

# SENATE . . . . . No. 1161

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## 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 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>Stanley C. Rosenberg</i>	<i>Hampshire, Franklin and Worcester</i>
<i>John W. Scibak</i>	<i>2nd Hampshire</i>
<i>Cory Atkins</i>	<i>14th Middlesex</i>
<i>James B. Eldridge</i>	
<i>Richard J. Ross</i>	<i>Norfolk, Bristol and Middlesex</i>
<i>Cynthia S. Creem</i>	
<i>Bradford Hill</i>	<i>4th Essex</i>
<i>Patricia D. Jehlen</i>	

# SENATE . . . . . No. 1161

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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].

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## The Commonwealth of Massachusetts

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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  
5 "The 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.

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

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

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

(2) A chronic or debilitating disease or medical condition or its treatment that produces one or more of the following: cachexia or wasting syndrome; severe pain; severe nausea; seizures, including but not limited to, those characteristic of epilepsy; or

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

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

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

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

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

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

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

(i) "Primary caregiver" means a natural person who is at least eighteen (18) years old who has agreed to assist with a person's medical use of marijuana and who does not have a felony drug conviction. An employee of a hospice provider or nursing facility providing

care to an eligible patient may be substituted for a primary caregiver. A primary caregiver may assist no more than five (5) qualifying patients with their medical use of marijuana.

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

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

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

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

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

Section 3. (a) A qualifying patient who has in his or her possession a registry identification card shall not be subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege, including but not limited to, civil penalty or disciplinary action by a

business or occupational or professional licensing board or bureau, for the medical use of marijuana; provided, that the qualifying patient possesses an amount of marijuana that does not exceed twenty-four (24) marijuana plants, including seedlings and mature plants, and four (4) ounces of usable marijuana. Said plants shall be stored in an enclosed, locked facility.

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

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

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

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

(2) Is in possession of an amount of marijuana that does not exceed the amount permitted under this chapter. Such presumption may be rebutted by evidence that

conduct related to marijuana was not for the purpose of alleviating the qualifying patient's debilitating medical condition or symptoms associated with the medical condition.

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

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

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

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

(i) A practitioner, nurse or pharmacist shall not be subject to arrest, prosecution or penalty in any manner, or denied any right or privilege, including, but not limited to, civil penalty or disciplinary action by a business or occupational or professional licensing board or

bureau, solely for discussing the benefits or health risks of medical marijuana or its interaction with other substances with a patient.

(j) Except as provided in this paragraph, a registry identification card or its equivalent issued under the laws of another U.S. state, U.S. territory, or the District of Columbia to permit the medical use of marijuana shall have the same force and effect as a registry identification card issued by the department, and, for purposes of this Act, entitle a visiting qualify patient to the same rights and protections as a registered qualifying patient residing in Massachusetts. This paragraph shall not apply if the person has been a resident of Massachusetts for 30 days or longer at the time they present their out-of-state identification card or its equivalent.

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

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

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

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

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

(2) Application or renewal fee;

(3) Name, address, and date of birth of the qualifying patient;

provided, however, that if the patient is homeless, no address is required;

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

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

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

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

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

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

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

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

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

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

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

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

(2) A random registry identification number; and

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

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

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

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

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

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

(4) When a qualifying patient or primary caregiver notifies the department of any changes listed in this subsection, the department shall issue the registered qualifying patient and each primary caregiver a new registry identification card within ten (10) days of receiving the updated information and a twenty-five dollar (\$25.00) fee. When a

principal officer, board member, employee, volunteer, or agent of a medical treatment center notifies the department of any changes listed in this subsection, the department shall issue the cardholder a new registry identification card within ten (10) days of receiving the updated information and a twenty-five dollar (\$25.00) fee.

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

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

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

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

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

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

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

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

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

(k) On or before January 1 of each odd numbered year, the department shall report to the Joint Committee on Public Health, and to the Joint Committee on the Judiciary, on 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.

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

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

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

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

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

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

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

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

(4) After a medical treatment center is approved, but before it begins 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

prosecuted by an authority other than the commonwealth of Massachusetts and for which this act would otherwise have prevented a conviction.

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

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

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

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

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

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

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

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

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

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

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

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

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

(e) Inspection. Medical treatment centers are subject to reasonable inspection by the department. The department shall give reasonable notice of an inspection under this subsection. During an inspection, the department may review the medical treatment center's



confidential records, including its dispensing records, which may track transactions according to qualifying patients' registry identification numbers to protect their confidentiality.

(f) Medical treatment center requirements.

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

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

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

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

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

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

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

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

(h) Immunity.

(1) No registered medical treatment center shall be subject to prosecution; search, except by the department pursuant to Chapter 94G, Section 6 (e); seizure; or penalty in any manner or denied any right or privilege including, but not limited to, civil penalty or disciplinary action by a business, occupational, or professional licensing board or entity solely

for acting in accordance with this section to assist registered qualifying patients to whom it is connected through the department's registration process with the medical use of marijuana.

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

(i) Prohibitions.

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

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

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

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

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

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

(j) Legislative oversight committee.

(1) The General Court shall appoint a ten (10) member oversight committee comprised of: one member of the House of Representatives; one member of the 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.