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**The Oregon Administrative Rules contain OARs filed through December 15, 2010**

### DEPARTMENT OF HUMAN SERVICES, PUBLIC HEALTH DIVISION

#### DIVISION 8

#### MEDICAL MARIJUANA

#### 333-008-0000

##### Description of the Oregon Medical Marijuana Act

The Oregon Medical Marijuana Act (Act) was adopted by voters in the November 3, 1998 general election (Ballot Measure 67). The Act was amended during the 1999 legislative session (Oregon Laws 1999, chapter 825), during the 2005 legislative session (Oregon Laws 2005, chapter 822), and amended again during the 2007 legislative session (Oregon Laws 2007, Chapter 573). The statutes governing the Oregon Medical Marijuana Program (OMMP) are ORS 475.300 through 475.346. The Department of Human Services was assigned rulemaking authority necessary for the implementation and administration of the Oregon Medical Marijuana Act. The Act intends:

- (1) To allow Oregonians with debilitating medical conditions who may benefit from the medical use of marijuana to receive the benefit of their doctor's professional advice regarding the possible risks and benefits of medical marijuana;
- (2) To allow Oregonians suffering from debilitating medical conditions to use small amounts of marijuana without fear of civil or criminal penalties when their doctors advise that such use may provide a medical benefit to them; and
- (3) To make only those changes to existing Oregon laws that are necessary to protect patients and their doctors from criminal and civil penalties, and are not intended to change current civil and criminal laws governing the use of marijuana for non-medical purposes.

Stat. Auth.: ORS 475.300

Stats. Implemented: ORS 475.300 - 475.346

Hist.: OHD 3-1999, f. & cert. ef. 4-29-99; OHD 18-2001, f. & cert. ef. 8-9-01; PH 18-2005, f. 12-30-05, cert. ef. 1-1-06; PH 15-2007, f. 12-19-07, cert. ef. 1-1-08

#### 333-008-0010

##### Definitions

For the purposes of OAR 333-008-0000 through 333-008-0120, the following definitions apply:

- (1) "Act" means the Oregon Medical Marijuana Act.
- (2) "Applicant" means a person applying for an Oregon Medical Marijuana registry identification card on a form prescribed by the Department.
- (3) "Attending physician" means a Doctor of Medicine (MD) or Doctor of Osteopathy (DO), licensed under ORS chapter 677, who has primary responsibility for the care and treatment of a person diagnosed with a debilitating medical condition.
- (4) "Debilitating medical condition" means:
  - (a) Cancer, glaucoma, agitation due to Alzheimer's disease, positive status for human immunodeficiency virus or acquired immune deficiency syndrome, or treatment for these conditions;
  - (b) A medical condition or treatment for a medical condition that produces, for a specific patient, one or more of the following:
    - (A) Cachexia;
    - (B) Severe pain;
    - (C) Severe nausea;
    - (D) Seizures, including but not limited to seizures caused by epilepsy; or
    - (E) Persistent muscle spasms, including but not limited to spasms caused by multiple sclerosis; or
  - (c) Any other medical condition or treatment for a medical condition adopted by the Department by rule or approved by the Department pursuant to a petition submitted under OAR 333-008-0090.

(5) "Delivery" means the actual, constructive or attempted transfer, other than by administering or dispensing, from one person to another of a controlled substance, whether or not there is an agency relationship, but does not include transfer of marijuana from one patient to another patient if no consideration is paid for the transfer.

(6) "Department" means the Department of Human Services.

(7) "Designated primary caregiver" means an individual 18 years of age or older who has significant responsibility for managing the well-being of a person who has been diagnosed with a debilitating medical condition and who is designated as such on that person's application for a registry identification card or in other written notification to the Department. "Designated primary caregiver" does not include the person's attending physician.

(8) "Grow site registration card" means the card issued to the patient and displayed at the grow site.

(9) "Grower" has the same meaning as "person responsible for a marijuana grow site".

(10) "Immature plant" has the same meaning as "seedling or start".

(11) "Marijuana" means all parts of the plant Cannabis family Moraceae, whether growing or not; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.

(12) "Mature plant" means a marijuana plant that does not fall within the definition of a seedling or a start.

(13) "Medical use of marijuana" means the production, possession, delivery, or administration of marijuana, or paraphernalia used to administer marijuana, as necessary for the exclusive benefit of a person to mitigate the symptoms or effects of his or her debilitating medical condition.

(14) "Oregon Health Plan (OHP)" means the medical assistance program administered by the Department under ORS chapter 414.

(15) "OMMP identity card" means a wallet-sized card issued by the Department in addition to the registry identification card that designates a person as a patient, primary caregiver, or grower.

(16) "Parent or legal guardian" means the custodial parent or legal guardian with responsibility for health care decisions for the person under 18 years of age.

(17) "Patient" has the same meaning as "registry identification cardholder."

(18) "Person responsible for a marijuana grow site" means a person who has been selected by a patient to produce medical marijuana for the patient, and who has been registered by the Department for this purpose.

(19) "Primary responsibility" as that term is used in relation to an attending physician means that the physician:

(a) Provides primary health care to the patient; or

(b) Provides medical specialty care and treatment to the patient as recognized by the American Board of Medical Specialties; or

(c) Is a consultant who has been asked to examine and treat the patient by the patient's primary care physician licensed under ORS Chapter 677, the patient's Physician Assistant licensed under ORS Chapter 677, or the patient's Nurse Practitioner licensed under ORS Chapter 678; and,

(d) Has reviewed a patient's medical records at the patient's request and has conducted a thorough physical examination of the patient, has provided or planned follow-up care, and has documented these activities in the patient's medical record.

(20) "Production" includes the manufacture, planting, cultivation, growing or harvesting of a controlled substance.

(21) "Registry identification card" means a document issued by the Department that identifies a person authorized to engage in the medical use of marijuana, and the person's designated primary caregiver, if any.

(22) "Registry identification cardholder" means a person who has been diagnosed by an attending physician with a debilitating medical condition and for whom the use of medical marijuana may mitigate the symptoms or effects of the person's debilitating medical condition, and who has been issued a patient registry identification card by the Department.

(23) "Seedling or start" means a marijuana plant that has no flowers, is less than 12 inches in height, and less than 12 inches in diameter. A seedling or start that does not meet all three criteria will be considered a mature plant.

(24) "Supplemental Security Income (SSI)" means the monthly benefit assistance program administered by the federal government for persons who are age 65 or older, or blind, or disabled and who have limited income and financial resources.

(25) "Usable marijuana" means the dried leaves and flowers of the plant Cannabis family Moraceae, and any mixture or preparation thereof, that are appropriate for medical use. "Usable marijuana" does not include the seeds, stalks and roots of the plant.

(26) "Written documentation" means a statement signed and dated by the attending physician of a person diagnosed with a debilitating medical condition or copies of the person's relevant medical records, maintained in accordance with standard medical record practices.

Stat. Auth.: ORS 475.338

Stats. Implemented: ORS 475.300 - 475.346

Hist.: OHD 15-1998(Temp), f. & cert. ef. 12-24-98 thru 6-22-99; OHD 3-1999, f. & cert. ef. 4-29-99; OHD 13-2000(Temp), f. & cert. ef. 12-21-00 thru 6-15-01; OHD 18-2001, f. & cert. ef. 8-9-01; OHD 19-2001(Temp), f. & cert. ef. 8-10-01 thru 1-31-02; Administrative correction 3-14-02; OHD 6-2002, f. & cert. ef. 3-25-02; PH 9-2003, f. 6-26-03, cert. ef. 7-1-03; PH 18-2005, f. 12-30-05, cert. ef. 1-1-06; PH 15-2007, f. 12-19-07, cert. ef. 1-1-08; PH 21-2010, f. & cert.

**333-008-0020**

**New Registration Application and Verification**

(1) A person may apply for a registry identification card on a form prescribed by the Department. In order for an application to be considered complete, an applicant must submit the following:

- (a) An application form signed and dated by the applicant;
- (b) Copies of legible, current, and valid U.S. government issued photographic identification from the applicant, the designated primary caregiver, and grower, as applicable. Acceptable forms of government issued photographic identification include but are not limited to:
  - (A) Driver's license;
  - (B) State identification card;
  - (C) Passport; or
  - (D) Military identification card;
- (c) Documentation, which may consist of relevant portions of the applicant's medical record, signed by the applicant's attending physician within 90 days of the date of receipt by the Department, which describes the applicant's debilitating medical condition and states that the use of marijuana may mitigate the symptoms or effects of the applicant's debilitating medical condition;
- (d) A completed "Declaration of Person Responsible for Minor" form for any person under 18 years of age, signed and dated by the person responsible for the minor; and
- (e) An application fee in the form of cash, bank check, or personal check. The Department will place a 10-day hold on the issuance of a registry identification card for an application accompanied by a personal check. An applicant will be given 14 days from Department receipt of non-sufficient funds (NSF) or stop payment notification to submit payment in the form of a bank check or cash.

(2) An applicant may only name, and the Department will only register, one designated primary caregiver and one grower.

(3) For applications received on or after December 1, 2005, the fee for a new application is \$100.00, unless an applicant can demonstrate current eligibility in the OHP, receipt of current food stamp benefits, or receipt of current SSI benefits, in which case the application fee is \$20.00.

- (a) To qualify for a reduced fee on the basis of current eligibility in the OHP, an applicant must provide a copy of the applicant's current eligibility statement.
- (b) To qualify for a reduced fee on the basis of receipt of current SSI benefits, an applicant must provide a copy of a current monthly SSI benefit card, showing dates of coverage.
- (c) To qualify for a reduced fee on the basis of receipt of current food stamp benefits, an applicant must be current in the Food Stamp Management Information System database system or provide a current copy of food stamp benefit identification card.

(4) The Department may verify information on each application and accompanying documentation, including:

- (a) Contacting each applicant by telephone or by mail. If proof of identity is uncertain, the Department may require a face-to-face meeting and may require the production of additional identification materials;
- (b) Contacting a minor's parent or legal guardian;
- (c) Contacting the Oregon Board of Medical Examiners to verify that an attending physician is licensed to practice in the state and is in good standing;
- (d) Contacting the attending physician to request further documentation to support a finding that the physician is the applicant's attending physician. The Department will notify the applicant of the intent to review the medical records and request the applicant's authorization to conduct the review. Failure to authorize a review of medical records may result in the application being declared incomplete, or denial of an application;
- (e) Contacting the OHP, DHS-Self Sufficiency, or Social Security Administration (SSA) to verify eligibility for benefits; and
- (f) Conducting criminal records check under ORS 181.534 of any person whose name is submitted as a grower.

(5) The Department will notify an applicant who submits a reduced fee for which the applicant is not eligible and will give the applicant 14 days from the date of notice to pay the correct fee, submit a current, valid eligibility determination statement for the OHP, current copy of food stamp benefit identification card, or to submit a copy of a receipt for current SSI monthly benefit, as applicable. The Department will continue to process the application pending receipt of an eligibility statement. The Department will not grant an application fee refund for any eligibility determination made on or after the date of issuance of the applicant's registry identification card.

(6) If an applicant does not provide all the information required and the application is considered incomplete, the Department shall notify the applicant of the information that is missing, and shall give the applicant 14 days to submit the missing information.

(7) If the Department is unable to verify that the applicant's attending physician meets the definition under OAR 333-008-0010(3) the applicant will be allowed 30 days to submit written documentation or a new attending physician's declaration from a physician meeting the requirements of these rules. Failure to submit the required attending physician documentation is grounds for denial under ORS 475.309 and OAR 333-008-0030.

(8) If an applicant does not provide the information necessary to declare an application complete, or to complete the verification process within the timelines established

in subsections (6) and (7) of this rule, the application will be returned to the applicant as incomplete, along with the application fee. An applicant whose application is returned as incomplete may reapply at any time.

(9) The application forms referenced in this rule may be obtained by contacting the: Oregon Medical Marijuana Program (OMMP) at PO Box 14450, Portland, OR 97293-0450 or calling 971-673-1226.

Stat. Auth.: ORS 475.338

Stats. Implemented: ORS 475.300 - 475.346

Hist.: OHD 3-1999, f. & cert. ef. 4-29-99; OHD 13-2000(Temp), f. & cert. ef. 12-21-00 thru 6-15-01; OHD 18-2001, f. & cert. ef. 8-9-01; OHD 19-2001 (Temp), f. & cert. ef. 8-10-01 thru 1-31-02; Administrative correction 3-14-02; OHD 6-2002, f. & cert. ef. 3-25-02; PH 9-2003, f. 6-26-03, cert. ef. 7-1-03; PH 38-2004, f. 12-22-04, cert. ef. 1-1-05; PH 17-2005, f. 11-25-05, cert. ef. 12-1-05; PH 18-2005, f. 12-30-05, cert. ef. 1-1-06; PH 15-2007, f. 12-19-07, cert. ef. 1-1-08; PH 14-2010(Temp), f. & cert. ef. 7-6-10 thru 12-31-10

### **333-008-0025**

#### **Marijuana Grow Site Registration**

(1) A patient must register a marijuana grow site with the Department. The Department will register only one grow site per patient, and will only register grow sites in Oregon.

(2) To register a marijuana grow site, an applicant or patient must submit to the Department an application, prescribed by the Department, that includes:

- (a) The name of the grower;
- (b) The date of birth of the grower;
- (c) The physical address of the marijuana grow site where marijuana is to be produced;
- (d) The mailing address of the grower; and
- (e) The registry identification card number of the patient, if known, for whom the marijuana is being produced; and

(3) The Department shall conduct a criminal background check on the grower as authorized under ORS 475.304.

(a) A person convicted of a Class A or Class B felony under ORS 475.840 to 475.920 for the manufacture or delivery of a controlled substance in Schedule I or Schedule II, if the offense occurred on or after January 1, 2006, may not be issued a marijuana grow site registration card or produce marijuana for a registry identification cardholder for five years from the date of conviction.

(b) A person convicted more than once of a Class A or Class B felony under ORS 475.840 to 475.920 for the manufacture or delivery of a controlled substance in Schedule I or Schedule II, if the offenses occurred after January 1, 2006, may not be issued a marijuana grow site registration card or produce marijuana for a registry identification cardholder.

(c) The Department will notify a patient by certified mail that the grower is ineligible and the patient will be given the opportunity to identify another grower.

(4) The Department will issue a marijuana grow site registration card to a patient who has met the requirements of section (2) of this rule, unless the grower is disqualified under section (3) of this rule.

(5) A grower must display a marijuana grow site registration card for each patient for whom marijuana is being produced, at the marijuana grow site at all times.

(6) All usable marijuana, plants, seedlings and seeds, associated with the production of marijuana for a patient by a grower, are the property of the patient and must be provided to the patient upon request.

(7) All marijuana produced for a patient must be provided to the patient or primary designated caregiver when the grower ceases producing marijuana for the patient.

(8) A grower must return the grow site registration card to the patient to whom the card was issued when requested to do so by the patient or when the grower ceases producing marijuana for the patient.

(9) A patient or the designated primary caregiver of the patient may reimburse the grower for the costs of supplies and utilities associated with production of marijuana for patient. No other costs associated with the production of marijuana for the patient, including the cost of labor, may be reimbursed.

(10) A grower may produce marijuana for no more than four patients or designated primary caregivers concurrently.

Stat.Auth.: ORS 475.338

Stats. Implemented: ORS 475.300 - 475.346

Hist.: PH 18-2005, f. 12-30-05, cert. ef. 1-1-06; PH 15-2007, f. 12-19-07, cert. ef. 1-1-08

### **333-008-0030**

#### **Registration Approval and Denial**

(1) The Department will approve or deny an application within 30 days of receiving a complete application, including payment of the designated fee.

