

STATE OF MAINE

**MAINE MEDICAL USE OF
CANNABIS PROGRAM RULE**

18-691 CODE OF MAINE RULES

Chapter 2

(formerly 10-144 ch. 122)



**Department of Administrative and Financial Services
Office of Cannabis Policy
162 State House Station
Augusta, Maine 04333**

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STATUTORY AUTHORITY

Chapter 2 – Maine Medical Use of Cannabis Program Rule

Purpose

The Maine Medical Use of Cannabis Program Rule and the enabling statute, *Maine Medical Use of Cannabis Act*, govern the Maine Medical Use of Cannabis Program (MMCP). The Department is responsible for administering the MMCP to ensure qualifying patients' access to safe cannabis for medical use in the State of Maine. This rule clarifies statutory requirements and describes program administration and operations needed to carry out provisions of the Act. Implementation of program operations and assurance of lawful participation requires conjunctive application of both statute and rule.

This rule includes definitions of terms and procedures for issuing a certificate of registration to a dispensary and registry identification cards to persons authorized conduct under the Act. This rule also governs payments of fees and enforcement of these regulations.

The activities described in this rule and the enabling statute are considered a violation of federal law. Individuals participating in the MMCP may be subject to federal sanctions for what is otherwise considered authorized conduct in the State of Maine. The Department is not responsible or liable for the actions of program participants under this rule.

§ 1 – Definitions. Definitions in this rule are in addition to definitions in the Act. As used in this rule, unless the context otherwise indicates, the following terms have the following meanings.

Act means the *Maine Medical Use of Cannabis Act*.

Adulterated, for the purposes of this rule, means made impure or inferior by adding extraneous ingredients. Goods that are manufactured in food establishments that are licensed facilities pursuant to 22 M.R.S. §2167 and that contain cannabis for medical use by a qualifying patient are not considered to be adulterated.

Appellant means a registrant, registry identification cardholder or applicant who timely appeals the decision of the Department to take administrative action, impose fines, or require the destruction or forfeiture of cannabis plants, cannabis or cannabis products for medical use.

Applicant means a person who submits an application for a registry identification card and/or registration certificate, or an application to renew a registry identification card or registration certificate, to the Department for review that the Department has not yet approved or denied.

Authorized agent has the same meaning as “Covered entity agent” as defined in 22 MRS § 2430-I(1)(B), which is an assistant, employee, officer, director or other authorized representative of a registered caregiver, dispensary, cannabis testing facility, manufacturing facility or person authorized to engage in cannabis extraction using inherently hazardous substances under the Act.

Bona fide medical provider-patient relationship means a relationship in which the treating medical provider has ongoing responsibility for the assessment, care, and treatment of a qualifying patient's medical condition with respect to the medical use of cannabis.

Cardholder means a registered patient, a registered caregiver, an employee or contractor of a caregiver or a principal officer, board member or employee of a registered dispensary who has been issued and possesses a valid registry identification card.

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, cannabis or cannabis products for medical use for sale to qualifying patients.

Commissioner means the Commissioner of the Department of Administrative and Financial Services.

Complete application means, with respect to an application for a registry identification card or a registration certificate, that:

- A. The applicant has completed and submitted to the department all application forms required and provided by the department;
- B. The applicant has submitted to the department documentation sufficient to satisfy all applicable residency requirements of this chapter, which may include, but is not limited to, a valid photographic identification card issued by the State;
- C. If required by the department pursuant to this chapter, the applicant has submitted to a criminal history record check;
- D. If applying for a registry identification card for a caregiver or a registration certificate for a dispensary, the applicant has registered with the State Tax Assessor pursuant to 36 MRS § 1754-B to collect and remit the sales tax on the sale of harvested cannabis imposed under 36 MRS § 1811 and has provided to the department documentation of the registration; and
- E. If applying for a registration certificate for a dispensary, the applicant has submitted to the department documentation sufficient to show that the applicant has fulfilled any applicable municipal authorization requirements for the municipality in which the applicant intends to operate the dispensary.

Deficiency means a violation of or failure to comply with a provision of this rule or the Act.

Department means the Department of Administrative and Financial Services.

Dwelling unit means a structure or the part of a structure located at a residence that is used as a home or sleeping place by one person who maintains a household or by two or more persons who maintain a common household. "Dwelling unit" does not include any attached or detached shed, greenhouse, barn, garage, outbuilding, structure or outdoor cultivation area that is located at the same residence but separate from the structure or part of the structure used as a home or sleeping place.

Immature cannabis plant means a cannabis plant that is not a mature cannabis plant or seedling. "Immature cannabis plant" does not include hemp as defined in 7 MRS § 2231(1-A)(D).

Inherently hazardous substance means a liquid chemical; a compressed gas; carbon dioxide; or a commercial product that has a flash point at or lower than 100 degrees Fahrenheit, including,

but not limited to, butane, propane and diethyl ether. "Inherently hazardous substance" does not include any form of alcohol or ethanol.

Medical cannabis or "cannabis for medical use" means the plant material, including flower, trim and seeds, harvested from a mature cannabis plant, except the stalks, leaves and roots of the plant that are not used for a qualifying patient's medical use. "Medical cannabis" includes cannabis concentrate and does not include plant material harvested from hemp as defined in 7 MRS § 2231(1-A)(D).

Medical cannabis plants or "cannabis plant for medical use" means a plant of the genus Cannabis, including, but not limited to, Cannabis sativa, Cannabis indica and Cannabis ruderalis that is cultivated by a registered caregiver or registered dispensary for the purpose of assisting qualifying patients with the medical use of cannabis. "Cannabis plant" does not include hemp as defined in 7 MRS § 2231(1-A)(D).

Medical cannabis product or "cannabis product for medical use" means a product composed of medical cannabis and other ingredients that is intended for medical use. "Cannabis product" includes, but is not limited to, an edible cannabis product, a cannabis ointment and/or a cannabis tincture. "Cannabis product" does not include cannabis concentrate or a product containing only hemp as defined in 7 MRS § 2231(1-A)(D).

Organic means certified by an accredited organic certifier in the State of Maine as being in compliance with the United States Department of Agriculture certification requirements applying to organic products.

Paraphernalia means equipment, products, devices and materials that are used for planting, propagating, cultivating, harvesting, processing, preparing, testing, packaging or storing cannabis for medical use or used for ingesting, inhaling or otherwise consuming cannabis for medical use. "Cannabis paraphernalia" includes, but is not limited to:

- A. Kits used for planting, propagating, cultivating or harvesting a cannabis plant;
- B. Isomerization devices used for adjusting the potency of a cannabis plant;
- C. Testing equipment used for identifying or analyzing the potency, effectiveness or purity of a cannabis plant or harvested cannabis;
- D. Scales and balances used for weighing or measuring harvested cannabis;
- E. Separation gins and sifters used for removing twigs and seeds from, or in otherwise cleaning or refining, harvested cannabis;
- F. Envelopes and other containers used for packaging small quantities of harvested cannabis for medical use;
- G. Containers and other objects used for storing harvested cannabis;
- H. Rolling papers, cigarette papers or wraps used for rolling harvested cannabis for smoking;
- I. Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes, with or without screens,

chillums or punctured metal bowls used for smoking harvested cannabis; and

J. Electronic smoking devices used for simulating the smoking of harvested cannabis or cannabis products through the inhalation of vapor or aerosol from the device.

Records or “required records” means all records required to be maintained by a registrant in accordance with the rules governing the medical cannabis program and the Act, including records of all wholesale, retail and other patient transfers of cannabis plants, cannabis and cannabis products for medical use, as well as any video or audio recordings made by any required security equipment, and all employee records required to be maintained.

Registered caregiver means a natural person who is registered by the department pursuant to 22 MRS § 2425-A.

Registered dispensary means an individual or business entity registered under 22 MRS § 2425-A that is authorized to acquire, possess, cultivate, manufacture, deliver, transfer, transport, sell, supply or dispense cannabis plants or harvested cannabis or related supplies and educational materials to qualifying patients, registered caregivers or other registered dispensaries.

Registered manufacturing facility means a registered tier 1 or tier 2 manufacturing facility or a person authorized to engage in cannabis extraction under 22 MRS § 2423-F.

Registrant has the same meaning as “Covered entity” as defined in 22 MRS § 2430-I(1)(A) which is a registered caregiver, dispensary, cannabis testing facility, manufacturing facility or person authorized to engage in cannabis extraction using inherently hazardous substances under the Act.

Registry identification card means a card issued by the Department to a natural person as proof of authorized conduct under the rules governing the medical cannabis program and the Act.

Registry identification cardholder means a natural person who possesses a valid registry identification card issued by the Department.

Seedling means a cannabis plant or rooted cutting that is:

- A. Not flowering;
- B. Less than 24 inches in height; and
- C. Less than 24 inches in width.

Trip ticket means a record, on forms provided by the Department, that accompanies any cannabis or cannabis products for medical use transported or transferred by a registrant to another registrant or qualifying patient.

Visiting qualifying patient means a patient who is not a resident of Maine or who has been a resident of Maine fewer than 30 days, and who is qualified by another jurisdiction for the medical use of cannabis and authorized for the medical use of cannabis in Maine pursuant to this rule and the Act.

§ 2 – Scope and Protected Conduct

(1) Protections: legal medical use of cannabis. The protections and requirements of this rule is for conduct expressly authorized by this rule and the Act for the legal medical use of cannabis in the State of Maine by qualifying patients, and for those authorized to assist qualifying patients. To receive protection for conduct authorized by this rule and the Act, individuals must comply with applicable provisions of rule and the Act, including possessing required documents as proof of authorized conduct. Protections under this rule do not extend to individuals who are not authorized to possess, cultivate, dispense, transport, furnish or administer cannabis for medical use.

(A) Violation of other laws. These protections do not extend to violations of other State and federal laws.

(B) Protected conduct of lawful possession of cannabis for medical use. An authorized person who is compliant with the Act and this rule may lawfully possess cannabis plants, cannabis and cannabis products for medical use in accordance with the limitations and conditions of this rule and the Act.

(C) Valid proof of authorized participation. A registered caregiver, caregiver employee or contractor, or principal officer, board member or employee or contractor of a registered dispensary must possess a valid registry identification card in order to establish proof of authorized participation in the medical use of cannabis program.

(1) Patient conduct. Qualifying patients are not required to register or to possess a registry identification card to receive protection for conduct authorized under this rule and the Act. A qualifying patient must possess the written certification from his or her medical provider and proof of identity in accordance with 22 M.R.S. §2423-E (5)(A) as proof of authorized conduct.

(2) Caregiver not required to register conduct. A caregiver who assists only a patient who is a member of the caregiver's family or household is not required to register.

(D) Trip ticket. A caregiver or cardholder authorized to transport cannabis is required to possess a trip ticket as proof of authorized conduct.

(E) Protected conduct by anyone providing paraphernalia. Prior to providing paraphernalia in accordance with this rule and the Act, a person must verify proof of authorized conduct.

