

Part I ADMINISTRATION OF THE GOVERNMENT**Title XV** REGULATION OF TRADE**Chapter 94I** MEDICAL USE OF MARIJUANA**Section 1** DEFINITIONS

Section 1. As used in this chapter the following words shall, unless the context clearly requires otherwise, have the following meanings:-

"Bona fide healthcare professional-patient relationship", a relationship between a registered healthcare professional, acting in the usual course of his or her professional practice, and a patient in which the healthcare professional has conducted a clinical visit, completed and documented a full assessment of the patient's medical history and current medical condition, has explained the potential benefits and risks of medical use of marijuana, and has a role in the ongoing care and treatment of the patient.

"Card holder", a registered qualifying patient, personal caregiver or agent of a medical marijuana treatment center who has been issued and possesses a valid registration card.

"Commission", the Massachusetts cannabis control commission established pursuant to section 76 of chapter 10.

"Cultivation registration", a registration issued to a medical marijuana treatment center to grow medical use marijuana under the terms of this chapter, or to a qualified patient or personal caregiver.

"Debilitating medical condition", cancer, glaucoma, positive status for human immunodeficiency virus, acquired immune deficiency syndrome, hepatitis C, amyotrophic lateral sclerosis, Crohn's disease, Parkinson's disease, multiple sclerosis and other conditions as determined in writing by a registered qualifying patient's registered healthcare professional.

"Electronic certification", a document signed or executed electronically by a registered healthcare professional, stating that in the healthcare professional's professional opinion, the potential benefits of the medical use of marijuana would likely outweigh the health risks for the qualifying patient. Such certification shall be made only in the course of a bona fide healthcare professional-patient relationship and shall specify the qualifying patient's

debilitating medical condition. Electronic certifications, upon submission by a healthcare professional to the commission, shall automatically generate a temporary registration.

"Healthcare professional", a duly Massachusetts licensed physician, physician assistant or certified nurse practitioner authorized by the commission to issue written certifications.

"Locked area", a closet, room, greenhouse or other indoor or outdoor area equipped with locks or other security devices, accessible only to registered and authorized medical marijuana treatment center employees, registered qualifying patients or registered personal caregivers.

"Marijuana", all parts of any plant of the genus *cannabis*, not excepted below and whether growing or not; the seeds thereof; and resin extracted from any part of the plant; and every marijuana product, compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin including tetrahydrocannabinol as defined in section 1 of chapter 94C; provided, however, that "marijuana" shall not include: (i) the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks, fiber, oil or cake made from the seeds of the plant or the sterilized seed of the plant that is incapable of germination; (ii) hemp; or (iii) the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink or other products.

"Medical marijuana treatment center", the premises approved under a medical use marijuana license.

"Medical use marijuana", marijuana or marijuana accessories sold by a medical marijuana treatment center to a card holder for medical use or marijuana or marijuana accessories possessed by a qualifying patient under a cultivation registration.

"Medical use marijuana license", a license issued by the commission that permits the licensee to operate a medical marijuana treatment center.

"Medical use marijuana licensee", a person or entity who holds a medical use marijuana license under this chapter.

"Medical use of marijuana", the acquisition, cultivation, possession, processing, including development of related products such as food, tinctures, aerosols, oils or ointments, transfer, transportation, sale, distribution, dispensing or administration of marijuana for the benefit of registered qualifying patients in the treatment of debilitating medical conditions or the symptoms thereof.

"Personal caregiver", a person who is at least 21 years old who has registered with the commission and agreed to assist with a qualifying patient's medical use of marijuana, and is not the registered qualifying patient's certifying healthcare provider. Personal caregivers are prohibited from consuming medical use marijuana obtained for the personal, medical use of the registered qualifying patient. An employee of a hospice provider, nursing or medical facility providing care to a qualifying patient may also serve as a personal caregiver.

"Qualifying patient", a person who has been diagnosed by a registered healthcare professional as having a debilitating medical condition.

