



To The Committee on Veterans and Legal Affairs
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LD 881 & 882: OUGHT NOT TO PASS

My name is Mark Barnett. I am a resident of Auburn, Maine and own a medical cannabis retail store in Portland, Maine called Higher Grounds. I'm the Executive Chair of the Maine Craft Cannabis Association, a group of independent cannabis related business owners, farmers, entrepreneurs and enthusiasts focused on crafting sound cannabis policy and fostering an authentic craft cannabis industry in the state of Maine. We recommend that this Committee flatly reject LD 881 and LD 882.

Some background is needed. The policy areas these bills address may seem innocuous. They may have been put forward with claims that the medical marijuana industry is still the "wild west" and we (industry participants) should be willing to accept more regulation in the interest of some vague reference to public health and safety. But OMP's assertions that more punitive and restrictive regulations are needed are presented with no supportive data demonstrating significant risk or harm to either patients, employees, or the communities in which caregivers operate.

So, considering the context in which they are proposed we can see them for what they are: new tools to let the Office of Marijuana Policy force smaller caregivers out of business to make room for the corporate multi-state operators and their local allies who have crafted the regulatory agenda in the Adult Use market and who seek to shrink and 'align' Maine's medical market to their benefit. Further, the consultants drafting current and resulting rulemaking for the OMP are [now also being paid](#) to craft a federal framework for the likes of Altria (Philip Morris) and Molson Coors. We should not put new weapons into such untrustworthy hands.

LD 881

This bill would strip a caregiver of the right to a store and shrink the size of medical cannabis plant seedlings. Both of these policy proposals are quite substantive and are not technical changes despite the title of this bill.

It is the statutory right of a medical caregiver to operate one single retail store, with local municipal approval. This bill would remove that right by adding an entirely new license class. The justification for such a move would in our view be a very, very high hurdle. We certainly haven't seen the OMP provide any data to justify it yet.



LD 881's separate store license creates the tools the OMP needs to 'shrink' our incredible homegrown medical program, and we have seen how they intend to use them. We know this because the Draft Rule, where the OMP's language presumed the authority to regulate caregiver stores separately, would have easily added tens of thousands of dollars in unjustified new costs for every storefront (on top of the tens of thousands pushed onto cultivation), among other draconian policy proposals aimed at crushing the medical market in Maine. Our pushback that the OMP had no such authority was acknowledged in their Proposed Rule as the storefront certificate language was removed, but the overall framework for regulating caregivers (which includes their stores) remains essentially the same: pay up or get out. It is what the finance industry would describe as a 'capital call': if you don't have the big bucks, you won't be staying around. This is by design.

On seedling size, this reduction would make it significantly harder to cultivate, sex, and breed medical cannabis since all registrants are only allowed a set amount of marijuana plants to work with. Especially with particular cultivars, sixteen inches is too small to know which plants to keep or to cut in the high-stakes game of selecting commercially viable plants that will still deliver the unique effects desired for medical patients. It is yet another one of the OMP's 'thousand cuts' approach to undermining the Maine medical market. As concerning, changes like this seem to reflect a lack of understanding of basic cannabis cultivation methods - raising questions both about the technical capacity of OMP staff to draft related laws and policies as well as about where, in fact, these suggestions came from and what justification was presented to convince the OMP to present them within a Department bill. We hope that these questions are able to be explored during the Committee's process.

LD 882

All of the Association's members support 'step-wise' punishment for violations of the MMMP's laws and rules, as currently the OMP is only able to deny a caregiver's application or to strip their registration. Such a black-and-white framework doesn't help either the regulator or the businesses being regulated, since grave intentional abuses and more minor issues have to be addressed with the same crude tools. Therefore we do not oppose the introduction of administrative holds or fines where behavior that endangers the public is taking place.

