

# MAINE STATE LEGISLATURE

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# Maine Medical Use of Cannabis Program

*Annual Report to the Maine State Legislature*

January 1, 2022 – December 31, 2022

Maine Department of Administrative and Financial Services  
Office of Cannabis Policy

Spring 2023

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# 1. Background

The State of Maine first legalized medical cannabis by referendum in 1999. In 2009, Maine voters again took up the topic of medical cannabis, this time creating a system for the legal distribution of medical cannabis that was not included in the 1999 initiative. As a result, the Maine Medical Use of Cannabis Program (MMCP) was established within the Department of Health and Human Services (DHHS) in 2010, with the first of Maine's medical cannabis dispensaries opening in 2011.

The Office of Cannabis Policy (OCP) was later established within the Department of Administrative and Financial Services (DAFS) on February 4, 2019. Since its founding, OCP has been solely responsible for registration, licensing, compliance, and general oversight of both the MMCP and the Adult Use Cannabis Program (AUCP).<sup>1</sup> For the state's longstanding medical cannabis program, OCP registers and regulates the authorized activities of registered caregivers, dispensaries, and their employees.

The state's medical program has grown from a small, patient-centric program in 2010 consisting of nearly 600 caregivers, each authorized to cultivate cannabis for up to five patients, and eight active dispensaries—one in each public health district of Maine—to a fully commercialized industry in 2022 comprised of approximately 2,276 registered caregivers, over 250 caregiver retail stores, and 35 active dispensaries statewide.<sup>2</sup>

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The rules and statute governing the MMCP may be found at:

- Maine Medical Use of Cannabis Act: [Title 22, Chapter 558-C](#)
- Rules: [18-691 C.M.R. ch. 2](#)
- Rules: [18-691 C.M.R. ch. 4](#)

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<sup>1</sup> A separate annual report for the AUCP was submitted to the legislature in accordance with the requirements of 28-B M.R.S. §113(2).

<sup>2</sup> The data in this report reflects calendar year periods, unless otherwise noted.

## 2. Executive Summary

Through the Maine Medical Use of Cannabis Program (MMCP), the Office of Cannabis Policy (OCP) registers caregivers and medical dispensaries. These registrants are responsible for providing access to medical cannabis and medical cannabis products for qualifying patients statewide as well as visiting qualifying patients from other states.

This report to the Maine Legislature provides an overview of the MMCP's performance during calendar year 2022, and it serves to fulfill OCP's reporting requirements under 22 M.R.S. § 2425-A(13)(B).<sup>3</sup> It highlights several measures or indicators that demonstrate a shift in program participation. Such information includes:

- The number of medical providers and printed patient certifications statewide
- An overview of the registered caregivers and dispensaries actively operating in 2022
- The number of caregiver assistants and dispensary employees
- Data on revocations issued in 2022
- The Medical Use of Cannabis Fund's revenue
- Legislative changes in 2022 and recommendations for the 131st Legislature

OCP is closely monitoring the decreasing number of registered caregivers and has surveyed former participants to learn more about what led them to exit the program. It is important to note that while the net number of registered caregivers decreased in 2022, the number of registered dispensaries more than doubled, along with steady increases in the state's patient population. More detailed information is available on the next page and throughout this report.

OCP also worked to engage with MMCP stakeholders in 2022. The Office began the formal rulemaking process to update the medical program rule in January, building on the feedback provided by members of the Medical Marijuana Workgroup. This process was suspended at the end of February however in favor of continuing to work with stakeholders to update the medical program statute. Discussions resumed and discontinued throughout the year due to a number of factors, but OCP looks forward to renewing stakeholder engagement efforts to build consensus regarding the solutions to address concerns identified through the workgroup and rulemaking processes. OCP continues to believe that meaningful regulation of the medical cannabis program cannot be achieved until the program statute is better aligned with the scale and activities conducted in today's commercialized medical program. OCP strongly recommends that the work of updating the statute be a collaborative one where both the agency and program participants work as equal partners with the legislature to design legislation that addresses the myriad barriers to effective regulation of the MMCP that currently permeate the program statute.

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<sup>3</sup> A copy of the statutory reporting requirements is included in Appendix A of this report .

Ultimately, there are strict confidentiality provisions in the MMCP, and several other data limitations exist because of a lack of an inventory tracking system in place.<sup>4</sup> Because there is no statewide inventory tracking of medical cannabis and medical cannabis products, OCP is limited in what it is able to report for this program, including information specific to wholesale and retail sales data. Despite these limitations, OCP is committed to using the tools it does have available to engage with stakeholders and facilitate the transformation of the medical cannabis industry in the years to come.

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<sup>4</sup> See 22 M.R.S. § 2425-A(12).



# 2022 MMCP Overview

**106,164**

Printed patient certifications in 2022, a 0.97% increase from 105,143 in 2021

**824**

Medical providers registered in the system in 2022, with 13 counties seeing an increase over the last year

**2,276**

Registered caregivers in 2022, a 24.9% net decrease from the 3,032 caregivers actively operating in 2021

**35**

Registered dispensaries in 2022, a 169% increase from the 13 dispensaries actively operating in 2021



**259**

Caregiver retail stores statewide (although this is not its own MMCP registration category and is likely an underestimate)

**4,619**



Assistant, employee, and dispensary officer and director registry identification cards issued

## Key Policy Changes

- Qualifying conditions for pediatric patients repealed; digital images of patient certifications permitted; single registry identification card (RIC) system implemented (see P.L. 2021, ch. 662)
- The Office's name change from the "Office of Marijuana Policy" to the "Office of Cannabis Policy" (see P.L. 2021, ch. 669)



Counties visited by OCP as part of our Community Listening Tour; in total, 146 community members and 75 municipal officials participated

Because there is no statewide inventory tracking of medical cannabis and medical cannabis products, OCP is limited in what it is able to report for this program, including information specific to wholesale and retail sales data

