackaged in child-resistant and tamper-evident packaging or placed in child-
20 resistant and tamper-evident packaging with a signifier that the package contains
21 harvested marijuana at the final point of sale to a qualifying patient;

22 B. Prepackaged in opaque packaging or an opaque container or placed in opaque
23 packaging or an opaque container with a signifier that the package contains harvested
24 marijuana at the final point of sale to a qualifying patient;

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

27 D. In conformity with all other applicable requirements and restrictions imposed by
28 rule by the department.

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

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

33 A. Labeled or packaged in violation of a federal trademark law or regulation or in a
34 manner that would cause a reasonable consumer confusion as to whether the
35 harvested marijuana was a trademarked product;

36 B. Labeled or packaged in a manner that is specifically designed to appeal
37 particularly to a person under 21 years of age;

38 C. Labeled or packaged in a manner that obscures identifying information on the
39 label or uses a false or deceptive label;

1 D. Sold or offered for sale using a label or packaging that depicts a human, animal or
2 fruit; or

3 E. Labeled or packaged in violation of any other labeling or packaging requirement
4 or restriction imposed by rule by the department.

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

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

16 **§2429-B. Signs, advertising and marketing**

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

19 A. Be misleading, deceptive or false;

20 B. Involve mass-market advertising or marketing campaigns that have a high
21 likelihood of reaching persons under 21 years of age or that are specifically designed
22 to appeal particularly to persons under 21 years of age;

23 C. Be placed or otherwise used within 1,000 feet of the property line of a preexisting
24 public or private school, except that, if a municipality chooses to prohibit the
25 placement or use of signs or advertising by or on behalf of a registered caregiver or
26 dispensary at distances greater than or less than 1,000 feet but not less than 500 feet
27 from the property line of a preexisting public or private school, that greater or lesser
28 distance applies;

29 D. Violate any other requirement or restriction on signs, advertising and marketing
30 imposed by the department by rule pursuant to subsection 2; or

31 E. Market to any person authorized to possess marijuana under this chapter and
32 specifically to any adult use or recreational marijuana market within the same sign,
33 advertisement or marketing material.

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

37 A. A prohibition on health or physical benefit claims in advertising or marketing,
38 including, but not limited to, health or physical benefit claims on the label or
39 packaging of harvested marijuana;

40 B. A prohibition on unsolicited advertising or marketing on the Internet, including,
41 but not limited to, banner advertisements on mass-market websites;

1 C. A prohibition on opt-in advertising or marketing that does not permit an easy and
2 permanent opt-out feature; and

3 D. A prohibition on advertising or marketing directed toward location-based devices,
4 including, but not limited to, cellular telephones, unless the marketing is a mobile
5 device application installed on the device by the owner of the device who is 21 years
6 of age or older and includes a permanent and easy opt-out feature.

7 **§2429-C. Edible marijuana products health and safety requirements and**
8 **restrictions**

9 In addition to all other applicable provisions of this chapter, edible marijuana
10 products to be sold or offered for sale in a retail transaction in accordance with this
11 chapter:

12 1. Cannabinoid content. Must be manufactured in a manner that results in the
13 cannabinoid content within the product being homogeneous throughout the product or
14 throughout each element of the product that has a cannabinoid content;

15 2. Marijuana content. Must be manufactured in a manner that results in the amount
16 of marijuana concentrate within the product being homogeneous throughout the product
17 or throughout each element of the product that contains marijuana concentrate;

18 3. Shape. May not be manufactured in the distinct shape of a human, animal or
19 fruit;

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

21 A. Toxic or harmful to human beings; or

22 B. Specifically designed to make the product appeal particularly to a person under 21
23 years of age; and

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

29 **§2429-D. Local regulation**

30 Pursuant to the home rule authority granted under the Constitution of Maine, Article
31 VIII, Part Second and Title 30-A, section 3001, a municipality may regulate registered
32 caregivers, registered caregiver retail stores operating pursuant to section 2423-A,
33 subsection 2, paragraph P, registered dispensaries, marijuana testing facilities and
34 manufacturing facilities, except that municipalities may not prohibit or limit the number
35 of registered caregivers.

