SENATE DOCKET, NO. 678 FILED ON: 1/20/2011

# SENATE . . . . . No. 1161

## The Commonwealth of Massachusetts

PRESENTED BY:

***Stanley C. Rosenberg***

*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying:

An Act to regulate the medical use of marijuana by patients approved by physicians and certified by the department of public health.

PETITION OF:

| NAME: | DISTRICT/ADDRESS: |
|---|---|
| *Stanley C. Rosenberg* | *Hampshire and Franklin* |
| *John W. Scibak* | *2nd Hampshire* |
| *Cory Atkins* | *14th Middlesex* |
| *James B. Eldridge* | ☐ *[District]* ☐ |
| *Richard J. Ross* | *Norfolk, Bristol, and Middlesex* |
| *Cynthia S. Creem* | ☐ *[District]* ☐ |
| *Bradford Hill* | *4th Essex* |
| *Patricia D. Jehlen* | ☐ *[District]* ☐ |

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# SENATE . . . . . No. 1161

By Mr. Rosenberg, petition (accompanied by bill, Senate, No. 1161) of Hill, Creem, Ross and other members of the General Court for legislation to regulate the medical use of marijuana by patients approved by physicians and certified by the department of public health [Joint Committee on Public Health].

## The Commonwealth of Massachusetts

An Act to regulate the medical use of marijuana by patients approved by physicians and certified by the department of public health.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

Chapter 94 of the Massachusetts General Law is hereby amended by inserting the following as Chapter 94G:

Section 1. Short Title; Purpose.

Section 1. Sections 1 to 10, inclusive, shall be known, and may be cited, as "The Massachusetts Medical Marijuana Act." It is the purpose of this act to protect patients with debilitating medical conditions, as well as their practitioners and designated caregivers, from arrest and prosecution, criminal and other penalties, and property forfeiture if such patients engage in the medical use of marijuana.

Section 2. Definitions.

Section 2. As used in this chapter, the following words shall, unless the context clearly requires

otherwise, have the following meanings:

(a) "Cardholder" means a qualifying patient, a primary caregiver, or a principal officer,

board member, employee, volunteer, or agent of a medical treatment center who has been issued and possesses a valid registry identification card.

(b) "Medical treatment center" means a not-for-profit entity registered under Chapter 94G Section 6 that acquires, possesses, cultivates, manufactures, delivers, transfers,

19 transports, supplies, sells, and/or dispenses marijuana and/or related supplies and educational
20 materials to registered qualifying patients and their registered primary caregivers who have
21 designated it as one of the patient's registered medical treatment centers.

22 (c) "Debilitating medical condition" means one or more of the following:

23 (1) Cancer, glaucoma, positive status for human immunodeficiency
24 virus, acquired immune deficiency syndrome, hepatitis C, amyotrophic lateral sclerosis, Crohn's
25 disease, agitation of Alzheimer's disease, nail patella syndrome, post traumatic stress disorder, or
26 the treatment of these conditions;

27 (2) A chronic or debilitating disease or medical condition or its
28 treatment that produces one or more of the following: cachexia or wasting syndrome; severe
29 pain; severe nausea; seizures, including but not limited to, those characteristic of epilepsy; or
30 severe and persistent muscle spasms, including but not limited to, those characteristic of multiple
31 sclerosis, ; or

32 (3) Any other medical condition or its treatment approved by the
33 department, as provided for in Chapter 94G Section 4.

34 (d) "Department" means the Massachusetts Department of Public Health or its
35 successor agency.

36 (e) "Enclosed, locked facility" means a closet, room, greenhouse, or other
37 enclosed area equipped with locks or other security devices that permit access only by a
38 cardholder.

39 (f) "Marijuana" has the meaning given the term "marihuana" in Chapter 94C
40 Section 1.

41 (g) "Medical use" means the acquisition, possession, cultivation, manufacture,
42 use, delivery, transfer, or transportation of marijuana or paraphernalia relating to the
43 consumption of marijuana to alleviate the symptoms or effects of a registered qualifying patient's
44 debilitating medical condition.

45 (h) "Practitioner" means a person who is licensed with authority to prescribe
46 drugs pursuant to Chapter 94C Section 18.

47 (i) "Primary caregiver" means a natural person who is at least eighteen (18)
48 years old who has agreed to assist with a person's medical use of marijuana and who does not
49 have a felony drug conviction. An employee of a hospice provider or nursing facility providing
50 care to an eligible patient may be substituted for a primary caregiver. A primary caregiver may
51 assist no more than five (5) qualifying patients with their medical use of marijuana.

52 (j) "Qualifying patient" means a person who has been diagnosed by a licensed
53 physician as having a debilitating medical condition.

54 (k) "Usable marijuana" means the dried leaves and flowers of marijuana, and
55 any mixture or preparation thereof, and does not include the seeds, stalks, and roots of the plant.

56 (l) “Visiting qualifying patient” means a person with a debilitating medical
57 condition that is currently participating in another state’s medical marijuana program, is in
58 possession of a valid out-of-state identification card or its equivalent, and has resided in
59 Massachusetts for less than 30 days.

