



OHA Comments on Bills Assigned to the Joint Committee on Marijuana Legalization

The following remarks and comments are being submitted by OHA in response to specific concerns about proposed bills and amendments currently under consideration by the Joint Committee on Marijuana Legalization.

HB 4014-1

- Page 19, lines 3-6:
 - Action Requested: OHA requests that the word “complete” be inserted before application on page 19, line 3, page 20, line 21, and page 22, line 17.
 - Concern: The new language would require OHA to issue a receipt to a patient who submitted a new or renewal application and that receipt would act as an OMMP card for 30 days (see page 22, lines 15-21). OHA receives many incomplete applications that lack attending physician statements and fees, along with other required information. As written OHA is concerned that an individual could submit an incomplete application without evidence of an attending physician statement or fee and receive a receipt that would act as an OMMP card for 30 days. This could be repeated over and over again by an individual. In the absence of this change OHA asks that you clarify on the record that the intention is that a receipt only be issued if a complete application is received by OHA. The requirement for OHA to issue a receipt goes into effect on March 1, 2016. It may take OHA some time to get a process in place for issuing receipts and OHA asks that this provision not go into effect until April 1, 2016.
- Page 35, lines 7-13:
 - Action Requested: OHA asks that this be clarified.
 - Concern: New language has been added to state that medical marijuana growers producing marijuana at the same address may collectively produce mature marijuana plants for any number of patients who designate them. This language is inconsistent with the provisions in ORS 475B.428(2)(a) (page 33) that states a medical marijuana grower may only grow for four patients.
- Page 88, Section 71:
 - Action Requested: Alignment of HB 3400, Sections 117 and 118 language with the youth prevention campaign called for in Section 71.
 - Concern: OHA would propose an approach that would allow for a combined and comprehensive approach to youth prevention. This can happen by continuing youth prevention campaign resources through the end of the June 2017 biennium, so that youth continue to see prevention messages.
- Fingerprint authority:
 - Action Requested: OHA asks that any language that is added to HB 4014 or SB 1511 to address the issue for OLCC apply to OHA as well.

- Concern: OHA has discussed with OLCC the issue OLCC is having with the FBI and fingerprint based criminal background checks. Since OHA now will be doing criminal background checks on not just individuals responsible for a dispensary, but anyone named in a processing site or dispensary application (ORS 475B.435(2) and (4); ORS 475B.450(2) and (4)), OHA may have the same issues with the FBI that OLCC is having.

SB 1511-1

- Page 21, lines 11 and 17:
 - Action Requested: The new language that refers to packaging standards should reference the statutory provision that requires OLCC to adopt packaging standards, ORS 475B.615, and not rules adopted under the section that gives OHA the authority to adopt rules for concentration limits. For example it should read “...to meet the concentration standards adopted by rule pursuant to this section and the packaging standards adopted by rule under ORS 475B.615.”
- Page 25, Section 23:
 - Action Requested: OHA will need time to issue orders or adopt at least temporary rules to implement this section and asks for an effective date of June 1, 2016.
 - Concern: These new provisions allow for additional products to be sold by dispensaries to adult users under the “early start” law. A dispensary would be able to sell “non-psychoactive” cannabinoid topical. OHA has no way to determine which products are non-psychoactive. A dispensary would also be able to sell a cannabinoid extract in a cartridge. It is currently illegal to produce extracts since no processor has a registration from OHA or a license from OLCC. In addition, it is unclear why extracts would be permitted to be sold but not concentrates. The provisions of Section 23 would take effect upon the bill’s passage. Pages 27-29, Section 24: This section would permit growers at a particular address who have applied for license with OLCC to have a stay of the plant limit requirements for some period of time while their application is being reviewed and acted upon by OLCC. It requires that all growers at a grow site address file a notice with OHA attesting that each grower intends to hold an OLCC license. It is possible that not all growers at an address will file such a notice. If that occurs, does that invalidate the notice and the stay, or can OHA revoke the designation of a grower who has not filed a notice but who grows at an address where other growers have filed a notice, assuming the stay is granted?

SB 1511-2:

- Action Requested: State that a cannabinoid product intended to be applied to a person’s skin or hair is not marijuana if it contains 5% or less THC in the product, regardless of the weight of the product. Such products should still be subject to OHA’s testing and labeling rules.
- Concern: This amendment exempts from the definition of marijuana a product containing non-psychoactive cannabinoids intended to be applied to a person’s skin or hair, if the concentration of THC is 5% or less than the weight of the product. There are a few issues with this. If such a product is not considered marijuana, it will not be subject to any regulation by OHA (or OLCC) and in particular will not be subject to testing. Therefore, it is not clear how OHA (or OLCC) will know how much THC the product contains. In addition, it is not clear what a “non-psychoactive cannabinoid” is.

SB 1511-3:

- Concern: cannabinoid concentrates and extracts transferred by a dispensary from concentration or packaging standards adopted by rule. OHA is extremely concerned that these items would not be in child-resistant safety packaging, in particular if there are no THC concentration limits for medical marijuana items. Medical marijuana items except

for usable marijuana are subject to child-resistant safety packaging now and if medical marijuana is to be treated like other medicines, it should be subject to child-resistant safety packaging. Without this requirement a dispensary could transfer very high THC edibles that are attractive to children with no child-resistant safety packaging. OHA's Rules Advisory Committee (RAC) members, that included physicians from the Oregon Poison Control Center, and the Multnomah County Public Health Officer, who is a pediatrician, were open to higher doses of marijuana products on the medical side, but only with OLCC's packaging requirements.

With regard to removing OHA's authority to establish concentration limits for medical marijuana items, OHA has reviewed a great deal of public comment, had good discussions with its RAC members and likely will establish higher concentration limits for medical marijuana items that meet the needs of OMMP patients in its permanent rules.

SB 1511-5:

- Concern: Setting the limit in statute diminishes OHA's ability to respond quickly if there are public health and safety issue with cannabinoid edibles at this higher limit. This amendment prohibits OHA from establishing a THC limit on cannabinoid edibles that is less than 10 mg per serving. OHA's RAC, which included quite a few members from the marijuana industry, generally had few issues with the 5/50 concentration limits for edibles for the adult use market that is in OHA's temporary rules.
- Action Requested: From a technical standpoint, if this amendment is adopted, OHA would suggest that on page 1, lines 17-19, it read: "Must establish that the minimum concentration of tetrahydrocannabinol permitted in a single serving of a cannabinoid edible is not less than 10 milligrams;"

SB 1511-10:

- Action Requested: OHA suggests that on page 2, line 24, after "plants" the remainder of the line be deleted and the following be inserted "at a grow site address where the amounts set forth in ORS 475B.428(3)(b) or (4)(b) are permitted."
- Concern: This clarifying language makes it clear that it is the grow site address with the plant limits.