# TABLE OF CONTENTS

**PURPOSE** .................................................................................................................................................. 1

**SECTION 1. DEFINITIONS** .......................................................................................................................... 1

**SECTION 2. SCOPE AND PROTECTED CONDUCT** .................................................................................... 2
  A. Protections: legal medical use of marijuana ......................................................................................... 9
  B. Lawful disposal of excess prepared marijuana for medical use ....................................................... 15
  C. Criminal history record check .......................................................................................................... 18
  D. Annual report ...................................................................................................................................... 19

**SECTION 3. CULTIVATION OF MARIJUANA FOR MEDICAL USE** .......................................................... 21
  A. Cultivation of marijuana for medical use ......................................................................................... 21
  B. Security .............................................................................................................................................. 21
  C. Record of entry ................................................................................................................................. 22
  D. Packaging and labeling .................................................................................................................... 22

**SECTION 43. Debilitating Medical Conditions MEDICAL PROVIDER WRITTEN CERTIFICATION** ........ 3
  A. Authorized conduct by a medical provider; written certification .................................................. 23
  B. Public petitions: adding debilitating medical condition .............................................................. 25
  C. Public hearing .................................................................................................................................... 25
  D. Written comments ............................................................................................................................ 25
  E. Commissioner's decision .................................................................................................................... 26
  F. Bona fide medical provider-patient relationship ............................................................................ 26
  G. Retain and maintain records ............................................................................................................ 27
  H. Minor patient; consent ....................................................................................................................... 27
  I. Incapacitated adult patient; consent .................................................................................................... 27
  J. Proof of authority to act for another ................................................................................................. 28

**SECTION 54. QUALIFYING PATIENT** ......................................................................................................... 4
  A. Authorized conduct: qualifying patient ............................................................................................. 34
  B. One valid written certification .......................................................................................................... 34
  C. Updated certification required .......................................................................................................... 35
  D. Qualifying patients using nonsmokable medical use marijuana .................................................... 36
  E. Patients who may not cultivate ........................................................................................................ 36
  F. Patient designation of caregiver or dispensary to assist .................................................................... 37
  G. Designation required to cultivate ..................................................................................................... 37
  H. Patient rescinds designation ........................................................................................................... 38

**SECTION 65. PRIMARY CAREGIVER** .......................................................................................................... 5
  A. Authorized conduct: primary caregiver ............................................................................................. 39
  B. Designation form required ................................................................................................................. 39
  C. Patient designates cultivating primary caregiver ............................................................................ 40
  D. Patient rescinds designation ............................................................................................................ 40
### Rules Governing the Maine Medical Use of Marijuana Program

#### Table of Contents

- E. Primary Caregiver may accept, refuse or discontinue designation
- F. Caregiver discontinues designated relationship
- G. Employee of a primary caregiver
- H. Application for primary caregiver registry identification cards
- I. A second primary caregiver
- J. Food establishment license required
- K. Separate locations within a building

#### SECTION 76. REGISTERED DISPENSARY

- A. Dispensary registration certificate required
- B. Food establishment license required
- C. Designation form required
- D. Patient rescinds designation
- E. Registered dispensary may accept, refuse or discontinue designation
- F. Authorized conduct; registered dispensary
- G. Dispensary prohibitions
- H. Dispensary registry identification cards required
- I. Inspections
- J. Quality control
- K. Sample collection and labeling
- L. Chain of custody of sample
- M. Sample testing
- N. Dispensary security: protection of premises and persons
- O. Dispensary policies, procedures and records
- P. Inventory
- Q. Trip tickets
- R. Inventory supply reporting
- S. Patient designation reporting
- T. Incident reporting
- U. Illegal activity reporting
- V. Competitive selection process to add new dispensaries
- W. Application for dispensary registration certificate
- X. Renewal of dispensary registration certificate

#### SECTION 87. FEES

- A. Fee submissions
- B. Registered primary caregiver fees
- C. Registered dispensary fees
- D. Processing fee: reissued card
- E. Processing fee: reissued card
- F. Laboratory testing fees
### SECTION 98. REGISTRY IDENTIFICATION CARD

- **A. Card required** 72
- **B. Voluntary patient application for a registry identification card** 72
- **C. Primary caregiver application for a registry identification card** 73
- **D. Employee of a registered primary caregiver registry identification card** 73
- **E. No work prior to issuance of card** 74
- **F. Notice to department when employment or affiliation ceased** 74
- **G. Card surrendered to department** 74
- **H. Dispensary registry identification cards** 74
- **I. Annual renewal of card required** 78
- **J. Notification of change in cardholder’s status** 79
- **K. Surrender old card or new card voided** 80

### Section 9. Confidentiality

### SECTION 10. COMPLIANCE AND ENFORCEMENT

- **A. Compliance and enforcement** 83
- **B. Allegations of non-compliance** 83
- **C. Court ordered fines** 84
- **D. Denial of application or renewal for a registry identification card** 84
- **E. Revocation of registry identification card** 86
- **F. Grounds for revocation of registry identification card** 86
- **G. Failure to surrender a void registry identification card** 87
- **H. Grounds for voiding a registry identification card** 87
- **I. Date card is void** 87
- **J. Termination of dispensary registration certificate** 88
- **K. Grounds for termination of dispensary registration certificate** 88
- **L. Emergency suspension of dispensary registration certificate** 88
- **M. Notice of department action** 89
- **N. Evidential Record** 89
- **O. Receipt of Notice** 89

### SECTION 11. INPATIENT HOSPICE AND NURSING FACILITIES

- **A. A qualifying patient in a hospice or nursing facility** 91
- **B. Voluntary participation of facility** 91
- **C. Designated primary caregiver is the facility** 92
- **D. Registry identification cards for staff members** 92
- **E. Criminal history record check** 92
- **F. Facility registration and staff cards required prior to assisting patients** 92
- **G. Qualifying patients in facility may not cultivate** 93
- **H. Designate a second caregiver or dispensary to cultivate** 93
- **I. Marijuana acquisition: from dispensary or cultivating caregiver** 93
- **J. Inventory control** 94
- **K. Administration of marijuana** 94
- **L. Confidentiality** 95
M. Discharge from facility ................................................................. 96
N. Protected conduct: hospice providers, nursing facilities and staff .................. 96

STATUTORY AUTHORITY .................................................................. A8797
Purpose.

The Rule Governing the Maine Medical Use of Marijuana Program and the enabling statute, Maine Medical Use of Marijuana Act, govern the Maine Medical Use of Marijuana Program (MMMP). The Department is responsible for administering the MMMP to ensure qualifying patients have access to safe marijuana for medical use in the State of Maine. This rule provides clarification to 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.

The rules This rule includes definitions of terms, and identification of debilitating medical conditions for which the medical use of marijuana is authorized. They also include procedures for issuing a certificate of registration to a dispensary, and registry identification cards to persons authorized conduct under the Act.to qualified patients, primary caregivers, staff of hospice providers and nursing facilities, and qualified principal officers, board members and employees of dispensaries. The MMMP rules This rule also governs confidentiality, payments of fees, and enforcement of these rules.

The activities described in these rules the enabling statute are considered a violation of federal law. Qualifying patients, primary caregivers and dispensaries p Individuals participating in the MMMP may be subject to federal sanctions for what is otherwise considered authorized conduct in the State of Maine. The Department is not responsible or liable for the actions of patients, primary caregivers and dispensaries program participants under these rules.

SECTION 1. DEFINITIONS

Section 1. DEFINITIONS. Definitions in this rule are in addition to definitions in the statute. As used in these rules, unless the context otherwise indicates, the following terms have the following meanings.

A. 1.1 RESERVED. Bona fide medical provider-patient relationship means a relationship in which the treating medical provider has ongoing responsibility for the assessment, care, and treatment of a qualifying patient’s debilitating medical condition with respect to the medical use of marijuana.


C. 1.3 Adulterated. For the purposes of these rules, adulterated means made impure or inferior by adding extraneous ingredients. Goods that are prepared in food establishments that are licensed facilities pursuant to 22 Maine Revised Statutes M.R.S.
§2167 and that contain marijuana for medical use by a qualifying patient are not considered to be adulterated.

D. **Applicant**—Applicant means any person applying for a registry identification card to participate in the Maine Medical Use of Marijuana Program, hereinafter MMMP.

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

F. **Collective**—Collective means an association, cooperative, affiliation or group of primary caregivers who physically assist each other in the act of cultivation, processing or distribution of marijuana for medical use for the benefit of the members of the collective. See 22 M.R.S.A. §2422 (1-A)

G. **Debilitating medical condition**—Debilitating medical condition means a chronic or debilitating disease, medical condition or symptom listed in these rules that qualifies for the medical use of marijuana by a qualifying patient in accordance with 22 M.R.S., Chapter 558-C.

H. **Deficiency**—Deficiency means a violation of or failure to comply with a provision of these rules or the statute.

I. **Department**—Department means the Department of Health and Human Services (DHHS or department).

J. **Dispensary**—Dispensary means “registered dispensary,” as defined in 22 MRS §2422(6)Section 1.33 of these rules.

K. **Disqualifying drug offense**—Disqualifying drug offense means a conviction for a violation of a state or federal controlled substance law that is a crime punishable by imprisonment for one year or more. It does not include:

1. An offense for which the sentence, including any term of probation, incarceration or supervised release, was completed 10 or more years earlier; or

2. An offense that consisted of conduct that would have been permitted under these rules.

L. **Division**—Division means the Division of Licensing and Regulatory Services (DLRS or division).

M. **Enclosed, locked facility and enclosed outdoor area**—Enclosed, locked facility means a closet, room, building, greenhouse or other enclosed area that is equipped with locks or
other security devices that permit access only by the individual authorized to cultivate the marijuana. See 22 M.R.S.A. §2422(3).

1.13 Final agency action. Final agency action means a decision by DHHS which affects the legal rights, duties or privileges of specific persons, which is dispositive of all issues, legal and factual, and for which no further recourse, appeal or review is provided within DHHS. See 5 M.R.S.A. §8002 (4).

1.14 Food establishment. For the purposes of these rules, food establishment includes a primary caregiver or a registered dispensary that prepares goods containing marijuana for medical use by a qualifying patient. See 22 M.R.S.A. §2152 (4-A).

1.15 RESERVED

1.16 Intractable pain. For the purposes of these rules, intractable pain means pain that has not responded to ordinary medical or surgical measures for more than 6 months.

J. 1.17 Marijuana. Marijuana means the leaves, stems, flowers and seeds of all species of the plant genus cannabis, whether growing or not. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks, fiber, oil or cake or sterilized seed of the plant which is incapable of germination.

K. 1.17.1 Marijuana; allowable usable amount of marijuana for medical use. The allowable usable amount of marijuana for medical use that may be possessed at any one time by an authorized person means, for each qualifying patient, 2 ½ two and a half ounces or less of prepared marijuana and a total of up to 6 six mature marijuana plants that a person may be authorized to possess for each qualifying patient at any one time.

L. 1.17.2 Marijuana; incidental amount of marijuana. Incidental amount of marijuana per patient means, for each qualifying patient, up to 12 female nonflowering marijuana plants; an unlimited amount of marijuana seedlings, seeds, stalks and roots; and up to eight (8) pounds of harvested dried unprepared marijuana in varying stages of processing that are not included when calculating the “allowable useable amount of marijuana.” See 22 M.R.S.A. §2422 (4-A).

1.17.3 Mature marijuana plant. Mature marijuana plant means a harvestable female marijuana plant that is flowering. See 22 M.R.S.A. §2422 (4-B).

1.17.4 Prepared marijuana. Prepared marijuana means the dried leaves and flowers of the marijuana plant that require no further processing, and any mixture or preparation of those dried leaves and flowers, including but not limited to tinctures, ointments, and other preparations. It does not include the seeds, stalks, leaves that are disposed of and not dried for use and roots of the marijuana or other ingredients in goods prepared for human consumption or use.
M. 1.17.5 **Marijuana; Seedling.** Seedling means a marijuana plant that has no flowers (buds), and is less than 12 inches in height and diameter. A plant that does not meet all three criteria will not be considered a seedling.

N. 1.17.6 **Marijuana; Tincture.** For the purposes of these rules, tincture means a liquid mixture created from a concentrated extract of marijuana for medical use for ingestion or inhalation by a qualifying patient.

O. 1.17.7 **Marijuana; Topical treatment.** Topical treatment means a mixture or extract of marijuana for medical use made into a transcutaneous balm, lotion, ointment or rubbing alcohol solution, that is applied transcutaneously.

1.18 RESERVED

1.19 RESERVED

1.20 RESERVED

1.21 RESERVED

1.22 RESERVED

1.23 **Medical use.** Medical use means the acquisition, possession, cultivation, manufacture, use, delivery, transfer or transportation of marijuana or paraphernalia relating to the administration of marijuana to treat or alleviate a qualifying patient’s debilitating medical condition or symptoms associated with the qualifying patient’s debilitating medical condition.

1.24 **Member of the family.** Member of the family means a person who is a spouse, domestic partner, child, sibling, aunt, uncle, niece, nephew, parent, stepparent, grandparent or grandchild of another person. Member of the family includes a person living with a person as a spouse and a natural parent of a child of a person. See 22 M.R.S.A. §2422 (5-A).

1.25 **Members of the same household.** Members of the same household means 2 or more people who share a dwelling unit. See 22 M.R.S.A. §2422 (5-B).

P. 1.26 **Organic.** Organic means certified by an accredited organic certifier in the State of Maine as being in compliance with the United States Department of Agriculture certification requirements applying to organic products.

Q. **On-site assessment** means the review process to determine compliance. An on-site assessment may include a paper review, interview and inspection of the medical marijuana cultivation, processing and retail sites and administrative locations for the purpose of ensuring compliance with the requirements of statute and this rule.
R.  **Paraphernalia.** For the purpose of these rules, paraphernalia is limited to equipment, products and materials that are ordinarily used in planting, propagating, cultivating, growing, harvesting, processing, 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: It includes:

1. **1.27.1** Kits used or intended for use in the planting, propagating, cultivating, growing or harvesting of any species of marijuana;

2. **1.27.2** Isomerization devices used or intended for use in increasing the potency of any species of the marijuana plant;

3. **1.27.3** Testing equipment used or intended for use in identifying or in analyzing the strength, effectiveness or purity of marijuana;

4. **1.27.4** Scales and balances used or intended for use in weighing or measuring marijuana;

5. **1.27.5** Separation gins and sifters, used or intended for use in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana;

6. **1.27.6** Envelopes and other containers used or intended for use in packaging small quantities of marijuana for medical use;

7. **1.27.7** Containers and other objects used or intended for use in storing medical marijuana; and

8. **1.27.8** Objects used or intended for use in ingesting, inhaling or otherwise introducing marijuana into the human body, including but not limited to:

   a. **1.27.8.1** Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens, permanent screens, hashish heads or punctured metal bowls;

   b. **1.27.8.2** Water pipes;

   c. **1.27.8.3** Carburetion tubes and devices;

   d. **1.27.8.4** Smoking and carburetion masks;
1.27.8.5 e. Roach clips, meaning objects used to hold burning marijuana cigarettes that have become too small or too short to be held in the hand;

1.27.8.6 f. Chamber pipes;

1.27.8.7 g. Carburetor pipes;

1.27.8.8 h. Electric pipes;

1.27.8.9 i. Air-driven pipes;

1.27.8.10 j. Chillums;

1.27.8.11 k. Bongs designed for marijuana and not for cocaine; or

1.27.8.12 l. Ice pipes or chillers.

1.28 Physician. Physician means a person licensed as an osteopathic physician by the Board of Osteopathic Licensure pursuant to 32 M.R.S.A. Chapter 36 or a person licensed as a physician or surgeon by the Board of Licensure in Medicine pursuant 32 M.R.S.A. Chapter 48 who is in good standing and who holds a valid federal Drug Enforcement Administration license to prescribe drugs.

1.29 Physician’s written certification. Physician’s written certification or written certification means a document on tamper-resistant paper signed and dated by a physician that expires in one year. The expiration date is included on the issued written certification. The physician’s written certification must state that in the physician’s professional opinion a patient is likely to receive therapeutic or palliative benefit from the medical use of marijuana to treat or alleviate the patient’s debilitating medical condition or symptoms associated with the debilitating medical condition.

1.30 Prepared marijuana. Prepared marijuana means the dried leaves and flowers of the marijuana plant that require no further processing, and any mixture or preparation of those dried leaves and flowers, including but not limited to tinctures, ointments, and other preparations. It does not include the seeds, stalks, leaves that are disposed of and not dried for use and roots of the marijuana or other ingredients in goods prepared for human consumption or use.

S. 1.31 Primary caregiver. Primary caregiver means a person who is designated by a qualifying patient and authorized to assist the qualifying patient with the medical use of marijuana in accordance with these rules. Qualifying patients include non-registered and voluntarily registered patients. A person who is a primary caregiver must be at least 21 years of age and may not have been convicted of a disqualifying drug offense. See 22 M.R.S.A. §2422(8-A).
1.31.1—Primary caregiver also means a hospice provider licensed under chapter 1681 or a nursing facility licensed under chapter 405 that is designated by a registered patient as a primary caregiver to assist the registered patient with the medical use of marijuana in accordance with these rules.

1.32—Qualifying patient. Qualifying patient or patient means a person who has been diagnosed by a physician as having a debilitating medical condition and who possesses a valid physician’s written certification authorizing the medical use of marijuana in accordance with these rules. See 22 M.R.S.A. §2422 (9).

1.33—Registered dispensary. Registered dispensary or dispensary means a not-for-profit entity registered pursuant to Section 6 of these rules that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, sells, supplies or dispenses marijuana, paraphernalia or related supplies and educational materials to qualifying patients and the primary caregivers of those patients.

1.34—Registered patient. Registered patient means a qualifying patient who is registered by the department pursuant to Section 4 of these rules.

1.35—Registered primary caregiver. Registered primary caregiver means a primary caregiver who is registered by the department pursuant to Section 5 of these rules. See 22 M.R.S.A. §2422 (11).

1.36—Registry identification card. Registry identification card means a document issued by the department that identifies a person as a registered patient, registered primary caregiver, or a principal officer, board member, or employee of a registered dispensary.

1.37—RESERVED.

1.38—Tamper-resistant paper. 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. See 22 M.R.S.A. §2422 (13-A).

1.39—RESERVED

1.40—RESERVED

T. **Smoking** means inhaling, exhaling, burning or carrying a lighted or heated cigarette, cigar, pipe, weed, plant, marijuana, regulated narcotic or other combustible substance. Unless stated otherwise, smoking includes electronic smoking devices.

U. **Vaporize** means the use of an electronic smoking device to transform marijuana for medical use into vapor or aerosol for the purpose of inhalation.
V. Visiting qualifying patient. Visiting qualifying patient means a patient with a debilitating medical condition who is not a resident of Maine or who has been a resident of Maine less than 30 days, and who is qualified by another jurisdiction for the medical use of marijuana and authorized for the medical use of marijuana in Maine pursuant to this rule and the statute.
SECTION 2:
SCOPE AND PROTECTED CONDUCT

A.2.1 Protections: legal medical use of marijuana. The protections and requirements of these rules are for conduct that is expressly authorized by these rules, this rule and the statute for the legal medical use of marijuana in the State of Maine by qualifying patients, and for those authorized to assist qualifying patients as primary caregivers and principal officers, board members and employees of registered dispensaries. Also see Section 11.14. To receive protection for conduct authorized by this rule and the statute, individuals must comply with applicable provisions of rule and statute, including possessing required documents as proof of authorized conduct. Protections do not extend to the use or possession of marijuana by individuals who are non-compliant with regulations or who are otherwise not authorized under this rule and the statute to possess, cultivate, transport, furnish or administer marijuana for medical use.

2.1.11 Violation of other laws. These protections do not extend to violations of other State and federal laws.

2. 4.10.1 Protected conduct of lawful possession. A qualifying patient, an authorized person who is in compliance with the following, may lawfully possess marijuana plants, an “allowable useable amount” of marijuana and an “incidental amount” of marijuana in accordance with statute and this rule. The incidental amount of marijuana is not included when calculating the allowable useable amount of medical use marijuana.

3. 8.1.1 Valid proof of authorized participation. A registered patient, registered primary caregiver, caregiver employee, or principal officer, board member or employee of a registered dispensary who has been issued a valid registry identification card must also possess a valid Maine-issued driver’s license with a photograph or other Maine-issued photographic identification in order to establish proof of authorized participation in the medical use of marijuana program.

