

# MAINE STATE LEGISLATURE

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L.D. 1928

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Date: 4/8/22

(Filing No. H- 960)

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## VETERANS AND LEGAL AFFAIRS

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### STATE OF MAINE

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### HOUSE OF REPRESENTATIVES

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### 130TH LEGISLATURE

8

### SECOND REGULAR SESSION

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COMMITTEE AMENDMENT "A" to H.P. 1435, L.D. 1928, "An Act To Update and Clarify the Maine Medical Use of Marijuana Act and Provide for Greater Transparency

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"

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Amend the bill by striking out the title and substituting the following:

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**'An Act To Update and Clarify the Maine Medical Use of Marijuana Act'**

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

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

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**1-G. Complete application.** "Complete application" means, with respect to an application for a registry identification card or a registration certificate, that:

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A. The applicant has completed and submitted to the department all application forms required and provided by the department;

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B. The applicant has submitted to the department documentation sufficient to satisfy all applicable residency requirements of this chapter, which may include, but is not limited to, a valid photographic identification card issued by the State;

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C. If required by the department pursuant to this chapter, the applicant has submitted to a criminal history record check;

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D. If applying for a registry identification card for a caregiver or a registration certificate for a dispensary, the applicant has registered with the State Tax Assessor pursuant to Title 36, section 1754-B to collect and remit the sales tax on the sale of harvested marijuana imposed under Title 36, section 1811 and has provided to the department documentation of the registration; and

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E. If applying for a registration certificate for a dispensary, the applicant has submitted to the department documentation sufficient to show that the applicant has fulfilled any applicable municipal authorization requirements for the municipality in which the applicant intends to operate the dispensary.

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# COMMITTEE AMENDMENT

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

3           **3. Cultivation area.** "Cultivation area" means an indoor or outdoor area used for  
4 cultivation of mature marijuana plants, immature marijuana plants or seedlings in  
5 accordance with this chapter that is enclosed and equipped with locks or other security  
6 devices that permit access only by a person authorized to have access to the area under this  
7 chapter. A cultivation area may include multiple indoor or outdoor areas, whether  
8 contiguous or noncontiguous, on the same parcel or tract of land.

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

10           **4-T. Immature plant canopy.** "Immature plant canopy" means the total surface area  
11 within a cultivation area where immature marijuana plants are growing. The surface area  
12 of the immature plant canopy must be calculated in square feet and measured using the  
13 outside boundaries of the area and must include all of the area within the boundaries. If the  
14 surface area of the immature plant canopy consists of noncontiguous areas, each component  
15 area must be separated by identifiable boundaries. If a tiered or shelving system is used in  
16 the cultivation area, the surface area of each tier or shelf must be included in calculating  
17 the area of the immature plant canopy. Calculation of the surface area of the immature plant  
18 canopy may not include the areas within the cultivation area that are not used at any time  
19 to cultivate immature marijuana plants.

20           **Sec. 4. 22 MRSA §2422, sub-§4-U** is enacted to read:

21           **4-U. Marijuana tincture.** "Marijuana tincture" means a solution that is intended to  
22 be consumed orally and is prepared from harvested marijuana blended with an edible  
23 solvent.

24           **Sec. 5. 22 MRSA §2422, sub-§7-B**, as enacted by PL 2019, c. 256, §1, is amended  
25 to read:

26           **7-B. ~~Plant~~ Mature plant canopy.** "~~Plant~~ Mature plant canopy" means the total  
27 surface area within a cultivation area ~~that is dedicated to the cultivation of mature marijuana~~  
28 ~~plants where mature marijuana plants are growing.~~ The surface area of the mature plant  
29 canopy must be calculated in square feet and measured using the outside boundaries of the  
30 area and must include all of the area within the boundaries. If the surface area of the mature  
31 plant canopy consists of noncontiguous areas, each component area must be separated by  
32 identifiable boundaries. If a tiered or shelving system is used in the cultivation area, the  
33 surface area of each tier or shelf must be included in calculating the area of the mature plant  
34 canopy. Calculation of the surface area of the mature plant canopy may not include the  
35 areas within the cultivation area that are used to cultivate immature marijuana plants and  
36 seedlings and that are not used at any time to cultivate mature marijuana plants.

