



# MEDICAL MARIJUANA PROGRAM RULE

18-691 C.M.R., Chapter 2

**Office of Marijuana Policy**

**Department of Administrative and Financial Services**

Major Substantive Rules Effective Date:

## Table of Contents

General .....	4
Section 1 – Administrative .....	4
Section 2 – Qualifying Patients .....	10
2.1 - Visiting Qualifying Patients .....	10
Section 3 – Medical Provider Requirements .....	11
3.1 – Medical Provider Patient Certification .....	11
3.2 - Enforcement and Compliance .....	11
Section 4 – Long-Term Care Facilities.....	11
4.1 - Registration and Compliance Requirements for Long-Term Care Facilities. ....	11
Section 5 – Registration Types and Registration Process.....	13
5.1 - Registry Identification Card Types.....	13
5.2 - Registry Identification Card Qualifications.....	14
5.3 - Application for a Registry Identification Card .....	15
5.4 - Registration Certificate Types .....	17
5.5 - Registration Certificate Qualifications .....	18
5.6 - Application for a Registration Certificate.....	19
5.7 - Application for Renewal of a Registry Identification Card or a Registration Certificate.....	22
5.8 - Department Review of Applications for Registry Identification Cards, Registration Certificates and Renewals.....	22
5.9 - Application to Change Registry Identification Card Information .....	23
5.10 - Application to Change Registration Certificate Information.....	24
5.11 - Application for Reissuance of a Lost, Stolen or Damaged Registry Identification Card or Registration Certificate .....	25
Section 6 – General Compliance .....	25
6.1 - General Requirements for All Registrants.....	25
6.2 - Additional Requirements Applicable to Registered Caregivers. ....	29
6.3 - Requirements Applicable to the Employment of Registered Assistants.....	35
6.4 - Requirements Applicable to Registered Officers or Directors .....	35
6.5 - Additional Requirements Applicable to Tier 1 and Tier 2 Manufacturing Facilities .....	35
6.6 - Additional Requirements Applicable to Inherently Hazardous Substance Extraction Manufacturing Facilities .....	37
6.7 – Additional Requirements Applicable to Registered Marijuana Testing Facilities.....	39
6.8 - Additional Requirements Applicable to Registered Dispensaries. ....	39
Section 7 – Tracking and Transportation.....	42
7.1 –Recordkeeping Requirements .....	43
7.2 - Transportation .....	44
Section 8 – Packaging and Labeling.....	46

8.1 - General Packaging and Labeling Requirements and Prohibitions.....	46
8.2 - Additional Packaging and Labeling Requirements for Certain Types of Harvested Marijuana.....	48
Section 9 – Advertising .....	50
Section 10 – Waste .....	52
Section 11 – Compliance and Enforcement.....	52
11.1 - General .....	52
11.2 - Inspections.....	54
11.3 - Plans of Correction.....	55
11.4 - Progressive Enforcement.....	55
Section 12 – Fees.....	58
12.1 - Fee Submissions .....	58
12.2 - Persons and Entities Not Subject to Fees .....	58
12.3 - Criminal History Records Check.....	59
12.4 – Assistant, Officer and Director Registry Identification Card Application Fees.....	59
12.5 - Caregiver Registry Identification Card Application Fees.....	59
12.6 - Dispensary Registration Certificate Fees.....	59
12.7 - Manufacturing Facility Registration Certificate Fees.....	59

## General

These rules and the enabling statute, 22 MRS, chapter 558-C, the Maine Medical Use of Marijuana Act, govern the Maine Medical Use of Marijuana Program (MMMP). These rules establish the requirements for the medical use of marijuana, including fees and registration processes and procedures for cultivating, manufacturing, storing, selling, purchasing or otherwise transferring or receiving medical marijuana for the purpose of providing care to qualifying patients. The activities described in these rules may be considered a violation of federal law. Persons cultivating, manufacturing, selling, purchasing or otherwise transferring or receiving marijuana plants or harvested marijuana may be subject to federal sanctions for what may otherwise be considered authorized conduct in the State of Maine, and compliance with these rules does not exempt patients, caregivers, long-term care facilities, dispensaries, testing facilities, manufacturing facilities or their assistants possible federal prosecution. The Department is not responsible or liable for the actions of persons or entities under these rules.

## Section 1 – Administrative

The Department of Administrative and Financial Services (referred heretofore as the Department), acting through its Office of Marijuana Policy pursuant to the Maine Medical Use of Marijuana Act, 22 MRS, chapter 558-C (“the Act”) has developed the following rules, to be known heretofore as the “Rule,” for the purposes of implementing, administering and enforcing the Act.

The Department is responsible for administering the MMMP to ensure qualifying patients’ access to safe marijuana 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 statute. Implementation of program operations and assurance of lawful participation requires conjunctive application of both statute and rule.

**1.1 Department Authority.** The Department may enforce this Rule and any relevant provisions of 4 MRS, 5 MRS, 22 MRS, 28-B MRS and other general statutes, laws, executive orders or subsequently passed legislation. The Department shall set registration fees in accordance with 22 MRS §2425-A. As applicable, the Department may delegate authority to appropriate state and local agencies. The Department, or an agent thereof, shall have the authority to inspect, during times of apparent activity or other reasonable time, any registered caregiver, including a registered caregiver’s retail store, dispensary, manufacturing facility, including inherently hazardous substance extraction facilities, or marijuana testing facility including their business records or vehicles used to transport marijuana plants or harvested marijuana for medical use.

**1.2 Scope of Protected Conduct.** The protections and requirements of this Rule are for conduct expressly authorized by this Rule and the Act for the legal medical use of marijuana in the State of Maine by qualifying patients, and for those authorized to assist qualifying patients. To receive protection for conduct authorized by this and the statute, persons shall comply with applicable provisions of Rule and statute, including possessing required documents as proof of authorized conduct. Protections under this Rule do not extend to persons who are not authorized to possess, cultivate, manufacture, store, test, dispense, transport, furnish or administer marijuana for medical use. Any conduct not explicitly authorized by this Rule or 22 MRS, ch. 558-C is prohibited and may be subject to administrative action or referral to law enforcement.

**1.3 Calculation of marijuana weight.** Pursuant to 22 MRS § 2430-E(4), the amount of marijuana possessed under the Act and this Rule shall be calculated by the weight of dried harvested marijuana. A calculation of the weight of marijuana that is not dried shall be reduced by 75% to account for moisture content. A calculation of the weight of marijuana in a marijuana product may not include ingredients in the product other than marijuana, except that the weight of marijuana concentrate must be included whether the marijuana concentrate is possessed by itself or within a marijuana product.

**1.4 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:

1. **Act** means the Maine Medical Use of Marijuana Act, 22 MRS, chapter 558-C.
2. **Adulterated** means made impure or inferior by adding extraneous ingredients. Goods that are prepared in food establishments that are licensed facilities pursuant to 22 MRS §2167 and contain marijuana for medical use by a qualifying patient are not considered to be adulterated.
3. **Advertising** means publicizing the trade name of a registrant together with words or symbols referring to marijuana or publicizing the brand name of marijuana items.
4. **Another jurisdiction** means the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the United States Virgin Islands, Guam, American Samoa and each of the several states of the United States except Maine.
5. **Applicant** means a person who submits an application for a registry identification card and/or registration certificate under this Rule to the Department for review that the Department has not yet approved or denied.
6. **Assistant** means a person who performs a service for a caregiver, dispensary, marijuana testing facility or manufacturing facility in accordance with 22 MRS, chapter 558-C and this Rule, whether as an employee or an independent contractor.
7. **Batch** means:
  - a. A harvest batch; or
  - b. A production batch.
8. **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 with respect to the medical use of marijuana.
9. **Business or Business entity** means a partnership, association, company, corporation, limited liability company or other entity incorporated or otherwise formed or organized by law, but does not include a federal, state or municipal government organization.
10. **Cardholder** means a person who has been issued and possesses a valid registry identification card.
11. **Caregiver** means a natural person who is a resident of Maine, 21 years of age or older, who assists one or more qualifying patients with the patients' medical use of marijuana in accordance with this Rule.
  - (a) **Exempt caregiver** means a natural person who is a caregiver exempt, pursuant to the Act, from the registration requirements of this Rule.
  - (b) **Registered caregiver** means a natural person who is a caregiver who is required to register with the Department pursuant to 22 MRS § 2425-A and this Rule.
12. **Certificate of analysis** means the report prepared for the party requesting testing and the Department about the analytical testing performed and results obtained by the marijuana testing facility.
13. **C.F.R.** means the *Code of Federal Regulations* which is the compilation of rules promulgated by the federal government, published annually by the U.S. Government Printing Office and available free at several online websites including <https://www.ecfr.gov>. Any citations in this Rule incorporating sections of the C.F.R. by reference, are to the edition published in 2021.
14. **Child-resistant** means conforming to federal regulations regarding poison prevention packaging specially designed or constructed to be significantly difficult for a typical child under 5 years of age to open and not significantly difficult for a typical adult to open or reseal. A container that holds more than one serving or dose of harvested marijuana shall be resealable.
15. **Collective** means an association, cooperative, affiliation or group of caregivers who physically assist each other in the act of cultivation, manufacturing or distribution of marijuana for medical use for the benefit of the members of the collective.
16. **Cultivation area** means a single area, that may be indoors, outdoors, or a combination thereof, used by an authorized registrant for cultivation that is enclosed and equipped with locks or other security devices that permit access only by a person authorized to have access to the area.
17. **DACF** means the Maine Department of Agriculture, Conservation and Forestry.
18. **Deficiency** means a violation of, or failure to comply with, a provision of this Rule or the Act.
19. **Department** means the Department of Administrative and Financial Services.
20. **Designee** means a person or entity authorized by the Department to act on its behalf for a specific purpose, in the administration of the Maine Medical Use of Marijuana Program.

21. **Dispensary or Registered Dispensary** means an entity registered under 22 MRS § 2425-A that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, sells, supplies or dispenses marijuana plants or harvested marijuana or related supplies and educational materials to qualifying patients and caregivers of those qualifying patients.
22. **Dispense** means to provide marijuana for medical use to a qualifying patient, including a minor qualifying patient or visiting qualifying patient, for remuneration or no remuneration.
23. **Disqualifying drug offense** means a criminal conviction for a violation of a state or federal controlled substance law that is a crime punishable by imprisonment for one year or more that prevents the issuance of a registry identification card. “Disqualifying drug offense” does not include:
  - a. An offense for which the sentence, including any term of probation, incarceration or supervised release, was completed 10 or more years before the date of application for a registry identification card or registration certificate; or
  - b. An offense that consisted of conduct that would have been permitted under 22 MRS, ch. 558-C.
24. **Dwelling unit** means a structure, or the part of a structure located at a primary residence that is used as a home by one person who maintains a household or by two or more persons who maintain a common household. A dwelling unit must have permanent provisions for living, sleeping, eating, cooking and sanitation and meet any applicable municipal requirements. Dwelling unit does not include any shed, greenhouse, barn, garage, outbuilding, structure or outdoor cultivation area that is located at the same primary residence but separate from the structure or part of the structure used as a home or sleeping place.
25. **Edible harvested marijuana or marijuana edible** means a marijuana product intended to be consumed orally, including, but not limited to, any type of food, drink or pill containing harvested marijuana.
26. **Exit packaging** means an opaque bag or other container into which a registrant places harvested marijuana upon retail sale or transfer to a qualifying patient or caregiver.
27. **Family** means a group of individuals related through marriage, adoption or common parentage. For the purpose of this rule “family” includes individuals who are residents of the State that are parents, stepparents, spouses, domestic partners, siblings, children, stepchildren, grandparents, grandchildren, aunts, uncles, nieces, or nephews.
28. **Harvest batch** means a batch of harvested marijuana that was harvested from marijuana plants of the same cultivar, grown under the same conditions, in the same area of a cultivation area and harvested at the same time.
29. **Harvested marijuana** means the plant material harvested from a mature marijuana plant, except the stalks, leaves and roots of the plant that are not used for a qualifying patient's medical use. "Harvested marijuana" includes marijuana concentrate and marijuana products but does not include plant material harvested from hemp as defined in 7 MRS, §2231.
30. **Homogeneous** means that a marijuana product or marijuana concentrate is manufactured in a manner that results in the amount of marijuana or marijuana concentrate and cannabinoids within the product being consistent and equally dispersed throughout the product and throughout each portion of the product or concentrate.
31. **Household** means a group of individuals who live together in the same residence.
32. **Immature marijuana plant** means a marijuana plant that is not a mature marijuana plant or seedling. “Immature marijuana plant” does not include hemp as defined in 7 MRS § 2231.
33. **Inhaled harvested marijuana** means harvested marijuana intended to be consumed by inhalation, including without limitation marijuana flower or trim, pre-rolled marijuana cigarettes, vaporizer cartridges or vaporizer pens.
34. **Inherently hazardous substance or IHS** means a liquid chemical; a compressed gas; 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.

35. **Long-term care facility** means a hospice provider facility licensed under chapter 1681; a nursing facility licensed under chapter 405; an assisted living facility licensed under chapter 1663 or 1664; or a facility or program licensed under chapter 1663 that provides care for a qualifying patient.
36. **Manufacture** or **manufacturing** means the production, blending, infusing, compounding or other preparation of marijuana concentrate and marijuana products including, but not limited to, marijuana extraction or preparation by means of chemical synthesis or the application of heat and/or pressure.
37. **Manufacturing area** means the area of a registered premises used for manufacturing activities.
38. **Manufacturing facility** means a registered tier 1, tier 2 or registered inherently hazardous substance extraction manufacturing facility.
39. **Marijuana concentrate** means the resin extracted from any part of a marijuana plant and every compound, manufacture, salt, derivative, mixture or preparation from such resin, including, but not limited to, hashish.
40. **Marijuana extraction** means the process of extracting marijuana concentrate from harvested marijuana using water, lipids, gases, solvents, other chemicals or chemical processes, or the application of heat and/or pressure for the purpose of extracting marijuana concentrate. "Marijuana extraction" does not include the process of extracting concentrate from hemp as defined in 7 MRS § 2231.
41. **Marijuana drink** means a liquid edible marijuana product intended for drinking. A marijuana tincture is not a marijuana drink.
42. **Marijuana plant** means all species of the plant genus Cannabis, including, but not limited to, a mother plant, a mature marijuana plant, an immature marijuana plant or seedling but it does not include a marijuana product or "hemp" as defined in 7 MRS § 2231.
43. **Marijuana product** means a product composed of harvested marijuana and other ingredients. "Marijuana product" includes, but is not limited to, an edible marijuana product, a marijuana ointment and a marijuana drink. "Marijuana product" does not include marijuana concentrate.
44. **Marijuana Testing Facility** means a public or private laboratory that:
  - a. Is authorized in accordance with 22 MRS § 2423-A(10) and this Rule to analyze contaminants in and the potency and cannabinoid profile of samples of marijuana for medical use; and
  - b. Is accredited pursuant to standard ISO/IEC of the International Organization for Standardization by a 3<sup>rd</sup>-party accrediting body or is certified, registered or accredited by an organization approved by the Department.
45. **Marijuana tincture** means a marijuana-infused alcohol or oil concentrate administered orally in small amounts using a dropper or measuring spoon.
46. **Marijuana waste** means marijuana plants or harvested marijuana that are unfit for authorized transfer for reasons including, without limitation, expired products or crop failure. Marijuana waste does not include the central stalk, fan leaves or roots of a marijuana plant.
47. **Marketing** means activities a registrant undertakes to promote the buying or selling of marijuana plants or harvested marijuana to a qualifying patient or caregiver.
48. **Marketing layer** means the outer most layer of a retail sale container, which is most predominantly apparent and visible, such as a box or bag that another container containing harvested marijuana is within. If the retail sale container consists of only a single layer, then the outer surface of the retail sale container is the marketing layer.
49. **Mature marijuana plant** means a flowering female marijuana plant, but does not include hemp as defined in 7 MRS § 2231.
50. **Medical provider** means a physician, a certified nurse practitioner or a physician assistant licensed in the state.
51. **Minor qualifying patient** means a qualifying patient who is less than 18 years of age.
52. **Municipal approval** means an examination and approval of a caregiver retail store, dispensary or manufacturing facility for the use of the premises consistent with conduct authorized under this chapter, including, but not limited to, a conditional use approval or site plan approval. Municipal approval does not include issuance of a building, electrical or other similar permit or authorization that does not address the use of the structure or facility for which the permit or authorization is issued.

53. **Municipal authorization** means the adoption or amendment of an ordinance or approval of a warrant article allowing registered caregiver retail stores, registered dispensaries or manufacturing facilities, as applicable, to operate within the municipality.
54. **Officer or director** means, when used with respect to any nonprofit, for-profit or other organization governed by this chapter, a director, manager, shareholder, board member, partner or other person holding a management position or ownership interest in the organization.
55. **Paraphernalia** means equipment, products and materials that are used in planting, propagating, cultivating, growing, harvesting, manufacturing, preparing, testing, analyzing, packaging, repackaging, storing, containing, ingesting, inhaling or otherwise introducing marijuana for medical use into the human body. Paraphernalia includes, but is not limited to the following:
- (a) Kits used or intended for use in the planting, propagating, cultivating, growing or harvesting of any species of marijuana;
  - (b) Isomerization devices used or intended for use in increasing the potency of any species of the marijuana plant;
  - (c) Testing equipment used or intended for use in identifying or in analyzing the strength, effectiveness or purity of marijuana;
  - (d) Scales and balances used or intended for use in weighing or measuring marijuana;
  - (e) Separation gins and sifters, used or intended for use in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana;
  - (f) Envelopes and other containers used or intended for use in packaging small quantities of marijuana for medical use;
  - (g) Containers and other objects used or intended for use in storing medical marijuana; and
  - (h) Objects used or intended for use in ingesting, inhaling or otherwise introducing marijuana into the human body, including but not limited to:
    - i. Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens, permanent screens, hashish heads or punctured metal bowls;
    - ii. Water pipes;
    - iii. Carburetion tubes and devices;
    - iv. Smoking and carburetion masks;
    - v. Roach clips, meaning objects used to hold burning marijuana cigarettes that have become too small or too short to be held in the hand;
    - vi. Chamber pipes;
    - vii. Carburetor pipes;
    - viii. Electric pipes;
    - ix. Air-driven pipes;
    - x. Chillums;
    - xi. Bongs designed for marijuana and not for cocaine; or
    - xii. Ice pipes or chillers.
56. **Plant canopy** means the total surface area within a cultivation area that is dedicated to the cultivation of mature marijuana plants. The surface area of the plant canopy shall be calculated in square feet and measured using the outside boundaries of the area and shall include all the area within the boundaries. If the surface area of the plant canopy consists of noncontiguous areas, each component area shall be separated by identifiable boundaries. If a tiered or shelving system is used in the cultivation area the surface area of each tier or shelf shall be included in calculating the area of the plant canopy. Calculation of the area of the plant canopy may not include the areas within the cultivation area that are used to cultivate immature marijuana plants and seedlings and that are not used at any time to cultivate mature marijuana plants.
57. **Primary residence** means all real property at the place where an individual registered caregiver has established a fixed dwelling unit and to which the registered caregiver, whenever temporarily absent, intends to return. “Primary residence” does not include any property that:
- a. Is zoned exclusively for commercial or other non-residential use;

- b. Includes signs or advertisements visible to the public indicating that the property is used for the cultivation, manufacture or sale of marijuana plants or harvested marijuana; or
  - c. Is not used by the registered caregiver overnight for a minimum of 183 days per year.
58. **Production batch** means a specific quantity of marijuana concentrate or a marijuana product that is produced during a specified period of time using the same extraction and/or manufacturing method, formulation and/or recipe and standard operating procedure.
59. **Qualifying patient** means a person who has been a resident of the State of Maine for at least 30 days and possesses a valid written certification regarding the medical use of marijuana in accordance with the Rule and the Act.
60. **Radio** means a system for transmitting sound without visual images, and includes broadcast, cable, on-demand, satellite or internet programming. Radio includes any audio programming downloaded or streamed via the internet.
61. **Registered Inherently Hazardous Substance Extraction Manufacturing Facility** means an individual or entity registered with the Department that is authorized to engage in extraction using inherently hazardous substances approved by the Department.
62. **Registered premises** means the structure or structures and land specified in the application for registration, and approved by the Department, where conduct under the Act and this Rule occurs, also referred to as “location of record”.
63. **Registrant** means, unless context indicates otherwise, any registered caregiver, registered dispensary, registered tier 1, tier 2 or inherently hazardous substance extraction manufacturing facility or registered marijuana testing facility.
64. **Registration certificate** means a credential issued by the Department that authorizes the operation of a dispensary, manufacturing facility, marijuana testing facility or a long-term care facility.
65. **Registry identification card** means a card issued by the Department to a natural person as proof of authorized conduct under MMMP.
66. **Resident** means a person who is domiciled in the State of Maine.
67. **Retail sale container** means a container in which harvested marijuana is conveyed during a retail sale which meets all applicable packaging and labeling requirements set forth in the Act and this Rule.
68. **Retail store or caregiver retail store** means a store that has one or more attributes generally associated with retail stores, which may include, without limitation: 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 to offer marijuana plants or harvested marijuana for sale to qualifying patients.
69. **Revocation** means an administrative action taken by the Department to prohibit a registrant from engaging in any authorized conduct for a period of up to one year due to misconduct or other violation of this Rule or the Act by the registrant or its officers, directors or assistants. A registrant shall reapply for a registry identification card or registration certificate following the period of revocation.
70. **Sample** means a portion of harvested marijuana containing marijuana regulated under this Rule that may be analyzed for testing or for research and development purposes.
71. **Seedling** means a marijuana plant or rooted cutting that is:
  - a. Not flowering;
  - b. Less than 24 inches height; and
  - c. Less than 24 inches in width.
72. **Solvent** means a liquid or compressed gas that can be used to extract cannabinoids from harvested marijuana.
73. **Smoke or smoking** means “smoking” as defined in 22 MRS § 1541(6) including carrying or having in one's possession a lighted or heated cigarette, cigar or pipe or a lighted or heated tobacco or plant product intended for human consumption through inhalation whether natural or synthetic in any manner or in any form. "Smoking" includes the use of an electronic smoking device. “Smoking” does not include the use of a nebulizer.
74. **Suspension** means an administrative action taken by the Department to prohibit a registrant from engaging in any authorized conduct for a period of up to one year due to misconduct or other violation

- of this Rule or the Act by the registrant or its officers, directors or assistants. A registrant may apply for renewal of a suspended registry identification card or registration certificate.
75. **Tamper-evident** means, regarding a device or a process, bearing a seal, label or marking that makes unauthorized access to or tampering with a package, product or container easily detectable.
  76. **Tamper-resistant paper** means paper that possesses an industry-recognized feature that prevents copying of the paper, erasure or modification of information on the paper and the use of counterfeit documentation.
  77. **Television** means a system for transmitting visual images and sound that are reproduced on screens, and includes broadcast, cable, on-demand, satellite, or internet programming. Television includes any video programming downloaded or streamed via the internet.
  78. **Tobacco product** means a “tobacco product” as defined in 22 M.R.S. §1551.
  79. **Trade sample** means a sample of harvested marijuana provided by one registrant to another registrant in accordance with this Rule solely for the purposes of business-to-business marketing and not for remuneration or anything of value in return.
  80. **Trip ticket** means a record required by the Department for a registrant to document the transportation and transfer of harvested marijuana by the registrant to another registrant, a qualifying patient or visiting qualifying patient.
  81. **Visiting qualifying patient** means a patient who is authorized for the medical use of marijuana in this State who is not a resident of the State or who has been a resident of the State less than 30 days.
  82. **Wholesale container** means a sealed package in which harvested marijuana is conveyed during an authorized transfer from one registrant to another registrant.
  83. **Written certification** means an original document authorizing a qualifying patient to possess and use marijuana for medical use that is printed on tamper-resistant paper supplied by the Department to a medical provider, and executed and signed by a qualified medical provider in accordance with this Rule. A written certification is valid for the term indicated by the medical provider, which may not exceed one year. Digital copies of written certification may be used to initiate a transaction for the purchase of marijuana for medical use, provided the original written certification is verified in person prior to completion of the transfer.

