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

Chapter 94G: Medical Marijuana Act.

Section 1. Short Title; Purpose. Section 1. Sections 1 to 10, inclusive, shall be known, and may be cited, as "The Massachusetts Medical Marijuana Act." It is the purpose of this act to protect patients with debilitating medical conditions, as well as their practitioners and designated caregivers, from arrest and prosecution, criminal and other penalties, and property forfeiture if such patients engage in the medical use of marijuana. Section 2. Definitions. Section 2. As used in this chapter, the following words shall, unless the context clearly requires otherwise, have the following meanings:

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

(b) "Medical marijuana" means all parts of the Cannabis plant, including the seed, and all extracts and products derived from it; the term shall not include the seeds, stalks, and roots of the plant.

(c) "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 them as it is the patient's registered medical treatment centers.

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

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

(f) "Medical Marijuana Act" has the meaning given under the term "marijuana" in Chapter 94C Section 1. (g) "Medical use" means the acquisition, possession, cultivation, manufacture, sale, delivery, transfer, or transportation of marijuana or paraphernalia relating to the consumption of marijuana to alleviate the symptoms or effects of a registered patient's debilitating medical condition.

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

Section 2. Definitions.

Section 3. Protections for the medical use of marijuana.

Section 4. Access to medical marijuana.

Section 5. Cultivation of medical marijuana.

Section 6. Registration of medical marijuana treatment centers.

Section 7. Investigation and Penalty.

Section 8. Confidentiality.

Section 9. Sale to patients, primary caregivers, and employees.

Section 10. Enforcement of this act.

Bill text

Sponsors, Stanley Rosenberg
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 registered identification card issued by the department within ten (10) days of the filing of the information provided by the 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 qualified through the department’s registration process. (l) A registered cardholder or visiting qualifying patient may give marijuana to another 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. (m) For the purposes of medical care, including organ and tissue transplants, a registered qualifying patient may be considered to be authorized use of marijuana shall be conducive to, and of a physician, and shall not constitute the use of an illicit substance. Section 4. Department to issue regulations. Section 4. (a) Not later than ninety (90) days after the effective date of this chapter, the department shall promulgate regulations governing the manner in which it shall consider petitions from the public to add debilitating medical conditions to those set forth in Chapter 94G Section 2(a). In considering such petitions, the department shall include public notice of, and an opportunity to comment in a public hearing, upon such petitions. The department shall, after hearing, approve or deny such days of such change. (2) A registered primary caregiver or principal officer, board member, employee, volunteer, or agent of a medical treatment center who fails to notify 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. If a qualifying patient, primary caregiver, or 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. If a qualifying patient, primary caregiver, or 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. 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(7) If a qualifying patient, primary caregiver, or 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. 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. (8) A registered primary caregiver or principal officer, board member, employee, volunteer, or agent of a medical treatment center who fails to notify 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. 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. (9) If a qualifying patient, primary caregiver, or 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. 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. (10) 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.
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 agencies permitted 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: (1) The number of applications for registration identification cards, the number of qualifying patients and primary caregivers approved, the nature of the debilitating medical conditions of the qualifying patients, the number of registration identification cards revoked, and the number of practitioners providing written certification for qualifying patients; (2) An evaluation of the costs, savings, and revenue resulting from permitting the use of marijuana for symptom relief, including any costs to law enforcement agencies and costs of any litigation; (3) Statistics regarding the number of marijuana-related prosecutions against registered patients and caregivers, and an analysis of the facts underlying those prosecutions; (4) Statistics regarding the number of prosecutions against physicians for violations of this chapter; and (5) Whether the United States Food and Drug Administration has altered its position regarding the use of marijuana for medical purposes or has approved alternative delivery systems for qualifying patients. (l) The registration identification cards shall include a question asking whether the patient would like the department to notify him or her of any clinical studies about marijuana’s risk or efficacy. The department shall inform those patients who answer in the affirmative of any such studies it is notified of that will be conducted in Massachusetts. The department may also notify those patients of medical studies conducted outside of Massachusetts. Section 6. Medical treatment centers. Section 6. (a) A medical treatment center may acquire a certificate registered under this section upon registration with the department and by following the procedures for suspending or terminating the registration of medical treatment centers that violate the provisions of this section or the regulations promulgated pursuant to this subsection. (b) The department shall designate a medical treatment center for the purpose of obtaining medical marijuana. A medical treatment center may cultivate and possess whichever of the following quantities is greater of useable marijuana: (a) 96 marijuana plants and 32 ounces of useable marijuana; or (b) 24 marijuana plants and 8 ounces of useable marijuana. Each medical treatment center is required to keep track of marijuana 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 or, upon destruction of the marijuana seeds, stalks, and unusable roots. (c) 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 or, upon destruction of the marijuana seeds, stalks, and unusable roots. (c) 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 or, upon destruction of the marijuana seeds, stalks, and unusable roots.

