

§2428. Registered dispensaries

(CONFLICT)

1. Provisions pertaining to primary caregiver apply to nonprofit dispensary.

[PL 2009, c. 631, §42 (RP); PL 2009, c. 631, §51 (AFF).]

1-A. 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 marijuana to the qualifying patient in one transaction, except that a dispensary 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, §16 (AMD).]

B. Cultivate marijuana plants and possess all harvested marijuana from those marijuana plants; [PL 2017, c. 452, §16 (AMD).]

C. Receive reasonable monetary compensation for costs associated with assisting or for cultivating marijuana plants for the qualifying patient; [PL 2017, c. 452, §16 (AMD).]

D. Assist the qualifying patient with the medical use or administration of harvested marijuana; [PL 2019, c. 331, §22 (RPR).]

E. Obtain harvested marijuana from a caregiver under section 2423-A, subsection 2, paragraph K; [PL 2019, c. 331, §23 (RPR).]

F. Except as provided in section 2426:

(1) Transfer marijuana plants and harvested marijuana to a qualifying patient and to a caregiver on behalf of a qualifying patient in a retail sale for reasonable compensation;

(2) Transfer marijuana plants and harvested marijuana to a qualifying patient, caregiver or dispensary for no remuneration;

(3) Acquire marijuana plants and harvested marijuana from another dispensary for no remuneration;

(4) **(CONFLICT: Text as repealed and replaced by PL 2019, c. 331, §24)** Transfer to and accept from a registered caregiver or another dispensary marijuana plants and harvested marijuana in a wholesale transaction in accordance with this paragraph. A dispensary may transfer in wholesale transactions for reasonable compensation or for no remuneration up to 30% of the mature marijuana plants grown by the dispensary over the course of a calendar year, including any marijuana products or marijuana concentrate manufactured from that 30% of the mature marijuana 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 marijuana plants and seedlings. A dispensary that acquires mature marijuana plants, marijuana products or marijuana concentrate in a wholesale transaction under this subparagraph may not resell the mature marijuana plants, marijuana products or marijuana concentrate except to a qualifying patient or to a caregiver or dispensary to assist a qualifying patient;

(4) **(CONFLICT: Text as repealed and replaced by PL 2019, c. 354, §7)** Transfer to and accept from a registered caregiver or another dispensary marijuana plants and harvested marijuana in a wholesale transaction in accordance with this paragraph. A dispensary may transfer in wholesale transactions for reasonable compensation or for no remuneration up to 75% of the mature marijuana plants grown by the dispensary 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 dispensary. A dispensary may transfer to or accept from registered caregivers and dispensaries in wholesale transactions an unlimited amount of

immature marijuana plants and seedlings. A dispensary that acquires mature marijuana plants, marijuana products or marijuana concentrate in a wholesale transaction under this subparagraph may not resell the mature marijuana plants, marijuana products or marijuana concentrate except to a qualifying patient or to a caregiver or dispensary to assist a qualifying patient;

(5) Transfer harvested marijuana to a manufacturing facility and accept marijuana products and marijuana concentrate from the manufacturing facility that are produced from the harvested marijuana the dispensary provided to the manufacturing facility; and

(6) Provide samples to a marijuana testing facility for testing and research purposes; [PL 2019, c. 331, §24 (AMD); PL 2019, c. 354, §7 (RPR).]

G. Conduct marijuana testing at the request of anyone authorized to possess marijuana plants or harvested marijuana under this chapter for research and development purposes only; [PL 2019, c. 331, §25 (RPR).]

H. Manufacture marijuana 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; [PL 2017, c. 452, §16 (NEW).]

I. Manufacture marijuana concentrate for medical use, except that a dispensary may not produce marijuana concentrate using inherently hazardous substances unless authorized pursuant to section 2423-F, subsection 3; [PL 2017, c. 452, §16 (NEW).]

J. Provide harvested marijuana to a manufacturing facility and obtain marijuana products and marijuana concentrate from the manufacturing facility that is produced from the harvested marijuana the registered dispensary provided to the manufacturing facility; [PL 2017, c. 452, §16 (NEW).]

