To: The Honorable John Kroger

From: Eric Dover, M.D.

Dear Attorney General Kroger,

I am writing to ask you to intervene on the public and my behalf regarding the Oregon Medical Board. The State of Oregon needs to evaluate the competency of this governmental body and whether their politics are hindering their ability to make fair and honest decisions. They seem to be on a witch hunt regarding physicians that are willing to sign a statement that medical marijuana may be beneficial medically to qualified patients. (Please see the attached form titled “Attending Physicians Statement” which explicitly details that the doctor’s signature does not constitute a prescription for marijuana. The signature indicates only that medical marijuana may be helpful for the patient’s medical condition.) The Medical Board seems out to abolish patient’s access to this medicine by making sure that no physicians are available or willing to sign these forms. They punish physicians that sign this statement, but do nothing about the institutions or physicians that restrict patient’s access to this medicine. This is no different than doctors, pharmacists, or hospitals blocking patient access to the morning after pill, tubal ligations, vasectomies, birth control pills or abortions. Regarding medical marijuana though, this involves a State Board (governmental body) whose decision to restrict access to this medicine has state wide effects. The citizens of Oregon voted for a more natural and, for them, more effective and functional way of treating their ills. The physicians on the Oregon Medical Board are in direct opposition to the public’s wishes. These physicians are “flat earthers”. They would be the same individuals that would have put Galileo to death because he had the audacity to understand that we revolved around the sun instead of the sun around us. **The Medical Board Members know nothing of medical marijuana. They would rather patients receive addictive, life destroying opiates, benzodiazepines, muscle relaxers, and an array of other expensive drugs and treatments (like epidurals) with a myriad of side effects and limited if any effectiveness; and then, only if the patient has private insurance or a lot of cash.**

The Medical Board’s interactions with me to this point have been either horribly incompetent and/or criminal in nature. The **Medical Board breached my confidentiality on three different occasions** by sending confidential letters to a non-profit organization that I did consulting for. Each time they breached my confidentiality I informed them that they had sent the confidential notices to the wrong address, a non-profit organization, but the behavior continued. They have my office address of the past 8 years on file. I am required by law to contact them within 30 days of any changes in the address that I practice at. How they would even know to send it to the non-profit organization is confusing to me. At no time was the nonprofit’s address ever given to the Board in any context as a place to contact me. All three letters were opened by volunteers and read prior to me seeing them. In fact, the way I found out about all three of these letters was a phone call from the nonprofit’s staff. If this occurs in my practice of medicine just once then the Board is after my scalp (see below), let alone if it happened on three different occasions. **Confidentiality doesn’t seem to be a priority at the Medical Board.**

**Nor does democracy, fairness or typical legal formalities seem to be a priority for the Medical Board.** **My lawyer has on three different occasions over the past 6 months requested records from the Medical Board regarding this case. They have never responded to these requests. They are simply ignored.** Yet the Board has no problem throwing unsubstantiated accusations at me. I was questioned by their Investigative Committee 6 months ago. They asked questions of and made accusations pertaining to medical records that I had not seen for 1½ years and still have not seen. **Is this how a “Progressive” State acts towards its citizens and doctors?**

My interactions with the OMB began two years ago. I was hired as an independent contractor (consultant) for a non-profit organization called Voter Power. I was hired to determine whether their patients fit the criteria for medical marijuana. I would take a history, review their charts, studies, medical consults and do a physical exam to determine whether they qualified or not. I would fill out forms that Voter Power had. These forms were what the State had determined were required to be filled out if a patient “qualified” for the program. The State of Oregon then makes the decision to issue a medical marijuana card or not.

Two years ago a male individual came into a Voter Power Clinic in Medford, Oregon to see if he could qualify for medical marijuana. His medical illness was gout. All he had for documentation were two Urgent Care visits showing that he had had two acute attacks of gout (from what I can recollect). I told him that there was definitive treatment for gout and that he needed to seek the help of a physician. He was told that a medicine called allopurinal was used to treat gout. He immediately stated that he was allergic to allopurinal, but he had no documentation to support this or that he’d ever received the medication. He was instructed to provide this if it was available. He was also given an x-ray request that he could use to document chronic gouty arthritis in his foot if he so desired.

