

MAINE STATE LEGISLATURE

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131st MAINE LEGISLATURE

FIRST SPECIAL SESSION-2023

Legislative Document

No. 1914

S.P. 774

In Senate, May 9, 2023

An Act to Enact the Maine Psilocybin Health Access Act

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

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

DAREK M. GRANT
Secretary of the Senate

Presented by Senator BAILEY of York.
Cosponsored by Representative THERIAULT of Fort Kent and
Senators: BRAKEY of Androscoggin, BRENNER of Cumberland, Representatives:
ANKELES of Brunswick, BOYER of Poland, MALON of Biddeford.

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

2 **Sec. 1. 5 MRSA §12004-I, sub-§73-C** is enacted to read:

3 **73-C.**

4 <u>Psilocybin</u>	<u>Maine Psilocybin Advisory Board</u>	<u>Expenses and</u>	<u>28-B MRSA</u>
5		<u>Legislative Per</u>	<u>§2132</u>
6		<u>Diem</u>	

7 **Sec. 2. 17-A MRSA §1111-A, sub-§1**, as amended by PL 2021, c. 669, §1, is
8 further amended to read:

9 **1.** As used in this section the term "drug paraphernalia" means all equipment, products
10 and materials of any kind that are used or intended for use in planting, propagating,
11 cultivating, growing, harvesting, manufacturing, compounding, converting, producing,
12 processing, preparing, packaging, repackaging, storing, containing or concealing a
13 scheduled drug in violation of this chapter or Title 22, section 2383, except that this section
14 does not apply to a person who is authorized to possess cannabis for medical use pursuant
15 to Title 22, chapter 558-C, to the extent the drug paraphernalia is used for that person's
16 medical use of cannabis; to a person who is authorized to possess cannabis pursuant to Title
17 28-B, to the extent the drug paraphernalia is used for that person's adult use of cannabis; ~~or~~
18 to a cannabis store licensed pursuant to Title 28-B, to the extent that the drug paraphernalia
19 relates to the sale or offering for sale of cannabis by the cannabis store; or to a person who
20 is authorized to possess psilocybin pursuant to Title 28-B, to the extent that the drug
21 paraphernalia is used for that person's personal use of psilocybin, to the extent the licensee
22 is authorized to possess psilocybin or to the extent that the drug paraphernalia relates to the
23 sale or offering for sale of psilocybin. It includes, but is not limited to:

24 A. Kits used or intended for use in planting, propagating, cultivating, growing or
25 harvesting of any species of plant which is a scheduled drug or from which a scheduled
26 drug can be derived;

27 B. Kits used or intended for use in manufacturing, compounding, converting,
28 producing, processing or preparing scheduled drugs;

29 C. Isomerization devices used or intended for use in increasing the potency of any
30 species of plant that is a scheduled drug;

31 E. Scales and balances used or intended for use in weighing or measuring scheduled
32 drugs;

33 F. Dilutants and adulterants, such as quinine hydrochloride, mannitol, mannite,
34 dextrose and lactose, used or intended for use in cutting scheduled drugs;

35 G. Separation gins and sifters, used or intended for use in removing twigs and seeds
36 from, or in otherwise cleaning or refining, marijuana;

37 H. Blenders, bowls, containers, spoons and mixing devices used or intended for use in
38 compounding scheduled drugs;

39 I. Capsules, balloons, envelopes and other containers used or intended for use in
40 packaging small quantities of scheduled drugs; and

1 J. Containers and other objects used or intended for use in storing or concealing
2 scheduled drugs.

3 **Sec. 3. 28-B MRSA, headnote** is amended to read:

4 **TITLE 28-B**

5 **ADULT USE CANNABIS AND PSILOCYBIN**

6 **Sec. 4. 28-B MRSA Pt. 1** is enacted by adding before chapter 1 the following to
7 read:

8 **PART 1**

9 **ADULT USE CANNABIS**

10 **Sec. 5. 28-B MRSA Pt. 2** is enacted to read:

11 **PART 2**

12 **PSILOCYBIN**

13 **CHAPTER 5**

14 **MAINE PSILOCYBIN HEALTH ACCESS ACT**

15 **SUBCHAPTER 1**

16 **GENERAL PROVISIONS**

17 **§2001. Short title**

18 This chapter may be known and cited as "the Maine Psilocybin Health Access Act."

19 **§2002. Definitions**

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

22 **1. Administration session.** "Administration session" means a session in which a client
23 consumes a psilocybin product under the supervision of a psilocybin service facilitator.

24 **2. Approved medical provider.** "Approved medical provider" means a physician or
25 physician assistant licensed under Title 32, chapter 36 or 48, a certified nurse practitioner
26 licensed under Title 32, chapter 31 or a naturopathic doctor licensed under Title 32, chapter
27 113-B.

28 **3. Board.** "Board" means the Maine Psilocybin Advisory Board under section 2132.

1 **4. Business entity.** "Business entity" means a corporation, limited liability company,
2 limited partnership or other legal entity that is registered with the office of the Secretary of
3 State.

4 **5. Client.** "Client" means an individual who receives psilocybin services in this State.

5 **6. Client information form.** "Client information form" means the form required to be
6 completed by a client under subchapter 8.

7 **7. Department.** "Department" means the Department of Health and Human Services.

8 **8. Integration session.** "Integration session" means a meeting between a client and a
9 psilocybin service facilitator that may occur after the client completes an administration
10 session.

11 **9. Licensee.** "Licensee" means a person holding a current, valid license issued under
12 this chapter.

13 **10. Licensee representative.** "Licensee representative" means an owner, director,
14 officer, manager, employee, agent or other representative of a licensee to the extent that
15 person acts in a representative capacity.

16 **11. Manufacture.** "Manufacture" means the cultivation, harvesting, production,
17 preparation, propagation, compounding, conversion or processing of a psilocybin product
18 by extraction from substances of natural origin or by means of chemical synthesis, or by a
19 combination of extraction and chemical synthesis, and includes any packaging of the
20 psilocybin product or labeling of its container.

21 **12. Personal use amount.** "Personal use amount" means the amount of psilocybin
22 authorized for a client's use under section 2091, subsection 1, paragraph A.

23 **13. Premises.** "Premises" means all public and private enclosed areas as well as areas
24 outside of a building used for activities licensed under this chapter, including
25 manufacturing psilocybin products, operating a psilocybin service center or providing
26 psilocybin services to clients, and includes but is not limited to offices, kitchens, restrooms
27 and storerooms.

28 **14. Preparation session.** "Preparation session" means a meeting between a
29 prospective client and a psilocybin service facilitator that occurs before an administration
30 session.

31 **15. Psilocybin.** "Psilocybin" means the naturally occurring compound produced by
32 various species of fungi as well as psilocin, the substance into which psilocybin is
33 converted in the human body.

34 **16. Psilocybin Control and Regulation Fund.** "Psilocybin Control and Regulation
35 Fund" means the fund established under subchapter 14.

36 **17. Psilocybin manufacturing facility.** "Psilocybin manufacturing facility" means a
37 facility licensed under subchapter 4.

38 **18. Psilocybin product.** "Psilocybin product" means psilocybin-producing fungi or
39 mixtures or substances containing a detectable amount of psilocybin. "Psilocybin product"
40 does not include psilocybin services.

41 **19. Psilocybin service center.** "Psilocybin service center" means a place where the
42 activities licensed under subchapter 5 may be conducted.

1 **20. Psilocybin service center operator.** "Psilocybin service center operator" means a
2 person or entity that operates a psilocybin service center.

3 **21. Psilocybin service facilitator.** "Psilocybin service facilitator" means a person or
4 entity licensed in accordance with subchapter 6 to provide psilocybin services.

5 **22. Psilocybin services.** "Psilocybin services" means services provided to a client
6 before, during and after the client's consumption of a psilocybin product, including a
7 preparation session, administration session and integration session.

8 **23. Risk assessment screening.** "Risk assessment screening" means a questionnaire
9 included in a client information form to guide a psilocybin service facilitator in determining
10 whether a client is eligible for psilocybin services as required under section 2081.

11 **24. Testing facility.** "Testing facility" means a facility licensed under subchapter 7.

12 **§2003. Scope**

13 **1. Limitations.** A person may not possess, manufacture or test more than a personal
14 use amount of psilocybin unless that person is a licensee authorized under this chapter.

