



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

JOHN HUDAK  
DIRECTOR

To: Maine Municipal Staff and Officials Responsible for Local Oversight and Regulation of Cannabis Businesses  
From: Director John Hudak, Office of Cannabis Policy  
Date: July 30, 2024  
Subject: Implementation of Recently Enacted Legislation – Effective August 9, 2024

---

### Background

During the second regular session of the 131<sup>st</sup> Legislature, several laws were enacted that may impact local regulation of medical and adult use cannabis program participants by municipalities. Specifically, *An Act to Implement the Recommendations of the Right to Know Advisory Committee Regarding Public Records Exceptions*, [P.L. 2023, ch. 637](#), and *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](#), both include provisions that could impact the municipal regulation of participants in Maine’s cannabis programs. Like all non-emergency legislation enacted during the second regular session, those laws go into effect on **August 9, 2024**, unless otherwise indicated in this guidance document.

The Office of Cannabis Policy (OCP) is providing the following overview as a courtesy to interested municipal officials, but this document is not an exhaustive review of legislative changes affecting the administration of the State’s medical and adult use cannabis programs, nor should it be construed as legal advice. Municipal staff and officials are encouraged to contact their own counsel to determine what impact, if any, the changes identified below will have on operations within their own municipality.

### Guidance

The Legislature recently made a number of changes to the laws governing Maine’s medical and adult use cannabis programs. This document begins with an overview of statutory changes that **go into effect Friday, August 9, 2024**, and affect the Maine Medical Use of Cannabis Program (MMCP) and ends with an overview of changes that will go into effect later this year upon the completion of major substantive rulemaking for the Adult Use Cannabis Program (AUCP).

These changes may require prompt action by municipal officials to review any existing warrant articles or ordinances governing the operation of medical cannabis registrants within the municipality. Municipal staff and officials are encouraged to contact their own counsel to determine what impact, if any, the changes identified below will have on operations within their own municipality. OCP’s licensing and compliance teams are available to work with

municipalities and program participants to minimize disruptions if municipalities and their residents require additional time to address the following changes as necessary.

### **Changes effective August 9, 2024, that affect the Maine Medical Use of Cannabis Program**

#### *An Act to Implement the Recommendations of the Right to Know Advisory Committee Regarding Public Records Exceptions, P.L. 2023, ch. 637*

One law that may improve the ability of municipalities to account for and regulate medical program participants operating within a municipality is [P.L. 2023, ch. 637](#). This law repealed and replaced the confidentiality provisions of the Maine Medical Use of Cannabis Act (MMUCA), Title 22, ch. 558-C, following review of those provisions by the Legislature’s Right to Know Advisory Committee. The new confidentiality provisions of the MMUCA maintain the confidentiality of any patient information obtained or maintained by OCP, while providing that a patient could permit the release of such information with written consent.

The new law makes public most information regarding registered caregivers, dispensaries, manufacturing facilities, or testing facilities operating in the medical cannabis program and creates specific exceptions for certain kinds of information. Specifically, the new law exempts from disclosure the “personal contact information” of registered caregivers, or assistants, officers or directors of a registered caregiver, dispensary, manufacturing facility or testing facility. P.L. 2023, ch. 637 also makes confidential the home address of a registered caregiver who is conducting some or all of that registered caregiver’s authorized caregiver activities from the caregiver’s home. However, this new confidentiality provision explicitly permits OCP to disclose the home address of a registered caregiver who conducts some or all of the registered caregiver’s authorized activities from their home:

1. To state, county and municipal employees responsible for the administration of the MMUCA, except that such information received by a municipality (or other government entity) is confidential and may not be further disclosed or disseminated; or
2. When such disclosure is necessary to protect the public from a threat to public health or safety.

As a result of these changes, OCP is now permitted to provide interested municipalities with information regarding the registered caregivers, dispensaries, manufacturing facilities, and cannabis testing facilities operating within their borders. In addition to the information available to municipalities, OCP will be making available to the public a registrant database that will include information regarding the status of program registrants. Lastly, before the end of this year, OCP also anticipates making available a database of all enforcement actions for the medical cannabis program.

