

§2430-I. Suspension, revocation, administrative penalty; forfeiture; surrender

1. Definitions.

[PL 2023, c. 679, Pt. A, §25 (RP).]

1-A. Registration violation types. The following registration violation types are established.

A. "Major registration violation affecting public safety" means an intentional or knowing violation that imminently jeopardizes public health and safety or conduct that indicates a willful or reckless disregard for public health and safety. "Major registration violation affecting public safety" is limited to:

- (1) Intentionally or knowingly selling harvested cannabis or cannabis products for medical use containing any scheduled drug as defined in Title 17-A, section 1101, subsection 11, except for any compounds naturally occurring in the cannabis plant;
- (2) Intentionally or knowingly using prohibited agricultural chemicals that pose a threat to public health and concealing their use from the office, other registrants or consumers;
- (3) Intentionally or knowingly treating or otherwise adulterating harvested cannabis with a scheduled drug as defined in Title 17-A, section 1101, subsection 11, except for compounds naturally occurring in the cannabis plant;
- (4) Intentionally or knowingly purchasing or transferring from the illicit market cannabis or cannabis products that are offered for sale or transfer to qualifying patients or combined with harvested cannabis or cannabis products for medical use;
- (5) Intentionally or knowingly destroying, damaging, altering, removing or concealing potential evidence of a violation under this paragraph or asking or encouraging another person to do so; or
- (6) Other intentional or knowing egregious conduct that imminently threatens public health and safety or conduct that shows a willful or reckless disregard for public health and safety that poses an imminent risk to public health and safety. [PL 2023, c. 679, Pt. A, §26 (NEW).]

B. "Major registration violation" means a serious violation that does not imminently jeopardize public safety. "Major registration violation" is limited to:

- (1) Misleading the office for the purposes of involving a person with a disqualifying drug offense in the operation of a registrant;
- (2) Intentionally or knowingly diverting harvested cannabis or cannabis products for medical use to the illicit market or to a cannabis establishment under the Cannabis Legalization Act;
- (3) Except as provided in paragraph A, subparagraphs (2) and (3), treating or otherwise adulterating harvested cannabis with any chemical that alters the color, appearance, weight or smell of the cannabis or that increases its potency, toxicity or addictiveness in a manner not authorized under this chapter;
- (4) Selling or transferring cannabis plants, harvested cannabis or cannabis products for medical use to a person under 21 years of age who is not a minor qualifying patient;
- (5) Intentionally or knowingly making deliveries of harvested cannabis to a safe zone designated by a municipality pursuant to Title 30-A, section 3253 unless otherwise authorized under this chapter;
- (6) Allowing a minor to be an assistant of the registrant unless otherwise authorized under this chapter;

- (7) Cultivating cannabis plants in an amount that is equal to or greater than 150% of the total number of cannabis plants or plant canopy the registrant is authorized to cultivate under this chapter;
 - (8) Intentionally or knowingly misrepresenting any cannabis product to a qualifying patient, registrant or the public, including:
 - (a) Its contents;
 - (b) Its testing results; or
 - (c) Its potency;
 - (9) Refusing, 2 or more times, to permit the office to inspect locations where the registrant conducts authorized activities;
 - (10) Intentionally or knowingly destroying, damaging, altering, removing or concealing potential evidence of a violation under this paragraph or asking or encouraging another person to do so; or
 - (11) Any violation in paragraph C that is a knowing violation or that the registrant has committed 3 or more times. [PL 2023, c. 679, Pt. A, §26 (NEW).]
- C. "Minor registration violation" means a negligent violation. "Minor registration violation" is limited to:
- (1) Procuring or in any way aiding or assisting in procuring, furnishing, selling or delivering cannabis or cannabis products for or to a minor who is not a qualifying patient;
 - (2) Cultivating more cannabis plants than the registrant is authorized to cultivate under this chapter, but less than 150% of the total number of cannabis plants or plant canopy authorized;
 - (3) Supplying adulterated or misbranded harvested cannabis or cannabis products;
 - (4) Failing to obtain or maintain any required licenses, permits or certificates from another state agency or a municipality, as applicable, for the conduct of activities authorized by this chapter; or
 - (5) A 2nd violation of any other requirement of this chapter or the rules adopted pursuant to this chapter that is not expressly listed in this subsection. [PL 2023, c. 679, Pt. A, §26 (NEW).]
- [PL 2023, c. 679, Pt. A, §26 (NEW).]

