

**§2423-A. Authorized conduct for the medical use of marijuana
(CONFLICT)**

- 1. Qualifying patient.** Except as provided in section 2426, a qualifying patient may:
- A. Possess up to 8 pounds of harvested marijuana; [PL 2017, c. 452, §4 (AMD).]
 - B. Cultivate, or designate a caregiver operating under subsection 3, paragraph C to cultivate under paragraph F-1, subparagraph (1), up to a total of 6 mature marijuana plants, 12 immature marijuana plants and unlimited seedlings for that qualifying patient. The total number of mature marijuana 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 marijuana 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 marijuana plants may share one cultivation area; [PL 2017, c. 452, §4 (AMD).]
 - C. Possess marijuana paraphernalia; [PL 2009, c. 631, §21 (NEW); PL 2009, c. 631, §51 (AFF).]
 - D. Furnish or offer to furnish to another qualifying patient for that patient's medical use of marijuana up to 2 1/2 ounces of harvested marijuana for no remuneration; [PL 2017, c. 452, §4 (AMD).]
 - E. [PL 2017, c. 452, §4 (RP).]
 - F. [PL 2017, c. 452, §4 (RP).]
- F-1. Obtain or receive harvested marijuana 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 who is enrolled in a preschool or primary or secondary school must designate, as applicable:
- (1) A caregiver operating under subsection 3, paragraph C in order to have that caregiver cultivate marijuana 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 marijuana. A long-term care facility that is designated by a patient may not be designated to cultivate marijuana plants for the patient;
 - (3) A person in order to have that person obtain harvested marijuana on behalf of the qualifying patient or transport the harvested marijuana 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 marijuana for the patient's medical use pursuant to section 2426, subsection 1-A if the patient is enrolled in a preschool or primary or secondary school.

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 marijuana

plants and immature marijuana plants the caregiver is cultivating for the patient; [PL 2017, c. 452, §4 (NEW).]

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; [PL 2017, c. 452, §4 (NEW).]

G. Be in the presence or vicinity of the medical use of marijuana and assist any qualifying patient with using or administering harvested marijuana; [PL 2019, c. 331, §5 (AMD).]

H. Accept marijuana plants or harvested marijuana from a qualifying patient, caregiver or registered dispensary if no remuneration is provided to the patient, caregiver or dispensary; [PL 2019, c. 331, §6 (RPR).]

I. Provide samples to a marijuana testing facility for testing and research purposes; [PL 2017, c. 447, §5 (AMD); PL 2017, c. 452, §4 (AMD).]

J. Manufacture marijuana products and marijuana 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 marijuana concentrate using inherently hazardous substances unless authorized pursuant to section 2423-F, subsection 3; [PL 2019, c. 331, §7 (RPR).]

K. Provide harvested marijuana to a manufacturing facility and obtain marijuana products and marijuana concentrate from the manufacturing facility that are produced from the harvested marijuana the qualifying patient provided to the manufacturing facility; [PL 2019, c. 331, §8 (RPR).]

L. Transport marijuana plants or harvested marijuana for a qualifying patient's medical use of marijuana in accordance with this chapter; and [PL 2017, c. 452, §4 (NEW).]

M. Use harvested marijuana in any form, except as provided in subsection 4-A and except that qualifying patients who have not attained 18 years of age may not engage in smoking harvested marijuana. 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. [PL 2017, c. 452, §4 (NEW).]

[PL 2019, c. 331, §§5-8 (AMD).]

2. Caregiver. Except as provided in section 2426, a caregiver, for the purpose of assisting a qualifying patient with the patient's medical use of marijuana, 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 marijuana produced by the caregiver's cultivation of marijuana plants under paragraph B; [PL 2017, c. 452, §4 (AMD).]

A-1. Transfer up to 2 1/2 ounces of harvested marijuana to a qualifying patient in one transaction, except that a caregiver may not dispense more than 2 1/2 ounces of harvested marijuana to a visiting qualifying patient during a 15-day period; [PL 2017, c. 452, §4 (NEW).]

B. Cultivate up to 30 mature marijuana plants or 500 square feet of plant canopy, 60 immature marijuana plants and unlimited seedlings; [PL 2019, c. 256, §2 (AMD).]