(F) Protected conduct by anyone providing cannabis or product containing cannabis. A person authorized to possess and furnish cannabis for medical use must verify proof of authorized conduct of any person prior to providing that person with cannabis or product containing cannabis, including samples for research and development or testing purposes pursuant to this rule and the Act.

(2) Criminal history record check. Registry identification cards may not be issued without an annual criminal history record check. An annual criminal history record check may include each state where the individual has resided since the age of 18. The Department may waive the requirement of a criminal history record check if the cardholder's application for an additional

registry identification card is submitted within 12 months of a completed background check. Annual criminal history record checks are governed by this rule and the Act.

(A) Annual background checks. Updated background checks shall be conducted annually at the time of renewal of registry identification cards.

(B) Notice of disqualifying drug conviction. When a criminal history record check reveals conviction for a disqualifying drug offense, the Department shall issue a written notice of the revocation or denial of a registry identification card to the cardholder.

(3) Annual report. The Department shall submit to the Legislature an annual report in accordance with the Act.

§ 3 – Cultivation of Cannabis for Medical Use

(1) Cultivation of cannabis for medical use. All cultivation of cannabis for medical use must comply with this rule and the Act. A person authorized to cultivate cannabis for medical use is restricted to cultivating in an enclosed, locked facility or area on property that is owned or under the control of the registered caregiver or registered dispensary, subject to the limitations below.

(A) Shared cultivation locations. Family members and household members are permitted to share an enclosed, locked area for cultivating cannabis plants for medical use in accordance with 22 M.R.S. §§ 2423-A (1)(B) and (3)(D).

(1) Two or more patients who are members of the same household may share the same enclosed, locked cultivation facility to cultivate the cannabis for their own medical use in accordance with the Act.

(2) No more than two caregivers who are members of the same family or household may share the same enclosed, locked facility to cultivate cannabis on behalf of qualifying patients in accordance with the Act.

(3) A caregiver employee may not cultivate the employee's cannabis in the same enclosed, locked facility used by the caregiver who employs the employee.

(B) Indoor cultivation. Indoor cultivation locations are subject to provisions related to electrical installation and inspections by State electrical inspectors as set out in 32 M.R.S. §§ 1104, 1104-A and 1105.

(C) Legible tag on each plant. Members of the same household or family who share a single cultivation area must ensure that all plants grown for or by a particular family member are appropriately identified as being for that individual household or family member. If an individual is cultivating cannabis for personal adult use under 28-B M.R.S., ch. 3, the individual must ensure that all plants grown for personal adult use are appropriately labeled in accordance with that chapter.

(2) Security. Cultivation of cannabis for medical use requires implementation of appropriate security measures to discourage theft of cannabis, ensure safety and prevent unauthorized entrance to a cultivation site in accordance with this rule and the Act.

(A) Fence. An enclosed outdoor cultivation area must have a permanently installed, tamper resistant, commercial or security grade fence in good repair that is at least six feet high that obscures the view of the cannabis, deters theft of cannabis, and prevents access to the cultivation area by unauthorized persons.

(1) Registered caregivers and registered dispensaries must comply with local ordinances, if any, regarding boundary setback requirements.

(B) Locks. Enclosed, locked facilities and enclosed outdoor areas must have commercial grade locks sufficient to prevent theft and unauthorized entrance.

(3) Access to a cultivation location. In accordance with 22 M.R.S. §§ 2423-A (3)(A) and (3)(B), and 2428(6)(I), access to a cultivation area is restricted. An individual who is authorized to cultivate cannabis may not permit access to the cultivation area except as specified in the Act and this rule. Prior to allowing access, a valid Maine driver's license or other State-issued photographic identification must be reviewed by the person who owns or controls the cultivation area as proof of identity.

(4) Packaging and labeling. The labels on cannabis or cannabis products for medical use that are sold by dispensaries and caregivers are evidence of compliance with this rule and the Act. Packaged cannabis and products containing cannabis for medical use must report total amount of cannabis as evidence of compliance. Dispensing may not exceed statutory limits. The packaging and labeling of cannabis or cannabis products for medical use for sale by registered dispensaries and caregivers must comply with applicable State labeling laws, including provisions in 22 M.R.S. §2157, this rule and the Act, including without limitation the requirements of 22 MRS § 2429-A.

(A) Organic certification¹. Cannabis for medical use may not be labeled "organic" unless the cannabis plants and cannabis or cannabis products for medical use are produced, processed and certified to be consistent with applicable legal standards.

§ 4 – Medical Provider Written Certification

(1) Authorized conduct by a medical provider; written certification. Prior to issuing a written certification, the medical provider shall certify that it is the provider's professional opinion that the patient is likely to receive therapeutic benefit from the medical use of cannabis to treat or alleviate the patient's medical condition. Medical providers issuing written certification to qualifying patients must comply with this rule and the Act. As permitted by the Act and the professional licensing regulations governing the medical provider, a medical provider may use telehealth appointments to interact with the patient seeking certification from the medical provider.

(A) Department-approved certification process. The qualifying patient's medical provider shall use the Department-approved certification process to issue a written

¹ As of November 2023, U.S. Department of Agriculture "organic" certification is not available for medical cannabis, however, the Maine Organic Farmers and Gardeners' Certification Services (MOFGA Certification Services) does offer a voluntary "Certified Clean Cannabis by MOFGA" (MC3) certification for cannabis growers in the state. More information is available at: [https://mofgacertification.org/mofga-certified-clean-cannabis-program/#:~:text=Certified%20Clean%20Cannabis%20by%20MOFGA%20\(MC3\)%20is%20an%20independent%20C,the%20USDA%20National%20Organic%20Program](https://mofgacertification.org/mofga-certified-clean-cannabis-program/#:~:text=Certified%20Clean%20Cannabis%20by%20MOFGA%20(MC3)%20is%20an%20independent%20C,the%20USDA%20National%20Organic%20Program) (Accessed November 3, 2023).

certification for a qualifying patient's medical use of cannabis. The medical provider shall give the original signed and dated written certification directly, which may include sending the certification to the qualifying patient through the mail, to the qualifying patient or patient's legal guardian.

(1) Digital copy of certification authorized. A medical provider may provide, in addition to the original signed and dated written certification on tamper-resistant paper, a digital image of the written certification in accordance with the requirements of 22 MRS § 2423-B(4).

(2) Replacement written certifications. Except when it is determined to be medically necessary to examine the qualifying patient, a medical provider may, without an in-person encounter with the patient, re-print a written certification if the qualifying patient's certification has been lost or needs updated patient information. When the medical provider does not complete a full assessment of the patient, the expiration of the replacement written certification must not exceed the expiration date of the preceding lost or inaccurate written certification.

(B) Referral to professional licensing boards. The Department may refer to the appropriate professional licensing board a report received regarding the medical provider's inappropriate evaluation or treatment of a patient's medical condition or a reported alleged violation of the applicable standard of care, or when the Department determines the medical provider has violated this rule or the Act.

(C) Medical provider compliance. The medical provider must remain in good standing with professional licensing authorities and compliant with this rule and the Act to avoid interruption in the provider's capacity to issue written certifications.

(2) Bona fide medical provider-patient relationship. The medical provider shall certify that the written certification has been provided in the course of a bona fide medical provider-patient relationship. The medical provider may have to verify that, prior to issuance of a written certification, a bona fide medical provider-patient relationship exists.

(3) Retain and maintain records. The medical provider must retain and maintain records that support the decision to recommend the medical use of cannabis.

(4) Minor patient; consent. Prior to issuing a written certification for a minor patient's medical use of cannabis, the treating medical provider must secure written consent of the parent, legal guardian, or person having legal custody of the minor qualifying patient. The medical provider must have documentation of the consent of the parent, legal guardian or person having legal custody of the minor in accordance with the Act.

(5) Incapacitated adult patient consent. Prior to issuing a written certification for an incapacitated adult patient's medical use of cannabis the medical provider must secure written consent that includes the following written documentation from the legal guardian or the power of attorney for health care of the incapacitated adult qualifying patient. The incapacitated adult patient's legal guardian or the power of attorney for health care must:

(A) Consent to the patient's medical use of cannabis;

- (B) Consent to serve as one of the patient's caregivers;
- (C) Consent to control the acquisition of cannabis, and the dosage and frequency of the medical use of cannabis by the incapacitated adult patient; and
- (D) Consent to comply with all other applicable provisions of this rule and the Act.

(6) Proof of authority to act for another. The legal guardian or the power of attorney for health care of an incapacitated adult patient, or a minor's guardian or the person having legal custody of the minor must submit to the treating medical provider a copy of the legal documentation issued by the court that appointed the guardian, a copy of the incapacitated adult patient's power of attorney for health care or other legal documentation that the person has legal custody of the patient.

§ 5 – Qualifying Patient

(1) Authorized conduct: qualifying patient. The authorized conduct of a qualifying patient is governed by this rule and the Act. A qualifying patient possessing a valid medical provider written certification who is compliant with this rule and the Act is protected under the Act when exercising authorized conduct.

(2) One valid written certification. Prior to engaging in the medical use of cannabis, a qualifying patient must obtain a valid written certification from his or her medical provider in accordance with this rule and the Act. A qualifying patient may not possess more than one medical provider written certification at one time. except that a qualifying patient may retain a digital image of their written certification in addition to the written certification that is printed by the medical provider on tamper-resistant paper in accordance with 22 MRS § 2423-B.

(A) Written certification required. Prior to obtaining or using cannabis for medical use, a qualifying patient must obtain a written certification from his or her medical provider in accordance with the Act and this rule.

- (1) The written certification form must be printed on tamper-resistant paper.
- (2) The written certification may not disclose the medical condition on the written certification issued to the patient for the medical use of cannabis.
- (3) The written certification expires within one year after issuance. Each written certification must include the date issued and the expiration date.
- (4) The written certification must be issued in the course of bona fide medical provider-patient relationship. The patient is responsible for providing the necessary information in order for the medical provider to maintain documentation as required by this rule to demonstrate an existing bona fide medical provider-patient relationship.

(3) Updated certification required. When a qualifying patient has a name change or address change, the qualifying patient must secure an updated written certification from the patient's medical provider. A written certification that has not been updated within 30 days to correct outdated patient information is not valid.

(4) Patients who may not cultivate. Qualifying patients who may not cultivate their own cannabis for medical use are set out in this rule and the Act.

(A) Minor qualifying patients may not cultivate. A minor qualifying patient may not cultivate his or her own cannabis, but their parent, legal guardian or other person having legal authority over the minor qualifying patient may designate a person to cultivate cannabis for the minor qualifying patient's medical use.

(B) Incapacitated adult qualifying patients may not cultivate. An incapacitated adult qualifying patient may not cultivate his or her own cannabis, but the incapacitated adult qualifying patient, or as applicable, their legal guardian or other person having legal authority over the incapacitated adult qualifying patient may designate a person to cultivate cannabis for the incapacitated adult qualifying patient's medical use, if the incapacitated adult qualifying patient is not authorized to make such decisions for themselves.

