



October 23, 2023

To: The Honorable Tina Kotek, Governor
Rob Wagner, Senate President
Daniel Rayfield, Speaker of the Oregon House of Representatives
Deb Patterson, Chair, Senate Committee on Health Care
Rob Nosse, Chair, House Committee on Behavioral Health and Health Care

From: Oregon Cannabis Commission

Re: Current Status of the Oregon Medical Marijuana Program

Honorable Governor Kotek, Senate President Wagner, Speaker Rayfield, Chairs Patterson and Nosse,

The purpose of this letter is to bring your awareness to the difficult situation that Oregon's Medical Marijuana Program (OMMP) and its registrants finds themselves in. As outlined in the Americans for Safe Access State of the State, 2022 report¹:

"The most important markers of a well-designed state program is that all patients who would benefit from medical cannabis have safe and legal access to their medicine without fear of losing any of the civil rights and protections afforded to them as residents of that state."

Oregon fails to meet this definition of a well-designed state medicinal cannabis program.

As your appointees serving as policy advisors to both the Oregon Liquor and Cannabis Commission (OLCC) and the Oregon Health Authority (OHA), it is our responsibility to alert you to the status of the OMMP, its cardholders and the overall need for improvement. The turbulent state of today's cannabis industry has put medicinal cannabis patients at risk.

From artificially derived cannabinoids to testing, from the lowest wholesale prices for cannabis products in its short history, to illegal grows of hemp and the lack of clear direction from the regulators, the downstream effects of which are directly and negatively impacting the lives of Oregonians who use medicinal cannabis.

Medical cardholders who depend on the OLCC adult-use system to meet their medical needs face everyday challenges including lack of diversity in strain and phenotype options, inadequate access to medical grade products and Certificates of Analysis, and sales associates whose primary focus has shifted to the adult use population.

¹ Americans for Safe Access. (2023). *2022 State of the States Report: An Analysis of Medical Cannabis Access in the United States*. Americans for Safe Access. <https://www.safeaccessnow.org/sos22>. Pg. 6

Since cannabis legalization the OMMP has experienced a dramatic drop in patients, from 78,045 in October 2015 to 16,814 in April 2023². There are any number of reasons for this, from the high cost to participate in the OMMP to easy legal access to product for all adults. Despite this drop, many Oregonians continue to use cannabis and cannabis products outside the OMMP but obtained from the adult-use retail market to treat medical conditions. While the number of enrollees has dropped, the ease of access to legal cannabis and the onset of the wide availability of CBD products has led to more Oregonians now using cannabis as a healthcare product or supplement than ever before.

The OMMP has had some positive changes since its inception including adding PTSD and “pervasive and degenerative neurological conditions” to its list of qualifying conditions, increases in possession limits, the number of patients a grower may provide for, and the higher amount of THC cardholders are allowed to purchase, however, much remains to be done.

We look forward to your help in addressing a new approach to medicinal cannabis in Oregon with the same robust approach as conversations relating to the retail cannabis sector. We hope you will consider the creation of a taskforce to begin these important conversations with the following topics as starting points:

- A formal roundtable evaluation of Oregon’s approach to:
 - Cannabis in healthcare,
 - OMMP’s funding mechanism, and,
 - How the OMMP can focus on patient outcomes rather than product diversion prevention.
- Address changes to reduce the cost of participation:
 - Unlike other states, Oregon’s medical cannabis program is not supported by recreational tax revenue, all administrative costs depend on fees paid to the program by medical patients and their growers. With a base annual application fee of \$200 per year for an OMMP patient card, Oregon has the highest fee to obtain a medical cannabis card in the US.
 - The OMMP is unable to reduce cardholder fees without another revenue source.
- Create healthcare professional education and training focused on medicinal cannabis.
- Create civil rights protections including housing, employment, and health care.
- Consider the negative impact of THC pre-employment drug screening on the healthcare sector.
- Adopt a state information center that provides updated information and resources about medicinal cannabis, including educational materials for medical cannabis patients, caregivers, and growers, provide onsite at OLCC licensed cannabis retail locations.
- Expand OLCC licensed cannabis retail employee (‘budtender’) educational requirements.

Please see the [Addendum](#) of this document for more information on how Oregon compares to other states with regard to issues faced by the medical cannabis community.

Thank you for your time and attention. We would like to meet with you at your earliest possible convenience to address these important issues.

Respectfully,

The Oregon Cannabis Commission

² Oregon Medical Marijuana Program. (2015) *OMMP Statistical Snapshot October 2015*. (2023) *OMMP Statistical Snapshot April 2023*. <https://www.oregon.gov/oha/PH/DISEASES/CONDITIONS/CHRONICDISEASE/MEDICALMARIJUANAPROGRAM/Pages/data.aspx>

Addendum – Oregon Medical Cannabis Ecosystem Compared to Other States

With a medical cannabis program beginning in 1999, Oregon was once a leading state in medical cannabis policies. Over time, and particularly in the last ten years, more states have started their own medical cannabis programs and Oregon has dropped to a state ranking of 25³.

