OCC Subcommittee Guide (Drafted May 2020)

We are well into the 2nd quarter of 2020, and while the year has been far from conventional, OCC and its subcommittees have made significant progress. All subcommittees have had at least one meeting productive of formative insights and recommendations for the commission as we strive to fulfill the remarkable task of outlining a potential framework for the future governance for the OMMP.

Throughout this process, subcommittees are charged with identifying high priority focus within this new framework around which shorter-term legislative concepts can be defined. Several of OCC's existing legislative concepts were introduced to the legislature in HB 4035[1] and SB 1561[2] during the 2020 short session in response to our 2019 report and 2020 working priority guide. These included our recommendations to develop an interagency task force to collaboratively address cannabis regulation in Oregon, to include ensuring the efficacy of the OMMP, establish a state reference lab, and support social equity; and to expand the list of authorizing providers who can sign an APS (Attending Physician Statement). As neither of these bills were adopted, these high priority areas still require our attention.

September legislative days are drawing near, and the OCC is relying on its subcommittees to help develop new high priority legislative concepts that will continue to advance our efforts to advise and help shape an effective and integrated medical marijuana program in Oregon that ensures long term access to therapeutic and affordable cannabis as medicine as defined in ORS 475B.961.

Several areas of immediate interest could be to ensure ongoing funding for OMMP, moving away from a fee-based program; to codify the role of OCC as outlined in SB 1561 and eliminate sunset dates; and identify reasonable pathways to establishing and advancing cannabis research in the state. Subcommittees are encouraged to define more.

As a reminder, too, there were two predominant goals identified during the process of drafting the OCC's 2019 report:

- Redraft the OMMP for today's world and,
- Ensure a strong research component, what that should look like and the necessary steps to get there.

In order to prepare for September legislative days, subcommittees should meet monthly (or more frequently if necessary) to complete their 2020 3rd Quarter deliverables: one or more legislative concepts and a list of additional high priority focus areas.

Subcommittees should otherwise meet on a monthly basis and prepare a quarterly report to present at every OCC general body meetings to include, but not limited to, recommendations for rule changes for the OHA (OAR 333-008) and OLCC (OAR 845-025), and ongoing legislative concepts to ensure and improve patient access to therapeutic and affordable cannabis as medicine as defined in statute.

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[1] https://olis.oregonlegislature.gov/liz/2020R1/Measures/Overview/HB4035
[2] https://olis.oregonlegislature.gov/liz/2020R1/Measures/Overview/SB1561

Subcommittee chairs:

- Work with staff to establish monthly meetings through the end of the year.
- Provide timely subcommittee meeting minutes from each meeting so the other committees are kept abreast of work in progress as to avoid duplication or reinventing the wheel.
- Provide subcommittee members with this guide and links to or copies of OCC's 2019 report and 2020 working priority guide.
- Please note two areas of focus:
    - Short-term focus: develop one or more legislative concepts for the 2021 legislature for pre-session filling, and create a working list of additional high priority items and areas of focus.
    - Long-term focus: as originally outlined in statute, continue reviewing and recommending changes to the OMMA in the context of creating a long-term strategic framework for ensuring that cannabis will remain a therapeutic and affordable option for patients.
    - Do not be afraid to think outside of the box. Outside-the-box thinking is necessary for progress, and so is collaboration. This process cannot be tackled efficiently without the support of the OHA and OLCC in identifying existing factors that prevent access to cannabis for medical use, and examining potential laws and rules that will better facilitate access to cannabis for medical use. What we will accomplish as a group will expand beyond what is just politically possible to what is necessary to reshape cannabis regulation that is efficient, productive, and makes sense for all stakeholders and especially patients.

Subcommittee scope of work:

Ensuring patients' long term access to therapeutic and affordable cannabis as medicine needs to be viewed through the lens of total legalization at both the state and federal levels, such that any framework developed today is foundational and sustainable, but also prepared for potential federal legalization and FDA oversight. Will our state program be acceptable? Are the right agencies involved to increase efficiencies and locally regulate consistent, high quality, clean, biodiverse, and affordable cannabis? Does it center around health equity? Does it protect patient agency and create pathways to increase competency in the healthcare system? Does it have a strong research component that includes ensuring access to cannabis for research? Etc.

