

SENATE No. 01161

The Commonwealth of Massachusetts

PRESENTED BY:

Stanley C. Rosenberg

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 passage of the accompanying bill:

An Act to regulate the medical use of marijuana by patients approved by physicians and certified by the department of public health.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Stanley C. Rosenberg</i>	<i>Hampshire and Franklin</i>
<i>John W. Scibak</i>	<i>2nd Hampshire</i>
<i>Cory Atkins</i>	<i>14th Middlesex</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>
<i>Richard J. Ross</i>	<i>Norfolk, Bristol, and Middlesex</i>
<i>Cynthia S. Creem</i>	<i>First Middlesex and Norfolk</i>
<i>Bradford Hill</i>	<i>4th Essex</i>
<i>Patricia D. Jehlen</i>	<i>Second Middlesex</i>

SENATE No. 01161

By Mr. Rosenberg, petition (accompanied by bill, Senate, No. 1161) of Hill, Creem, Ross and other members of the General Court for legislation to regulate the medical use of marijuana by patients approved by physicians and certified by the department of public health [Joint Committee on Public Health].

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act to regulate the medical use of marijuana by patients approved by physicians and certified by the department of public health.

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

1 Chapter 94 of the Massachusetts General Law is hereby amended by inserting the following as

2 Chapter 94G:

3 Section 1. Short Title; Purpose.

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

9 Section 2. Definitions.

10 Section 2. As used in this chapter, the following words shall, unless the context clearly
11 requires

12 otherwise, have the following meanings:

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

16 (b) "Medical treatment center" means a not-for-profit entity registered under Chapter
17 94G Section 6 that acquires, possesses, cultivates, manufactures, delivers, transfers, transports,
18 supplies, sells, and/or dispenses marijuana and/or related supplies and educational materials to
19 registered qualifying patients and their registered primary caregivers who have designated it as
20 one of the patient's registered medical treatment centers.

21 (c) "Debilitating medical condition" means one or more of the following:

22 (1) Cancer, glaucoma, positive status for human immunodeficiency virus,
23 acquired immune deficiency syndrome, hepatitis C, amyotrophic lateral sclerosis, Crohn's
24 disease, agitation of Alzheimer's disease, nail patella syndrome, post traumatic stress disorder, or
25 the treatment of these conditions;

26 (2) A chronic or debilitating disease or medical condition or its treatment that
27 produces one or more of the following: cachexia or wasting syndrome; severe pain; severe
28 nausea; seizures, including but not limited to, those characteristic of epilepsy; or severe and
29 persistent muscle spasms, including but not limited to, those characteristic of multiple sclerosis, ;
30 or

31 (3) Any other medical condition or its treatment approved by the department,
32 as provided for in Chapter 94G Section 4.

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

35 (e) "Enclosed, locked facility" means a closet, room, greenhouse, or other enclosed
36 area equipped with locks or other security devices that permit access only by a cardholder.

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

38 (g) "Medical use" means the acquisition, possession, cultivation, manufacture, use,
39 delivery, transfer, or transportation of marijuana or paraphernalia relating to the consumption of
40 marijuana to alleviate the symptoms or effects of a registered qualifying patient's debilitating
41 medical condition.

42 (h) "Practitioner" means a person who is licensed with authority to prescribe drugs
43 pursuant to Chapter 94C Section 18.

44 (i) "Primary caregiver" means a natural person who is at least eighteen (18) years old
45 who has agreed to assist with a person's medical use of marijuana and who does not have a
46 felony drug conviction. An employee of a hospice provider or nursing facility providing care to
47 an eligible patient may be substituted for a primary caregiver. A primary caregiver may assist no
48 more than five (5) qualifying patients with their medical use of marijuana.

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

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

53 (l) "Visiting qualifying patient" means a person with a debilitating medical condition
54 that is currently participating in another state's medical marijuana program, is in possession of a
55 valid out-of-state identification card or its equivalent, and has resided in Massachusetts for less
56 than 30 days.

57 (m) "Written certification" means a document signed by a practitioner, stating that in
58 the practitioner's professional opinion the potential benefits of the medical use of marijuana
59 would likely outweigh the health risks for the qualifying patient. A written certification shall be
60 made only in the course of a bona fide practitioner-patient relationship after the practitioner has
61 completed a full assessment of the qualifying patient's medical history. The written certification
62 shall specify the qualifying patient's debilitating medical condition or conditions.

63 Section 3. Protections for the medical use of marijuana.

64 Section 3. (a) A qualifying patient who has in his or her possession a registry
65 identification card shall not be subject to arrest, prosecution, or penalty in any manner, or denied
66 any right or privilege, including but not limited to, civil penalty or disciplinary action by a
67 business or occupational or professional licensing board or bureau, for the medical use of
68 marijuana; provided, that the qualifying patient possesses an amount of marijuana that does not
69 exceed twenty-four (24) marijuana plants, including seedlings and mature plants, and four (4)
70 ounces of usable marijuana. Said plants shall be stored in an enclosed, locked facility.