60 (m) "Written certification" means a document signed by a practitioner, stating
61 that in the practitioner's professional opinion the potential benefits of the medical use of
62 marijuana would likely outweigh the health risks for the qualifying patient. A written
63 certification shall be made only in the course of a bona fide practitioner-patient relationship after
64 the practitioner has completed a full assessment of the qualifying patient's medical history. The
65 written certification shall specify the qualifying patient's debilitating medical condition or
66 conditions.

67 Section 3. Protections for the medical use of marijuana.

68 Section 3. (a) A qualifying patient who has in his or her possession a registry
69 identification card shall not be subject to arrest, prosecution, or penalty in any manner, or denied
70 any right or privilege, including but not limited to, civil penalty or disciplinary action by a
71 business or occupational or professional licensing board or bureau, for the medical use of
72 marijuana; provided, that the qualifying patient possesses an amount of marijuana that does not
73 exceed twenty-four (24) marijuana plants, including seedlings and mature plants, and four (4)
74 ounces of usable marijuana. Said plants shall be stored in an enclosed, locked facility.

75 (b) No school, employer or landlord may refuse to enroll, employ or lease to or
76 otherwise penalize a person solely for his or her status as a registered qualifying patient or a
77 registered primary caregiver.

78 (c) A primary caregiver, who has in his or her possession, a registry
79 identification card shall not be subject to arrest, prosecution, or penalty in any manner, or denied
80 any right or privilege, including but not limited to, civil penalty or disciplinary action by a
81 business or occupational or professional licensing board or bureau, for assisting a qualifying
82 patient to whom he or she is connected through the department's registration process with the
83 medical use of marijuana; provided, that the primary caregiver possesses an amount of marijuana
84 which does not exceed twenty-four (24) marijuana plants and four (4) ounces of usable
85 marijuana for each qualifying patient to whom he or she is connected through the department's
86 registration process.

87 (d) There shall exist a presumption that a qualifying patient or primary
88 caregiver is engaged in the medical use of marijuana in accordance with this act if the qualifying
89 patient or primary caregiver:

90 (1) Is in possession of a registry identification card; and

91 (2) Is in possession of an amount of marijuana that does not exceed
92 the amount permitted under this chapter. Such presumption may be rebutted by evidence that
93 conduct related to marijuana was not for the purpose of alleviating the qualifying patient's
94 debilitating medical condition or symptoms associated with the medical condition.

95 (e) A primary caregiver may receive reimbursement for costs associated with
96 assisting a registered qualifying patient's medical use of marijuana. Compensation shall not
97 constitute sale of controlled substances.

98 (f) A practitioner shall not be subject to arrest, prosecution, or penalty in any
99 manner, or denied any right or privilege, including, but not limited to, civil penalty or
100 disciplinary action by the Massachusetts Board of Registration in Medicine or by any another
101 business or occupational or professional licensing board or bureau solely for providing written
102 certifications or for otherwise stating that, in the practitioner's professional opinion, the potential
103 benefits of the medical marijuana would likely outweigh the health risks for a patient.

104 (g) Any marijuana, marijuana paraphernalia, interest in or right to property that
105 is possessed, owned, or used in connection with the medical use of marijuana as allowed under
106 this act, or acts incidental to such use, shall not be seized or forfeited.

107 (h) No person shall be subject to arrest or prosecution for constructive possession,
108 conspiracy, aiding and abetting, being an accessory, or any other offense for simply being in the
109 presence or vicinity of the medical use of marijuana as permitted under this chapter or for
110 assisting a registered qualifying patient with using or administering marijuana.

111 (i) A practitioner, nurse or pharmacist shall not be subject to arrest, prosecution
112 or penalty in any manner, or denied any right or privilege, including, but not limited to, civil
113 penalty or disciplinary action by a business or occupational or professional licensing board or
114 bureau, solely for discussing the benefits or health risks of medical marijuana or its interaction
115 with other substances with a patient.

116 (j) Except as provided in this paragraph, a registry identification card or its
117 equivalent issued under the laws of another U.S. state, U.S. territory, or the District of Columbia
118 to permit the medical use of marijuana shall have the same force and effect as a registry
119 identification card issued by the department, and, for purposes of this Act, entitle a visiting
120 qualify patient to the same rights and protections as a registered qualifying patient residing in
121 Massachusetts. This paragraph shall not apply if the person has been a resident of Massachusetts

122 for 30 days or longer at the time they present their out-of-state identification card or its
123 equivalent.

124 (k) Notwithstanding the provisions of Chapter 94G Section 2(h) or Chapter
125 94G Section 3(c), no primary caregiver shall possess an amount of marijuana in excess of fourty-
126 eight (48) marijuana plants and eight (8) ounces of usable marijuana for qualifying patients to
127 whom he or she is connected through the department's registration process.

128 (l) A registered cardholder or visiting qualifying patient may give marijuana to
129 another cardholder or a medical treatment center to whom they are not connected by the
130 department's registration process, provided that no consideration is paid for the marijuana, and
131 that the recipient does not exceed the limits specified in Chapter 94G Section 3(a).

132 (m) For the purposes of medical care, including organ and tissue transplants, a
133 registered qualifying patient's authorized use of marijuana shall be considered the equivalent of
134 the authorized use of any other medication used at the direction of a physician, and shall not
135 constitute the use of an illicit substance.