2.1.24 Protected conduct by anyone providing paraphernalia. A person may provide a qualifying patient or a primary caregiver with marijuana paraphernalia for purposes of the qualifying patient's medical use of marijuana in accordance with these rules and be in the presence or vicinity of the medical use of marijuana as allowed under these rules. The person, prior to providing the paraphernalia in accordance with this rule and the statute, a person must verify proof of authorized conduct, as applicable: the registry identification care of the registered patient or registered primary caregiver; or the qualifying patients written physician certification or the primary caregiver written designation by the qualifying patient, if the qualifying patient or the primary caregiver is not registered with the department.
a. A valid photographic identification card or driver’s license of the person receiving the paraphernalia.

b. The qualifying patient’s medical provider current written certification or the visiting qualifying patient’s Maine written certification and document from the patient’s home jurisdiction that authorizes the medical use of marijuana.

c. The primary caregiver or dispensary’s current designation form signed by the qualifying patient.

d. The current registry identification card of the cardholder required to register.

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

a. A valid photographic identification card or driver’s license of the person receiving the marijuana.

b. The qualifying patient’s medical provider current written certification or the visiting qualifying patient’s Maine written certification and document from the patient’s home jurisdiction that authorizes the medical use of marijuana.

c. The primary caregiver or dispensary’s current designation form signed by the qualifying patient.

d. The current registry identification card of the cardholder required to register.

2.1.3 Protected conduct by a visiting qualifying patient. A qualifying patient visiting the State from another jurisdiction that authorizes the medical use of marijuana pursuant to a law or regulation of another state or political subdivision may engage in conduct authorized for a qualifying patient by these rules if the following criteria are met:

2.1.3.1 Maine form. The visitor shall possess a valid Maine approved written physician certification form completed, signed and dated by the visitor’s home jurisdiction treating physician. The Maine form is available on the division’s webpage at http://www.maine.gov/dhhs/dhrs/mmm/index.shtml.
2.1.3.2 Home-jurisdiction certification. The visitor shall possess a valid medical use of marijuana certification issued by the visitor’s home-jurisdiction.

2.1.3.3 Photographic identification. The visitor shall possess a valid photographic identification card or driver’s license issued by the visitor’s home-jurisdiction.

2.1.4 Possession of certain documents; application for registry identification card. Possession of a registry identification card by a cardholder, the act of applying for a registry identification card, possession of a physician’s written certification or possession of a primary caregiver or dispensary designation form is not evidence of unlawful conduct and may not be used to establish probable cause for the search of that person or that person’s property.

2.1.4.1 The possession of or application for a registry identification card or possession of a physician’s written certification does not prevent the issuance of a warrant if probable cause exists on other grounds. See 22 M.R.S.A. §2425(7).

2.2 Rights of persons or entities acting pursuant to these rules. A person whose conduct is authorized under these rules may not be denied any right or privilege or be subjected to arrest, prosecution, penalty or disciplinary action, including but not limited to a civil penalty or disciplinary action by a business or occupational or professional licensing board or bureau, for lawfully engaging in conduct involving the medical use of marijuana authorized under these rules. See 22 M.R.S.A. §2423-E (1).

2.3 School, employer or landlord may not discriminate. A school, employer or landlord may not refuse to enroll or employ or lease to or otherwise penalize a person solely for that person's status as a qualifying patient or a primary caregiver unless failing to do so would put the school, employer or landlord in violation of federal law or cause it to lose a federal contract or funding.

2.3.1 Section 2.3 of these rules does not prohibit a restriction on the administration or cultivation of marijuana on premises when that administration or cultivation would be inconsistent with the general use of the premises.

2.3.2 A landlord or business owner may prohibit the smoking of marijuana for medical purposes on the premises of the landlord or business if the landlord or business owner prohibits all smoking on the premises and posts notice to that effect on the premises. See 22 M.R.S.A. §2423-E (2).

2.4 Person may not be denied parental rights and responsibilities or contact with a minor child. A person may not be denied parental rights and responsibilities with respect to or contact with a minor child as a result of acting in accordance with these rules, unless the
person’s conduct is contrary to the best interests of the minor child as set out in 19-A Maine Revised Statutes, section 1653, subsection 3.

2.5—Prohibition on seizure and retention. Except when necessary for an ongoing criminal or civil investigation, a law enforcement officer may not seize marijuana that is in the possession of a qualifying patient, primary caregiver or registered dispensary as authorized by these rules.

2.5.1—A law enforcement officer in possession of marijuana seized in violation of Section 2.5 of these rules must return the marijuana within 7 days after receiving a written request for return from the owner of the marijuana.

2.5.2—Notwithstanding the provisions of Title 14 Maine Revised Statutes, chapter 741, if the law enforcement officer fails to comply with Section 2.5 by returning marijuana possessed in violation of these rules, the owner of the marijuana may file a claim in the District Court in the district where the owner lives, or where the law enforcement officer is employed. See 22 M.R.S.A. §2423-E (4).

2.6—Proof of authorized conduct. To receive protection for conduct authorized by these rules, a qualifying patient, a visiting qualifying patient and a primary caregiver must comply with the following applicable provision.

2.6.1—Qualifying patient. As proof of authorized conduct, a qualifying patient must present upon request of a law enforcement officer the patient’s driver’s license that contains a photograph as described under 29-A, Maine Revised Statutes, section 1401 or a nondriver photo identification card as described under 29-A, Maine Revised Statutes, section 1410 and one of the following:

2.6.1.1 The original, unexpired physician’s written certification issued to the non-registered qualifying patient; or

2.6.1.2 An unexpired registry identification card issued to the qualifying patient who voluntarily registered with the department.

2.6.2—Visiting qualifying patient. A qualifying patient who is visiting the State from another jurisdiction must present upon request of a law enforcement officer proof of authorized conduct in compliance with Section 2.1.3 of these rules.

2.6.3—Primary caregiver and employee of a primary caregiver. As proof of authorized conduct, a primary caregiver must present upon request of a law enforcement officer the primary caregiver’s driver’s license that contains a photograph as described under 29-A, Maine Revised Statutes, section 1401 or a nondriver photo identification card as described under 29-A, Maine Revised Statutes, section 1410 and one of the following:
2.6.3.1 An unexpired registry identification card issued to the primary caregiver who is required to register with the department; or

2.6.3.2 The original, unexpired primary caregiver designation form signed and dated by the qualifying patient if the primary caregiver does not have to register. See 22 M.R.S.A. §2423-E (5).

CULTIVATION OF MARIJUANA

2.7 Cultivation of marijuana. All cultivation of marijuana must take place in an enclosed locked facility or an enclosed outdoor area on property that is owned or under the control of the qualifying patient, caregiver or registered dispensary, subject to the limitations below.

2.7.1 Enclosed, locked facility and enclosed outdoor area. Enclosed, locked facility means a closet, room, building, greenhouse or other enclosed area that is equipped with locks or other security devices that permit access only by the individual authorized to cultivate the marijuana. See 22 M.R.S.A. §2422(3).

2.7.1.1 Security. Cultivation of marijuana in an enclosed locked facility or an enclosed outdoor area requires implementation of appropriate security measures to discourage theft of marijuana and prevent unauthorized entrance, in accordance with the following:

2.7.1.1.1 Fence. An enclosed outdoor area must have a privacy fence at least 6 feet high that obscures the view of the marijuana to discourage theft and unauthorized intrusion. When this height requirement is inconsistent with local ordinances regarding fences, deference is given to local ordinance height requirements. Qualifying patients or caregivers must comply with local ordinances, if any, regarding boundary setback requirements.

2.7.1.1.2 Locks. Enclosed locked facilities and enclosed outdoor areas must have locks sufficient to discourage theft and unauthorized entrance.

2.7.1.2 Pesticides. Registered dispensaries and registered primary caregivers may not use a pesticide on marijuana plants cultivated for patients unless the pesticide is exempt from federal registration requirements pursuant to 7 U.S.C. § 136w (b) and is registered with the Maine Board of Pesticides Control pursuant to 7 M.R.S.A. § 607.

2.7.1.2.1 Incorporation by reference. Pesticides exempt from federal registration are set forth in 40 C.F.R. §152.25 (f) (2012), which is incorporated herein by reference pursuant to 5 M.R.S.A. § 8056.
2.7.1.2.2 — Copy. A copy of 40 C.F.R. §152.25 (f) (2012) is available online at http://www.gpo.gov/fdsys/pkg/CFR-2012-title40-vol25/xml/CFR-2012-title40-vol25-sec152-25.xml, or may be obtained from the Maine Department of Health and Human Services, Division of Licensing and Regulatory Services, 11 State House Station, Augusta, Maine 04333, or the Maine Office of the Secretary of State, 101 State House Station, Augusta, Maine 04333.

2.7.1.2.3 — Violation. A violation of 40 C.F.R. §152.25 (f) (2012) constitutes a violation of the Rules Governing the Maine Medical Use of Marijuana Program, 10-144 C.M.R. Ch. 122.

2.7.2 — Patient cultivation of marijuana. A qualifying patient who elects to cultivate marijuana plants must keep the plants in an enclosed, locked facility unless the plants are being transported because the patient is moving or taking the plants to the patient's own property in order to cultivate them. See 22 M.R.S.A. §2423-A(3)(A).

2.7.2.1 — Same household. Two or more qualifying patients who are members of the same household and cultivating their own marijuana may share one enclosed, locked facility for cultivation; See 22 M.R.S.A. §2423-A(1)(B).

2.7.2.2 — Designate registered caregiver when absent. When a patient is absent and unable to care for his or her marijuana plants, the cultivating qualifying patient may designate a registered primary caregiver to care for the marijuana plants in the qualifying patient’s enclosed locked facility without pay and for a time-limited period. The qualifying patient must give a completed department-approved designation form that includes the designation is without pay and the specific time limited dates to the designated registered primary caregiver prior to taking temporary care of the marijuana plants.

2.7.3 — Primary caregiver cultivation of marijuana. A primary caregiver who has been designated by a qualifying patient to cultivate marijuana for the patient's medical use must keep all plants in an enclosed, locked facility unless the plants are being transported because the primary caregiver is moving or taking the plants to the primary caregiver's own property in order to cultivate them.

2.7.3.1 — Same household or family. Two primary caregivers who are members of the same family or household may share the same enclosed, locked facility. See 22 M.R.S.A. §2423-A(3)(D).

2.7.3.2 — Designate registered caregiver when absent. When the cultivating primary caregiver is absent and unable to care for the marijuana plants, the cultivating primary caregiver may designate a registered primary caregiver...
to care for the marijuana plants in the cultivating primary caregiver’s enclosed locked facility without pay and for a time-limited period. The cultivating primary caregiver must give a completed department approved designation form that includes the designation is without pay and the specific time limited dates to the designated registered primary caregiver prior to taking temporary care of the marijuana plants.

2.7.4 Registered dispensary cultivation of marijuana. The registered dispensary that has been designated by a qualifying patient to cultivate marijuana for the patient’s medical use must keep all plants in an enclosed, locked facility unless the plants or paraphernalia are being transported between the retail location of the registered dispensary and the dispensary’s cultivation site. For the purposes of this section only, the number of plants that may be cultivated in an enclosed outdoor area may not exceed thirty.

2.7.4.1 Access by registered cardholders. Access to the enclosed, locked facility is limited to a registered cardholder who is a principal officer, board member, or employee of a registered dispensary when acting in his or her official capacity.

2.7.4.2 RESERVED

2.7.4.3 Organic certification. Marijuana for medical use may not be labeled “organic” unless the marijuana plants and prepared marijuana are produced, processed, and certified to be consistent with national organic standards in compliance with the laws and regulations promulgated by the United States Department of Agriculture.

B. 2.8 Lawful disposal of excess prepared marijuana for medical use. Marijuana plants, prepared marijuana or harvested, dried unprepared marijuana in excess of the limits provided in this rule is subject to forfeiture to a law enforcement officer who may dispose of the excess marijuana. Qualifying patients, primary caregivers, hospices, and nursing facilities designated as primary caregivers, and registered dispensaries may lawfully dispose of excess prepared marijuana for medical use in accordance with the following provisions: this rule and the statute.

1. Furnishing excess prepared marijuana for medical use. Excess prepared marijuana for medical use that is no longer needed by the patient may be furnished to an authorized person in accordance with the statute and this rule. Qualifying patients, primary caregivers and registered dispensaries are prohibited from cultivating more than the allowed number of plants and may not cultivate in excess of the qualifying patient’s needs for the purpose of having excess prepared marijuana to furnish. Marijuana for medical use in excess of the limits authorized by this rule and the statute is a violation of this rule, the Maine Medical Use of Marijuana Act and 17-A M.R.S., Chapter 45.
2. **Authorized transfer of excess marijuana by a qualifying patient.** For the purpose of disposing of excess prepared marijuana that is no longer needed for the qualifying patient’s medical use, the qualifying patient may furnish or offer to furnish to another qualifying patient for that qualifying patient’s medical use of marijuana up to 2 ½ two and a half ounces of prepared marijuana if nothing of value is offered or transferred in return. See 22 M.R.S.A. §2423-A (1) (D).

2.8.1.1 The qualifying patient who is furnishing the prepared marijuana to another qualifying patient is prohibited from cultivating more than the allowed number of plants as set out in these rules unless the patient furnishing the marijuana is also the primary caregiver of the other patient.

3. **Authorized transfer of excess marijuana by a primary caregiver.** For the purpose of disposing of excess marijuana that is no longer needed for a qualifying patient’s medical use, the primary caregiver, at no cost and not for resale, give it to qualifying patients who cannot afford to purchase marijuana for medical use and to a patient’s designated caregiver if nothing of value is offered or transferred in return. Only a registered primary caregiver is permitted to furnish excess prepared marijuana to a dispensary in accordance with statute. An authorized transfer of excess prepared marijuana to a dispensary may not exceed the limits specified in statute and this rule.

2.8.2 Primary caregiver. For the purpose of disposing of excess prepared marijuana, a primary caregiver may give the marijuana to a registered dispensary or another primary caregiver if nothing of value is offered or transferred in return.

2.8.2.1 A primary caregiver who transfers excess prepared marijuana in accordance with these rules does not by virtue of only that transfer qualify as a member of a collective. See 22 M.R.S.A. §2423-A (2) (H).

4. **Authorized transfer of excess marijuana by a registered dispensary.** For the purpose of disposing of excess prepared marijuana that is no longer needed for a qualifying patient’s medical use, the registered dispensary may, at no cost and not for resale, give it to qualifying patients who cannot afford to purchase marijuana for medical use if nothing of value is offered or transferred in return. The dispensary must keep records of these transactions.

5. **Hospice or nursing facility.** For the purpose of disposing of excess prepared marijuana for medical use that is no longer needed by the qualifying patient, a hospice provider or a nursing facility designated as a primary caregiver by that qualifying patient may give the prepared marijuana to a registered dispensary or another primary caregiver if nothing of value is offered or transferred in return.
6. **2.8.5 Forfeit to a Law enforcement office.** Excess marijuana may be forfeited to law enforcement in accordance with 22 M.R.S. §§2423-A (7) and (8). For the purpose of disposing of excess prepared marijuana for medical use, it may be transported to a State or local law enforcement office. Presentation of a valid registry identification card or a valid physician’s medical provider written certification and a Maine driver’s license or other Maine-issued photographic identification may be required.

7. **Dispensary inventory interruption.** A dispensary may acquire excess prepared marijuana from a registered primary caregiver during an inventory interruption following approval from the Department in accordance with this rule and the statute. The Department will consider requests from dispensary who is experiencing an inventory interruption that is of a catastrophic nature including facility malfunctions or damage and loss resulting from extreme weather, contamination or other natural occurrences.

   a. **Approval to acquire excess marijuana.** Prior to accepting excess marijuana from a primary caregiver or another dispensary, a dispensary must obtain approval from the Department. The dispensary must complete a Request for Acquisition form available by request to the Department. The Department shall respond within one business day of receipt of a completed Request for Acquisition form. The dispensary’s request for approval to acquire marijuana from an authorized source must include:

      i. An explanation of the inventory interruption to justify the request;
      ii. The name and registry identification number of the source; and
      iii. The strain, total amount and cost of the marijuana.

2.9 **Unlawful possession of excess marijuana; forfeiture.** A person who possesses female nonflowering marijuana plants, mature marijuana plants, prepared marijuana, or harvested dried unprepared marijuana in varying stages of processing in excess of the limits provided in these rules must forfeit the excess amounts to a law enforcement officer. The law enforcement officer is authorized to remove all excess female nonflowering marijuana plants, mature marijuana plants, prepared marijuana, and harvested dried unprepared marijuana in varying stages of processing in order to catalog the amount of excess marijuana. Possession of marijuana in excess of the limits authorized by these rules is a violation of the following laws:

   2.9.1 Possession of marijuana in an excess amount up to 2 ½ ounces is a violation of 22 M.R.S.A. chapter 558, §2383; and
2.9.2 Possession of marijuana in an excess amount over 2 ½ ounces is a violation of 17-A M.R.S.A. chapter 45. See 22 M.R.S.A. §§ 2423-A (7) and 2423-E (6).

2.10 Repeat forfeiture. If a cardholder has previously forfeited excess marijuana pursuant to Section 2.9 of these rules and a subsequent forfeiture occurs, the department shall revoke the registry identification card of the cardholder and the entire amount of marijuana seedlings, seeds, stalks and roots, female nonflowering marijuana plants, mature marijuana plants, prepared marijuana, and harvested dried unprepared marijuana in varying stages of processing must be forfeited to a law enforcement officer. See 22 M.R.S.A. §§ 2323-A (8) and 2423-E (7).

2.11 Defense for possession of excess marijuana. Except as provided in 22 M.R.S. §§2323-A (8) and 2423-E (7) Section 2.10 of these rules, aA qualifying patient may assert the medical purpose for using marijuana as a defense to any prosecution involving marijuana possession.

2.11.1 A qualifying patient may present evidence in court that the patient’s necessary medical use or cultivation circumstances warranted exceeding the amount of marijuana allowed by these rules and that the amount was reasonably necessary to ensure the uninterrupted availability of marijuana for the purpose of treating or alleviating the patient’s debilitating medical condition or symptoms associated with the patient’s debilitating medical condition. See 22 M.R.S.A. §2423-E (8).

C. Criminal history record check. Registry identification cards may not be issued without an annual criminal history record check. An annual criminal history record check may include each state where the individual has resided since the age of 18. The Department may waive the requirement of a criminal history check if the cardholder’s application for an additional registry identification card is submitted within 12 months of a completed background check. Annual criminal history record checks are governed by this rule and statute.

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

2. Notice of disqualifying drug conviction. When a criminal history record check reveals conviction for a disqualifying drug offense, the Department shall issue a written notice of the revocation or denial of a registry identification card to the cardholder and, if the person is an employee, to the person’s employing primary caregiver or dispensary authorized under the Act.

2.12 Prohibitions. These rules prohibit any person from:
2.12.1 Undertaking any task under the influence of marijuana when doing so would constitute negligence or professional malpractice or would otherwise violate any professional standard;

2.12.2 Possessing marijuana or otherwise engaging in the medical use of marijuana:
   2.12.2.1 In a school bus;
   2.12.2.2 On the grounds of any preschool or primary or secondary school; or
   2.12.2.3 In any correctional facility.

2.12.3 Smoking marijuana:
   2.12.3.1 On any form of public transportation; or
   2.12.3.2 In any public place.

2.12.4 Operating, navigating, or be in actual physical control of any motor vehicle, aircraft, motorboat, snowmobile, or all-terrain vehicle while under the influence of marijuana; or

2.12.5 Using marijuana if that person does not have a debilitating medical condition.

2.13 Construction. These rules may not be construed to require:

2.13.1 A government medical assistance program or private health insurer to reimburse a person for costs associated with the medical use of marijuana; or

2.13.2 An employer to accommodate the ingestion of marijuana in any workplace or any employee working while under the influence of marijuana.

2.14 Laboratory testing of marijuana. The department may obtain, possess and perform laboratory testing on marijuana from registered dispensaries.

D. 2.15 Annual report. The department shall submit to the Legislature an annual report in accordance with statute and this rule, by April 1st each year that does not disclose any identifying information about cardholders or physicians, but does contain, at a minimum:

2.15.1 The number of applications and renewals filed for registry identification cards;

2.15.2 The number of registered patients and primary caregivers approved in each county;

2.15.3 The number of registry identification cards revoked;
2.15.4 The number of physicians providing written certifications for registered patients;

2.15.5 The number of registered dispensaries;

2.15.6 The number of principal officers, board members and employees of registered dispensaries; and

2.15.7 Program revenues and expenses shall be reported with all other statutorily required information. See 22 M.R.S.A. §2425 (10).
SECTION 3.
CULTIVATION OF MARIJUANA FOR MEDICAL USE

A. 2.7 Cultivation of marijuana for medical use. All cultivation of marijuana for medical use must comply with this rule and the statute. All cultivation of marijuana must take place in an enclosed locked facility or an enclosed outdoor area. A person authorized to cultivate marijuana for medical use is restricted to cultivating in an enclosed, locked facility or area on property that is owned or under the control of the qualifying patient, caregiver or registered dispensary, subject to the limitations below. A cardholder may not cultivate in a location not approved by the Department.

