



Maine Organic Farmers and Gardeners Association

Common Ground Country Fair

May 1, 2021

Dear Senator Luchini, Representative Caiazzo, and members of the Joint Standing Committee on Veterans and Legal Affairs,

My name is Heather Spalding and I am deputy director of the Maine Organic Farmers and Gardeners Association (MOFGA). I am writing with some brief comments about several of the bills before you relating to marijuana production, testing and sales. I'm sorry that I was not able to attend the hearings that you held on April 23. My schedule also is booked on Monday, May 3. I hope that you will have time to consider these remarks as the bills could have impacts on an important program that we have been running at MOFGA for several years.

MOFGA is committed to building a local and organic future for cannabis and hemp production in Maine. We operate an independent, third-party verification and certification program called MOFGA Certified Clean Cannabis (MC3). The program caters to medical caregivers and adult-use producers in Maine who are striving to provide the safest and best quality products in the market. Our standards mirror the crop production components of the USDA National Organic Program. The MC3 Program is a voluntary marketing label designed to ensure customer and patient confidence in growing practices. To comply, all aspects of operations pertaining to MC3 standards must be verifiable through an audit process. This audit process consists of an MC3 system plan, review of plan, record keeping analysis, on-site inspection, and, ultimately, a certification decision. This process occurs on an annual basis and the certified operation is required to renew each year to maintain a valid certificate. The MC3 program has 17 certified producers in the program.

Here is a brief summary of the votes that we encourage you to cast on several bills relating to marijuana:

- **LD 1242 - An Act To Ensure Appropriate Oversight of Maine's Medical Marijuana Program.**
 - **Ought to pass.**
 - Aligning with MOFGA's public comments on the Office of Marijuana Policy's (OMP's) proposed rules for the Maine Medical Marijuana Program (MMMP), (submitted March 31, 2021 and attached to this testimony), we feel this bill would address several of our concerns raised within those comments. Even though this would delay potential rule changes that may benefit the industry and stakeholders, it is imperative that all stakeholders (patients, caregivers and health providers) are able to participate.
- **LD 1249 - An Act Regarding the Testing and Safety of Marijuana and Marijuana Products.**
 - **Neither for nor against.**
 - We support the testing of products for cannabinoid profiles and residual solvents for certain products, but suggest the Legislature and OMP explore other options for ensuring quality products. If growers used environmental controls and organic growing practices, the need to test everything widely would be greatly reduced. There should be further research regarding remediation techniques to ensure that they would not create additional contaminants that would threaten public health.
- **LD 1319 - An Act Regarding Registered Dispensaries and Rules under the Maine Medical Use of Marijuana Act and the Definition of "Resident" in the Marijuana Legalization Act.**
 - **Ought to pass.**
 - We appreciate this bill's efforts to delay OMP rulemaking, similar to LD 1242, until a more inclusive framework can be established. If OMP's proposed medical program rules go through as drafted, our certification program will surely see a decline among small-scale caregivers because of increased costs and undue regulatory requirements. The OMP rules were not drafted with small-scale caregivers and patients in mind.
- **LD 1445 - An Act To Require the Testing of Marijuana for Medical Use.**
 - **Ought not to pass.**
 - MOFGA Certified Clean Cannabis does not require testing of all batches (though we reserve the right to sample and test to ensure compliance), and we feel that if organic growing practices,

environmental controls, and pest control hierarchies were followed, there would be less need to test everything. Further, mandatory testing will only increase cost of production and those costs will be passed on to patients, many of whom may be of lower economic status and rely heavily on medical cannabis for ailments, chronic disease, and mental health. We encourage the Legislature to revisit this proposal through the broader lens of LD 1242.

- ***LD 1029 – An Act To Amend the Marijuana Legalization Act and the Laws Governing the Taxation of Marijuana.***
 - **Ought to pass.**
 - This bill would allow medical marijuana caregivers to sell unlimited amounts of product (flower, trim, etc.) to adult use cultivators. Although we don't have a clear indication that our growers regularly have excess product, we are aware that it does happen from time to time. We know that some of our growers would have capacity to increase production within the scope of their licenses if the opportunity were to present itself. We do have one certified grower who is both a medical caregiver and an adult-use cultivator so this bill would be helpful for this particular operation.

Thank you very much for your consideration of these bills. If you have any questions, please don't hesitate to reach out to me or to Chris Grigsby, Director of MOFGA Certification Services, LLC and MOFGA Certified Clean Cannabis.

