

**Subcommittee to Consider Non-substantive Changes to the Maine Medical Cannabis Act
Joint Standing Committee on Veterans and Legal Affairs
131st Legislature, Subcommittee Interim Meeting**

Thursday, October 12, 2023

Agenda:

9:00 a.m. Welcome and subcommittee introductions

9:05 a.m. Discussion of purpose

Question: *What do you see as issues with the current organization of Ch. 558-C and how do you think the chapter could be reorganized to resolve these issues?*

To Consider: Audience – Legislators, Regulators, Regulated Community and General Public

9:50 a.m. Review and discussion of draft reorganization categories – a starting point

10:25 a.m. Review of definitions section in Ch. 558-C

11:00 a.m. Discuss next steps (*next meeting October 26, 2023 @ 9 a.m.*)

SUBCHAPTER 1***GENERAL***

Short title

Definitions

Conduct not authorized

Administration and Enforcement, Rulemaking

Confidentiality

SUBCHAPTER 2***QUALIFYING PATIENTS***

Authorized conduct for qualifying patients.

Authorized conduct for minor qualifying patients.

Authorized conduct for visiting qualifying patients.

MEDICAL PROVIDER***REGISTRATION***

General

Entities exempt from registration

Registration Types:

- Registry Identification Card
- Registration Certificate

Registry ID Card – voluntary

Registration Certificate: General

Registration Certificate: certain caregivers

Registration Certificate: Dispensary

Registration Certificate: Manufacturer

Registration Certificate: Manufacturer – extracting using inherently hazardous substances

Registration Certificate: LTC Facility

SUBCHAPTER 3***OPERATING REQUIREMENTS - GENERAL***

reporting

record keeping

OPERATING REQUIREMENTS – Caregivers***OPERATING REQUIREMENTS –Retail Stores******OPERATING REQUIREMENTS – Cannabis Delivery Services******OPERATING REQUIREMENTS – Registered Dispensaries******OPERATING REQUIREMENTS – Cultivation******OPERATING REQUIREMENTS – Manufacturers***

Tiers

Authorized conduct

Prohibited conduct

Food establishment license
Multiple authorization
colocation
<i>OPERATING REQUIREMENTS – Extraction Using Inherently hazardous substances</i>
authorized conduct
prohibited conduct
<i>OPERATING REQUIREMENTS – Testing Facility</i>
SUBCHAPTER 4
<i>HEALTH AND SAFETY</i>
edibles
<i>TRACKING & TESTING</i>
<i>PACKAGING & LABELING</i>
<i>SIGNS, ADVERTISING & MARKETING</i>
<i>INSPECTIONS & COMPLIANCE CHECKS</i>
<i>REGISTRATION VIOLATIONS; SUSPENSION, REVOCATION, ADMINISTRATIVE PENALTIES, FORFEITURE & SURRENDER</i>
SUBCHAPTER 5
<i>REPORTING REQUIREMENTS – Department</i>
<i>LOCAL REGULATION OF REGISTRANTS</i>
<i>MEDICAL USE OF CANNABIS FUND</i>
TBD
Voluntary surrender & destruction
Calculation of weight
Authorized conduct
Protections for authorized activity
Construction
School exceptions
Site security
Interest

