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H.P. 942

House of Representatives, May 6, 2015

An Act To Amend the Maine Medical Use of Marijuana Act

Submitted by the Department of Health and Human Services pursuant to Joint Rule 204.
Reference to the Committee on Health and Human Services suggested and ordered printed.

A handwritten signature in cursive script that reads "R B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative SANDERSON of Chelsea.

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

2 **Sec. 1. 16 MRSA §806, sub-§1-A** is enacted to read:

3 **1-A. Government agency responsible for administering Maine Medical Use of**
4 **Marijuana Act.** The government agency responsible for administering the Maine
5 Medical Use of Marijuana Act if the intelligence and investigative record information is
6 used in the operation and oversight of the Maine Medical Use of Marijuana Act;

7 **Sec. 2. 22 MRSA §2422, sub-§1,** as amended by PL 2009, c. 631, §8 and
8 affected by §51, is further amended to read:

9 **1. Cardholder.** "Cardholder" means a ~~registered patient~~ person to whom a medical
10 provider-issued medical certification card has been issued, a registered primary caregiver,
11 an employee of a registered primary caregiver or a principal officer, board member or
12 employee of a registered dispensary who has been issued and possesses a valid registry
13 identification card.

14 **Sec. 3. 22 MRSA §2422, sub-§1-C** is enacted to read:

15 **1-C. Complainant.** "Complainant" means a person that contacts the department
16 through any means for the purpose of reporting violations of this chapter or rules adopted
17 pursuant to this chapter.

18 **Sec. 4. 22 MRSA §2422, sub-§5-C** is enacted to read:

19 **5-C. Person.** "Person" means an individual, corporation, facility, institution or
20 public or private agency.

21 **Sec. 5. 22 MRSA §2422, sub-§8-A,** as amended by PL 2013, c. 396, §1, is
22 further amended to read:

23 **8-A. Primary caregiver.** "Primary caregiver" means ~~a person or an individual,~~
24 employee of that ~~person,~~ individual or an employee of a hospice provider licensed under
25 chapter 1681 or a nursing facility licensed under chapter 405 that provides care for a
26 qualifying patient in accordance with section 2423-A, subsection 2. ~~A person~~ An
27 individual who is a primary caregiver must be at least 21 years of age and may not have
28 been convicted of a disqualifying drug offense. ~~A corporation, facility, institution or~~
29 ~~public or private agency may not be a primary caregiver.~~

30 **Sec. 6. 22 MRSA §2422, sub-§12,** as amended by PL 2011, c. 407, Pt. B, §12, is
31 repealed.

32 **Sec. 7. 22 MRSA §2422, sub-§13,** as amended by PL 2009, c. 631, §18 and
33 affected by §51, is further amended to read:

34 **13. Registry identification card.** "Registry identification card" means a ~~document~~
35 ~~issued by the department~~ medical provider-issued medical certification card, a
36 department-issued caregiver certification card or a department-issued dispensary

1 certification card that identifies a person as a registered qualifying patient, registered
2 primary caregiver, employee of a registered primary caregiver or principal officer, board
3 member or employee of a dispensary. A medical provider-issued medical certification
4 card constitutes a patient registry identification card.

5 **Sec. 8. 22 MRSA §2422, sub-§15**, as enacted by IB 2009, c. 1, §5, is amended to
6 read:

7 **15. Visiting qualifying patient.** "Visiting qualifying patient" means a patient with a
8 debilitating medical condition who is not a resident of this State and who will be in this
9 State not less than 24 consecutive hours or a patient who has been a resident of this State
10 less than 30 days.