This individual was quite argumentative. He was given back all his money for the consultation right at the time that he was told he would not “qualify” (this was standard). He then, as was later found out, removed his and another individual’s records and Voter Power’s paper work from the Voter Power clinic. This went unnoticed by the volunteer and organizational staff that made up Voter Power because of the chaos he was creating with his continued persistence to have the Physician Statement for medical marijuana signed.

This individual then supposedly complained to the Medical Board. He supposedly stated that I told him to take Allopurinal after he stated he was allergic to it. This is untrue. I was not there to treat him (nor anyone else ), but to review his case and then interview and examine him to determine whether he “qualified” for a signature on a form that stated marijuana may be beneficial for him medically. Nothing more. He certainly didn’t receive a prescription for allopurinal from me the day I saw him nor did he have any documentation from a physician or a pharmacy that he had been treated with allopurinal in the past. **He was told nothing more than to see a physician for further evaluation and documentation of his medical problem.**

He supposedly stated he came back the day after I had seen him. He came supposedly with his wife and further records. This is untrue. By then it was known that he had removed all personal and medical information about himself from Voter Power. The information that was removed would have been retrieved at that time if he had returned. He also supposedly stated that I had ordered an x-ray of the wrong foot, but who knows without any documents to review? **For two years I have tried to get copies of any records related to my encounter with this individual. My lawyer has requested them 3 times. The Oregon Medical Board has been literally silent in regards to sending them. They haven’t even acknowledged these requests.**

The Medical Board has accused me of not performing a physical exam. This is untrue. A focused physical exam was performed and was unremarkable for signs of acute or chronic gout or stigmata related to gout.

After the patient supposedly complained to the Medical Board a letter of explanation was requested of me by the Board. I requested any available records so as to help me reconstruct the encounter. None were given. The Board then asked for charts of five patients seen through Voter Power for them to review. They received the charts of one patient who had AIDS, two who had Multiple Sclerosis, one with chronic low back pain as a result of three failed back surgeries and one with stage 4 (end stage) colon cancer. Each patient’s chart was at least two inches thick documenting their medical illnesses.

The Investigating Committee had me come in 6 months ago to “answer some questions”. They seemed in utter disarray. They had no idea my lawyer was coming. They seemed to have no idea that my lawyer had twice requested records. Dr. St. Claire of the Investigating Committee made the statement prior to my questioning that maybe my interrogation should be postponed until after I received the records. The committee continued with its interrogation and I have yet to receive any records. **My lawyer spoke up to the fact that he had requested the records twice prior to the questioning. This went ignored by all present and involved with that proceeding.**

I was told during the questioning period that the AIDS patient was a very complicated patient. I was asked if I realized that he had had syphilis in the past. I’m still not sure what that has to do with a medical marijuana card for problems associated with AIDS? I was asked if I realized he had depression. I informed the Investigative Committee that I was aware of this. In addition they were informed that the patient’s form was not signed for depression, but for other problems related to AIDS. Lastly, they were informed that some States who have medical marijuana laws allow its use for the treatment of depression and that the medical literature actually supports its effectiveness.

I was then read a statement from a supposed physician’s note from a computer screen that neither my lawyer nor myself had access to. Supposedly, the patient, after I had seen him, had told another physician that I had counseled him on how to obtain a concealed weapons permit and that he needed to get one. This is absurd. I do not presently nor in the past have I ever had a concealed weapons permit in any state. I would have to actively seek out that information myself. **This supposed physician note has not been made available to my lawyer or me. Is this justice in Oregon?** **The Oregon Medical Board has thrown accusations at me, yet my lawyer and I am not privy to the documentation these accusations supposedly come from. Again, is this justice in Oregon?**

After the interrogation process, the Medical Board then requested the April 2009 patient schedule from my Family Practice office. This was sent. They chose ten patient charts to review. These were sent. Nothing more good, bad or indifferent came from the Medical Board regarding these ten patient’s visits to my office that they supposedly reviewed. I never even received notice that they had received the charts.

