

HOUSE No. 625

The Commonwealth of Massachusetts

PRESENTED BY:

Frank I. Smizik

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 adoption of the accompanying bill:

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:
<i>Frank I. Smizik</i>	<i>15th Norfolk</i>
<i>Steven A. Tolman</i>	
<i>John D. Keenan</i>	<i>7th Essex</i>
<i>Byron Rushing</i>	<i>9th Suffolk</i>
<i>Joyce A. Spiliotis</i>	<i>12th Essex</i>
<i>Stephen Kulik</i>	<i>1st Franklin</i>
<i>Rhonda Nyman</i>	<i>5th Plymouth</i>
<i>Cleon H. Turner</i>	<i>1st Barnstable</i>
<i>Cory Atkins</i>	<i>14th Middlesex</i>
<i>Carl M. Sciortino, Jr.</i>	<i>34th Middlesex</i>
<i>Stephen L. DiNatale</i>	<i>3rd Worcester</i>
<i>Alice K. Wolf</i>	<i>25th Middlesex</i>
<i>Kay Khan</i>	<i>11th Middlesex</i>
<i>John W. Scibak</i>	<i>2nd Hampshire</i>
<i>William N. Brownsberger</i>	
<i>Gloria L. Fox</i>	<i>7th Suffolk</i>
<i>Tom Sannicandro</i>	<i>7th Middlesex</i>

<i>Cheryl A. Coakley-Rivera</i>	<i>10th Hampden</i>
<i>Denise Provost</i>	<i>27th Middlesex</i>
<i>Elizabeth A. Malia</i>	<i>11th Suffolk</i>
<i>Ruth B. Balsler</i>	<i>12th Middlesex</i>
<i>Anne M. Gobi</i>	<i>5th Worcester</i>
<i>Christine E. Canavan</i>	<i>10th Plymouth</i>
<i>James B. Eldridge</i>	
<i>Jonathan Hecht</i>	<i>29th Middlesex</i>
<i>Ellen Story</i>	<i>3rd Hampshire</i>
<i>Thomas M. Petrolati</i>	<i>7th Hampden</i>

HOUSE No. 625

By Mr. Smizik of Brookline, a petition (accompanied by bill, House, No. 625) of Frank I. Smizik and others for legislation to regulate the medical use of marijuana by patients approved by physicians and certified by the Department of Public Health. Public Health.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 2160 OF 2009-2010.]

The Commonwealth of Massachusetts

—————
In the Year Two Thousand Eleven
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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:

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

3 Section 1. Short Title; Purpose.

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

9 Section 2. Definitions.

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

12 otherwise, have the following meanings:

13 (a) "Cardholder" means a qualifying patient, a primary caregiver, or a principal officer,
14 board member, employee, volunteer, or agent of a medical treatment center who has been
15 issued and possesses a valid registry identification card.

16 (b) "Medical treatment center" means a not-for-profit entity registered under Chapter 94G
17 Section 6 that acquires, possesses, cultivates, manufactures, delivers, transfers, transports,
18 supplies, sells, and/or dispenses marijuana and/or related supplies and educational materials to
19 registered qualifying patients and their registered primary caregivers who have designated it as
20 one of the patient's registered medical treatment centers.

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

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

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

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

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

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

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

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

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

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

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

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

52 (l) "Visiting qualifying patient" means a person with a debilitating medical condition that
53 is currently participating in another state's medical marijuana program, is in possession of a valid
54 out-of-state identification card or its equivalent, and has resided in Massachusetts for less than 30
55 days.

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

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

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

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

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

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

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

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

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

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

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

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

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

110 (j) Except as provided in this paragraph, a registry identification card or its equivalent
111 issued under the laws of another U.S. state, U.S. territory, or the District of Columbia to permit
112 the medical use of marijuana shall have the same force and effect as a registry identification card
113 issued by the department, and, for purposes of this Act, entitle a visiting qualify patient to the

114 same rights and protections as a registered qualifying patient residing in Massachusetts. This
115 paragraph shall not apply if the person has been a resident of Massachusetts for 30 days or longer
116 at the time they present their out-of-state identification card or its equivalent.