11 **Sec. 9. 22 MRSA §2423-A, sub-§1, ¶E**, as amended by PL 2011, c. 407, Pt. B,
12 §16, is further amended to read:

13 E. Designate ~~one person~~, an individual or a staff member of a hospice provider or
14 nursing facility as a primary caregiver to assist with the qualifying patient's medical
15 use of marijuana in a standardized written document, developed by the department,
16 signed and dated by the qualifying patient, including a one-year expiration and the
17 signed acknowledgment of the primary caregiver that the primary caregiver may be
18 contacted to confirm the designation of the primary caregiver. A 2nd ~~person~~
19 individual or staff member of a hospice provider or nursing facility may be
20 designated as a 2nd primary caregiver if the patient is under 18 years of age. The
21 primary caregivers for a patient are determined solely by the patient's preference
22 except that a parent, guardian or person having legal custody shall serve as a primary
23 caregiver for a minor child;

24 **Sec. 10. 22 MRSA §2423-A, sub-§1, ¶F**, as amended by PL 2013, c. 396, §2, is
25 further amended to read:

26 F. Designate one primary caregiver or a registered dispensary to cultivate marijuana
27 for the medical use of the qualifying patient, except that the staff member of a
28 hospice provider or a nursing facility that who is designated as a primary caregiver by
29 a patient and the staff of the provider or facility may not be designated to cultivate
30 marijuana for the patient. The qualifying patient must designate the primary
31 caregiver or registered dispensary to cultivate for the patient in a standardized written
32 document, developed by the department, signed and dated by the qualifying patient,
33 which must include a one-year expiration, the total number of mature plants the
34 primary caregiver is designated to cultivate and the signed acknowledgment of the
35 primary caregiver that the primary caregiver may be contacted to confirm the
36 designation of the primary caregiver to cultivate for the patient and the number of
37 mature plants to be cultivated and being cultivated for the patient or the signed
38 acknowledgment of a person on behalf of the registered dispensary that the registered
39 dispensary may be contacted to confirm the designation of the dispensary to cultivate
40 for the patient and the number of mature plants to be cultivated and being cultivated
41 for the patient;

1 **Sec. 11. 22 MRSA §2423-A, sub-§1, ¶H**, as enacted by PL 2013, c. 396, §4, is
2 amended to read:

3 H. Accept excess prepared marijuana from ~~a~~ the qualifying patient's designated
4 primary caregiver or designated registered dispensary in accordance with subsection
5 2, paragraph H if nothing of value is provided to the primary caregiver or registered
6 dispensary.

7 **Sec. 12. 22 MRSA §2423-A, sub-§2, ¶A-1** is enacted to read:

8 A-1. Dispense up to 2 1/2 ounces of prepared marijuana during a 15-day period to a
9 qualifying patient;

10 **Sec. 13. 22 MRSA §2423-A, sub-§3, ¶A**, as amended by PL 2013, c. 374, §1, is
11 further amended to read:

12 A. A patient who elects to cultivate marijuana plants must keep the plants in an
13 enclosed, locked facility unless the plants are being transported because the patient is
14 moving or taking the plants to the patient's own property in order to cultivate them.
15 Access to the cultivation facility is limited to the patient, except that emergency
16 services personnel ~~or~~ a person who needs to gain access to the cultivation facility in
17 order to perform repairs or maintenance or to do construction or a municipal official
18 to further the business of the municipality may access the cultivation facility to
19 provide those professional services while under the direct supervision of the patient.

20 **Sec. 14. 22 MRSA §2423-A, sub-§3, ¶B**, as amended by PL 2013, c. 501, §1, is
21 further amended to read:

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

36 **Sec. 15. 22 MRSA §2423-A, sub-§3, ¶C**, as enacted by PL 2011, c. 407, Pt. B,
37 §16, is amended to read:

38 C. A primary caregiver designated to cultivate marijuana for a qualifying patient is
39 required to register with the department, ~~except that the following primary caregivers~~
40 ~~are not required to register.~~

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

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

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

8 **Sec. 16. 22 MRSA §2423-A, sub-§4**, as enacted by PL 2009, c. 631, §21 and
9 affected by §51, is amended to read:

10 **4. Hospice provider or nursing facility patients.** A registered qualifying patient
11 ~~may name~~ of a hospice provider licensed under chapter 1681 or a nursing facility licensed
12 under chapter 405 may designate a staff member of a hospice or nursing facility to serve
13 as a registered primary caregiver. If a hospice provider or nursing facility ~~is named~~
14 assigns a staff member to act as a primary caregiver, the staff member of the provider or
15 facility shall complete the registration process with the department and obtain a primary
16 caregiver registration card and the staff member of the provider or facility shall obtain a
17 registry identification ~~cards~~ card. To be issued a registry identification card, a staff
18 ~~person~~ member of a hospice provider or nursing facility ~~that who~~ has been named as a
19 primary caregiver must be at least 21 years of age and may not have been convicted of a
20 disqualifying drug offense. The hospice provider or nursing facility and the staff member
21 of the provider or facility may not cultivate marijuana for the patient.

22 **Sec. 17. 22 MRSA §2423-A, sub-§4-A**, as enacted by PL 2013, c. 520, §1, is
23 amended to read:

24 **4-A. Use and storage in inpatient hospice facility or nursing facility permitted.**
25 A qualifying patient who is a resident of a hospice provider facility licensed under
26 chapter 1681 or nursing facility licensed under chapter 405, while in the hospice provider
27 facility or nursing facility, may use forms of prepared marijuana that are not smoked,
28 including, but not limited to, vaporized marijuana, edible marijuana and tinctures and
29 salves of marijuana. A qualifying patient who uses a form of prepared marijuana
30 pursuant to this subsection may store the prepared marijuana in the qualifying patient's
31 room and is not required ~~to obtain a registry identification card or to designate a staff~~
32 member of the hospice provider or nursing facility as a primary caregiver under
33 subsection 4. ~~A~~ The staff member of a hospice provider or nursing facility is not required
34 to be named as a primary caregiver by a qualifying patient who uses prepared marijuana
35 pursuant to this subsection. This subsection does not limit the ability of a hospice
36 provider or nursing facility to prohibit or restrict the use or storage of prepared marijuana
37 by a qualifying patient.

38 **Sec. 18. 22 MRSA §2423-D**, as amended by PL 2013, c. 516, §9, is repealed and
39 the following enacted in its place:

1 **§2423-D. Authorized conduct by a visiting qualifying patient**

2 **1. Visiting qualifying patients; medical provider written certifications and**
3 **identification.** A qualifying patient who is visiting the State from another jurisdiction
4 that authorizes the medical use of marijuana pursuant to a law recognized by the
5 department who possesses a valid written certification as described in section 2423-B
6 from the patient's treating medical provider and a valid medical marijuana certification
7 from that other jurisdiction and photographic identification or a driver's license from that
8 jurisdiction may engage in conduct authorized for a qualifying patient under this chapter.

9 **2. Duration of stay.** A visiting qualifying patient may only engage in conduct
10 authorized for a qualifying patient under this chapter if that patient is staying in this State
11 for at least 24 hours in a single visit. There is no maximum duration.

12 **3. Protections provided under this chapter.** The conduct authorized under this
13 chapter is authorized and protected only in this State.

14 **4. Designation of primary caregiver in this State or dispensary in this State.** A
15 visiting qualifying patient must designate a primary caregiver in this State or registered
16 dispensary in this State in order to engage in conduct authorized for a qualifying patient
17 under this chapter. A primary caregiver must include a visiting qualifying patient who
18 has designated the primary caregiver in the maximum of 5 qualifying patients that the
19 primary caregiver may assist.

20 **Sec. 19. 22 MRSA §2424, sub-§3,** as amended by PL 2013, c. 394, §1, is further
21 amended to read:

22 **3. Registry identification cards.** The department shall adopt rules governing the
23 manner in which it considers applications for and renewals of registry identification cards
24 for ~~registered patients~~, registered primary caregivers, principal officers, board members
25 and employees of dispensaries and staff of hospice providers and nursing facilities
26 designated as primary caregivers. The department's rules must require the submission of
27 an application, must require replacement of a registry identification card that has been
28 lost, destroyed or stolen or that contains information that is no longer accurate and must
29 establish application and renewal fees that generate revenues sufficient to offset all
30 expenses of implementing and administering this chapter and that are consistent with the
31 provisions of section 2425, subsection 12. ~~The department may establish a sliding scale~~
32 ~~of application and renewal fees based upon a registered patient's family income and status~~
33 ~~as a veteran of the Armed Forces of the United States.~~ The department may accept
34 donations from private sources in order to reduce the application and renewal fees.