While Oregon ranks higher than many other states in areas such as access to cannabis, it now lags in many areas of great importance to medical cannabis patients such as affordability, education, and basic protections.

Below is a list of areas where Oregon has room for improvement (Goal), the current status of Oregon in these areas (Current Oregon Status), and how other states address these areas of concern (Sample of Other State Status). Selected comparison derived from 2021 and 2022 State of the States Report ([2021](#) and [2022](#)) compiled by [Americans for Safe Access](#).

Goal	Current Oregon Status	Sample of Other State Status
Affordability – Stable funding source for the OMMP	No stable funding source; OMMP is self-supported solely through fees paid by patients and growers	Arkansas, Massachusetts, New York - fund medical cannabis program through percentage of state sales tax or recreational cannabis sales tax
Affordability – Reduce OMMP fees and access to program	<p>Fees are highest in nation with base of \$200/year, some reduced fee options, no fee option only for renewing Veterans with 100% disability</p> <p>Online card printing not available</p> <p>High cost of annual fees for certain growers</p> <p>Out of pocket expenses for annual cannabis clinicians/attending provider visit</p>	<p>Illinois – Electronic card issuance/home printing, ability to obtain cards from county offices</p> <p>Massachusetts – \$50/year, some no fee options</p> <p>Michigan – \$60/every two years</p> <p>California – \$100/year, reduced fee options</p> <p>New Mexico, New York (and other states) – Availability of no-fee medical cards</p> <p>Nevada - \$25 initial packet, \$75 issuance of card after approval</p> <p>New Hampshire - \$50/year</p>
Education – (Patients, Caregivers, Growers, licensed healthcare professionals, retail cannabis employees or ‘Budtenders’, general public)	<p>No standard educational information provided in retail cannabis locations</p> <p>No training requirements for health care/attending providers – Consider a minimum number of CME for attending providers</p>	<p>Illinois – Provides a state-approved Responsible Training Center</p> <p>Maine – Provides Medical Cannabis Certifications for licensed physicians</p> <p>New Hampshire - Chapter 126-X:8 XVI requires treatment centers to provide cannabis educational materials be provided for patients and caregivers, and requires treatment centers to collect opt in data on effectiveness from patients.</p> <p>New York Department of Labor provides an online repository of Cannabis Education Program Opportunities and Cannabis Workforce Development; New York Department of Health maintains an opt-in</p>

³ Americans for Safe Access. (2023). *2022 State of the States Report: An Analysis of Medical Cannabis Access in the United States*. Americans for Safe Access. <https://www.safeaccessnow.org/sos22>, pg 132.

		<p>Public List of Consenting Medical Cannabis Program Practitioners; New York Office of Cannabis Management requires health care providers to complete at least a two-hour course before they can certify patients for medical cannabis and provides an online education course option list.</p> <p>Connecticut – Chapter 420h Sec 21a-420s requires cannabis sold by a hybrid retailer have a licensed pharmacist on premises.</p>
<p>Protection – Housing</p>	<p>No housing protection for medical cannabis cardholders in Oregon</p> <p>Oregon renters are typically confronted with a blanket prohibition on cannabis especially those properties under property management companies. This includes the use of medicinal cannabis.</p> <p>BOLI no longer takes any discrimination cases involving cannabis. OMMP patients residing in rental housing and wanting to cultivate cannabis are required to seek permission from the property owner. Non-patients are not required to meet this bar.</p> <p>Samples of some cannabis associated housing guidance:</p> <p>National Association of Realtors (2016)</p> <p>Reintegration Cannabis Addendum Sample (property management, specifically acknowledges federal supersedes OMMA)</p> <p>HUD Memo on Marijuana (2014)</p>	<p>Arkansas – AR Code § 3(f)(1) (2016) disallows refusal to lease for qualifying medical cannabis patients or caregivers due to their status as a medical cannabis cardholder unless doing so would put the landlord in violation of federal law or regulations</p> <p>Congresswoman Elanor Holmes Norton’s Amendment to allow cannabis use in federally assisted housing where it is legal (2022)</p>
<p>Protection – Employment</p>	<p>Oregon lacks employment protections for medical cannabis cardholders.</p> <p>Emerald Steel Fabricators Inc., v BOLI created a barrier for patients who use cannabis under direction of an attending provider by rejecting the argument of Oregon’s BOLI that</p>	<p>Arkansas – AR Code § 3(f)(3)(a) (2016) disallows discrimination in hiring, termination or penalization for based on an applicant or employee’s past or present status as a medical cannabis patient or caregiver</p> <p>Nevada – NRS 613.132 ended denial of employment predicated on positive cannabis screening</p>