15 **2. Construction.** This chapter may not be construed to:

16 A. Require the MaineCare program or private health insurance coverage to reimburse
17 a person for costs of psilocybin products;

18 B. Amend or affect state or federal law pertaining to employment matters;

19 C. Amend or affect state or federal law pertaining to landlord-tenant matters;

20 D. Prohibit a recipient of or applicant for a federal grant from prohibiting the use,
21 possession or manufacture of psilocybin products to the extent necessary to satisfy
22 federal requirements for the grant;

23 E. Prohibit a party to a federal contract or a person applying to be a party to a federal
24 contract from prohibiting the use, possession or manufacture of psilocybin products to
25 the extent necessary to comply with the terms and conditions of the contract or to
26 satisfy federal requirements for the contract;

27 F. Require a person to violate federal law;

28 G. Exempt a person from a federal law or allow the person to obstruct the enforcement
29 of a federal law;

30 H. Permit a person to give away any amount of psilocybin as part of a business
31 promotion or other commercial activity. This provision does not preclude the charitable
32 donation of psilocybin or limit the ability of a psilocybin service center to donate
33 psilocybin or provide psilocybin at reduced cost consistent with department rules; or

34 I. Authorize any activity that is not expressly authorized under this chapter.

35 **3. Effect of authorized conduct.** Conduct authorized under this chapter may not:

36 A. Constitute child abuse or neglect without a finding of actual threat to the health or
37 welfare of a child based on all relevant factors;

38 B. Be the basis to restrict a person's parenting time with a child without a finding that
39 the parenting time would endanger the child's physical health or significantly impair
40 the child's emotional development;

1 C. Be the basis for detention, search or arrest or constitute reasonably articulable
2 suspicion of a crime. Psilocybin as permitted by this chapter is not contraband nor
3 subject to seizure and may not be harmed or destroyed;

4 D. Be the basis to deny eligibility for any public assistance program, unless required
5 by federal law; or

6 E. Constitute the use of an illicit substance or otherwise disqualify a person from
7 medical care or medical insurance, including organ transplants.

8 **§2004. Rulemaking**

9 The department shall adopt all rules necessary to implement, administer and enforce
10 this chapter, including but not limited to rules governing the following:

11 **1. Possession limits on premises.** The quantity of psilocybin permitted on premises
12 at one time. In adopting rules pursuant to this subsection, the department shall take into
13 consideration the demand for psilocybin services in the State, the number and location of
14 licensees that operate manufacturing facilities and whether the availability of psilocybin
15 products in this State is commensurate with the demand for psilocybin services;

16 **2. Age verification.** The manner in which a licensee verifies a person's age for the
17 purpose of ensuring that a client is 21 years of age or older;

18 **3. Licensing requirements.** The application process for licensure under this chapter
19 and annual renewal of licensure;

20 **4. License fees.** License fees required for applicants applying for licensure in
21 accordance with this chapter. License fees set by the department may not exceed the cost
22 of administering this chapter. Notwithstanding Title 5, section 8071, subsection 3,
23 paragraph B, rules adopted pursuant to this subsection are routine technical rules as defined
24 in Title 5, chapter 375, subchapter 2-A;

25 **5. Prevention of diversion to unauthorized persons.** The prevention of diversion of
26 psilocybin products to persons that are not permitted to possess or use psilocybin; and

27 **6. Administration sessions.** A process to allow a psilocybin service facilitator to
28 provide psilocybin services at locations other than a psilocybin service center, including a
29 client's residence or a medical facility.

30 The department may not require a client to be diagnosed with or have any particular
31 medical condition in order to receive psilocybin services.

32 In adopting rules, the department shall consider the recommendations of the board.

33 Except as otherwise provided in this chapter, rules adopted pursuant to this chapter are
34 routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

35 **§2005. Record keeping and inspection of records and premises; notice**

36 **1. Record keeping; inspection of records.** A licensee shall maintain a complete set
37 of all records of the licensee's business transactions, which must be open to inspection and
38 examination by the department upon demand and with 72 hours' notice during all business
39 hours. The department may not require the records of a licensee to be maintained on the
40 premises of the licensee.

1 **2. Inspection of premises.** The department may at any time make an examination of
2 premises for which a license has been issued for the purpose of determining compliance
3 with the provisions of this chapter and the rules adopted pursuant to this chapter.

4 **§2006. Administration sessions outside licensed premises prohibited; exception**

5 A client may participate in an administration session only at a psilocybin service center,
6 unless the department authorizes a psilocybin service facilitator to provide psilocybin
7 services to the client at another location.

8 **§2007. Delivery and sale of psilocybin to persons under 21 years of age prohibited**

9 **1. Licensee prohibition.** A licensee or licensee representative may not sell or deliver
10 a psilocybin product to a person under 21 years of age. Before selling or providing a
11 psilocybin product to a client, the licensee must require the person to produce one of the
12 following pieces of identification:

13 A. A passport;

14 B. A driver's license;

15 C. A nondriver identification card issued under Title 29-A, section 1410;

16 D. A United States military identification card;

17 E. An identification card issued by one of the federally recognized Indian tribes in this
18 State; or

19 F. Any other identification card issued by a state or territory of the United States that
20 bears a photograph of the person, the name of the person, the person's date of birth and
21 a physical description of the person.

22 A licensee or licensee representative is not in violation of this subsection if the licensee or
23 licensee representative reasonably relied on an identification provided by a person that did
24 not accurately provide that person's age.

25 A person who violates this subsection commits a civil violation for which a penalty of not
26 more than \$500 may be adjudged.

27 **2. False identification.** A person may not produce a piece of identification under
28 subsection 1 that falsely indicates the person's age.

29 A person who violates this subsection commits a Class E crime.

30 **§2008. Psilocybin product to visibly intoxicated person prohibited**

31 A person may not sell, give or otherwise make available a psilocybin product to a
32 person who is visibly intoxicated.

33 A person who violates this section commits a civil violation for which a fine of not
34 more than \$500 may be adjudged.

35 **§2009. Psilocybin product as a prize prohibited**

36 A person may not give a psilocybin product as a prize, premium or consideration for a
37 lottery, contest, game of chance, game of skill or competition of any kind.

38 A person who violates this section commits a civil violation for which a fine of not
39 more than \$500 may be adjudged.

1 **§2010. Employment of persons under 21 years of age prohibited**

2 A licensee may not employ a person under 21 years of age. The department may verify
3 a person's age in accordance with this section. During an inspection in accordance with
4 this chapter, the department may require proof that a person performing work at the
5 premises is 21 years of age or older. If the person does not provide the department with
6 acceptable proof of age upon request, the department may require the person to
7 immediately cease any activity and leave the premises until the department receives
8 acceptable proof of age. The department may request that the licensee provide proof that
9 the person is 21 years of age or older. Failure of the licensee to respond to the request is
10 prima facie evidence that the licensee has allowed the person to perform work at the
11 premises for which a license has been issued, except that it is an affirmative defense that
12 the person is only temporarily at the premises to make a service, maintenance or repair call
13 or for other purposes and is not an employee of the licensee.

14 A person who violates this section commits a civil violation for which a fine of not
15 more than \$500 may be adjudged.

16 **§2011. Publication of information related to use of psilocybin**

17 The department shall publish on a publicly accessible website available medical,
18 psychological and scientific studies, research and other information, including but not
19 limited to information submitted to the department by the board, relating to the safety and
20 efficacy of psilocybin in treating mental health conditions, including but not limited to
21 substance use disorder, depression, post-traumatic stress disorder, anxiety disorders and
22 end-of-life psychological distress.

23 **§2012. Investigation by criminal justice agency of unlawful activity**

24 A criminal justice agency may investigate unlawful activity under this chapter and may
25 conduct a criminal history record check of a licensee or its employees during an
26 investigation of unlawful activity in relation to a licensee. A law enforcement officer may
27 enforce any provision of this chapter and may assist the department in enforcing this
28 chapter.

29 A law enforcement officer who has notice, knowledge or reasonable suspicion of a
30 violation of this chapter shall immediately notify the district attorney who has jurisdiction
31 over the violation and furnish that district attorney with names and addresses of any
32 witnesses to the violation or other information related to the violation.

33 **§2013. Cooperation of other state entities; immunity**

34 All state agencies, including but not limited to the Department of Administrative and
35 Financial Services, shall upon request of the department assist and cooperate with the
36 department to the extent necessary for the department to carry out its duties under this
37 chapter. The Department of Agriculture, Conservation and Forestry may possess, test and
38 dispose of psilocybin products on behalf of the department.

39 Notwithstanding any provision of law to the contrary, the State, its agencies and
40 employees are immune from any liability arising out of the performance or nonperformance
41 of any duty or function, or the exercise of any power, under this chapter or any other law
42 of this State relating to psilocybin products.

43 **§2014. Immunity; refusal to serve; insurance**

1 **1. Reliance immunity.** A licensee or licensee representative may reasonably rely
2 upon all statements, declarations and representations made by a client on a client
3 information form unless a reasonable person would have reason to believe a statement,
4 declaration or representation on the form was incorrect or altered. A licensee or licensee
5 representative who in good faith reasonably relies on statements, declarations and
6 representations made by a client on a client information form in accordance with this
7 subsection may not be found in violation of this chapter for selling or serving a psilocybin
8 product to that person based on those statements, declarations and representations. Nothing
9 in this subsection creates any immunity for a licensee or licensee representative who has
10 otherwise violated this chapter or a rule adopted pursuant to this chapter.

11 **2. Refusal to serve.** Nothing in this chapter requires a licensee or licensee
12 representative to provide psilocybin services to any person. Except as provided in this
13 section, a licensee or licensee representative may refuse to provide psilocybin services to
14 any person or may cease providing such services to a client for any reason or for no reason
15 as long as those reasons are not on the basis of the person's protected class status as defined
16 in the Maine Human Rights Act. A licensee or licensee representative may not cease
17 providing psilocybin services during an administration session after the client has
18 consumed a psilocybin product except as authorized by the department by rule or as
19 necessary in an emergency.

