

§2430-C. Protections for authorized activity

1. Rights of persons or entities acting pursuant to this chapter. A person whose conduct is authorized under this chapter may not be denied any right or privilege or be subjected to arrest, prosecution, penalty or disciplinary action, including but not limited to a civil penalty or disciplinary action by a business or occupational or professional licensing board or bureau, for lawfully engaging in conduct involving the medical use of cannabis authorized under this chapter. [PL 2017, c. 452, §24 (NEW); PL 2021, c. 669, §5 (REV).]

2. Legal protection for hospitals and long-term care facilities. The immunity provisions in this subsection apply to a hospital licensed under chapter 405 and an officer or director, employee or agent of the hospital and a long-term care facility and an officer or director, employee or agent of the long-term care facility. Any immunity provision in this chapter in conflict with this subsection does not apply to a hospital or long-term care facility. The legal protection for hospitals and long-term care facilities applies in accordance with the following.

A. If the use of a form of harvested cannabis that is not smoked, including but not limited to edible cannabis products and tinctures and salves of cannabis, by an admitted patient who has been certified under section 2423-B occurs in a hospital, that hospital is not subject to prosecution, search, seizure or penalty in any manner, including but not limited to a civil penalty or disciplinary action by an occupational or professional licensing board or entity, and may not be denied any license, registration, right or privilege solely because the admitted patient lawfully engages in conduct involving the medical use of cannabis authorized under this chapter. [PL 2017, c. 452, §24 (NEW); PL 2021, c. 669, §5 (REV).]

B. If the use of a form of harvested cannabis consistent with a long-term facility's policy by an admitted patient who has been certified under section 2423-B occurs in the long-term care facility, that long-term care facility is not subject to prosecution, search, seizure or penalty in any manner, including but not limited to a civil penalty or disciplinary action by an occupational or professional licensing board or entity, and may not be denied any license, registration, right or privilege solely because the admitted patient lawfully engages in conduct involving the medical use of cannabis authorized under this chapter. [PL 2017, c. 452, §24 (NEW); PL 2021, c. 669, §5 (REV).]

C. An officer or director, employee or agent of a hospital or long-term care facility where the use of a form of harvested cannabis that is not smoked or vaporized, including but not limited to edible cannabis products and tinctures and salves of cannabis, by an admitted patient who has been certified under section 2423-B occurs is not subject to arrest, prosecution, search, seizure or penalty in any manner, including but not limited to a civil penalty or disciplinary action by an occupational or professional licensing board or entity, and may not be denied any license, registration, right or privilege solely because the admitted patient lawfully engages in conduct involving the medical use of cannabis authorized under this chapter. [PL 2017, c. 452, §24 (NEW); PL 2021, c. 669, §5 (REV).]

[PL 2017, c. 452, §24 (NEW); PL 2021, c. 669, §5 (REV).]

3. School, employer or landlord may not discriminate. A school, employer or landlord may not refuse to enroll or employ or lease to or otherwise penalize a person solely for that person's status as a qualifying patient or a caregiver unless failing to do so would put the school, employer or landlord in violation of federal law or cause it to lose a federal contract or funding. This subsection does not prohibit a restriction on the administration or cultivation of cannabis on premises when that administration or cultivation would be inconsistent with the general use of the premises. A landlord or business owner may prohibit the smoking of cannabis for medical purposes on the premises of the landlord or business if the landlord or business owner prohibits all smoking on the premises and posts notice to that effect on the premises.

[PL 2017, c. 452, §24 (NEW); PL 2021, c. 669, §5 (REV).]

4. Person may not be denied parental rights and responsibilities or contact with a minor child. A person may not be denied parental rights and responsibilities with respect to or contact with a minor child as a result of acting in accordance with this chapter, unless the person's conduct is contrary to the best interests of the minor child as set out in Title 19-A, section 1653, subsection 3. [PL 2017, c. 452, §24 (NEW).]

5. Receiving an anatomical gift. In reviewing a qualifying patient's suitability for receiving an anatomical gift, a transplant evaluator shall treat the qualifying patient's medical use of cannabis as the equivalent of the authorized use of any other medications used at the direction of a medical provider. A transplant evaluator may determine a qualifying patient to be unsuitable to receive an anatomical gift if the qualifying patient does not limit the qualifying patient's medical use of cannabis to the use of forms of harvested cannabis that are not smoked or vaporized, including but not limited to edible cannabis and tinctures and salves of cannabis. A transplant evaluator may require medical cannabis used by a qualifying patient to be tested for fungal contamination by a cannabis testing facility. For purposes of this subsection, "transplant evaluator" means a person responsible for determining another person's suitability for receiving an anatomical gift. For the purposes of this subsection, "anatomical gift" has the same meaning as in section 2942, subsection 2. [PL 2017, c. 452, §24 (NEW); PL 2021, c. 669, §5 (REV).]