## 3. Patients

### 3.1 Patient Certifications

In December 2018, the State of Maine repealed its list of qualifying medical conditions for adult qualifying patients.<sup>5</sup> Qualifying conditions for pediatric medical cannabis patients were repealed in 2022.<sup>6</sup> In light of these changes, medical providers have broad discretion to determine whether a patient could benefit from using medical cannabis. At present, medical providers may issue medical cannabis certifications to patients who are “likely to receive therapeutic or palliative benefit from the medical use of cannabis to treat or alleviate the patient's medical diagnosis or symptoms associated with the medical diagnosis.”<sup>7</sup>

In order to access medical cannabis as a qualifying patient in Maine's medical cannabis program an individual must possess a valid written certification. A written certification is only considered valid if it is “a document on tamper-resistant paper signed by a medical provider...”<sup>8</sup> To keep costs low for prospective patients, OCP provides registered medical providers with the state’s tamper-resistant patient certification paper at no cost. A certifying provider may also provide a digital image of the patient's written certification in addition to the written certification issued on tamper-resistant paper.<sup>9</sup>

An online service hosted by the state’s web portal provider allows for the immediate issuance of patient certifications. In 2022, 106,164 certifications were printed through that online portal, a slight increase from the 105,143 certifications printed in 2021, and a 10.5% increase from the 96,046 certifications printed in 2020. These numbers include all patient certifications printed, including any certifications that may have been reprinted, lost, etc., and does not reflect the specific number of individual patients certified to access medical cannabis from registered caregivers, caregiver retail stores, and/or registered dispensaries.

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<sup>5</sup> Qualifying conditions are specific medical conditions for which a patient could be potentially eligible for access to medical cannabis.

<sup>6</sup> See P.L. 2021, ch. 662 (Emergency, effective April 26, 2022).

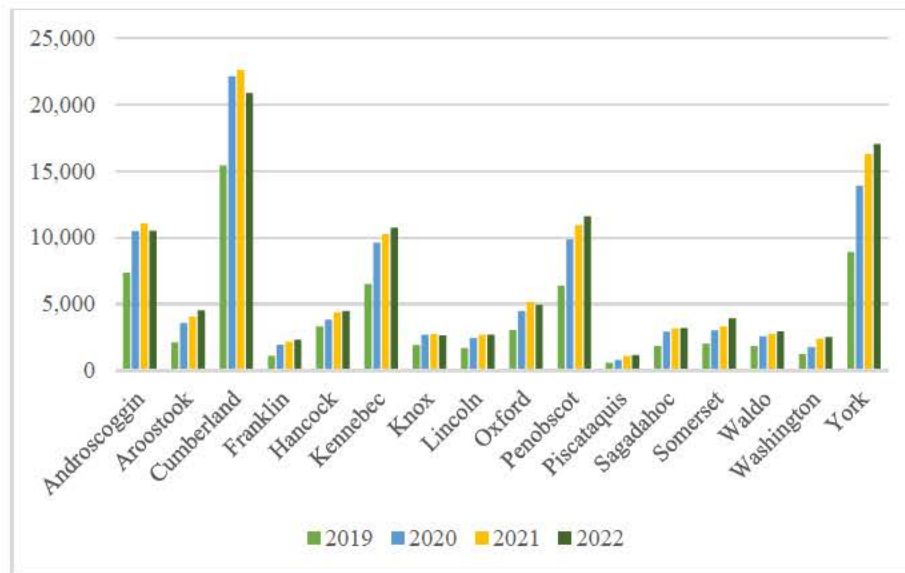
<sup>7</sup> See 22 M.R.S. § 2423-B.

<sup>8</sup> See 22 M.R.S. § 2422(16).

<sup>9</sup> See 22 M.R.S. § 2423-B(4).



**Figure 1: Printed Patient Certifications by County**



The table below includes the specific number of patient certifications issued in their respective counties and the rate of change from the preceding to the following calendar year.

**Figure 2: Printed Patient Certifications by County, Rate of Change<sup>10</sup>**

	2019	Rate of change	2020	Rate of change	2021	Rate of change	2022
<b>Androscoggin</b>	7,378	42.2%	10,490	5.6%	11,082	-5.2%	10,511
<b>Aroostook</b>	2,121	68.4%	3,572	13.0%	4,036	12.0%	4,520
<b>Cumberland</b>	15,433	43.2%	22,106	2.2%	22,597	-7.6%	20,872
<b>Franklin</b>	1,105	76.3%	1,948	11.4%	2,170	7.0%	2,322
<b>Hancock</b>	3,317	15.2%	3,822	14.6%	4,380	2.2%	4,476
<b>Kennebec</b>	6,506	47.6%	9,603	6.9%	10,270	4.5%	10,733
<b>Knox</b>	1,928	39.7%	2,694	2.1%	2,750	-3.4%	2,656
<b>Lincoln</b>	1,691	45.7%	2,463	9.8%	2,705	0.1%	2,707
<b>Oxford</b>	3,056	46.6%	4,479	15.2%	5,161	-4.4%	4,935
<b>Penobscot</b>	6,390	54.5%	9,873	11.0%	10,960	5.6%	11,613
<b>Piscataquis</b>	575	41.0%	811	33.7%	1,084	7.6%	1,166
<b>Sagadahoc</b>	1,868	55.6%	2,906	9.7%	3,188	0.6%	3,208
<b>Somerset</b>	2,026	49.3%	3,024	10.0%	3,325	18.0%	3,922
<b>Waldo</b>	1,842	40.4%	2,586	7.4%	2,778	6.3%	2,952
<b>Washington</b>	1,224	43.4%	1,755	36.3%	2,392	5.9%	2,534
<b>York</b>	8,908	56.2%	13,914	16.9%	16,265	4.7%	17,037
<b>TOTAL</b>	65,368	46.9%	96,046	9.5%	105,143	1.0%	106,164

<sup>10</sup> The numbers contained herein are not an accurate reflection of the number of actual patients as it includes all certifications printed, including misprints, the reissuance of lost certifications, and other anomalies.