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§2421. Short title	This chapter may be known and cited as "the Maine Medical Use of Cannabis Act."
§2422. Definitions	As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.
1-D. Assistant.	"Assistant" means a person paid to perform a service for a caregiver, dispensary, manufacturing facility or cannabis testing facility in accordance with this chapter, whether as an employee or independent contractor.
4-S. Cannabis concentrate.	"Cannabis concentrate" means the resin extracted from any part of a cannabis plant and every compound, manufacture, salt, derivative, mixture or preparation from such resin, including, but not limited to, hashish. "Cannabis concentrate" does not include resin extracted from hemp as defined in Title 7, section 2231, subsection 1-A, paragraph D or any compound, manufacture, salt, derivative, mixture or preparation therefrom.
4-J. Cannabis extraction.	"Cannabis extraction" means the process of extracting cannabis concentrate from harvested cannabis using water, lipids, gases, solvents or other chemicals or chemical processes. "Cannabis extraction" does not include the process of extracting concentrate from hemp as defined in Title 7, section 2231, subsection 1-A, paragraph D.
4-K. Cannabis plant.	"Cannabis plant" means a plant of the genus Cannabis, including, but not limited to, Cannabis sativa, Cannabis indica and Cannabis ruderalis. "Cannabis plant" does not include hemp as defined in Title 7, section 2231, subsection 1-A, paragraph D.
4-L. Cannabis product.	"Cannabis product" means a product composed of harvested cannabis and other ingredients that is intended for medical use. "Cannabis product" includes, but is not limited to, an edible cannabis product, a cannabis ointment and a cannabis tincture. "Cannabis product" does not include cannabis concentrate or a product containing hemp as defined in Title 7, section 2231, subsection 1-A, paragraph D.
5-C. Cannabis testing facility.	"Cannabis testing facility" means a public or private laboratory that: A. Is authorized in accordance with section 2423-A, subsection 10 to analyze contaminants in and the potency and cannabinoid profile of samples; and B. Is accredited pursuant to standard ISO/IEC 17025 of the International Organization for Standardization by a 3rd-party accrediting body or is certified, registered or accredited by an organization approved by the department.
4-U. Cannabis tincture.	"Cannabis tincture" means a solution that is intended to be consumed orally and is prepared from harvested cannabis blended with an edible solvent.
1. Cardholder.	"Cardholder" means a person who has been issued and possesses a valid registry identification card.
8-A. Caregiver.	"Caregiver" means a person or an assistant of that person that provides care for a qualifying patient in accordance with section 2423-A, subsection 2.

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1-F. Caregiver retail store.	"Caregiver retail store" means a store that has attributes generally associated with retail stores, including, but not limited to, a fixed location, a sign, regular business hours, accessibility to the public and sales of goods or services directly to a consumer, and that is used by a registered caregiver to offer cannabis plants or harvested cannabis for sale to qualifying patients.	
1-B. Certified nurse practitioner.	"Certified nurse practitioner" means a registered professional nurse licensed under Title 32, chapter 31 who has received postgraduate education designed to prepare the nurse for advanced practice registered nursing in a clinical specialty in nursing that has a defined scope of practice and who has been certified in the clinical specialty by a national certifying organization acceptable to the State Board of Nursing	
1-E. Child-resistant.	"Child-resistant" means, with respect to packaging or a container: A. Specially designed or constructed to be significantly difficult for a typical child under 5 years of age to open and not to be significantly difficult for a typical adult to open and reseal; and B. With respect to any product intended for more than a single use or that contains multiple servings, resealable.	
1-A. Collective.	"Collective" means an association, cooperative, affiliation or group of caregivers who physically assist each other in the act of cultivation, processing or distribution of cannabis for medical use for the benefit of the members of the collective.	
1-C. Commissioner.	"Commissioner" means the Commissioner of Administrative and Financial Services.	
1-G. Complete application.	"Complete application" means, with respect to an application for a registry identification card or a registration certificate, that: A. The applicant has completed and submitted to the department all application forms required and provided by the department; B. The applicant has submitted to the department documentation sufficient to satisfy all applicable residency requirements of this chapter, which may include, but is not limited to, a valid photographic identification card issued by the State; C. If required by the department pursuant to this chapter, the applicant has submitted to a criminal history record check; D. If applying for a registry identification card for a caregiver or a registration certificate for a dispensary, the applicant has registered with the State Tax Assessor pursuant to Title 36, section 1754-B to collect and remit the sales tax on the sale of harvested cannabis imposed under Title 36, section 1811 and has provided to the department documentation of the registration; and E. If applying for a registration certificate for a dispensary, the applicant has submitted to the department documentation sufficient to show that the applicant has fulfilled any applicable municipal authorization requirements for the municipality in which the applicant intends to operate the dispensary.	