20 **3. Insurance.** The department may by rule require licensees to maintain general
21 liability insurance in an amount the department determines is reasonably affordable and
22 available for the purpose of protecting licensees against damages resulting from causes of
23 action related to activities undertaken pursuant to this chapter.

24 **4. Discrimination.** A licensee may not discharge, demote, suspend or in any manner
25 discriminate or retaliate against an employee of the licensee with regard to promotion,
26 compensation or other terms, conditions or privileges of employment on the basis that the
27 employee has in good faith reported information to the department about an action or
28 inaction of the licensee that the employee reasonably believes is a violation of this chapter
29 or any rules adopted pursuant to this chapter.

30 **§2015. Enforceability of contracts**

31 A contract involving psilocybin products is not unenforceable on the basis that
32 manufacturing, distributing, dispensing, possessing or using psilocybin products is
33 prohibited by federal law.

34 **§2016. Department hotline for verification of license**

35 The department shall maintain a telephone hotline for the following persons to inquire
36 if an address is the location of a licensee's premises or is the location of premises for which
37 an application for licensure has been submitted under this chapter:

38 **1. Designation by municipality.** A person designated by a municipality or a county as
39 a contact for purposes of this chapter;

40 **2. Designation by state agency.** A person designated by a state agency as a contact for
41 purposes of this chapter; and

42 **3. Designation by water district.** A person designated by a water district as a contact
43 for purposes of this chapter.

1 **§2017. Confidentiality**

2 **1. Confidential.** The following information obtained by the department under this
3 chapter is confidential and may not be disclosed except as provided in subsection 2:

4 A. Personally identifiable information, as defined by the department by rule, other than
5 the name of a direct owner. For purposes of this paragraph, "direct owner" means an
6 individual listed on an application for a license who is an owner of the business
7 operating or to be operated under the license. "Direct owner" does not include a legal
8 entity other than an individual and does not include an individual who is a general
9 partner, limited partner, member, shareholder or other direct or indirect owner of such
10 a legal entity;

11 B. The address of premises for which a license has been issued or for which an
12 applicant has proposed licensure under this chapter;

13 C. Information related to the security plan or the operational plan for premises for
14 which a license has been issued or for which an applicant has proposed licensure under
15 this chapter; and

16 D. Information related to any record that the department determines by rule to contain
17 proprietary information of a licensee.

18 **2. Exceptions.** Information designated as confidential under subsection 1 may be
19 disclosed to a law enforcement agency for law enforcement purposes.

20 **SUBCHAPTER 2**

21 **GENERAL LICENSING REQUIREMENTS**

22 **§2021. License process; license types**

23 Beginning January 15, 2025, the department, upon receipt of an application from an
24 applicant for a license under this chapter, shall, upon determination that all applicable
25 requirements for that license are met, issue to the applicant the license. The department
26 may not unreasonably delay processing, approving or denying an application or, if an
27 application is approved, unreasonably delay issuing the license.

28 **1. License types.** The following licenses may be issued under this chapter in
29 accordance with all applicable requirements of this chapter:

30 A. A psilocybin service center license;

31 B. A psilocybin service facilitator license;

32 C. A psilocybin manufacturing facility license; or

33 D. A testing facility license.

34 Except as otherwise provided in this chapter, the department may not impose any limitation
35 on the number of each type of license that it issues to a qualified applicant or on the total
36 number of each type of license that it issues to qualified applicants pursuant to this chapter.

37 **§2022. General licensing criteria**

1 An applicant for a license under this chapter shall meet each of the requirements of this
2 section. An applicant shall disclose in or include with its application the name and address
3 of the applicant and each natural person and business entity that would have a direct or
4 indirect financial interest in the license and the nature and extent of that financial interest
5 and, if applicable, the nature and extent of any financial interest the person or entity has in
6 any other license applied for or issued under this chapter.

7 **1. Age.** The applicant must be at least 21 years of age. If the applicant is a business
8 entity, every officer, director, manager and general partner of the business entity must meet
9 this requirement.

10 **2. Incorporated in State.** If the applicant is a business entity, the business entity must
11 be incorporated in the State or otherwise formed or organized under the laws of the State.

12 **3. No disqualifying drug offense.** The applicant may not have been previously
13 convicted of violating a federal law, state law or local ordinance if the conviction is
14 substantially related to the fitness and ability of the applicant to lawfully carry out activities
15 under the license, as determined by the department by rule. If the applicant is a business
16 entity, every officer, director, manager and general partner of the business entity must
17 satisfy this requirement. The department may not determine that an individual's prior
18 criminal history related to drug offenses relates to the fitness and ability of the applicant to
19 lawfully carry out activities under the license.

20 **4. Criminal history record check.** The applicant must have submitted to a criminal
21 history record check in accordance with section 2024. If the applicant is a business entity,
22 every officer, director, manager and general partner of the business entity must satisfy this
23 requirement.

24 **5. Compliance.** An applicant who has previously held a license under this chapter
25 must have a good record of compliance with this chapter and any rules adopted in
26 accordance with this chapter and may not have had a license issued under this chapter
27 revoked for any reason.

28 **6. Truthfulness.** The applicant may not make any false statements to the department.
29 If the applicant is a business entity, every officer, director, manager and general partner of
30 the business entity is subject to this requirement.

31 **7. Health and safety.** The applicant must demonstrate an ability to meet any public
32 health and safety standards and industry best practices established by the department by
33 rule.

34 **8. Form.** The applicant must disclose the applicant's name, address, location where
35 the licensed activities will be conducted and any other information requested by the
36 department in the manner required by the department, except that an applicant for a
37 psilocybin service facilitator license need not identify a location where the licensed
38 activities will be conducted.

39 **9. Payment of fees.** The applicant must pay the fees established by the department by
40 rule. Fees collected pursuant to this subsection must be deposited into the Psilocybin
41 Control and Regulation Fund.

42 **§2023. Additional licensing considerations**

1 **1. Financial disclosures.** An applicant for a license under this chapter must submit, at
2 the request of the department, the name and address of each person that has a financial
3 interest in the business that will be operated under the license and the nature and extent of
4 that financial interest.

5 **2. Limitations on psilocybin service centers.** A psilocybin service center may not be
6 located:

7 A. In any area that is not within the limits of an incorporated municipality;

8 B. In any area that is zoned exclusively for residential use; or

9 C. Within 1,000 feet of a public or private elementary or secondary school, unless:

10 (1) The department determines that there is a physical or geographic barrier capable
11 of preventing children from reaching the premises of the psilocybin service center;
12 or

13 (2) The school had not previously been attended by children and was not attended
14 by children at the time the license was issued.

15 A psilocybin service center must meet any other requirements for the facility established
16 by the department by rule.

17 **§2024. Criminal history record check**

18 The department shall request a criminal history record check for each applicant for a
19 license or permit under this chapter and may at any time require a person applying for a
20 license or permit to submit to a criminal history record check in accordance with this
21 section. If the applicant is a business entity, every officer, director, manager and general
22 partner of the business entity and any individual who holds a financial interest in the
23 business entity of at least 10% must submit to a criminal history record check in accordance
24 with this section.

25 **1. Record of public criminal history information required.** Criminal history record
26 information obtained from the Maine Criminal Justice Information System, established in
27 Title 16, section 631, pursuant to this section must include a record of public criminal
28 history record information as defined in Title 16, section 703, subsection 8.

29 **2. Availability of criminal history record information.** The subject of a Federal
30 Bureau of Investigation criminal history record check may obtain a copy of the criminal
31 history record check by following the procedures outlined in 28 Code of Federal
32 Regulations, Sections 16.32 and 16.33. The subject of a state criminal history record check
33 may inspect and review the criminal history record information pursuant to Title 16, section
34 709.

35 **3. Use of criminal history record information.** State and national criminal history
36 record information obtained by the department under this section may be used only for the
37 purpose of screening an applicant for a license or permit under this chapter.

38 **4. Confidentiality.** All criminal history record information obtained by the
39 department pursuant to this section is confidential, is for the official use of the department
40 only and may not be disseminated outside of the department or disclosed to any other
41 person or entity except as provided in subsection 2.

1 5. Rules. The department, after consultation with the Department of Public Safety,
2 Bureau of State Police, State Bureau of Identification, shall adopt rules to implement this
3 section.

4 §2025. Application process; issuance of license

5 1. Forms; payment of fees. An applicant for a license under this chapter shall file an
6 application on a form prepared and furnished by the department for the license sought along
7 with the appropriate application fee.

8 2. Application for multiple licenses. An applicant may apply for and be granted
9 multiple licenses of any license type under this chapter, except that a person may not have
10 a financial interest in:

11 A. More than one psilocybin manufacturing facility;

12 B. More than 5 psilocybin service centers; or

13 C. A testing facility and a psilocybin manufacturing facility or psilocybin service
14 center.

15 3. Each license separate; locations. Each license issued by the department to an
16 applicant under this chapter is separate and distinct from any other license issued by the
17 department to that same applicant under this chapter.

18 A. Except in the case of a psilocybin service facilitator's license, a person must obtain
19 a separate license under this chapter for each geographic location where the licensed
20 activities will occur.