1. Outdoor cultivation. The number of mature plants allowed for cultivation in an enclosed outdoor area may not exceed 36.

2. Indoor cultivation. Indoor cultivation locations are subject to provisions set out in 32 M.R.S. §1104, this rule and the statute, and individuals must comply with relevant laws and rules applicable to responding to a complaint or report of unauthorized conduct.

3. Legible tag on each plant. The identification system used by the primary caregiver or dispensary to identify plants must include, at a minimum, the unique numeric identifier appearing on the patient’s valid written certification that is tagged to each plant cultivated on behalf of that patient and included as part of that patient’s record.

B. Security. Cultivation of marijuana for medical use requires implementation of appropriate security measures to discourage theft of marijuana, ensure safety and prevent unauthorized entrance to a cultivation site in accordance with this rule and the statute.

1. 2.7.1.1.1 Fence. An enclosed outdoor cultivation area must have a privacy fence at least 6six feet high that obscures the view of the marijuana to discourage theft of marijuana and prevent unauthorized intrusion.

   a. When this height requirement is inconsistent with local ordinances regarding fences, deference is given to local ordinance height requirements.

   b. Qualifying patients or, primary caregivers and registered dispensaries must comply with local ordinances, if any, regarding boundary setback requirements.

2. 2.7.1.1.2 Locks. Enclosed, locked facilities and enclosed outdoor areas must have locks sufficient to discourage theft and unauthorized entrance.
C. **Record of entry of cultivation site.** An individual who is authorized to enter the marijuana cultivation site in accordance with this rule and the statute must sign in and produce a valid Maine driver’s license or other State-issued photographic identification as proof of identity.

D. **6.14 Packaging and labeling.** The labels on prepared marijuana and goods containing marijuana that are sold by dispensaries and primary caregivers are evidence of compliance with this rule and the statute that limit dispensing up to 2.5 two and a half ounces of prepared marijuana per qualifying patient per 15-day period. The packaging and labeling of prepared marijuana and marijuana products for sale by registered dispensaries and primary caregivers must comply with applicable State labeling laws, including provisions in 22 M.R.S., §2157, this rule and the Maine Medical Use of Marijuana Act.

1. **2.7.4.3 Organic certification.** Marijuana for medical use may not be labeled “organic” unless the marijuana plants and prepared marijuana are produced, processed and certified to be consistent with national organic standards in compliance with the laws and regulations promulgated by the United States Department of Agriculture.
SECTION 4.
Section 3. DEBILITATING MEDICAL CONDITIONS

A. Authorized conduct by a physician: written certification.

Prior to issuing a written certification, the medical provider shall certify that it is the physician may provide a written certification for the medical use of marijuana pursuant to these rules and, after having done so, may otherwise state that in the physician's provider's professional opinion that the qualifying patient is likely to receive therapeutic benefit from the medical use of marijuana to treat or alleviate the patient's debilitating medical condition. See 22 M.R.S.A. §2423-B. Medical providers issuing written certification to qualifying patients must comply with this rule and the statute.


2. Department-approved certification process. The physician’s written certification form. To receive protection for conduct authorized by these rules, the qualifying patient’s medical provider shall use the department-approved written certification form. certification process to issue a written certification for a qualifying patient’s medical use of marijuana for at least one of the debilitating medical conditions or treatments listed in statute or approved pursuant to this rule. The physician medical provider shall give the original signed and dated written certification directly to the qualifying patient or patient’s legal guardian.

a. Certification for minor qualifying patients. When a list of physicians known to the Department to be willing to act as a consulting physician is not available, the Department will permit the inquiring treating medical provider to proceed with the certification process for a minor qualifying patient at the time of the request.

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

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

5. **Medical provider compliance.** The medical provider must remain in good standing with professional licensing authorities and compliant with this rule and the statute to avoid interruption in the provider’s capacity to issue written certifications.

3.1 List of debilitating medical conditions. A qualifying patient must have a written certification from a physician for at least one of the following debilitating medical conditions for the medical use of marijuana:

3.1.1 Disease or medical condition or its treatment.

3.1.1.1 Cancer;

3.1.1.2 Glaucoma;

3.1.1.3 Positive status for human immunodeficiency virus (HIV);

3.1.1.4 Acquired immune deficiency syndrome;

3.1.1.5 Hepatitis C;

3.1.1.6 Amyotrophic lateral sclerosis;

3.1.1.7 Crohn’s disease;

3.1.1.8 Agitation of Alzheimer’s disease; or

3.1.1.9 Nail-patella syndrome.

3.1.2 Intractable pain. A chronic or debilitating disease or medical condition or its treatment that produces intractable pain, as defined in Section 1.16 of these rules.

3.1.2.1 The physician must follow 2-373 or 2-383, Code of Maine Rules (C.M.R.), Chapter 21, Use of Controlled Substances for Treatment of Pain when certifying a patient for the medical use of marijuana.

3.1.3 Symptoms. A chronic or debilitating disease or medical condition or its treatment that produces one or more of the following symptoms:

3.1.3.1 Cachexia or wasting syndrome;
3.1.3.2 Severe nausea;

3.1.3.3 Seizures including but not limited to those characteristic of epilepsy; or

3.1.3.4 Severe and persistent muscle spasms including but not limited to those characteristic of multiple sclerosis; or

3.1.4 Other. Any other medical condition or its treatment that is approved by the commissioner, pursuant to Section 3.2 of these rules.

B. 3.2 Public petitions: adding debilitating medical conditions: The Department shall consider written public petitions to add a disease or medical condition to the list of debilitating medical conditions set forth in statute for the medical use of marijuana Section 3.1 of these rules. A petition to benefit an individual patient on whose behalf the petition is submitted that does not comply with the provisions in this section Sections 3.2.2, 3.2.3, 3.2.4 and 3.2.5 shall be denied by the Department.

1. 3.2.1 A petition to add a disease or medical condition must be submitted on forms provided by the Department.

2. 3.2.2 The petition must clearly identify the specific debilitating disease or medical condition.

3. 3.2.3 The petition must include reputable scientific evidence that supports the use of marijuana for the treatment of the disease or medical condition.

4. 3.2.4 The petition must include sufficient evidence to demonstrate that the medical use of marijuana would benefit qualifying patients with the disease or medical condition.

5. 3.2.5 The petition must include sufficient evidence that marijuana therapy is effective enough to warrant its use.

6. The petition must include written endorsement from a Maine medical provider, as defined in statute.

C. 3.3 Public hearing. The Department shall publish a notice indicating the date, time and place of the public hearing on the petition. The notice shall be posted on the Department’s webpage and electronically sent to individuals who contact the Department to be placed on the Department’s interested parties’ mailing list.

D. 3.4 Written comments. The Department shall accept written comments on the petition for ten business days after the date of the public hearing.
E. Commissioner’s decision. The commissioner shall approve or deny a petition within 180 days of its submission. The commissioner’s written decision shall include the factors supporting the decision. Factors considered by the commissioner include, but are not limited to, the following:

1. The written petition including required documentation;

2. Public testimony and written comments; and

3. Consultation with physicians and additional research conducted by or on behalf of the Department at its discretion.

F. Bona fide medical provider-patient relationship. The medical provider shall certify that the written certification has been provided in the course of a bona fide medical provider-patient relationship. The medical provider may have to verify that, prior to issuance of a written certification, a bona fide medical provider-patient relationship exists. In order to establish a bona fide medical provider-patient relationship for medical marijuana certification, the medical provider shall:

1. Conduct a full assessment of the patient’s medical history, including substance misuse history and current condition, medication and treatment;

2. Perform an in-person encounter and relevant physical examination occurring at a permanent location that, similar to a covered office visit or outpatient treatment in terms of site, extent, duration and frequency, is clinically appropriate for conducting medical services and effective for addressing the patient’s debilitating condition and that enables the patient to return for follow up, consultation or assistance, as needed;

3. Review of prior records of relevant examinations, diagnostic test results, treatments and treatment response;

4. Develop and document a plan of care;

5. Create and maintain patient records and documentation, including:

   a. The patient’s medical history;

   b. Results of the physical examination, including vital signs, and any laboratory tests;
c. Instructions to the patient, including discussions of the risks and benefits of the medical use of marijuana, and any disadvantages, alternatives, potential adverse effects, and expected response to treatment;

d. A description of the treatment(s) provided to the patient, including all past and current medications prescribed or administered (including the date, type, dose and quantity);

e. Results of ongoing monitoring of patient progress and the need for the continued use of medical marijuana; and

f. Notes on evaluations, communications and consultations with other medical providers.

G. **Retain and maintain records.** The physician must agree to retain and maintain records that support the decision to recommend the medical use of marijuana, including records of the diagnosis of the debilitating medical condition for which the medical use of marijuana is recommended, including:

1. **A description of the ordinary medical or surgical measures for intractable pain that the patient has not responded to for more than six months; or**

2. **A description of the symptoms resulting from a chronic or debilitating disease or medical condition or its treatment that satisfies criteria for the medical use of marijuana as set out in this rule and the statute; and**

3. **A nonbinding estimate of the length of time that the medical use of marijuana is needed for the treatment of the debilitating medical condition.**

H. **Consent of parent, legal guardian or person having legal custody of minor patient.** Prior to issuing a written certification for a minor patient’s medical use of marijuana, the treating medical provider must secure written consent of the parent, legal guardian, or person having legal custody of the minor qualifying patient, including non-registered and voluntarily registered patient. The medical provider must have documentation of the consent of the parent, legal guardian or person having legal custody of the minor in accordance with the statute:

1. **Consent to the patient’s medical use of marijuana;**

2. **Consent to serve as one of the patient’s primary caregivers;**

3. **Consent to control the acquisition of marijuana, and the dosage and frequency of the medical use of marijuana by the patient; and**

4. **Consent to comply with all other applicable provisions of this rule and the**
I. Incapacitated adult patient; consent

Prior to issuing a written certification for an incapacitated adult patient’s medical use of marijuana for an incapacitated adult qualifying patient, including non-registered and voluntarily registered patients, the physician must secure written consent that includes the following written documentation from the legal guardian or the power of attorney for health care of the incapacitated adult qualifying patient:

1. Consent to the patient’s medical use of marijuana;

2. Consent to serve as one of the patient’s primary caregivers;

3. Consent to control the acquisition of marijuana, and the dosage and frequency of the medical use of marijuana by the incapacitated adult patient; and

4. Consent to comply with all other applicable provisions of this rule and the statute.

J. Proof of authority to act for another

The legal guardian or the power of attorney for health care of an incapacitated adult patient, or a minor’s guardian or the person having legal custody of the minor must submit to the treating medical provider a copy of the legal documentation issued by the court that appointed the guardian; or, a copy of the incapacitated adult patient’s power of attorney for health care or other legal documentation that the person has legal custody of the patient.
SECTION 5.
Section 4. QUALIFYING PATIENT

4.1 — Voluntary patient registration: no fee. Registration is voluntary for qualifying patients who want to secure a department-issued registry identification card. There is no fee to register. The voluntary application process for a registry identification card is set out in Section 8 of these rules. Registration is also voluntary for homeless qualifying patients, minor qualifying patients and incapacitated adult qualifying patients.

4.1.1 — Department to expunge patient’s specific medical condition. On or before November 28, 2011, the department shall expunge all information in the records of the State's medical use of marijuana program indicating a patient's specific medical condition.

4.1.2 — Eligible individuals may request removal from registry within 6 months after the effective date of these rules. Individuals who were cardholders on or before September 28, 2011 (effective date of Public Law 2011, chapter 407) may submit a written request to be removed from the MMMP registry and have all of their information expunged by the department.

4.1.2.1 — A patient removed from the registry becomes a non-registered qualifying patient if all other requirements are met.

4.1.2.2 — Expungement must be completed by the department within 60 days of receipt of a request from an eligible individual.

4.1.2.3 — After the 6 month period, all new and remaining, non-expunged information must be retained by the State for 6 years.

4.1.3 — Exception to expungement. The expungement provisions in Sections 4.1.1 and 4.1.2 of these rules do not apply to a record with respect to which there is a pending law enforcement investigation. See Public Law 2011, Chapter 407, Sec. C-1.

4.2 — Non-registered qualifying patients; lawful use of marijuana. A non-registered qualifying patient is not prohibited from the lawful medical use of marijuana if the patient possesses a physician-issued written certification and meets other requirements in compliance with these rules.

PHYSICIAN’S WRITTEN CERTIFICATION

4.3 — Written certification required. Prior to obtaining or using marijuana for medical use, a qualifying patient, including non-registered and voluntarily registered patients, must obtain a written certification from his or her physician in accordance with these rules.
4.3.1—Tamper-resistant paper. The written certification form must be printed on tamper-resistant paper. See 22 M.R.S.A. §2422 (13-A).

4.3.2—Medical condition not disclosed. The treating physician shall not disclose the patient’s specific medical condition on the issued written certification for the medical use of marijuana. See 22 M.R.S.A. §2423-B (4).

4.3.3—Expiration. The physician-issued written certification form for the medical use of marijuana expires one year after issuance by the qualifying patient’s physician. Each written certification must include the date issued and the expiration date. See 22 M.R.S.A. §2423-B (3).

4.4—Physician’s written certification form. To receive protection for conduct authorized by these rules, the qualifying patient’s physician shall use the department-approved written certification form. The physician shall give the original signed and dated written certification directly to the qualifying patient.

4.5—Bona fide physician-patient relationship. The physician’s written certification must be made in the course of a bona fide physician-patient relationship as indicated by the existence of an evaluation, treatment plan, periodic review and documentation and other professional principles of treatment, after the physician has completed a full assessment of the patient’s medical history.

4.5.1—The physician must demonstrate that a bona fide relationship between the patient and physician exists.

4.5.2—The physician must agree to monitor the patient’s on-going need for the medical use of marijuana.

4.6—Records. The physician must agree to retain and maintain records that support the decision to recommend the medical use of marijuana, including records of the diagnosis of the debilitating medical condition for which the medical use of marijuana is recommended, including:

4.6.1—A description of the ordinary medical or surgical measures for intractable pain that the patient has not responded to for more than 6 months; or

4.6.2—A description of the symptoms resulting from a chronic or debilitating disease or medical condition or its treatment that satisfies the criteria in Section 3 of these rules.

4.6.3—A nonbinding estimate of the length of time that the medical use of marijuana is needed for the treatment of the debilitating medical condition.
4.7 — Minor patient’s certification; treating physician. In addition to compliance with Sections 4.3, 4.4 and 4.5 of these rules, prior to providing written certification for the medical use of marijuana for a minor qualifying patient, the treating physician shall:

4.7.1 — Inform the minor qualifying patient and the parent, legal guardian or person having legal custody of the minor of the risks and benefits of the medical use of marijuana and that the minor patient may benefit from the medical use of marijuana; and

4.7.2 — Consult with a qualified physician, referred to as “the consulting physician,” unless the minor patient is registered with the department and eligible for hospice care.

4.7.3 — Consulting physician. The consulting physician shall be selected from a list of physicians who may be willing to act as consulting physicians. The list is compiled by the department after consultation with statewide associations representing licensed medical professionals. This list is maintained by the department and available to treating physicians upon request.

4.7.3.1 — The consultation between the treating physician and the consulting physician shall consist of examination of the patient or review of the minor patient’s medical file.

4.7.3.2 — The consulting physician shall provide a written advisory opinion to the treating physician and the parent, legal guardian or person having legal custody of the patient stating whether the patient is likely to receive therapeutic or palliative benefit from the medical use of marijuana to treat or alleviate the minor patient’s debilitating medical condition.

4.7.4 — Respond in 10 days. The treating physician may provide a minor with a written certification for treatment without consultation with another physician if one of the following occurs:

4.7.4.1 — The department fails to provide a list of consulting physicians within 10 days of receipt of the written request of a treating physician; or

4.7.4.2 — The consulting physician fails to provide a written advisory opinion within 10 days of receipt of the written request of a treating physician. See 22 M.R.S.A. §2423-B (2).

4.7.5 — Consent of parent, legal guardian or person having legal custody of minor patient. Prior to issuing a written certification, the treating physician shall secure the written consent of the parent, legal guardian, or person having legal custody of the minor qualifying patient, including non-registered and voluntarily
registered patients. The parent, legal guardian or person having legal custody of the minor must:

4.7.5.1 Consent to the patient’s medical use of marijuana;

4.7.5.2 Consent to serve as one of the patient’s primary caregivers;

4.7.5.3 Consent to control the acquisition of the marijuana and the dosage and the frequency of the medical use of marijuana by the patient;

4.7.5.4 Consent to comply with the requirements of these rules regarding securing a written medical certification from a treating physician; and

4.7.5.5 Consent to comply with all other applicable provisions of these rules.

4.8 Incapacitated adult patient; physician’s certification. In addition to compliance with Sections 4.3, 4.4 and 4.5 of these rules, prior to issuing written certification for the medical use of marijuana for an incapacitated adult qualifying patient, including non-registered and voluntarily registered patients, the physician shall secure the following written documentation from the legal guardian or the power of attorney for health care of the incapacitated adult qualifying patient:

4.8.1 Consent of guardian or power of attorney for health care. The legal guardian or the power of attorney for health care must:

4.8.1.1 Consent to the patient’s medical use of marijuana;

4.8.1.2 Consent to serve as one of the patient’s primary caregivers;

4.8.1.3 Consent to control the acquisition of the marijuana and the dosage and the frequency of the medical use of marijuana by the incapacitated adult patient; and

4.8.1.4 Consent to comply with all other applicable provisions of these rules.

4.8.2 Proof of authority to act for another. The legal guardian or the power of attorney for health care must submit a copy of the legal documentation issued by the court that appointed the guardian; or a copy of the incapacitated adult patient’s power of attorney for health care.

DESIGNATION FORM

4.9 Department-approved designation form required. A qualifying patient, including a non-registered and a voluntarily registered qualifying patient, who elects to designate a
primary caregiver or a registered dispensary to assist the qualifying patient with the
medical use of marijuana, shall use the department-approved form to designate either the
primary caregiver or the registered dispensary. The form is available on the division’s

4.9.1 Designate one primary caregiver or dispensary to cultivate marijuana. The
qualifying patient may designate either one primary caregiver or a registered
dispensary to cultivate marijuana for the patient’s medical use.

4.9.2 Maximum of 6 plants per patient may be cultivated. The qualifying patient is
allowed a total of 6 mature marijuana plants to be cultivated for his or her
medical use.

4.9.3 Number of plants to be cultivated by each entity. The combined total number of
plants cultivated by a qualifying patient and either a primary caregiver or
registered dispensary must not exceed the maximum allowable number of 6
mature marijuana plants for the qualifying patient’s medical use. The signed and
dated designation form must clearly specify the following:

4.9.3.1 The number of marijuana plants, if any, the qualifying patient elects
to cultivate for his or her own medical use; and

4.9.3.1.1 The number of marijuana plants, if any, the primary
caregiver is designated to cultivate on behalf of the
qualifying patient; or

4.9.3.1.2 The number of marijuana plants, if any, the registered
dispensary is designated to cultivate on behalf of the
qualifying patient.

4.9.4 Patient’s signature. The qualifying patient must sign and date the form.

4.9.5 Primary caregiver’s or dispensary’s acknowledgement. The primary caregiver
or registered dispensary must sign the form. The signature is an
acknowledgement that the primary caregiver or the registered dispensary
understands that the primary caregiver or the registered dispensary may be
contacted to confirm that designation and the number of mature plants the
primary caregiver or registered dispensary is designated to cultivate for the
qualifying patient.

4.9.6 Expiration date. The designation form must include an expiration date that is no
later than the expiration date on the physician’s written certification issued to the
qualifying non-registered or voluntarily registered patient. The designation form
may be terminated on an earlier date by either the qualifying patient, or the
PATIENT’S AUTHORIZED CONDUCT

A. Authorized conduct: qualifying patient. Patient’s medical use of marijuana; authorized conduct. The authorized conduct of a qualifying patient is governed by this rule and the statute. A qualifying patient possessing a valid medical provider written certification who is compliant with this rule and the statute is protected under the Act when exercising conduct authorized by the Department. Registration is voluntary for qualifying patients who want to secure a Department-issued registry identification card. Records of registered patients are subject to the following:

1. Department to expunge patient’s specific medical condition. On or before November 28, 2011, the Department shall expunge all information in the records of the State's medical use of marijuana program indicating a patient's specific medical condition.