35 **Sec. 20. 22 MRSA §2425, sub-§1,** as amended by PL 2013, c. 516, §10, is
36 repealed.

37 **Sec. 21. 22 MRSA §2425, sub-§2,** as amended by PL 2013, c. 516, §11, is
38 repealed.

39 **Sec. 22. 22 MRSA §2425, sub-§3,** as amended by PL 2013, c. 394, §4, is further
40 amended to read:

1 **3. Department approval or denial.** The department shall verify the information
2 contained in an application or renewal submitted pursuant to this section and shall
3 approve or deny an application or renewal within 30 days of receiving it. The department
4 may deny an application or renewal only if the applicant did not provide the information
5 required pursuant to this section ~~or~~, the department determines that the applicant does not
6 qualify for a registry identification card or that the information provided was falsified or
7 based on a failure of the applicant to comply with this chapter or rules adopted pursuant
8 to this chapter or the applicant has acted in bad faith with respect to the laws and rules
9 governing medical use of marijuana. Rejection of an application or renewal is considered
10 a final agency action, subject to judicial review. Jurisdiction and venue for judicial review
11 are vested in the Superior Court.

12 **Sec. 23. 22 MRSA §2425, sub-§4,** as amended by PL 2013, c. 396, §10, is
13 further amended to read:

14 **4. Primary caregiver registry identification card.** ~~The~~ Upon review and approval
15 of an application or renewal, the department shall issue a registry identification card to
16 each registered primary caregiver, ~~if any, who is named in a registered patient's approved~~
17 ~~application pursuant to subsection 1, paragraph E and,~~ if the registered primary caregiver
18 employs an employee pursuant to section 2423-A, subsection 2, paragraph I, to that
19 employee who completes an acceptable application.

20 **Sec. 24. 22 MRSA §2425, sub-§5,** as amended by PL 2013, c. 396, §11, is
21 further amended to read:

22 **5. Registry identification card issuance.** The department shall issue registry
23 identification cards ~~to registered patients,~~ to registered primary caregivers, to employees
24 of registered caregivers and to staff of hospice providers and nursing facilities, as
25 applicable, designated by ~~registered~~ qualifying patients as primary caregivers within 5
26 days of approving an application or renewal under this section. Registry identification
27 cards expire one year after the date of issuance except that the date of issuance and
28 expiration date of a registered primary caregiver's registry identification card must be the
29 same as the issuance and expiration dates on the patient's registry identification card.
30 Registry identification cards must contain:

- 31 A. The name of the cardholder;
- 32 C. The date of issuance and expiration date of the registry identification card;
- 33 D. A random identification number that is unique to the cardholder; and
- 34 F. A clear designation showing whether the cardholder is allowed under this chapter
35 to cultivate marijuana.

36 **Sec. 25. 22 MRSA §2425, sub-§8, ¶¶A, F, G, H and K,** as amended by PL
37 2013, c. 516, §13, are further amended to read:

- 38 A. Applications and supporting information submitted by qualifying patients ~~and~~
39 ~~registered patients~~ under this chapter, including information regarding their primary
40 caregivers and medical providers, are confidential.

1 F. Applications, supporting information and other information regarding a registered
2 dispensary are not confidential except that information that is contained within
3 dispensary information that identifies a qualifying patient, ~~a registered patient~~, the
4 ~~registered~~ qualifying patient's medical provider and the primary caregiver of the
5 qualifying patient ~~or registered patient~~ is confidential.