37           **Sec. 6. 22 MRSA §2422, sub-§14-C** is enacted to read:

38           **14-C. Telehealth services.** "Telehealth services" means health care services delivered  
39 through the use of information technology. "Telehealth services" includes synchronous  
40 encounters, store and forward transfers, telemonitoring and asynchronous encounters.

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

42           **A. "Asynchronous encounter"** means an interaction between an individual and a  
43 medical provider through a system that has the ability to store digital information.

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1 including, but not limited to, still images, video files, audio files, text files and other  
2 relevant data, and to transmit such information without requiring the simultaneous  
3 presence of the individual and the medical provider.

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

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

9 D. "Telemonitoring" means the use of information technology to remotely monitor an  
10 individual's health status via electronic means, allowing the medical provider to track  
11 the individual's health data over time.

12 **Sec. 7. 22 MRSA §2422, sub-§14-D** is enacted to read:

13 **14-D. Timely filed.** "Timely filed" means, with respect to an application submitted  
14 for renewal of a registry identification card or an application submitted for renewal of a  
15 registration certificate, that the applicant submits a complete application to the department  
16 no sooner than 60 days and no later than 30 days prior to the expiration date of the current  
17 registry identification card or the current registration certificate.

18 **Sec. 8. 22 MRSA §2422, sub-§16**, as amended by PL 2017, c. 452, §3, is further  
19 amended to read:

20 **16. Written certification.** "Written certification" means a document ~~on tamper-~~  
21 ~~resistant paper~~ signed by a medical provider that is valid for the term provided by the  
22 ~~qualifying patient's medical provider, except that the term of a written certification may not~~  
23 ~~exceed one year, and issued to a qualifying patient in accordance with section 2423-B, or~~  
24 ~~a digital image of that document issued by the medical provider that meets the requirements~~  
25 ~~of section 2423-B, subsection 4, that states that, in the medical provider's professional~~  
26 ~~opinion a, the patient is likely to receive therapeutic or palliative benefit from the medical~~  
27 ~~use of marijuana to treat or alleviate the patient's medical diagnosis or symptoms associated~~  
28 ~~with the medical diagnosis.~~

29 **Sec. 9. 22 MRSA §2423-A, sub-§1, ¶B**, as amended by PL 2017, c. 452, §4, is  
30 further amended to read:

31 B. Cultivate, or designate a caregiver operating under subsection 3, paragraph C to  
32 cultivate under paragraph F-1, subparagraph (1), up to a total of 6 mature marijuana  
33 plants, 12 immature marijuana plants and unlimited seedlings for that qualifying  
34 patient. The total number of mature marijuana plants per qualifying patient, whether  
35 cultivated by the patient or by a caregiver operating under subsection 3, paragraph C,  
36 may not exceed 6. The total number of immature marijuana plants per qualifying  
37 patient, whether cultivated by the patient or by a caregiver operating under subsection  
38 3, paragraph C, may not exceed 12. Two or more qualifying patients who are members  
39 of the same household and cultivating their own marijuana plants may share ~~one~~ not  
40 more than 2 cultivation ~~area~~ areas;

41 **Sec. 10. 22 MRSA §2423-A, sub-§2, ¶B**, as amended by PL 2019, c. 256, §2, is  
42 further amended to read:

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1 B. Cultivate up to 30 mature marijuana plants ~~or 500 square feet of plant canopy, up~~  
2 ~~to 60 immature marijuana plants and unlimited seedlings or cultivate up to 500 square~~  
3 ~~feet of mature plant canopy, up to 1,000 square feet of immature plant canopy and~~  
4 ~~unlimited seedlings. A caregiver may not cultivate immature plants by canopy if~~  
5 ~~cultivating mature plants by plant count and may not cultivate immature plants by plant~~  
6 ~~count if cultivating mature plants by canopy;~~

7 **Sec. 11. 22 MRSA §2423-A, sub-§2, ¶K**, as amended by PL 2017, c. 452, §4, is  
8 further amended to read:

9 K. Transfer ~~marijuana plants~~ immature marijuana plants, seedlings, seeds and  
10 harvested marijuana to a qualifying patient, another caregiver or a registered dispensary  
11 for reasonable compensation or for no remuneration;

12 **Sec. 12. 22 MRSA §2423-A, sub-§2, ¶P**, as amended by PL 2021, c. 367, §4, is  
13 further amended to read:

14 P. Operate one caregiver retail store to sell harvested marijuana to qualifying patients  
15 for the patients' medical use in accordance with this chapter; and

16 **Sec. 13. 22 MRSA §2423-A, sub-§2, ¶Q**, as amended by PL 2021, c. 367, §5, is  
17 further amended to read:

18 Q. Be organized as any type of legal business entity recognized under the laws of the  
19 State; ~~and.~~

20 **Sec. 14. 22 MRSA §2423-A, sub-§2, ¶R**, as enacted by PL 2021, c. 367, §6, is  
21 repealed.

