

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from electronic originals
(may include minor formatting differences from printed original)

Maine Medical Use of Marijuana Program

January 1, 2019 – December 31, 2019

Annual Report to the Maine State Legislature

Maine Department of Administrative and Financial Services
Office of Marijuana Policy

April 2020

Background

The State of Maine first legalized medical marijuana by referendum in 1999. In 2009, Maine voters again took up the topic of medical marijuana, this time establishing a legal distribution mechanism that had been nonexistent since 1999. The Maine Medical Use of Marijuana Program (MMMP) became operational in 2010 and was directed to carry out the implementation of the Maine Medical Use of Marijuana Act, with the first of Maine's medical marijuana dispensaries commencing operation in 2011.

The rules governing the program first became effective September 17, 2013, and today they inform:

- Procedures for issuing a certificate of registration to a medical marijuana dispensary;
- Procedures for issuing registry identification cards to caregivers, staff of hospice providers and nursing facilities;
- Requirements for dispensaries to obtain registry identification cards for their principal officers, board members and employees;
- Confidentiality requirements;
- Payment of fees; and
- Enforcement.

MMMP exists to ensure and facilitate an efficient, responsible and legal medical marijuana environment within the State of Maine. It provides compliance oversight, processes, guidelines and support to registered participants involved in the cultivation, processing and selling of medical marijuana and products containing it.

In February 2019, the Department of Administrative and Financial Services (DAFS) created the Office of Marijuana Policy (OMP). As a result, MMMP was relocated from the Bureau of Business Management to OMP to ensure one entity was responsible for the oversight of all aspects of legalized marijuana in Maine.

Throughout 2019, OMP was focused on increasing program capacity for both the medical program and the adult use program. As of December 31, 2019, OMP was staffed with 25 full time employees.

For further information, please contact:

Maine Medical Use of Marijuana Program
Office of Marijuana Policy
Department of Administrative and Financial Services
162 State House Station
Augusta, ME 04333-0162
(207) 287-3282

<https://www.maine.gov/dafs/omp>

Erik Gundersen,
Director, Office of Marijuana Policy
erik.gundersen@maine.gov

Scott Lever,
Deputy Director, Office of Marijuana Policy
scott.lever@maine.gov

The rules and statute governing this program may be found at:

- Maine Medical Use of Marijuana Act: [Title 22, Chapter 558-C](#)
- Rules: [18-691 C.M.R. ch. 2](#)
- Rules: [18-691 C.M.R. ch. 4](#)

Executive Summary

In accordance with 22 M.R.S. § 2425-A(13)(B), the department shall submit to the joint standing committee of the legislature having jurisdiction over health and human services an annual report that does not disclose any identifying information about cardholders or medical providers, but that does contain, at a minimum:

- The number of applications and renewals filed for registry identification cards and registration certificates;
- The number of qualifying patients and registered caregivers approved in each county;
- The number of registry identification cards suspended or revoked;
- The number of medical providers providing written certifications for qualifying patients;
- The number of registered dispensaries, manufacturing facilities and marijuana testing facilities approved in each county;
- The number of officers, directors, and assistants of registered caregivers, registered dispensaries, manufacturing facilities and marijuana testing facilities;
- The revenue and expenses of the Medical Use of Marijuana Fund established in section 2430.

The data in this report reflects calendar year periods, unless otherwise noted.

Key Takeaways – 2019

- The number of printed patient certifications increased 42.3 percent to 65,368.
- The number of licensed caregivers increased 5.4 percent to 2,596.
- The number of employees/assistants for caregivers increased 423.1 percent to 1,883.

Legislative and Regulatory Changes

The 2019 calendar year resulted in significant changes to MMMP and its programmatic operations. Not only did the program move to a new functional unit within DAFS, but there were several legislative changes that affected MMMP.

Most notable among these was P.L. 2017, ch. 452 (LD 1539), *An Act to Amend the Maine Medical Use of Marijuana Act*. Passed during the Second Special Session of the 128th Legislature, this legislation became effective on December 13, 2018, and marked the most significant series of changes to MMMP and the state's medical program since its inception.

