

**SENATE . . . . . No. 1031**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

***John F. Keenan***

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*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 establish the Massachusetts Medical Marijuana program.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>John F. Keenan</i>	<i>Norfolk and Plymouth</i>
<i>Stanley C. Rosenberg</i>	<i>Hampshire, Franklin and Worcester</i>
<i>Daniel A. Wolf</i>	<i>Cape and Islands</i>
<i>Cleon H. Turner</i>	<i>1st Barnstable</i>
<i>James M. Murphy</i>	<i>4th Norfolk</i>
<i>Martin J. Walsh</i>	<i>13th Suffolk</i>
<i>Randy Hunt</i>	<i>5th Barnstable</i>
<i>Carolyn C. Dykema</i>	<i>8th Middlesex</i>
<i>John H. Rogers</i>	<i>12th Norfolk</i>
<i>Eileen M. Donoghue</i>	<i>First Middlesex</i>
<i>Thomas P. Conroy</i>	<i>13th Middlesex</i>
<i>Paul McMurtry</i>	<i>11th Norfolk</i>

**SENATE . . . . . No. 1031**

By Mr. Keenan, a petition (accompanied by bill, Senate, No. 1031) of John F. Keenan, Stanley C. Rosenberg, Daniel A. Wolf, Cleon H. Turner and other members of the General Court for legislation to establish the Massachusetts Medical Marijuana program. Public Health.

**The Commonwealth of Massachusetts**

**In the Year Two Thousand Thirteen**

An Act to establish the Massachusetts Medical Marijuana program.

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

1 SECTION 1. Chapter 369 of the Acts of 2012 is hereby amended, by striking the chapter  
2 in its entirety, and inserting in place thereof the language contained in section 2 of this act.

3 SECTION 2.

4 The General Laws are hereby amended by inserting the following as Chapter 94G:

5 Section 1. Short Title; Purpose.

6 Sections 1 to 15, inclusive, shall be known, and may be cited, as "The Massachusetts  
7 Medical Marijuana Act." It is the purpose of this act to protect patients with debilitating medical  
8 conditions, as well as their practitioners and designated caregivers, from arrest and prosecution,  
9 criminal and other penalties, and property forfeiture if such patients engage in the medical use of  
10 marijuana.

11 Section 2. Definitions.

12 As used in this chapter, the following words shall, unless the context clearly requires  
13 otherwise, have the following meanings:

14 (a) "Bona fide physician-patient relationship" shall mean a relationship consistent with  
15 the standards for professional conduct as established by the American Medical Association, the  
16 Massachusetts Board of Registration in Medicine, and other professional boards of licensure as  
17 may be applicable to the physician in question; and, in which the physician has specialty training

18 and certification specific to the debilitating medical condition from which the patient suffers; and  
19 subject to any further stipulations as established by the applicable professional boards of  
20 licensure for the purposes of participating in the Medical Marijuana program. In establishing  
21 regulations to define a bona fide relationship, said boards shall consider the following factors at a  
22 minimum:

23 (1) A minimum requirement for an in-person physician patient encounter, to occur at  
24 the physician's Massachusetts office;

25 (2) Provisions to ensure that written certifications for the use of marijuana are given  
26 only in the course of normal ongoing treatment for the patient's debilitating medical condition.

27 (3) Appropriate professional standards regarding the percentage of a physician's  
28 practice which may consist of the issuing of written certifications for marijuana

29 (4) The extent of the physician's responsibility to inform and counsel the patient on  
30 the advantages, disadvantages, potential adverse effects of, and alternatives to treatment of their  
31 debilitating medical condition through the use of marijuana

32 (5) The appropriate type and extent of specialty training a physician must have in  
33 order to be qualified to provide written certification for the use of medical marijuana in the  
34 treatment of each specific debilitating medical condition

35 (b) "Cultivation" includes planting, propagating, cultivating, growing, harvesting and  
36 transporting to licensed dispensaries.

37 (c) "Debilitating medical condition" means one or more of the following: Cancer,  
38 glaucoma, positive status for human immunodeficiency virus, acquired immune deficiency  
39 syndrome (AIDS), hepatitis C, amyotrophic lateral sclerosis (ALS), Crohn's disease, Parkinson's  
40 disease, multiple sclerosis, and any other medical condition or its treatment approved by the  
41 department, as provided for in section 9 of this chapter.

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

44 (e) "Dispensing" means the selling, providing, distribution and delivery of usable  
45 marijuana from a licensed dispensary to qualifying patients and primary caregivers.

46 (f) "Licensed cultivator" or "cultivator" means a non-profit corporation organized under  
47 the provisions of chapter 180 of the Massachusetts General Laws, with appropriate expertise in  
48 agriculture, organized for the purpose of cultivating usable marijuana for medical use in  
49 Massachusetts and selling, delivering, transporting or distributing usable marijuana for medical  
50 use only to licensed dispensaries under sections 1 to 15, inclusive, of this chapter, and that is  
51 licensed as a producer by the department pursuant to this chapter.

52 (g) "Licensed dispensary" or "dispensary" means a non-profit corporation organized  
53 under the provisions of chapter 180 of the Massachusetts General Laws, licensed as a dispensary  
54 pursuant to this chapter.

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

56 (i) "Medical use" means the acquisition, possession, use, delivery, transfer, or  
57 transportation of usable marijuana or paraphernalia relating to the consumption of usable  
58 marijuana to alleviate the symptoms or effects of a registered qualifying patient's or registered  
59 qualifying minor patient's debilitating medical condition.

60 (j) "Physician" means a person who is registered pursuant to Chapter 112 Section 2 and  
61 Sections 7 and 7A of Chapter 94C, who is authorized to prescribe drugs pursuant to Chapter 94C  
62 Section 18, and whose principal place of practice is located in Massachusetts.