(C) Visiting qualifying patients. A visiting qualifying patient may not cultivate cannabis.

§ 6 – Registered Caregiver

(1) Authorized conduct: registered caregiver. The authorized conduct of a caregiver is governed by this rule and the Act. The caregiver who receives compensation for assisting a qualifying patient is required to pay applicable taxes and to maintain appropriate records for tax purposes. The Department may conduct a review of required documentation for compliance purposes. A caregiver may assist qualifying patients as follows:

(A) Assist and cultivate. Assist, through the provision of education or instruction regarding the proper use, handling and safe storage of cannabis or cannabis products for medical use, any qualifying patient with the medical use of cannabis and cultivate cannabis for medical use, in accordance with this rule and the Act.

(B) Dispense. Dispense cannabis for medical use to a qualifying patient in accordance with the Act. A caregiver may prepare and dispense goods containing cannabis for medical use to a qualifying patient in accordance with the Act and this rule. A trip ticket is required if the caregiver is transporting cannabis from the cultivation location to dispense from a different location.

(C) Acquire. Acquire medical use cannabis from an authorized source on behalf of a qualifying patient in accordance with this rule and the Act.

(D) Dispose. Dispose of cannabis and cannabis products for medical use in accordance with this rule and the Act.

(E) Other. Other services authorized by this rule and 22 MRS § 2423-A(2).

(F) Employ assistants. A caregiver who is registered may employ assistants, also referred to as “employees”, who possess a valid registry identification card to assist in the duties of the registered caregiver. A registered caregiver must maintain personnel files in accordance with this rule and the Act.

(2) Designation form required. A caregiver must have a Department-approved designation form signed and dated by the parent or guardian of each minor qualifying patient who they assist.

(3) Employee of a registered caregiver. The authorized conduct of an employee of a registered caregiver is governed by this rule and the Act.

(A) The employee of a registered caregiver may assist in the duties of the employing registered caregiver.

(B) The registered caregiver's employee's personnel file shall contain the following:

(1) Documentation of background checks, if conducted by the employer;

(2) Job description or employment contract;

(3) The Employment Eligibility Verification Form I-9; and

(4) Copy of current registry identification card and copy of a driver's license or other valid State-issued photographic identification card.

(C) A registered caregiver employee is required to pay applicable taxes.

(4) Application for registry identification cards. Caregivers who are required to register with the Department must submit an application for a registry identification card in accordance with this rule and the Act.

(A) Application criteria. An applicant must submit a complete application for a registry identification card which includes, but is not limited to, the following information:

(1) Residency information required for a criminal history record check;

(2) Social Security Number or EIN, and, if applicable, a sales tax ID number for tax reporting purposes;

(3) Cultivation location, if applicable; and

(4) Location of caregiver retail store and proof of municipal authorization and approval, if applicable.

(B) The Department may deny an application for a registry identification card if the applicant failed to provide required information or provided false information.

(C) Submission of an application for a registry identification card by a caregiver constitutes permission for entry and inspection of any part of a building or property under ownership or control of that caregiver used for cultivation, storage, preparation, processing, or furnishing of medical cannabis. Any samples taken shall be handled in accordance with the requirements of this rule regarding dispensary samples.

(D) Failure to cooperate with inspections may be ground to revoke the caregiver's registry identification card.

(5) Food establishment license required. Except as provided by this rule and the Act, a caregiver must obtain a food establishment license from the Department of Agriculture, Conservation and Forestry (DACF), pursuant to 22 M.R.S. §§ 2152 and 2167, prior to preparing goods containing medical use cannabis that are intended for ingestion. Licensed caregivers must comply with regulations applicable to food establishments, including 10-144 C.M.R., Chapter 200 and DACF rules.

(A) Food establishment exemption. A caregiver is not required to obtain a food establishment license if the caregiver is preparing consumable goods containing cannabis for a patient who is a member of the caregiver's family or household and the product is furnished to that patient.

(6) Separate locations within a building. Caregivers are prohibited from participating in a collective as defined in 22 M.R.S. §2422 (1-A). A collective does not include caregivers who rent separate, self-contained, locked and secured locations within a building pursuant to this rule and the Act. Separate, self-contained, locked and secured areas are enclosed on all sides and function independently.

(A) Caregivers in a common building. Except as explicitly permitted by the Act:

(1) A caregiver may not assist another caregiver in acts of cultivation or processing, which includes growing, harvesting, drying, manufacturing, storage, and dispensing; or in those duties undertaken to assist in the administration of cannabis for medical use.

(2) All cannabis cultivated for medical use must be locked and stored separately.

(3) Materials used by a caregiver related to the cultivation may be stored in common areas.

§ 7 – Registered Dispensaries

(1) Dispensary registration certificate required. No person shall operate a dispensary for cannabis for medical use without a Department-issued dispensary registration certificate. The application and renewal requirements for a dispensary registration certificate are set forth in this rule and the Act.

(A) Nontransferable. The dispensary-registration certificate issued by the Department to a dispensary is nontransferable.

(B) Compliance. The cultivation facility and one other location where the dispensary conducts other authorized activities of a dispensary, such as wholesale or retail sales and/or manufacturing activities, including, but not limited to, registered dispensaries that see patients only by appointment, must comply with all requirements and prohibitions in this rule and the Act. Failure to comply may result in enforcement action including, but not limited to, termination of the dispensary registration certificate.

(2) Food establishment license required. A registered dispensary must obtain a food establishment license from the DACF, pursuant to 22 M.R.S. §2167, prior to preparing goods containing cannabis, including tinctures of cannabis, intended for ingestion. A dispensary that is

issued a food establishment license must comply with applicable provisions within 10-144 C.M.R., Chapter 200 and DACF rules.

(3) Authorized conduct; registered dispensary. The authorized conduct of a registered dispensary is governed by this rule and the Act. A registered dispensary may assist a qualifying patient in the medical use of cannabis as follows:

(A) Assist and cultivate. Assist, through the provision of education or instruction regarding the proper use, handling and safe storage of cannabis or cannabis products for medical use, any qualifying patient with the medical use of cannabis in accordance with this rule and the Act.

(B) Dispense. Dispense cannabis for medical use to a qualifying patient in accordance with the Act. A dispensary may prepare and dispense goods containing cannabis for medical use to a qualifying patient, or another registrant, in accordance with the Act and this rule. A trip ticket is required if the dispensary is transporting cannabis from the cultivation location to dispense from a different location.

(C) Acquire. Acquire medical use cannabis from another registrant on behalf of a qualifying patient in accordance with this rule and the Act.

(D) Dispose. Dispose of cannabis and cannabis products for medical use in accordance with this rule and the Act.

(E) Other. Other services authorized by this rule and the Act.

(F) Employ staff. A dispensary may employ staff who possess a valid registry identification card to conduct authorized activities for the dispensary. A dispensary must maintain personnel files in accordance with this rule and the Act.

(4) Dispensary prohibitions.

(A) A registered dispensary may not contract for the cultivation of seeds, seedlings or immature cannabis plants, except that a dispensary may engage in wholesale transactions in accordance with the Act.

(B) A registered dispensary is prohibited from acquiring, possessing, cultivating, manufacturing, delivering, transferring, transporting, supplying or dispensing cannabis for medical use for any purpose except as provided by the Act.

(5) Registry identification cards required. The dispensary must ensure that all its officers, directors and employees have obtained a valid registry identification card in accordance with this rule and the Act. A dispensary may not employ a person under the age of 21.

(6) Inspections. Registered dispensaries, including all retail and cultivation locations, are subject to inspection at least annually by the Department in accordance with this rule and the Act.

(A) Submission of an application for a dispensary registration certificate constitutes permission for entry and inspection of the dispensary location(s).

(B) Failure to cooperate with required inspections may be grounds to revoke the dispensary's registration certificate.

(C) During an inspection, the Department may identify violations of this rule, the Act and the dispensary's policies and procedures. The dispensary shall receive written notice of the nature of the violations. The dispensary shall notify the Department in writing with a postmark date within ten business days of the date of the notice of violations, the corrective actions taken and the date of the correction(s).

(7) **Quality control.** To ensure the safety of qualifying patients, the registered dispensary shall provide samples to the Department upon request during announced and unannounced inspections for product quality control.

(8) **Sample collection and labeling.** During an inspection of the registered dispensary, the Department may:

(A) Collect soil and plant samples, and samples of products containing cannabis cultivated or manufactured by, or offered for sale to qualifying patients by the dispensary;

(B) Place the dispensary's registration number on each sample container;

(C) Label the sample containers with the description and quantity of its content;

(D) Seal sample containers; and

(E) Have dispensary and Department staff initial each sample container.

(9) **Chain of custody of samples.** Chain of custody documentation shall be maintained by the Department.

(A) The Department shall provide a receipt for the collected samples to the dispensary's representative.

(B) The Department shall maintain an accounting of all collected sample containers for control purposes.

(10) **Sample testing.** The Department shall test samples for pests, mold, mildew, heavy metals and the presence of pesticides. Additional testing may be conducted. Written results shall be reported to the dispensaries.

(11) **Dispensary security: protection of premises and persons.** Registered dispensaries must implement appropriate security measures to deter and prevent unauthorized entrance into areas containing cannabis and the theft of cannabis at the registered dispensary and the grow location for the cultivation of cannabis, if any. Security measures to protect the premises, the public, qualifying patients, caregivers and principal officers, board members and employees of the registered dispensary must include, but are not limited to, the following:

(A) On-site parking.

(B) Exterior lighting sufficient to deter nuisance activity and facilitate surveillance of the perimeter of the dispensary, as well as all points of ingress and egress, including windows and doors,, but not disturb neighbors.

(C) Burglary alarm monitored by a licensed alarm company to detect an unauthorized intrusion.

(D) Video surveillance is required for any area within a dispensary retail store where cannabis is stored, displayed, or sold. Video surveillance of cultivation areas is required in those areas where harvested cannabis is stored, processed, and cured. Video cameras should also include manufacturing areas. Video recordings must be maintained for 14 days. Video recordings may be motion activated provided the recording captures all motion for 60 seconds prior to the triggering event.

(E) Any registered dispensary that is co-located with an adult use cannabis establishment shall ensure that all security measures meet the requirements of the rules governing the adult use cannabis program and 28-B MRS, ch. 1.

(12) Dispensary policies, procedures and records. The operating documents of a registered dispensary must include procedures for the oversight of the registered dispensary and procedures to ensure accurate record keeping. Dispensaries must develop, implement and comply with dispensary policies and procedures. When changes are made to its policies or procedures, the dispensary must notify the Department in writing at least ten days before implementation of the change, except when immediate implementation is required, in which case, the dispensary must simultaneously notify the Department when it implements the changed policy or procedure. The written simultaneous notice must include an explanation of why it was necessary to implement the change before giving the Department at least ten days' notice. The dispensary policies, procedures, and records must be available for inspection by the Department, upon request. Dispensary records subject to inspection include, but are not limited to:

(A) Job description and employment contract policies. The policy regarding job descriptions and employment contracts shall include duties, authority, responsibilities, qualifications, supervision, training in, and adherence to, confidentiality requirements, periodic performance evaluations and disciplinary actions.