36 **Sec. 22. 22 MRSA §2430, sub-§2, ¶A,** as enacted by PL 2009, c. 631, §45 and
37 affected by §51, is amended to read:

38 A. All money received as a result of applications and reapplications for registration
39 as a qualifying patient, primary caregiver and, dispensary, manufacturing facility and
40 marijuana testing facility;

1 **Sec. 23. 22 MRSA §2430, sub-§2, ¶B**, as amended by PL 2015, c. 475, §25, is
2 further amended to read:

3 B. All money received as a result of applications and reapplications for registry
4 identification cards for registered patients, ~~primary caregivers and~~ dispensaries and
5 ~~board members, officers and employees~~ officers or directors or assistants of
6 registered caregivers, dispensaries ~~or~~ manufacturing facilities and marijuana testing
7 facilities;

8 **Sec. 24. 22 MRSA §2430, sub-§3**, as enacted by PL 2009, c. 631, §45 and
9 affected by §51, is amended to read:

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

15 A. The cost of the tax deductions provided pursuant to Title 36, section 5122,
16 subsection 2, paragraph PP and Title 36, section 5200-A, subsection 2, paragraph BB.
17 By June 1st annually, the State Tax Assessor shall determine the cost of those
18 deductions during the prior calendar year and report that amount to the State
19 Controller, who shall transfer that amount from the remaining funds in the fund to the
20 General Fund; and

21 B. The cost of the position in the Department of Administrative and Financial
22 Services, Bureau of Revenue Services to administer the tax deductions provided
23 pursuant to Title 36, section 5122, subsection 2, paragraph PP and Title 36, section
24 5200-A, subsection 2, paragraph BB. By June 1st annually, the Commissioner of
25 Administrative and Financial Services shall determine the cost of the position in the
26 bureau to administer those deductions during the prior calendar year and report that
27 amount to the State Controller, who shall transfer that amount from the remaining
28 funds in the fund to the General Fund.

29 **Sec. 25. 22 MRSA §2430, sub-§§4 and 5** are enacted to read:

30 **4. Review of fund balance.** Beginning January 2018 and every 2 years thereafter,
31 the department shall review the balance in the fund. If the balance in the fund exceeds
32 \$400,000, the department shall reduce the fees established under section 2425-A,
33 subsection 10 for a 2-year period beginning with the calendar year following the review.

34 **5. Medical marijuana research grant program established.** The medical
35 marijuana research grant program, referred to in this subsection as "the program," is
36 established within the department to provide grant money to support objective scientific
37 research, including observational and clinical trials and existing research, on the efficacy
38 of marijuana as part of medical treatment and the health effects of marijuana used as part
39 of medical treatment. The program must be funded from the fund. The department shall
40 adopt rules necessary to implement the program, including, but not limited to, required
41 qualifications of persons conducting the research; determining the scientific merit and
42 objectivity of a research proposal; criteria for determining the amount of program funds
43 distributed; criteria for determining the duration of the research; procedures for soliciting

1 research participants, including outreach to patients, and for obtaining the informed
2 consent of participants; and reporting requirements for the results of the research and
3 evaluation of the research results. Rules adopted pursuant to this subsection are routine
4 technical rules as defined in Title 5, chapter 375, subchapter 2-A.

5 **Sec. 26. 22 MRSA §2430-A**, as amended by PL 2015, c. 475, §26, is repealed.

6 **Sec. 27. 22 MRSA §§2430-C to 2430-G** are enacted to read:

7 **§2430-C. Protections for authorized activity**

8 **1. Rights of persons or entities acting pursuant to this chapter.** A person whose
9 conduct is authorized under this chapter may not be denied any right or privilege or be
10 subjected to arrest, prosecution, penalty or disciplinary action, including but not limited
11 to a civil penalty or disciplinary action by a business or occupational or professional
12 licensing board or bureau, for lawfully engaging in conduct involving the medical use of
13 marijuana authorized under this chapter.

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

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

29 B. If the use of a form of harvested marijuana consistent with a long-term facility's
30 policy by an admitted patient who has been certified under section 2423-B occurs in
31 the long-term care facility, that long-term care facility is not subject to prosecution,
32 search, seizure or penalty in any manner, including but not limited to a civil penalty
33 or disciplinary action by an occupational or professional licensing board or entity,
34 and may not be denied any license, registration, right or privilege solely because the
35 admitted patient lawfully engages in conduct involving the medical use of marijuana
36 authorized under this chapter.

37 C. An officer or director, employee or agent of a hospital or long-term care facility
38 where the use of a form of harvested marijuana that is not smoked or vaporized,
39 including but not limited to edible marijuana products and tinctures and salves of
40 marijuana, by an admitted patient who has been certified under section 2423-B occurs
41 is not subject to arrest, prosecution, search, seizure or penalty in any manner,
42 including but not limited to a civil penalty or disciplinary action by an occupational
43 or professional licensing board or entity, and may not be denied any license,

1 registration, right or privilege solely because the admitted patient lawfully engages in
2 conduct involving the medical use of marijuana authorized under this chapter.

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

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

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

31 **6. Prohibition on seizure and retention.** Except when necessary for an ongoing
32 criminal or civil investigation, a law enforcement officer may not seize marijuana that is
33 in the possession of a qualifying patient, caregiver, marijuana testing facility,
34 manufacturing facility or registered dispensary as authorized by this chapter. A law
35 enforcement officer in possession of marijuana in violation of this subsection shall return
36 the marijuana within 7 days after receiving a written request for return by the owner of
37 the marijuana. Notwithstanding the provisions of Title 14, chapter 741, if the law
38 enforcement officer fails to return marijuana possessed in violation of this subsection
39 within 7 days of receiving a written request for return of the marijuana under this
40 subsection, the owner of the marijuana may file a claim in the District Court in the district
41 where the owner lives or where the law enforcement officer is employed.

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

44 A. If the person is a qualifying patient or visiting qualifying patient, present upon
45 request of a law enforcement officer the original written certification for the patient

1 and the patient's government-issued identification that includes a photo and proof of
2 address; or

3 B. If the person is a caregiver, present upon request of a law enforcement officer the
4 original written document designating the person as a caregiver by the qualifying
5 patient under section 2423-A, subsection 1, paragraph F-1 and the caregiver's
6 government-issued identification that includes a photo and proof of address.

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

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

22 A. A caregiver, marijuana testing facility, manufacturing facility or dispensary is not
23 subject to prosecution, search, seizure or penalty in any manner, including but not
24 limited to a civil penalty or disciplinary action by a business or an occupational or
25 professional licensing board or entity, and may not be denied any right or privilege
26 solely for acting in accordance with this section to assist with the medical use of
27 marijuana in accordance with this chapter.

28 B. An officer or director or assistant of a caregiver, marijuana testing facility,
29 manufacturing facility or dispensary is not subject to arrest, prosecution, search,
30 seizure or penalty in any manner, including but not limited to a civil penalty or
31 disciplinary action by a business or an occupational or professional licensing board or
32 entity, and may not be denied any right or privilege solely for working for or with a
33 caregiver, marijuana testing facility, manufacturing facility or dispensary to provide
34 marijuana plants and marijuana products to qualifying patients, caregivers,
35 dispensaries, manufacturing facilities or marijuana testing facilities or to otherwise
36 assist with the medical use of marijuana in accordance with this chapter.

37 **§2430-D. Collectives prohibited**

38 Collectives are prohibited under this chapter. A person may not form or participate in
39 a collective. The following relationships are not collectives and are not prohibited:

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

42 A. Consult with each other to assist the same qualifying patient;

1 B. Refer a qualifying patient to a caregiver to obtain specialized marijuana plants or
2 harvested marijuana;

3 C. Obtain specialized marijuana plants or harvested marijuana from another
4 caregiver to assist the same qualifying patient; or

5 D. Transfer harvested marijuana pursuant to section 2423-A, subsection 2, paragraph
6 K;

7 2. Employer and assistant relationship. Two caregivers to the extent the
8 relationship is as employer and assistant; or

9 3. Caregivers sharing common areas. Any number of caregivers who are operating
10 separately and occupying separate spaces within a common facility to engage in activities
11 authorized under section 2423-A, subsection 2, even if they also share utilities or
12 common areas, including but not limited to storage areas and building facilities, and who
13 do not share marijuana plants or harvested marijuana resulting from the cultivation of
14 those plants.

15 §2430-E. Possession penalties; fraud penalty

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

22 A. Possession of harvested marijuana by a qualifying patient or a caregiver operating
23 under section 2423-A, subsection 3, paragraph C in an excess amount up to 1 1/4
24 ounces commits a civil violation for which a fine of not less than \$350 and not more
25 than \$600 must be adjudged, none of which may be suspended;

26 B. Possession of harvested marijuana by a qualifying patient or a caregiver operating
27 under section 2423-A, subsection 3, paragraph C in an excess amount over 1 1/4
28 ounces and up to 2 1/2 ounces commits a civil violation for which a fine of not less
29 than \$700 and not more than \$1,000 must be adjudged, none of which may be
30 suspended; and

31 C. Possession of harvested marijuana by a qualifying patient or a caregiver operating
32 under section 2423-A, subsection 3, paragraph C in an excess amount over 2 1/2
33 ounces is a violation of Title 17-A, chapter 45.

34 2. Repeat forfeiture. If a cardholder has previously forfeited excess marijuana
35 pursuant to subsection 1 and a subsequent forfeiture occurs, the department shall revoke
36 the registry identification card of the cardholder and the entire amount of marijuana
37 plants or harvested marijuana possessed by that cardholder must be forfeited to a law
38 enforcement officer. The department shall adopt rules to implement this subsection.
39 Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5,
40 chapter 375, subchapter 2-A.

41 3. Defense for possession of excess marijuana. Except as provided in section
42 2426, a qualifying patient may assert the medical purpose for using marijuana as a

1 defense to any prosecution involving marijuana possession and may present evidence in
2 court that the patient's necessary medical use or cultivation circumstances warranted
3 exceeding the amount of marijuana allowed under section 2423-A and was reasonably
4 necessary to ensure the uninterrupted availability of marijuana for the purpose of treating
5 or alleviating the patient's medical diagnosis or symptoms associated with the patient's
6 medical diagnosis that, in a medical provider's professional opinion, may be alleviated by
7 the therapeutic or palliative medical use of marijuana.

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

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

21 **§2430-F. Registration suspension or revocation**

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

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

37 **2. Suspension or revocation of registry identification card.** The department shall
38 revoke the registry identification card of a cardholder who sells, furnishes or gives
39 marijuana to a person who is not authorized to possess marijuana for medical purposes
40 under this chapter. A cardholder who sells, furnishes or gives marijuana to a person who
41 is not authorized to possess marijuana for medical purposes under this chapter is liable for
42 any other penalties for selling, furnishing or giving marijuana to a person. The
43 department may suspend or revoke the registry identification card of any cardholder who
44 violates this chapter, and the cardholder is liable for any other penalties for the violation.

1 **§2430-G. Record keeping; inspections; reporting requirements**

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

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

7 (1) Keep a record of all transfers of marijuana plants and harvested marijuana;

8 (2) Keep the books and records maintained by the registered caregiver,
9 registered dispensary, marijuana testing facility or manufacturing facility for a
10 period of 7 years;

11 (3) Complete an annual audit of business transactions of the registered caregiver,
12 registered dispensary, marijuana testing facility or manufacturing facility by an
13 independent 3rd party; and

14 (4) Make the books and records maintained under this subsection available to
15 inspection by the department upon the department's demand.

16 Records kept under this paragraph must avoid identifying qualifying patients.

17 B. The department shall develop and implement a statewide electronic portal through
18 which registered caregivers, registered dispensaries, marijuana testing facilities and
19 manufacturing facilities may submit to the department the records required under
20 paragraph A and in accordance with rules adopted by the department. The department
21 shall adopt rules regarding the process and content of records to be submitted, the
22 frequency with which the records must be submitted and any other requirements
23 necessary to implement this paragraph.

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

27 (1) The person transferring the marijuana plants or harvested marijuana,
28 including the person's registry identification number;

29 (2) The person receiving the marijuana plants or harvested marijuana, including
30 the person's registry identification number or, if the person is not required to
31 register under this chapter, a unique identifier assigned to the person;

32 (3) A description of the marijuana plants or harvested marijuana being
33 transferred, including the amount and form;

34 (4) The time and date of the transfer; and

35 (5) The destination of the marijuana plants or harvested marijuana.

36 The department may adopt rules to implement this subsection.

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

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

11 (1) May not enter the dwelling unit of a registered caregiver if the registered
12 caregiver is not present; and

13 (2) May inspect only the area of a dwelling unit where activity authorized under
14 this chapter occurs.

15 The department shall specify in writing to the registered caregiver or an officer or
16 director or assistant of a registered caregiver, registered dispensary, marijuana testing
17 facility or manufacturing facility the grounds contained in the complaint when
18 conducting an inspection in response to a complaint.

19 B. The department shall adopt rules:

20 (1) Establishing standards for compliance with this chapter that are available
21 publicly;

22 (2) Establishing inspection procedures that prevent contamination of any
23 operations undertaken by the registered caregiver, registered dispensary,
24 marijuana testing facility or manufacturing facility in compliance with this
25 chapter; and

26 (3) Requiring a registered caregiver to report on the location within the
27 registered caregiver's home where activity authorized under this chapter is
28 occurring.

29 Rules adopted by the department pursuant to this paragraph may require that an
30 annual compliance inspection is a condition of eligibility for renewal of a registration
31 under this chapter.

32 C. The department may suspend, revoke or refuse to renew the registration
33 identification card or registration certificate of a registered caregiver, a registered
34 dispensary, a marijuana testing facility or a manufacturing facility that refuses or
35 willfully avoids 2 or more inspections under this subsection. A person whose registry
36 identification card or registration certificate has been suspended, revoked or not
37 renewed under this subsection may request a hearing in accordance with Title 5,
38 chapter 375, subchapter 4.

39 D. The department may not conduct inspections of a qualifying patient or caregiver
40 operating under section 2423-A, subsection 2, paragraph C.

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

3 A. Any violation of this chapter or rule adopted under this chapter governing the
4 operations of the registered caregiver, registered dispensary, marijuana testing facility
5 or manufacturing facility to the department within one business day of discovering
6 the violation; and

7 B. Any suspected illegal activity involving the operations of the registered caregiver,
8 registered dispensary, marijuana testing facility or manufacturing facility to the
9 department and law enforcement within 24 hours of discovering the suspected illegal
10 activity.

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

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

17 **§2430-H. Fines collected**

18 Fines collected pursuant to this chapter and rules adopted by the department must be
19 credited to the Medical Use of Marijuana Fund pursuant to section 2430.

20 **Sec. 28. 36 MRSA §191, sub-§3-B,** as enacted by PL 2013, c. 595, Pt. J, §2 and
21 affected by §4, is amended to read:

22 **3-B. Additional restrictions for certain information provided by the Department**
23 **of Health and Human Services.** Information provided to the assessor by the
24 Department of Health and Human Services pursuant to section 175 and Title 22, section
25 2425, ~~subsection 8~~ 2425-A, subsection 12, paragraph L may be used by the bureau only
26 for the administration and enforcement of taxes imposed under this Title. These
27 restrictions are in addition to those imposed by subsection 1.

28 **Sec. 29. 36 MRSA §1817, sub-§5,** as enacted by IB 2015, c. 5, §3, is amended to
29 read:

30 **5. Exemption.** The tax on marijuana imposed pursuant to this section may not be
31 levied on marijuana sold by a registered ~~nonprofit~~ dispensary or registered caregiver to a
32 qualifying patient or ~~primary~~ caregiver pursuant to Title 22, chapter 558-C.

33 **Sec. 30. 36 MRSA §5122, sub-§2, ¶PP** is enacted to read:

34 PP. For taxable years beginning on or after January 1, 2018, for business expenses
35 related to carrying on a trade or business as a registered caregiver or a registered
36 dispensary, as defined in Title 22, section 2422, an amount equal to the deduction that
37 would otherwise be allowable under this Part to the extent that the deduction is
38 disallowed under the Code, Section 280E.

39 **Sec. 31. 36 MRSA §5200-A, sub-§2, ¶BB** is enacted to read:

1 BB. For taxable years beginning on or after January 1, 2018, for business expenses
 2 related to carrying on a trade or business as a registered caregiver or a registered
 3 dispensary, as defined in Title 22, section 2422, an amount equal to the deduction that
 4 would otherwise be allowable under this chapter to the extent that the deduction is
 5 disallowed under the Code, Section 280E.

6 **Sec. 32. Tax forms.** The Department of Administrative and Financial Affairs,
 7 Bureau of Revenue Services shall amend as necessary any form on which retail sales of
 8 medical marijuana under the Maine Revised Statutes, Title 22, chapter 558-C may be
 9 reported to the department to clearly indicate that those sales are subject to the sales tax
 10 imposed under Title 36, section 1811.

11 **Sec. 33. Rulemaking; medical marijuana research grant program.** No
 12 later than March 1, 2019, the Department of Health and Human Services shall adopt rules
 13 to implement the medical marijuana research grant program established in the Maine
 14 Revised Statutes, Title 22, section 2430, subsection 5.

15 **Sec. 34. Report on statewide electronic tracking portal.** The Department of
 16 Health and Human Services shall report in writing to the joint standing committee of the
 17 Legislature having jurisdiction over health and human services matters by January 1,
 18 2019 on the progress of the department in adopting rules and otherwise implementing the
 19 statewide electronic tracking portal established in the Maine Revised Statutes, Title 22,
 20 section 2430-G, subsection 1, paragraph B.

21 **Sec. 35. Outreach to medical providers.** The Department of Health and
 22 Human Services shall consult with statewide associations representing licensed medical
 23 professionals to develop and provide educational materials related to medical marijuana
 24 to medical providers, as defined in the Maine Revised Statutes, Title 22, section 2422,
 25 who provide written certifications for the medical use of marijuana in accordance with
 26 Title 22, section 2423-B.

27 **Sec. 36. Appropriations and allocations.** The following appropriations and
 28 allocations are made.

29 **ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF**
 30 **Revenue Services, Bureau of 0002**

31 Initiative: Provides funding for one Tax Examiner position and related costs to review
 32 and process income tax returns.

33	GENERAL FUND	2017-18	2018-19
34	POSITIONS - LEGISLATIVE COUNT	0.000	1.000
35	Personal Services	\$0	\$61,865
36	All Other	\$0	\$49,429
37			
38	GENERAL FUND TOTAL	\$0	\$111,294

1	ADMINISTRATIVE AND FINANCIAL		
2	SERVICES, DEPARTMENT OF		
3	DEPARTMENT TOTALS	2017-18	2018-19
4			
5	GENERAL FUND	\$0	\$111,294
6			
7	DEPARTMENT TOTAL - ALL FUNDS	\$0	\$111,294

8 **ATTORNEY GENERAL, DEPARTMENT OF THE**
 9 **Human Services Division 0696**

10 Initiative: Allocates funds for the costs of one full-time Assistant Attorney General
 11 position to advise the Department of Health and Human Services on the interpretation of
 12 new medical marijuana program provisions and to assist with enforcement thereof and
 13 provides funding for related All Other costs.

14	OTHER SPECIAL REVENUE FUNDS	2017-18	2018-19
15	POSITIONS - LEGISLATIVE COUNT	0.000	1.000
16	Personal Services	\$0	\$99,306
17	All Other	\$0	\$11,670
18			
19	OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	\$110,976

20	ATTORNEY GENERAL, DEPARTMENT OF		
21	THE		
22	DEPARTMENT TOTALS	2017-18	2018-19
23			
24	OTHER SPECIAL REVENUE FUNDS	\$0	\$110,976
25			
26	DEPARTMENT TOTAL - ALL FUNDS	\$0	\$110,976

27 **HEALTH AND HUMAN SERVICES, DEPARTMENT OF**
 28 **Medical Use of Marijuana Fund Z118**

29 Initiative: Provides funding for increased legal services.

30	OTHER SPECIAL REVENUE FUNDS	2017-18	2018-19
31	All Other	\$0	\$110,976
32			
33	OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	\$110,976

34 **Medical Use of Marijuana Fund Z118**

35 Initiative: Provides allocation to establish 2 Field Investigator positions and one Office
 36 Specialist I position for an increased number of investigations.

1	OTHER SPECIAL REVENUE FUNDS	2017-18	2018-19
2	POSITIONS - LEGISLATIVE COUNT	0.000	3.000
3	Personal Services	\$0	\$216,969
4	All Other	\$0	\$18,858
5			
6	OTHER SPECIAL REVENUE FUNDS TOTAL	<u>\$0</u>	<u>\$235,827</u>
7	HEALTH AND HUMAN SERVICES,		
8	DEPARTMENT OF		
9	DEPARTMENT TOTALS	2017-18	2018-19
10			
11	OTHER SPECIAL REVENUE FUNDS	\$0	\$346,803
12			
13	DEPARTMENT TOTAL - ALL FUNDS	<u>\$0</u>	<u>\$346,803</u>
14	SECTION TOTALS	2017-18	2018-19
15			
16	GENERAL FUND	\$0	\$111,294
17	OTHER SPECIAL REVENUE FUNDS	\$0	\$457,779
18			
19	SECTION TOTAL - ALL FUNDS	<u>\$0</u>	<u>\$569,073</u>
20			

SUMMARY

This amendment, which is the minority report of the committee, replaces the bill and makes the following changes to the Maine Medical Use of Marijuana Act. The amendment:

1. Eliminates the list of debilitating medical conditions for which a medical provider may provide a written certification and instead allows a medical provider to certify use to patients who have a medical diagnosis that may be alleviated by the therapeutic or palliative use of marijuana;

2. Eliminates the requirement that qualifying patients designate a primary caregiver or dispensary as the sole provider of cultivation services or medical marijuana;

3. Increases the possession limit in law for qualifying patients and unregistered caregivers from 2.5 ounces to 8 pounds, which was the amount previously authorized in rules adopted by the Department of Health and Human Services;

4. Increases the possession limit for registered caregivers and dispensaries from an amount based on the number of patients who have designated the registered caregiver or dispensary to the amount that the registered caregiver or dispensary cultivated or otherwise lawfully acquired;

- 1 5. Allows registered caregivers and dispensaries to sell up to 30% of the marijuana
2 the registered caregiver or dispensary cultivated to another registered caregiver or
3 dispensary in wholesale transactions;
- 4 6. Authorizes qualifying patients, caregivers and dispensaries to manufacture
5 marijuana products as long as certain substances that are considered hazardous are not
6 used;
- 7 7. Authorizes qualifying patients, caregivers and dispensaries to produce marijuana
8 concentrate using substances that are considered hazardous if certain safety and
9 inspection requirements are met;
- 10 8. Establishes a registration process for persons and entities that are not qualifying
11 patients, caregivers or dispensaries to manufacture marijuana products and to engage in
12 marijuana extraction using substances that are considered hazardous if certain safety and
13 inspection requirements are met;
- 14 9. Expands the authorization of a qualifying patient to use medical marijuana in
15 certain assisted living and residential care facilities, in addition to hospice and nursing
16 facilities, as long as that use is consistent with the facility's policy;
- 17 10. Allows medical marijuana testing facilities to operate in the absence of rules
18 adopted by the Department of Health and Human Services if the facilities meet certain
19 standards;
- 20 11. Establishes packaging, labeling and marketing requirements for the sale of
21 medical marijuana;
- 22 12. Requires registered caregivers, dispensaries, marijuana testing facilities and
23 manufacturing facilities to track marijuana within the medical marijuana program from
24 seeds to final user;
- 25 13. Requires registered caregivers, dispensaries, marijuana testing facilities and
26 manufacturing facilities to maintain books and records and allows the Department of
27 Health and Human Services to inspect those books and records;
- 28 14. Establishes additional authority for the Department of Health and Human
29 Services to oversee medical marijuana-related activities, including the authority to inspect
30 registered caregiver operations, dispensaries, marijuana testing facilities and
31 manufacturing facilities during regular business hours or hours of apparent activity
32 without notice, except that the department may not enter the dwelling unit of a registered
33 caregiver to undertake an inspection if the caregiver is not present;
- 34 15. Requires that records containing patient information be kept in a manner that does
35 not allow identification of the patient or be kept confidential;
- 36 16. Removes the limit on the number of dispensaries that may operate;
- 37 17. Prohibits the Department of Health and Human Services from limiting the
38 number of dispensary registration certificates issued after January 1, 2021;
- 39 18. Removes the requirement in current law that a dispensary must operate as a
40 nonprofit business entity;

1 19. Clarifies that municipalities may regulate registered caregivers, registered
2 dispensaries, medical marijuana manufacturing facilities and marijuana testing facilities,
3 except that municipalities may not prohibit or limit the number of registered caregivers;
4 and

5 20. Establishes a grant program to support objective scientific research funded by
6 revenue from the Medical Use of Marijuana Fund and requires the Department of Health
7 and Human Services to adopt rules to implement the grant program by March 1, 2019.

8 The amendment also allows businesses that are not permitted to deduct business
9 expenses under federal law due to the United States Internal Revenue Code of 1986,
10 Section 280E to deduct business expenses to the same extent as if those expenses were
11 not excluded from deduction for federal tax purposes and requires the cost of these
12 deductions, as well as the cost of administering these deductions, to be paid from the
13 Medical Use of Marijuana Fund, to the extent that funds are available in the fund for
14 those purposes.

15 The amendment also requires the Department of Health and Human Services to
16 consult with statewide associations representing licensed medical professionals to
17 develop and provide educational materials related to medical marijuana.