117 (k) Notwithstanding the provisions of Chapter 94G Section 2(h) or Chapter 94G Section
118 3(c), no primary caregiver shall possess an amount of marijuana in excess of forty-eight (48)
119 marijuana plants and eight (8) ounces of usable marijuana for qualifying patients to whom he or
120 she is connected through the department's registration process.

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

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

129 Section 4. Department to issue regulations.

130 Section 4. (a) Not later than ninety (90) days after the effective date of this chapter, the
131 department shall promulgate regulations governing the manner in which it shall consider
132 petitions from the public to add debilitating medical conditions to those set forth in Chapter 94G
133 Section 2(a). In considering such petitions, the department shall include public notice of, and an
134 opportunity to comment in a public hearing, upon such petitions. The department shall, after
135 hearing, approve or deny such petitions within one hundred eighty (180) days of submission. The

136 approval or denial of such a petition shall be considered a final department action, subject to
137 judicial review. Jurisdiction and venue for judicial review are vested in the superior court. The
138 denial of a petition shall not disqualify qualifying patients with that condition, if they have a
139 chronic or debilitating medical condition.

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

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

150 Section 5. Administration of regulations.

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

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

154 (2) Application or renewal fee;

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

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

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

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

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

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

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

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

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

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

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

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

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

185 (2) A random registry identification number; and

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

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

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

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

194 (2) A registered qualifying patient who fails to notify the department of any of these
195 changes is responsible for a civil infraction, punishable by a fine of no more than one hundred
196 fifty dollars (\$150). If the person has ceased to suffer from a debilitating medical condition, the

197 card shall be deemed null and void and the person shall be liable for any other penalties that may
198 apply to the person's non-medical use of marijuana.

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

205 (4) When a qualifying patient or primary caregiver notifies the department of any
206 changes listed in this subsection, the department shall issue the registered qualifying patient and
207 each primary caregiver a new registry identification card within ten (10) days of receiving the
208 updated information and a twenty-five dollar (\$25.00) fee. When a principal officer, board
209 member, employee, volunteer, or agent of a medical treatment center notifies the department of
210 any changes listed in this subsection, the department shall issue the cardholder a new registry
211 identification card within ten (10) days of receiving the updated information and a twenty-five
212 dollar (\$25.00) fee.

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

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

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

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

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

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

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

240 (j) It shall be a crime, punishable by up to one hundred eighty (180) days in jail and a one
241 thousand dollar (\$1,000) fine, for any person, including an employee or official of the
242 department or another state agency or local government, to breach the confidentiality of
243 information obtained pursuant to this chapter.

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

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

249 (1) The number of applications for registry identification cards, the number of qualifying
250 patients and primary caregivers approved, the nature of the debilitating medical conditions of the
251 qualifying patients, the number of registry identification cards revoked, and the number of
252 practitioners providing written certification for qualifying patients;

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

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

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

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

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

269 Section 6. Medical treatment centers.

270 Section 6.. (a) A medical treatment center registered under this section may acquire,
271 possess, cultivate, manufacture, deliver, transfer, transport, supply, sell, and/or dispense
272 marijuana, and/or related supplies and educational materials, to registered qualifying patients and
273 their registered primary caregivers who have designated it as one of their medical treatment
274 centers through their application with the department. A patient may designate up to two (2)
275 medical treatment centers that they may access for the purpose of obtaining medical marijuana.
276 A medical treatment center may cultivate and possess whichever of the following quantities is
277 greater: (a) 96 marijuana plants and 32 ounces of useable marijuana; or (b) 24plants and 4 ounces
278 for each registered qualifying patient who has designated the medical treatment center to provide
279 him or her with marijuana for medical use. However, if a registered qualifying patient who
280 designated the medical treatment center ceases to be a registered qualifying patient or ceases to
281 designate the medical treatment center, the medical treatment center shall have 30 days after the

282 notification to lawfully dispose of, destroy or transfer any excess plants or marijuana. A medical
283 treatment center may transfer or sell any excess marijuana to another medical treatment center in
284 accordance with the quantities allowed for in this subsection. A medical treatment center may
285 also possess marijuana seeds, stalks, and unusable roots.