"Registration card", a personal identification card issued by the commission to a registered qualifying patient, personal caregiver, laboratory agent or agent of a medical marijuana treatment center. The registration card facilitates verification of an individual registrant's status, including, but not limited to, verification that a registered healthcare professional has provided a written certification to the qualifying patient; that the patient has designated the individual as a personal caregiver; that a laboratory agent has been registered with the commission and is authorized to possess and test marijuana; or that an agent has been registered with the commission and is authorized to work at a medical marijuana treatment center. A temporary registration issued to a qualifying patient shall be deemed a registration card.

The registration card shall facilitate identification for the commission and law enforcement of those individuals who are exempt from criminal and civil penalties for conduct pursuant to the medical use of marijuana.

"Sixty-day supply", that amount of medical use marijuana that a registered qualifying patient would reasonably be expected to need over a period of 60 calendar days for the qualifying patient's personal medical use, up to 10 ounces of marijuana or as otherwise defined by the commission.

"Temporary Registration", an interim registration document for patients and their personal caregivers generated automatically upon the commission's receipt of a healthcare professional's electronic certification. The temporary registration document shall constitute a registration card for patients and their personal caregivers to access medical marijuana treatment center. Temporary registration shall expire 14 days after the commission issues the registration card.

"Written certification", a document signed by a registered healthcare professional, stating that in the professional opinion of the healthcare professional, the potential benefits of the medical use of marijuana would

likely outweigh the health risks for the qualifying patient. Such certification shall be made only in the course of a bona fide healthcare professional-patient relationship and shall specify the qualifying patient's debilitating medical condition.

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Chapter 94I	MEDICAL USE OF MARIJUANA
Section 2	MEDICAL USE OF MARIJUANA PROGRAM; IMMUNITY FROM PENALTY, ARREST OR PROSECUTION; CULTIVATION REGISTRATIONS; LISTS OF REGISTERED QUALIFYING PATIENTS

Section 2. (a) The commission shall operate a medical use of marijuana program, which shall permit a qualifying patient with a debilitating medical condition to obtain a written or electronic certification from a healthcare professional with whom the patient has a bona fide healthcare professional-patient relationship to purchase medical use marijuana from a medical marijuana treatment center. Upon issuance of a written certification from a healthcare professional, the commission shall issue a registration card to the qualifying patient. A medical marijuana treatment center may sell medical use marijuana to a card holder.

(b) (1) A healthcare professional shall not be penalized, in any manner, or denied any right or privilege, for: (i) advising a qualifying patient about the risks and benefits of the medical use of marijuana within a bona fide healthcare professional-patient relationship; or (ii) providing a qualifying patient with written or electronic certification, based upon a full assessment of the qualifying patient's medical history and condition, including a debilitating medical condition, that the medical use of marijuana may benefit a particular qualifying patient, within a bona fide healthcare professional-patient relationship.

(2) A qualifying patient or a personal caregiver shall not be subject to arrest or prosecution, or civil penalty, for medical use marijuana.

(3) No person shall be arrested or prosecuted for any criminal offense solely for being in the presence of medical use marijuana or its use as authorized by this chapter.

(4) The lawful possession, cultivation, transfer, transport, distribution or manufacture of medical use marijuana as authorized by this section shall not result in the forfeiture or seizure of any property.

(c) A medical marijuana treatment center and its employees registered with the commission shall not be penalized or arrested for acquiring, possessing, cultivating, processing, transferring, transporting, selling, distributing or dispensing medical use marijuana and related supplies and educational materials to qualifying patients or their personal caregivers.

(d) The commission shall issue a cultivation registration to a qualifying patient applying for such registration whose access to a medical marijuana treatment center is limited by verified financial hardship, a physical incapacity to access reasonable transportation or the lack of a medical marijuana treatment center within a reasonable distance of the qualifying patient's residence. The commission may deny a registration based on the provision of false information by the applicant. Such registration shall allow the qualifying patient or the qualifying patient's personal caregiver to cultivate a limited number of plants, sufficient to maintain a 60-day supply of marijuana, and shall require cultivation and storage only in an enclosed, locked area.