### Section 6. (c)(7)

A medical treatment center may cultivate and possess whichever of the following quantities is greater of useable marijuana: (a) 96 marijuana plants and 32 ounces of useable marijuana; or (b) 24 marijuana plants and 8 ounces of useable marijuana. Each medical treatment center is required to keep track of marijuana 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 or, upon destruction of the marijuana seeds, stalks, and unusable roots. (c) 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 or, upon destruction of the marijuana seeds, stalks, and unusable roots. (c) 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 or, upon destruction of the marijuana seeds, stalks, and unusable roots.
A medical treatment center shall notify each principal officer, board member, agent, volunteer, and employee of a medical treatment center a registry identification card or renewal card within ten (10) days of receipt of the person's name, address, date of birth, and a fee in an amount established by the department. Each card shall specify that the cardholder is a principal officer, board member, agent, volunteer, or employee of a medical treatment center. (i) The name and date of birth of the principal officer, board member, agent, volunteer, or employee; (ii) The legal name of the medical treatment center to which the principal officer, board member, agent, volunteer, or employee is affiliated; (iii) A random identification number that is unique to the cardholder; (iv) The date of issuance and expiration date of the registry identification card; and (v) A photograph, if the department decides to require one. (7) Except as provided in this subsection, the department shall not issue a registry identification card to any principal officer, board member, agent, volunteer, or employee of a medical treatment center who has been convicted of a felony drug offense. The department may conduct a background check of each principal officer, board member, agent, volunteer, or employee in order to carry out this provision. The department shall notify the medical treatment center in writing of the purpose for denying the registry identification card. The department may grant such person a registry identification card if the department determines 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 or the United States, and such conviction has been vacated, reversed, exonerated, or otherwise annulled by a court of competent jurisdiction. (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 the 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 legislature has not ever issued a certificate 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)(1) – (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 implement the provisions of 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 such 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 may not dispense any amount of usable marijuana or marijuana plants to a qualifying patient or a primary caregiver during a fifteen (15) day period. (2) Any medical treatment center shall develop, implement, and maintain on the premises on site training curricula, or enter into contractual relays, but not limited to, the following topics: (a) Professional conduct, ethics, and patient confidentiality; and (b) Informational developments in the field of the medical use of marijuana. (12) Each medical treatment center entity shall provide each employee and each volunteer with a training certificate, including, but not limited to, the following topics: (a) Professional conduct, ethics, and patient confidentiality; and (b) Informational developments in the field of the medical use of marijuana. (13) All training required under this section shall be completed, and the training certificate shall be issued to the person to whom it is issued and the employer or entity to whom it is issued and the employer or entity, upon request, shall provide such certificate to the department. (g) Maximum amount of usable marijuana. (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, volunteer, 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) Privileges of the department. (1) The department may: (A) Conduct reasonable inspections of a medical treatment center at any time; (B) Require a medical treatment center to make available for inspection any documents, records, and information pertaining to the operation of the medical treatment center; (C) Require a medical treatment center to permit the department to enter the medical treatment center premises and any buildings on the premises at any time; (D) Require a medical treatment center to permit the department to search, seize, or take evidence; (E) Require a medical treatment center to permit the department to take fingerprints, photographs, or other biometric data of a principal officer, board member, agent, volunteer, or employee of a medical treatment center who has been convicted of a felony drug offense. The department may conduct a background check of each principal officer, board member, agent, volunteer, or employee in order to carry out this provision. The department shall notify the medical treatment center in writing of the purpose for denying the registry identification card. The department may grant such person a registry identification card if the department determines 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 or the United States, and such conviction has been vacated, reversed, exonerated, or otherwise annulled by a court of competent jurisdiction.
Section 7. Scope of chapter.