(B) Patient education. Dispensary policies must include a provision that requires dispensaries to provide educational materials about cannabis to qualifying patients and their caregivers. Each dispensary must have, available for distribution, an adequate supply of up-to-date education material that assists the patient or caregiver in the selection of cannabis or cannabis products for medical use appropriate for the patient. Educational materials must be available for inspection by the Department upon request. The educational material must include, at a minimum, the following:

(1) Information about the typical and potential effects of different strains of cannabis preparations, and methods of administration. Dispensaries shall provide "tracking sheets" to qualifying patients and caregivers who request them to keep track of the strains used and their effects.

(2) Information on how to achieve proper dosage for different modes of administration must be shared. Emphasis shall be on using the smallest amount

possible to achieve the desired effect. The impact of potency must also be explained.

(3) Information on tolerance, dependence and withdrawal must be provided.

(4) Information regarding substance use disorder signs and symptoms must be available, as well as referral information.

(C) Personnel Files. The registered dispensary must maintain a confidential personnel file on each principal officer, board member and employee. The personnel files shall include at least the following information:

(1) Copy of current dispensary registry identification card and copy of a Maine driver's license or other Maine- issued photographic identification card.

(2) Employment application and required documentation.

(3) Documented verification of references.

(4) Documentation of background checks.

(5) Job description or employment contract.

(6) Documentation of training, including training regarding confidentiality requirements.

(7) Documentation of periodic performance evaluations.

(8) Documentation of disciplinary actions.

(D) Business records. Registered dispensaries must maintain business records including manual or computerized records of assets and liabilities, tax returns, contracts, board meeting minutes reflecting actions of the board, monetary transactions, various journals, ledgers, and supporting documents, including agreements, checks, invoices and vouchers which the dispensary keeps as its books of accounts. All business records must be available upon request by the Department and maintained and retained for four years.

(1) **Transaction record.** Business records include the sales record that indicates the name or patient certification number of the qualifying patient or caregiver to whom cannabis has been distributed, sold or donated, including the quantity and form. The sales record must indicate the sale price of the product.

(2) **Record of acquisition.** The dispensary records must include the cannabis and cannabis products acquired by the dispensary as set out in the Act and this rule.

(3) **Record of samples.** The dispensary must maintain record of samples provided for quality control, testing or research and development purposes.

(4) **Record of disposal of cannabis.** The registered dispensary must create and maintain records of the disposal of cannabis including cannabis not distributed by the dispensary.

(13) Trip tickets. Distribution of cannabis for medical use to a qualifying patient or a caregiver for use by a qualifying patient must be labeled with a trip ticket, on forms provided by the department, to identify the dispensary, the MMCP patient number if the patient is registered or a unique identifier assigned by the dispensary to non-registered qualifying patients, or the MMCP caregiver number if the caregiver is required to be registered or a unique identifier assigned by the dispensary if the caregiver is not required to be registered, the product, the amount and form, the time and date of origin, and destination of the product.

(A) Persons authorized to transport cannabis on behalf of a patient shall take reasonable steps to deliver the product directly to the qualifying patient as a safety precaution and to alleviate concerns about drug diversion. The required trip ticket must identify the written certification number of the patient to whom the cannabis is being furnished; the source providing the cannabis; the registry identification number of the caregiver, if applicable; the amount of cannabis and form; the time, location and date of departure; and destination of the product.

(B) A dispensary with a cultivation site that is not located with the retail dispensary must label the cannabis that is being moved between the cultivation site and the retail dispensary with a trip ticket that identifies the name and address of the dispensary, the address of the cultivation site, the time, date, origin and destination of the material being transported, and the amount and form of cannabis and cannabis material that is being transported.

(14) Inventory supply records. The dispensary shall maintain a record of the dispensary's inventory supply. The dispensary shall record the cannabis strains cultivated by the dispensary and the cannabis products produced and furnished by the dispensary. The registered dispensary shall identify the cannabis strains and the cannabis products that are acquired and did not originate from the dispensary's own cultivation and production. Inventory supply records must be available upon request by the Department.

(15) Incident reporting. A registered dispensary must submit a Department-approved incident report form on the next business day after it discovers a violation of the requirements set out in this rule and the Act regarding the operation of dispensaries. The report must indicate the nature of the breach and the corrective actions taken by the dispensary. For the purposes of this rule, an incident includes:

(A) Confidential information accessed or disclosed in violation of this rule and the Act;

(B) Loss of inventory by theft, diversion or any other means;

(C) Intrusion of the retail dispensary or the cultivation site, if cannabis is not cultivated at the retail site; and

(D) Any other violations of this rule or the Act governing operation of the dispensary.

(16) Illegal activity reporting. Any suspected illegal activity involving dispensary operations must be reported within 24 hours of suspicion to law enforcement and the Department. The dispensary must submit a written report to the Department using the dispensary's incident report form.

(17) Addition of new dispensaries. A dispensary that is issued a registration certificate must comply with the Act and this rule.

(A) Application fee. Applicants must submit an application fee in accordance with this rule. Application requirements are set forth in this rule.

(B) Selection criteria. Each application shall address all criteria and measures. Failure to address all of the criteria and measures will result in the application being considered non-responsive and not accepted for review.

(C) Criterion 1: Submission of Required Information Regarding Applicant and Facility

(1) The applicant shall provide the legal name of the corporation, a copy of the articles of incorporation and by-laws of the corporation.

(2) The applicant shall provide the proposed physical location of the retail dispensary and if cannabis is not cultivated at the retail site, the one site where cannabis may be grown, if a precise address has been determined.

(a) For each proposed physical address, provide legally binding evidence of site control sufficient to enable the applicant to use and possess the subject property.

(b) If the applicant indicated that a precise address has not been determined, the applicant has at least identified the general location(s) where the facilities will be sited, and when.

(3) The applicant shall provide evidence of compliance with local codes and ordinances for each physical address which will be used for dispensing and growing cultivating cannabis under the MMCP, and that neither location is within 500 feet of a preexisting public or private school boundary. A school in this context is interpreted to mean an entity that satisfies Maine's compulsory education requirements.

(4) The applicant shall describe the enclosed, locked facilities that will be used in the growing, cultivation and sale of cannabis, the security measures and whether it is visible from the street or other public areas.

(5) The applicant shall provide the name, address and date of birth of each principal officer and board member of the dispensary, along with a photocopy of their Maine driver's license or other Maine-issued photographic identification card. Temporary new driver's licenses are not acceptable.

(6) The applicant shall provide a list of all persons or business entities having direct or indirect authority over the management or policies of the dispensary, and a list of all persons or business entities having 5% or more ownership in the dispensary, whether or not the interest is in the land or buildings, including owners of any business entity which owns all or part of the land or building.

(7) The applicant shall provide the identity of any creditor holding a security interest in the premises, if any, and the terms of that agreement. The applicant

shall identify any principal officer or board member of the dispensary who is a creditor and disclose the terms and conditions.

(8) The application shall include the required signed cover letter, and the completed application form supplied by the department.

(D) Criterion 2: Overall Health Needs of Registered Patients and Safety of the Public

(1) The applicant demonstrates their proposed location and services will be convenient for qualifying patients and caregivers.

(2) The applicant demonstrates a steady supply of cannabis for medical use will be available to the projected number of registered patients.

(a) There is a start-up timetable which provides an estimated time from registration of the dispensary to full operation, and the assumptions used for the basis of those estimates.

(b) The applicant demonstrates knowledge of organic growing methods to be used in their growing and cultivation of cannabis.

(c) The applicant demonstrates that steps will be taken to ensure the quality of the cannabis, including purity and consistency of dose.

(d) The applicant discloses the various strains of cannabis to be dispensed and for which conditions and the form(s) in which cannabis will be dispensed.

(3) The applicant demonstrates the knowledge and ability to manage a non-profit organization or other business.

(a) Personnel.

(b) Fiscal (payroll, bookkeeping case management).

(4) The applicant demonstrates that its plan for record keeping, inventory, quality control and security and other policies and procedures will discourage unlawful activity.

(5) The applicant fully describes a staffing plan that will provide accessible business hours, safe growing and cultivation, and maintenance of confidential information regarding the cultivation sites and the identity of patient information.

(18) Application for dispensary registration certificate. An applicant for a dispensary registration certificate shall submit a complete Department-approved application form with all required documentation and the required fees. The application for a dispensary registration certificate must include, at a minimum, the following:

(A) The legal name of the individuals or business entity applying for the dispensary registration certificate and the DBA (doing business as) name of the dispensary;

- (B) The physical addresses where the dispensary will conduct authorized activities;
- (C) A list of all pre-existing schools within 500 feet of the dispensary;
- (D) If the dispensary is a business entity, proof of corporate filing with the State of Maine and most current operating agreement;
- (E) The name, address, proof of residency and date of birth of each principal officer and board member of the dispensary;
- (F) The name, address, proof of residency and date of birth of any person who is employed by the dispensary;
- (G) Confirmation that the dispensary has available for inspection all required policies and procedures;
- (H) Proof of the dispensary's liability insurance policy;
- (I) A business plan demonstrating the on-going viability as a non-profit organization;
- (J) Narrative describing how the applicant will meet all the selection criteria specified in this rule; and
- (K) All other information required on forms provided by the Department.

(19) Renewal of dispensary registration certificate. The annual renewal of a dispensary registration certificate must comply with this rule and the Act.

- (A) A registered dispensary must submit a completed Department-approved application for the renewal of a current registration certificate-with all required documentation and the required fees not less than 30 days prior to the expiration date. The dispensary registration certificate renewal application is available upon request made by a registered dispensary to the Department. Failure to submit a timely, complete renewal packet may be grounds for denial of the renewal and may result in expiration of the registration certificate to operate the dispensary.
- (B) When submitting for a renewal of the registration certificate, registered dispensaries must update, as needed, all information submitted by the dispensary on its initial application or previous renewal for a dispensary registration certificate. Failure to submit all current, up-to-date information timely may be grounds for denial of the renewal and may result in expiration of the registration certificate to operate the dispensary.
- (C) Within ten days of its decision to approve or deny the renewal, the Department shall issue a written decision that either includes the renewed dispensary registration certificate or the grounds for denial and statement of deficiency.
- (D) When the dispensary submits a complete and timely application for renewal, the registration certificate remains in good standing until the Department issues a new registration certificate, a statement of deficiency or a denial.

(1) Fees submissions. Fees must be payable to the *Treasurer, State of Maine*. Payment may be made by bank check, money order, or electronically if an electronic payment method is available.

