

Testimony Supporting
SB758
OREGON MEDICAL AND THERAPEUTIC CANNABIS ACT

Looking at OMMP Through a Health Equity Lens

Prepared for Compassionate Oregon

By

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Introduction:

Who is testifying? About Elizabeth Porter, MSSM, GISP (Eugene, OR)

I am a 5+ year OMMP patient with glaucoma, responsive to cannabis therapy and unable to tolerate and unresponsive to currently available FDA-approved glaucoma medicines.

I served as the chief information officer for one of the busiest regulatory districts in the US, overseeing the modernization of the reporting and tracking systems for regulating water. My work history includes the development of complex land surveillance systems and reporting systems for a variety of applications.

I conducted hundreds of public interest reviews, participated in rule-making and legislative reviews.

I contributed to the development of state, federal and international data standards.

I participated on both working and strategic national committees addressing issues in information collection, retention, benchmarking and information ethics.

I have studied open source materials on cannabis tracking systems for over five years.

I am engaged in study of mining for bias in the EMR with respect to cannabis use.

I advise on issues of health parity, healthcare IT, and civil rights for state and national civil rights, patient advocacy and policy groups.

My training is in both science and systems engineering.

I have no financial interests in cannabis tracking or EMR systems or any alternative technologies.

I have no business interest in the cannabis industry.

Health Equity – Can there be equity with pervasive, institutionalized stigma?

Impact of Stigma on Health Outcomes

“Stigma tragically deprives people of their dignity and interferes with their full participation in society.” US Surgeon General’s Report on Mental Health, 1999

Stigma as recognized in public health as one of today’s foremost health care challenges and deteriorates quality of care:

Stigma in relation to patients who use cannabis therapeutically consists of:

- lack of relevant knowledge (**ignorance**)
- attitudes (**prejudice**)
- behaviors (**discrimination**)

Parity is equality in rights and access to healthcare between a patient who uses cannabis therapeutics compared to a patient who uses other health options.

Importance of §3: OHA Public Health Role Web Site Revisions

Current web site:

- Addresses only harms and no benefits of cannabis use.
- Protects “public health” but there is no mention of protecting vulnerable patients.
- Uses decisive language to demonstrate active support for ‘use prevention’ but noncommittal (or absent) language for safe use, consumer testing, and support for OCC oversight.

The screenshot shows a web browser window displaying the Oregon Health Authority's Public Health Role page. The browser's address bar shows the URL: oregon.gov/oha/PH/PREVENTIONWELLNESS/MAKIJUANA/Pages/public-health-role.aspx. The page features a blue navigation bar with the Oregon.gov logo and several menu items: About OHA, Programs and Services, Oregon Health Plan, Health System Reform, Licenses and Certificates, and Public Health. The main heading is "Public Health Division's Role". Below this, an information icon (i) is followed by the text: "Related to cannabis, the role of Oregon Health Authority's Public Health Division is to:". The page is organized into a table with two columns. The left column lists various topics, and the right column provides details for each. The topics listed are: Cannabis and Your Health, Health and Safety, Frequently Asked Questions, Cannabis Laws, Public Health Division's Role (which is highlighted), Scientific Advisory Committee, Data and Reports, Communication Resources, and Universal Symbol. The details for "Public Health Division's Role" are: "Protect the public's health" with a bulleted list of four points: "Understand and minimize the negative public health impacts of cannabis use", "Educate the public about adverse health issues related to cannabis use", "Protect children and vulnerable populations from cannabis exposure", and "Prevent youth cannabis use"; "Monitor cannabis use, attitudes and health effects in Oregon"; "Regulate medical marijuana and dispensaries" with a bulleted list of two points: "Administer the Oregon Medical Marijuana Program (OMMP), which oversees the medical marijuana cardholder registry for patients and regulates medical marijuana dispensaries, processors and grow sites" and "Convene the Oregon Cannabis Commission"; and "Accredit laboratories".