71 (b) No school, employer or landlord may refuse to enroll, employ or lease to or
72 otherwise penalize a person solely for his or her status as a registered qualifying patient or a
73 registered primary caregiver.

74 (c) A primary caregiver, who has in his or her possession, a registry identification card
75 shall not be subject to arrest, prosecution, or penalty in any manner, or denied any right or
76 privilege, including but not limited to, civil penalty or disciplinary action by a business or
77 occupational or professional licensing board or bureau, for assisting a qualifying patient to whom
78 he or she is connected through the department's registration process with the medical use of
79 marijuana; provided, that the primary caregiver possesses an amount of marijuana which does
80 not exceed twenty-four (24) marijuana plants and four (4) ounces of usable marijuana for each
81 qualifying patient to whom he or she is connected through the department's registration process.

82 (d) There shall exist a presumption that a qualifying patient or primary caregiver is
83 engaged in the medical use of marijuana in accordance with this act if the qualifying patient or
84 primary caregiver:

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

86 (2) Is in possession of an amount of marijuana that does not exceed the
87 amount permitted under this chapter. Such presumption may be rebutted by evidence that
88 conduct related to marijuana was not for the purpose of alleviating the qualifying patient's
89 debilitating medical condition or symptoms associated with the medical condition.

90 (e) A primary caregiver may receive reimbursement for costs associated with assisting
91 a registered qualifying patient's medical use of marijuana. Compensation shall not constitute sale
92 of controlled substances.

93 (f) A practitioner shall not be subject to arrest, prosecution, or penalty in any manner,
94 or denied any right or privilege, including, but not limited to, civil penalty or disciplinary action
95 by the Massachusetts Board of Registration in Medicine or by any another business or
96 occupational or professional licensing board or bureau solely for providing written certifications
97 or for otherwise stating that, in the practitioner's professional opinion, the potential benefits of
98 the medical marijuana would likely outweigh the health risks for a patient.

99 (g) Any marijuana, marijuana paraphernalia, interest in or right to property that is
100 possessed, owned, or used in connection with the medical use of marijuana as allowed under this
101 act, or acts incidental to such use, shall not be seized or forfeited.

102 (h) No person shall be subject to arrest or prosecution for constructive possession, conspiracy,
103 aiding and abetting, being an accessory, or any other offense for simply being in the presence or
104 vicinity of the medical use of marijuana as permitted under this chapter or for assisting a
105 registered qualifying patient with using or administering marijuana.

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

111 (j) Except as provided in this paragraph, a registry identification card or its equivalent
112 issued under the laws of another U.S. state, U.S. territory, or the District of Columbia to permit
113 the medical use of marijuana shall have the same force and effect as a registry identification card
114 issued by the department, and, for purposes of this Act, entitle a visiting qualify patient to the

115 same rights and protections as a registered qualifying patient residing in Massachusetts. This
116 paragraph shall not apply if the person has been a resident of Massachusetts for 30 days or longer
117 at the time they present their out-of-state identification card or its equivalent.

118 (k) Notwithstanding the provisions of Chapter 94G Section 2(h) or Chapter 94G
119 Section 3(c), no primary caregiver shall possess an amount of marijuana in excess of forty-eight
120 (48) marijuana plants and eight (8) ounces of usable marijuana for qualifying patients to whom
121 he or she is connected through the department's registration process.

122 (l) A registered cardholder or visiting qualifying patient may give marijuana to another
123 cardholder or a medical treatment center to whom they are not connected by the department's
124 registration process, provided that no consideration is paid for the marijuana, and that the
125 recipient does not exceed the limits specified in Chapter 94G Section 3(a).

126 (m) For the purposes of medical care, including organ and tissue transplants, a
127 registered qualifying patient's authorized use of marijuana shall be considered the equivalent of
128 the authorized use of any other medication used at the direction of a physician, and shall not
129 constitute the use of an illicit substance.

130 Section 4. Department to issue regulations.

131 Section 4. (a) Not later than ninety (90) days after the effective date of this chapter, the
132 department shall promulgate regulations governing the manner in which it shall consider
133 petitions from the public to add debilitating medical conditions to those set forth in Chapter 94G
134 Section 2(a). In considering such petitions, the department shall include public notice of, and an
135 opportunity to comment in a public hearing, upon such petitions. The department shall, after
136 hearing, approve or deny such petitions within one hundred eighty (180) days of submission. The

137 approval or denial of such a petition shall be considered a final department action, subject to
138 judicial review. Jurisdiction and venue for judicial review are vested in the superior court. The
139 denial of a petition shall not disqualify qualifying patients with that condition, if they have a
140 chronic or debilitating medical condition.

141 The denial of a petition shall not prevent a person with the denied condition from raising an
142 affirmative defense.

