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To: Current and Prospective Maine Medical Use of Cannabis Program Participants  
From: Director John Hudak, Office of Cannabis Policy  
Date: July 30, 2024  
Subject: Implementation of Recently Enacted Legislation – Effective August 9, 2024

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### Background

Several laws were enacted during the second regular session of the 131<sup>st</sup> Legislature that will impact the regulation of Maine Medical Use of Cannabis Program (MMCP) participants. Specifically, *An Act to Protect Liberty and Advance Justice in the Administration and Enforcement of the Cannabis Legalization Act and the Maine Medical Use of Cannabis Act*, [P.L. 2023, ch. 679](#), makes changes to the *Maine Medical Use of Cannabis Act* (MMUCA) regarding:

- Issuance and renewal of registry identification cards;
- Short term assistance between caregivers;
- Dispensary parking; and
- Labeling and advertising requirements of the Act.

Also included in that law are changes that could impact the municipal regulation of participants in Maine's medical cannabis program. Like all non-emergency legislation enacted during the second regular session, these laws go into effect **August 9, 2024**. The Office of Cannabis Policy (OCP) is providing the following overview as a courtesy to interested program participants, but this document is not an exhaustive review of legislative changes affecting the administration of the State's medical cannabis program, nor should it be construed as legal advice. Program participants are encouraged to contact their own counsel to determine what impact, if any, the changes identified below will have on their operations.

### Guidance

The following is a brief review of the statutory and rule provisions of which OCP has received questions regarding the timelines for implementation. However, it does not address the implementation timeline for every provision of recently enacted legislation affecting the MMCP.

### **Issuance and Renewal of Registry Identification Cards**

As discussed in [previous guidance](#), *An Act to Protect Liberty and Advance Justice in the Administration and Enforcement of the Cannabis Legalization Act and the Maine Medical Use of Cannabis Act*, [P.L. 2023, ch. 679](#), included provisions regarding the criminal history record check and renewal requirements for assistants, registered caregivers, and officers and directors of registrants operating in the medical cannabis program. Pursuant to that previous guidance document, the following changes have already been implemented by OCP:

- **Effective May 15, 2024**, employees and assistants, who are not officers or directors, of registered caregivers, dispensaries, manufacturing facilities, and cannabis testing facilities are no longer required to submit to a criminal history record check in order to obtain or maintain an assistant registry identification card.
- **Effective July 1, 2024**, registry identification cards issued to assistants, officers, and directors are valid for two years from the date of issuance or renewal. Caregiver registry identification cards and registration certificates issued to registered dispensaries, manufacturing facilities, or cannabis testing facilities are still valid for one year from the date of issuance, but registered caregivers and officers and directors of registered dispensaries, manufacturing facilities, or cannabis testing facilities are now only required to submit to a criminal history record check once every 24 months.

### **Short Term Assistance Between Caregivers**

P.L. 2023, ch. 679 also created a process by which registered caregivers can temporarily assist one another for up to 90 days without running afoul of the statutory prohibition on the operation of “collectives” by registered caregivers. **Effective August 9, 2024**, a registered caregiver may assist up to two other registered caregivers for a period not to exceed 90 days within a calendar year, provided the registered caregiver has provided notice of that assistance to OCP on the Caregiver Short-Term Assistance Form which will soon be available [here](#). Caregivers can also use the form to request approval from OCP for temporary assistance that is expected to exceed 90 days.

### **Dispensary Parking**

Another change included in the law and **effective Friday, August 9**, is the elimination of the requirement that registered dispensaries maintain dedicated parking spots in order to receive or renew a dispensary registration certificate issued by OCP. While OCP will not be requiring the designation of parking spots for dispensaries, current and prospective dispensaries should review local regulations in their host community to ensure compliance with all applicable municipal requirements.

### **Labeling and Advertising Requirements of the Act**

**Effective Friday, August 9**, P.L. 2023, ch. 679 also permits the use of patient testimonials regarding the palliative or therapeutic effect of medical cannabis on the patient’s medical condition(s) in advertising and marketing materials used by a registrant, or on the labels of harvested cannabis offered to qualifying patients. Any such patient testimonials must include the following disclaimer: *This statement has not been evaluated by the United States Food and Drug Administration (FDA). This product is not intended to diagnose, treat, cure or prevent any disease.* The disclaimer must be printed in the same font, and at the same font size, as any testimonials it accompanies.

### **Changes Affecting the Municipal Regulation of MMCP Participants**

Finally, P.L. 2023, ch. 679 included several changes to the medical cannabis program that could impact the municipal regulation of medical cannabis program participants and could require

action by municipalities. That is because the new law repeals the definitions section of MMUCA, 22 MRS § 2422 and replaces it with a new definitions section altogether, 22 MRS § 2421-A. Some municipal regulations cite directly to the repealed definitions section for a number of applicable definitions used in local municipal cannabis regulations, and so it may be important for municipalities to update those citations. It is also important to note a substantive change to the definition of the term “caregiver retail store”.