22 **Sec. 15. 22 MRSA §2423-A, sub-§3, ¶B**, as amended by PL 2017, c. 452, §4, is  
23 further amended to read:

24 B. A caregiver cultivating marijuana plants for a patient's medical use must keep all  
25 plants in a cultivation area unless the plants are being transported pursuant to  
26 subsection 2, paragraph O. ~~Access to a cultivation area is limited to the caregiver,~~  
27 ~~except that an elected official invited by the caregiver for the purpose of providing~~  
28 ~~education to the elected official on cultivation by the caregiver, emergency services~~  
29 ~~personnel, an assistant of a caregiver or a marijuana testing facility or a person who~~  
30 ~~needs to gain access to a cultivation area in order to perform repairs or maintenance or~~  
31 ~~to do construction may access a cultivation area to provide those professional services~~  
32 ~~while under the direct supervision of the caregiver.~~

33 (1) The caregiver shall ensure that the mature marijuana plants, immature  
34 marijuana plants and seedlings cultivated by the caregiver are kept in separate  
35 cultivation areas. The cultivation area for mature marijuana plants and the  
36 cultivation area for immature marijuana plants and seedlings may be located on  
37 separate parcels or tracts of land, whether the parcels or tracts of land are  
38 contiguous or noncontiguous, as long as the caregiver discloses the locations of all  
39 cultivation areas to the department. The caregiver may not maintain more than 2  
40 cultivation areas. The caregiver shall ensure that the cultivation area for mature  
41 marijuana plants and the cultivation area for immature marijuana plants comply  
42 with the plant count or plant canopy limitations of subsection 2, paragraph B.

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1                   (2) Access to cultivation areas is limited to the caregiver, except that an elected  
2                   official invited by the caregiver for the purpose of providing education to the  
3                   elected official on cultivation by the caregiver, emergency services personnel, an  
4                   assistant of a caregiver or a marijuana testing facility or a person who needs to gain  
5                   access to a cultivation area in order to perform repairs or maintenance or to do  
6                   construction may access a cultivation area to provide those professional services  
7                   while under the direct supervision of the caregiver.

8                   **Sec. 16. 22 MRSA §2423-A, sub-§3, ¶D**, as amended by PL 2017, c. 452, §4, is  
9 further amended to read:

10                   D. Two caregivers who are members of the same family or household may share ~~the~~  
11 ~~same not more than 2~~ cultivation area areas.

12                   **Sec. 17. 22 MRSA §2423-A, sub-§3, ¶E**, as amended by PL 2017, c. 452, §4, is  
13 further amended to read:

14                   E. A person who is authorized to cultivate marijuana plants under subsection 1 or 2  
15 and who is an assistant of a caregiver pursuant to subsection 2, paragraph I may not  
16 cultivate that person's own marijuana plants in ~~the~~ a cultivation area ~~by~~ of the caregiver  
17 who employs that person.

18                   **Sec. 18. 22 MRSA §2423-B, sub-§2-A**, as amended by PL 2021, c. 387, §4, is  
19 further amended to read:

20                   **2-A. Minor qualifying patient.** A medical provider who provides a written  
21 certification to a patient who has not attained 18 years of age shall:

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

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 the~~  
33 ~~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 the~~  
38 ~~Department of Health and Human Services and statewide associations representing~~  
39 ~~licensed medical professionals. The consultation between the medical provider and the~~  
40 ~~consulting physician may consist of examination of the patient or review of the patient's~~  
41 ~~medical file. The consulting physician shall provide an advisory opinion to the medical~~  
42 ~~provider and the parent, legal guardian or person having legal custody of the qualifying~~  
43 ~~patient concerning whether the patient is likely to receive therapeutic or palliative~~

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1 benefit from the medical use of marijuana to treat or alleviate the patient's medical  
2 diagnosis. If the department or the consulting physician does not respond to a request  
3 by the medical provider within 10 days of receipt of the request, the medical provider  
4 may provide a written certification without consultation with a physician.