143 (b) Not later than ninety (90) days after the effective date of this chapter, the
144 department shall promulgate regulations governing the manner in which it shall consider
145 applications for and renewals of registry identification cards for qualifying patients and primary
146 caregivers. The department's regulations shall establish application and renewal fees that
147 generate revenues sufficient to offset all expenses of implementing and administering this
148 chapter. The department may vary or waive the application and renewal fees along a sliding scale
149 that accounts for a qualifying patient's or caregiver's income. The department may accept
150 donations from private sources in order to reduce the application and renewal fees.

151 Section 5. Administration of regulations.

152 Section 5. (a) The department shall issue registry identification cards to qualifying
153 patients who submit the following, in accordance with the department's regulations:

154 (1) Written certification as defined in Chapter 94G subsection 2(m);

155 (2) Application or renewal fee;

156 (3) Name, address, and date of birth of the qualifying patient; provided,
157 however, that if the patient is homeless, no address is required;

158 (4) Name, address, and telephone number of the qualifying patient's
159 practitioner; and

160 (5) Name, address, and date of birth of each primary caregiver of the
161 qualifying patient, if any.

162 (b) The department shall not issue a registry identification card to a qualifying patient
163 under the age of eighteen (18) unless:

164 (1) The qualifying patient's practitioner has explained the potential risks and
165 benefits of the medical use of marijuana to the qualifying patient and to a parent, guardian or
166 person having legal custody of the qualifying patient; and

167 (2) A parent, guardian or person having legal custody consents in writing to:

168 (i) Allow the qualifying patient's medical use of marijuana;

169 (ii) Serve as one of the qualifying patient's primary caregivers; and

170 (iii) Control the acquisition of the marijuana, the dosage, and the
171 frequency of the medical use of marijuana by the qualifying patient.

172 (c) The department shall verify the information contained in an application or renewal
173 submitted pursuant to this section, and shall approve or deny an application or renewal within
174 fifteen (15) days of receiving it. The department may deny an application or renewal only if the
175 applicant did not provide the information required pursuant to this section, or if the department
176 determines that the information provided was falsified. Rejection of an application or renewal is
177 considered a final department action, subject to judicial review. Jurisdiction and venue for
178 judicial review are vested in the superior court.

179 (d) The department shall issue a registry identification card to each primary caregiver,
180 if any, who is named in a qualifying patient's approved application, up to a maximum of two (2)
181 primary caregivers per qualifying patient.

182 (e) The department shall issue registry identification cards within five (5) days of
183 approving an application or renewal, which shall expire two (2) years after the date of issuance.
184 Registry identification cards shall not contain the home address of a qualifying patient or their
185 primary registered caregiver. Registration identification cards shall contain:

186 (1) The date of issuance and expiration date of the registry identification
187 card;

188 (2) A random registry identification number; and

189 (3) A photograph, if the department decides to require one; and

190 (4) Any additional information as required by regulation or the department
191 unless prohibited by Chapter 94G, subsection 5(e).

192 (f) Persons issued registry identification cards shall be subject to the following:

193 (1) A qualifying patient who has been issued a registry identification card
194 shall notify the department of any change in the qualifying patient's name, address, or primary
195 caregiver; or if the qualifying patient ceases to have his or her debilitating medical condition,
196 within ten (10) days of such change.

197 (2) A registered qualifying patient who fails to notify the department of any
198 of these changes is responsible for a civil infraction, punishable by a fine of no more than one
199 hundred fifty dollars (\$150). If the person has ceased to suffer from a debilitating medical

200 condition, the card shall be deemed null and void and the person shall be liable for any other
201 penalties that may apply to the person's non-medical use of marijuana.

202 (3) A registered primary caregiver or principal officer, board member,
203 employee, volunteer, or agent of a medical treatment center shall notify the department of any
204 change in his or her name or address within ten (10) days of such change. A primary caregiver or
205 principal officer, board member, employee, volunteer, or agent of a medical treatment center
206 who fails to notify the department of any of these changes is responsible for a civil infraction,
207 punishable by a fine of no more than one hundred fifty dollars (\$150).

208 (4) When a qualifying patient or primary caregiver notifies the department of
209 any changes listed in this subsection, the department shall issue the registered qualifying patient
210 and each primary caregiver a new registry identification card within ten (10) days of receiving
211 the updated information and a twenty-five dollar (\$25.00) fee. When a principal officer, board
212 member, employee, volunteer, or agent of a medical treatment center notifies the department of
213 any changes listed in this subsection, the department shall issue the cardholder a new registry
214 identification card within ten (10) days of receiving the updated information and a twenty-five
215 dollar (\$25.00) fee.

216 (5) When a qualifying patient who possesses a registry identification card
217 changes his or her primary caregiver, the department shall notify the primary caregiver within
218 ten (10) days. The primary caregiver's protections as provided in this chapter shall expire ten
219 (10) days after notification by the department. This expiration does not apply to the primary
220 caregiver's protections stemming from his or her relationships with other patients.

221 (6) If a cardholder loses his or her registry identification card, he or she shall
222 notify the department and submit a twenty-five dollar (\$25.00) fee within ten (10) days of losing
223 the card. Within five (5) days, the department shall issue a new registry identification card with
224 new random identification number.