For reference, before the qualifying condition list for patients was repealed in December 2018, there were 41,858 printed patient certifications in the program in 2017 and 45,940 in 2018. The amount of patient certifications printed in 2022 is a 131% increase from those printed in 2018 and represents 9.6% of Maine's total population over the age of 18.

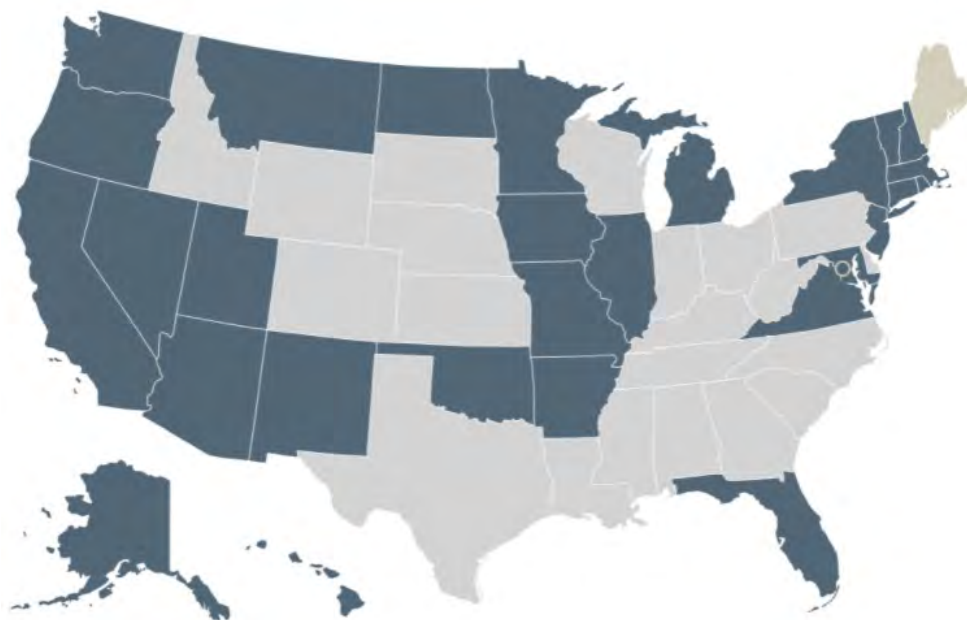
To protect patient confidentiality, Maine does not maintain a central registry of qualifying patients. Minimal information is also maintained regarding the age of patients, but in 2022, there were 332 patient certifications printed for patients ages 17 and under.

### 3.2 Visiting Qualifying Patients

Visitors to Maine who are qualifying patients in their home states' medical cannabis programs may use their home state-issued patient credentials so long as their state of residence has provided OCP with sufficient information regarding the form of their patient credentials issued by the jurisdiction.

The complete list of jurisdictions that have provided the information necessary to OCP to permit the use of their credentials in Maine are: Alaska, Arizona, Arkansas, California, Connecticut, Florida, Hawaii, Illinois, Iowa, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Montana, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Dakota, Oklahoma, Oregon, Rhode Island, Utah, Vermont, Virginia, Washington, and the District of Columbia.<sup>11</sup>

**Figure 3:** States Permitting the Use of Their Medical Cannabis Credential in Maine



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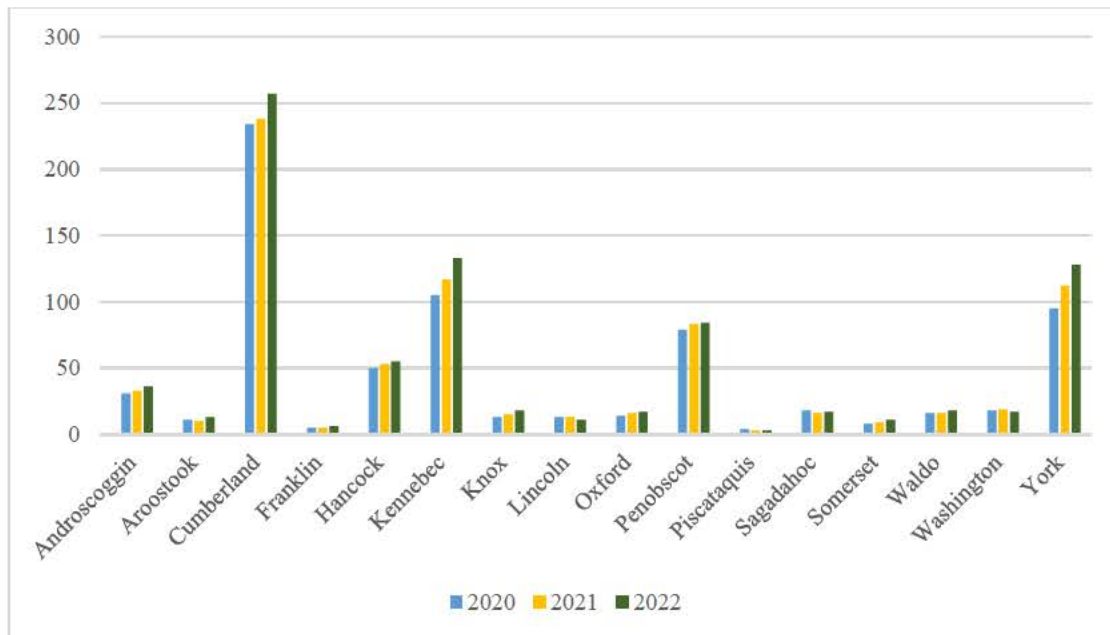
<sup>11</sup> This list and map are available on OCP's website at <https://www.maine.gov/dafs/ocp/medical-use/visiting-patients>.