21 B. A person may hold a psilocybin manufacturing license and a psilocybin service
22 center license at the same or different locations.

23 4. Licensee must maintain possession of premises. As a condition of licensure, a
24 licensee must at all times maintain possession of the licensed premises under the license,
25 whether pursuant to a lease, rental agreement or other arrangement for possession of the
26 premises or by virtue of ownership of the premises. If a licensee fails to maintain
27 possession of the licensed premises, the licensee shall immediately cease all licensed
28 activities and may either apply to the department for relocation of the licensed premises or
29 may terminate its license in accordance with this chapter.

30 §2026. Denial of license

31 1. Denial for good cause. The department, for good cause, may deny an application
32 for an initial license, a license renewal, a transfer of ownership interests or a relocation of
33 licensed premises. Denial of an application by the department pursuant to this section
34 constitutes a final agency action as defined in Title 5, section 8002, subsection 4.

35 2. Good cause defined. As used in this section, "good cause" means a finding by the
36 department that an applicant or licensee:

37 A. Has violated any provisions of this chapter or any rules adopted in accordance with
38 this chapter; or

39 B. Has been convicted of a crime or an offense under this chapter, except that the
40 department may not consider a conviction for an offense under this chapter if the date
41 of the conviction is 2 or more years before the date of the application.

1 "Good cause" does not include a violation by an applicant or licensee of a federal law
2 prohibiting manufacture, use or possession of psilocybin products.

3 **3. Grounds for suspension or revocation.** The department may suspend or revoke a
4 license issued under this chapter for a violation by the licensee, or by an agent or employee
5 of the licensee, of the provisions of this chapter, rules adopted pursuant to this chapter or
6 the terms, conditions or provisions of the licensee's license or if the department finds:

7 A. That the licensee or an agent or employee of the licensee has made a false
8 representation or statement to the department in order to induce or prevent action by
9 the department;

10 B. That the licensee is insolvent or incompetent or physically unable to carry on the
11 licensed activities;

12 C. That the licensee or an agent or employee of the licensee has misrepresented to a
13 person or the public any psilocybin products sold by the licensee;

14 D. That the licensee or an agent or employee of the licensee has been convicted of any
15 crime or found by a court of competent jurisdiction to have violated any provision of
16 this chapter or of a municipal ordinance, if the violation of that ordinance occurred on
17 the premises for which the license was issued;

18 E. That the licensee or an agent or employee of the licensee has diverted psilocybin
19 products to an entity that is not operating legally under the laws of this State;

20 F. That the licensee or an agent or employee of the licensee has purchased or received
21 a psilocybin product from an unlicensed source or has sold, stored or transferred a
22 psilocybin product in a manner that is not permitted by the licensee's license; or

23 G. That a person with a financial interest in the business operating or to be operated
24 under the license committed or failed to take an act if that act or failure to act would
25 constitute grounds for the department to refuse to issue, or to suspend, revoke or refuse
26 to renew, the license if the person were the licensee or applicant for the license.

27 **§2027. License term; renewal**

28 A license issued by the department pursuant to this chapter is effective for a period of
29 one year from the date of issuance and may be renewed pursuant to this section.

30 **1. Application.** A licensee seeking to renew an existing license must file an application
31 for renewal with the department, on forms prepared and furnished by the department, not
32 less than 30 days prior to the date of expiration of the license.

33 **2. Expired license.** A person whose license has expired shall immediately cease all
34 activities authorized under that license and ensure that all psilocybin in the possession of
35 the person pursuant to that license is forfeited to the department for destruction in
36 accordance with this chapter.

37 **§2028. License properties; transfer; leftover product**

38 A license issued under this chapter is a personal privilege, expires upon the death of
39 the licensee except as otherwise expressly provided in this chapter, does not constitute
40 property, is not alienable, is not subject to attachment or execution and may not be
41 transferred by will, devise or intestate succession. The department may by rule provide for
42 the manner and conditions under which:

1 1. Psilocybin products. Psilocybin products left by a deceased, insolvent or bankrupt
2 person or licensee may be sold or otherwise disposed of and any security interest in the
3 products foreclosed or settled;

4 2. Business. The business of a deceased, insolvent or bankrupt licensee may be
5 operated for a reasonable period following the death, insolvency or bankruptcy; and

6 3. Security interest. A person with a security interest in relevant property may
7 continue to operate at the premises for which a license has been issued under this chapter
8 for a reasonable period after default on the indebtedness by the licensee.

9 **SUBCHAPTER 3**

10 **PERMIT REQUIREMENTS; PERMIT VIOLATIONS**

11 **§2031. Permit required**

12 1. Permit. A person who performs any of the following activities for or on behalf of a
13 licensee must have a valid permit issued by the department under this subchapter:

14 A. Providing psilocybin services;

15 B. Possessing, manufacturing, securing or selling of psilocybin products; or

16 C. Verifying a client's age.

17 A licensee shall verify that a person has a valid permit before allowing that person to
18 perform any of the activities listed in this subsection. A permit issued under this subsection
19 is personal to the individual permittee and does not grant any authority to any person other
20 than the named permittee.

21 2. Qualifications. The department shall adopt rules establishing the qualifications for
22 obtaining a permit under this section, the term of a permit issued, procedures for applying
23 for and renewing a permit and reasonable application, issuance and renewal fees for a
24 permit.

25 The qualifications for the permit must include training requirements relating to checking
26 client identification, detecting intoxication, handling psilocybin products, manufacturing
27 psilocybin products, the requirements of this chapter or rules adopted in accordance with
28 this chapter or any other matter the department determines necessary to protect the public
29 health and safety. The department may not require an individual to successfully complete
30 any training more than once, except as a precondition for lifting a suspension of a permit
31 or, after a revocation of a permit, for applying for a new permit. The department or other
32 provider of required training may charge a reasonable fee for that training.

33 3. Denial, revocation or suspension of permit. The department, for good cause, may
34 deny an application for an initial permit or a permit renewal or in an adjudicatory
35 proceeding in accordance with Title 5, chapter 375 may suspend or revoke a permit. Denial
36 of an application by the department pursuant to this section constitutes a final agency action
37 as defined in Title 5, section 8002, subsection 4. As used in this subsection, "good cause"
38 means a finding by the department that:

39 A. A person has violated any provisions of this chapter or any rules adopted in
40 accordance with this chapter; or

1 C. Meet any other training, education, skill or fitness requirements adopted by the
2 department by rule, such as:

3 (1) Facilitation skills that are affirming, nonjudgmental and nondirective; and

4 (2) Support skills for clients during an administration session, including specialized
5 skills relating to client safety and clients who may have mental health conditions,
6 ability to establish a proper environment in which psilocybin services occur and
7 social and cultural skills.

8 **2. Training course approval.** The department shall establish a process to approve
9 training courses for psilocybin service facilitators. To obtain approval of a course, the
10 person providing the course must submit an outline of instruction to the department and to
11 the Department of Education that includes the course topics, total hours of instruction,
12 hours of lectures in theory and hours of instruction in application of practical skills.

13 **3. Professional conduct.** The department shall establish by rule a code of professional
14 conduct, including a code of ethics, for psilocybin service facilitators. The department
15 shall establish standards of practice and professional responsibility for psilocybin service
16 facilitators.

17 **4. Authorized conduct; generally.** A psilocybin service facilitator licensee may
18 engage in the following activities in accordance with rules adopted by the department:

19 A. Deliver psilocybin products to premises for which a license has been issued under
20 this chapter;

21 B. Receive psilocybin products from a psilocybin manufacturing facility licensee or
22 another psilocybin service facilitator licensee; and

23 C. Facilitate the use of psilocybin products by a client as part of an administration
24 session.

25 SUBCHAPTER 7

26 LICENSING AND OPERATING REQUIREMENTS FOR TESTING FACILITIES

27 §2071. Qualifications

28 In addition to meeting the licensing requirements under this chapter, an applicant for a
29 testing facility license must meet qualifications, including accreditation standards,
30 established by the department by rule.

31 §2072. Testing standards

32 The department may adopt rules requiring a testing facility licensee to test psilocybin
33 products sold or transferred to others by a psilocybin manufacturing facility licensee. The
34 department may not require a psilocybin product to undergo the same test more than once
35 unless the product is processed into a different type of psilocybin product or the condition
36 of the psilocybin product has fundamentally changed. In adopting rules under this section,
37 the department shall consider the cost of a potential testing procedure and how that cost
38 will affect the cost to clients. The department may not adopt rules that are more restrictive
39 than is reasonably necessary to protect the public health and safety.

1 C. Require that, during the preparation session, the psilocybin service facilitator review
2 the client information form with the client, including any required review by an
3 approved medical provider;

4 D. Require a psilocybin service facilitator to certify, in a form and manner prescribed
5 by the department, that the facilitator obtained a completed client information form and
6 conducted a preparation session;

7 E. Require a psilocybin service facilitator to deliver a copy of the completed client
8 information form signed by the client and, if department rules require, by an approved
9 medical provider to the psilocybin service center licensee at which the administration
10 session will be held; and

11 F. Permit a preparation session to be held at a psilocybin service center, another
12 approved location or via telehealth.