Cannabis and Your Health	
Health and Safety	
Frequently Asked Questions	
Cannabis Laws	
Public Health Division's Role	<p>Protect the public's health</p> <ul style="list-style-type: none">• Understand and minimize the negative public health impacts of cannabis use• Educate the public about adverse health issues related to cannabis use• Protect children and vulnerable populations from cannabis exposure• Prevent youth cannabis use• Monitor cannabis use, attitudes and health effects in Oregon
Scientific Advisory Committee	<p>Regulate medical marijuana and dispensaries</p> <ul style="list-style-type: none">• Administer the Oregon Medical Marijuana Program (OMMP), which oversees the medical marijuana cardholder registry for patients and regulates medical marijuana dispensaries, processors and grow sites• Convene the Oregon Cannabis Commission
Data and Reports	
Communication Resources	
Universal Symbol	<p>Accredit laboratories</p>

Importance of §5 & 24: *What Are the Most Critical Information Civil Rights Concerns?*

Co-mingling health information in a law enforcement data system

OMMP Creates An Unprotected Patient Cohort

2015 Civil Rights Principles for the Era of Big Data

- Stop High-Tech Profiling. ...
- Ensure Fairness in Automated Decisions. ...
- Preserve Constitutional Principles. ...
- Enhance Individual Control of Personal Information. ...
- Protect People from Inaccurate Data.



Chapter 1: Financial Inclusion

As Insurers Embrace Big Data, Fewer Risks Are Shared

Data Brokers Enable Targeting of Financially Vulnerable Communities

Furthering Financial Inclusion with "Alternative Data"



Chapter 2: Jobs

E-Verify: The Disparate Impact of Automated Matching Programs

Hiring Algorithms May Put Jobs Out of Reach

In Online Searches, Big Data Systems Reproduce Racial Bias



Chapter 3: Criminal Justice

Predictive Policing: From Neighborhoods to Individuals

Secrecy Is a Barrier to Responsible Use of Police Technologies

Body-Worn Cameras Can Promote Police Accountability



Chapter 4: Government Data Collection and Use

Dragnet Surveillance Short-Circuits Court Review in Drug Cases

The Temptation to Abuse Government Databases

The Census: Big Data for Civic Welfare

- [American Civil Liberties Union](#)
- [Asian Americans Advancing Justice — AAJC](#)
- [Center for Media Justice](#)
- [ColorOfChange](#)
- Common Cause
- [Free Press](#)
- [The Leadership Conference on Civil and Human Rights](#)
- NAACP
- [National Council of La Raza](#)
- National Hispanic Media Coalition
- [National Urban League](#)
- NOW Foundation
- [New America Foundation's Open Technology Institute](#)
- Public Knowledge

Importance of §14: Grower Rules: Promotes Systemic Racism Via Plant Counts and Added Requirement for Land Ownership Permission Reporting

- Applicable for medical growers in tenancy arrangements and in urban settings.
- Targets vulnerable community members: renters and urban dwellers.
- Renters (vs owners) are disproportionately people of color, people with disabilities, the elderly, and those with lower income.

SECTION 2: HOMEOWNERSHIP RATES

Data gathered by the American Community Survey (ACS) show that homeownership rates are lower for communities of color in Oregon than for whites (Table 2). Based on the same ACS data, an additional 63,842 households of color would need to become homeowners to eliminate the gap in homeownership rates.¹ Currently there are approximately 1.6 million households in Oregon.

Table 2. Oregon Homeownership Rates 2013-2017

Community	Rate
American Indian / Alaskan Native	44.8%
Asian	59.4%
Black or African American	32.2%
Hispanic or Latino	40.8%
Native Hawaiian or Another Pacific Islander	33.4%
Other Races	40.6%
Two or More Races	46.4%
White, Not Hispanic or Latino	65.1%
Overall Rate	61.1%

Source: Legislative Policy and Research Office

Data: 2013-2017 American Community Survey Five-Year Estimates

Source: Joint Task Force Addressing Racial Disparities in Home Ownership, Report on Addressing Barriers to Home Ownership for People of Color in Oregon, Dec 2019, OR Legislative Policy & Research Office, downloaded 6/24/20

https://www.oregonlegislature.gov/citizen_engagement/Reports/2019-JARDHO-Addressing%20Barriers%20to%20Home%20Ownership%20for%20People%20of%20Color%20in%20Oregon.pdf

OMMP Should Address Digital Inclusion and Cyber Security Risk of Program Immediately

“Broadband is not a speed. It is the capacity to meet the social, cultural and economic demands of Internet users, which grow and evolve over time.”