## 4. Medical Providers

Patient certifications are issued by licensed medical providers including physicians, nurse practitioners, and physician assistants. A written certification may be made only in the course of a *bona fide* medical provider-patient relationship after the medical provider has completed a full assessment of the patient's medical history.<sup>12</sup>

In 2022, there were a total of 824 medical providers registered in the system. The following chart indicates the number of providers in each county. In cases where a provider is practicing in multiple counties, they are listed multiple times.

**Figure 4:** Medical Providers by County



Thirteen counties experienced an uptick in medical providers over the course of the last year. Cumberland saw the largest increase with 19 new providers. Two counties—Lincoln and Washington—saw a decrease in medical providers. Statewide, there were 714 medical providers registered in 2020 and 758 medical providers registered in 2021.

<sup>12</sup> See 22 M.R.S. § 2423-B(2-C).

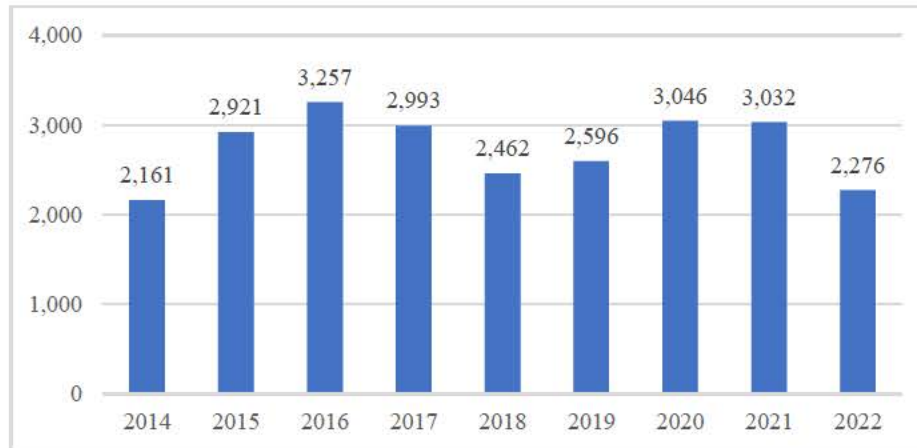


## 5. MMCP Registration

### 5.1 Registered Caregivers

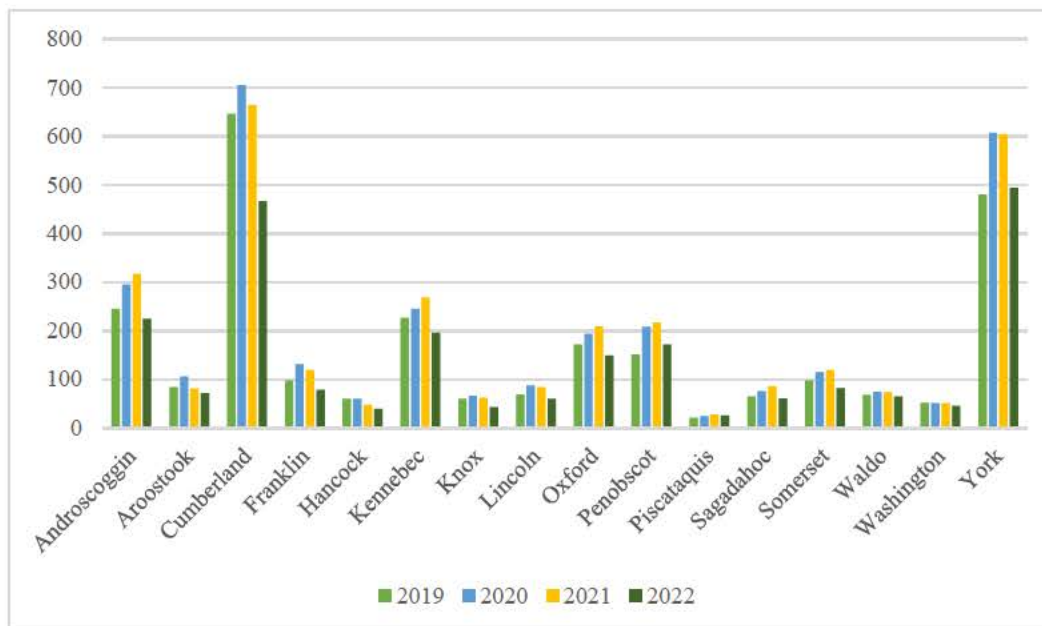
There were 2,276 registered caregivers operating in the MMCP in 2022. This was a net decrease of 24.9% from the 3,032 registered caregivers in 2021 and the lowest number of caregivers registered with the MMCP since the program registered 2,161 caregivers in 2014.

**Figure 5:** Registered Caregivers Statewide, 2014-2022



All sixteen counties saw a decrease in the number of caregivers from 2021 to 2022.

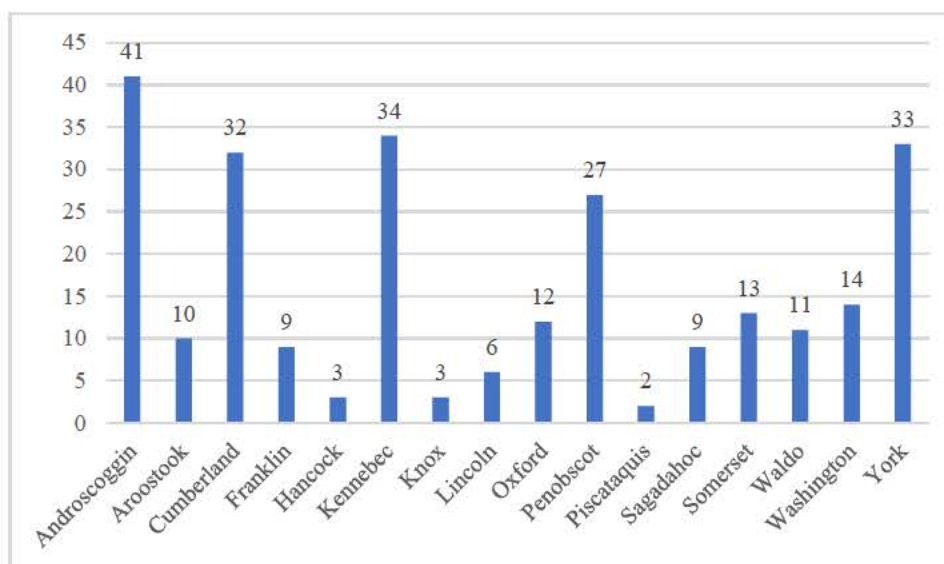
**Figure 6:** Registered Caregivers by County