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March 31, 2021

Mr. Erik Gunderson
Ms. Gabi Pierce
Office of Marijuana Policy
Department of Administrative and Financial Services

Docket: 18-691 C.M.R., ch. 2, Medical Marijuana Program Rule

Re: Maine Medical Marijuana Program Proposed (MMMP) rule

Dear Mr. Gunderson and Ms. Pierce,

The following comments are submitted by the Maine Organic Farmers and Gardeners Association (MOFGA). MOFGA, in addition to our USDA-accredited organic certification program, operates a third-party certification program of medical and adult-use cannabis producers in Maine, known as Certified Clean Cannabis by MOFGA. This is a voluntary program and caregivers and producers apply for certification and renew annually. Our program mirrors the production components of the USDA's National Organic Program and verifies a certified producer is meeting the growing and production standards set forth. We currently certify 20 caregivers throughout Maine, many who are small-scale artisan producers. Caregivers in our Certified Clean Cannabis program have an increasing community of patients who are concerned about the health and environmental impacts of cannabis grown using conventional methods: including hydroponic and synthetic fertility. They seek products free of synthetic pesticides recognizing that management practices emulating those of the National Organic Program are safer for humans, wildlife, soil and water.

We appreciate the opportunity to comment on the proposed Maine Medical Marijuana Program rule. While we appreciate OMP's goal of aligning the MMMP rules with legislative statute, we feel that the proposed rules include too many arduous requirements that appear to be unnecessary based on the current statutes and industry response. In addition, these proposed rules will have a direct, negative financial impact on our Clean Cannabis program because some certified caregivers will exit the market or no longer be able to afford our services.

Before commenting on specific parts of the proposed rule, we would be remiss if we did not address some glaring issues regarding OMP's process. First, Maine's Marijuana Advisory Council does not include any stakeholders from the industry: no caregivers, patients, cultivators, extractors, store owners, etc. This absence of participation from people who have built the industry in Maine, who care for tens of thousands of patients daily, seems counter to other sectors of the economy and the public-private partnership that exists between government and businesses. Why would OMP be interested in creating so many additional barriers to entry, or worse, force those who have already entered to leave? Our only conclusion is that there has been pressure on OMP from groups who would like to have more market share for themselves. It does not make sense that a regulatory body would seek to stifle economic growth of a thriving

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sector in Maine that was built by small scale, legitimate businesses. The Maine Department of Agriculture is not creating onerous regulations to shrink the potato or wild blueberry industry. Quite the opposite in fact! Maine has one of the most successful medical programs in the country, and it needs to remain distinct and unique from the adult use marijuana program - the two programs are simply not the same. There is a very different end user experience from someone seeking to have an enjoyable Friday night vs. a medical patient with debilitating health issues seeking relief from non-pharmaceutical sources or another trying to end dependency to highly addictive opioids.

Second, we would like to draw attention to the very real impacts these proposed changes would have on current pricing structures for medical patients on low or fixed incomes, as the increased costs borne by caregivers would be passed on to the patient. By some estimates, costs to patients would increase by 30-50% if not more. Not only would there likely be caregivers exiting the market due to these rule changes, but there would no doubt be negative impacts to existing patients who desperately need this medicine and can no longer afford it. Again, OMP pushing unnecessary regulations that cause reductions in the market makes no sense and is unlike any other agricultural industry in Maine. OMP should be creating rules that do the opposite - grow the industry.

Other areas within the rule or statute that suggest intent to stifle growth:

- In sections 5.3.2, 6.2.6, and 6.7.5 (among others), there is a limit on wholesale transactions between caregivers of 75% of annual harvested products. In the organic and non-organic agriculture space there are no such restrictions, which allows for specialization of producers to service different components of the industry (producers who strictly wish to wholesale as an example). There are likely many caregivers who only want to cultivate for the market and not engage in the requirement that 25% of their product be sold directly to qualifying patients. Many may not have interest in retail aspects of their business and they should not be punished for this, but rather encouraged. We urge OMP to address this and align the rules, or request legislative action, to allow for flexible engagement in the sector. The same could be said for seeds and breeding and seedling/clone production. There is no 75/25% requirement for a farmer growing crops for market. They can choose to market them direct-to-consumer or completely wholesale at no penalty from the State of Maine.
- Square footage canopy limits - OMP has suggested that these rules were meant to bring alignment to the medical and adult-use programs. However, the adult-use program allows for growth of cultivators to increase their square footage canopy limits (up to 20,000 sq/ft), while the proposed medical rules cap caregivers at 500 sq/ft per license. Why would an existing caregiver be willing to add additional costs of doing business to comply with these proposed rules if they are not able to increase production to counter the additional costs? Again, a limit on the potential growth of a bona fide Maine business providing product and services to Maine patients.