136 Section 4. Department to issue regulations.

137 Section 4. (a) Not later than ninety (90) days after the effective date of this
138 chapter, the department shall promulgate regulations governing the manner in which it shall
139 consider petitions from the public to add debilitating medical conditions to those set forth in
140 Chapter 94G Section 2(a). In considering such petitions, the department shall include public
141 notice of, and an opportunity to comment in a public hearing, upon such petitions. The
142 department shall, after hearing, approve or deny such petitions within one hundred eighty (180)
143 days of submission. The approval or denial of such a petition shall be considered a final
144 department action, subject to judicial review. Jurisdiction and venue for judicial review are
145 vested in the superior court. The denial of a petition shall not disqualify qualifying patients with
146 that condition, if they have a chronic or debilitating medical condition.

147 The denial of a petition shall not prevent a person with the denied condition from raising
148 an affirmative defense.

149 (b) Not later than ninety (90) days after the effective date of this chapter, the
150 department shall promulgate regulations governing the manner in which it shall consider
151 applications for and renewals of registry identification cards for qualifying patients and primary
152 caregivers. The department's regulations shall establish application and renewal fees that
153 generate revenues sufficient to offset all expenses of implementing and administering this
154 chapter. The department may vary or waive the application and renewal fees along a sliding scale
155 that accounts for a qualifying patient's or caregiver's income. The department may accept
156 donations from private sources in order to reduce the application and renewal fees.

157 Section 5. Administration of regulations.

158 Section 5. (a) The department shall issue registry identification cards to
159 qualifying patients who submit the following, in accordance with the department's regulations:

160 (1) Written certification as defined in Chapter 94G subsection 2(m);

161 (2) Application or renewal fee;

162 (3) Name, address, and date of birth of the qualifying patient;
163 provided, however, that if the patient is homeless, no address is required;

164 (4) Name, address, and telephone number of the qualifying patient's
165 practitioner; and

166 (5) Name, address, and date of birth of each primary caregiver of the
167 qualifying patient, if any.

168 (b) The department shall not issue a registry identification card to a qualifying
169 patient under the age of eighteen (18) unless:

170 (1) The qualifying patient's practitioner has explained the potential
171 risks and benefits of the medical use of marijuana to the qualifying patient and to a parent,
172 guardian or person having legal custody of the qualifying patient; and

173 (2) A parent, guardian or person having legal custody consents in
174 writing to:

175 (i) Allow the qualifying patient's medical use of marijuana;

176 (ii) Serve as one of the qualifying patient's primary
177 caregivers; and

178 (iii) Control the acquisition of the marijuana, the dosage,
179 and the frequency of the medical use of marijuana by the qualifying patient.

180 (c) The department shall verify the information contained in an application or
181 renewal submitted pursuant to this section, and shall approve or deny an application or renewal
182 within fifteen (15) days of receiving it. The department may deny an application or renewal only
183 if the applicant did not provide the information required pursuant to this section, or if the
184 department determines that the information provided was falsified. Rejection of an application or
185 renewal is considered a final department action, subject to judicial review. Jurisdiction and venue
186 for judicial review are vested in the superior court.

187 (d) The department shall issue a registry identification card to each primary
188 caregiver, if any, who is named in a qualifying patient's approved application, up to a maximum
189 of two (2) primary caregivers per qualifying patient.

190 (e) The department shall issue registry identification cards within five (5) days
191 of approving an application or renewal, which shall expire two (2) years after the date of
192 issuance. Registry identification cards shall not contain the home address of a qualifying patient
193 or their primary registered caregiver. Registration identification cards shall contain:

194 (1) The date of issuance and expiration date of the registry
195 identification card;

196 (2) A random registry identification number; and

197 (3) A photograph, if the department decides to require one; and

198 (4) Any additional information as required by regulation or the
199 department unless prohibited by Chapter 94G, subsection 5(e).

200 (f) Persons issued registry identification cards shall be subject to the following:

201 (1) A qualifying patient who has been issued a registry identification
202 card shall notify the department of any change in the qualifying patient's name, address, or
203 primary caregiver; or if the qualifying patient ceases to have his or her debilitating medical
204 condition, within ten (10) days of such change.

205 (2) A registered qualifying patient who fails to notify the department
206 of any of these changes is responsible for a civil infraction, punishable by a fine of no more than
207 one hundred fifty dollars ($150). If the person has ceased to suffer from a debilitating medical
208 condition, the card shall be deemed null and void and the person shall be liable for any other
209 penalties that may apply to the person's non-medical use of marijuana.

210 (3) A registered primary caregiver or principal officer, board
211 member, employee, volunteer, or agent of a medical treatment center shall notify the department
212 of any change in his or her name or address within ten (10) days of such change. A primary
213 caregiver or principal officer, board member, employee, volunteer, or agent of a medical
214 treatment center who fails to notify the department of any of these changes is responsible for a
215 civil infraction, punishable by a fine of no more than one hundred fifty dollars ($150).

216 (4) When a qualifying patient or primary caregiver notifies the
217 department of any changes listed in this subsection, the department shall issue the registered
218 qualifying patient and each primary caregiver a new registry identification card within ten (10)
219 days of receiving the updated information and a twenty-five dollar ($25.00) fee. When a
220 principal officer, board member, employee, volunteer, or agent of a medical treatment center

221 notifies the department of any changes listed in this subsection, the department shall issue the
222 cardholder a new registry identification card within ten (10) days of receiving the updated
223 information and a twenty-five dollar ($25.00) fee.