## Section 2 – Qualifying Patients

Qualifying patients, including minor qualifying patients, in possession of a valid written certification may engage in conduct regarding the medical use of marijuana as expressly authorized by the Act.

### 2.1 - Visiting Qualifying Patients

**2.1.1 Visiting Qualifying Patient Credentials Accepted.**<sup>1</sup> A visiting qualifying patient from another jurisdiction that authorizes the medical use of marijuana pursuant to a law recognized by the department may engage in conduct authorized for a qualifying patient under the Act provided that the visiting qualifying patient:

- A. Possesses a valid medical marijuana certification or other credential from their jurisdiction of residence which includes the visiting qualifying patient’s name; and
- B. Possesses valid photographic identification which includes the visiting qualifying patient’s name as listed on the patient credential from their jurisdiction of residence.

**2.1.2 Visiting qualifying patient conduct.** Except as limited by this section, a visiting qualifying patient may engage in conduct authorized for a qualifying patient by this Rule and the Act. A visiting qualifying patient may not:

- A. Cultivate marijuana for medical use;
- B. Possess more than two and one-half ounces of harvested marijuana in a 15-day period;

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<sup>1</sup> A complete list of jurisdictions that authorize their patients to use their patient credentials to obtain harvested marijuana while visiting Maine is available at: <https://www.maine.gov/dafs/omp/medical-use/visiting-patients> (Accessed December 17, 2021.)

- C. Purchase, acquire or otherwise obtain or possess marijuana plants or seeds; or
- D. Transfer or furnish harvested marijuana to another a person.

## Section 3 – Medical Provider Requirements

### 3.1 – Medical Provider Patient Certification

In accordance with the requirements of the Act, a physician, certified nurse practitioner or physician assistant appropriately licensed in the State of Maine may, in compliance with this Rule and the Act, provide written certification that the medical use of marijuana is likely to produce a therapeutic or palliative benefit to an adult or minor patient. The medical provider shall provide this written certification only in the context of a bona fide medical provider-patient relationship, which may, as appropriate and permitted by professional licensing requirements, be conducted via telemedicine.

### 3.2 - Enforcement and Compliance

- A. 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.
- B. The medical provider shall 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.
- C. Nothing in this Rule shall be construed to prohibit a professional licensing board from sanctioning a medical provider who fails to properly evaluate or treat a patient's medical diagnosis, or who otherwise violates the medical provider's applicable standard of care for evaluation and treatment of a medical diagnosis.

## Section 4 – Long-Term Care Facilities

### 4.1 - Registration and Compliance Requirements for Long-Term Care Facilities.

A long-term care facility may have a policy allowing residents of the long-term care facility who are qualifying patients to use harvested marijuana at the long-term care facility. A long-term care facility that permits a qualifying patient to use harvested marijuana but does not store or assist a qualifying patient in the patient's medical use of marijuana is not required to obtain from the Department a registration certificate. A long-term care facility that assists qualifying patients who are residents in the medical use of marijuana shall obtain a registration certificate from the Department of proof of authorized conduct and shall ensure that any employee of the long-term care facility assisting a resident of the facility who is qualifying patient in the medical use of marijuana obtain from the Department registry identification cards in accordance with this Rule.

**4.1.1. Long-term care facilities that permit the medical use of marijuana by a resident who is a qualifying patient.** A long-term care facility may permit its residents who are qualifying patients to store and consume marijuana for medical use on the premises of the long-term care facility in accordance with this section.

- A. A long-term care facility that has a policy to permit residents who are qualifying patients to store and consume harvested marijuana in their rooms is not required to obtain a registration certificate if the long-term care facility and its employees do not assist a resident who is a qualifying patient in the resident's use of harvested marijuana. As permitted by the long-term care facility's policy, a qualifying patient may receive assistance from their own caregiver.

- B. A qualifying patient who is a resident of a long-term care facility does not need to designate the long-term care facility to use or store marijuana for medical use in compliance with the long-term care facility's policies but without staff assistance.
- C. A long-term care facility whose employees assist a resident who is a qualifying patient in the medical use of marijuana shall:
  - (1) Be designated by a qualifying patient to assist the qualifying patient in the medical use of marijuana, but may not be designated to cultivate marijuana for medical use;
  - (2) Ensure any employee who acquires, stores, dispenses, assists with, or otherwise handles marijuana for the medical use of qualifying patients possesses a valid registry identification card which identifies the employee as an "assistant" of the long-term care facility; and
  - (3) Obtain a registration certificate as proof of authorized conduct pursuant to this Rule.

**4.1.2 Long-Term Care Facility Registration Certificate.** A long-term care facility registration certificate permits the following activities in accordance with this Rule and the Act:

- A. Assist with a qualifying patient's medical use of marijuana after designation by the qualifying patient; and
- B. Hire and register with the Department any number of assistants to assist in performing authorized conduct.

**4.1.3 Application for a Long-Term Care Facility Registration Certificate.** Each applicant for a long-term care facility registration certificate shall include on forms made available by the Department as well as attachments thereto, all information requested by the Department, including without limitation information described in this section.

- A. Each applicant for a long-term care facility registration certificate shall provide at a minimum the following information on forms made available by the Department:
  - (1) The legal name of the applicant;
  - (2) The date of the application;
  - (3) The physical location where the long-term care facility is located;
  - (4) The designation form from the qualifying patient;
  - (5) The applicant's mailing address where the applicant will receive official correspondence from the Department;
  - (6) The applicant's e-mail address where the applicant will receive official correspondence from the Department; and
  - (7) The name and registry identification card number for any staff who will assist a qualifying patient with the patient's medical use of marijuana.
- B. There is no fee for the application or renewal of a long-term care facility registration certificate.

**4.1.4 Requirements Applicable to Long-Term Care Facility Registration Certificate Holders.** Each long-term care facility registration certificate holder shall ensure at least one registry identification card holder is employed by the long-term care facility at all times when assisting a qualifying patient with the patient's medical use of marijuana. Registry identification card holders employed by the long-term care facility are the only staff of the facility authorized to assist a qualifying patient with the patient's medical use of marijuana.

**4.1.5. Authorized conduct of long-term care facilities assisting residents who are qualifying patients with the medical use of marijuana.** Long-term care facilities may voluntarily participate in the Maine Medical Use of Marijuana Program, in accordance with this Rule and the Act to assist qualifying patients who use marijuana for medical purposes. Nothing in this Rule compels a long-term care facility to permit marijuana for medical use at the facility by a qualifying patient. Nothing in this Rule shall be construed to require registration by a long-term care facility that permits, by policy, a qualifying patient to use their harvested marijuana and store such harvested marijuana in the qualifying patient's bedroom, so long as the long-term care facility does not assist the qualifying patient in the administration, or storage outside of the qualifying patient's bedroom, of harvested marijuana.

- A. If allowed, a qualifying patient while in a long-term care facility may participate in the Maine Medical Use of Marijuana Program in accordance with this Rule and the Act.

- (1) Qualifying patients in a long-term care facility may not cultivate their own marijuana.
  - (2) The facility's policy may require the patient to disclose possession when the patient is using or storing marijuana for medical use.
  - (3) A qualifying patient shall acquire marijuana for medical use in accordance with this Rule and the statute.
  - (4) The designated facility shall comply with this Rule and the Act regarding the disposal of unused marijuana for medical use.
- B. The designated facility shall establish and maintain a policy for the administration of marijuana for medical use that includes smoking, vaporizing and using non-smokable forms of medical marijuana.
- C. Acting through employees who are authorized to assist qualifying patients with the medical use of marijuana, a facility may obtain marijuana for medical use, in an amount of two and a half ounces or less per qualifying patient that has designated the facility and in accordance with this Rule and statute.
- (1) A designated facility may acquire harvested marijuana from a registered dispensary or registered caregiver by either sending a facility staff member with a registry identification card to the registered dispensary or registered caregiver to obtain the harvested marijuana or having the registered dispensary or registered caregiver deliver the marijuana to the facility.
  - (2) The patient may designate an exempt caregiver to cultivate the marijuana for the patient's use.
  - (3) A long-term care facility may not manufacture harvested marijuana.
- D. Home hospice programs are not subject to this Rule and the Act.
- (1) Only inpatient hospice programs (hospice provider facilities) are permitted to be a designated MMMP caregiver.
  - (2) A home hospice program may establish policies allowing individual employees to register as caregivers.
  - (3) When required under this Rule or the Act to designate a caregiver, a qualifying patient or the patient's legal representative shall designate the individual employee, rather than the home hospice program, as caregiver.

## Section 5 – Registration Types and Registration Process

The general registration types are registry identification cards and registration certificates. All registrations issued by the Department are for the purpose of assisting a qualifying patient with the patient's medical use of marijuana in accordance with this Rule and the Act. A registry identification card is required as proof of authorized conduct to operate as a registered caregiver, an assistant of a registered caregiver, or an assistant or an officer or director of a person or entity holding a registration certificate. A registration certificate is required to operate a registered tier 1 or tier 2 or an inherently hazardous substances extraction manufacturing facility, a marijuana testing facility or a dispensary. All registry identification cards and registration certificates are valid for one year and are nontransferable.

### 5.1 - Registry Identification Card Types

The Department may issue the following registry identification cards to individuals who meet all requirements of this Rule and the Act.

**5.1.1 Caregiver Registry Identification Card.** A caregiver registry identification card permits the following activities in accordance with this Rule and the Act:

- A. Hire any number of assistants to assist in performing authorized conduct;
- B. Cultivate and possess up to 30 mature marijuana plants or 500 square feet of plant canopy of mature plants as registered with the Department, 60 immature marijuana plants and unlimited seedlings;
- C. Possess the harvested marijuana produced by the registered caregiver's cultivation of marijuana plants;
- D. Manufacture marijuana products and marijuana concentrate for medical use, except that a registered caregiver may not produce marijuana concentrate using inherently hazardous substances unless authorized pursuant to 22 MRS §2423-F(3) and in accordance with this Rule;

- E. Provide harvested marijuana to a manufacturing facility and obtain marijuana products and marijuana concentrate from the manufacturing facility that are produced from the harvested marijuana the registered caregiver provided to the manufacturing facility;
- F. Provide samples to a marijuana testing facility as required by this Rule and the Act for the purposes of verifying label information or for research and development purposes as applicable;
- G. Provide trade samples to another registrant in accordance with section 6.1.6 of this Rule;
- H. Transfer up to 2 ½ ounces of harvested marijuana to a qualifying patient in one transaction, except that a registered caregiver may not dispense more than 2 ½ ounces of harvested marijuana to a visiting qualifying patient during a 15-day period;
- I. Transfer marijuana plants to a qualifying patient for no remuneration;
- J. Subject to local authorization, operate one caregiver retail store to sell marijuana plants and harvested marijuana to qualifying patients for the patients' medical use;
- K. Transfer to and accept from another registered caregiver or a registered dispensary, in a wholesale transaction or for no remuneration, marijuana plants and harvested marijuana in accordance with 22 MRS §2423-A(2)(K) and (K-1) and this Rule;
- L. Transport marijuana plants or harvested marijuana as authorized by this Rule;
- M. Dispose of harvested marijuana in a manner that prevents its diversion to persons not authorized to possess harvested marijuana; and
- N. Organize as a business entity in accordance with section 6.2.2 of this Rule.

**5.1.2 Assistant Registry Identification Card.** An assistant registry identification card permits the holder to assist, in accordance with this Rule and the Act, in the duties of any active registrant(s) listed in the assistant's application for registry identification card.

**5.1.3 Officer or Director Registry Identification Card.** An officer or director registry identification card permits the holder to own or control a business entity which holds an active manufacturing facility, marijuana testing facility or dispensary registration certificate and conduct all activities authorized under the registration certificate.

## 5.2 - Registry Identification Card Qualifications

**5.2.1 General Registry Identification Card Criteria.** An application for a registered caregiver, an assistant of a registered caregiver, manufacturing facility, marijuana testing facility or dispensary, and every officer or director of a manufacturing facility, marijuana testing facility or dispensary, shall complete an application for a registry identification card on forms provided by the Department.

- A. **Age.** The applicant must be at least 21 years of age, except that an applicant who is between the ages of 18 and 20 may apply to be an assistant of a registered caregiver who is also a member of that applicant's family.
- B. **Resident.** The applicant must certify that he/she is a resident of the State of Maine.
- C. **No Disqualifying Drug Offense.** The Department may not grant a registry identification card to anyone convicted of such offenses. A disqualifying drug offense does not include an offense for which the sentence, including any term of probation, incarceration or supervised release, was completed 10 or more years earlier or an offense that consisted of conduct that would have been permitted under this Rule and the Act.
- D. **Criminal History Records Check.** The applicant must have submitted to a criminal history record check in accordance with the requirements this Rule and Act.
- E. **Compliance with Application Process; No False Statement of Material Fact.** The applicant must have completed all application forms required by the Department, fully and truthfully, and complied with all information requests of the Department relating to the application. A registry identification card may not be issued to an applicant that has knowingly or recklessly made any false statement of material fact to the Department in applying under this Rule and the Act. The Department shall revoke the registry identification card of a registrant pursuant to 22 MRS if, subsequent to the issuance of the registry

identification card the Department determines that the applicant knowingly or recklessly made a false statement of material fact to the Department in applying.

### 5.3 - Application for a Registry Identification Card

**5.3.1 Required Forms for All Registry Identification Cards.** Each applicant for a registry identification card shall include on forms made available by the Department as well as attachments thereto, all information requested by the Department, including without limitation information described in this section.

- A. Each applicant for a registry identification card shall provide at a minimum the following information:
  - (1) The legal name of the applicant;
  - (2) The date of the application;
  - (3) Proof that the applicant is a resident of the State of Maine;
  - (4) Proof that the applicant is, as applicable, at least 18 or 21 years of age;
  - (5) The applicant's mailing address where the applicant will receive official correspondence from the Department;
  - (6) The applicant's e-mail address where the applicant will receive official correspondence from the Department;
  - (7) The results of the criminal history record check conducted in accordance with section 5.3.5 of this Rule; and
  - (8) The type of registry identification card for which the applicant is applying.
- B. Each applicant for a registry identification card shall pay the required fee for a criminal history record check in accordance with section 12 of this Rule, unless the applicant has completed a criminal history record check for a registry identification card within the last 364 days.
- C. Upon invoice by the Department, for caregiver registry identification cards, and upon application for all other registry identification cards, each applicant for a registry identification card shall pay the required registration fee in accordance with this Rule and the Act.

**5.3.2 Additional Requirements for a Caregiver Registry Identification Card Application.** In addition to the information required in section 5.3.1, each applicant for a caregiver registry identification card shall provide the following information on forms made available by the Department:

- A. The legal name, organizing documents, operating and/or management agreements, bylaws, and any other business information required by the Department to prove compliance with section 6.2.2 for the single allowable business entity organized by the applicant associated with the caregiver registry identification card, if applicable.
- B. Proof of active sales tax registration according to 36 MRS and the rules of the Maine Revenue Service.
- C. Proof of all required licenses, registrations, or certificates from the Department of Agriculture, Conservation and Forestry, the Department of Health and Human Services, the Department of Environmental Protection and Maine Revenue Services in accordance with section 6.1.4 of this Rule, if applicable.
- D. Disclosure of whether the applicant intends to co-locate with an adult use marijuana cultivation or products manufacturing facility in accordance with 28-B MRS, ch. 1 and 18-691 CMR, ch. 1;
- E. An indication of whether the applicant intends to provide samples of harvested marijuana to a marijuana testing facility for the purpose of testing for the cannabinoid profile and potency of the samples and for contaminants in the samples, including without limitation mold, mildew, heavy metals, plant regulators and illegal pesticides;
- F. Each applicant for a caregiver registry identification card shall provide the following information, without limitation, regarding the operation of one caregiver retail store where the registered caregiver will offer marijuana plants and harvested marijuana for sale to qualifying patients, if applicable:
  - (1) The physical location where the caregiver retail store will be located and if applicable:

- a. Documentation that the municipality in which the applicant proposes to locate the caregiver retail store has voted to adopt or amend an ordinance or approve a warrant article allowing caregiver retail stores to operate within the municipality; and
  - b. A signed and notarized local authorization form completed by an authorized municipal official on the form provided by the Department; and
- G. Any other information required by the Department to process the application.

### **5.3.3 Additional Requirements for an Assistant Registry Identification Card Application**

In addition to the information required in section 5.3.1, each applicant for an assistant registry identification card shall provide the legal name and date of birth, as applicable, of the registrant the applicant will assist.

### **5.3.4 Additional Requirements for an Officer or Director Registry Identification Card Application**

In addition to the information required in section 5.3.1, each applicant for an officer or director registry identification card shall provide the following information on forms made available by the Department:

- A. Legal name of registrant for which the applicant will act as an officer or director;
- B. Registration certificate number, as applicable for existing registrants, of registrant for which the applicant will act as an officer or director; and
- C. Role in the registrant's organization.

### **5.3.5 Criminal History Record Checks.**

The Department may not issue or renew a registry identification card without an annual criminal history record check conducted within the past 364 days in accordance with this section.

- A. All applicants shall consent to a criminal history record check conducted by the Department of Public Safety, Bureau of State Police, State Bureau of Identification.
- B. An applicant shall disclose all convictions of a disqualifying drug offense, as defined in 22 MRS §2422, including without limitation convictions for violations of the laws of the State of Maine or any other state, or federal law.
- C. An applicant may be required to provide court dispositions and other information at the request of the Department for each conviction that is a disqualifying drug offense.
- D. The applicant is responsible for all costs associated with fingerprinting, for caregivers administering medical marijuana on school grounds, as well as all fees for criminal history record checks. The fee(s) for the fingerprinting and criminal history record checks shall be set by the State Police and/or State Bureau of Identification, in accordance with its usual operations.
- E. The State Bureau of Identification shall conduct the criminal history record checks, which shall include information from:
  - (1) The Maine Criminal Justice Information System, regarding records of offenses within the state; and
  - (2) For those registered caregivers administering marijuana on the grounds of a preschool or primary or secondary school, the Federal Bureau of Investigation, regarding offenses in other jurisdictions.
- F. Except for the portion of a payment, if any, that constitutes the processing fee for a criminal history record check charged by the Federal Bureau of Investigation, all money received by the State Police under this section shall be paid to the Treasurer of State, who shall apply the money to the expenses incurred by the Department of Public Safety in the administration of this section.
- G. The subject of a state criminal history record check may inspect and review the criminal history record information pursuant to 16 MRS § 709.
- H. All criminal history record information obtained by the Department pursuant to this section is confidential and not subject to disclosure by the Department to any person.
- I. The subject of a Federal Bureau of Investigation criminal history record check may obtain a copy of the criminal history record check by following the procedures outlined in federal regulations regarding production of FBI identification records to the subject thereof.