2. Eligible individuals may request removal by request from registry within 6 months after the effective date of these rules. Eligible individuals who were cardholders on or before September 28, 2011 (effective date of Public Law 2011, chapter 407) may submit a written request to be removed from the MMMP registry and have all of their information expunged. The Department shall expunge the individual’s information within 60 days of the request.

3. Record retention. After the six month period, all new and remaining, non-expunged information required for the applicant must be retained by the State for 6 years.

4. Exception to expungement. The expungement provisions in Sections 4.1.1 and 4.1.2 of these rules do not apply to a record with respect to which there is a pending law enforcement investigation. See Public Law 2011, Chapter 407, Sec. C-1.

B. One valid written certification. Prior to engaging in the medical use of marijuana, a qualifying patient must obtain a valid written certification from his or her medical provider in accordance with this rule and the statute. A qualifying patient may not possess more than one medical provider written certification at one time, except that a visiting qualifying patient is required to have both a valid written medical use of marijuana certification from his or her home jurisdiction and a valid Maine written certification signed by the patient’s treating medical provider.
1. **4.3 Written certification required.** Prior to obtaining or using marijuana for medical use, a qualifying patient, including non-registered patients, voluntarily registered patients and visiting patients, must obtain a written certification from his or her medical provider in accordance with these rules this rule.

   a. **4.4.1 Tamper-resistant paper.** The written certification form must be printed on tamper-resistant paper. See 22 M.R.S.A.§2423 (13-A).

   b. **4.4.2 Medical condition not disclosed.** The treating physician shall written certification may not disclose the medical condition on the issued written certification issued to the patient for the medical use of marijuana. See 22 M.R.S.A.§2423-B (4).

   c. **4.4.3 Expiration.** The physician-issued written certification form for the medical use of marijuana expires within one year after issuance by the qualifying patient’s physician. Each written certification must include the date issued and the expiration date. See 22 M.R.S.A.§2423-B (3).

   d. The written certification must be issued in the course of bona fide medical provider-patient relationship. The patient is responsible for providing the necessary information in order for the medical provider to maintain documentation as required by this rule to demonstrate an existing bona fide medical provider-patient relationship.

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

   4.10.1 Lawful possession. A qualifying patient, in compliance with the following, may lawfully possess an “allowable useable amount” of marijuana and an “incidental amount” of marijuana. The incidental amount of marijuana is not included when calculating the allowable useable amount of medical use marijuana.

   4.10.1.1 Allowable useable amount of marijuana for medical use. The allowable useable amount of marijuana for medical use that a qualifying patient may possess includes the following:

      a. **4.10.1.1.1 Prepared marijuana.** A qualifying patient may possess up to 2½ ounces of prepared marijuana; and

      b. **4.10.1.1.2 Cultivate a maximum of 6 mature plants.** A qualifying patient may cultivate or allocate the total cultivation of a maximum of 6 mature marijuana plants.
4.10.1.2.1 Patient allocates cultivation. The qualifying patient may elect to cultivate some marijuana plants for his or her medical use and designate either a primary caregiver or a registered dispensary to cultivate the balance of the allowable maximum total of 6 mature plants for that qualifying patient. The signed and dated designation form must clearly specify the number of plants each entity is designated to grow.

4.10.2 Incidental amount of marijuana. A qualifying patient may possess an incidental amount of marijuana.

4.10.2.1 Incidental amount of marijuana per patient means up to 12 female nonflowering marijuana plants; an unlimited amount of marijuana seedlings, seeds, stalks and roots; and up to eight (8) pounds of harvested dried unprepared marijuana in varying stages of processing that are not included when calculating the “allowable useable amount of marijuana.” See Section 1.17.2.

D. Qualifying patients using nonsmokable medical use marijuana. For the purpose of a qualifying patient using a nonsmokable form of medical marijuana in the patient’s residence or in accordance with provisions set out in 22 M.R.S. §§2426 (1-A) and 2423-A (4-A), vaporizing is not prohibited by this rule and is subject to 22 M.R.S. §2423-E (2).

4.10.2 Patient does not cultivate marijuana When the qualifying patient does not elect to cultivate his or her own marijuana, then the patient must designate either a primary caregiver or a registered dispensary to cultivate marijuana for the patient’s medical use. See 22 M.R.S.A. §2423-A (1)(F).

4.10.3 Paraphernalia. Possess marijuana paraphernalia;

4.10.4 Use or administration of marijuana. Be in the presence or vicinity of the medical use of marijuana and assist any qualifying patient with using or administering marijuana.

E. Patients who may not cultivate. The following Qualifying patients who may not elect to cultivate their own marijuana: for medical use are set out in this rule and the statute.

4.11.1 RESERVED
1. **4.11.2 Minor qualifying patients may not cultivate.** A minor qualifying patient may not cultivate his or her own marijuana. Only one of the minor’s primary caregivers described in these rules this rule and the statute may be designated to cultivate marijuana for the minor qualifying patient’s medical use. Instead of designating a primary caregiver to cultivate marijuana, a dispensary may be designated to cultivate marijuana for the minor qualifying patient.

2. **4.11.3 Incapacitated adult qualifying patients may not cultivate.** An incapacitated adult qualifying patient may not cultivate his or her own marijuana. Only one of the primary caregivers described in these rules may be designated to cultivate marijuana for the incapacitated adult qualifying patient’s medical use. Instead of designating a primary caregiver to cultivate marijuana, a dispensary may be designated to cultivate marijuana for the incapacitated adult qualifying patient.

3. **4.11.4 Registered patients in hospice or nursing facility may not cultivate.** Registered patients in a hospice or nursing facility designated as the registered patient’s primary caregiver may not cultivate his or her own marijuana. See Section 11.4.1 of these rules.

4. **4.11.5 Homeless qualifying patients not subject to cultivation limitation.** A homeless qualifying patient may cultivate marijuana for their medical use in an enclosed locked facility or an enclosed outdoor area on property that is owned or under the control of the homeless qualifying patient if all other requirements in these rules are met.

3. **Visiting qualifying patients.** A visiting qualifying patient may not cultivate marijuana. A visiting qualifying patient may designate a registered primary caregiver or a dispensary to cultivate marijuana for medical use.

**DESIGNATION FORM**

**F. Patient designation to assist.** The qualifying patient must complete the Department-approved Caregiver/Dispensary Designation Form required to designate a primary caregiver to assist the qualifying patient in the medical use of marijuana. Only specified qualifying patients may have two primary caregivers. The patient must provide the designation card and a copy of the signed and dated designation form to the designee. The Caregiver/Dispensary Designation Form is available on the Department’s webpage at http://www.maine.gov/dhhs/mecdc/public-health-systems/mmm/index.shtml.

**G. Designation required to cultivate.** When a qualifying patient elects to designate either a primary caregiver or a registered dispensary to cultivate marijuana for the qualifying patient’s medical use, the patient must complete the Department-approved Caregiver/Dispensary Designation Form to designate the authorized conduct of the primary caregiver or dispensary. A patient may have only one source designated to cultivate. The patient must provide the designation card and a copy of the signed and dated designation form to the designee. The Caregiver/Dispensary Designation Form is
H. **Patient rescinds designation.** The registered patient may change his or her designated registered dispensary or primary caregiver who cultivates marijuana for the patient’s medical use at any time by notifying the registered dispensary or primary caregiver of the change, securing the return of the designation form, and giving the newly designated registered dispensary or primary caregiver a new signed and dated department-approved designation form. A qualifying patient may rescind the designation of a primary caregiver or dispensary by signing and dating the rescission section of the designation form and providing a copy of the updated form to the primary caregiver or dispensary. The patient who recently terminated a designation may not obtain marijuana from another source, including a newly designated primary caregiver or dispensary, if the transfer results in the patient possessing more than two and half ounces of prepared medical use marijuana in a 15-day period.

**PHYSICIAN’S AUTHORIZED CONDUCT**

4.12—Authorized conduct by a physician. A physician may provide a written certification for the medical use of marijuana pursuant to these rules and, after having done so, may otherwise state that in the physician's professional opinion a qualifying patient is likely to receive therapeutic benefit from the medical use of marijuana to treat or alleviate the patient's debilitating medical condition. See 22 M.R.S.A. §2423-B.

4.12.1—Possible sanction. Nothing in these rules prevents a professional licensing board from sanctioning a physician for failing to properly evaluate or treat a patient’s medical condition or otherwise violating the applicable standard of care for evaluating or treating medical conditions. See 22 M.R.S.A. §2423-B (5).
SECTION 6. PRIMARY CAREGIVER

5.1 Primary caregiver designated by patient. A qualifying patient, including a non-registered and a voluntarily registered qualifying patient, may designate a primary caregiver to assist the qualifying patient with the patient’s medical use of marijuana.

5.2 Patient’s sole preference. A patient’s primary caregiver is determined solely by the patient’s preference as indicated on the department-approved designation form given by the patient to the caregiver.

A. Authorized conduct: primary caregiver. Subject to the provisions of Section 2.12 of these rules, the conduct of a primary caregiver for the purpose of assisting a qualifying patient is authorized in accordance with the following:

1. Assist and cultivate. Assist any qualifying patient with the medical use of marijuana in accordance with this rule and the statute. The designation form shall indicate whether the primary caregiver is cultivating on behalf on the patient. Visiting qualifying patients who have designated a primary caregiver must be counted when calculating the maximum number of qualifying patients allowed by statute.

2. Dispense. Dispense no more than two and a half ounces of prepared marijuana to a qualifying patient during a 15-day period. A primary caregiver may prepare and dispense goods containing marijuana for medical use to a qualifying patient in accordance with statute and this rule.

3. Acquire. Acquire medical use marijuana from an authorized source on behalf of a qualifying patient in accordance with this rule and the statute.

4. Dispose. Dispose of excess prepared medical use marijuana in accordance with this rule and the statute.

5. Other. Other services authorized by this rule and the statute.

PATIENT DESIGNATION OF PRIMARY CAREGIVER

B. Designation form required. Each primary caregiver must have a Department-approved designation form signed and dated by each qualifying patient, including a visiting qualifying patient, who they assist.
1. **Patient designation reporting.** The registered primary caregiver must report, at least annually, the total number of patients who have designated the primary caregiver. The unique count of patients served by the primary caregiver must be provided upon request by the Department. The report must include the following:
   
a. The date of patient designation and rescission date, if applicable, and
   b. The patient’s unique identification number that appears on the patient’s written certification.

2. **Disclosure; privacy protection.** The primary caregiver must ensure a level of privacy protection for qualifying patients and comply with requirement regarding confidentiality. Unless otherwise stated in statute or rule, the primary caregiver may not disclose patient information without signed patient consent. These provisions also apply to the employee of a registered caregiver.

C. **Patient designates cultivating primary caregiver.** A qualifying patient may have only one source designated to cultivate medical use marijuana. The designation form must clearly identify the primary caregiver who the patient designates to cultivate medical use marijuana and the number of plants designated to be cultivated on the patient’s behalf. No cultivation may occur until the primary caregiver has a designation form signed and dated by the qualifying patient. The primary caregiver required to register must obtain a registry identification card that authorizes cultivation of marijuana for medical use.

D. **Patient rescinds designation.** A qualifying patient may rescind the designation of a primary caregiver by signing and dating the rescission section of the form and providing the rescinded designation form to the primary caregiver. Upon receipt of notice of rescission, the primary caregiver must return the designation card to the patient. Unless a new patient replaces the former patient, the primary caregiver who fails to notify the Department within ten days of the change in patient designation may be subject to enforcement action including fines in accordance with statute and this rule.

E. **Primary caregiver may accept, refuse or discontinue designation.** A primary caregiver may accept, refuse or discontinue the designated relationship with a qualifying patient. The Department-approved designation form signed by the qualifying patient must also be signed and dated by the primary caregiver clearly indicating the acceptance, refusal or discontinuation of the designated relationship. Unless a new patient replaces the former patient, the primary caregiver who fails to notify the Department within ten days of a change in designation may be subject to enforcement action in accordance with statute and this rule.

F. **Caregiver discontinues designated relationship.** A primary caregiver discontinues the designated relationship with a qualifying patient in accordance with the following:
1. Signs and dates the qualifying patient’s designation form indicating the discontinuation of the designation relationship.

2. Returns the designation card to the qualifying patient the same day the caregiver signs and dates the form. Once the discontinued designation form is signed and the card is returned to the qualifying patient, the qualifying patient is no longer counted when calculating the maximum number of qualifying patients allowed per primary caregiver by this rule and the statute.

3. The conduct protected by this rule and the statute expires ten days after the date the qualifying patient’s designation is discontinued. Excess marijuana must be lawfully disposed within this ten-day period. A copy of the discontinued designation form may be needed as proof of authorized conduct.

G. Employee of a primary caregiver. The authorized conduct of an employee of a registered primary caregiver is governed by this rule and the statute.

1. The employee of a registered primary caregiver is restricted to assisting in the duties designated to the employing registered primary caregiver.

2. The primary caregiver’s employee’s personnel file shall contain the following:
   a. Documentation of background checks;
   b. Job description or employment contract;
   c. The Employment Eligibility Verification Form I-9 and
   d. Copy of current registry identification card and copy of a Maine driver’s license of other State-issued photographic identification card.

3. The employee’s authorization of conduct under this rule and the statute ceases when that person is no longer employed by a registered primary caregiver.

4. A primary caregiver employee is required to pay applicable State taxes.

5.4 Primary caregiver registration required; exceptions. A primary caregiver designated by a qualifying patient is required to register with the department, except that the following primary caregivers are not required to register:

5.4.1 A primary caregiver designated to cultivate for a qualifying patient if that qualifying patient is a member of the household of that primary caregiver;

5.4.2 Two primary caregivers who are also both qualifying patients, if those primary caregivers are members of the same household and assist one another with cultivation; or
5.4.3 A primary caregiver who cultivates for a qualifying patient if that qualifying patient is a member of the family of that primary caregiver. See 22 M.R.S.A. §2423-A (3)(C).

H. **Application for registry identification cards.** Primary caregivers who are required to register with the Department must submit an application for a cultivating or non-cultivating primary caregiver registry identification card and an employee registry identification card, as applicable, in accordance with as set out in this rule and the statute.

I. **A second primary caregiver.** Only the following in addition to a minor qualifying patient, the following qualifying patients may have designate a second primary caregiver in accordance with this rule and the statute:  

5.6.1 A minor qualifying patient. A minor qualifying patient’s parent, legal guardian or the person who has legal custody of the minor shall serve as the minor’s primary caregiver. In addition, a qualifying patient under 18 years of age may have a second primary caregiver.

1. 5.6.2 An incapacitated adult qualifying patient. An incapacitated adult qualifying patient’s legal guardian or power of attorney for health care shall serve as the incapacitated adult’s primary caregiver. In addition, an incapacitated adult qualifying patient may have a second primary caregiver.

2. 5.6.3 Qualifying registered patient in a hospice or nursing facility. The registered qualifying patient’s hospice provider or nursing facility may serve only as the registered qualifying patient’s non-cultivating primary caregiver. In addition, the registered qualifying patient may have a second primary caregiver designated to cultivate marijuana or to assist with the registered qualifying patient’s medical use of marijuana. See Section 11 of these rules.

**FOOD ESTABLISHMENT LICENSE**

J. **Food establishment license required.** Except as provided by this rule and statute, A primary caregiver must obtain a food establishment license from the Department of Agriculture, Conservation and Forestry, pursuant to 22 Maine Revised Statutes section 22 M.R.S., §§2152 and 2167, prior to preparing goods containing medical use marijuana, including tinctures, for medical use by a qualifying patient. Licensed caregivers and dispensaries must comply with regulations applicable to food establishments.

5.7.1 Exception: household or family member. A primary caregiver conducting activities which otherwise require a food establishment license is not required to obtain such license if it is being prepared for a qualifying patient who is a member of the family or member of the household. See 22 M.R.S.A. § 2152 (4-A)(G).
5.7.2 Packaging and labeling. Registered primary caregivers who are required to obtain a food establishment license must comply with the packaging and labeling provisions set out in these rules.

PRIMARY CAREGIVER’S AUTHORIZED CONDUCT

5.8 Authorized conduct: primary caregiver. Subject to the provisions of Section 2.12 of these rules, the conduct of a primary caregiver for the purpose of assisting a qualifying patient is authorized in accordance with the following:

5.8.1 Lawful possession. A primary caregiver, in compliance with the following, may lawfully possess an “allowable useable amount” of marijuana and an “incidental amount” of marijuana for each qualifying patient served. The incidental amount of marijuana is not included when calculating the allowable useable amount of medical use marijuana.

5.8.1.1 Allowable useable amount of marijuana for medical use. The allowable useable amount of marijuana for medical use includes the following:

5.8.1.1.1 Prepared marijuana. A primary caregiver may possess up to 2 ½ ounces of prepared marijuana for each qualifying patient served.

5.8.1.1.2 Cultivate a maximum of 6 mature plants. A primary caregiver may cultivate up to a total of 6 mature marijuana plants for each qualifying patient served when the qualifying patient has designated the primary caregiver for that purpose on a department-approved designation form. The signed and dated designation form must clearly specify the number of plants the primary caregiver is designated to grow.

5.8.1.2 Incidental amount of marijuana. A primary caregiver may possess an incidental amount of marijuana for each qualifying patient served.

5.8.1.2.1 Incidental amount of marijuana per patient means up to 12 female nonflowering marijuana plants; an unlimited amount of marijuana seedlings, seeds, stalks and roots; and up to eight (8) pounds of harvested dried unprepared marijuana in varying stages of processing that are not included when calculating the “allowable useable amount of marijuana.” See Section 1.17.2.

5.8.2 RESERVED

5.8.3 Assist no more than 5 qualifying patients at any one time with their medical use of marijuana;
5.8.4 Receive reasonable monetary compensation for costs associated with assisting a qualifying patient who designated the primary caregiver on the department-approved designation form signed and dated by the qualifying patient;

5.8.5 Receive reasonable monetary compensation for costs associated with cultivating marijuana for a qualifying patient who designated the primary caregiver to cultivate marijuana;

5.8.6 Be in the presence or vicinity of the medical use of marijuana and assist any qualifying patient with the medical use or administration of marijuana;

5.8.7 Prepare goods containing marijuana for medical use by a qualifying patient if the primary caregiver preparing the goods is required to and has obtained a food establishment license; and

5.8.8 Dispose of excess marijuana in accordance with Section 2.8 of these rules.

5.9 Collectives are prohibited. Collectives are prohibited. A person may not form or participate in a collective.

K. Separate locations within a building. A collective does not include primary caregivers who rent separate, self-contained, locked and secured locations within a building pursuant to this rule and the statute. Separate, self-contained, locked, and secured areas are enclosed on all sides and function independently.

1. Building owner not a primary caregiver. A building owner who rents or leases to one or more primary caregivers separate, self-contained, locked and secured locations within a building to cultivate marijuana may not be a primary caregiver.

2. Common areas in a building. Except as explicitly permitted by statute, no common area within a building may be used to jointly store any form of marijuana or related accessories, supplies or paraphernalia used to cultivate marijuana, or otherwise be used for any activity related to cultivating or processing marijuana for medical use.

   a. All materials used by a primary caregiver must be stored within each primary caregiver’s separate, self-contained, locked and secured location.

   b. All activities related to cultivating or processing medical use marijuana must occur within each primary caregiver’s separate, self-contained, locked and secured location.
SECTION 7.
REGISTERED DISPENSARIES

6.1 Patient selects dispensary. A registered dispensary is selected by a patient based solely on the patient’s preference as indicated on the non-registered or the voluntarily registered patient’s designation form.

A. Certificate of Dispensary registration certificate required. No person shall operate a dispensary for marijuana for medical use without a Department-issued certificate of dispensary registration certificate. The application and renewal requirements for a certificate of dispensary registration certificate are set forth in this rule and the statute, Sections 6.27 and 6.28 of these rules.

1. Certificate of registration nontransferable. The certificate of dispensary registration certificate issued by the Department to a dispensary is nontransferable.

2. Display certificate of registration. A dispensary must display the department-issued registration certificate in a publicly visible location in the dispensary.

3. Expiration of dispensary certificate of registration. A dispensary’s certificate of registration expires one year after the date of issuance.

4. Compliance: patients seen by appointment only. The cultivation facility and retail site of a dispensary, including, but not limited to, registered dispensaries that see patients only by appointment, that sees patients by appointment only must comply with all requirements and prohibitions in these rules, this rule and the statute. Failure to comply may result in enforcement action including, but not limited to, termination of the dispensary registration certificate.

B. Food establishment license required. A registered dispensary must obtain a food establishment license from the Department of Agriculture, Conservation and Forestry, pursuant to 22 Maine Revised Statutes, section M.R.S. §2167, prior to preparing goods containing marijuana, including tinctures of marijuana, for consumption by a qualifying patient.