We generally support the intent behind testing requirements of product(s), but urge OMP to remain flexible as labs come online and increase capacity; ideally bringing the cost of tests and

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screens down through volume, increased competition, and efficiency. In addition, MOFGA could assist OMP in understanding the use of natural and non-synthetic pesticides in organic production, as OMP is using the National Organic Program's (NOP) list of prohibited pesticides as it's base for laboratory screening. NOP allows certain pesticide use on organic products, though does not allow for synthetic or persistent pesticides to be approved for use. It's essential to the cannabis user community that this is understood through education. Our program does not require testing of products (though we reserve the right to sample and test) because of the stringent requirements for the production of the crop itself. OMP has an opportunity to introduce best practices for growing environments and fertility and pest/disease pressures to the industry through an "educate before regulate" approach. We were pleased to see the opportunity for corrective action plans in lieu of enforcement and fines in many cases.

We heard Director Gundersen during the public comment testimony on March 22, 2021 suggest that OMP is willing to work with industry and the legislature to address needed changes to statute to make the proposed rule work for all. MOFGA agrees and encourages OMP to follow through on this, as many legislators have been hearing from caregiver constituents in their districts about the negative effects these rules would have on their businesses. MOFGA would be willing to participate in these discussions and draw upon our experience within the regulatory and education and advocacy spaces. We urge OMP to listen to--and hear--the vast majority of comments to these proposed rules and try again. The public comment testimony on March 22, 2021 clearly opposes these rules. This time, OMP should create a stakeholder group that includes all and not just rely on industry lobbyists and other state's frameworks, whose examples resulted in an unlevel playing field to favor large corporations who only see dollar signs and do not have the state's patient community in mind.

We cannot stress enough the burden these proposed rules will have on small-scale caregivers: the very ones who built this industry in Maine from the ground up. Please do not turn your backs on them or the patients who require this medicine.

Respectfully submitted,

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About MOFGA

The Maine Organic Farmers and Gardeners Association (MOFGA) started in 1971 and is the oldest and largest state organic organization in the country. We're a broad-based community that educates about and advocates for organic agriculture, illuminating its interdependence with a healthy environment, local food production, and thriving communities. We have a staff of just under 50 employees, a membership of more than 10,000, and an amazing community of about 2500 volunteers, many of whom we rely on to host our annual Common Ground Country Fair.

Since our beginning we have advocated for policies that reduce all farmers' and homeowners' reliance on pesticides, and all citizens' exposures to pesticides in their diets and in the air and drinking water. We believe that the dramatic increases since the 1950s in childhood and adult cancer rates, as well as immune system and reproductive abnormalities, are directly related to the toxins that increasingly contaminate our environment and threaten the very existence of the pollinators on which our food systems rely.

MOFGA is a statewide organization that has experienced significant growth over the past couple of decades. By the year 2030, we aim to increase the number of certified organic growers from 550 to 750 and the amount of organically managed land from 7% to 10% of the state's agricultural land. We offer an introductory farm apprenticeship program, beginning farmer training through our two-year Journey person program, and a Farm Resilience Program for farmers in years 5-10 of their business when they're statistically the most likely to experience business failure. MOFGA Certification Services (MCS) is our USDA accredited organic certification program. MCS also administers MOFGA's Certified Clean Cannabis program for medicinal and adult cannabis use in Maine. MCS certifies more than 70,000 acres of farmland in Maine, representing more than \$60 million in organic farm product sales. MOFGA-certified operations are run by Maine businesspeople for whom economic health and environmental health are interdependent. While we envision a future of healthy ecosystems, communities, people and economies sustained by the practices of organic agriculture, we attribute our success to collaboration and outreach to growers across the management spectrum. We are members of the Agricultural Council of Maine and, while we don't always agree on all policy measures, we recognize and wholeheartedly agree that farmers must be financially successful if we expect to have a healthy Maine agriculture.