Among other things, P.L. 2017, ch. 452 made the following changes to the MMMP:

- Eliminated all qualifying medical conditions from the medical program, allowing patient access, for any reason, at the certification of a registered medical provider.
- Removed employment restrictions on caregivers, allowing for an unlimited number of assistants.
- Established and allowed registered caregivers to operate a retail store.
- Eliminated the limitation on registered caregivers serving only five qualified patients and the corresponding cultivation restrictions tied to patient count.
- Allowed dispensaries to convert their status from nonprofit to for-profit.
- Added dispensaries and caregivers to the businesses that were permitted to expense their equipment costs for tax purposes.
- Added requirements for dispensaries and registered caregivers related to tracking and record keeping, including utilizing the state's inventory tracking system.

Given the relatively late effective date of P.L. 2017, ch. 452, many of the resulting changes are reflected in this annual report for the first time. Most notably, a significant spike in patient certifications issued and caregiver employees registered is noticeable throughout 2019.

Several legislative and regulatory changes related to MMMP went into effect during calendar year 2019.

OMP engaged in adult use rulemaking related to the certification of marijuana testing facilities. The Office adopted this approach given the need for adult use marijuana testing facilities to serve the forthcoming adult use industry and the existing authorization for these testing facilities to serve Maine's existing medical marijuana program. Marijuana testing facility certification rulemaking was completed in fall 2019, while testing facility licensing rulemaking occurred throughout winter.

Similarly, the First Regular Session of the 129th passed several pieces of legislation affecting the medical program. P.L. 2019, ch. 331 (LD 1505, *An Act to Amend the Marijuana Laws to Correct Inconsistencies in Recently Enacted Laws*), addressed the many conflicts resulting from the simultaneous passage of P.L. 2017, ch. 452 and P.L. 2017, ch. 447 (LD 238, *An Act To Amend the Maine Medical Use of Marijuana Act*) during the 128th Legislature. Also clarifying or expanding upon statutory language amended during the prior legislature, P.L. 2019, ch. 312 (LD 1735, *An Act to Clarify the Pathway for a Registered Dispensary under the Maine Medical Use of Marijuana Act to Become a For-profit Entity*), P.L. 2019, ch. 217 (LD 1129, *An Act To Clarify Certain Provisions of the Maine Medical Use of Marijuana Act*), and P.L. 2019, ch. 354 (LD 1738, *An Act Regarding Medical Marijuana*) all became law.

P.L. 2019, ch. 312 clarified the process for dispensaries to convert from nonprofits to for-profit entities and established a revenue capture schedule for such conversions. Similarly, P.L. 2019, ch. 217 provided a definition for the term “caregiver retail store”, improved security requirements for these establishments, and established a local authorization requirement for these entities. P.L. 2019, ch. 354 increased the caregiver wholesale transfer limit included in P.L. 2017, ch. 452 from 30 percent to 75 percent and authorized the Maine Center for Disease Control and Prevention to charge fees for its certification of marijuana testing facilities.

In other changes, P.L. 2019, ch. 209 (LD 538, *An Act to Ensure Access to Medical Cannabis for Visiting Qualifying Patients*) went into effect on June 6, 2019 as an emergency measure. This change in law removed the State of Maine’s medical certification requirements for out-of-state patients and required OMP to compile a list of states which authorize the use of their state-issued medical marijuana credentials to access the services of caregivers and dispensaries while in Maine.

The following states have provided the information necessary to OMP to permit the use of their credentials in Maine.