5 The parent, legal guardian or person having legal custody of a qualifying patient who  
6 has not attained 18 years of age may submit a request to the department for  
7 reimbursement of the costs associated with obtaining a 2nd opinion required by this  
8 paragraph. Requests must be submitted on a form developed by the department. The  
9 department shall review the family's annual income and expenses in determining  
10 whether to reimburse the family from the Medical Use of Marijuana Fund under section  
11 2430 for the cost of the required 2nd consultation.

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

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

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

23 **Sec. 19. 22 MRSA §2423-B, sub-§3**, as amended by PL 2017, c. 452, §5, is further  
24 amended to read:

25 **3. Expiration.** A written certification form for the medical use of marijuana under  
26 this section is valid for the term provided by the qualifying patient's medical provider,  
27 which must be included in the written certification and which may not exceed one year.

28 **Sec. 20. 22 MRSA §2423-B, sub-§4**, as amended by PL 2017, c. 452, §5, is further  
29 amended to read:

30 **4. Form; content; digital image.** A written certification under this section must be  
31 issued on tamper-resistant paper provided by the department in the form required by rule  
32 adopted by the department and may not require a qualifying patient's medical provider to  
33 state the patient's specific medical diagnosis. A medical provider may also provide to a  
34 qualifying patient a digital image of the patient's written certification document as long as  
35 the document portrayed in the digital image is identical to the document issued by the  
36 medical provider and the information contained in the document is legible in the digital  
37 image.

38 **Sec. 21. 22 MRSA §2423-B, sub-§9** is enacted to read:

39 **9. Telehealth.** A medical provider who provides written certifications for the medical  
40 use of marijuana under this section may use telehealth services to consult with a patient  
41 subject to the following conditions:

42 A. A medical provider using telehealth services to consult with a patient seeking a  
43 written certification for the medical use of marijuana under this section shall engage in

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1 a synchronous encounter with a patient before providing a written certification or  
2 renewal of a written certification; and

3 B. A medical provider who provides written certifications for the medical use of  
4 marijuana and uses telehealth services to consult with patients shall operate within the  
5 standards of practice determined by the licensing board for that medical provider.

6 **Sec. 22. 22 MRSA §2425-A, sub-§4**, as enacted by PL 2017, c. 452, §12, is  
7 amended to read:

8 **4. Issuance or denial of registry identification cards.** The department shall verify  
9 the information contained in an application for a registry identification card or for renewal  
10 of a card submitted pursuant to subsection 3 and shall approve or deny ~~an a complete~~  
11 ~~application for a card or for renewal of a card~~ in accordance with this subsection within 30  
12 days of ~~receiving it receipt~~.

13 A. Within 5 business days of approving a ~~completed complete~~ application, the  
14 department shall issue a registry identification card to the applicant.

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

16 (1) The applicant did not provide the information required pursuant to subsection  
17 3;

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

19 (3) The department determines that the information provided by the applicant was  
20 falsified.

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

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

26 In the case of a caregiver's application for renewal of a registry identification card, upon  
27 receipt of a timely filed, complete application submitted by the caregiver, the department  
28 shall provide the caregiver with a written statement acknowledging receipt of the  
29 application that authorizes the caregiver to continue operating under the caregiver's current  
30 card until the application is approved and a renewed card is issued by the department, the  
31 application is denied and the current card expires, 90 days elapse from the date of the  
32 written statement or the current card is suspended or revoked in accordance with this  
33 chapter, whichever occurs first. If the department fails to issue or deny a renewal of a  
34 registry identification card within 90 days of providing the written statement  
35 acknowledging receipt of the application, the renewal is deemed granted and a copy of the  
36 application for renewal of the registry identification card is deemed a valid registry  
37 identification card.

38 If the department fails to issue or deny a valid registry identification card in response to a  
39 valid complete application for a card ~~or for renewal of a card~~ submitted pursuant to  
40 subsection 3 within 45 days of its submission, the registry identification card is deemed  
41 granted and a copy of the application for a registry identification card ~~or for renewal of the~~  
42 ~~card~~ is deemed a valid registry identification card.