224 (5) When a qualifying patient who possesses a registry identification
225 card changes his or her primary caregiver, the department shall notify the primary caregiver
226 within ten (10) days. The primary caregiver's protections as provided in this chapter shall expire
227 ten (10) days after notification by the department. This expiration does not apply to the primary
228 caregiver's protections stemming from his or her relationships with other patients.

229 (6) If a cardholder loses his or her registry identification card, he or
230 she shall notify the department and submit a twenty-five dollar ($25.00) fee within ten (10) days
231 of losing the card. Within five (5) days, the department shall issue a new registry identification
232 card with new random identification number.

233 (7) If a qualifying patient, primary caregiver, or a principal officer,
234 board member, employee, volunteer, or agent of a medical treatment center willfully violates any
235 provision of this chapter as determined by the department, his or her registry identification card
236 may be revoked.

237 (g) Possession of, or application for, a registry identification card shall not
238 constitute probable cause or reasonable suspicion, nor shall it be used to support the search of the
239 person or property of the person possessing or applying for the registry identification card, or
240 otherwise subject the person or property of the person to inspection by any governmental agency.

241 (h) (1) Applications and supporting information submitted by qualifying
242 patients, including information regarding their primary caregivers and practitioners, are
243 confidential and protected under the federal Health Insurance Portability and Accountability Act
244 of 1996.

245 (2) The department shall maintain a confidential list of the persons to
246 whom the department has issued registry identification cards. Individual names and other
247 identifying information on the list shall be confidential, exempt from the provisions of
248 Massachusetts Public Records Law, M.G.L. Chapter 66, section 10, and not subject to disclosure,
249 except to authorized employees of the department as necessary to perform official duties of the
250 department.

251 (i) The department shall verify to law enforcement personnel whether a registry
252 identification card is valid solely by confirming the random registry identification number.

253 (j) It shall be a crime, punishable by up to one hundred eighty (180) days in jail
254 and a one thousand dollar ($1,000) fine, for any person, including an employee or official of the

255 department or another state agency or local government, to breach the confidentiality of
256 information obtained pursuant to this chapter.

257 Notwithstanding this provision, the department employees may notify law enforcement
258 about falsified or fraudulent information submitted to the department.

259 (k) On or before January 1 of each odd numbered year, the department shall
260 report to the Joint Committee on Public Health, and to the Joint Committee on the Judiciary, on
261 the use of marijuana for symptom relief. The report shall provide:

262 (1) The number of applications for registry identification cards, the
263 number of qualifying patients and primary caregivers approved, the nature of the debilitating
264 medical conditions of the qualifying patients, the number of registry identification cards revoked,
265 and the number of practitioners providing written certification for qualifying patients;

266 (2) An evaluation of the costs, savings, and revenue resulting from
267 permitting the use of marijuana for symptom relief, including any costs to law enforcement
268 agencies and costs of any litigation;

269 (3) Statistics regarding the number of marijuana-related prosecutions
270 against registered patients and caregivers, and an analysis of the facts underlying those
271 prosecutions;

272 (4) Statistics regarding the number of prosecutions against physicians
273 for violations of this chapter; and

274 (5) Whether the United States Food and Drug Administration has
275 altered its position regarding the use of marijuana for medical purposes or has approved
276 alternative delivery systems for marijuana.

277 (m) The application for qualifying patients' registry identification cards shall
278 include a question asking whether the patient would like the department to notify him or her of
279 any clinical studies about marijuana's risk or efficacy. The department shall inform those patients
280 who answer in the affirmative of any such studies it is notified of that will be conducted in
281 Massachusetts. The department may also notify those patients of medical studies conducted
282 outside of Massachusetts.

283 Section 6. Medical treatment centers.

284 Section 6.. (a) A medical treatment center registered under this section may
285 acquire, possess, cultivate, manufacture, deliver, transfer, transport, supply, sell, and/or dispense
286 marijuana, and/or related supplies and educational materials, to registered qualifying patients and
287 their registered primary caregivers who have designated it as one of their medical treatment
288 centers through their application with the department. A patient may designate up to two (2)

289 medical treatment centers that they may access for the purpose of obtaining medical marijuana.
290 A medical treatment center may cultivate and possess whichever of the following quantities is
291 greater: (a) 96 marijuana plants and 32 ounces of useable marijuana; or (b) 24plants and 4 ounces
292 for each registered qualifying patient who has designated the medical treatment center to provide
293 him or her with marijuana for medical use. However, if a registered qualifying patient who
294 designated the medical treatment center ceases to be a registered qualifying patient or ceases to
295 designate the medical treatment center, the medical treatment center shall have 30 days after the
296 notification to lawfully dispose of, destroy or transfer any excess plants or marijuana. A medical
297 treatment center may transfer or sell any excess marijuana to another medical treatment center in
298 accordance with the quantities allowed for in this subsection. A medical treatment center may
299 also possess marijuana seeds, stalks, and unusable roots.

300 (b) Registration of medical treatment centers: department authority.