Caregivers are also permitted to operate one caregiver retail store to sell cannabis to qualifying patients. OCP has historically had limited data on the number of caregiver retail stores in operation statewide, but as of August 2022, caregivers operating a storefront can now list the

location of that retail store on their application. Accordingly, 259 caregivers reported that they were operating retail stores in 2022. However, this is almost certainly an underestimate, as there is no statutory requirement that caregivers report to OCP that they operate a retail store. OCP's field investigators note that they regularly find new locations in operation or former locations closed, without notice being provided to the agency. That lack of information creates enforcement and compliance challenges.

**Figure 7: Caregiver Retail Stores by County**

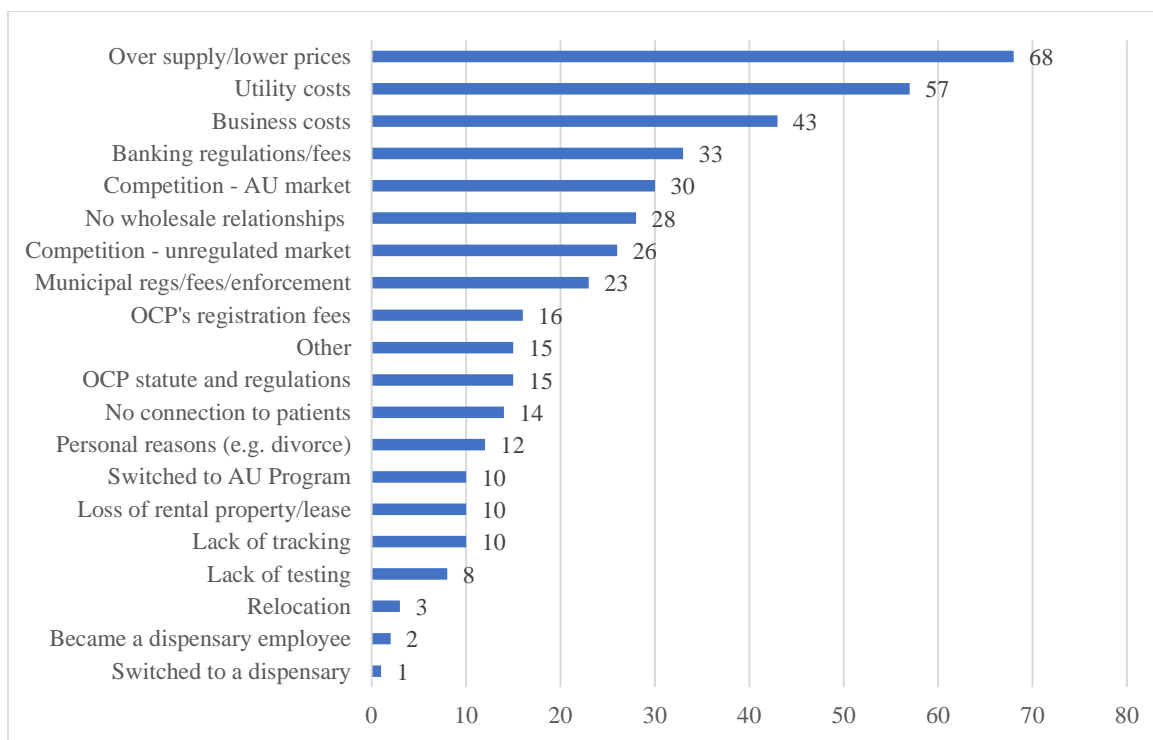


From February 17, 2023 to March 17, 2023 OCP conducted [a brief survey](#) of caregivers who exited the MMCP in 2022. The purpose of this survey was to gain a better understanding of why so many former program participants chose not to renew their caregiver registration. More than half of respondents indicated that they did not renew their registration due to oversupply of product/lower prices in the MMCP. Other top reasons included utility costs, business costs, and banking regulations/fees. More information is included in the following chart.<sup>13</sup>

<sup>13</sup> This question asked respondents, "Which of the following reason(s) most closely represents why you did not renew your caregiver registration? (Select your top 5 reasons.)" Respondents were given 20 options to choose from, including "other". Figure 7 shows the distribution of 424 total responses to this question as the 117 survey respondents were allowed to select up to 5 options each.



