

**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**

Tuesday, November 14, 2023

Agenda

- 9:30 a.m. Welcome and introductions
- 9:40 a.m. Continued Discussion from Prior Meetings
- Local Control
 - Collectives
 - Confidentiality
 - Other
- 11:00 a.m. Overview of Authorized Conduct
- Noon Definitions, Continued
- Discuss next steps

LOCAL CONTROL – MEDICAL USE

§2429-D. Local regulation

Pursuant to the home rule authority granted under the Constitution of Maine, Article VIII, Part Second and Title 30-A, section 3001, a municipality may regulate registered caregivers, caregiver retail stores operating pursuant to section 2423-A, subsection 2, paragraph P, registered dispensaries, cannabis testing facilities and manufacturing facilities.

A municipality may not:

1. **Registered caregivers.** Prohibit or limit the number of registered caregivers;
2. **Stores, dispensaries, testing and manufacturing facilities.** Prohibit caregiver retail stores, registered dispensaries, cannabis testing facilities and manufacturing facilities that are operating with municipal approval in the municipality prior to the effective date of this section. For purposes of this subsection, "municipal approval" means an examination and approval of the store, dispensary or facility for the use of the premises consistent with conduct authorized under this chapter, including, but not limited to, a conditional use approval or site plan approval. "Municipal approval" does not include issuance of a building, electrical or other similar permit or authorization that does not address the use of the structure or facility for which the permit or authorization is issued; or
3. **Municipal authorization needed.** Authorize caregiver retail stores, registered dispensaries, cannabis testing facilities and manufacturing facilities that are not operating on the effective date of this section to operate in the municipality unless the municipal legislative body, as defined in Title 30-A, section 2001, subsection 9, has voted to adopt or amend an ordinance or approve a warrant article allowing caregiver retail stores, registered dispensaries, cannabis testing facilities or manufacturing facilities, as applicable, to operate within the municipality.

§2422, sub-§1-G, ¶E, (definition of "complete application")

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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§215. Notification to municipality; sharing of information with Bureau of Revenue Services

The department shall notify a municipality within 14 days of the date the department approves, renews, denies, suspends or revokes the license of a licensee whose licensed premises are located or proposed to be located in the municipality; imposes a monetary penalty on a licensee located within the municipality; approves relocation of the licensed premises of a cannabis establishment to or from the municipality; or approves a transfer of ownership interest in a license with respect to which the licensed premises are located within the municipality.

The department shall provide the Bureau of Revenue Services with the same information provided to a municipality under this section at the time that the department notifies the municipality.

For the purposes of this section, "municipality" has the same meaning as in section 212.

§401. Municipal regulation of cannabis establishments generally

In accordance with the applicable provisions of this subchapter and pursuant to the home rule authority granted under the Constitution of Maine, Article VIII, Part Second and Title 30-A, section 3001, a municipality may regulate cannabis establishments within the municipality, including, but not limited to, adoption of the following types of regulations and restrictions.

- 1. Land use regulations.** A municipality may adopt an ordinance providing land use regulations applicable to cannabis establishments within the municipality.
- 2. General authorization or limitation of cannabis establishments.** A municipality may adopt an ordinance generally authorizing the operation of some or all types of cannabis establishments within the municipality. A municipality may adopt an ordinance limiting the number of any type of cannabis establishment that may be authorized to operate within the municipality.
- 3. Municipal licensing requirements.** A municipality may adopt an ordinance providing licensing requirements applicable to cannabis establishments within the municipality, which may include, but are not limited to, provisions establishing a municipal licensing fee schedule pursuant to Title 30-A, section 3702.

Notwithstanding any provision of law to the contrary, a municipal ordinance regulating cannabis establishments within the municipality adopted pursuant to this subchapter is not subject to the requirements or limitations of Title 7, chapter 6 or 8-F. Nothing in this subchapter may be construed to require an applicant for a sample collector license or a sample collector licensee to seek local authorization prior to the issuance or renewal of an active license.

§402. Local authorization of cannabis establishments within municipalities

- 1. Request for local authorization to operate cannabis establishment in municipality prohibited unless authorized by municipal ordinance or warrant article.** A person seeking to operate a

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cannabis establishment within a municipality may not request local authorization to operate the cannabis establishment pursuant to subsection 3 and a municipality may not accept as complete the person's request for local authorization unless:

A. The legislative body of the municipality has voted to adopt a new ordinance, amend an existing ordinance or approve a warrant article allowing some or all types of cannabis establishments within the municipality, including the type of cannabis establishment the person seeks to operate; and

B. The person has been issued by the department a conditional license to operate the cannabis establishment pursuant to section 205, subsection 3.

2. Minimum authorization criteria. A municipality may not authorize the operation of a cannabis establishment within the municipality if:

A. The cannabis establishment is proposed to be located within 1,000 feet of the property line of a preexisting public or private school, except that, if a municipality by ordinance or other regulation prohibits the location of cannabis establishments at distances less than 1,000 feet but not less than 500 feet from the property line of a preexisting public or private school, that lesser distance applies. For the purposes of this paragraph, "school" includes a public school, as defined in Title 20-A, section 1, subsection 24, a private school, as defined in Title 20-A, section 1, subsection 22, a public preschool program, as defined in Title 20-A, section 1, subsection 23-A or any other educational facility that serves children from prekindergarten to grade 12; or

B. The person requesting local authorization to operate the cannabis establishment fails to demonstrate possession or entitlement to possession of the proposed licensed premises of the cannabis establishment pursuant to a lease, rental agreement or other arrangement for possession of the premises or by virtue of ownership of the premises.

3. Local authorization required for operation of cannabis establishment within municipality. A person may not operate a cannabis establishment within a municipality unless:

A. The legislative body of the municipality has voted to adopt a new ordinance, amend an existing ordinance or approve a warrant article allowing some or all types of cannabis establishments within the municipality, including that type of cannabis establishment;

B. The person has obtained all applicable municipal approvals, permits or licenses that are required by the municipality for the operation of that type of cannabis establishment; and

C. The person has been issued by the department an active license to operate the cannabis establishment pursuant to section 205, subsection 4.

A municipality may certify to the department a person's compliance with the requirements of paragraph B on the form prepared and furnished by the department pursuant to section 205, subsection 4, paragraph B.

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4. Municipal failure to act on request for local authorization. If a municipality whose legislative body has voted to adopt a new ordinance, amend an existing ordinance or approve a warrant article allowing some or all types of cannabis establishments within the municipality fails to act on a person's request for local authorization to operate a cannabis establishment within the municipality, the municipality's failure to act does not satisfy the local authorization requirement of subsection 3, paragraph B.

5. Appeal of municipal failure to act on request for local authorization. If a municipality whose legislative body has voted to adopt a new ordinance, amend an existing ordinance or approve a warrant article allowing some or all types of cannabis establishments within the municipality fails to act on a person's request for local authorization to operate a cannabis establishment within the municipality within 90 days after the date the person submitted the request to the municipality, the request is deemed denied and the denial constitutes a final government action that may be appealed to the Superior Court in accordance with Rule 80B of the Maine Rules of Civil Procedure, except that, if the municipality notifies the person in writing prior to the expiration of the 90-day period that the request cannot be processed prior to the expiration of the 90-day period, the request is deemed denied and the denial constitutes a final government action only if the municipality fails to act on the request within 180 days after the date the person submitted the request to the municipality.

§403. Local authorization of cannabis establishments within towns, plantations and townships in the unorganized and deorganized areas

1. Request for local authorization to operate cannabis establishment in town, plantation or township in unorganized and deorganized areas prohibited unless generally allowed by town or plantation or by county commissioners on behalf of township. A person seeking to operate a cannabis establishment within a town, plantation or township located within the unorganized and deorganized areas may not request local authorization pursuant to subsection 3 to operate the cannabis establishment and the town, plantation or, in the case of a township, the county commissioners of the county in which the township is located may not accept as complete the person's request for local authorization unless:

A. In the case of a town or plantation, the legislative body of the town or plantation has voted to allow some or all types of cannabis establishments within the town or plantation, including the type of cannabis establishment the person seeks to operate and the person has been issued by the department a conditional license to operate the cannabis establishment pursuant to section 205, subsection 3; or

B. In the case of a township, the county commissioners of the county in which the township is located have voted to allow some or all types of cannabis establishments within the township, including the type of cannabis establishment the person seeks to operate and the person has been issued by the department a conditional license to operate the cannabis establishment pursuant to section 205, subsection 3.

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2. Minimum authorization criteria. The Maine Land Use Planning Commission may not certify to the department local authorization of a cannabis establishment within a town, plantation or township located within the unorganized and deorganized areas pursuant to subsection 3 if:

A. The cannabis establishment is proposed to be located within 1,000 feet of the property line of a preexisting public or private school, except that, if the Maine Land Use Planning Commission prohibits the location of cannabis establishments within a town, plantation or township at distances less than 1,000 feet but not less than 500 feet from the property line of a preexisting public or private school, that lesser distance applies. For the purposes of this paragraph, "school" has the same meaning as in section 402, subsection 2, paragraph A; or

B. The person requesting local authorization to operate the cannabis establishment fails to demonstrate possession or entitlement to possession of the proposed licensed premises of the cannabis establishment pursuant to a lease, rental agreement or other arrangement for possession of the premises or by virtue of ownership of the premises.

