

Senate Bill 777

Sponsored by Senators KRUSE, BATES; Senators GIROD, MONNES ANDERSON, MORSE

SUMMARY

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

Modifies list of debilitating medical conditions for which medical marijuana is available and removes power of Oregon Health Authority to add other debilitating medical conditions to list.

Requires registry identification cardholder to provide updated documentation from physician about debilitating medical condition to authority every six months.

A BILL FOR AN ACT

1
2 Relating to medical marijuana; creating new provisions; amending ORS 475.302 and 475.309; and re-
3 pealing ORS 475.334.

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

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

6 475.302. As used in ORS 475.300 to 475.346:

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

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

10 (3) "Debilitating medical condition" means:

11 *[(a) Cancer, glaucoma, agitation due to Alzheimer's disease, positive status for human*
12 *immunodeficiency virus or acquired immune deficiency syndrome, or treatment for these conditions;]*

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

15 *[(A) Cachexia;]*

16 *[(B) Severe pain;]*

17 *[(C) Severe nausea;]*

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

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

21 *[(c) Any other medical condition or treatment for a medical condition adopted by the authority by*
22 *rule or approved by the authority pursuant to a petition submitted pursuant to ORS 475.334.]*

23 **(a) Nausea occurring as a result of chemotherapy;**

24 **(b) Severe or neuropathic pain;**

25 **(c) Insomnia associated with fibromyalgia;**

26 **(d) Appetite loss associated with acquired immune deficiency syndrome or cancer;**

27 **(e) Glaucoma; or**

28 **(f) Multiple sclerosis with spasticity.**

29 (4) "Delivery" has the meaning given that term in ORS 475.005. "Delivery" does not include
30 transfer of marijuana by a registry identification cardholder to another registry identification

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

1 cardholder if no consideration is paid for the transfer.

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

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

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

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

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

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

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

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

23 **SECTION 2.** ORS 475.309 is amended to read:

24 475.309. (1) Except as provided in ORS 475.316, 475.320 and 475.342, a person engaged in or as-
25 sisting in the medical use of marijuana is excepted from the criminal laws of the state for possession,
26 delivery or production of marijuana, aiding and abetting another in the possession, delivery or pro-
27 duction of marijuana or any other criminal offense in which possession, delivery or production of
28 marijuana is an element if the following conditions have been satisfied:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18 (B) If applicable, notify the designated primary caregiver of the cardholder and the person re-
 19 sponsible for the marijuana grow site that produces marijuana for the cardholder of any change in
 20 status including, but not limited to:

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

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

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

25 **(C) Every six months, submit updated written documentation from the cardholder's at-**
 26 **tending physician of the person's debilitating medical condition and that the medical use of**
 27 **marijuana may mitigate the symptoms or effects of the person's debilitating medical condi-**
 28 **tion.**

29 [(C)] **(D)** Annually submit to the authority[:]

30 [(i) Updated written documentation from the cardholder's attending physician of the person's de-
 31 bilitating medical condition and that the medical use of marijuana may mitigate the symptoms or effects
 32 of the person's debilitating medical condition; and]

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

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

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

44 (b) If, due to circumstances beyond the control of the registry identification cardholder, a
 45 cardholder is unable to obtain a second medical opinion about the cardholder's continuing eligibility

1 to use medical marijuana before the 30-day period specified in paragraph (a) of this subsection has
2 expired, the authority may grant the cardholder additional time to obtain a second opinion before
3 requiring the cardholder to return the registry identification card and any associated cards.

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

12 (10) A registry identification cardholder has the primary responsibility of notifying the primary
13 caregiver and person responsible for the marijuana grow site that produces marijuana for the
14 cardholder of any change in status of the cardholder. If the authority is notified by the cardholder
15 that a primary caregiver or person responsible for a marijuana grow site has changed, the authority
16 shall notify the primary caregiver or the person responsible for the marijuana grow site by mail at
17 the address of record confirming the change in status and informing the caregiver or person that
18 their card is no longer valid and must be returned to the authority.

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

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

28 **SECTION 3. ORS 475.334 is repealed.**

29 **SECTION 4. The amendments to ORS 475.302 and 475.309 by sections 1 and 2 of this 2011**
30 **Act apply to registry identification cardholders who apply for a registry identification card**
31 **or submit updated information to the Oregon Health Authority under ORS 475.309 (7)(a) on**
32 **or after the effective date of this 2011 Act.**

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