301 (1) Not later than ninety (90) days after the effective date of this act,
302 the department shall promulgate reasonable regulations governing the manner in which it shall
303 consider applications for registration certificates for medical treatment centers, including
304 regulations governing:

305 (i) The form and content of registration and renewal
306 applications;

307 (ii) Minimum oversight requirements for medical treatment
308 centers;

309 (iii) Minimum record-keeping requirements for medical
310 treatment centers;

311 (iv) Minimum security requirements for medical treatment
312 centers, which shall include that each medical treatment center location must be protected by a
313 fully operational security alarm system; and

314 (v) Procedures for suspending or terminating the
315 registration of medical treatment centers that violate the provisions of this section or the
316 regulations promulgated pursuant to this subsection.

317 (2) The department shall design regulations with the goal of
318 protecting against diversion and theft, without imposing an undue burden on the registered
319 medical treatment centers or compromising the confidentiality of registered qualifying patients
320 and their registered designated caregivers. Any dispensing records that a registered medical
321 treatment center is required to keep shall track transactions according to registered qualifying
322 patients', registered primary caregivers’, and registered medical treatment centers' registry
323 identification numbers, rather than their names, to protect their confidentiality.

324 (3) Within ninety (90) days of the effective date of this act, the
325 department shall begin accepting applications for the operation of up to 19 medical treatment
326 centers.

327 (4) Within one hundred-fifty (150) days of the effective date of this
328 act, the department shall provide for at least one public hearing on the granting of applications to
329 medical treatment centers.

330 (5) Within one hundred-ninety (190) days of the effective date of this
331 act, the department shall grant registration certificates to 19 medical treatment centers, providing
332 at least 19 applicants applied who meet the requirements of this act.

333 (6) Any time a medical treatment center registration certificate is
334 revoked, is relinquished, or expires, the department shall accept applications for a new medical
335 treatment center.

336 (7) If at any time after one year after the effective date of this act
337 fewer than 19 medical treatment centers are holding valid registration certificates in
338 Massachusetts or if at any time the department or legislative oversight committee conclude that
339 the existing medical treatment centers are not sufficient to provide safe access to registered
340 qualifying patients in Massachusetts, the department shall accept applications for enough
341 additional medical treatment centers to serve all qualifying patients.

342 (c) Medical treatment center and agent applications and registration.

343 (1) Each application for a medical treatment center shall include:

344 (i) A non-refundable application fee paid to the department
345 in the amount of two hundred fifty dollars ($250);

346 (ii) The proposed legal name, proposed articles of
347 incorporation, and proposed bylaws of the medical treatment center;

348 (iii) The proposed physical address of the medical
349 treatment center, if a precise address has been determined, or, if not, the general location where it
350 would be located. This may include a second location for the cultivation of medical marijuana;

351 (iv) A description of the enclosed, locked facility that
352 would be used in the cultivation of marijuana;

353 (v) The name, address, and date of birth of each principal
354 officer and board member of the medical treatment center;

355 (vi) Proposed security and safety measures, which shall
356 include at least one security alarm system for each location, planned measures to deter and
357 prevent the unauthorized entrance into areas containing marijuana and the theft of marijuana; and

358 (vii) Proposed procedures to ensure accurate record
359 keeping.

360 (2) Anytime one or more medical treatment center registration
361 applications are being considered, the department shall also allow for comment by the public and
362 shall solicit input from registered qualifying patients, registered primary caregivers, and the
363 towns or cities where the applicants would be located.

364 (3) Each time when a medical treatment center certificate is granted,
365 the decision shall be based on the overall health needs of qualified patients and the safety of the
366 public, including, but not limited to, the following factors:

367 (i) Convenience to patients from throughout the
368 Commonwealth of Massachusetts to medical treatment centers if the applicant were approved;

369 (ii) The applicant's ability to provide a steady supply to the
370 registered qualifying patients in the commonwealth;

371 (iii) The applicant's relevant experience, including any
372 experience running a non-profit or business;

373 (iv) The wishes of qualifying patients regarding which
374 applicant should be granted a registration certificate;

375 (v) The wishes of the city or town where the applicant
376 would be located; and

377 (vi) The sufficiency of the applicant's plans for record
378 keeping, which records shall be considered confidential health care information under
379 Massachusetts law and are intended to be deemed protected health care information for purposes
380 of the federal health insurance portability and accountability act of 1996, as amended; and

381 (vii) The sufficiency of the applicant's plans for safety and
382 security, including proposed location and security devices.

383 (4) After a medical treatment center is approved, but before it begins
384 operations, it shall submit the following to the department:

385 (i) A fee paid to the department in the amount of five
386 thousand dollars ($5,000);

387 (ii) The legal name and articles of incorporation of the
388 medical treatment center;

389 (iii) The physical address of the medical treatment center;
390 this may include a second address for the secure cultivation of marijuana;

391 (iv) The name, address, and date of birth of each principal
392 officer and board member of the medical treatment center;

393 (v) The name, address, and date of birth of any person who
394 will be an agent of or employed by the medical treatment center at its inception.

395 (5) The department shall track the number of registered qualifying
396 patients designated to each medical treatment center, and issue a written statement to the
397 medical treatment center of the number of qualifying patients who have designated the medical
398 treatment center to serve them and each of those qualifying patients' registry identification
399 numbers. This statement shall be updated each time a new registered qualifying patient
400 designates the medical treatment center or ceases to designate the medical treatment center and
401 may be transmitted electronically over an encrypted connection if the department's regulations so
402 provide. The department may provide by regulation that the updated written statements will not
403 be issued more frequently than twice each week.