(2) If the Department approves the application, the Department shall issue a serially numbered registry identification card to the patient within five business days. The registry identification card shall include, but is not limited to:

- (a) The patient's name, address and date of birth;

- (b) The effective date, date of issuance and expiration date of the registry identification card;
  - (c) The designated primary caregiver's name, address, and date of birth, if applicable;
  - (d) The name, address, and date of birth of the grower, if applicable; and
  - (e) The location where the marijuana is produced.
- (3) When a patient has specified a designated primary caregiver, or a grower, the Department shall issue an OMMP registry identification card for the designated primary caregiver and the grower. The Department shall also issue a grow site registration card to the patient. All cards shall contain the information specified in section (2) of this rule, as appropriate.
- (4) The Department may deny an application if:
- (a) The applicant did not provide the information required as provided in ORS 475.309 to establish the applicant's debilitating medical condition and to document the applicant's consultation with an attending physician regarding the medical use of marijuana in connection with such condition;
  - (b) The Department determines that the information provided was falsified;
  - (c) The applicant has been prohibited by a court order from obtaining a registry identification card; or
  - (d) An applicant has willfully violated the provisions of ORS 475.300 to 475.346 or these rules.
- (5) If the Department denies an application, the Department shall send the applicant a denial letter within 30 days of receipt of the complete application. The time period set forth in OAR 333-008-0020 that provides an applicant an opportunity to supplement an incomplete application does not count towards the 30-day deadline for processing an application. The denial letter will be sent by certified mail to the address listed on the application form. The letter will state the reasons for denial and when the applicant may reapply.
- (6) Denial of a registry identification card shall be considered a final Department action, subject to judicial review. Only the person whose application has been denied, or, in the case of a person under the age of 18 whose application has been denied, the person's parent or legal guardian shall have standing to contest the Department's action.
- (7) Any person whose application has been denied may not reapply for at least six months from the date of the denial, unless so authorized by the Department or a court of competent jurisdiction.
- (8) The fee is \$10 for a replacement registry identification card.

Stat. Auth.: ORS 475.338

Stats. Implemented: ORS 475.300 - 475.346

Hist.: OHD 3-1999, f. & cert. ef. 4-29-99; OHD 18-2001, f. & cert. ef. 8-9-01; OHD 19-2001(Temp), f. & cert. ef. 8-10-01 thru 1-31-02; OHD 21-2001(Temp), f. & cert. ef. 10-12-01 thru 1-31-02; Administrative correction 3-14-02; OHD 6-2002, f. & cert. ef. 3-25-02; PH 12-2004(Temp), f. & cert. ef. 4-1-04 thru 8-2-04; Administrative correction 8-19-04; PH 18-2005, f. 12-30-05, cert. ef. 1-1-06; PH 15-2007, f. 12-19-07, cert. ef. 1-1-08; PH 21-2010, f. & cert. ef. 9-13-10

### **333-008-0040**

#### **Annual Renewal and Interim Changes**

- (1) A patient shall register on an annual basis to maintain active registration status by submitting a renewal application prescribed by the Department.
- (2) Between 60 to 90 calendar days prior to expiration, the Department shall mail to the patient's address of record, a letter notifying the patient of the upcoming expiration date, along with a renewal application.
- (3) In addition to completing the renewal application, the patient must submit, prior to the expiration of the registry identification card:
  - (a) Written documentation signed by the patient's attending physician reconfirming the patient's debilitating medical condition and that the medical use of marijuana mitigates the symptoms of the patient's debilitating medical condition;
  - (b) A copy of the patient's current OHP eligibility determination statement, a copy of the patient's current food stamp benefits, or a copy of the patient's current monthly SSI benefit card;
  - (c) The name of the patient's designated primary caregiver, if a primary caregiver has been designated for the upcoming year;
  - (d) The name of the grower; and
  - (e) Confirmation that existing application information has not changed, if applicable.
- (4) If the renewal information is not received by the expiration date on the registry identification card, the patient's registry identification card and all other associated OMMP cards, if any, will be deemed expired. The expiration date may be extended, due to personal hardship, at the discretion of the Department. If a person fails to apply for renewal within the time period specified in this rule, that person must submit a new application.
- (5) A patient shall notify the Department within 30 calendar days of any change in the patient's name, address, telephone number, attending physician, designated primary caregiver, grower or grow site address.
- (6) A patient shall notify the designated primary caregiver and the grower of any changes in status including, but not limited to:

(a) The assignment of another individual as the designated primary caregiver for the patient;

(b) The assignment of another individual as a grower for the patient; or

(c) The end of eligibility of the patient to hold a registry identification card.

(7) If the Department is notified by the patient that a primary caregiver or a grower has changed, the Department shall notify the primary caregiver or the grower by mail at the address of record confirming the change in status and informing the caregiver or grower that his or her card is no longer valid and must be returned to the Department within seven calendar days.

(8) A patient who has been diagnosed by an attending physician as no longer having a debilitating medical condition or whose attending physician has determined that the medical use of marijuana is contraindicated for the patient's debilitating medical condition shall return the registry identification card and all associated OMMP cards to the Department within 30 calendar days of notification of the diagnosis or notification of the contraindication. If, due to circumstances beyond control of the patient he or she is unable to obtain a second medical opinion about the patient's continuing eligibility to use medical marijuana before the 30-day period has expired, the Department may grant the patient additional time to obtain a second opinion before requiring the patient to return the registry identification card and all associated cards.

(9) The renewal fee is \$100, unless an applicant can demonstrate current eligibility in the OHP, receipt of current food stamp benefits, or receipt of current SSI benefits, in which case the fee is \$20 as set forth in OAR 333-008-0020(3).

(10) The Department will verify the renewal application information in the same manner as specified in OAR 333-008-0020(4).

Stat. Auth.: ORS 475.388

Stats. Implemented: ORS 475.300 - 475.346

Hist.: OHD 3-1999, f. & cert. ef. 4-29-99; PH 9-2003, f. 6-26-03, cert. ef. 7-1-03; PH 18-2005, f. 12-30-05, cert. ef. 1-1-06; PH 15-2007, f. 12-19-07, cert. ef. 1-1-08; PH 21-2010, f. & cert. ef. 9-13-10

### **333-008-0050**

#### **Confidentiality**

(1) The Department shall create and maintain either paper or computer data files of patients, designated caregivers, growers, and grow site addresses. The data files will include all information collected on the application forms or equivalent information from other written documentation, plus a copy of OMMP registry identification cards, effective date, date of issue, and expiration date. Except as provided in section (2) of this rule, the names and identifying information of registry identification cardholders and the name and identifying information of a pending applicant for a card, a designated primary caregiver, a grower, and a marijuana grow site location, shall be confidential and not subject to public disclosure.

(2) Names and other identifying information made confidential under section (1) of this rule may be released to:

(a) Authorized employees of the Department as necessary to perform official duties of the Department, including the production of any reports of aggregate (i.e., non-identifying) data or statistics;

(b) Authorized employees of state or local law enforcement agencies when they provide a specific name or address. Information will be supplied only as necessary to verify:

(A) That a person is or was a lawful possessor of a registry identification card; or

(B) That the address is or was a documented grow site, and how many people are authorized to grow at that grow site; or

(C) How many people a person was or is authorized to grow for; or

(D) As provided in OAR 333-008-0060(2);

(c) Other persons (such as, but not limited to, employers, lawyers, family members, other government officials) upon receipt of a properly executed release of information signed by the patient, the patient's parent or legal guardian, designated primary caregiver or grower. The release of information must specify what information the Department is authorized to release and to whom.

Stat. Auth.: ORS 475.338

Stats. Implemented: ORS 475.300 - 475.346

Hist.: OHD 3-1999, f. & cert. ef. 4-29-99; OHD 18-2001, f. & cert. ef. 8-9-01; OHD 19-2001(Temp), f. & cert. ef. 8-10-01 thru 1-31-02; Administrative correction 3-14-02; OHD 6-2002, f. & cert. ef. 3-25-02; PH 18-2005, f. 12-30-05, cert. ef. 1-1-06; PH 15-2007, f. 12-19-07, cert. ef. 1-1-08; PH 21-2010, f. & cert. ef. 9-13-10

### **333-008-0060**

#### **Monitoring and Investigations**

(1) The Department may, at any time, contact a patient, designated primary caregiver, grower, or a patient's attending physician by telephone, mail or in person to verify the current accuracy of information included in the registration system. This authority does not extend to allowing Department staff to routinely search the person or property of a person who possesses a registry identification card, a grow site, or to search the property of an attending physician.

(2) Notwithstanding section (1) above, the Department may, when it has reason to believe a violation of ORS 475.300 to 475.346 has occurred, either conduct an investigation to collect evidence of a violation of the Oregon Medical Marijuana Act, or arrange for this responsibility to be assumed by the proper state or local authorities. Such violations include, but are not limited to:

(a) Failure by a patient to notify the Department of any change in the patient's name, address, attending physician, designated primary caregiver, grower, or grow site

location.

(b) Failure by a patient, designated primary caregiver, or grower to return the OMMP identity and registry identification cards to the Department within seven calendar days of the patient's notification of the diagnosis that the patient no longer has a debilitating medical condition.

(c) Failure by a designated primary caregiver or grower to return the OMMP identity and registry identification cards to the Department within seven calendar days of notification by the patient that the person's designation as primary caregiver or grower has been terminated.

(d) Submission of false information by a patient, designated primary caregiver, grower, or attending physician during the registration or registration renewal process.

(e) Conviction of a patient, designated primary caregiver, or grower of a marijuana-related offense that occurred after the date of issuance of a registry identification card.

(3) If the Department has reason to believe that an individual, signing an application as the attending physician, does not meet the definition of attending physician under these rules, the Department may examine the original patient medical record in the physician's possession or a copy provided by the physician. The sole purpose of this examination is to determine whether the physician meets the definition of attending physician in OAR 333-008-0010, including whether the physician has primary responsibility for a patient as that is defined in 333-008-0010, and will not include review of any clinical judgments such as adequacy of diagnosis or propriety of treatment.

(a) The Department will notify the patient of the intent to review the medical records pursuant to this section and request the patient's authorization to conduct the review. An applicant's or patient's failure to authorize a review of his or her medical records may result in denial of an application.

(b) The Department will send written notification allowing the physician 10-days to provide additional information requested by the Department.

(4) In determining whether to examine a patient's medical record pursuant to section (3) of this rule, the Department may consider, but is not limited to, factors such as complaints from patients or family members, complaints from health care providers, total number of applicants for whom the physician provided documentation, or number of applicants for whom the physician provided documentation during a specific time period.

(5) If the OMMP records show that any one physician is the attending physician of record for more than 450 patients at any point in time, the OMMP shall request, in writing, that the physician do one of the following:

(a) Provide information for each new patient over the 450 threshold, including:

(A) Documentation that the patient's medical records have been reviewed;

(B) Patient chart notes documenting the patient was examined by the physician and the date of the examination; and

(C) Documentation showing provided or planned follow-up care;

(b) Provide a letter from a clinic at which the physician provides care requesting that the physician be exempted from section (5) of this rule, and provide documentation from the clinic that:

(A) It has clear systems for ensuring medical records are reviewed and that each patient is examined by a physician;

(B) It provides follow-up care for patients;

(C) It maintains a record system documenting the review of medical records, physician examination, and follow-up care; and

(D) It will allow on-site inspections by OMMP to confirm compliance; or

(c) Provide a written statement explaining why the physician should be released from this requirement, for example, an explanation that the physician:

(A) Has a practice that includes a disproportionately high percentage of patients with qualifying conditions;

(B) Serves as a consultant for other health care providers who refer patients requesting medical marijuana; or

(C) Has multiple practice sites and at one of the practice sites the physician clearly meets the attending physician definition.

(6) If the OMMP receives a request from a physician to be exempted from the requirement in section (5) of this rule, the OMMP shall provide the physician a decision, in writing, explaining whether the physician is or is not exempted from the requirement in section (5) of this rule. The OMMP's written decision shall explain the basis for the OMMP's decision.

(7) The Department shall refer criminal complaints against a patient, designated primary caregiver, or grower; or medical practice complaints against an attending physician to the appropriate state or local authorities.

Stat. Auth.: ORS 475.338

Stats. Implemented: ORS 475.300 - 475.346

Hist.: OHD 3-1999, f. & cert. ef. 4-29-99; OHD 19-2001(Temp), f. & cert. ef. 8-10-01 thru 1-31-02; Administrative correction 3-14-02; OHD 6-2002, f. & cert. ef. 3-25-02; PH 18-2005, f. 12-30-05, cert. ef. 1-1-06; PH 15-2007, f. 12-19-07, cert. ef. 1-1-08; PH 21-2010, f. & cert. ef. 9-13-10

### **333-008-0070**

#### **Suspension and Revocation**

(1) The Department may suspend a registry identification card, and preclude a person from using a registry identification card for a period of up to six months if the Department obtains evidence that establishes a registry identification cardholder has:



- (a) Committed egregious violations of the Act, including obtaining a registry identification card by fraud;
  - (b) Committed multiple or continuing violations of the Act; or
  - (c) Been convicted of a marijuana-related offense.
- (2) The Department shall send written notice of a suspension by certified mail. The notice shall comply with ORS 183.415, and shall include the right to request a contested case hearing. The request for hearing must be received within 21-days from the date the notice was mailed.
- (3) The Department shall revoke the registry identification card of a cardholder if a court has issued an order that prohibits the cardholder from participating in the medical use of marijuana or otherwise participating in the OMMP under ORS 475.300 to 475.346. The cardholder shall return the registry identification card to the department within 7 calendar days.
- (4) The cardholder shall return the registry identification card to the department within 7 calendar days of the final order of suspension being issued. If the cardholder is a patient, the patient shall return his or her card and all other associated OMMP cards.
- (5) If, during the period of suspension, a patient's annual renewal date comes due, the patient must apply for renewal at the end of the period of suspension.

Stat. Auth.: ORS 475.338

Stats. Implemented: ORS 475.300 - 475.346

Hist.: OHD 3-1999, f. & cert. ef. 4-29-99; OHD 18-2001, f. & cert. ef. 8-9-01; PH 18-2005, f. 12-30-05, cert. ef. 1-1-06; PH 15-2007, f. 12-19-07, cert. ef. 1-1-08

### **333-008-0080**

#### **Permissible Amounts of Medical Marijuana**

- (1) A patient or the patient's designated primary caregiver may possess up to six mature marijuana plants, 24 ounces of usable marijuana, and a patient and the patient's designated primary caregiver may possess a combined total of up to 18 marijuana seedlings or starts.
- (2) Notwithstanding section (1) of this rule, if a patient has been convicted, on or after January 1, 2006, of a Class A or Class B felony under ORS 475.840 to 475.920 for the manufacture or delivery of a controlled substance in Schedule I or Schedule II, and the offense occurred on or after January 1, 2006, the patient or the patient's designated primary caregiver may possess only one ounce of usable marijuana at any given time for a period of five years from the date of the conviction.
- (3) A grower:
- (a) May produce marijuana for and provide marijuana to a patient or that person's designated primary caregiver as authorized under ORS 475.300 to 475.346 and these rules;
  - (b) May possess up to six mature plants and up to 24 ounces of usable marijuana for each patient or caregiver for whom marijuana is being produced;
  - (c) May possess up to 18 marijuana seedlings or starts for each patient for whom marijuana is being produced;
  - (4) A grower may produce marijuana for no more than four patients or designated primary caregivers concurrently.
- (5) A patient, the designated primary caregiver for a patient and the grower must have, in his or her possession, his or her OMMP identity card when transporting marijuana. A patient must have, in his or her possession, his or her OMMP identity card when using marijuana in a location other than the residence of the cardholder.

Stat. Auth.: ORS 475.338

Stats. Implemented: ORS 475.300 - 475.346

Hist.: OHD 3-1999, f. & cert. ef. 4-29-99; OHD 18-2001, f. & cert. ef. 8-9-01; PH 18-2005, f. 12-30-05, cert. ef. 1-1-06; PH 15-2007, f. 12-19-07, cert. ef. 1-1-08; PH 21-2010, f. & cert. ef. 9-13-10

### **333-008-0090**

#### **Addition of Qualifying Diseases or Medical Conditions**

- (1) The Department shall accept a written petition from any person requesting that a particular disease or condition be included among the diseases and conditions that qualify as debilitating medical conditions under section 333-008-0010 of these rules and be added to the list.
- (2) The Department shall, within 14 days of receipt of the petition, send a letter by certified mail requesting the petitioner to provide, if possible:
- (a) An explanation for why the condition should be included;
  - (b) Any literature supporting the addition of the condition to the list;
  - (c) Letters of support from physicians or other licensed health care professionals knowledgeable about the condition; and,
  - (d) Suggestions for potential expert panel members.
- (3) The State Public Health Officer or designee may make a final determination that a petition is frivolous and deny the petition without further review.
- (4) If the petition is not denied under section (3) of this rule, the Department shall appoint an expert panel of five to seven individuals to review a petition. The members of the panel shall include the State Public Health Officer or designee, other physicians licensed under ORS 677, at least one patient, at least one patient advocate, and other professionals knowledgeable about the condition being considered.