(e) The commission shall maintain a confidential list of registered qualifying patients issued medical use marijuana registration cards. Individual names and other identifying information on the list shall be exempt from section 10 of chapter 66, and not subject to disclosure, except to employees of the commission in the course of their official duties and to law enforcement officials of the commonwealth when verifying a card holder's registration.

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Section 3	MAINTENANCE OF DATABASE; CONFIDENTIALITY OF RECORDS AND COMMUNICATIONS

Section 3. (a) The commission shall maintain a confidential, interoperable database including, but not limited to: (i) the qualifying patients issued a registration card for medical use of marijuana; (ii) the healthcare professionals registered to issue written certifications; (iii) the name of any medical marijuana treatment center; (iv) the quantity of medical use marijuana dispensed to a card holder; and (v) any other pertinent information. Individual names and other identifying information shall be exempt from section 10 of chapter 66, and not subject to disclosure, except to employees of the commission in the course of their official duties, medical marijuana treatment centers to facilitate dispensing of medical use marijuana and to state or local law enforcement officials for the purposes of conducting an investigation pursuant this chapter.

(b) Every registered qualifying patient shall have the right to confidentiality of all records and communications related to their care provided by a medical use marijuana licensee or establishment or by a registered healthcare professional to the extent provided by law. Such records shall not be deemed public records as defined by clause Twenty-sixth of section 7 of chapter 4. No provision of this subsection relating to confidentiality of records shall be construed to prevent access to any such records by the commission or its agents, a healthcare professional who has a bona fide healthcare professional-patient relationship with the patient, a medical marijuana treatment center or any state or local law enforcement official for the purposes of conducting an investigation pursuant this chapter.

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Section 4 REGISTRATION OF HEALTHCARE PROFESSIONALS THAT ISSUE
CERTIFICATIONS FOR MEDICAL USE OF MARIJUANA

Section 4. Any healthcare professional that issues a written certification for the medical use of marijuana shall register with the commission pursuant to regulations promulgated by the commission.

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Section 5 REGISTRATION OF QUALIFYING PATIENTS RECEIVING
CERTIFICATIONS FOR MEDICAL USE MARIJUANA

Section 5. Any qualifying patient receiving a written or electronic certification for medical use marijuana shall register with the commission pursuant to regulations promulgated by the commission.

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Section 6 LIMITATIONS ON EFFECT OF CHAPTER

Section 6. This chapter shall not:

- (i) require any health insurance provider, or any government agency or authority, to reimburse any person for the expenses of the medical use of marijuana;
- (ii) require any healthcare professional to authorize the medical use of marijuana for a patient; or
- (iii) amend existing penalties for operating, navigating or being in actual physical control of any motor vehicle, train, aircraft, motorboat or other motorized form of transport or machinery while impaired by marijuana or a marijuana product.

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Section 7	RULES AND REGULATIONS FOR IMPLEMENTATION OF CHAPTER; APPLICATION FEES

Section 7. The commission shall promulgate rules and regulations for the implementation of this chapter under the procedures of chapter 30A. The commission shall set application fees for medical marijuana treatment centers so as to defray the administrative costs of the medical marijuana program and ensure the medical marijuana program is revenue neutral.

No regulation of the commission regarding the medical use of marijuana shall be more restrictive than any rule or regulation promulgated by the department of public health pursuant to chapter 369 of the acts of 2012 and in effect on July 1, 2017.

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Section 8 TAXATION OF MARIJUANA SOLD PURSUANT TO CHAPTER

Section 8. Marijuana sold pursuant to this chapter shall not be taxed under chapter 64H, 64I, 64K or 64N.

Acts (2012)

Chapter 369

AN ACT FOR THE HUMANITARIAN MEDICAL USE OF MARIJUANA.

Be it enacted by the People, and by their authority, as follows:

Section 1. Purpose and Intent.