63 (k) "Primary caregiver" means a person who is at least twenty-one (21) years of age and  
64 a resident of Massachusetts who has agreed to assist with a person's medical use of usable  
65 marijuana, who does not have a felony drug conviction. An employee of a hospice provider or  
66 nursing facility providing care to an eligible patient may be substituted for a primary caregiver.  
67 A primary caregiver may assist no more than one (1) qualifying patient, or in the case of a  
68 hospice provider or nursing facility no more than five (5) qualified patients with their medical  
69 use of usable marijuana.

70 (l) "Qualifying patient" means a person over the age of eighteen who is a resident of  
71 Massachusetts and has been diagnosed by a physician as having a debilitating medical condition.  
72 "Qualifying patient" shall not include an inmate confined in a correctional facility of the  
73 department of correction or in a county correctional facility and shall not include a person  
74 receiving residential treatment at any facility, halfway house or treatment program unit as  
75 defined in Section 4 of Chapter 111B or receiving residential treatment at any facility, federal,  
76 public or private, licensed under Chapter 111E. A qualifying patient shall have only one (1)  
77 designated primary caregiver.

78 (m) "Qualifying minor patient" means a person under the age of eighteen who is a  
79 resident of Massachusetts and has been diagnosed by a physician as having a debilitating medical  
80 condition, whose custodial parent, guardian, or person having legal custody consents in writing  
81 to allow the qualifying minor patient's medical use of usable marijuana, agrees to serve as a  
82 qualifying minor patient's primary caregiver, and controls the acquisition, dosage, and frequency  
83 of the medical use of usable marijuana by the qualifying minor patient. "Qualifying minor  
84 patient" shall not include an inmate confined in a correctional facility of the department of  
85 correction or in a county correctional facility, shall not include a juvenile placed under the care  
86 of a probation officer or committed to the custody of the department of youth services pursuant  
87 to chapter 119 sections 52 through 84 inclusive, and shall not include a person receiving  
88 residential treatment at any facility, halfway house or treatment program unit as defined in

89 Section 4 of Chapter 111B or receiving residential treatment at any facility, federal, public or  
90 private, licensed under Chapter 111E. A qualifying minor patient shall have no more than two  
91 (2) designated primary caregivers.

92 (n) "Registry identification card" shall mean a personal identification card issued by the  
93 Department to a qualifying patient or primary caregiver indicating registry with the department  
94 in accordance with this chapter. The registration card shall verify that a physician has provided a  
95 written certification to the qualifying patient, or that the patient has designated the individual as a  
96 personal caregiver. The registration card shall identify for the Department and law enforcement  
97 those individuals who are exempt from Massachusetts criminal and civil penalties for conduct  
98 pursuant to the medical use of usable marijuana.

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

101 (p) "Written certification" means an original document, in a tamper resistant form, signed  
102 by a physician, made only in the course of a bona fide physician-patient relationship, stating that  
103 in the physician's professional opinion, after having completed a full physical examination and a  
104 full assessment of the qualifying patient's or qualifying minor patient's medical history and  
105 current medical condition, the qualifying patient or qualifying minor patient has a debilitating  
106 medical condition for which recognized drugs or treatments, including pill and synthetic  
107 formulations of tetrahydrocannabinol and other cannabinoid substances listed on Schedules II  
108 through V of 21 CFR Part 1308, are not or would not be effective and the potential benefits of  
109 the medical use of usable marijuana would likely outweigh the health risks for the qualifying  
110 patient or qualifying minor patient. The written certification shall contain the name and form of  
111 the type of usable marijuana being recommended, the amount thereof, not to exceed two ounces  
112 per month, and the time period for which the use of marijuana for medical purposes is  
113 recommended, not to exceed one year. The written certification shall specify the qualifying  
114 patient's or qualifying minor patient's debilitating medical condition or conditions, the length of  
115 time the qualifying patient or qualifying minor patient has been under the care of the physician  
116 providing the medical provider certification for patient eligibility, and shall include the name,  
117 business address and business telephone number of the physician; the physician's active license  
118 number issued by the board of registration in medicine; an attestation that the physician's  
119 primary place of practice is located within the Commonwealth of Massachusetts; the physician's  
120 signature and the date; the qualifying patient's or qualifying minor patient's name, address and  
121 date of birth; a reasonable photocopy of the qualifying patient or qualifying minor patient's  
122 Massachusetts driver's license or comparable state of Massachusetts identification, or federal  
123 issued photo identification card, or some other form of photographic identification and  
124 documentation, as determined by the department, verifying the qualifying patient's or qualifying  
125 minor patient's identity and Massachusetts residence; the qualifying patient's or qualifying  
126 minor patient's signature; the name, address and date of birth of the qualifying patient's or  
127 qualifying minor patient's primary caregiver, if applicable; documented parental consent, if

128 applicable; and, the signed consent of the patient for release of medical information related to the  
129 qualifying patient's or qualifying minor patient's debilitating medical condition, on a form  
130 provided by the department. Notwithstanding the above, nothing in this definition shall prohibit  
131 the department from establishing an electronic certification that is in substantial conformance  
132 with the requirements of this definition.

### 133 Section 3. Medical marijuana administration fund

134 There shall be established and set up on the books of the commonwealth a Medical  
135 Marijuana Administration Fund to be administered by the department. The fund shall consist of  
136 monies collected by the department under sections 4, 5 and 7 of this chapter. The department  
137 shall make distributions from said fund for the purposes of the promulgation and enforcement of  
138 regulations and all activities associated with the implementation of this chapter.

### 139 Section 4. Licensed Cultivators

140 (a) No person shall act as a cultivator, and no entity may act as a cultivator or represent  
141 that such entity is a licensed cultivator unless such entity has obtained a license from the  
142 department pursuant to this chapter.