3. Local authorization required for operation of cannabis establishment in town, plantation or township in unorganized and deorganized areas. A person may not operate a cannabis establishment within a town, plantation or township located within the unorganized and deorganized areas unless:

A. The legislative body of the town or plantation has voted to allow some or all types of cannabis establishments within the town or plantation, including that type of cannabis establishment, or, in the case of a township, the county commissioners of the county in which the township is located have voted to allow some or all types of cannabis establishments within the township, including that type of cannabis establishment;

B. The person has obtained all applicable local approvals, permits or licenses not relating to land use planning and development that are required for the operation of the cannabis establishment by the town, plantation or, in the case of a township, the county commissioners of the county in which the township is located;

C. The person has obtained all applicable approvals, permits or licenses relating to land use planning and development that are required by the Maine Land Use Planning Commission for the development and operation of the cannabis establishment; and

D. The person has been issued by the department an active license to operate the cannabis establishment pursuant to section 205, subsection 4.

The town, plantation or, in the case of a township, the county commissioners of the county in which the township is located, shall certify to the Maine Land Use Planning Commission that the person has obtained all applicable local approvals, permits or licenses not relating to land use planning and development as required under paragraph B. The Maine Land Use Planning Commission may certify to the department a person's compliance with the requirements of paragraphs B and C on the form prepared and furnished by the department pursuant to section 205, subsection 4, paragraph B.

4. Failure to act on request for local authorization. This subsection governs a failure to act on a request for local authorization by a town or a plantation or, in the case of a township, by the county

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commissioners of the county in which the township is located, or by the Maine Land Use Planning Commission.

A. If a town or plantation whose legislative body has voted to allow some or all types of cannabis establishments within the town or plantation fails to act on a person's request for local authorization under subsection 3, paragraph B, the town or plantation's failure to act does not satisfy the local authorization requirement of subsection 3, paragraph B.

B. If the county commissioners of the county in which a township is located, who have voted to allow some or all types of cannabis establishments within the township, fail to act on a person's request for local authorization under subsection 3, paragraph B, the county commissioners' failure to act does not satisfy the local authorization requirement of subsection 3, paragraph B.

C. If the Maine Land Use Planning Commission fails to act on a person's request for local authorization under subsection 3, paragraph C, the commission's failure to act does not satisfy the local authorization requirement of subsection 3, paragraph C.

5. Appeal of failure to act on request for local authorization. This subsection governs the appeal of a failure to act on a request for local authorization by a town or a plantation or, in the case of a township, by the county commissioners of the county in which the township is located, or by the Maine Land Use Planning Commission.

A. If a town or plantation whose legislative body has voted to allow some or all types of cannabis establishments within the town or plantation fails to act on a person's request for local authorization under subsection 3, paragraph B within 90 days after the date the person submitted the request to the town or plantation, the request is deemed denied and the denial constitutes a final government action that may be appealed to the Superior Court in accordance with Rule 80B of the Maine Rules of Civil Procedure, except that, if the town or plantation notifies the person in writing prior to the expiration of the 90-day period that the request cannot be processed prior to the expiration of the 90-day period, the request is deemed denied and the denial constitutes a final government action only if the town or plantation fails to act on the request within 180 days after the date the person submitted the request to the town or plantation.

B. If the county commissioners of the county in which a township is located, who have voted to allow some or all types of cannabis establishments within the township, fail to act on a person's request for local authorization under subsection 3, paragraph B within 90 days after the date the person submitted the request to the county commissioners, the request is deemed denied and the denial constitutes a final government action that may be appealed to the Superior Court in accordance with Rule 80B of the Maine Rules of Civil Procedure, except that, if the county commissioners notify the person in writing prior to the expiration of the 90-day period that the request cannot be processed prior to the expiration of the 90-day period, the request is deemed denied and the denial constitutes a final government action only if the county commissioners fail to act on the request within 180 days after the date the person submitted the request to the county commissioners.

C. If the Maine Land Use Planning Commission fails to act on a person's request for local authorization under subsection 3, paragraph C within 90 days after the date the person submitted the request to the commission, the request is deemed denied and the denial constitutes a final agency action

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that may be appealed to the Superior Court in accordance with Rule 80C of the Maine Rules of Civil Procedure, except that, if the commission notifies the person in writing prior to the expiration of the 90-day period that the request cannot be processed prior to the expiration of the 90-day period, the request is deemed denied and the denial constitutes a final agency action only if the commission fails to act on the request within 180 days after the date the person submitted the request to the commission.

§406. Notification to department

A municipality shall notify the department within 14 days of the date the municipality authorizes the operation of a cannabis establishment within the municipality; issues or renews a license for the operation of a cannabis establishment within the municipality; withdraws authorization or suspends or revokes a license for the operation of a cannabis establishment within the municipality; approves relocation of the licensed premises of a cannabis establishment to the municipality; or approves a transfer of ownership interests in a license the licensed premises of which are located within the municipality. For the purposes of this section, "municipality" has the same meaning as in section 212.

The department shall provide the Bureau of Revenue Services with any information received pursuant to this section within 14 days of the date the department receives that information.

§504, sub-§9. Limited delivery service.

A cannabis store, cultivation facility or products manufacturing facility may operate a limited delivery service for the delivery of immature cannabis plants, seedlings, adult use cannabis and adult use cannabis products in accordance with the requirements of this subsection. A cannabis store may not deliver adult use cannabis or an immature cannabis plant, seedling or adult use cannabis product to a person under 21 years of age. A municipality may not prohibit delivery of adult use cannabis and adult use cannabis products authorized under this subsection.

§504-A, sub-§2. Municipal approval (Specified event)

At least 45 days prior to a specified event, a cannabis store shall submit a request for municipal approval to the municipality where the specified event will occur. The cannabis store shall include in the request the information required under subsection 1, paragraphs B to G and any other information or fee required by the municipality. The municipality may restrict the sale of certain adult use cannabis or adult use cannabis products at the specified event. Proof of municipal approval required under subsection 1, paragraph A must be in a form approved by a municipal official or the municipal legislative body of the municipality where the specified event will occur. As used in this subsection, "municipal official" and "municipal legislative body" have the same meanings as in Title 30-A, section 2001. Local authorization for the operation of a cannabis establishment within a municipality, pursuant to section 401, is not required for a municipality to approve a specified event permit.

CONFIDENTIALITY PROVISIONS – MEDICAL USE

§2425-A, sub-§12 (Registry identification cards and registration certificates)

This subsection governs confidentiality.

A. Applications and supporting information submitted by qualifying patients and registered patients under this chapter, including information regarding their caregivers and medical providers, are confidential.

B. Applications and supporting information submitted by caregivers and medical providers operating in compliance with this chapter are confidential.

C. The department shall maintain a confidential list of the persons to whom the department has issued registry identification cards. Individual names and other identifying information on the list are confidential, exempt from the freedom of access laws, Title 1, chapter 13, and not subject to disclosure except as provided in this subsection and to authorized employees of the department as necessary to perform official duties of the department.

D. The department shall verify to law enforcement personnel whether a registry identification card is valid and whether the conduct is authorized without disclosing more information than is reasonably necessary to verify the authenticity of the registry identification card.

E. Upon request of a code enforcement officer or, if a municipality does not employ a code enforcement officer, another municipal officer, the department shall verify whether a registry identification card is valid and whether the conduct is authorized without disclosing more information than is reasonably necessary to verify the authenticity of the registry identification card. The department may disclose the location at which the conduct is authorized if necessary to verify the registry identification card to the code enforcement officer or other municipal officer. The department shall provide this information within 2 business days of the request. The code enforcement officer or other municipal officer shall keep the information received under this paragraph confidential except as necessary to verify whether the registry identification card is valid and whether the conduct is authorized.

F. Applications, supporting information and other information regarding a registered dispensary are not confidential, except that information that is contained within dispensary information that identifies a qualifying patient, a registered patient, a registered patient's medical provider or a caregiver of a qualifying patient or registered patient is confidential.

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

- (1) To department employees who are responsible for carrying out this chapter;
- (2) Pursuant to court order or subpoena issued by a court;
- (3) With written permission of the registered patient or the patient's guardian, if the patient is under guardianship, or a parent, if the patient has not attained 18 years of age;
- (4) As permitted or required for the disclosure of health care information pursuant to section 1711-C;

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- (5) To a law enforcement official for verification purposes. The records may not be disclosed further than necessary to achieve the limited goals of a specific investigation; and
- (6) To a registered patient's treating medical provider and to a registered patient's registered caregiver for the purpose of carrying out this chapter.

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

I. The department may disclose to an agency of State Government designated by the commissioner and employees of that agency any information necessary to produce registry identification cards or manage the identification card program and may disclose data for statistical or research purposes in such a manner that individuals cannot be identified.

K. Except as otherwise provided in this subsection, a person who knowingly violates the confidentiality of information protected under this chapter commits a civil violation for which a fine of up to \$1,000 may be imposed. This paragraph does not apply to a medical provider or staff of a long-term care facility or any other person directly associated with a medical provider or long-term care facility that provides services to a registered patient.

L. Notwithstanding any provision of this subsection to the contrary, the department shall comply with Title 36, section 175. Information provided by the department pursuant to this paragraph may be used by the Department of Administrative and Financial Services, Bureau of Revenue Services only for the administration and enforcement of taxes imposed under Title 36.