225 (7) If a qualifying patient, primary caregiver, or a principal officer, board
226 member, employee, volunteer, or agent of a medical treatment center willfully violates any
227 provision of this chapter as determined by the department, his or her registry identification card
228 may be revoked.

229 (g) Possession of, or application for, a registry identification card shall not constitute
230 probable cause or reasonable suspicion, nor shall it be used to support the search of the person or
231 property of the person possessing or applying for the registry identification card, or otherwise
232 subject the person or property of the person to inspection by any governmental agency.

233 (h) (1) Applications and supporting information submitted by qualifying patients,
234 including information regarding their primary caregivers and practitioners, are confidential and
235 protected under the federal Health Insurance Portability and Accountability Act of 1996.

236 (2) The department shall maintain a confidential list of the persons to whom
237 the department has issued registry identification cards. Individual names and other identifying
238 information on the list shall be confidential, exempt from the provisions of Massachusetts Public
239 Records Law, M.G.L. Chapter 66, section 10, and not subject to disclosure, except to authorized
240 employees of the department as necessary to perform official duties of the department.

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

243 (j) It shall be a crime, punishable by up to one hundred eighty (180) days in jail and a
244 one thousand dollar (\$1,000) fine, for any person, including an employee or official of the
245 department or another state agency or local government, to breach the confidentiality of
246 information obtained pursuant to this chapter.

247 Notwithstanding this provision, the department employees may notify law enforcement about
248 falsified or fraudulent information submitted to the department.

249 (k) On or before January 1 of each odd numbered year, the department shall report to
250 the Joint Committee on Public Health, and to the Joint Committee on the Judiciary, on the use of
251 marijuana for symptom relief. The report shall provide:

252 (1) The number of applications for registry identification cards, the number
253 of qualifying patients and primary caregivers approved, the nature of the debilitating medical
254 conditions of the qualifying patients, the number of registry identification cards revoked, and the
255 number of practitioners providing written certification for qualifying patients;

256 (2) An evaluation of the costs, savings, and revenue resulting from
257 permitting the use of marijuana for symptom relief, including any costs to law enforcement
258 agencies and costs of any litigation;

259 (3) Statistics regarding the number of marijuana-related prosecutions against
260 registered patients and caregivers, and an analysis of the facts underlying those prosecutions;

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

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

266 (m) The application for qualifying patients' registry identification cards shall include a
267 question asking whether the patient would like the department to notify him or her of any clinical
268 studies about marijuana's risk or efficacy. The department shall inform those patients who
269 answer in the affirmative of any such studies it is notified of that will be conducted in
270 Massachusetts. The department may also notify those patients of medical studies conducted
271 outside of Massachusetts.

272 Section 6. Medical treatment centers.

273 Section 6.. (a) A medical treatment center registered under this section may acquire,
274 possess, cultivate, manufacture, deliver, transfer, transport, supply, sell, and/or dispense
275 marijuana, and/or related supplies and educational materials, to registered qualifying patients and
276 their registered primary caregivers who have designated it as one of their medical treatment
277 centers through their application with the department. A patient may designate up to two (2)
278 medical treatment centers that they may access for the purpose of obtaining medical marijuana.
279 A medical treatment center may cultivate and possess whichever of the following quantities is
280 greater: (a) 96 marijuana plants and 32 ounces of useable marijuana; or (b) 24plants and 4 ounces
281 for each registered qualifying patient who has designated the medical treatment center to provide
282 him or her with marijuana for medical use. However, if a registered qualifying patient who
283 designated the medical treatment center ceases to be a registered qualifying patient or ceases to
284 designate the medical treatment center, the medical treatment center shall have 30 days after the

285 notification to lawfully dispose of, destroy or transfer any excess plants or marijuana. A medical
286 treatment center may transfer or sell any excess marijuana to another medical treatment center in
287 accordance with the quantities allowed for in this subsection. A medical treatment center may
288 also possess marijuana seeds, stalks, and unusable roots.

289 (b) Registration of medical treatment centers: department authority.

290 (1) Not later than ninety (90) days after the effective date of this act, the
291 department shall promulgate reasonable regulations governing the manner in which it shall
292 consider applications for registration certificates for medical treatment centers, including
293 regulations governing:

294 (i) The form and content of registration and renewal applications;

295 (ii) Minimum oversight requirements for medical treatment
296 centers;

297 (iii) Minimum record-keeping requirements for medical treatment
298 centers;

299 (iv) Minimum security requirements for medical treatment centers,
300 which shall include that each medical treatment center location must be protected by a fully
301 operational security alarm system; and

302 (v) Procedures for suspending or terminating the registration of
303 medical treatment centers that violate the provisions of this section or the regulations
304 promulgated pursuant to this subsection.

305 (2) The department shall design regulations with the goal of protecting
306 against diversion and theft, without imposing an undue burden on the registered medical
307 treatment centers or compromising the confidentiality of registered qualifying patients and their
308 registered designated caregivers. Any dispensing records that a registered medical treatment
309 center is required to keep shall track transactions according to registered qualifying patients',
310 registered primary caregivers', and registered medical treatment centers' registry identification
311 numbers, rather than their names, to protect their confidentiality.

