

Oregon Medical Marijuana Act

# Handbook



The laws concerning medical marijuana are always subject to change. This handbook should not substitute for your own legal advice.

~ **REMEMBER** ~

Oregon's medical marijuana law does not protect you from federal prosecution.

Call your congressional representatives today and tell them it's time to reschedule marijuana.

**202-224-3121**

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**The Hemp and Cannabis Foundation**  
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## **Who is eligible for the Oregon Medical Marijuana Program?**

Any Oregon resident with a current diagnosis of a qualifying debilitating medical condition from an Oregon licensed doctor of medicine (MD) or doctor of osteopathy (DO), and a statement from that doctor that says “marijuana may mitigate the symptoms or effects of the person’s debilitating medical condition” is eligible to register with the Oregon Medical Marijuana Program (OMMP).

The current conditions that qualify a patient for medical marijuana in Oregon are:

- Alzheimer’s agitation
- Cancer
- Glaucoma
- HIV/AIDS
- Cachexia (wasting syndrome)
- Severe pain
- Severe nausea
- Seizures (not limited to epilepsy)
- Persistent muscle spasms (not limited to multiple sclerosis)

If a patient is under 18 years of age, the custodial parent or the legal guardian with authority to make medical decisions for the minor must give written, notarized approval and must agree to serve as the designated primary caregiver. The parent further must agree to control the acquisition of marijuana and the minor’s dosage and frequency of use.

For detailed information about eligibility and to receive an application packet, contact the Department of Human Services (DHS)/ Oregon Medical Marijuana Program\*.

## **What is the fee to register?**

Currently the application or renewal fee is \$100.00 or \$20.00 if you can provide proof of Oregon Health Plan (OHP) eligibility or that you are receiving Supplemental Security Income (SSI) or food stamps. These fees are subject to change.

## **What role does the doctor play?**

A doctor of medicine (MD) or doctor of osteopathy (DO), licensed in Oregon, reports the patient has been diagnosed with a current qualifying debilitating condition and offers the opinion that “medical marijuana may mitigate the symptoms or effects of the person’s debilitating medical condition.”

To renew a patient application, the patient must submit written documentation from the attending physician of their debilitating medical condition and that the medical use of marijuana may mitigate the symptom or effects of the person’s debilitating medical condition. The doctor’s information must be current. The program will deny the application if the doctor’s information is dated more than 90 days prior to submission of the application.

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\* See Appendix A: Contact Information

Before any card can be issued, the OMMP will contact the physician to verify that information provided is accurate and the physician is willing to be the patient's attending physician for medical marijuana.

**Note:** Medical marijuana is not for everyone. If you are taking medication for high blood pressure, for example, marijuana can cause your blood pressure to fall too low. It is important to discuss your health situation with your doctor or medical marijuana specialist.

### **What if my doctor won't help me?**

A number of patients who qualify for protection under the Oregon Medical Marijuana Act (OMMA) have physicians who are unwilling to provide the required written statement because they are afraid of federal ramifications. The OMMP information packet contains a copy of a federal court ruling\* that prohibits the federal government from interfering with a physician recommending medical cannabis to their patient. This federal court ruling is the law throughout the 9th Circuit, which includes Oregon. Knowing that the federal government cannot prosecute or otherwise interfere with your physician's participation in the OMMP may help you in speaking with your physician.

If your physician will not sign your application, you must find a different attending physician in order to enroll. OMMP cannot provide physician referrals.

### **Do I need a caregiver or other designated person to grow my medicine?**

A patient may grow his or her own medicine or designate an individual, 18 or older, to grow it for him or her. A patient can also choose to have his or her medicine grown by a third party.

Whoever is growing the medicine is designated the "person responsible for a medical marijuana grow site" whether it is the 'patient', the 'caregiver' or 'other', as indicated on the application form. The person responsible for the grow site must be able to pass a criminal history background check to determine if, since January 1st, 2006, they have been convicted of delivery or manufacturing of a Schedule I or Schedule II controlled substance in violation of state law.

Many patients do choose to designate a 'caregiver', to help them with medicating, or with his or her medical garden. If a patient has a spouse, partner or housemate who frequently helps him or her medicate and/or grow the garden, it might be helpful to designate him or her as a caregiver. There is no additional charge to designate a caregiver or grower.

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\* Conant v. Walters, for more information see <http://www.healthoregon.org/mm>

## **Patients, caregivers and growers rights and responsibilities**

Medical marijuana and medical marijuana plants are the property of the patient. All usable marijuana plants, seedlings and seeds associated with the production of marijuana for a patient by the person responsible for a grow site are the property of the patient and must be provided to the patient upon request. It is important to have a clear understanding with your caregiver or the person responsible for your garden about your mutual expectations. Some people write out an agreement so there is no misunderstanding later. At this time, it is an open question as to whether these agreements are legally binding or not.