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

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

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

291 (ii) Minimum oversight requirements for medical treatment centers;

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

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

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

299 (2) The department shall design regulations with the goal of protecting against diversion
300 and theft, without imposing an undue burden on the registered medical treatment centers or
301 compromising the confidentiality of registered qualifying patients and their registered designated
302 caregivers. Any dispensing records that a registered medical treatment center is required to keep

303 shall track transactions according to registered qualifying patients', registered primary
304 caregivers', and registered medical treatment centers' registry identification numbers, rather than
305 their names, to protect their confidentiality.

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

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

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

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

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

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

- 324 (1) Each application for a medical treatment center shall include:
- 325 (i) A non-refundable application fee paid to the department in the amount of two hundred
326 fifty dollars (\$250);
- 327 (ii) The proposed legal name, proposed articles of incorporation, and proposed bylaws of
328 the medical treatment center;
- 329 (iii) The proposed physical address of the medical treatment center, if a precise address
330 has been determined, or, if not, the general location where it would be located. This may include
331 a second location for the cultivation of medical marijuana;
- 332 (iv) A description of the enclosed, locked facility that would be used in the cultivation of
333 marijuana;
- 334 (v) The name, address, and date of birth of each principal officer and board member of
335 the medical treatment center;
- 336 (vi) Proposed security and safety measures, which shall include at least one security
337 alarm system for each location, planned measures to deter and prevent the unauthorized entrance
338 into areas containing marijuana and the theft of marijuana; and
- 339 (vii) Proposed procedures to ensure accurate record keeping.
- 340 (2) Anytime one or more medical treatment center registration applications are being
341 considered, the department shall also allow for comment by the public and shall solicit input
342 from registered qualifying patients, registered primary caregivers, and the towns or cities where
343 the applicants would be located.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

372 (5) The department shall track the number of registered qualifying patients designated to
373 each medical treatment center, and issue a written statement to the medical treatment center of
374 the number of qualifying patients who have designated the medical treatment center to serve
375 them and each of those qualifying patients' registry identification numbers. This statement shall
376 be updated each time a new registered qualifying patient designates the medical treatment center
377 or ceases to designate the medical treatment center and may be transmitted electronically over an
378 encrypted connection if the department's regulations so provide. The department may provide by
379 regulation that the updated written statements will not be issued more frequently than twice each
380 week.

381 (6) Except as provided in Chapter 94G section 6 (c)(7), the department shall issue each
382 principal officer, board member, agent, volunteer, and employee of a medical treatment center a
383 registry identification card or renewal card within ten (10) days of receipt of the person's name,
384 address, date of birth, and a fee in an amount established by the department. Each card shall

385 specify that the cardholder is a principal officer, board member, agent, volunteer, or employee of
386 a medical treatment center and shall contain the following:

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

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

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

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

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

394 (7) Except as provided in this subsection, the department shall not issue a registry
395 identification card to any principal officer, board member, agent, volunteer, or employee of a
396 medical treatment center who has been convicted of a felony drug offense. The department may
397 conduct a background check of each principal officer, board member, agent, volunteer, or
398 employee in order to carry out this provision. The department shall notify the medical treatment
399 center in writing of the purpose for denying the registry identification card. The department may
400 grant such person a registry identification card if the department determines that the offense was
401 for conduct that occurred prior to the enactment of this act or that was prosecuted by an authority
402 other than the commonwealth of Massachusetts and for which this act would otherwise have
403 prevented a conviction.