**Figure 8: Reasons for Not Renewing Caregiver Registration in 2022 (n=117)**



## 5.2 Registered Dispensaries

A registered dispensary is defined as “an entity registered under section 2425-A that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, sells, supplies or dispenses cannabis plants or harvested cannabis or related supplies and educational materials to qualifying patients and the caregivers of those patients.”<sup>14</sup> A dispensary might participate in one, some, or all of the activities authorized under that registration. Pursuant to the Maine Medical Use of Cannabis Act, dispensaries are also permitted to grow an unlimited number of cannabis plants.<sup>15</sup>

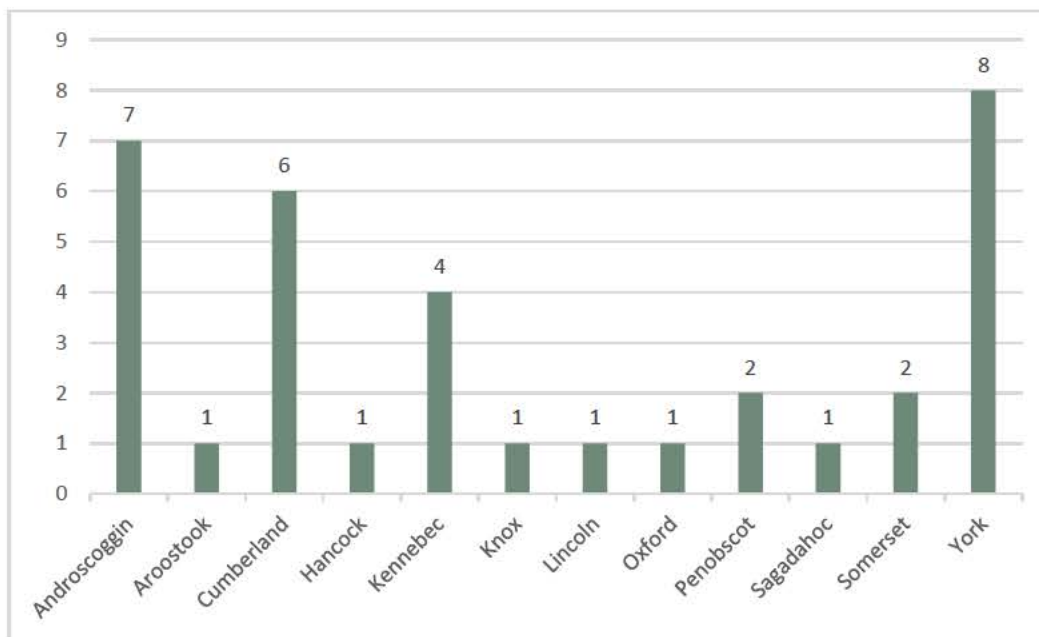
In accordance with 22 M.R.S. § 2428(11-A), the limitation on the number of dispensaries registered in Maine expired in 2021, and in August of that year OCP announced the availability of an application for individuals and businesses seeking to operate medical cannabis dispensaries in Maine. Previously, applicants for one of Maine’s eight dispensary registration certificates were required to undergo a competitive bidding process to determine the recipient of those limited registration certificates. Now, for the first time since the program’s inception, eligible individuals and entities could obtain a dispensary registration certificate simply by submitting a complete application to OCP. The impact of this change can be seen in the increased number of registered dispensaries operating in 2022.

<sup>14</sup> See 22 M.R.S. § 2422(6).

<sup>15</sup> See 22 M.R.S. § 2428(1-A)(B).

There were 35 active registered dispensaries in the MMCP in 2022, increasing from 13 actively operating in 2021.

**Figure 9: Registered Dispensaries by County<sup>16</sup>**



### 5.3 Registrant-related Employment

Historically, MMCP employees were required to have a caregiver assistant card and/or dispensary employee card for each registered caregiver and/or dispensary for which they worked. Accordingly, OCP was able to report the number of caregiver assistants and registered dispensary employees, officers, and directors as standalone datapoints each year.<sup>17</sup>

As a result of changes enacted by the 130<sup>th</sup> Legislature all individuals working in the medical cannabis program, including all caregiver assistants, dispensary employees, officers and directors, must now possess a single registry identification card (RIC) issued by OCP. This new registration system went into effect in July of 2022. This makes it so that individuals only need to have one card—an RIC—to work for any number of MMCP registrants. However, because this legislative change went into effect halfway through the calendar year, the 4,619 employees in the MMCP in 2022 is inclusive of RICs as well as individuals who had not yet reached their renewal date and thus still had multiple caregiver assistant/dispensary employee cards.

This number will naturally decrease over the course of the next calendar year as employees finish switching to the single RIC system and assistant/employee cards are deduplicated. OCP

<sup>16</sup> The four counties not represented on this chart do not contain any primary dispensary locations.

<sup>17</sup> Those numbers were not deduplicated and accounted for some of the same individuals multiple times within the same employment category and across categories.

will ultimately be better equipped to report the total number of unique individuals working in the MMCP once the legislative change has been in effect for a full calendar year.

#### **5.4 Products Manufacturing & Testing**

In terms of other registration types, OCP has never registered a products manufacturing facility within the MMCP as both registered caregivers and dispensaries are already permitted to engage in this activity without a separate registration certificate. Because testing is not mandatory for medical cannabis or medical cannabis products in Maine, there are also no registered medical cannabis testing facilities currently active in the MMCP.

Over the past few years, OCP has attempted to implement uniform testing standards for the MMCP through its rulemaking, as authorized by 22 M.R.S. § 2424-A(10), but to date those efforts have encountered substantial pushback from the regulated community and skepticism from the legislature. Some registrants voluntarily test their medical cannabis and medical cannabis products, but such participation is extremely limited and inconsistent across participants with regard to whether testing is simply for potency or a full panel of analytes that includes testing for harmful contaminants including microbials, pesticides and heavy metals, as is done in the AUCP. Because the labs offering those services are not registered with the state, there are no safeguards in place to ensure that those labs are applying universal, consistent testing standards. Only those labs licensed in the Adult Use Cannabis Program (AUCP) have been certified by the Maine CDC and operate with consistent and uniform testing standards.

## 6. Compliance in the MMCP

OCP completed 1,074 compliance inspections in the medical program in 2022 compared to 1,068 inspections completed in 2021.

At present, aside from technical assistance, the only compliance tool OCP has at its disposal through the Maine Medical Use of Cannabis Act is revocation. This authority includes a statutory requirement to revoke the registry identification card (RIC) of any individual who is found to have sold or transferred medical cannabis to anyone who is not another registrant or a qualifying patient. Accordingly, ensuring that retailers engage only in sales to qualifying patients remains a priority for OCP's Compliance Team.