A person authorized to produce marijuana at a grow site is limited to producing marijuana for no more than four patients.

Patients are cautioned that large numbers of plants in a medical marijuana garden increase the risk of theft and likelihood of drawing the attention of federal authorities. The Oregon Medical Marijuana Act does not protect OMMP cardholders from federal government prosecution.

When choosing a caregiver or gardener, it is important to consider carefully:

- How well do I know this person?
- Is he or she a trustworthy, law-abiding and reliable?
- How much medicine do I need?
- Does he or she have the time and gardening expertise to sustain growing medicine for me?
- Can he or she provide me with any personal references?

It is essential to have a clear understanding with your caregiver and person responsible for your garden about your mutual expectations. Be sure to discuss such things as:

- Who will obtain cuttings or seeds?
- Who will care for the plants?
- Who will purchase the grow lights?
- Who will prepare the site if you are growing outdoors?
- Who will pay for supplies and utilities associated with the production of medicine for the patient?
- If your crop fails or is stolen, is there a back up plan?
- What if one of you becomes dissatisfied with the arrangement?

## Legal requirements for cardholders and gardens

Patients must notify the OMMP of any changes in contact information, caregivers, or grow site within 30 days of the change by contacting OMMP and filling out a “Change Form.” Patients may add or change the person responsible for their garden by submitting a completed “Change Request Form” . Currently there is no charge for these changes.

You will receive a wallet-sized registry card from OMMP for yourself, your caregiver and the person responsible for your garden, which you must deliver to him or her. This card protects them while possessing and transporting medical marijuana for you. The grower card also protects the person responsible for the grow site while growing medical marijuana for you. Every patient, caregiver and person responsible for growing must carry his or her wallet-sized registry identification card at all times when in public and possess medical marijuana.

The “placard” which accompanies the card for “the person responsible for the grow site” must be displayed at the garden. If the patient changes either the caregiver or grower, the patient must return the old

caregiver or grower cards and the placard to the OMMP.

If the patient changes the caregiver or the person responsible for the grow site, the patient must inform them that they are being replaced. Once you have made the changes, the person who was helping you is now subject to arrest, prosecution and forfeiture and needs to know of the change for protection from these possibilities. The

Oregon Medical Marijuana Act does not protect OMMP cardholders from federal government prosecution. Medicine must be provided to patients for “no consideration,” which means no money or anything of value may be charged\*. 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†.

### **Your garden may contain:**

**18** seedlings or starts

*less than 12” in height and diameter, and with no flowers*

**6** plants

*greater than 12” in height or diameter or with flowers*

**The patient, caregiver, or person responsible for the garden may collectively possess or transport up to:**

**24 oz. of marijuana.**

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\* ORS 475.304(7)

† OAR 333-008-0025(9)

Your garden may contain eighteen (18) seedlings or starts which are less than twelve (12) inches in both height and diameter, and which do not have flowers\*. It may contain six (6) plants, which are twelve (12) inches or larger in either height or diameter or have flowers.

The patient, caregiver, or person responsible for the garden may collectively possess or transport up to twenty-four (24) ounces of medical marijuana, however the medicine may be cultivated only at the registered grow site.

### **Where can I use my medication?**

The law specifies that medical cannabis must not be used in public view or in a public place. Edible cannabis preparations offer a good alternative to smoking or vaporizing when the latter methods would otherwise not be practical.

### **If I am unable to grow my own, how can I get medicine?**

The sale of medical marijuana is illegal. It is also unregulated and may be contaminated or may not even be the correct medicine. Patients are allowed to share medicine with other patients, so long as the sharing is in a private rather than public place, the delivery is not for money or other things of value, called “consideration” in the law, and the quantity is within the limits of the law. Cardholders often meet to share starter plants and medicine. New patients are encouraged to join and participate in patient advocacy groups who provide assistance.

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\* ORS 475.305(3)

### **How do I interact with my landlord?**

Growing medical marijuana with an OMMP registry card protects both the person and the property from arrest, prosecution and forfeiture under state law. However, your landlord may have valid concerns about the property and the safety and comfort of other tenants. Some patients who live in federally assisted housing have experienced significant difficulties when the building manager learned they were OMMP patients. Others have been successful in defending their rights to possess and grow marijuana under state law. This may be the first time your landlord has encountered medical marijuana, so you may need to provide education on the topic.

When speaking with your landlord:

- Adopt a “don’t ask, don’t tell” policy.
- Be prepared with information, such as your OMMP registration card and this handbook.
- Seek legal advice.

