



Sagebrush Law^{LLC}

Jonathan M. Dennis, Esq. | 124 S. Oregon St. | P.O. Box 305 | Ontario, OR 97914 | 541.709.5908 | jon@sagebrush-law.com

To: Oregon Senate Committee on Health Care
From: Jonathan Dennis
Date: March 1, 2023
RE: *Testimony concerning SB 303*

Contrary to testimony provided by several medical doctors who support SB 303, OHA says Measure 109 (“M109”) “does not create a medical model” for psilocybin services.ⁱ In fact, [OAR 333-333-5130\(3\)](#) expressly prohibits doctors, therapists, and all other licensed professionals from practicing within those professions while providing psilocybin services. Rather, M109 is more accurately described as a “supported adult use” program that allows people to take psilocybin for virtually any reason.ⁱⁱ This includes religious reasons.

In response to public comment received during the December 2021 “public listening session,” OHA provided the following [helpful guidance](#):

“Q: Can the psilocybin services be offered within a ceremonial or religious context?”

A: Yes, if psilocybin services take place at a licensed service center and is otherwise compliant with statute and rule requirements.”ⁱⁱⁱ

Since 2020, a large part of my legal career has focused on the intersection of psychedelics and religious liberties. My law practice includes advising clients about the legal protections available to sincere religious adherents who use controlled substances in bona fide religious practice. In February 2022, I presented to the Oregon Psilocybin Advisory Board’s Licensing Subcommittee about ways Oregon could help close the gap between the M109 program and the religious liberties that are presently recognized at the federal level through the Religious Freedom Restoration Act (“RFRA”). Now that the M109 program has gone live, I regularly receive requests for advice and representation along the intersection of M109 and religious practice. Accordingly, the impacts on religious groups who would be affected by SB 303 deserve consideration in your deliberations.

In religious contexts as elsewhere, SB 303 would compel facilitators and service centers to gather and share detailed information about activities that maybe be legally ambiguous under federal law, including:

- The reasons for which a client requests psilocybin services;

- The number of clients served;
- The number of individual administration sessions provided;
- The number of group administration sessions provided;
- The number of individuals to whom the psilocybin service center denied psilocybin services and the reasons for which psilocybin services were denied;
- The number and severity of adverse behavioral and medical reactions experienced by clients
- The average number of times per client that psilocybin services were received;
- The average number of clients participating in each group administration session; and
- The average dose of psilocybin per client per administration session; and
- The race, ethnicity, preferred spoken and written languages, disability status, sexual orientation, gender identity, income, age and county of residence of each client.

In addition, a careful reading of the proposed amendment to SB 303, at Section 2(2)(a), reveals that OHA would have to collect and submit to OHSU information that extends even beyond the information summarized above, such as the collection of “the information required to complete a client information form described in ORS 475A.350.” The information required by the client information form is extensive and is found in [OAR 333-333-5050](#). It includes inquiry into whether a client is “currently being treated by a medical, clinical or other healthcare provider for a medical, mental health, or behavioral health condition.” It also opens the door for more extensive data gathering requirements in the future, as it would compel collection and submission of “any additional information” that “in the discretion of [OHA], would be beneficial to understanding the outcomes of psilocybin services” under M109. SB 303, at Section 2(2)(b)(F), 2(7).

While such data would be of undeniable scientific interest, compelling the collection of such data would be repugnant to religious practitioners and others for whom the psilocybin experience is sacred. Moreover, for religious groups operating under M109, compelling collection as proposed by SB 303 would constitute an undue burden on the free exercise of religion in violation of the First Amendment.

In addition to religious concerns, SB 303 evinces a callous indifference to the very serious affordability and cultural sensitivity challenges that already plague M109, the latter of which are well-addressed in the testimony submitted by the Administrator of OHA’s Center for Health Protection, André Ourso:

“Psilocybin remains a schedule one substance under the federal Controlled Substances Act, meaning that use, production, and distribution of psilocybin is a federal crime. The client information required by SB 303 is extensive and could be seen as invasive for many clients, especially for clients who belong to communities that have been subject to disproportionate enforcement of criminal laws or unethical research practices. Therefore, the data collection required by SB 303 is likely to discourage members of these communities from seeking psilocybin

services to address conditions specific to their communities. The same requirements may also discourage psilocybin facilitators who belong to these communities from participating in the regulated space.”

SB 303 would also increase the financial barriers of access in several ways. First, SB 303 would conscript all facilitators and all service centers into the service of a research program at Oregon Health and Sciences University, adding to the time required to serve each client and to general overhead expenses. Second, even OHA itself would be conscripted into OHSU’s service and forced to “collect and compile data,” the costs of which will ultimately be passed on to licensees through increased licensing fees.

One of the express purposes of M109 is to ensure that psilocybin becomes “a safe, accessible and affordable therapeutic option for all persons 21 years of age and older in this state for whom psilocybin may be appropriate[.]” ORS 475A.205(1)(c). This means amendments to M109 should move it in the direction of making the program financially accessible to 520,000 Oregonians living in poverty.^{iv} SB 303 moves it in the opposite direction.

It is curious that so many of the same people who now support SB 303 in the name of promoting safety are the same people who appeared content in 2020, during the M109 campaign, that the safety profile of psilocybin had already been medically well-established. This includes Tom Eckert, Sam Chapman, and even the bill’s chief sponsor Senator Elizabeth Steiner, who herself is an adjunct associate professor at OHSU where the client data would be sent for analysis. It appears that research interests, rather than client safety, are the true motivations of this bill, as suggested by Healing Advocacy Fund President Graham Boyd in [this video](#).^v

In summary, the reasons offered for this bill do not justify the cultural insensitivity that it would add to the M109 program nor the exclusionary impact it would have on low-income Oregonians. While I share the hope that research into the benefits and risks of psilocybin and other psychedelic substances will continue to flourish, a state-run, client-funded, mandatory data collection program is not the right path forward.

I urge you to vote no on SB 303.

Kind regards,



Jonathan M. Dennis,
Attorney at Law

ⁱ Oregon Health Authority. (2022, December 27). Presiding Hearing Officer’s Report on Rulemaking Hearings and Public Comment Period. Retrieved March 1, 2023, from https://www.oregon.gov/oha/PH/PREVENTIONWELLNESS/Documents/333-333_HOReport_Dec2022_FINAL.pdf

ii Marks, M. (2021, December 17). Warning: Oregon legalized supported adult use of psilocybin, not psychedelic therapy. Chacruna. Retrieved March 1, 2023, from <https://chacruna.net/oregon-legalized-psilocybin-supported-adult-use/>

iii Oregon Health Authority. (2022, January 14). 2021 Public Listening Sessions: Summary of Questions and Answers. Retrieved March 1, 2023 from <https://www.oregon.gov/oha/PH/PREVENTIONWELLNESS/Documents/2021-OPS-Listening-Sessions-Summary-QA.pdf>

iv Oregon Center for Public Policy. (2020, August 7). A Portrait of Poverty in Oregon. Retrieved March 1, 2023, from <https://www.ocpp.org/2020/08/07/poverty-oregon/>

v Boyd, G. and Sam Chapman, (2022, November 6). Future of State Access to in [sic] Oregon and Beyond. Boston Psychedelic Research Group. Retrieved March 1, 2023 from <https://www.youtube.com/clip/UgkxpzXz68pwGeZE188hdHVJS5xCmxMuAqiC>