The citizens of Massachusetts intend that there should be no punishment under state law for qualifying patients, physicians and health care professionals, personal caregivers for patients, or medical marijuana treatment center agents for the medical use of marijuana, as defined herein.

Section 2. As used in this Law, the following words shall, unless the context clearly requires otherwise, have the following meanings:

(A) “Card holder” shall mean a qualifying patient, a personal caregiver, or a dispensary agent of a medical marijuana treatment center who has been issued and possesses a valid registration card.

(B) “Cultivation registration” shall mean a registration issued to a medical marijuana treatment center for growing marijuana for medical use under the terms of this Act, or to a qualified patient or personal caregiver under the terms of Section 11.

(C) “Debilitating medical condition” shall mean:

Cancer, glaucoma, positive status for human immunodeficiency virus, acquired immune deficiency syndrome (AIDS), hepatitis C, amyotrophic lateral sclerosis (ALS), Crohn's disease, Parkinson's disease, multiple sclerosis and other conditions as determined in writing by a qualifying patient's physician.

(D) “Department” shall mean the Department of Public Health of the Commonwealth of Massachusetts.

(E) “Dispensary agent” shall mean an employee, staff volunteer, officer, or board member of a non-profit medical marijuana treatment center, who shall be at least twenty-one (21) years of age.

(F) “Enclosed, locked facility” shall mean a closet, room, greenhouse, or other area equipped with locks or other security devices, accessible only to dispensary agents, patients, or personal caregivers.

(G) “Marijuana,” has the meaning given “marihuana” in Chapter 94C of the General Laws.

(H) “Medical marijuana treatment center” shall mean a not-for-profit entity, as defined by Massachusetts law only, registered under this law, that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to qualifying patients or their personal caregivers.

(I) “Medical use of marijuana” shall mean the acquisition, cultivation, possession, processing, (including development of related products such as food, tinctures, aerosols, oils, or ointments), transfer, transportation, sale, distribution, dispensing, or administration of marijuana, for the benefit of qualifying patients in the treatment of debilitating medical conditions, or the symptoms thereof.

(J) “Personal caregiver” shall mean a person who is at least twenty-one (21) years old who has agreed to assist with a qualifying patient's medical use of marijuana. Personal caregivers are prohibited from consuming marijuana obtained for the personal, medical use of the qualifying patient. An employee of a hospice provider, nursing, or medical facility providing care to a qualifying patient may also serve as a personal caregiver.

(K) “Qualifying patient” shall mean a person who has been diagnosed by a licensed physician as having a debilitating medical condition.

(L) “Registration card” shall mean a personal identification card issued by the Department to a qualifying patient, personal caregiver, or dispensary agent. The registration card shall verify that a physician has provided a written certification to the qualifying patient, that the patient has designated the individual as a personal caregiver, or that a medical treatment center has met the terms of Section 9 and Section 10 of this law. The registration card shall identify for the Department and law enforcement those individuals who are exempt from Massachusetts criminal and civil penalties for conduct pursuant to the medical use of marijuana.

(M) “Sixty-day supply” means that amount of marijuana that a qualifying patient would reasonably be expected to need over a period of sixty days for their personal medical use.

(N) “Written certification” means a document signed by a licensed physician, stating that in the physician's professional opinion, the potential benefits of the medical use of marijuana would likely outweigh the health risks for the qualifying patient. Such certification shall be made only in the course of a bona fide physician-patient relationship and shall specify the qualifying patient's debilitating medical condition(s).

Section 3. Protection from State Prosecution and Penalties for Health Care Professionals

A physician, and other health care professionals under a physician's supervision, shall not be penalized under Massachusetts law, in any manner, or denied any right or privilege, for:

- (a) Advising a qualifying patient about the risks and benefits of medical use of marijuana; or
- (b) Providing a qualifying patient with written certification, based upon a full assessment of the qualifying patient's medical history and condition, that the medical use of marijuana may benefit a particular qualifying patient.