404 (6) Except as provided in Chapter 94G section 6 (c)(7), the
405 department shall issue each principal officer, board member, agent, volunteer, and employee of a
406 medical treatment center a registry identification card or renewal card within ten (10) days of
407 receipt of the person's name, address, date of birth, and a fee in an amount established by the
408 department. Each card shall specify that the cardholder is a principal officer, board member,
409 agent, volunteer, or employee of a medical treatment center and shall contain the following:

410 (i) The name and date of birth of the principal officer,
411 board member, agent, volunteer, or employee;

412 (ii) The legal name of the medical treatment center to
413 which the principal officer, board member, agent, volunteer, or employee is affiliated;

414 (iii) A random identification number that is unique to the
415 cardholder;

416 (iv) The date of issuance and expiration date of the registry
417 identification card; and

418 (v) A photograph, if the department decides to require one.

419 (7) Except as provided in this subsection, the department shall not
420 issue a registry identification card to any principal officer, board member, agent, volunteer, or

421 employee of a medical treatment center who has been convicted of a felony drug offense. The
422 department may conduct a background check of each principal officer, board member, agent,
423 volunteer, or employee in order to carry out this provision. The department shall notify the
424 medical treatment center in writing of the purpose for denying the registry identification card.
425 The department may grant such person a registry identification card if the department determines
426 that the offense was for conduct that occurred prior to the enactment of this act or that was
427 prosecuted by an authority other than the commonwealth of Massachusetts and for which this act
428 would otherwise have prevented a conviction.

429 (8) A registration identification card of a principal officer, board
430 member, agent, volunteer, or employee shall expire one year after its issuance, or upon the
431 expiration of the registered organization's registration certificate, whichever occurs first.

432 (d) Expiration or termination of medical treatment center registration.

433 (1) A medical treatment center's registration shall expire two (2)
434 years after its registration certificate is issued. The medical treatment center may submit a
435 renewal application beginning sixty (60) days prior to the expiration of its registration certificate.

436 (2) The department shall grant a medical treatment center's renewal
437 application within thirty (30) days of its submission if the following conditions are all satisfied:

438 (i) The medical treatment center submits the materials
439 required under Chapter 94G, Section 6 (c)(4), including a five thousand dollar ($5,000) fee,
440 which shall be refunded within 30 days if the renewal application is rejected;

441 (ii) The department has not ever suspended the medical
442 treatment center's registration for violations of this act or regulations issued pursuant to it;

443 (iii) The legislative oversight committee's report, issued
444 pursuant to Chapter 94G, Section 5 (k), indicates that the medical treatment center is adequately
445 providing patients with access to medical marijuana at reasonable rates; and

446 (iv) The legislative oversight committee's report, issued
447 pursuant to Chapter 94G, Section 5 (k), does not raise serious concerns about the continued
448 operation of the medical treatment center applying for renewal.

449 (3) If the department determines that any of the conditions listed in
450 Chapter 94G, Sections 6 (d)(2)(i) – (iv) do not exist, the department shall begin an open
451 application process for the operation of a medical treatment center. In granting a new registration
452 certificate, the department shall consider factors listed in Chapter 94G, Section 6 (c)(3).

453 (4) The department shall issue a medical treatment center one or
454 more thirty (30) day temporary registration certificates after that medical treatment center's
455 registration would otherwise expire if the following conditions are all satisfied:

456 (i) The medical treatment center previously applied for a
457 renewal, but the department had not yet come to a decision;

458 (ii) The medical treatment center requested a temporary
459 registration certificate; and

460 (iii) The medical treatment center has not had its
461 registration certificate revoked due to violations of this act or regulations issued pursuant to this
462 act.

463 (e) Inspection. Medical treatment centers are subject to reasonable inspection
464 by the department. The department shall give reasonable notice of an inspection under this
465 subsection. During an inspection, the department may review the medical treatment center's
466 confidential records, including its dispensing records, which may track transactions according to
467 qualifying patients' registry identification numbers to protect their confidentiality.

468 (f) Medical treatment center requirements.

469 (1) A medical treatment center shall be operated on a not-for-profit
470 basis for the mutual benefit of patients who are allowed to use marijuana for medical purposes. A
471 medical treatment center need not be recognized as a tax-exempt organization by the Internal
472 Revenue Service.

473 (2) A medical treatment center may not be located within five
474 hundred (500) feet of the property line of a preexisting public or private school.

475 (3) A medical treatment center shall notify the department within ten
476 (10) days of when a principal officer, board member, agent, volunteer, or employee ceases to be
477 associated with and/or work at the medical treatment center. His or her card shall be deemed null
478 and void and the person shall be liable for any other penalties that may apply to the person's
479 nonmedical use of marijuana.

480 (4) A medical treatment center shall notify the department in writing
481 of the name, address, and date of birth of any new principal officer, board member, agent,
482 volunteer, or employee and shall submit a fee in an amount established by the department for a
483 new registry identification card before a new agent or employee begins working at the medical
484 treatment center.

485 (5) A medical treatment center shall implement appropriate security
486 measures to prevent the theft of marijuana and the unauthorized entrance into areas containing
487 marijuana, and shall ensure that each location has an operational security alarm system.

488 (6) The operating documents of a medical treatment center shall
489 include procedures for the oversight of the medical treatment center and procedures to ensure
490 accurate record keeping.

