

To M91 Committee Members, of both Joint and Senate Committees:

RE: SB 964 Testimony and the local opt-out option

My name is Jennifer Alexander, and I am a resident of Beaverton and a board member with Portland NORML, a marijuana consumer advocacy organization. My goal in watching the implementation of M91 is to ensure that consumers are protected, regardless of their reason for using marijuana, and that their needs and preferences are considered while implementing M91. I'm actually quite shocked at the lack of solicitation for consumer input in these very important conversations, from the legislative committee, the OLCC or the rules advisory committees. I keep hearing different bodies talk about how they sought out the input of "everyone" but they never mention consumer's input.

Senator Prozanski and Representative Buckley have both been long time proponents for improving on the medical marijuana program for the benefit of patient consumers. Most of the other members have spoken of their desire to ensure safe and regulated access for both patients and recreational users. But the dialogue surrounding implementing M91 and "fixing" OMMA has completely excluded the voice of consumers from the invited testimony, or the rule-making process that has recently just began. Industry voices were solicited, and law enforcement and local governments have been granted multiple opportunities for invited testimony and more than a few positions in the rule-making process. And while it is probably fair to say that many of the industry voices present in invited testimony are likely consumers of marijuana as well, their perspective is one colored by economic interests and not strictly consumer based.

I really think it is important at this time that this committee seriously consider the perspective and needs of consumers – and as it pertains to the dialogue at hand, the consumers impacted by the proposed language are medical marijuana patients. The changes proposed in this committee are not just about what industry wants or what local governments want, but what patients need. Their voice has to count, because this whole medical marijuana law is solely for them. OMMA was never proposed to make the jobs of local governments easier, nor was it proposed to allow for money making ventures. It was to ensure that medical marijuana patients were not on the front lines of the war on drugs. Yet, the local options being presented put those patients right out in front, in the most precarious positions with the least options available to them to rectify the situation.

I would like to propose a compromise for your consideration on the issue of local opt-outs, to better address the concerns of both local governments and the need for patients to have safe access to medical marijuana – a need that Oregon voters overwhelmingly support. In fact, even those opposed to medical marijuana have long suggested that it would be more acceptable if the medical marijuana were tested and regulated and sold from "pharmacies" (since most people outside of marijuana advocates fail to understand the conflict with federal regulations for dispensing of controlled substances, and pharmacies being involved in marijuana distribution, they say "pharmacies" but actually mean the controlled environment that they perceive a pharmacy to be) instead of managed in a grey or black market with no oversight.

The issue I am concerned with regarding SB 964 will apparently continue to rear its head, so I wanted to include the House members from the Joint Committee, despite the fact that the Senate Committee on Implementing M91 will be hearing SB 964. I have a compromise that I haven't heard presented yet – and I hope all committee members will consider this compromise before proceeding.

I am very concerned about the option to allow local governments to opt-out of dispensaries. I'm far less concerned about the option to allow local governments to opt-out of allowing licensed processors or commercial grow locations in their districts, but I feel it is both cruel and heartless to require the most vulnerable patients to petition for the right to access their medicine via regulated outlets.

Let me be clear that many patients have multiple options for acquiring marijuana – both illicit and legal means. They are able to grow their own marijuana, have someone grow for them, or purchase it from a dispensary legally – and there are a number of methods for those same patients to acquire marijuana through illegal means, including buying it from a medical marijuana grower outside of legal means or from the more classical black market.

But those who will suffer under the local opt-out are the most vulnerable patients – those who cannot grow for themselves or make their own edibles and may not have the means or ability to travel to locations where legal safe access points are allowed. These same patients are often low-income, without reliable transportation, have burdensome care regimens that require that they remain close to their homes for their regular care, etc. By refusing to allow legal, regulated dispensaries in their localities, you will be subjecting these most vulnerable patients to unregulated options and putting them at the mercy of potentially unscrupulous individuals who are outside the regulated markets under OMMA and M91. This defeats the entire purpose of M91, HB 3460 and the original OMMA.

I also don't think the committee members have really considered which patients will be required to petition for their rights to access dispensaries if localities enact bans on dispensaries. The patients who have the most severe physical ailments, are the most frail and/or the low income are the ones who are going to suffer under the dispensary bans and they are going to be the ones who are supposed to petition to gain access to their medicine again. Those patients who have physical and financial means will have no problem finding alternatives in the face of bans in their localities and will have far less incentive to expend the time, money and energy petitioning to overturn the bans. Why would this committee even consider requiring these most frail to fight to gain access to the legal, tested, regulated medicine that voters granted them in 1998 and was expanded by the legislature with HB 3460, while the rest of Oregon overflows with legal access?

I think it is really important that all committee members acknowledge that these vulnerable patients are the least likely to be able to initiate a petition to overturn a local ban, and yet they are the ones most impacted by local bans. To require that they petition (again) in order to access their medicine is unrealistic and cruel. This allowance for banning dispensaries will not curtail the black market, and in fact will fuel it, with the only known being that it will most definitely harm the most vulnerable and legitimate of medical marijuana patients.

Since not a single committee member spoke last week in opposition to the dash 23, which required a mandatory referral, nor in support of the dash 24, which allowed local governments the right to ban without consideration of their constituents – and none of the committee members responded to my email inquiry last week as to why they supported the dash 24, but opposed the dash 23 – it is unclear what exactly the opposition is to allowing voters to make the decision themselves while halting licensure until the election as proposed under the dash 23. I agree with Buckley and Prozanski that the dash 23 was a very reasonable compromise to the question of local opt-out. I believe that the opposition lies primarily with the processing, kitchens, gardens and other industrial activities associated with providing to the dispensaries, and not actually the concerns surrounding the dispensaries themselves, that are most at conflict in the local opt-out dialogue, based on everything I have heard in previous meetings and

testimony.

My proposed compromise is this: I would like to recommend that dispensaries be allowed statewide and maintain exclusive state preemption for their regulation – patients should not be denied safe legal access for any reason. However, aside from dispensaries, which would be under local control (outside of time, place & manner restrictions), allow local governments to determine if they want processors or other commercial operations to take place in their localities, with the provisions that the dash 24 included, such as the 180-day limit on imposing the bans for all the reasons Senator Prozanski expressed in last week's work session.

Preventing legal access points for patients only ensures that patients will be forced to frequent illicit access points – in other words, the proposed option to allow local governments to ban dispensaries is promoting the black market directly and intentionally. That is completely contrary to the intent of voters with the passage of M91 and the intent of the legislature with HB 3460. It is also completely contrary to the provisions of the Cole Memo by directly encouraging the black market to thrive by preventing legal access to medical marijuana for the most vulnerable patients. There is no sound reason to allow bans on safe access retail points in any locality. Especially with all the additional controls and oversight that has been implemented to protect consumers and the broader public under the regulated regime, it seems ridiculous to force the most vulnerable to continue to deal with grey markets and unregulated marijuana products, while the rest of marijuana moves out into the open with testing, labeling, safe handling practices, etc.

Please consider this compromise before continuing forward on the issue of local opt-outs. While I am aware that some cannabis industry participants may not support allowing local governments to prevent their operation in terms of processing or cultivation, they will be far more likely to have the means to petition to have this overturned – the most vulnerable patients that will be impacted by banning dispensaries do NOT have the means. I think it is far more important that we protect the most vulnerable patients, and banning dispensaries while reducing the plant counts places these most vulnerable patients in harms' way. Please retain state preemption on dispensaries and only allow the local opt-out provisions to apply to processors and other commercial industrial operations.

Thank you for your consideration.

Sincerely,

Jennifer Alexander