143 (b) The department of public health shall determine the number of cultivators appropriate  
144 to meet the needs of qualifying patients and qualifying minor patients in this state and shall adopt  
145 regulations, in accordance with the provisions of chapter 30A of the general laws, to provide for  
146 the licensure, standards and locations for cultivators and specify the maximum number of  
147 cultivators that may be licensed at any time. On and after the effective date of such regulations,  
148 the department may license any entity who applies for a license in accordance with such  
149 regulations, provided (1) the department deems such applicant qualified to cultivate usable  
150 marijuana and sell, deliver, transport or distribute usable marijuana solely within this state  
151 pursuant to this chapter (2) the person, or any principal officer, board member, employee or  
152 agent of the cultivator has not been convicted of a felony, and (3) the number of cultivator  
153 licenses issued does not exceed the number appropriate to meet the needs of qualifying patients  
154 and qualifying minor patients in this state, as determined by the department pursuant to this  
155 subsection. At a minimum, such regulations shall:

156 (1) Indicate the maximum number of cultivators that may be licensed in this state at  
157 any time, which number shall not be less than three nor more than ten cultivators;

158 (2) Provide that no usable marijuana may be sold, delivered, transported or distributed  
159 by a cultivator from or to a location outside of this state;

160 (3) Establish a nonrefundable application fee of not less than twenty-five thousand  
161 dollars for each application submitted for a cultivator license;

162 (4) Establish a license fee and renewal fee for each licensed cultivator, provided the  
163 aggregate amount of such license and renewal fees shall not be less than the amount necessary to  
164 cover the direct and indirect cost of licensing and regulating cultivators pursuant this chapter;

165 (5) Provide for renewal of such cultivator licenses at least every five years;

166 (6) Establish schedules governing the number of days by which an application once  
167 filed must be approved by the department;

168 (7) Require that each application for a license to cultivate shall include the proposed  
169 legal name, proposed articles of organization, and proposed by-laws of the applicant; provided,  
170 that no application shall be given final approval under this chapter before the applicant has also  
171 received approval as provided for in chapter 180 of the Massachusetts General laws for the same  
172 proposed legal name, articles of organization and by-laws, and has met all other requirements of  
173 said chapter 180 for incorporation as non-profit corporation.

174 (8) Require that each application shall also include the proposed physical address  
175 where the cultivation will occur, if a precise address has been determined, or, if not, the general  
176 location where it would be located, a description of the enclosed, locked facility that would be  
177 used in the cultivation of usable marijuana, and the name, address, and date of birth of each  
178 principal officer and board member of the entity seeking the license to cultivate;

179 (9) Require that a licensed cultivator notify the department within ten (10) days of  
180 when a principal officer or board member ceases to be associated with and/or work for the  
181 licensed cultivator and notify the department of new principal officers or board members;

182 (10) Require that a licensed cultivator maintain a personnel record for each employee  
183 that includes an application for employment and a record of any disciplinary action taken;

184 (11) Establish financial requirements for cultivators, under which each applicant  
185 demonstrates the financial capacity to build and operate a usable marijuana cultivation facility;

186 (12) Establish fair and appropriate annual compensation limits for the executive staff,  
187 employees, officers, directors and board members of licensed cultivators;

188 (13) Establish health, safety and security requirements for licensed cultivators, which  
189 shall include, but need not be limited to, a requirement that the applicant or licensed cultivator  
190 demonstrate: (i) the ability to maintain adequate control against the diversion, theft and loss of  
191 usable marijuana cultivated by the cultivator, and (ii) the ability to cultivate pharmaceutical  
192 grade usable marijuana for medical use in a secure indoor facility;

193 (14) Establish standards and procedures for revocation, suspension, summary  
194 suspension and nonrenewal of cultivator licenses;

195 (15) Establish other licensing, renewal and operational standards deemed necessary by  
196 the department

197 (c) Within five (5) days of receipt of an application for a license to cultivate, the  
198 department shall forward to the clerk of the municipality where the cultivator is proposed a copy  
199 of the application and supporting documentation.

200 (d) Any fees collected by the Department under this section shall be paid to the  
201 department and deposited to the account established in section 3 of this act.

202 (e) A licensed cultivator shall not be subject to arrest or prosecution, penalized in any  
203 manner, including, but not limited to, being subject to any civil penalty, or denied any right or  
204 privilege, including, but not limited to, being subject to any disciplinary action by a professional  
205 licensing board, for cultivating usable marijuana or selling, delivering, transporting or  
206 distributing usable marijuana to licensed dispensaries in this state under this chapter.

207 (f) Notwithstanding section (D), a licensed cultivator shall be subject to arrest,  
208 prosecution or civil or criminal penalties pursuant to the laws of this state if the licensed  
209 cultivator: (1) sells, provides, delivers, transports or distributes usable marijuana to a person who  
210 is not a licensed dispensary, or (2) obtains or transports usable marijuana outside of this state in  
211 violation of federal law.

212 (g) The facilities and properties of a licensed cultivator used for the purpose of cultivating  
213 usable marijuana in accordance with the section shall be subject to administrative inspections in  
214 accordance with section 30 of chapter 94C.

215 (h) The department shall be authorized to receive criminal offender record information  
216 from the Department of Criminal Justice Information Systems to enforce this section in  
217 accordance with Section 172 of Chapter 6 of the Massachusetts General Laws.

218 (i) A licensed cultivator shall not be permitted to also hold or apply for a license as a  
219 dispensary.

## 220 Section 5. Licensed Dispensaries

221 (a) No person shall act as a dispensary, and no entity shall act or represent that such entity  
222 is a licensed dispensary unless such entity has obtained a license from the Department pursuant  
223 to this section.