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

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

§2425-A, sub-§3-A, ¶F (Criminal History Record Check)

Information obtained pursuant to this subsection is confidential. The results of criminal history record checks received by the department are for official use only and may not be disseminated to any other person.

CONFIDENTIALITY PROVISIONS – ADULT USE

§114. Confidentiality

The home address, telephone number and e-mail address of the applicant, employees of the applicant and all natural persons having a direct or indirect financial interest in the applied-for license are confidential.

§204, sub-§7 (Criminal history record check)

All criminal history record information obtained by the department pursuant to this section is confidential, is for the official use of the department only and may not be disseminated outside of the department or disclosed to any other person or entity except as provided in subsection 5 (person subject to the check may get record).

§405. Information requests

A municipality may request that the department provide any information obtained by the department pursuant to the provisions of subchapter 2 or 3 that the municipality determines necessary for the administration of its local authorization process for cannabis establishments under this subchapter. Unless the information is confidential pursuant to law or rule, the department, in a timely manner, shall provide the information requested pursuant to this section. For the purposes of this section, "municipality" has the same meaning as in section 212.

§511, sub-§4 (Confidentiality) This subsection governs the confidentiality of records under this section.

A. Documents of a licensee inspected or examined by the department pursuant to this section are confidential and may not be disclosed except as needed in a civil or criminal proceeding to enforce any provision of this chapter and the rules adopted pursuant to this chapter or any criminal law.

B. Audit working papers are confidential and may not be disclosed to any person outside the department, except that audit working papers may be disclosed to the licensee subject to the audit. A final audit report is a public record for the purposes of Title 1, chapter 13, subchapter 1 [FOAA]. For the purposes of this paragraph, "audit working papers" means all documentation and other information acquired, prepared or maintained by the department and the auditor selected by the department during the conduct of the audit, including, but not limited to, draft reports and portions of draft reports.

AUTHORIZED CONDUCT – MEDICAL USE PROGRAM

VISITING QUALIFYING PATIENT

AUTHORIZED CONDUCT

A visiting qualifying patient from another jurisdiction that authorizes the medical use of cannabis pursuant to a law recognized by the department who possesses a valid medical cannabis certification from that other jurisdiction and photographic identification or a driver's license from that jurisdiction may engage in conduct authorized for a qualifying patient under this chapter, except that a visiting qualifying patient may not:

1. Cultivate. Cultivate cannabis plants;
2. Possess. Possess more than 2 1/2 ounces of harvested cannabis in a 15-day period; or
3. Transfer or furnish. Transfer or furnish harvested cannabis to another person.

The department shall maintain a list of other jurisdictions that authorize the medical use of cannabis and the images of the valid medical cannabis certifications from those jurisdictions and make that information available to registered caregivers and registered dispensaries.

(§2423-D)

CAREGIVER RETAIL STORE

AUTHORIZED CONDUCT

"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.

§2422, sub-§1-F

A registered caregiver may "[o]perate one caregiver retail store to sell harvested cannabis to qualifying patients for the patients' medical use in accordance with this chapter"

§2423-A, sub-§2, ¶P

AUTHORIZED CONDUCT – MEDICAL USE PROGRAM

CANNABIS TESTING FACILITY

AUTHORIZED CONDUCT

The following provisions apply to a cannabis testing facility.
(§2423-A, sub-§10 & sub-§12)

A cannabis testing facility that meets the requirements of this subsection and any rules adopted under paragraph D may receive and possess samples from qualifying patients, caregivers, dispensaries and manufacturing facilities to provide testing for the cannabinoid profile and potency of the samples and for contaminants in the samples, including but not limited to mold, mildew, heavy metals, plant regulators and illegal pesticides. For the purposes of this paragraph, "plant regulator" has the same meaning as in Title 7, section 604, subsection 26.
(§2423-A, sub-§10, ¶A)

An assistant of a cannabis testing facility may have access to cultivation areas pursuant to subsection 3, paragraphs A and B and section 2428, subsection 6, paragraph I. An assistant of a cannabis testing facility must be 21 years of age or older.
(§2423-A, sub-§10, ¶B)

A cannabis testing facility shall:

- (1) Dispose of samples in a manner that prevents diversion of samples to persons not authorized to possess the samples tested by the facility;
- (2) House and store samples in the facility's possession or control during the process of testing, transport or analysis in a manner to prevent diversion, theft or loss;
- (3) Label samples being transported to and from the facility with the following statement: "For Testing Purposes Only";
- (4) Maintain testing results as part of the facility's business books and records; and
- (5) Operate in accordance with any rules adopted by the department.

(§2423-A, sub-§10, ¶C)

(CONFLICT: Text as repealed and replaced by PL 2023, c. 365, §2) A cannabis testing facility must be accredited pursuant to the standard ISO/IEC 17025 of the International Organization for Standardization by a 3rd-party accrediting body and shall produce documentation of accreditation to the department or a municipal code enforcement officer, upon demand.

(CONFLICT: Text as repealed and replaced by PL 2023, c. 405, Pt. A, §57) A cannabis testing facility shall obtain and must be able to produce, upon demand of the department or a municipal code enforcement officer, documentation of the facility's accreditation pursuant to standard ISO/IEC 17025 of the International Organization for Standardization by a 3rd-party accrediting body.

(§2423-A, sub-§10, ¶E)

The department and the Maine Center for Disease Control and Prevention may inspect a cannabis testing facility during regular business hours and hours of apparent activity for compliance with this chapter.

(§2423-A, sub-§10, ¶F)

Interest. A caregiver or an officer or director of a registered dispensary, registered caregiver or manufacturing facility may not have a financial or other interest in a cannabis testing facility providing services associated with product labeling for that dispensary, caregiver or manufacturing facility. (§423-A, sub-§12)

AUTHORIZED CONDUCT – MEDICAL USE PROGRAM

PERSON AUTHORIZED TO ENGAGE

- C. May transfer samples to a cannabis testing facility for testing;
- D. May conduct testing of cannabis concentrate produced by the person for research and development purposes;
- E. May receive reasonable compensation for producing cannabis concentrate;
- F. Shall dispose of harvested cannabis used in the extraction process in a manner that prevents its diversion to persons not authorized to possess harvested cannabis possessed by the person and in accordance with rules adopted by the department; and
- G. May hire any number of assistants who are 21 years of age or older to assist in performing the activities authorized under this subsection, except that a qualifying patient authorized under subsection 3 may not hire an assistant.

Notwithstanding the authorizations established in this subsection, a person that is authorized to engage in cannabis extraction using inherently hazardous substances pursuant to subsection 3 shall comply with any rules adopted pursuant to subsection 10.

(§2423-F, sub-§5)

A cannabis testing facility must be accredited pursuant to the standard ISO/IEC 17025 of the International Organization for Standardization by a 3rd-party accrediting body and shall produce documentation of accreditation to the department or a municipal code enforcement officer, upon demand.

(CONFLICT: Text as repealed and replaced by PL 2023, c. 405, Pt. A, §57) A cannabis testing facility shall obtain and must be able to produce, upon demand of the department or a municipal code enforcement officer, documentation of the facility's accreditation pursuant to standard ISO/IEC 17025 of the International Organization for Standardization by a 3rd-party accrediting body.

(§2423-A, sub-§10, ¶E)

The department and the Maine Center for Disease Control and Prevention may inspect a cannabis testing facility during regular business hours and hours of apparent activity for compliance with this chapter.

(§2423-A, sub-§10, ¶F)

AUTHORIZED CONDUCT – MEDICAL USE PROGRAM

PERSON AUTHORIZED TO ENGAGE

AUTHORIZED CONDUCT	PROHIBITED CONDUCT
<p>3. Authorization for extraction using inherently hazardous substances. This subsection governs the authority of a person to engage in cannabis extraction using inherently hazardous substances in accordance with subsection 5.</p> <p>A. A qualifying patient, caregiver, registered dispensary or manufacturing facility may engage in cannabis extraction using inherently hazardous substances if the person can produce, upon demand of the department:</p> <ul style="list-style-type: none">(1) Certification from a professional engineer licensed in this State of the safety of the equipment used for cannabis extraction and the location of the equipment and the professional engineer's approval of the standard operating procedures for the cannabis extraction;(2) Documentation from a professional engineer licensed in this State or a state or local official authorized to certify compliance that the equipment used for cannabis extraction and the location of the equipment comply with state law and all applicable local and state building codes, electrical codes and fire codes, including the chapters of the most recent National Fire Protection Association Fire Code relating to cannabis extraction facilities;(3) Documentation from the manufacturer of the cannabis extraction system or a professional engineer licensed in this State showing that a professional grade, closed-loop extraction system that is capable of recovering the solvents used to produce cannabis concentrate is used by the person; and(4) Evidence that the person has provided notice to the department of the person's intent to engage in cannabis extraction using inherently hazardous substances and the location where the cannabis extraction will occur prior to engaging in cannabis extraction using inherently hazardous substances. <p>A person that intends to engage in cannabis extraction using inherently hazardous substances shall notify the department of that intention prior to engaging in cannabis extraction using inherently hazardous substances. The department may deny an application of a person authorized under this paragraph to register pursuant to rules adopted under subsection 10 if the person did not notify the department in accordance with this paragraph.</p> <p>not notify the department in accordance with this paragraph.</p> <p>B. A person that is not a qualifying patient, caregiver or dispensary and that meets the requirements of a person authorized under paragraph A, pays the fee required by section 2425-A, subsection 10 and meets the requirements of rules adopted under subsection 10 is authorized to engage in cannabis extraction using inherently hazardous substances and may possess up to 40 pounds of harvested cannabis in accordance with subsection 5.</p> <p>(§2423-F, sub-§3)</p>	<p>6. Retail sale prohibited. A person authorized to engage in cannabis extraction using inherently hazardous substances under subsection 3 may not engage in retail sales of cannabis products or cannabis concentrate unless the person is authorized to engage in retail sales under this chapter.</p> <p>7. Food establishment license required to manufacture food products. A person authorized to produce cannabis concentrate using inherently hazardous substances may not manufacture edible cannabis products or cannabis tinctures unless licensed pursuant to section 2167.</p> <p>(§2423-F, sub-§6 and sub-§7. Partial)</p> <p>Interest. A caregiver or an officer or director of a registered dispensary, registered caregiver or manufacturing facility may not have a financial or other interest in a cannabis testing facility providing services associated with product labeling for that dispensary, caregiver or manufacturing facility.</p> <p>(§2423-A, sub-§12)</p>
<p>5. Authorized conduct; extraction using inherently hazardous substances. A person that is authorized to engage in cannabis extraction using inherently hazardous substances pursuant to subsection 3:</p> <ul style="list-style-type: none">A. May engage in cannabis extraction to produce cannabis concentrate for medical use;B. May obtain harvested cannabis from a qualifying patient, a caregiver or a dispensary and may transfer cannabis concentrate to the person that provided the harvested cannabis used to produce the cannabis concentrate;	