- (a) If the petitioner so desires, she or he shall be given the opportunity to address the panel in person or by telephone.
- (b) If the petitioner so desires, his or her confidentiality shall be strictly maintained.
- (5) The Department shall submit the written petition to the expert panel, which shall make recommendations to the Department regarding approval or denial.
- (a) The members of the panel may examine medical research pertaining to the petitioned condition, and may gather information (in person or in writing) from other parties knowledgeable about the condition being considered.
- (b) The panel members will submit individual recommendations to the State Public Health Officer, and the meetings of the panel will not be considered to be public hearings.
- (6) The Department will make a final determination on a petition within 180 days of receipt of the petition.
- (7) Denial of a petition shall be considered a final Department action subject to judicial review.
- (8) In cases where the condition in a person's petition is the same as, or is, as determined by the Department's State Public Health Officer, substantially equivalent to a condition that has already been denied in a previous determination, the Department may similarly deny the new petition unless new scientific research supporting the request is brought forward.

Stat. Auth.: ORS 475.338

Stats. Implemented: ORS 475.300 - 475.346

Hist.: OHD 3-1999, f. & cert. ef. 4-29-99; OHD 18-2001, f. & cert. ef. 8-9-01; OHD 6-2002, f. & cert. ef. 3-25-02; PH 18-2005, f. 12-30-05, cert. ef. 1-1-06; PH 15-2007, f. 12-19-07, cert. ef. 1-1-08

### **333-008-0110**

#### **Advisory Committee on Medical Marijuana**

- (1) The Advisory Committee on Medical Marijuana (ACMM) shall advise the Director of the Department on the administrative aspects of the OMMP, review current and proposed administrative rules of the program, and provide annual input on the fee structure of the program.
- (2) The Department will provide staff support to the ACMM by assisting with the scheduling of meetings, recording of minutes, and dissemination of meeting-related materials.
- (3) The ACMM will adopt a Charter and By-Laws that detail:
  - (a) How meetings will be conducted;
  - (b) The election of presiding officers; and
  - (c) The scheduling of at least four public meetings per year.

Stat. Auth.: ORS 475.338

Stats. Implemented: ORS 475.300 - 475.346

Hist.: PH 18-2005, f. 12-30-05, cert. ef. 1-1-06; PH 15-2007, f. 12-19-07, cert. ef. 1-1-08

### **333-008-0120**

#### **System to Allow Verification of Data at All Times**

- (1) The OMMP will establish an interactive method to allow authorized employees of state and local law enforcement agencies to use the Oregon State Police Law Enforcement Data System (LEDS) to query an OMMP data file in order to verify at any time whether a particular patient, designated primary caregiver, grower, or grow site location is registered with OMMP.
- (2) LEDS access will only allow a yes or no answer to the query and the information obtained may not be used for any other purpose other than verification.
- (3) The OMMP may allow the release of reports related to verification if it is without identifying data.
- (4) The OMMP will have staff available by phone to verify law enforcement agency employee questions during regular business hours in case the electronic verification system is down, and in the event the system is expected to be down for more than two business days, the OMMP will ensure program staff are available by phone for verification purposes.

Stat. Auth.: ORS 475.338

Stats. Implemented: ORS 475.300 - 475.346

Hist.: PH 18-2005, f. 12-30-05, cert. ef. 1-1-06; PH 15-2007, f. 12-19-07, cert. ef. 1-1-08

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## OREGON MEDICAL MARIJUANA ACT

**475.300 Findings.** The people of the state of Oregon hereby find that:

(1) Patients and doctors have found marijuana to be an effective treatment for suffering caused by debilitating medical conditions, and therefore, marijuana should be treated like other medicines;

(2) Oregonians suffering from debilitating medical conditions should be allowed to use small amounts of marijuana without fear of civil or criminal penalties when their doctors advise that such use may provide a medical benefit to them and when other reasonable restrictions are met regarding that use;

(3) ORS 475.300 to 475.346 are intended to allow Oregonians with debilitating medical conditions who may benefit from the medical use of marijuana to be able to discuss freely with their doctors the possible risks and benefits of medical marijuana use and to have the benefit of their doctor's professional advice; and

(4) ORS 475.300 to 475.346 are intended to make only those changes to existing Oregon laws that are necessary to protect patients and their doctors from criminal and civil penalties, and are not intended to change current civil and criminal laws governing the use of marijuana for nonmedical purposes. [1999 c.4 §2]

**Note:** 475.300 to 475.346 were adopted by the people by initiative petition but were not added to or made a part of ORS chapter 475 or any series therein. See Preface to Oregon Revised Statutes for further explanation.

**475.302 Definitions for ORS 475.300 to 475.346.** As used in ORS 475.300 to 475.346:

(1) "Attending physician" means a physician licensed under ORS chapter 677 who has primary responsibility for the care and treatment of a person diagnosed with a debilitating medical condition.

(2) "Debilitating medical condition" means:

(a) Cancer, glaucoma, positive status for human immunodeficiency virus or acquired immune deficiency syndrome, or treatment for these conditions;

(b) A medical condition or treatment for a medical condition that produces, for a specific patient, one or more of the following:

(A) Cachexia;

(B) Severe pain;

(C) Severe nausea;

(D) Seizures, including but not limited to seizures caused by epilepsy; or

(E) Persistent muscle spasms, including but not limited to spasms caused by multiple sclerosis; or

(c) Any other medical condition or treatment for a medical condition adopted by the department by rule or approved by the department pursuant to a petition submitted pursuant to ORS 475.334.

(3) "Delivery" has the meaning given that term in ORS 475.005. "Delivery" does not include transfer of marijuana by a registry identification cardholder to another registry identification cardholder if no consideration is paid for the transfer.

(4) "Department" means the Department of Human Services.

(5) “Designated primary caregiver” means an individual 18 years of age or older who has significant responsibility for managing the well-being of a person who has been diagnosed with a debilitating medical condition and who is designated as such on that person’s application for a registry identification card or in other written notification to the department. “Designated primary caregiver” does not include the person’s attending physician.

(6) “Marijuana” has the meaning given that term in ORS 475.005.

(7) “Marijuana grow site” means a location where marijuana is produced for use by a registry identification cardholder and that is registered under the provisions of ORS 475.304.

(8) “Medical use of marijuana” means the production, possession, delivery, or administration of marijuana, or paraphernalia used to administer marijuana, as necessary for the exclusive benefit of a person to mitigate the symptoms or effects of the person’s debilitating medical condition.

(9) “Production” has the meaning given that term in ORS 475.005.

(10) “Registry identification card” means a document issued by the department that identifies a person authorized to engage in the medical use of marijuana and the person’s designated primary caregiver, if any.

(11) “Usable marijuana” means the dried leaves and flowers of the plant Cannabis family Moraceae, and any mixture or preparation thereof, that are appropriate for medical use as allowed in ORS 475.300 to 475.346. “Usable marijuana” does not include the seeds, stalks and roots of the plant.

(12) “Written documentation” means a statement signed by the attending physician of a person diagnosed with a debilitating medical condition or copies of the person’s relevant medical records. [1999 c.4 §3; 2001 c.900 §205; 2003 c.14 §305; 2005 c.22 §346; 2005 c.822 §1]

**Note:** See note under 475.300.

**475.303 Advisory Committee on Medical Marijuana.** (1) There is created the Advisory Committee on Medical Marijuana in the Department of Human Services, consisting of 11 members appointed by the Director of Human Services.

(2) The director shall appoint members of the committee from persons who possess registry identification cards, designated primary caregivers of persons who possess registry identification cards and advocates of the Oregon Medical Marijuana Act.

(3) The committee shall advise the director on the administrative aspects of the Oregon Medical Marijuana Program, review current and proposed administrative rules of the program and provide annual input on the fee structure of the program.

(4) The committee shall meet at least four times per year, at times and places specified by the director.

(5) The department shall provide staff support to the committee.

(6) All agencies of state government, as defined in ORS 174.111, are directed to assist the committee in the performance of its duties and, to the extent permitted by laws relating to confidentiality, to furnish information and advice that the members of the committee consider necessary to perform their duties. [2005 c.822 §7]

**Note:** See note under 475.300. 475.303 was added to and made a part of 475.300 to 475.346 by legislative action.

**475.304 Marijuana grow site registration system; rules.** (1) The Department of Human Services shall establish by rule a marijuana grow site registration system to authorize production of marijuana by a registry identification cardholder, a designated primary caregiver who grows marijuana for the cardholder or a person who is responsible for a marijuana grow site. The marijuana grow site registration system adopted must require a registry identification cardholder to submit an application to the department that includes:

(a) The name of the person responsible for the marijuana grow site;  
(b) The address of the marijuana grow site;  
(c) The registry identification card number of the registry cardholder for whom the marijuana is being produced; and

(d) Any other information the department considers necessary.

(2) The department shall issue a marijuana grow site registration card to a registry identification cardholder who has met the requirements of subsection (1) of this section.

(3) A person who has been issued a marijuana grow site registration card under this section must display the registration card at the marijuana grow site at all times when marijuana is being produced.

(4) A marijuana grow site registration card must be obtained and posted for each registry identification cardholder for whom marijuana is being produced at a marijuana grow site.

(5) All usable marijuana, plants, seedlings and seeds associated with the production of marijuana for a registry identification cardholder by a person responsible for a marijuana grow site are the property of the registry identification cardholder and must be provided to the registry identification cardholder upon request.

(6)(a) The department shall restrict a marijuana grow site registration card issued to a registry identification cardholder who has been convicted of violating ORS 475.840 (1)(a) or (b) to prohibit for a period of five years from the date of conviction the production of marijuana otherwise authorized by this section at a location where the registry identification cardholder is present.

(b) A registry identification cardholder who has been convicted of violating ORS 475.840 (1)(a) or (b) may not be issued a marijuana grow site registration card within five years of the date of the conviction for violating ORS 475.840 (1)(a) or (b) if the conviction was for a first offense to prohibit for a period of five years from the date of conviction the production of marijuana otherwise authorized by this section at a location where the registry identification cardholder is present.

(c) A person other than a registry identification cardholder who has been convicted of violating ORS 475.840 (1)(a) or (b) may not produce marijuana for a registry identification cardholder within five years of the date of the conviction for violating ORS 475.840 (1)(a) or (b) if the conviction was for a first offense.

(d) A person convicted more than once of violating ORS 475.840 (1)(a) or (b) may not be issued a marijuana grow site registration card or produce marijuana for a registry identification cardholder.

(7) A registry identification cardholder or the designated primary caregiver of the

cardholder may reimburse the person responsible for a marijuana grow site for the costs of supplies and utilities associated with the production of marijuana for the registry identification cardholder. No other costs associated with the production of marijuana for the registry identification cardholder, including the cost of labor, may be reimbursed. [2005 c.822 §8]

**Note:** See note under 475.300. 475.304 was added to and made a part of 475.300 to 475.346 by legislative action.

**475.305** [1977 c.636 §1; 1979 c.674 §1; repealed by 1993 c.571 §30]

**475.306 Medical use of marijuana; rules.** (1) A person who possesses a registry identification card issued pursuant to ORS 475.309 may engage in, and a designated primary caregiver of such a person may assist in, the medical use of marijuana only as justified to mitigate the symptoms or effects of the person's debilitating medical condition.

(2) A person who is a registry identification cardholder must possess the registry identification card when using or transporting marijuana in a location other than the residence of the cardholder.

(3) The Department of Human Services shall define by rule when a marijuana plant is mature and when it is immature. The rule shall provide that a plant that has no flowers and that is less than 12 inches in height and less than 12 inches in diameter is a seedling or a start and is not a mature plant. [1999 c.4 §7; 2005 c.822 §2]

**Note:** See note under 475.300.

**475.309 Registry identification card; issuance; eligibility; duties of cardholder.**

(1) Except as provided in ORS 475.316, 475.320 and 475.342, a person engaged in or assisting in the medical use of marijuana is exempted from the criminal laws of the state for possession, delivery or production of marijuana, aiding and abetting another in the possession, delivery or production of marijuana or any other criminal offense in which possession, delivery or production of marijuana is an element if the following conditions have been satisfied:

(a) The person holds a registry identification card issued pursuant to this section, has applied for a registry identification card pursuant to subsection (9) of this section, is the designated primary caregiver of the cardholder or applicant, or is the person responsible for a marijuana grow site that is producing marijuana for the cardholder and is registered under ORS 475.304; and

(b) The person who has a debilitating medical condition, the person's primary caregiver and the person responsible for a marijuana grow site that is producing marijuana for the cardholder and is registered under ORS 475.304 are collectively in possession of, delivering or producing marijuana for medical use in amounts allowed under ORS 475.320.

(2) The Department of Human Services shall establish and maintain a program for the issuance of registry identification cards to persons who meet the requirements of this section. Except as provided in subsection (3) of this section, the department shall issue a

registry identification card to any person who pays a fee in the amount established by the department and provides the following:

(a) Valid, written documentation from the person's attending physician stating that the person has been diagnosed with a debilitating medical condition and that the medical use of marijuana may mitigate the symptoms or effects of the person's debilitating medical condition;

(b) The name, address and date of birth of the person;

(c) The name, address and telephone number of the person's attending physician;

(d) The name and address of the person's designated primary caregiver, if the person has designated a primary caregiver at the time of application; and

(e) A written statement that indicates whether the marijuana used by the cardholder will be produced at a location where the cardholder or designated primary caregiver is present or at another location.

(3) The department shall issue a registry identification card to a person who is under 18 years of age if the person submits the materials required under subsection (2) of this section, and the custodial parent or legal guardian with responsibility for health care decisions for the person under 18 years of age signs a written statement that:

(a) The attending physician of the person under 18 years of age has explained to that person and to the custodial parent or legal guardian with responsibility for health care decisions for the person under 18 years of age the possible risks and benefits of the medical use of marijuana;

(b) The custodial parent or legal guardian with responsibility for health care decisions for the person under 18 years of age consents to the use of marijuana by the person under 18 years of age for medical purposes;

(c) The custodial parent or legal guardian with responsibility for health care decisions for the person under 18 years of age agrees to serve as the designated primary caregiver for the person under 18 years of age; and

(d) The custodial parent or legal guardian with responsibility for health care decisions for the person under 18 years of age agrees to control the acquisition of marijuana and the dosage and frequency of use by the person under 18 years of age.

(4) A person applying for a registry identification card pursuant to this section may submit the information required in this section to a county health department for transmittal to the Department of Human Services. A county health department that receives the information pursuant to this subsection shall transmit the information to the Department of Human Services within five days of receipt of the information. Information received by a county health department pursuant to this subsection shall be confidential and not subject to disclosure, except as required to transmit the information to the Department of Human Services.

(5) The department shall verify the information contained in an application submitted pursuant to this section and shall approve or deny an application within thirty days of receipt of the application.

(a) The department may deny an application only for the following reasons:

(A) The applicant did not provide the information required pursuant to this section to establish the applicant's debilitating medical condition and to document the applicant's consultation with an attending physician regarding the medical use of marijuana in connection with such condition, as provided in subsections (2) and (3) of this section; or



(B) The department determines that the information provided was falsified.

(b) Denial of a registry identification card shall be considered a final department action, subject to judicial review. Only the person whose application has been denied, or, in the case of a person under the age of 18 years of age whose application has been denied, the person's parent or legal guardian, shall have standing to contest the department's action.

(c) Any person whose application has been denied may not reapply for six months from the date of the denial, unless so authorized by the department or a court of competent jurisdiction.

(6)(a) If the department has verified the information submitted pursuant to subsections (2) and (3) of this section and none of the reasons for denial listed in subsection (5)(a) of this section is applicable, the department shall issue a serially numbered registry identification card within five days of verification of the information. The registry identification card shall state:

(A) The cardholder's name, address and date of birth;

(B) The date of issuance and expiration date of the registry identification card;

(C) The name and address of the person's designated primary caregiver, if any;

(D) Whether the marijuana used by the cardholder will be produced at a location where the cardholder or designated primary caregiver is present or at another location; and

(E) Any other information that the department may specify by rule.