K. Hire any number of assistants to assist in performing the duties of the dispensary; and [PL 2017, c. 452, §16 (NEW).]

L. Transport marijuana plants and harvested marijuana as necessary to carry out the activities authorized under this section. [PL 2017, c. 452, §16 (NEW).]
[PL 2019, c. 331, §§22-25 (AMD); PL 2019, c. 354, §7 (AMD).]

2. Registration requirements.

[PL 2017, c. 452, §16 (RP).]

3. Rules.

[PL 2017, c. 452, §16 (RP).]

4. Expiration.

[PL 2017, c. 452, §16 (RP).]

5. Inspection.

[PL 2017, c. 452, §16 (RP).]

6. Registered dispensary requirements. This subsection governs the operations of registered dispensaries.

A. [PL 2017, c. 452, §16 (RP).]

B. A dispensary may not be located within 500 feet of the property line of a preexisting public or private school. [PL 2009, c. 631, §42 (AMD); PL 2009, c. 631, §51 (AFF).]

C. [PL 2017, c. 452, §16 (RP).]

D. [PL 2017, c. 452, §16 (RP).]

E. A dispensary shall implement appropriate security measures to deter and prevent unauthorized entrance into areas containing marijuana plants and harvested marijuana and the theft of marijuana plants and harvested marijuana at the dispensary and the one permitted additional location at which the dispensary cultivates marijuana plants for medical use by qualifying patients. [PL 2019, c. 331, §26 (AMD).]

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 2430-G. [PL 2017, c. 452, §16 (AMD).]

G. [PL 2017, c. 452, §16 (RP).]

H. All officers or directors of a dispensary must be residents of this State. [PL 2017, c. 452, §16 (AMD).]

I. All cultivation of marijuana plants must take place in a cultivation area unless the marijuana plants are being transported pursuant to subsection 1-A, paragraph L. Access to the cultivation area is limited to a cardholder who is an officer or director or assistant of the dispensary when acting in that cardholder's official capacity, except that an elected official invited by an officer or 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 marijuana testing facility or a person who needs to gain access to the 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 or director or assistant of the dispensary. [PL 2017, c. 452, §16 (AMD).]

J. [PL 2017, c. 452, §16 (RP).]

K. A dispensary shall display the dispensary's registration certificate issued under section 2425-A in a publicly visible location in the dispensary. [PL 2017, c. 452, §16 (AMD).]

L. [PL 2017, c. 452, §16 (RP).]

M. [PL 2017, c. 452, §16 (RP).]

N. [PL 2017, c. 452, §16 (RP).]
[PL 2019, c. 331, §26 (AMD).]

7. Maximum amount of marijuana 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 marijuana 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 marijuana to a visiting qualifying patient during a 15-day period. [PL 2017, c. 452, §16 (AMD).]

8. Immunity.

[PL 2009, c. 631, §42 (RP); PL 2009, c. 631, §51 (AFF).]

8-A. Immunity.

[PL 2017, c. 452, §16 (RP).]

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

A. [PL 2017, c. 452, §16 (RP).]

B. A dispensary may not dispense, deliver or otherwise transfer marijuana plants or harvested marijuana except as provided in this chapter. [PL 2019, c. 331, §27 (AMD).]

C. [PL 2017, c. 452, §16 (RP).]

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. [PL 2017, c. 452, §16 (AMD).]

E. [PL 2017, c. 452, §16 (RP).]

F. A dispensary may not contract for the cultivation of seeds of a marijuana plant, seedlings or immature marijuana plants, except that a dispensary may engage in wholesale transactions in accordance with subsection 1-A, paragraph F, subparagraph (4). [PL 2017, c. 452, §16 (AMD).]

G. A registered dispensary may not use a pesticide on marijuana 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 marijuana 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 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. [PL 2017, c. 452, §16 (AMD).]

[PL 2019, c. 331, §27 (AMD).]

10. Local regulation.

[PL 2017, c. 447, §22 (RP); PL 2017, c. 452, §16 (RP).]

11. Limitation on number of dispensaries.

[PL 2017, c. 452, §16 (RP).]

11-A. Limitation on number of dispensaries registered. This subsection governs the limits on the number of dispensary registration certificates that may be issued by the department.