## 5.4 - Registration Certificate Types

In addition to long-term care facility registration certificates issued in accordance with Section 4 of this Rule, the Department may issue the following registration certificates to persons or entities in accordance with this Rule and the Act.

**5.4.1 Tier 1 or Tier 2 Manufacturing Facility Registration Certificate.** A tier 1 or tier 2 manufacturing facility registration certificate permits the following activities in accordance with this Rule and the Act:

- A. Hire any number of assistants to assist in performing authorized conduct;
- B. For a tier 1 manufacturing facility, possess up to 40 pounds of harvested marijuana and for a tier 2 manufacturing facility, possess up to 200 pounds of harvested marijuana;
- C. Manufacture marijuana products and marijuana concentrate for medical use, except that a tier 1 or tier 2 manufacturing facility registrant may not manufacture food, as defined in 22 MRS §2152(4), unless the tier 1 or tier 2 manufacturing facility registrant is licensed pursuant to 22 MRS §2167 and except that a tier 1 or tier 2 manufacturing facility registrant may not produce marijuana concentrate using inherently hazardous substances unless authorized pursuant to 22 MRS §2423-F(3);
- D. Obtain harvested marijuana from a qualifying patient, a registered caregiver or a registered dispensary and transfer marijuana products and marijuana concentrate to the person that provided the harvested marijuana used to manufacture the marijuana product or marijuana concentrate;
- E. Transfer samples to a marijuana testing facility for testing;
- F. Provide trade samples to another registrant in accordance with section 6.1.6 of this Rule;
- G. Conduct testing of marijuana products or marijuana concentrate manufactured by the facility for research and development purposes;
- H. Package and label marijuana products and marijuana concentrate;
- I. Receive reasonable compensation for manufacturing marijuana products or marijuana concentrate;
- J. Dispose of marijuana waste in a manner that prevents its diversion to persons not authorized to possess harvested marijuana;
- K. Transport harvested marijuana for authorized conduct in accordance with section 7.3 of this Rule; and
- L. Organize as a business entity.

**5.4.2 Inherently Hazardous Substance Extraction Manufacturing Facility Registration Certificate.** An inherently hazardous substance extraction manufacturing facility registration certificate permits the following activities in accordance with this Rule and the Act:

- A. Hire any number of assistants to assist in performing authorized conduct;
- B. Possess up to 40 pounds of harvested marijuana;
- C. Engage in marijuana extraction to produce marijuana concentrate for medical use;
- D. Obtain harvested marijuana from a qualifying patient, a caregiver or a dispensary and may transfer marijuana concentrate to the person that provided the harvested marijuana used to produce the marijuana concentrate;
- E. Transfer samples to a marijuana testing facility for testing;
- F. Provide trade samples to another registrant in accordance with section 6.1.6 of this Rule;
- G. Conduct testing of marijuana concentrate produced by the person for research and development purposes;
- H. Package and label marijuana concentrate;
- I. Receive reasonable compensation for producing marijuana concentrate;
- J. Dispose of marijuana waste a manner that prevents its diversion to persons not authorized to possess harvested marijuana;
- K. Transport harvested marijuana for authorized conduct in accordance with section 7.3 of this Rule; and
- L. Organize as a business entity.

**5.4.3 Marijuana Testing Facility Registration Certificate.** A marijuana testing facility registration certificate permits the following activities in accordance with this Rule and the Act:

- A. Hire any number of assistants to assist in performing authorized conduct;

- B. Collect and transport samples of harvested marijuana for mandatory or other testing in accordance with this Rule and the Act;
- C. Receipt, for the purpose of required or other testing, of samples of harvested marijuana from registrants, exempt caregivers and qualifying patients;
- D. Perform laboratory analysis of samples of harvested marijuana in accordance *Rules for the Certification of Marijuana Testing Facilities*, 18-691 CMR, ch. 5;
- E. Provide certificates of analysis and other reports on cannabinoid identity and content profiles, and presence, absence and amounts of chemical and biological contaminants to registrants, exempt caregivers or qualifying patients that submitted samples of harvested marijuana for analysis;
- F. Report results of laboratory analysis to a registrant and the Department, as applicable, in accordance with this Rule and 18-691 CMR, ch. 5;
- G. Destroy and dispose samples of harvested marijuana in accordance with this Rule, 18-691 CMR, ch. 5 and the Act; and
- H. Organize as a business entity.

**5.4.4 Dispensary Registration Certificate.** A dispensary registration certificate permits the following activities in accordance with this Rule and the Act:

- A. Hire any number of assistants to assist in performing authorized conduct;
- B. Cultivate marijuana plants as indicated in application materials submitted to and approved by the Department;
- C. Possess marijuana plants, as well as the harvested marijuana produced by the dispensary's cultivation of those marijuana plants or purchased in a wholesale transaction in accordance with this Rule and the Act;
- D. Manufacture marijuana products and marijuana concentrate for medical use, except that a dispensary may not manufacture food, as defined in 22 MRS §2152(4), unless the dispensary is licensed pursuant to 22 MRS §2167 and except that a dispensary may not produce marijuana concentrate using inherently hazardous substances unless authorized pursuant to 22 MRS §2423-F(3);
- E. Provide harvested marijuana to a manufacturing facility and obtain marijuana products and marijuana concentrate from the manufacturing facility that are produced from the harvested marijuana the dispensary provided to the manufacturing facility;
- F. Provide samples to a marijuana testing facility as required by this Rule and the Act for the purposes of verifying label information or for research and development purposes as applicable;
- G. Provide trade samples to another registrant in accordance with section 6.1.6 of this Rule;
- H. Transfer up to 2 ½ ounces of harvested marijuana to a qualifying patient in one transaction, except that a dispensary may not dispense more than 2 ½ ounces of harvested marijuana to a visiting qualifying patient during a 15-day period;
- I. Transport marijuana plants or harvested marijuana for authorized conduct in accordance with section 7.3 of this Rule;
- J. Dispose of marijuana waste in a manner that prevents its diversion to persons not authorized to possess harvested marijuana;
- K. Transfer to and accept from a registered caregiver or another registered dispensary, in a wholesale transaction, marijuana plants and harvested marijuana in accordance with 22 MRS §2423-A(2)(K-1), this Rule and the Act; and
- L. Organize as a business entity.

## 5.5 - Registration Certificate Qualifications

**5.5.1 General Registration Certificate Criteria.** An application for a registration certificate must meet each of the following requirements, if applicable. If the applicant is a business entity, every officer or director of the business entity must meet each of the requirements.

- A. **Age.** The applicant must be 21 years of age.
- B. **Resident.**
  - (1) If the applicant is a natural person, the applicant must certify that he/she is a resident of the State of Maine;

- (2) If the applicant is a business entity, the applicant shall demonstrate to the Department that every officer or director of the business entity is a natural person who is a resident of the State of Maine; and
- (3) This subsection does not apply to an applicant for a long-term care facility registration certificate.
- C. **Incorporated in the State.** If the applicant is a business entity, the business entity must be incorporated in the State of Maine or otherwise formed or organized under the laws of the State and be in good standing with the Secretary of State's Office. A registered manufacturing facility, marijuana testing facility or dispensary may organize as any business entity recognized by the laws of the State of Maine.
- D. **No Disqualifying Drug Offense.** The Department may not grant a registration certificate to an applicant if any officer or director was convicted of such offenses. A disqualifying drug offense does not include an offense for which the sentence, including any term of probation, incarceration or supervised release, was completed 10 or more years earlier or an offense that consisted of conduct that would have been permitted under this Rule and the Act.
- E. **Criminal History Records Check.** The applicant must have submitted to a criminal history record check in accordance with the requirements this Rule and Act.
- F. **Compliance with Application Process; No False Statement of Material Fact.** The applicant must have completed all application forms required by the Department and fully and truthfully and complied with all information requests of the Department relating material fact to the Department in applying under this Rule and the Act. The Department shall revoke the registration certificate of a registrant pursuant to 22 MRS if, subsequent to the issuance of the registration certificate the Department determines that the applicant knowingly or recklessly made a false statement of material fact to the Department in applying.

## 5.6 - Application for a Registration Certificate

**5.6.1 Required Forms for All Registration Certificates.** Each applicant for a registration certificate shall include on forms supplied by the Department as well as attachments thereto, all information requested by the Department, including without limitation information described in this section. If the applicant is a business entity, every officer or director of the business entity must meet each of the requirements.

- A. Each applicant for a registration certificate shall provide at a minimum the following information on forms made available by the Department:
  - (1) The legal name of the applicant;
  - (2) If the applicant is a business entity, identification of all natural persons and business entities having an ownership and/or management interest in the registration certificate and the nature and extent of the interest held by each person or entity and, if applicable, the nature and extent of any interest the person or entity has in any other registration certificates applied for or issued under this Rule;
  - (3) The federal employer identification number if the applicant is a business entity;
  - (4) The date of the application;
  - (5) Proof that the applicant is a resident of the State of Maine;
  - (6) Proof that the applicant is at least 21 years of age;
  - (7) The applicant's mailing address where the applicant will receive official correspondence from the Department;
  - (8) The applicant's e-mail address where the applicant will receive official correspondence from the Department;
  - (9) The results of the criminal history record check conducted in accordance with section 5.3.5 of this Rule; and
  - (10) The type of registration certificate.
- B. Each applicant for a registration certificate shall provide payment of the required fee for a criminal history record check in accordance with section 12 of this Rule.
- C. Each applicant for a registration certificate shall provide payment of the required registration fee in accordance with this Rule and the Act.

### **5.6.2 Additional Requirements for a Tier 1 and Tier 2 Manufacturing Facility Registration Certificate.**

In addition to the information required in section 5.6.1, each applicant for a Tier 1 or Tier 2 manufacturing facility registration certificate shall provide the following information on forms made available by the Department:

- A. The name, address, date of birth and registry identification card number of the applicant, and each officer or director if the applicant is a business entity;
- B. The legal name, organizing documents, operating and/or management agreements, bylaws, and any other business information required by the Department;
- C. Identification of all natural persons and business entities holding an ownership interest in the applied-for registration certificate and the nature and extent of the interest held by each person or entity and, if applicable, the nature and extent of any interest the person or entity has in any other registration certificates applied for or issued under this Rule;
- D. Proof of all required tax registrations according to 36 MRS and the rules of the Maine Revenue Service;
- E. Proof of all required licenses, registrations, or certificates from the Department of Agriculture, Conservation and Forestry, the Department of Health and Human Services and the Department of Environmental Protection in accordance with section 6.1.4 of this Rule, as applicable;
- F. Documentation that the municipality in which the applicant proposes to locate the Tier 1 or Tier 2 manufacturing facility has voted to adopt or amend an ordinance or approve a warrant article allowing manufacturing facilities to operate within the municipality;
- G. A signed and notarized local authorization form completed by an authorized municipal official on the form provided by the Department;
- H. An indication of whether the applicant intends to provide samples of harvested marijuana to a marijuana testing facility for the purpose of testing for the cannabinoid profile and potency of the samples and for contaminants in the samples, including without limitation mold, mildew, heavy metals, plant regulator and illegal pesticides; and
- I. An indication of whether the applicant intends to provide samples of harvested marijuana to a marijuana testing facility for the purpose of research and development.

### **5.6.3 Additional Requirements for an Inherently Hazardous Substance Extraction Manufacturing Facility Registration Certificate.**

Each applicant for an inherently hazardous substances extraction manufacturing facility registration certificate shall comply with the additional application required by this section. In addition to the information required in section 5.6.1, each applicant for an inherently hazardous substance extraction manufacturing facility registration certificate shall provide the following information on forms made available by the Department:

- A. The name, address, date of birth and registry identification card number of the applicant, and each officer or director if the applicant is a business entity;
- B. The legal name, organizing documents, operating and/or management agreements, bylaws, and any other business information required by the Department;
- C. Identification of all natural persons and business entities holding an ownership interest in the applied-for registration certificate and the nature and extent of the interest held by each person or entity and, if applicable, the nature and extent of any interest the person or entity has in any other registrations applied for or issued under this Rule;
- D. Proof of all required tax registrations according to 36 MRS and the rules of the Maine Revenue Service;
- E. Proof of all required licenses, registrations, or certificates from the Department of Agriculture, Conservation and Forestry, the Department of Health and Human Services and the Department of Environmental Protection in accordance with section 6.1.4 of this Rule, as applicable;
- F. Documentation that the municipality in which the applicant proposes to locate the inherently hazardous substance extraction manufacturing facility has voted to adopt or amend an ordinance or approve a warrant article allowing manufacturing facilities to operate within the municipality;
- G. A signed and notarized local authorization form completed by an authorized municipal official on the form provided by the Department;
- H. An indication of whether the applicant intends to provide samples of harvested marijuana to a marijuana testing facility for the purpose of testing for the cannabinoid profile and potency of the samples and for

contaminants in the samples, including without limitation mold, mildew, heavy metals, plant regulator and illegal pesticides; and

- I. An indication of whether the applicant intends to provide samples of harvested marijuana to a marijuana testing facility for the purpose of research and development.

**5.6.4 Additional Requirements for a Marijuana Testing Facility Registration Certificate.** In addition to the information required in section 5.6.1, a marijuana testing facility licensed in accordance with 18-691 CMR, ch. 1, and certified in accordance with 18-691 CMR, ch. 5 shall provide the following information on forms made available by the Department:

- A. The marijuana testing facility's adult use marijuana establishment license number;
- B. The following information regarding the adult use marijuana testing facility licensee's officers, directors, and employees:
  - (1) Name and date of birth;
  - (2) Individual identification card number; and
  - (3) Role within the adult use marijuana testing facility, specifically, whether the individual is an officer, director or employee of the adult use marijuana testing facility; and
- C. An attestation that the officers and directors of the applicant do not have a financial interest in any registrant.

**5.6.5 Additional Requirements for a Dispensary Registration Certificate.**

In addition to the information required in section 5.6.1, each applicant for a dispensary registration certificate shall provide the following information on forms made available by the Department:

- A. The name, address, date of birth and registry identification card number of the applicant, and each officer or director if the applicant is a business entity;
- B. The legal name, organizing documents, operating and/or management agreements, bylaws, and any other business information required by the Department;
- C. Identification of all natural persons and business entities holding an ownership interest in the applied-for registration certificate and the nature and extent of the interest held by each person or entity and, if applicable, the nature and extent of any interest the person or entity has in any other registrations applied for or issued under this Rule;
- D. Proof of all required tax registrations according to 36 MRS and the rules of the Maine Revenue Service;
- E. Proof of all required licenses, registrations, or certificates from the Department of Agriculture, Conservation and Forestry, the Department of Health and Human Services and the Department of Environmental Protection in accordance with section 6.1.4 of this Rule, as applicable;
- F. An indication of whether the applicant intends to co-locate with an adult use marijuana cultivation or products manufacturing facility in accordance with 28-B MRS, ch. 1 and 18-691 CMR, ch. 1;
- G. Proof that the location(s) associated with the dispensary are not located within 500 feet of the property line of a preexisting public or private school;
- H. An indication of whether the applicant intends to provide samples of harvested marijuana to a marijuana testing facility for the purpose of testing for the cannabinoid profile and potency of the samples and for contaminants in the samples, including without limitation mold, mildew, heavy metals, plant regulators and illegal pesticides
- I. Any other information requested by the Department;
- J. Documentation that the municipality in which the applicant proposes to locate the dispensary has voted to adopt or amend an ordinance or approve a warrant article allowing dispensaries to operate within the municipality; and
- K. A signed and notarized local authorization form completed by an authorized municipal official on the form provided by the Department.

## 5.7 - Application for Renewal of a Registry Identification Card or a Registration Certificate

**5.7.1 Required Forms for All Registration Renewals.** Each applicant for renewal of a registry identification card or a registration certificate shall include on forms made available by the Department as well as attachments thereto, all information requested by the Department, including without limitation information described in this section. If the applicant is a business entity, every officer or director of the business entity must meet each of the requirements. Registry identification cards and registration certificates must be renewed on an annual basis. The Department will accept renewal applications beginning 90 days prior to the expiration date. The applicant shall submit a complete renewal application not less than 30 days prior to the expiration date and shall:

- A. Affirm that the applicant continues to be in compliance with all initial application requirements of section 5.6 of this Rule;
- B. Pay the required fee for and submit to a criminal history record check in accordance with sections 12 and 5.3.5 of this Rule;
- C. For registered dispensaries, submit proof that the officers and directors of the registrant are in good standing with Maine Revenue Services;
- D. Submit proof of all required licenses, registrations, or certificates from the Department of Agriculture, Conservation and Forestry, the Department of Health and Human Services and the Department of Environmental Protection in accordance with section 6.1.4 of this Rule, as applicable;
- E. Affirm that the applicant, as applicable, is in compliance with the recordkeeping requirements of this Rule;
- F. Submit a signed and notarized local authorization form completed by an authorized municipal official on the form provided by the Department, if applicable; and
- G. Pay, upon invoice by the Department for caregiver registry identification cards, and upon application for all other registry identification cardholders and registration certificate renewals, the required registration fee in accordance with this Rule and the Act.

## 5.8 - Department Review of Applications for Registry Identification Cards, Registration Certificates and Renewals

**5.8.1 Ownership Interest.** The Department shall verify that an application for a registry identification card, a registration certificate, or a renewal is either a natural person who is a resident of the State of Maine or if applicable, is a business entity that meets the requirements of this Rule.

- A. The Department will ensure that the issuance of a registry identification card or a registration certificate to the applicant will not result in violation of section 6.2.2 of this Rule.
- B. The Department may require additional information to verify that business entities, management agreements, ownership interests and other legal arrangements are not being used to circumvent registration requirements including without limitation residency requirements and disqualifying drug offenses.
- C. An application for a registry identification card, a registration certificate or a renewal will not be considered complete until the applicant satisfies all such information requests.
- D. The Department may refuse to issue a registry identification card or registration certificate to an applicant at its discretion until it is satisfied that the applicant has met all requirements of this Rule and the Act.

**5.8.2 Application Processing.** An application is considered incomplete until the Department is in possession of all required forms, supplemental information, criminal history record checks, local authorization and any other requirements listed in section 5.

- A. The Department may require an on-site inspection of any registered premises or proposed registered premises prior to making a determination on an application for a caregiver registry identification card or registration certificate or an application for renewal of the same. If an on-site inspection is required, the Department will not deem an application complete until the inspection has been completed by the Department.
- B. If, in the course of processing the application, the Department discovers that any required forms, supplemental information or criminal history record checks are incomplete the Department may ask the

applicant to supply the missing information, and the Department has 30 days from the date the Department provides notice to the applicant that the application is complete to review and act upon the application.

- C. The Department shall avoid unreasonable delays in the case of inadvertent omission of material that is not central to its review of the merits of the application.

### **5.8.3 Application Review.**

- A. For the purposes of processing applications for registry identification cards, registration certificates, or renewals, the Department shall apply an objective standard to establishing whether an applicant has satisfied the requirements, specifically the satisfaction of general registration criteria and the submission of all required documents, forms and fees.
- B. Within 30 days from the date the Department provides notice to the applicant that the application is complete, the Department shall either deny the application or issue a registry identification card or a registration certificate valid for up to one year.

**5.8.4 Denial.** Pursuant to 22 MRS §2425-A, the Department may deny an application for a registry identification card, a registration certificate, or a renewal.

- A. The Department shall notify the applicant in writing of the reason for denying the application.
- B. The Department may deny an application if:
  - (1) The applicant did not provide all information required by the Act and this Rule;
  - (2) The Department determines that the applicant does not qualify because the applicant has not demonstrated compliance with this Rule or the Act; or
  - (3) The Department determines that the information provided by the applicant was falsified.
- C. An applicant whose application is denied pursuant to 22 MRS §2425-A may request an administrative hearing in accordance with Title 5, chapter 375, subchapter 4.

## **5.9 - Application to Change Information Related to a Registry Identification Card**

### **5.9.1 Required Forms for All Applications to Change Information Related to a Registry Identification Card.**

An application to change information related to their registry identification card shall include, on forms made available by the Department as well as attachments thereto, all information requested by the Department, including without limitation information described in this section. It is the responsibility of the cardholder to ensure that all information relating to the registry identification card, including the information contained on the card itself, is current and up to date at all times. Approval of an application to change registry identification card information does not extend the expiration date.

- A. Each applicant to change information related to a registry identification card shall demonstrate continued compliance with all registration criteria in accordance with this Rule and the Act.
- B. Each application to change the following information related to a registry identification card shall include updated information on forms made available by the Department, if applicable. The Department will process this information and issue a revised registry identification card.
  - (1) The legal name of the applicant.
  - (2) The applicant's physical address.
  - (3) The applicant's mailing address.
  - (4) The applicant's e-mail address where the applicant will receive official correspondence from the Department.
  - (5) The applicant's telephone number where the applicant will receive official correspondence from the Department.
  - (6) Payment of the required fee in accordance with this Rule and the Act.
- C. Each applicant seeking to change the location of record for any authorized conduct shall provide the following information on forms made available by the Department and must receive Department approval prior to implementing the applied-for changes.