- A government medical assistance program or private health insurer to a medical treatment center may not dispense, deliver, or otherwise transfer 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 or cease 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; one nurse to be selected from a list provided by the Massachusetts State Nurses Association; three (3) registered qualifying patients; one registered primary caregiver; one patient advocate; and one representative of the law enforcement community. (2) The oversight committee shall meet at least three (3) times per year for the purpose of evaluating and making recommendations to the General Court regarding: (i) Patients’ access to medical marijuana; (ii) The efficacy of each registered medical treatment center, and medical treatment centers as a whole, including the reasonableness of pricing and patients’ feedback on the quality of the marijuana; (iii) Physician participation in the Medical Marijuana Program; (iv) The definition of qualifying debilitating medical conditions; and (v) Research studies regarding health effects of medical marijuana for patients. (3) On or before January of every even-numbered year, the oversight committee shall report to the general court and the department on its findings. Section 7. Scope of chapter. Section 7. (a) This chapter shall not permit: (1) Anyone to undertake any task under the influence of marijuana, when doing so would constitute negligence or professional malpractice; (2) The smoking of marijuana: (i) In a school bus or other form of public transportation; (ii) On any school grounds; (iii) In any correctional facility; (iv) In any public place; or (v) In any licensed drug treatment facility in this state. (3) Any person to operate, navigate, or be in actual physical control of any motor vehicle, aircraft, or motorboat while under the influence of marijuana. However, a registered qualifying patient shall not be considered to be under the influence solely for having marijuana metabolites in his or her system. (b) Nothing in this chapter shall be construed to require: (1) A government medical assistance program or private health insurer to reimburse a person for costs associated with the medical use of marijuana; or (2) An employer to accommodate the medical use of marijuana in any workplace. (c) Fraudulent representation to a law enforcement official of any fact or circumstance relating to the medical use of marijuana to avoid arrest or prosecution shall be punishable by a fine of five hundred dollars ($500) which shall be in addition to any other penalties that may apply for making a false statement for the non-medical use of marijuana. Section 8. Affirmative defense and dismissal. Section 8. (a) Except as provided in Section 7, a qualifying patient and the qualifying patient’s primary caregiver, if any, may assert the medical purpose for using marijuana as a defense to any prosecution involving marijuana, and such defense shall be presumed valid where the evidence shows that: (1) The qualifying patient’s practitioner has stated that, in the practitioner’s professional opinion, after having completed a full assessment of the person’s medical history and current medical condition made in the course of a bona fide practitioner patient relationship, the potential benefits of using marijuana for medical purposes would likely outweigh the health risks for the qualifying patient; and (2) The person and the person’s primary caregiver, if any, were collectively in possession of a quantity of marijuana that was not more than what is reasonably necessary to ensure the uninterrupted availability of marijuana for the purpose of alleviating the person’s medical condition or symptoms associated with the medical condition. (b) A person may assert the medical purpose for using marijuana in a motion to dismiss, and the charges shall be dismissed following an evidentiary hearing where the defendant shows the elements listed in Chapter 94G, Section 5(a). (c) Any interest in or right to property that was possessed, owned, or held in connection with a person’s use of marijuana for medical purposes shall not be forfeited if the person or the person’s primary caregiver demonstrates the person’s medical purpose for using marijuana pursuant to this section. Section 9. Enforcement. Section 9. (a) If the department fails to adopt regulations to implement this chapter within one hundred twenty (120) days of the effective date of this act, a qualifying patient may commence an action in a court of competent jurisdiction to compel the department to perform the actions mandated pursuant to the provisions of this chapter. (b) If the department fails to issue a valid registry identification card in response to a valid application submitted pursuant to this chapter within thirty-five (35) days of its submission, the registry identification card shall be deemed granted and a copy of the registry identification application shall be deemed valid registry identification card. Section 10. Severability. Section 10. Any section of this act being held invalid as to any person or circumstances shall not affect the application of any other section of this act that can be given full effect without the invalid section or application.