

House Bill 2636

Sponsored by Representative LIVELY; Representatives BARNHART, GOMBERG (Presession filed.)

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**.

Prohibits Oregon Health Authority from issuing registry identification card to applicant if attending physician whose name is provided to authority by applicant has provided written documentation necessary for issuance of registry identification card for 450 or more persons who currently hold registry identification card. Creates exemption.

A BILL FOR AN ACT

1
2 Relating to marijuana; creating new provisions; and amending ORS 475.309.

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

4 **SECTION 1. Section 2 of this 2015 Act is added to and made a part of ORS 475.300 to**
5 **475.346.**

6 **SECTION 2. (1) Subject to subsection (2) of this section, the Oregon Health Authority**
7 **may not issue a registry identification card under ORS 475.309 (2) and (3) if the attending**
8 **physician whose name is provided to the authority pursuant to ORS 475.309 (2)(c) has pro-**
9 **vided the written documentation necessary for issuance of a registry identification card for**
10 **450 or more persons who currently hold a registry identification card.**

11 **(2) The authority shall adopt by rule circumstances under which an attending physician**
12 **may provide the written documentation necessary for issuance of a registry identification**
13 **card for 450 or more persons. Rules adopted under this subsection must:**

14 **(a) Prescribe the form and manner by which an attending physician may request to pro-**
15 **vide the documentation for 450 or more persons;**

16 **(b) Establish criteria that an attending physicians must meet to provide the documenta-**
17 **tion for 450 or persons; and**

18 **(c) Be designed to protect the public health and safety.**

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

20 475.309. (1) Except as provided in ORS 475.316, 475.320 and 475.342, a person engaged in or as-
21 sisting in the medical use of marijuana is excepted from the criminal laws of the state for possession,
22 delivery or production of marijuana, aiding and abetting another in the possession, delivery or pro-
23 duction of marijuana or any other criminal offense in which possession, delivery or production of
24 marijuana is an element if the following conditions have been satisfied:

25 (a)(A) The person:

26 (i) Holds a registry identification card issued pursuant to this section[.];

27 (ii) Has applied for a registry identification card pursuant to subsection (9) of this section[.];

28 (iii) Is the designated primary caregiver of the **registry identification** cardholder or
29 applicant[.]; or

30 (iv) Is the person responsible for a marijuana grow site that is producing marijuana for the

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 **registry identification cardholder or applicant** [*and is registered under ORS 475.304*]; and

2 (B) The [*person who has a debilitating medical condition, the person's primary caregiver*] **registry**
3 **identification cardholder or applicant, the designated primary caregiver of the registry iden-**
4 **tification cardholder or applicant** and the person responsible for a marijuana grow site that is
5 producing marijuana for the **registry identification cardholder or applicant** [*and is registered un-*
6 *der ORS 475.304*] are collectively in possession of, delivering or producing marijuana for medical
7 use in amounts allowed under ORS 475.320; or

8 (b) The person is responsible for or employed by a medical marijuana facility registered under
9 ORS 475.314 and does not commit any of the acts described in this subsection anywhere other than
10 at the medical marijuana facility.

11 (2) The Oregon Health Authority shall establish and maintain a program for the issuance of
12 registry identification cards to persons who meet the requirements of this section. Except as pro-
13 vided in subsection (3) **or (5)** of this section, the authority shall issue a registry identification card
14 to any person who pays a fee in the amount established by the authority and provides the following:

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

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

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

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

22 (e) A written statement that indicates whether the marijuana used by the **registry identifica-**
23 **tion** cardholder will be produced at [*a location where the*] **the residence address of the registry**
24 **identification** cardholder or designated primary caregiver [*is present*] or at another location.

25 (3) **Except as provided in subsection (5) of this section**, the authority shall issue a registry
26 identification card to a person who is under 18 years of age if the person submits the materials re-
27 quired under subsection (2) of this section, and the custodial parent or legal guardian with respon-
28 sibility for health care decisions for the person under 18 years of age signs a written statement that:

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

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

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

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

41 (4) A person applying for a registry identification card pursuant to this section may submit the
42 information required in this section to a county health department for transmittal to the authority.
43 A county health department that receives the information pursuant to this subsection shall transmit
44 the information to the authority within five days of receipt of the information. Information received
45 by a county health department pursuant to this subsection [*shall be*] **is** confidential and not subject

1 to disclosure, except as required to transmit the information to the authority.

2 (5)(a) The authority shall verify the information contained in an application submitted pursuant
 3 to this section and shall approve or deny an application within *[thirty]* **30** days of receipt of the
 4 application.

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

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

11 (B) The authority determines that the information provided was falsified; *[or]*

12 (C) The applicant has been prohibited by a court order from obtaining a registry identification
 13 card[.]; **or**

14 **(D) The attending physician is disqualified under section 2 of this 2015 Act.**

15 (c) Denial of **an application for** a registry identification card *[shall be considered]* **is** a final
 16 authority action, subject to judicial review. Only the person whose application has been denied[,]
 17 or*[, in the case of a person under the age of 18 years of age whose application has been denied,]* the
 18 person’s parent or legal guardian*[, shall have]* **with responsibility for health care decisions for**
 19 **the person, if the person is under 18 years of age, has** standing to contest the authority’s action.