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<p>3. Cultivation area.</p>	<p>"Cultivation area" means an indoor or outdoor area used for cultivation of mature cannabis plants, immature cannabis plants or seedlings in accordance with this chapter that is enclosed and equipped with locks or other security devices that permit access only by a person authorized to have access to the area under this chapter. A cultivation area may include multiple indoor or outdoor areas, whether contiguous or noncontiguous, on the same parcel or tract of land.</p>	
<p>2-A. Department.</p>	<p>"Department" means the Department of Administrative and Financial Services.</p>	
<p>4. Disqualifying drug offense.</p>	<p>"Disqualifying drug offense" means a conviction for a violation of a state or federal controlled substance law that is a crime punishable by imprisonment for one year or more. It does not include:</p> <ul style="list-style-type: none"> A. An offense for which the sentence, including any term of probation, incarceration or supervised release, was completed 5 or more years earlier; B. An offense that consisted of conduct that would have been permitted under this chapter; or C. An offense that consisted of conduct that would be authorized under Title 28-B or that, if the person convicted of the offense had been acting under the authority of a license pursuant to Title 28-B, would have been authorized under Title 28-B. 	
<p>3-B. Edible cannabis product.</p>	<p>"Edible cannabis product" means a cannabis product intended to be consumed orally, including, but not limited to, any type of food, drink or pill containing harvested cannabis. "Edible cannabis product" does not include an edible product containing hemp as defined in Title 7, section 2231, subsection 1-A, paragraph D.</p>	
<p>3-C. Harvested cannabis.</p>	<p>"Harvested cannabis" means the plant material harvested from a mature cannabis plant, except the stalks, leaves and roots of the plant that are not used for a qualifying patient's medical use. "Harvested cannabis" includes cannabis concentrate and cannabis products. "Harvested cannabis" does not include plant material harvested from hemp as defined in Title 7, section 2231, subsection 1-A, paragraph D.</p>	
<p>4-N. Immature cannabis plant.</p>	<p>Immature cannabis plant" means a cannabis plant that is not a mature cannabis plant or seedling. "Immature cannabis plant" does not include hemp as defined in Title 7, section 2231, subsection 1-A, paragraph D</p>	
<p>4-T. Immature plant canopy.</p>	<p>"Immature plant canopy" means the total surface area within a cultivation area where immature cannabis plants are growing. The surface area of the immature plant canopy must be calculated in square feet and measured using the outside boundaries of the area and must include all of the area within the boundaries. If the surface area of the immature plant canopy consists of noncontiguous areas, each component area must be separated by identifiable boundaries. If a tiered or shelving system is used in the cultivation area, the surface area of each tier or shelf must be included in calculating the area of the immature plant canopy. Calculation of the surface area of the immature plant canopy may not include the areas within the cultivation area that are not used at any time to cultivate immature cannabis plants.</p>	