- (1) Address(es) of registered premises for authorized activities as approved by the Department on the application for a registry identification card, and the proposed location new registered premises.
  - (2) Proof of local authorization, if applicable for caregiver retail stores.
  - (3) Any other information requested by the Department on application forms.
  - (4) Payment of the required fee in accordance with this Rule and the Act.
- D. Each applicant seeking to change the number of plants cultivated by the registrant, or to switch from plant-based to canopy-based registration, shall provide the following information on forms made available by the Department and must receive Department approval prior to implementing the applied-for changes.
- (1) The authorized number of marijuana plants that the applicant intends to cultivate, or an indication that the applicant intends to cultivate marijuana plants based upon plant canopy.
  - (2) Any other information requested by the Department on application forms.
  - (3) Payment of the required fee in accordance with this Rule and the Act.

## 5.10 - Application to Change Information Related to a Registration Certificate

### 5.10.1 Required Forms for All Applications to Change Information Related to a Registration Certificate.

Each application to change information appearing on the physical registration certificate shall include, on forms made available by the Department as well as attachments thereto, an indication of the information requiring a change and the reasons for the change, as well as any proof required by the Department of the actual change.

Each application to change information related to the registration certificate, other than the information appearing on the physical registration certificate, shall include on forms supplied by the Department as well as attachments thereto, all information requested by the Department, including without limitation information described in this section. It is the responsibility of the registration certificate holder to ensure that all information relating to the registration certificate, including the information contained on the certificate itself, is current and up to date at all times. Approval of an application to change registration certificate information does not extend the expiration date.

- A. Each application to change registration certificate information shall include an affirmation that the applicant is in continued compliance with all registration criteria in accordance with this Rule and the Act.
- B. Each application to change the following information on a registration certificate shall include updated information, on forms made available by the Department, if applicable. The Department will process this information and issue a revised registration certificate.
  - (1) The applicant's primary point of contact information.
  - (2) The applicant's mailing address where the applicant will receive official correspondence from the Department.
  - (3) The applicant's e-mail address where the applicant will receive official correspondence from the Department.
  - (4) The applicant's telephone number where the applicant will receive official correspondence from the Department.
- C. Each applicant seeking to change information related to officers and directors of the registrant shall provide the following information on forms made available by the Department and must receive Department approval prior to implementing the applied-for changes.
  - (1) Identification of all natural persons and business entities having an ownership interest in the registration certificate and the nature and extent of the interest held by each person or entity and, if applicable, the nature and extent of any interest the person or entity has in any other registrations applied for or issued under this Rule.
  - (2) Proof of local authorization, if applicable.
  - (3) Any other information requested by the Department on application forms.
  - (4) Payment of the required fee in accordance with this Rule and the Act.
- D. Each applicant seeking to change the location of record for any authorized conduct shall provide the following information on forms made available by the Department and must receive Department approval prior to implementing the applied-for changes.

- (1) Address(es) of registered premises for authorized activities as approved by the Department on the application for a registration certificate, and the proposed location new registered premises.
- (2) Proof of local authorization, if applicable.
- (3) Any other information requested by the Department on application forms.
- (4) Payment of the required fee in accordance with this Rule and the Act.

## 5.11 - Application for Reissuance of a Lost, Stolen or Damaged Registry Identification Card or Registration Certificate

**5.11.1 Required Forms for All Applications for Reissuance of a Lost, Stolen or Damaged Registry Identification Card or Registration Certificate.** Each application for reissuance of a lost, stolen or damaged registry identification card or registration certification shall include, on forms supplied by the Department as well as attachments thereto, all information requested by the Department, including without limitation information described in this section. Approval of an application for reissuance does not extend the expiration date.

- A. The legal name of the registry identification card or registration certificate holder.
- B. The identification number that is unique to the holder.
- C. The applicant's mailing address.

## Section 6 – General Compliance

### 6.1 - General Requirements for All Registrants

**6.1.1 General Conduct Requirements.** Information related to the following may be required by the Department on the registry identification card application or registration certificate application. Each registrant and/or any assistant of the registrant shall:

- A. Carry out all authorized activities in compliance with this Rule and the Act, as well as any other applicable state laws and rules, including without limitation 17-A and 36 MRS;
- B. Ensure that all information relating to the registry identification card or registration certificate, including the information contained on the card or certificate itself, is current at all times;
- C. Ensure that all information contained in any Department approved registry identification card application or registration certificate application is current at all times and shall conduct authorized activities in accordance with the application approved by the Department;
- D. Refrain from any attempt to conceal or disguise ownership or other control over their operations and must comply with all reporting requirements regarding ownership, management and other interests as required by this Rule and the Act;
- E. Be responsible for their own conduct and the conduct of assistants, qualifying patients, contractors and visitors on any premises registered with the Department for authorized activities at all times;
- F. Ensure that at all times during periods of apparent activity that there is, on-site a registry identification cardholder authorized to cooperate with an inspection by the Department;
- G. Maintain detailed business records as follows:
  - (1) Keep a record of all transfers of marijuana plants and harvested marijuana in accordance with section 7.2 of this Rule;
  - (2) Keep the books and records maintained by the registered caregiver, registered dispensary, or manufacturing facility for a period of 4 years, except that tax records required by the Internal Revenue Service or Maine Revenue Service may require a retention period in excess of 4 years; and
  - (3) Make the books and records maintained by the registrant available to inspection by the Department upon demand.

**6.1.2 Registered Premises.** Information related to the following may be required by the Department on the registry identification card or registration certificate application.

- A. Each registrant shall register all locations, subject to certain limitations in this Rule or the Act, to conduct authorized activities as approved by the Department.
- B. Each registrant authorized to conduct cultivation activities may register only one cultivation area with the Department.
- C. Authorized activities are location specific and must be conducted in the location and manner approved by the Department through the registry identification card or registration certificate application.
- D. Except as otherwise provided by law, caregiver retail store and dispensary registrants or their assistants may not:
  - (1) Be disorderly or visibly intoxicated by liquor, marijuana or controlled substances on any registered premises during periods of apparent activity;
  - (2) Permit any disorderly or visibly intoxicated person to remain on any registered premises;
  - (3) Engage in or allow behavior on any registered premises that provokes conduct which presents a threat to public safety; or
  - (4) Engage in or permit any assistant or other person to engage in the consumption of any type of marijuana, marijuana concentrate or marijuana product on the premises, except a registrant may allow an assistant who is a qualifying patient to consume legally obtained medical marijuana or marijuana products, so long as no qualifying patient or visitor sees, smells, hears or otherwise observes the consumption of medical marijuana. Pursuant to 22 MRS§2426(2)(B), no employer is required to accommodate the ingestion of medical marijuana in any workplace or any employee working while under the influence of marijuana.
- E. Each registrant, except a registered caregiver conducting authorized activities in their dwelling unit, shall ensure entry points to any registered premises are designed to control access to only individuals permitted by this Rule or the Act, including without limitation:
  - (1) Registry identification card holders, including the registered caregiver and their assistants, and all assistants and officers or directors associated with the registration certificate;
  - (2) Contractors and other authorized visitors aged 21 or older who will not handle marijuana plants or harvested marijuana;
  - (3) Staff or agents of the Department;
  - (4) Employees or agents of local or state agencies with regulatory authority; and
  - (5) Qualifying patients, visiting qualifying patients or other registrants for the purpose of conducting authorized transactions within designated areas of the registered premises.
- F. Staff or agents of the Department and employees or agents of local or state agencies with regulatory authority shall provide proof of identification but shall not be considered visitors and shall not be denied entry to any area of the registered premises, except that the Department may not enter the dwelling unit of a registered caregiver if the registered caregiver is not present.
  - (1) The Department may only inspect those areas of the dwelling unit where authorized activities are conducted by the registered caregiver.
- G. Each registrant shall:
  - (1) Implement security measures as required by this Rule and the Act and approved by the Department through the registry identification card or registration certificate application to prevent unauthorized entry to any registered premises.
  - (2) Except for registered caregiver conducting authorized activities within a dwelling unit, ensure that all areas of ingress and egress to any registered premises and/or areas within the registered premises designated for certain authorized activities shall be clearly identified by posting a sign which shall be no smaller than 8.5 inches high and 11 inches wide, composed of letters not less than a half inch in height, which shall state: “Do Not Enter – Authorized Persons Only.”
  - (3) For registered dispensaries and inherently hazardous substances extraction manufacturing facilities, ensure that contractors and other authorized visitors may enter the registered premises only if they have signed into a visitor entry log and display a unique visitor identification badge.

- (4) For registered dispensaries and inherently hazardous substances extraction manufacturing facilities, ensure that a visitor entry log is maintained and includes, at a minimum:
  - (a) The date and time of the visitor's entry;
  - (b) The date and time of the visitor's departure;
  - (c) The full name of the visitor;
  - (d) The identifying number of the visitor's state- or federally issued identification;
  - (e) The identifying mark on the visitor identification badge; and
  - (f) The purpose for which the contractor is accessing the registered premises.

**6.1.3 Security.** In addition to any applicable requirements for cultivation areas, each registered caregiver retail store, registered marijuana testing facility, registered manufacturing facility and registered dispensary must enact security measures to prevent the diversion of marijuana plants or harvested marijuana. The Department may require that each registered caregiver retail store, registered manufacturing facility or registered dispensary to demonstrate compliance with the following standards on the registrant's registry identification card or registration certificate application and/or through an on-site inspection.

- A. Lighting must be sufficient to deter unauthorized activity.
  - (1) Any gate or perimeter entry point of a registered premises must have lighting sufficient for observers to see, and cameras to record, any activity within 10 feet of the gate or entry.
  - (2) A motion detection lighting system may be employed to light required areas in low-light conditions.
- B. Doors and windows must be designed to deter forced entry.
  - (1) Commercial grade locks, appropriate for facilities requiring high levels of physical security, are required on all perimeter entry doors to the registered premises.
  - (2) All perimeter windows of the registered premises must be in good condition and lockable.
- C. An alarm system is required.
  - (1) Monitored sensors are required on all perimeter entry points and perimeter windows of the registered premises, except that perimeter windows may be protected by appropriately located motion sensors.
  - (2) Alarm systems must be monitored by a licensed security company capable of contacting the registrants.
  - (3) The system must include an audible alarm, which must be capable of being disabled remotely by the security company or registrant.
- D. Video surveillance is required to deter unauthorized activity and to allow Department review during any inspection or investigation.
  - (1) Placement and coverage of cameras must be sufficient.
    - (a) Cameras must be permanently fixed inside each entry/exit point of the registered premises to ensure identification of persons entering.
    - (b) A sufficient number of cameras must be permanently fixed to allow the viewing, in its entirety, of any area where harvested marijuana, marijuana plants, immature marijuana plants, seedlings, or seeds are cultivated, manufactured, tested, packaged, stored, displayed.
    - (c) A sufficient number of cameras must be permanently fixed to allow the viewing, in its entirety, of any area where marijuana waste is stored before being made unusable, or where marijuana waste is made unusable.
    - (d) A sufficient number of cameras shall be permanently fixed to allow recording of all areas outside of the premises within 10 feet of the exterior fence and gates of a cultivation area with outdoor growing.
  - (2) Video surveillance shall meet the following minimum requirements:
    - (a) Minimum camera resolution is 720p;
    - (b) System storage and cameras are internet protocol (IP) compatible;
    - (c) All cameras must record continuously twenty-four hours per day or be motion activated and at a minimum of 15 frames per second.

1. Motion activated video storage must capture and store footage for no less than 120 seconds prior to motion activation and 120 second following the cessation of motion.
  - (d) All recorded images must clearly and accurately display the time and date. Time is to be measured in accordance with the U.S. National Institute Standards and Technology standards;
  - (e) The surveillance system storage device must be secured on the premises in a lockbox, cabinet or closet, or must be on a third-party server or secured in another manner to protect from tampering or theft.
- (3) All surveillance recordings must be kept for a minimum of 45 days on the registrant's recording device.
- (4) All videos are subject to inspection by any Department employee and must be copied and provided to the Department upon request.
- (5) Each registrant shall maintain a list of all persons with access to video surveillance recording and procedures for controlling access to recordings.

**6.1.4 Licenses, Registrations and Certificates from Other State Agencies Required.** Each registrant shall possess any credentials required by other state agencies for conduct authorized by this Rule, as applicable.

- A. Pesticide applicator license. A registrant who intends to apply or applies pesticides in the cultivation of marijuana for medical use shall obtain from the Department of Agriculture, Conservation and Forestry, Board of Pesticides Control, a license to apply pesticides.
- B. Licenses for food manufacturing and sale<sup>2</sup>. A registrant who intends to or does manufacture or sell edible marijuana products or marijuana beverages shall obtain from the Department of Agriculture, Conservation and Forestry, Division of Quality Assurance & Regulations any applicable licenses required including without limitation:
  - (1) A Home Food Processing License as required to produce shelf stable (non-potentially hazardous) foods such as, but not limited to, cookies, brownies, gummies, candies, jams & jellies, pickles etc. in a home kitchen to be sold from the home or wholesale;
  - (2) A Commercial Food Processing License as required to process, or otherwise prepare and package food products for human consumption in a commercial kitchen. Potentially Hazardous Foods such as cheesecakes, cream pies, fermented foods etc. may be produced in a commercial kitchen;
  - (3) A Beverage Plant License as required to assemble, process, manufacture, bottle or convert into form any non-alcoholic beverage for distribution or sale; and/or
  - (4) A Retail Food Establishment License as required to sell prepackaged foods or foods prepared on site for sale to the consumer and intended for off-premise consumption.
- C. Scale certification required. A registrant shall have all scales and balances used to measure harvested marijuana certified in accordance with this section and 10 MRS, ch. 501.
  - (1) Scales and balances used to measure harvested marijuana at the point of direct sale to consumers shall be certified by the Department of Agriculture, Conservation and Forestry, Division of Weights and Measures.
  - (2) Scales and balances used in commerce, but not for direct-to-consumer sales, shall be certified by a scale “dealer or repairman” registered with the State Sealer pursuant to 10 MRS § 2651.
- D. Retail tobacco sales license required. A registrant engaged in sales of any “tobacco product” as defined in 22 MRS § 1551(3) shall obtain from the Department of Health and Human Services a retail tobacco sales license in accordance with 22 MRS § 1551-A.
- E. Sales tax registration required. A registrant engaged in sales of marijuana plants and harvested marijuana shall obtain from Maine Revenue Services a sales tax registration certificate.

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<sup>2</sup> Laws and Rules can be found at: [https://www.maine.gov/dacf/qar/laws\\_and\\_rules/food\\_laws\\_rules.shtml](https://www.maine.gov/dacf/qar/laws_and_rules/food_laws_rules.shtml) (Accessed December 17, 2021). License applications can be found at: [https://www.maine.gov/dacf/qar/permits\\_and\\_licenses/application\\_forms.shtml](https://www.maine.gov/dacf/qar/permits_and_licenses/application_forms.shtml) (Accessed December 17, 2021).

- F. Other state agency credentials required as applicable. The Department may require a registrant to obtain from a state agency any other applicable license, registration or certificate required by that agency to engage in conduct authorized by this Rule.

**6.1.5. Municipal approval and authorization.** Pursuant to the home rule authority granted under the Constitution of Maine, Article VIII, Part Second and Title 30-A, section 3001, a municipality may regulate registered caregivers, registered caregiver retail stores operating pursuant to section 2423-A, subsection 2, paragraph P, registered dispensaries, marijuana testing facilities and manufacturing facilities. A municipality may not:

- A. Prohibit or limit the number of registered caregivers;
- B. Prohibit caregiver retail stores, registered dispensaries, marijuana testing facilities and manufacturing facilities that are operating with municipal approval in the municipality prior to December 13, 2018. For purposes of this subsection, "municipal approval" means an examination and approval of the store, dispensary or facility for the use of the premises consistent with conduct authorized under this Rule and the Act, including, but not limited to, a conditional use approval or site plan approval. "Municipal approval" does not include issuance of a building, electrical or other similar permit or authorization that does not address the use of the structure or facility for which the permit or authorization is issued; or
- C. Authorize caregiver retail stores, registered dispensaries, marijuana testing facilities and manufacturing facilities that are not operating on December 13, 2018 to operate in the municipality unless the municipal legislative body, as defined in Title 30-A, section 2001, subsection 9, has voted to adopt or amend an ordinance or approve a warrant article allowing registered caregiver retail stores, registered dispensaries, marijuana testing facilities or manufacturing facilities, as applicable, to operate within the municipality.

**6.1.6 Activities Related to Trade Samples.** A registrant may provide trade samples of marijuana flower and trim that it is authorized to cultivate and/or marijuana concentrate and marijuana products that it is authorized to manufacture, as applicable, to other registrants, subject to the following requirements:

- A. A registrant shall:
  - (1) Provide trade samples solely for the purposes of business-to-business marketing;
  - (2) Convey trade samples by way of authorized transfer in accordance with all recordkeeping requirements;
  - (3) Package and label trade samples in accordance with section 8 of this Rule; and
  - (4) Place trade samples in exit packaging in accordance with section 8 of this Rule.
- B. Trade samples shall not be:
  - (1) Consumed by any person who is not a qualifying patient;
  - (2) Consumed on the registered premises of the registrant providing or receiving the sample;
  - (3) Sold or conveyed to another registrant or consumer; or
  - (4) Provided for any payment or consideration in contravention of sales and excise tax requirements, including swapping samples among registrants.

## 6.2 - Additional Requirements Applicable to Registered Caregivers.

In addition to the general compliance requirements pursuant to this Rule, including without limitation section 6.1 above, and all requirements pursuant to 22 MRS, Chapter 558-C, 36 MRS, and all other applicable laws and rules, each registered caregiver shall comply with the requirements of this subsection. A person shall not be both an exempt caregiver and a registered caregiver.

**6.2.1 Authorized Possession Limits.** Each registered caregiver may possess marijuana plants and harvested marijuana subject to the following requirements:

- A. Each registered caregiver may possess the number or square footage of marijuana plants which they are registered to cultivate with the Department and all harvested marijuana produced by the caregiver's cultivation of those marijuana plants.

- B. Each registered caregiver may possess harvested marijuana purchased in a wholesale transaction from another registered caregiver or a registered dispensary with required transaction records and pursuant to all wholesale requirements in this Rule and the Act.

**6.2.2 Registered Caregivers and Business Entities.** A registered caregiver shall conduct authorized activities as an individual and may organize as a business entity recognized under the laws of the State of Maine subject to the following requirements:

- A. A registered caregiver may form only one legal business entity for all of the registered caregiver's authorized activities;
- B. A registered caregiver shall be the sole equity owner of the business entity;
- C. A registered caregiver shall retain sole control of the business entity;
- D. A registered caregiver shall provide to the Department all information and documentation relating to the business in accordance with this Rule;
- E. A registered caregiver may seek and accept loans on behalf of the business provided that the registered caregiver retains sole equity ownership and control of the business entity;
- F. A registered caregiver shall ensure that all individuals assisting the registered caregiver in the conduct of the registered caregiver's authorized activities through the business entity are registered caregiver assistants of the registered caregiver;
- G. A registered caregiver shall acknowledge that all restrictions regarding cultivation, possession, transfer, manufacture and retail sales of marijuana for medical use apply to the business entity as an extension of the registered caregiver's authorized conduct;
- H. A registered caregiver may not transfer any ownership or control of the business entity to any other person, except that a registered caregiver may sell or transfer the entirety of their business assets to another registered caregiver so long as the sale or transfer does not violate this section and the registered caregiver provides notice to the Department prior to the sale, except that any marijuana plants or harvested marijuana may only be transferred by authorized wholesale transaction in accordance with this Rule and the Act;
- I. A registered caregiver shall acknowledge that both the registered caregiver and the business entity are prohibited from conducting any authorized caregiver activities if the caregiver does not hold a current valid registry identification card; and
- J. A registry identification card issued to a registered caregiver conducting authorized activities through a business entity may include the name of the business entity in addition to the name of the natural person who is the registered caregiver.

**6.2.3 Registered Premises.** Each registered caregiver shall register all locations, subject to certain limitations in this Rule or the Act, to conduct authorized activities as approved by the Department through the registry identification card application.

- A. Each registered caregiver is permitted to conduct authorized activities, excluding activities related to authorized transportation, only at registered premises disclosed to the Department.
- B. Registered caregiver authorized activities are location specific and may only be conducted in the location and manner approved by the Department.
- C. The Department may not enter the dwelling unit of a registered caregiver if the registered caregiver is not present and the Department may only inspect those areas of the dwelling unit where authorized activities are conducted by the registered caregiver.