13 **2. Client information form.** The department shall adopt rules governing client
14 information and qualifications to receive psilocybin products and psilocybin services. The
15 rules must:

16 A. Require a client to complete and sign a client information form prescribed by the
17 department before a client participates in an administration session. The form must:

18 (1) Solicit from the client such information as may be necessary to enable a
19 psilocybin service center licensee and a psilocybin service facilitator to determine
20 whether the client is eligible to receive psilocybin products and participate in an
21 administration session, including information that may identify risk factors and
22 contraindications or that will assist the licensees in meeting any public health and
23 safety standards and industry best practices during the administration session;

24 (2) Contain the risk assessment screening approved by the board that establishes a
25 clear basis for eligibility and provides guidance for when additional consultation
26 with an approved medical provider is required based on safety concerns;

27 (3) Contain health and safety warnings and disclosures to the client; and

28 (4) Contain the signature and approval of an approved medical provider, when
29 required; and

30 B. Require a psilocybin service facilitator to deliver a copy of the completed and signed
31 client information form to the psilocybin service center licensee at which the
32 administration session will be held and to the psilocybin service facilitator supervising
33 the administration session.

34 **3. Additional medical review.** The department shall adopt rules regarding when and
35 how medical review by an approved medical provider must be provided prior to the
36 provision of psilocybin products to a client by a psilocybin service facilitator based on
37 criteria identified in a risk assessment screening. The rules must:

38 A. Provide clear guidance for psilocybin service facilitators to determine when
39 additional medical review is indicated by results of the risk assessment screening on
40 the client information form and who is approved to provide the review;

41 B. Provide a standardized format for requiring and obtaining written client consent
42 when further medical review is indicated by the risk assessment screening in order to

1 determine whether the use of psilocybin products would put the prospective client at
2 increased risk so as to be ineligible to receive psilocybin services at that time;

3 C. For prospective clients who meet any criteria that indicate additional medical review
4 as determined by completion of the risk assessment screening, require an approved
5 medical provider to sign the prospective client's client information form confirming
6 that there is nothing in the client's disclosed health history indicating that use of
7 psilocybin is likely to put the prospective client at an increased risk of an adverse health
8 outcome compared to an average, healthy adult;

9 D. Require that a medical provider who has not previously signed off on a client
10 information form for psilocybin services shall, prior to doing so, submit evidence,
11 satisfactory to the department, of completion of training or education related to
12 psilocybin, which may include self-directed study; and

13 E. Permit an approved medical provider who reviews and provides written
14 confirmation for psilocybin services under this section to use telehealth services as long
15 as it is a synchronous encounter.

16 Nothing in this chapter prevents a professional licensing board from sanctioning a medical
17 provider for failing to properly evaluate or treat a person's medical condition or otherwise
18 violating the applicable standard of care for evaluating or treating medical conditions.

19 **4. Informed consent required.** The department shall adopt rules requiring a
20 prospective client to review and sign a document informing the client prior to an
21 administration session of the likely effects and potential risks of psilocybin use.

22 **5. Administration session.** The department shall adopt rules governing administration
23 sessions. The rules must:

24 A. Require that a client complete a preparation session and a client information form
25 confirming eligibility prior to an administration session, including additional medical
26 review if required;

27 B. Require an administration session to occur at a psilocybin service center or other
28 location approved by the department;

29 C. Require a psilocybin service facilitator to certify, in a form and manner prescribed
30 by the department, that the client completed an administration session; and

31 D. Prohibit a psilocybin service facilitator from consuming a psilocybin product during
32 an administration session that the psilocybin service facilitator is supervising.

33 **6. Integration session.** The department shall adopt rules defining and governing
34 integration sessions. The rules must:

35 A. Require, upon completion of an administration session, that a psilocybin service
36 facilitator offer to the client the opportunity to participate in an integration session;

37 B. Allow a client to decline to participate in an integration session;

38 C. Allow any integration session to occur at a psilocybin service center, at another
39 location or via telehealth; and

40 D. Require a psilocybin service facilitator to certify, in a form and manner prescribed
41 by the department, if a client completed an integration session.

1 guilty of an offense under this chapter had it been in effect at the time of the offense may
2 file a petition before the trial court that entered the judgment of conviction in the person's
3 case to seal the record of the conviction at no cost. If there is no objection from the district
4 attorney, the court shall automatically seal the record. If there is an objection by the district
5 attorney, a hearing must be held and the court shall determine if the record of the conviction
6 does not qualify to be sealed under this chapter. If the record does not qualify to be sealed,
7 the court shall deny the sealing of the record. Nothing in this section may be construed to
8 diminish or abrogate any rights or remedies otherwise available to the petitioner or
9 applicant.

10 **SUBCHAPTER 10**

11 **LOCAL REGULATION**

12 **§2101. Preemption; limited regulation**

13 The provisions of this chapter are intended to operate uniformly in this State and to
14 preempt any inconsistent municipal regulation. In accordance with this section, a
15 municipality may adopt ordinances that impose reasonable regulations governing activities
16 on premises for which a license has been issued under this chapter, except that a
17 municipality may not require a license to conduct any activity licensed under this chapter,
18 impose a tax or fee on the manufacture or sale of psilocybin products or the sale of
19 psilocybin services or prohibit more than one psilocybin service center from being located
20 in the municipality as long as the distance between the centers is greater than 1,000 feet.
21 For purposes of this subsection, "reasonable regulations" means the following, to the extent
22 consistent with the provisions of this chapter:

23 **1. Conditions for manufacturing facilities.** Conditions on the manner in which a
24 psilocybin manufacturing facility licensee may manufacture psilocybin products;

25 **2. Conditions for psilocybin service centers.** Conditions on the manner in which a
26 psilocybin service center licensee may provide psilocybin services;

27 **3. Hours.** Limitations on the hours during which licensed premises may operate;

28 **4. Public access.** Requirements related to the public's access to licensed premises;
29 and

30 **5. Location.** Limitations on where licensed premises may be located.

31 Nothing in this section prohibits a municipality from allowing the manufacture of
32 psilocybin as a farm use on land zoned for farm or forest use.

33 **SUBCHAPTER 11**

34 **LABELING AND PACKAGING; ADVERTISING AND MARKETING; HEALTH**
35 **AND SAFETY**

36 **§2111. Labeling requirements**

1 The department shall adopt rules necessary to protect the public health and safety that
2 establish standards for the labeling of psilocybin products.

3 **1. Labeling standards.** The department may establish different labeling standards for
4 different varieties and types of psilocybin products.

5 **2. Preapproval; fee.** The department may require a licensee to submit a label intended
6 for use on a psilocybin product for preapproval before the licensee may sell or transfer a
7 psilocybin product bearing the label and the department may impose a fee for the
8 preapproval process.

9 **3. Cost.** The department shall consider the cost of meeting a potential requirement and
10 how that cost will affect the cost to the client.

11 **4. Rules not more restrictive than necessary.** The department may not adopt rules
12 governing labeling that are more restrictive than reasonably necessary to protect the public
13 health and safety.

14 **5. Imprecise labeling.** The department shall by rule prohibit a licensee from placing
15 or allowing the placement of a mark or label on the container of a psilocybin product that
16 is kept for sale if the mark or label does not precisely and clearly indicate the nature of the
17 container's contents or if the mark or label in any way might deceive a person about the
18 nature, composition, quantity, age or quality of the container's contents.

19 **6. Deceptive labeling; injurious or adulterated ingredients.** The department shall
20 by rule prohibit a licensee from selling any psilocybin product that, in the department's
21 judgment, is deceptively labeled or contains injurious or adulterated ingredients.

22 **§2112. Packaging requirements; advertising**

23 As necessary to protect the public health and safety, the department shall adopt rules
24 establishing standards for the packaging and advertising of psilocybin products.

25 **1. Prohibiting advertising.** The department may adopt rules prohibiting advertising
26 psilocybin products to the public.

27 **2. Regulating advertising.** The department may adopt rules regulating and prohibiting
28 advertising psilocybin services in a manner that is appealing to minors, promotes excessive
29 use, promotes illegal activity, violates the code of professional conduct for psilocybin
30 service facilitator licensees established by the department or otherwise presents a
31 significant risk to public health and safety.

32 **3. Packaging standards.** The department may establish different packaging standards
33 for different varieties and types of psilocybin products.

34 **4. Labeling standards.** The department may establish different labeling standards for
35 different varieties and types of psilocybin packages and may consider the effect on the
36 environment of requiring certain packaging.

37 **5. Preapproval; fee.** The department may require a licensee to submit packaging
38 intended for use on a psilocybin product for preapproval before the licensee may sell or
39 transfer a psilocybin product packaged in the packaging and the department may impose a
40 fee for the preapproval process.

41 **6. Cost.** The department shall consider the cost of meeting a potential requirement and
42 how that cost will affect the cost to the client.

