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March 29, 2021

Re: LD 939, *An Act to Support Maine's Medical Marijuana Program and Ensure Patient Access*

Senator Luchini, Representative Caiazzo, Members of the Joint Standing Committee on Veterans and Legal Affairs:

I am Erik Gundersen, Director of the Office of Marijuana Policy (OMP) and I am before you today to provide testimony on behalf of our office neither for nor against LD 939, *An Act to Support Maine's Medical Marijuana Program and Ensure Patient Access*.

As we've testified before, OMP is generally supportive of measures that improve the efficiency of the programs we regulate that do not come at the expense of patient health and safety. Some of the proposals in this bill are aimed at doing exactly that, while others would require some refinement.

First, there are two proposals included in this bill that OMP is generally supportive of because they would not have a substantial impact on program operations and address concerns and feedback our office has received from our stakeholders.

A number of sections<sup>1</sup> are aimed at allowing adult family members of a registered caregiver, between the ages of 18 and 21, to serve as a caregiver assistant. OMP does not object to this provision. The language in this bill is narrowly tailored to accommodate those assistants between the ages of 18 and 21 who are essentially working for the family business, while registering as assistants in our program.

Next, OMP is generally supportive of the repeal of a prohibition on marketing by medical program participants that restricts medical program participants from engaging in joint advertising with adult use program participants. This prohibition does not appear in the adult use statute and places the penalty for noncompliant advertising in these cases solely on the medical registrant.

Second, there is a proposal included in this bill that OMP has identified as unnecessary. Section 6, which allows a registered caregiver to accept a digital copy of a patient certification to "initiat[e] a transaction for harvested marijuana" but requires verification of the written certification before completing the transfer to the qualifying patient. Currently, the law and rule allow for this so long as the sale and verification of the patient certificate are done in person.

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<sup>1</sup> See generally, sections 1, 2, 7, 8, 9, and 14.

Third, there are two proposals in this bill that OMP is concerned about at this time because they would have a substantial impact on OMP's current compliance operations and could have a substantial financial impact if implemented as currently written.

Reducing the records retention period from 7 years to 2 years would require OMP to hire a number of additional field investigators. This is because, OMP's field staff do not have the capacity to inspect the over 3,000 program registrants in a two-year period. In order to ensure records review before such records are destroyed in a 2-year period, OMP would need to hire additional field investigators to conduct more frequent inspections.

Next, as you've heard us testify before, OMP is supportive of eliminating the annual audit provisions of the medical program, *after* the state's inventory tracking system has been fully implemented across the medical program. It is OMP's expectation that once the inventory tracking system is up and running in the medical program, the audit requirement will be unnecessary.

Fourth, there are three proposals that OMP is generally supportive of, but which require some additional wordsmithing and consideration to be appropriately implemented.

OMP is not opposed to permitting caregivers and dispensaries to engage in 100% wholesale of the marijuana cultivated or manufactured by those registrants, but this would be a substantial shift in the statutory purposes of both registration types. Currently such activities are authorized "for the purpose of assisting a qualifying patient with the patient's medical use of marijuana"<sup>2</sup>. Allowing 100% wholesale to other program registrants would mean that some registrants may not be engaged in any actual assistance to qualifying patients. Additionally, the local regulation provision of the Act<sup>3</sup> is not currently written to address this more commercialized wholesale model. It is our expectation that all host communities would welcome the opportunity to appropriately zone these commercial activities.

Next, OMP is generally supportive of legislative efforts to streamline the issuance of registry identification cards for medical program participants, but the proposals contained in this bill miss the mark. As we discussed at the public hearing for LD 301, there are some statutory changes that would be required to allow us to issue each program participant one assistant card annually. Those changes would have the same result as the specific proposal in this bill: one background check annually and one assistant card per person. OMP would be happy to work with the bill's sponsor to refine the proposals in this bill to ensure that it has accurate, up-to-date information regarding applicants to ensure timely issuance of participants' registry identification cards.

Finally, OMP welcomes the proposal to set a separate registration fee schedule for caregivers registering with our program to cultivate marijuana based on plant canopy rather than plant count. OMP is comfortable with the fee schedule set out in this bill.

We thank the committee for its careful consideration of this bill, and we are happy to answer any questions you may have for us.

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<sup>2</sup> See 22 MRS § 2423-A(2) and 2428(1-A)

<sup>3</sup> 22 MRS § 2429-D