312 (3) Within ninety (90) days of the effective date of this act, the department
313 shall begin accepting applications for the operation of up to 19 medical treatment centers.

314 (4) Within one hundred-fifty (150) days of the effective date of this act, the
315 department shall provide for at least one public hearing on the granting of applications to
316 medical treatment centers.

317 (5) Within one hundred-ninety (190) days of the effective date of this act, the
318 department shall grant registration certificates to 19 medical treatment centers, providing at least
319 19 applicants applied who meet the requirements of this act.

320 (6) Any time a medical treatment center registration certificate is revoked, is
321 relinquished, or expires, the department shall accept applications for a new medical treatment
322 center.

323 (7) If at any time after one year after the effective date of this act fewer than
324 19 medical treatment centers are holding valid registration certificates in Massachusetts or if at
325 any time the department or legislative oversight committee conclude that the existing medical
326 treatment centers are not sufficient to provide safe access to registered qualifying patients in

327 Massachusetts, the department shall accept applications for enough additional medical treatment
328 centers to serve all qualifying patients.

329 (c) Medical treatment center and agent applications and registration.

330 (1) Each application for a medical treatment center shall include:

331 (i) A non-refundable application fee paid to the department in the
332 amount of two hundred fifty dollars (\$250);

333 (ii) The proposed legal name, proposed articles of incorporation,
334 and proposed bylaws of the medical treatment center;

335 (iii) The proposed physical address of the medical treatment center,
336 if a precise address has been determined, or, if not, the general location where it would be
337 located. This may include a second location for the cultivation of medical marijuana;

338 (iv) A description of the enclosed, locked facility that would be
339 used in the cultivation of marijuana;

340 (v) The name, address, and date of birth of each principal officer
341 and board member of the medical treatment center;

342 (vi) Proposed security and safety measures, which shall include at
343 least one security alarm system for each location, planned measures to deter and prevent the
344 unauthorized entrance into areas containing marijuana and the theft of marijuana; and

345 (vii) Proposed procedures to ensure accurate record keeping.

346 (2) Anytime one or more medical treatment center registration applications
347 are being considered, the department shall also allow for comment by the public and shall solicit
348 input from registered qualifying patients, registered primary caregivers, and the towns or cities
349 where the applicants would be located.

350 (3) Each time when a medical treatment center certificate is granted, the
351 decision shall be based on the overall health needs of qualified patients and the safety of the
352 public, including, but not limited to, the following factors:

353 (i) Convenience to patients from throughout the Commonwealth of
354 Massachusetts to medical treatment centers if the applicant were approved;

355 (ii) The applicant's ability to provide a steady supply to the
356 registered qualifying patients in the commonwealth;

357 (iii) The applicant's relevant experience, including any experience
358 running a non-profit or business;

359 (iv) The wishes of qualifying patients regarding which applicant
360 should be granted a registration certificate;

361 (v) The wishes of the city or town where the applicant would be
362 located; and

363 (vi) The sufficiency of the applicant's plans for record keeping,
364 which records shall be considered confidential health care information under Massachusetts law
365 and are intended to be deemed protected health care information for purposes of the federal
366 health insurance portability and accountability act of 1996, as amended; and

367 (vii) The sufficiency of the applicant's plans for safety and
368 security, including proposed location and security devices.

369 (4) After a medical treatment center is approved, but before it begins
370 operations, it shall submit the following to the department:

371 (i) A fee paid to the department in the amount of five thousand
372 dollars (\$5,000);

373 (ii) The legal name and articles of incorporation of the medical
374 treatment center;

375 (iii) The physical address of the medical treatment center; this may
376 include a second address for the secure cultivation of marijuana;

377 (iv) The name, address, and date of birth of each principal officer
378 and board member of the medical treatment center;

379 (v) The name, address, and date of birth of any person who will be
380 an agent of or employed by the medical treatment center at its inception.

381 (5) The department shall track the number of registered qualifying patients
382 designated to each medical treatment center, and issue a written statement to the medical
383 treatment center of the number of qualifying patients who have designated the medical treatment
384 center to serve them and each of those qualifying patients' registry identification numbers. This
385 statement shall be updated each time a new registered qualifying patient designates the medical
386 treatment center or ceases to designate the medical treatment center and may be transmitted
387 electronically over an encrypted connection if the department's regulations so provide. The

388 department may provide by regulation that the updated written statements will not be issued
389 more frequently than twice each week.