A. In addition to the 8 dispensary registration certificates issued as of April 1, 2018, the department shall issue 6 dispensary registration certificates to applicants that the department determines meet all criteria established in rule. Of the new registration certificates issued after April 1, 2018, the department may not issue more than one additional registration certificate to any dispensary operating in the State on April 1, 2018 or to its successor in interest and the department may not issue more than one dispensary registration certificate to any person that did not hold a dispensary registration certificate as of April 1, 2018. After January 1, 2021, the department may not limit the number of registration certificates it issues to a person to operate as a dispensary. [PL 2017, c. 452, §16 (NEW).]

B. The department shall issue a registration certificate to a dispensary that operated as a nonprofit entity prior to April 1, 2018 if 2/3 of the officers or directors of the entity that is the successor in interest of that nonprofit entity were officers or directors of the nonprofit entity at the time the nonprofit entity ceased existing as a nonprofit entity. The registration certificate of a dispensary operating as a nonprofit entity prior to April 1, 2018 expires upon the cessation of existence of the nonprofit entity unless an entity that is the successor in interest to that nonprofit entity and that meets the requirements of this paragraph is capable of operating under the registration certificate at substantially the same time the nonprofit entity ceases existence. The registration certificate

issued to the entity that is the successor in interest to the nonprofit entity under this paragraph expires on the date the registration certificate issued to the nonprofit entity would have expired.

[PL 2017, c. 452, §16 (NEW).]

[PL 2017, c. 452, §16 (NEW).]

12. Labels.

[PL 2017, c. 452, §16 (RP).]

13. Reorganization to for-profit status. Any of the 8 registered dispensaries that were issued registration certificates as of April 1, 2018 and that are operating as nonprofit entities may convert to a for-profit entity pursuant to this subsection. A registered dispensary established pursuant to subsection 11-A, paragraph A that was not issued a dispensary registration certificate before April 1, 2018 and operates as a nonprofit entity may not convert to a for-profit entity.

A. A registered dispensary that is operating as a nonprofit entity may enter into any of the following transactions to reorganize the registered dispensary as a for-profit entity:

(1) A registered dispensary operating as a nonprofit entity may merge with and into a business corporation formed pursuant to Title 13-C;

(2) A business corporation formed pursuant to the laws of this State may purchase substantially all of the assets of a registered dispensary operating as a nonprofit entity; and

(3) Notwithstanding any provision of the law to the contrary in this Title, Title 13-B or Title 13-C, a registered dispensary operating as a nonprofit entity is entitled to convert into a domestic business corporation by adopting a plan of entity conversion in accordance with Title 13-C, section 953 that is approved by a vote of 2/3 of the members of the board of directors of the nonprofit entity at a meeting duly called for that purpose or by unanimous written consent. A plan of entity conversion adopted pursuant to this subparagraph must be signed and submitted to the Secretary of State on a form prescribed by the Secretary of State, must be executed and filed in the manner prescribed in Title 13-C, section 955 and is subject to Title 13-C, section 957. If the Secretary of State finds that such filings comply with this subparagraph, the Secretary of State shall accept the filings. [PL 2019, c. 312, §1 (NEW).]

B. Notwithstanding Title 13-B, section 718, and notwithstanding any provision to the contrary in the articles of incorporation or the bylaws of a registered dispensary operating as a nonprofit entity, there exists no conflict of interest nor violation of fiduciary duty for the directors of a registered dispensary operating as a nonprofit entity for the limited purposes of:

(1) Approving a transaction in order to reorganize pursuant to this section as set forth in paragraph A, subparagraph (1), (2) or (3);

(2) Issuing any shares, membership interests or other securities, obligations, rights to acquire interests or other securities, cash or other property in order to reorganize pursuant to this section; or

(3) Designating the directors or a business corporation in which the directors hold interests as members of a nonprofit entity that previously had no members in order to reorganize pursuant to this section. [PL 2019, c. 312, §1 (NEW).]

C. The patients of a registered dispensary that is operating as a nonprofit entity may not be deemed members entitled to vote under Title 13-B, section 604, nor may such patients be deemed members for purposes of a merger, purchase or conversion reorganization transaction pursuant to this subsection. [PL 2019, c. 312, §1 (NEW).]