(b) When the person to whom the department has issued a registry identification card pursuant to this section has specified a designated primary caregiver, the department shall issue an identification card to the designated primary caregiver. The primary caregiver's registry identification card shall contain the information provided in paragraph (a) of this subsection.

(7)(a) A person who possesses a registry identification card shall:

(A) Notify the department of any change in the person's name, address, attending physician or designated primary caregiver; and

(B) Annually submit to the department:

(i) Updated written documentation of the person's debilitating medical condition; and

(ii) The name of the person's designated primary caregiver if a primary caregiver has been designated for the upcoming year.

(b) If a person who possesses a registry identification card fails to comply with this subsection, the card shall be deemed expired. If a registry identification card expires, the identification card of any designated primary caregiver of the cardholder shall also expire.

(8) A person who possesses a registry identification card pursuant to this section and who has been diagnosed by the person's attending physician as no longer having a debilitating medical condition shall return the registry identification card to the department within seven calendar days of notification of the diagnosis. Any designated primary caregiver shall return the caregiver's identification card within the same period of time.

(9) A person who has applied for a registry identification card pursuant to this section but whose application has not yet been approved or denied, and who is contacted by any law enforcement officer in connection with the person's administration, possession,

delivery or production of marijuana for medical use may provide to the law enforcement officer a copy of the written documentation submitted to the department pursuant to subsections (2) or (3) of this section and proof of the date of mailing or other transmission of the documentation to the department. This documentation shall have the same legal effect as a registry identification card until such time as the person receives notification that the application has been approved or denied. [1999 c.4 §4; 1999 c.825 §2; 2003 c.14 §306; 2005 c.822 §3]

**Note:** See note under 475.300.

**475.312 Designated primary caregiver.** (1) If a person who possesses a registry identification card issued pursuant to ORS 475.309 chooses to have a designated primary caregiver, the person must designate the primary caregiver by including the primary caregiver's name and address:

- (a) On the person's application for a registry identification card;
- (b) In the annual updated information required under ORS 475.309; or
- (c) In a written, signed statement submitted to the Department of Human Services.

(2) A person described in this section may have only one designated primary caregiver at any given time. [1999 c.4 §13]

**Note:** See note under 475.300.

**475.315** [1977 c.636 §2; 1979 c.674 §2; repealed by 1993 c.571 §30]

**475.316 Limitations on cardholder's immunity from criminal laws involving marijuana.** (1) No person authorized to possess, deliver or produce marijuana for medical use pursuant to ORS 475.300 to 475.346 shall be excepted from the criminal laws of this state or shall be deemed to have established an affirmative defense to criminal charges of which possession, delivery or production of marijuana is an element if the person, in connection with the facts giving rise to such charges:

(a) Drives under the influence of marijuana as provided in ORS 813.010;

(b) Engages in the medical use of marijuana in a public place as that term is defined in ORS 161.015, or in public view or in a correctional facility as defined in ORS 162.135 (2) or youth correction facility as defined in ORS 162.135 (6);

(c) Delivers marijuana to any individual who the person knows is not in possession of a registry identification card;

(d) Delivers marijuana for consideration to any individual, even if the individual is in possession of a registry identification card;

(e) Manufactures or produces marijuana at a place other than:

(A)(i) One address for property under the control of the patient; and

(ii) One address for property under the control of the primary caregiver of the patient that have been provided to the Department of Human Services; or

(B) A marijuana grow site authorized under ORS 475.304; or

(f) Manufactures or produces marijuana at more than one address.

(2) In addition to any other penalty allowed by law, a person who the department finds has willfully violated the provisions of ORS 475.300 to 475.346, or rules adopted

under ORS 475.300 to 475.346, may be precluded from obtaining or using a registry identification card for the medical use of marijuana for a period of up to six months, at the discretion of the department. [1999 c.4 §5; 1999 c.825 §3; 2005 c.822 §13]

**Note:** See note under 475.300.

**475.319 Affirmative defense to certain criminal laws involving marijuana available to cardholder.** (1) Except as provided in ORS 475.316 and 475.342, it is an affirmative defense to a criminal charge of possession or production of marijuana, or any other criminal offense in which possession or production of marijuana is an element, that the person charged with the offense is a person who:

(a) Has been diagnosed with a debilitating medical condition within 12 months prior to arrest and been advised by the person's attending physician that the medical use of marijuana may mitigate the symptoms or effects of that debilitating medical condition;

(b) Is engaged in the medical use of marijuana; and

(c) Possesses or produces marijuana only in amounts permitted under ORS 475.320.

(2) It is not necessary for a person asserting an affirmative defense pursuant to this section to have received a registry identification card in order to assert the affirmative defense established in this section.

(3) No person engaged in the medical use of marijuana who claims that marijuana provides medically necessary benefits and who is charged with a crime pertaining to such use of marijuana shall be precluded from presenting a defense of choice of evils, as set forth in ORS 161.200, or from presenting evidence supporting the necessity of marijuana for treatment of a specific disease or medical condition, provided that the amount of marijuana at issue is no greater than permitted under ORS 475.320 and the patient has taken a substantial step to comply with the provisions of ORS 475.300 to 475.346.

(4) Any defendant proposing to use the affirmative defense provided for by this section in a criminal action shall, not less than five days before the trial of the cause, file and serve upon the district attorney a written notice of the intention to offer such a defense that specifically states the reasons why the defendant is entitled to assert and the factual basis for such affirmative defense. If the defendant fails to file and serve such notice, the defendant is not permitted to assert the affirmative defense at the trial of the cause unless the court for good cause orders otherwise. [1999 c.4 §6; 1999 c.825 §4; 2005 c.22 §347; 2005 c.822 §12]

**Note:** See note under 475.300.

**475.320 Limits on amounts possessed.** (1)(a) A registry identification cardholder or the designated primary caregiver of the cardholder may possess up to six mature marijuana plants and 24 ounces of usable marijuana.

(b) Notwithstanding paragraph (a) of this subsection, if a registry identification cardholder has been convicted of violating ORS 475.840 (1)(a) or (b), the registry identification cardholder or the designated primary caregiver of the cardholder may possess one ounce of usable marijuana at any given time for a period of five years from the date of the conviction.

(2) If the marijuana used by the registry identification cardholder is produced at a

marijuana grow site where the cardholder or designated primary caregiver is not present, the person responsible for the marijuana grow site:

(a) May produce marijuana for and provide marijuana to a registry identification cardholder or that person's designated primary caregiver as authorized under this section.

(b) May possess up to six mature plants and up to 24 ounces of usable marijuana for each cardholder or caregiver for which marijuana is being produced.

(c) May produce marijuana for up to four registry identification cardholders or designated primary caregivers per year.

(d) Must obtain and display a marijuana grow site registration card issued under ORS 475.304 for each registry identification cardholder or designated primary caregiver for which marijuana is being produced.

(e) Must provide all marijuana produced for a registry identification cardholder or designated primary caregiver to the cardholder or caregiver at the time the person responsible for a marijuana grow site ceases producing marijuana for the cardholder or caregiver.

(f) Must return the marijuana grow site registration card to the registry identification cardholder to whom the card was issued when requested to do so by the cardholder or when the person responsible for a marijuana grow site ceases producing marijuana for the cardholder or caregiver.

(3) Except as provided in subsections (1) and (2) of this section, a registry identification cardholder, the designated primary caregiver of the cardholder and the person responsible for a marijuana grow site producing marijuana for the registry identification cardholder may possess a combined total of up to six mature plants and 24 ounces of usable marijuana for that registry identification cardholder.

(4)(a) A registry identification cardholder and the designated primary caregiver of the cardholder may possess a combined total of up to 18 marijuana seedlings or starts as defined by rule of the Department of Human Services.

(b) A person responsible for a marijuana grow site may possess up to 18 marijuana seedlings or starts as defined by rule of the department for each registry identification cardholder for which the person responsible for the marijuana grow site is producing marijuana. [2005 c.822 §9]

**Note:** See note under 475.300. 475.320 was added to and made a part of 475.300 to 475.346 by legislative action.

**475.323 Effect of possession of registry identification card or designated primary caregiver card on search and seizure rights.** (1) Possession of a registry identification card or designated primary caregiver identification card pursuant to ORS 475.309 does not alone constitute probable cause to search the person or property of the cardholder or otherwise subject the person or property of the cardholder to inspection by any governmental agency.

(2) Any property interest possessed, owned or used in connection with the medical use of marijuana or acts incidental to the medical use of marijuana that has been seized by state or local law enforcement officers may not be harmed, neglected, injured or destroyed while in the possession of any law enforcement agency. A law enforcement agency has no responsibility to maintain live marijuana plants lawfully seized. No such

property interest may be forfeited under any provision of law providing for the forfeiture of property other than as a sentence imposed after conviction of a criminal offense. Usable marijuana and paraphernalia used to administer marijuana that was seized by any law enforcement office shall be returned immediately upon a determination by the district attorney in whose county the property was seized, or the district attorney's designee, that the person from whom the marijuana or paraphernalia used to administer marijuana was seized is entitled to the protections contained in ORS 475.300 to 475.346. The determination may be evidenced, for example, by a decision not to prosecute, the dismissal of charges or acquittal. [1999 c.4 §8; 1999 c.825 §5; 2005 c.22 §348]

**Note:** See note under 475.300.

**475.324 Limits on confiscation of marijuana.** A law enforcement officer who determines that a registry identification cardholder is in possession of amounts of usable marijuana or numbers of marijuana plants in excess of the amount or number authorized by ORS 475.320 may confiscate only any usable marijuana or plants that are in excess of the amount or number authorized. [2005 c.822 §10]

**Note:** See note under 475.300. 475.324 was added to and made a part of 475.300 to 475.346 by legislative action.

**475.325** [1977 c.636 §3; 1979 c.674 §3; repealed by 1993 c.571 §30]

**475.326 Attending physician; limitation on civil liability and professional discipline.** No attending physician may be subjected to civil penalty or discipline by the Board of Medical Examiners for:

(1) Advising a person whom the attending physician has diagnosed as having a debilitating medical condition, or a person who the attending physician knows has been so diagnosed by another physician licensed under ORS chapter 677, about the risks and benefits of medical use of marijuana or that the medical use of marijuana may mitigate the symptoms or effects of the person's debilitating medical condition, provided the advice is based on the attending physician's personal assessment of the person's medical history and current medical condition; or

(2) Providing the written documentation necessary for issuance of a registry identification card under ORS 475.309, if the documentation is based on the attending physician's personal assessment of the applicant's medical history and current medical condition and the attending physician has discussed the potential medical risks and benefits of the medical use of marijuana with the applicant. [1999 c.4 §9; 2005 c.822 §11]

**Note:** See note under 475.300.

**475.328 Limits on professional licensing board's authority to sanction licensee for medical use of marijuana; authorizes licensed health care professional to administer medical marijuana.** (1) No professional licensing board may impose a civil penalty or take other disciplinary action against a licensee based on the licensee's

medical use of marijuana in accordance with the provisions of ORS 475.300 to 475.346 or actions taken by the licensee that are necessary to carry out the licensee's role as a designated primary caregiver to a person who possesses a lawful registry identification card.

(2)(a) A licensed health care professional may administer medical marijuana to a person who possesses a registry identification card and resides in a licensed health care facility if the administration of pharmaceuticals is within the scope of practice of the licensed health care professional. Administration of medical marijuana under this subsection may not take place in a public place as defined in ORS 161.015 or in the presence of a person under 18 years of age. If the medical marijuana administered under this subsection is smoked, adequate ventilation must be provided.

(b) Nothing in this subsection requires:

(A) A licensed health care professional to administer medical marijuana; or

(B) A licensed health care facility to make accommodations for the administration of medical marijuana. [1999 c.4 §10; 2005 c.822 §4]

**Note:** See note under 475.300.

**475.331 List of persons issued registry identification cards, designated primary caregivers and authorized grow sites; disclosure.** (1)(a) The Department of Human Services shall create and maintain a list of the persons to whom the department has issued registry identification cards, the names of any designated primary caregivers and the addresses of authorized marijuana grow sites. Except as provided in subsection (2) of this section, the list shall be confidential and not subject to public disclosure.

(b) The department shall develop a system by which authorized employees of state and local law enforcement agencies may verify at all times that a person is a lawful possessor of a registry identification card or the designated primary caregiver of a lawful possessor of a registry identification card or that a location is an authorized marijuana grow site.

(2) Names and other identifying information from the list established pursuant to subsection (1) of this section may be released to:

(a) Authorized employees of the department as necessary to perform official duties of the department; and

(b) Authorized employees of state or local law enforcement agencies, only as necessary to verify that a person is a lawful possessor of a registry identification card or the designated primary caregiver of a lawful possessor of a registry identification card or that a location is an authorized marijuana grow site. Prior to being provided identifying information from the list, authorized employees of state or local law enforcement agencies shall provide to the department adequate identification, such as a badge number or similar authentication of authority.

(3) Authorized employees of state or local law enforcement agencies that obtain identifying information from the list as authorized under this section may not release or use the information for any purpose other than verification that a person is a lawful possessor of a registry identification card or the designated primary caregiver of a lawful possessor of a registry identification card or that a location is an authorized marijuana grow site. [1999 c.4 §12; 2005 c.822 §5]

**Note:** See note under 475.300.

**475.334 Adding diseases or conditions that qualify as debilitating medical conditions; rules.** Any person may submit a petition to the Department of Human Services requesting that a particular disease or condition be included among the diseases and conditions that qualify as debilitating medical conditions under ORS 475.302. The department shall adopt rules establishing the manner in which the department will evaluate petitions submitted under this section. Any rules adopted pursuant to this section shall require the department to approve or deny a petition within 180 days of receipt of the petition by the department. Denial of a petition shall be considered a final department action subject to judicial review. [1999 c.4 §14]

**Note:** See note under 475.300.

**475.335** [1977 c.636 §4; 1979 c.674 §4; repealed by 1993 c.571 §30]

**475.338 Rules.** The Department of Human Services shall adopt all rules necessary for the implementation and administration of ORS 475.300 to 475.346. [1999 c.4 §15]

**Note:** See note under 475.300.

**475.340 Limitations on reimbursement of costs and employer accommodation.** Nothing in ORS 475.300 to 475.346 shall be construed to require:

(1) A government medical assistance program or private health insurer to reimburse a person for costs associated with the medical use of marijuana; or

(2) An employer to accommodate the medical use of marijuana in any workplace. [1999 c.4 §16]

**Note:** See note under 475.300.

**475.342 Limitations on protection from criminal liability.** Nothing in ORS 475.300 to 475.346 shall protect a person from a criminal cause of action based on possession, production, or delivery of marijuana that is not authorized by ORS 475.300 to 475.346. [1999 c.4 §11]

**Note:** See note under 475.300.

**475.345** [1977 c.636 §5; 1979 c.674 §5; repealed by 1993 c.571 §30]

**475.346 Short title.** ORS 475.300 to 475.346 shall be known as the Oregon Medical Marijuana Act. [1999 c.4 §1]

**Note:** See note under 475.300.

**475.355** [1977 c.636 §6; 1979 c.674 §6; repealed by 1993 c.571 §30]

**475.360** [1979 c.674 §10; repealed by 1993 c.571 §30]

**475.365** [1977 c.636 §7; 1979 c.674 §7; repealed by 1993 c.571 §30]

**475.375** [1977 c.636 §8; 1979 c.674 §8; repealed by 1993 c.571 §30]



**Enrolled**  
**Senate Bill 1085**

Sponsored by COMMITTEE ON RULES (at the request of Senator Bill Morrisette and Senator Jeff Kruse)

CHAPTER .....

AN ACT

Relating to medical marijuana; creating new provisions; and amending ORS 475.302, 475.306, 475.309, 475.316, 475.319, 475.326, 475.328 and 475.331.

**Be It Enacted by the People of the State of Oregon:**

**SECTION 1.** ORS 475.302 is amended to read:

475.302. As used in ORS 475.300 to 475.346:

(1) "Attending physician" means a physician licensed under ORS chapter 677 who has primary responsibility for the care and treatment of a person diagnosed with a debilitating medical condition.