224 (b) The department shall determine the number of dispensaries appropriate to meet the  
225 needs of qualifying patients and qualifying minor patients in this state and shall adopt  
226 regulations, in accordance with chapter 30A of the General Laws, to provide for the licensure  
227 and standards for dispensaries and specify the maximum number of dispensaries that may be  
228 licensed. On and after the effective date of such regulations, the department may license any



229 entity who applies for a license in accordance with such regulations, provided (1) the department  
230 deems such applicant qualified to acquire, possess, sell, distribute and dispense usable marijuana  
231 pursuant to this chapter; (2) the person, or any principal officer, board member, employee or  
232 agent of the dispensary has not been convicted of a felony; and (3) the number of dispensary  
233 licenses issued does not exceed the number appropriate to meet the needs of qualifying patients  
234 and qualifying minor patients, as determined by the department pursuant to this chapter. At a  
235 minimum, such regulations shall:

236 (1) Indicate the maximum number of dispensaries that may be licensed in this state at  
237 any time, which number shall not be less than three nor more than ten dispensaries;

238 (2) Establish standards and procedures that permit the dispensing of usable marijuana  
239 only by a secure shipment system, which may include the use of non-descriptive packaging and  
240 the use of private commercial package delivery companies;

241 (3) Establish standards and procedures for the payment for usable marijuana by  
242 qualifying patients, with such methods to include but not be limited to credit card, check,  
243 electronic transfer; provided further that the use of cash or funds from the transitional assistance  
244 financial assistance program as established in Chapter 18 of the Massachusetts General Laws  
245 shall be prohibited;

246 (4) Provide that no usable marijuana may be dispensed from, obtained from or  
247 transferred to a location outside of this state;

248 (5) Establish a licensing fee and renewal fee for each licensed dispensary, provided  
249 such fees shall not be less than the amount necessary to cover the direct and indirect cost of  
250 licensing and regulating dispensaries pursuant to this chapter;

251 (6) Require that each application for a license to dispense shall include the proposed  
252 legal name, proposed articles of incorporation, and proposed bylaws of the applicant, the  
253 proposed physical address where the dispensary will be located, if a precise address has been  
254 determined, or, if not, the general location where it would be located, and the name, address, and  
255 date of birth of each principal officer and board member of the entity seeking the license to  
256 dispense;

257 (7) Require that each application for a license to dispense shall include the proposed  
258 legal name, proposed articles of organization, and proposed by-laws of the applicant; provided,  
259 that no application shall be given final approval under this chapter before the applicant has also  
260 received approval as provided for in chapter 180 of the Massachusetts General laws for the same  
261 proposed legal name, articles of organization and by-laws, and has met all other requirements of  
262 said chapter 180 for incorporation as a charitable organization.

263 (8) Require that each application shall also include the proposed physical address  
264 where the dispensing will occur, if a precise address has been determined, or, if not, the general  
265 location where it would be located, and the name, address, and date of birth of each principal  
266 officer and board member of the entity seeking the license to dispense;

267 (9) Require that a licensed dispensary maintain a personnel record for each employee  
268 that includes an application for employment and a record of any disciplinary action taken;

269 (10) Provide for renewal of such dispensary licenses at least every two years;

270 (11) Establish fair and appropriate annual compensation limits for the executive staff,  
271 employees, officers, directors and board members of licensed dispensaries;

272 (12) Establish health, safety and security requirements for licensed dispensaries,  
273 which shall include, but need not be limited to: (i) The ability to maintain adequate control  
274 against the diversion, theft and loss of usable marijuana acquired or possessed by the licensed  
275 dispensary, and (ii) the ability to maintain the knowledge, understanding, judgment, procedures,  
276 security controls and ethics to assure optimal safety and accuracy in the distributing, dispensing  
277 and use of medical marijuana;

278 (13) Establish standards and procedures for revocation, suspension, summary  
279 suspension and nonrenewal of dispensary licenses; and

280 (14) Authorize the Department to conduct criminal record checks with the Department  
281 of Criminal Justice Information Systems to enforce this section in accordance with Section 172  
282 of Chapter 6 of the Massachusetts General Laws; and

283 (15) Establish other licensing, renewal and operational standards deemed necessary by  
284 the department.

285 (c) A licensed dispensary shall dispense usable marijuana only to qualifying patients or  
286 primary caregivers for qualifying minor patients upon receipt of a written certification, by mail  
287 or commercial courier, and in an amount, in a form, and for a time period as indicated on the  
288 certification.

289 (d) A licensed dispensary may not dispense an amount of usable marijuana to a  
290 qualifying patient or a primary caregiver that the dispensary knows would cause the recipient to  
291 possess more usable marijuana than is permitted under this chapter.

292 (e) A licensed dispensary shall dispense usable marijuana in good faith as a medicine,  
293 and not for the purpose of evading the provisions of Chapter 94C.

294 (f) A licensed dispensary dispensing usable marijuana in accordance with the  
295 recommendations of a written certification shall package the substance in a container, affixing to  
296 the container a label showing the date of filling, the dispensary name and address, a serial

297 number assigned to the container, the name of the patient, the name of the prescribing physician,  
298 and a description of the type of usable marijuana. Upon written request of an elderly person, as  
299 defined in section 14 of chapter 19A or a person visually impaired, directions on the label affixed  
300 by the dispensary to a container of usable marijuana shall be typed in a print size allowing no  
301 more than ten characters per inch. The container within which the usable marijuana is packaged  
302 shall be shipped to the qualifying patient or personal caregiver identified in the certification in a  
303 secure manner subject to regulations promulgated by the department.

