



**Testimony of Maine Public Health Association in Opposition to:
LD 40: An Act to Amend the Cannabis Laws**

(Or as amended - An Act To Protect Liberty and Advance Justice in the Implementation, Administration and Enforcement of the Cannabis Legalization Act and To Implement Certain Recommendations of the Subcommittee on Non-substantive Changes to the Maine Medical Use of Cannabis Act)

Joint Standing Committee on Veterans and Legal Affairs
State House, Room 437
Monday, March 4, 2024

Good morning, Senator Hickman, Representative Supica, and distinguished members of the Joint Standing Committee on Veterans and Legal Affairs. My name is Rebecca Boulos. I am a resident of South Portland and executive director of Maine Public Health Association.

MPHA is the state's oldest, largest, and most diverse association for public health professionals. We represent more than 700 individual members and 60 organizations across the state. MPHA works to optimize the health of people and places in Maine through advocacy, education, partnerships, and public health workforce development. As a statewide nonprofit association, we advocate, act, and advise on critical public health challenges, aiming to improve the policies, systems, and environments that underlie health inequities – but which also have potential to improve health outcomes for all people in Maine. We are not tied to a national agenda, which means we are responsive to the needs of Maine's communities, and we take that responsibility seriously.

MPHA is in opposition to LD 40: “An Act to Amend Cannabis Laws” or, as amended six days before this public hearing, “An Act To Protect Liberty and Advance Justice in the Implementation, Administration and Enforcement of the Cannabis Legalization Act and To Implement Certain Recommendations of the Subcommittee on Non-substantive Changes to the Maine Medical Use of Cannabis Act.”

LD 40 is a sweeping overhaul of the Maine Medical Use of Cannabis Act and includes significant changes to the Cannabis Legalization Act. This 66-page proposed legislation includes 119 sections of proposed changes to statute that have far reaching implications for Maine consumers, public health and safety, and youth justice.

Despite the assigned scope to the Subcommittee on *Non-substantive Changes* to the Maine Medical Use of Cannabis Act, the ensuing recommendations are, in fact, substantive. For example, the bill strips law enforcement access to medical cannabis establishments while on duty and allows the sale of medical cannabis at trade shows and festivals. The legislation also changes the purposes of the Office of Cannabis Policy, including, for example, explicitly charging the director to, “Promote and advance the interests of the licensees in this chapter...” These are just a sample of the many substantive changes proposed in this bill.

The legislation also threatens public health. The bill would allow cannabis facilities to sell non-cannabis food products, delivery of cannabis to hotels without the hotel's permission, and repeal the requirement that delivery servicers undergo training. It also would allow persons under 21 years of age to enter cannabis facilities and repeals several labeling and packaging requirements intended to protect public health and safety and prevent

youth use. The bill creates a new chapter and incorporates provisions to penalize minors for cannabis possession, which is counter to advancing justice. It lets businesses off the hook for what should be basic consumer protections and responsible business practices, and redirects that burden to young people – with significant penalties.

The changes within this legislation are, frankly, overwhelming. This list below is not exhaustive, but focuses on some of the problem areas found in the legislation, specifically definitions, enforcement, youth-targeting and data provision changes.

Definitions

Definitions – Medical

Term	Current Definition	New Definition	Difference between Current & New
Assistant	“Assistant” means a person paid to perform a service for a caregiver, dispensary, manufacturing facility or cannabis testing facility in accordance with this chapter, whether as an employee or independent contractor.	“Assistant” means an individual who is at least 18 years of age who is paid to perform a service for a caregiver, dispensary, manufacturing facility, a person authorized to engage in extraction using inherently hazardous substances or a cannabis testing facility, whether as an employee or independent contractor, in accordance with this chapter.	Changes “person” for “individual”, adds age requirement (18 years), adds to definition those “authorized to engage in extraction, using inherently hazardous substances or a cannabis testing facility, whether as an employee or independent contractor, in accordance with this chapter.”
Caregiver Retail Store	New	“Caregiver retail store” means a store authorized in accordance with this chapter and used by a registered caregiver to sell cannabis paraphernalia, cannabis plants, harvested cannabis, related supplies or educational materials to qualifying patients and other items to the general public without an appointment.	New definition. Adds authorization. Now under Chapter and includes the sale of “related supplies... and other items to the general public with an appointment”

