

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

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Covered entity" means a registered caregiver, dispensary, cannabis testing facility, manufacturing facility or person authorized to engage in cannabis extraction using inherently hazardous substances under this chapter. [PL 2023, c. 365, §20 (NEW).]

B. "Covered entity agent" means an assistant, employee, officer, director or other authorized agent of a registered caregiver, dispensary, cannabis testing facility, manufacturing facility or person authorized to engage in cannabis extraction using inherently hazardous substances under this chapter. [PL 2023, c. 365, §20 (NEW).]

C. "Major registration violation" means an intentional, willful or reckless violation or a repeat pattern of minor registration violations. [PL 2023, c. 365, §20 (NEW).]

D. "Major registration violation affecting public safety" means a major registration violation that jeopardizes public safety. [PL 2023, c. 365, §20 (NEW).]

E. "Minor registration violation" means a knowing or negligent violation. [PL 2023, c. 365, §20 (NEW).]

F. "Violation" means a violation of a provision of this chapter, rules adopted pursuant to this chapter or terms or conditions of a registry identification card or registration certificate issued under this chapter. [PL 2023, c. 365, §20 (NEW).]

[PL 2023, c. 365, §20 (NEW).]

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

A. Impose an administrative penalty in accordance with this section for a violation. Penalties collected pursuant to this paragraph must be credited to the Medical Use of Cannabis Fund established under section 2430; [PL 2023, c. 365, §20 (NEW).]

B. Seize and destroy cannabis or cannabis products under subsection 5; and [PL 2023, c. 365, §20 (NEW).]

C. Suspend or revoke a registry identification card or registration certificate issued under this chapter for a violation. [PL 2023, c. 365, §20 (NEW).]

[PL 2023, c. 365, §20 (NEW).]

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

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

(1) Not more than \$200 for each minor registration violation;

(2) Not more than \$600 for each major registration violation; or

(3) Not more than \$1,500 for each major registration violation affecting public safety; and [PL 2023, c. 365, §20 (NEW).]

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

(1) Not more than \$1,000 for each minor registration violation;

(2) Not more than \$3,000 for each major registration violation; or

(3) Not more than \$7,500 for each major registration violation affecting public safety. [PL 2023, c. 365, §20 (NEW).]

[PL 2023, c. 365, §20 (NEW).]

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

A. The first time a covered entity or covered entity agent sells, furnishes or gives cannabis for medical use to a person who is not authorized to possess cannabis for medical use under this chapter, the covered entity or covered entity agent that sold, furnished or gave cannabis for medical use to a person not authorized to possess cannabis for medical use may be subject to an administrative penalty for a minor registration violation. [PL 2023, c. 365, §20 (NEW).]

B. The 2nd time a covered entity or covered entity agent sells, furnishes or gives cannabis for medical use to a person who is not authorized to possess cannabis for medical use under this chapter, the covered entity or covered entity agent that sold, furnished or gave cannabis for medical use to a person not authorized to possess cannabis for medical use may be subject to an administrative penalty for a major registration violation. [PL 2023, c. 365, §20 (NEW).]

C. The 3rd time a covered entity or covered entity agent sells, furnishes or gives cannabis for medical use to a person who is not authorized to possess cannabis for medical use under this chapter and for any subsequent violations of this subsection thereafter, the covered entity or covered entity agent that sold, furnished or gave cannabis for medical use to a person not authorized to possess cannabis for medical use may be subject to suspension or revocation of the covered entity's or covered entity agent's registry identification card or registration certificate or an administrative penalty for a major registration violation. [PL 2023, c. 365, §20 (NEW).]

A covered entity is subject to the penalties in this section whether the covered entity violated this subsection or the covered entity agent violated this subsection. Violations of this section by a covered entity are cumulative whether the same or a different covered entity agent violated this subsection. [PL 2023, c. 365, §20 (NEW).]

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

A. If the department issues a final order imposing an administrative penalty under this section, the department may require, in the final order, that all or a portion of the cannabis plants, cannabis or cannabis products in the possession of the covered entity subject to the final order be destroyed. [PL 2023, c. 365, §20 (NEW).]

B. The covered entity subject to the final order shall forfeit the cannabis plants, cannabis or cannabis products to the department or destroy the cannabis plants, cannabis and cannabis products at the time and place and in the manner required by the department in writing. [PL 2023, c. 365, §20 (NEW).]

[PL 2023, c. 365, §20 (NEW).]

6. Destruction prohibition. If the department is notified by a criminal justice agency that there is a pending investigation of a covered entity subject to a final order under this section, the department may not destroy, or allow the covered entity to destroy, any cannabis plants, cannabis or cannabis products of that covered entity until the destruction is approved by the criminal justice agency. [PL 2023, c. 365, §20 (NEW).]

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

8. Suspension or revocation. The department may suspend or revoke a registry identification card or registration certificate for violation of this chapter and the rules adopted under this chapter for a period not to exceed one year. Until the suspension or revocation period ends, the person is ineligible for reauthorization under this chapter.

[PL 2023, c. 365, §20 (NEW).]

9. Maine Administrative Procedure Act; final agency action. Except as otherwise provided in this chapter, the suspension or revocation of a registry identification card or registration certificate and the imposition of an administrative penalty by the department is governed by Title 5, chapter 375, subchapter 4, including, but not limited to, the provisions on notice and hearings.

[PL 2023, c. 365, §20 (NEW).]

SECTION HISTORY

PL 2023, c. 365, §20 (NEW).

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