**Effective Friday, August 9**, a “caregiver retail store” will be defined as “a store authorized in accordance with this chapter and used by a registered caregiver to sell cannabis paraphernalia, cannabis plants, harvested cannabis, related supplies or educational materials to qualifying patients and other items to the general public at a fixed location.”<sup>1</sup> This new definition encompasses more kinds of retail locations than the previous definition and includes most “offices” used by registered caregivers to make sales to qualifying patients. As a result, some registered caregivers who did not previously request authorization to operate a caregiver retail store will need to do so, as they will need to provide OCP with proof of municipal authorization and municipal approval to operate that caregiver retail store upon annual renewal of their caregiver registry identification card.

It is OCP’s understanding that some municipalities have not opted in to permit the operation of caregiver retail stores in accordance with the requirements of 22 MRS § 2429-D. That section of MMUCA requires a municipality to affirmatively authorize the operation of caregiver retail stores in order for a municipality to give municipal approval to permit a registered caregiver to operate a retail store. The only exception to this local authorization requirement is a “grandfathering” provision for registered caregivers who were operating a retail store with local approval prior to December 13, 2018.<sup>2</sup> This means that a registered caregiver that is operating a caregiver retail store must provide to OCP, upon request to add the authorized activity of operating a caregiver retail store and each year at renewal, a copy of the Caregiver Retail Store Local Authorization Form completed by an authorized municipal official. A copy of that form is available on [OCP’s website](#) and program participants or municipalities with questions regarding the form can reach out to OCP’s Licensing Team at [Licensing.OCP@maine.gov](mailto:Licensing.OCP@maine.gov).

Whether or not a caregiver retail store is “grandfathered” in accordance with 22 MRS § 2429-D is a determination of the municipality. For a caregiver that is not “grandfathered” in accordance with 22 MRS § 2429-D, a municipality may not give local approval to a caregiver retail store (or other registrant) unless the municipal legislative body has voted to adopt or amend an ordinance or warrant article authorizing the operation of caregiver retail stores within that municipality.

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<sup>1</sup> The repealed definition of “caregiver retail store” from 22 MRS § 2422(1-F) reads: ““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.”

<sup>2</sup> Both the local authorization and grandfathering provisions of 22 MRS § 2429-D apply not only to caregiver retail stores, but to registered dispensaries, manufacturing facilities and testing facilities as well. Given that the changes discussed above are necessitated by the change in the definition of “caregiver retail store”, the guidance is focused on the interplay between that definitional change and the local regulation provisions of MMUCA for the sake of simplicity.

OCP understands that this change may cause challenges for registered caregivers and municipalities alike, as some municipalities may not have an ordinance or warrant article that authorizes the operation of caregiver retail stores. OCP strongly encourages program participants to reach out to the municipality where they operate a caregiver retail store to ensure that there is an ordinance or warrant article on the books that authorizes the operation of caregiver retail stores, as defined in 22 MRS § 2421-A within the municipality, or area of the municipality, where the store is located. If updates are necessary, municipalities are encouraged to reach out to OCP immediately to discuss the municipality's plans to adopt or amend a warrant article or ordinance regarding caregiver retail stores. While OCP cannot authorize the operation of caregiver retail stores in communities that have not adopted or amended a warrant article or ordinance authorizing the same, OCP is committed to working with program participants and their host communities to reduce any disruption to registered caregivers, their employees, and the patients they serve if municipalities wish to permit the continued operation of caregiver retail stores within their borders.

### Conclusion

*An Act to Protect Liberty and Advance Justice in the Administration and Enforcement of the Cannabis Legalization Act and the Maine Medical Use of Cannabis Act, P.L. 2023, ch. 679*, includes provisions that impact the regulation of participants in Maine's medical cannabis program. In anticipation of this new law going into effect, OCP is providing this guidance to ensure that current and prospective medical program participants are aware of legislative changes that could impact their businesses.

Unless otherwise specified in this guidance, the statutory changes included in P.L. 2023, ch. 679 will go into effect on **August 9, 2024**. Program participants are encouraged to contact their own attorney for guidance regarding the applicability of these changes to their particular circumstances, and individuals with questions regarding this guidance can contact OCP's Licensing Team at [Licensing.OCP@maine.gov](mailto:Licensing.OCP@maine.gov) or OCP's Policy Director at [Gabi.Pierce@maine.gov](mailto:Gabi.Pierce@maine.gov).