Are there any state programs out there that could serve as a model for a national program? Could Oregon become that?

Subcommittees should answer these questions and identify others such that any and all recommendations for legislative concepts serve as a well informed solution. Recommendations should be accompanied by a description of what infrastructural changes may need to be made to sustain it where applicable.

Research Subcommittee:
OCC's fifth recommendation from the 2019 report:

- *The state of Oregon will establish a Cannabis Research Center (CRC) to advance research on cannabis and cannabis-derived products.*
- *The CRC will be a collaboration across state academic, medical, and government agencies.*
- *The CRC will be funded by allocation of a minimum of $10 million to $12 million over a four-year period to fund establishment of the center, core staff, an experienced director, and substantial, high quality research and grant activities.*
- *The CRC will coordinate and support original research projects on the health effects of cannabis in the areas of public health policy and public safety policy, agricultural and horticultural best practices, and medical and pharmaceutical best practices, and will establish a competitive grant process with a rigorous external peer review.*
- *The CRC will provide a report of expenditures and grants awarded and a summary of any original research findings at the end of year two and year four to the legislative assembly*

It's time to put more meat on the bones. Here are some recommended areas of focus, beginning with infrastructural changes and fact finding:

1. Define the OMMP as a public health program
    - Evaluate OHA's "role of protecting the public's health."[3] Create directives that are appropriately neutral and less pejorative (a reflection of systemic bias)
        - Understand and minimize the negative public health impacts of cannabis use - **what about potential positive impacts?**
        - Educate the public about adverse health issues related to cannabis use - **what about health benefits?**
        - Protect children and vulnerable populations from cannabis exposure - **what if they qualify for medical cannabis and are seeking it?**
        - Prevent youth cannabis use - **what about youth qualifying for and seeking cannabis as medicine?**
        - Monitor cannabis use, attitudes and health effects in Oregon
    - Develop definition(s) around the patient use of cannabis as it relates to the language of healthcare, e.g., properly define 'medical grade' according to medical standard (ORS 475B.015(27)
        - Differentiate between quality (grade) and potency (strength).
        - Consider language to remediate how the term 'medical grade' is used in statute, as patients and adult users should expect the same standard of quality in their cannabis. Consider juxtaposing it to 'medical strength,' and define appropriate THC potency limits for patients and adult users - this is where differentiation may be more appropriate.
        - Address crafting and developing truthful, science-based resources and other facts and figures (with complete references, i.e., references touting both benefits and risks) for patients to get accurate information on

[3] https://www.oregon.gov/oha/PH/PREVENTIONWELLNESS/MARIJUANA/Pages/public-health-role.aspx

cannabis in any place health information is available (e.g., county health departments, senior and disability service providers, etc.). In particular, maintaining up-to-date information on highly controversial topics, like the use of cannabis and pregnancy, cannabis in organ transplantation, cannabis and opioid use, trends in cannabis and prescription drug rates would be helpful for patients and providers.

- Assess and identify ways to improve the current collection and protection of patient information within OMMP and the greater cannabis ecosystem (including METRC and retail collection of patient information).

2. Review slides 6 & 8 of the working priority guide to further flesh out the concept of creating a cannabis research coalition (as opposed to a "center") and database, and the relationship OLCC, ODA, academia, independent research entities, OHA, the greater health care complex, and seed bank would have to it.
    - Demonstrate the utility of the seed bank, state reference lab, and a preferred provider program (wherein healthcare providers have completed a minimum amount of standardized education in the endocannabinoid system and cannabis pharmacology) as critical components of the supply and demand network.
        - State reference lab: how will the lab operate within the supply chain? What would be minimal testing criteria to determine product integrity?
        - Preferred providers: what minimum provider education might be required? How are these providers protected by and from their governing agencies (e.g., OMB, OSBN, etc.); What would a public directory look like to improve patient access to these providers?
    - Identify what data is needed across the supply and demand network (from soil to outcome) to efficiently study it.
    - Make recommendations for data routing and management throughout the regulated system; how to protect it, anonymize it, amalgamate it, store it, and make it available for research purposes.
    - Identify systems that facilitate the collection of data to track outcomes according to cannabis chemical profiles (e.g., cannabinoids, terpene, and flavonoid profiles) and the conditions they are treating; contemplate how purchase trends, inventory tracking, and outcomes data could inform cultivation practices and facilitate personalized grower-to-patient transfers to better improve outcomes all while protecting patient identity and information.
        - Would upgrades to OMMOS and METRC facilitate this?
        - What benefits would blockchain provide? This is where technology is headed, so how can the CRC plan for 21st century advancements?
    - Develop a long-term strategic plan for cannabis research in Oregon, including what the state research program would look like under federal legalization and FDA oversight.

