

March 11, 2015

Testimony regarding HB 2636

Chair Greenlick, Members of the Committee:

My name is Cheryl K. Smith. I am a Founding member of Compassionate Oregon, Vice-chair of The Advisory Committee on Medical Marijuana and I was the Executive Director of Compassion Center, a Eugene medical marijuana clinic, for more than four years.

I am testifying in opposition to current provisions in HB 2636, because I believe that it is harmful to patients and duplicates what is already in place under OAR 333-008-0060(5).

Because the majority of Oregon physicians do not participate in the OMMP, limiting those physicians who do to 450 patients would have the effect of prohibiting many patients from obtaining a medical marijuana card. What about the terminal cancer patient referred to a medical marijuana clinic by her oncologist, who had the bad luck to get diagnosed later in the year, after a clinic doctor had already met her quota? Or the VA patient, who is only allowed to use medical marijuana and still receive his VA health care services if he is enrolled in OMMP?

I am aware of concerns that not everyone who is currently in the program belongs there and would be more appropriately served by the Measure 91 program. I have also heard comments regarding the legitimacy of medical marijuana clinics in general. As a former Attorney and Health Information Management Professional, I believe that a better way to resolve these perceptions is for the OHA to provide further oversight of medical marijuana clinics. This is something I have suggested to the OMMP in the past, but was told is beyond their purview.

Therefore, I urge you to take this opportunity to amend HB 2636 to include the following requirements for medical marijuana clinics:

- Proof of liability and workers compensation insurance and operation as a registered business with the Secretary of State's office.
- Permanent office location.
- Written policies, procedures and employee handbook
- Confidentiality policies regarding patient information and a plan for storage of medical records once a clinic closes
- No more than 4 patients seen per hour by any one doctor*
- Audit of medical records to verify:
 - Documentation that a thorough physical exam was performed (Required by OAR 333-008-0010(23)(d))

- Prior medical records documenting a qualifying medical condition and documentation that they were reviewed (Required by OAR 333-008-0010(23))
- Documentation that risks and benefits were explained to the patient (required to prevent penalty by OMB under ORS 475.326(2)) or parent/legal guardian (Required by ORS 475.309(3)(a))
- Documentation of follow-up care, including referral back to attending or referring physician (Required by OAR 333-008-0010(23))

Please note that there is already a mechanism in place to perform such an audit under the current rules. A few years ago, Compassion Center requested an exception to the paperwork under OAR 333-008-0060(5)(c). A medical records audit was performed by the Health Care Regulation and Quality Improvement agency and the exception was granted.

In conclusion, I believe that we can and should continue to improve the OMMP. This bill, with the changes I have proposed, along with HB 2821 would be positive steps toward a smooth transition of medical marijuana into mainstream health care.

*Section 5(b)(D) of OAR 333-008-0060 states that a clinic “will allow on-site inspections by the Authority to confirm compliance.

OAR 333-008-0060

Monitoring and Investigations

- (5) If the Authority records show that any one physician is the attending physician of record for more than 450 patients at any point in time, the Authority 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 the Authority 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.