(2) "Debilitating medical condition" means:

(a) Cancer, glaucoma, positive status for human immunodeficiency virus or acquired immune deficiency syndrome, or treatment for these conditions;

(b) A medical condition or treatment for a medical condition that produces, for a specific patient, one or more of the following:

(A) Cachexia;

(B) Severe pain;

(C) Severe nausea;

(D) Seizures, including but not limited to seizures caused by epilepsy; or

(E) Persistent muscle spasms, including but not limited to spasms caused by multiple sclerosis;

or

(c) Any other medical condition or treatment for a medical condition adopted by the department by rule or approved by the department pursuant to a petition submitted pursuant to ORS 475.334.

(3) "Delivery" has the meaning given that term in ORS 475.005. **"Delivery" does not include transfer of marijuana by a registry identification cardholder to another registry identification cardholder if no consideration is paid for the transfer.**

(4) "Department" means the Department of Human Services.

(5) "Designated primary caregiver" means an individual 18 years of age or older who has significant responsibility for managing the well-being of a person who has been diagnosed with a debilitating medical condition and who is designated as such on that person's application for a registry identification card or in other written notification to the department. "Designated primary caregiver" does not include the person's attending physician.

(6) "Marijuana" has the meaning given that term in ORS 475.005.

(7) **"Marijuana grow site" means a location where marijuana is produced for use by a registry identification cardholder and that is registered under the provisions of section 8 of this 2005 Act.**

[(7)] (8) “Medical use of marijuana” means the production, possession, delivery, or administration of marijuana, or paraphernalia used to administer marijuana, as necessary for the exclusive benefit of a person to mitigate the symptoms or effects of his or her debilitating medical condition.

[(8)] (9) “Production” has the same meaning given that term in ORS 475.005.

[(9)] (10) “Registry identification card” means a document issued by the department that identifies a person authorized to engage in the medical use of marijuana and the person’s designated primary caregiver, if any.

[(10)] (11) “Usable marijuana” means the dried leaves and flowers of the plant Cannabis family Moraceae, and any mixture or preparation thereof, that are appropriate for medical use as allowed in ORS 475.300 to 475.346. “Usable marijuana” does not include the seeds, stalks and roots of the plant.

[(11)] (12) “Written documentation” means a statement signed by the attending physician of a person diagnosed with a debilitating medical condition or copies of the person’s relevant medical records.

**SECTION 2.** ORS 475.306 is amended to read:

475.306. (1) A person who possesses a registry identification card issued pursuant to ORS 475.309 may engage in, and a designated primary caregiver of such a person may assist in, the medical use of marijuana only as justified to mitigate the symptoms or effects of the person’s debilitating medical condition. *[Except as allowed in subsection (2) of this section, a registry identification cardholder and that person’s designated primary caregiver may not collectively possess, deliver or produce more than the following:]*

*[(a) If the person is present at a location at which marijuana is not produced, including any residence associated with that location, one ounce of usable marijuana; and]*

*[(b) If the person is present at a location at which marijuana is produced, including any residence associated with that location, three mature marijuana plants, four immature marijuana plants and one ounce of usable marijuana per each mature plant.]*

*[(2) If the individuals described in subsection (1) of this section possess, deliver or produce marijuana in excess of the amounts allowed in subsection (1) of this section, such individuals are not exempted from the criminal laws of the state but may establish an affirmative defense to such charges, by a preponderance of the evidence, that the greater amount is medically necessary to mitigate the symptoms or effects of the person’s debilitating medical condition.]*

**(2) A person who is a registry identification cardholder must possess the registry identification card when using or transporting marijuana in a location other than the residence of the cardholder.**

(3) The Department of Human Services shall define by rule when a marijuana plant is mature and when it is immature *[for purposes of this section]*. **The rule shall provide that a plant that has no flowers and that is less than 12 inches in height and less than 12 inches in diameter is a seedling or a start and is not a mature plant.**

**SECTION 3.** ORS 475.309 is amended to read:

475.309. (1) Except as provided in ORS 475.316 and 475.342 **and section 9 of this 2005 Act**, a person engaged in or assisting in the medical use of marijuana is excepted from the criminal laws of the state for possession, delivery or production of marijuana, aiding and abetting another in the possession, delivery or production of marijuana or any other criminal offense in which possession, delivery or production of marijuana is an element if the following conditions have been satisfied:

(a) The person holds a registry identification card issued pursuant to this section, has applied for a registry identification card pursuant to subsection (9) of this section, *[or]* is the designated primary caregiver of *[a]* **the cardholder or applicant, or is the person responsible for a marijuana grow site that is producing marijuana for the cardholder and is registered under section 8 of this 2005 Act;** and

(b) The person who has a debilitating medical condition, *[and]* the person’s primary caregiver **and the person responsible for a marijuana grow site that is producing marijuana for the cardholder and is registered under section 8 of this 2005 Act** are collectively in possession of,

delivering or producing marijuana for medical use in [the] amounts allowed [in ORS 475.306] **under section 9 of this 2005 Act.**

(2) The Department of Human Services shall establish and maintain a program for the issuance of registry identification cards to persons who meet the requirements of this section. Except as provided in subsection (3) of this section, the department shall issue a registry identification card to any person who pays a fee in the amount established by the department and provides the following:

(a) Valid, written documentation from the person's attending physician stating that the person has been diagnosed with a debilitating medical condition and that the medical use of marijuana may mitigate the symptoms or effects of the person's debilitating medical condition;

(b) The name, address and date of birth of the person;

(c) The name, address and telephone number of the person's attending physician; [and]

(d) The name and address of the person's designated primary caregiver, if the person has designated a primary caregiver at the time of application[.]; **and**

**(e) A written statement that indicates whether the marijuana used by the cardholder will be produced at a location where the cardholder or designated primary caregiver is present or at another location.**

(3) The department shall issue a registry identification card to a person who is under 18 years of age if the person submits the materials required under subsection (2) of this section, and the custodial parent or legal guardian with responsibility for health care decisions for the person under 18 years of age signs a written statement that:

(a) The attending physician of the person under 18 years of age has explained to that person and to the custodial parent or legal guardian with responsibility for health care decisions for the person under 18 years of age the possible risks and benefits of the medical use of marijuana;

(b) The custodial parent or legal guardian with responsibility for health care decisions for the person under 18 years of age consents to the use of marijuana by the person under 18 years of age for medical purposes;

(c) The custodial parent or legal guardian with responsibility for health care decisions for the person under 18 years of age agrees to serve as the designated primary caregiver for the person under 18 years of age; and

(d) The custodial parent or legal guardian with responsibility for health care decisions for the person under 18 years of age agrees to control the acquisition of marijuana and the dosage and frequency of use by the person under 18 years of age.

(4) A person applying for a registry identification card pursuant to this section may submit the information required in this section to a county health department for transmittal to the Department of Human Services. A county health department that receives the information pursuant to this subsection shall transmit the information to the Department of Human Services within five days of receipt of the information. Information received by a county health department pursuant to this subsection shall be confidential and not subject to disclosure, except as required to transmit the information to the Department of Human Services.

(5) The department shall verify the information contained in an application submitted pursuant to this section and shall approve or deny an application within thirty days of receipt of the application.

(a) The department may deny an application only for the following reasons:

(A) The applicant did not provide the information required pursuant to this section to establish the applicant's debilitating medical condition and to document the applicant's consultation with an attending physician regarding the medical use of marijuana in connection with such condition, as provided in subsections (2) and (3) of this section; or

(B) The department determines that the information provided was falsified.

(b) Denial of a registry identification card shall be considered a final department action, subject to judicial review. Only the person whose application has been denied, or, in the case of a person

under the age of 18 years of age whose application has been denied, the person's parent or legal guardian, shall have standing to contest the department's action.

(c) Any person whose application has been denied may not reapply for six months from the date of the denial, unless so authorized by the department or a court of competent jurisdiction.

(6)(a) If the department has verified the information submitted pursuant to subsections (2) and (3) of this section and none of the reasons for denial listed in subsection (5)(a) of this section is applicable, the department shall issue a serially numbered registry identification card within five days of verification of the information. The registry identification card shall state:

(A) The cardholder's name, address and date of birth;

(B) The date of issuance and expiration date of the registry identification card;

(C) The name and address of the person's designated primary caregiver, if any; *[and]*

**(D) Whether the marijuana used by the cardholder will be produced at a location where the cardholder or designated primary caregiver is present or at another location; and**

*[(D)]* **(E) [Such] Any other information [as] that the department may specify by rule.**

(b) When the person to whom the department has issued a registry identification card pursuant to this section has specified a designated primary caregiver, the department shall issue an identification card to the designated primary caregiver. The primary caregiver's registry identification card shall contain the information provided in paragraph (a) of this subsection.

(7)(a) A person who possesses a registry identification card shall:

(A) Notify the department of any change in the person's name, address, attending physician or designated primary caregiver; and

(B) Annually submit to the department:

(i) Updated written documentation of the person's debilitating medical condition; and

(ii) The name of the person's designated primary caregiver if a primary caregiver has been designated for the upcoming year.

(b) If a person who possesses a registry identification card fails to comply with this subsection, the card shall be deemed expired. If a registry identification card expires, the identification card of any designated primary caregiver of the cardholder shall also expire.

(8) A person who possesses a registry identification card pursuant to this section and who has been diagnosed by the person's attending physician as no longer having a debilitating medical condition shall return the registry identification card to the department within seven calendar days of notification of the diagnosis. Any designated primary caregiver shall return the caregiver's identification card within the same period of time.

(9) A person who has applied for a registry identification card pursuant to this section but whose application has not yet been approved or denied, and who is contacted by any law enforcement officer in connection with the person's administration, possession, delivery or production of marijuana for medical use may provide to the law enforcement officer a copy of the written documentation submitted to the department pursuant to subsections (2) or (3) of this section and proof of the date of mailing or other transmission of the documentation to the department. This documentation shall have the same legal effect as a registry identification card until such time as the person receives notification that the application has been approved or denied.

**SECTION 4.** ORS 475.328 is amended to read:

475.328. (1) No professional licensing board may impose a civil penalty or take other disciplinary action against a licensee based on the licensee's medical use of marijuana in accordance with the provisions of ORS 475.300 to 475.346 or actions taken by the licensee that are necessary to carry out the licensee's role as a designated primary caregiver to a person who possesses a lawful registry identification card *[issued pursuant to ORS 475.309]*.

**(2)(a) A licensed health care professional may administer medical marijuana to a person who possesses a registry identification card and resides in a licensed health care facility if the administration of pharmaceuticals is within the scope of practice of the licensed health care professional. Administration of medical marijuana under this subsection may not take place in a public place as defined in ORS 161.015 or in the presence of a person under 18 years**

of age. If the medical marijuana administered under this subsection is smoked, adequate ventilation must be provided.

(b) Nothing in this subsection requires:

(A) A licensed health care professional to administer medical marijuana; or

(B) A licensed health care facility to make accommodations for the administration of medical marijuana.

**SECTION 5.** ORS 475.331 is amended to read:

475.331. (1)(a) The Department of Human Services shall create and maintain a list of the persons to whom the department has issued registry identification cards, [pursuant to ORS 475.309 and] the names of any designated primary caregivers **and the addresses of authorized marijuana grow sites**. Except as provided in subsection (2) of this section, the list shall be confidential and not subject to public disclosure.

(b) **The department shall develop a system by which authorized employees of state and local law enforcement agencies may verify at all times that a person is a lawful possessor of a registry identification card or the designated primary caregiver of a lawful possessor of a registry identification card or that a location is an authorized marijuana grow site.**

(2) Names and other identifying information from the list established pursuant to subsection (1) of this section may be released to:

(a) Authorized employees of the department as necessary to perform official duties of the department; and

(b) Authorized employees of state or local law enforcement agencies, only as necessary to verify that a person is a lawful possessor of a registry identification card or [that a person is] the designated primary caregiver of [such a person] **a lawful possessor of a registry identification card or that a location is an authorized marijuana grow site. Prior to being provided identifying information from the list, authorized employees of state or local law enforcement agencies shall provide to the department adequate identification, such as a badge number or similar authentication of authority.**

(3) Authorized employees of state or local law enforcement agencies that obtain identifying information from the list as authorized under this section may not release or use the information for any purpose other than verification that a person is a lawful possessor of a registry identification card or the designated primary caregiver of a lawful possessor of a registry identification card or that a location is an authorized marijuana grow site.

**SECTION 6.** Sections 7, 8, 9 and 10 of this 2005 Act are added to and made a part of ORS 475.300 to 475.346.

**SECTION 7.** (1) There is created the Advisory Committee on Medical Marijuana in the Department of Human Services, consisting of 11 members appointed by the Director of Human Services.

(2) The director shall appoint members of the committee from persons who possess registry identification cards, designated primary caregivers of persons who possess registry identification cards and advocates of the Oregon Medical Marijuana Act.

(3) The committee shall advise the director on the administrative aspects of the Oregon Medical Marijuana Program, review current and proposed administrative rules of the program and provide annual input on the fee structure of the program.

(4) The committee shall meet at least four times per year, at times and places specified by the director.

(5) The department shall provide staff support to the committee.

(6) All agencies of state government, as defined in ORS 174.111, are directed to assist the committee in the performance of its duties and, to the extent permitted by laws relating to confidentiality, to furnish information and advice that the members of the committee consider necessary to perform their duties.

**SECTION 8.** (1) The Department of Human Services shall establish by rule a marijuana grow site registration system to authorize production of marijuana by a registry identifica-

tion cardholder, a designated primary caregiver who grows marijuana for the cardholder or a person who is responsible for a marijuana grow site. The marijuana grow site registration system adopted must require a registry identification cardholder to submit an application to the department that includes:

- (a) The name of the person responsible for the marijuana grow site;
- (b) The address of the marijuana grow site;
- (c) The registry identification card number of the registry cardholder for whom the marijuana is being produced; and
- (d) Any other information the department considers necessary.

(2) The department shall issue a marijuana grow site registration card to a registry identification cardholder who has met the requirements of subsection (1) of this section.

(3) A person who has been issued a marijuana grow site registration card under this section must display the registration card at the marijuana grow site at all times when marijuana is being produced.

(4) A marijuana grow site registration card must be obtained and posted for each registry identification cardholder for whom marijuana is being produced at a marijuana grow site.

(5) All usable marijuana, plants, seedlings and seeds associated with the production of marijuana for a registry identification cardholder by a person responsible for a marijuana grow site are the property of the registry identification cardholder and must be provided to the registry identification cardholder upon request.

(6)(a) The department shall restrict a marijuana grow site registration card issued to a registry identification cardholder who has been convicted of violating ORS 475.992 (1)(a) or (b) to prohibit for a period of five years from the date of conviction the production of marijuana otherwise authorized by this section at a location where the registry identification cardholder is present.

(b) A registry identification cardholder who has been convicted of violating ORS 475.992 (1)(a) or (b) may not be issued a marijuana grow site registration card within five years of the date of the conviction for violating ORS 475.992 (1)(a) or (b) if the conviction was for a first offense to prohibit for a period of five years from the date of conviction the production of marijuana otherwise authorized by this section at a location where the registry identification cardholder is present.

(c) A person other than a registry identification cardholder who has been convicted of violating ORS 475.992 (1)(a) or (b) may not produce marijuana for a registry identification cardholder within five years of the date of the conviction for violating ORS 475.992 (1)(a) or (b) if the conviction was for a first offense.

(d) A person convicted more than once of violating ORS 475.992 (1)(a) or (b) may not be issued a marijuana grow site registration card or produce marijuana for a registry identification cardholder.

(7) A registry identification cardholder or the designated primary caregiver of the cardholder may reimburse the person responsible for a marijuana grow site for the costs of supplies and utilities associated with the production of marijuana for the registry identification cardholder. No other costs associated with the production of marijuana for the registry identification cardholder, including the cost of labor, may be reimbursed.

**SECTION 8a.** The provisions of section 8 (6) of this 2005 Act apply only to a person convicted of a violation of ORS 475.992 (1)(a) or (b) that occurred on or after the effective date of this 2005 Act.

**SECTION 9.** (1)(a) A registry identification cardholder or the designated primary caregiver of the cardholder may possess up to six mature marijuana plants and 24 ounces of usable marijuana.

(b) Notwithstanding paragraph (a) of this subsection, if a registry identification cardholder has been convicted of violating ORS 475.992 (1)(a) or (b), the registry identification

cardholder or the designated primary caregiver of the cardholder may possess one ounce of usable marijuana at any given time for a period of five years from the date of the conviction.

