

Requested by Representative WILDE

**PROPOSED AMENDMENTS TO
HOUSE BILL 3369**

1 On page 1 of the printed bill, line 2, after “provisions;” insert “and” and
2 delete “475B.759.”

3 In line 3, delete “475B.810, 475B.816, 475B.895,” and delete “; and pre-
4 scribing an effective date”.

5 Delete lines 5 through 27 and delete pages 2 through 15 and insert:

6 **“SECTION 1. Section 2 of this 2021 Act is added to and made a part
7 of ORS 475B.785 to 475B.949.**

8 **“SECTION 2. A nurse licensed under ORS 678.040 to 678.101 may
9 discuss the medical use of marijuana with a person with whom the
10 nurse has a patient-provider relationship.**

11 **“SECTION 3. ORS 475B.791 is amended to read:**

12 **“475B.791. As used in ORS 475B.785 to 475B.949:**

13 **“(1) ‘Attending [*physician*] **provider**’ means [*a physician licensed under*
14 *ORS chapter 677*] **one of the following health care providers** who has
15 primary responsibility for the care and treatment of a person diagnosed with
16 a debilitating medical condition[.]:**

17 **“(a) A physician licensed under ORS chapter 677;**

18 **“(b) A physician assistant licensed under ORS 677.505 to 677.525;**

19 **“(c) A nurse practitioner licensed under ORS 678.375 to 678.390;**

20 **“(d) A clinical nurse specialist licensed under ORS 678.370 and
21 678.372;**

1 **“(e) A certified registered nurse anesthetist as defined in ORS**
2 **678.245; or**

3 **“(f) A naturopathic physician licensed under ORS chapter 685.**

4 “(2) ‘Cannabinoid’ means any of the chemical compounds that are the
5 active constituents of marijuana.

6 “(3) ‘Cannabinoid concentrate’ means a substance obtained by separating
7 cannabinoids from marijuana by:

8 “(a) A mechanical extraction process;

9 “(b) A chemical extraction process using a nonhydrocarbon-based solvent,
10 such as vegetable glycerin, vegetable oils, animal fats, isopropyl alcohol or
11 ethanol;

12 “(c) A chemical extraction process using the hydrocarbon-based solvent
13 carbon dioxide, provided that the process does not involve the use of high
14 heat or pressure; or

15 “(d) Any other process identified by the Oregon Health Authority, in
16 consultation with the Oregon Liquor Control Commission, by rule.

17 “(4) ‘Cannabinoid edible’ means food or potable liquid into which a
18 cannabinoid concentrate, cannabinoid extract or dried leaves or flowers of
19 marijuana have been incorporated.

20 “(5) ‘Cannabinoid extract’ means a substance obtained by separating
21 cannabinoids from marijuana by:

22 “(a) A chemical extraction process using a hydrocarbon-based solvent,
23 such as butane, hexane or propane;

24 “(b) A chemical extraction process using the hydrocarbon-based solvent
25 carbon dioxide, if the process uses high heat or pressure; or

26 “(c) Any other process identified by the Oregon Health Authority, in
27 consultation with the Oregon Liquor Control Commission, by rule.

28 “(6) ‘Debilitating medical condition’ means:

29 “(a) Cancer, glaucoma, a degenerative or pervasive neurological condi-
30 tion, positive status for human immunodeficiency virus or acquired immune

1 deficiency syndrome, or a side effect related to the treatment of those med-
2 ical conditions;

3 “(b) A medical condition or treatment for a medical condition that
4 produces, for a specific patient, one or more of the following:

5 “(A) Cachexia;

6 “(B) Severe pain;

7 “(C) Severe nausea;

8 “(D) Seizures, including seizures caused by epilepsy; or

9 “(E) Persistent muscle spasms, including spasms caused by multiple
10 sclerosis;

11 “(c) Post-traumatic stress disorder; or

12 “(d) Any other medical condition or side effect related to the treatment
13 of a medical condition adopted by the Oregon Health Authority by rule or
14 approved by the authority pursuant to a petition filed under ORS 475B.946.

15 “(7)(a) ‘Delivery’ has the meaning given that term in ORS 475.005.

16 “(b) ‘Delivery’ does not include transfer of marijuana by a registry iden-
17 tification cardholder to another registry identification cardholder if no con-
18 sideration is paid for the transfer.

19 “(8)(a) ‘Designated primary caregiver’ means an individual:

20 “(A) Who is 18 years of age or older;

21 “(B) Who has significant responsibility for managing the well-being of a
22 person who has been diagnosed with a debilitating medical condition; and

23 “(C) Who is designated as the person responsible for managing the well-
24 being of a person who has been diagnosed with a debilitating medical con-
25 dition on that person’s application for a registry identification card or in
26 other written notification submitted to the authority.