C. [PL 2017, c. 452, §4 (RP).]

C-1. Assist a qualifying patient with the patient's medical use of marijuana; [PL 2017, c. 452, §4 (NEW).]

D. [PL 2017, c. 452, §4 (RP).]

E. Receive reasonable monetary compensation for costs associated with cultivating marijuana plants or assisting a qualifying patient with that patient's medical use of marijuana; [PL 2017, c. 452, §4 (AMD).]

F. Be in the presence or vicinity of the medical use of marijuana and assist any patient with the medical use, administration or preparation of marijuana; [PL 2011, c. 407, Pt. B, §16 (AMD).]

G. Manufacture marijuana products and marijuana 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 marijuana concentrate using inherently hazardous substances unless authorized pursuant to section 2423-F, subsection 3; [PL 2019, c. 331, §9 (RPR).]

H. [PL 2017, c. 452, §4 (RP).]

I. Hire any number of assistants to assist in performing the duties of the caregiver; [PL 2017, c. 452, §4 (AMD).]

REVISOR'S NOTE: (Paragraph I as enacted by PL 2013, c. 371, §3 is REALLOCATED TO TITLE 22, SECTION 2423-A, SUBSECTION 2, PARAGRAPH J) (Paragraph I as enacted by PL 2013, c. 393, §3 is REALLOCATED TO TITLE 22, SECTION 2423-A, SUBSECTION 2, PARAGRAPH K)

J. **(REALLOCATED FROM T. 22, §2423-A, sub-§2, ¶I)** Use a pesticide in the cultivation of marijuana 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 marijuana 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; [PL 2017, c. 452, §4 (AMD).]

K. **(REALLOCATED FROM T. 22, §2423-A, sub-§2, ¶I)** Transfer marijuana plants and harvested marijuana to a qualifying patient, another caregiver or a registered dispensary for no remuneration; [PL 2017, c. 452, §4 (AMD).]

K-1. Transfer to and accept from another registered caregiver or a dispensary marijuana plants and harvested marijuana in a wholesale transaction in accordance with this paragraph. A registered caregiver may transfer in wholesale transactions for reasonable compensation or for no remuneration up to 75% of the mature marijuana plants grown by the caregiver over the course of a calendar year, including any marijuana products or marijuana concentrate manufactured from that 75% of the mature marijuana 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 marijuana plants and seedlings. A registered caregiver that acquires mature marijuana plants, marijuana products or marijuana concentrate in a wholesale transaction under this paragraph may not resell the mature marijuana plants, marijuana products or marijuana concentrate except to a qualifying patient or to another registered caregiver or dispensary to assist a qualifying patient; [PL 2019, c. 354, §2 (AMD).]

L. Provide samples to a marijuana testing facility for testing and research purposes; [PL 2019, c. 331, §10 (RPR).]

M. Conduct marijuana testing at the request of anyone authorized to possess marijuana under this chapter for research and development purposes only; [PL 2019, c. 331, §11 (RPR).]

N. Provide harvested marijuana to a manufacturing facility and obtain marijuana products and marijuana concentrate from the manufacturing facility that are produced from the harvested marijuana the caregiver provided to the manufacturing facility; [PL 2019, c. 331, §12 (RPR).]

O. Transport marijuana plants or harvested marijuana for authorized conduct in accordance with this chapter; [PL 2017, c. 452, §4 (NEW).]

P. Operate one caregiver retail store to sell harvested marijuana to qualifying patients for the patients' medical use in accordance with this chapter; and [PL 2019, c. 217, §2 (AMD).]

Q. Be organized as any type of legal business entity recognized under the laws of the State. [PL 2017, c. 452, §4 (NEW).]

[PL 2019, c. 217, §2 (AMD); PL 2019, c. 256, §2 (AMD); PL 2019, c. 331, §§9-12 (AMD); PL 2019, c. 354, §2 (AMD).]

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

A. A patient who elects to cultivate marijuana plants must keep the plants in a cultivation area unless the plants are being transported pursuant to subsection 1, paragraph L. Access to a cultivation area is limited to the patient, except that emergency services personnel, an assistant of a marijuana 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. [PL 2017, c. 452, §4 (AMD).]

B. A caregiver cultivating marijuana 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. Access to a cultivation area 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 marijuana 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. [PL 2017, c. 452, §4 (AMD).]