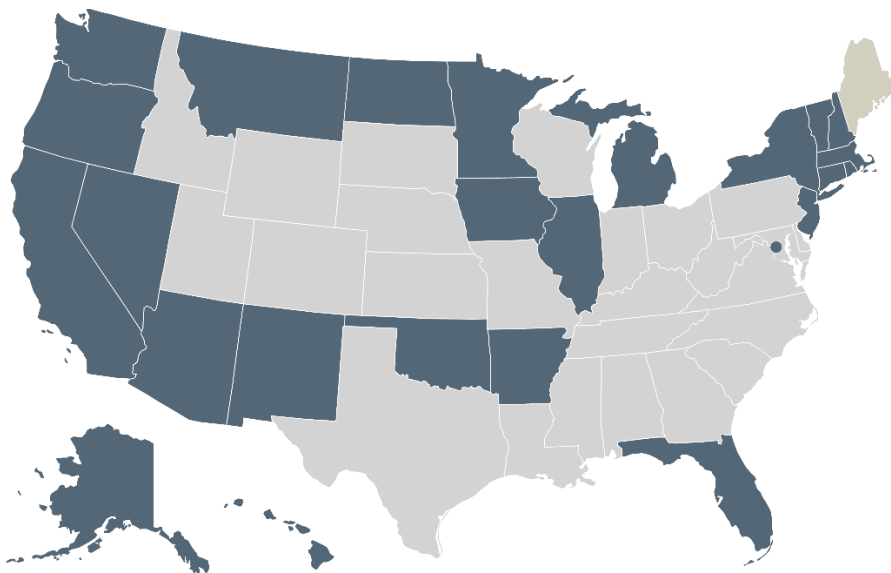


Figure 1. **Approved states:** Alaska, Arizona, Arkansas, California, Connecticut, Florida, Hawaii, Illinois, Iowa, Massachusetts, Michigan, Minnesota, Montana, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Dakota, Oklahoma, Oregon, Rhode Island, Vermont, Washington, Washington, DC.

Finally, P.L. 2019, ch. 256 (LD 1218, *An Act to Allow Maine Medical Marijuana Caregivers to Measure Cultivation Limits by Plant Canopy Size*) introduced a new option for caregivers to align their cultivation operations with the adult use program by allowing—for the first time—medical cultivation to be calculated by either plant count tiers or 500 square feet of canopy.

Printed Patient Certifications by County, 2019

Under the Maine Medical Use of Marijuana Act, medical providers registered with OMP can provide certifications to patients that are, “likely to receive therapeutic or palliative benefit from the medical use of marijuana to treat or alleviate the patient's medical diagnosis or symptoms associated with the medical diagnosis.”

To be a qualifying patient in Maine's medical program, among other things, an individual must possess a valid written certification, and a written certification is only valid if it is "a document on tamper-resistant paper signed by a medical provider...". To keep costs low for prospective patients, OMP provides registered medical providers with the state's tamper-resistant patient certification paper at no cost.

An online service hosted by the state's web portal provider allows for the immediate issuance of patient certifications. The online system recorded, in 2019, that 65,368 certifications were printed, a 42.3 percent increase from the 45,940 printed in 2018.

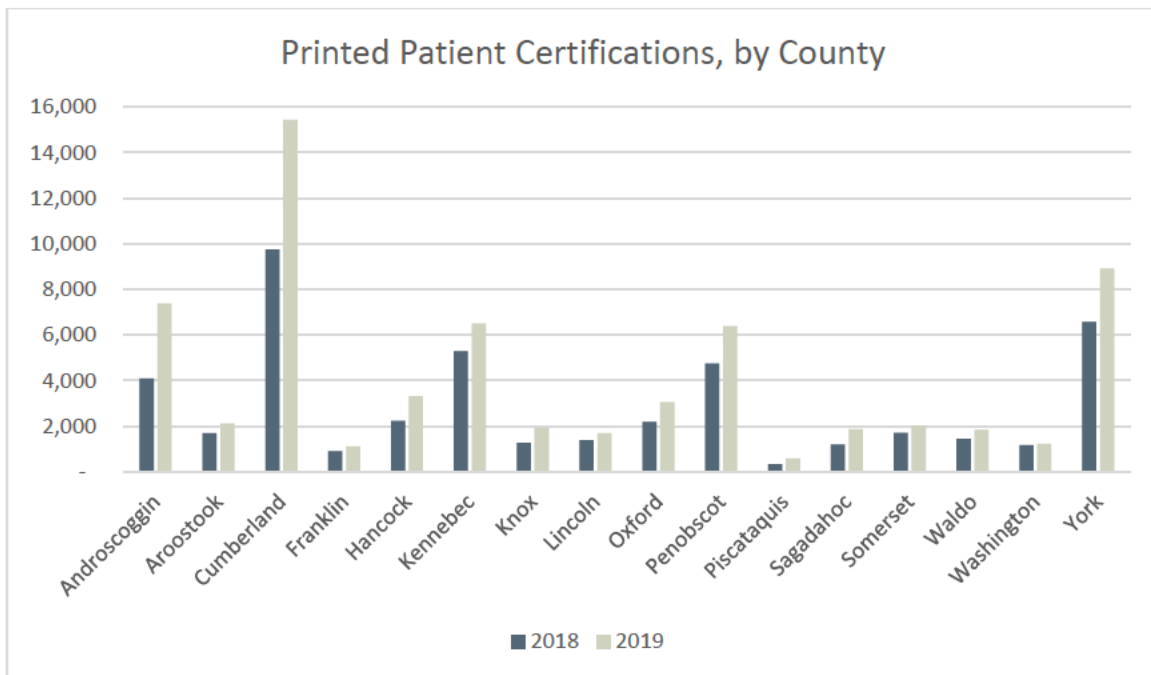


Figure 2. The numbers contained herein are not an accurate reflection of the number of patients as it includes all certifications printed, including misprints, the reissuance of lost certifications, and other anomalies.