491 (7) A medical treatment center is prohibited from acquiring,
492 possessing, cultivating, manufacturing, delivering, transferring, transporting, supplying, selling,
493 and/or dispensing marijuana for any purpose except to assist patients who are allowed to use
494 marijuana pursuant to this chapter with the medical use of marijuana directly or through the
495 qualifying patients' primary caregiver, and except when transferring or selling medical marijuana
496 to another medical treatment center in accordance with Section 6 of this chapter.

497 (8) Each time a new registered qualifying patient visits a medical
498 treatment center, it shall provide the patient with frequently asked questions designed by the
499 department, which explains the limitations on the right to use medical marijuana under state law.

500 (9) Each medical treatment center shall develop, implement, and
501 maintain on the premises employee and agent policies and procedures to address the following
502 requirements:

503 (i) A job description or employment contract developed for
504 all employees and a volunteer agreement for all volunteers, which includes duties, authority,
505 responsibilities, qualifications, and supervision; and

506 (ii) Training in and adherence to Massachusetts
507 confidentiality laws.

508 (10) Each medical treatment center shall maintain a personnel record
509 for each employee and each volunteer that includes an application for employment or to
510 volunteer and a record of any disciplinary action taken; and

511 (11) Each medical treatment center shall develop, implement, and
512 maintain on the premises on-site training curricula, or enter into contractual relationships with
513 outside resources capable of meeting employee training needs, which includes, but is not limited
514 to, the following topics:

515 (a) Professional conduct, ethics, and patient
516 confidentiality; and

517 (b) Informational developments in the field of the
518 medical use of marijuana.

519 (12) Each medical treatment center entity shall provide each
520 employee and each volunteer, at the time of his or her initial appointment, training in the
521 following:

522 (i) The proper use of security measures and controls that
523 have been adopted; and

524 (ii) Specific procedural instructions on how to respond to
525 an emergency, including robbery or violent accident.

526 (13) All medical treatment centers shall prepare training
527 documentation for each employee and have employees sign a statement indicating the date, time,
528 and place the employee received said training and topics discussed, to include name and title of
529 presenters. The medical treatment center shall maintain documentation of an employee's and a
530 volunteer's training for a period of at least six (6) months after termination of an employee's
531 employment or the volunteer's volunteering.

532 (g) Maximum amount of usable marijuana to be dispensed.

533 (1) A medical treatment center or principal officer, board member,
534 agent, volunteer, or employee of a medical treatment center may not dispense more than four (4)
535 ounces of usable marijuana to a qualifying patient directly or through the patient's primary
536 caregiver during a fifteen (15) day period.

537 (2) A medical treatment center or principal officer, board member,
538 agent, or employee of a medical treatment center may not dispense an amount of usable
539 marijuana or marijuana plants to a qualifying patient or a primary caregiver that the medical
540 treatment center, principal officer, board member, agent, volunteer, or employee knows would
541 cause the recipient to possess more marijuana than is permitted under this chapter.

542 (h) Immunity.

543 (1) No registered medical treatment center shall be subject to
544 prosecution; search, except by the department pursuant to Chapter 94G, Section 6 (e); seizure; or
545 penalty in any manner or denied any right or privilege including, but not limited to, civil penalty
546 or disciplinary action by a business, occupational, or professional licensing board or entity solely
547 for acting in accordance with this section to assist registered qualifying patients to whom it is
548 connected through the department's registration process with the medical use of marijuana.

549 (2) No principal officers, board members, agents, volunteers, or
550 employees of a registered medical treatment center shall be subject to arrest, prosecution, search,
551 seizure, or penalty in any manner or denied any right or privilege including, but not limited to,
552 civil penalty or disciplinary action by a business, occupational, or professional licensing board or

553 entity solely for working for or with a medical treatment center to engage in acts permitted by
554 this chapter.

555 (i) Prohibitions.

556 (1) (a) A medical treatment center may not possess an amount of
557 marijuana that exceeds whichever of the following quantities is greater: (i) ninety-six (96)
558 marijuana plants and thirty-two (32) ounces of useable marijuana; or (ii) twenty-four (24) plants
559 and 4 ounces of usable marijuana for each registered qualifying patient who has designated the
560 medical treatment center to provide him or her with marijuana for medical use. However, if a
561 registered qualifying patient who designated the medical treatment center ceases to be a
562 registered qualifying patient or ceases to designate the medical treatment center, the medical
563 treatment center shall have30 days after the notification to lawfully dispose of, destroy or
564 transfer any excess plants or marijuana. A medical treatment center may transfer or sell any
565 excess marijuana to another medical treatment center in accordance with the quantities allowed
566 for in this subsection.

567 (b) A medical treatment center may also possess marijuana seeds,
568 stalks, and unusable roots.

569 (2) A medical treatment center may not dispense, deliver, or
570 otherwise transfer marijuana to a person other than a qualifying patient or registered primary
571 caregiver who has designated the facility as one of their medical treatment centers, or to another
572 medical treatment center under the provisions allowed in Section 6 of this Chapter. .

573 (3) A person found to have violated paragraph (2) of this subsection
574 may not be an employee, volunteer, agent, principal officer, or board member of any medical
575 treatment center, and such person's registry identification card shall be immediately revoked.