## **How do I interact with the police?**

The guidelines set out by the state Attorney General provide that local and state police should contact the OMMP before visiting a suspected cannabis garden to make sure it is not a legal medical garden. The law gives the police access to program verification twenty-four hours a day, seven days a week. This allows them to verify whether a patient, designated primary caregiver or person responsible for a grow site is registered. Police can always ascertain if the garden is protected by the OMMA. The purpose is for verification only.

In any police encounter, explain that you are a medical cannabis patient. Show your registry card, the garden “placard” and any other related paperwork. Although the police may request to see your garden to make sure you have only the legal number of plants, you are not required to let the officer in unless there is a search warrant. Police may confiscate any plants, seedlings or starts over the legal limit and charge you with a felony.

Remember that you may not be under the influence of medical cannabis while driving. When transporting medicine, be discreet. You are required to carry and present your registry card to the police if requested, so keep it with you if you carry medicine in public.

If your plants or medicine are stolen, report the theft immediately to local law enforcement. Cannabis can interact with other medicines you may be taking, so you are encouraged to seek information regarding any such interaction.

## **Appendix A: Contacts and resources**

### **ACLU of Oregon**

phone: 503-227-3186

web: [www.aclu-or.org](http://www.aclu-or.org)

### **Dr. Rick Bayer**

web: <http://omma1998.org/>

### **DHS/OMMP**

phone: 971-673-1234

web: [healthoregon.org/mm](http://healthoregon.org/mm)

### **Federal Government**

see: [www.ornorml.org/contact/federal.php](http://www.ornorml.org/contact/federal.php)

### **Oregon NORML**

phone: 503-239-6110

web: [www.ornorml.org](http://www.ornorml.org)

### **Oregon House of Representatives**

see: [www.ornorml.org/contact/house.php](http://www.ornorml.org/contact/house.php)

### **Oregon Senate**

see: [www.ornorml.org/contact/senate.php](http://www.ornorml.org/contact/senate.php)

### **Oregon State Bar**

phone: 503-620-0222

web: [www.osbar.org](http://www.osbar.org)

### **THCF Clinic**

phone: 503-281-5100

web: [thc-foundation.org](http://thc-foundation.org)

## **Appendix B: Garden Remedies**

**Clearex:** A flushing solution that helps remove excess salt that builds up in the soil. Salt buildup can cause stunted growth and an unpleasant taste.

**Concern:** A natural extract of orange peel that controls ants, fleas, and other insects.

**Dri-Z-Air:** A chemical dehumidifier that can remove excess moisture from the air which can cause mold.

**Hot Pepper Wax:** An extract of cayenne pepper that repels insects and animals

**Neem Oil:** A powerful bio-pesticide that controls such common problems as spider mites, aphids, and powdery mildew.

**Organocide:** An organic spray oil effective on a wide variety of insects, mites, and certain fungal diseases.

## **Appendix C: Booklist**

### ***The Cannabible, 1-3***

By Jason King, published by Ten Speed Press, 2001, 2003, 2006

### ***The Emperor Wears No Clothes***

By Jack Herer, published by AH HA Publishing, 2000

### ***Marijuana Botany: Propagation and Breeding of Distinctive Cannabis***

By Robert Clarke, published by Ronin Publications, 1993

### ***Marijuana Horticulture:***

#### ***The Indoor/Outdoor Medical Grower's Bible***

By Jorge Cervantes, published by Van Patten Publishing, 2006

### ***Organic Marijuana, Soma Style: The Pleasures of Cultivating Connoisseur Cannabis***

By Soma, published by Quick American Archives, 2005

### ***Marijuana Cooking: Good Medicine Made Easy***

By Bliss Cameron and Veronica Green, published by Green Candy Press, 2005

## Appendix D: 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]

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At Oregon NORML, we are leading the fight for commonsense regulation of the most useful plant ever known to mankind -- cannabis hemp. We stand for the safe protected medicinal use of marijuana by patients legally enrolled in the Oregon Medical Marijuana Program. We stand for the industrial

use of hemp to provide food, fuel, and fiber for America and a viable cash crop for Oregon farmers. We stand for the regulated private use of cannabis by adults. Most importantly, we work to reform state and federal laws regarding marijuana and bring an end to the harassment, arrest, and imprisonment of responsible taxpaying American citizens.



**The Hemp and Cannabis Foundation**  
Legalize. Regulate. Educate.

The Hemp & Cannabis Foundation is working to educate the public about the truth concerning hemp and cannabis as well as

helping medical marijuana patients. We have several clinics where our doctors help patients obtain a permit for medical marijuana. We see patients every week in Portland, Seattle and Denver as well as every month in Honolulu, Hilo, Spokane, Bend, Medford, Eugene and Riverside, CA. We have helped over 28,000 patients obtain a permit to legally possess, use and grow medical marijuana. Our Mission is to promote justice, freedom, and peace with political action and education. Our goal is to restore hemp and end adult cannabis prohibition.