C. Designation form required. The registered dispensary must have a Department-approved designation form signed and dated by each qualifying patient or patient’s legal representative assisted by the dispensary, including a visiting qualifying patient.

1. Disclosure: privacy protection. The dispensary must ensure a level of privacy protection for patients. Unless stated otherwise in statute or rule, principal officers, board members and employees of dispensaries may not disclose patient information, including designation cards without signed patient consent.
D. **Patient rescinds designation.** A qualifying patient may rescind his or her designation of a registered dispensary by signing and dating the rescission section of the form and providing the rescinded designation form to the registered dispensary. Within ten days of receipt of notice, the dispensary must return the designation card to the patient and, unless the former patient is replaced with a new patient, notify the Department of the change.

E. **Registered dispensary may accept, refuse or discontinue designation.** A registered dispensary may accept, refuse or discontinue the designated relationship with a qualifying patient. The Department-approved designation form signed by the qualifying patient must also be signed and dated by the registered dispensary clearly indicating acceptance, refusal or discontinuation of the designated relationship.

1. **Dispensary discontinues designated relationship.** A registered dispensary discontinues the designated relationship with a qualifying patient in accordance with the following:
   
   a. Signs and dates the qualifying patient’s original designation form indicating that the dispensary discontinues the designation relationship.
   
   b. Returns the designation card to the qualifying patient the same day the dispensary signs and dates the form.
   
   c. The conduct protected by this rule and the statute expires ten days after the qualifying patient’s designation is discontinued.

**DISPENSARY’S AUTHORIZED CONDUCT**

F. 6.4 **Authorized conduct; registered dispensary.** For the purpose of assisting a qualifying patient, the conduct of a registered dispensary and employees who must be at least 21 years of age is authorized in accordance with the following: The authorized conduct of a registered dispensary is governed by this rule and the statute. A registered dispensary may be designated by a qualifying patient to provide the following:

1. 6.4.4 **Assist and cultivate.** Assist any qualifying patient who designated the registered dispensary to cultivate marijuana for the medical use or administration of marijuana.

2. 6.4.5 **Dispense.** Dispense no more than 2½two and a half ounces of prepared marijuana to a qualifying patient or to a primary caregiver on behalf of a qualifying patient during a 15-day period.

3. 6.4.6 **Dispose.** Dispose of excess marijuana in accordance with Section 2.8.3 of these rules this rule and the statute.
4. **6.4.7 Acquire.** Acquire marijuana in accordance with Sections 2.8.1 and 2.8.2 of these rules and the statute.

a. When acquiring excess marijuana from another, the dispensary must verify the person’s authority to possess and furnish the medical marijuana.

b. Acquisition of marijuana or marijuana product from a registered primary caregiver or other dispensary requires prior approval by the Department. The dispensary must submit the Department-approved form to request approval from the Department, prior to acquiring excess marijuana from a registered primary caregiver or dispensary.

5. **Other.** Other services authorized by this rule and the statute.

G. **6.29—Dispensary prohibitions.** The following prohibitions apply to registered dispensaries:

1. **6.29.1** A registered dispensary may not possess more than six mature marijuana plants for each qualifying patient who has designated the registered dispensary to cultivate marijuana for the qualifying patient’s medical use.

2. **6.29.2** A registered dispensary may not dispense, deliver or otherwise transfer marijuana to a person other than a qualifying patient who has designated the dispensary to cultivate marijuana for the qualifying patient or to the patient’s primary caregiver.

3. **6.29.3** Except as provided in Sections 2.8.1 and 2.8.2 of these rules and this rule, a registered dispensary may not acquire prepared marijuana or marijuana plants except through the cultivation of marijuana by that dispensary either at the location of the retail dispensary or at the dispensary’s grow location, if different.

4. **6.29.4** A registered dispensary may not contract for the cultivation of seeds, seedlings or small plants or the cultivation, production or preparation of marijuana or goods containing marijuana for medical use. The cultivation and production of marijuana for medical use is restricted to the dispensary’s approved location(s).

5. **6.29.5** A registered dispensary is prohibited from acquiring, possessing, cultivating, manufacturing, delivering, transferring, transporting, supplying or dispensing marijuana for any purpose except to assist qualifying patients who have designated the dispensary to cultivate marijuana for them.

6. **6.4.1—Lawful possession.** A registered dispensary, in compliance with the following, may lawfully possess an “allowable useable amount” of marijuana and an “incidental amount” of marijuana for each qualifying patient served.
incidental amount of marijuana is not included when calculating the allowable useable amount of medical-use marijuana.

6.4.1.1—Allowable useable amount of marijuana for medical use. The allowable useable amount of marijuana for medical use that a registered dispensary may possess includes the following:

6.4.1.1.1 Prepared marijuana. A registered dispensary may possess up to 2 ½ ounces of prepared marijuana for each qualifying patient served.

6.4.1.1.2 Cultivate a maximum of 6 mature plants. A registered dispensary may cultivate up to a total of 6 mature marijuana plants for each qualifying patient served when the qualifying patient has designated the primary caregiver for that purpose on a department-approved designation form. The signed and dated designation form must clearly specify the number of plants the registered dispensary is designated to grow.

6.4.1.1.2.1 Legible tag on each mature plant. A registered dispensary must have a legible tag on each mature marijuana plant. The tag must include at least the patient’s last name.

6.4.1.2 Incidental amount of marijuana. A registered dispensary may possess an incidental amount of marijuana for each qualifying patient served.

6.4.1.2 Incidental amount of marijuana per patient means up to 12 female nonflowering marijuana plants; an unlimited amount of marijuana seedlings, seeds, stalks and roots; and up to eight (8) pounds of harvested dried unprepared marijuana in varying stages of processing that are not included when calculating the “allowable useable amount of marijuana.” See Section 1.17.2.

6.4.2 RESERVED

6.4.3 Compensation. Receive reasonable monetary compensation for costs associated with assisting or for cultivating marijuana for a patient who designated the dispensary.

6.4.4 Assist. Assist any qualifying patient who designated the registered dispensary to cultivate marijuana for the medical use or administration of marijuana.
6.4.5 Dispense. Dispense no more than 2 ½ ounces of prepared marijuana to a qualifying patient or to a primary caregiver on behalf of a qualifying patient during a 15-day period.

6.4.6 Dispose. Dispose of excess marijuana in accordance with Section 2.8.3 of these rules.

6.4.7 Acquire. Acquire marijuana in accordance with Sections 2.8.1 and 2.8.2 of these rules. The dispensary must keep a record of marijuana acquired in accordance with Sections 2.8.1 and 2.8.2.

**REGISTRY IDENTIFICATION CARDS**

**H. 6.5** Dispensary registry identification cards required. The dispensary must obtain registry identification cards for its principal officers, board members, and employees in accordance with this rule and the statute. A dispensary may not apply for a registry identification card for a principal officer, board member or employee who is not a Maine resident or who has been convicted of a disqualifying drug offense. A dispensary may not employ a person under the age of 21. The dispensary’s application process for a registry identification card is set out in Section 8 of these rules.

**INSPECTION AND QUALITY CONTROL**

**I. 6.6** Inspections. All registered dispensaries, including its all retail and cultivation locations and any additional location at which the registered dispensary cultivates marijuana for medical use, are subject to inspection at least annually by the department in accordance with this rule and the statute.

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

2. Failure to cooperate with required inspections may be grounds to revoke the dispensary’s certificate of registration certificate, as set forth in Section 10 of these rules.

3. During an inspection, the department may identify violations of these rules this rule, the statute and the dispensary’s policies and procedures. The dispensary shall receive written notice of the nature of the violations. The dispensary shall notify the department in writing with a postmark date within twenty (20) business days of the date of the notice of violations and identifying the corrective actions taken and the date of the correction.
J.  
**6.7 Quality control.** To ensure the safety of qualifying patients, the registered dispensary shall provide samples to the Department upon request during announced and unannounced inspections for product quality control.

K.  
**6.7.1 Sample collection and labeling.** During an inspection of the registered dispensary, the Department shall:

1. **6.7.1.1** Collect soil and plant samples, and samples of products containing marijuana prepared at the dispensary;
2. **6.7.1.2** Place the dispensary’s registration number on each sample container;
3. **6.7.1.3** Label the sample containers with the description and quantity of its content;
4. **6.7.1.4** Seal sample containers; and
5. **6.7.1.5** Have dispensary and Department staff initial each sample container.

L.  
**6.7.2 Chain of custody of samples.** Chain of custody documentation shall be maintained by the Department.

1. **6.7.2.1** The Department shall provide a receipt for the collected samples to the dispensary’s representative.
2. **6.7.2.2** The Department shall maintain an accounting of all collected sample containers for control purposes.

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

SECURITY

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

1. **6.8.1** On-site parking must be provided.
2. **6.8.2** Exterior lighting must be sufficient enough to deter nuisance activity and facilitate surveillance, but must not disturb neighbors.

3. **6.8.3** Devices or a series of devices, including, but not limited to, a signal system interconnected with a radio frequency method such as cellular, private radio signals, or other mechanical or electronic device to detect an unauthorized intrusion.

4. **6.8.4** The interior must be equipped with interior electronic monitoring, video cameras, and panic buttons. Electronic monitoring and video camera recording records must be maintained by the dispensary for at least 14 days.

5. **6.8.5** Registered dispensaries must consistently and systematically prevent loitering.

### POLICIES, PROCEDURES AND RECORDS

6. **6.9** Dispensary policies, procedures and records. The operating documents of a registered dispensary must include procedures for the oversight of the registered dispensary and procedures to ensure accurate record keeping. Dispensaries must develop, implement and comply with dispensary policies and procedures. When changes are made to its policies or procedures, the dispensary must notify the Department in writing at least 10 days before implementation of the change, except when immediate implementation is required, in which case, the dispensary must simultaneously notify the Department when it implements the changed policy or procedure. The written simultaneous notice must include an explanation of why it was necessary to implement the change before giving the Department at least 10 days notice. The dispensary policies, procedures, and records must be available for inspection by the Department, upon request. Dispensary records subject to inspection include, but are not limited to:

   **6.9.1** Personnel policies and practices. The registered dispensary must have written policies and practices that are available to the Department upon request.

   **6.9.2** Residency requirement policy. All employees, principal officers and board members of a registered dispensary must be residents of the State of Maine.

   a. **6.9.2.1** Documentation of current state of Maine residency shall be maintained in the personnel files of employees, principal officers and board members and shall include, but not be limited to, a copy of a Maine driver’s license or other Maine-issued photo identification and physical home address (not mailing address) in Maine.

   b. **6.9.2.2** To maintain Maine residency status, each employee, principal officer and board member of the dispensary must have a physical home address in Maine and, in the aggregate, spend more than 183 days of the year in Maine.
2. **6.19.3 Board members; avoid conflict of interest policy.** Board members shall carry out their board duties with the proper use of their authority, and in a professional and ethical manner. Board members shall avoid conflicts of interest, including direct and indirect gains which could accrue to the member as a result of actions or decisions made in the capacity of board authority. Examples of potential conflict of interest include:

a. **6.19.3.1** A board member makes a decision motivated by considerations other than the best interests of the registered dispensary.

b. **6.19.3.2** A board member or close family member personally enters into a contract with the registered dispensary.

c. **6.19.3.3** A board member learns of and acts on an opportunity for profit which may be valuable to him or her personally or to another organization of which he or she is a member.

d. **6.19.3.4** A board member assists a third party in his or her dealings with the registered dispensary where such assistance could result in favorable or preferential treatment being granted the third party by the registered dispensary.

e. **6.19.3.5** A board member receives gifts or loans from the registered dispensary.

3. **6.9.3 Job description and employment contract policies.** The policy regarding job descriptions and employment contracts shall include duties, authority, responsibilities, qualifications, supervision, training in, and adherence to, confidentiality requirements, periodic performance evaluations and disciplinary actions.

4. **6.9.5 Patient education.** Dispensary policies must include a provision that requires dispensaries to provide educational materials about marijuana to qualifying patients and their primary caregivers. Each dispensary must have available for distribution an adequate supply of up-to-date education material that assists the patient or primary caregiver in the selection of prepared marijuana appropriate for the patient. Educational materials must be available for inspection by the Department upon request. The educational material must include, at least a minimum, information about the following:

a. **6.9.5.1** Information about the typical and potential effects of different strains of marijuana have different effects, as do various forms, preparations, and routes of administration. Dispensaries must have educational materials available to assist in the selection of prepared
Dispensaries shall provide “tracking sheets” to qualifying patients and primary caregivers who request them to keep track of the strains used and their effects.

b. Information on how to achieve proper dosage for different modes of administration must be shared. Emphasis shall be on using the smallest amount possible to achieve the desired effect. The impact of potency must also be explained.

c. Information on tolerance, dependence and withdrawal must be provided. Dispensaries are not required to continue to furnish marijuana for medical purposes if it is believed that a qualifying patient or primary caregiver is abusing marijuana or other substances.

d. Information regarding substance abuse signs and symptoms must be available, as well as referral information.

e. Information on whether the dispensary’s marijuana and associated products meet organic certification standards must be provided.

5. Alcohol and drug-free workplace policy. The registered dispensary is subject to provisions of 26 M.R.S. Chapter 7, Subsection 3-A, this rule and the statute. A registered dispensary must have and adhere to a written alcohol and drug-free workplace policy. The policy must be available to the Department upon request. The policy must include at least the following provisions:

a. Applicants: substance abuse testing. Applicants who have been offered employment by the registered dispensary must submit to a substance abuse test. The offer of employment must be conditioned on the applicant receiving a negative test result. Substance abuse testing must comply with 26 M.R.S.A., Chapter 7, Subchapter 3-A. This does not apply if an applicant, who is also a registered patient, fails the drug test solely because of the presence of marijuana in a confirmed positive test result.

b. Employees: substance abuse testing. The registered dispensary must have a policy providing for probable cause substance abuse testing consistent with 26 M.R.S.A., Chapter 7, Subchapter 3-A. Substances or groups of substances shall include amphetamine/methamphetamine, barbiturates, cannabinoids, benzodiazepines, cocaine and/or metabolites, phencyclidine, opiates, methaqualone, methadone and alcohol.

c. Testing for specific substances of abuse. The registered dispensary shall request a report from the qualified testing laboratory disclosing the presence or absence of at least, minimally, the following specific substances of abuse:
i. 6.9.7.3.1 Marijuana (grass, pot, weed, hash, joint, Acapulco gold), except that the dispensary policy may specify that the reporting of the presence of marijuana for an employee who possesses a valid written certification is not required and the employee’s status as a qualifying patient is confidential.

ii. 6.9.7.3.2 Cocaine (coke, crack, snow, blow, flake, “C”, rock, base).

iii. 6.9.7.3.3 Opiates – opium and codeine derivatives (heroin, horse, “H”, junk, smack, scag, Miss Emma).

iv. 6.9.7.3.4 Amphetamines – amphetamines and methamphetamines (uppers, speed, bennies, black beauties, Christmas trees, crystal, mollies, crank, BAM, dexies).

v. 6.9.7.3.5 Phencyclidine – PCP (angel dust, peace pill, hog, supergrass, embalming fluid, rocket fuel, killer weed).

d. 6.9.7.4 — Notify Department: failed drug test. The registered dispensary must notify the Department within one business day of receipt of a confirmed positive result to a lawfully administered substance abuse test of its employees.

e. 6.9.7.5 — Repeat failure of drug test. The Department shall refuse to issue or renew a registry identification card to a person who within the 12 months prior to the date of application has had a confirmed positive result to a lawfully administered substance abuse test that occurred within 12 months of another confirmed positive result. This does not apply if that individual failed the drug test solely because of the presence of marijuana in the confirmed positive test result and that person is a qualifying patient.

f. 6.9.7.6 — Employee assistance program. To provide opportunities to assist an employee with a substance abuse problem, the registered dispensary must have a contract with an approved Maine employee assistance program (EAP).

6. 6.9.6 Personnel Files. The registered dispensary must maintain a confidential personnel file on each principal officer, board member and employee. The personnel files shall include at least the following information:
6.9.6.1 Documentation of State of Maine residency for each employee, principal officer and board member.

6.9.6.2 Copy of current dispensary registry identification card and copy of a Maine driver’s license of other state-issued photographic identification card.

6.9.6.3 Employment application and required documentation.

6.9.6.4 Documented verification of references.

6.9.6.5 Documentation of background checks.

6.9.6.6 Job description or employment contract.

6.9.6.7 Documentation of training, including training regarding confidentiality requirements.

6.9.6.8 Documentation of periodic performance evaluations.

6.9.6.9 Documentation of disciplinary actions.

6.9.6.10 Documented results of drug tests.

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

a. **Sales Transaction record.** Business records include the sales record that indicates the name of the qualifying patient or primary caregiver to whom marijuana has been distributed, sold or donated, including the quantity and form. The sales record must indicate the sale price of the product.

b. **Record of acquisition.** The dispensary records must include the marijuana and marijuana products acquired by the dispensary as set out in statute and rule.

c. **Record of samples.** The dispensary must maintain record of samples provided for quality control, testing or research and development purposes.
d. 6.9.8 Record of disposal of marijuana. The registered dispensary must create and maintain records of the disposal of marijuana including marijuana not distributed by the dispensary.

8. 6.9.9 Record of current patients. The registered dispensary must keep on file and available for Department inspection, upon request, a copy of each current patient’s registry identification card or, for non-registered qualifying patients, a copy of the written physician or medical provider written certification and the Department-approved dispensary designation form, and one of the following:

a. 6.9.9.1 A Maine driver’s license or

b. 6.9.9.2 Other Maine-issued photographic identification, and

c. Verification of the patient’s designated primary caregiver, if applicable, and other documents required to ensure compliance with this rule and the statute.

INVENTORY

P. 6.10 Inventory. A registered dispensary is authorized to have the amount designated to the registered dispensary by the qualifying patient, that is, up to six (6) mature marijuana plants and an incidental amount of marijuana per qualifying patient. The dispensary’s usual inventory supply must be based on the dispensary’s own cultivation and production, and the needs of qualifying patients who have designated the dispensary to cultivate. The Department will not consider the absence of marijuana strains or products containing marijuana as an inventory interruption if the marijuana or marijuana product has not been produced by the dispensary as usual inventory. The dispensary must disclose to the qualifying patient if the patient is provided marijuana that was not cultivated or produced by the dispensary.

6.10.1 In addition to up to six (6) mature marijuana plants per qualifying patient, the registered dispensary may have plants in varying stages of processing in order to ensure that the dispensary is able to meet the needs of its patients.

1. 6.10.2 Start-up Inventory. During the first sixty (60) days after start-up initial authorization, in order to build initial inventory, a newly-registered dispensary without any qualifying patients, may have twenty-four (24) mature marijuana live plants, and the amount of incidental marijuana, and others nonflowering plants in various stages of cultivation that is permitted for a maximum of five patients without having any qualifying patients in order to build initial inventory.

2. 6.10.3 Inventory reduction. When there is a decrease in the number of patients who have designated the dispensary to cultivate marijuana, the dispensary shall
have 10 business days to adjust the inventory to meet the requirements of this rule and the statute Section 6.4.

3. **Daily inventory.** Prepared marijuana must be kept under double lock and inventoried daily by two cardholders.

4. **Dispensing inventory.** Quantities of prepared marijuana must be weighed, logged in and signed out by two cardholders when dispensed.

**Trip tickets.** Distribution of marijuana for medical use to a qualifying patient or a primary caregiver for use by a qualifying patient must be labeled with a trip ticket to identify the dispensary, the MMMP patient number if the patient is registered or a unique identifier assigned by the dispensary to non-registered qualifying patients, or the MMMP caregiver number if the caregiver is required to be registered or a unique identifier assigned by the dispensary if the primary caregiver is not required to be registered, the product, the amount and form, the time and date of origin, and destination of the product.

1. **Primary caregivers.** Persons transporting marijuana must be authorized to possess the marijuana for medical use and shall take reasonable steps to deliver the product directly to the qualifying patient as a safety precaution and to alleviate concerns about drug diversion.

2. **A dispensary with a growing location in cultivation site that is not located with the retail dispensary must label the marijuana that is being moved between the growing location cultivation site and the retail dispensary with a trip ticket that identifies the name and address of the dispensary, the address of the growing location cultivation site, the time, date, origin and destination of the material being transported, and the amount and form of marijuana and marijuana material that is being transported.

**Packaging and labeling.** The labels on prepared marijuana and goods containing marijuana that are sold by dispensaries and caregivers are used as evidence of compliance with the law that limits possession and dispensing to 2.5 ounces of prepared marijuana per qualifying patient. The packaging and labeling of prepared marijuana and marijuana products for sale by registered dispensaries and caregivers must comply with applicable State labeling laws. See 22 M.R.S.A. § 2157.