390 (6) Except as provided in Chapter 94G section 6 (c)(7), the department shall
391 issue each principal officer, board member, agent, volunteer, and employee of a medical
392 treatment center a registry identification card or renewal card within ten (10) days of receipt of
393 the person's name, address, date of birth, and a fee in an amount established by the department.
394 Each card shall specify that the cardholder is a principal officer, board member, agent, volunteer,
395 or employee of a medical treatment center and shall contain the following:

396 (i) The name and date of birth of the principal officer, board
397 member, agent, volunteer, or employee;

398 (ii) The legal name of the medical treatment center to which the
399 principal officer, board member, agent, volunteer, or employee is affiliated;

400 (iii) A random identification number that is unique to the
401 cardholder;

402 (iv) The date of issuance and expiration date of the registry
403 identification card; and

404 (v) A photograph, if the department decides to require one.

405 (7) Except as provided in this subsection, the department shall not issue a
406 registry identification card to any principal officer, board member, agent, volunteer, or employee
407 of a medical treatment center who has been convicted of a felony drug offense. The department
408 may conduct a background check of each principal officer, board member, agent, volunteer, or

409 employee in order to carry out this provision. The department shall notify the medical treatment
410 center in writing of the purpose for denying the registry identification card. The department may
411 grant such person a registry identification card if the department determines that the offense was
412 for conduct that occurred prior to the enactment of this act or that was prosecuted by an authority
413 other than the commonwealth of Massachusetts and for which this act would otherwise have
414 prevented a conviction.

415 (8) A registration identification card of a principal officer, board member,
416 agent, volunteer, or employee shall expire one year after its issuance, or upon the expiration of
417 the registered organization's registration certificate, whichever occurs first.

418 (d) Expiration or termination of medical treatment center registration.

419 (1) A medical treatment center's registration shall expire two (2) years after
420 its registration certificate is issued. The medical treatment center may submit a renewal
421 application beginning sixty (60) days prior to the expiration of its registration certificate.

422 (2) The department shall grant a medical treatment center's renewal
423 application within thirty (30) days of its submission if the following conditions are all satisfied:

424 (i) The medical treatment center submits the materials required
425 under Chapter 94G, Section 6 (c)(4), including a five thousand dollar (\$5,000) fee, which shall
426 be refunded within 30 days if the renewal application is rejected;

427 (ii) The department has not ever suspended the medical treatment
428 center's registration for violations of this act or regulations issued pursuant to it;

429 (iii) The legislative oversight committee's report, issued pursuant
430 to Chapter 94G, Section 5 (k), indicates that the medical treatment center is adequately providing
431 patients with access to medical marijuana at reasonable rates; and

432 (iv) The legislative oversight committee's report, issued pursuant to
433 Chapter 94G, Section 5 (k), does not raise serious concerns about the continued operation of the
434 medical treatment center applying for renewal.

435 (3) If the department determines that any of the conditions listed in Chapter
436 94G, Sections 6 (d)(2)(i) – (iv) do not exist, the department shall begin an open application
437 process for the operation of a medical treatment center. In granting a new registration certificate,
438 the department shall consider factors listed in Chapter 94G, Section 6 (c)(3).

439 (4) The department shall issue a medical treatment center one or more thirty
440 (30) day temporary registration certificates after that medical treatment center's registration
441 would otherwise expire if the following conditions are all satisfied:

442 (i) The medical treatment center previously applied for a renewal,
443 but the department had not yet come to a decision;

444 (ii) The medical treatment center requested a temporary
445 registration certificate; and

446 (iii) The medical treatment center has not had its registration
447 certificate revoked due to violations of this act or regulations issued pursuant to this act.

448 (e) Inspection. Medical treatment centers are subject to reasonable inspection by the
449 department. The department shall give reasonable notice of an inspection under this subsection.

450 During an inspection, the department may review the medical treatment center's confidential
451 records, including its dispensing records, which may track transactions according to qualifying
452 patients' registry identification numbers to protect their confidentiality.

453 (f) Medical treatment center requirements.

454 (1) A medical treatment center shall be operated on a not-for-profit basis for
455 the mutual benefit of patients who are allowed to use marijuana for medical purposes. A medical
456 treatment center need not be recognized as a tax-exempt organization by the Internal Revenue
457 Service.

458 (2) A medical treatment center may not be located within five hundred (500)
459 feet of the property line of a preexisting public or private school.

460 (3) A medical treatment center shall notify the department within ten (10)
461 days of when a principal officer, board member, agent, volunteer, or employee ceases to be
462 associated with and/or work at the medical treatment center. His or her card shall be deemed null
463 and void and the person shall be liable for any other penalties that may apply to the person's
464 nonmedical use of marijuana.

465 (4) A medical treatment center shall notify the department in writing of the
466 name, address, and date of birth of any new principal officer, board member, agent, volunteer, or
467 employee and shall submit a fee in an amount established by the department for a new registry
468 identification card before a new agent or employee begins working at the medical treatment
469 center.

470 (5) A medical treatment center shall implement appropriate security
471 measures to prevent the theft of marijuana and the unauthorized entrance into areas containing
472 marijuana, and shall ensure that each location has an operational security alarm system.

473 (6) The operating documents of a medical treatment center shall include
474 procedures for the oversight of the medical treatment center and procedures to ensure accurate
475 record keeping.