6 G. Records maintained by the department pursuant to this chapter that identify
7 applicants for a registry identification card, ~~registered~~ qualifying patients, registered
8 primary caregivers and ~~registered~~ qualifying patients' medical providers are
9 confidential and may not be disclosed except as provided in this subsection and as
10 follows:

- 11 (1) To department employees who are responsible for carrying out this chapter;
- 12 (2) Pursuant to court order or subpoena issued by a court;
- 13 (3) With written permission of the ~~registered~~ qualifying patient or the patient's
14 guardian, if the patient is under guardianship, or a parent, if the patient has not
15 attained 18 years of age;
- 16 (4) As permitted or required for the disclosure of health care information
17 pursuant to section 1711-C;
- 18 (5) To a law enforcement official for verification purposes. The records may not
19 be disclosed further than necessary to achieve the limited goals of a specific
20 investigation; and
- 21 (6) To a ~~registered~~ qualifying patient's treating medical provider and to a
22 ~~registered~~ qualifying patient's registered primary caregiver for the purpose of
23 carrying out this chapter.

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

29 K. Except as otherwise provided in this subsection, a person who knowingly violates
30 the confidentiality of information protected under this chapter commits a civil
31 violation for which a fine of up to \$1,000 may be imposed. This paragraph does not
32 apply to a medical provider or ~~staff of a hospice provider or nursing facility named as~~
33 ~~a primary caregiver or any other~~ a person directly associated with a medical provider
34 or a hospice provider or nursing facility that provides services to a ~~registered~~
35 qualifying patient.

36 **Sec. 26. 22 MRSA §2425, sub-§8, ¶M** is enacted to read:

37 M. The name, address, telephone number and any other identifying information of a
38 complainant is confidential. Notwithstanding this paragraph, a complaint may be
39 filed anonymously.

40 **Sec. 27. 22 MRSA §2425, sub-§9-A**, as enacted by PL 2011, c. 407, Pt. B, §28,
41 is repealed.

1 **Sec. 28. 22 MRSA §2425, sub-§10, ¶B**, as enacted by IB 2009, c. 1, §5, is
2 amended to read:

3 B. The number of medical provider-issued medical certification cards issued to
4 qualifying patients in each county and ~~primary caregivers approved~~ the number of
5 department-issued caregiver certification cards issued in each county;

6 **Sec. 29. 22 MRSA §2425, sub-§11**, as enacted by PL 2011, c. 383, §4, is
7 amended to read:

8 **11. Valid identification.** A ~~registered patient~~, registered primary caregiver, an
9 employee of a registered primary caregiver or a principal officer, board member or
10 employee of a registered dispensary who has been issued a valid registry identification
11 card pursuant to this section or a qualifying patient who has been issued a medical
12 provider-issued medical certification card must also possess a valid Maine-issued driver's
13 license with a photo or other Maine-issued photo identification in order to establish proof
14 of authorized participation in the medical use of marijuana under this chapter.

15 **Sec. 30. 22 MRSA §2425, sub-§12, ¶H** is enacted to read:

16 H. Fees are nonrefundable except that an unsuccessful applicant for a dispensary
17 certificate of registration must be refunded the application fee, less \$1,000.

18 **Sec. 31. 22 MRSA §2425, sub-§13** is enacted to read:

19 **13. Time limits on reapplication after denial or revocation.** The following time
20 limits apply to a reapplication after denial or revocation.

21 A. When a registry identification card for a registered primary caregiver, a registered
22 primary caregiver employee or principal officer, board member or employee of a
23 registered dispensary has been denied or revoked on one occasion, the individual may
24 not reapply for a registry identification card to be a registered primary caregiver, a
25 registered primary caregiver employee or principal officer, board member or
26 employee of a registered dispensary for a period of one year from the effective date
27 of the denial or revocation decision if not appealed or, if appealed, from the effective
28 date of the reviewing court's order.

29 B. When a registry identification card for a registered primary caregiver, a registered
30 primary caregiver employee or principal officer, board member or employee of a
31 registered dispensary has been denied or revoked on 2 occasions, the individual may
32 not reapply for a registry identification card to be a primary caregiver, a registered
33 primary caregiver employee or principal officer, board member or employee of a
34 registered dispensary for a period of 2 years from the effective date of the denial or
35 revocation decision if the decision is not appealed or, if appealed, from the effective
36 date of the reviewing court's order.