2. Penalties. For a registration violation, the department, in accordance with this section, on its own initiative or on complaint and after investigation, may, by written order:

- A. Impose an administrative penalty in accordance with this section. Penalties collected pursuant to this paragraph must be credited to the Medical Use of Cannabis Fund established under section 2430; [PL 2023, c. 679, Pt. A, §27 (AMD).]
- B. Seize and destroy cannabis or cannabis products under subsections 5 and 6; and [PL 2023, c. 679, Pt. A, §27 (AMD).]
- C. Suspend or revoke a registry identification card or registration certificate issued under this chapter. [PL 2023, c. 679, Pt. A, §27 (AMD).]

For a first violation of this chapter or rules adopted pursuant to this chapter, other than a registration violation under subsection 1-A or a violation under subsection 4, the office may only provide technical assistance to the registrant and may not impose a penalty or suspend or revoke a registration. [PL 2023, c. 679, Pt. A, §27 (AMD).]

3. Administrative penalties, generally. The department may impose administrative penalties for a violation of this chapter or rules adopted under this chapter as follows:

A. For a registered caregiver who does not operate a retail store and a registrant agent:

- (1) Not more than \$200 for each minor registration violation;
- (2) Not more than \$600 for each major registration violation; or
- (3) Not more than \$1,500 for each major registration violation affecting public safety; and [PL 2023, c. 679, Pt. A, §28 (AMD).]

B. For a registrant, except a registered caregiver who does not operate a retail store:

- (1) Not more than \$1,000 for each minor registration violation;
- (2) Not more than \$3,000 for each major registration violation; or
- (3) Not more than \$7,500 for each major registration violation affecting public safety. [PL 2023, c. 679, Pt. A, §28 (AMD).]

[PL 2023, c. 679, Pt. A, §28 (AMD).]

4. Administrative penalty for sale or transfer to nonpatient. The department shall notify a registrant within one business day after the department discovers that a registrant or registrant agent sold, furnished or gave cannabis for medical use to a person who is not authorized to possess cannabis for medical use under this chapter. Both the registrant and registrant agent that sold, furnished or gave cannabis for medical use to a person who is not authorized to possess cannabis for medical use may be held responsible as follows.

A. The first time a registrant or registrant agent sells, furnishes or gives cannabis for medical use to a person who is not authorized to possess cannabis for medical use under this chapter, the registrant or registrant agent that sold, furnished or gave cannabis for medical use to a person not authorized to possess cannabis for medical use may be subject to an administrative penalty for a minor registration violation. [PL 2023, c. 679, Pt. A, §29 (AMD).]

B. The 2nd time a registrant or registrant agent sells, furnishes or gives cannabis for medical use to a person who is not authorized to possess cannabis for medical use under this chapter, the registrant or registrant agent that sold, furnished or gave cannabis for medical use to a person not authorized to possess cannabis for medical use may be subject to an administrative penalty for a major registration violation. [PL 2023, c. 679, Pt. A, §29 (AMD).]

C. The 3rd time a registrant or registrant agent sells, furnishes or gives cannabis for medical use to a person who is not authorized to possess cannabis for medical use under this chapter and for any subsequent violations of this subsection thereafter, the registrant or registrant agent that sold, furnished or gave cannabis for medical use to a person not authorized to possess cannabis for medical use may be subject to suspension or revocation of the registrant's or registrant agent's registry identification card or registration certificate or an administrative penalty for a major registration violation. [PL 2023, c. 679, Pt. A, §29 (AMD).]

A registrant is subject to the penalties in this section whether the registrant violated this subsection or the registrant agent violated this subsection. Violations of this section by a registrant are cumulative whether the same or a different registrant agent violated this subsection.

[PL 2023, c. 679, Pt. A, §29 (AMD).]

5. Forfeit and destruction under final order. This subsection governs the forfeiture and destruction of cannabis plants, cannabis or cannabis products when a final order is issued.

A. If the department issues a final order imposing an administrative penalty under this section, the department may require, in the final order, that all or a portion of the cannabis plants, cannabis or

cannabis products in the possession of the registrant subject to the final order be destroyed. [PL 2023, c. 679, Pt. A, §30 (AMD).]