27 “(b) ‘Designated primary caregiver’ does not include a person’s attending
28 [*physician*] **provider**.

29 “(9) ‘High heat’ means a temperature exceeding 180 degrees.

30 “(10) ‘Immature marijuana plant’ means a marijuana plant that is not

1 flowering.

2 “(11)(a) ‘Marijuana’ means the plant Cannabis family Cannabaceae, any
3 part of the plant Cannabis family Cannabaceae and the seeds of the plant
4 Cannabis family Cannabaceae.

5 “(b) ‘Marijuana’ does not include:

6 “(A) Industrial hemp, as defined in ORS 571.269; or

7 “(B) Prescription drugs, as that term is defined in ORS 689.005, including
8 those containing one or more cannabinoids, that are approved by the United
9 States Food and Drug Administration and dispensed by a pharmacy, as de-
10 fined in ORS 689.005.

11 “(12) ‘Marijuana grow site’ means a location registered under ORS
12 475B.810 where marijuana is produced for use by a registry identification
13 cardholder.

14 “(13) ‘Marijuana processing site’ means a marijuana processing site reg-
15 istered under ORS 475B.840 or a site for which an applicant has submitted
16 an application for registration under ORS 475B.840.

17 “(14) ‘Mature marijuana plant’ means a marijuana plant that is not an
18 immature marijuana plant.

19 “(15)(a) ‘Medical cannabinoid product’ means a cannabinoid edible and
20 any other product intended for human consumption or use, including a
21 product intended to be applied to a person’s skin or hair, that contains
22 cannabinoids or dried leaves or flowers of marijuana.

23 “(b) ‘Medical cannabinoid product’ does not include:

24 “(A) Usable marijuana by itself;

25 “(B) A cannabinoid concentrate by itself;

26 “(C) A cannabinoid extract by itself; or

27 “(D) Industrial hemp, as defined in ORS 571.269.

28 “(16) ‘Medical marijuana dispensary’ means a medical marijuana
29 dispensary registered under ORS 475B.858 or a site for which an applicant
30 has submitted an application for registration under ORS 475B.858.

1 “(17) ‘Medical use of marijuana’ means the production, processing, pos-
2 session, delivery or administration of marijuana, or use of paraphernalia
3 used to administer marijuana, to mitigate the symptoms or effects of a de-
4 bilitating medical condition.

5 “(18) ‘Person designated to produce marijuana by a registry identification
6 cardholder’ means a person designated to produce marijuana by a registry
7 identification cardholder under ORS 475B.810 who produces marijuana for a
8 registry identification cardholder at an address other than the address where
9 the registry identification cardholder resides or at an address where more
10 than 12 mature marijuana plants are produced.

11 “(19) ‘Process’ means the compounding or conversion of marijuana into
12 medical cannabinoid products, cannabinoid concentrates or cannabinoid ex-
13 tracts.

14 “(20) ‘Production’ means:

15 “(a) Planting, cultivating, growing, trimming or harvesting marijuana; or

16 “(b) Drying marijuana leaves or flowers.

17 “(21) ‘Registry identification card’ means a document issued by the
18 Oregon Health Authority under ORS 475B.797 that identifies a person au-
19 thorized to engage in the medical use of marijuana and, if the person has a
20 designated primary caregiver under ORS 475B.804, the person’s designated
21 primary caregiver.

22 “(22) ‘Registry identification cardholder’ means a person to whom a reg-
23 istry identification card has been issued under ORS 475B.797.

24 “(23)(a) ‘Usable marijuana’ means the dried leaves and flowers of
25 marijuana.

26 “(b) ‘Usable marijuana’ does not include:

27 “(A) The seeds, stalks and roots of marijuana; or

28 “(B) Waste material that is a by-product of producing marijuana.

29 “(24) ‘Written documentation’ means a statement signed by the attending
30 [*physician*] **provider** of a person diagnosed with a debilitating medical con-

1 dition or copies of the person’s relevant medical records.

2 **“SECTION 4.** ORS 475B.797 is amended to read:

3 “475B.797. (1) The Oregon Health Authority shall establish a program for
4 the issuance of registry identification cards to applicants who meet the re-
5 quirements of this section.

6 “(2) The authority shall issue a registry identification card to an appli-
7 cant who is 18 years of age or older if the applicant pays a fee in an amount
8 established by the authority by rule and submits to the authority an appli-
9 cation containing the following information:

10 “(a) Written documentation from the applicant’s attending [*physician*]
11 **provider** stating that the attending [*physician*] **provider** has diagnosed the
12 applicant as having a debilitating medical condition and that the medical
13 use of marijuana may mitigate the symptoms or effects of the applicant’s
14 debilitating medical condition;

15 “(b) The name, address and date of birth of the applicant;

16 “(c) The name, address and telephone number of the applicant’s attending
17 [*physician*] **provider**;

18 “(d) Proof of residency, submitted in a form required by the authority by
19 rule;

20 “(e) The name and address of the applicant’s designated primary
21 caregiver, if the applicant is designating a primary caregiver under ORS
22 475B.804; and

23 “(f) The information described in ORS 475B.810 (2), if the applicant is
24 applying to produce marijuana or designate another person under ORS
25 475B.810 to produce marijuana.