37 C. When a registry identification card for a registered primary caregiver, a registered
38 primary caregiver employee or principal officer, board member or employee of a
39 registered dispensary has been denied or revoked on 3 occasions, the individual may
40 not receive another registry identification card to be a primary caregiver or principal
41 officer, board member or employee of a dispensary.

1 **Sec. 32. 22 MRSA §2428, sub-§2, ¶B**, as amended by PL 2009, c. 631, §42 and
2 affected by §51, is further amended to read:

3 B. The department shall track the number of ~~registered~~ qualifying patients who
4 designate a dispensary to cultivate marijuana for them and issue to each dispensary a
5 written statement of the number of patients who have designated the dispensary to
6 cultivate marijuana for them. This statement must be updated each time a new
7 ~~registered~~ qualifying patient designates the dispensary or ceases to designate the
8 dispensary. The statement may be transmitted electronically if the department's rules
9 so provide. The department may provide by rule that the updated written statements
10 may not be issued more frequently than once each week.

11 **Sec. 33. 22 MRSA §2428, sub-§6, ¶I**, as amended by PL 2013, c. 501, §2, is
12 further amended to read:

13 I. All cultivation of marijuana must take place in an enclosed, locked facility unless
14 the marijuana plants are being transported between the dispensary and a location at
15 which the dispensary cultivates the marijuana plants, as disclosed to the department
16 in subsection 2, paragraph A, subparagraph (3). The dispensary shall use a numerical
17 identification system to enable the dispensary to track marijuana plants from
18 cultivation to sale and to track prepared marijuana obtained pursuant to section
19 2423-A, subsection 2, paragraph H from acquisition to sale. Access to the cultivation
20 facility is limited to a cardholder who is a principal officer, board member or
21 employee of the dispensary when acting in that cardholder's official capacity, except
22 that an elected official invited by a principal officer, board member or employee for
23 the purpose of providing education to the elected official on cultivation by the
24 dispensary, emergency services personnel or a person who needs to gain access to the
25 cultivation facility in order to perform repairs or maintenance or to do construction or
26 a municipal official to further the business of the municipality may access the
27 cultivation facility to provide professional services while under the direct supervision
28 of a cardholder who is a principal officer, board member or employee of the
29 dispensary.

30 **Sec. 34. 22 MRSA §2429, sub-§4** is enacted to read:

31 **4. Revocation of a caregiver certification card.** The effective date of revocation
32 for a caregiver certification card is 10 days after the date of the notice of revocation or 10
33 days after the date upon which rights of appeal are exhausted, whichever is later.

34 A. A primary caregiver whose caregiver registration card has been revoked shall
35 notify designated qualifying patients of the revocation.

36 B. A primary caregiver whose caregiver registration card has been revoked shall, in
37 accordance with this chapter, dispose of all medical marijuana in any form.

38 **Sec. 35. 22 MRSA §2430, sub-§2, ¶¶A and B**, as enacted by PL 2009, c. 631,
39 §45 and affected by §51, are amended to read:

40 A. All money received as a result of applications and reapplications for registration
41 as a ~~qualifying patient~~, primary caregiver and dispensary;

1 B. All money received as a result of applications and reapplications for registry
2 identification cards for ~~registered patients~~, primary caregivers, employees of primary
3 caregivers and dispensaries and board members, officers and employees of
4 dispensaries;

5 **Sec. 36. 22 MRSA §2430-A**, as repealed and replaced by PL 2013, c. 516, §16, is
6 repealed and the following enacted in its place:

7 **§2430-A. Compliance**

8 **1. Compliance; testing.** The department may take action necessary to ensure
9 compliance with this chapter, including but not limited to obtaining, possessing and
10 performing laboratory testing on marijuana from registered primary caregivers and
11 registered dispensaries in accordance with this chapter.

12 **2. Fines.** Failure to comply with this chapter may result in the imposition of fines.

