



JANET T. MILLS  
GOVERNOR

STATE OF MAINE  
OFFICE OF CANNABIS POLICY  
162 STATE HOUSE STATION  
19 UNION STREET  
FIRST FLOOR  
AUGUSTA, MAINE 04333-0162

ADMINISTRATIVE & FINANCIAL SERVICES

KIRSTEN LC FIGUEROA  
COMMISSIONER

OFFICE OF CANNABIS POLICY

ERIK GUNDERSEN  
DIRECTOR

To: Current MMCP Participants  
From: Director Erik Gundersen, Office of Cannabis Policy  
Date: Monday, June 27, 2022  
Subject: Guidance on the implementation of *An Act To Update and Clarify the Maine Medical Use of Marijuana Act*, LD 1928

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## Background

This guidance is provided by the Office of Cannabis Policy (OCP) to make Maine Medical Use of Cannabis Program (MMCP) registrants aware of recent changes to the laws governing this program as a result of the most recent legislative session – specifically, P.L. 2021, ch. 662, *An Act To Update and Clarify the Maine Medical Use of Marijuana Act* (LD 1928).

This guidance is not intended to be a comprehensive summary of all legislative changes associated with this bill; rather, it is being provided as a courtesy, should not be construed as legal advice, and should not be viewed as a substitute for program registrants consulting with qualified business consultant(s) and/or attorney(s) about the application of the requirements of the Maine Medical Use of Cannabis Act to their unique situation.

## Guidance

LD 1928 impacts the MMCP in the following notable ways. OCP is providing further guidance below where statutory changes impact licensing and compliance requirements administered by the Office:

1. Authorization for assistants of caregivers and/or dispensaries to obtain a single Registry Identification Card (RIC), not associated with any particular caregiver or dispensary, as proof of authorized conduct to operate as an assistant to caregivers and dispensaries.
  - OCP has established [an updated application and licensing process for Caregiver and Dispensary Assistants to obtain a single RIC on its website under Medical Use-Applications and Forms](#). Upon request, OCP may provide a print version of this form, but please note that **online applications are preferred and are able to be processed faster**.
  - In addition to existing application requirements, OCP will also require applicants for a new or renewal assistant RIC to provide both a **valid e-mail address** where the applicant/cardholder will receive official correspondence from OCP and a **photo of the applicant** (a clear image of the applicant's face with a plain white or off-white background; that has not been digitally altered; high enough resolution to avoid being blurry, grainy, or pixelated; and that is 2 x 2 inches) that will be printed on the assistant's RIC. OCP will not consider complete any application for an RIC that does not include a valid e-mail address and a picture of the applicant as described.

- **Current assistant cards will remain active until they expire.** Individuals with multiple assistant cards expiring on different dates may use the card with the latest expiration date. There is no need for individuals holding current cards to apply for an RIC until their current card expires. Registered caregiver assistants and dispensary assistants will need to apply for an RIC at least 30 days prior to the expiration of their current cards in order to avoid a lapse in registration. Registered caregivers must obtain an RIC if planning to work for other registered caregivers or registered dispensaries.
  - OCP historically has not collected emails or communicated with caregiver or dispensary assistants directly. Given these changes explicitly impact caregiver and dispensary assistants and OCP does not have a way to communicate directly with this group, **we ask that all caregivers and dispensary officers receiving this communication share it with their assistants for their awareness.**
  - OCP also will be developing and publishing on its website a release of information form to be used by registered caregiver and registered dispensaries to provide to their assistants. In accordance with the confidentiality provisions of 22 MRS § 2425-A(12), **a release of information from each registered assistant will be required for OCP to verify to a specific registered caregiver or registered dispensary whether a particular assistant possesses a current and valid RIC.**
  - Please note that OCP will be creating two new, separate, “change/re-issue” forms for caregiver registry identification cards and assistant registry identification cards. OCP is making these changes to reduce application process times and requests from OCP to applicants for additional information required for application processing.
2. Defines the terms “timely filed” and “complete application” and specifies a presumption of continued compliance for registered caregivers and registered dispensaries that timely file complete applications for renewal of a registry identification card or registration certificate, as applicable.
- **Effective immediately**, upon receipt of a “timely filed” “complete application” for renewal of an RIC or registration certificate, OCP will issue to the applicant a letter that serves as notice to the applicant and all interested 3<sup>rd</sup> parties (with whom the applicant chooses to share the letter) that the applicant is presumed by OCP to be in continued compliance with the requirements of the Maine Medical Use of Cannabis Program
  - In order to be considered a “complete application” for renewal, the application must include:
    - Completed application forms required and provided by OCP;
    - Information for OCP to determine that the applicant is in compliance with the residency requirements applicable to the applicant’s registration type;
    - That the applicant has submitted to a criminal history records check within one year of the date of application, if applicable;
    - For applicants for caregiver registry identification cards and dispensary registration certificates, that the applicant has registered with the State Tax Assessor in accordance with 36 MRS § 1754-B to collect and remit sales tax on harvested cannabis; and