3. Determine or approximate the number of Oregonians currently living with each of the OMMP qualifying conditions.

4. Identify methods to examine healthcare systems and other types of services, such as assisted living facilities, the organ transplant program, and daycare centers, and the accessibility of these services to active cannabis patients. For instance, examining ALF policies to determine if their policies are aligned with current statute allowing these facilities and/or a person within the facility to be designated as a secondary caregiver for an OMMP cardholder who is also a resident. Another example is daycare, whereby regulations prevent any OMMP cardholder from applying for a daycare certificate. Identifying methods to unveil systemic discrimination against cannabis use as medicine is paramount to addressing and solving for patient and social equity issues.
    - What other areas of the cannabis ecosystem will need monitoring in a similar way?

5. Begin drafting a list of high priority research areas studying the plant and evaluating both the benefits and risks of cannabis (e.g., studying cannabis use disorder vs. use of cannabis in the treatment of substance use disorders, etc.).

<u>Governance and Framework:</u>

The task of the governance and framework subcommittee is one of the primary goals of the Commission as a whole: to bring the OMMP into the 21st century by outlining a reasonable framework for both the governance and operation of an efficient and integrated medical marijuana program, and contemplate stable funding channels that will facilitate the protection, expansion, and enhancement of program services for registrants (patients, caregivers, and growers). This may be hard to accomplish without also recommending fundamental changes to cannabis regulation in Oregon as a whole.

As implied in the working priority guide, perhaps the best way to think about this is to consider how every aspect of our public and private sectors affect or are affected by the medical use of cannabis, and how to systemically accommodate that use rather than discriminate against it. Cannabis patients should be protected and accommodated in the same manner as Oregonians with disabilities under the ADA. Beginning with the public sector, accommodation extends beyond how OHA, OLCC, and ODA accommodate patient use of cannabis, but also how DHS, DMV, DEQ, BOLI, Oregon OSHA, and other state agencies and programs accommodate patient use of cannabis. Any proposed framework should attempt to safeguard against discrimination by these agencies at all levels.

The theme frameworking should center around is accommodation over discrimination. Here are some recommended areas of focus:

1. Using the working priority guide as a reference, further flesh out a proposed framework and governance for the OMMP, and clarify the role of OLCC in patient care.

2. Preferably, in using the working priority guide as a reference, further flesh out a single regulatory framework centered around medicinal cannabis (focused on high quality, safe, and consistently produced marijuana and cannabinoid rich hemp), by which adult use is a privilege extended to adults not otherwise registered as patients as opposed to our

existing bifurcated industry, whereby medical use is perceived as an extension of adult use.

- By which ODA oversees our grower registry, cultivation and processing,
  - Through which assurances are made to keep broad the spectrum of chemical varieties of cannabis and product types to accommodate varied clinical needs - biodiversity is critically important (address seed banking),
- By which OLCC oversees wholesale and retail distribution,
  - Under which preferred providers are allowed to advertise consultation services or provide counsel at point of sale in retail facilities (risk mitigation),
- By which OHA oversees the patient and preferred provider registries,
- By which the CRC (Cannabis Research Coalition) oversees research, public health monitoring, outcomes tracking, etc., and
- By which OCC continues as an advisory committee to all agencies on both medical and adult use.

3. Identify ways to reduce registration fees and options to stabilize funding channels for cannabis programs and systems (including, but not limited to retail tax revenue).
   - Provide language for an amendment to ORS 475B.759 establishing the Oregon Cannabis Account within the department of revenue to include allocation of monies to the administration of the OMMP, social equity, and cannabis research.
     - Also consider subsidized testing for patients growing their own cannabis.
   - Draft alternative language contemplating a cap to the existing allocation formula (see slide 13 of the working priority guide, a formula discussed at the HEDC work group session on October 18, 2019).

