



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 1917. 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 1917 would allow the sealing of certain criminal history records if the crime was a current or former Class E crime (including convictions for unlicensed practice under Title 10 Section 8003-C), certain crimes that happened before January 30, 2017, and where the conduct that led to the conviction is no longer a crime.

The Department opposes LD 1917 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, including related to those crimes defined as "eligible crimes" under this bill, 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 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 unlicensed practice, and potentially other Class E crimes, drug trafficking, cultivation, possession or use, or conduct that was criminal at the time it occurred would all be important licensing considerations and review of that information serves as an essential public protection tool for all Department agencies and boards, but especially for health-related licensing boards, where a drug-related conviction for a person seeking licensure that includes greater access to controlled medications needs to be evaluated to ensure public safety.

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.

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 1917 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, DPFR