

Maine Revised Statutes

Title 22: HEALTH AND WELFARE

Subtitle 2: HEALTH

Part 5: FOODS AND DRUGS

Chapter 558-C: MAINE MEDICAL USE OF MARIJUANA ACT

§2423-E. Requirements

1. Rights of persons or entities acting pursuant to this chapter. A person whose conduct is authorized under this chapter 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 this chapter.

[2011, c. 407, Pt. B, §20 (AMD) .]

1-A. Legal protection for hospitals. The immunity provisions in this subsection apply to a hospital licensed under chapter 405 and to principal officers, board members, agents and employees of the hospital. Any immunity provision in this chapter in conflict with this subsection does not apply to a hospital. The legal protection for hospitals applies in accordance with the following.

A. If the use of forms of prepared marijuana that are not smoked or vaporized, including but not limited to edible marijuana and tinctures and salves of marijuana, by admitted patients who have been certified under section 2423-B occurs in a hospital, that hospital is not subject to prosecution, search, seizure or penalty in any manner, including but not limited to a civil penalty or disciplinary action by an occupational or professional licensing board or entity, and may not be denied any license, registration, right or privilege solely because the admitted patient lawfully engages in conduct involving the medical use of marijuana authorized under this chapter. [2015, c. 475, §16 (NEW) .]

B. A principal officer, board member or employee of a hospital where the use of forms of prepared marijuana that are not smoked or vaporized, including but not limited to edible marijuana and tinctures and salves of marijuana, by admitted patients who have been certified under section 2423-B occurs 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 an occupational or professional licensing board or entity, and may not be denied any license, registration, right or privilege solely because the admitted patient lawfully engages in conduct involving the medical use of marijuana authorized under this chapter. [2015, c. 475, §16 (NEW) .]

[2015, c. 475, §16 (NEW) .]

2. 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. This subsection 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. 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.

[2011, c. 407, Pt. B, §20 (AMD) .]

3. 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 this chapter, unless the person's conduct is contrary to the best interests of the minor child as set out in Title 19-A, section 1653, subsection 3.

[2009, c. 631, §25 (NEW); 2009, c. 631, §51 (AFF) .]

4. 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, marijuana testing facility or registered dispensary as authorized by this chapter. A law enforcement officer in possession of marijuana in violation of this subsection must return the marijuana within 7 days after receiving a written request for return by the owner of the marijuana. Notwithstanding the provisions of Title 14, chapter 741, if the law enforcement officer fails to return marijuana possessed in violation of this subsection within 7 days of receiving a written request for return of the marijuana under this subsection, 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.

[2015, c. 475, §17 (AMD) .]

5. Requirements for protection. To receive protection under this section for conduct authorized under this chapter, a person must:

A. If the person is a qualifying patient, present upon request of a law enforcement officer the original written certification for the patient and the patient's driver's license as described under Title 29-A, section 1401 or a nondriver identification card as described under Title 29-A, section 1410 or, if the person is a visiting patient under section 2423-D, the equivalent proof of identity from the visiting patient's state of residence; and [2011, c. 407, Pt. B, §20 (NEW).]

B. If the person is a primary caregiver, present upon request of a law enforcement officer the original written document designating the person as a primary caregiver by the qualifying patient under section 2423-A, subsection 1, paragraph E or F and the primary caregiver's driver's license described under Title 29-A, section 1401 or a nondriver identification card as described under Title 29-A, section 1410. [2011, c. 407, Pt. B, §20 (NEW) .]

[2011, c. 407, Pt. B, §20 (NEW) .]

6. Excess marijuana; forfeiture. A person who possesses marijuana in excess of the limits provided in section 2423-A and rules adopted under that section must forfeit the excess amounts to a law enforcement officer. The law enforcement officer is authorized to remove all excess marijuana seedlings, marijuana plants and prepared marijuana in order to catalog the amount of excess marijuana. Possession of marijuana in excess of the limits provided in section 2423-A and rules adopted under that section is a violation as follows:

A. Possession of prepared marijuana in an excess amount up to 2 1/2 ounces is a violation of section 2383; and [2011, c. 407, Pt. B, §20 (NEW).]

B. Possession of marijuana in an excess amount over 2 1/2 ounces is a violation of Title 17-A, chapter 45. [2011, c. 407, Pt. B, §20 (NEW).]

[2011, c. 407, Pt. B, §20 (NEW) .]

7. Repeat forfeiture. If a cardholder has previously forfeited excess marijuana pursuant to subsection 6 and a subsequent forfeiture occurs, the department shall revoke the registry identification card of the cardholder and the entire amount of marijuana seedlings, marijuana plants and prepared marijuana must be forfeited to a law

enforcement officer. The department shall adopt rules to implement this subsection. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[2011, c. 407, Pt. B, §20 (NEW) .]

8. Defense for possession of excess marijuana. Except as provided in section 2426, a qualifying patient may assert the medical purpose for using marijuana as a defense to any prosecution involving marijuana possession and may present evidence in court that the patient's necessary medical use or cultivation circumstances warranted exceeding the amount of marijuana allowed under section 2423-A and 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.

[2011, c. 407, Pt. B, §20 (NEW) .]

9. Labels. If a registered primary caregiver affixes a label on the packaging of any marijuana or product containing marijuana provided to a qualifying patient and that label includes information about contaminants, the cannabinoid profile or potency of the marijuana or product containing marijuana, the label must be verified by a marijuana testing facility that is not owned by the caregiver if there is a marijuana testing facility licensed, certified or approved in accordance with this chapter.

[2015, c. 475, §18 (NEW) .]

10. Receiving an anatomical gift. In reviewing a qualifying patient's suitability for receiving an anatomical gift, a transplant evaluator shall treat the qualifying patient's medical use of marijuana as the equivalent of the authorized use of any other medications used at the direction of a medical provider. A transplant evaluator may determine a qualifying patient to be unsuitable to receive an anatomical gift if the qualifying patient does not limit the qualifying patient's medical use of marijuana to the use of forms of prepared marijuana that are not smoked or vaporized, including, but not limited to, edible marijuana and tinctures and salves of marijuana. A transplant evaluator may require medical marijuana used by a qualifying patient to be tested for fungal contamination by a marijuana testing facility. For purposes of this subsection, "transplant evaluator" means a person responsible for determining another person's suitability for receiving an anatomical gift. For the purposes of this subsection, "anatomical gift" has the same meaning as in section 2942, subsection 2.

[2017, c. 252, §1 (NEW) .]

SECTION HISTORY

2009, c. 631, §25 (NEW). 2009, c. 631, §51 (AFF). 2011, c. 407, Pt. B, §20 (AMD). 2015, c. 475, §§16-18 (AMD). 2017, c. 252, §1 (AMD).

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