(2) If the marijuana used by the registry identification cardholder is produced at a marijuana grow site where the cardholder or designated primary caregiver is not present, the person responsible for the marijuana grow site:

(a) May produce marijuana for and provide marijuana to a registry identification cardholder or that person's designated primary caregiver as authorized under this section.

(b) May possess up to six mature plants and up to 24 ounces of usable marijuana for each cardholder or caregiver for which marijuana is being produced.

(c) May produce marijuana for up to four registry identification cardholders or designated primary caregivers per year.

(d) Must obtain and display a marijuana grow site registration card issued under section 8 of this 2005 Act for each registry identification cardholder or designated primary caregiver for which marijuana is being produced.

(e) Must provide all marijuana produced for a registry identification cardholder or designated primary caregiver to the cardholder or caregiver at the time the person responsible for a marijuana grow site ceases producing marijuana for the cardholder or caregiver.

(f) Must return the marijuana grow site registration card to the registry identification cardholder to whom the card was issued when requested to do so by the cardholder or when the person responsible for a marijuana grow site ceases producing marijuana for the cardholder or caregiver.

(3) Except as provided in subsections (1) and (2) of this section, a registry identification cardholder, the designated primary caregiver of the cardholder and the person responsible for a marijuana grow site producing marijuana for the registry identification cardholder may possess a combined total of up to six mature plants and 24 ounces of usable marijuana for that registry identification cardholder.

(4)(a) A registry identification cardholder and the designated primary caregiver of the cardholder may possess a combined total of up to 18 marijuana seedlings or starts as defined by rule of the Department of Human Services.

(b) A person responsible for a marijuana grow site may possess up to 18 marijuana seedlings or starts as defined by rule of the department for each registry identification cardholder for which the person responsible for the marijuana grow site is producing marijuana.

**SECTION 10.** A law enforcement officer who determines that a registry identification cardholder is in possession of amounts of usable marijuana or numbers of marijuana plants in excess of the amount or number authorized by section 9 of this 2005 Act may confiscate only any usable marijuana or plants that are in excess of the amount or number authorized.

**SECTION 11.** ORS 475.326 is amended to read:

475.326. No attending physician may be subjected to civil penalty or discipline by the Board of Medical Examiners for:

(1) Advising a person whom the attending physician has diagnosed as having a debilitating medical condition, or a person who the attending physician knows has been so diagnosed by another physician licensed under ORS chapter 677, about the risks and benefits of medical use of marijuana or that the medical use of marijuana may mitigate the symptoms or effects of the person's debilitating medical condition, provided the advice is based on the attending physician's personal assessment of the person's medical history and current medical condition; or

(2) Providing the written documentation necessary for issuance of a registry identification card under ORS 475.309, if the documentation is based on the attending physician's personal assessment of the applicant's medical history and current medical condition and the **attending** physician has discussed the potential medical risks and benefits of the medical use of marijuana with the applicant.

**SECTION 12.** ORS 475.319 is amended to read:

475.319. (1) Except as provided in ORS 475.316 and 475.342, it is an affirmative defense to a criminal charge of possession or production of marijuana, or any other criminal offense in which possession or production of marijuana is an element, that the person charged with the offense is a person who:

(a) Has been diagnosed with a debilitating medical condition within 12 months prior to arrest and been advised by his or her attending physician the medical use of marijuana may mitigate the symptoms or effects of that debilitating medical condition;

(b) Is engaged in the medical use of marijuana; and

**(c) Possesses or produces marijuana only in amounts permitted under section 9 of this 2005 Act.**

*[(c) Possesses or produces marijuana only in the amounts allowed in ORS 475.306 (1), or in excess of those amounts if the person proves by a preponderance of the evidence that the greater amount is medically necessary as determined by the person's attending physician to mitigate the symptoms or effects of the person's debilitating medical condition.]*

(2) It is not necessary for a person asserting an affirmative defense pursuant to this section to have received a registry identification card in order to assert the affirmative defense established in this section.

(3) No person engaged in the medical use of marijuana who claims that marijuana provides medically necessary benefits and who is charged with a crime pertaining to such use of marijuana shall be precluded from presenting a defense of choice of evils, as set forth in ORS 161.200, or from presenting evidence supporting the necessity of marijuana for treatment of a specific disease or medical condition, provided that the amount of marijuana at issue is no greater than permitted under [ORS 475.306] **section 9 of this 2005 Act** and the patient has taken a substantial step to comply with the provisions of ORS 475.300 to 475.346.

(4) Any defendant proposing to use the affirmative defense provided for by this section in a criminal action shall, not less than five days before the trial of the cause, file and serve upon the district attorney a written notice of the intention to offer such a defense that specifically states the reasons why the defendant is entitled to assert and the factual basis for such affirmative defense. If the defendant fails to file and serve such notice, the defendant shall not be permitted to assert the affirmative defense at the trial of the cause unless the court for good cause orders otherwise.

**SECTION 13.** ORS 475.316 is amended to read:

475.316. (1) No person authorized to possess, deliver or produce marijuana for medical use pursuant to ORS 475.300 to 475.346 shall be excepted from the criminal laws of this state or shall be deemed to have established an affirmative defense to criminal charges of which possession, delivery or production of marijuana is an element if the person, in connection with the facts giving rise to such charges:

(a) Drives under the influence of marijuana as provided in ORS 813.010;

(b) Engages in the medical use of marijuana in a public place as that term is defined in ORS 161.015, or in public view or in a correctional facility as defined in ORS 162.135 (2) or youth correction facility as defined in ORS 162.135 (6);

(c) Delivers marijuana to any individual who the person knows is not in possession of a registry identification card;

(d) Delivers marijuana for consideration to any individual, even if the individual is in possession of a registry identification card;

(e) Manufactures or produces marijuana at a place other than:

**(A)(i)** One address for property under the control of the patient; and

**(ii)** One address for property under the control of the primary caregiver of the patient that have been provided to the Department of Human Services; or

**(B) A marijuana grow site authorized under section 8 of this 2005 Act; or**

(f) Manufactures or produces marijuana at more than one address.

(2) In addition to any other penalty allowed by law, a person who the department finds has willfully violated the provisions of ORS 475.300 to 475.346, or rules adopted under ORS 475.300 to



475.346, may be precluded from obtaining or using a registry identification card for the medical use of marijuana for a period of up to six months, at the discretion of the department.

**Passed by Senate July 20, 2005**

**Received by Governor:**

**Repassed by Senate August 4, 2005**

.....M,....., 2005

.....  
Secretary of Senate

**Approved:**

.....M,....., 2005

.....  
President of Senate

.....  
Governor

**Passed by House August 2, 2005**

**Filed in Office of Secretary of State:**

**Repassed by House August 4, 2005**

.....M,....., 2005

.....  
Speaker of House

.....  
Secretary of State

# Enrolled Senate Bill 281

Sponsored by Senator BOQUIST; Senator DINGFELDER (at the request of Todd Dalotto) (Presession filed.)

CHAPTER .....

AN ACT

Relating to medical marijuana; amending ORS 475.302.

**Be It Enacted by the People of the State of Oregon:**

**SECTION 1.** ORS 475.302 is amended to read:

475.302. As used in ORS 475.300 to 475.346:

(1) "Attending physician" means a physician licensed under ORS chapter 677 who has primary responsibility for the care and treatment of a person diagnosed with a debilitating medical condition.

(2) "Authority" means the Oregon Health Authority.

(3) "Debilitating medical condition" means:

(a) Cancer, glaucoma, agitation [*due*] **incident** to Alzheimer's disease, positive status for human immunodeficiency virus or acquired immune deficiency syndrome, or **a side effect related to the treatment [for] of these medical conditions;**

(b) A medical condition or treatment for a medical condition that produces, for a specific patient, one or more of the following:

(A) Cachexia;

(B) Severe pain;

(C) Severe nausea;

(D) Seizures, including [*but not limited to*] seizures caused by epilepsy; or

(E) Persistent muscle spasms, including [*but not limited to*] spasms caused by multiple sclerosis;  
[or]

**(c) Post-traumatic stress disorder; or**

[(c)] **(d)** Any other medical condition or **side effect related to the treatment [for] of** a medical condition adopted by the authority by rule or approved by the authority pursuant to a petition submitted [*pursuant to*] **under** ORS 475.334.

(4) "Delivery" has the meaning given that term in ORS 475.005. "Delivery" does not include transfer of marijuana by a registry identification cardholder to another registry identification cardholder if no consideration is paid for the transfer.

(5) "Designated primary caregiver" means an individual 18 years of age or older who has significant responsibility for managing the well-being of a person who has been diagnosed with a debilitating medical condition and who is designated as such on that person's application for a registry identification card or in other written notification to the authority. "Designated primary caregiver" does not include the person's attending physician.

(6) "Marijuana" has the meaning given that term in ORS 475.005.

(7) "Marijuana grow site" means a location **registered under ORS 475.304** where marijuana is produced for use by a registry identification cardholder [*and that is registered under the provisions of ORS 475.304*].

(8) "Medical use of marijuana" means the production, possession, delivery, **distribution** or administration of marijuana, or paraphernalia used to administer marijuana, as necessary for the exclusive benefit of a person to mitigate the symptoms or effects of the person's debilitating medical condition.

(9) "Production" has the meaning given that term in ORS 475.005.

(10) "Registry identification card" means a document issued by the authority that identifies a person authorized to engage in the medical use of marijuana and, **if the person has a designated primary caregiver under ORS 475.312**, the person's designated primary caregiver[, *if any*].

(11) "Usable marijuana" means the dried leaves and flowers of the plant Cannabis family Moraceae, and any mixture or preparation thereof, that are appropriate for medical use as allowed in ORS 475.300 to 475.346. "Usable marijuana" does not include the seeds, stalks and roots of the plant.

(12) "Written documentation" means a statement signed by the attending physician of a person diagnosed with a debilitating medical condition or copies of the person's relevant medical records.

**Passed by Senate April 18, 2013**

.....  
Robert Taylor, Secretary of Senate

.....  
Peter Courtney, President of Senate

**Passed by House May 30, 2013**

.....  
Tina Kotek, Speaker of House

**Received by Governor:**

.....M.,....., 2013

**Approved:**

.....M.,....., 2013

.....  
John Kitzhaber, Governor

**Filed in Office of Secretary of State:**

.....M.,....., 2013

.....  
Kate Brown, Secretary of State

# House Bill 3460

Sponsored by Representative BUCKLEY, Senator PROZANSKI; Representative FREDERICK, Senator DINGFELDER

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Directs Oregon Health Authority to establish registration system for medical marijuana facilities for transferring usable marijuana from registry identification cardholders, designated primary caregivers of registry identification cardholders or marijuana grow sites to medical marijuana facilities and from medical marijuana facilities to registry identification cardholders or designated primary caregivers of registry identification cardholders.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to medical marijuana; creating new provisions; amending ORS 475.302, 475.304, 475.309,  
3 475.320, 475.323 and 475.331; and declaring an emergency.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1. Section 2 of this 2013 Act is added to and made a part of ORS 475.300 to**  
6 **475.346.**

7 **SECTION 2. (1) The Oregon Health Authority shall establish by rule a medical marijuana**  
8 **facility registration system to authorize the transfer of usable marijuana, subject to sub-**  
9 **section (6) of this section, from:**

10 (a) **A registry identification cardholder, the designated primary caregiver of a registry**  
11 **identification cardholder, or a person responsible for a marijuana grow site to the medical**  
12 **marijuana facility; or**

13 (b) **A medical marijuana facility to a registry identification cardholder or the designated**  
14 **primary caregiver of a registry identification cardholder.**

15 (2) **The registration system established under subsection (1) of this section must require**  
16 **a medical marijuana facility to submit an application to the authority that includes:**

17 (a) **The name of the person responsible for the medical marijuana facility;**

18 (b) **The address of the medical marijuana facility;**

19 (c) **Documentation, as required by the authority by rule, that demonstrates the medical**  
20 **marijuana facility meets the qualifications for a medical marijuana facility as described in**  
21 **subsection (3) of this section; and**

22 (d) **Any other information that the authority considers necessary.**

23 (3) **To qualify for registration under this section, a medical marijuana facility:**

24 (A) **Must be located in an area that is zoned for commercial or industrial use or as ag-**  
25 **ricultural land;**

26 (B) **Must be a facility that is open to registry identification cardholders and designated**  
27 **primary caregivers as a business;**

28 (C) **Must not be located within 1,000 feet of the real property comprising a public or pri-**

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 vate elementary, secondary or career school attended primarily by minors;

2 (D) Must not be located within 1,000 feet of another medical marijuana facility; and

3 (E) Must comport with rules adopted by the authority related to:

4 (i) Installing a minimum security system, including a video surveillance system, alarm  
5 system and safe; and

6 (ii) Testing for pesticides, mold and mildew.

7 (4)(a) The authority shall conduct a criminal records check under ORS 181.534 of a person  
8 whose name is submitted as the person responsible for a medical marijuana facility under  
9 subsection (2) of this section.

10 (b) A person convicted of a Class A or Class B felony under ORS 475.752 to 475.920 for  
11 the manufacture or delivery of a controlled substance in Schedule I or Schedule II may not  
12 be the person responsible for a medical marijuana facility for five years from the date the  
13 person completes the sentence for the crime for which the person has been convicted under  
14 this paragraph.

15 (c) A person convicted more than once of a Class A or Class B felony under ORS 475.752  
16 to 475.920 for the manufacture or delivery of a controlled substance in Schedule I or Schedule  
17 II may not be the person responsible for a medical marijuana facility.

18 (5) If a person submits the application required under subsection (2) of this section, the  
19 medical marijuana facility identified in the application meets the criteria described in sub-  
20 section (3) of this section and the person responsible for the medical marijuana facility  
21 passes the criminal records check required under subsection (4) of this section, the authority  
22 shall register the medical marijuana facility and issue the person responsible for the medical  
23 marijuana facility proof of registration. The person responsible for the medical marijuana  
24 facility shall display the proof of registration on the premises of the medical marijuana fa-  
25 cility at all times when usable marijuana is being transferred as described in subsection (1)  
26 of this section.

27 (6) Registration under this section is invalid if a medical marijuana facility does not:

28 (a) Obtain authorization from a registry identification cardholder to:

29 (A) Receive from a marijuana grow site usable marijuana that belongs to the registry  
30 identification cardholder if medical marijuana is to be transferred to the medical marijuana  
31 facility from a marijuana grow site; and

32 (B) Transfer to a registry identification cardholder or the designated primary caregiver  
33 of the registry identification cardholder usable marijuana; or

34 (b) Keep and maintain a list of:

35 (A) All persons responsible for a marijuana grow site from whom the medical marijuana  
36 facility has received usable marijuana; and

37 (B) All registry identification cardholders and designated primary caregivers to whom the  
38 medical marijuana facility transfers usable marijuana under this section and the amount of  
39 usable marijuana transferred in each instance.

40 (7) A medical marijuana facility registered under this section may possess marijuana in  
41 excess of the limits imposed on registry identification cardholders and designated primary  
42 caregivers under ORS 475.320.

43 (8) The authority may inspect:

44 (a) The premises of an applicant for a medical marijuana facility or a registered medical  
45 marijuana facility to ensure compliance with subsection (3) of this section; and

1       **(b) The records of a registered medical marijuana facility to ensure compliance with**  
 2 **subsection (6)(b) of this section.**

3       **(9)(a) A registry identification cardholder or the designated primary caregiver of a reg-**  
 4 **istry identification cardholder may reimburse a medical marijuana facility registered under**  
 5 **this section for the normal and customary costs of doing business, including costs related**  
 6 **to transferring, handling, securing, insuring, testing, packaging and processing usable**  
 7 **marijuana and the cost of supplies, utilities and rent or mortgage.**

8       **(b) A medical marijuana facility may reimburse a person responsible for a marijuana**  
 9 **grow site under this section for the normal and customary costs of doing business, including**  
 10 **costs related to transferring, handling, securing, insuring, testing, packaging and processing**  
 11 **usable marijuana and the cost of supplies, utilities and rent or mortgage.**

12       **(10) The authority may adopt rules imposing a fee in an amount established by the au-**  
 13 **thority for registering a medical marijuana facility under this section.**

14       **SECTION 3.** ORS 475.302 is amended to read:

15       475.302. As used in ORS 475.300 to 475.346:

16       (1) “Attending physician” means a physician licensed under ORS chapter 677 who has primary  
 17 responsibility for the care and treatment of a person diagnosed with a debilitating medical condition.