(A) Nonrefundable. As applicable, all annual fees are nonrefundable unless otherwise indicated in the Act.

(B) Application fee reduction. The Department may apply fees that are less than the amounts specified in this section when the reduction of annual fees is in conformity to the Act and this rule.

(1) The percent in reduction of fees shall be applied equally across cardholders, but may not be less than the minimum fee required by the Act.

(2) The Department shall revise application forms to reflect any change in the fee required for the calendar year that follows a requisite review of the MMCP budget.

(2) Annual fees. An applicant for a registry identification card or registration certificate, or renewal of the same, shall submit the applicable annual fee:

(A) There is no annual fee for a qualifying patient or visiting qualifying patient or a caregiver who is not required to register pursuant to 22 MRS § 2423 A(3)(C).

(B) There is an annual fee for a caregiver who cultivates cannabis plants on behalf of a qualifying patient pursuant to 22 MRS § 2423 A(2)(B).

(1) For a caregiver registering based upon plant count, the fee is \$240 for each group of up to 6 mature cannabis plants cultivated by the caregiver. The caregiver shall notify the department of the number of cannabis plants the caregiver cultivates.

(2) For a caregiver registering based upon plant canopy, the fee is \$1,500 for a total mature plant canopy of 500 square feet or less.

(C) The annual fee for a registered caregiver who does not cultivate cannabis for qualifying patients, but does conduct wholesale activities, manufacturing activities, or operates a caregiver retail store is \$1,500.

(D) The annual fee for a dispensary is \$5,000. The fee to change the location of a registered dispensary or the location at which a registered dispensary cultivates cannabis plants is \$4,000.

(E) The annual fee for a tier 1 manufacturing facility is \$150.

(F) The annual fee for a tier 2 manufacturing facility is \$250.

(G) The annual fee to engage in cannabis extraction under 22 MRS § 2423-F(3) is than \$350.

(H) The annual fee for a cannabis testing facility is \$1,000, except that there is no fee if the testing facility is licensed in accordance with Title 28 B, chapter 1.

(I) The annual fee for an officer or director or assistant of a registered caregiver or registered dispensary is \$50.

(J) The fee to replace a registry identification card that has been lost, stolen or destroyed or a card that contains information that is no longer accurate is \$20. Replacement of a registry identification card does not extend the expiration date.

(3) **Criminal history record check fees.** Each applicant for a registry identification card must submit payment for \$31 payable to the *Treasurer, State of Maine* for the cost of criminal background checks. The background check fee is assessed on each registry identification card application or renewal.

§ 9 – Registry Identification Card

(1) **Registry identification card required.** Persons who are required to register pursuant to the Act and this rule, must possess a valid registry identification card issued by the Department and Maine-issued photographic identification to establish proof of authorized conduct. Registry identification cards are issued to the applicant to serve as proof of conduct authorized by the Department and protections do not extend beyond the approved cardholder. Only the approved cardholder may possess the registry identification card issued and the registry identification card may not be transferred. Applicants must submit a complete application for a registry identification card, in accordance with the requirements of 22 MRS § 2425-A, including any required fees.

(A) **Caregiver required to register.** A caregiver who assists a patient who is not a member of the caregiver’s family or household is required to register and obtain a registry identification card.

(1) An inpatient hospice or nursing home facility that assists a qualifying patient with the medical use of cannabis is required to register with the Department.

(B) **Caregiver not required to register.** A caregiver who assists only patients who are family or household members is not required to register.

(C) **Qualifying patient is not required to register.** A qualifying patient is not required to register with the department but must maintain a valid, unexpired patient certification.

(D) **Officer, director, assistant or employee required to register.** An employee or assistant of a registered caregiver or registered dispensary, and any officer or director of a registered dispensary, is required to obtain from the department a registry identification card in accordance with this section and the Act.

(E) **Denial of application.** The Department may deny an application or renewal in accordance with the Act and this rule. Written notification of the Department’s decision to deny an application for or renewal of a registry identification card and the reason for the denial shall be sent to the applicant within 30 days of receipt of the completed application.

(2) Voluntary patient application for a registry identification card. A qualifying patient may voluntarily register with the Department to secure a registry identification card for the lawful medical use of cannabis by submitting a completed Department-approved Patient Voluntary Registration Application form with required documentation. There is no fee for a qualifying patient who voluntarily registers with the Department. A criminal history record check is not required prior to issuing a patient a registry identification card. The Department shall issue a registry identification card to a patient who submits a completed application in accordance with 22 M.R.S. §2425 (1) and the application shall include, at a minimum, the following information:

- (A) Name, address and date of birth of the patient.
- (B) A copy of the written certification issued by the qualifying patient's physician for the medical use of cannabis.
- (C) A copy of the patient's Maine driver license or other state-issued photographic identification.
- (D) The patient who elects to cultivate some or all of the maximum allowed amount of cannabis for his or her own medical use must indicate that choice on the application and report the location of the patient's cultivation area. The application must include the requested information regarding the caregiver or dispensary if one is designated to assist a minor qualifying patient.
- (E) Other information required by the Department.

(3) Caregiver application for a registry identification card. A caregiver who is required to register must submit a completed Department-approved Caregiver Application form. The application must include the required documentation and the annual fee. The application shall also include, but is not limited to the following information:

- (A) Name, address and date of birth of the caregiver;
- (B) A copy of the caregiver's driver's license, or other state-issued photographic identification in compliance with this rule and the Act;
- (C) Name of the property owner and location(s) where the caregiver conducts authorized activities;
- (D) Personal identification number for purpose of filing taxes; and
- (E) Other information required by the Department.

(4) Employee of a registered caregiver registry identification card. An employee of a registered caregiver must have a registry identification card. A completed Department-approved Caregiver and Dispensary Assistants application form must be submitted with the required documentation and the annual fee for a registry identification card. The application shall include, at a minimum, the following information:

- (A) Name, address and date of birth of the applicant;

(B) A copy of the applicant's driver's license, or other state-issued photographic identification; and

(C) Other information required by the Department.

(5) No work prior to issuance of card. Prior to receipt of a registry identification card, a caregiver who is required to register and the employees of a registered caregiver may not conduct any activities authorized by the Act or this rule.

(A) Expedited determination: hospice or nursing facility. After verifying the information, the Department will approve or deny an application for or renewal of a registry identification card submitted by a hospice provider or nursing facility within five business days of the date the Department received the completed application for or renewal of a registry identification card with all required documents.

(6) Card surrendered to Department. A caregiver must surrender to the Department any caregiver registry identification card that is no longer eligible for valid use.

(7) Dispensary registry identification cards. The dispensary is required to obtain a registry identification card for each qualified principal officer, board member and employee of the registered dispensary. The registered dispensary must comply with provisions set forth in this rule and the Act.

(A) Application form. The dispensary shall submit a completed Department-approved Caregiver and Dispensary Assistants Application for each registry identification card with the required documentation and the registry identification card fee. The application shall also include but is not limited to, the following information:

(1) Name, address and date of birth of the qualified principal officer, board member, or employee;

(2) A copy of the qualified principal officers', board members', or employees' current driver's license or other state-issued photographic identification; and

(3) Other information required by the Department.

(B) New principal officers, board members and employees: application required. Each time the dispensary has a new principal officer, board member or employee, it must confirm that any officer, director or employee possesses an active registry identification in accordance with this rule and the Act.

(C) No work or affiliation prior to issuance of card. No principal officer, board member or employee may begin to work at or affiliate with the registered dispensary before he or she is issued a registry identification card.

(8) Annual renewal of card required. A complete Caregiver and Dispensary Assistant application with all required documentation and the renewal fee must be submitted to the Department at least 30 calendar days before the registry identification card expiration date. The Department shall approve or deny the application in accordance with this rule and the Act.

(9) Notification of change in cardholder's status. The Department must be notified within ten days of a change in the status of application information or card information in accordance with the Act and this rule. A cardholder who fails to provide required notification may be subject to fines up to \$150 per incident.

(10) Surrender old card or new card voided. The registry identification card with outdated information must be surrendered by returning it to the Department. It must be mailed or delivered to the Department within ten business days of the person's receipt of the new registry identification card. Failure to timely surrender the superseded card to the Department may result in the Department voiding the newly issued card.

§ 10 – Compliance and Enforcement

(1) Requirements for Program Compliance. All registrants and authorized agents of registrants shall comply with the requirements of the rules governing the medical cannabis program and the Act. Any activities not explicitly authorized by the Act and the rules governing the medical cannabis program are prohibited. Failure to comply with the provisions of the Act and this rule may result, in addition to administrative and enforcement actions described herein, referral by the Department to an appropriate agency, department or entity for conduct determined to be beyond the scope of the MMCP or for conduct that is not appropriate or otherwise capable of being remedied by Department action.

(A) Requirements applicable to all registrants.

(1) Unless otherwise authorized, no registrant may transfer, or permit their authorized agent to transfer, medical cannabis plants, medical cannabis or medical cannabis products to a person that is not a qualifying patient, including a visiting qualifying patient, a registrant or an authorized agent of a registrant operating in their capacity as an authorized agent of a registrant.

(2) Neither a registrant, nor an authorized agent of a registrant, may make any gift of medical cannabis plants, medical cannabis, or medical cannabis products to an individual who is not authorized to possess medical cannabis in accordance with the rules governing the medical cannabis program and the Act.

(3) A registrant is responsible for the actions of any authorized agent of the registrant and shall ensure that all authorized agents of the registrant are appropriately trained and qualified to conduct any activity authorized by the rules governing the medical cannabis program and the Act.

(4) All registrants shall ensure that all cannabis plants, cannabis and cannabis products for medical use are appropriately secured in accordance with the requirements of the rules governing the medical cannabis program and the Act.

(5) All registrants shall ensure that all cannabis plants are cultivated in the cultivation area(s) designated for the cultivation of medical cannabis plants, and approved by the Department through the issuance of a registry identification card or registration certificate to the registrant, as applicable, and is conducted, as applicable, in accordance with any applicable local regulations or requirements.

(6) All registrants shall ensure that any pesticide used in the cultivation of medical cannabis plants is done in accordance with the requirements of the Act and the pesticide applicator licensure requirements of the Department of Agriculture, Conservation and Forestry's Board of Pesticides Control.

(7) All registrants shall ensure that the manufacture and/or sale of edible cannabis products is done in accordance with the requirements of the rules governing the medical cannabis program, the Act, local regulations, and federal and state food safety laws and rules.

(8) All registrants shall ensure that any extraction of medical cannabis using inherently hazardous substances is conducted in accordance with the requirements of the rules governing the medical cannabis program, the Act, and any other local, state or federal law or regulation.

(9) All registrants conducting retail sales of cannabis or cannabis products for medical use shall ensure that all items are appropriately packaged and labeled in accordance with the rules governing the medical cannabis program and the Act, including as applicable, ensuring that all edible cannabis products are labeled with the words "contains harvested cannabis" or the department-approved universal symbol.² If a registrant chooses to use the department approved universal symbol it shall appear on the front or most predominantly displayed area of the label affixed to the cannabis or cannabis product for medical use and shall be:

(a) No smaller than ½ inch by ½ inch;

(b) Placed on a white background and the interior of the icon must remain white;

(c) Maintained in the form provided to the registrant and may not be modified, recreated, stylized, sketched or otherwise distorted;

(d) Reproduced using the black and red color scheme published by the Department; and

(e) Displayed on a white background.

(10) All registrants conducting retail sales of cannabis plants, cannabis or cannabis products for medical use shall comply with all retail sales requirements of the rules governing the medical cannabis program, the Act, all applicable sales tax requirements, local laws and rules, and any conditions of any municipal authorization or approval granted to the registrant.

(11) All registrants shall ensure that any marketing, advertising or the use of signs by the registrant, or on behalf of the registrant, complies with the rules applicable to the medical cannabis program, the requirements of the Act and any applicable local regulations.

² High-resolution digital images of the department-approved universal symbol are available at: <https://www.maine.gov/dafs/ocp/resources/universal-symbol> (Accessed July 28, 2023).

(12) All registrants shall maintain all records required by the rules governing the medical cannabis program and the Act and shall make those records available to the Department upon request.

(13) All registrants shall operate in accordance with the information and authorized activities approved by the Department; unless the registrant has provided and obtained approval to operate in accordance with any updated information provided to the Department, in writing on forms required by the Department, since the time of the initial or renewal registration was approved.

(B) Requirements applicable to registered caregivers. In addition to the requirements applicable to all registrants, all registered caregivers:

(1) Shall cultivate no more cannabis plants than the number the caregiver is registered to cultivate, and under any circumstances, not more than 30 mature cannabis plants or 500 square feet of mature cannabis plants, and not more than 60 immature cannabis plants or 1000 square feet of immature plant canopy, at any time;

(2) Shall not employ, or allow to act as an assistant of the registered caregiver, any individual who has not obtained from the Department a registry identification card prior to commencing their work for the registered caregiver; and

(3) Shall not form or engage in a collective prohibited by the rules governing the medical cannabis program and the Act.

(C) Requirements applicable to registered caregivers operating a caregiver retail store. In addition to the requirements applicable to all registrants and all registered caregivers, a registered caregiver who operates a retail store:

(1) Shall obtain municipal approval from the municipality where the caregiver retail store is located;

(2) Shall ensure that the caregiver's registry identification card includes the address of the location where the caregiver operates the retail store; and

(3) Shall employ the same required security measures applicable to registered dispensaries in accordance with § 7(11) of this rule.

(D) Requirements applicable to registered dispensaries. In addition to the requirements applicable to all registrants, all registered dispensaries:

(1) Shall cultivate no more cannabis plants than are necessary for the purpose of assisting qualifying patients; and

(2) Shall not hire any assistant or employee who is not at least 21 years of age, and who has not obtained from the Department a registry identification card prior to commencing their work for the registered dispensary.

(2) Inspections. Except as otherwise indicated, the Department may inspect without notice, during business hours and hours of apparent activity, any premises where a registrant conducts authorized activities, including without limitation areas where a registrant cultivates, stores, manufactures, packages, labels or offers for sale cannabis or cannabis products for medical use.

(A) If a registered caregiver is conducting any authorized activities within the registered caregiver's dwelling unit, the department may only inspect those areas used by the registered caregiver to conduct authorized activities; and the Department may only enter the dwelling unit of a registered caregiver if the registered caregiver is present.

(B) If the Department conducts an inspection in response to a complaint received by the Department, the Department shall provide to the registrant, or the registrant's authorized agent, a written summary of the substance of the complaint.

(C) If the Department identifies any violation of the rules governing the medical cannabis program, or the Act, the Department shall notify the registrant in writing, within 1 business day of completing the inspection, of the violation(s) identified, and such notice shall not constitute final agency action.

(D) A registrant that refuses or willfully avoids 2 or more inspections by the department may be subject to administrative or enforcement action.

(E) During an inspection, the Department may:

(1) Verify information submitted in an application for a registry identification card or registration certificate;

(2) Review and copy all required records;

(3) Conduct interviews;

(4) Enter any area within the location(s) used for the conduct of authorized activities in accordance with the rules governing the medical cannabis program and the Act;

(5) Take physical or digital evidence, including without limitation samples of cannabis plants, cannabis or cannabis products for medical use as well as photographs or electronic copies of records, or as available, copies of security footage, as evidence of noncompliance, or further assessment or testing to determine compliance, with the rules governing the medical cannabis program or the Act; or

(6) Otherwise assess conduct for compliance with the rules governing the medical cannabis program and the Act.

(3) Administrative and Enforcement Actions. All registrants and registry identification cardholders, and any other authorized agent of a registrant, are subject to review by the Department to determine compliance with the rules governing the medical cannabis program and the Act. The Department may take administrative or enforcement action in response to noncompliance with the rules governing the medical cannabis program and the Act, in accordance with this section.

(A) Administrative actions. The Department may take the following administrative actions if it determines an applicant or registrant is ineligible to obtain or retain their registry identification card or registration certificate because the applicant or registrant does not satisfy the requirements for a registry identification card or registration certificate, or if the Department determines the applicant or registrant is in violation of the rules governing the medical cannabis program or the Act.

(1) Denial

(a) The Department may deny an application for a registry identification card or registration certificate, or an application for renewal of registry identification card or registration certificate if it determines the applicant is not eligible for a registry identification card or registration certificate. An applicant is ineligible for a registry identification card or registration certificate if:

(i) The applicant did not submit information required by the rules governing the medical cannabis program or the Act;

(ii) The applicant does not qualify for registry identification card or registration certificate, including without limitation, the applicant has been convicted of a disqualifying drug offense or the applicant is not at least 21 years of age; except that an applicant for a registry identification card who is at least 18 years of age may obtain a registry identification card for the purpose of assisting a registered caregiver who is a member of the registered caregiver's own family as defined in 22 MRS § 2422(5-A);

(iii) The Department determines that any information submitted by the applicant was falsified;

(iv) The Department determines that an applicant for renewal has refused or willfully avoided 2 or more inspections by the Department;

(v) The applicant is, or will be, using a location for conduct authorized by this rule and the Act where such conduct is prohibited by the host municipality's local codes and ordinances; or

(vi) The Department determines that the applicant has failed to demonstrate compliance with the rules governing the medical cannabis program and the Act, including failure to timely remit, or otherwise establish a payment plan for the remittance of, any fines issued pursuant to the rules governing the medical cannabis program.

(b) An applicant whose application for registry identification card or registration certificate has been denied may file an administrative appeal with the Department in accordance with the rules governing the medical cannabis program, 22 MRS § 2425-A and the Maine Administrative Procedure Act, 5 MRS, ch. 375.

(2) Suspension

(a) The Department may suspend a registry identification card or registration certificate for any major violation affecting public safety, any major registration violation, except a major registration violation for the second time a registrant or their authorized agent transfers cannabis or cannabis products to an individual who is not authorized to possess such items, or for 2 or more minor registration violations or for conduct that violates the Maine Criminal Code, Title 17-A of the Maine Revised Statute.

(b) The Department may suspend the registry identification card or registration certificate if the Department determines that the registrant has refused or willfully avoided 2 or more inspections by the Department.

(c) The Department shall specify in its order suspending the registry identification card or registration certificate the period of the suspension, which shall not exceed 1 year. A registrant whose registry identification card or registration certificate has been suspended must apply for a new registry identification card or registration certificate, as applicable, if the period of suspension extends beyond the date of renewal of the registry identification card or registration certificate, otherwise the registrant may resume their operations after obtaining from the Department written authorization to resume authorized activities following the termination of the period of suspension. A registrant or registry identification cardholder shall make a written request to resume authorized activities on forms provided by the Department, such a request may be submitted any time, but no less than 7 days before the expiration of the period of suspension. The written request shall include:

- (i)** The name of the registrant or registry identification cardholder;
- (ii)** Current contact information for the registrant or registry identification cardholder;
- (iii)** An indication of the authorized activities the registrant or registry identification cardholder intends to conduct upon Department approval, and the physical address of any location where those authorized activities will be conducted;
- (iv)** Acknowledgement that the Department may require an inspection of any location where the registrant or registry identification cardholder intends to conduct authorized activities before permitting the reinstatement of the registry identification card or registration certificate; and
- (v)** An attestation that the registry identification cardholder or registrant has addressed and corrected the violations that led to the suspension and has paid any fines assessed by the Department.

(d) A registrant or registry identification cardholder whose registry identification card or registration certificate has been suspended may file an administrative appeal with the Department in accordance with the rules governing the medical cannabis program, the Act and the Maine Administrative Procedure Act, 5 MRS, ch. 375.

(3) Revocation

(a) The Department may revoke a registry identification card or registration certificate for any major violation affecting public safety, any major registration violation, except a major registration violation for the second time a registrant or their authorized agent transfers cannabis or cannabis products to an individual who is not authorized to possess such items, or for 2 or more minor registration violations.

(b) The Department may revoke a registry identification card or registration certificate if the Department determines that the registrant has refused or willfully avoided 2 or more inspections by the Department.

(c) The Department shall specify in its order revoking the registrant's registry identification card or registration certificate the period of the revocation, which shall not exceed 1 year. A registrant whose registry identification card or registration certificate has been revoked must apply for a new registry identification card or registration certificate, as applicable, upon the termination of the period of revocation.

(d) The Department determines that a registrant is no longer eligible for registration by the Department due to outstanding obligations owed to another state agency or noncompliance with local requirements applicable to the registrant;

(e) A registrant or registry identification cardholder whose registry identification card or registration certificate has been revoked may file an administrative appeal with the Department in accordance with the rules governing the medical cannabis program, the Act and the Maine Administrative Procedure Act, 5 MRS, ch. 375.

(4) Emergency Suspension or Revocation. The Department may immediately suspend or revoke a registry identification card or registration certificate on an emergency basis when the Department determines that due to the conduct of the registrant, the health or safety of a person or the public is in immediate jeopardy; or an inspection reveals the regular course of action would not adequately protect public health or safety. In accordance with 5 M.R.S. §§ 10004(3) and (4), such suspension may not exceed 30 days. A threat to public health and safety, includes but is not limited to, making available to patients or registrants product containing an unsafe level of a contaminant or pesticide.

(B) Registration violations. If the Department determines that a registrant or registry identification cardholder has violated the rules governing the medical cannabis program or the Act, or any terms or conditions of a registration certificate or registry identification card, it may, as applicable, take administrative and enforcement action to address any registration violations identified.

(1) Major registration violation affecting public safety.

(a) A major violation affecting public safety is an intentional, willful or reckless violation of the rules governing the medical cannabis program, the Act or any terms or conditions of any registry identification card or registration certificate that jeopardizes public safety.