6. Prohibition on seizure and retention. Except when necessary for an ongoing criminal investigation, a law enforcement officer may not seize cannabis that is in the possession of a qualifying patient, caregiver, cannabis testing facility, manufacturing facility or registered dispensary as authorized by this chapter. A law enforcement officer in possession of cannabis in violation of this subsection shall return the cannabis within 7 days after receiving a written request for return by the owner of the cannabis. Notwithstanding the provisions of Title 14, chapter 741, if the law enforcement officer fails to return cannabis possessed in violation of this subsection within 7 days of receiving a written request for return of the cannabis under this subsection, the owner of the cannabis may file a claim in the District Court in the district where the owner lives or where the law enforcement officer is employed. [PL 2023, c. 365, §11 (AMD).]

6-A. Restrictions on law enforcement access. Notwithstanding any provision of law to the contrary, a law enforcement officer may not enter any location in which a qualifying patient, caregiver, registered dispensary, manufacturing facility or cannabis testing facility conducts activities authorized under this chapter or pursuant to a registry identification card or registration certificate issued under this chapter, except where:

A. The patient, caregiver, dispensary, manufacturing facility or cannabis testing facility voluntarily allows the law enforcement officer to enter the location; [PL 2021, c. 662, §33 (NEW); PL 2021, c. 669, §5 (REV).]

B. The law enforcement officer's entry is authorized pursuant to a warrant issued by a duly authorized justice, judge or justice of the peace; or [PL 2021, c. 662, §33 (NEW).]

C. The law enforcement officer's entry is authorized in accordance with a recognized exception to the warrant requirement, including, but not limited to, exigent circumstances. [PL 2021, c. 662, §33 (NEW).]

[PL 2021, c. 662, §33 (NEW); PL 2021, c. 669, §5 (REV).]

7. Requirements for protection. To receive protection under this section for conduct authorized under this chapter, a person must:

A. If the person is a qualifying patient or visiting qualifying patient, present upon request of a law enforcement officer the patient's written certification; or [PL 2023, c. 365, §12 (AMD).]

B. If the person is a caregiver, present upon request of a law enforcement officer the caregiver's registry identification card or registration certificate. [PL 2023, c. 365, §12 (AMD).]
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8. Evidence of lawful conduct. Possession of a registry identification card by a cardholder, the act of applying for a registry identification card, possession of a written certification issued under section 2423-B or possession of a designation document executed under section 2423-A, subsection 1, paragraph F-1 is evidence of lawful conduct and may not be used to support the search of that person or that person's property. The possession of or application for a registry identification card or possession of a written certification does not prevent the issuance of a warrant if probable cause exists on other grounds.
[PL 2023, c. 365, §13 (AMD).]

9. Immunity. The immunity provisions in this subsection apply to caregivers, cannabis testing facilities, manufacturing facilities and dispensaries and the officers or directors or assistants of caregivers, cannabis testing facilities, manufacturing facilities and dispensaries.

A. A caregiver, cannabis testing facility, manufacturing facility or dispensary is not subject to prosecution, search, seizure or penalty in any manner, including but not limited to a civil penalty or disciplinary action by a business or an occupational or professional licensing board or entity, and may not be denied any right or privilege solely for acting in accordance with this section to assist with the medical use of cannabis in accordance with this chapter. [PL 2017, c. 452, §24 (NEW); PL 2021, c. 669, §5 (REV).]

B. An officer or director or assistant of a caregiver, cannabis testing facility, manufacturing facility or dispensary is not subject to arrest, prosecution, search, seizure or penalty in any manner, including but not limited to a civil penalty or disciplinary action by a business or an occupational or professional licensing board or entity, and may not be denied any right or privilege solely for working for or with a caregiver, cannabis testing facility, manufacturing facility or dispensary to provide cannabis plants and cannabis products to qualifying patients, caregivers, dispensaries, manufacturing facilities or cannabis testing facilities or to otherwise assist with the medical use of cannabis in accordance with this chapter. [PL 2017, c. 452, §24 (NEW); PL 2021, c. 669, §5 (REV).]

[PL 2017, c. 452, §24 (NEW); PL 2021, c. 669, §5 (REV).]

10. Defense for possession of excess cannabis. Except as provided in section 2426, a qualifying patient may assert as a defense to any prosecution involving cannabis possession use of cannabis for a medical purpose and may present evidence in court that the patient's medical use or cultivation of an amount of cannabis exceeding the amount allowed under section 2423-A was reasonably necessary to ensure the uninterrupted availability of cannabis for the purpose of treating or alleviating the patient's medical diagnosis or symptoms associated with the patient's medical diagnosis that, in a medical provider's professional opinion, may be alleviated by the therapeutic or palliative medical use of cannabis.

[PL 2023, c. 365, §14 (NEW).]

11. Calculation of cannabis weight. The amount of cannabis possessed under this chapter must be calculated by the weight of dried harvested cannabis. A calculation of the weight of cannabis that is not dried must reduce the weight by at least 75% to account for moisture content. A calculation of the weight of cannabis in a cannabis product may not include ingredients in the product other than cannabis, except that the weight of cannabis concentrate must be included regardless of whether the cannabis concentrate is within a cannabis product or not within a cannabis product.

[PL 2023, c. 365, §15 (NEW).]

SECTION HISTORY

PL 2017, c. 452, §24 (NEW). PL 2021, c. 662, §§33, 34 (AMD). PL 2021, c. 669, §5 (REV).
PL 2023, c. 365, §§11-15 (AMD).

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