13 **3. Registered primary caregiver penalties.** A registered primary caregiver who
14 fails to comply with the provisions of this chapter commits a civil violation for which a
15 fine of not less than \$200 per day and not more than \$500 per day must be adjudged.
16 Each day of violation constitutes a separate offense. A person who at the time of the
17 violation of the provisions of this chapter has been previously found to have violated this
18 chapter commits a Class D crime.

19 **4. Registered dispensary penalties.** A registered dispensary that fails to comply
20 with the provisions of this chapter commits a civil violation for which a fine of not less
21 than \$500 per day and not more than \$1,000 per day must be adjudged. Each day of
22 violation constitutes a separate offense. A person who at the time of the violation of the
23 provisions of this chapter has been previously found to have violated this chapter
24 commits a Class D crime.

25 **5. Penalties for failure to register as primary caregiver.** A person who fails to
26 register as a primary caregiver and who engages in conduct that is only authorized for a
27 registered primary caregiver in accordance with this chapter commits a civil violation for
28 which a fine of not less than \$500 per day and not more than \$1,000 per day must be
29 adjudged. Each day of violation constitutes a separate offense. A person who at the time
30 of the violation of the provisions of this chapter has been previously found to have
31 violated this chapter commits a Class D crime.

32 **6. Penalties for failure to register as a dispensary.** A person, firm, partnership,
33 association, corporation or other entity that fails to register as a dispensary and who
34 engages in conduct that is only authorized for a registered dispensary in accordance with
35 this chapter commits a civil violation for which a fine of not less than \$1,000 per day and
36 not more than \$5,000 per day must be adjudged. Each day of violation constitutes a
37 separate offense. A person who at the time of the violation of the provisions of this
38 chapter has been previously found to have violated this chapter commits a Class D crime.

39 **7. Injunctive relief.** Notwithstanding any other remedies provided by law, the
40 Office of the Attorney General may seek an injunction to require a registered primary
41 caregiver, a registered dispensary, a person who fails to register as a primary caregiver

1 and who engages in conduct that is only authorized for a registered primary caregiver or a
2 person or entity that fails to register as a dispensary and that engages in conduct that is
3 only authorized for a registered dispensary to comply with the provisions of this chapter.
4 When an injunction has been issued in accordance with this chapter, the District Court
5 may order the registered primary caregiver, the registered dispensary or the person or
6 entity subject to the injunction to pay to the General Fund the costs of the investigation
7 incurred by the Office of the Attorney General and the costs of suit, including attorney's
8 fees.

9 **8. Violation of injunction.** The Office of the Attorney General may seek court
10 action against a registered primary caregiver, a registered dispensary or a person or entity
11 for violation of the terms of an injunction issued under subsection 7. The District Court
12 may make the necessary orders or judgments regarding violation of the terms of the
13 injunction, including but not limited to imposition of a fine of not less than \$500 nor
14 more than \$1,000 for each violation. Each day of violation constitutes a separate offense.

15 **9. Burden of proof.** The department shall prove by a preponderance of the evidence
16 that the alleged violations of this chapter occurred.

17 SUMMARY

18 This bill makes the following changes to the Maine Medical Use of Marijuana Act. It
19 provides that:

20 1. The Department of Health and Human Services is permitted to obtain intelligence
21 and investigative record information if it is used in the operation and oversight of the Act;

22 2. The term "person" means an individual, corporation, facility, institution or public
23 or private agency;

24 3. The term "primary caregiver" means an individual, employee of that individual or
25 an employee of a hospice provider licensed under the Maine Revised Statutes, Title 22,
26 chapter 1681 or a nursing facility licensed under chapter 405 that provides care for a
27 qualifying patient. A corporation, facility, institution or public or private agency may not
28 be a primary caregiver;

29 4. The definition of "registered patient" is repealed and all references to the concept
30 of registering a patient have been removed from the Act;

31 5. The definition of "registry identification card" is amended to include a medical
32 provider-issued medical certification card, department-issued caregiver certification card
33 and department-issued dispensary certification card;