That being said, in the context of the OMP's latest rulemaking it is clear that these new tools would be used to punish participants with absolutely huge fines for relatively minor offences like not properly using the OMP's 'track and trace' software, in an effort to push people out of the medical program and increase costs for businesses and patients. By the way, that software (METRC) was foisted upon us by consultants who were actively making money from selling that software as well as writing the policy that would require it. But despite the fact that it's unreliable, expensive, creates an incredibly rigid supply chain, treats plants like computer widgets, is easily manipulated by operators and consistently spits out false 'flags' of 'illegal' behavior and wastes enormous amounts of



time for businesses and regulators, a mere data entry error will trigger a “public safety” violation with a \$10,000 price tag - or half the fine for assaulting a person with a deadly weapon here in Maine. That is simply Big Brother on steroids. And the only industry players that will be able to spare the staff time to try to ensure violations are avoided or pay those fines are, once again, the largest and most capitalized.

This for using a software program which OMP is not legally allowed to mandate in the first place (see [Title 22 Ch. 558-C §2430-G](#)):

B. The department shall develop and implement a statewide electronic portal through which registered caregivers, registered dispensaries, marijuana testing facilities and manufacturing facilities **may** submit to the department the records required under [paragraph A](#) and in accordance with rules adopted by the department.

Despite this language, the OMP’s caregiver application and renewal applications force a prospective registrant to ‘agree’ to use whatever software tracking they select, which would seem to violate the law. Should we trust that this Office will fairly interpret what constitutes a violation, with such incredibly high fines which could easily force small operators out of business?

And shouldn’t legally mandated fines and penalties have some logical relation to sanctions in other areas of law and similarly problematic behavior? Unfortunately, that’s not the case here. Under LD 882, a ‘minor’ violation (which could include a security light out, a faulty lock on a room, text on a label that is slightly too small) carries the same price tag as selling liquor without a license twice (a substance that has devastated so many Maine families, and one which if misused can easily lead to serious physical harm and even death of the consumer and present a clear threat to the health and safety of others).

For comparison purposes, the fines for selling liquor without a license are as follows in Maine:

- 1st Offense \$300 to \$500 fine;
- 2nd Offense \$500 to \$1,000 fine;
- 3rd & Subsequent Offenses \$1,000 fine.

We would note that this bill also presumes the authority to separately regulate a caregiver retail store which is not legal under Maine law and creates a higher fine structure for that when, in reality, any diversion if it were to occur would come prior to reaching a storefront. This bill is just a mess.

While most Association members’ experience of Maine’s MMP inspectors has been one of gracious and helpful advice, we would be creating financial incentives for abuse that future inspectors (or future program administrators) may find compelling. Especially if such administrators were intent on pushing businesses and their patients out of the medical program.



A LITTLE HISTORY

Last session, the OMP and the HHS Committee formed a small group to discuss policy proposals that could work for various stakeholders. At one point, the ability to charge a small fee to license storefronts and alternatives to revocation of caregiver registration for violations were discussed. Conceptually, these ideas had some support from the medical cannabis community, especially as many medical providers and patients feared caregiver revocations would be utilized as a way to help the Adult Use market take off. And hey, surviving is more important than thriving, after all.

However, during the course of those discussions it became clear that rather than having an open discussion about the need for and impact of changes to support compliance and adherence to best practice standards, we as a group were actually negotiating with the demands of Curaleaf, a publicly-traded company with a roughly \$11 billion market capitalization and well over 100 cannabis licenses (including at least 3 stores here in Maine) and Acreage Holdings, a smaller but still-giant company that owns the Wellness Connection and High North franchises here in Maine comprising at least four stores as of this writing. Demands included making alcohol extraction functionally illegal without a \$50,000+ investment (a crass attempt to put Maine's smaller extractors and product manufacturers out of business overnight), as well as some of the same, out of proportion fines without factually supported justification. The 'negotiations' ultimately failed and the HHS Committee voted 9-0 'Out Not to Pass' on the Department's bill that included these same items.

We absolutely welcome the opportunity to in good faith come up with reasonable, graduated enforcement measures to protect the patients and workers of the Maine Medical Use of Marijuana Program and the citizens of this state. However, it's abundantly clear that the 'threats' the OMP sees are dramatically out of step with reality and, in our view, driven by an altogether different agenda. Therefore, this Committee should reject these proposals.

Sincerely,

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This testimony speaks to both 881 and 882. Thank you.