AUTHORIZED CONDUCT – MEDICAL USE PROGRAM

MANUFACTURING FACILITY

Colocation of facilities. A manufacturing facility that is also licensed as an adult use cannabis products manufacturing facility under Title 28-B, chapter 1 may manufacture cannabis products and cannabis concentrate for adult use within the same facility in which the licensee also manufactures cannabis products or cannabis concentrate for medical use pursuant to this chapter. The following items or areas within the shared facility may be shared for both manufacturing pursuant to this chapter and pursuant to Title 28-B, chapter 1:

- A. Manufacturing-related and nonmanufacturing-related equipment, except that manufacturing-related equipment may not be simultaneously used for manufacturing pursuant to this chapter and pursuant to Title 28-B, chapter 1;
 - B. Manufacturing-related and nonmanufacturing-related supplies or products not containing harvested cannabis and the storage areas for those supplies or products; and
 - C. General office space, bathrooms, entryways and walkways.
- (§2423-F, sub-§13)

AUTHORIZED CONDUCT – MEDICAL USE PROGRAM

MANUFACTURING FACILITY

AUTHORIZED CONDUCT

A person may not manufacture cannabis products or cannabis concentrate or engage in cannabis extraction except as provided in this chapter.

(§2423-F)

1. Tier 1 manufacturing facility. A tier 1 manufacturing facility registered pursuant to subsection 8 may engage in the activities authorized under subsection 4 in accordance with rules adopted pursuant to subsection 10 and may possess up to 40 pounds of harvested cannabis.

2. Tier 2 manufacturing facility. A tier 2 manufacturing facility registered pursuant to subsection 8 may engage in the activities authorized under subsection 4 in accordance with rules adopted pursuant to subsection 10 and may possess up to 200 pounds of harvested cannabis.

(§2423-F, sub-§1 & 2)

A registered manufacturing facility:

- A. May manufacture cannabis products and cannabis concentrate for medical use using any method that does not involve an inherently hazardous substance, except that a registered manufacturing facility may manufacture cannabis concentrate using inherently hazardous substances if authorized under subsection 3;
- B. May obtain harvested cannabis from a qualifying patient, a caregiver or a registered dispensary and may transfer cannabis products and cannabis concentrate to the person that provided the harvested cannabis used to manufacture the cannabis product or cannabis concentrate;
- C. May transfer samples to a cannabis testing facility for testing;
- D. May conduct testing of cannabis products or cannabis concentrate manufactured by the facility for research and development purposes;
- E. May receive reasonable compensation for manufacturing cannabis products or cannabis concentrate;
- F. Shall dispose of harvested cannabis used in the manufacturing process in a manner that prevents its diversion to persons not authorized to possess harvested cannabis possessed by the facility and in accordance with rules adopted by the department; and
- G. May hire any number of assistants who are 21 years of age or older to assist in performing the duties of the manufacturing facility

(§2423-F, sub-§4)

Multiple authorizations. A manufacturing facility or person registered pursuant to subsection 8 may also be a qualifying patient, a caregiver or a registered dispensary. A manufacturing facility or person authorized to possess cannabis under this chapter may possess the amount allowed for that manufacturing facility or person in addition to the possession amount allowed under this section if the manufacturing facility or person is registered pursuant to this section. The cannabis possessed must be distinguishable with respect to the purposes for which it is authorized to be possessed. (2423-F, sub-§11)

PROHIBITED CONDUCT

6. Retail sale prohibited. A registered manufacturing facility may not engage in retail sales of cannabis products or cannabis concentrate unless the person is authorized to engage in retail sales under this chapter.

7. Food establishment license required to manufacture food products. A registered manufacturing facility may not manufacture edible cannabis products or cannabis tinctures unless licensed pursuant to section 2167.
(§2423-F, sub-§6 and sub-§7. partial)

AUTHORIZED CONDUCT – MEDICAL USE PROGRAM

DISPENSARY

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- H. Manufacture cannabis products for medical use, except that a dispensary may not prepare food, as defined in section 2152, subsection 4, unless licensed pursuant to section 2167;
- I. Manufacture cannabis concentrate for medical use, **except** that a dispensary may not produce cannabis concentrate using inherently hazardous substances unless authorized pursuant to section 2423-F, subsection 3;
- J. Provide harvested cannabis to a manufacturing facility and obtain cannabis products and cannabis concentrate from the manufacturing facility that is produced from the harvested cannabis the registered dispensary provided to the manufacturing facility;
- K. Hire any number of assistants who are 21 years of age or older to assist in performing the duties of the dispensary;
- L. Transport cannabis plants and harvested cannabis as necessary to carry out the activities authorized under this section; and
- M. Notwithstanding chapter 262-A, sell, offer to sell or furnish cannabis paraphernalia to a qualifying patient or to a caregiver for a qualifying patient's medical use of cannabis
- (§2428, sub-§1-A)

AUTHORIZED CONDUCT – MEDICAL USE PROGRAM

DISPENSARY

have direct contact with treated plants have completed safety training pursuant to 40 Code of Federal Regulations, Section 170.130. A registered dispensary assistant who is not certified pursuant to section 1471-D and who is involved in the application of the pesticide or handling of the pesticide or equipment must first complete safety training described in 40 Code of Federal Regulations, Section 170.230.
(§2428, sub-§9)

Provisions pertaining to registered dispensary. For the purpose of assisting a qualifying patient, a registered dispensary may in accordance with rules adopted by the department:

- A. Dispense up to 2 1/2 ounces of harvested cannabis to the qualifying patient in one transaction, except that a dispensary may not dispense more than 2 1/2 ounces of harvested cannabis to a visiting qualifying patient during a 15-day period
- B. Cultivate cannabis plants and possess all harvested cannabis from those cannabis plants;
- C. Receive reasonable monetary compensation for costs associated with assisting or for cultivating cannabis plants for the qualifying patient;
- D. Assist the qualifying patient with the medical use or administration of harvested cannabis;
- E. Obtain harvested cannabis from a caregiver under section 2423-A, subsection 2, paragraph K;
- F. Except as provided in section 2426:
 - (1) Transfer cannabis plants and harvested cannabis to a qualifying patient and to a caregiver on behalf of a qualifying patient in a retail sale for reasonable compensation;
 - (2) Transfer cannabis plants and harvested cannabis to a qualifying patient, caregiver or dispensary for no remuneration;
 - (3) Acquire cannabis plants and harvested cannabis from another dispensary for no remuneration;
 - (4) Transfer to and accept from a registered caregiver or another dispensary cannabis plants and harvested cannabis in a wholesale transaction in accordance with this paragraph. A dispensary may transfer in wholesale transactions for reasonable compensation or for no remuneration an unlimited amount of the mature cannabis plants grown by the dispensary over the course of a calendar year, including any cannabis products or cannabis concentrate manufactured from mature cannabis plants grown by the dispensary. A dispensary may transfer to or accept from registered caregivers and dispensaries in wholesale transactions an unlimited amount of immature cannabis plants and seedlings. A dispensary that acquires mature cannabis plants, cannabis products or cannabis concentrate in a wholesale transaction under this subparagraph may not resell the mature cannabis plants, cannabis products or cannabis concentrate except to a qualifying patient or to a caregiver or dispensary to assist a qualifying patient;
 - (5) Transfer harvested cannabis to a manufacturing facility and accept cannabis products and cannabis concentrate from the manufacturing facility that are produced from the harvested cannabis the dispensary provided to the manufacturing facility; and
 - (6) Provide samples to a cannabis testing facility for testing and research purposes;
- G. Conduct cannabis testing at the request of anyone authorized to possess cannabis plants or harvested cannabis under this chapter for research and development purposes only;

AUTHORIZED CONDUCT – MEDICAL USE PROGRAM

DISPENSARY

AUTHORIZED CONDUCT

This subsection governs the operations of registered dispensaries.