1 E. That the licensee or an agent or employee of the licensee has diverted psilocybin
2 products to an entity that is not operating legally under the laws of this State;

3 F. That the licensee or an agent or employee of the licensee has purchased or received
4 a psilocybin product from an unlicensed source or has sold, stored or transferred a
5 psilocybin product in a manner that is not permitted by the licensee's license; or

6 G. That a person with a financial interest in the business operating or to be operated
7 under the license committed or failed to commit an act if that act or failure to act would
8 constitute grounds for the department to refuse to issue, or to suspend, revoke or refuse
9 to renew, the license if the person were the licensee or applicant for the license.

10 The department may not impose any penalty under this section on the basis of a finding
11 that the licensee or an agent or employee of the licensee has violated a provision of federal
12 law governing psilocybin products.

13 **2. Amounts; deposit.** An administrative penalty imposed by the department on a
14 licensee pursuant to this subchapter may not exceed \$5,000 per license violation. The
15 department shall adopt rules setting forth amounts of administrative penalties to be imposed
16 on a licensee based upon specific categories of violations by the licensee. All
17 administrative penalties paid to the department pursuant to this subchapter must be
18 deposited into the Psilocybin Control and Regulation Fund.

19 **3. License suspension.** A licensee whose license has been suspended pursuant to this
20 subchapter may not, for the duration of the period of suspension, engage in any activities
21 authorized by that license.

22 **4. License revocation.** A licensee whose license has been revoked pursuant to this
23 subchapter shall cease immediately all activities authorized by the license and shall ensure
24 that all psilocybin and psilocybin products in the possession of the licensee are forfeited to
25 the department for destruction in accordance with this subchapter.

26 **5. Enforcement actions may be cumulative.** In addition to suspending or revoking a
27 licensee's license, the department may impose an administrative penalty on the licensee
28 consistent with this section.

29 **6. Additional penalties may be imposed.** Any penalties imposed by the department
30 on a licensee pursuant to this subchapter are in addition to any criminal or civil penalties
31 that may be imposed pursuant to other applicable laws or rules.

32 **7. Maine Administrative Procedure Act; appeals.** The imposition of an
33 administrative penalty on a licensee or the suspension or revocation of the license of a
34 licensee by the department is governed by the Maine Administrative Procedure Act. A
35 final order of the department imposing an administrative penalty on a licensee or
36 suspending or revoking the licensee's license is a final agency action, as defined in Title 5,
37 section 8002, subsection 4, and the licensee may appeal that final order to the Superior
38 Court in accordance with Rule 80C of the Maine Rules of Civil Procedure.

39 **§2123. Disposition of unauthorized psilocybin or psilocybin products of licensee**

40 **1. Order; destruction of psilocybin or psilocybin products.** If the department issues
41 a final order imposing an administrative penalty on or a license suspension or revocation
42 against a licensee pursuant to this subchapter, the department may specify in the order, in
43 addition to any other penalties imposed in the order, that all or a portion of the psilocybin

1 or psilocybin products in the possession of the licensee are subject to destruction. A
2 licensee subject to a final order directing the destruction of psilocybin or psilocybin
3 products in the possession of the licensee shall forfeit the psilocybin or psilocybin products
4 described in the order to the department for destruction.

5 **2. Investigation.** If the department is notified by a criminal justice agency that there
6 is a pending investigation of a licensee subject to an order imposed under subsection 1, the
7 department may not destroy any psilocybin or psilocybin products of that licensee until the
8 destruction is approved by the criminal justice agency.

9 **3. Conviction of licensee.** A court, district attorney or municipal authority involved
10 in trying or finding a violation of this chapter shall notify the department upon final
11 adjudication or conviction of the offense.

12 **4. Rules.** The department shall adopt rules governing the imposition of administrative
13 penalties, suspensions and revocations under this subchapter, which must include, but are
14 not limited to, provisions relating to notice and conduct of hearings consistent with the
15 Maine Administrative Procedure Act and provisions relating to the disposition of
16 unauthorized psilocybin and psilocybin products of a licensee.

17 SUBCHAPTER 13

18 MAINE PSILOCYBIN ADVISORY BOARD

19 §2131. Definition

20 For purposes of this subchapter, "program development period" means the period
21 beginning October 1, 2024 and continuing until all rules required under this chapter have
22 been initially adopted.

23 §2132. Establishment; purposes

24 The Maine Psilocybin Advisory Board, established in Title 5, section 12004-I,
25 subsection 73-C, is established within the department for the purposes of advising and
26 making recommendations to the department, the Legislature and municipalities regarding
27 the administration of this chapter in a manner that promotes the public health and safety.
28 Recommendations by the board require the approval of a majority of the board's members.

29 §2133. Membership

30 The board consists of 16 members in accordance with this section.

31 **1. Ex officio members.** The following members serve as ex officio members:

32 A. The Director of the Maine Center for Disease Control and Prevention within the
33 department or the director's designee; and

34 B. The Attorney General or the Attorney General's designee.

35 **2. Members appointed by Governor.** The Governor shall appoint members in
36 accordance with this subsection. The Governor shall appoint any 4 of the following
37 individuals:

38 A. A state employee who has technical expertise in the field of public health;

1 B. A representative from a district coordinating council for public health established
2 pursuant to Title 22, section 412, subsection 4;

3 C. A representative of one of the federally recognized Indian tribes in the State;

4 D. A member of the Substance Use Disorder Services Commission, established in Title
5 5, section 12004-G, subsection 13-C;

6 E. A member of the Permanent Commission on the Status of Racial, Indigenous and
7 Tribal Populations, established in Title 5, section 12004-J, subsection 19;

8 F. A member of the Palliative Care and Quality of Life Interdisciplinary Advisory
9 Council, established in Title 5, section 12004-I, subsection 47-I; or

10 G. An individual who represents individuals who provide public health services
11 directly to the public.

12 **3. Members appointed by President of Senate.** The President of the Senate shall
13 appoint 5 members in accordance with this subsection. The President of the Senate shall
14 appoint:

15 A. A psychologist licensed under Title 32, chapter 56 who has professional experience
16 providing behavioral health services;

17 B. A physician licensed under Title 32, chapter 48; and

18 C. Any 3 of the following individuals:

19 (1) A person with professional expertise conducting scientific research regarding
20 the use of psychedelic compounds in clinical therapy;

21 (2) A person who has experience in the field of mycology;

22 (3) A person who has experience in the field of ethnobotany;

23 (4) A person who has experience in the field of psychopharmacology; or

24 (5) A person who has experience in the field of psilocybin harm reduction.

25 **4. Members appointed by Speaker of House of Representatives.** The Speaker of the
26 House of Representatives shall appoint 5 members in accordance with this subsection. The
27 Speaker of the House of Representatives shall appoint:

28 A. A naturopathic doctor licensed under Title 32, chapter 113-B;

29 B. An individual with expertise in the field of public health who has a background in
30 academia;

31 C. A representative of one of the federally recognized Indian tribes in the State; and

32 D. Any 2 of the following individuals:

33 (1) A person with professional expertise conducting scientific research regarding
34 the use of psychedelic compounds in clinical therapy;

35 (2) A person who has experience in the field of mycology;

36 (3) A person who has experience in the field of ethnobotany;

37 (4) A person who has experience in the field of psychopharmacology; or

38 (5) A person who has experience in the field of psilocybin harm reduction.

1 **5. Terms; vacancies.** Board members, other than ex officio members, serve 2-year
2 terms and are eligible for reappointment. Before the expiration of the term of a member,
3 the appointing authority shall appoint a successor whose term begins on the next January
4 1st. Board members serve at the pleasure of the appointing authority and are not subject to
5 legislative confirmation. If there is a vacancy for cause, the appointing authority shall make
6 an appointment to become immediately effective for the unexpired term.

7 **6. Chair.** The board shall elect one of its members to serve as chair. The chair serves
8 a one-year term in that office and is eligible for reelection.

9 **7. Meeting frequency.** Until all rules necessary to implement this chapter have been
10 adopted, the board shall meet at least once every 2 calendar months at a time and place
11 determined by the chair or a majority of the members of the board. Thereafter the board
12 shall meet at least 4 times each year at regular intervals at a time and place determined by
13 the chair or a majority of the members of the board. The board may meet at other times
14 and places by the call of the chair or a majority of the members of the board.

15 **8. Quorum.** A majority of the board's members constitutes a quorum.

16 **9. Establishment of subcommittees.** The board may establish subcommittees
17 necessary for the operation of the board.

18 **10. Expenses; reimbursement.** Board members are entitled to compensation for
19 service on the board and for travel and board-related expenses in accordance with Title 5,
20 section 12004-I, subsection 73-C.

