

Hello VLA Committee Members. I am Rep. Lynne Williams and I represent House District 135, which includes the Towns of Bar Harbor, Lamoine and Mount Desert. I am also an attorney and for many years the focus of my practice has been working with medical marijuana caregivers to assist them in setting up their businesses in accordance with state law and regulations.

During today's testimony, you will hear testimony from many caregivers, about their businesses, and the issues with the currently proposed OMP Rules. They can speak about the challenges of being a medical cannabis caregiver better than I can. What I would like to comment on is the status of the Office of Marijuana Policy Rules changes and their ongoing violations of state statutes when making rules changes. Title 22 Sec. 2421

Title 5 §8071 of the Maine Statutes defines the two categories of rules: routine technical and major substantive. The current medical marijuana rules, and the new proposed rules, are considered to be Routine Technical, because the Medical Marijuana Statute, Title 22 Sec. 242 declares them as such. But Title 5 §8071, the statutory section that includes the definitions of “routine technical” and “major substantive” states that routine technical rules are procedural rules that “establish standards of practice or procedure for the conduct of business with or before an agency and any other rules that are not major substantive rules” as defined in the statute. One example of minor technical in this section is the forms that the agency utilizes.

Major substantive rules, however, are rules that, “in the judgment of the Legislature: (1) Require the exercise of significant agency discretion or interpretation in drafting; or (2) Because of their subject matter or anticipated impact, are reasonably expected to result in a significant increase in the cost of doing business...” This is just one example included in that section, but the one most relevant to what we are speaking about here. And this issue is what LD 1242 is designed to address.

I will list here only two mandates included in the current rules changes with the cost ranges that I am told by multiple caregivers would accrue to them. Those include the mandate that the caregiver must subscribe to a state chosen seed to sale tracking system, which is likely to cost around \$15,000

annually, at least in the first year when startup is included along with the monthly fees; likewise they must install a sophisticated 24/7 security system in just about every corner of the facility, estimated to cost around \$25,000 initially for an average size grow space, less for a smaller facility, with additional monthly fees. These are rough estimates that I obtained from other states where the same seed to sale computer system is employed, and from various electronic security companies in Maine.

Yet despite the fact that the average caregiver would need to expend a significant amount of money, payable up front, in order to meet initial compliance with the proposed rules, and more to continue remaining in compliance over time, these rules are considered minor technical rules. This is a clear statutory violation of Title 5 Sec. §8071, which, again, states that major substantive rules, ..... are rules that, “in the judgment of the Legislature and because of their subject matter or anticipated impact, are reasonably expected to result in a significant increase in the cost of doing business...”

Therefore, since OMP has always refused to acknowledge that ANY of its medical marijuana rules are major substantive, it is within the purview of the legislature to declare ALL of its medical marijuana rules to be major substantive, with the exception of those specified as minor technical in LD 1242, Section 2, that relate to medical marijuana manufacturing facilities. And any grant of general or specific rule-making authority to adopt major substantive rules will thereby be considered to be permission only to *provisionally* adopt those rules subject to legislative review. Final adoption may occur only after legislative review, which may include committee hearings, of provisionally adopted rules. And, lastly, even if all proposed rules are considered major substantive, that does not require the legislature to complete the process for all rules. If, eg, 20% of the rules are ones that the legislative committee thinks should be subject to the committee and hearing process, the balance can essentially be signed off on and moved from provisional to final. In short, though, it is important that the legislature, not the agency, control this process.

In their testimony on this bill, OMP may state that they are required to make the rules changes they have proposed in order to comport with the most recent statutory changes. There are categories of

rules changes that they must make, but there is nothing in the statutes that requires the draconian rules that they have proposed, the outrageously expensive and expensive security systems or the use of an out-of-state provider of an outrageously costly security system. And there is certainly nothing in those statutory changes that requires OMP to retain out of state, corporate consultants, who gear all of their recommendations towards accommodating large corporate cannabis businesses from out of state. We need to stop these Rules changes which will ultimately destroy hundreds, if not thousands, of small businesses in our state.

Rep. Lynne Williams, House District 135