304 (g) The facilities and properties of a licensed dispensary used for the purpose of  
305 dispensing usable marijuana in accordance with the section shall be subject to administrative  
306 inspections in accordance with section 30 of chapter 94C.

307 (h) Usable marijuana shall be an “additional drug” under the provisions of subsection  
308 (a)(1) of section 24A of chapter 94C.

309 (i) Licensed dispensaries shall be registered as participants in the prescription monitoring  
310 program established in section 24A of chapter 94C, and shall dispense useable marijuana in  
311 accordance with and subject to regulations promulgated thereunder as applicable to pharmacies.

312 Notwithstanding the above, a licensed dispensary shall run a prescription monitoring  
313 screen and if it determines that a qualifying patient or primary caregiver for a qualifying minor  
314 patient has had useable marijuana dispensed to such patient or primary caregiver by any other  
315 licensed dispensary, it shall not dispense useable marijuana to that patient or caregiver.

316 (j) A licensed dispensary shall not be subject to arrest or prosecution, penalized in any  
317 manner, including, but not limited to, being subject to any civil penalty, or denied any right or  
318 privilege, including, but not limited to, being subject to any disciplinary action by a professional  
319 licensing board, for acquiring, possessing, distributing or dispensing usable marijuana pursuant  
320 to sections this chapter.

321 (k) Notwithstanding subsection (l), a licensed dispensary shall be subject to arrest,  
322 prosecution or civil or criminal penalties pursuant to the laws of this state if the licensed  
323 dispensary: (1) acquires usable marijuana from a person other than a licensed cultivator; (2)  
324 distributes or dispenses usable marijuana to a person who is not (a) a qualifying patient  
325 registered under section 3 or 14 of this act, or (b) a primary caregiver of such qualifying patient;  
326 or (3) obtains or transports usable marijuana outside of this state in violation of federal law.

327 (l) No person who has been convicted of a felony drug offense may be the principal  
328 officer, board member, agent, or employee of licensed dispensary. A person who is employed by  
329 or is an agent, principal officer, or board member of a medical treatment center in violation of  
330 this section is guilty of a civil violation punishable by a fine of up to one thousand dollars  
331 (\$1,000).

332 (m) No signs or other printed matter advertising any brand or kind of usable marijuana, or  
333 promoting the use of usable marijuana for any reason shall be displayed on the exterior or  
334 interior of any licensed premises.

335 (n) A licensed dispensary shall not be permitted to also hold or apply for a license as a  
336 cultivator.

#### 337 Section 6. Written certifications

338 (a) A physician shall provide a written certification to a qualifying patient or qualifying  
339 minor patient only for a debilitating medical condition.

340 (b) A written certification may not be provided to a qualifying patient or qualifying minor  
341 patient by a physician who is related to the qualifying patient or qualifying minor patient within  
342 the second degree of consanguinity or the first degree of affinity, including a spouse, child,  
343 stepchild, parent, step-parent, sibling, grandparent, mother-in-law, father-in-law, son-in law,  
344 daughter-in-law, brother-in-law, sister-in-law, or step sibling of the patient, or other relative  
345 residing in the same residence of the physician.

346 (c) A written certification shall be valid for one year from the date signed by the  
347 physician.

348 (d) If the department believes a physician has failed to comply with any provision of this  
349 section, falsified any material or information submitted to the department, or has otherwise  
350 engaged in unprofessional conduct that adversely effects the safe and legitimate administration  
351 of the program established by this chapter, the department may submit to the appropriate  
352 professional licensing body a request for a review of the physician's conduct by said licensing  
353 body. The professional licensing body shall determine the appropriate disciplinary actions, if  
354 any, to be taken in each case. Upon submitting such a request, and until a response is received  
355 from the professional licensing body, the department may hold in abeyance the approval of any  
356 applications certified by the physician.

357 (e) Nothing in this law requires any physician to provide a written certification for the use  
358 of usable marijuana for a qualifying patient or qualifying minor patient, and a physician shall not  
359 be held liable for any alleged consequences of refusing to authorize or recommend such use.

#### 360 Section 7. Registry Identification Cards

361 (a) The department shall issue a registry identification card to a qualifying patient upon  
362 the qualifying patient's filing with the department of the original written certification of the  
363 qualifying patient's physician, and an application fee or renewal fee, provided that written  
364 certification is received by the department no more than sixty (60) days after being certified by  
365 said physician, and provided further that such fees shall not be less than the amount necessary to

366 cover the direct and indirect cost of issuing and regulating the use of registry identification cards  
367 pursuant to this chapter.

368 (b) The department shall issue a registry identification card to the primary caregiver of a  
369 qualifying minor patient upon the qualifying minor patient's filing with the department the  
370 original written certification of the qualifying minor patient's physician, in addition to the  
371 following:

372 (1) written documentation that the qualifying minor patient's physician has explained  
373 the potential risks and benefits of the use of usable marijuana to both the qualifying minor patient  
374 and parent or legal guardian of the qualifying minor patient;

375 (2) written documentation that the qualifying minor patient's parent or legal guardian  
376 consents to allow the qualifying minor patient's use of usable marijuana, consents to serve as the  
377 qualifying minor patient's primary caregiver; and, consents to control the acquisition of the  
378 usable marijuana, dosage and the frequency of the use of usable marijuana by the qualifying  
379 minor patient;

380 (3) a reasonable photocopy of the primary caregiver's Massachusetts driver's license  
381 or comparable state of Massachusetts identification, or federal issued photo identification card,  
382 or some other form of photographic identification and documentation, as determined by the  
383 department, verifying the primary caregiver's identity and Massachusetts residence; and

384 (4) a photograph.