On October 30th of 2009 a letter was sent from the Medical Board – “Complaint of Notice of Proposed Disciplinary Action”. Please see the attached copy. They state that there was a mix up of two patients forms (not charts) and that this compromised patient confidentiality. The mix up may be true, but it is difficult to verify being that no records have been made available to my lawyer or me. If it did occur it was certainly accidental and in no way harmed anyone’s confidentiality except in the most minor of ways. This mistake, if it even occurred, would have been a result of the nonprofit Voter Power staff. I had nothing to do with the mix up of the forms or the patient with the history of gout taking all the records and paperwork. The patient basically stole the records. **In reality it was not so much a mix up of patient’s forms as much as it was a patient removing records, I think knowingly, that weren’t his.** As stated earlier, my confidentiality was severely compromised on three different occasions by the Medical Board. This doesn’t seem to matter. I’m held to a different standard by the Medical Board. I’m held responsible for a “possible mistake” made by a nonprofit organization. This is just another example of why I don’t trust the Medical Boards judgments or politics.

They then state in their complaint that “the patient suffered from severe pain from gout”. I’m not sure how they ascertained this. He was in no pain when I evaluated him and had no evidence of acute or chronic gout. I’m not aware of anyone on the Medical Board examining him. There goes the Board again making subjective accusations based upon no more than either a patient’s statement or this supposed physician’s chart note that the patient supposedly saw after he had come to Voter Power. I’d be very interested to know who this supposed physician is and to see their chart note(s), but again the Medical Board basically refuses to hand over this documentation. Here is another reason I can’t trust the Board to be truthful, honest or fair.

The Complaint then states that the patient was on Allopurinal from his physician. They state that I told him to continue taking the medication even though he stated he “was allergic to it” As far as I know he had no treating physician, just two urgent care visits for acute gout. He was not given allopurinal at these urgent care visits. (It would be inappropriate to treat an acute attack of gout with this medication. Allopurinal is used for therapy once the acute episode of gout is resolved.) There was no documentation provided by the patient to show that he had ever been prescribed allopurinal, let alone had an allergic reaction to it or that he had follow up with any physician after the acute attacks of gout. He had no documented uric acid levels post treatment of any acute gout attack from what I recall (uric acid elevations are what cause gout and we check these after the acute gout attack is resolved, not during the acute attack). **All he was ever told by me during our encounter was that he needed to find himself a primary care physician to get evaluation, treatment and documentation of his medical problem. I was not at Voter Power to treat patients for their medical problems. I was only there to determine if a patient qualified for my signature on a State form that states nothing more than that medical marijuana may be helpful for a patient’s condition.**

The Board states I did not communicate with his treating physician. The patient had no treating physician and if he did I’d like to see the records. I’d also like to know, **if he did have a treating** **physician,** **why the patient didn’t go to his own supposed Primary Care Physician (PCP) for the evaluation for medical marijuana? Why didn’t his supposed PCP sign the Attending Physician’s Statement for him?** **Why doesn’t the Medical Board enforce a patient’s right to medical marijuana? Why isn’t the patient placing a complaint against their own supposed physician? Why isn’t the Medical Board investigating this physician?** Again, more reasons as to my lack of faith in the Medical Board’s abilities and integrity.

The Medical Board then states in their complaint that I didn’t do a physical exam on the patient. The preceding paragraph of this complaint though states that I did do one. Now how can I have done a physical in one paragraph and not the next paragraph? The fact is that a physical was done on the patient and that he had no acute or chronic signs of gout. I gave him the opportunity to get an x-ray of the foot he felt was most severely affected by gout to see if any chronic arthritic changes secondary to gout were present. **The Board accuses me of ordering the x-ray of the wrong foot. Where is the documentation to support this? Why won’t the Board provide this? What are they hiding and why? There needs to be an extensive investigation into the Boards functioning, skills, professionalism and how their politics, ignorance and prejudice of medical marijuana affect their decision making.**

The Board then goes on to make complaints about the thoroughness of my work up of the five patient charts they reviewed from Voter Power. They state my physical exams were “cursory and cryptic” (maybe they are confused with their own investigation of the past two years). I am using the physical exam form that the State of Oregon has requested be filled out for these patients. It is no different than the form used by many physicians in their offices. It is similar to a “T-chart” form that is used in Urgent Cares and Emergency rooms throughout this state. They state that I didn’t consider the interaction of other medications with marijuana or the effect of the drug in conjunction with other co morbid factors. This is untrue and how they come up with such illogical, subjective statements is frightening. How do they know what all I considered? First, I challenge them to find any major reaction between marijuana and any drug. Secondly, almost 100% of the patients who came to Voter Power were already in the medical marijuana program and needed a renewal of their card or were already currently using marijuana medically and just wanted to be “legal”. Therefore, they were already tolerating it with no adverse consequences or interactions.