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

22 (6)(a) If the authority has verified the information submitted pursuant to *[subsections (2) and]*
 23 **subsection (2) or** (3) of this section and none of the reasons for denial listed in subsection (5)(b)
 24 of this section is applicable, the authority shall issue a serially numbered registry identification card
 25 within five days of verification of the information. The registry identification card *[shall]* **must**
 26 state:

27 (A) The **registry identification** cardholder’s name, address and date of birth;

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

29 (C) The name and address of the *[person’s]* **registry identification cardholder’s** designated
 30 primary caregiver, if any;

31 (D) Whether the marijuana used by the **registry identification** cardholder will be produced at
 32 *[a location where]* the **residence address of the registry identification** cardholder or designated
 33 primary caregiver *[is present]* or at another location; and

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

35 (b) When *[the person to whom the authority has issued a registry identification card pursuant to*
 36 *this section]* **a registry identification cardholder** has specified a designated primary caregiver, the
 37 authority shall issue an identification card to the designated primary caregiver. The **designated**
 38 primary caregiver’s *[registry]* identification card *[shall]* **must** contain the information provided in
 39 paragraph (a) of this subsection.

40 (7)(a) A *[person who possesses a registry identification card]* **registry identification cardholder**
 41 shall:

42 (A) Notify the authority of any change *[in the person’s]* **concerning the registry identification**
 43 **cardholder’s** name, address, attending physician or designated primary caregiver.

44 (B) If applicable, notify the designated primary caregiver of the **registry identification**
 45 cardholder, the person responsible for the marijuana grow site that produces marijuana for the

1 **registry identification** cardholder and any person responsible for a medical marijuana facility that
 2 transfers usable marijuana or immature marijuana plants to **or for the registry identification**
 3 cardholder under ORS 475.314 of any change in status including, but not limited to:

4 (i) The *[assignment]* **designation** of another individual as the designated primary caregiver of
 5 the **registry identification** cardholder;

6 (ii) The *[assignment]* **designation** of another individual as the person responsible for a marijuana
 7 grow site producing marijuana for the **registry identification** cardholder; *[or]* **and**

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

10 (C) *[Annually submit]* **Renew the registry identification card once every year by submitting**
 11 to the authority:

12 (i) Updated written documentation from the **registry identification** cardholder's attending phy-
 13 sician *[of the person's]* **that the person still has a** debilitating medical condition and that the
 14 medical use of marijuana may mitigate the symptoms or effects of the person's debilitating medical
 15 condition; and

16 (ii) The name of the person's designated primary caregiver if a primary caregiver *[has been]* **is**
 17 designated for the upcoming year.

18 (b) If a *[person who possesses a registry identification card]* **registry identification cardholder**
 19 fails to comply with this subsection, the **registry identification** card *[shall be deemed expired]* **ex-**
 20 **pires**. If a registry identification card expires, the identification card of *[any]* **the** designated pri-
 21 mary caregiver of the **registry identification** cardholder *[shall also expire]* **also expires**.

22 (8)(a) A *[person who possesses a registry identification card pursuant to this section and]* **registry**
 23 **identification cardholder** who has been diagnosed by the *[person's]* **registry identification**
 24 **cardholder's** attending physician as no longer having a debilitating medical condition or whose at-
 25 tending physician has determined that the medical use of marijuana is contraindicated for the
 26 *[person's]* **registry identification cardholder's** debilitating medical condition shall return the reg-
 27 istry identification card and any other associated Oregon Medical Marijuana Program cards to the
 28 authority within 30 calendar days of notification of the diagnosis or notification of the
 29 contraindication.

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

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

44 (10)(a) A registry identification cardholder *[has the primary responsibility of notifying the]* **must**
 45 **notify the** designated primary caregiver, the person responsible for the marijuana grow site that

1 produces marijuana for the **registry identification** cardholder and any person responsible for a
 2 medical marijuana facility that transfers usable marijuana or immature marijuana plants to **or for**
 3 the **registry identification** cardholder under ORS 475.314 of any change in status of the **registry**
 4 **identification** cardholder.

5 (b) If the authority is notified by the **registry identification** cardholder that a primary
 6 caregiver or person responsible for a marijuana grow site has changed, the authority shall notify the
 7 **previously designated** primary caregiver or the person **formerly** responsible for the marijuana
 8 grow site by mail at the address of record [*confirming*] of the change in status and **inform** [*inform-*
 9 *ing*] the caregiver or person responsible for the marijuana grow site [*that their card*] **that the**
 10 **identification card of the designated primary caregiver or the marijuana grow site registra-**
 11 **tion card** is no longer valid and must be returned to the authority.

12 (11) The authority shall revoke the registry identification card of a **registry identification**
 13 cardholder if a court has issued an order that prohibits the **registry identification** cardholder from
 14 participating in the medical use of marijuana or otherwise participating in the Oregon Medical
 15 Marijuana Program under ORS 475.300 to 475.346. [*The*] **If the registry identification cardholder's**
 16 **registry identification card is revoked, the registry identification** cardholder shall return the
 17 registry identification card to the authority within seven calendar days of notification of the revo-
 18 cation. [*If the cardholder is a patient, the patient shall return the patient's card and all other associ-*
 19 *ated Oregon Medical Marijuana Program cards.*]

20 (12) The authority shall revoke the registration of a medical marijuana facility registered under
 21 ORS 475.314 if a court has issued an order that prohibits the person responsible for the medical
 22 marijuana facility from participating in the Oregon Medical Marijuana Program under ORS 475.300
 23 to 475.346.

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

27 **SECTION 4. Section 2 of this 2015 Act and the amendments to ORS 475.309 by section 3**
 28 **of this 2015 Act apply to information received by the Oregon Health Authority on or after**
 29 **the effective date of this 2015 Act for the purpose of issuing registry identification cards.**