476 (7) A medical treatment center is prohibited from acquiring, possessing,
477 cultivating, manufacturing, delivering, transferring, transporting, supplying, selling, and/or
478 dispensing marijuana for any purpose except to assist patients who are allowed to use marijuana
479 pursuant to this chapter with the medical use of marijuana directly or through the qualifying
480 patients' primary caregiver, and except when transferring or selling medical marijuana to another
481 medical treatment center in accordance with Section 6 of this chapter.

482 (8) Each time a new registered qualifying patient visits a medical treatment
483 center, it shall provide the patient with frequently asked questions designed by the department,
484 which explains the limitations on the right to use medical marijuana under state law.

485 (9) Each medical treatment center shall develop, implement, and maintain on
486 the premises employee and agent policies and procedures to address the following requirements:

487 (i) A job description or employment contract developed for all
488 employees and a volunteer agreement for all volunteers, which includes duties, authority,
489 responsibilities, qualifications, and supervision; and

490 (ii) Training in and adherence to Massachusetts confidentiality
491 laws.

492 (10) Each medical treatment center shall maintain a personnel record for
493 each employee and each volunteer that includes an application for employment or to volunteer
494 and a record of any disciplinary action taken; and

495 (11) Each medical treatment center shall develop, implement, and maintain
496 on the premises on-site training curricula, or enter into contractual relationships with outside
497 resources capable of meeting employee training needs, which includes, but is not limited to, the
498 following topics:

499 (a) Professional conduct, ethics, and patient
500 confidentiality; and

501 (b) Informational developments in the field of the
502 medical use of marijuana.

503 (12) Each medical treatment center entity shall provide each employee and
504 each volunteer, at the time of his or her initial appointment, training in the following:

505 (i) The proper use of security measures and controls that have been
506 adopted; and

507 (ii) Specific procedural instructions on how to respond to an
508 emergency, including robbery or violent accident.

509 (13) All medical treatment centers shall prepare training documentation for
510 each employee and have employees sign a statement indicating the date, time, and place the

511 employee received said training and topics discussed, to include name and title of presenters. The
512 medical treatment center shall maintain documentation of an employee's and a volunteer's
513 training for a period of at least six (6) months after termination of an employee's employment or
514 the volunteer's volunteering.

515 (g) Maximum amount of usable marijuana to be dispensed.

516 (1) A medical treatment center or principal officer, board member, agent,
517 volunteer, or employee of a medical treatment center may not dispense more than four (4) ounces
518 of usable marijuana to a qualifying patient directly or through the patient's primary caregiver
519 during a fifteen (15) day period.

520 (2) A medical treatment center or principal officer, board member, agent, or
521 employee of a medical treatment center may not dispense an amount of usable marijuana or
522 marijuana plants to a qualifying patient or a primary caregiver that the medical treatment center,
523 principal officer, board member, agent, volunteer, or employee knows would cause the recipient
524 to possess more marijuana than is permitted under this chapter.

525 (h) Immunity.

526 (1) No registered medical treatment center shall be subject to prosecution;
527 search, except by the department pursuant to Chapter 94G, Section 6 (e); seizure; or penalty in
528 any manner or denied any right or privilege including, but not limited to, civil penalty or
529 disciplinary action by a business, occupational, or professional licensing board or entity solely
530 for acting in accordance with this section to assist registered qualifying patients to whom it is
531 connected through the department's registration process with the medical use of marijuana.

532 (2) No principal officers, board members, agents, volunteers, or employees
533 of a registered medical treatment center shall be subject to arrest, prosecution, search, seizure, or
534 penalty in any manner or denied any right or privilege including, but not limited to, civil penalty
535 or disciplinary action by a business, occupational, or professional licensing board or entity solely
536 for working for or with a medical treatment center to engage in acts permitted by this chapter.

537 (i) Prohibitions.

538 (1) (a) A medical treatment center may not possess an amount of marijuana
539 that exceeds whichever of the following quantities is greater: (i) ninety-six (96) marijuana plants
540 and thirty-two (32) ounces of useable marijuana; or (ii) twenty-four (24) plants and 4 ounces of
541 usable marijuana for each registered qualifying patient who has designated the medical treatment
542 center to provide him or her with marijuana for medical use. However, if a registered qualifying
543 patient who designated the medical treatment center ceases to be a registered qualifying patient
544 or ceases to designate the medical treatment center, the medical treatment center shall have 30
545 days after the notification to lawfully dispose of, destroy or transfer any excess plants or
546 marijuana. A medical treatment center may transfer or sell any excess marijuana to another
547 medical treatment center in accordance with the quantities allowed for in this subsection.

548 (b) A medical treatment center may also possess marijuana seeds, stalks, and
549 unusable roots.

550 (2) A medical treatment center may not dispense, deliver, or otherwise
551 transfer marijuana to a person other than a qualifying patient or registered primary caregiver who
552 has designated the facility as one of their medical treatment centers, or to another medical
553 treatment center under the provisions allowed in Section 6 of this Chapter. .