B. A dispensary may not be located within 500 feet of the property line of a preexisting public or private school.

E. A dispensary shall implement appropriate security measures to deter and prevent unauthorized entrance into areas containing cannabis plants and harvested cannabis and the theft of cannabis plants and harvested cannabis at the dispensary and the one permitted additional location at which the dispensary cultivates cannabis plants for medical use by qualifying patients.

F. The operating documents of a dispensary must include procedures for the oversight of the dispensary and procedures to ensure accurate record keeping in accordance with section.

H. All officers or directors of a dispensary must be residents of this State.

I. All cultivation of cannabis plants must take place in a cultivation area unless the cannabis plants are being transported pursuant to subsection 1-A, paragraph L.

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

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

K. A dispensary shall display the dispensary's registration certificate issued under section 2425-A in a publicly visible location in the dispensary.

(§2428, sub-§6)

Maximum amount of cannabis to be dispensed. A dispensary or an officer or director or assistant of a dispensary may not dispense more than 2 1/2 ounces of harvested cannabis in one transaction to a qualifying patient or to a caregiver on behalf of a qualifying patient, except that a dispensary or an officer or director or assistant of a dispensary may not dispense more than 2 1/2 ounces of harvested cannabis to a visiting qualifying patient during a 15-day period. (§2428, sub-§7)

PROHIBITED CONDUCT

Prohibitions. The prohibitions in this subsection apply to a registered dispensary.

B. A dispensary may not dispense, deliver or otherwise transfer cannabis plants or harvested cannabis except as provided in this chapter.

D. A person who has been convicted of a disqualifying drug offense may not be an officer or director or assistant of a dispensary.

(1) A person who is an officer or director or assistant of a dispensary in violation of this paragraph commits a civil violation for which a fine of not more than \$1,000 may be adjudged.

(2) A person who is an officer or director or assistant of a dispensary in violation of this paragraph and who at the time of the violation has been previously found to have violated this paragraph commits a Class D crime.

F. A dispensary may not contract for the cultivation of seeds of a cannabis plant, seedlings or immature cannabis plants, except that a dispensary may engage in wholesale transactions in accordance with subsection 1-A, paragraph F, subparagraph (4).

G. A registered dispensary may not use a pesticide on cannabis plants except a pesticide that is used consistent with federal labeling requirements, is registered with the Department of Agriculture, Conservation and Forestry, Board of Pesticides Control pursuant to Title 7, section 607 and is used consistent with best management practices for pest management approved by the Commissioner of Agriculture, Conservation and Forestry. A registered dispensary may not in the cultivation of cannabis plants use a pesticide unless at least one registered dispensary assistant involved in the application of the pesticide is certified pursuant to section 1471-D and all other registered dispensary assistants who

AUTHORIZED CONDUCT – MEDICAL USE PROGRAM

REGISTERED CAREGIVER

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

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

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

A person who is authorized to cultivate cannabis plants under subsection 1 or 2 and who is an assistant of a caregiver pursuant to subsection 2, paragraph I may not cultivate that person's own cannabis plants in a cultivation area of the caregiver who employs that person.

(§2423-A, sub-§3)

School exceptions. Notwithstanding subsection 1, paragraph B, a caregiver designated pursuant to section 2423-A, subsection 1, paragraph F-1, subparagraph (4) or the parent, legal guardian or person having legal custody of a qualifying patient may, for the benefit of the qualifying patient, possess and administer harvested cannabis in a school bus and on the grounds of the preschool or primary or secondary school in which the qualifying patient is enrolled only if:

- A. A medical provider has provided the qualifying patient with a current written certification for the medical use of cannabis under this chapter;
- B. Possession of harvested cannabis is for the purpose of administering cannabis to the qualifying patient; and
- C. The parent, legal guardian or person having legal custody of a qualifying patient enrolled in the preschool or primary or secondary school has notified the school that a caregiver has been designated on behalf of the qualifying patient to possess and administer harvested cannabis to the qualifying patient.

Harvested cannabis possessed or administered in accordance with this subsection may not be in a form that permits the qualifying patient to engage in smoking. For the purposes of this subsection, "smoking" has the same meaning as in section 1541, subsection 6, except that "smoking" does not include the use of a nebulizer.

(§2426, sub-§1-A)

AUTHORIZED CONDUCT – MEDICAL USE PROGRAM

REGISTERED CAREGIVER

An assistant of the registered caregiver who is not certified pursuant to section 1471-D and who is involved in the application of the pesticide or handling of the pesticide or equipment must first complete safety training described in 40 Code of Federal Regulations, Section 170.230;

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

K-1. Transfer to and accept from another registered caregiver or a dispensary cannabis plants and harvested cannabis in a wholesale transaction in accordance with this paragraph. A registered caregiver may transfer in wholesale transactions for reasonable compensation or for no remuneration an unlimited amount of the mature cannabis plants grown by the caregiver over the course of a calendar year, including any cannabis products or cannabis concentrate manufactured from mature cannabis plants grown by the caregiver. A registered caregiver may transfer to or accept from other registered caregivers and dispensaries in wholesale transactions an unlimited amount of immature cannabis plants and seedlings. A registered caregiver that acquires mature cannabis plants, cannabis products or cannabis concentrate in a wholesale transaction under this paragraph may not resell the mature cannabis plants, cannabis products or cannabis concentrate except to a qualifying patient or to another registered caregiver or dispensary to assist a qualifying patient;

L. Provide samples to a cannabis testing facility for testing and research purposes;

M. Conduct cannabis testing at the request of anyone authorized to possess cannabis under this chapter for research and development purposes only;

N. Provide harvested cannabis to a manufacturing facility and obtain cannabis products and cannabis concentrate from the manufacturing facility that are produced from the harvested cannabis the caregiver provided to the manufacturing facility;

O. Transport cannabis plants or harvested cannabis for authorized conduct in accordance with this chapter;

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

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

S. Notwithstanding chapter 262-A, sell, offer to sell or furnish cannabis paraphernalia to a qualifying patient, caregiver or registered dispensary for a qualifying patient's medical use of cannabis.

(§2423-A, sub-§2)

The following provisions apply to the cultivation of cannabis plants by a qualifying patient under subsection 1 and a caregiver under subsection 2.

B. A caregiver cultivating cannabis plants for a patient's medical use must keep all plants in a cultivation area unless the plants are being transported pursuant to subsection 2, paragraph O.

AUTHORIZED CONDUCT – MEDICAL USE PROGRAM

REGISTERED CAREGIVER

AUTHORIZED CONDUCT

Except as provided in section 2426, a caregiver, for the purpose of assisting a qualifying patient with the patient's medical use of cannabis, may engage in the following authorized conduct if the caregiver is a resident of the State, is 21 years of age or older and has not been convicted of a disqualifying drug offense:

- A. Possess all harvested cannabis produced by the caregiver's cultivation of cannabis plants under paragraph B;
- A-1. Transfer up to 2 1/2 ounces of harvested cannabis to a qualifying patient in one transaction, except that a caregiver may not dispense more than 2 1/2 ounces of harvested cannabis to a visiting qualifying patient during a 15-day period;
- B. Cultivate up to 30 mature cannabis plants, up to 60 immature cannabis plants and unlimited seedlings or cultivate up to 500 square feet of mature plant canopy, up to 1,000 square feet of immature plant canopy and unlimited seedlings. A caregiver may not cultivate immature plants by canopy if cultivating mature plants by plant count and may not cultivate immature plants
- C-1. Assist a qualifying patient with the patient's medical use of cannabis
- E. Receive reasonable monetary compensation for costs associated with cultivating cannabis plants or assisting a qualifying patient with that patient's medical use of cannabis;
- F. Be in the presence or vicinity of the medical use of cannabis and assist any patient with the medical use, administration or preparation of cannabis;
- G. Manufacture cannabis products and cannabis concentrate for medical use, except that a caregiver may not manufacture food, as defined in section 2152, subsection 4, unless the caregiver is licensed pursuant to section 2167 and except that a caregiver may not produce cannabis concentrate using inherently hazardous substances unless authorized pursuant to section 2423-F, subsection 3;
- I. Hire any number of assistants who are 21 years of age or older to assist in performing the duties of the caregiver;
- I-1. Hire any number of assistants who are 18 years of age or older and under 21 years of age if they are also a member of the family of the caregiver to assist in performing the duties of the caregiver;
- J. Use a pesticide in the cultivation of cannabis plants if the pesticide is used consistent with federal labeling requirements, is registered with the Department of Agriculture, Conservation and Forestry, Board of Pesticides Control pursuant to Title 7, section 607 and is used consistent with best management practices for pest management approved by the Commissioner of Agriculture, Conservation and Forestry. A registered caregiver may not in the cultivation of cannabis plants use a pesticide unless the registered caregiver or the registered caregiver's assistant is certified in the application of the pesticide pursuant to section 1471-D and any assistant who has direct contact with treated plants has completed safety training pursuant to 40 Code of Federal Regulations, Section 170.130.

AUTHORIZED CONDUCT – MEDICAL USE PROGRAM

UNREGISTERED CAREGIVER

B. A caregiver cultivating cannabis plants for a patient's medical use must keep all plants in a cultivation area unless the plants are being transported pursuant to subsection 2, paragraph O.