Cultivation Area	“Cultivation area” means an indoor or outdoor area used for cultivation of mature cannabis plants, immature cannabis plants or seedlings in accordance with this chapter that is enclosed and equipped with locks or other security devices that permit access only by a person authorized to have access to the area under this chapter. A cultivation area may include multiple indoor or outdoor areas, whether contiguous or noncontiguous, on the same parcel or tract of land.	“Cultivation area” means an indoor or outdoor area used for cultivation of mature cannabis plants, immature cannabis plants or seedlings. A cultivation area may include multiple indoor or outdoor areas, whether contiguous or noncontiguous, on the same parcel or tract of land.	Removes this security requirement: “Enclosed and equipped with locks or other security devices that permit access only by a person authorized to have access to the area under this chapter”
Minor	New	“Minor” means a person who has not reached the age of 21 years.	Addition to the Statute
Registered Dispensary	“Registered dispensary” or “dispensary” means an entity registered under section 2425-A that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, sells, supplies or dispenses cannabis plants or harvested cannabis or related supplies and educational materials to qualifying patients and the caregivers of those patients.	“Registered dispensary” means an entity registered in accordance with this chapter that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, sells, supplies or dispenses cannabis paraphernalia, cannabis plants, harvested cannabis, related supplies or educational materials to qualifying patients and the caregivers of those patients.	Changes registration requirement from Section 2425-A to Amended Chapter and adds “cannabis paraphernalia”
Registered Patient	“Registered patient” means a qualifying patient who is registered by the department pursuant to section 2425-A.	“Registered patient” means a qualifying patient who is registered by the department in accordance with this chapter.	“in accordance with this chapter” instead of 2425-A authorization.
Visiting Qualifying Patient	“Visiting qualifying patient” means a patient who is authorized for the medical use of cannabis in this State in accordance with section 2423-D and who is not a resident of the State or who has been a resident of the State less than 30 days.	“Visiting qualifying patient” means a patient who is authorized for the medical use of cannabis in this State and who is not a resident of the State or who has been a resident of the State less than 30 days.	Removes requirement for authorization under 2423-D and just mentions authorization generally

Written Certification	“Written certification” means a document signed by a medical provider and issued to a qualifying patient in accordance with section 2423-B, or a digital image of that document issued by the medical provider that meets the requirements of section 2423-B, subsection 4, that states that, in the medical provider's professional opinion, the patient is likely to receive therapeutic or palliative benefit from the medical use of cannabis to treat or alleviate the patient's medical diagnosis or symptoms associated with the medical diagnosis.	“Written certification” means a document signed by a medical provider and issued to a qualifying patient, or a digital image of that document issued by the medical provider that states that, in the medical provider's professional opinion, the patient is likely to receive therapeutic or palliative benefit from the medical use of cannabis to treat or alleviate the patient's medical diagnosis or symptoms associated with the medical diagnosis.	Removes requirement for authorization as well as documentation requirements under 2423-D and just mentions authorization generally
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Definitions – Adult Use

Term	Current Definition	New Definition	Difference between Current & New
Cannabis Store	“Cannabis store: means a facility licensed under this chapter to purchase adult use cannabis, immature cannabis plants and seedlings from a cultivation facility, to purchase adult use cannabis and adult use cannabis products from a products manufacturing facility and to sell adult use cannabis, adult use cannabis products, immature cannabis plants and seedlings to consumers.	“Cannabis store” means a facility licensed under this chapter to purchase adult use cannabis, immature cannabis plants and seedlings from a cultivation facility, to purchase adult use cannabis and adult use cannabis products from a products manufacturing facility and to sell adult use cannabis, adult use cannabis products, immature cannabis plants, seedlings and other products to consumers.	Addition of “And other products” [to sell to consumers.]

Cultivation Facility	“Cultivation facility” means a facility licensed under this chapter to purchase cannabis plants and seeds from other cultivation facilities; to cultivate, prepare and package adult use cannabis; to sell adult use cannabis to products manufacturing facilities, to cannabis stores and to other cultivation facilities; and to sell cannabis plants and seeds to other cultivation facilities and immature cannabis plants and seedlings to cannabis stores.	“Cultivation facility” means a facility licensed under this chapter to purchase cannabis plants and seeds from other cultivation facilities; to cultivate, prepare and package adult use cannabis; to sell adult use cannabis to products manufacturing facilities, to cannabis stores and to other cultivation facilities; and to sell cannabis plants and seeds to other cultivation facilities and immature cannabis plants and seedlings to cannabis stores or adults.	Addition of “or adults” [to sell cannabis plants and seeds to.]
Minor	New	“Minor” means a person who has not reached the age of 21 years.	Addition to Statute

In both the Medical and Adult Use programs, the definition of “major registration violation affecting public safety” does not:

- Define “egregious violation” or “imminently jeopardizes public health”;
- Include violations related to misrepresenting the products’ contents, testing results, or potency (these are considered “minor registration violation[s]”. Yet, each of those poses an immediate threat to public safety (and medical cannabis isn’t required to be tested, so how would we know if a violation occurs?).