- For applicants for renewal of a dispensary registration certificate, proof of municipal authorization to operate within the municipality where the dispensary conducts authorized activities, if applicable.
  - **In order to be considered “timely filed”, the complete application must be submitted to OCP not more than 60 days or fewer than 30 days before the applicant’s current registry identification card or registration certificate expires.**
3. Amends the definitions “cultivation area” and “plant canopy” and allows registered caregivers to maintain up to two separate cultivation areas, one for the cultivation of up to 30 mature cannabis plants or 500 square feet of mature plant canopy, and another for the cultivation of up to 60 immature cannabis plants or 1000 square feet of immature plant canopy.
- **No action is immediately required for current registered caregivers.** OCP will presume that the cultivation location listed on their current application for a new or renewed registry identification card represents the location of all of that caregiver’s cultivation area. If a caregiver wishes to add a second cultivation location, they may do so [by completing a request form available at OCP’s website](#).
  - At the time a caregiver renews their caregiver registration, the caregiver will be required to identify on their renewal application the location of both their “immature” and “mature” cultivation areas.
4. Permits the acceptance of a digital image of a patient certification by registered caregivers and dispensaries to complete a transaction with a qualifying patient.
- A certifying provider must still issue to qualifying patients a physical patient certification on tamper-resistant paper provided by OCP;
  - In addition to patient certification issued by the provider on tamper-resistant paper, the certifying provider may provide to the qualifying patient a digital image of the patient’s written certification.
  - Any digital image of a patient certification provided by a certifying provider must contain all information included on the patient certification and must be legible in the digital image.
  - **It is the responsibility of registered caregivers and registered dispensaries to ensure that they transfer cannabis plants and harvested cannabis only to qualifying patients with a current, valid patient certification, or to other registrants otherwise authorized to possess cannabis for medical use, including, but not limited to, visiting, qualified out-of-state patients.**
5. Additionally, the following changes to the medical program were included in LD 1928, but do not immediately impact OCP program operations:
- Definition of the term “tincture;”
  - Definition of the terms “telehealth” and “synchronous” and explicit statutory authorization for a provider to conduct patient certifications through synchronous telehealth appointments, such as real-time video or phone calls;

- Updates to the pediatric certification process to remove the requirement that a pediatric patient have one of several qualifying conditions to be certified by a provider without a second opinion;
- A requirement that certifying providers of pediatric patients provide to a pediatric patient's parent or guardian with a method for contacting the provider outside of normal business hours;
- Authorization for all registered caregivers, regardless of whether the caregiver operates a retail store, to accept remuneration for immature plants and seedlings sold to qualifying patients; and
- Restrictions on the circumstances under which a program participant (including registrants and patients) or a person who accompanies a patient, can be compelled to disclose information to law enforcement that could reasonably identify an individual's identity.

Thank you for your attention and consideration to these matters.

Sincerely,

A handwritten signature in black ink, appearing to read 'Erik Gundersen', written in a cursive style.

Erik Gundersen  
Director