4. Examine opportunities to integrate OMMP with other state healthcare programs.
   - Example: OHP. OHP providers should be able to authorize the use of cannabis for their patients. If a patient's OHP provider is unwilling or unable to authorize the use of cannabis, what would the mechanism be for a referral to another OHP provider or provider outside of the OHP network, and how could out of network care be subsidized? What laws or rules need to be changed to address this?

5. Identify ways to structure, protect, and enhance the designated grower program.
   - Outline the benefits of moving OMMP growers under ODA to create a designated provider registry and master medical grower program for transfers, research and retail.
   - What differentiates master medical growers (i.e., legacy/heritage medical growers) from the greater pool of licensed cultivators? Special licensing? Priority licensing?
   - Examine patient transfer and retail options for designated providers and master medical growers (e.g., simple transfers, farmers markets, research, retail).
   - Reassess the need for patients to register the address for their personal grow.

Patients/Social Equity

This subcommittee is tasked with identifying areas of systemic discrimination against cannabis pateints (e.g., exemptions for state public assistance programs, insurers, and employers from accommodating cannabis patients as they would for those using any other medication(s)), and illuminating the ways the economy of cannabis must remediate the health effects of the war on drugs in communities of color.

Here are some recommended areas of focus:

1. Evaluate OHA's "role of protecting the public's health."[4] Create directives that are appropriately neutral and less pejorative (a reflection of systemic bias)
    - Understand and minimize the negative public health impacts of cannabis use - **what about potential positive impacts?**
    - Educate the public about adverse health issues related to cannabis use - **what about positive ones?**
    - Protect children and vulnerable populations from cannabis exposure - **what if they qualify for medical cannabis and are seeking it?**
    - Prevent youth cannabis use - **what about youth qualifying for and seeking cannabis as medicine?**
    - Monitor cannabis use, attitudes and health effects in Oregon

- Develop recommendations to improve the patient experience throughout their flow through OMMP and OLCC.
    - Including pathways to ensuring information and education is disseminated through BIPOC communities

- Collect data
    - supporting patient equity and demonstrating why it's important to invest in cannabis patients (e.g., studies show medicare savings, and opioid use/worker comp claims declining in states with therapeutic cannabis programs).
    - supporting social equity and demonstrating why it's important to invest in BIPOC communities).
        - Collect data that illustrates the disparities (particularly health disparities and disparities across the determinants of health) faced by the Black, Indigenous, and People of Color (BIPOC).

- Review HB 4088[5] which would have established a task force to promote social equity at the state level in our cannabis industry. Consider including it in our short-term legislative concepts in support and in reference to our recommendation for a social equity committee in slide 9 of the working priority guide.
    - Is this an opportunity for us to define "Health Equity" in place of social equity, and advance the conversation around equity for communities most harmed by the war on drugs on pace with national trends?

[4] https://www.oregon.gov/oha/PH/PREVENTIONWELLNESS/MARIJUANA/Pages/public-health-role.aspx
[5] https://olis.oregonlegislature.gov/liz/2020R1/Measures/Overview/HB4088

- Find and explore alternatives to statute, rule, and policy that are systematically discriminatory against any Oregonians using cannabis therapeutically.

- Explore ways to ensure that no patient is being excluded from any safety net programs (e.g., shelters) for their use of cannabis as medicine.

- Explore ways to ensure that vulnerable patient populations have no-cost access to the cannabis program.

- Explore ways to identify, address, and solve for discriminatory, out-of-date, inconsistent, and fear-based practices across the health care complex that negatively impact patient autonomy and care or prohibit clinicians from providing the appropriate care or medications for patients using cannabis.
    - Do the same for other programs and agencies like CPS, DHS, DOJ, DOC, etc.

- Develop recommendations to alleviate the impact of identifiable inflexible social constructs that inherently discriminate against patients (e.g., amending pain management contracts and pre-employment/employment drug and random drug screening protocols, etc.)