385 (c) The department shall issue a registry identification card to a primary caregiver for the  
386 purpose of managing the well-being of a qualifying patient upon the completion and approval of  
387 a primary caregiver application form as approved by the department and signed by the primary  
388 caregiver, which shall have attached thereto the following:

389 (1) written documentation that the primary caregiver consents to serve as the  
390 qualifying patient's primary caregiver;

391 (2) a reasonable photocopy of the primary caregiver's Massachusetts driver's license  
392 or comparable state of Massachusetts identification, or federal issued photo identification card,  
393 or some other form of photographic identification and documentation, as determined by the  
394 department, verifying the primary caregiver's identity and Massachusetts residence; and

395 (3) a photograph.

396 (d) For purposes of this subsection, a photograph shall be in in color, printed on photo  
397 quality paper, be 2 x 2 inches (51 x 51 mm) in size, sized such that the head is between 1 inch  
398 and 1 3/8 inches (between 25 and 35 mm) from the bottom of the chin to the top of the head, be  
399 taken within the last 6 months to reflect the qualifying patient's or primary caregiver's current

400 appearance, be taken in front of a plain white or off-white background, be taken in full-face view  
401 directly facing the camera, show a neutral facial expression with both eyes open, be taken  
402 without a hat or head covering unless the hat or head covering is worn daily for a religious  
403 purpose, be without prescription glasses, a hearing device or similar articles unless such are  
404 normally worn, and be without dark glasses or non-prescription glasses with tinted lenses unless  
405 such are needed for medical reasons (a medical certificate may be required).

406 (e) The department is authorized to conduct criminal record checks with the  
407 Department of Criminal Justice Information Systems in accordance with Section 172 of Chapter  
408 6 of the Massachusetts General Laws to verify that a primary caregiver does not have a felony  
409 drug conviction.

410 (f) The department may verify information on each written certification and application  
411 and accompanying documentation by contacting each qualifying patient, qualifying minor  
412 patient or primary caregiver by telephone or mail, or if proof of identity is uncertain, the  
413 department may require a face-to-face meeting and the production of additional identification  
414 materials; when applicable, contacting a minor's parent or legal representative; contacting the  
415 Massachusetts Board of Registration in Medicine or other licensing agencies to verify that the  
416 physician is licensed to practice and prescribe controlled substances in Massachusetts and is in  
417 good standing; and, contacting the physician to obtain further documentation to verify the  
418 qualifying patient's or qualifying minor patient's medical diagnosis and medical condition.

419 (g) The department shall approve or deny an application within thirty (30) calendar days  
420 of receipt of the completed application. A request by the department for additional information  
421 shall toll this period until such time as the requested information is received.

422 (h) The department shall deny an application if the application fails to satisfy any  
423 requirement of this chapter, if the applicant fails to provide the information required, if written  
424 certification for a debilitating medical condition is provided by a physician not meeting the  
425 requirements for specialty training for that condition as defined by the physician's professional  
426 board of licensure, or if the department determines that any of the information provided is false.  
427 A person whose application has been denied shall not reapply for six (6) months from the date of  
428 the denial, unless otherwise authorized by the department, and is prohibited from all lawful  
429 privileges provided by this rule and act. Denial of an application or renewal is considered a final  
430 department action, subject to judicial review. Jurisdiction and venue for judicial review are  
431 vested in the superior court.

432 (i) The department shall issue a registry identification card to a qualifying patient within  
433 five (5) business days of approving an application. A registry identification card shall contain the  
434 name, address and date of birth of the qualifying patient and primary caregiver (if any), the date  
435 of issuance and expiration date of the registry identification card, a random registry identification  
436 number maintained by the department which identifies the qualifying patient, and a photograph

437 of the qualifying patient. Unless renewed at an earlier date, suspended or revoked, a registry  
438 identification card shall be valid for a period of two (2) years from the date of issuance and shall  
439 expire at midnight on the day indicated on the registry identification card as the expiration date.

440 (j) The department shall issue a registry identification card to a primary caregiver within  
441 five (5) business days of approving an application. A registry identification card shall contain the  
442 name, address and date of birth of the primary caregiver, the name, address and date of birth of  
443 the qualifying patient or qualifying minor patient, a random registry identification number  
444 maintained by the department which identifies the primary caregiver, the date of issuance and  
445 expiration date of the registry identification card, and a photograph of the primary caregiver.  
446 Unless renewed at an earlier date, suspended or revoked, a registry identification card shall be  
447 valid for a period of two (2) years from the date of issuance and shall expire at midnight on the  
448 day indicated on the registry identification card as the expiration date.

449 (k) A qualifying patient or primary caregiver who possesses a registry identification card  
450 shall notify the department of any change in the person's name, address, qualified patient's or  
451 qualifying minor patient's primary caregiver, or change in status of the qualifying patient's  
452 debilitating medical condition, within thirty (30) calendar days of the change. An extension shall  
453 be granted by the department upon the showing of good cause. Failure to provide notification of  
454 any change shall result in the immediate revocation of the registry identification card and all  
455 lawful privileges provided under the act. When a qualifying patient or primary caregiver notifies  
456 the department of any changes listed in this subsection, the department shall issue the registered  
457 qualifying patient and a primary caregiver a new registry identification card within ten (10) days  
458 of receiving the updated information and a twenty-five dollar (\$25.00) fee.

459 (l) Each registry identification card issued by the department is valid for one (1) year  
460 from the date of issuance. A qualifying patient or primary caregiver shall apply for a registry  
461 identification card renewal no less than thirty (30) calendar days prior to the expiration date of  
462 the existing registry identification card in order to prevent interruption of possession of a valid  
463 (unexpired) registry identification card. Written certifications from certifying physicians must be  
464 obtained within sixty (60) calendar days prior to the expiration of the qualifying patient's or  
465 qualifying minor patient's registry identification card.

