

HOUSE No. 00625

The Commonwealth of Massachusetts

PRESENTED BY:

Frank I. Smizik

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>Frank I. Smizik</i>	<i>15th Norfolk</i>
<i>Steven A. Tolman</i>	<i>Second Suffolk and Middlesex</i>
<i>John D. Keenan</i>	<i>7th Essex</i>
<i>Byron Rushing</i>	<i>9th Suffolk</i>
<i>Joyce A. Spiliotis</i>	<i>12th Essex</i>
<i>Stephen Kulik</i>	<i>1st Franklin</i>
<i>Rhonda Nyman</i>	<i>5th Plymouth</i>
<i>Cleon H. Turner</i>	<i>1st Barnstable</i>
<i>Cory Atkins</i>	<i>14th Middlesex</i>
<i>Carl M. Sciortino, Jr.</i>	<i>34th Middlesex</i>
<i>Stephen L. DiNatale</i>	<i>3rd Worcester</i>
<i>Alice K. Wolf</i>	<i>25th Middlesex</i>
<i>Kay Khan</i>	<i>11th Middlesex</i>
<i>John W. Scibak</i>	<i>2nd Hampshire</i>
<i>William N. Brownsberger</i>	<i>24th Middlesex</i>
<i>Gloria L. Fox</i>	<i>7th Suffolk</i>

<i>Tom Sannicandro</i>	<i>7th Middlesex</i>
<i>Cheryl A. Coakley-Rivera</i>	<i>10th Hampden</i>
<i>Denise Provost</i>	<i>27th Middlesex</i>
<i>Elizabeth A. Malia</i>	<i>11th Suffolk</i>
<i>Ruth B. Balsler</i>	<i>12th Middlesex</i>
<i>Anne M. Gobi</i>	<i>5th Worcester</i>
<i>Christine E. Canavan</i>	<i>10th Plymouth</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>
<i>Jonathan Hecht</i>	<i>29th Middlesex</i>
<i>Ellen Story</i>	<i>3rd Hampshire</i>
<i>Thomas M. Petrolati</i>	<i>7th Hampden</i>

HOUSE No. 00625

By Mr. Frank I. Smizik of Brookline, petition (accompanied by bill, House, No. 00625) of Thomas M. Petrolati and others 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.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE
□ HOUSE
□ , NO. 2160 OF 2009-2010.]

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 Massachusetts
- 5 Medical Marijuana Act." It is the purpose of this act to protect patients with debilitating medical
- 6 conditions, as well as their practitioners and designated caregivers, from arrest and prosecution,

7 criminal and other penalties, and property forfeiture if such patients engage in the medical use of
8 marijuana.

9 Section 2. Definitions.

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

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

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

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

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

25 (2) A chronic or debilitating disease or medical condition or its treatment that produces one or
26 more of the following: cachexia or wasting syndrome; severe pain; severe nausea; seizures,

27 including but not limited to, those characteristic of epilepsy; or severe and persistent muscle
28 spasms, including but not limited to, those characteristic of multiple sclerosis, ; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

127 Section 4. Department to issue regulations.

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

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

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

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

148 Section 5. Administration of regulations.

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

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

152 (2) Application or renewal fee;

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

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

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

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

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

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

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

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

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

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

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

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

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

182 (2) A random registry identification number; and

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

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

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

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

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

194 deemed null and void and the person shall be liable for any other penalties that may apply to the
195 person's non-medical use of marijuana.

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

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

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

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

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

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

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

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

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

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

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

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

245 (1) The number of applications for registry identification cards, the number of qualifying patients
246 and primary caregivers approved, the nature of the debilitating medical conditions of the
247 qualifying patients, the number of registry identification cards revoked, and the number of
248 practitioners providing written certification for qualifying patients;

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

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

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

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

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

265 Section 6. Medical treatment centers.

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

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

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

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

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

287 (ii) Minimum oversight requirements for medical treatment centers;

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

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

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

294 (2) The department shall design regulations with the goal of protecting against diversion and
295 theft, without imposing an undue burden on the registered medical treatment centers or
296 compromising the confidentiality of registered qualifying patients and their registered designated
297 caregivers. Any dispensing records that a registered medical treatment center is required to keep
298 shall track transactions according to registered qualifying patients', registered primary

299 caregivers', and registered medical treatment centers' registry identification numbers, rather than
300 their names, to protect their confidentiality.

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

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

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

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

311 (7) If at any time after one year after the effective date of this act fewer than 19 medical
312 treatment centers are holding valid registration certificates in Massachusetts or if at any time the
313 department or legislative oversight committee conclude that the existing medical treatment
314 centers are not sufficient to provide safe access to registered qualifying patients in
315 Massachusetts, the department shall accept applications for enough additional medical treatment
316 centers to serve all qualifying patients.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

366 (5) The department shall track the number of registered qualifying patients designated to each
367 medical treatment center, and issue a written statement to the medical treatment center of the
368 number of qualifying patients who have designated the medical treatment center to serve them
369 and each of those qualifying patients' registry identification numbers. This statement shall be
370 updated each time a new registered qualifying patient designates the medical treatment center or
371 ceases to designate the medical treatment center and may be transmitted electronically over an
372 encrypted connection if the department's regulations so provide. The department may provide by
373 regulation that the updated written statements will not be issued more frequently than twice each
374 week.