26 “(3)(a) The authority shall issue a registry identification card to an ap-
27 plicant who is under 18 years of age if:

28 “(A) The applicant pays the fee and submits the application described in
29 subsection (2) of this section; and

30 “(B) The custodial parent or legal guardian who is responsible for the

1 health care decisions of the applicant signs and submits to the authority a
2 written statement that:

3 “(i) The applicant’s attending [*physician*] **provider** has explained to the
4 applicant and to the custodial parent or legal guardian the possible risks and
5 benefits of the medical use of marijuana;

6 “(ii) The custodial parent or legal guardian consents to the medical use
7 of marijuana by the applicant;

8 “(iii) The custodial parent or legal guardian agrees to serve as the
9 applicant’s designated primary caregiver; and

10 “(iv) The custodial parent or legal guardian agrees to control the acqui-
11 sition, dosage and frequency of the medical use of marijuana by the appli-
12 cant.

13 “(b) An applicant who is under 18 years of age may not apply to produce
14 marijuana under subsection (2)(f) of this section.

15 “(4) The authority shall:

16 “(a) On the date on which the authority receives an application described
17 in subsection (2) of this section, issue a receipt to the applicant verifying
18 that the authority received an application under subsection (2) or (3) of this
19 section; and

20 “(b) Approve or deny an application received under subsection (2) or (3)
21 of this section within 30 days after receiving the application.

22 “(5)(a) If the authority approves an application, the authority shall issue
23 a serially numbered registry identification card to the applicant within five
24 days after approving the application. The registry identification card must
25 include the following information:

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

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

30 “(C) If the registry identification cardholder designated a primary

1 caregiver under ORS 475B.804, the name and address of the registry iden-
2 tification cardholder's designated primary caregiver; and

3 “(D) Any other information required by the authority by rule.

4 “(b) If the registry identification cardholder designated a primary
5 caregiver under ORS 475B.804, the authority shall issue an identification
6 card to the designated primary caregiver. The identification card must con-
7 tain the information required by paragraph (a) of this subsection.

8 “(6) A registry identification cardholder shall:

9 “(a) In a form and manner prescribed by the authority, notify the au-
10 thority of any change concerning the registry identification cardholder's:

11 “(A) Name, address or attending [*physician*] **provider**;

12 “(B) Designated primary caregiver, including the designation of a primary
13 caregiver made at a time other than at the time of applying for or renewing
14 a registry identification card; or

15 “(C) Person responsible for a marijuana grow site, including the desig-
16 nation of a person responsible for a marijuana grow site made at a time
17 other than at the time of applying for or renewing a registry identification
18 card.

19 “(b) Annually renew the registry identification card by paying a fee in
20 an amount established by the authority by rule and submitting to the au-
21 thority an application that contains the following information:

22 “(A) Updated written documentation from the registry identification
23 cardholder's attending [*physician*] **provider** stating that the registry iden-
24 tification cardholder still has a debilitating medical condition and that the
25 medical use of marijuana may mitigate the symptoms or effects of the regis-
26 try identification cardholder's debilitating medical condition;

27 “(B) The information described in subsection (2)(b) to (f) of this section;
28 and

29 “(C) If the registry identification cardholder is under 18 years of age, a
30 statement signed by the custodial parent or legal guardian of the registry

1 identification cardholder that meets the requirements of subsection (3) of this
2 section.

3 “(7) The authority shall:

4 “(a) On the date on which the authority receives an application described
5 in subsection (2) of this section, issue a receipt to the applicant verifying
6 that the authority received an application under subsection (6)(b) of this
7 section; and

8 “(b) Approve or deny an application received under subsection (6)(b) of
9 this section within 30 days after receiving the application.

10 “(8)(a) If the registry identification cardholder’s attending [*physician*]
11 **provider** determines that the registry identification cardholder no longer has
12 a debilitating medical condition, or determines that the medical use of
13 marijuana is contraindicated for the registry identification cardholder’s de-
14 bilitating medical condition, the registry identification cardholder shall re-
15 turn the registry identification card to the authority within 30 calendar days
16 after receiving notice of the determination.

17 “(b) If, because of circumstances beyond the control of the registry iden-
18 tification cardholder, a registry identification cardholder is unable to obtain
19 a second medical opinion about the registry identification cardholder’s con-
20 tinuing eligibility for the medical use of marijuana before having to return
21 the registry identification card to the authority, the authority may grant the
22 registry identification cardholder additional time to obtain a second medical
23 opinion.