466 (m) A registry identification card shall not be transferred by assignment or otherwise to  
467 other persons. Any attempt shall result in the immediate revocation of the registry identification  
468 card and all lawful privileges provided by this chapter.

469 (n) The qualifying patient or primary caregiver shall report a lost or stolen registry  
470 identification card to the department within five (5) business days after discovery. An extension  
471 shall be granted by the director upon the showing of good cause. Upon notification, and payment  
472 of a twenty-five dollar (\$25.00) fee, the department shall issue a new registry identification card.  
473 The qualifying patient or primary caregiver shall verify the accuracy of all documentation in the

474 most recent application. Within five (5) days, the department shall issue a new registry  
475 identification card. Unless documentation in the most recent application has changed, the  
476 qualifying patient or primary caregiver shall not be required to submit a new application.

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

481 Section 8. Protections for the medical use of marijuana.

482 (a) A qualifying patient who has in his or her possession a registry identification card  
483 shall not be subject to arrest, prosecution, or penalty in any manner, or denied any right or  
484 privilege, including but not limited to, civil penalty or disciplinary action by a business or  
485 occupational or professional licensing board or bureau, for the medical use of usable marijuana;  
486 provided, that the qualifying patient possesses an amount of usable marijuana that does not  
487 exceed two ounces and that was obtained in accordance with the provisions of this chapter.

488 (b) A primary caregiver, who has in his or her possession, a registry identification card  
489 shall not be subject to arrest, prosecution, or penalty in any manner, or denied any right or  
490 privilege, including but not limited to, civil penalty or disciplinary action by a business or  
491 occupational or professional licensing board or bureau, for assisting a qualifying patient to whom  
492 he or she is connected through the department's registration process with the medical use of  
493 usable marijuana; provided, that the primary caregiver possesses an amount of usable marijuana  
494 that does not exceed two ounces and that was obtained in accordance with the provisions of this  
495 chapter, for the qualifying patient or qualifying minor patient to whom he or she is connected  
496 through the department's registration process.

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

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

501 (2) Is in possession of no more than two ounces of usable marijuana. Such  
502 presumption may be rebutted by evidence that conduct related to usable marijuana was not for  
503 the purpose of alleviating the qualifying patient's debilitating medical condition or symptoms  
504 associated with the medical condition.

505 (d) Except as provided in this chapter, a qualifying patient, qualifying minor patient and  
506 primary caregiver may assert the medical purpose for using usable marijuana as a defense to any  
507 prosecution involving usable marijuana, and such defense shall be presumed valid where the  
508 evidence shows that:



509 (1) The qualifying patient's or qualifying minor patient's physician has stated that in  
510 the physician's professional opinion, after having completed a full physical examination and a  
511 full assessment of the qualifying patient's or qualifying minor patient's medical history and  
512 current medical condition, the qualifying patient or qualifying minor patient has a debilitating  
513 medical condition for which recognized drugs or treatments, including pill formulations of  
514 cannabinoid substances and THC listed as Schedule III drugs, are not or would not be effective  
515 and the potential benefits of the medical use of usable marijuana would likely outweigh the  
516 health risks for the qualifying patient or qualifying minor patient; and

517 (2) The qualifying patient or qualifying minor patient, or their primary caregiver, if  
518 any, were collectively in possession of a quantity of usable marijuana that was not more than  
519 what is reasonably necessary to ensure the uninterrupted availability of usable marijuana for the  
520 purpose of alleviating the person's medical condition or symptoms associated with the medical  
521 condition.

522 (e) Any interest in or right to property that was possessed, owned, or used in connection  
523 with a person's possession or use of usable marijuana for medical purposes shall not be forfeited  
524 if the qualifying patient, qualifying minor patient, or their primary caregiver demonstrates the  
525 qualifying patient's, qualifying minor patient's medical purpose for using usable marijuana  
526 pursuant to this section.

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

530 (g) A primary caregiver may not receive reimbursement for costs associated with  
531 assisting a registered qualifying patient's medical use of usable marijuana, except in the case  
532 where a primary caregiver is employed by the hospice provider or nursing facility and acting in  
533 the course of said employment.

534 (h) No person shall be subject to arrest or prosecution for constructive possession,  
535 conspiracy, aiding and abetting, being an accessory, or any other offense for simply being in the  
536 presence or vicinity of the medical use of usable marijuana as permitted under this chapter.

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

542 (j) For the purposes of medical care, including organ and tissue transplants, a registered  
543 qualifying patient's or qualifying minor patient's authorized use of usable marijuana shall be

544 considered the equivalent of the authorized use of any other medication used at the direction of a  
545 physician, and shall not constitute the use of an illicit substance.

546 (k) Nothing in this chapter shall be construed to prevent enforcement of federal law by  
547 agents of the United States Government, or to offer protection to any person or organization  
548 against any penalties under federal law.

549 Section 9. Additional debilitating medical conditions

550 (a) The department shall promulgate regulations governing the manner in which it shall  
551 consider petitions from the public to add debilitating medical conditions to those set forth in  
552 Chapter 94G Section 2(c). In considering such petitions, the department shall include public  
553 notice of, and an opportunity to comment in a public hearing, upon such petitions. The  
554 department shall, after hearing, approve or deny such petitions within one hundred eighty (180)  
555 days of submission. The approval or denial of such a petition shall be considered a final  
556 department action, subject to judicial review. Jurisdiction and venue for judicial review are  
557 vested in the superior court.

558 (b) In considering petitions for the addition of a new medical condition to the list set forth  
559 in section 2, the department shall consider whether the petitioners have established reasonable  
560 proof of the following:

561 (1) that the petition refers to a specific medical condition, that the specified medical  
562 condition is generally accepted by the medical community as a valid and existing condition, and  
563 that defined criteria exist for accurate diagnosis of the condition.