The Board states that I am negligent in contacting the patient’s physicians. There are at least four reasons why this is untrue. First, many patients are sent to organizations like Voter Power by their physician, PA or NP because these medical providers are either too frightened to sign the statement, refuse to sign the statement or are unable to legally sign this statement.

Second, many patients don’t want their physician to know because of the common problem of retribution against them by the health care provider and/or the institution that provider works for. It’s difficult enough if you live in a metropolitan area, but if you live in a rural area you are very limited to physician choice. If you live in a rural area and you are on OHP (as many chronically ill and disabled patients are) you are severely limited as to physician access. **If you have a medical marijuana card you can basically be blacklisted in many areas of this state by the medical community at large.** Again, this gets back to civil liberties and your rights as a citizen of this state. **Patient’s civil rights are basically trampled by physicians in this state. This behavior is allowed, overseen and institutionalized by the Medical Board.**

Third, many of these patients don’t have a routine physician. If you have a significant chronic medical problem you don’t usually work and therefore typically won’t have insurance or access to a physician on a routine basis.

Fourth, in my 25 years of medical practice, it is extremely rare that I get a phone call from a medical doctor seeing my patient (except radiologists). Most of the time they don’t even send a chart note, I have to call for them.

It’s interesting that the Medical Board feels I am too cavalier for signing a document that states that medical marijuana may be beneficial for a patient with AIDS, end-stage colon cancer, multiple sclerosis and chronic low back pain secondary to three failed back surgeries. How can that be too cavalier? These are legitimate medical conditions that qualify these patients for the program. The patient with gout didn’t fit these criteria and had almost no medical documentation to substantiate his claims. **I asked the Investigating Committee members six months ago, “Why is it that someone like me should have to sign these forms for qualified patients?” Why aren’t their own doctors signing these forms? Why isn’t the Medical Board investigating these physicians who are obviously not following the laws of this State or honoring the wishes of the citizens of Oregon? In fact, these physicians are obstructing patient’s legal rights to this medicine and, as stated earlier, the Medical Board seems to condone this illegal behavior.**

Now I am forced to go for an evaluation of my clinical skills and knowledge in Colorado that will cost my family $10,000 plus. Why? Because I signed a statement that gives a patient the nebulous ability to utilize a substance that helps ease their suffering in life before they die so that hopefully they don’t get busted and go to jail? I am an excellent physician who is respected and trusted by the patients I see. I have nothing to hide regarding my medical skills and knowledge.

In addition to the $10,000, I will have to spend upwards of $50,000 to “defend” myself. That is many years worth of savings. I can’t and won’t afford this. The best I get for the money anyway is the “privilege” of presenting my case to an administrative lawyer who then presents “the results” to the full Medical Board who then “votes”. **I will not spend a large sum of money on a situation that seems to be predetermined by the Medical Board.**

**The citizens of Oregon have voted twice on the issue of medical marijuana and they have twice passed it use. They obviously desire marijuana as a possible medical treatment, yet the Medical Board protects physicians and institutions that refuse to work with patients regarding medical marijuana and punishes the few physicians that do try to help these patients.**