34 6. A qualifying patient may accept excess prepared marijuana from that qualifying
35 patient's registered dispensary in addition to accepting it from that qualifying patient's
36 primary caregiver;

- 1 7. A business entity that is a hospice or nursing facility is not allowed to be a primary
2 caregiver, but staff of such an entity may be designated as a primary caregiver if the
3 entity elects to honor a patient's request for this service;
- 4 8. A primary caregiver may only dispense 2 1/2 ounces of medical marijuana to each
5 qualifying patient in a 15-day period;
- 6 9. A municipal official who is furthering the business of a municipality may enter a
7 cultivation facility;
- 8 10. A primary caregiver who is designated to cultivate by only one qualifying patient
9 and is designated by no other qualifying patients is not required to register if the
10 qualifying patient is a member of the same household as the primary caregiver and no
11 additional qualifying patients or primary caregivers are members of that household;
- 12 11. Exceptions to the requirement that a primary caregiver designated to cultivate
13 marijuana for a qualifying patient register with the department are removed;
- 14 12. A visiting qualifying patient must be in this State not less than 24 consecutive
15 hours;
- 16 13. A visiting qualifying patient must designate a primary caregiver in this State or
17 registered dispensary in this State. A visiting qualifying patient receives protections
18 under this Act only while in this State. A visiting qualifying patient is included in the
19 maximum of 5 qualifying patients a primary caregiver may assist;
- 20 14. The department may not establish a sliding scale of application and renewal fees
21 based on a registered patient's family income and status as a veteran of the Armed Forces
22 of the United States. The language establishing these provisions is removed;
- 23 15. Language regarding registered patients has been removed or changed to reflect
24 the medical provider certification process;
- 25 16. Failure of an applicant to comply with the Act or rules adopted pursuant to the
26 Act or a determination by the Department of Health and Human Services that an
27 applicant has acted in bad faith with respect to the laws and rules governing medical use
28 of marijuana is grounds for denial of an application or renewal of a registry identification
29 card;
- 30 17. The name of a complainant who reports a violation of the Act is confidential;
- 31 18. Information to be included in the annual report to the Legislature has been
32 changed to reflect changes in the medical provider certification process and new
33 caregiver certification card terminology;
- 34 19. Fees are nonrefundable except that an unsuccessful applicant for a dispensary
35 certificate of registration must be refunded all but \$1,000 of the application fee;
- 36 20. When a registry identification card is denied or revoked on one occasion the
37 individual may not reapply for one year; when a registry identification card is denied or

1 revoked on 2 occasions the individual may not reapply for 2 years; and when a registry
2 identification card is denied or revoked on 3 occasions the individual may not receive
3 another registry identification card;

4 21. The effective date for the revocation of a caregiver certification card is 10 days
5 after the notice date or 10 days after the right to appeal is exhausted, whichever is later.
6 The caregiver must notify the caregiver's qualifying patients and dispose of the
7 caregiver's medical marijuana;

8 22. A primary caregiver and a registered dispensary are subject to fines for violations
9 of the provisions of the Act or for failing to register as a primary caregiver or dispensary;

10 23. Fines prescribed for violations of the Act are mandatory;

11 24. The Office of the Attorney General may seek an injunction to require a registered
12 primary caregiver, a registered dispensary, a person who fails to register as a primary
13 caregiver and who engages in conduct that is only authorized for a registered primary
14 caregiver or a person or entity that fails to register as a dispensary and that engages in
15 conduct that is only authorized for a registered dispensary to comply with the Act. The
16 District Court may order the registered primary caregiver, the registered dispensary or the
17 person or entity to pay the costs of the investigation and the costs of suit, including
18 attorney's fees;

19 25. The Office of the Attorney General may seek court action against a registered
20 primary caregiver, a registered dispensary or a person or entity for violation of an
21 injunction, including but not limited to imposition of a fine; and

22 26. The department's burden of proof for a violation of the Act is a preponderance of
23 the evidence.