21 **§2134. Powers and duties**

22 **1. Powers.** The board may:

23 **A.** Adopt rules necessary for the operation of the board. Rules adopted pursuant to this
24 section are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A; and

25 **B.** Make recommendations to the department related to:

26 **(1)** Administration of this chapter;

27 **(2)** Available medical, psychological and scientific studies, research and other
28 information on the safety and efficacy of psilocybin in treating behavioral health
29 conditions, including but not limited to substance use disorder, depression, anxiety
30 disorders and end-of-life psychological distress;

31 **(3)** Working with clients receiving psilocybin services, including:

32 **(a)** The requirements, specifications and guidelines for providing psilocybin
33 services to a client, including but not limited to holding and verifying the
34 completion of a preparation session, an administration session and an
35 integration session;

36 **(b)** The information that must be provided to a client before the client
37 participates in an administration session, including health and safety warnings
38 or other disclosures;

39 **(c)** The information that must be received from a client to determine whether
40 the client should participate in an administration session, including information
41 that may identify risk factors and contraindications and information related to

- 1 any public health or safety standards or industry best practices during the
2 administration session;
- 3 (d) Transportation needs of a client after the completion of an administration
4 session; and
- 5 (e) Client access to common or outside areas on the premises of a psilocybin
6 service center;
- 7 (4) Public health and safety standards and industry best practices for each type of
8 licensee; and
- 9 (5) Required qualifications and practices of psilocybin service facilitators,
10 including:
- 11 (a) Adherence to a code of professional and ethical conduct;
- 12 (b) Required education and training, including but not limited to:
- 13 (i) Client facilitation skills that are affirming, nonjudgmental and
14 nondirective;
- 15 (ii) Providing support to clients during an administration session with
16 specialized skills for client safety and clients who may have a mental
17 health condition;
- 18 (iii) On the appropriate environment in which to provide psilocybin
19 services;
- 20 (iv) Social and cultural considerations;
- 21 (v) The form of required training and education; or
- 22 (vi) Examinations or other requirements; and
- 23 (c) Holding an administration session, including but not limited to:
- 24 (i) Individual or group administration sessions; or
- 25 (ii) Circumstances under which an administration session is considered
26 complete.

27 **2. Duties.** The board shall:

28 A. Develop and maintain a long-term strategic plan for ensuring that psilocybin
29 services will become and remain a safe, accessible and affordable therapeutic option
30 for all persons who are 21 years of age or older and for whom psilocybin services may
31 be appropriate;

32 B. Monitor and study federal laws, regulations and policies regarding psilocybin; and

33 C. Attempt to meet with the United States Attorney for the District of Maine to discuss
34 this chapter and potential federal enforcement policies regarding psilocybin in this
35 State after the program development period.

36 **3. Report.** The board shall submit annually a report to the department that contains
37 the recommendations to the department described in subsection 1, paragraph B, the board's
38 long-term strategic plan described in subsection 2, paragraph A and information and
39 updates on federal laws, regulations and policies regarding psilocybin described in
40 subsection 2, paragraphs B and C.

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SUBCHAPTER 14

PSILOCYBIN CONTROL AND REGULATION FUND

§2141. Psilocybin Control and Regulation Fund

The Psilocybin Control and Regulation Fund, referred to in this section as "the fund," is established as a dedicated, nonlapsing fund within the department for the purposes specified in this section.

- 1. Sources of fund.** The State Controller shall credit to the fund:
 - A. Money received from the license fees and administrative penalties imposed under this chapter;
 - B. All money from any other source, whether public or private, designated for deposit into or credited to the fund; and
 - C. Interest earned or other investment income on balances in the fund.

2. Uses of fund. Money credited to the fund may be used by the department for the purposes of implementing, administering and enforcing this chapter.

SUBCHAPTER 15

FOOD AND COMMODITY REGULATION

§2151. Regulation as food additive

Notwithstanding any provision of law to the contrary, the Department of Agriculture, Conservation and Forestry may not establish standards for psilocybin products as a food additive or consider psilocybin products to be an adulterant under Title 7, section 717, unless the concentration of a psilocybin product exceeds acceptable levels established by the department by rule under this chapter.

Sec. 6. 36 MRSA c. 727 is enacted to read:

CHAPTER 727

TAXATION OF PSILOCYBIN PRODUCTS

§4961. Definitions

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

- 1. Client.** "Client" has the same meaning as in Title 28-B, section 2002, subsection 5.
- 2. Department.** "Department" means the Department of Health and Human Services.
- 3. Psilocybin.** "Psilocybin" has the same meaning as in Title 28-B, section 2002, subsection 15.

1 **4. Psilocybin Control and Regulation Fund.** "Psilocybin Control and Regulation
2 Fund" has the same meaning as in Title 28-B, section 2002, subsection 16.

3 **5. Psilocybin product.** "Psilocybin product" has the same meaning as in Title 28-B,
4 section 2002, subsection 18.

5 **6. Psilocybin service center.** "Psilocybin service center" has the same meaning as in
6 Title 28-B, section 2002, subsection 19.

7 **7. Psilocybin service center operator.** "Psilocybin service center operator" has the
8 same meaning as in Title 28-B, section 2002, subsection 20.

9 **8. Retail sale.** "Retail sale" means any transfer, exchange, gift or barter of a psilocybin
10 product by any person to a client.

11 **9. Retail sales price.** "Retail sales price" means the price paid for a psilocybin product,
12 excluding tax, to a psilocybin service center operator by or on behalf of a client.

13 **§4962. Imposition of tax on retail sale of psilocybin products**

14 **1. Tax imposed.** A tax is imposed upon the retail sale of psilocybin products in this
15 State. The tax imposed by this section is a direct tax on the client, for which payment upon
16 retail sale is required. The tax must be collected at the point of sale of a psilocybin product
17 by a psilocybin service center operator at the time at which the retail sale occurs.

18 A. The tax imposed under this section is at the rate of 15% of the retail sales price of
19 psilocybin products.

20 B. If the tax imposed under this section does not equal an amount calculable to a whole
21 cent, the tax is equal to the next higher whole cent.

22 **2. Stated separately.** Except as otherwise provided by the State Tax Assessor by rule,
23 the amount of the tax must be separately stated on an invoice, receipt or other similar
24 document that the psilocybin service center operator provides to the client at the time at
25 which the retail sale occurs.

26 **3. Prohibitions.** The following prohibitions apply.

27 A. A person may not knowingly sell, purchase, install, transfer or possess electronic
28 devices or software programs for the purposes of hiding or removing records of retail
29 sales of psilocybin products or falsifying records of retail sales of psilocybin products.

30 B. A psilocybin service center operator may not discount a psilocybin product or offer
31 a psilocybin product for free if the retail sale of the psilocybin product is made in
32 conjunction with the retail sale of any other item or service.

33 **4. Review of rate.** The department shall regularly review the rate of tax under this
34 section and make recommendations to the Legislature regarding appropriate adjustments
35 to the rate to ensure the department has sufficient funds to administer and enforce Title
36 28-B, chapter 5 but that the amount of funds, together with fees collected under that chapter,
37 do not exceed the costs of administering and enforcing that chapter.

38 **§4963. Collection of tax; refund; credit; penalties**

39 The tax imposed upon the client under this chapter must be collected at the point of
40 sale and remitted by each psilocybin service center operator that engages in the retail sale
41 of psilocybin products. The tax is imposed upon the psilocybin service center operator that

1 is required to collect the tax, and the psilocybin service center operator is liable for the tax
2 as the taxpayer. For the purpose of compensating psilocybin service center operators for
3 expenses incurred in collecting the tax imposed under this chapter, each psilocybin service
4 center operator may deduct and retain 2% of the amount of taxes that are collected by the
5 psilocybin service center operator from all retail sales of psilocybin products conducted by
6 the psilocybin service center operator.

7 **1. Filing.** A psilocybin service center operator shall file a return with the State Tax
8 Assessor on or before the last day of January, April, July and October of each year for the
9 previous calendar quarter. A psilocybin service center operator shall file each return
10 required under this section regardless of whether any tax is owed.

11 A. The psilocybin service center operator shall pay the tax to the State Tax Assessor
12 in the form and manner prescribed by the State Tax Assessor, but not later than with
13 each quarterly return, without regard to an extension granted under this subsection.

14 B. For good cause, the State Tax Assessor may extend the time for filing a return under
15 this section. The extension may be granted at any time if a written request is filed with
16 the State Tax Assessor during or prior to the period for which the extension may be
17 granted. The State Tax Assessor may not grant an extension of more than 30 days.
18 Interest accumulates on late-filed returns at the rate established in section 186.

19 C. If a psilocybin service center operator fails to file a return or pay the tax as required
20 by this section, the State Tax Assessor may impose penalties or take actions as provided
21 in this chapter.

22 D. Refunds of any overpayment of tax are governed by section 2011, except as follows:

23 (1) The State Tax Assessor shall first apply any overpayment of tax by a psilocybin
24 service center operator to any tax imposed under this chapter that is owed by the
25 psilocybin service center operator;

26 (2) If after any offset under subparagraph (1) the overpayment of tax remains
27 greater than \$1,000, the remaining refund must be applied as a credit against the
28 next subsequent calendar quarter as an estimated payment; and

29 (3) The State Tax Assessor may not make a refund of, or credit, any overpayment
30 of tax that was credited to the account of a psilocybin service center operator under
31 subparagraph (2) if the return for that tax period is not filed within 3 years after the
32 due date of that return.

33 **§4964. Psilocybin revenue estimate**

34 Not later than 30 days before the beginning of each calendar quarter, the department
35 shall forecast and prepare an estimate of the revenue that will be received during the
36 remainder of the current biennium and subsequent 3 biennia pursuant to the tax imposed
37 under this chapter. The estimate may be made on the basis of all pertinent information
38 available to the department. Upon making the estimate, the department shall report the
39 estimate to the Office of Fiscal and Program Review and the State Tax Assessor. The State
40 Tax Assessor shall provide the department any information necessary for the department
41 to perform its duties under this section.