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4-O. Inherently hazardous substance.	"Inherently hazardous substance" means a liquid chemical; a compressed gas; carbon dioxide; or a commercial product that has a flash point at or lower than 100 degrees Fahrenheit, including, but not limited to, butane, propane and diethyl ether. "Inherently hazardous substance" does not include any form of alcohol or ethanol.	
4-P. Long-term care facility.	"Long-term care facility" means a hospice provider facility licensed under chapter 1681; a nursing facility licensed under chapter 405; an assisted living facility licensed under chapter 1663 or 1664; or a facility or program licensed under chapter 1663 that provides care for a qualifying patient in accordance with section 2423-A, subsection 1, paragraph F-1, subparagraph (2).	
4-Q. Manufacture or manufacturing.	"Manufacture" or "manufacturing" means the production, blending, infusing, compounding or other preparation of cannabis concentrate and cannabis products, including, but not limited to, cannabis extraction or preparation by means of chemical synthesis.	
4-R. Manufacturing facility.	"Manufacturing facility" means a registered tier 1 or tier 2 manufacturing facility or a person authorized to engage in cannabis extraction under section 2423-F.	
4-B. Mature cannabis plant.	"Mature cannabis plant" means a flowering female cannabis plant. "Mature cannabis plant" does not include hemp as defined in Title 7, section 2231, subsection 1-A, paragraph D.	
7-B. Mature plant canopy.	"Mature plant canopy" means the total surface area within a cultivation area where mature cannabis plants are growing. The surface area of the mature plant canopy must be calculated in square feet and measured using the outside boundaries of the area and must include all of the area within the boundaries. If the surface area of the mature plant canopy consists of noncontiguous areas, each component area must be separated by identifiable boundaries. If a tiered or shelving system is used in the cultivation area, the surface area of each tier or shelf must be included in calculating the area of the mature plant canopy. Calculation of the surface area of the mature plant canopy may not include the areas within the cultivation area that are not used at any time to cultivate mature cannabis plants.	
4-C. Medical provider.	"Medical provider" means a physician, a certified nurse practitioner or a physician assistant.	
5. Medical use.	"Medical use" means the acquisition, possession, cultivation, manufacture, use, delivery, transfer or transportation of cannabis or paraphernalia relating to the administration of cannabis to treat or alleviate a qualifying patient's medical diagnosis or symptoms for which a medical provider has provided the qualifying patient a written certification under this chapter.	
5-A. Member of the family.	"Member of the family" means a person who is a resident of the State and who is a spouse, domestic partner, child, sibling, aunt, uncle, niece, nephew, parent, stepparent, grandparent or grandchild of another person. "Member of the family" includes a person who is a resident of the State and who is living with a person as a spouse and a natural parent of a child of a person.	
5-B. Members of the same household.	"Members of the same household" means 2 or more people who are residents of the State and who reside in a shared dwelling unit.	

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4-M. Nonflowering cannabis plant.	"Nonflowering cannabis plant" means a cannabis plant that is in a stage of growth in which the plant's pistils are not showing or the pistils protrude in pairs from seed bracts that may be located on multiple nodes of the plant. "Nonflowering cannabis plant" does not include hemp as defined in Title 7, section 2231, subsection 1-A, paragraph D.	
6-B. Officer or director.	"Officer or director" means, when used with respect to any nonprofit, for-profit or other organization governed by this chapter, a director, manager, shareholder, board member, partner or other person holding a management position or ownership interest in the organization.	
7. Physician.	"Physician" means a person licensed as an osteopathic physician by the Board of Osteopathic Licensure pursuant to Title 32, chapter 36 or a person licensed as a physician or surgeon by the Board of Licensure in Medicine pursuant to Title 32, chapter 48 who is in good standing and who holds a valid federal Drug Enforcement Administration license to prescribe drugs.	
7-A. Physician assistant.	"Physician assistant" means a person licensed as a physician assistant by the Board of Osteopathic Licensure pursuant to Title 32, chapter 36 or a person licensed as a physician assistant by the Board of Licensure in Medicine pursuant to Title 32, chapter 48 who is in good standing and who holds a valid federal Drug Enforcement Administration license to prescribe drugs.	
9. Qualifying patient.	"Qualifying patient" or "patient" means a person who has been a resident of the State for at least 30 days and who possesses a valid written certification regarding medical use of cannabis in accordance with section 2423-B.	
11. Registered caregiver.	"Registered caregiver" means a caregiver who is registered by the department pursuant to section 2425-A.	
6. Registered dispensary or dispensary.	"Registered dispensary" or "dispensary" means an entity registered under section 2425-A that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, sells, supplies or dispenses cannabis plants or harvested cannabis or related supplies and educational materials to qualifying patients and the caregivers of those patients.	
12. Registered patient.	"Registered patient" means a qualifying patient who is registered by the department pursuant to section 2425-A.	
9-A. Registration certificate.	"Registration certificate" means a document issued by the department that identifies an entity as an entity that has registered with the department in accordance with this chapter.	
13. Registry identification card.	"Registry identification card" means a document issued by the department that identifies a person as a person who has registered with the department in accordance with this chapter.	
9-B. Remuneration.	"Remuneration" means a donation or any other monetary payment received directly or indirectly by a person in exchange for goods or services as part of a transaction in which cannabis is transferred or furnished by that person to another person.	
13-B. Resident of the State.	"Resident of the State" means a person who is domiciled in the State.	