B-1. Except as provided in paragraph C, a caregiver is required to register with the department. [PL 2017, c. 452, §4 (NEW).]

C. The following caregivers are not required to register with the department:

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

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

(3) A caregiver who cultivates for a qualifying patient if that qualifying patient is a member of the family of that caregiver. [PL 2017, c. 452, §4 (AMD).]

C-1. A caregiver operating under paragraph C may engage in the conduct authorized in subsection 2, except that a caregiver operating under paragraph C may not:

(1) Cultivate marijuana plants for more than 2 members of the family or members of the same household;

- (2) Cultivate more than 6 mature marijuana plants and 12 immature marijuana plants for each qualifying patient who has designated the caregiver to cultivate marijuana plants on the patient's behalf;
- (3) Possess more than 8 pounds of harvested marijuana;
- (4) Sell marijuana plants or harvested marijuana at wholesale under subsection 2, paragraph K-1;
- (5) Use a pesticide under subsection 2, paragraph J;
- (6) Operate a caregiver retail store under subsection 2, paragraph P; or
- (7) Organize as a business entity under subsection 2, paragraph Q. [PL 2019, c. 217, §3 (AMD).]

D. Two caregivers who are members of the same family or household may share the same cultivation area. [PL 2017, c. 452, §4 (AMD).]

E. A person who is authorized to cultivate marijuana 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 marijuana plants in the cultivation area by the caregiver who employs that person. [PL 2017, c. 452, §4 (AMD).]

[PL 2019, c. 217, §3 (AMD).]

4. Long-term care facility. A qualifying patient may designate a long-term care facility to assist with the qualifying patient's medical use of marijuana if that use is consistent with the facility's policy and is pursuant to subsection 1, paragraph F-1, subparagraph (2). If a long-term care facility is designated, the facility shall complete the registration process with the department and obtain a registration certificate for the facility. For a long-term care facility to be issued a registration certificate, staff persons of the facility who will be assisting a qualifying patient with the patient's medical use of marijuana in accordance with this chapter must be at least 21 years of age and may not have been convicted of a disqualifying drug offense. The long-term care facility and the staff of the facility may not cultivate marijuana plants for the patient.

[PL 2019, c. 501, §12 (AMD).]

4-A. Use and storage in inpatient long-term care facility permitted. A qualifying patient who is a resident of a long-term care facility while in the facility may use forms of harvested marijuana consistent with the facility's policy. A qualifying patient who uses a form of harvested marijuana pursuant to this subsection may store the harvested marijuana in the qualifying patient's room and is not required to obtain a registry identification card or to designate the long-term care facility under subsection 1, paragraph F-1, subparagraph (2). A long-term care facility is not required to be designated by a qualifying patient who uses harvested marijuana pursuant to this subsection. This subsection does not limit the ability of a long-term care facility to prohibit or restrict the use or storage of harvested marijuana by a qualifying patient.

[PL 2017, c. 452, §4 (AMD).]

5. Incidental amount of marijuana.

[PL 2017, c. 452, §4 (RP).]

6. Onsite assessments by the department.

[PL 2011, c. 407, Pt. B, §16 (RP).]

7. Excess marijuana; forfeiture.

[PL 2017, c. 452, §4 (RP).]

8. Repeat forfeiture.

[PL 2017, c. 452, §4 (RP).]

9. (REALLOCATED FROM T. 22, §2423-A, sub-§7) Collectives prohibited.
[PL 2017, c. 452, §4 (RP).]

10. Marijuana testing facility. The following provisions apply to a marijuana testing facility.

A. A marijuana 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. [PL 2019, c. 331, §13 (RPR).]

B. An assistant of a marijuana testing facility may have access to cultivation areas pursuant to subsection 3, paragraphs A and B and section 2428, subsection 6, paragraph I. [PL 2019, c. 331, §13 (RPR).]

C. A marijuana 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. [PL 2019, c. 331, §13 (RPR).]

D. **(CONFLICT: Text as repealed and replaced by PL 2019, c. 354, §3)** The department shall adopt routine technical rules as defined in Title 5, chapter 375, subchapter 2-A governing marijuana testing facilities, including but not limited to:

- (1) Marijuana testing facility officer or director qualification requirements;
- (2) Required security for marijuana testing facilities; and
- (3) Requirements for the registration, certification or other approval of marijuana testing facilities.