#### *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*

[P.L. 2023, ch. 679](#) included a number of changes to the medical cannabis program that not only impact municipal administration of local warrant articles and ordinances, but the continued applicability of those local regulations. 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.<sup>1</sup> This is important because 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 because of 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>2</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 local 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>3</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 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 in 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

---

<sup>1</sup> Please note that P.L. 2023, ch. 679 repealed and replaced the definitions section of the laws governing the adult use program, too, so municipalities should review any citations to the laws of Maine used in their cannabis regulations.

<sup>2</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>3</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.

ordinance or warrant article authorizing the operation of caregiver retail stores within that municipality.

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 on the books 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, as defined in 22 MRS § 2421-A, to ensure that there is an ordinance or warrant article on the books that authorizes the operation of caregiver retail stores 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.

One other statutory change of note included in P.L. 2023, ch. 679 was the elimination of the requirement that registered dispensaries maintain dedicated parking spots in order to receive or renew a dispensary registration certificate issued by the Office of Cannabis Policy. It is OCP's understanding that some municipalities have deferred consideration of parking matters in their municipal ordinances because dedicated parking spaces have been required of registered dispensaries since their inception, so municipalities may want to review any local medical cannabis ordinances to determine whether local regulation of such parking issues is appropriate.

### **Changes effective later this year upon the completion of major substantive rulemaking for the Adult Use Cannabis Program**

*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*

While the bulk of the changes discussed in this document are related to the Maine Medical Use of Cannabis Program, through [P.L. 2023, ch. 679](#), the Legislature also authorized OCP to finally adopt several major substantive rules affecting the Adult Use Cannabis Program (AUCP), provided that OCP update those major substantive rules to reflect legislative changes made during the 131<sup>st</sup> Legislature.<sup>4</sup>

Municipalities are advised that when OCP finally adopts those major substantive rules this fall, the following changes will go into effect:

---

<sup>4</sup> Per the Maine Administrative Procedure Act, Title 5, ch. 375, major substantive rules must be finally adopted within 60 days of the effective date of any legislation authorizing their adoption. Finally adopted major substantive rules become effective 30 days after the rules are finally adopted by the agency that promulgated them. In this case, P.L. 2023, ch. 679 goes into effect on August 9, 2024, which means OCP must finally adopt those rules no later than October 8, 2024, which means the major substantive rules affecting the Adult Use Cannabis Program will become effective no later than November 7, 2024.

- Adult use cannabis stores may obtain from OCP a permit to conduct off-premises sales of adult use cannabis and cannabis products at a specified event, provided the store has obtained written authorization to conduct such sales from the municipality where the event is being hosted, as well as authorization from the owner of any private property where the specified event will be conducted;
- Tier 1, Tier 2 and nursery cultivation facilities, as well as products manufacturing facilities will be permitted to conduct retail sales to consumers by delivery, just like a cannabis store licensee, except that nursery cultivation facilities may only conduct sales by delivery of cannabis seeds, seedlings and agriculture or gardening supplies; and
- Products manufacturing facilities that are also licensed as a food establishment by the Department of Agriculture, Conservation and Forestry will be permitted to manufacture food that does not contain hemp or cannabis in the licensed premises of the products manufacturing facility.

### Conclusion

*An Act to Implement the Recommendations of the Right to Know Advisory Committee Regarding Public Records Exceptions, P.L. 2023, ch. 637, and 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, include provisions that could impact the municipal regulation of participants in Maine’s medical and adult use cannabis programs. In anticipation of these new laws going into effect, OCP is providing this guidance to ensure that municipalities are aware of legislative changes that could impact their local regulation of cannabis program participants operating within their borders.*

Unless otherwise specified in this guidance, the statutory changes included in P.L. 2023, ch. 637 and P.L. 2023, ch. 679 will go into effect on **August 9, 2024**. Statutory changes that will not be implemented on August 9 will be deferred until OCP finally adopts the major substantive rules governing the Adult Use Cannabis Program later this year.

Municipalities 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).