**Inventory supply records.** The dispensary shall report the dispensary’s inventory supply. The dispensary shall record the marijuana strains cultivated by the dispensary and the marijuana products produced and furnished by the dispensary. The registered dispensary shall identify the marijuana strains and the marijuana products that are acquired and not available from the dispensary’s own cultivation and production. Inventory supply records must be available upon request by the Department.
S. Patient designation reporting. The registered dispensary must submit a monthly report of the total number of patients who have designated the dispensary. This report is due to the Department before the tenth day of the month. The report must include the unique numeric patient identifier that appears on the patient’s valid written certification, date of designation and, if applicable, date of rescission.

T. 6.15 Incident reporting. A registered dispensary must submit a Department-approved incident report form on the next business day after it discovers a violation of the requirements set out in these rules and the statute regarding the operation of dispensaries. The report must indicate the nature of the breach and the corrective actions taken by the dispensary. 6.15.1 For the purposes of these rules, an incident includes:

1. 6.15.1.1 Confidential information accessed or disclosed in violation of these rules and the statute;

2. 6.15.1.2 Loss of inventory by theft, diversion or any other means;

3. 6.15.1.3 Intrusion of the retail dispensary or the grow location, cultivation site, if marijuana is not grown cultivated at the retail site; and

4. 6.15.1.4 Any other violations of these rules or the statute governing operation of the dispensary.

U. 6.16 Illegal activity reporting. Any suspected illegal activity involving dispensary operations must be reported within 24 hours of suspicion to law enforcement and the Department by the dispensary. The dispensary must submit a written report to the Department using the dispensary’s incident report form.

IMMUNITY

6.17 Immunity. The following immunity provisions apply to a registered dispensary and officers, board members, agents and employees of the dispensary.

6.17.1 A registered dispensary is not subject to prosecution, search, seizure or penalty in any manner, including but not limited to a civil penalty or disciplinary action by a business or an occupational or professional licensing board or entity, and may not be denied any right or privilege solely for acting in accordance with these rules to assist qualifying patients with the medical use of marijuana.

6.17.2 A principal officer, board member, agent or employee of a registered dispensary is not subject to arrest, prosecution, search, seizure or penalty in any manner, including but not limited to a civil penalty or disciplinary action by a business or an occupational or professional licensing board or entity, and may not be denied any right or privilege solely for working for or with a registered
dispensary to provide prepared marijuana to qualifying patients or to otherwise assist qualifying patients with the medical use of marijuana. See 22 M.R.S.A. §2428 (8-A).

MAINE DISPENSARIES

V.  6.18 Competitive selection process to add new dispensaries. The Department employs a competitive selection process when adding new dispensaries. A dispensary selected to be issued a registration certificate must comply with applicable the statute and this rule. Limitation on number of dispensaries. During the first year of operation of dispensaries, the Department may not issue authorize more than one certificate of registration for a dispensary in any of the eight Public Health Districts of the Department. The eight Public Health Districts are: York District 1 (York County); Cumberland District 2 (Cumberland County); Western District 3 (Androscoggin, Franklin, and Oxford Counties); Midcoast District 4 (Waldo, Lincoln, Knox, Sagadahoc Counties); Central Maine District 5 (Somerset and Kennebec Counties); Penquis District 6 (Penobscot and Piscataquis Counties); Downeast District 7 (Washington and Hancock Counties); and Aroostook District 8 (Aroostook County). See 22 M.R.S.A. §2428 (11).

1.  6.19 Not-for-profit corporation. To be issued a dispensary registration certificate, a dispensary is required to incorporate pursuant to Title 13-B M.R.S., Maine Revised Statutes and to maintain the corporation in good standing with the Secretary of State. The dispensary must operate on a not-for-profit basis for the mutual benefit of qualifying patients who have designated the dispensary to cultivate marijuana.

a.  6.19.1 By-laws. The bylaws of the dispensary and its contracts with qualifying patients must contain such provisions relative to the disposition of revenues and receipts as may be necessary and appropriate to establish and maintain its not-for-profit status.

b.  6.19.2 Not required to be tax-exempt. A dispensary is not required to be a tax-exempt organization under 26 United States Code, Section 501(c)(3).

6.19.3—Board members; avoid conflict of interest. Board members shall carry out their board duties with the proper use of their authority, and in a professional and ethical manner. Board members shall avoid conflicts of interest, including direct and indirect gains which could accrue to the member as a result of actions or decisions made in the capacity of board authority. Examples of potential conflict of interest include:

6.19.3.1 A board member makes a decision motivated by considerations other than the best interests of the registered dispensary.
6.19.3.2 A board member or close family member personally enters into a contract with the registered dispensary.

6.19.3.3 A board member learns of and acts on an opportunity for profit which may be valuable to him or her personally or to another organization of which he or she is a member.

6.19.3.4 A board member assists a third party in his or her dealings with the registered dispensary where such assistance could result in favorable or preferential treatment being granted the third party by the registered dispensary.

6.19.3.5 A board member receives gifts or loans from the registered dispensary.

6.20 Location of dispensary: schools. A dispensary or its grow site if marijuana is not grown at the retail dispensary site may not locate within 500 feet of the property line of a preexisting public or private school. For the purposes of these rules, school means an entity that satisfies Maine’s compulsory education requirements.

6.21 Local regulation of dispensary. These rules do not prohibit a political subdivision of this State from limiting the number of registered dispensaries that may operate in the political subdivision or from enacting reasonable regulations applicable to registered dispensaries.

SELECTION PROCESS

2.6.22 Notice of open application. The Department shall publish a notice of open application for dispensary certificates of registration that includes the application requirements. Notices will appear, at a minimum, in the Kennebec Journal and at www.maine.gov/dhhs/dhrs on the Maine Medical Use of Marijuana webpage. Applicants may apply for one or more Districts, but must specify which Districts they apply for. The notice will contain the deadline for receipt of applications and the process for obtaining application material.

3.6.23 Scoring applications. A panel shall be convened by the Department to evaluate and score each application. The maximum point value is based on the quality of the applicant’s submission. The maximum points for each criterion are indicated in Section 6.25 of these rules. To be considered responsive, an application must have at least 70 points. The panel shall set forth through consensus comments the basis of the scoring decision for each criterion. A certificate of registration shall be issued in response to the application in each Public Health District with the highest score, as long as the application meets all criteria and the minimum score. In case of a tie, the panel reserves the right to
seek supplemental information through written questions of the applicants and to raise or lower the applicants’ scores based upon the supplemental information.

**4.6.24 Application fee.** Applicants must submit an application fee of $15,000 for each district dispensary included in the application for the application to be considered by the panel. Unsuccessful applicants are assessed a $1,000 fee and refunded $14,000. Thereafter, application fees shall be non-refundable. Application requirements are set forth in Section 6.27 of these rules.

**SELECTION CRITERIA**

**5.6.25 Selection criteria.** Each application shall address all criteria and measures, even when no point values are assigned. Failure to address all of the criteria and measures will result in the application being considered non-responsive and not accepted for review.

**6.6.25.1 Criterion 1: Submission of Required Information Regarding Applicant and Facility (up to 25 points)**

- **a. Measure 1:** The applicant shall provide the legal name of the corporation, a copy of the articles of incorporation and by-laws of the corporation. [no points assigned]

- **b. Measure 2:** The applicant shall provide the proposed physical location of the retail dispensary and if marijuana is not cultivated at the retail site, the one site where marijuana may be grown, if a precise address has been determined.

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

  - **ii.** If the applicant indicated that a precise address has not been determined, the applicant has at least identified the general location(s) where the facilities will be sited, and when. [up to 5 points]

- **c. Measure 3:** The applicant shall provide evidence of compliance with local codes and ordinances for each physical address which will be used for dispensing and growing cultivating marijuana under the MMMP, and that neither location is within five hundred (500) feet of a preexisting public or private school boundary. A school in this context is interpreted to mean an entity that satisfies Maine's compulsory education requirements. [no points assigned]
d. **Measure 4:** The applicant shall describe the enclosed, locked facilities that will be used in the growing, cultivation and sale of marijuana, the security measures and whether it is visible from the street or other public areas. [up to 5 points]

e. **Measure 5:** The applicant shall provide the name, address and date of birth of each principal officer and board member of the dispensary, along with a photocopy of their Maine driver’s license or other state-issued photographic identification card. Temporary new driver’s licenses are not acceptable. [no points assigned]

f. **Measure 6:** The applicant shall provide a list of all persons or business entities having direct or indirect authority over the management or policies of the dispensary, and a list of all persons or business entities having 5% or more ownership in the dispensary, whether or not the interest is in the land or buildings, including owners of any business entity which owns all or part of the land or building. [no points assigned]

g. **Measure 7:** The applicant shall provide the identity of any creditor holding a security interest in the premises, if any, and the terms of that agreement. The applicant shall identify any principal officer or board member of the dispensary who is a creditor and disclose the terms and conditions. [no points assigned]

h. **Measure 8:** The application shall include the required signed cover letter, and the completed application form supplied by the department. [no points assigned]

i. **Measure 9:** The applicant shall describe how the dispensary will operate on a long-term basis as a non-profit organization and a business plan that includes, at a minimum, the following: [up to 15 points]

   i. A detailed description about the amount and source of the equity and debt commitment for the proposed dispensary that demonstrates the immediate and long-term financial feasibility of the proposed financing plan, the relative availability of funds for capital and operating needs; and the financial capability to undertake the project.

   ii. A copy of the proposed policy regarding services to registered patients who cannot afford to purchase marijuana for medical purposes.

   iii. The application indicates whether or not the applicant will accept unused excess marijuana from registered qualifying patients
or primary caregivers, the process for assuring that the marijuana is not adulterated (how it will be tested) and how it will be redistributed (cannot be sold) to those registered patients who cannot afford marijuana for medical purposes.

iv. Projected income statements for the first three (3)-years after implementation (forms to be supplied by the Department).

v. The applicant provides evidence that salaries are in line with the non-profit sector.

vi. Control of the organization is exercised by a governing body.

vii. There are sufficient board members to fire an executive or to remove board members.

viii. Plans for distribution of net revenues annually.

7.6.25.2 Criterion 2: Overall Health Needs of Registered Patients and Safety of the Public [up to 75 points]

a. Measure 1: The applicant demonstrates their proposed location and services will be convenient for qualifying patients and caregivers. [up to 10 points]

b. Measure 2: The applicant demonstrates a steady supply of marijuana for medical use will be available to the projected number of registered patients. [up to 10 points]

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

ii. The applicant shall demonstrate knowledge of organic growing methods to be used in their growing and cultivation of marijuana.

iii. The applicant shall demonstrate that steps will be taken to ensure the quality of the marijuana, including purity and consistency of dose.

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

c. Measure 3: The applicant demonstrates the knowledge and ability to manage a non-profit organization or other business. [up to 10 points]
Rules Governing the Maine Medical Use of Marijuana Program

Section 6. Registered Dispensaries

- **Personnel.**
- **Fiscal (payroll, bookkeeping case management).**

**Measure 4:** The applicant demonstrates that its plan for record keeping, inventory, quality control and security and other policies and procedures will discourage unlawful activity. [up to 20 points]

**Measure 5:** The applicant fully describes a staffing plan that will provide accessible business hours, safe growing and cultivation, and maintenance of confidential information regarding the cultivation sites and the identity of patient information. [up to 20 points]

**Measure 6:** The application indicates consent to pay for background checks for all proposed and future registry card holders. [no points assigned]

**Measure 7:** The application reflects a strong patient education component which addresses the diversity of qualifying medical conditions. [up to 5 points]

**AWARD DECISION**

**6.26 Award decision.** The award decision shall be made in writing to the successful applicants.

**a. Department determination.** Subject to the limitations on the number and location of dispensaries (Section 6.18), within 30 calendar days of receipt of a completed application form with a score of at least 70 points and with all required documents and required fees, the department shall register a dispensary and issue a certificate of registration to the highest scored person or entity that complies with the certificate of registration requirements set out in these rules and has the highest number of points of the applicants for the district.

**b. Award is void.** Failure of the award recipient to secure a certificate of registration within 120 days of receipt of the department’s award decision may, at the discretion of the department, render the award void. When an award is voided, the department shall issue a written decision to void an award to operate a dispensary. The department’s written decision to void an award to operate a dispensary is considered final agency action, subject to judicial review. Jurisdiction and venue for judicial review are vested in the Superior Court.

**c. Notice of denial sent to non-selected applicants.** The department shall send a written notice of denial to non-selected applicants.
6.26.3.1 Final agency action: notice of denial. Written notice of denial of an application or (non-selection) is considered final agency action, subject to judicial review. Jurisdiction and venue for judicial review are vested in the Superior Court.

d. 6.26.4 Record. The record for review is the applications and any attached supporting documents, any other documents relied upon by members of the scoring panel in its decision, consensus comments of the panel, notices of denial and acceptance, and any other written communications between the Department and the applicants related to the decision.

APPLICATION PROCESS

W. 6.27 Application: for dispensary certificate of registration certificate. A dispensary

When the application period is open, a Dispensary Registration Certificate Application form may be available by request to the Department. The applicant must submit a completed Department-approved application form with all required documentation and the required fees (Section 7). The dispensary application for a dispensary registration certificate must include, at a minimum, the following:

1. 6.27.1 The legal name of the dispensary and the DBA (doing business as) name of the dispensary;

2. 6.27.2 The physical address of the retail dispensary and the physical address of the location where marijuana will be cultivated for qualifying patients who have designated the dispensary to cultivate marijuana for them;

3. 6.27.3 The distance to the closest school from the dispensary;

4. 6.27.4 A copy of the dispensary’s articles of incorporation and bylaws, and evidence that the corporation is in good standing with the Secretary of State;

5. 6.27.5 The name, address, proof of residency, and date of birth of each principal officer and board member of the dispensary;

6. 6.27.6 The name, address, proof of residency, and date of birth of any person who is employed by the dispensary;

7. 6.27.7 A copy of the dispensary’s policies and procedures;

8. 6.27.8 A copy of the dispensary’s liability insurance policy; and

9. 6.27.9 A business plan demonstrating the on-going viability as a non-profit organization; and
10. **6.27.10 Narrative describing how the applicant will meet all the selection criteria specified in this rule, Sections 6.25.1 and 6.25.2.**

X. **6.28 Renewal of dispensary certificate of registration certificate.** The department shall renew a dispensary’s certificate of registration within 10 days in compliance with the following: The annual renewal of a dispensary registration certificate must comply with this rule and the statute.

1. **6.28.1 A registered dispensary must submit a completed Department-approved application for the renewal of certificate of a current-registration certificate form with all required documentation and the required fees (Section 7). 60 days prior to the expiration date. The dispensary registration certificate renewal application is available upon request made by a registered dispensary to the Department. Failure to submit a timely, complete renewal packet may be grounds for denial of the renewal and may result in expiration of the registration certificate to operate the dispensary.**

2. **6.28.2 When requesting submitting for a renewal of the certificate of registration certificate, registered dispensaries must update all information submitted by the dispensary on its initial application or previous renewal for a certificate of dispensary registration certificate pursuant to Section 6 of these rules.** 6.28.3. Failure to provide submit all current, up-to-date information timely may be grounds for denial of the renewal and may result in expiration of the registration certificate to operate the dispensary.

3. **Within ten days of its decision to approve or deny the renewal, the Department shall issue a written decision that either includes the renewed dispensary registration certificate or the grounds for denial and statement of deficiency.**

4. **When the dispensary submits a complete and timely application for renewal, the registration certificate remains in good standing until the Department issues a new registration certificate, a statement of deficiency or a denial.**

**DISPENSARY PROHIBITIONS**

6.29 --- **Dispensary prohibitions.** The following prohibitions apply to registered dispensaries:

6.29.1 A registered dispensary may not possess more than six mature marijuana plants for each qualifying patient who has designated the registered dispensary to cultivate marijuana for the qualifying patient’s medical use.

6.29.2 A registered dispensary may not dispense, deliver or otherwise transfer marijuana to a person other than a qualifying patient who has designated the dispensary to cultivate marijuana for the qualifying patient or to the patient’s primary caregiver.
6.29.3 Except as provided in Sections 2.8.1 and 2.8.2 of these rules a registered
dispensary may not acquire prepared marijuana or marijuana plants except
through the cultivation of marijuana by that dispensary either at the location of the
retail dispensary or at the dispensary’s grow location, if different.

6.29.4 A registered dispensary may not contract for the cultivation of seeds, seedlings or
small plants or the cultivation, production or preparation of marijuana or goods
containing marijuana for medical use.

6.29.5 A registered dispensary is prohibited from acquiring, possessing, cultivating,
manufacturing, delivering, transferring, transporting, supplying or dispensing
marijuana for any purpose except to assist qualifying patients who have
designated the dispensary to cultivate marijuana for them.
SECTION 8.
FEES

A. Fees submissions. All fees, with the exception under Section 6.24 for a refund of $14,000 to unsuccessful dispensary applicants, are nonrefundable. Fees must be and payable to the Treasurer, State of Maine.

1. Nonrefundable. An unsuccessful dispensary registration certificate applicant is refunded the amount of the application fee, less $1,000. All other fees are nonrefundable.

2. Application fee reduction. 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 statute and this rule.

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

b. 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 MMMP budget.

B. Registered patient fee. A qualifying patient may voluntarily register with the Department to secure a registry identification card for the lawful medical use of marijuana. There is no fee for a qualifying patient to apply for or renew a Department-issued registry identification card.

C. Registered primary caregiver fees. Registered primary caregiver fees are governed by this rule and the statute. The registered primary caregiver is required to submit the fees as follows, except that when a lesser amount is indicated on the Department-approved application forms, the applicant shall pay the lesser amount indicated on the Caregiver Application and, if applicable, the Employee/Board Member/Principle Officer Application.

1. Application and annual renewal fee; cultivation. The primary caregiver designated to cultivate marijuana must submit an application fee and an annual renewal fee of $300240 per qualifying patient registry identification card with the completed application and renewal form for a registry identification card. See 22 M.R.S.A. § 2425 (12).

a. Hospice inpatient program and nursing facilities designated as primary caregivers: no fee. There is no fee for hospice inpatient programs and nursing facilities designated as non-cultivating primary caregivers by a qualifying patient.
Section 7.  Fees

2. **7.3.1.1 New patient substituted for former patient Vacated patient designation.** The designation represents the choice of the qualifying patient and the primary caregiver’s commitment to assist the patient for the duration of the patient’s medical use. When a patient designation is vacated, the registered primary caregivers may substitute a designation by a new qualifying patient who designates the primary caregiver in place of the former qualifying patient’s who has rescinded designation of the same primary caregiver. The primary caregiver must comply with reporting required by this rule and the statute regarding changes to the registry identification cards and patient designations. Unless the registered primary caregiver possesses five registry identification cards at the time the patient designation is vacated, the primary caregiver’s application for a primary caregiver registry identification card for the new qualifying patient must be filed within ten days of rescission by the former qualifying patient.

a. **7.3.1.1.1 Pro-rate registration fee.** The Department shall prorate the $300 registration fee paid by the primary caregiver for a registry identification card for the new qualifying patient by reducing it by $20 for each month left on the primary caregiver’s unexpired registry identification card for the former qualifying patient.

b. **7.3.1.1.2 Caregiver registration status.** When the primary caregiver complies with this Section 7.3.1.1 of these rules, the primary caregiver’s registration status continues in full effect without interruption. See Public Law 2011, Chapter 383(6), unallocated language.

3. **7.3.1.2 Per patient fee paid annually.** Instead of paying the fee at the time of designation by a qualifying patient, a primary caregiver may choose to submit an annual fee of $1500, based on $300 per patient that allows the registered primary caregiver to change the qualifying patients who designate them to cultivate marijuana throughout the year without submitting the per-patient fee at the time of the change. The primary caregiver must never have more than 5 qualifying patients at any one time may be designated to assist up to the maximum number qualifying patients at any one time in accordance with this rule and the statute.

4. **7.3.2 No application fee: no cultivation.** No application or renewal fee is charged for a registry identification card when the primary caregivers do not cultivate marijuana.

5. **7.3.3 Background check fee Criminal history record check fees.** Each primary caregiver application or renewal for a registry identification card or application for a caregiver employee must include a bank check or money order for $31 payable to the Treasurer, State of Maine for the cost of criminal background check fees.
checks. The background check fee is assessed on each registry identification card application or renewal including applications or renewals submitted by primary caregivers who are exempt from the application or renewal fee as set out in Section 7.3.2 of these rules. The Department may waive this requirement for a cardholder applying for an additional registry identification card within 12 months of the cardholder’s completed background check.

D. Registered dispensary fees. Registered dispensary fees are governed by this rule and the statute. The registered dispensary is required to submit the fees as follows, except that when a lesser amount is indicated on the Dispensary Registration Certificate Application and Employee/Board Member/Principle Officer Application, the dispensary shall pay the lesser amount.