The failure of the department to adopt rules under this paragraph does not prevent a marijuana testing facility from engaging in activities in compliance with this chapter. [PL 2019, c. 354, §3 (RPR).]

D. **(CONFLICT: Text as repealed and replaced by PL 2019, c. 331, §13)** The department shall adopt routine technical rules as defined in Title 5, chapter 375, subchapter 2-A governing marijuana testing facilities, including but not limited to:

- (1) Marijuana testing facility officer or director qualification requirements;
- (2) Required security for marijuana testing facilities; and
- (3) Requirements for the licensing, certifying or other approval of marijuana testing facilities.

The failure of the department to adopt rules under this paragraph does not prevent a marijuana testing facility from engaging in activities in compliance with this chapter. [PL 2019, c. 331, §13 (RPR).]

D-1. Upon the adoption of rules pursuant to paragraph D and this paragraph, a marijuana testing facility must be certified by the certification program established pursuant to section 569 as meeting all operational and technical requirements in accordance with rules adopted by the department after consultation with the Maine Center for Disease Control and Prevention. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. A marijuana testing facility operating in compliance with this chapter on the date of the adoption of rules pursuant to this paragraph and paragraph D may continue to operate pending completion of certification under this paragraph. The failure of the department to adopt rules under this paragraph does not prevent a marijuana testing facility from engaging in activities in compliance with this chapter. [PL 2019, c. 354, §4 (NEW).]

E. **(CONFLICT: Text as repealed and replaced by PL 2019, c. 331, §13)** A marijuana 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. The department may inspect a marijuana testing facility during regular business hours and hours of apparent activity for compliance with this chapter. [PL 2019, c. 331, §13 (RPR).]

E. **(CONFLICT: Text as repealed and replaced by PL 2019, c. 354, §5)** A marijuana 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. [PL 2019, c. 354, §5 (RPR).]

F. The department and the Maine Center for Disease Control and Prevention may inspect a marijuana testing facility during regular business hours and hours of apparent activity for compliance with this chapter. [PL 2019, c. 354, §6 (NEW).]
[PL 2019, c. 331, §13 (AMD); PL 2019, c. 354, §§3-6 (AMD).]

11. Immunity.

[PL 2019, c. 331, §14 (RP).]

12. 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 marijuana testing facility providing services associated with product labeling for that dispensary, caregiver or manufacturing facility.

[PL 2019, c. 331, §15 (RPR).]

13. Moratorium ordinance.

[PL 2017, c. 447, §13 (RP); PL 2017, c. 452, §4 (RP); MRSA T. 22 §2423-A, sub-§13 (RP).]

14. Municipal regulation.

[PL 2019, c. 331, §16 (RP).]

SECTION HISTORY

PL 2009, c. 631, §21 (NEW). PL 2009, c. 631, §51 (AFF). RR 2011, c. 1, §31 (COR). PL 2011, c. 383, §1 (AMD). PL 2011, c. 407, Pt. B, §16 (AMD). RR 2013, c. 1, §§39, 40 (COR). PL 2013, c. 371, §§1-3 (AMD). PL 2013, c. 374, §1 (AMD). PL 2013, c. 393, §§1-3 (AMD). PL 2013, c. 396, §§2-8 (AMD). PL 2013, c. 424, Pt. G, §1 (AMD). PL 2013, c. 424, Pt. G, §2 (AFF). PL 2013, c. 498, §1 (AMD). PL 2013, c. 501, §1 (AMD). PL 2013, c. 516, §§6, 7 (AMD). PL 2013, c. 520, §1 (AMD). PL 2013, c. 588, Pt. A, §§25, 26 (AMD). PL 2013, c. 588, Pt. D, §3 (AMD). PL 2015, c. 475, §§6-14 (AMD). PL 2017, c. 271, §1 (AMD). PL 2017, c. 447, §§4-14 (AMD). PL 2017, c. 452, §4 (AMD). PL 2019, c. 217, §§2, 3 (AMD). PL 2019, c. 256, §2 (AMD). PL 2019, c. 331, §§5-16 (AMD). PL 2019, c. 354, §§2-6 (AMD). PL 2019, c. 501, §12 (AMD).

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