(b) Major violations affecting public safety include, but are not limited to:

- (i)** Intentionally or recklessly selling cannabis or cannabis products for medical use that contain any other federally controlled substance, including but not limited to opioids, stimulants or hallucinogens;
- (ii)** Intentionally or recklessly using any pesticides in the cultivation or storage of cannabis for medical use in a manner inconsistent with the Act;
- (iii)** Engaging in a deliberate pattern of 2 or more instances of marketing or advertising cannabis or cannabis products, by or on behalf of a registrant, to individuals under 21 years of age or individuals who are not qualifying patients;
- (iv)** Engaging in the sale or transfer of cannabis plants, cannabis or cannabis products for medical use to individuals under 21 years of age who are not qualifying patients;
- (v)** Intentionally destroying, damaging, altering, removing or concealing evidence of any threat to public safety;
- (vi)** Intentionally, willfully or recklessly diverting cannabis or cannabis products for medical use to the unregulated, illicit market or to the adult use cannabis program;
- (vii)** Intentionally, willfully or recklessly purchasing or transferring from the unregulated, illicit market cannabis or cannabis products that are offered for sale or transfer to qualifying patients or combined with lawfully produced cannabis or cannabis products for medical use;
- (viii)** Failing to appropriately secure any areas where cannabis or cannabis products for medical use are cultivated, manufactured, stored, packaged, labeled or sold in accordance with the rules governing the medical cannabis program and the Act, including without limitation cultivation areas;
- (ix)** On more than one occasion, cultivating more cannabis plants for medical use than the registrant is authorized to cultivate; or
- (x)** Other conduct that demonstrates an intentional, willful or reckless disregard for public safety.

(2) Major registration violation

(a) A major violation is an intentional, willful or reckless violation of the rules governing the medical cannabis program, the Act or any terms or conditions of any registry identification card or registration certificate.

(b) Major violations include, but are not limited to:

- (i)** The second, or any subsequent time a registrant, or an authorized agent of a registrant, sells, furnishes or gives away less than 2.5 ounces of cannabis or cannabis products for

- medical use to a person who is not authorized to possess cannabis or cannabis products for medical use;
- (ii)** Failure to maintain records required by the rules governing the medical cannabis program and the Act, including without limitation patient transaction logs, trip tickets, and wholesale transfer records;
 - (iii)** Engaging in marketing or advertising of cannabis or cannabis products, by or on behalf of a registrant, to individuals under the age of 21 years of age or individuals who are not qualifying patients;
 - (iv)** Intentionally destroying, damaging, altering, removing or concealing evidence of a violation of the rules governing the medical cannabis program or the Act;
 - (v)** On more than one occasion, failing to verify the credentials of any qualifying patient obtaining cannabis or cannabis products for medical use through retail sale or gift;
 - (vi)** Cultivating more cannabis plants for medical use than the registrant is authorized to cultivate;
 - (vii)** Cultivating cannabis plants for medical use in any area that is not the registrant's authorized cultivation area for mature or immature cannabis plants for medical use, as applicable; or maintaining more than two cultivation areas, as applicable;
 - (viii)** Conducting any authorized activity at a location not provided to, and approved by, the Department;
 - (ix)** Failing to notify the Department of a change in the address of the location where a registrant conducts any authorized activities;
 - (x)** Operating a registered dispensary, caregiver retail store, or manufacturing facility without municipal authorization or approval;
 - (xi)** Failure to obtain and maintain any required licenses, permits, or certificates from another state agency or a local government necessary for the conduct of any activities authorized by the rules governing the medical cannabis program and the Act;
 - (xii)** Engaging in a pattern of minor license violations;
 - (xiii)** Making claims about the health or physical benefits of cannabis or cannabis products for medical use;
 - (xiv)** Committing, permitting, aiding or abetting any illicit practices or unauthorized conduct related to the cultivation, manufacture, acquisition, dispensing, delivery or transfer of cannabis plants, cannabis or cannabis products for medical use;
 - (xv)** Hiring or otherwise permitting an individual to act as an assistant, employee, officer or director of a registrant when that individual does not possess a valid registry identification card; or
 - (xvi)** Other conduct that demonstrates an intentional, willful or reckless disregard for the rules governing the medical cannabis program or the Act.

(2) Minor registration violation

(a) A minor violation is a knowing or negligent violation of the rules governing the medical cannabis program, the Act or any terms or conditions of any registry identification card or registration certificate.

(b) Minor violations include, but are not limited to:

- (i) The first time a registrant, or an authorized agent of a registrant, sells, furnishes or gives away less than 2.5 ounces of cannabis or cannabis products for medical use to a person who is not authorized to possess cannabis or cannabis products for medical use;
- (ii) Failure to maintain all required employee records;
- (iii) Engaging in unsolicited advertising or marketing on the Internet, including without limitation, the use of banner advertisements on mass-market websites;
- (iv) Engaging in opt-in advertising or marketing that does not permit an easy and permanent opt-out feature;
- (v) Engaging in advertising or marketing directed toward location-based devices unless such marketing includes a permanent and easy opt-out feature and the owner of the device is 21 years of age or older;
- (vi) Placing signs, advertising or marketing materials within 1,000 feet of the property line of a preexisting public or private school, except that, if a municipality chooses to prohibit the placement or use of signs or advertising by or on behalf of a registrant at distances greater than or less than 1,000 feet but not less than 500 feet from the property line of a preexisting public or private school, that greater or lesser distance applies;
- (vii) Using signs, marketing or advertising of cannabis or cannabis product for medical use within the same sign, advertisement or marketing material used to advertise adult use cannabis or cannabis products;
- (viii) Engaging in advertising or marketing that has a high likelihood of reaching persons under 21 years of age or that is specifically designed to appeal particularly to persons under 21 years of age;
- (ix) Engaging in advertising or marketing that is false, misleading or deceptive; or
- (x) Other conduct that demonstrates a knowing or negligent disregard for the rules governing the medical cannabis program or the Act.

(C) Fines.

(1) Fines applicable to registered caregivers who operate a caregiver retail store, registered dispensaries, registered cannabis testing facilities, registered manufacturing facilities and individuals engaged in extraction using inherently hazardous substances.

In addition to any of the administrative remedies indicated above, the Department may assess the fine in response to a finding by the Department that a registrant,

except a registered caregiver who does not operate a retail store, has violated the rules governing the medical cannabis program or the Act.

The Department may assess fines in accordance with this section for each violation identified by the Department, including incidents that result in the finding of multiple violations of the rules governing the medical cannabis program and the Act.

(a) For each major registration violation affecting public safety, a fine not to exceed \$7,500 may be imposed;

(b) For each major registration violation, a fine not to exceed \$3,000 may be imposed; and

(c) For each minor registration violation, a fine not to exceed \$1,000 may be imposed.

(2) Fines applicable to registered caregivers who do not operate a caregiver retail store and authorized agents of registrants.

In addition to any of the administrative remedies indicated above, the Department may assess the fine in response to a finding by the Department that a registered caregiver who does not operate a retail store, or an authorized agent of a registrant, has violated the rules governing the medical cannabis program or the Act. The Department may assess fines in accordance with this section for each violation identified by the Department, including incidents that result in the finding of multiple violations of the rules governing the medical cannabis program and the Act.

(a) For each major registration violation affecting public safety, a fine not to exceed \$1,500 may be imposed;

(b) For each major registration violation, a fine not to exceed \$600 may be imposed; and

(c) For each minor registration violation, a fine not to exceed \$200 may be imposed.

(3) Unless timely appealed, a registrant or registry identification cardholder who is subject to fines pursuant to the rules governing the medical cannabis program and the Act shall remit payment of all fines within 90 days from the date of the Department's Notice of Administrative Action.

(4) Registrants remain at all times responsible for the conduct of their authorized agents whenever an authorized agent is assisting the registrant or otherwise operating at the direction of, or for the benefit of, the registrant.

(5) The Department may assess a fine and/or revoke or suspend the registry identification card or registration certificate of a registrant, or their authorized agent, or a registry identification cardholder that sells, furnishes or gives

cannabis or cannabis products for medical use to a person who is not authorized to possess cannabis or cannabis products for medical use 3 or more times.

(D) Seizure and destruction of medical cannabis plants, medical cannabis and medical cannabis products.

(1) In addition to issuing a final order imposing administrative penalties, the Department may, in the final order:

(a) Require a registrant to forfeit some or all cannabis plants, cannabis or cannabis products for medical use to the Department for destruction; or

(b) Require a registrant to destroy some or all their cannabis plants, cannabis or cannabis products for medical use at the time and place and in the manner required by the Department in writing.

(2) If the Department is notified by a law enforcement agency that the registrant subject to the order of destruction is under investigation by that agency, the Department shall not permit a registrant to destroy any cannabis plants, cannabis or cannabis products for medical use until the law enforcement agency notifies the Department that destruction may proceed.

(E) Initial Notice of violation, administrative action and right to administrative hearing

(1) The Department shall provide initial notice of all violations to a registrant or registry identification cardholder. The notice of violation shall include a brief description of the alleged violation(s).

(a) The Department shall provide notice to a registrant after the Department discovers that a registrant, or an authorized agent of a registrant, has sold, furnished or otherwise given cannabis plants, cannabis, or cannabis products for medical use to an individual who is not authorized to possess cannabis plants, cannabis or cannabis products for medical use.

(b) The Department shall provide an Initial Notice of Violation to a registrant if the Department identifies, during the course of an inspection of the registrant, any violations of the rules governing the medical cannabis program or the Act.

(c) The Department may, in the same notice, or in a separate Notice of Administrative Action, impose any combination of administrative remedies, fines and the forfeiture or destruction of cannabis plants, cannabis or cannabis products for medical use. Unless indicated, a notice of violation shall not be construed as a notice of administrative action or a final order of the Department.

(2) When the Department determines that the imposition of any combination of administrative actions, fines and the forfeiture or destruction of cannabis plants, cannabis or cannabis products for medical use is appropriate to address a violation of the rules governing the medical cannabis program or the Act, the

Department shall issue to a registrant or registry identification cardholder a Notice of Administrative Action that includes:

- (a) A brief description of the violation(s);
- (b) A brief description of the evidence supporting the Department's determination that the violation(s) occurred;
- (c) The legal basis for any administrative actions, fines and forfeiture or destruction of cannabis plants, cannabis or cannabis products for medical use, including reference to any applicable provisions of the rules governing the medical cannabis program or the Act;
- (d) A concise summary of the administrative actions, fines and any required forfeiture and destruction of cannabis plants, cannabis and cannabis products, as applicable, required by the Department; and
- (e) Notice of the registrant or registry identification cardholder's right to appeal the decision to the Commissioner in accordance with the requirements of the Maine Administrative Procedure Act, 5 MRS, ch. 375.

(3) Unless otherwise required by the rules governing the medical cannabis program and the Act, a registrant or registry identification cardholder subject to a Notice of Administrative Action may file a request for an appeal within 30 days of the date of the Notice of Administrative Action.