D. If a registered dispensary reorganizes as a for-profit entity pursuant to this section and subsequently sells or transfers its interest in the reorganized registered dispensary, the registered dispensary or the dispensary's successor in interest, shall pay to the Medical Use of Marijuana Fund

established under section 2430 a percentage of the value of the sale or transfer of interest, as determined by an independent appraisal at the time of the sale or transfer of interest, in accordance with this paragraph:

- (1) If the sale or transfer of interest is completed in the first year after the reorganization, the amount paid to the Medical Use of Marijuana Fund must equal 10% of the value of the sale or transfer of interest;
- (2) If the sale or transfer of interest is completed in the 2nd year after the reorganization, the amount paid to the Medical Use of Marijuana Fund must equal 7.5% of the value of the sale or transfer of interest;
- (3) If the sale or transfer of interest is completed in the 3rd year after the reorganization, the amount paid to the Medical Use of Marijuana Fund must equal 5% of the value of the sale or transfer of interest; and
- (4) If the sale or transfer of interest is completed in the 4th year after the reorganization, the amount paid to the Medical Use of Marijuana Fund must equal 2.5% of the value of the sale or transfer of interest.

The cost of an appraisal required under this paragraph must be paid from the Medical Use of Marijuana Fund. [PL 2019, c. 312, §1 (NEW).]

E. A registered dispensary that reorganizes as a for-profit entity pursuant to this section, or the dispensary's successor in interest if the dispensary sells or transfers its interest in the reorganized registered dispensary, shall demonstrate to the department as a condition of registration pursuant to section 2425 that the registered dispensary or the dispensary's successor in interest has provided discounts in an amount that is not less than 2% of gross sales of the registered dispensary in the previous year to qualifying patients who:

- (1) Are receiving hospice care;
- (2) Are 65 years of age or older;
- (3) Have a family income that is equal to or below 400% of the nonfarm income official poverty line; or
- (4) Are veterans of the United States Armed Forces.

The department shall submit a report to the joint standing committee of the Legislature having jurisdiction over health and human services matters by January 15, 2023 regarding the discounts provided by registered dispensaries or the dispensary's successor in interest pursuant to this paragraph. A registered dispensary subject to this paragraph shall provide to the commissioner an annual accounting demonstrating compliance with this paragraph.

This paragraph is repealed July 1, 2023. [PL 2019, c. 312, §1 (NEW).]

F. A registered dispensary subject to paragraph D shall provide to the Attorney General the independent appraisal required in paragraph D. [PL 2019, c. 312, §1 (NEW).]

G. Except as provided in paragraph F, a transaction pursuant to this subsection does not require any approval or notice under the provisions of Title 5, chapter 9. [PL 2019, c. 312, §1 (NEW).]

H. The registration status of a registered dispensary that has completed a reorganization transaction pursuant to this subsection is governed by subsection 11-A, paragraph B. [PL 2019, c. 312, §1 (NEW).]

[PL 2019, c. 312, §1 (NEW).]

SECTION HISTORY

IB 2009, c. 1, §5 (NEW). PL 2009, c. 631, §42 (AMD). PL 2009, c. 631, §51 (AFF). PL 2011, c. 407, Pt. B, §32 (AMD). RR 2013, c. 1, §41 (COR). PL 2013, c. 371, §4 (AMD). PL 2013, c. 374, §2 (AMD). PL 2013, c. 393, §4 (AMD). PL 2013, c. 394, §§7, 8 (AMD). PL 2013, c. 498, §2 (AMD). PL 2013, c. 501, §2 (AMD). PL 2013, c. 503, §§2-6 (AMD). PL 2013, c. 516, §15 (AMD). PL 2015, c. 475, §§ 22-24 (AMD). PL 2017, c. 409, Pt. E, §9 (AMD). PL 2017, c. 447, §§19-22 (AMD). PL 2017, c. 452, §16 (AMD). PL 2019, c. 312, §1 (AMD). PL 2019, c. 331, §§22-27 (AMD). PL 2019, c. 354, §7 (AMD).

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