42 **§4965. Enforcement; liability; notice of liability; notices of determination and**
43 **assessment**

1 **1. Trust.** A person who collects any tax under this chapter shall hold the tax in trust
2 for the State and for payment to the State Tax Assessor in accordance with this chapter.

3 **2. Enforcement.** Except as otherwise provided in this section, the State Tax Assessor
4 may impose penalties or take actions as provided in chapter 7 against a person who fails to
5 pay taxes required under this chapter in accordance with this chapter.

6 **3. Joint liability.** More than one officer or employee of a corporation may be held
7 jointly and severally liable for payment of taxes under this chapter.

8 A. Notwithstanding any provision of law to the contrary, if more than one officer or
9 employee of a corporation is jointly and severally liable for payment of taxes, the State
10 Tax Assessor may require any or all of the officers or employees who may be held
11 liable to appear before the State Tax Assessor for a joint determination of liability. The
12 State Tax Assessor shall notify each officer or employee of the time and place set for
13 the determination of liability. Each person notified of a joint determination under this
14 subsection shall appear and present such information as is necessary to establish that
15 person's liability or nonliability for payment of taxes to the State Tax Assessor. If a
16 person who was notified fails to appear, the State Tax Assessor shall make its
17 determination on the basis of all the information and evidence presented. The
18 department's determination is binding on all persons notified and required to appear
19 under this subsection and is a final agency action that may be appealed for review
20 pursuant to Title 5, section 11001.

21 B. If an appeal is taken from the decision of the State Tax Assessor by any person
22 determined to be liable for unpaid taxes under this subsection, each person required to
23 appear before the department under this subsection must be impleaded by the plaintiff.
24 The State Tax Assessor may implead any officer or employee who may be held jointly
25 and severally liable for the payment of taxes. Each person impleaded under this
26 subsection must be made a party to the action and shall make available to all parties in
27 the appeal the information that was presented to the State Tax Assessor. The court may
28 determine that one or more persons impleaded under this subsection are liable for
29 unpaid taxes without regard to any earlier determination by the State Tax Assessor that
30 an impleaded person was not liable for unpaid taxes.

31 C. If a person required to appear before the court on appeal fails or refuses to appear
32 or bring required information in part or in whole, or is outside the jurisdiction of the
33 court, the court shall make its determination on the basis of all the evidence introduced.
34 All evidence presented in the court constitutes a public record and must be available to
35 the parties and the court. The determination of the court is binding on all persons made
36 parties to the action under this subsection.

37 D. This subsection does not preclude a determination by the State Tax Assessor or the
38 court on appeal that more than one officer or employee are jointly and severally liable
39 for unpaid taxes.

40 **§4966. Duty to keep receipts, invoices and other records**

41 A psilocybin service center operator shall keep receipts, invoices and other pertinent
42 records related to retail sales of psilocybin products in accordance with chapter 7 and in the
43 form required by the State Tax Assessor. Each record must be preserved as provided in
44 section 135 or for as long as the psilocybin service center operator retains the psilocybin

1 products to which the record relates, whichever is later. During the retention period and at
2 any time prior to the destruction of records, the State Tax Assessor may give written notice
3 to the psilocybin service center operator not to destroy records described in the notice
4 without written permission of the State Tax Assessor. Notwithstanding any provision of
5 law to the contrary, the State Tax Assessor shall preserve reports and returns filed with the
6 department for at least 5 years.

7 **§4967. Disclosure of information**

8 Notwithstanding any provision of law to the contrary, the State Tax Assessor may
9 disclose information received under this chapter to the department as necessary for the
10 department to carry out the provisions of Title 28-B, chapter 5.

11 **§4968. Right to appeal determination of tax liability**

12 Except as otherwise provided in this chapter or chapter 7, a final determination of tax
13 liability by the State Tax Assessor under this chapter is a final agency action that may be
14 appealed for review pursuant to Title 5, section 11001.

15 **§4969. Duty to return excess tax collected**

16 When an amount represented by a psilocybin service center operator at retail to a client
17 as constituting the tax imposed under this chapter is computed upon an amount that is not
18 taxable or is in excess of the taxable amount and is actually paid by the client to the
19 psilocybin service center operator, the excess tax paid must be returned by the psilocybin
20 service center operator to the client upon written notification by the State Tax Assessor or
21 the client. The written notification must contain information necessary to determine the
22 validity of the client's claim. If the psilocybin service center operator does not return the
23 excess tax within 60 days after the mailing of the written notification, the client may appeal
24 to the State Tax Assessor for a refund of the amount of the excess tax, in the manner and
25 within the time allowed under rules adopted by the State Tax Assessor. If excess tax is
26 returned to the client by the State Tax Assessor, the assessor may issue a notice of
27 deficiency for the excess tax to the psilocybin service center operator.

28 **§4970. Duties and powers of assessor; rules; interagency cooperation**

29 The State Tax Assessor shall administer and enforce this chapter and may adopt rules
30 and procedures necessary for the implementation and enforcement of this chapter. Except
31 as otherwise expressly provided in this chapter, the State Tax Assessor may take any
32 actions under chapter 7 necessary to the proper discharge of the State Tax Assessor's duties
33 under this chapter. The department shall enter into an agreement with the State Tax
34 Assessor for the purpose of administering and enforcing the provisions of this chapter and
35 rules or procedures established by the assessor under this section.

36 **§4971. Administrative account; payment of expenses; crediting balance to Psilocybin**
37 **Control and Regulation Fund**

38 All money received by the State Tax Assessor under this chapter must be deposited in
39 a nonlapsing administrative account. The State Tax Assessor may pay expenses for the
40 administration and enforcement of this chapter from the account. After the payment of
41 administrative and enforcement expenses and refunds or credits arising from erroneous
42 overpayments, the State Tax Assessor shall transfer on a quarterly basis the balance of the
43 funds to the Psilocybin Control and Regulation Fund.

1 **Sec. 7. Maine Psilocybin Advisory Board; initial board.** Notwithstanding the
2 Maine Revised Statutes, Title 28-B, chapter 5, subchapter 13, the following provisions
3 apply to the Maine Psilocybin Advisory Board.

4 **1. Staggered terms for members of Maine Psilocybin Advisory Board.** At the first
5 meeting of the Maine Psilocybin Advisory Board, board members shall draw lots to
6 determine members' initial term lengths so that the initial terms of 7 members expire after
7 one year and the initial terms of 7 members expire after 2 years.

8 **2. Initial appointments to Maine Psilocybin Advisory Board.** The appointing
9 authorities shall appoint initial board members to the Maine Psilocybin Advisory Board no
10 later than October 15, 2023.

11 **3. Initial meeting of Maine Psilocybin Advisory Board.** The Maine Psilocybin
12 Advisory Board shall hold its first meeting no later than November 15, 2023 at a time and
13 place specified by the Governor.

14 **4. Initial reports of Maine Psilocybin Advisory Board.** The Maine Psilocybin
15 Advisory Board shall submit no later than April 15, 2024 its findings and recommendations
16 to the Department of Health and Human Services regarding available medical,
17 psychological and scientific studies, research and other information related to the safety
18 and efficacy of psilocybin in treating mental health conditions, including but not limited to
19 substance use disorder, depression, anxiety disorders and end-of-life psychological
20 distress. The Maine Psilocybin Advisory Board shall submit no later than October 15, 2024
21 its findings and recommendations to the Department of Health and Human Services
22 regarding the board's long-term strategic plan described in Title 28-B, section 2134,
23 subsection 2, paragraph A, information and updates on federal laws, regulations and
24 policies regarding psilocybin as described in Title 28-B, section 2134, subsection 2,
25 paragraphs B and C and proposed rules for the implementation of this Act.

26 **Sec. 8. Rulemaking by Department of Health and Human Services.** The
27 Department of Health and Human Services shall adopt rules no later than July 15, 2024 in
28 order to implement, administer and enforce the Maine Revised Statutes, Title 28-B, chapter
29 5.

30 **Sec. 9. Publicly available information regarding psilocybin.** No later than
31 December 1, 2024, the Department of Health and Human Services shall first publish
32 information about psilocybin in accordance with the Maine Revised Statutes, Title 28-B,
33 section 2011.

34 **Sec. 10. Conforming amendments.** The Department of Health and Human
35 Services, in consultation with the Department of Agriculture, Conservation and Forestry
36 and the State Tax Assessor, shall examine laws of this State and develop recommendations
37 for any amendments to those laws to conform to this Act and to otherwise make this Act
38 as consistent as possible in substance to the laws governing psilocybin in Oregon. No later
39 than December 1, 2024, the department shall submit its recommendations together with
40 suggested legislation to the joint standing committee of the Legislature having jurisdiction
41 over health and human services matters. The committee may report out a bill related to the
42 recommendations of the department to the 132nd Legislature in 2025.

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SUMMARY

This bill enacts the Maine Psilocybin Health Access Act, which establishes a regulatory framework in order to provide psilocybin products to individuals in Maine who are 21 years of age or older.