(a) If the registrant or registry identification cardholder does not make a request for an appeal within 30 days of the Notice of Administrative Action, the registrant or registry identification cardholder is deemed to have waived their right to an appeal and the administrative action, fines and any required forfeiture and destruction of cannabis plants, cannabis and cannabis products, as applicable, are effective from the date of the Notice of Administrative Action.

(b) A Notice of Administrative Action that is timely appealed does not become final agency action until the Commissioner issues an order affirming or rejecting the decision of the Department.

(c) An applicant for a registry identification card or registration certificate whose application is denied may request an administrative hearing in accordance with this subsection, but may not conduct any activities authorized by the rules governing the medical cannabis program and the Act.

(d) A registrant or registry identification cardholder whose application for renewal has been denied may request an administrative hearing in accordance with this subsection, but may not conduct any activities authorized by the rules governing the medical cannabis program and the Act beyond the date the renewal applicant's registry identification card or registration certificate, as applicable, expires.

(4) Appeals.**(A) Timely filed request for appeal.**

(1) A registrant, registry identification cardholder, or as applicable, an applicant, may timely file an appeal from a decision of the Department to impose any combination of administrative actions, fines or any required forfeiture and destruction of cannabis plants, cannabis and cannabis products. A timely filed appeal from a decision of the Department shall:

(a) Be submitted in writing to the Deputy Director of Operations or their designee;

(b) Be submitted within 30 days from the date of the Department's Notice of Administrative Action detailing the decision of the Department to take administrative action, impose fines, or require the destruction or forfeiture of cannabis plants, cannabis or cannabis products for medical use; and

(c) Include at a minimum a telephone number, e-mail address and/or mailing address where the appellant may be contacted.

(2) An applicant whose application for a registry identification card, registration certificate, or renewal of a registry identification card or registration certificate, is denied, may not conduct any authorized activities beyond the date of the applicant's registry identification or registration certificate expires, as applicable.

(3) A registrant or registry identification cardholder whose registry identification card or registration certificate is subject to a Notice of Administrative Action revoking or suspending the registry identification card or registration certificate may not sell, transfer, transport, give away or receive cannabis plants, cannabis or cannabis products for medical use during the pendency of any appeal, but may maintain their inventory, including the maintenance and harvest of any cannabis plants for medical use; and the manufacture of any existing inventory.

(4) A registry identification cardholder or registrant who is appealing the imposition of fines by the Department may continue to conduct all activities authorized under the registry identification card or registration certification until the Commissioner issues an order affirming or rejecting the decision of the Department, or until the registry identification card or registration certificate expires without renewal. Nothing in this paragraph shall be construed to require the Department to approve the application for renewal of an applicant who is not eligible to possess a registry identification card or registration certificate.

(B) Maine Administrative Procedure Act applies.

(1) The Department shall ensure that any applicant, registrant, or registry identification cardholder subject to a decision of the Department to impose any combination of administrative actions, fines or any required forfeiture and destruction of cannabis plants, cannabis and cannabis products is notified in

writing of the individual's right to appeal the Department's decision in accordance with the Maine Administrative Procedure Act, 5 MRS, ch. 375, sub-ch. 4.

(a) Hearings will be conducted using the Department's Standard Operating Procedure for the Conduct of Administrative Hearings for the Adult Use Cannabis Program or the Maine Medical Use of Cannabis Program.

(2) The Commissioner or their designee shall ensure that the appellant is afforded an opportunity to:

(a) review and present evidence;

(b) examine and cross examine witnesses;

(c) be represented by counsel at their own expense or be accompanied by a representative of their choice and at their own expense; and

(d) obtain any reasonable accommodations necessary for the appellant to participate in the appeal.

(3) If the Commissioner issues an order affirming any part of the Department's decision, such an order must be accompanied by written notice to the appellant of their right to judicial review of that final agency action in accordance with 5 MRS, ch. 375, sub-ch. 7.

§ 11 – Inpatient Hospice and Nursing Facilities

(1) Voluntary participation of facility. Inpatient hospice providers and nursing facilities may voluntarily participate in the Maine Medical Use of Cannabis Program, in accordance with this rule and the Act to assist qualifying patients who use cannabis for medical purposes. Nothing in this rule compels an inpatient hospice program or nursing facility to permit cannabis for medical use at the facility by a qualifying patient. Only the inpatient hospice program or nursing facility assisting the patient with the administration of cannabis for medical use is required to be designated by the patient and register as a cardholder.

(A) Home hospice programs. Home hospice programs are not subject to this rule and the Act. Only inpatient hospice programs are permitted to be a designated MMCP caregiver. However, in accordance with this rule and the Act, a qualifying patient may designate the individual home hospice employee who provides hospice care to the patient to also be his or her MMCP-designated caregiver, if the employer's policies allow.

(B) MMCP participation provisions are separate from licensing provisions. The requirements for MMCP participation are subject to the *Maine Medical Use of Cannabis Act* and this rule, not facility licensing laws.

(1) MMCP and licensing documentation kept separate. MMCP documentation shall not be included in the medical record, chart or medication administration record (MAR) that is required under facility licensing laws. A qualifying patient's MMCP record must be maintained at the facility as a

separate record and shall include, but is not limited to, the inventory record, and documentation of cannabis administration.

(C) Facility registration required Prior to assisting a patient residing in the facility, inpatient hospice providers and nursing facilities must submit a Department-approved Caregiver Application form to become a registered caregiver in the Maine Medical Use of Cannabis Program.-There is no application or renewal fee.

(2) A qualifying patient in a hospice or nursing facility. A qualifying patient while in an inpatient hospice program or a nursing facility may participate in the Maine Medical Use of Cannabis Program in accordance with this rule and the Act. The facility's policy may require the patient to disclose possession when the patient is using or storing cannabis for medical use.

(3) Designated caregiver is the facility. It is the inpatient hospice provider or the nursing facility, not their staff, that is designated a registered caregiver and must comply with applicable provisions of this rule and the Act.

(A) Not required to accept designation as caregiver. An inpatient hospice provider or nursing facility is not required to accept a qualifying patient's designation as the patient's caregiver. A facility may not assist the patient with the medical use of cannabis unless designated by the qualifying patient.

(4) Registry identification cards for staff members. Designated inpatient hospice providers and nursing facilities must apply for registry identification cards for each individual staff member assigned to assist qualifying patients. A registry identification card is issued only to a staff person who is at least 21 years of age and not convicted of a disqualifying drug offense. The application process for a registry identification card is set out in this rule and the Act.

(5) Criminal history record check. The designated facility must include the copy of a criminal history record check on each staff member for whom the facility submits a registry identification card application or renewal. The criminal history record check submitted by the facility must have been secured within the past 12 months. If the facility does not have the required criminal history record for an individual staff member, the facility must pay for and secure a criminal history record check to submit with the application for a registry identification card.

(6) Facility registration and staff cards required prior to assisting patients. Prior to assisting qualifying patients, the designated hospice provider or nursing facility must be registered as a caregiver and MMCP registry identification cards issued to facility staff who will assist with the patient's medical use of cannabis. No staff member should remove a registry identification card from the facility, except when the authorized staff member is transporting cannabis outside the facility to deliver to the patient or to legally dispose of the cannabis.

(7) Qualifying patients in facility may not cultivate. Qualifying patients in a hospice inpatient program or a nursing facility may not cultivate their own cannabis.

(8) Cannabis acquisition: from registered dispensary or caregiver. A qualifying patient who is in an inpatient hospice program or a nursing facility may acquire cannabis for medical use in accordance with this rule and the Act. The facility shall document acquisition in the patient's MMCP record.

(A) Dispensary. A designated facility acquires cannabis from a dispensary by either sending a facility staff member with a registry identification card to the dispensary to pick up the cannabis or the dispensary delivers the cannabis to the facility.

(B) Caregiver. A designated facility acquires cannabis from a registered caregiver by either sending a facility staff member with a registry identification card to the registered caregiver to pick up the cannabis or the registered caregiver delivers the cannabis to the facility.

(C) Products containing cannabis must be purchased. A facility may not possess, administer or furnish any other types of cannabis except cannabis or cannabis products for medical use in an amount of two and a half ounces or less per qualifying patient that has designated the facility. A facility may not make cannabis into products to be ingested. Such products must be acquired or purchased from a dispensary or caregiver.

(D) Trip tickets. The facility must retain the cannabis trip ticket from the dispensary or the registered caregiver with the cannabis during transport.

(E) Storage of cannabis for medical use. Special storage consideration is required for cannabis and foods containing cannabis such that access is limited to only the patient and those authorized to assist the patient with the medical use of cannabis.

(9) Inventory control. When the designated facility stores and maintains the inventory of medical use cannabis for a qualifying patient, the facility shall have a policy that addresses how inventory is recorded and access monitored.

(A) Access to inventory. When cannabis is removed from the facility's inventory, the cardholder must document this in the patient's MMCP record.

(B) Daily inventory. Cannabis or cannabis products for medical use must be stored in accordance with the provisions for storing controlled substances and inventoried daily by two staff persons who have MMCP registry identification cards.

(10) Assisting administration of cannabis. A facility assisting a qualifying patient with the medical use of cannabis shall have protocols in place that are consistent with this rule and the Act to address the storage, inventory monitoring and patient access and use. When the designated facility administers medical use cannabis for a qualifying patient, the facility is subject to the following provisions.

(A) Facility staff. A medication technician or a nurse may administer cannabis as long as he or she has been issued a registry identification card for the designated facility. Designated facilities should limit the number of individual staff members who can assist the qualifying patient with cannabis for medical use.

(B) Administration of cannabis in a facility. Only an authorized cardholder may assist a qualifying patient residing in a facility with the medical use of cannabis.

(C) Disposal of unused cannabis. The designated facility must comply with this rule and the Act regarding the disposal of unused medical use cannabis.

(D) Facility smoking policy. The designated facility shall establish and maintain a policy for the administration of cannabis for medical use that includes smoking, vaporizing and using non-smokable forms of medical cannabis.

(11) Confidentiality. The fact that a patient is participating in the Maine Medical Use of Cannabis Program is confidential and each facility serving MMCP patients must develop “need to know” protocols.

(12) Discharge from facility. A resident may not be discharged solely because the patient is a qualifying patient in the Maine Medical Use of Cannabis Program.

(13) Protected conduct: hospice providers, nursing facilities, and staff. The protections and requirements of this rule and the Act are for conduct that is expressly authorized for hospice providers, nursing facilities and their staff that provide care for a qualifying patient in accordance with this rule and the Act.

(14) Reimbursement. This rule and the Act do not affect whether the facility may be reimbursed by other than private money for assisting a qualifying patient with the medical use of cannabis.

Fiscal impact note, included pursuant to 5 MRS § 8063: The Department estimates that the changes implemented by this rulemaking will have a de minimus fiscal impact on municipalities and counties.