The increase in patient certifications is likely attributable to the repeal of the list of qualifying medical conditions contained in P.L. 2017, ch. 452. To protect patient confidentiality, Maine does not maintain a central registry of qualifying patients.

Caregiver Individuals by County, 2019

The number of registered caregivers increased by 5.4 percent, from 2,462 in 2018 to 2,596 in 2019. There was an increase of registered caregivers in all counties except for Sagadahoc, Waldo and Washington.

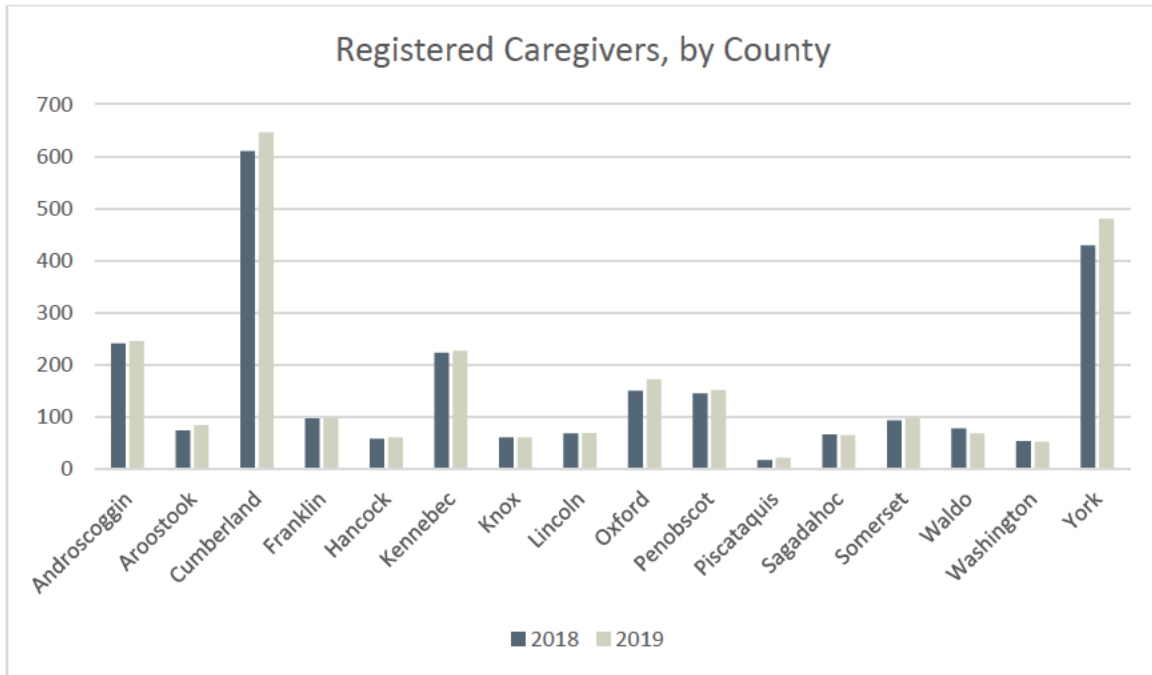


Figure 3. This graph represents the number of registered individual caregivers there are in each county.

Medical Providers, Employees, Principal Officers and Board Members, 2019

To obtain and issue patient certifications, a medical provider must be registered with MMMP. The current statutory definition of medical provider includes physicians, certified nurse practitioners, and physician assistants. A written certification may be made only in the course of a bona fide medical provider-patient relationship after the medical provider has completed a full assessment of the patient's medical history.

In 2019 there were a total of 607 medical providers registered in the system. Of those, 566 have an active registration. The forthcoming chart indicates the number of providers in each county. In cases where a provider is practicing in multiple counties, they are listed multiple times.