B. The registrant subject to the final order shall forfeit the cannabis plants, cannabis or cannabis products to the department or destroy the cannabis plants, cannabis and cannabis products at the time and place and in the manner required by the department in writing. [PL 2023, c. 679, Pt. A, §30 (AMD).]
[PL 2023, c. 679, Pt. A, §30 (AMD).]

6. Destruction prohibition. If the department is notified by a criminal justice agency that there is a pending investigation of a registrant subject to a final order under this section, the department may not destroy, or allow the registrant to destroy, any cannabis plants, cannabis or cannabis products of that registrant until the destruction is approved by the criminal justice agency.
[PL 2023, c. 679, Pt. A, §31 (AMD).]

7. Form of payment. The department shall accept payment of an administrative penalty imposed under this section in the form of cash or a certified check or cashier's check payable to the department.
[PL 2023, c. 365, §20 (NEW).]

8. Suspension. The office may suspend a registration in accordance with this subsection.

A. The office may suspend a registration, for a period of up to one year, upon a finding of:

- (1) A major registration violation affecting public safety;
- (2) A pattern of major registration violations in a 60-month period; or
- (3) A violation of subsection 1-A, paragraph B, subparagraph (7). [PL 2023, c. 679, Pt. A, §32 (NEW).]

B. A registrant whose registration has been suspended pursuant to this subsection may not, for the duration of the suspension period, engage in any activities otherwise authorized under this chapter, except that the registrant may do what is reasonably necessary to wind down processes and may harvest any cannabis plants currently growing but may not start any new plants or make any transfers or sales. [PL 2023, c. 679, Pt. A, §32 (NEW).]

C. The office may permit the transfer of a suspended registry identification card or registration certificate to another person in order for the person to undertake some or all of the registrant's operations during the period of suspension. A registry identification card or registration certificate may not be transferred to any person that is not qualified to be a registrant under this chapter. A suspended registry identification card or registration certificate may not be transferred pursuant to this paragraph if such a transfer would result in the receiving registrant exceeding the amount of plant canopy or mature cannabis plants the receiving registrant is authorized to cultivate or in any other violation of this chapter. [PL 2023, c. 679, Pt. A, §32 (NEW).]

[PL 2023, c. 679, Pt. A, §32 (RPR).]

8-A. Revocation. The office may revoke a registration in accordance with this subsection.

A. The office may revoke a registration for a period of up to one year, upon a finding of:

- (1) A major registration violation affecting public safety; or
- (2) A pattern of major registration violations in a 60-month period. [PL 2023, c. 679, Pt. A, §33 (NEW).]

B. A registrant whose registration has been revoked pursuant to this subsection shall cease all activities otherwise authorized under this chapter until the revocation period ends and the registration is reauthorized. [PL 2023, c. 679, Pt. A, §33 (NEW).]

[PL 2023, c. 679, Pt. A, §33 (NEW).]

9. Maine Administrative Procedure Act; final agency action; appeals. Except as otherwise provided in this chapter or the rules adopted pursuant to this chapter, the imposition of an administrative penalty on a registrant by the office, including, but not limited to, the provision of notice and the conduct of hearings, is governed by the Maine Administrative Procedure Act. A final order of the office imposing an administrative penalty is a final agency action, as defined in Title 5, section 8002, subsection 4, and the registrant may appeal that final order to the Superior Court in accordance with Rule 80C of the Maine Rules of Civil Procedure.

[PL 2023, c. 679, Pt. A, §34 (RPR).]

10. Notification. Except as otherwise provided in subsection 4, if, after an inspection or investigation by the office or a criminal justice agency, the office identifies a violation of this chapter or the rules adopted pursuant to this chapter, the office shall, within 5 business days of identifying the violation, provide written notification of the violation to the registrant. The registrant, within 5 days of receiving notification, shall provide the office with a plan of correction, if applicable, for the identified violation, including a time frame for the correction. If, after a follow-up inspection, the office decides to impose a monetary penalty on the registrant, the office shall notify the registrant of the monetary penalty in a timely manner after the follow-up inspection. Notice under this subsection does not constitute final agency action.

[PL 2023, c. 679, Pt. A, §35 (NEW).]

SECTION HISTORY

PL 2023, c. 365, §20 (NEW). PL 2023, c. 679, Pt. A, §§25-35 (AMD).

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