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

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

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

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

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

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

418 (iii) The legislative oversight committee's report, issued pursuant to Chapter 94G, Section
419 5 (k), indicates that the medical treatment center is adequately providing patients with access to
420 medical marijuana at reasonable rates; and

421 (iv) The legislative oversight committee's report, issued pursuant to Chapter 94G, Section
422 5 (k), does not raise serious concerns about the continued operation of the medical treatment
423 center applying for renewal.

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

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

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

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

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

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

441 (f) Medical treatment center requirements.

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

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

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

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

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

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

462 (7) A medical treatment center is prohibited from acquiring, possessing, cultivating,
463 manufacturing, delivering, transferring, transporting, supplying, selling, and/or dispensing
464 marijuana for any purpose except to assist patients who are allowed to use marijuana pursuant to
465 this chapter with the medical use of marijuana directly or through the qualifying patients'

466 primary caregiver, and except when transferring or selling medical marijuana to another medical
467 treatment center in accordance with Section 6 of this chapter.

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

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

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

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

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

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

484 (a) Professional conduct, ethics, and patient confidentiality; and

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

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

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

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

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

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

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

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

507 (h) Immunity.

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

514 (2) No principal officers, board members, agents, volunteers, or employees of a registered
515 medical treatment center shall be subject to arrest, prosecution, search, seizure, or penalty in any
516 manner or denied any right or privilege including, but not limited to, civil penalty or disciplinary
517 action by a business, occupational, or professional licensing board or entity solely for working
518 for or with a medical treatment center to engage in acts permitted by this chapter.

519 (i) Prohibitions.

520 (1) (a) A medical treatment center may not possess an amount of marijuana that exceeds
521 whichever of the following quantities is greater: (i) ninety-six (96) marijuana plants and thirty-
522 two (32) ounces of useable marijuana; or (ii) twenty-four (24) plants and 4 ounces of usable
523 marijuana for each registered qualifying patient who has designated the medical treatment center
524 to provide him or her with marijuana for medical use. However, if a registered qualifying patient
525 who designated the medical treatment center ceases to be a registered qualifying patient or ceases
526 to designate the medical treatment center, the medical treatment center shall have 30 days after
527 the notification to lawfully dispose of, destroy or transfer any excess plants or marijuana. A

528 medical treatment center may transfer or sell any excess marijuana to another medical treatment
529 center in accordance with the quantities allowed for in this subsection.

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

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

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

539 (4) No person who has been convicted of a felony drug offense may be the principal
540 officer, board member, agent, volunteer, or employee of a medical treatment center unless the
541 department has determined that the person's conviction was for the medical use of marijuana or
542 assisting with the medical use of marijuana and has issued the person a registry identification
543 card as provided under Chapter 94G, Section 6 (c)(7). A person who is employed by or is an
544 agent, volunteer, principal officer, or board member of a medical treatment center in violation of
545 this section is guilty of a civil violation punishable by a fine of up to one thousand dollars
546 (\$1,000). A subsequent violation of this section is a gross misdemeanor.

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

550 (j) Legislative oversight committee.

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

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

559 (i) Patients' access to medical marijuana;

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

563 (iii) Physician participation in the Medical Marijuana Program;

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

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

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

568 Section 7. Scope of chapter.

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

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

572 (2) The smoking of marijuana:

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

574 (ii) On any school grounds;

575 (iii) In any correctional facility;

576 (iv) In any public place; or

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

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

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

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

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

586 (c) Fraudulent representation to a law enforcement official of any fact or circumstance
587 relating to the medical use of marijuana to avoid arrest or prosecution shall be punishable by a

588 fine of five hundred dollars (\$500) which shall be in addition to any other penalties that may
589 apply for making a false statement for the non-medical use of marijuana.

590 Section 8. Affirmative defense and dismissal.

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

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

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

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

607 (c) Any interest in or right to property that was possessed, owned, or used in connection
608 with a person's use of marijuana for medical purposes shall not be forfeited if the person or the

609 person's primary caregiver demonstrates the person's medical purpose for using marijuana
610 pursuant to this section.

611 Section 9. Enforcement.

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

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

620 Section 10. Severability. ▯

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