18       (2) “Authority” means the Oregon Health Authority.

19       (3) “Debilitating medical condition” means:

20       (a) Cancer, glaucoma, agitation due to Alzheimer’s disease, positive status for human  
 21 immunodeficiency virus or acquired immune deficiency syndrome, or treatment for these conditions;

22       (b) A medical condition or treatment for a medical condition that produces, for a specific pa-  
 23 tient, one or more of the following:

24       (A) Cachexia;

25       (B) Severe pain;

26       (C) Severe nausea;

27       (D) Seizures, including but not limited to seizures caused by epilepsy; or

28       (E) Persistent muscle spasms, including but not limited to spasms caused by multiple sclerosis;

29 or

30       (c) Any other medical condition or treatment for a medical condition adopted by the authority  
 31 by rule or approved by the authority pursuant to a petition submitted pursuant to ORS 475.334.

32       (4)(a) “Delivery” has the meaning given that term in ORS 475.005.

33       (b) “Delivery” does not include transfer of:

34       (A) Marijuana by a registry identification cardholder to another registry identification  
 35 cardholder if no consideration is paid for the transfer[.];

36       (B) Usable marijuana from a registry identification cardholder, the designated primary  
 37 caregiver of a registry identification cardholder or a marijuana grow site to a medical  
 38 marijuana facility registered under section 2 of this 2013 Act; or

39       (C) Usable marijuana from a medical marijuana facility registered under section 2 of this  
 40 2013 Act to a registry identification cardholder or the designated primary caregiver of a  
 41 registry identification cardholder.

42       (5) “Designated primary caregiver” means an individual 18 years of age or older who has sig-  
 43 nificant responsibility for managing the well-being of a person who has been diagnosed with a de-  
 44 bilitating medical condition and who is designated as such on that person’s application for a registry  
 45 identification card or in other written notification to the authority. “Designated primary

1 caregiver” does not include the person’s attending physician.

2 (6) “Marijuana” has the meaning given that term in ORS 475.005.

3 (7) “Marijuana grow site” means a location where marijuana is produced for use by a registry  
4 identification cardholder and that is registered under the provisions of ORS 475.304.

5 (8) “Medical use of marijuana” means the production, possession, delivery, or administration of  
6 marijuana, or paraphernalia used to administer marijuana, as necessary for the exclusive benefit of  
7 a person to mitigate the symptoms or effects of the person’s debilitating medical condition.

8 (9) “Production” has the meaning given that term in ORS 475.005.

9 (10) “Registry identification card” means a document issued by the authority that identifies a  
10 person authorized to engage in the medical use of marijuana and the person’s designated primary  
11 caregiver, if any.

12 (11) “Usable marijuana” means the dried leaves and flowers of the plant Cannabis family  
13 Moraceae, and any mixture or preparation thereof, that are appropriate for medical use as allowed  
14 in ORS 475.300 to 475.346. “Usable marijuana” does not include the seeds, stalks and roots of the  
15 plant.

16 (12) “Written documentation” means a statement signed by the attending physician of a person  
17 diagnosed with a debilitating medical condition or copies of the person’s relevant medical records.

18 **SECTION 4.** ORS 475.304 is amended to read:

19 475.304. (1) The Oregon Health Authority shall establish by rule a marijuana grow site regis-  
20 tration system to authorize production of marijuana by a registry identification cardholder, a des-  
21 ignated primary caregiver who grows marijuana for the cardholder or a person who is responsible  
22 for a marijuana grow site. The marijuana grow site registration system adopted must require a  
23 registry identification cardholder to submit an application to the authority that includes:

24 (a) The name of the person responsible for the marijuana grow site;

25 (b) The address of the marijuana grow site;

26 (c) The registry identification card number of the registry cardholder for whom the marijuana  
27 is being produced; and

28 (d) Any other information the authority considers necessary.

29 (2) The authority shall issue a marijuana grow site registration card to a registry identification  
30 cardholder who has met the requirements of subsection (1) of this section.

31 (3) A person who has been issued a marijuana grow site registration card under this section  
32 must display the registration card at the marijuana grow site at all times when marijuana is being  
33 produced.

34 (4) A marijuana grow site registration card must be obtained and posted for each registry  
35 identification cardholder for whom marijuana is being produced at a marijuana grow site.

36 (5) All usable marijuana, plants, seedlings and seeds associated with the production of marijuana  
37 for a registry identification cardholder by a person responsible for a marijuana grow site are the  
38 property of the registry identification cardholder and must be provided to the registry identification  
39 cardholder, **or, if the marijuana is usable marijuana, transferred to a medical marijuana fa-**  
40 **ility registered under section 2 of this 2013 Act**, upon request.

41 (6)(a) The authority shall conduct a criminal records check under ORS 181.534 of any person  
42 whose name is submitted as a person responsible for a marijuana grow site.

43 (b) A person convicted of a Class A or Class B felony under ORS 475.752 to 475.920 for the  
44 manufacture or delivery of a controlled substance in Schedule I or Schedule II may not be issued  
45 a marijuana grow site registration card or produce marijuana for a registry identification cardholder

1 for five years from the date of conviction.

2 (c) A person convicted more than once of a Class A or Class B felony under ORS 475.752 to  
 3 475.920 for the manufacture or delivery of a controlled substance in Schedule I or Schedule II may  
 4 not be issued a marijuana grow site registration card or produce marijuana for a registry identifi-  
 5 cation cardholder.

6 (7) A registry identification cardholder or the designated primary caregiver of the cardholder  
 7 may reimburse the person responsible for a marijuana grow site for the costs of supplies and utilities  
 8 associated with the production of marijuana for the registry identification cardholder. No other  
 9 costs associated with the production of marijuana for the registry identification cardholder, includ-  
 10 ing the cost of labor, may be reimbursed.

11 (8) The authority may adopt rules imposing a fee in an amount established by the authority for  
 12 registration of a marijuana grow site under this section.

13 **SECTION 5.** ORS 475.309 is amended to read:

14 475.309. (1) Except as provided in ORS 475.316, 475.320 and 475.342, a person engaged in or as-  
 15 sisting in the medical use of marijuana is excepted from the criminal laws of the state for possession,  
 16 delivery or production of marijuana, aiding and abetting another in the possession, delivery or pro-  
 17 duction of marijuana or any other criminal offense in which possession, delivery or production of  
 18 marijuana is an element if the following conditions have been satisfied:

19 (a)(A) The person holds a registry identification card issued pursuant to this section, has applied  
 20 for a registry identification card pursuant to subsection (9) of this section, is the designated primary  
 21 caregiver of the cardholder or applicant, or is the person responsible for a marijuana grow site that  
 22 is producing marijuana for the cardholder and is registered under ORS 475.304; and

23 [(b)] (B) The person who has a debilitating medical condition, the person's primary caregiver  
 24 and the person responsible for a marijuana grow site that is producing marijuana for the cardholder  
 25 and is registered under ORS 475.304 are collectively in possession of, delivering or producing  
 26 marijuana for medical use in amounts allowed under ORS 475.320[.]; **or**

27 **(b) The person is responsible for or employed by a medical marijuana facility registered**  
 28 **under section 2 of this 2013 Act and does not commit any of the acts described in this sub-**  
 29 **section anywhere other than at the medical marijuana facility.**

30 (2) The Oregon Health Authority shall establish and maintain a program for the issuance of  
 31 registry identification cards to persons who meet the requirements of this section. Except as pro-  
 32 vided in subsection (3) of this section, the authority shall issue a registry identification card to any  
 33 person who pays a fee in the amount established by the authority and provides the following:

34 (a) Valid, written documentation from the person's attending physician stating that the person  
 35 has been diagnosed with a debilitating medical condition and that the medical use of marijuana may  
 36 mitigate the symptoms or effects of the person's debilitating medical condition;

37 (b) The name, address and date of birth of the person;

38 (c) The name, address and telephone number of the person's attending physician;

39 (d) The name and address of the person's designated primary caregiver, if the person has des-  
 40 ignated a primary caregiver at the time of application; and

41 (e) A written statement that indicates whether the marijuana used by the cardholder will be  
 42 produced at a location where the cardholder or designated primary caregiver is present or at an-  
 43 other location.

44 (3) The authority shall issue a registry identification card to a person who is under 18 years of  
 45 age if the person submits the materials required under subsection (2) of this section, and the custo-



1 dial parent or legal guardian with responsibility for health care decisions for the person under 18  
 2 years of age signs a written statement that:

3 (a) The attending physician of the person under 18 years of age has explained to that person  
 4 and to the custodial parent or legal guardian with responsibility for health care decisions for the  
 5 person under 18 years of age the possible risks and benefits of the medical use of marijuana;

6 (b) The custodial parent or legal guardian with responsibility for health care decisions for the  
 7 person under 18 years of age consents to the use of marijuana by the person under 18 years of age  
 8 for medical purposes;

9 (c) The custodial parent or legal guardian with responsibility for health care decisions for the  
 10 person under 18 years of age agrees to serve as the designated primary caregiver for the person  
 11 under 18 years of age; and

12 (d) The custodial parent or legal guardian with responsibility for health care decisions for the  
 13 person under 18 years of age agrees to control the acquisition of marijuana and the dosage and  
 14 frequency of use by the person under 18 years of age.

15 (4) A person applying for a registry identification card pursuant to this section may submit the  
 16 information required in this section to a county health department for transmittal to the authority.  
 17 A county health department that receives the information pursuant to this subsection shall transmit  
 18 the information to the authority within five days of receipt of the information. Information received  
 19 by a county health department pursuant to this subsection shall be confidential and not subject to  
 20 disclosure, except as required to transmit the information to the authority.

21 (5)(a) The authority shall verify the information contained in an application submitted pursuant  
 22 to this section and shall approve or deny an application within thirty days of receipt of the appli-  
 23 cation.

24 (b) In addition to the authority granted to the authority under ORS 475.316 to deny an applica-  
 25 tion, the authority may deny an application for the following reasons:

26 (A) The applicant did not provide the information required pursuant to this section to establish  
 27 the applicant's debilitating medical condition and to document the applicant's consultation with an  
 28 attending physician regarding the medical use of marijuana in connection with such condition, as  
 29 provided in subsections (2) and (3) of this section;

30 (B) The authority determines that the information provided was falsified; or

31 (C) The applicant has been prohibited by a court order from obtaining a registry identification  
 32 card.

33 (c) Denial of a registry identification card shall be considered a final authority action, subject  
 34 to judicial review. Only the person whose application has been denied, or, in the case of a person  
 35 under the age of 18 years of age whose application has been denied, the person's parent or legal  
 36 guardian, shall have standing to contest the authority's action.

37 (d) Any person whose application has been denied may not reapply for six months from the date  
 38 of the denial, unless so authorized by the authority or a court of competent jurisdiction.

39 (6)(a) If the authority has verified the information submitted pursuant to subsections (2) and (3)  
 40 of this section and none of the reasons for denial listed in subsection (5)(b) of this section is appli-  
 41 cable, the authority shall issue a serially numbered registry identification card within five days of  
 42 verification of the information. The registry identification card shall state:

43 (A) The cardholder's name, address and date of birth;

44 (B) The date of issuance and expiration date of the registry identification card;

45 (C) The name and address of the person's designated primary caregiver, if any;

1 (D) Whether the marijuana used by the cardholder will be produced at a location where the  
2 cardholder or designated primary caregiver is present or at another location; and

3 (E) Any other information that the authority may specify by rule.

4 (b) When the person to whom the authority has issued a registry identification card pursuant  
5 to this section has specified a designated primary caregiver, the authority shall issue an identifica-  
6 tion card to the designated primary caregiver. The primary caregiver's registry identification card  
7 shall contain the information provided in paragraph (a) of this subsection.

8 (7)(a) A person who possesses a registry identification card shall:

9 (A) Notify the authority of any change in the person's name, address, attending physician or  
10 designated primary caregiver.

11 (B) If applicable, notify the designated primary caregiver of the cardholder, [and] the person  
12 responsible for the marijuana grow site that produces marijuana for the cardholder **and any person**  
13 **responsible for a medical marijuana facility that transfers usable marijuana to the**  
14 **cardholder under section 2 of this 2013 Act** of any change in status including, but not limited to:

15 (i) The assignment of another individual as the designated primary caregiver of the cardholder;

16 (ii) The assignment of another individual as the person responsible for a marijuana grow site  
17 producing marijuana for the cardholder; or

18 (iii) The end of the eligibility of the cardholder to hold a valid registry identification card.

19 (C) Annually submit to the authority:

20 (i) Updated written documentation from the cardholder's attending physician of the person's  
21 debilitating medical condition and that the medical use of marijuana may mitigate the symptoms or  
22 effects of the person's debilitating medical condition; and

23 (ii) The name of the person's designated primary caregiver if a primary caregiver has been  
24 designated for the upcoming year.

25 (b) If a person who possesses a registry identification card fails to comply with this subsection,  
26 the card shall be deemed expired. If a registry identification card expires, the identification card of  
27 any designated primary caregiver of the cardholder shall also expire.

28 (8)(a) A person who possesses a registry identification card pursuant to this section and who  
29 has been diagnosed by the person's attending physician as no longer having a debilitating medical  
30 condition or whose attending physician has determined that the medical use of marijuana is  
31 contraindicated for the person's debilitating medical condition shall return the registry identification  
32 card and any other associated Oregon Medical Marijuana Program cards to the authority within 30  
33 calendar days of notification of the diagnosis or notification of the contraindication.

34 (b) If, due to circumstances beyond the control of the registry identification cardholder, a  
35 cardholder is unable to obtain a second medical opinion about the cardholder's continuing eligibility  
36 to use medical marijuana before the 30-day period specified in paragraph (a) of this subsection has  
37 expired, the authority may grant the cardholder additional time to obtain a second opinion before  
38 requiring the cardholder to return the registry identification card and any associated cards.

39 (9) A person who has applied for a registry identification card pursuant to this section but  
40 whose application has not yet been approved or denied, and who is contacted by any law enforce-  
41 ment officer in connection with the person's administration, possession, delivery or production of  
42 marijuana for medical use may provide to the law enforcement officer a copy of the written doc-  
43 umentation submitted to the authority pursuant to subsection (2) or (3) of this section and proof of  
44 the date of mailing or other transmission of the documentation to the authority. This documentation  
45 shall have the same legal effect as a registry identification card until such time as the person re-

1 ceives notification that the application has been approved or denied.

2 (10)(a) A registry identification cardholder has the primary responsibility of notifying the **des-**  
 3 **ignated** primary caregiver [*and*], **the** person responsible for the marijuana grow site that produces  
 4 marijuana for the cardholder **and any person responsible for a medical marijuana facility that**  
 5 **transfers usable marijuana to the cardholder under section 2 of this 2013 Act** of any change  
 6 in status of the cardholder.

7 (b) If the authority is notified by the cardholder that a primary caregiver or person responsible  
 8 for a marijuana grow site has changed, the authority shall notify the primary caregiver or the per-  
 9 son responsible for the marijuana grow site by mail at the address of record confirming the change  
 10 in status and informing the caregiver or person **responsible for the marijuana grow site** that their  
 11 card is no longer valid and must be returned to the authority.

12 (c) **If the authority is notified by the cardholder that a medical marijuana facility au-**  
 13 **thorized to transfer usable marijuana to the cardholder has changed, the authority shall**  
 14 **notify each person responsible for a medical marijuana facility authorized to transfer usable**  
 15 **marijuana to the cardholder by mail at the address of record confirming the change in status**  
 16 **and informing the person responsible for the medical marijuana facility that the person is**  
 17 **no longer authorized to transfer usable marijuana to the cardholder.**

18 (11) The authority shall revoke the registry identification card of a cardholder if a court has  
 19 issued an order that prohibits the cardholder from participating in the medical use of marijuana or  
 20 otherwise participating in the Oregon Medical Marijuana Program under ORS 475.300 to 475.346.  
 21 The cardholder shall return the registry identification card to the authority within seven calendar  
 22 days of notification of the revocation. If the cardholder is a patient, the patient shall return the  
 23 patient’s card and all other associated Oregon Medical Marijuana Program cards.