375 (6) Except as provided in Chapter 94G section 6 (c)(7), the department shall issue each principal
376 officer, board member, agent, volunteer, and employee of a medical treatment center a registry
377 identification card or renewal card within ten (10) days of receipt of the person's name, address,
378 date of birth, and a fee in an amount established by the department. Each card shall specify that

379 the cardholder is a principal officer, board member, agent, volunteer, or employee of a medical
380 treatment center and shall contain the following:

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

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

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

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

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

388 (7) Except as provided in this subsection, the department shall not issue a registry identification
389 card to any principal officer, board member, agent, volunteer, or employee of a medical
390 treatment center who has been convicted of a felony drug offense. The department may conduct
391 a background check of each principal officer, board member, agent, volunteer, or employee in
392 order to carry out this provision. The department shall notify the medical treatment center in
393 writing of the purpose for denying the registry identification card. The department may grant
394 such person a registry identification card if the department determines that the offense was for
395 conduct that occurred prior to the enactment of this act or that was prosecuted by an authority
396 other than the commonwealth of Massachusetts and for which this act would otherwise have
397 prevented a conviction.

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

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

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

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

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

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

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

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

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

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

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

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

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

430 (e) Inspection. Medical treatment centers are subject to reasonable inspection by the department.
431 The department shall give reasonable notice of an inspection under this subsection. During an
432 inspection, the department may review the medical treatment center's confidential records,
433 including its dispensing records, which may track transactions according to qualifying patients'
434 registry identification numbers to protect their confidentiality.

435 (f) Medical treatment center requirements.

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

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

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

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

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

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

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

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

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

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

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

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

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

476 (a) Professional conduct, ethics, and patient confidentiality; and

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

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

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

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

483 (13) All medical treatment centers shall prepare training documentation for each employee and
484 have employees sign a statement indicating the date, time, and place the employee received said
485 training and topics discussed, to include name and title of presenters. The medical treatment
486 center shall maintain documentation of an employee's and a volunteer's training for a period of at
487 least six (6) months after termination of an employee's employment or the volunteer's
488 volunteering.

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

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

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

499 (h) Immunity.

500 (1) No registered medical treatment center shall be subject to prosecution; search, except by the
501 department pursuant to Chapter 94G, Section 6 (e); seizure; or penalty in any manner or denied

502 any right or privilege including, but not limited to, civil penalty or disciplinary action by a
503 business, occupational, or professional licensing board or entity solely for acting in accordance
504 with this section to assist registered qualifying patients to whom it is connected through the
505 department's registration process with the medical use of marijuana.

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

511 (i) Prohibitions.

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

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

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

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

530 (4) No person who has been convicted of a felony drug offense may be the principal officer,
531 board member, agent, volunteer, or employee of a medical treatment center unless the
532 department has determined that the person's conviction was for the medical use of marijuana or
533 assisting with the medical use of marijuana and has issued the person a registry identification
534 card as provided under Chapter 94G, Section 6 (c)(7). A person who is employed by or is an
535 agent, volunteer, principal officer, or board member of a medical treatment center in violation of
536 this section is guilty of a civil violation punishable by a fine of up to one thousand dollars
537 (\$1,000). A subsequent violation of this section is a gross misdemeanor.

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

541 (j) Legislative oversight committee.

542 (1) The General Court shall appoint a ten (10) member oversight committee comprised of: one
543 member of the House of Representatives; one member of the Senate; one physician to be
544 selected from a list provided by the Massachusetts Medical Society; one nurse to be selected

545 from a list provided by the Massachusetts State Nurses Association; three (3) registered
546 qualifying patients; one registered primary caregiver; one patient advocate; and one
547 representative of the law enforcement community.

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

550 (i) Patients' access to medical marijuana;

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

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

555 (iv) The definition of qualifying debilitating medical conditions; and

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

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

559 Section 7. Scope of chapter.

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

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

563 (2) The smoking of marijuana:

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

565 (ii) On any school grounds;

566 (iii) In any correctional facility;

567 (iv) In any public place; or

568 (v) In any licensed drug treatment facility in this state.

569 (3) Any person to operate, navigate, or be in actual physical control of any motor vehicle,

570 aircraft, or motorboat while under the influence of marijuana. However, a registered qualifying

571 patient shall not be considered to be under the influence solely for having marijuana metabolites

572 in his or her system.

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

574 (1) A government medical assistance program or private health insurer to reimburse a person for

575 costs associated with the medical use of marijuana; or

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

577 (c) Fraudulent representation to a law enforcement official of any fact or circumstance relating to

578 the medical use of marijuana to avoid arrest or prosecution shall be punishable by a fine of five

579 hundred dollars (\$500) which shall be in addition to any other penalties that may apply for

580 making a false statement for the non-medical use of marijuana.

581 Section 8. Affirmative defense and dismissal.

582 Section 8. (a) Except as provided in Section 7, a qualifying patient and the qualifying patient's
583 primary caregiver, if any, may assert the medical purpose for using marijuana as a defense to any
584 prosecution involving marijuana, and such defense shall be presumed valid where the evidence
585 shows that:

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

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

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

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

602 Section 9. Enforcement.

603 Section 9. (a) If the department fails to adopt regulations to implement this chapter within one
604 hundred twenty (120) days of the effective date of this act, a qualifying patient may commence
605 an action in a court of competent jurisdiction to compel the department to perform the actions
606 mandated pursuant to the provisions of this chapter.

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

611 Section 10. Severability. —

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