- Jonathan Chambers

OBAC believes that Oregon’s broadband public policy needs to be focused on the future, be more aggressive, be more financially supportive, be more specific, and have a renewed sense of urgency.

OBAC has observed and frequently reported that “broadband” is a moving target and that broadband infrastructure will always be a work in progress. This is critical for the assessment of *Broadband in Oregon*. The Federal Communication Commission’s (FCC) current benchmark for broadband is 25 Mbps downstream and 3 Mbps upstream, and that bar will be raised in the future due to improving technologies, the introduction of new applications and ever increasing end-user demand. This means that the digital divide not only continues to exist, but will grow without new and continued investment in broadband infrastructure. This means that Oregon communities that do not have access to today’s or tomorrow’s national standards for broadband services will not be able to adequately support long term economic growth.

Key Broadband Challenges and Opportunities

OBAC has identified the following key broadband challenges and opportunities facing Oregon.

- **Digital Inclusion:** Oregon needs state-level strategies and programs to ensure that all individuals and communities have access to affordable state of the art broadband communications services, and the skills, knowledge and technical support needed to use them.
- **Cyber Security:** The security of data and communications systems continues to be a critical risk exposure for government, public organizations, private sector businesses, and for individuals that is widely unrecognized and under managed. Oregon needs to follow-through on its 2017 cyber security initiatives www.cyberoregon.com. Ongoing, expanded and pro-active cyber risk management is needed.

What Health and Safety Requirements are Requirements (and Not Elective Data Mining) Are Necessary to Justify Occupying Internet Bandwidth for Cannabis Reporting?

***Review requirements carefully.
These have social justice implications.***

For Required Internet Reporting, Subsidies should be provided to bridge the “Digital Divide”, not exacerbate it. Revisit “requirements”; revisit costs to include equity measures needed.

To address these challenges, OBAC offers the following recommendations

- Create a dedicated state government broadband office.
- **Provide state funding** for new grant, loan and loan guarantee programs **for broadband infrastructure in unserved and underserved areas**, and for matching funds to leverage federal funding programs.
- Repurpose and redesign the Oregon Universal Service Fund to be sustainable and to improve and subsidize *broadband* infrastructure in unserved and underserved areas.
- **Provide support to low adoption populations** and community anchor institutions, e.g., the FCC’s E-rate Program, Healthcare Connect Fund and Lifeline programs.
- Promote broadband infrastructure deployment.
- Require that broadband infrastructure components such as conduit be included for all state funded infrastructure programs including roads, bridges, water, and wastewater projects.
- **Remain technology and provider neutral.**

