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4/15/2025

Senator Bailey, Chair  
Representative Mathieson, Chair  
Members, Joint Standing Committee on Health Coverage, Insurance and Financial Services  
100 State House Station  
Augusta, ME 04333-0100

Re: LD 1204 – *An Act to Support Direct Access Worker Employment by Removing Certain Employment Disqualifications*

Senator Bailey, Representative Mathieson and members of the Joint Standing Committee on Health Coverage, Insurance and Financial Services, thank you for the opportunity to provide information in opposition to LD 1204, *An Act to Support Direct Access Worker Employment by Removing Certain Employment Disqualifications*.

22 MRS Ch. 1691 charges the Department with creating, in rule, a list of disqualifying offenses at §9054 (8)(F) and (11), which applies equally to all mandated users. That rule, 10-144 CMR Ch. 60, Maine Background Check Licensing Rule, includes a waiver process through which an individual may be employed for a specific position following Department consideration of multiple factors related to the conviction.

The Department opposes this bill as rule already includes a mechanism for relief, on a case-by-case basis, for individuals convicted of aggravated cultivating of marijuana. This waiver process allows the department to consider if that specific individual presents a risk to the vulnerable individuals this statute and rule are designed to protect. The conditions for this conviction include not only the scale of grow operations, but other parameters such as the use of firearms, involvement of a minor, and other circumstances which suggest a pattern of unlawful behavior and the willingness to cause harm to others. This type of conviction remains illegal on a federal level, as marijuana is still classified as a Schedule I substance in federal law, under the Controlled Substance Act, which adds complexity as both state and federal convictions are to be reviewed. In keeping this type of conviction as a disqualifying offense, it allows for a case-by-case review for state and federal law to be considered prior to a hiring decision.

Maine Background Check Center (MBCC) does not have data regarding the frequency with which applicants are disqualified from employment as a result of a conviction for aggravated cultivating of marijuana, however, it is not a conviction that is regularly encountered by MBCC staff who process background checks and thus it does not seem likely that removal of this conviction as a disqualifying offense would have an impact on the direct access workforce.

DLC opposes this bill based on the potential for harm to vulnerable individuals receiving healthcare and related services and believes that the existing waiver process, which allows the Department to consider circumstances related to disqualifying convictions, is sufficient to allow

for protection of service recipients while also taking into account mitigating factors presented by convicted individuals seeking employment as direct access workers.

Please feel free to contact me if you have any questions during your deliberation of this bill.

Sincerely,

A handwritten signature in black ink, appearing to read "Bill Montejo", with a stylized flourish at the end.

Bill Montejo, Director  
Division of Licensing and Certification  
Maine Department of Health and Human Services