**6.2.4 Authorized Cultivation Activities and Cultivation Area.**

- A. Each registered caregiver shall designate a cultivation area within one registered premises as described in the registry identification card application to conduct the following activities:
  - (1) Propagate and cultivate marijuana plants subject to the limitations based on registration;
  - (2) Trim, dry, cure and store harvested marijuana;
  - (3) Prepare, weigh, package, label and store marijuana plants and harvested marijuana for transfer;
  - (4) Package marijuana for retail sale:
    - (a) Each registered caregiver may package marijuana flower and trim for retail sale; and

- (b) Each registered caregiver may produce pre-rolled marijuana cigarettes;
  - (5) Prepare marijuana waste for disposal and dispose of marijuana waste;
  - (6) Prepare trade samples for distribution to other registrants pursuant this Rule and the Act; and
  - (7) Prepare marijuana testing samples for transfer to a marijuana testing facility.
- B. Access to a cultivation area is limited to the registered caregiver, an assistant of the registered caregiver, contractors and other authorized visitors aged 21 or older, who will not handle marijuana plants or harvested marijuana and staff or agents of the Department and assistants or agents of local or state agencies with regulatory authority.
- C. Two registered caregivers who are members of the same family or household may share the same cultivation area, however, each registered caregiver’s marijuana plants shall be physically separated, and each registered caregiver is independently responsible for maintaining compliance with all cultivation related requirements of this Rule and the Act, including separate storage and recordkeeping.
- D. Registered caregiver assistants who are also authorized to cultivate marijuana plants as a qualifying patient or registered caregiver may not cultivate in the cultivation area of the caregiver who employs that person.
- E. Except for registered caregivers conducting cultivation activities within their dwelling unit, each registered caregiver shall comply with the following security requirements for any cultivation area:
- (1) Any cultivation of marijuana seedlings, immature marijuana plants or mature marijuana plants shall take place in:
    - (a) A fully enclosed, secure indoor facility or a secure greenhouse with walls, a roof, lockable doors, and secure windows; or
    - (b) A secure outdoor cultivation area. Except that a registered caregiver that cultivates marijuana in an outdoor cultivation area shall only be required to secure the outdoor cultivation area in accordance with this Rule only during such times when marijuana seeds, marijuana plants or harvested marijuana is present within the outdoor cultivation area.
      - (i) Any outdoor cultivation areas, including cultivation in greenhouses or other structures that do not meet all security requirements for buildings shall erect security fencing around such areas.
      - (ii) Fencing and all gates must be secure, at least 6 feet high and obscure, or have a cover that obscures, the cultivation area from being readily viewed from outside of the fenced in area.
      - (iii) The entire area within the fence surrounding non-secure greenhouses and other outdoor cultivation areas shall be considered part of the cultivation area.
  - (2) Each registered caregiver shall physically separate any areas used for transferring marijuana plants or harvested marijuana to other registrants, qualifying patients or visiting qualifying patients from the cultivation area.

**6.2.5 Authorized Manufacturing Activities and Manufacturing Area.**

- A. Each registered caregiver shall only manufacture harvested marijuana produced by the caregiver’s cultivation of marijuana plants or marijuana plants or harvested marijuana received through a wholesale transaction pursuant to this Rule and Act.
- B. Each registered caregiver shall designate manufacturing areas within the registered premises as described in the registry identification card application to conduct the following activities:
- (1) Manufacture marijuana products and marijuana concentrate for medical use using any method that does not involve an inherently hazardous substance, except that a registered caregiver may manufacture marijuana concentrate using inherently hazardous substances if the registered caregiver has an inherently hazardous substance extraction manufacturing facility registration certificate;
  - (2) Manufacture marijuana products for medical use, except that a registered caregiver may not manufacture food until or unless licensed to do so by all applicable state agencies;
  - (3) Prepare, weigh, package, label and store manufactured marijuana products or marijuana concentrate;
  - (4) Prepare marijuana waste for disposal and dispose of marijuana waste;

- (5) Prepare trade samples for distribution to other registrants pursuant this Rule and the Act; and
- (6) Prepare marijuana testing samples for transfer to a marijuana testing facility.
- C. Except for registered caregivers conducting manufacturing activities within their dwelling unit, access to a manufacturing area is limited to the registered caregiver, an assistant of the registered caregiver, contractors and other authorized visitors aged 21 or older, who will not handle marijuana plants or harvested marijuana, and staff or agents of the Department, and employees or agents of local or state agencies with regulatory authority.
- D. Except for registered caregivers conducting manufacturing activities within their dwelling unit, each registered caregiver shall separate any areas used for transferring manufactured marijuana products and marijuana concentrate to qualifying patients or visiting qualifying patients from the manufacturing area.
- E. A registered caregiver may, without a separate inherently hazardous substances extraction manufacturing facility registration certificate, extract harvested marijuana using the generally safe and potentially hazardous solvent extraction methods identified below.
  - (1) The Department permits the following generally safe extraction methods, so long as they are listed in the registry identification card application:
    - (a) Mechanical extraction using:
      - (i) Potable water and ice made from potable water;
      - (ii) Dry screening or sieving;
      - (iii) Cryogenic or subzero processing not involving a solvent; or
      - (iv) Pressure and temperature.
    - (b) Infusion of marijuana in food grade fats or synthetic food additives:
      - (i) Propylene glycol;
      - (ii) Glycerin;
      - (iii) Butter;
      - (iv) Olive Oil; or
      - (v) Other typical cooking fats.
  - (2) The Department will permit potentially hazardous solvent extraction using the following solvents:
    - (a) CO<sub>2</sub>;
    - (b) Ethanol, including solutions of ethanol and potable water; or
    - (c) A liquid chemical, compressed gas or commercial product that has a flashpoint above 38 degrees Celsius or 100 degrees Fahrenheit.

**6.2.6 Activities Related to Authorized Transactions.** Each registered caregiver shall comply with this subsection.

A registered caregiver may:

- A. Sell or transfer harvested marijuana for medical use to qualifying patients and visiting qualifying patients, subject to the following requirements:
  - (1) The caregiver must verify, face-to-face, the patient's identity through an approved form of government-issued identification and that the patient has a valid written certification on their person at the time of the transaction;
    - (a) A registered caregiver may accept from a visiting qualifying patient digital or electronic patient credentials from their state of residence only if such credentials are recognized as valid by the Department and the visiting qualifying patient's state of residence;
  - (2) The amount of harvested marijuana transferred to a qualifying patient in one transaction may not exceed two and one-half ounces;
  - (3) The amount of harvested marijuana transferred to a visiting qualified patient may not exceed two and one-half ounces during a 15-day period;
  - (4) The harvested marijuana must be properly packaged in accordance with this Rule, including exit packaging;
- B. Transfer to and accept from another registered caregiver or a registered dispensary marijuana plants or harvested marijuana in a wholesale transaction in accordance with this Rule and 22 MRS § 2423-A(2)(K-1) and subject to the following:

- (1) A registered caregiver, in a wholesale transaction for remuneration or for no remuneration, may transfer to and accept from another registered caregiver or a registered dispensary up to 100% of the mature marijuana plants and harvested marijuana cultivated by the registered caregiver during a calendar year.
  - (2) Each registered caregiver shall ensure that all mature marijuana plants and harvested marijuana transferred or received are appropriately recorded in accordance with section 7 of this Rule, and accompanied during transport with a trip ticket;
- C. Accept returns of products sold by the registrant and offer a refund or exchange of equal or lesser value;
  - D. Provide consultations between registry identification cardholders and qualifying patients and visiting qualifying patients; and
  - E. Dispose of marijuana waste.

**6.2.7 Authorized Caregiver Retail Store Activities.** Each caregiver may operate one caregiver retail store. A registered caregiver may conduct the following activities at one caregiver retail store as described in the Department approved caregiver registry identification card application:

- A. During all times of apparent activity, the registrant may:
  - (1) Sell or transfer harvested marijuana for medical use, along with marijuana paraphernalia, non-marijuana food and non-alcoholic beverages, clothing and other generally permissible retail items, to qualifying patients and visiting qualifying patients;
  - (2) Sell or transfer marijuana plants for medical use to qualifying patients in a display area within the caregiver retail store;
  - (3) Accept returns of products sold by the registrant at the same caregiver retail store to the person making the return and offer a refund or exchange of equal or lesser value;
  - (4) Refuse to sell any item to any person;
  - (5) Provide consultations to qualifying patients and visiting qualifying patients;
  - (6) Prepare and transport harvested marijuana to another registrant;
  - (7) Accept deliveries of harvested marijuana from another registrant;
  - (8) Maintain records in accordance with section 7; and
  - (9) Dispose of marijuana waste.
- B. In addition to the requirements of this section and the general compliance requirements related to registered premises and security in section 6.1.3 of this Rule, each registered caregiver operating a caregiver retail store shall:
  - (1) Check for valid written patient certification and government-issued identification prior to transfer of marijuana plants or harvested marijuana to a qualifying patient;
  - (2) Display harvested marijuana only in such a way that prevents access to unauthorized persons;
  - (3) Keep all marijuana plants, seeds and harvested marijuana in a secure point of sale area and/or storage area with a physical barrier and adequate signage to prevent access to unauthorized persons;
  - (4) Ensure no person, including a qualifying patient, handles harvested marijuana in the retail sales area unless a registry identification cardholder supervises the person at all times; and
  - (5) Ensure all items purchased are placed within exit packaging in accordance with the requirements in section 8.1 of this Rule prior a customer leaving the registered premises.

**6.2.8 Prohibited Conduct.** Any activities regarding the medical use of marijuana that are not explicitly authorized by this Rule or the Act are prohibited. A registered caregiver may not:

- A. Transfer or sell marijuana plants or harvested marijuana to a person who is not a qualifying patient, visiting qualifying patient or another registrant;
- B. Transfer marijuana plants and harvested marijuana to a qualifying patient, another registered caregiver, or registered dispensary for no remuneration in excess of the possession and transactions limits provided in this Rule and the Act;
- C. Sell or transfer marijuana plants or harvested marijuana using:
  - (1) An automated dispensing or vending machine;

- (2) A drive-through sales window; or
- (3) An Internet-based sales platform, except that a registered caregiver may:
  - (a) Accept reservations or orders through an internet-based platform; and
  - (b) Must verify, in-person, the qualifying patient's written certification and government-issued photo identification prior to completing any sales transaction;
- D. Sell marijuana plants to a qualifying patient unless authorized by the Department to operate a caregiver retail store;
- E. Sell or transfer marijuana plants or harvested marijuana to a qualifying patient or visiting qualifying patient who is visibly intoxicated;
- F. Sell or offer for sale to qualifying patients, visiting qualifying patients, or other registrants marijuana for medical use within the same facility or building in which the registrant, who is a licensee in the Maine Adult Use Marijuana Program, also sells or offers for sale adult use marijuana and adult use marijuana products;
- G. Sell or transfer returned harvested marijuana to another qualifying patients, visiting qualifying patients, or other registrants;
- H. Permit qualifying patients, visiting qualifying patients, or other registrants to open or alter a package containing harvested marijuana or otherwise remove harvested marijuana from packaging required by this Rule within the registered premises or in an area that the registrant controls;
- I. Sell any item not allowed under this Rule or any of the following items:
  - (1) Pet or animal food, treats or other pet or animal products containing marijuana; or
  - (2) Any other marijuana products not meant for human consumption or use;
- J. Use a pesticide on marijuana plants except a pesticide that is used consistent with federal labeling requirements, is registered with the Department of Agriculture, Conservation and Forestry, Board of Pesticides Control pursuant to Title 7, section 607 and is used consistent with best management practices for pest management approved by the Commissioner of Agriculture, Conservation and Forestry.
  - (1) A registered caregiver may not in the cultivation of marijuana plants use a pesticide unless at least one registered caregiver assistant involved in the application of the pesticide is certified pursuant to section 1471-D and all other registered caregiver assistants who have direct contact with treated plants have completed safety training pursuant to 40 Code of Federal Regulations, section 170.130.
  - (2) A registered caregiver assistant who is not certified pursuant to section 1471-D and who is involved in the application of the pesticide or handling of the pesticide or equipment must first complete safety training described in 40 Code of Federal Regulations, section 170.230; or
- K. Form or participate in a collective. The following relationships are not collectives and are not prohibited:
  - (1) Two registered caregivers assisting one another for the benefit of a mutual qualifying patient. Two caregivers may assist one another to the extent that their mutual relationship is to:
    - (a) Consult with each other to assist the same qualifying patient;
    - (b) Refer a qualifying patient to a caregiver to obtain specialized marijuana plants or harvested marijuana;
    - (c) Obtain specialized marijuana plants or harvested marijuana from another caregiver to assist the same qualifying patient; or
    - (d) Transfer marijuana plants or harvested marijuana to a qualifying patient, another caregiver or a registered dispensary for no remuneration in accordance with 22 MRS § 2423-A(2)(K).
  - (2) Two registered caregivers engaged in an employer and assistant relationship. A registered caregiver may employ as an assistant another registered caregiver to assist that registered caregiver in the conduct of activities authorized by the Act and this Rule.
  - (3) Registered caregivers may share common areas in the same building or structure where each individual registered caregiver maintains their separate, distinct cultivation area. Registered caregivers sharing common areas in the same building or structure where their cultivation areas are located:

- (a) May share utilities, office spaces, restrooms, other common areas and storage facilities provided that:
  - (i) Each registered caregiver separately maintains records and physically separates all marijuana plants and harvested marijuana cultivated by each individual registered caregiver;
  - (ii) Each registered caregiver maintains their own separate cultivation area for the cultivation of marijuana plants; and
  - (iii) Any registered caregiver assisting another registered caregiver in the cultivation of marijuana plants is registered by the Department as an assistant of the registered caregiver that they are assisting;
- (b) May not share a cultivation area for the cultivation of two registered caregiver's marijuana plants except that two caregivers who are in the same household or family may use the same cultivation area to cultivate all marijuana plants each caregiver is authorized to cultivate.

### 6.3 - Requirements Applicable to the Employment of Registered Assistants

- A. Each registrant employing or otherwise receiving the assistance of an assistant shall maintain a personnel file in accordance with this Rule, that shall include, without limitation:
  - (1) Job description or employment contract;
  - (2) An Employment Eligibility Verification Form I-9; and/or IRS Forms W-4 or 1099; and
  - (3) Copy of current registry identification card and copy of a Maine driver's license or other State-issued photographic identification card.
- B. The authorization of an assistant's conduct under this Rule and the Act ceases when that person is no longer employed by a registered caregiver, manufacturing facility or dispensary or if the registrant's registration card or registration certificate is expired, suspended or revoked.

### 6.4 - Requirements Applicable to Registered Officers or Directors

- A. Every officer or director of a registrant shall maintain at all times an active, valid registry identification card.
- B. Each registered officer or director shall be responsible for ensuring compliance with all authorized conduct related to the registered manufacturing facility, marijuana testing facility or dispensary.
- C. The authorization of an officer or director's conduct under this Rule and the Act ceases when that person is no longer affiliated with the registered manufacturing facility, marijuana testing facility or dispensary or the registrant's registration card or registration certificate is expired, suspended or revoked.

### 6.5 - Additional Requirements Applicable to Tier 1 and Tier 2 Manufacturing Facilities.

In addition to the general compliance requirements pursuant to this Rule, 22 MRS, Chapter 558-C, 36 MRS, and all other applicable laws and rules, each tier 1 or tier 2 manufacturing facility certificate holder shall comply with the requirements of this subsection.

**6.5.1 Tier 1 and Tier 2 Manufacturing Facility Registration Certificate Holders and Business Entities.** Each tier 1 and tier 2 manufacturing facility registration certificate may be held by an individual or a business entity. If organized as a business entity, all officers or directors- must maintain a valid registry identification card at all times.

**6.5.2 Registered Premises.** In addition to the general compliance requirements related to registered premises and security in section 6.1.3 of this Rule, each tier 1 and tier 2 manufacturing facility registration certificate holder shall comply with the requirements of this subsection.

- A. Each tier 1 and tier 2 manufacturing facility registration certificate holder is permitted to conduct authorized activities, excluding activities related to authorized transportation, at one registered premises.

- B. Tier 1 and tier 2 manufacturing facility authorized activities are location specific and must be conducted in the location listed on the registrant's application.

**6.5.3 Authorized Tier 1 and Tier 2 Manufacturing Facility Activities.** Each tier 1 and tier 2 manufacturing facility registration certificate holder may conduct the following activities at one registered premises identified in the registrant's application:

- A. Each tier 1 manufacturing facility registration certificate holder may possess up to 40 pounds of harvested marijuana;
- B. Each tier 2 manufacturing facility registration certificate holder may possess up to 200 pounds of harvested marijuana;
- C. Each tier 1 and tier 2 manufacturing facility registration certificate holder shall only possess and manufacture harvested marijuana obtained from a qualifying patient, a registered caregiver or a registered dispensary and shall transfer marijuana products and marijuana concentrate to the qualifying patient or registrant that provided the harvested marijuana used to manufacture the marijuana product or marijuana concentrate;
- D. Each tier 1 and tier 2 manufacturing facility registration certificate holder may conduct the following activities as described in the registrant's application:
  - (1) Manufacture marijuana products and marijuana concentrate for medical use using any method that does not involve an inherently hazardous substance, except that a tier 1 and tier 2 manufacturing facility registration certificate holder may manufacture marijuana concentrate using inherently hazardous substances if the tier 1 and tier 2 manufacturing facility registration certificate holder has an inherently hazardous substance extraction manufacturing facility registration certificate;
  - (2) Manufacture marijuana products for medical use except that a tier 1 and tier 2 manufacturing facility registration certificate holder may not manufacture food until or unless licensed to do so by all applicable state agencies;
  - (3) Prepare, weigh, package, label and store manufactured marijuana products or marijuana concentrate, including inhaled harvested marijuana, edible harvested marijuana or drinks and topical harvested marijuana;
  - (4) Dispose of harvested marijuana used in the manufacturing process in a manner that prevents its diversion;
  - (5) Transfer marijuana testing samples to a marijuana testing facility;
  - (6) Conduct testing of marijuana products or marijuana concentrate manufactured by the facility for research and development purposes;
  - (7) Receive reasonable compensation for manufacturing marijuana products or marijuana concentrate.
- E. Access to manufacturing area is limited to the individual holding the tier 1 or tier 2 manufacturing facility registration certificate, or if organized as a business entity, the officers or directors or assistants with a valid registry identification card, contractors and other authorized visitors aged 21 or older, who will not handle marijuana plants or harvested, staff or agents of the Department, and employees or agents of local or state agencies with regulatory authority.
- F. Each tier 1 or tier 2 manufacturing facility registration certificate holder shall physically separate the manufacturing area from any area where the registrant accepts harvested marijuana from or transfers harvested marijuana to a qualifying patient.
- G. Each tier 1 or tier 2 manufacturing facility registration certificate holder may, without a separate inherently hazardous substances extraction manufacturing facility registration certificate, extract harvested marijuana using the generally safe and potentially hazardous solvent extraction methods identified below.
  - (1) The Department permits the following generally safe extraction methods, so long as they are listed in the registration certificate application:
    - (a) Mechanical extraction using:
      - (i) Potable water and ice made from potable water;
      - (ii) Dry screening or sieving;
      - (iii) Cryogenic or subzero processing not involving a solvent; or
      - (iv) Pressure and temperature.

- (b) Infusion of marijuana in food grade fats or synthetic food additives:
  - (i) Propylene glycol;
  - (ii) Glycerin;
  - (iii) Butter;
  - (iv) Olive Oil; or
  - (v) Other typical cooking fats.
- (2) The Department will permit potentially hazardous solvent extraction using the following solvents:
  - (a) CO<sub>2</sub>;
  - (b) Ethanol, including solutions of ethanol and potable water; or
  - (c) A liquid chemical, compressed gas or commercial product that has a flashpoint above 38 degrees Celsius or 100 degrees Fahrenheit.

**6.5.4 Prohibitions Related to Authorized Transactions.** Any activities regarding the medical use of marijuana that are not explicitly authorized by this Rule or the Act are prohibited.

Each tier 1 or tier 2 manufacturing facility registration certificate holder may not:

- A. Purchase or own marijuana plants or harvested marijuana at any time;
- B. Possess marijuana plants or harvested marijuana that was not transferred to the tier 1 or tier 2 manufacturing facility registration certificate holder by a qualifying patient, registered caregiver or registered dispensary for the purpose of providing manufacturing services to the transferor; and
- C. Engage in retail sales of marijuana product or marijuana concentrate under the tier 1 or tier 2 manufacturing facility registration certificate.

## 6.6 - Additional Requirements Applicable to Inherently Hazardous Substance Extraction Manufacturing Facilities

In addition to the general compliance requirements pursuant to this Rule, 22 MRS, Chapter 558-C, 36 MRS, and all other applicable laws and rules, each inherently hazardous substance extraction manufacturing facility certificate holder shall comply with the requirements of this subsection.

**6.6.1 Inherently Hazardous Substance Extraction Manufacturing Facility Registration Certificate Holders and Business Entities.** Each inherently hazardous substance extraction manufacturing facility registration certificate may be held by an individual or a business entity. If organized as a business entity, all officers or directors must maintain a valid registry identification card at all times.

**6.6.2 Registered Premises.** In addition to the general compliance requirements related to registered premises and security in section 6.1.3 of this Rule, each inherently hazardous substance extraction manufacturing facility certificate holder shall comply with the requirements of this subsection.

- A. Each inherently hazardous substance extraction manufacturing facility certificate holder is permitted to conduct authorized activities, excluding activities related to authorized transportation, at one registered premises.
- B. Inherently hazardous substance extraction manufacturing facility authorized activities are location specific and must be conducted in the location described in the registrant's application.
- C. A professional engineer licensed in the state of Maine shall inspect all inherently hazardous substances extraction equipment installed at the registered premises to ensure that the facility's storage, preparation, gas monitoring, fire suppression and exhaust systems are adequate. The professional engineer may inspect the equipment and systems, as well as any maintenance and repair logs kept for each piece of equipment used for extraction using inherently hazardous substances.
- D. Each inherently hazardous substance extraction manufacturing facility certificate holder shall maintain a written log of all maintenance, service and repairs to any equipment used for extraction using inherently hazardous substances.