In 2022, OCP investigated 209 complaints against medical cannabis registrants--compared to the investigation of 132 complaints in 2021. OCP issued 49 total caregiver and caregiver assistant revocations in 2022, of which more detailed information is provided in Figure 10.<sup>18</sup>

**Figure 10:** Revocations Issued in 2022

Participant Type	Total Participants	Total Revocations	Revocations Due to Sale to Non-patients
Caregiver	2,276	37	15
Caregiver Assistant/RIC	4,619	12	8
<b>Total</b>	<b>6,895</b>	<b>49</b>	<b>23</b>

Revocations impacted 1.6% of registered caregivers and 0.2% of caregiver assistants in 2022. Of all 49 caregiver and caregiver assistant revocations issued, sales to non-patients accounted for 47% them. However, most revocations are a result of more than one violation. In addition to selling to non-patients, other common violations that resulted in revocations included: failing to maintain business records, having unregistered employees, and operating without mandatory licenses from other state agencies. The vast majority of violations found within inspections or investigations were resolved using technical assistance, rather than revocation.

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<sup>18</sup> In accordance with 22 M.R.S. § 2430-F(1), "The department may suspend or revoke a registry identification card for violation of this chapter and the rules adopted under this chapter.... [and] shall adopt rules to specify the period of time, which may not exceed one year, that the person whose registry identification card was revoked is ineligible for reauthorization under this chapter." Because "suspension" and "revocation" are not defined terms, and neither action would result in a permanent bar to program participation, and because the department has been unable to adopt rules regulating the medical cannabis program for the reasons indicated above, OCP is left with revocation as its only viable enforcement tool absent further clarification in rule as to how a "suspension" differs from a "revocation". While the department is granted limited authority to ask the district court to assess fines under a few limited circumstances, such a process is administratively inefficient, and the fines identified in statute are not related to conduct generally understood to compromise public health and safety, especially in light of changes to the statute allowing caregivers and dispensaries to wholesale and possess an unlimited amount of harvested cannabis, and the 8 pound possession limit for qualifying patients. See also 22 M.R.S. §§ 2428(9)(D) and 2430-E(1) and (5).

## 7. Revenue and Expenses

The State of Maine operates on a fiscal year that runs from July 1 through June 30. Accordingly, revenue and expense information from state fiscal year 2022 covers the period from July 1, 2021, through the conclusion of the fiscal year on June 30, 2022.

**Figure 11:** Revenue and Expenses of the Medical Use of Cannabis Fund

	2020	2021	2022
Revenues	\$ 3,969,914.00	\$ 6,592,228.00	\$ 3,319,472.56
Expenses	\$ (1,460,005.68)	\$ (1,382,496.58)	\$ (1,763,022.55)
Legislative Transfers	\$ (1,859,575.00)	\$ (1,992,414.00)	\$ (1,000,000.00)

The revenue data depicted in Figure 11 are generated from program registration fees. The decline in revenue from 2021 to 2022 can be attributed to a combination of factors, which include but may not be limited to the decreased number of registered caregivers and caregiver employees in the MMCP as well as the change to a single registry identification card (RIC) system in July 2022. Additionally, P.L. 2021, ch. 251 (Emergency, signed by Governor Mills June 17, 2021) was enacted to allow caregivers to register for the MMCP at a flat rate based on canopy size rather than at a rate based on plant count, which reduced the registration fees paid by canopy-based caregivers from \$240/every 6 plants in the caregiver's 500 square foot cultivation area to \$1,500 for the entire 500 square foot cultivation area.



## 8. Legislative Changes and Recommendations

### 8.1 Legislative Changes

The Maine Legislature considered several pieces of legislation related to the MMCP in 2022. The following is a summary of changes enacted by the Legislature which affected Maine's medical cannabis program.

*An Act To Update and Clarify the Maine Medical Use of Cannabis Act*, [P.L. 2021, ch. 662](#) (Emergency, law without signature April 26, 2022) (LD 1928).

- Updates the pediatric certification process to remove the requirement that a pediatric patient have one of several qualifying conditions to be certified by a provider.
- Requires providers who are certifying pediatric patients to provide the pediatric patients' parents or guardians with a method for contacting the provider outside of normal business hours.
- Defines the terms "telehealth" and "synchronous" and permits synchronous telehealth appointments for the certification of qualifying patients.
- Permits the acceptance of a digital image of a patient certification by registered caregivers and dispensaries to complete a transaction with a qualifying patient.
- Allows all registered caregivers, regardless of whether the caregiver operates a retail store, to accept remuneration for immature plants and seedlings.
- Allows assistants of caregivers and/or dispensaries to obtain a single registry identification card, not associated with any particular caregiver or dispensary, as proof of authorized conduct to operate as an assistant to caregivers and dispensaries.
- Amends the definitions "cultivation area" and "plant canopy" and allows registered caregivers to maintain up to two separate cultivation areas, one for the cultivation of up to 30 mature cannabis plants or 500 square feet of mature plant canopy, and another for the cultivation of up to 60 immature cannabis plants or 1000 square feet of immature plant canopy.
- Defines the terms "timely filed" and "complete application" and specifies a presumption of continued compliance for registered caregivers and registered dispensaries that timely file complete applications for renewal of a registry identification card or registration certificate, as applicable.

*An Act To Promote Equity and Increase Opportunities in the Cannabis Industry by Reducing Restrictions Related to Convictions for Drug Offenses and To Replace the Term "Marijuana" with the Term "Cannabis" in the Maine Revised Statutes*, [P.L. 2021, ch. 669](#) (LD 1957).