**Marijuana Programs Have
Info Technology Mandates**

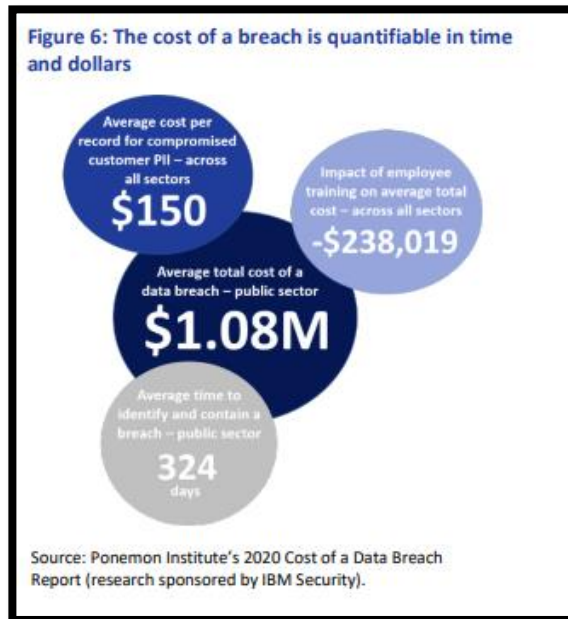
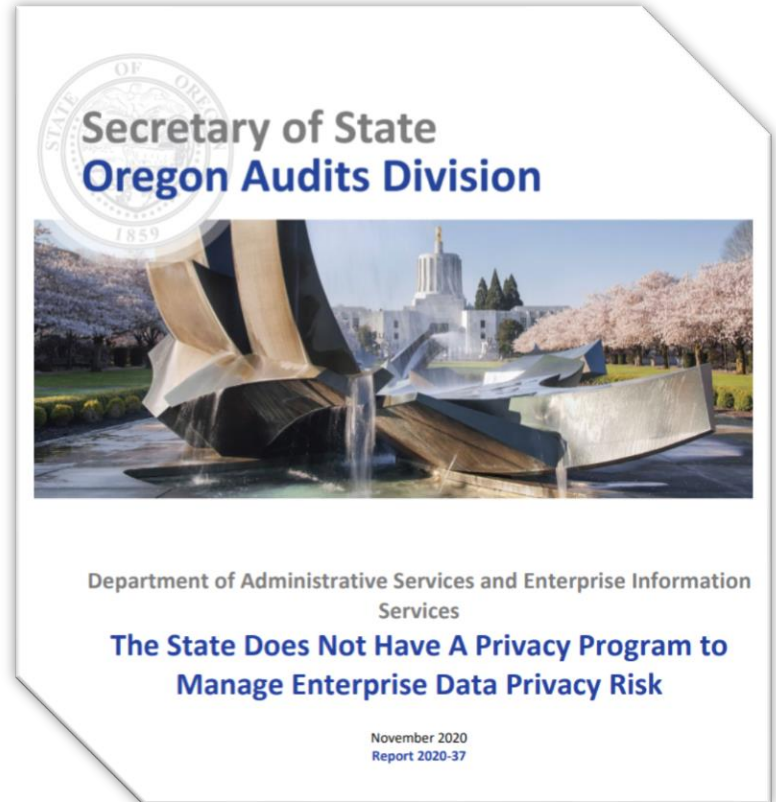
Broadband is essential infrastructure for Oregon, its businesses, government, schools, libraries, utilities, healthcare providers, first responders and families.

Concerns In Oregon 2020 SOS Audit Report on Privacy Risk Are Relevant to OMMP

Oregon does not have a statewide program to manage data privacy risk

The state lacks enterprise policies and procedures for how to respond to incidents where PII has been compromised

PII is collected by many agencies, but not clearly defined



From Report: High Cost of a Single Data Breach

Do OMMP Patients Have Civil Rights? Court Rules Against Marijuana Patient

Bureau of Labor and Industries
CIVIL RIGHTS OPERATIONS MANUAL



MANUAL: <input type="checkbox"/> Procedure <input checked="" type="checkbox"/> Policy	ORS:
SUBJECT: MEDICAL MARIJUANA	OAR:
SOURCE: Administration	EFFECTIVE DATE: 3/24/99 REVISED: 11/4/2010
NUMBER: CRDPOL-M-3	PAGE: 1 of 1

BACKGROUND:

The Oregon Medical Marijuana Act (OMMA, ORS 475.300-ORS 475.346), passed in 1998, contains provisions authorizing the use of medical marijuana, and exempting such use from criminal liability under state law.

Disputes may arise when a disabled person requests that an employer or housing provider accommodate their use of medical marijuana to alleviate disabling conditions.

The Oregon Supreme Court has ruled that the federal Controlled Substances Act preempts the Oregon Medical Marijuana Act's authorization of the use of medical marijuana, and that the protections of ORS 659A.112 do not apply to the use of medical marijuana. *Emerald Steel Fabricators, Inc., v. Bureau of Labor and Industries, Or.* (2010). ORS 659A.112 applies exclusively to employment practices. But, because the use of medical marijuana under ORS 475.306(1) is preempted by the federal law, and neither the state nor the federal law exclusively relates to employment practices, the preemption is equally applicable to housing discrimination claims under ORS 659A.145.

POLICY:

Civil Rights Division will not investigate employment or housing claims of discrimination pertaining to the use of medical marijuana.

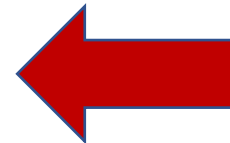
PROCEDURE:

Upon receipt of information indicating a claimant's wish to file a complaint involving the use of medical marijuana, the claimant should be advised that the Civil Rights Division will not investigate their complaint. Such persons should be advised of their right to consult with an attorney.

Are there any venues to address social inequity while this ruling stands?

A legislative fix is needed.

Participants in OMMP do not have civil rights protections.



Thank you for allowing me to testify
in support of SB758

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THERAPEUTIC CANNABIS ACT

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