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

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

AUTHORIZED CONDUCT – MEDICAL USE PROGRAM

UNREGISTERED CAREGIVER

of cannabis plants use a pesticide unless the registered caregiver or the registered caregiver's assistant is certified in the application of the pesticide pursuant to section 1471-D and any assistant who has direct contact with treated plants has completed safety training pursuant to 40 Code of Federal Regulations, Section 170.130. An assistant of the registered caregiver who is not certified pursuant to section 1471-D and who is involved in the application of the pesticide or handling of the pesticide or equipment must first complete safety training described in 40 Code of Federal Regulations, Section 170.230;

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

~~K 1. Transfer to and accept from another registered caregiver or a dispensary cannabis plants and harvested cannabis in a wholesale transaction in accordance with this paragraph. A registered caregiver may transfer in wholesale transactions for reasonable compensation or for no remuneration an unlimited amount of the mature cannabis plants grown by the caregiver over the course of a calendar year, including any cannabis products or cannabis concentrate manufactured from mature cannabis plants grown by the caregiver. A registered caregiver may transfer to or accept from other registered caregivers and dispensaries in wholesale transactions an unlimited amount of immature cannabis plants and seedlings. A registered caregiver that acquires mature cannabis plants, cannabis products or cannabis concentrate in a wholesale transaction under this paragraph may not resell the mature cannabis plants, cannabis products or cannabis concentrate except to a qualifying patient or to another registered caregiver or dispensary to assist a qualifying patient;~~

L. Provide samples to a cannabis testing facility for testing and research purposes;

M. Conduct cannabis testing at the request of anyone authorized to possess cannabis under this chapter for research and development purposes only;

N. Provide harvested cannabis to a manufacturing facility and obtain cannabis products and cannabis concentrate from the manufacturing facility that are produced from the harvested cannabis the caregiver provided to the manufacturing facility;

O. Transport cannabis plants or harvested cannabis for authorized conduct in accordance with this chapter;

~~P. Operate one caregiver retail store to sell harvested cannabis to qualifying patients for the patients' medical use in accordance with this chapter;~~

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

S. Notwithstanding chapter 262-A, sell, offer to sell or furnish cannabis paraphernalia to a qualifying patient, caregiver or registered dispensary for a qualifying patient's medical use of cannabis.

The following provisions apply to the cultivation of cannabis plants by a qualifying patient under subsection 1 and a caregiver under subsection 2.

AUTHORIZED CONDUCT – MEDICAL USE PROGRAM

UNREGISTERED CAREGIVER

AUTHORIZED CONDUCT

Except as provided in section 2426, a caregiver, for the purpose of assisting a qualifying patient with the patient's medical use of cannabis, may engage in the following authorized conduct if the caregiver is a resident of the State, is 21 years of age or older and has not been convicted of a disqualifying drug offense:

- A. Possess all up to 8 pounds of harvested cannabis produced by the caregiver's cultivation of cannabis plants under paragraph B;
- A-1. Transfer up to 2 1/2 ounces of harvested cannabis to a qualifying patient in one transaction, except that a caregiver may not dispense more than 2 1/2 ounces of harvested cannabis to a visiting qualifying patient during a 15-day period;
- B. Cultivate up to 30 mature cannabis plants, up to 60 immature cannabis plants and unlimited seedlings or cultivate up to 500 square feet of mature plant canopy, up to 1,000 square feet of immature plant canopy and unlimited seedlings, except that a caregiver may not cultivate:
 - a. more than 6 mature cannabis plants and 12 immature cannabis plants for each qualifying patient who has designated the caregiver to cultivate cannabis plants on the patient's behalf.
 - b. immature plants by canopy if cultivating mature plants by plant count and may not cultivate immature plants by plant count if cultivating mature plants by canopy;
 - c. cannabis plants for more than 2 members of the family or members of the same household.
- C-1. Assist a qualifying patient with the patient's medical use of cannabis;
- E. Receive reasonable monetary compensation for costs associated with cultivating cannabis plants or assisting a qualifying patient with that patient's medical use of cannabis;
- F. Be in the presence or vicinity of the medical use of cannabis and assist any patient with the medical use, administration or preparation of cannabis; G. Manufacture cannabis products and cannabis concentrate for medical use, except that a caregiver may not manufacture food, as defined in section 2152, subsection 4, unless the caregiver is licensed pursuant to section 2167 and except that a caregiver may not produce cannabis concentrate using inherently hazardous substances unless authorized pursuant to section 2423-F, subsection 3
- I. Hire any number of assistants who are 21 years of age or older to assist in performing the duties of the caregiver;
- I-1. Hire any number of assistants who are 18 years of age or older and under 21 years of age if they are also a member of the family of the caregiver to assist in performing the duties of the caregiver;
- J. Use a pesticide in the cultivation of cannabis plants if the pesticide is used consistent with federal labeling requirements, is registered with the Department of Agriculture, Conservation and Forestry, Board of Pesticides Control pursuant to Title 7, section 607 and is used consistent with best management practices for pest management approved by the Commissioner of Agriculture, Conservation and Forestry. A registered caregiver may not in the cultivation

AUTHORIZED CONDUCT – MEDICAL USE PROGRAM

QUALIFYING PATIENT

Access to a cultivation area is limited to the patient, except that emergency services personnel, an assistant of a cannabis testing facility or a person who needs to gain access to a cultivation area in order to perform repairs or maintenance or to do construction may access a cultivation area to provide those professional services while under the direct supervision of the patient.

(§2423-A, sub-§3, ¶A)

AUTHORIZED CONDUCT – MEDICAL USE PROGRAM

QUALIFYING PATIENT

A designation pursuant to this paragraph must be in a standardized written document, developed by the department, that is signed and dated by the qualifying patient or the parent, legal guardian or person having legal custody of the qualifying patient and expires on a date not to exceed the expiration date of the qualifying patient's written certification. The document must include the signed acknowledgment of the person or facility that the person or facility may be contacted to confirm the designation of the person or facility to engage in the conduct authorized by the designation. The document must also include, if applicable, the total number of mature cannabis plants and immature cannabis plants the caregiver is cultivating for the patient;

F-2. Choose a caregiver based solely on the patient's preference, except that a parent, legal guardian or person having legal custody of a qualifying patient who has not attained 18 years of age must serve as one caregiver for the patient;

G. Be in the presence or vicinity of the medical use of cannabis and assist any qualifying patient with using or administering harvested cannabis

H. Accept cannabis plants or harvested cannabis from a qualifying patient, caregiver or registered dispensary if no remuneration is provided to the patient, caregiver or dispensary;

I. Provide samples to a cannabis testing facility for testing and research purposes;

J. Manufacture cannabis products and cannabis concentrate for medical use, except that a qualifying patient may not manufacture food, as defined in section 2152, subsection 4, unless the qualifying patient is licensed pursuant to section 2167 and except that a qualifying patient may not produce cannabis concentrate using inherently hazardous substances unless authorized pursuant to section 2423-F, subsection 3;

K. Provide harvested cannabis to a manufacturing facility and obtain cannabis products and cannabis concentrate from the manufacturing facility that are produced from the harvested cannabis the qualifying patient provided to the manufacturing facility;

L. Transport cannabis plants or harvested cannabis for a qualifying patient's medical use of cannabis in accordance with this chapter; and

M. Use harvested cannabis in any form, except as provided in subsection 4-A (consistent with LTC policy) and except that qualifying patients who have not attained 18 years of age may not engage in smoking harvested cannabis. For the purposes of this paragraph, "smoking" has the same meaning as in section 1541, subsection 6, except that "smoking" does not include the use of a nebulizer.

(§2423-A, sub-§1)

The following provisions apply to the cultivation of cannabis plants by a qualifying patient under subsection 1 and a caregiver under subsection 2.

A. A patient who elects to cultivate cannabis plants must keep the plants in a cultivation area unless the plants are being transported pursuant to subsection 1, paragraph L.

AUTHORIZED CONDUCT – MEDICAL USE PROGRAM

QUALIFYING PATIENT

AUTHORIZED CONDUCT

Except as provided in section 2426 [limitations; school exceptions] a qualifying patient may:

A. Possess up to 8 pounds of harvested cannabis;

B. Cultivate, or designate a caregiver to cultivate (1) up to a total of 6 mature cannabis plants, 12 immature cannabis plants and unlimited seedlings for that qualifying patient. The total number of mature cannabis plants per qualifying patient, whether cultivated by the patient or by a caregiver operating under subsection 3, paragraph C, may not exceed 6. The total number of immature cannabis plants per qualifying patient, whether cultivated by the patient or by a caregiver operating under subsection 3, paragraph C, may not exceed 12. Two or more qualifying patients who are members of the same household and cultivating their own cannabis plants may share not more than 2 cultivation areas;

C. Possess cannabis paraphernalia;

D. Furnish or offer to furnish to another qualifying patient for that patient's medical use of cannabis up to 2 1/2 ounces of harvested cannabis;

F-1. Obtain or receive harvested cannabis for the patient's medical use without designating a caregiver or a dispensary, **except** that a :

- qualifying patient; or
- the parent, legal guardian or person having legal custody of a qualifying patient who has not attained 18 years of age; or
- the parent, legal guardian or person having legal custody of a qualifying patient who is enrolled in a preschool or primary or secondary school must designate, as applicable:

(1) An “unregistered” caregiver (operating under subsection 3, paragraph C) in order to have that caregiver cultivate cannabis plants for the patient;

(2) A long-term care facility in order to have that facility assist with the qualifying patient's medical use of harvested cannabis. A long-term care facility that is designated by a patient may not be designated to cultivate cannabis plants for the patient;

(3) A person in order to have that person obtain harvested cannabis on behalf of the qualifying patient or transport the harvested cannabis to the qualifying patient. The person must possess the person's government-issued photographic identification that contains the person's address, the qualifying patient's written certification and the qualifying patient's designation in order to engage in this conduct; and

(4) A caregiver in order to have that caregiver possess and administer harvested cannabis for the patient's medical use pursuant to section 2426, subsection 1-A (school bus or grounds) if the patient is enrolled in a preschool or primary or secondary school.