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1           **Sec. 23. 22 MRSA §2425-A, sub-§5, ¶C**, as enacted by PL 2017, c. 452, §12, is  
2 amended to read:

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

5                 (1) The legal name of the registered dispensary with which the officer or director  
6 ~~or assistant~~ is affiliated;

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

8                 (3) A photograph of the officer or director ~~or assistant~~, if required by the  
9 department.

10           **Sec. 24. 22 MRSA §2425-A, sub-§5, ¶C-1** is enacted to read:

11           C-1. Registry identification cards issued to an assistant of a registered caregiver or  
12 registered dispensary must also contain:

13                 (1) The address and date of birth of the assistant; and

14                 (2) A photograph of the assistant if required by the department.

15           **Sec. 25. 22 MRSA §2425-A, sub-§5, ¶D**, as enacted by PL 2017, c. 452, §12, is  
16 amended to read:

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

20           **Sec. 26. 22 MRSA §2425-A, sub-§5-A** is enacted to read:

21           **5-A. Issuance of single registry identification card to caregiver or dispensary**  
22 **assistant.** The department shall issue a single registry identification card pursuant to this  
23 section authorizing a person to be an assistant of one or more registered caregivers or  
24 registered dispensaries and who satisfies all applicable requirements under this section for  
25 issuance of a registry identification card. A single registry identification card issued to a  
26 person in accordance with this subsection authorizes the person to assist one or more  
27 registered caregivers or registered dispensaries in accordance with this chapter and may not  
28 associate the person with or restrict the person to assisting a specific caregiver or  
29 dispensary.

30           **Sec. 27. 22 MRSA §2425-A, sub-§7**, as enacted by PL 2017, c. 452, §12, is  
31 amended to read:

32           **7. Issuance or denial of registration certificate.** The department shall verify the  
33 information contained in an application for a registration certificate or for renewal of a  
34 certificate submitted pursuant to subsection 6 and shall approve or deny ~~an a complete~~  
35 ~~application for a certificate or for renewal of a certificate~~ in accordance with this subsection  
36 within 30 days of ~~receiving it~~ receipt.

37           A. Within 10 days of approving a ~~completed~~ complete application, the department  
38 shall issue a registration certificate to the applicant.

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

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- 1 (1) The applicant did not provide the information required pursuant to subsection
- 2 6;
- 3 (2) The department determines that the applicant does not qualify; or
- 4 (3) The department determines that the information provided by the applicant was
- 5 falsified.

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

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

10 In the case of a registered dispensary's application for renewal of a registration certificate,  
11 upon receipt of a timely filed, complete application submitted by the dispensary, the  
12 department shall provide the dispensary with a written statement acknowledging receipt of  
13 the application that authorizes the dispensary to continue operating under the dispensary's  
14 current certificate until the application is approved and a renewed certificate is issued by  
15 the department, the application is denied and the current certificate expires, 90 days elapse  
16 from the date of the written statement or the current certificate is suspended or revoked in  
17 accordance with this chapter, whichever occurs first. If the department fails to issue or  
18 deny a renewal of a registration certificate within 90 days of providing the written statement  
19 acknowledging receipt of the application, the renewal is deemed granted and a copy of the  
20 application for renewal of the registration certificate is deemed a valid registration  
21 certificate.

22 If the department fails to issue or deny a registration certificate in response to a ~~valid~~  
23 complete 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 granted  
25 and a copy of the application for a registration certificate ~~or for renewal of the certificate~~ is  
26 deemed a valid registration certificate.

27 **Sec. 28. 22 MRSA §2425-A, sub-§10, ¶B,** as repealed and replaced by PL 2021,  
28 c. 251, §4, is amended by amending subparagraph (2) to read:

- 29 (2) For a caregiver registering based upon plant canopy, the fee may not be less
- 30 than \$50 or more than \$1,500 for a total mature plant canopy of 500 square feet or
- 31 less.

32 **Sec. 29. 22 MRSA §2425-A, sub-§12, ¶M** is enacted to read:

33 M. A caregiver, dispensary, manufacturing facility or marijuana testing facility or an  
34 officer, director or assistant of a caregiver, dispensary, manufacturing facility or  
35 marijuana testing facility may not be required to disclose to a law enforcement officer  
36 information that could reasonably identify an individual person's identity without a  
37 warrant requiring the disclosure.