564 (2) that the condition is chronic and debilitating in nature, and associated with severe  
565 chronic pain, nausea or other severe symptoms that significantly impair a person's ability to  
566 carry on the activities of daily living.

567 (3) that the use of usable marijuana offers medicinal benefits specific to the condition,  
568 and that the proposed benefits noted by the petitioner outweigh the health risks, potential for  
569 abuse, and other potential negative side effects to the patient or the general population.

570 (4) that no other generally accepted treatment exists to alleviate the suffering caused  
571 by the specified medical condition; or that any and all alternatives which may exist are not  
572 available to a substantial portion of the population due to allergy, resistance, intolerance, or other  
573 negative responses to treatment, or due to exceptionally restrictive costs or limitations on the  
574 supply of the treatment.

575 (5) that the assertions of the petitioners as regarding subsections 1 through 4 above are  
576 supported by a preponderance of the independent scientific research available regarding the  
577 specified medical condition.

578 (6) that a reasonable assessment has been made and presented regarding the  
579 prevalence of the specified medical condition amongst the population of the Commonwealth.

580 (c) The department may deny a petition for the addition of a new medical condition if the  
581 petitioners have failed to establish reasonable proof of one or more of the aforementioned  
582 subsections, or for any other reason deemed appropriate by the department and established by the  
583 regulations promulgated pursuant to this chapter.

584 Section 10. Qualifying patient and qualifying minor patient privacy protections

585 (a) Applications and supporting information submitted by qualifying patients and  
586 qualifying minor patients, including information regarding their primary caregivers and  
587 practitioners, are confidential and protected under the federal Health Insurance Portability and  
588 Accountability Act of 1996.

589 (b) The department shall maintain a confidential list of the persons to whom the  
590 department has issued registry identification cards. Individual names and other identifying  
591 information on the list shall be confidential, exempt from the provisions of the Massachusetts  
592 Public Records Law, section 10 of chapter 66 of the General Law, and not subject to disclosure,  
593 except to authorized employees of the department as necessary to perform official duties of the  
594 department.

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

597 (d) It shall be a crime, punishable by up to one hundred eighty (180) days in jail and a  
598 one thousand dollar (\$1,000) fine, for any person, including an employee or official of the  
599 department or another state agency or local government, to breach the confidentiality of  
600 information obtained pursuant to this chapter. Notwithstanding this provision, the department  
601 employees may notify law enforcement about falsified or fraudulent information submitted to the  
602 department.

603 Section 11. Reporting

604 (a) On or before January 1 of each odd numbered year, the department shall report to the  
605 Joint Committee on Public Health on the use of usable marijuana for symptom relief. The report  
606 shall provide:

607 (1) The number of applications for registry identification cards, the number of  
608 qualifying patients, qualifying minor patients, and primary caregivers approved, the nature of  
609 the debilitating medical conditions of the qualifying patients and qualifying minor patients, the  
610 number of registry identification cards revoked, the number of petitions submitted in accordance  
611 with section 9 of this chapter, the number of physicians providing written certification for

612 qualifying patients and qualifying minor patients, and the number of petitions received for  
613 additional debilitating medical conditions and the disposition of said positions.

614 (2) A reporting of revenue resulting from permitting the use of usable marijuana for  
615 symptom relief, including any costs to law enforcement agencies and costs of any litigation;

616 (3) Statistics regarding the number of marijuana-related prosecutions against  
617 registered qualifying patients, qualifying minor patients, and caregivers;

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

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

623 (b) For the purposes of this section, state and local law enforcement agencies shall  
624 provide the department a report every six (6) months detailing the number and type of  
625 prosecutions against qualifying patients, qualifying minor patients, primary caregivers and  
626 physicians for violations related to this chapter.

627 (c) The board of registration in medicine shall annually report to the department the  
628 number of complaints against physicians received by such board in relation to this chapter.

#### 629 Section 12. Legislative Review

630 (a) The Joint Committee on Public Health shall annually hold a hearing to review the  
631 following:

632 (1) Patients' access to medical marijuana;

633 (2) Physician participation in the Medical Marijuana Program;

634 (3) The definition of qualifying debilitating medical conditions; and

635 (4) Research studies regarding health effects of medical marijuana for patients.

636 (b) On or before January of every even-numbered year, the Joint Committee on Public  
637 Health shall report to the general court and the department on its findings.

#### 638 Section 13. Scope of chapter.

639 (a) This chapter shall not permit:

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

- 642 (2) The smoking or consumption of usable, or any, marijuana:
- 643 (i) In a school bus or other form of public transportation;
- 644 (ii) On any school grounds, or any public or private school, dormitory, college or  
645 university property;
- 646 (iii) In any correctional facility;
- 647 (iv) at any public beach, park, recreation center or youth center or any other public  
648 place;
- 649 (v) In any licensed drug treatment facility in this state; or
- 650 (vi) in the presence of a person under the age of eighteen.

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

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

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

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

659 (c) Nothing in this chapter shall be construed to limit a municipality's authority to  
660 regulate, license or zone a licensed cultivator or dispensary, or limit a municipality's authority to  
661 inspect for compliance with and enforce applicable codes and ordinances.

662 (d) Fraudulent representation to a law enforcement official of any fact or circumstance  
663 relating to

664 the medical use of marijuana to avoid arrest or prosecution shall be punishable by a fine  
665 of five hundred dollars (\$500) which shall be in addition to any other penalties that may apply  
666 for making a false statement for the non-medical use of marijuana.

667 Section 14. Enforcement.

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

672           Section 15. Severability.

673           Any section of this act being held invalid as to any person or circumstances shall not  
674 affect the application of any other section of this act that can be given full effect without the  
675 invalid section or application.