DRAFT – AUTHORIZED CONDUCT CHART – 11.14.23

ACTIVITY	QUALIFYING PATIENT	UNREGISTERED CAREGIVER	REGISTERED CAREGIVER	DISPENSARY	MANUFACTURING FACILITY
Possess harvested	up to 8 lbs. of harvested	up to 8 lbs. of harvested	all harvested cannabis produced by the CG		Tier 1 – up to 40 lbs. Tier 2 up to 200 lbs.
Cultivate	or designate CG - 6 mature (total) - 12 immature (total) - Unlimited seedlings 2 or more QPs members of same household and cultivating may not share more than 2 cultivation areas	- 30 mature - 60 immature - Unlimited seedlings OR - 500 sq. ft. mature canopy 1000 sq. ft. immature canopy	- 30 mature - 60 immature - Unlimited seedlings OR - 500 sq. ft. mature canopy 1000 sq. ft. immature canopy	“all”	
Transfer	1. up to 2.5 oz. to QP/transaction; 2. not more than 2.5 oz. to visiting QP /15-days	SAME	SAME	1. “Dispense” NOT “transfer” 2. allowed to dispense to CG on behalf of QP	
Furnish or offer to furnish	2.5 oz harvested to another QP for medical use				
Obtain or receive	without designating CG or Dis EXCEPT that			harvested from CG (means both types?)	
Accept	plants or harvested from QP, CG, or RD if no remuneration				
Present/Vicinity or assist	“be in presence or vicinity of medical use of cannabis” AND	SAME “assist a QP with the patient’s medical use of cannabis”	SAME “assist a QP with the patient’s medical use of cannabis”	“assist the AP with the medical use or administration of harvested cannabis”	

DRAFT – AUTHORIZED CONDUCT CHART – 11.14.23

	“assist any patient with using or administering harvested cannabis”				
ACTIVITY	QUALIFYING PATIENT	UNREGISTERED CAREGIVER	REGISTERED CAREGIVER	DISPENSARY	MANUFACTURING FACILITY
Manufacture	<ol style="list-style-type: none"> 1. products and concentrate for medical use; 2. not food unless licensed; 3. no inherently hazardous unless authorized 	SAME	SAME	SAME but separate sentences. Is there a difference?	
Transport	plants or harvested “for QP’s medical use”	plants or harvested “for authorized conduct”	plants or harvested “for authorized conduct”	plants and harvested “as necessary to carry out the activities authorized under this section”	
Provide to and receive from MF	<ol style="list-style-type: none"> 4. provide harvested 5. receive products and concentrate from MP 	SAME	SAME	SAME	
Transfer	n/a	immature, seedling and harvested to QP, CG or RD for \$ or no \$	immature, seedling and harvested to QP, CG or RD for \$ or no \$		

DRAFT – AUTHORIZED CONDUCT CHART – 11.14.23

<p>Wholesale transactions</p>	<p>n/a</p>	<p>n/a</p>	<ol style="list-style-type: none"> 1. may transfer unlimited amount of mature, including products and concentrate (over calendar year); 2. may transfer to or accept from RCG or RD unlimited immature and seedlings. 3. may not resell mature, products or concentrate except to QP or RCG or RD “to assist a QP” 	<ol style="list-style-type: none"> 1. May transfer unlimited amount of mature, including products or concentrate (over calendar year); 2. May transfer to or accept from RCG or RD unlimited immature 3. May not resell mature, products or concentrate except to QP or RCG or RD “to assist a QP” 	
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ACTIVITY	QUALIFYING PATIENT	UNREGISTERED CAREGIVER	REGISTERED CAREGIVER	DISPENSARY	MANUFACTURING FACILITY
<p>Hire</p>	<p>n/a</p>	<ul style="list-style-type: none"> - any number who are 21+ to assist performing the duties of a CG - any number who are 18 – 21 if member of family of CG 	<p>SAME</p>	<p>any number who are 21+ to assist in performing</p>	
<p>Test</p>		<p>“conduct cannabis testing at the request of anyone authorized to possess cannabis ... for research and development purposes only”</p>	<p>SAME</p>		<p>“conduct testing of cannabis products or cannabis concentrate manufactured by the facility for research and development purposes”</p>

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Sample	provide samples to CTF for testing and research purposes	SAME	SAME	SAME	“transfer samples to a cannabis testing facility for testing”
Receive \$		“reasonable monetary compensation for costs associated with cultivating cannabis plants or assisting a qualifying patient with that patient’s medical use of cannabis”	SAME	“assisting or for cultivating cannabis plants for the QP”	
Paraphernalia	possess	“sell, offer to sell or furnish to QP, CG or RD for qualifying patients’ medical use of cannabis”	SAME	SAME	
Use pesticides	silent	<ul style="list-style-type: none"> – if consistent with fed labeling; – registered by DACF; – consistent with best management; – certified in application ; – direct contact completed safety training 	SAME, except: RC or RC assistant must be certified	SAME, except only RD assistant needs to be certified (and only 1) or receive safety training. What if O/D is involved in operation of dispensary?	

ACTIVITY	QUALIFYING PATIENT	UNREGISTERED CAREGIVER	REGISTERED CAREGIVER	DISPENSARY	MANUFACTURING FACILITY
Cultivation (details)	1. “keep plants in cultivation area unless plants being transported”	1. SAME 2. SAME access	SAME	1. SAME 2. SAME, except “cardholder when acting in official	

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	<p>2. access limited to QP except:</p> <ul style="list-style-type: none"> ▪ Emergency personnel; ▪ CT Facility assistant; ▪ Person to repair or maintain or if under QP’s direct supervision 	<p>3. may be located on separate parcels or tracts of land whether contiguous or noncontiguous, as long as disclosed;</p> <p>4. may not maintain more than 2 cultivation areas</p> <ul style="list-style-type: none"> – 2 CGs who are members of the same family or household may share not more than 2 cultivation areas – Assistant authorized to cultivate for own use may not cultivate personal plants in CG area 		<p>capacity; and elected official to provide education</p> <p>3. The cultivation area must be located on a single parcel or tract of land (no language about noncontiguous;</p> <p>4. May not maintain more than one cultivation area</p> <ul style="list-style-type: none"> – Not located within 500 feet of property line of preexisting school; – Shall implement appropriate security measures to deter entrance and theft; – immature and seedlings must be kept “in separate spaces within the same cultivation area”; – RD must disclose location to department; – Display certificate in publicly visible 	
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ACTIVITY	QUALIFYING PATIENT	UNREGISTERED CAREGIVER	REGISTERED CAREGIVER	DISPENSARY	MANUFACTURING FACILITY
Use	harvested, in any form; except: 3. LTC facility policy governs; 4. Under 18 can't smoke	n/a	n/a	n/a	n/a
Miscellaneous	chose CG based solely on QP's preference except		<ul style="list-style-type: none"> - Operate 1 caregiver retail store to "sell harvested cannabis to qualifying patients" - Be organized as any type of legal business entity 	<ul style="list-style-type: none"> - operating documents must include procedures for oversight and accurate record keeping - "shall display certificate in publicly visible location in dispensary" 	

§2231. Hemp

1. Definition.

[PL 2019, c. 528, §1 (RP).]

1-A. Definitions. As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings:

A. "Certified seed source" means a source of hemp seeds that are certified by a 3rd party as producing hemp having a delta-9-tetrahydrocannabinol concentration of not more than 0.3% on a dry weight basis. [PL 2019, c. 528, §1 (NEW).]

B. "Clone" means a hemp plant produced using any part of another hemp plant other than the seeds of that hemp plant. [PL 2019, c. 528, §1 (NEW).]

C. "Grower licensee" means a person licensed pursuant to subsection 4. [PL 2019, c. 528, §1 (NEW).]

D. "Hemp" means the plant *Cannabis sativa* L. and any part of that plant, including the seeds and all derivatives, extracts, cannabinoids, isomers, acids, salts and salts of isomers, whether growing or not, with a delta-9-tetrahydrocannabinol concentration of not more than 0.3% on a dry weight basis, or as otherwise defined in federal law. "Hemp" includes agricultural commodities and products derived from hemp and topical or ingestible consumer products, including food, food additives and food products derived from hemp, which in their final forms contain a delta-9-tetrahydrocannabinol concentration of not more than 0.3% or as otherwise defined in federal law. "Hemp" does not include cannabis for medical use pursuant to Title 22, chapter 558-C or adult use cannabis pursuant to Title 28-B, chapter 1. [PL 2019, c. 528, §1 (NEW); PL 2021, c. 669, §5 (REV).]