1. **Dispensary Certificate of registration certificate application fee.** The $15,000 registration fee must be submitted with the dispensary’s completed certificate of registration certificate application.

2. **Dispensary registration certificate renewal fee.** The $15,000 registration renewal fee must be submitted annually with the dispensary’s completed registration renewal form. The annual renewal fee is non-refundable.

3. **Dispensary registry identification card fee.** The registered dispensary shall be assessed a $25 fee for each dispensary registry identification card issued for each principal officer, board member, and employee of the registered dispensary.

4. **Dispensary registry identification card; renewal fee.** The registered dispensary shall be assessed a $25 fee for the annual renewal of each dispensary registry identification card issued for each principal officer, board member, and employee of the registered dispensary.

5. **Background check fee; Criminal history record check.** Each principal officer, board member, and employee of the registered dispensary is required to have a criminal history record check at least annually. The registered dispensary must include a check for $31 payable to the “Treasurer, State of Maine” for the cost of criminal background checks with each application or renewal for a registry identification card for each principal officer, board member, and employee of the registered dispensary. The Department may waive this requirement for a cardholder applying for an additional registry identification card within 12 months of the cardholder’s completed background check.

6. **Change of location fee.** A registered dispensary that changes its physical location or its growcultivation location is required to submit a completed Department-approved change in location form to secure a new dispensary certificate of registration certificate. The Dispensary/Cultivation Change in
Location Application is available by request. The dispensary and shall be assessed a fee of $5,000 for each change of the dispensary’s physical location or its grow \textit{cultivation} location.

\textbf{E. 7.5 Processing fee: reissued card.} A processing fee of $10 shall be charged to registered \textit{primary caregivers and registered dispensaries} cardholders for reissuing a lost card or a card reissued by the Department due to changes regarding the information on the registry identification card, such as an address change.

\textbf{F. 7.6 Laboratory testing fees.} Registered dispensaries are responsible for the cost of required laboratory testing of \textit{marijuana that is required by these rules}. A laboratory testing fee of $100 shall be charged to a registered primary caregiver or registered dispensary for each sample collected by the Department.
SECTION 9.

REGISTRY IDENTIFICATION CARD

A.  

8.1 Card required. Persons who are required to become registered as primary caregivers, principal officers, board members, and employees of registered dispensaries, and staff of hospice providers and nursing facilities named as primary caregivers, pursuant to statute and this rule, must possess a valid registry identification card issued by the Department and Maine-issued photographic identification to receive protection for conduct authorized by this rule and the statute. Registry identification cards are issued to the applicant to serve as proof of conduct authorized by the Department and protections do not extend beyond the approved cardholder. Only the approved cardholder may possess the registry identification card issued and the registry identification card may not be transferred. Applicants must complete the applicable application form and submit the required fees. The Caregiver Application and the Employee/Board Member/Principal Officer Application forms are available on the Department’s website at http://www.maine.gov/dhhs/mecdc/public-health-systems/mmm/index.shtml.

1.  

8.10.1 Denial of application renewal. The Department may deny an application or renewal in accordance with the statute and this rule. Written notification of the Department’s decision to deny an application for or the renewal of a registry identification card and the reason for the denial shall be sent to the applicant within 30 days of receipt of the application. Voluntarily registered qualifying patient, the registered primary caregiver or the registered dispensary. 

8.1.1 Valid proof of authorized participation. A registered patient, registered primary caregiver or principal officer, board member or employee of a registered dispensary who has been issued a valid registry identification card must also possess a valid Maine issued driver’s license with a photo or other Maine issued photo identification in order to establish proof of authorized participation in the medical use of marijuana program. See 22 M.R.S.A. § 2425(11).

VOLUNTARY PATIENT REGISTRATION CARD

B.  

8.2 Voluntary patient application for a registry identification card: no fee. A qualifying patient may voluntarily register with the Department to secure a registry identification card for the lawful medical use of marijuana by submitting a completed Department-approved Patient Voluntary Registration Application form with required documentation. There is no fee. The patient’s application is not considered complete until the Department receives all required information, including the physician’s written certification. The application shall include, at a minimum, the following information:

1.  

8.2.1 Name, address and date of birth of the patient.

2.  

8.2.2 A copy of the written certification issued by the qualifying patient’s physician for the medical use of marijuana.
3.8.2.3 A copy of the patient’s Maine driver license or other state-issued photographic identification.

4.8.2.4 Patient cultivation. The patient who elects to cultivate some or all of the maximum allowed amount of marijuana for his or her own medical use must indicate that choice on the application and report the location of the patient’s cultivation area.

5.8.2.5 Other information required by the Department.

PRIMARY CAREGIVER REGISTRATION CARD

C. 8.3 Primary caregiver application for a registry identification card. A primary caregiver who is required to register must submit a completed Department-approved Primary Caregiver Application form. The application must include, with the required documentation and the registration fee, if any, (Section 7) for a registry identification card as applicable. The application shall also include, at a minimum, the following information:

1. 8.3.1 Name, address and date of birth of the primary caregiver;

2. 8.3.2 A copy of the primary caregiver’s Maine driver’s license, or other state Maine-issued photographic identification in compliance with Section 2.6.3 of these rules, this rule and the statute; and

3. Name of the property owner and location of the primary caregiver’s cultivation location;

4. Personal identification number for purpose of filing taxes; and

5. 8.3.3 Other information required by the Department.

D. Employee of a registered primary caregiver registry identification card. An employee of a registered primary caregiver must have a registry identification card. A completed Department-approved employee application form must be submitted with the required documentation and the registration fee for a registry identification card. The application shall include, at a minimum, the following information:

1. Name, address and date of birth of the applicant;

2. A copy of the applicant’s Maine driver’s license, or other Maine-issued photographic identification; and

3. Name of the applicant’s employer and location of that employer’s cultivation area; and
4. Other information required by the Department.

E. **No work prior to issuance of card.** Prior to receipt of a registry identification card, a primary caregiver who is required to register and the employee of a registered primary caregiver may not accept a designation form from a qualified patient, assist a qualified patient or possess or cultivate a patient’s marijuana for medical use.

1. **8.5.1 Expedited determination: hospice or nursing facility.** After verifying the information, the Department shall approve or deny an application for or renewal of a registry identification card submitted by a registered patient of a hospice provider or nursing facility within five business days of the date the Department received the completed application for or renewal of a registry identification card with all required documents.

F. **Notice to Department when employment or affiliation ceased.** A primary caregiver must notify the Department within ten days of the date that the primary caregiver’s employee ceases to work for the primary caregiver.

1. **Card expires after notice to Department when employment or affiliation ceased.** The registry identification card of the primary caregiver’s employee expires when person ceases to work for the primary caregiver.

G. **Card surrendered to Department.** A primary caregiver must surrender to the Department any primary caregiver registry identification card that is no longer eligible for valid use, including the registry identification card of a primary caregiver’s employee.

**REGISTRY IDENTIFICATION CARDS**

H. **8.4 Dispensary registry identification cards.** The dispensary is required to obtain a registry identification card for each qualified principal officer, board member, and employee of the registered dispensary. The registered dispensary must comply with provisions set forth in this rule and the statute.

1. **8.4.1 Application form.** The dispensary shall submit a completed Department-approved Employee/Board Member/Principal Officer Application for each registry identification card with the required documentation and the registry identification card fee (Section 7). The application shall also include, at a minimum, but is not limited to, the following information:

   a. **8.4.1.1 Name, address and date of birth of the qualified principal officer, board member, or employee;**

   b. **8.4.1.2 A copy of the qualified principal officer’s, board member’s, or employee’s current Maine driver’s license, or other state-issued**
photographic identification in compliance with Section 2.6.3 of these rules; and

c. 8.4.1.3 Other information required by the Department.

2. 8.4.2 New principal officers, board members and employees: application required. Each time the dispensary has a new principal officer, board member or employee, it must submit an application form for a dispensary registry identification card for that new principal officer, board member or employee in compliance with Section 8.4.1 of these rules this rule and the statute. A registered dispensary must notify the department each time it has a new principal officer, board member or employee.

8.4.3 Background checks. The department shall conduct background checks of each principal officer, board member and employee of registered dispensaries during the application process for a registry identification card. Background checks shall be conducted in each state where the individual has resided since the age of 18.

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

8.4.3.2 Disqualifying drug conviction. The department may not issue or renew a registry identification card to any principal officer, board member, agent or employee of a dispensary who has been convicted of a disqualifying drug offense in Maine or another jurisdiction.

8.4.3.3 Employment or affiliation prohibited. Any person who has been convicted of a disqualifying drug offense may not be a principal officer, board member or employee of a registered dispensary.

3. 8.4.4 No work or affiliation prior to issuance of card. No principal officer, board member or employee may begin to work at or affiliate with the registered dispensary before he or she is issued a dispensary registry identification card.

4. 8.4.5 Notice to Department when employment or affiliation ceased. The registered dispensary must notify the Department within 10 days of the date that a principal officer, board member or employee ceases to work at or be affiliated with the registered dispensary.

8.4.5.1 Card expires after notice to department when employment or affiliation ceased. The registry identification card of a
5. **Card surrendered.** The registered dispensary must surrender to the department any registry identification card that is no longer eligible for valid use.

a. **Dispensary action after repeat positive test result.** The registered dispensary must require a principal officer, board member or employee to turn over his or her registry identification card if that person has confirmed positive results from two lawfully administered substance abuse tests within 12 months.

**DEPARTMENT DECISION**

8.5 Department determination: application for registry identification card. The department shall verify the qualified patient’s, the primary caregiver’s or the registered dispensary’s information contained in an application for a registry identification card and shall approve or deny an application for a registry identification card in accordance with these rules. The department determination shall be made within 30 calendar days of the date the department received the completed application for a registry identification card with all required documents and the registration fee, if required. (Section 7).

8.5.1 Expedited determination: hospice. After verifying the information, the department shall approve or deny an application for or renewal of a registry identification card submitted by a registered patient of a hospice provider within 5 business days of the date the department received the completed application for or renewal of a registry identification card with all required documents.

**DEPARTMENT ISSUED CARDS**

8.6 Issuance of cards. The department shall issue registry identification cards to registered patients, to registered primary caregivers, and to staff of hospice providers and nursing facilities designated by registered patients as primary caregivers within 5 days of approving an application or renewal of a registry identification card. See 22 M.R.S.A. §2425(5).

8.6.1 The department shall issue each principal officer, board member and employee of a dispensary a registry identification card within 10 days of receipt of the person’s name, address, and date of birth and the fee set out in Section 7 of these rules. See 22 M.R.S.A. §2428(2)(C).
8.7   Information on registry identification card. Registry identification cards must contain the required information in compliance with the following provisions:

8.7.1   Patient registry identification card. Each registry identification card issued to a qualifying patient who voluntarily registered must contain, at a minimum, the following information:

8.7.1.1   The name, address and date of birth of the registered patient;

8.7.1.2   A random MMMP identification number that is unique to the cardholder;

8.7.1.3   The date issued and the expiration date of the registry identification card; and

8.7.1.4   A clear designation showing whether the cardholder is allowed under these rules to cultivate marijuana plants.

8.7.2   Primary caregiver registry identification card. Each registry identification card issued to a primary caregiver who must register and to staff of hospice providers and nursing facilities designated as primary caregivers must contain, at a minimum, the following information:

8.7.2.1   The name, address and date of birth of the cardholder;

8.7.2.2   The random MMMP identification number that is unique to the cardholder;

8.7.2.3   The date of issuance and expiration date of the registry identification card; and

8.7.2.4   A clear designation showing whether the cardholder is allowed pursuant to these rules to cultivate marijuana plants.

8.7.3   Dispensary registry identification cards. Each registry identification card issued to a dispensary principal officer, board member or employee must contain, at a minimum, the following information:

8.7.3.1   The card must specify that the cardholder is a principal officer, board member or employee of a registered dispensary;

8.7.3.2   The name, address, and date of birth of the principal officer, board member or employee;
8.7.3.3 The legal name of the registered dispensary with which the principal officer, board member or employee is affiliated;

8.7.3.4 The random MMMP identification number that is unique to the cardholder;

8.7.3.5 The date of issuance and expiration date of the registry identification card;

8.8 Expired card. Registry identification cards expire one year after the date of issuance except that the date of issuance and expiration date of a registered primary caregiver’s registry identification card must be the same as the issuance and expiration dates on the patient’s registry identification card. See 22 M.R.S.A. §2425(5).

ANNUAL RENEWAL OF CARDS

I. 8.9 Annual renewal of card required. At least thirty (30) calendar days before a card expires, the voluntarily registered patient or the registered primary caregiver must submit a completed Employee/Board Member/Principle Officer Application department-approved annual renewal form with all required documentation and the renewal fee must be submitted to the Department at least 30 calendar days before the registry identification card expiration date. The Department shall approve or deny the application in accordance with this rule and the statute, if required. (Section 7).

8.9.1 Annual renewal of dispensary registry identification cards. At least thirty (30) calendar days before a card expires, a registered dispensary must submit a completed department-approved annual renewal form with all required documentation and the renewal fee (Section 7) for the renewal of each dispensary registry identification card for each principal officer, board member and employee of the registered dispensary.

8.10 Department determination: annual renewal. The department shall verify the information submitted with the renewal form by patients, caregivers and dispensaries and shall approve or deny the submitted annual renewal request for a registry identification card in accordance with these rules. The department determination shall be made within 30 days of the date the department received the completed renewal form with all required documents and the registration fee, if required. (Section 7).

8.10.1 Denial of renewal. Written notification of the department’s decision to deny the renewal of a registry identification card and the reason for the denial shall be sent to the voluntarily registered qualifying patient, the registered primary caregiver or the registered dispensary.

REISSUED CARDS

8.11 Loss of card or change in status of cardholder: department notification. Cardholders must notify the department within 10 days of the following occurrences.
8.11.1 Loss of card. Within 5 days of receiving notice that a card was lost and the reissuing fee (Section 7), the department shall issue the new registry identification card with a new random identification number. See 22 M.R.S.A. §2425 (6)(F).

J. 8.11.2 Notification of change in cardholder’s status. The Department must be notified when within ten days of the following status changes occur: a change in status or card information in accordance with the statute and this rule. A cardholder who failure to provide required notification may be subject to fines up to $150 per incident.

1. The patient’s primary caregiver or dispensary must notify the Department of a change in status as a patient’s designee in accordance with reporting requirements specified in this rule and the statute.

   a. 8.11.2.1 Registered patient’s status change:

      8.11.2.1.1 Name change;
      8.11.2.1.2 Address change; or
      8.11.2.1.3 Patient ceases to have a debilitating medical condition.

   b. 8.11.2.2 Registered primary caregiver status change:

      8.11.2.2.1 Name change;
      8.11.2.2.2 Address change;

   a. 8.11.2.3 A registered primary caregiver must notify the Department within 10 days of a change in patient designation. A qualifying patient no longer designates the primary caregiver unless the caregiver has registered with a $1500 annual fee for up to five patients and a new patient designates the primary caregiver within ten days of the rescinded patient designation; or

      8.11.2.3.1 A new patient has designated the primary caregiver unless the caregiver has registered with a $1500 annual fee for up to five patients.

   b. 8.11.2.3 Dispensary’s principal officer, board member or employee status change:

      8.11.2.3.1 Registered dispensaries must notify the department each time a principal officer, board member or employee ceases to work or be affiliated with the registered dispensary.
8.11.3 New card issued: change in status. The department shall issue the new registry identification card with a new random identification number within 10 days of receiving the changed status information and the reissuing fee (Section 7). See 22 M.R.S.A. §2425 (6)(D).

K. 8.11.4 Surrender old card or new card voided. The registry identification card with outdated information must be surrendered by returning it to the Department. It must be received by mailed or delivered to the Department within ten (10) business days of the person’s receipt of the new registry identification card. Failure to timely surrender the superseded card to the Department may result in the Department voiding the newly issued card.
Section 9——CONFIDENTIALITY

9.1 Patients: applications and supporting information. Applications and supporting information submitted by qualifying and registered patients under these rules, including information regarding their primary caregivers and physicians are confidential.

9.2 Primary caregivers and physicians: applications and supporting information. Applications and supporting information submitted by primary caregivers and physicians operating in compliance with these rules are confidential.

9.3 List of cardholders. The department shall maintain a confidential list of the persons to whom the department has issued registry identification cards.

9.3.1 Individual names and other identifying information on the list are confidential, exempt from the freedom of access laws, 1 M.R.S.A. Chapter 13, and not subject to disclosure except as provided in these rules and to authorized employees of the department as necessary to perform official duties of the department.

9.4 Verification of authenticity of card to law enforcement. The department shall verify to law enforcement personnel whether a registry identification card is valid without disclosing more information than is reasonably necessary to verify the authenticity of the registry identification card.

9.5 Dispensaries: applications and other information. Applications, supporting information and other information regarding a registered dispensary are not confidential except that information that is contained within dispensary information that identifies a qualifying patient, the patient’s physician and the patient’s primary caregivers is confidential.

9.6 Department records. Records maintained by the department pursuant to these rules that identify applicants for a registry identification card, registered patients, registered primary caregivers, and registered patient’s physicians are confidential and may not be disclosed except:

9.6.1 To department employees who are responsible for carrying out these rules;

9.6.2 Pursuant to a court order or subpoena issued by a court;

9.6.3 With the written permission of the patient or the registered patient’s legal guardian, or a parent or person with legal custody if the patient has not attained 18 years of age;

9.6.4 As permitted or required for the disclosure of health care information pursuant to 22 Maine Revised Statutes, section 1711-C;
9.6.5 To a law enforcement official for verification purposes. The records may not be disclosed further than necessary to achieve the limited goals of a specific investigation; and

9.6.6 To a registered patient’s treating physician and to a registered patient’s primary caregiver for the purpose of carrying out these rules.

9.7 Not prohibited: physician notification of department. These rules do not prohibit a physician from notifying the department if the physician acquires information indicating that a registered patient is no longer eligible to use marijuana for medical purposes or that a registered patient falsified information that was the basis of the physician’s certification of eligibility for the medical use of marijuana.

9.8 Not prohibited: disclosure to state agencies. The department may disclose to an agency of State Government designated by the commissioner and employees of that agency any information necessary to produce registry identification cards or manage the identification card program and may disclose data for statistical or research purposes in such a manner that individuals cannot be identified.

9.9 Hearing records. The hearing, the hearing record, and the hearing decision concerning the revocation of a registry identification card are confidential. See 22 M.R.S.A. §2425(8).
A. **Compliance and enforcement.** Compliance and enforcement are governed by this rule and the statute. An individual who engages in conduct authorized by this rule is subject to a review conducted by the Department to assess regulatory compliance. Submission of an application for a registry identification card constitutes permission for a criminal history record check and on-site assessments which may include inspections. Any patient, primary caregiver or cardholder must comply with the Department’s request for evidence of authorized conduct and to inspect the premises and records, as appropriate, to assess compliance with this rule and the statute. Failure to comply with provisions of statute and rule may result in remedial action up to, and including, suspension, revocation and denial of a registry identification card or registration certificate; civil penalties; and referral to law enforcement.

1. **Notice.** No prior notice is required for the Department to initiate an on-site assessment following a report of alleged violation of the statute or this rule, except that the Department shall provide a notice of at least 24 hours prior to conducting an inspection of a person’s residence. Prior to entry, the reason for the on-site assessment must be provided in standard written form to the subject of the review.

2. **Preservation during on-site assessment.** The Department shall take measures to reduce potential disruption and contamination to the cultivation area during an inspection. Entry may not be denied when reasonable steps are being taken to safeguard privacy protections and preserve status of operations.

3. **Evidence of compliance.** The Department may take samples, photographs or electronic copies for the purpose of obtaining evidence of non-compliance with this rule and the statute. Images obtained during an on-site assessment will be stored securely on a device issued by the Department. Confidential information may not be released except as provided by §2425(8). The Department shall provide a receipt for samples collected for evidence purposes.

B. **Allegations of non-compliance.** The Department, upon receipt of a report alleging violation of this rule or the statute, shall respond to such allegations of non-compliance in the following way to ensure compliance with this rule and the statute.

1. **Department response to allegations of unauthorized conduct.** Responses to reports alleging unauthorized conduct are determined by the Department and may include the following: an on-site assessment which may include an interview, a paper review, and an inspection; suspension or revocation of a registry identification card or certificate; and referral to the appropriate agency.
department or entity when the allegation or reported conduct is not within the scope of the MMMP.

a. **Documentation of report.** The Department shall document reported allegations of non-compliance. Documentation shall include the following:

i. Date of the report of alleged violation;

ii. The identity of the subject of the report;

iii. The related provision of rule or statute; and

iv. The Department’s response.

b. **Disclosure of report.** Upon request by the person against whom a report of alleged non-compliance has been filed with the MMMP, the Department shall disclose the nature of the alleged violation without directly or indirectly identifying the reporter.