**6.6.3 Authorized Inherently Hazardous Substance Extraction Manufacturing Facility Activities.** Each inherently hazardous substance extraction manufacturing facility registration certificate holder may conduct the following activities at one registered premises listed in the registrant's application:

- A. Each inherently hazardous substance extraction manufacturing facility registration certificate holder may possess up to 40 pounds of harvested marijuana in addition to any other harvested marijuana the registrant is otherwise authorized to possess;
- B. Each inherently hazardous substance extraction manufacturing facility registration certificate holder shall only possess and manufacture harvested marijuana obtained from a qualifying patient, a registered caregiver or a registered dispensary and shall transfer marijuana concentrate to the qualifying patient or registrant that provided the harvested marijuana used to manufacture the marijuana concentrate;
- C. Each inherently hazardous substance extraction manufacturing facility registration certificate holder may conduct the following activities as described in the registrant's application:
  - (1) Engage in marijuana extraction to produce marijuana concentrate for medical use;
  - (2) Obtain harvested marijuana from a qualifying patient, a caregiver or a dispensary and transfer marijuana concentrate to the person that provided the harvested marijuana used to produce the marijuana concentrate;
  - (3) Prepare, weigh, package, label and store manufactured marijuana products or marijuana concentrate;
  - (4) Transfer samples to a marijuana testing facility for testing;
  - (5) Conduct testing of marijuana concentrate produced by the person for research and development purposes; and
  - (6) Receive reasonable compensation for producing marijuana concentrate;
- D. Upon certification by a professional engineer licensed in the state of Maine that the IHS extraction manufacturing facility's storage, preparation, electrical, gas monitoring, fire suppression and exhaustion systems are adequate, the registrant may engage in inherently hazardous substances extraction using a 99 percent or greater purity of the following solvents:
  - (1) Butane;
  - (2) Propane;
  - (3) Acetone;
  - (4) Heptane;
  - (5) Pentane; or
  - (6) Any other chemical approved by the Department in writing;
- E. Access to manufacturing area is limited to the individual holding the inherently hazardous substance extraction manufacturing facility registration certificate, or if organized as a business entity, the officers or directors or assistants with a valid registry identification card, contractors and other authorized visitors aged 21 or older, who will not handle marijuana plants or harvested marijuana, and staff or agents of the Department, and employees or agents of local or state agencies with regulatory authority;
- F. Each inherently hazardous substance extraction manufacturing facility registration certificate holder shall physically separate the manufacturing area from any area where the registrant accepts harvested marijuana from or transfers harvested marijuana to a qualifying patient;
- G. Each inherently hazardous substance extraction manufacturing facility registration certificate holder shall:
  - (1) Ensure that all electrical equipment, including but not limited to equipment used for extraction is listed with a nationally recognized testing laboratory recognized by the Occupational Safety and Health Administration (OSHA), for example, UL, ETL, and CSA, as applicable; and
  - (2) Conform with the standard operating procedures for extraction methods provided or otherwise required by the manufacturer of the extraction equipment.

**6.6.4 Prohibitions Related to Authorized Transactions.** Each inherently hazardous substance extraction manufacturing facility registration certificate holder shall comply with this subsection.

- A. Unless otherwise authorized, each inherently hazardous substance extraction manufacturing facility registration certificate holder may not:
  - (1) Purchase or own marijuana plants or harvested marijuana at any time;

- (2) Possess marijuana plants or harvested marijuana that was not transferred to the inherently hazardous substance extraction manufacturing facility registration certificate holder by a qualifying patient, registered caregiver or registered dispensary for the purpose of providing extraction services to the transferor; and
- (3) Engage in retail sales of marijuana product or marijuana concentrate under the inherently hazardous substance extraction manufacturing facility registration certificate.

### 6.7 – Additional Requirements Applicable to Registered Marijuana Testing Facilities

In addition to the general compliance requirements pursuant to this Rule, including without limitation section 6.1 above, and all requirements pursuant to 22 MRS, Chapter 558-C, 36 MRS, and all other applicable laws and rules, each registered marijuana testing facility shall comply with the requirements of this subsection.

**6.7.1 Registered Marijuana Testing Facility Shall Remain Licensed At All Times.** In order to maintain its registration certificate and conduct required testing for registrants, a marijuana testing facility shall at all times maintain its adult use marijuana establishment license in accordance with 18-691 CMR, ch. 1 and its marijuana testing facility certification in accordance with 18-691 CMR, ch. 5.

### 6.8 - Additional Requirements Applicable to Registered Dispensaries.

In addition to the general compliance requirements pursuant to this Rule, including without limitation section 6.1 above, and all requirements pursuant to 22 MRS, Chapter 558-C, 36 MRS, and all other applicable laws and rules, each registered dispensary shall comply with the requirements of this subsection.

**6.8.1 Registered Dispensary Registration Certificate Holders and Business Entities.** Each registered dispensary registration certificate may be held by an individual or a business entity. If organized as a business entity, all officers and directors must maintain a valid registry identification card at all times.

**6.8.2 Registered Premises.** Each registered dispensary shall register all locations, subject to certain limitations in this Rule or the Act, to conduct authorized activities as approved by the Department in the registrant's application.

- A. Each registered dispensary is permitted to conduct authorized activities, excluding activities related to authorized transportation, at no more than two registered premises, including the one permitted additional location at which the dispensary may cultivate marijuana plants for medical use by qualifying patients.
- B. Registered dispensary authorized activities are location specific and may only be conducted in the location and manner approved by the Department.

### 6.8.3 Authorized Cultivation Activities and Cultivation Area.

- A. Each registered dispensary engaged in cultivation activities shall designate a cultivation area within one registered premises as described in the registrant's application to conduct the following activities:
  - (1) Propagate and cultivate marijuana plants;
  - (2) Trim, dry, cure and store harvested marijuana;
  - (3) Prepare, weigh, package, label and store marijuana plants and harvested marijuana for transfer;
  - (4) Prepare marijuana waste for disposal and dispose of marijuana waste;
  - (5) Prepare trade samples to other registrants pursuant this Rule and the Act; and
  - (6) Prepare marijuana testing samples to a marijuana testing facility.
- B. Each registered dispensary shall only cultivate mature marijuana plants in areas clearly illustrated on registrant's application, previously filed and approved by the Department.
- C. Access to a cultivation area is limited to officers, directors and assistants of the registered dispensary, contractors and other authorized visitors aged 21 or older, who will not handle marijuana plants or harvested marijuana, staff or agents of the Department, and employees or agents of local or state agencies with regulatory authority.
- D. In addition to the general security requirements found in section 6.1.3, registered dispensary cultivation areas are subject to the following requirements:

- (1) Any cultivation of marijuana seedlings, immature marijuana plants or mature marijuana plants shall take place in:
  - (a) A fully enclosed, secure indoor facility or a secure greenhouse with walls, a roof, lockable doors, and secure windows as described in section 6.1.3 that prevents entry from unauthorized persons; or
  - (b) A secure outdoor cultivation area. Except that a registered dispensary that cultivates marijuana in an outdoor cultivation area shall only be required to secure the outdoor cultivation area in accordance with this Rule only during such times when marijuana seeds, marijuana plants or harvested marijuana is present within the outdoor cultivation area.
    - (i) Any outdoor cultivation areas, including cultivation in greenhouses or other structures that do not meet all security requirements for buildings shall erect security fencing around such areas.
    - (ii) Fencing and all gates must be secure, at least 6 feet high and obscure, or have a cover that obscures, the cultivation area from being readily viewed from outside of the fenced in area.
    - (iii) The entire area within the fence surrounding non-secure greenhouses and other outdoor cultivation areas shall be considered part of the cultivation area.
- (2) Each registered dispensary shall physically separate any areas used for transferring marijuana plants or harvested marijuana to other registrants, qualifying patients or visiting qualifying patients from the cultivation area.

#### **6.8.4 Authorized Manufacturing Activities and Manufacturing Area.**

- A. Each registered dispensary shall only manufacture harvested marijuana produced by the registered dispensary's cultivation of marijuana plants or marijuana plants or harvested marijuana received through a wholesale transaction pursuant to this Rule and Act.
- B. Each registered dispensary shall designate manufacturing areas within a registered premise as described in the registrant's application to conduct the following activities:
  - (1) Manufacture marijuana products and marijuana concentrate for medical use using any method that does not involve an inherently hazardous substance,
  - (2) Manufacture marijuana concentrate using inherently hazardous substances if the registered dispensary has an inherently hazardous substance extraction manufacturing facility registration certificate;
  - (3) Manufacture marijuana products for medical use, except that a registered dispensary may manufacture food only if licensed to do so by all applicable state agencies;
  - (4) Prepare, weigh, package, label and store manufactured harvested marijuana;
  - (5) Prepare marijuana waste for disposal and dispose of marijuana waste;
  - (6) Prepare trade samples for distribution to other registrants pursuant this Rule and the Act; and
  - (7) Prepare marijuana testing samples for transfer to a marijuana testing facility.
- C. Access to a manufacturing area is limited to the registered officer, director or assistant of the registered dispensary, contractors and other authorized visitors aged 21 or older, who will not handle marijuana plants or harvested marijuana, staff or agents of the Department, and employees or agents of local or state agencies with regulatory authority.
- D. Each registered dispensary shall physically separate the manufacturing area from any area where the registrant accepts harvested marijuana from or transfers harvested marijuana to a qualifying patient.
- E. Each registered dispensary may, without a separate inherently hazardous substances extraction manufacturing facility registration certificate, extract harvested marijuana using the generally safe and potentially hazardous solvent extraction methods identified below.
  - (1) The Department permits the following generally safe extraction methods, so long as they are listed in the registration certificate application:
    - (a) Mechanical extraction using:
      - (i) Potable water and ice made from potable water;

- (ii) Dry screening or sieving;
    - (iii) Cryogenic or subzero processing not involving a solvent; or
    - (iv) Pressure and temperature.
  - (b) Infusion of marijuana in food grade fats or synthetic food additives:
    - (i) Propylene glycol;
    - (ii) Glycerin;
    - (iii) Butter;
    - (v) Olive Oil; or
    - (iv) Other typical cooking fats.
- (2) The Department will permit potentially hazardous solvent extraction using the following solvents:
  - (a) CO<sub>2</sub>;
  - (b) Ethanol, including solutions of ethanol and potable water; or
  - (c) A liquid chemical, compressed gas or commercial product that has a flashpoint above 38 degrees Celsius or 100 degrees Fahrenheit.

**6.8.5 Activities Related to Authorized Transactions.** Each registered dispensary shall comply with this subsection. A dispensary may operate one retail location and at the retail location the registered dispensary may:

- A. Sell or transfer marijuana plants and harvested marijuana for medical use to qualifying patients and harvested marijuana to visiting qualifying patients, subject to the following requirements:
  - (1) The dispensary must verify, in-person, the patient's identity through an approved form of government-issued identification and that the patient has a valid written certification on their person at the time of the transaction;
    - (a) A registered dispensary may accept from a visiting qualifying patient digital or electronic patient credentials from their state of residence only if such credentials are recognized as valid by the Department and the visiting qualifying patient's state of residence;
  - (2) The amount of harvested marijuana transferred to a qualifying patient in one transaction may not exceed two and one-half ounces;
  - (3) The amount of harvested marijuana transferred to a qualifying visiting patient may not exceed two and one-half ounces during a 15-day period;
  - (4) The amount of marijuana plants transferred to a qualifying patient must be within the legal limit of what that qualifying patient is allowed to possess; and
  - (5) The harvested marijuana must be properly packaged in accordance with this Rule;
- B. Transfer to and accept from another registered dispensary or a registered caregiver marijuana plants or harvested marijuana in a wholesale transaction in accordance with this Rule and 22 MRS § 2428(1-A)(F)(4) and subject to the following:
  - (1) A registered dispensary, in a wholesale transaction for remuneration or for no remuneration, may transfer to and accept from another registered dispensary or a registered caregiver up to 100% of the mature marijuana plants and harvested marijuana cultivated by the registered dispensary during a calendar year
  - (2) Each registered dispensary shall ensure that all mature marijuana plants and harvested marijuana transferred or received are appropriately recorded in accordance with section 7 and accompanied during transport with a trip ticket;
  - (3) Each registered dispensary shall transport all harvested marijuana in appropriate wholesale containers and with appropriate applicable security measures and environmental controls to:
    - (a) Prevent theft or diversion of any harvested marijuana transferred; and
    - (b) Prevent damage to or contamination of any harvested marijuana during transport; and
- C. Accept returns of products sold by the registrant and offer a refund or exchange of equal or lesser value;
- D. Provide consultations between registry identification cardholders and qualifying patients and visiting qualifying patients;
- E. Maintain records in accordance with section 7; and

F. Prepare marijuana waste for disposal and dispose of marijuana waste.

**6.8.6 Prohibited Conduct.** A registered dispensary shall not:

- A. Sell or transfer marijuana plants or harvested marijuana to a person who is not a qualifying patient or a registrant;
- B. Transfer marijuana plants and harvested marijuana to a qualifying patient, another registered caregiver, or registered dispensary for no remuneration in excess of the possession or transaction limits provided in this Rule and the Act;
- C. Sell or transfer marijuana plants or harvested marijuana using:
  - (1) An automated dispensing or vending machine;
  - (2) A drive-through sales window; or
  - (3) An Internet-based sales platform, except that a registered dispensary may:
    - (a) Accept reservations or orders through an internet-based platform; and
    - (b) Must verify, in-person, the qualifying patient's written certification and government-issued photo identification prior to completing any sales transaction;
- D. Sell or transfer marijuana plants or harvested marijuana to a qualifying patient who is visibly intoxicated;
- E. Sell or offer for sale to qualifying patients, visiting qualifying patients, or other registrants marijuana for medical use within the same facility or building in which the registrant, who is a licensee in the Maine Adult Use Marijuana Program, also sells or offers for sale adult use marijuana and adult use marijuana products;
- F. Sell or transfer returned harvested marijuana to another qualifying patients, visiting qualifying patients, or other registrants;
- G. Permit qualifying patients, visiting qualifying patients, or other registrants to open or alter a package containing harvested marijuana or otherwise remove harvested marijuana from packaging required by this Rule within the registered premises or in an area that the registrant controls;
- H. Sell any item not allowed under this Rule or any of the following items:
  - (1) Pet or animal food, treats or other pet or animal products containing marijuana; or
  - (2) Any other marijuana products not meant for human consumption or use;
- I. Use a pesticide on marijuana plants except a pesticide that is used consistent with federal labeling requirements, is registered with the Department of Agriculture, Conservation and Forestry, Board of Pesticides Control pursuant to Title 7, section 607 and is used consistent with best management practices for pest management approved by the Commissioner of Agriculture, Conservation and Forestry.
  - (1) A registered dispensary may not in the cultivation of marijuana plants use a pesticide unless at least one registered dispensary assistant involved in the application of the pesticide is certified pursuant to section 1471-D and all other registered dispensary assistants who have direct contact with treated plants have completed safety training pursuant to 40 Code of Federal Regulations, section 170.130.
  - (2) A registered dispensary assistant who is not certified pursuant to section 1471-D and who is involved in the application of the pesticide or handling of the pesticide or equipment must first complete safety training described in 40 Code of Federal Regulations, section 170.230.

## Section 7 – Authorized Transfers, Recordkeeping and Transportation

All registrants shall comply with the recordkeeping and transportation requirements of this section for all authorized transfers. Except for tax records, a registrant shall maintain all records required by the Department for at least 4 years.

### 7.1 –Authorized Transfers

Only those individuals who are qualifying patients, visiting qualifying patients, caregivers exempt from the registration requirements of the Act and this Rule and registrants are authorized to possess, transfer or receive marijuana plants and harvested marijuana for medical use.

- A. A qualifying patient, except visiting qualifying patients, may transfer to, or receive from, another a qualifying patient, an exempt caregiver or a registrant marijuana plants and harvested marijuana in accordance with the Act.
- B. A registered caregiver may transfer to, or receive from, another registered caregiver, a registered dispensary or a qualifying patient marijuana plants or harvested marijuana.
- C. A registered caregiver may transfer to a registered manufacturing facility harvested marijuana and receive from that registered manufacturing facility all the marijuana concentrate or marijuana products manufactured by the registered manufacturing facility from the harvested marijuana transferred to it by the registered caregiver.
- D. A registered caregiver may transfer to another registered caregiver or a registered dispensary trade samples in accordance with this rule.
- E. A registered caregiver may transfer to a registered marijuana testing facility samples of harvested marijuana for testing.
- F. A registered manufacturing facility, including an inherently hazardous substance extraction manufacturing facility, may receive from a qualifying patient, an exempt caregiver, a registered caregiver or a registered dispensary harvested marijuana for the purpose of making marijuana concentrate or marijuana products. The registered manufacturing facility shall transfer to the qualifying patient, exempt caregiver, registered caregiver or registered dispensary all marijuana concentrate or marijuana products manufactured by the registered manufacturing facility from the harvested marijuana received from the qualifying patient, exempt caregiver, registered caregiver or registered dispensary.
- G. A registered manufacturing facility may transfer to a registered marijuana testing facility samples of harvested marijuana for testing.
- H. A registered dispensary may transfer to, or receive from, a registered caregiver, another registered dispensary or a qualifying patient marijuana plants or harvested marijuana.
- I. A registered dispensary may transfer to a registered manufacturing facility harvested marijuana and receive from that registered manufacturing facility all the marijuana concentrate or marijuana products manufactured by the registered manufacturing facility from the harvested marijuana transferred to it by the registered dispensary.
- J. A registered dispensary may transfer to a registered caregiver or another registered dispensary trade samples in accordance with this rule.
- K. A registered dispensary may transfer to a registered marijuana testing facility samples of harvested marijuana for testing.

## 7.2 –Recordkeeping Requirements

All registrants shall maintain records in accordance with this section. All records maintained by a registrant shall reconcile and account for all on-premises and in-transit marijuana plants and harvested marijuana inventories daily.

**7.2.1 Records Maintained by a Registrant.** All registrants shall maintain written records in accordance with the requirements of Section 7.2 and the Act. Such records shall be kept in a format, including digital, that can be immediately produced upon request by the Department.

**7.2.2 Information to be Recorded by a Registrant.** All registrants shall record the following information in written records maintained by the registrant:

- A. A complete inventory of all marijuana plants or harvested marijuana in the possession, control or ownership of the registrant;
- B. The registry identification card or registration certificate number of any registered caregiver, registered dispensary, registered manufacturing facility or registered marijuana testing facility from whom the registrant receives marijuana plants or harvested marijuana and to whom the registrant transfers marijuana plants or harvested marijuana;
- C. The cultivation room or area where each plant is located on the registered premises;
- D. The item type for all harvested marijuana (e.g. raw flower, pre-roll, infused pre-roll, shatter, gummies, tincture, drink, transdermal patch, etc.);

- E. Any changes to the registrant's inventory of marijuana plants or harvested marijuana;
- F. Any partial or full harvest of marijuana plants;
- G. Any destruction of marijuana plants or harvested marijuana, including the reason for destruction;
- H. A batch number for each harvest or production batch created or received by the registrant;
- I. Any authorized transfer;
- J. Any theft of marijuana plants or harvested marijuana;
- K. All sales records;
- L. When inventory has been transferred out of the registered premises;
- M. Any test sample being used as part of achieving process validation; and
- N. Test results from a marijuana testing facility, if applicable; and
- O. A patient transaction log which includes:
  - a. The patient certification number;
  - b. The number of marijuana plants transferred to a qualifying patient, including an indication of the growth stage (seedling, immature plant, mature plant) transferred to the patient, if applicable;
  - c. The form or type of harvested marijuana dispensed to the qualifying patient, if applicable;
  - d. The amount of harvested marijuana dispensed to the qualifying patient, if applicable;
  - e. The time and date that the marijuana plants and/or harvested marijuana was transferred to the qualifying patient; and
  - f. For visiting qualifying patients, the license or photo identification number from the photo identification card used to verify the visiting qualifying patient's out-of-state patient credentials.

### 7.3 - Transportation

**7.3.1 Applicability to Authorized Conduct.** Registrants shall comply with this section whenever transporting marijuana plants, marijuana seedlings, or harvested marijuana, including without limitation:

- A. Transportation between registered premises within the control of the same registrant, if applicable;
- B. Authorized sale of marijuana plants or harvested marijuana to a qualifying patient or harvested marijuana to a visiting qualifying patient by delivery;
- C. Authorized wholesale transactions of marijuana plants or harvested marijuana to or from another registrant;
- D. Provision of harvested marijuana to a registered manufacturing facility and obtaining marijuana products and marijuana concentrate from the manufacturing facility, if authorized;
- E. Transportation of testing samples to a marijuana testing facility; and
- F. Transportation of trade samples to or from another registrant, if authorized.

**7.3.2 Trip Tickets.** A trip ticket completed on forms required by the Department is required for all authorized transfers of marijuana plants or harvested marijuana. Transport authorized by this Rule shall be by motor vehicle only.