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14-A. Sample.	"Sample" means a cannabis plant or harvested cannabis that is provided for testing or research purposes to a cannabis testing facility.	
14-B. Seedling.	"Seedling" means a cannabis plant or rooted cutting that is: A. Not flowering; B. Less than 24 inches in height; and C. Less than 24 inches in width. [PL 2021, c. 251, §3 (NEW).] <u>services" means health care services delivered through the use of information technology.</u>	
13-C. Tamper-evident.	"Tamper-evident" means, with respect to a device or process, bearing a seal, a label or a marking that makes unauthorized access to or tampering with a package, product or container easily detectable.	
13-A. Tamper-resistant paper.	"Tamper-resistant paper" means paper that possesses an industry-recognized feature that prevents copying of the paper, erasure or modification of information on the paper and the use of counterfeit documentation.	
14-C. Telehealth services	"Telehealth services" means health care services delivered through the use of information technology. "Telehealth services" includes synchronous encounters, store and forward transfers, telemonitoring and asynchronous encounters. As used in this subsection, the following terms have the following meanings. A. "Asynchronous encounter" means an interaction between an individual and a medical provider through a system that has the ability to store digital information, including, but not limited to, still images, video files, audio files, text files and other relevant data, and to transmit such information without requiring the simultaneous presence of the individual and the medical provider. [PL 2021, c. 662, §6 (NEW).] B. "Store and forward transfer" means the transmission of an individual's records through a secure electronic system to a medical provider. [PL 2021, c. 662, §6 (NEW).] C. "Synchronous encounter" means a real-time interaction conducted with an interactive audio or video connection between an individual and a medical provider or between a medical provider and another medical provider. [PL 2021, c. 662, §6 (NEW).] D. "Telemonitoring" means the use of information technology to remotely monitor an individual's health status via electronic means, allowing the medical provider to track the individual's health data over time. [PL 2021, c. 662, §6 (NEW).] [PL 2021, c. 662, §6 (NEW).]	
14-D. Timely filed.	"Timely filed" means, with respect to an application submitted for renewal of a registry identification card or an application submitted for renewal of a registration certificate, that the applicant submits a complete application to the department no sooner than 60 days and no later	

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	than 30 days prior to the expiration date of the current registry identification card or the current registration certificate.	
15. Visiting qualifying patient.	"Visiting qualifying patient" means a patient who is authorized for the medical use of cannabis in this State in accordance with section 2423-D and who is not a resident of the State or who has been a resident of the State less than 30 days.	
16. Written certification.	"Written certification" means a document signed by a medical provider and issued to a qualifying patient in accordance with section 2423-B, or a digital image of that document issued by the medical provider that meets the requirements of section 2423-B, subsection 4, that states that, in the medical provider's professional opinion, the patient is likely to receive therapeutic or palliative benefit from the medical use of cannabis to treat or alleviate the patient's medical diagnosis or symptoms associated with the medical diagnosis.	