24 (12) The authority and employees and agents of the authority acting within the course and scope  
 25 of their employment are immune from any civil liability that might be incurred or imposed for the  
 26 performance of or failure to perform duties required by this section.

27 **SECTION 6.** ORS 475.320 is amended to read:

28 475.320. (1)(a) A registry identification cardholder or the designated primary caregiver of the  
 29 cardholder may possess up to six mature marijuana plants and 24 ounces of usable marijuana.

30 (b) Notwithstanding paragraph (a) of this subsection, if a registry identification cardholder has  
 31 been convicted of a Class A or Class B felony under ORS 475.752 to 475.920 for the manufacture or  
 32 delivery of a controlled substance in Schedule I or Schedule II, the registry identification cardholder  
 33 or the designated primary caregiver of the cardholder may possess one ounce of usable marijuana  
 34 at any given time for a period of five years from the date of the conviction.

35 (2) A person authorized under ORS 475.304 to produce marijuana at a marijuana grow site:

36 (a) May produce marijuana for and provide marijuana:

37 (A) To a registry identification cardholder or [*that person’s*] **a cardholder’s** designated primary  
 38 caregiver as authorized under this section[.]; **or**

39 (B) **If the marijuana is usable marijuana and the registry identification cardholder re-**  
 40 **quests that the person responsible for the grow site transfer the usable marijuana to a**  
 41 **medical marijuana facility registered under section 2 of this 2013 Act, to the medical**  
 42 **marijuana facility.**

43 (b) May possess up to six mature plants and up to 24 ounces of usable marijuana for each  
 44 cardholder or caregiver for whom marijuana is being produced.

45 (c) May produce marijuana for no more than four registry identification cardholders or desig-

1 nated primary caregivers concurrently.

2 (d) Must obtain and display a marijuana grow site registration card issued under ORS 475.304  
 3 for each registry identification cardholder or designated primary caregiver for whom marijuana is  
 4 being produced.

5 (e) Must provide all marijuana produced for a registry identification cardholder or designated  
 6 primary caregiver to the cardholder or caregiver at the time the person responsible for a marijuana  
 7 grow site ceases producing marijuana for the cardholder or caregiver.

8 (f) Must return the marijuana grow site registration card to the registry identification  
 9 cardholder to whom the card was issued when requested to do so by the cardholder or when the  
 10 person responsible for a marijuana grow site ceases producing marijuana for the cardholder or  
 11 caregiver.

12 (3) Except as provided in subsections (1) and (2) of this section, a registry identification  
 13 cardholder, the designated primary caregiver of the cardholder and the person responsible for a  
 14 marijuana grow site producing marijuana for the registry identification cardholder may possess a  
 15 combined total of up to six mature plants and 24 ounces of usable marijuana for that registry iden-  
 16 tification cardholder.

17 (4)(a) A registry identification cardholder and the designated primary caregiver of the  
 18 cardholder may possess a combined total of up to 18 marijuana seedlings or starts as defined by rule  
 19 of the Oregon Health Authority.

20 (b) A person responsible for a marijuana grow site may possess up to 18 marijuana seedlings or  
 21 starts as defined by rule of the authority for each registry identification cardholder for whom the  
 22 person responsible for the marijuana grow site is producing marijuana.

23 **SECTION 7.** ORS 475.323 is amended to read:

24 475.323. (1) Possession of a registry identification card [*or*], designated primary caregiver iden-  
 25 tification card pursuant to ORS 475.309 **or proof of registration under section 2 of this 2013 Act**  
 26 does not alone constitute probable cause to search the person or property of the cardholder or  
 27 otherwise subject the person or property of the cardholder to inspection by any governmental  
 28 agency.

29 (2) Any property interest possessed, owned or used in connection with the medical use of  
 30 marijuana or acts incidental to the medical use of marijuana that has been seized by state or local  
 31 law enforcement officers may not be harmed, neglected, injured or destroyed while in the possession  
 32 of any law enforcement agency. A law enforcement agency has no responsibility to maintain live  
 33 marijuana plants lawfully seized. No such property interest may be forfeited under any provision of  
 34 law providing for the forfeiture of property other than as a sentence imposed after conviction of a  
 35 criminal offense. Usable marijuana and paraphernalia used to administer marijuana that was seized  
 36 by any law enforcement office shall be returned immediately upon a determination by the district  
 37 attorney in whose county the property was seized, or the district attorney's designee, that the per-  
 38 son from whom the marijuana or paraphernalia used to administer marijuana was seized is entitled  
 39 to the protections contained in ORS 475.300 to 475.346. The determination may be evidenced, for  
 40 example, by a decision not to prosecute, the dismissal of charges or acquittal.

41 **SECTION 8.** ORS 475.331 is amended to read:

42 475.331. (1)(a) The Oregon Health Authority shall create and maintain a list of the persons to  
 43 whom the authority has issued registry identification cards, the names of any designated primary  
 44 caregivers and the addresses of authorized marijuana grow sites **and medical marijuana facilities**  
 45 **registered under section 2 of this 2013 Act.** Except as provided in subsection (2) of this section,

1 the list shall be confidential and not subject to public disclosure.

2 (b) The authority shall develop a system by which authorized employees of state and local law  
 3 enforcement agencies may verify at all times that a person is a lawful possessor of a registry iden-  
 4 tification card or the designated primary caregiver of a lawful possessor of a registry identification  
 5 card or that a location is an authorized marijuana grow site **or registered medical marijuana fa-  
 6 cility.**

7 (2) Names and other identifying information from the list established pursuant to subsection (1)  
 8 of this section may be released to:

9 (a) Authorized employees of the authority as necessary to perform official duties of the author-  
 10 ity; and

11 (b) Authorized employees of state or local law enforcement agencies, only as necessary to verify  
 12 that a person is a lawful possessor of a registry identification card or the designated primary  
 13 caregiver of a lawful possessor of a registry identification card or that a location is an authorized  
 14 marijuana grow site **or registered medical marijuana facility.** Prior to being provided identifying  
 15 information from the list, authorized employees of state or local law enforcement agencies shall  
 16 provide to the authority adequate identification, such as a badge number or similar authentication  
 17 of authority.

18 (3) Authorized employees of state or local law enforcement agencies that obtain identifying in-  
 19 formation from the list as authorized under this section may not release or use the information for  
 20 any purpose other than verification that a person is a lawful possessor of a registry identification  
 21 card or the designated primary caregiver of a lawful possessor of a registry identification card or  
 22 that a location is an authorized marijuana grow site **or registered medical marijuana facility.**

23 **SECTION 9. (1) Sections 1 and 2 of this 2013 Act and the amendments to ORS 475.302,  
 24 475.304, 475.309, 475.320, 475.323 and 475.331 by sections 3 to 8 of this 2013 Act become opera-  
 25 tive on January 1, 2014.**

26 **(2) The Oregon Health Authority may take any action before the operative date specified  
 27 in subsection (1) of this section to enable the authority to exercise, on and after the opera-  
 28 tive date specified in subsection (1) of this section, all of the duties, functions and powers  
 29 conferred on the authority by sections 1 and 2 of this 2013 Act and the amendments to ORS  
 30 475.302, 475.304, 475.309, 475.320, 475.323 and 475.331 by sections 3 to 8 of this 2013 Act.**

31 **SECTION 10. This 2013 Act being necessary for the immediate preservation of the public  
 32 peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect  
 33 on its passage.**

34

**Enrolled**  
**Senate Bill 1531**

Sponsored by Senators HANSELL, MONROE, STARR; Senators BAERTSCHIGER JR, BOQUIST, CLOSE, FERRIOLI, GIROD, JOHNSON, KNOPP, KRUSE, MONNES ANDERSON, OLSEN, THOMSEN, WHITSETT, WINTERS, Representatives ESQUIVEL, JENSON, THATCHER, THOMPSON, WHISNANT, WITT (at the request of Association of Oregon Counties and League of Oregon Cities) (Pre-session filed.)

CHAPTER .....

AN ACT

Relating to marijuana facilities; creating new provisions; amending ORS 475.314; and declaring an emergency.

**Be It Enacted by the People of the State of Oregon:**

**SECTION 1.** Section 2 of this 2014 Act is added to and made a part of ORS 475.300 to 475.346.

**SECTION 2.** Notwithstanding ORS 633.738, the governing body of a city or county may adopt ordinances that impose reasonable regulations on the operation of medical marijuana facilities registered, or applying for registration, under ORS 475.314 that are located in the area subject to the jurisdiction of the city or county. For purposes of this section, “reasonable regulations” includes reasonable limitations on the hours during which a medical marijuana facility may be operated, reasonable limitations on where a medical marijuana facility may be located within a zone described in ORS 475.314 (3)(a) and reasonable conditions on the manner in which a medical marijuana facility may dispense medical marijuana.

**SECTION 3.** (1) Notwithstanding ORS 475.314 and section 2 of this 2014 Act, the governing body of a city or county may adopt an ordinance enacting a moratorium on the operation of registered medical marijuana facilities until May 1, 2015, in the area subject to the jurisdiction of the city or county if the moratorium is enacted no later than May 1, 2014.

(2) Notwithstanding ORS 475.309 (1)(b), a person who is responsible for or employed by a registered medical marijuana facility located in an area subject to the jurisdiction of a city or county that enacts a moratorium under this section is not excepted from the criminal laws of this state for possession or delivery of marijuana, aiding and abetting another in the possession or delivery of marijuana or any other criminal offense in which possession or delivery of marijuana is an element.

(3) The governing body of a city or county that enacts a moratorium under this section must notify the Oregon Health Authority, in a manner prescribed by the authority, of the moratorium.

(4) A registered medical marijuana facility that is located in an area subject to the jurisdiction of a city or county that enacts a moratorium under this section may choose to surrender the medical marijuana facility’s registration. To surrender registration under this subsection, the medical marijuana facility must notify the authority, in a manner prescribed

by the authority, of the surrender. If a medical marijuana facility surrenders registration under this subsection, the authority may refund any fee imposed by the authority pursuant to ORS 475.314 (12).

**SECTION 4. Section 3 of this 2014 Act is repealed on January 2, 2016.**

**SECTION 5.** ORS 475.314 is amended to read:

475.314. (1) The Oregon Health Authority shall establish by rule a medical marijuana facility registration system to authorize the transfer of usable marijuana and immature marijuana plants from:

(a) A registry identification cardholder, the designated primary caregiver of a registry identification cardholder, or a person responsible for a marijuana grow site to the medical marijuana facility; or

(b) A medical marijuana facility to a registry identification cardholder or the designated primary caregiver of a registry identification cardholder.

(2) The registration system established under subsection (1) of this section must require a medical marijuana facility to submit an application to the authority that includes:

(a) The name of the person responsible for the medical marijuana facility;

(b) The address of the medical marijuana facility;

(c) Proof that the person responsible for the medical marijuana facility is a resident of Oregon;

(d) Documentation, as required by the authority by rule, that demonstrates the medical marijuana facility meets the qualifications for a medical marijuana facility as described in subsection (3) of this section; and

(e) Any other information that the authority considers necessary.

(3) To qualify for registration under this section, a medical marijuana facility:

(a) Must be located in an area that is zoned for commercial, industrial or mixed use or as agricultural land; *[and may not be located at the same address as a marijuana grow site;]*

**(b) May not be located at the same address as a marijuana grow site;**

*[(b)]* (c) Must be registered as a business or have filed a pending application to register as a business with the Office of the Secretary of State;

*[(c)]* (d) Must not be located within 1,000 feet of the real property comprising a public or private elementary, secondary or career school attended primarily by minors;

*[(d)]* (e) Must not be located within 1,000 feet of another medical marijuana facility; and

*[(e)]* (f) Must comport with rules adopted by the authority related to:

(A) Installing a minimum security system, including a video surveillance system, alarm system and safe; and

(B) Testing for pesticides, mold and mildew and the processes by which usable marijuana and immature marijuana plants that test positive for pesticides, mold or mildew must be returned to the registry identification cardholder, the cardholder's designated primary caregiver or the cardholder's registered grower.

(4)(a) The authority shall conduct a criminal records check under ORS 181.534 of a person whose name is submitted as the person responsible for a medical marijuana facility under subsection (2) of this section.

(b) A person convicted for the manufacture or delivery of a controlled substance in Schedule I or Schedule II may not be the person responsible for a medical marijuana facility for five years from the date the person is convicted.

(c) A person convicted more than once for the manufacture or delivery of a controlled substance in Schedule I or Schedule II may not be the person responsible for a medical marijuana facility.

(5) If a person submits the application required under subsection (2) of this section, the medical marijuana facility identified in the application meets the qualifications for a medical marijuana facility described in subsection (3) of this section and the person responsible for the medical marijuana facility passes the criminal records check required under subsection (4) of this section, the authority shall register the medical marijuana facility and issue the person responsible for the medical marijuana facility proof of registration. The person responsible for the medical marijuana facility

shall display the proof of registration on the premises of the medical marijuana facility at all times when usable marijuana or immature marijuana plants are being transferred as described in subsection (1) of this section.

(6)(a) A registered medical marijuana facility may receive usable marijuana or immature marijuana plants only from a registry identification cardholder, designated primary caregiver or person responsible for a marijuana grow site if the registered medical marijuana facility obtains authorization, on a form prescribed by the authority by rule and signed by a registry identification cardholder, to receive the usable marijuana or immature marijuana plants.

(b) A registered medical marijuana facility shall maintain:

(A) A copy of each authorization form described in paragraph (a) of this subsection; and

(B) Documentation of each transfer of usable marijuana or immature marijuana plants.

(7) A medical marijuana facility registered under this section may possess usable marijuana and immature marijuana plants in excess of the limits imposed on registry identification cardholders and designated primary caregivers under ORS 475.320.

**(8)(a) A registered medical marijuana facility may not transfer any tetrahydrocannabinol-infused product that is meant to be swallowed or inhaled, unless the product is packaged in child-resistant safety packaging that meets standards established by the authority by rule.**

**(b) A registered medical marijuana facility may not transfer any tetrahydrocannabinol-infused product that is manufactured or packaged in a manner that is attractive to minors, as determined by the authority by rule.**

[(8)] (9) The authority may inspect:

(a) The premises of an applicant for a medical marijuana facility or a registered medical marijuana facility to ensure compliance with the qualifications for a medical marijuana facility described in subsection (3) of this section; and

(b) The records of a registered medical marijuana facility to ensure compliance with subsection (6)(b) of this section.

[(9)(a)] (10)(a) A registry identification cardholder or the designated primary caregiver of a registry identification cardholder may reimburse a medical marijuana facility registered under this section for the normal and customary costs of doing business, including costs related to transferring, handling, securing, insuring, testing, packaging and processing usable marijuana and immature marijuana plants and the cost of supplies, utilities and rent or mortgage.

(b) A medical marijuana facility may reimburse a person responsible for a marijuana grow site under this section for the normal and customary costs of doing business, including costs related to transferring, handling, securing, insuring, testing, packaging and processing usable marijuana and immature marijuana plants and the cost of supplies, utilities and rent or mortgage.

[(10)] (11) The authority may revoke the registration of a medical marijuana facility registered under this section for failure to comply with ORS 475.300 to 475.346, [or] rules adopted under ORS 475.300 to 475.346 **or ordinances adopted pursuant to section 2 of this 2014 Act**. The authority may release to the public a final order revoking a medical marijuana facility registration.

[(11)] (12) The authority shall adopt rules to implement this section, including rules that:

(a) Require a medical marijuana facility registered under this section to annually renew that registration; and

(b) Establish fees for registering and renewing registration for a medical marijuana facility under this section.

**SECTION 6. This 2014 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2014 Act takes effect March 1, 2014.**



**Passed by Senate February 18, 2014**

**Repassed by Senate March 7, 2014**

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Robert Taylor, Secretary of Senate

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Peter Courtney, President of Senate

**Passed by House March 5, 2014**

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Tina Kotek, Speaker of House

**Received by Governor:**

.....M,....., 2014

**Approved:**

.....M,....., 2014

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John Kitzhaber, Governor

**Filed in Office of Secretary of State:**

.....M,....., 2014

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Kate Brown, Secretary of State