Section 4. Protection From State Prosecution and Penalties for Qualifying Patients and Personal Caregivers

Any person meeting the requirements under this law shall not be penalized under Massachusetts law in any manner, or denied any right or privilege, for such actions.

A qualifying patient or a personal caregiver shall not be subject to arrest or prosecution, or civil penalty, for the medical use of marijuana provided he or she:

- (a) Possesses no more marijuana than is necessary for the patient's personal, medical use, not exceeding the amount necessary for a sixty-day supply; and
- (b) Presents his or her registration card to any law enforcement official who questions the patient or caregiver regarding use of marijuana.

Section 5. Protection From State Prosecution and Penalties for Dispensary Agents.

A dispensary agent shall not be subject to arrest, prosecution, or civil penalty, under Massachusetts law, for actions taken under the authority of a medical marijuana treatment center, provided he or she:

- (a) Presents his or her registration card to any law enforcement official who questions the agent concerning their marijuana related activities; and
- (b) Is acting in accordance with all the requirements of this law.

Section 6. Protection Against Forfeiture and Arrest

(A) The lawful possession, cultivation, transfer, transport, distribution, or manufacture of medical marijuana as authorized by this law shall not result in the forfeiture or seizure of any property.

(B) No person shall be arrested or prosecuted for any criminal offense solely for being in the presence of medical marijuana or its use as authorized by this law.

Section 7. Limitations of Law

- (A) Nothing in this law allows the operation of a motor vehicle, boat, or aircraft while under the influence of marijuana.
- (B) Nothing in this law requires any health insurance provider, or any government agency or authority, to reimburse any person for the expenses of the medical use of marijuana.
- (C) Nothing in this law requires any health care professional to authorize the use of medical marijuana for a patient.
- (D) Nothing in this law requires any accommodation of any on-site medical use of marijuana in any place of employment, school bus or on school grounds, in any youth center, in any correctional facility, or of smoking medical marijuana in any public place.
- (E) Nothing in this law supersedes Massachusetts law prohibiting the possession, cultivation, transport, distribution, or sale of marijuana for nonmedical purposes.
- (F) Nothing in this law requires the violation of federal law or purports to give immunity under federal law.
- (G) Nothing in this law poses an obstacle to federal enforcement of federal law.

Section 8. Department to define presumptive 60-day supply for qualifying patients.

Within 120 days of the effective date of this law, the department shall issue regulations defining the quantity of marijuana that could reasonably be presumed to be a sixty-day supply for qualifying patients, based on the best available evidence. This presumption as to quantity may be overcome with evidence of a particular qualifying patient's appropriate medical use.

Section 9. Registration of nonprofit medical marijuana treatment centers.

- (A) Medical marijuana treatment centers shall register with the department.
- (B) Not later than ninety days after receiving an application for a nonprofit medical marijuana treatment center, the department shall register the nonprofit medical marijuana treatment center to acquire, process, possess, transfer, transport, sell, distribute, dispense, and administer marijuana for medical use, and shall also issue a cultivation registration if:
 - 1. The prospective nonprofit medical marijuana treatment center has submitted:
 - (a) An application fee in an amount to be determined by the department consistent with Section 13 of this law.
 - (b) An application, including:
 - (i) The legal name and physical address of the treatment center and the physical address of one additional location, if any, where marijuana will

be cultivated.

(ii) The name, address and date of birth of each principal officer and board member.

(c) Operating procedures consistent with department rules for oversight, including cultivation and storage of marijuana only in enclosed, locked facilities.

2. None of the principal officers or board members has served as a principal officer or board member for a medical marijuana treatment center that has had its registration certificate revoked.

(C) In the first year after the effective date, the Department shall issue registrations for up to thirty-five non-profit medical marijuana treatment centers, provided that at least one treatment center shall be located in each county, and not more than five shall be located in any one county. In the event the Department determines in a future year that the number of treatment centers is insufficient to meet patient needs, the Department shall have the power to increase or modify the number of registered treatment centers.