	<p>an employee who is compliant with the Oregon Medical Marijuana Act is entitled to reasonable accommodation</p> <p>Healthcare and other agency pre-employment drug screening requirements do not exempt cannabis/THC</p> <p>Oregon Administrative Rule 414-205-0035(2) states a child care, "...provider may not hold a medical marijuana card, grow marijuana, or be a distributor of marijuana."</p>	<p>Michigan no longer requires pre-employment testing for cannabis for state workers (Michigan Civil Service Commission decision 07/2023)</p> <p>New Jersey disallows employers to penalize workers based solely on positive cannabis test (New Jersey Cannabis Regulatory Commission guideline 09/2022)</p> <p>New York prohibits discrimination against employees based on the employee's use of cannabis outside of the workplace (New York State Department of Labor Law 201-D 10/2021)</p> <p>Delaware – The Delaware Medical Marijuana Act prohibits employment discrimination or penalization due to the person's status as a cardholder or a positive drug test for marijuana components unless impaired on premises (Del Code tit. 16 § 4905A(a)(3))</p> <p>Colorado – Executive Order D 2022 034 protects Colorado's workforce from penalization due to lawful use and possession of cannabis.</p>
<p>Protection - Healthcare</p>	<p>Despite the Oregon Medical Marijuana Act statement that cannabis has been found to be, "...an effective treatment for suffering caused by debilitating medical conditions and...must be treated like other medicines" (ORS 475C.770(1)), there is a lack of protection for medical cannabis use in Oregon</p> <p>Lack of protection for potential organ transplant recipients; HB 2687 (2019) attempted to prohibit transplant centers from removing medical marijuana patients exclusively based on a positive cannabis test, but stalled in session.</p> <p>Cannabis coding issues and insurance company determinations may equvalate medical cannabis use as substance use/abuse which can result in premium increases, lack or loss of coverage and restrictions on pain medication limitations</p>	<p>Arkansas – AR Code § 3(f)(2) (2016) requires a medical patient's use of cannabis to be considered the equivalent of any other medication in connection with medical care and specifically including organ transplant consideration</p>

	<p>State licensing boards lack of appropriate guidance for providers especially in care of minors; despite explicit provider protection under ORS 475C.770(3) and (4), 475C.891, 475C.892</p>	
Reciprocity	<p>No reciprocity/ability for other state medical card holders to purchase tax free medical grade cannabis in Oregon</p>	<p>Arkansas, Hawaii - allow other state cardholders application while in state. Maine, Nevada, New Hampshire - reciprocity; allow other state cardholder purchases</p>
Research	<p>OSU has hemp research and OHSU and the VA has some cannabis research taking place, research in Oregon lacks coordination and is not as extensive as other states</p> <p>Research certificate through OLCC is expensive and under-utilized</p>	<p>Variety of states have good cannabis research, especially in University settings, and earmarked research funding from cannabis tax funds</p> <p>California – Department of Cannabis Control funds scientific research grants using cannabis tax revenue.</p> <p>California – University of California, San Diego, Center for Medicinal Cannabis Research advances science and policy related to potential benefits and limitations of cannabinoids as medicine; University of California Berkeley Cannabis Research Center promotes interdisciplinary scholarship on the social and environmental dimensions of cannabis production.</p> <p>Washington – Dedicated Cannabis Account provides funding for research on cannabis use. Initiative 502 created a dedicated fund from excise taxes, license fees, penalties and forfeitures and provides dispersal to purposes including research.</p> <p>Washington – University of Washington Center for Cannabis Research fosters and enables organizing influence around cannabis research to solidify science and protect long term policies; Washington State University Center for Cannabis Policy, Research, and Outreach supports a variety of goals in cannabis research.</p> <p>Utah – Created a Cannabis Research Review Board as a result of the Cannabinoid Research Act.</p> <p>Utah – HB 230 created a Center for Medical Cannabis Research within the University of Utah to facilitate and support funding for research.</p> <p>Colorado – Department of Public Health and Environment provides and funds cannabis research grants.</p> <p>Colorado – Colorado State University Pueblo’s Institute of Cannabis Research</p>

		<p>conducts and funds research related to cannabis with an appropriation from the state of Colorado; University of Colorado Boulder <u>Center for Research and Education Addressing Cannabis and Health</u> utilized state of Colorado annual tax revenue to und scientific research on the health effects of cannabis.</p> <p>New Mexico – University of New Mexico <u>Medical Cannabis Research Fund</u> focuses on conducting scientifically valid and unbiased research on medical cannabis.</p>
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