2. **Notice of non-compliance.** Unless otherwise stated in statute, when the Department determines that the conduct violates this rule or the statute, the Department shall issue a notice of non-compliance prior to revocation of authorized conduct. A notice of non-compliance issued by the Department shall be sent to the person’s last known address and include the following:

a. The reason for the on-site assessment;

b. The inspection date, if applicable;

c. The statute or rule violation(s) determined by the Department; and

d. Action taken by the Department.

3. **Plan of correction.** If a plan of correction is requested by the Department, the plan must be sent within five days of receipt of the notice of non-compliance. The Department shall provide notice of approval or denial of the plan of correction within three business days of receipt. The Department may issue a directed plan of correction if the Department does not receive a timely, acceptable corrective action plan. Failure to submit a timely plan of correction or to comply with the approved plan of correction may result in further enforcement action by the Department up to and including revocation. The plan of correction must include the following:

a. Action steps to correct any finding or violation noted by the Department in the notice of non-compliance;
b. Specific deadlines for each corrective action step; and

c. Steps to reduce potential future violation.

C. **10.14 Court ordered fines.** The Department may seek a court order imposing fines in accordance with this rule and the statute.

D. **10.1 Denial of application or renewal for a registry identification card.** The Department may deny an application or renewal. The effective date of denial of an application or request for renewal for a registry identification card is the date shown on the Department’s written notice that is sent certified mail to the applicant’s or cardholder’s last known address. The notice issued by the Department will include the date of receipt of the application or request for renewal and reason for denial. When a request for renewal is denied, the registry identification card is void. The department may deny an application for a registry identification card based on the following:

10.1.1 The applicant’s failure to comply with the application requirements set out in these rules, including the applicant’s failure to provide the required information.

10.1.2 The department’s determination that the information provided was materially inaccurate or incomplete.

10.2 Denial of renewal. The effective date of denial of a request for renewal of a registry identification card is the date shown on the department’s written notice to the cardholder’s last known address. The department may deny a cardholder’s request for renewal of his or her registry identification card based on the following:

10.2.1 The cardholder’s failure to comply with the renewal requirements set out in these rules, including the cardholder’s failure to provide the required information.

10.2.2 The department’s determination that the information provided was materially inaccurate or incomplete.

1. **10.3.1 Reapplication for a registry identification card.** When an application or renewal has been denied, the person may reapply for a registry identification card. The person must demonstrate compliance with these rules, this rule and the statute, including those provisions that were the basis for the denial, and submit a completed Caregiver Application or Employee/Board Member/Principal Officer Application department-approved form, all required documentation and required fees.

**REVOCATION OF CARD**
Rules Governing the Maine Medical Use of Marijuana Program

Section 10. Enforcement  

Page 10-86

10-144 Chapter 122

E. **10.4 Revocation of registry identification card.** The Department may revoke a registry identification card. **10.4.1 Effective date of revocation.** The effective date of revocation of a registry identification card is three days after the date shown on the Department’s written notice that is sent certified mail to the cardholder’s last known address. A revoked registry identification card is void.

1. **10.4.2 Revoked card: no dispensary employment or affiliation.** A principal officer, board member, or employee of a registered dispensary whose card has been revoked by the Department is disqualified from serving as a principal officer, board member, or employee of a registered dispensary.

F. **10.5 Grounds for revocation of registry identification card.** Grounds for revocation of a registry identification card are governed by this rule and the statute and include, but are not limited to, the following:

1. **10.5.1 The cardholder is convicted of selling, furnishing, or giving marijuana to a person who is not allowed to possess marijuana for medical purposes in accordance with these rules.** The Department determines the cardholder is non-compliant with this rule or the statute.

2. **10.5.2 A registered caregiver, or a registered dispensary.** The cardholder is convicted of a disqualifying drug offense.

3. **10.5.3 A primary caregiver, or staff of a hospice provider or nursing facility named as a primary caregiver, or a dispensary cardholder.** The cardholder knowingly violates the confidentiality of information protected by these rules.

4. **10.5.4 A registered dispensary cardholder is convicted of dispensing, delivering, or otherwise transferring marijuana to a person other than a registered patient who has designated the dispensary to cultivate marijuana; or a registered dispensary cardholder is convicted of dispensing, delivering, or otherwise transferring marijuana to a person other than a patient’s registered primary caregiver.** 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.

5. **10.5.5 The cardholder no longer lives in Maine and the card is not surrendered to the Department.** For the purposes of these rules, “living in Maine” means having a physical home address in Maine and living, in the aggregate, more than 183 days of the calendar year in Maine.

6. Failure to pay required State and local taxes.
7. 10.5.6  A cardholder who 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. See 22 M.R.S.A. §2426(3-A).

8. 10.5.7  A cardholder has repeat forfeiture of excess marijuana. See 22 M.R.S.A. §2423-E(7).

9. A cardholder fails to comply with the plan of correction.

VOIDING REGISTRY IDENTIFICATION CARD

G. 10.9 Failure to surrender a void registry identification card. A void registry identification card that is not surrendered to the Department is inactive and no longer valid.

H. 10.10 Grounds for voiding a registry identification card and authorized conduct. The registry identification card is voided by the Department when any of the following occurs:

1. 10.10.1  A new card is issued to a dispensary cardholder based on a change in status, and the superseded card is not surrendered to the Department.

2. 10.10.2  A person is no longer employed by or affiliated with a dispensary, a registered primary caregiver or facility including a hospice provider or nursing facility and the card is not surrendered to the Department.

3. 10.10.3  A person within 12 months has confirmed positive results from two lawfully administered substance abuse tests and the card is not surrendered to the Department.

4. 10.10.4  A patient’s certifying physician notifies the Department in writing that the registered qualifying patient has ceased to suffer from a debilitating medical condition, and the card is not surrendered to the Department.

5. A request for registry identification card renewal is denied, and the card is not surrendered to the Department.

6. A revoked registry identification card is not surrendered to the Department.

I. 10.11 Date card is void. The registry identification card is void ten days after the date shown on the Department’s written notice that is sent certified mail to the last known address of the cardholder and the dispensary, if applicable.

REVOCATION OF DISPENSARY CERTIFICATE OF REGISTRATION
J. **10.6 Revocation** Termination of dispensary registration certificate. The termination of a dispensary registration certificate is governed by this rule and the statute. The Department may seek a district court order revoking terminating a dispensary’s certificate of registration certificate.

1. **10.6.1** The date of the revocation termination is the date designated in the court order or the date appeal rights are exhausted, whichever is later.

K. **10.7 Grounds for revocation** termination of dispensary registration certificate. Grounds for revocation termination of a dispensary’s certificate of registration certificate include the following:

1. **10.7.1** Failure to cooperate with required inspections.

2. **10.7.2** Violations of any of these rules, the statute or dispensary policies and procedures that govern the operation of a dispensary.

3. **10.7.3** Committing, permitting, aiding or abetting any illegal practices in the operation of the dispensary.

4. **10.7.4** Conduct or practices that are detrimental to the safety and welfare of registered qualifying patients or registered primary caregivers.

5. **10.7.5** Providing information that is materially inaccurate or incomplete; and

6. **10.7.6** Failure to pay required State and local taxes.

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EMERGENCY SUSPENSION OF DISPENSARY CERTIFICATE

L. **10.8 Emergency suspension of dispensary registration certificate.** The Department may suspend a dispensary’s certificate of registration on an emergency basis for up to 30 days, based upon a threat to the health or physical safety of a person.

1. **10.8.1 Department notice.** The Department notice of an emergency suspension of the dispensary’s registration certificate shall include the following information:

   a. **10.8.1.1** The grounds for the emergency suspension;

   b. **10.8.1.2** The length of the emergency suspension;

   c. **10.8.1.3** Whether the Department intends to seek a district court order revoking the dispensary’s registration certificate, and

   d. **10.8.1.4** Any other relevant information.

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NOTICE OF DEPARTMENT ACTION
M. **Notice of Department action.** Prior to taking action against persons authorized conduct under this rule and the statute, including patients, primary caregivers, cardholders or dispensaries, unless stated otherwise, the Department shall issue a written notice that includes the following information:

1. **Nature of violation**
   - Statement of Deficiency. The description and nature of the violation and the rules or statute violated.

2. **Effective date.** The date that the Department’s action takes effect.

3. **Right to appeal.** The right to appeal the Department’s action, if applicable.

O. **Receipt of Written Notice.** A person is deemed to have received written Department notification on the earliest of the following dates:

1. The date the person receives the notice as evidenced by a signed return receipt for the certified mail;
2. The date the person refuses delivery of certified mail, or the date that the United States Postal Service returns the certified mail as unclaimed, as evidenced by a notation by the United States Postal Service on or accompanying the mail; or

3. The date that is three calendar days after the date the Department sends the notice mailed by certified mail to the person’s last known address, if the United States Postal Service does not return the mail to the Department as undeliverable.

FINES

10.14 Court ordered fines. The department may seek a court order imposing the following fines:

10.14.1 Failure to notify department of status change. Registered patients and registered primary caregivers who fail to notify the department when there is a status change commit a civil violation for which a fine of not more than $150 may be adjudged.

10.14.2 Violation of confidentiality. Subject to the provisions in Section 9 of these rules, a person who knowingly violates the confidentiality of information protected by these rules commits a civil violation for which a fine of up to $1,000 may be imposed.

10.14.2.1 Exception. Section 10.14.2 of the rules does not apply to a physician, or staff of a hospice provider or nursing facility named as a primary caregiver or any other person directly associated with a physician or a hospice provider or nursing facility that provides services to a registered patient.

10.14.3 Dispensary employment or affiliation after conviction. A person who is employed by or is a principal officer or board member of a dispensary after that person has been convicted of a disqualifying drug offense commits a civil violation for which a fine of not more than $1,000 may be adjudged.

CLASS D CRIME

10.15 Repeat convictions: Class D crime. A person who is employed by or is a principal officer or board member of a dispensary in violation of Section 10.14.3 of these rules and who at the time of the violation has been previously convicted of a disqualifying drug offense, commits a Class D crime.
SECTION 11.
INPATIENT HOSPICE AND NURSING FACILITIES

A. A qualifying patient in a hospice or nursing facility. A qualifying patient while in an inpatient hospice program or a nursing facility may participate in the Maine Medical Use of Marijuana Program in accordance with this rule and the statute. If a qualifying patient is storing marijuana for medical use, the patient must disclose this to the facility.

B. Voluntary participation of facility. Inpatient hospice providers and nursing facilities (the facility) may voluntarily participate in the Maine Medical Use of Marijuana Program, in accordance with this rule and the statute to assist registered qualifying patients who use marijuana for medical purposes. Nothing in this rule compels an inpatient hospice program or nursing facility to permit marijuana for medical use on the facility’s grounds for a qualifying patient.

1. Home hospice programs. Home hospice programs are not subject to Section 11 of these rules. Only inpatient hospice programs are permitted to be a designated MMMP primary caregiver. However, in accordance with Section 5 of these rules, a qualifying patient may designate the individual home hospice employee who provides hospice care to the patient to also be his or her MMMP-designated primary caregiver, if the employer’s policies allow.

2. MMMP participation provisions are separate from licensing provisions. The requirements for MMMP participation are subject to the Maine Medical Use of Marijuana Act, not facility licensing laws.

a. MMMP and licensing documentation kept separate. MMMP documentation shall not be included in the medical record, chart or medication administration record (MAR) that is required under facility licensing laws. A registered qualifying patient’s MMMP record must be maintained at the facility as a separate record and shall include, but is not limited to, the inventory record, documentation of marijuana administration and the relief provided.

3. Facility program registration required. Prior to assisting patients. Prior to assisting a patient residing in the facility, inpatient hospice providers and nursing facilities must submit a Department-approved Primary Caregiver Application form to become a registered primary caregiver in the Maine Medical Use of Marijuana Program. There is no application or renewal fee.
11.3.1 Department determination. The department shall verify the information contained in the facility’s application and shall approve or deny the application within 30 calendar days of the date the department received the completed application with required documents.

11.3.1.1 Expedited determination: hospice. The department shall approve or deny a hospice program’s application within 5 business days of the date the department received the completed application with required documents.

11.3.2 Registration issued. The approved registration shall be issued within 5 business days after the department’s decision.

C. 11.3.3 Designated primary caregiver is the facility. It is the inpatient hospice provider or the nursing facility, not their staff, that is designated a registered primary caregiver and must comply with applicable provisions of these rules and statute.

1. Not required to accept designation as caregiver. An inpatient hospice provider or nursing facility is not required to accept a qualifying patient’s designation as the patient’s primary caregiver. A facility may not assist the patient with the medical use of marijuana, including storage or acquisition, unless designated by the qualifying patient.

D. 11.3.4 Registry identification cards for staff members. Designated inpatient hospice providers and nursing facilities must apply to the MMMP for registry identification cards for each individual staff member they assigned to assist registered qualifying patients. A registry identification card is issued only to a staff person who is at least 21 years of age and not convicted of a disqualifying drug offense. The application process for a registry identification card is set out in Section 8 of these rules this rule and the statute.

E. 11.3.4.1 Criminal background history record check. The designated facility must include the copy of a criminal history record check on each staff member for whom the facility submits an registry identification card application or renewal for a registry identification card. The criminal history record check submitted by the facility must have been secured within the past 12 months. If the facility does not have the required criminal history record for an individual staff member, the facility must pay for and secure a criminal history record check to submit with the application for a registry identification card.

F. 11.3.4.2 Facility registration and staff cards required prior to assisting patients. Prior to assisting qualifying patients, the designated hospice provider or nursing facility must be registered as a primary caregiver and MMMP registry identification cards issued to their facility staff who will assist with the patient’s medical use of marijuana.
11.3.4.3 Keep issued cards locked. The facility must keep the staff registry identification cards in a secure, locked location on the premises at all times except when the staff member is transporting marijuana outside the facility. No staff member should remove his or her registry identification card from the facility, except when the authorized staff member is transporting marijuana outside the facility.

11.4 Marijuana cultivation: not by facility or staff. A hospice provider or a nursing facility that is designated as a primary caregiver by a registered patient and the staff of the provider or facility who assist the registered patient with the medical use of marijuana may not cultivate marijuana for a registered patient.

G. 11.4.1 Registered Qualifying patients in facility may not cultivate. Registered Qualifying patients in a hospice inpatient program or a nursing facility may not elect to cultivate their own marijuana.

H. 11.4.2 Designate a second primary caregiver or dispensary to cultivate. The registered qualifying patient may either designate an individual, who is not a facility staff member, as a second primary caregiver to cultivate marijuana for the patient’s use or the patient may designate a dispensary to cultivate marijuana for medical use.

11.4.3 Only one cultivation source at any time. The registered patient shall designate, on forms approved by the department, only one cultivation source at any time: either a registered dispensary or a primary caregiver designated to cultivate marijuana.

11.4.4 Changing the designated cultivating caregiver or dispensary. The registered patient may change his or her designated registered dispensary or primary caregiver who cultivates marijuana for the patient’s medical use at any time by notifying the registered dispensary or primary caregiver of the change, securing the return of the designation form, and giving the newly designated registered dispensary or primary caregiver a new signed and dated department-approved designation form.

I. 11.5 Marijuana acquisition: from dispensary or cultivating caregiver. A qualifying patient who is in an inpatient hospice program or a nursing facility may acquire marijuana for medical use in accordance with this rule and the statute. The facility shall document acquisition in the patient’s MMMP record.

I. 11.5.1 Dispensary. A designated facility acquires marijuana from a dispensary by either sending a facility staff member with a registry identification card to the dispensary to pick up the marijuana, or the dispensary delivers the marijuana to the facility.
2. **11.5.2 Cultivating caregiver.** If the registered qualifying patient has not designated a dispensary to cultivate, the patient may designate a cultivating primary caregiver to furnish the marijuana to the facility for the patient’s use.

3. **11.5.3 Products containing marijuana must be purchased.** A facility may not make marijuana into products to be ingested. These products must be acquired or purchased from the designated dispensary or the designated cultivating primary caregiver.

4. **11.5.4 Trip tickets.** The facility must retain the marijuana trip ticket from the dispensary or the cultivating caregiver with the stored marijuana.

5. **11.6 Storage of marijuana for medical use.** Registered patients may not keep marijuana in their room or on their person as it is a danger to other residents. The facility must store the marijuana in accordance with the provisions for storing controlled substances. Special storage consideration is required for marijuana and foods that contain this controlled substance marijuana such that access is limited to only the patient and those authorized to assist the patient with the medical use of marijuana.

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

1. **11.7 Inventory control Access to inventory.** When marijuana is removed from the facility’s inventory, the cardholder must document this in the patient’s MMMP record; it must be signed out by two staff persons, one of whom shall be licensed, who have MMMP registry identification cards.

2. **11.7.1 Tools needed.** Unless the dispensary or the cultivating caregiver has provided the marijuana in unit doses, the facility shall need scales and other necessary tools to monitor its marijuana inventory.

3. **11.7.2 Cost of tools.** There is nothing in the rules that prohibit a facility from requiring registered patients to purchase required tools and paraphernalia.

2. **11.7.3 Daily inventory.** Prepared marijuana must be stored in accordance with the provisions for storing controlled substances kept under double lock and inventoried daily by two staff persons, one of whom shall be licensed, who have MMMP registry identification cards.

K. **11.8 Assisting administration of marijuana.** A facility assisting a qualifying patient with the medical use of marijuana shall have protocols in place that are consistent with this rule and the statute to address the storage, inventory monitoring and patient access and use.
When the designated facility administers medical use marijuana for a qualifying patient, the facility is subject to the following provisions.

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

   11.8.1 Patient must have valid card. Facility caregivers may only assist patients who are registered participants of the Maine Medical Use of Marijuana Program and possess a valid registry identification card.

2. **Administration of marijuana in a facility.** Only facility staff members with MMMP registry identification cards, an authorized cardholder may assist a qualifying patient residing in a facility with the medical use of marijuana. The registered patient’s cultivating caregiver may not administer marijuana medication in the facility.

   11.10.1 Dosage and form of marijuana. The registered patient shall let the facility know what dosage gives relief. The lowest dosage possible that gives the registered patient relief is optimal.

   11.10.2 Registered patients may purchase no more than 2 ½ ounces of prepared marijuana during a 15-day period and may possess no more than 2 ½ ounces at any time.

3. **Observation.** The designated facility is required to follow its established protocols for monitoring patient response to any treatment or medication when monitoring the administration of marijuana for medical use and observing the registered qualifying patient’s response to the administration of marijuana. Forms to document the strain, dosage, and relief may be obtained from the registered dispensary and used to assist in monitoring. See Section 6.9.5 of these rules. Patients should be provided a private place to administer the marijuana.

4. **Disposal of unused marijuana.** The designated facility must comply with Section 2.52.8 of these rules, this rule and the statute regarding the disposal of unused medical use marijuana.

5. **Facility smoking policy.** Patients who smoke marijuana are subject to the same facility policies as patients who smoke tobacco. The facility may encourage registered patients that the use of alternative forms of marijuana administration may be preferable. 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.
L. **11.9 Confidentiality.** The fact that a patient is participating in the Maine Medical Use of Marijuana Program is highly confidential and each facility serving MMMP patients must develop “need to know” protocols.

M. **11.12 Discharge from facility.** A resident may not be discharged solely because the patient participates in the Maine Medical Use of Marijuana Program.

N. **11.14 Protected conduct: hospice providers, nursing facilities, and staff.** The protections and requirements of these rules are for conduct that is expressly authorized for hospice providers, nursing facilities and their staff that provide care for a registered qualifying patient in accordance with these rules.
Statutory Authority
22 M.R.S.A. Chapter 558-C
22 M.R.S.A. §42
22-A M.R.S.A. §205

History

In November 2009, voters approved an initiated bill that changed Maine’s medical use of marijuana laws (IB 2009, c.1, §5). See 22 M.R.S.A. Chapter 558-C.

The Maine Legislature amended the initiated bill. See Public Law 2009, Chapter 631 (Emergency Preamble) that took effect April 9, 2010.

Emergency Rules (filing 2010-174) took effect May 5, 2010 for 90 days.

ADOPTED
(NEW) 10-144 C.M.R. Chapter 122, Rules Governing the Maine Medical Use of Marijuana Program:

EFFECTIVE DATE:
August 4, 2010 – filing 2010-317

AMENDED:
December 31, 2012 – filing 2012-353
June 19, 2013 – 2.7.1.2 added, 2.7.4.2 removed, filing 2013-142 (Emergency)

AMENDED: (limited use of pesticides)
September 17, 2013 – filing 2013-221

AMENDED: