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May 5, 2025

Re: LD 1620, An Act to Amend the Laws Regulating the Testing of Adult Use Cannabis and Adult Use Cannabis Products

Senator Hickman, Representative Supica, Members of the Joint Standing Committee on Veterans and Legal Affairs:

The Office of Cannabis Policy (OCP) respectfully submits the following comments in strong opposition to LD 1620 because it threatens public health and safety and disadvantages the small businesses that are the backbone of the state's Adult Use Cannabis Program. The bill before you turns a blind eye to basic scientific and regulatory principles. It will make cannabis consumers less safe, place a tremendous drain on State resources, and force the disclosure of confidential business records that are protected from release pursuant to 28-B MRS §511.

To begin, the Office is willing to engage in a science-based discussion regarding yeast and mold testing that takes into consideration the available information regarding the health impacts of inhaling yeast or molds. While the majority of states require yeast and mold testing of cannabis and cannabis products, and the majority of those states have set their pass/fail limits for total yeast and mold in alignment with Maine's current limits, there is a reasonable discussion to be had regarding how much mold is acceptable for an individual to inhale or eat when consuming cannabis or cannabis products. However, it is irresponsible to set a blanket limit for yeast and mold contamination that does not account for the way individuals consume their cannabis or cannabis products. Furthermore, it sets an extremely bad precedent to set in statute pass/fail thresholds for any mandatory test as the process for amending statute to reflect emerging science is not swift enough to protect public health.

Next the "audit testing" proposed by section 2 of this bill is not only a gift to large and multistate operators to the detriment of Maine's craft cannabis businesses, but it will be extremely costly to implement and administer, will make cannabis consumers less safe, and will result in widescale recalls that will impact consumer confidence in the adult use cannabis market. When this approach to cannabis testing was proposed last session regarding LD 48, the Office did its due diligence and reached out to our colleagues in Colorado where a version of this dangerous policy known as "reduced testing allowance" has been implemented. The message from Colorado cannabis regulators was clear: reduced testing allowance is not working for regulators, licensees, or consumers in Colorado. While it reduces testing costs, it is extremely burdensome to administer, nearly impossible to enforce, and results in a very regressive policy that substantively disadvantages small craft cultivators in the state that create fewer harvest batches than largescale operators. Additionally, Colorado's program requires substantial staff time by regulators and

licensees to track the licensees and products subject to reduced testing allowance in a data management system that is separate from that state's inventory tracking system. This proposal also fails to implement any of the safeguards in Colorado and Michigan's testing regulations that require demonstration of good management practices to be considered for reduced testing allowances.

Finally, the changes to the reporting of mandatory test results contemplated by this bill will cause unreasonable delays in the transfer of cannabis and cannabis products from one licensee to another and require the Office to disclose confidential records that are protected from release in accordance with the Cannabis Legalization Act and the Freedom of Access Act. At present, mandatory test results must be communicated to the licensee and the Office within two business days of completing all mandatory tests and associated quality control review. The cannabis or cannabis product subject to mandatory testing cannot be transferred to another licensee until those results are reported. Extending the existing reporting requirements to 30 days will cause unreasonable and unnecessary delays in the movement of cannabis and cannabis products through the adult use market.

In addition to records maintained in the inventory tracking system, the cannabis testing facility issues to each licensee a certificate of analysis (COA) for the tested batch that includes the values associated with each test. Those test results, while required for compliance with the Adult Use Cannabis Program, are the property of the licensee who requested that testing and can only be disclosed by that licensee. Indeed, some licensees make available to consumers their certificates of analysis, and OCP has issued guidance on how cannabis patients and consumers can evaluate information presented on a certificate of analysis. We have attached copies of those guidance materials to our testimony, and you may find them helpful in assessing some of the claims made before you today. At present, there are no barriers in statute or rule that prevent consumers from requesting from their retailer a copy of the certificates of analysis for any cannabis item they are considering purchasing.

OCP is prepared to engage in a science-based discussion about the value of mandatory testing and the health and safety risks associated with the kinds of harmful contaminants tested for in the Adult Use Cannabis Program, however the proposals included in this bill are not the basis for that serious debate. The Office has made available many resources for licensees and consumers alike regarding testing, the health impacts of the contaminants that testing facilities analyze, and the overall pass/fail rates for each test conducted in adult use market.¹ Before once again making dramatic and dangerous changes to the laws governing the Adult Use Cannabis Program, we urge this committee to review all the information available to licensees and consumers and determine whether such changes are necessary.

Thank you for your consideration and we are happy to answer any questions you may have at the work session.

¹ Office of Cannabis Policy, Adult Use Testing Data, <https://www.maine.gov/dafs/ocp/open-data/adult-use/testing-data> (updated quarterly, last updated April 25, 2025).