576 (4) No person who has been convicted of a felony drug offense may
577 be the principal officer, board member, agent, volunteer, or employee of a medical treatment
578 center unless the department has determined that the person's conviction was for the medical use
579 of marijuana or assisting with the medical use of marijuana and has issued the person a registry
580 identification card as provided under Chapter 94G, Section 6 (c)(7). A person who is employed
581 by or is an agent, volunteer, principal officer, or board member of a medical treatment center in
582 violation of this section is guilty of a civil violation punishable by a fine of up to one thousand
583 dollars ($1,000). A subsequent violation of this section is a gross misdemeanor.

584 (5) All cultivation of marijuana must take place in an enclosed,
585 locked facility, which can only be accessed by principal officers, board members, agents,
586 volunteers, or employees of the registered medical treatment center who are cardholders.

587 (j) Legislative oversight committee.

588 (1) The General Court shall appoint a ten (10) member oversight
589 committee comprised of: one member of the House of Representatives; one member of the
590 Senate; one physician to be selected from a list provided by the Massachusetts Medical Society;
591 one nurse to be selected from a list provided by the Massachusetts State Nurses Association;
592 three (3) registered qualifying patients; one registered primary caregiver; one patient advocate;
593 and one representative of the law enforcement community.

594 (2) The oversight committee shall meet at least three (3) times per
595 year for the purpose of evaluating and making recommendations to the General Court regarding:

596 (i) Patients' access to medical marijuana;

597 (ii) The efficacy of each registered medical treatment
598 center, and medical treatment centers as a whole, including the reasonableness of pricing and
599 patients' feedback on the quality of the marijuana;

600 (iii) Physician participation in the Medical Marijuana
601 Program;

602 (iv) The definition of qualifying debilitating medical
603 conditions; and

604 (v) Research studies regarding health effects of medical
605 marijuana for patients.

606 (3) On or before January of every even-numbered year, the oversight
607 committee shall report to the general court and the department on its findings.

608 Section 7. Scope of chapter.

609 Section 7. (a) This chapter shall not permit:

610 (1) Any person to undertake any task under the influence of
611 marijuana, when doing so would constitute negligence or professional malpractice;

612 (2) The smoking of marijuana:

613 (i) In a school bus or other form of public transportation;

614 (ii) On any school grounds;

615 (iii) In any correctional facility;

616 (iv) In any public place; or

617 (v) In any licensed drug treatment facility in this state.

618 (3) Any person to operate, navigate, or be in actual physical control
619 of any motor vehicle, aircraft, or motorboat while under the influence of marijuana. However, a
620 registered qualifying patient shall not be considered to be under the influence solely for having
621 marijuana metabolites in his or her system.

622 (b) Nothing in this chapter shall be construed to require:

623 (1) A government medical assistance program or private health
624 insurer to reimburse a person for costs associated with the medical use of marijuana; or

625 (2) An employer to accommodate the medical use of marijuana in
626 any workplace.

627 (c) Fraudulent representation to a law enforcement official of any fact or
628 circumstance relating to the medical use of marijuana to avoid arrest or prosecution shall be
629 punishable by a fine of five hundred dollars ($500) which shall be in addition to any other
630 penalties that may apply for making a false statement for the non-medical use of marijuana.

631 Section 8. Affirmative defense and dismissal.

632 Section 8. (a) Except as provided in Section 7, a qualifying patient and the
633 qualifying patient's primary caregiver, if any, may assert the medical purpose for using marijuana
634 as a defense to any prosecution involving marijuana, and such defense shall be presumed valid
635 where the evidence shows that:

636 (1) The qualifying patient's practitioner has stated that, in the
637 practitioner's professional opinion, after having completed a full assessment of the person's
638 medical history and current medical condition made in the course of a bona fide practitioner
639 patient relationship, the potential benefits of using marijuana for medical purposes would likely
640 outweigh the health risks for the qualifying patient; and

641 (2) The person and the person's primary caregiver, if any, were
642 collectively in possession of a quantity of marijuana that was not more than what is reasonably
643 necessary to ensure the uninterrupted availability of marijuana for the purpose of alleviating the
644 person's medical condition or symptoms associated with the medical condition.

645 (b) A person may assert the medical purpose for using marijuana in a motion to
646 dismiss, and the charges shall be dismissed following an evidentiary hearing where the defendant
647 shows the elements listed in Chapter 94G, Section 5(a).

648 (c) Any interest in or right to property that was possessed, owned, or used in
649 connection with a person's use of marijuana for medical purposes shall not be forfeited if the
650 person or the person's primary caregiver demonstrates the person's medical purpose for using
651 marijuana pursuant to this section.

652 Section 9. Enforcement.

653 Section 9. (a) If the department fails to adopt regulations to implement this
654 chapter within one hundred twenty (120) days of the effective date of this act, a qualifying
655 patient may commence an action in a court of competent jurisdiction to compel the department to
656 perform the actions mandated pursuant to the provisions of this chapter.

657 (b) If the department fails to issue a valid registry identification card in
658 response to a valid application submitted pursuant to this chapter within thirty-five (35) days of
659 its submission, the registry identification card shall be deemed granted and a copy of the registry
660 identification application shall be deemed valid registry identification card.

661 Section 10. Severability.

662 Section 10. Any section of this act being held invalid as to any person or
663 circumstances shall not affect the application of any other section of this act that can be given
664 full effect without the invalid section or application.