38 **Sec. 30. 22 MRSA §2425-A, sub-§12, ¶N** is enacted to read:

39 N. A person who accompanies a patient to obtain marijuana plants or harvested  
40 marijuana may not be required to disclose to a law enforcement officer information  
41 that could reasonably identify an individual patient's identity without a warrant  
42 requiring the disclosure.

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**Sec. 31. 22 MRSA §2428, sub-§6, ¶I**, as amended by PL 2017, c. 452, §16, is further amended to read:

I. All cultivation of marijuana plants must take place in a cultivation area unless the marijuana plants are being transported pursuant to subsection 1-A, paragraph L. ~~Access to the cultivation area is limited to a cardholder who is an officer or director or assistant of the dispensary when acting in that cardholder's official capacity, except that an elected official invited by an officer or director or assistant for the purpose of providing education to the elected official on cultivation by the dispensary, emergency services personnel, an assistant of a marijuana testing facility or a person who needs to gain access to the cultivation area in order to perform repairs or maintenance or to do construction may access the cultivation area to provide professional services while under the direct supervision of a cardholder who is an officer or director or assistant of the dispensary.~~

(1) The dispensary shall ensure that the mature marijuana plants and immature marijuana plants and seedlings cultivated by the dispensary are kept in separate spaces within the same cultivation area. The cultivation area must be located on a single parcel or tract of land, and the dispensary must disclose the location of the cultivation area to the department. The dispensary may not maintain more than one cultivation area.

(2) Access to cultivation areas is limited to a cardholder who is an officer, director or assistant of the dispensary when acting in that cardholder's official capacity, except that an elected official invited by an officer, director or assistant for the purpose of providing education to the elected official on cultivation by the dispensary, emergency services personnel, an assistant of a marijuana testing facility or a person who needs to gain access to a cultivation area in order to perform repairs or maintenance or to do construction may access the cultivation area to provide professional services while under the direct supervision of a cardholder who is an officer, director or assistant of the dispensary.

**Sec. 32. 22 MRSA §2429-A, sub-§4**, as amended by PL 2019, c. 331, §28, is further amended to read:

**4. Educational materials.** A person that provides harvested marijuana to a qualifying patient ~~must~~ shall make educational materials about the use of harvested marijuana available in printed or electronic form to the qualifying patient at the time of the transaction. The department shall develop the minimum content of the educational materials provided under this subsection and make that content available publicly.

**Sec. 33. 22 MRSA §2430-C, sub-§6-A** is enacted to read:

**6-A. Restrictions on law enforcement access.** Notwithstanding any provision of law to the contrary, a law enforcement officer may not enter any location in which a qualifying patient, caregiver, registered dispensary, manufacturing facility or marijuana testing facility conducts activities authorized under this chapter or pursuant to a registry identification card or registration certificate issued under this chapter, except where:

A. The patient, caregiver, dispensary, manufacturing facility or marijuana testing facility voluntarily allows the law enforcement officer to enter the location;

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B. The law enforcement officer's entry is authorized pursuant to a warrant issued by a duly authorized justice, judge or justice of the peace; or

C. The law enforcement officer's entry is authorized in accordance with a recognized exception to the warrant requirement, including, but not limited to, exigent circumstances.

**Sec. 34. 22 MRSA §2430-C, sub-§7, ¶A,** as enacted by PL 2017, c. 452, §24, is amended to read:

A. If the person is a qualifying patient or visiting qualifying patient, present upon request of a law enforcement officer the ~~original patient's~~ written certification ~~for the patient~~ and the patient's government-issued identification that includes a photo and proof of address; or'

Amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

**SUMMARY**

This amendment replaces the bill and makes the following changes to the Maine Medical Use of Marijuana Act.

1. It provides definitions for "complete application," "immature plant canopy," "marijuana tincture," "telehealth services" and "timely filed" and amends definitions for "cultivation area," "plant canopy," and "written certification."

2. It amends requirements for medical providers providing written certification to qualifying patients who are minors, including by imposing a requirement for medical providers to be available after hours for questions about a minor patient's medical use of marijuana.

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

4. It limits the circumstances under which a law enforcement officer may enter a location in which a qualifying patient, caregiver, registered dispensary, manufacturing facility or marijuana testing facility conducts activities authorized under the Maine Medical Use of Marijuana Act or by a registry identification card or registration certificate issued under that law.

5. It provides that a medical marijuana program registrant is not required to disclose to a law enforcement officer information that could reasonably identify an individual person's identity without a warrant requiring the disclosure and that a person who accompanies a patient to obtain marijuana plants or harvested marijuana may not be required to disclose to a law enforcement officer information that could reasonably identify a patient's identity without a warrant requiring disclosure.

6. It authorizes a person providing a qualifying patient with harvested marijuana to provide the patient with required educational materials in printed or electronic form.

7. It authorizes the Department of Administrative and Financial Services to issue to an assistant of one or more registered caregivers or registered dispensaries a single registry identification card that allows the assistant to assist one or more caregivers or dispensaries.

**COMMITTEE AMENDMENT**

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1           8. It provides that in the case of a caregiver's application for renewal of a registry  
2 identification card or registered dispensary's application for renewal of a registration  
3 certificate, upon receipt of a timely filed, complete application submitted by the caregiver  
4 or dispensary, the department must provide the caregiver or dispensary with a written  
5 statement acknowledging receipt of the application that authorizes the caregiver or  
6 dispensary to continue operating under the caregiver's or dispensary's current card or  
7 certificate until the application is approved and a renewed card or certificate is issued by  
8 the department, the application is denied and the current card or certificate expires, 90 days  
9 elapse from the date of the written statement or the current card or certificate is suspended  
10 or revoked, whichever occurs first, and, if the department fails to issue or deny a renewal  
11 within 90 days, the renewal is deemed granted.

12           9. It clarifies the definition of "cultivation area" to provide that a cultivation area may  
13 include multiple indoor or outdoor areas, whether contiguous or noncontiguous, on the  
14 same parcel or tract of land. It provides that a cultivation area for a dispensary must be on  
15 a single parcel or tract of land, that a caregiver may maintain up to 2 cultivation areas that  
16 may be located on separate parcels or tracts of land, whether contiguous or noncontiguous,  
17 and that a caregiver must ensure that mature marijuana plants and immature marijuana  
18 plants and seedlings are cultivated in separate cultivation areas and a dispensary must  
19 ensure that mature marijuana plants and immature marijuana plants and seedlings are  
20 cultivated in separate spaces within the same cultivation area. Dispensaries and caregivers  
21 must disclose the locations of all cultivation areas to the department.

22           10. It authorizes a caregiver to cultivate either up to 30 mature marijuana plants, up to  
23 60 immature marijuana plants and unlimited seedlings or up to 500 square feet of mature  
24 plant canopy, up to 1,000 square feet of immature plant canopy and unlimited seedlings but  
25 provides that a caregiver must cultivate mature marijuana plants and immature marijuana  
26 plants both by plant count or both by plant canopy.

27           11. Subject to specified requirements, it authorizes medical providers to provide a  
28 qualifying patient with a digital image of the patient's written certification for the medical  
29 use of marijuana, which may be used in place of a written certification document.

30           12. It clarifies that a caregiver may transfer immature marijuana plants, seedlings, seeds  
31 and harvested marijuana to a qualifying patient, another caregiver or a registered dispensary  
32 for reasonable compensation or for no remuneration.

33           13. It makes other clarifying and technical changes to the Maine Medical Use of  
34 Marijuana Act necessitated by the changes in the amendment.

**FISCAL NOTE REQUIRED**

**(See attached)**

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# 130th MAINE LEGISLATURE

LD 1928

LR 2424(02)

**An Act To Update and Clarify the Maine Medical Use of Marijuana Act and Provide for Greater Transparency**

**Fiscal Note for Bill as Amended by Committee Amendment "A" (H-960)**

**Committee: Veterans and Legal Affairs**

**Fiscal Note Required: Yes**

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## Fiscal Note

Minor cost increase - General Fund

### Fiscal Detail and Notes

Any additional costs to the Office of Marijuana Policy within the Department of Administrative and Financial Services as a result of the provisions of this bill are anticipated to be minor and can be absorbed within existing budgeted resources.