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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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