For the past eight years I have run a Family Practice office that sees the uninsured. **They pay $50 for a 30 minute office visit and receive exceptional care. They have access to lab work via Quest Diagnostics, a national laboratory, at a 60% discount. I have arranged for radiological procedures through a private group that is already one third the cost of what hospitals charge that gives my patients an additional 25-40% discount off their regular price.** These patients can’t afford $200 plus office visits that last 7 minutes and expensive labs, radiological studies, specialists, etc. when they make$10 an hour. **What the Medical Board doesn’t understand is that their personal crusade against medical marijuana is hurting a lot more people than me.** The Medical Board is now ready to throw my patients back into a world where they will never be able to afford medical care. All this because the Medical Board doesn’t agree with medical marijuana. It doesn’t matter to them that patients with depression, diabetes, drug addiction, hypertension, multiple sclerosis, infections, abdominal pain, hemoptysis, rheumatologic disorders, congestive heart failure, etc. won’t be able to afford to see a physician in the future and will therefore go without treatment. If people don’t think individuals go without health care in this country and State because of finances they are delusional. I have “nursed” patients through disease processes that could have used the input and experience of a specialist, but how do they access one without insurance or money? I care for a young woman with an autoimmune disorder. I prescribe and follow her methotrexate treatment because she has no access to a rheumatologist. Another patient I care for has atrial fibrillation, an enlarged heart and congestive heart failure. He was refused disability. I cared for him for 3½ years with these conditions before he could get onto the OHP. I and the occasional hospitalization, when his medical problems really went south, were the only things that kept him alive. We couldn’t give him the medications he needed because he couldn’t afford the blood work to follow their levels.

In addition, The Medical Board’s actions are going to affect my son’s and other’s lives that depend upon me financially. This is their deepest of insults. They can insult me with their incompetence, lies, malice, ego or whatever it is that seems to drive them, but when you bring this insult upon “my family”, you have crossed a line I cannot forgive. I will make sure in the future that the Medical Board will never be able to treat a physician the way they have treated me and others in the past. **They seem to be drunk with power and it shows in their communications, questioning and their lack of concern about proper process.** From my experience, and what I have heard from other physicians that have dealt with the Medical Board, they are nothing more than bullies.

I worked for Voter Power because I believed in medical marijuana and a patient’s /citizen’s right to it. I wouldn’t have signed the statements if I didn’t. I’ve seen patients stop opiates and other meds with using medical marijuana. I diagnosed breast cancer in a 62 year old woman 6 months ago. She has had a hell of a time with chemotherapy. The marijuana is the only thing that has gotten her through these treatments.

I had the privilege of meeting a twenty year old woman a few years ago at Voter Power’s clinic. I heard her come into the clinic moaning, groaning and crying. I heard her brought downstairs about 40 minutes later still moaning, groaning and crying. I was told she was quite ill and I should see her immediately. I found her in obvious severe pain with her parents. She had a morphine pump in her left arm and a long list of pills to “help relieve her pain”. She was under Hospice care which means she had less than 6 months to live. I witnessed her take 4 vaporized puffs of medication and I saw her go from extreme discomfort to quiet relief. She was not “drugged up”. Her father stated that this was the only thing that really helped her at this time and that he wanted a card for her because he didn’t want the family to get in trouble. Her physicians wouldn’t sign it. I did. She died 3 months later. This glimpse into reality cemented everything I had read about medical marijuana and what patients reported to me.

I had a friend in Jr. High and High School. We played stand up Bass together in the orchestra. He broke his leg during wrestling practice his senior year. It was discovered that the fracture was the result of an osteosarcoma. His leg was amputated. He died 2 years later at 20 years old secondary to lung metastasis. I’d see him when I’d come back from college. He would tell me that marijuana was the only thing that really helped relieve his discomfort and helped lift his spirits.

I was paid $50 per consult for my efforts regarding Voter Power’s patients. Patient’s money was typically given back to them if they didn’t qualify or if they needed further evaluation by a physician. These patients are typically not wealthy. They are people with chronic medical problems that keep them from working and most times that means they have no medical insurance and very limited financial resources.

If only I had been cavalier in signing these statements I would have avoided all of this with the Medical Board. I am not cavalier though, but instead thorough and competent. That is why the patient with gout didn’t get a signature that day.

**Again, I ask your office to intervene at this time and that you do a thorough investigation yourself of this situation. You will see that significant concerns exist at the Oregon Medical Board. I would hope that you would allow me to continue to practice until this process is finished for my patient’s and family’s sake. I would be delighted to speak with you or your staff about this situation. I do not believe Mr. Warren Foote should be involved with this. I know he works in your office, but he is part of the problem involving the Medical Board.**

Thank for your time and I hope to speak with you soon.

Sincerely,

Eric Dover, M.D.

cc: Oregon Medical Board

Governor Ted Kulongoski