Enforcement

This bill dramatically weakens enforcement at multiple levels. Specifically, this bill:

- Prohibits a law enforcement officer, while on duty, from entering a Medical or Adult Use facility (unless the licensee allows them; they have a warrant; or there’s an exigent circumstance, such as preventing imminent injury, prevention of destroyed evidence, or to prevent a felony escape).
- Repeals programs that train “law enforcement officers, and if applicable, municipal officers and employees in inspections, investigations, searches, seizures, forfeitures and personal use and home cultivation allowances...”
- Repeals the requirement that individual identification cards be issued to owners, officers, managers, contractors, employees or other support staff of Adult Use program licensees.
- Repeals the allowance that a criminal justice agency may investigate unlawful activity.
- Changes the process for approval of a “shared facility” so that the cultivation facility licensee submits a co-location plan; but there are no longer department rules governing the use of a shared facility.
- Repeals the requirement that photo identification is government-issued (replaced with “reliable photographic identification”)
- Repeals the requirement that employees are trained in how to properly verify the age of the person making a purchase.

Questions about enforcement provisions:

- Medical program, Major Registration Violation Affecting Public Safety (page 10 – Sec. A-13. 22 §2430-I, sub-§1 – Definitions. C.): If medical cannabis products aren’t required to be tested, and law enforcement on duty aren’t allowed onto the property, training is repealed, etc., how would we know if a violation occurs and how would it be enforced?

- Adult use program, Major License Violation (page 57 – Sec. B-92. 28-B MRSA §802 Administrative or monetary penalties; appeals: 1. Definitions. B) Since training requirements are repealed, and law enforcement on duty can't enter an establishment, how would violations under this section be detected and enforced? What is defined as “repeatedly selling...” (B(4))? What are the “necessary steps to verify age (B(5))”? How many deliveries to a drug-free safe zone merits a violation (B(6))?

Furthermore, why does the committee need subpoena power (page 9 – Sec. A-10. 22 MRSA §2425-A, sub-§14 Confidentiality. K(1))?

Youth Targeting

While repealing multiple measures to support safe business practices, this legislation instead increases fines on youth. In addition, this bill:

- Removes controlled entry provision;
- Allows individuals between 17 years of age and 21 years of age to work in a cannabis facility;
- Employees are allowed to consume medical cannabis on-premises;
- Permits youth to consume and transport cannabis;
- Repeals the prohibition on unsolicited advertising or marketing on the Internet, including, but not limited to, banner advertisements on mass market websites;
- Repeals the limitations on signs, advertisements, and marketing to minimize the appeal of adult use cannabis and adult use cannabis products to persons under 21 years of age; and
- Repeals the restriction on additives that are “specifically designed to make the product appeal particularly to a person under 21 years of age.”
- Would include gummies in the list of impracticable edible products.

Data Provisions

The bill also would allow individual licensees, not the department, to choose their data reporting system (page 20 – Sec. B-10. 28-B MRSA §105, sub-§1, 1. Data submission requirements), which could lead to the state having to manage multiple systems, and trying to track information across systems.

The bill repeals allowances for data to be collected on violent crime relating to the use of cannabis generally; violent crime and property crime relating to the regulated and unregulated adult use cannabis markets; and cannabis-related citations or arrests. I'm not sure what problem this repeal is trying to solve, but investigating violent and property crime, unregulated markets, as well as citation and arrest data are helpful for identifying patterns and opportunities for prevention and intervention.

These are just some of the significant policy changes found in this 66-page proposal. Each of these would merit its own, separate legislation and bill hearing. At this late stage in the short session, there is insufficient time to properly digest, understand and discuss these sweeping changes to our state's critical regulatory infrastructure, especially in Emergency Legislation. The impacts that are known, and potentially unforeseen, are too far reaching.

Please vote “Ought Not to Pass” on this entire bill. If there are changes that need to be made to these programs, then they should be brought up individually or in similar categories next Session. Thank you for considering our testimony.