- A. Each registrant transporting marijuana plants or harvested marijuana is responsible for maintaining written records in accordance with section 7.2.
- B. Each registrant shall record the following information on the trip ticket:
  - (1) The name, contact information, address of registered premises and registry identification card number of the individual transporting the marijuana plants or harvested marijuana;
  - (2) The name, registry identification card or registration certificate number, contact information, address where the marijuana plants or harvested marijuana is delivered, and the name of person receiving the marijuana plants or harvested marijuana, except that if a qualifying patient is the receiving party, the registrant shall record the address where the marijuana plants or harvested marijuana is delivered and the patient certification number, but not the patient name;
  - (3) Product name and quantities (by weight or unit) of all marijuana plants or harvested marijuana contained in each transport;
  - (4) The date of transport, time of departure and estimated time of arrival;

- (5) Name, registry identification card number and signature of the registry identification cardholder accompanying the transport;
  - (6) The name and registry identification card number and signature of the person receiving the marijuana plants or harvested marijuana, except that if the receiving party is a qualifying patient, the patient need only indicate their patient certification number, but the qualifying patient shall not be required to record their name or signature.
- C. Each registrant shall prepare two copies of a trip ticket for marijuana plants and harvested marijuana transported to another registrant.
  - D. No registrant shall void or change a trip ticket after departing from the originating registered premises except as required by section 7.3.3.
  - E. Each registrant transporting marijuana plants or harvested marijuana must carry two copies of each trip ticket during the transportation of marijuana plants or harvested marijuana and shall:
    - (1) Give one copy to the receiving registrant following the verification of the trip ticket and transfer of the marijuana plants or harvested marijuana;
    - (2) Possess one copy that is to be provided to a law enforcement officer or government agent upon request. Each registrant who has given a trip ticket to a law enforcement officer or government agent shall obtain the name, rank and agency of the law enforcement officer and retain that information for the duration of the transport; and
  - F. Each registrant receiving marijuana plants and harvested marijuana shall provide an authorized signature on a copy of the trip ticket and keep one copy for their records.

**7.3.3 Conduct While Transporting Marijuana Plants or Harvested Marijuana.** In addition to the transport manifest and trip ticket requirements above, marijuana plants and harvested marijuana must be transported subject to the following requirements:

- A. Vehicles used must provide adequate protection from theft or damage.
  - (1) Each registrant shall ensure that all marijuana plants and harvested marijuana, including samples for testing, are attended or secured in the vehicle at all times and may not be left in any vehicle overnight.
  - (2) Any perishable items must be adequately refrigerated during transport.
  - (3) Any marijuana plants or harvested marijuana must be shielded from public view.
- B. Any vehicle transporting marijuana plants or harvested marijuana must travel directly from the registered premises to the recipient(s) and the registrant shall not:
  - (1) Make any stops in between except:
    - (a) To accommodate meal and rest periods required by law, or refueling; or
    - (b) For an emergency, in which case the registrant shall promptly record on the trip ticket and report, or cause to be reported to the Department:
      - (i) The stop and the reasons for the stop;
      - (ii) The amount of marijuana plants or harvested marijuana being stored in the transport vehicle;
      - (iii) The location of the transport vehicle;
      - (iv) The registry identification card number of the individual in possession of the marijuana plants or harvested marijuana; and
      - (v) The expected duration of the emergency necessitating the storage of the marijuana plants or harvested marijuana in the vehicle;
  - (2) Allow anyone who does not have a registry identification card associated with the registrant to ride in the vehicle, including any trailer;
  - (3) Allow anyone not listed on the transport manifest to ride in the vehicle, including any trailer; or
  - (4) Remove the marijuana plants or harvested marijuana from the vehicle until arrival at the destination.

- C. Each registrant must notify the Department immediately, or as soon as possible given the circumstances, if a vehicle transporting marijuana plants or harvested marijuana is involved in a vehicular accident or theft resulting in the loss.
- D. Each registrant shall make a vehicle used for the transport of marijuana plants or harvested marijuana immediately available for inspection upon request of the Department.

## Section 8 – Packaging and Labeling

Except as otherwise indicated, all registrants are required to comply with the packaging and labeling requirements of this section.

### 8.1 - General Packaging and Labeling Requirements and Prohibitions

All harvested marijuana shall be packaged and labeled in accordance with this Rule and the Act prior to any retail transfer to a qualifying patient or visiting qualifying patient. All packaging, whether the container or the exit packaging, or a combination thereof, shall be child-resistant, tamper evident and opaque. The registrant must maintain at all times a certificate that the child-resistant packaging meets the requirements of 16 C.F.R. 1700.15 (2021) and 16 C.F.R. 1700.20 (2021) which are incorporated herein by reference.

**8.1.1 Registrant Duty to Package.** A registrant shall conduct all authorized packaging and labeling activities within designated areas of a registered premises as described in the Department approved application for a registry identification card or registration certificate.

- A. Each registrant shall ensure that all harvested marijuana:
  - (1) Is packaged in a resealable container with the Department’s universal symbol<sup>3</sup> for marijuana for medical use indicating the presence of marijuana on the front or most prominently displayed portion of the marketing layer packaging and printed on a white background, no smaller than ½ inch by ½ inch;
  - (2) Conforms to packaging requirements of any other licenses required to manufacture harvested marijuana, including without limitation food establishment or bottle beverage manufacturing facility licenses;
  - (3) Contains an integral measuring device, if the package contains multi-serving marijuana drink or tincture:
    - (a) An acceptable measuring device for a multi-serving marijuana drink or tincture includes without limitation a measuring cap or dropper; and
    - (b) The measuring device shall measure the product to be used, rather than the product remaining in the packaging. Hash marks on a bottle or package qualify as a measuring device; and
  - (4) Is packaged in a container that protects the packaged item from contamination and does not impart any toxic substance to the packaged item.
- B. Each registrant shall ensure that every marketing layer includes the following information printed directly on the package and/or label prior to any transfer. The information must be printed in English, in font size no smaller than 6 point or 1/12 inch and must be unobstructed and conspicuous.
  - (1) The registration certificate number or registry identification card number of the registrant conducting the authorized transfer to the qualifying patient or visiting qualifying patient;
  - (2) The production date and registry identification card or registration certificate number of the registrant that created the contents of the package; and
  - (3) A description of the contents of the package.
- C. A registrant may make an authorized bulk transfer of marijuana flower and trim that has not been packaged for retail sale for the purposes of further processing, manufacturing or deli-style sales at a registered caregiver retail store or registered dispensary, so long as:

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<sup>3</sup> The Department’s universal symbol and high resolution images of the same can be found at: <https://www.maine.gov/dafs/omp/resources/universal-symbol> (accessed December 17, 2021).

- (1) All requirements of this section are met prior to any retail transfer to a qualifying patient or visiting qualifying patient.
  - (2) Bulk transfers are packaged in a sealed container and accompanied by required transport manifest or trip ticket.
- D. Each registrant providing trade samples to another registrant shall:
- (1) Ensure all trade samples are packaged and labeled in accordance with all applicable packaging and labeling requirements of this Rule; and
  - (2) Include the statement: “Trade Sample. Not for Sale.” either on a label affixed to the container or the marketing layer.

**8.1.2 Exit Packaging.** A registrant must place any harvested marijuana sold to a qualifying patient or any trade samples provided to another registrant in exit packaging meeting the requirements of this subsection before the other registrant or qualifying patient leaves the premises.

- A. All exit packaging must be opaque.
- B. The exit packaging must be free of any words, images, markings or design that in anyway indicate or suggest that its contents include marijuana.
- C. Exit packaging must be child-resistant and tamper-evident if used for any harvested marijuana that is not prepackaged in child-resistant, tamper-evident packaging.
- D. A registrant may charge a fee for exit packaging, including the sale of reusable exit packaging.
- E. A qualifying patient may supply reusable exit packaging if the registrant verifies that the reusable exit packaging:
  - (1) Is in sound condition;
  - (2) Is of a type supplied by the registrant; and
  - (3) Is not used for any harvested marijuana that is not prepackaged in tamper-evident, child-resistant packaging.
- F. The registrant shall maintain a copy of the certificate showing that all types of exit packaging required to be child-resistant meet the requirements of 16 C.F.R. 1700.15 (2021) and 16 C.F.R. 1700.20 (2021) which are incorporated herein by reference.

**8.1.3 Prohibitions.** A registrant is prohibited from packaging and labeling harvested marijuana in the following ways:

- A. Displaying any content on a container, marketing layer or intermediate packaging making any claims regarding health or physical benefits to the consumer;
- B. Including any false or misleading statements;
- C. Obscuring required label information;
- D. In a manner that is in violation of federal trademark law or regulation, or that would cause a reasonable consumer confusion as to whether the harvested marijuana is a trademarked product;
- E. Depicting a human, animal or fruit or the word “candy” or “candies” on the label of any marketing layer, container holding harvested marijuana or intermediate packaging; or
- F. Reasonably appearing to target or designed to appeal to individuals under the age of 21, including but not limited to images of persons under 21 years of age, cartoons, toys or similar images and items typically marketed towards persons under 21 years of age or references to products that are commonly associated with persons under 21 years of age or marketed by persons under 21 years of age.

**8.1.4 Potency, Cannabinoid Profile and Contaminant Information.** Only verified information about potency, cannabinoid profile or the absence of specific contaminants may be included. If the label affixed to a package of harvested marijuana includes information about the potency, cannabinoid profile or the absence of specific contaminants in the harvested marijuana, that information must be verified by testing conducted by registered marijuana testing facility.

## 8.2 - Additional Packaging and Labeling Requirements for Certain Types of Harvested Marijuana

In addition to the requirements of section 8.1 all harvested marijuana sold by a registered caregiver operating a caregiver retail store or a registered dispensary shall comply with the requirements of this section. All packages of harvested marijuana sold by a caregiver retail store or registered dispensary shall include on the label the unique identification number identifying the final batch from which the contents of the package was taken.

### 8.2.1 Inhaled Harvested Marijuana. The following requirements apply to inhaled harvested marijuana.

- A. Each registrant shall ensure all inhaled harvested marijuana is packaged in accordance with the following prior to transfer, except a wholesale transfer conducted in accordance with the Act and this Rule, to another registrant, qualifying patient or visiting qualifying patient:
- (1) The container must be fully enclosed on all sides, as follows:
    - (a) If container is soft sided, it must be of a sufficient thickness to prevent unintended access to and ingestion by children or pets;
    - (b) If container has rigid sides, it must have a lid or enclosure that can be placed tightly and securely on the container;
    - (c) The container must be child-resistant or must be placed into child-resistant exit packaging by the registrant at the time of sale; and
    - (d) The container must be opaque or must be placed into opaque exit packaging by the registrant at the time of sale.
  - (2) The container must be tamper-evident, as follows:
    - (a) If the container is soft sided, the opening must be sealed by some means in a manner which would indicate if the container had been opened or tampered with. The tamper evident indicating feature of the opening must not be resealable, and once opened must remain clearly evident that the package has previously been opened;
    - (b) If the container is rigid, the opening must contain a tamper evident seal, or the lid or enclosure must have an adhesive band or seal that once opened must remain clearly evident that the package has previously been opened.
- B. Each registrant shall ensure all inhaled harvested marijuana is labeled in accordance with the following prior to transfer to another registrant, qualifying patient or visiting qualifying patient:
- (1) The registration certificate number or registry identification card number of the registrant conducting the authorized retail sale to the qualifying patient or visiting qualifying patient;
  - (2) If applicable, a list of any solvent(s) used to produce any marijuana concentrate that was used in the manufacturing of the inhaled harvested marijuana;
  - (3) If applicable, a list of all ingredients used to manufacture the inhaled harvested marijuana, including identification of any major allergens contained in the harvested marijuana in accordance with the Food Allergen Labeling and Consumer Protection Act of 2004, 21 U.S.C. § 343 (2010), specifically milk, eggs, fish, crustacean shellfish, tree nuts, peanuts, wheat and soybeans; and
  - (4) Net content, according to the following:
    - (a) Net contents shall be stated in grams, except that inhaled harvested marijuana containing less than one gram of net content may state the net contents in milligrams;
    - (b) Variance is allowed as follows:
      - (i) For inhaled harvested marijuana composed primarily of marijuana flower or trim, the actual net contents by weight may be as much as 0.1 grams less or 0.5 grams greater than the statement of net content on the label;
      - (ii) For inhaled harvested marijuana that are pre-rolled marijuana cigarettes, the actual net contents by weight may be as much as 5% less than or 15% greater than the statement of net content;
      - (iii) For inhaled harvested marijuana composed primarily of marijuana extract, the actual net contents by weight may be as much as 5% less or 10% more than the statement of net content;

- (c) Inhaled harvested marijuana labels may state the net contents in ounces in addition to stating the net contents in grams; and
- (d) In determining the weight of marijuana concentrate in an inhaled harvested marijuana product, the weight of any other ingredients combined with the harvested marijuana to prepare the inhaled harvested marijuana products shall not be included.

**8.2.2 Edible Harvested Marijuana.** The following requirements apply to edible harvested marijuana.

- A. Each registrant shall ensure all edible harvested marijuana is packaged in child-resistant containers or exit packaging and in accordance with the following prior to transfer to a qualifying patient or visiting qualifying patient:
  - (1) For single-serving edible harvested marijuana:
    - (a) Single-serving edible harvested marijuana must be placed into a child-resistant container that may or may not be resealable; and
    - (b) Single-serving edible harvested marijuana that is placed into a child-resistant container may be bundled into a larger marketing layer;
  - (2) For multiple-serving edible harvested marijuana:
    - (a) Multiple-serving edible harvested marijuana must be placed into a child-resistant container that is resealable or made of plastic of a sufficient thickness to prevent unintended access to and ingestion by children or pets and heat sealed with no easy-open tab, dimple, corner or flap, as to make it difficult for a child to open;
    - (b) The packaging shall clearly indicate the amount of servings and the size of each serving if the edible harvested marijuana is not in a form that indicates a serving;
  - (3) A single-serving drink shall be placed into a child-resistant container that may or may not be resealable;
  - (4) Single-serving marijuana drinks may be packaged in:
    - (a) A child-resistant container;
    - (b) An aluminum or metal can with a stay tab mechanism opening; or
    - (c) A bottle with a metal crown cork style bottle cap;
  - (5) Multiple-serving marijuana drinks shall:
    - (a) Be packaged in a child-resistant container compliant with 16 C.F.R. Part 1700 (2021) that has a resealing cap or closure; and
    - (b) Include a measuring device such as a measuring cap or dropper with the package containing the marijuana drink; hash marks on the bottle or package qualify as a measuring device;
  - (6) Marijuana drinks packaged according to this section may be bundled into a larger marketing layer;
  - (7) The container must be tamper-evident or must be placed into tamper-evident exit packaging by the registrant at time of sale; and
  - (8) The container must be opaque or must be placed into opaque exit packaging by the registrant at time of sale.
- B. Each registrant shall ensure all edible harvested marijuana is labeled in accordance with the following prior to transfer to a qualifying patient or visiting qualifying patient:
  - (1) Total contents of THC and CBD, stated in milligrams and for edible harvested marijuana containing at least 5 milligrams of THC, not more than 10% less or 10% greater than the actual THC and CBD content, and for edible harvested marijuana containing less than 5 milligrams of THC, not more than 20% less or 20% greater than the actual THC and CBD content, including:
  - (2) The total contents of THC and CBD per serving unit;
  - (3) If the label is on the marketing layer of a package containing more than one serving unit, the total contents of THC and CBD contained within the entire package;
  - (4) The serving size;
  - (5) The number of servings per container or marketing layer;

- (6) Total net weight of the edible harvested marijuana separate from the package and label;
- (7) A statement in font no smaller than 6 point: “This product contains marijuana for medical use by qualifying patients only.”;
- (8) If applicable, a list of all ingredients used to manufacture the edible harvested marijuana in descending order of predominance by weight or volume, including identification of any major allergens contained in the product in accordance with the Food Allergen Labeling and Consumer Protection Act of 2004, 21 U.S.C. § 343 (2010), specifically milk, eggs, fish, crustacean shellfish, tree nuts, peanuts, wheat and soybeans;
- (9) A nutritional fact panel in accordance with 21 C.F.R. Part 101 (2021); and
- (10) A statement in font no smaller than 6 point: “Effects of this product may not be felt for up to 4 hours, please administer as directed.”

**8.2.3 Topical Harvested Marijuana.** The following requirements apply to topical harvested marijuana, in addition to the requirements of section 8.1.

- A. Each registrant shall ensure all topical harvested marijuana is packaged in accordance with the following prior to transfer to another registrant, qualifying patient or visiting qualifying patient:
  - (1) Salves, creams, lotions and balms shall be packaged in a child-resistant container that has a resealing cap or closure compliant with 16 C.F.R. 1700 (2021); and
  - (2) Transdermal patches shall be packaged in a plastic of a sufficient thickness to prevent unintended access to and ingestion by children or pets and be heat sealed with no easy-open tab, dimple, corner or flap, as to make it difficult for a child to open.
- B. Each registrant shall ensure all topical harvested marijuana is labeled in accordance with the following prior to transfer to another registrant, qualifying patient or visiting qualifying patient:
  - (1) A potency statement for topical harvested marijuana stating the total content of THC and CBD in milligrams in the container, and for transdermal products the total content of THC and CBD in milligrams contained in each transdermal product;
  - (2) A list of all ingredients in descending order of predominance by weight or volume as applicable;
  - (3) The amount recommended for use at any one time; and
  - (4) The following warning statement: “For Topical Application – Do Not Eat or Smoke.”

## Section 9 – Advertising

A registrant may advertise or promote marijuana for medical use only in a manner consistent with this section.

- A. A registrant may not use branded or wearable merchandise or paraphernalia, signs, handbills, radio, television, websites, mobile applications or vehicles to advertise in a manner that:
  - (1) Is attractive to persons under 21 years of age;
  - (2) Promotes irresponsible use;
  - (3) Promotes activity that is illegal under Maine law;
  - (4) Is contrary to or in direct violation of state or federal consumer protections; or
  - (5) Otherwise presents a significant risk to public health and safety.
- B. Advertising may not:
  - (1) Contain statements that are deceptive, false or misleading;
  - (2) Display consumption of marijuana or marijuana products;
  - (3) Include claims related to potency (beyond listing of cannabinoid content);
  - (4) Depict activities or conditions considered risky when under the influence of marijuana, including without limitation: operating a motorized vehicle, boat or machinery, being pregnant or breastfeeding;
  - (5) Contain any content that can reasonably be considered to target or is designed to appeal particularly to individuals under the age of 21, including but not limited to images of persons under 21 years of age, cartoons, toys or similar images and items typically marketed towards

- persons under 21 years of age or references to products that are commonly associated with persons under 21 years of age or marketed by persons under 21 years of age;
- (6) Contain any imitation of candy advertising;
  - (7) Include the term “candy” or “candies”;
  - (8) Encourage the transportation of marijuana items across state lines or otherwise encourage illegal activity;
  - (9) Assert that marijuana items are safe because they are regulated by the Department or have been tested by a certified and registered laboratory or otherwise make claims that any government agency endorses or supports marijuana;
  - (10) Make claims that marijuana has curative or therapeutic effects;
  - (11) Contain any health or physical benefit claims, including but not limited to health or physical benefit claims on labels or packaging;
  - (12) Contain material that encourages excessive or rapid consumption;
  - (13) Make any claims about intoxicating effects; or
  - (14) Include promotion of both marijuana for medical use and adult use marijuana in the same advertisement.
- C. In the absence of a municipal ordinance or other regulation, no sign or other advertisement may be displayed within 1,000 feet of the property line of a preexisting public or private school.
- (1) A municipality may, by ordinance or other regulation, reduce the distance prohibition, but not to less than 500 feet.
  - (2) A municipality may, by ordinance or other regulation, increase the distance prohibition.
- D. No registrant or agent of a registrant may:
- (1) Make any deceptive, false or misleading assertions or statements on any informational material, any sign or any document provided to a consumer;
  - (2) Distribute handbills in public areas or on publicly owned property;
  - (3) Utilize vehicle wrap, decals or other vehicle-based advertising or marketing;
  - (4) Utilize television, radio, print media or internet advertising in cases where there is a high likelihood it will reach person under the age of 21. Registrants or an agent of a registrant must take reasonable steps to ensure that any mass marketing or advertising does not reach persons under the age of 21, including, for example, using marketing information from the vendor or employing age verification techniques commonly used in internet advertising to avoid reaching persons under the age of 21;
  - (5) Advertise via location-based devices, including but not limited to cellular phones, unless the marketing is a mobile device application installed on the device by the owner of the device who is 21 years of age or older and includes a permanent and easy opt-out feature;
  - (6) Permit use of the registrant’s trademarks, brands, names, locations or other distinguishing characteristics for third-party use on advertising in a manner that does not comply with this section or any other statute, Rule or regulation; or
  - (7) Advertise or participate in any sampling events, catered events, parties or other events for the purpose of bringing together qualifying patients to consume marijuana for medical use.
- E. In the event a third party has used the registrant’s brand, trademarks, brands, names, locations or other distinguishing characteristics in an advertisement that does not comply with this section or any other statute, Rule or regulation, the registrant shall immediately notify the Department, issue a cease-and-desist order to the third-party and pursue appropriate legal action.
- F. Each registrant shall ensure that advertising or marketing on radio or television does not have a high likelihood of reaching individuals under the age of 21 by:
- (1) Requesting market or other data regarding the target audience for the specific program and/or time slots in which the advertising will be placed;
  - (2) Verifying, based on data or other written assurance, that the advertisement will not have a high likelihood of reaching individuals under the age of 21; and
  - (3) Retaining a copy of any data or other written assurance regarding the target audience for at least one year after the advertisement has been broadcast.

- G. Each registrant shall ensure that advertising or marketing on websites does not have a high likelihood of reaching individuals under the age of 21 by:
  - (1) Requesting assurances that any web pages on which the advertisement will appear uses appropriate measures to ensure that individuals visiting the pages are 21 years of age or older;
  - (2) Requesting assurances that any banner, pop-up or other advertising will not be directed to anyone other than individuals 21 years of age or older who consent to view marijuana-related material; and
  - (3) Retaining a copy of the written assurance and any reports of web views or other data for at least one year after the advertisement is viewed.
- H. Each registrant shall include the following statements, either in print or audio, on all print, television, radio and internet advertising in font size legible to the viewer or at a volume and speed that is readily understandable by the average listener:
  - (1) “For medical purposes by qualifying patients only.”
  - (2) The registration number of the entity responsible for the advertising.
- I. Each registrant shall produce the written assurance and any data obtained upon the demand of the Department.
- J. The Department may take enforcement action against any registrant who fails to comply with the provisions of this section.

