



Janet T. Mills  
Governor

STATE OF MAINE  
DEPARTMENT OF  
PROFESSIONAL & FINANCIAL REGULATION



Joan F. Cohen  
Commissioner

January 12, 2025

Senator Anne Beebe-Center, Chair  
Representative Travis Hasenfus, Chair  
Committee on Criminal Justice and Public Safety  
100 State House Station  
Augusta, ME 04333

Dear Senator Beebe-Center, Representative Hasenfus, and Members of the CJPS Committee:

Thank you for the opportunity to provide the Department of Professional and Financial Regulation's (the Department) concerns with LD 1916. The Department is an umbrella regulatory agency that includes the Bureaus of Insurance, Consumer Credit Protection, and Financial Institutions; the Offices of Securities and Professional and Occupational Regulation (OPOR); and five affiliated licensing boards, including the Boards of Medicine, Osteopathic Medicine, Nursing, Optometry, and Professional Engineers. Collectively, the Department's mission is to protect the public through effective professional and occupational licensing, financial regulation, and consumer protection.

LD 1916 would require automatic sealing of certain convictions related to trafficking, cultivation and possession of marijuana that happened between 2001 and 2017, which are no longer crimes under Maine law.

The Department opposes LD 1916 because it would impair the ability of Department agencies and affiliated boards to conduct meaningful criminal background checks on individuals seeking licensure or renewal. Criminal history information is a critical tool that the Department uses to fulfill its public protection responsibilities and its obligations pursuant to various interstate licensing compacts. That criminal history review can reveal conduct that is highly relevant to an agency's or board's responsibility to ensure applicants are qualified to be entrusted with a license in a particular field or to impose appropriate safeguards, monitoring, or conditions on applicants or licensees to protect the public.

Criminal history is not an automatic bar to licensure. Maine law (Title 5, Chapter 341) guides the use of criminal history in the context of license eligibility determinations. Importantly, Chapter 341 provides that a criminal conviction *shall not operate as an automatic bar to state licensure*. Per Maine law, a licensing board *may* take criminal history into account but *only if* the licensing

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agency determines that the applicant has not been sufficiently rehabilitated to warrant the public trust. *The applicant is always given the opportunity to prove rehabilitation.* We believe the current process of allowing the licensing boards the discretion to determine if an applicant is sufficiently rehabilitated is working well, as evidenced by the overwhelming majority of applicants becoming licensed despite past criminal history.

A history of drug trafficking, cultivation, possession, or use is an important licensing consideration and public protection tool for many, if not all, Department agencies and boards, but especially for health-related licensing boards. A drug-related conviction for a person seeking licensure that includes greater access to controlled and prescription medications needs to be evaluated to ensure public safety. In addition, if the conviction involved underlying conduct that would be an independent basis for either license denial or the imposition of conditions on an applicant, that conduct is always relevant to the review of an application for licensure.

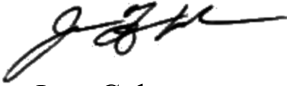
In addition, the Board of Licensure in Medicine is concerned that passage of the bill may impair Maine's ability to perform its obligations under the PA Compact as enacted at Title 32 Chapter 145-A. Under that Maine statute and Compact, conviction for any misdemeanor must be disclosed and is a disqualifying event for PAs seeking Compact Privileges. Each state who is a party to the PA Compact must determine if Physician Associates have ever been convicted of any felony or misdemeanor, with no time limit. This is just one of the many healthcare compacts the state has entered in an attempt to increase access for Maine citizens. If Maine is removed from these compacts, Maine patients would have less access to care, it would be more difficult to attract providers to Maine, and Maine licensed professionals would have reduced employment opportunities across state lines.

Section 2334 creates a potential ambiguity about whether individuals whose criminal history has been automatically sealed would be required to disclose that automatically sealed criminal history to Department agencies and boards. The current bill's Section 2334 provides that an individual with automatically sealed criminal history information does not have to disclose the sealed information except in response to inquiries from "other than criminal justice agencies and other entities that are authorized to obtain the sealed criminal history record information under section 2265." Although the bill appears to exempt licensing agencies from this non-disclosure, it creates a potentially ambiguous situation for applicants who may not understand that professional licensing entities are still entitled to receive this information, and may not know which state agencies run fingerprint checking, or who may receive advice that they no longer need to report this type of conviction to either type of state agency. Furthermore, with this potential ambiguity in the bill language, applicants may receive legal advice that they do not have to disclose this type of conviction to appropriate regulators.

The Department supports the continuation of the existing access to criminal history information and disclosure requirements, because these ensure regulators and licensing boards can continue to review applicants' relevant criminal history as part of their essential public protection roles.

For these reasons, the Department respectfully opposes LD 1916 and urges the Legislature to carefully consider the wide-ranging and potentially unintended consequences this bill would have on professional licensing, financial regulation, and public protection in Maine.

Sincerely,

A handwritten signature in black ink, appearing to read 'Joan Cohen', written in a cursive style.

Joan Cohen  
Commissioner