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March 19, 2025

Re: LD 929, An Act to Increase Access to Medical Cannabis for Seniors and Veterans

Senator Hickman, Representative Supica, Members of the Joint Standing Committee on Veterans and Legal Affairs:

The Office of Cannabis Policy (OCP) respectfully submits the following comments neither for nor against LD 929 to inform this committee's consideration of whether to permit certain individuals to obtain medical cannabis without a medical provider certifying that the individual is likely to receive a therapeutic or palliative effect through the medical use of cannabis.

When it was created by citizens' initiative in 2009, the Maine Medical Use of Cannabis Act permitted some Mainers experiencing "debilitating medical conditions" (cancer, glaucoma, HIV, AIDS, hepatitis C, ALS, Crohn's disease, Alzheimer's disease, nail-patella syndrome, epilepsy, multiple, or intractable pain, cachexia, wasting syndrome, severe nausea, seizures, and severe or persistent muscle spasms from treatment of those diseases) to obtain from a medical provider a patient certification in order to cultivate or obtain medical cannabis from a registered caregiver or one of eight registered dispensaries. Since that time, the laws governing the medical cannabis program have changed substantially, including, among other things, a repeal of the requirement that a qualifying patient must have a debilitating medical condition in order to obtain from a certifying provider a patient certification. Additionally, given improvements in telehealth technology and health information security, Maine medical cannabis patients can receive a certification from a provider through a brief telehealth visit without ever receiving a physical exam from a provider. These two changes to the program have led to both extraordinary access to the state's medical cannabis program and a significant increase in the number of qualifying patients. Since the removal of qualifying conditions went into effect in December 2018, the number of medical cannabis patients has increased from 45,940 to 110,484—a 140.5% increase, while the Census Bureau estimates that the state population has only increased 4.9% during that time.

Nationwide, nearly every state with a regulated medical cannabis program requires medical cannabis patients to obtain a certification from a qualified medical provider in order to obtain medical cannabis. Most states still maintain a list of qualifying conditions for which a qualifying patient may obtain medical cannabis, although many states now permit certifying providers to use their clinical judgment to certify that a patient may receive a therapeutic or palliative effect/benefit from the medical use of cannabis. A few jurisdictions, including the District of Columbia (DC), Delaware, Minnesota, North Dakota and Oregon have provisions that allow

some or all patients to “self-certify” that they are eligible to be patients in the jurisdiction without a provider’s sign off.

In DC, all patients aged 21 and older may self-certify.¹ In Delaware, patients aged 65 and older may self-certify.² Veterans in North Dakota and Minnesota may use documentation from the Veterans Administration indicating that the veteran has a diagnosis of a qualifying “debilitating medical condition” in lieu of an exam by a certifying provider, although Minnesota veterans may choose to be examined by a certifying provider in order to qualify under the category of “any medical condition for which a patient’s health care practitioner has recommended, approved, or authorized the use of cannabis by that individual to treat the condition”.³ In Oregon, qualifying patients who are veterans may provide evidence of their “total and permanent disability” from the U.S. Department of Veterans Affairs upon renewal in lieu of an annual exam from a recommending provider.⁴ Thus, with the exception of DC and Delaware, it appears that most states with limited authorization for self-certification require some demonstration, through the production of medical records, that the self-certifying patient experiences a debilitating or otherwise qualifying medical condition. However, it is important to note that in all jurisdictions where patient self-certification is authorized for some populations, the patient is still issued a patient certification credential (commonly referred to as a “patient card”) by their jurisdiction of residence.

Finally, it is important to note that this bill is being considered against the backdrop of ongoing efforts by local, state, and federal law enforcement to curtail the operation of illicit cannabis cultivation facilities. For the past several years, the Office has advocated for policies that create clearer distinctions in law between regulated and illicit cannabis operations and this bill would allow some categories of individuals to claim that they are medical cannabis patients without providing a copy of their patient certification card that law enforcement officers and retail store owners have come to expect as proof of lawful conduct.

We thank the committee for its consideration and we would be happy to answer any questions you have at the work session.

¹ <https://abca.dc.gov/node/1626041#gsc.tab=0> (Accessed March 12, 2025.). Please note that the purpose for DC's allowance of self-certification was an effort to overcome Congress's statutory prohibition on DC from implementing Initiative 71, the District's 2014 ballot initiative that approved adult use legalization.

² <https://dhss.delaware.gov/dhss/dph/hsp/medmarpt.html> (Accessed March 12, 2025.).

³ See North Dakota Century Code, 19-24.1-03.1, available at: <https://ndlegis.gov/cencode/t19c24-1.pdf> (Accessed March 12, 2025.) and <https://mn.gov/ocm/dmc/patients/the-basics/how-to-become-a-patient.jsp> (Accessed March 12, 2025) for North Dakota and Minnesota requirements, respectively.

⁴ See Oregon Code, 333-008-0040 available at <https://secure.sos.state.or.us/oard/viewSingleRule.action?ruleVrsnRsn=289502> (Accessed March 12, 2025.)