554 (3) A person found to have violated paragraph (2) of this subsection may not
555 be an employee, volunteer, agent, principal officer, or board member of any medical treatment
556 center, and such person's registry identification card shall be immediately revoked.

557 (4) No person who has been convicted of a felony drug offense may be the
558 principal officer, board member, agent, volunteer, or employee of a medical treatment center
559 unless the department has determined that the person's conviction was for the medical use of
560 marijuana or assisting with the medical use of marijuana and has issued the person a registry
561 identification card as provided under Chapter 94G, Section 6 (c)(7). A person who is employed
562 by or is an agent, volunteer, principal officer, or board member of a medical treatment center in
563 violation of this section is guilty of a civil violation punishable by a fine of up to one thousand
564 dollars (\$1,000). A subsequent violation of this section is a gross misdemeanor.

565 (5) All cultivation of marijuana must take place in an enclosed, locked
566 facility, which can only be accessed by principal officers, board members, agents, volunteers, or
567 employees of the registered medical treatment center who are cardholders.

568 (j) Legislative oversight committee.

569 (1) The General Court shall appoint a ten (10) member oversight committee
570 comprised of: one member of the House of Representatives; one member of the Senate; one
571 physician to be selected from a list provided by the Massachusetts Medical Society; one nurse to
572 be selected from a list provided by the Massachusetts State Nurses Association; three (3)
573 registered qualifying patients; one registered primary caregiver; one patient advocate; and one
574 representative of the law enforcement community.

575 (2) The oversight committee shall meet at least three (3) times per year for
576 the purpose of evaluating and making recommendations to the General Court regarding:

577 (i) Patients' access to medical marijuana;

578 (ii) The efficacy of each registered medical treatment center, and
579 medical treatment centers as a whole, including the reasonableness of pricing and patients'
580 feedback on the quality of the marijuana;

581 (iii) Physician participation in the Medical Marijuana Program;

582 (iv) The definition of qualifying debilitating medical conditions;

583 and

584 (v) Research studies regarding health effects of medical marijuana
585 for patients.

586 (3) On or before January of every even-numbered year, the oversight
587 committee shall report to the general court and the department on its findings.

588 Section 7. Scope of chapter.

589 Section 7. (a) This chapter shall not permit:

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

592 (2) The smoking of marijuana:

593 (i) In a school bus or other form of public transportation;

- 594 (ii) On any school grounds;
- 595 (iii) In any correctional facility;
- 596 (iv) In any public place; or
- 597 (v) In any licensed drug treatment facility in this state.

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

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

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

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

607 (c) Fraudulent representation to a law enforcement official of any fact or circumstance
608 relating to the medical use of marijuana to avoid arrest or prosecution shall be punishable by a
609 fine of five hundred dollars (\$500) which shall be in addition to any other penalties that may
610 apply for making a false statement for the non-medical use of marijuana.

611 Section 8. Affirmative defense and dismissal.

612 Section 8. (a) Except as provided in Section 7, a qualifying patient and the qualifying
613 patient's primary caregiver, if any, may assert the medical purpose for using marijuana as a

614 defense to any prosecution involving marijuana, and such defense shall be presumed valid where
615 the evidence shows that:

616 (1) The qualifying patient's practitioner has stated that, in the practitioner's
617 professional opinion, after having completed a full assessment of the person's medical history
618 and current medical condition made in the course of a bona fide practitioner patient relationship,
619 the potential benefits of using marijuana for medical purposes would likely outweigh the health
620 risks for the qualifying patient; and

621 (2) The person and the person's primary caregiver, if any, were collectively
622 in possession of a quantity of marijuana that was not more than what is reasonably necessary to
623 ensure the uninterrupted availability of marijuana for the purpose of alleviating the person's
624 medical condition or symptoms associated with the medical condition.

625 (b) A person may assert the medical purpose for using marijuana in a motion to
626 dismiss, and the charges shall be dismissed following an evidentiary hearing where the defendant
627 shows the elements listed in Chapter 94G, Section 5(a).

628 (c) Any interest in or right to property that was possessed, owned, or used in
629 connection with a person's use of marijuana for medical purposes shall not be forfeited if the
630 person or the person's primary caregiver demonstrates the person's medical purpose for using
631 marijuana pursuant to this section.

632 Section 9. Enforcement.

633 Section 9. (a) If the department fails to adopt regulations to implement this chapter
634 within one hundred twenty (120) days of the effective date of this act, a qualifying patient may

635 commence an action in a court of competent jurisdiction to compel the department to perform the
636 actions mandated pursuant to the provisions of this chapter.

637 (b) If the department fails to issue a valid registry identification card in response to a
638 valid application submitted pursuant to this chapter within thirty-five (35) days of its submission,
639 the registry identification card shall be deemed granted and a copy of the registry identification
640 application shall be deemed valid registry identification card.

641 Section 10. Severability.

642 Section 10. Any section of this act being held invalid as to any person or circumstances
643 shall not affect the application of any other section of this act that can be given full effect without
644 the invalid section or application.