



STATE OF MAINE  
DEPARTMENT OF ADMINISTRATIVE & FINANCIAL SERVICES  
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SERVING THE PUBLIC AND DELIVERING ESSENTIAL SERVICES TO STATE GOVERNMENT

JANET T. MILLS  
GOVERNOR

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COMMISSIONER

April 23, 2021

Re: LD 1242, *An Act to Ensure Appropriate Oversight of Maine's Medical Marijuana Program (emergency)*  
LD 1319, *An Act Regarding Registered Dispensaries Under the Maine Medical Use of Marijuana Act and the Definition of "Resident" in the Marijuana Legalization Act (emergency)*

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

I am Anya Trundy, Director of Legislative and Strategic Operation for the Department of Administrative and Financial Services (DAFS), and I am before you today to provide testimony on behalf of the Office of the Commissioner in opposition to LDs 1242 and 1319, two bills that would upend years of negotiation, research, effort and compromise by the Legislature, medical marijuana stakeholders, and the Office of Marijuana Policy (OMP).

While each bill contains its own unique challenges, our primary concern with each of these proposals is a disruption, and in the case of LD 1319, an explicit moratorium, on rulemaking well underway by DAFS' Office of Marijuana Policy. The current version of the medical program rule was last amended in February 2018. Since that time there have been numerous substantive changes to the Maine Medical Use of Marijuana Act, most notably PL 2017, ch. 452 (LD 1539), which is widely regarded as the most significant overhaul of the medical program since its inception over a decade ago. A list of pieces of legislation that have amended the medical program over the past three years has been compiled below.

#### **128<sup>th</sup> Legislature**

- LD 238 - An Act To Amend the Maine Medical Use of Marijuana Act\*
- LD 1539 - An Act To Amend Maine's Medical Marijuana Law\*
- LD 1719 - An Act To Implement a Regulatory Structure for Adult Use Marijuana\*

#### **129<sup>th</sup> Legislature**

- LD 538 - An Act To Ensure Access to Medical Cannabis for Visiting Qualifying Patients
- LD 1129 - An Act To Clarify Certain Provisions of the Maine Medical Use of Marijuana Act
- LD 1218 - An Act To Allow Maine Medical Marijuana Caregivers To Measure Cultivation Limits by Plant Canopy Size

- LD 1505 - An Act To Amend the Marijuana Laws To Correct Inconsistencies in Recently Enacted Laws\*
- LD 1735 - An Act To Clarify the Pathway for a Registered Dispensary under the Maine Medical Use of Marijuana Act To Become a For-profit Entity
- LD 1738 - An Act Regarding Medical Marijuana\*

*\*Bill text specifically mentions medical marijuana rulemaking.*

As a result of those changes, the existing program rule is woefully out of date and does not reflect the policy decisions negotiated by the legislature and the stakeholders here before you today. For example:

- The existing rule predates the medical marijuana program's move to the Department of Administrative and Financial Services. Aside from the cover and a note in the definitions, the rule appears to reference the Department of Health and Human Services (DHHS) throughout.
- There is no mention of caregiver retail stores, despite hundreds of such establishments being operated throughout Maine.
- Registered caregivers may now serve an unlimited number of patients despite the rule describing a designation process for cultivation and assistance.
- Medical program registrants may wholesale a portion of their harvest, conduct that was not authorized when the rule was last amended.
- The program rule describes a competitive bidding process for issuing additional dispensary registrations and contains a prohibition on authorizing more than one dispensary in each of the DHHS public health districts, despite the cap on dispensaries being lifted in January.
- The rule includes language related to debilitating medical conditions and a process to add additional conditions, despite all qualifying medical conditions being repealed from the statute on December 2018.

Aligning medical program regulations to reflect current law is good governance that ensures that program registrants, municipalities, and public health and safety officials have a shared understanding of current program requirements. The importance of this is compounded when one considers the number of comments received during OMP's informal and formal rulemaking process that sought changes to the rule text that were nearly verbatim existing statutory language.

The current rulemaking targeted by these bills is the result of thousands of hours of testimony, research, drafting, informal public comment, additional drafting and revision, stakeholder discussions, even more drafting and revision and formal public comment. While OMP has been working on the draft of the rules for about a year, the work to build the legislative framework upon which these rules were written began with LD 1539. That bill, which was supported by many of the same legislators co-sponsoring the bills before you today, paved the way for the commercialization of the medical marijuana program while requiring that the program rules be updated to reflect the regulatory safeguards necessary to ensure qualifying patients continued to have access to safe, affordable medicine. That legislation included safeguards like inventory tracking, security requirements for commercial operators, packaging and labeling standards, and local authorization.

As with all successful major legislative efforts, LD 1539 reflected the results of vigorous negotiations and thoughtful compromises. Indeed, many of those likely testifying before you today asking for a stop to current rulemaking were at the table for every step of those negotiations, and their comments at the time reflect their acceptance of compromises woven throughout that bill.

The rules put forth by OMP earlier this year are the culmination of a year's worth of drafting by that office, as well as the negotiations and compromises that began in the 128<sup>th</sup> Legislature. Those rules include plans for a robust inventory tracking system, as required by 22 MRS § 2430-G; security requirements for marijuana businesses like caregiver retail stores, dispensaries and manufacturing facilities that are ripe targets for theft, as required by 22 MRS § 2424; local authorization by municipalities where these increasingly commercialized operations are located, providing some limited local control to host communities, as permitted by 22 MRS § 2429-D; and basic packaging and labeling requirements to ensure that qualifying patients have at least some information about the contents of their medicine as required by 22 MRS § 2429-A and 28-B MRS § 704.

What OMP has done is taken an intricate and occasionally conflicted law and promulgated a rule that provides regulatory consistency and predictability for all program participants. While adjusting to a regulated market may result in some brief growing pains, the health benefits to patients, the safety benefits to Maine communities and our neighboring states, and the economic benefits to program participants far exceed the cost of those short-term difficulties.

It has been suggested by some the proposed rules demonstrate that OMP is taking steps to shut down the Maine Medical Use of Marijuana Program. Those suggestions could not be further from the truth. The Mills Administration believes firmly that the state's medical program has—and will continue to play—an important role in serving individuals seeking relief from their medical conditions or symptoms.

DAFS and OMP are dedicated to the mission of ensuring the health and safety of all Mainers by effectively and responsibly registering and regulating marijuana establishments. Since its creation a little over two years ago, OMP has conducted itself in accordance with that mission. The medical program rule put forth by OMP reflect this administration's commitment to protecting the public's health and safety and ensuring patient access to safe, affordable medicine across the state. For those reasons we urge you to vote Ought Not To Pass on LDs 1242 and 1319.

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