RULEMAKING PROVISIONS – CHAPTER 558-C

<i>SECTION</i>	<i>LANGUAGE</i>
<p>§2422-A, sub-§2 <i>General</i></p>	<p>“The department shall adopt rules as necessary to administer and enforce this chapter. Unless otherwise indicated, rules adopted pursuant to this chapter are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A. These rules may include, but are not limited to, minimum oversight requirements for dispensaries and registered caregivers and minimum security requirements for dispensaries and registered caregivers operating retail stores.</p> <p>A. Before adopting or provisionally adopting rules pursuant to this section, the department shall consult with qualifying patients, caregivers, registered caregivers, registered dispensaries, cannabis testing facilities, manufacturing facilities and medical providers.</p> <p>B. Notwithstanding Title 5, section 8072, subsection 11, rules provisionally adopted by the department in accordance with this section and submitted for legislative review may not be finally adopted by the department unless legislation authorizing final adoption is enacted into law.”</p>
<p>§2423-A, sub-§10, ¶D <i>testing facility</i></p>	<p>“D. The department shall adopt routine technical rules as defined in Title 5, chapter 375, subchapter 2-A, except that, beginning July 1, 2021, rules adopted pursuant to this paragraph are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A, governing cannabis testing facilities, including but not limited to:</p> <ul style="list-style-type: none"> (1) Cannabis testing facility officer or director qualification requirements; (2) Required security for cannabis testing facilities; and (3) Requirements for the registration, certification or other approval of cannabis testing facilities. <p>The failure of the department to adopt rules under this paragraph does not prevent a cannabis testing facility from engaging in activities in compliance with this chapter. “</p>
<p>2423-B, sub-§2-A <i>medical provider</i></p>	<p>“The department shall adopt major substantive rules as defined in Title 5, chapter 375, subchapter 2-A as necessary to implement the requirements of this subsection.”</p>
<p>§2423-F, sub-§10 <i>manufacturing facility</i></p>	<p>“The department shall adopt routine technical rules as defined in Title 5, chapter 375, subchapter 2-A, except that, beginning July 1, 2021, rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A, governing manufacturing facilities, including but not limited to:</p> <ul style="list-style-type: none"> B. Requirements for engaging in cannabis extraction using inherently hazardous substances; D. Required security for manufacturing facilities; E. Requirements of a disposal plan for harvested cannabis used in the manufacturing process; and F. Minimum record-keeping requirements. <p>The failure of the department to adopt rules under this subsection does not prevent a person authorized pursuant to subsection 3, paragraph A from engaging in conduct authorized under this section.”</p>

<i>SECTION</i>	<i>LANGUAGE</i>
§2425-A, sub-§3-A criminal history record <i>check, caregivers on school grounds</i>	“The department, with the Department of Public Safety, Bureau of State Police, State Bureau of Identification, shall adopt rules to implement this subsection. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A, except that, beginning July 1, 2021, rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.”
§2425-A, sub-§10 <i>fees</i>	“The department shall adopt rules to establish fees in accordance with this subsection. The application and renewal fees must generate revenues sufficient to offset all expenses of implementing and administering this chapter. “
§2429-B, sub-§2 <i>signs / advertising & marketing</i>	“The department shall adopt rules regarding the placement and use of signs, advertising and marketing by or on behalf of a registered caregiver or dispensary, which may include, but are not limited to: <ul style="list-style-type: none"> A. A prohibition on health or physical benefit claims in advertising or marketing, including, but not limited to, health or physical benefit claims on the label or packaging of harvested cannabis; B. A prohibition on unsolicited advertising or marketing on the Internet, including, but not limited to, banner advertisements on mass-market websites; C. A prohibition on opt-in advertising or marketing that does not permit an easy and permanent opt-out feature; and D. A prohibition on advertising or marketing directed toward location-based devices unless such marketing includes a permanent and easy opt-out feature and the owner of the device is 21 years of age or older.”
§2430, sub-§5 <i>Medical Cannabis Research Grant program</i>	“The department shall adopt rules necessary to implement the program, including, but not limited to, required qualifications of persons conducting the research; determining the scientific merit and objectivity of a research proposal; criteria for determining the amount of program funds distributed; criteria for determining the duration of the research; procedures for soliciting research participants, including outreach to patients, and for obtaining the informed consent of participants; and reporting requirements for the results of the research and evaluation of the research results.”
§2430-J <i>reporting; record keeping; labels</i>	“The department may adopt rules to implement this subsection. Rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.”