(D) A medical treatment center registered under this section, and its dispensary agents registered under Section 10, shall not be penalized or arrested under Massachusetts law for acquiring, possessing, cultivating, processing, transferring, transporting, selling, distributing, and dispensing marijuana, products containing marijuana, and related supplies and educational materials, to qualifying patients or their personal caregivers.

Section 10. Registration of medical treatment center dispensary agents.

(A) A dispensary agent shall be registered with the Department before volunteering or working at a medical marijuana treatment center.

(B) A treatment center must apply to the Department for a registration card for each affiliated dispensary agent by submitting the name, address and date of birth of the agent.

(C) A registered nonprofit medical marijuana treatment center shall notify the department within one business day if a dispensary agent ceases to be associated with the center, and the agent's registration card shall be immediately revoked.

(D) No one shall be a dispensary agent who has been convicted of a felony drug offense. The Department is authorized to conduct criminal record checks with the Department of Criminal Justice Information to enforce this provision.

Section 11. Hardship Cultivation Registrations.

The Department shall issue a cultivation registration to a qualifying patient whose access to a medical treatment center is limited by verified financial

hardship, a physical incapacity to access reasonable transportation, or the lack of a treatment center within a reasonable distance of the patient's residence. The Department may deny a registration based on the provision of false information by the applicant. Such registration shall allow the patient or the patient's personal caregiver to cultivate a limited number of plants, sufficient to maintain a 60-day supply of marijuana, and shall require cultivation and storage only in an enclosed, locked facility. The department shall issue regulations consistent with this section within 120 days of the effective date of this law. Until the department issues such final regulations, the written recommendation of a qualifying patient's physician shall constitute a limited cultivation registration.

Section 12. Medical marijuana registration cards for qualifying patients and designated caregivers.

(A) A qualifying patient may apply to the department for a medical marijuana registration card by submitting

1. Written certification from a physician.
2. An application, including:
 - (a) Name, address unless homeless, and date of birth.
 - (b) Name, address and date of birth of the qualifying patient's personal caregiver, if any.

Section 13. Department implementation of Regulations and Fees.

Within 120 days of the effective date of this law, the department shall issue regulations for the implementation of Sections 9 through 12 of this Law. The department shall set application fees for non-profit medical marijuana treatment centers so as to defray the administrative costs of the medical marijuana program and thereby make this law revenue neutral. Until the approval of final regulations, written certification by a physician shall constitute a registration card for a qualifying patient. Until the approval of final regulations, a certified mail return receipt showing compliance with Section 12 (A) (2) (b) above by a qualifying patient, and a photocopy of the application, shall constitute a registration card for that patient's personal caregiver.

Section 14. Penalties for Fraudulent Acts.

(A) The department, after a hearing, may revoke any registration card issued under this law for a willful violation of this law. The standard of proof for revocation shall be a preponderance of the evidence. A revocation decision shall be reviewable in the Superior Court.

(B) The fraudulent use of a medical marijuana registration card or cultivation registration shall be a misdemeanor punishable by up to 6 months in the house of correction, or a fine up to \$500, but if such

fraudulent use is for the distribution, sale, or trafficking of marijuana for non-medical use for profit it shall be a felony punishable by up to 5 years in state prison or up to two and one half years in the house of correction.

Section 15. Confidentiality

The department shall maintain a confidential list of the persons issued medical marijuana registration cards. Individual names and other identifying information on the list shall be exempt from the provisions of Massachusetts Public Records Law, M.G.L. Chapter 66, section 10, and not subject to disclosure, except to employees of the department in the course of their official duties and to Massachusetts law enforcement officials when verifying a card holder's registration.

Section 16. Effective Date.

This law shall be effective January 1, 2013.

Section 17. Severability.

The provisions of this law are severable and if any clause, sentence, paragraph or section of this measure, or an application thereof, shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof but shall be confined in its operation to the clause, sentence, paragraph, section or application adjudged invalid.

ELECTION, 2012.