## Section 10 – Waste

All registrants are required to dispose all marijuana waste in a manner consistent with the Act and the requirements of the Department of Environmental Protection.

Marijuana waste shall be rendered unusable and indistinguishable from non-marijuana waste by breaking up, grinding, unpackaging, combining and mixing with compostable material or other solid waste, or using another method approved in writing by the Department.

## Section 11 – Compliance and Enforcement

### 11.1 - General

**11.1.1 Limitation on authorized conduct.** Any conduct not explicitly authorized by the Act or this Rule is prohibited. Failure to comply with the Act and this Rule may result in an administrative action by the Department or referral to another state or local agency with regulatory authority over the registrant.

**11.1.2 Prohibited Conduct.** Without limitation, the following conduct is expressly prohibited under this Rule:

- A. Selling or transferring marijuana plants or harvested marijuana:
  - (1) To any person who is not authorized to possess marijuana for medical use, including but not limited to, sale of harvested marijuana to an individual who is not a qualified patient or registrant;
  - (2) Without appropriately recording the transaction(s) in accordance with section 7 of this Rule, as applicable;
  - (3) At any temporary location not under the control of either the registrant or the purchaser, including without limitation “pop-up” stores or meeting at a location open to the public;
  - (4) At any location under the control of the registrant but not registered with the Department; or
  - (5) At a drive-through window;
- B. Organizing, participating in and/or advertising events for persons to consume harvested marijuana;
- C. Disclosing information, to parties other than the Department, about a qualifying patient’s participation in the MMMP, unless authorized in writing by the qualifying patient for the purpose of assisting the qualifying patient in the medical use of marijuana;

- D. Failing to have on the registered premises, during the periods of apparent activity, a registry identification card holder who is authorized to cooperate with Department requests to inspect the premises;
- E. Permitting another person to use a registry identification card that is not their own;
- F. Refusing to permit the Department to inspect registered premises during periods of apparent activity, except that the Department may not enter the dwelling unit of a registered caregiver unless the registered caregiver is present;
- G. Selling marijuana or any products containing marijuana that have been adulterated with any other federal or state controlled substance or pesticide not permitted for use on marijuana;
- H. Making any misrepresentation to the Department, including intentionally destroying or concealing evidence of unauthorized conduct;
- I. Employing or allowing an individual without a valid registry identification card to engage in conduct authorized by this rule;
- J. Diverting marijuana plants or harvested marijuana intended for medical use to adult use marijuana establishments (unless authorized by statute) or to the illicit market;
- K. Inverting marijuana plants, marijuana plant material, marijuana products or marijuana concentrate from outside of the Maine Medical Use of Marijuana Program into the registrant's inventory;
- L. Misrepresenting any material fact to the Department, including without limitation, residency, qualifications, size of cultivation or quantity of marijuana possessed or transferred.

**11.1.3 Methods for ensuring compliance.** An individual who engages in conduct authorized by this Rule is subject to review by the Department to determine compliance with the Act and this Rule. The Department may determine applicant eligibility and registrant compliance with the Act and this Rule through any of the following means, including without limitation:

- A. Criminal history record check;
- B. Review of any records a registrant is required to create and maintain in accordance with 22 MRS § 2430-G and this Rule, including without limitation: electronic or other written records maintained in accordance with section 7;
- C. On-site or remote inspections;
- D. Verification of registrant compliance with program requirements by the Department or an agent of the Department;
- E. Review of any required security camera footage retained by the registrant in compliance this Rule;
- F. Review of any reports from a law enforcement agency; or
- G. Review of any reports from any other state or local agency with regulatory authority over the registrant.

**11.1.4 Excess Marijuana Plants.** Cultivation or possession of marijuana plants for medical use in excess of the limits authorized by this Rule and the Act is a violation of this Rule, the Maine Medical Use of Marijuana Act and may be a violation of 17-A MRS, Chapter 45. As applicable, a qualifying patient, caregiver or long term care facility assisting qualifying patients in the medical use of marijuana must forfeit excess marijuana in accordance with 22 MRS § 2430-E.

**11.1.5 Records Available for Inspection by the Department.** Registrants shall make all books and records available for inspection by the Department upon the Department's request.

- A. All registrants shall keep for a period of 4 years:
  - (1) All records maintained in accordance with Section 7.2.2; and
  - (2) Any other business books and records, except that tax records required by the Internal Revenue Service or Maine Revenue Service may require a retention period in excess of 4 years .
- B. Business records retained by a registrant pursuant to this Rule may be stored electronically provided such records are readily accessible to the Department upon request.

**11.1.6 Notification to the Department.** Unless otherwise specified, a registrant shall notify the Department within one business day of discovering any of the following:

- A. An unexplained loss of marijuana plants or harvested marijuana held by the registrant;

- B. Any diversion or theft of marijuana plants or harvested marijuana;
- C. Any unauthorized or prohibited conduct;
- D. Any criminal activity pertaining to the operation of the registrant; or
- E. Any individual registrant, officer, director or assistant who has been convicted of a disqualifying drug offense.

## 11.2 – Inspections and Investigations

The Department may initiate an investigation including an inspection, in accordance with the Act and this Rule to ensure compliance prior to issuing a registration certificate or registry identification card, as a routine review, in response to a complaint of potential or actual noncompliance or other reasonable suspicion of non-compliance or as part of a plan of correction.

### 11.2.1 Purpose of Inspections. During an inspection, the Department may:

- A. Verify information submitted in an application;
- B. Review records for all required documents, including, but not limited to registration, labeling and employee records, as applicable;
- C. Conduct voluntary interviews;
- D. Enter areas used for conduct authorized by this Rule and the Act to ensure any marijuana, including plants, usable marijuana and incidental marijuana cultivated for medical use, is within the specified limit and is identifiable and maintained as required;
- E. Take samples of marijuana plants or harvested marijuana as evidence of noncompliance with this Rule or the Act; or
- F. Otherwise assess conduct for compliance with the Rule and statute.

### 11.2.2 Procedures for Inspections.

- A. The Department may initiate an inspection at any time to determine compliance by a registrant;
  - (1) The Department may inspect only that portion of a caregiver's residence that is used for authorized conduct.
  - (2) The Department may not inspect any portion of a caregiver's dwelling unit that is used for authorized conduct if the caregiver is not present, unless the Department receives a waiver from the caregiver in writing that an assistant of the caregiver may instead be present at the inspection.
- B. The Department shall provide notice before an inspection of a long term care facility;
- C. When conducting an inspection, an agent of the Department will provide:
  - (1) Proof of identity prior to entry; and
  - (2) If the inspection was initiated in response to a complaint regarding registrant conduct, a written summary of the grounds contained in the complaint pursuant to 22 MRS § 2430-G(2)(A).
- D. The Department will take reasonable measures to reduce potential disruption and contamination of any cultivation area during an inspection.
- E. The Department may take samples, photographs or electronic copies during an inspection as evidence of noncompliance or for further assessment or testing to determine compliance with this Rule and the Act.
- F. If entry into an area reportedly used for conduct authorized by this Rule and the Act is refused when the Department is conducting an inspection, the Department will consider such action a failure to comply with provisions of this Rule.
  - (1) If a registrant twice denies entry to the Department or its authorized agents, the Department may take action to revoke the registry identification card or registration certificate.
- G. After conducting an inspection, the Department may offer the registrant with a report indicating any findings of violations or corrective action necessary and/or inform the registrant that further investigation is required.

### 11.3 - Plans of Correction

Upon a finding of any violation of the Act or this Rule, the Department may require a registrant to submit a plan of correction for the Department's approval. The Department is not obligated to remedy non-compliance with a plan of correction and may take action for immediate registration revocation or other administrative action.

- A. The Department may require a registrant to submit to the Department a plan of correction, or may issue to a registrant a directed plan of correction, which may include the following as applicable:
  - (1) Steps to correct any finding, violation or deficiency noted by the Department;
  - (2) Specific deadlines for each corrective action step;
  - (3) Steps to reduce potential future violation; and
- B. If requested by the Department, the registrant shall send, within five business days of receipt of the notice of non-compliance, a plan of correction.
- C. The Department will provide notice of approval or denial of the plan of correction within five business days of receipt.
- D. If the registrant fails to submit in a timely manner an acceptable plan of correction, or if the registrant fails to comply with an approved plan of correction, the Department may, at its discretion:
  - (1) Issue a directed plan of correction;
  - (2) Initiate a civil action to impose fines;
  - (3) Suspend or revoke one or more registry identification cards;
  - (4) Suspend or terminate one or more registration certificates.

### 11.4 - Progressive Enforcement

The Department may take progressive enforcement action when the Department is unable to determine compliance when conducting an inspection, or when a finding of non-compliance is not resolved through technical assistance or other remedial action. Progressive enforcement action may include suspension, registration denial or revocation.

**11.4.1 Suspension of Registry Identification Card or Registration Certificate.** The Department may suspend one or more registry identification cards or registration certificates of any person or entity for violations of 22 MRS, ch. 558-C or this Rule.

- A. The Department may determine that suspension of a registry identification card or registration certificate is an appropriate remedy, except in cases in which its discretion is limited by this Rule or 22 MRS, ch. 558-C.
  - (1) The Department may suspend a registry identification card or registration certificate for refusal or willful avoidance of two Department inspections.
  - (2) The Department shall revoke a registry identification card or registration certificate when such revocation is mandatory under 22 MRS, ch. 558-C.
- B. In the case of a person who holds two or more registry identification cards, the Department may suspend one or more of such cards.
- C. The Department may suspend a registry identification card or registration certificate on an emergency basis when the Department determines that the conduct of the registrant poses an immediate threat to the health or safety of a person or the public.
  - (1) In accordance with 5 M.R.S. §§ 10004(3) and (4) an emergency suspension may not exceed 30 days.
  - (2) A threat to public health and safety, includes without limitation:
    - (a) Providing, possessing, or offering for sale or transfer harvested marijuana determined to contain an unsafe level of a contaminant or pesticide, or that is otherwise adulterated;
    - (b) Cultivating marijuana plants using a pesticide not approved for use on items for human consumption, or by a person not licensed to apply pesticides by the Department of Agriculture, Conservation and Forestry, Board of Pesticide Control;
    - (c) Furnishing marijuana plants or harvested marijuana to individuals who are not authorized to possess marijuana for medical use;
    - (d) Unsafe or unauthorized use of inherently hazardous substances;

- (e) Preparing, possessing, or transferring edible marijuana products without a food establishment license; or
  - (f) Failure to comply with regulations applicable to food establishments, including 10-144 C.M.R., Chapter 200 and DACF rules.
- D. A business entity formed by a registered caregiver, including a caregiver retail store, has no authority to operate while the registered caregiver's registry identification card is suspended.

**11.4.2 Revocation of Registry Identification Card.** The Department may revoke registry identification cards, on the basis of conduct prohibited by the Act and this Rule or a determination by the Department that the cardholder is not otherwise in compliance with or qualified under the Act or this Rule. Revocation of a registry identification card is considered final agency action if not timely appealed, in accordance with this section, in accordance with 22 MRS § 2430-F.

- A. The Department shall, pursuant to 22 MRS §2430-F, revoke the registry identification card of any person who furnishes or gives marijuana to any person who is not authorized to possess marijuana.
- B. The Department shall, pursuant to 22 MRS §2430-F, revoke the registry identification cards of the officers or directors of any dispensary that dispenses, delivers or otherwise transfers marijuana plants or harvested marijuana in violation of 22 MRS, ch. 558-C or this Rule.
- C. Additional grounds for revocation of a registry identification card are governed by this Rule and the Act and include, but are not limited to, the following:
  - (1) The cardholder is convicted of a disqualifying drug offense.
  - (2) The cardholder knowingly violates the confidentiality of information protected by the statute.
  - (3) The cardholder commits, permits, aids or abets any illegal practices or unauthorized conduct related to the cultivation, processing, acquisition, dispensing, delivering or transfer of marijuana.
  - (4) The cardholder is not a resident of Maine and the card is not surrendered to the Department.
  - (5) The cardholder fails to pay required State and local taxes, in accordance with 36 M.R.S. §175.
  - (6) A cardholder commits a civil violation for fraudulent misrepresentation regarding authorized conduct, possession of prepared marijuana in excess of specified limits or failure to provide required notifications to the Department.
  - (7) A cardholder has repeat forfeiture of excess marijuana plants.
  - (8) A cardholder has been issued findings of repeated non-compliance, has failed to comply with the plan of correction or is no longer eligible for a registry identification card.
- D. In the case of a person who is an assistant or officer or director of multiple registrants, and who holds multiple registry identification cards, the Department may at its discretion revoke one or more cards.
- E. The effective date of revocation of a registry identification card is ten business days after the date shown on the Department's written notice that is sent to the cardholder's last known address, unless the registrant appeals the Department's decision within ten business days of the date shown on the written notice.
  - (1) If the registrant timely appeals the Department's decision, the Department shall promptly cause an administrative hearing to be scheduled.
  - (2) The registrant's card shall remain active until a decision is rendered by the Department, except that if such an administrative hearing is not held within sixty days of the date shown on the Department's written notice. Except that, if an administrative hearing is delayed by the Department beyond sixty days of the date shown on the Department's written notice, the registrant's card shall remain active until a decision is rendered by the Department.
- F. A revoked registry identification card is void unless timely appealed in accordance with this section and 5 M.R.S., chapter 375.
- G. A registry identification card that is not surrendered to the Department is void and does not serve as proof of authorized conduct:
  - (1) Ten days after the date shown on the Department's written notice of revocation is sent to the last known address of the cardholder and the cardholder's employer or affiliated entity, unless timely appealed, if applicable;
  - (2) Immediately, when any of the following occurs:

- (a) A new card is issued to a cardholder based on a change in status;
  - (b) A cardholder fails to notify the Department of a disqualifying drug offense;
  - (c) A cardholder is no longer a resident of the State of Maine; or
  - (d) A request for registry identification card renewal is denied.
- H. A person whose registry identification card has been revoked by the Department is disqualified, as applicable, from:
- (1) Serving as a registered caregiver;
  - (2) Serving as officer or director, as defined in 22 MRS §2422, of a business entity registered as a caregiver, marijuana testing facility, dispensary, or manufacturing facility; or
  - (3) Assisting, as an employee of a long-term care facility, qualifying patients with the medical use of marijuana.
- I. Revocation of a registry identification card may result in the Department taking additional administrative action to terminate any related registration certificate, adult use individual identification card, or adult use marijuana facility license held by the revoked registry identification cardholder:
- (1) A business entity formed by a registered caregiver has no authority to operate if the registered caregiver's registry identification card has been revoked.
  - (2) The Department may at its discretion terminate registration certificates of any dispensary, manufacturing facility, or registered inherently hazardous substances extraction facility when the registry identification card of an officer or director is revoked.
  - (3) The Department may at its discretion revoke adult use individual identification cards of any person whose registry identification card is revoked.
  - (4) The Department may at its discretion terminate marijuana facility licenses of any adult use marijuana establishment when the registry identification card of an officer or director is revoked.
- J. A person whose registry identification card is revoked may not apply for a new registry identification card for a period of one year, unless the Department specifies a shorter period in the notice of revocation.
- K. A business entity formed by a registered caregiver, including a caregiver retail store, has no authority to operate while the registered caregiver's registry identification card is revoked.

**11.4.3 Termination of Registration Certificate.** The termination of a registration certificate is governed by this Rule and the statute.

- A. Grounds for termination of a registration certificate include without limitation:
- (1) Failure to cooperate with required inspections, including failure to allow entry or interference with entry;
  - (2) Violations of this Rule, the Act or policies and procedures that govern the registrant's operation;
  - (3) Committing, permitting, aiding or abetting any illegal practices;
  - (4) Conduct or practices that are detrimental to the safety and welfare of qualifying patients or caregivers,
  - (5) Providing information that is materially inaccurate or incomplete; or
  - (6) Failure to pay required State and local taxes.
- B. The Department may at its discretion revoke the registry identification card, adult use marijuana establishment license, or adult use individual identification card of any person whose conduct was a factor in the termination of the registration certificate.

**11.4.4 Administrative Requirements.** Unless otherwise specified as final agency action<sup>4</sup>, a registrant or registry identification cardholder may request an informal hearing to appeal the decision of the Department in accordance with 5 M.R.S, chapter 375. The Department shall follow consistent procedures in enforcement actions.

- A. The Department may take administrative action to suspend, revoke or terminate a registrant's or person's registry identification card or registration certificate.

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<sup>4</sup> Pursuant to 22 MRS § 2430-E(2), revocation of a registry identification card due repeat forfeiture of excess marijuana is final agency action as defined in 5 M.R.S. §8002(4), and subject to judicial review

- B. The Department shall issue a written notice of administrative action that includes the reason for the action, the applicable Rule or statute, the date the Department's action takes effect, and the right to appeal the Department's action in accordance with this Rule, the Act, and the *Maine Administrative Procedures Act*, 5 MRS, ch. 375.
- C. A registrant or person may timely appeal the administrative action within ten business days of the date shown on the written notice.
  - (1) If the registrant or person timely appeals the Department's decision, the Department shall promptly cause an administrative hearing to be scheduled.
  - (2) The registrant's or person's registry identification card and/or registration certificate subject to an administrative action shall remain active until a decision is rendered by the Department, except that if such an administrative hearing is not held within sixty days of the date shown on the Department's written notice. Except that, if an administrative hearing is delayed by the Department beyond sixty days of the date shown on the Department's written notice, the registrant's or person's registry identification card and/or registration certificate shall remain active until a decision is rendered by the Department.
- D. Pursuant to 5 MRS, ch. 375, a registrant subject to an administrative action is entitled to an administrative hearing before an impartial hearing officer.
- E. Unless otherwise provided by this Rule or the Act, an administrative action by the Department that is timely appealed by a registrant or person does not become final agency action subject to judicial review until the Department issues a written decision regarding the registrant's or person's appeal.
- F. Jurisdiction and venue for judicial review are vested in the Superior Court.

## Section 12 – Fees

### 12.1 - Fee Submissions

- A. Fees shall be payable to the Treasurer, State of Maine.
- B. Payment may be made by bank check, money order, or electronically if an electronic payment method is available.
- C. Fees are nonrefundable, provided, however, an unsuccessful dispensary registration certificate applicant is refunded the amount of the application fee, less \$1,000.
- D. The Department may apply fees that are less than the amounts specified in this section when the reduction of application 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 statute.
  - (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 program budget.

### 12.2 - Persons and Entities Not Subject to Fees

- A. Exempt caregivers are not subject to Department registration fees.
- B. Long-term care facilities are not required to pay registration fees; however, individual employees of hospice inpatient programs and nursing facilities, or their employers, are responsible for the costs of applying for registry identification cards.
- C. Licensed adult use marijuana testing facilities are not required to pay registration fees, however the employees and assistants of a registered marijuana testing facility, or their employers, are responsible for the costs of apply for registry identification cards.

### 12.3 - Criminal History Records Check

The cost of a criminal history check required for the applicant is \$31 for each background check conducted through the State Bureau of Identification, and \$60 if a federal or national background check is conducted.

### 12.4 – Assistant, Officer and Director Registry Identification Card Application Fees

For an assistant, officer or director of a registrant, the annual, renewal or replacement fee for each registry identification card issued is \$20.

### 12.5 - Caregiver Registry Identification Card Application Fees

- A. If the caregiver chooses to cultivate up to 30 mature plants and 60 immature plants, the annual fee is \$240 per increment of 6 mature plants and 12 immature plants, up to a maximum of 30 mature plants.
- B. If the caregiver chooses to cultivate based upon canopy, the annual fee is \$1,500.
- C. If a caregiver chooses to change their authorized plant count or chooses to switch from a registration based upon plant count to a registration based upon plant canopy or chooses to switch from a registration based upon plant canopy to a registration based upon plant canopy before the expiration of the caregiver's registry identification card, the caregiver shall pay the application fee associated with registration-type applied for in accordance with paragraphs A or B of this section.
- D. A caregiver that does not meet the registration exemption pays a fee based on the total number of plants, even if some of those plants are used to assist members of the family's household or family. A person cannot simultaneously be a registered caregiver for some people and an exempt caregiver for others.

### 12.6 - Dispensary Registration Certificate Fees

- A. A \$5,000 registration or renewal fee shall be submitted annually with the dispensary's completed registration or renewal form. The annual registration or renewal fee is non-refundable.
- B. A \$4,000 change of location fee shall be submitted with a completed application to change the physical location or cultivation location of a registered dispensary.

### 12.7 - Manufacturing Facility Registration Certificate Fees

- A. The annual fee for registering and renewing a tier 1 manufacturing facility registration is \$150.
- B. The annual fee for registering and renewing a tier 2 manufacturing facility registration is \$250.
- C. The annual fee for registering or renewing an inherently hazardous substances extraction manufacturing facility is \$350.
- D. If a manufacturing facility registrant chooses to change the location of authorized activities before the time of annual renewal, the manufacturing facility will pay the annual registration fee.

Fiscal impact note, included pursuant to 5 MRS § 8063: The Department estimates that the changes implemented by this rulemaking will have no fiscal impact on municipalities and counties.