E. "Indoor facility" means a building, greenhouse, cold frame, hoop house, high tunnel, floating row cover or other agricultural or horticultural method of extending the growing season by enclosing the growing area. [PL 2019, c. 528, §1 (NEW).]
[PL 2019, c. 528, §1 (NEW); PL 2021, c. 669, §5 (REV).]

2. Growing permitted. Notwithstanding any provision of law to the contrary, a person may plant, grow, harvest, possess, process, sell and buy hemp if that person holds a license issued pursuant to subsection 4. A grower licensee may plant, grow and harvest only hemp that is grown from seeds saved by the grower licensee as provided in paragraph A, acquired from a certified seed source, grown from a clone that is produced from seeds acquired from a certified seed source or propagated from tissue cultures that are removed from live plants grown from seeds acquired from a certified seed source. A grower licensee may acquire hemp seeds directly from a certified seed source or from a hemp seed distributor licensed in this State distributing hemp seeds pursuant to subsection 2-A.

A. A grower licensee may save seeds from hemp plants that the person has grown and harvested and, after having ensured through testing by an independent 3rd-party tester that the plants that will grow from the seeds will meet the definition of hemp, may use those seeds for breeding and planting hemp. [PL 2019, c. 528, §1 (NEW).]

B. A grower licensee, within 14 days after planting hemp seeds or clones, shall provide to the commissioner a listing of the varieties of seeds or clones planted and a statement that the seeds or clones meet the definition of hemp. [PL 2021, c. 761, §2 (AMD).]
[PL 2021, c. 761, §2 (AMD).]

2-A. Seed distribution. The commissioner may issue a license for a hemp seed distributor if the hemp seeds distributed by the hemp seed distributor are from a certified seed source. The commissioner may issue a license under this subsection to a holder of a seed labeling license pursuant to section 1044-A.

[PL 2015, c. 202, §1 (NEW).]

3. Application. A person desiring to grow hemp for commercial purposes shall apply to the commissioner for a license on a form prescribed by the commissioner. The application must include the name and address of the applicant, the legal description of the land area or indoor facility to be used for the production of hemp and a map, an aerial photograph or global positioning coordinates sufficient for locating the production fields or the floor plan of any indoor facility.

[PL 2019, c. 528, §1 (AMD).]

4. License issued. Upon review and approval of an application, the commissioner shall notify the applicant for a license to grow hemp under subsection 3 of the approval and request that the application fee determined under subsection 7 be submitted. Upon receipt of the appropriate fee, the commissioner shall issue a license, which is valid for a period of one year and only for the site or sites specified in the license.

A person who manufactures, sells, offers for sale or serves ingestible consumer products containing hemp or cannabidiol derived from hemp must be licensed pursuant to section 2901-C; Title 22, chapters 551, 562 or 562-A; or Title 28-A. [PL 2019, c. 528, §1 (NEW).]

[PL 2019, c. 528, §1 (AMD).]

5. Documentation.

[PL 2015, c. 202, §1 (RP).]

5-A. Final location for growing hemp. A grower licensee shall, within 14 days of planting hemp, provide the commissioner with a final legal description of the land area or indoor facility to be used for the production of hemp and a map, an aerial photograph or global positioning coordinates sufficient for locating each field, site or indoor facility where hemp is growing.

[PL 2019, c. 528, §1 (NEW).]

6. Rules. The commissioner shall adopt rules to align the laws governing hemp in this State with 7 United States Code, Section 1639p(a)(2)(A) (2020), 7 Code of Federal Regulations, Part 990 (2020) and any additional federal statutes or regulations.

The rules must establish an application fee, a license fee, per acre or per square foot fees for monitoring, sampling and testing and guidelines for monitoring the growth and harvest of hemp.

The rules must establish a mechanism for conducting criminal background checks on grower licensees and all key participants and require fees to be paid by the grower licensee or key participant.

For purposes of this subsection, "key participant" means a person who, as determined by the commissioner by rule, has a direct or indirect financial interest in an entity producing hemp, such as an owner or partner in a partnership. "Key participant" also includes a person in a corporate entity at an executive level including a chief executive officer, chief operating officer and chief financial officer. "Key participant" does not include other management positions such as farm, field or shift managers.

Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[PL 2021, c. 761, §3 (RPR).]

6-A. Preliminary program; indoor cultivation.

[PL 2021, c. 761, §4 (RP).]

7. Fees. The commissioner shall establish through rulemaking under subsection 6 an application fee, a license fee and per acre or per square foot fees for monitoring, sampling and testing that are reasonable and necessary to cover the costs of the department. The application fee must be no less than \$50 and no more than \$100, the license fee must be no less than \$100 and no more than \$500, and the fees for monitoring, sampling and testing must be no less than \$1 per acre and no more than \$100 per acre and no more than 25¢ per square foot.

All fees received pursuant to this subsection must be paid to the Treasurer of State and credited to a separate, nonlapsing account in the department. Money received pursuant to this subsection must be used for the expenses of administering this chapter.

[PL 2019, c. 528, §1 (AMD).]

8. Licensing contingent upon action by Federal Government.

[PL 2015, c. 202, §1 (RP).]

9. Confidentiality.

[PL 2021, c. 761, §5 (RP).]

10. Hemp not tracked as cannabis. Notwithstanding any provision of Title 22, chapter 558-C or Title 28-B, chapter 1 to the contrary, hemp and products derived from hemp may not be tracked as part of the medical use of cannabis program under Title 22, chapter 558-C or the regulation of adult use cannabis under Title 28-B, chapter 1.

[PL 2019, c. 528, §1 (NEW); PL 2021, c. 669, §5 (REV).]

11. Annual report. No later than April 1st, the commissioner shall submit to the joint standing committee of the Legislature having jurisdiction over agricultural matters an annual report that contains at a minimum:

- A. The number of licenses issued under subsection 4; [PL 2019, c. 528, §1 (NEW).]
- B. The number of acres of all land areas licensed for the cultivation of hemp and the square footage of indoor facilities licensed for the cultivation of hemp; [RR 2021, c. 2, Pt. A, §12 (COR).]
- C. Total amount of harvested hemp, in pounds; [PL 2019, c. 528, §1 (NEW).]
- D. The types of commodities or products derived from hemp manufactured or sold within the State; and [PL 2019, c. 528, §1 (NEW).]
- E. The types of commodities or products derived from hemp exported outside the State. [PL 2019, c. 528, §1 (NEW).]

[RR 2021, c. 2, Pt. A, §12 (COR).]

SECTION HISTORY

PL 2009, c. 320, §1 (NEW). PL 2015, c. 202, §1 (AMD). PL 2019, c. 12, Pt. B, §1 (AMD). PL 2019, c. 115, §1 (AMD). PL 2019, c. 528, §1 (AMD). PL 2021, c. 669, §5 (REV). PL 2021, c. 761, §§2-5 (AMD). RR 2021, c. 2, Pt. A, §12 (COR).

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U. S. Department of Justice
Drug Enforcement Administration
8701 Morrissette Drive
Springfield, Virginia 22152

www.dea.gov

December 20, 2022

Mr. Omar Figueroa
Law Offices of Omar Figueroa
7770 Healdsburg Avenue
Sebastopol, California 95472

Dear Mr. Figueroa:

This is in response to your email from October 4, 2022 in which you request the control status of *Cannabis Sativa L.* seeds, tissue culture, and genetic material under the Controlled Substances Act (CSA). The Drug Enforcement Administration (DEA) conducted a review of the CSA and its implementing regulations with regard to this question.

Title 21 of the United States Code (U.S.C.) § 802(16) states that the term "marihuana" means all parts of the plant *Cannabis sativa L.*, whether growing or not; the seeds thereof; the resin extracted from any part of such plant; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds or resin." The provision goes on to exclude from the definition "the mature stalks of such plant, fiber produced from such stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture, or preparation of such mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of such plant which is incapable of germination."

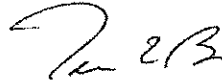
The CSA also excludes "hemp" from the definition of "marijuana." 21 U.S.C. § 802(16)(B)(i). The term "hemp" is "the plant *Cannabis sativa L.* and any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9-tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis." 7 U.S.C. § 1639o(1).

Therefore, any seed, tissue culture, or other genetic material that has a delta-9-tetrahydrocannabinol concentration of no more than 0.3 percent on a dry weight basis meets the definition of "hemp" and is not controlled under the CSA. However, non-sterilized seed, tissue culture, or other genetic material having a delta-9-tetrahydrocannabinol concentration of more than 0.3 percent on a dry weight basis does fall within the CSA schedule I listing of marihuana.

If the *Cannabis sativa L.* seed germinates into material that contains delta-9-tetrahydrocannabinol in concentrations of not more than 0.3 percent on a dry weight basis, the material meets the definition of "hemp." Conversely, if the seed germinates into material having a delta-9-tetrahydrocannabinol concentration of more than 0.3 percent on a dry weight basis, that material does fall within the CSA schedule I listing of marihuana.

If you have any further questions, please contact the Drug and Chemical Evaluation Section at DPE@dea.gov or (571) 362-3249.

Sincerely,

A handwritten signature in black ink, appearing to read 'T. Boos'.

Terrence L. Boos, Ph.D., Chief
Drug & Chemical Evaluation Section
Diversion Control Division

Cc: San Francisco Division Office