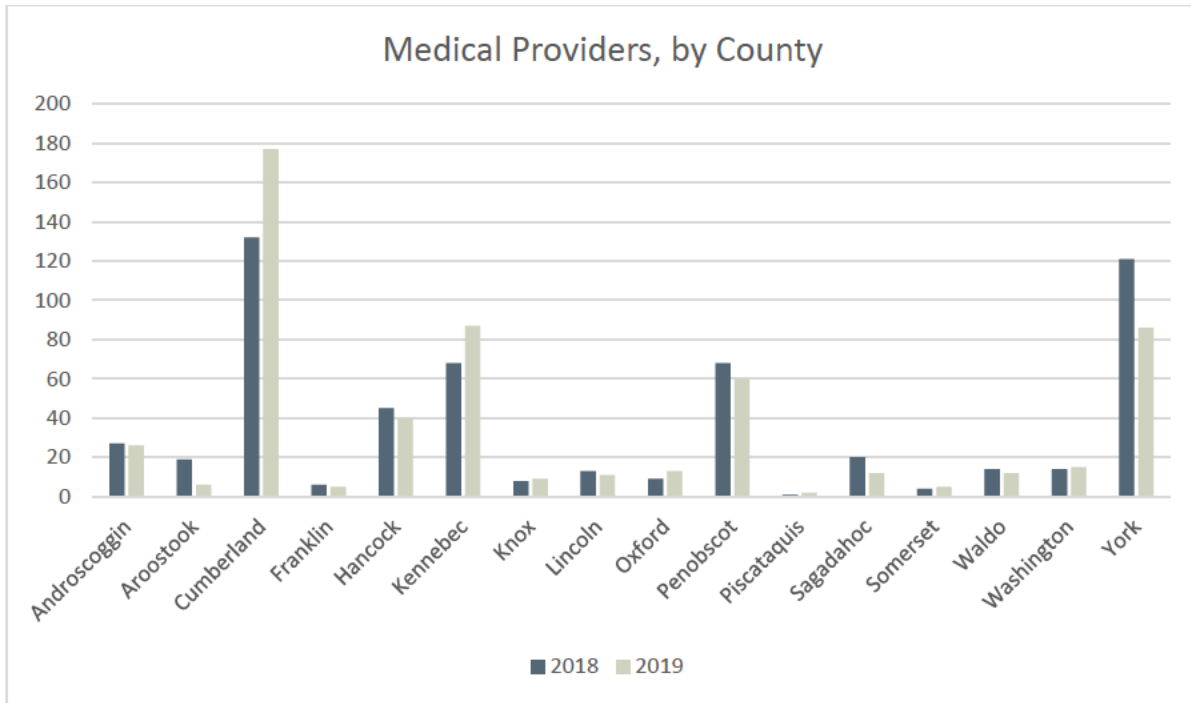


Figure 4. Cumberland, Kennebec, Knox, Oxford, Piscataquis, Somerset, and Washington counties witnessed an uptick in medical providers over the course of the last year.

All caregiver employees, dispensary employees, dispensary board members, and dispensary principal officers must possess a MMMP registry identification card. The following table provides caregiver- and dispensary-related registry information.

	2018	2019
Number of Caregiver Employees	360	1,883
Number of Caregiver Cards Revoked	8	5
Number of Registered Dispensaries	8	8
Number of Dispensary Employees	219	225
Number of Dispensary Board Members	21	21
Number of Dispensary Principal Officers	5	4
Number of Manufacturing Facilities	-	0
Number of Marijuana Testing Facilities	-	0

Testing in the MMMP is voluntary except for when certain claims are made on the labeling of medical marijuana and marijuana products. While there are as many as six labs serving the medical program, OMP’s licensure of marijuana testing facilities would occur through the adult use program. There are currently no registered officers or directors for registered caregivers, manufacturing facilities, or marijuana testing facilities.

The significant increase in the number of caregiver employees registered with MMMP is likely due to the effective date of P.L. 2017, ch. 452 occurring in late 2018.

Revenue and Expenses

The State of Maine operates on a fiscal year that runs from July 1 through June 30. Accordingly, revenue and expense information from state fiscal year 2019 covers the period from July 1, 2018 through the conclusion of the fiscal year on June 30, 2019.

	2018	2019
Revenues	\$ 2,444,917.74	\$ 2,597,338.25
Expenses	\$ (922,033.73)	\$ (1,179,716.30)
Legislative Transfers	\$ (667,626.00)	\$ 0.00

During the First Regular Session of the 129th Legislature, lawmakers voted to transfer \$2.8 million from the Medical Use of Marijuana Fund. While the vote to move those funds occurred in state fiscal year 2019, the transfer will not be reflected on OMP's balance sheets until fiscal year 2020—when the transfer occurs.

The increase in programmatic expenses can be attributed, primarily, to additional headcount within MMMP as a result of P.L. 2017, ch. 452.