- Excludes cannabis-related crimes that would have been authorized under the Marijuana Legalization Act or Maine Medical Use of Marijuana Act from the definition of "disqualifying drug offense" and reduces look-back period for exclusion due to other disqualifying drug offenses from 10 years to 5 years after completion of sentence.
- Requires OCP to change the term "marijuana" to the term "cannabis" in all rules, policies and publications developed by OCP.

- Directs the revision of the Maine Revised Statutes (except for the Maine Criminal Code) to replace references to “marijuana” with the term “cannabis”.

Another change in the MMCP occurred in November of 2022 when OCP announced that it would cease enforcement of Maine’s residency requirements for medical cannabis dispensaries and caregivers. This decision was a result of a ruling by the United States District Court for the District of Maine, and a subsequent affirmation by the United States Court of Appeals for the First Circuit. OCP will be better equipped to evaluate the impact of this change once it has been in effect for a full calendar year. However, conducting inspections for out-of-state residents’ activities in Maine presents its own challenges, as does the inability to conduct federal background checks for out-of-state program applicants.

## 8.2 Legislative Recommendations

OCP did not submit legislation affecting the medical cannabis program for consideration during the First Regular Session of the 131<sup>st</sup> Maine Legislature; however, the Office renews its recommendation that the Legislature work with OCP and stakeholders to update the medical program statute comprehensively to reflect the current state of the medical program. After four years of legislative sessions, heated rhetoric, a small minority of medical program participants expressing their views before the Legislature, two failed attempts at rulemaking, and many rounds of stakeholder engagement, OCP continues to believe that meaningful regulation of the medical cannabis program requires a significant overhaul of the statute. That overhaul must better align with the scale and contours of today’s medical program, and policy changes must be based on a representative expression of medical program participants’ views.

Over the past year, OCP has participated in a number of encouraging discussions with stakeholders regarding the future of the medical cannabis program, through both small group discussions related to past and future legislative sessions and a Community Listening Tour. It was clear from those discussions that there is agreement from all corners of the medical program that the laws governing that program need to change. Unfortunately, stakeholder engagement efforts over the past few years have also highlighted the fact that there is little agreement about how those laws need to change. OCP recommends that any changes to the program’s statute center on the following priorities:

1. Ensuring patient access to high quality, affordable cannabis and cannabis products that are tested for harmful contaminants and appropriately formulated to address the symptoms for which those patients use medical cannabis.
2. Ensuring patients have access to the information, resources, and medical expertise necessary to make informed decisions about the cannabis and cannabis products they use to address their symptoms.
3. Ensuring consistent regulatory requirements for businesses conducting similar authorized activities at a similar scale, regardless of registration type.
4. Supporting law-abiding Maine businesses by eliminating the sale of illicit cannabis to Maine medical cannabis patients and disincentivizing diversion of legally produced medical cannabis to the illicit market.
5. Creating predictability and consistency for patients accessing medical cannabis and businesses engaged in the medical market.

To make changes to the program law to address these priorities, OCP can provide specific recommendations for a framework or actual statutory language; however, the Office has not received consistent feedback from either the regulated industry or previous Legislatures regarding the ideal state for the medical program in the long term. OCP strongly recommends a comprehensive overhaul of the entirety of Title 22, ch. 558-C to develop a statutory framework that reflects the current state of Maine's cannabis economy.

## 9. Conclusion

This report demonstrates the many ways in which Maine's Medical Use of Cannabis Program (MMCP) transformed in 2022. The number of registered caregivers in the program dropped to its lowest point since 2014 while the number of active dispensaries in operation nearly tripled, reaching the highest number in program history. The number of patient certifications continued to increase, but at a much slower rate than in recent years. Overall, the dynamics of this industry are changing, and the program statute must be better aligned with the scale and contours of today's medical program. Currently, it is not.

Specifically, some key MMCP data points from 2022 include:

- The number of printed patient certifications increased by less than 1%, from 105,143 certifications printed in 2021 to 106,164 printed in 2022.
- The number of registered caregivers decreased by 24.9% from 3,032 in 2021 to 2,276 in 2022.
- The number of registered dispensaries increased by 169%, from 13 in 2021 to 35 in 2022.
- The number of employees/assistants for caregivers decreased 19.5% from 5,741 in 2021 to 4,619 in 2022.

OCP continues to believe that it is important to ensure that products for medical cannabis patients are tested and free from harmful contaminants, and that patients understand what is in their medicine. This principle is one that some vocal program participants oppose, but it is a standard in medical cannabis programs across the United States, and one that sets Maine dangerously apart from its peer states. The failure of medical cannabis testing and a track-and-trace system, even led Americans for Safe Access to significantly downgrade Maine in its 2023 rankings and scoring of the effectiveness and safety of Maine's medical cannabis program.<sup>19</sup> It is also critical to adjust the outdated program rules and statutes so that they better reflect the needs of Maine's current medical cannabis industry. The Office looks forward to working toward these goals with program participants, stakeholders, and the Legislature in 2023 and beyond.

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<sup>19</sup>Americans for Safe Access, *2022 State of the States Report*, published February 2023, available at: <https://www.safeaccessnow.org/sos22>.

## Appendix A – Report Requirements

In accordance with 22 M.R.S. § 2425-A(13)(B), the Department of Administrative and Financial Services (DAFS) shall submit an annual report that does not disclose any identifying information about cardholders or medical providers, but that does contain, at a minimum:

- The number of applications and renewals filed for registry identification cards and registration certificates;
- The number of qualifying patients and registered caregivers approved in each county;
- The number of registry identification cards suspended or revoked;
- The number of medical providers providing written certifications for qualifying patients;
- The number of registered dispensaries, manufacturing facilities and cannabis testing facilities approved in each county;
- The number of officers, directors, and assistants of registered caregivers, registered dispensaries, manufacturing facilities and cannabis testing facilities;
- The revenue and expenses of the Medical Use of Cannabis Fund established in section 2430.