18 The amendment adds an appropriations and allocations section.

19 **FISCAL NOTE REQUIRED**

20 **(See attached)**



128th MAINE LEGISLATURE

LD 1539

LR 1833(03)

An Act To Amend Maine's Medical Marijuana Law

Fiscal Note for Bill as Amended by Committee Amendment 'B' (H-766)

Committee: Health and Human Services

Fiscal Note Required: Yes

Fiscal Note

	FY 2017-18	FY 2018-19	Projections FY 2019-20	Projections FY 2020-21
Net Cost (Savings)				
General Fund	\$0	\$0	\$0	\$0
Appropriations/Allocations				
General Fund	\$0	\$111,294	\$90,960	\$90,960
Other Special Revenue Funds	\$0	\$457,779	\$469,340	\$480,952
Revenue				
General Fund	\$0	(\$240,100)	(\$194,750)	(\$199,500)
Other Special Revenue Funds	\$0	(\$4,900)	(\$10,250)	(\$10,500)
Transfers				
General Fund	\$0	\$351,394	\$285,710	\$290,460
Other Special Revenue Funds	\$0	(\$351,394)	(\$285,710)	(\$290,460)

Correctional and Judicial Impact Statements

Increases the number of civil suits.

The additional workload associated with the minimal number of new cases filed in the court system does not require additional funding at this time.

The collection of additional filing fees and fines may increase General Fund or other dedicated revenue by minor amounts.

Fiscal Detail and Notes

The bill includes an Other Special Revenue Funds allocation of \$110,976 in fiscal year 2018-19 to the Office of the Attorney General (OAG) to establish one full-time Assistant Attorney General position to advise the Department of Health and Human Services on the interpretation of new medical marijuana program provisions and to assist with the enforcement thereof.

The bill also includes Other Special Revenue allocations to the Department of Health and Human Services (DHHS) of \$235,827 in fiscal year 2018-19 to establish 2 Field Investigator positions and 1 Office Specialist position to handle increased investigations. DHHS will also receive an allocation of \$110,976 to reimburse the OAG for its new position.

CB (H-766)

The bill includes a General Fund appropriation to the Department of Administrative and Financial Services of \$111,294 in fiscal year 2018-19 for one Tax Examiner position and related costs to review and process income tax returns. There will be a reduction in General Fund revenue of \$240,100 and a reduction in Local Government Fund revenue of \$4,900 in fiscal year 2018-19 from allowing medical marijuana dispensaries and registered caregivers to deduct expenses from corporate and individual income tax.

The bill requires that any new costs to the General Fund created by the bill be reimbursed through transfers from the Medical Use of Marijuana Fund in the Department of Health and Human Services to the unappropriated surplus of the General Fund. The transfer for fiscal year 2018-19 is estimated to be \$351,394.

The DHHS may receive requests from patients for reimbursement of the costs associated with obtaining a 2nd opinion, in certain circumstances. As it is not known how many individuals may make this request and how many individuals would receive reimbursement, no estimate of the increased costs is made at this time.

The DHHS is also required to establish the medical marijuana research grant program to provide grant money to support objective scientific research, including observational and clinical trials and existing research, on the efficacy of marijuana as part of medical treatment and the health effects of marijuana used as part of medical treatment. The program must be funded from the Medical Use of Marijuana Fund. The DHHS is required to adopt rules outlining requirements of the program including the amount of funds distributed and duration of the research, so no estimate of cost can be made at this time.

Additionally, there is a potential increase in registration fees to the DHHS for facilities that register to produce marijuana concentrate by a process involving inherently hazardous substances. Currently, manufacturing facilities are not required to register or notify the DHHS of their operations, so no estimates of the increase in registration fees or the increased costs to the DHHS for registration and auditing program compliance are made at this time.

The bill also creates new registration tiers for manufacturing facilities, which could also increase the overall registration fees to the DHHS. As the decision to change the tier of registration lies with each provider, no estimate of the increase in registration fees are made at this time.

The DHHS may no longer limit the number of registration certificates it issues to a person or entity to operate as a dispensary. Any new dispensaries would pay a \$12,000 application fee, which would yield additional revenue. However, it is not known how many new registration certificates will be awarded during the year, so no estimate of the increased revenue is made at this time.

Any additional costs to the Department of Health and Human Services for rulemaking, to report to the legislature on the new electronic tracking portal and to consult with statewide associations representing licensed medical professionals to develop and provide educational materials related to medical marijuana to medical providers are expected to be minor and can be absorbed within existing budgeted resources.

Allowing facilities that test medical marijuana samples to operate in the absence of rules, clarifying that qualified and non qualified persons may manufacture marijuana concentrate by a process of extraction not involving inherently hazardous substances and establishing a process for persons to become authorized to produce marijuana concentrate by a process involving inherently hazardous substances may increase marijuana products sales. No estimate of the potential increase in General Fund and Local Government Fund revenues as a result of increased sales tax collections is made at this time.