24 “(9)(a) The authority may deny an application for a registry identification
25 card or an application to renew a registry identification card, or may sus-
26 pend or revoke a registry identification card, if:

27 “(A) The applicant or registry identification cardholder does not provide
28 the information required by this section;

29 “(B) The authority determines that the applicant or registry identification
30 cardholder provided false information; or

1 “(C) The authority determines that the applicant or registry identification
2 cardholder violated a provision of ORS 475B.785 to 475B.949 or a rule
3 adopted under ORS 475B.785 to 475B.949.

4 “(b) If a registry identification card is revoked, any associated identifi-
5 cation card issued under subsection (5)(b) of this section, or marijuana grow
6 site registration card issued under ORS 475B.810 (6), shall also be revoked.

7 “(c) A person whose application is denied, or whose registry identification
8 card is revoked, under this subsection may not reapply for a registry iden-
9 tification card for six months from the date of the denial or revocation un-
10 less otherwise authorized by the authority.

11 “(10)(a) The authority may deny a designation of a primary caregiver
12 made under ORS 475B.804, or suspend or revoke an associated identification
13 card issued under subsection (5)(b) of this section, if the authority determines
14 that the designee or the registry identification cardholder violated a pro-
15 vision of ORS 475B.785 to 475B.949 or a rule adopted under ORS 475B.785 to
16 475B.949.

17 “(b) A person whose designation has been denied, or whose identification
18 card has been revoked, under this subsection may not be designated as a
19 primary caregiver under ORS 475B.804 for six months from the date of the
20 denial or revocation unless otherwise authorized by the authority.

21 “(11)(a) Notwithstanding subsection (2) or (6)(b) of this section, if an ap-
22 plicant for a registry identification card, or a registry identification
23 cardholder applying for renewal of a registry identification card, submits to
24 the authority proof of having served in the Armed Forces of the United
25 States, the authority may not impose a fee that is greater than \$20 for the
26 issuance or renewal of the registry identification card.

27 “(b) Notwithstanding subsection (6)(b)(A) of this section, the requirement
28 that a registry identification cardholder include in the application to renew
29 a registry identification card updated written documentation from the
30 cardholder’s attending [*physician*] **provider** regarding the cardholder’s con-

1 continuing debilitating medical condition does not apply to a service-disabled
2 veteran who:

3 “(A) Has been assigned a total and permanent disability rating for com-
4 pensation that rates the veteran as unable to secure or follow a substantially
5 gainful occupation as a result of service-connected disabilities as described
6 in 38 C.F.R. 4.16; or

7 “(B) Has a United States Department of Veterans Affairs total disability
8 rating of 100 percent as a result of an injury or illness that the veteran in-
9 curred, or that was aggravated, during active military service and who re-
10 ceived a discharge or release under other than dishonorable conditions.

11 “(12) For any purpose described in ORS 475B.785 to 475B.949, including
12 exemption from criminal liability under ORS 475B.907, a receipt issued by the
13 authority verifying that an application has been submitted to the authority
14 under subsection (2), (3) or (6)(b) of this section has the same legal effect as
15 a registry identification card for 30 days following the date on which the
16 receipt was issued to the applicant.

17 **“SECTION 5.** ORS 475B.913 is amended to read:

18 “475B.913. (1) Except as provided in ORS 475B.910, a person has an affir-
19 mative defense to a criminal charge of possession, delivery or manufacture
20 of marijuana, or any other criminal offense in which possession, delivery or
21 manufacture of marijuana is an element, if the person charged with the of-
22 fense:

23 “(a) Was diagnosed with a debilitating medical condition within 12
24 months of the date on which the person was arrested and was advised by the
25 person’s attending [*physician*] **provider** that the medical use of marijuana
26 may mitigate the symptoms or effects of that debilitating medical condition;

27 “(b) Is engaged in the medical use of marijuana; and

28 “(c) Possesses, delivers or manufactures marijuana only in quantities
29 permitted under ORS 475B.831.

30 “(2) A person does not need to lawfully possess a registry identification

1 card to assert the affirmative defense established in this section.

2 “(3) A person engaged in the medical use of marijuana who claims that
3 marijuana provides medically necessary benefits and who is charged with a
4 crime pertaining to the use of marijuana is not precluded from presenting a
5 defense of choice of evils, as set forth in ORS 161.200, or from presenting
6 evidence supporting the necessity of marijuana for treatment of a specific
7 disease or medical condition, provided that:

8 “(a) The person possesses, delivers or manufactures marijuana only as
9 permitted under ORS 475B.831 (1); and

10 “(b) The person has taken a substantial step toward complying with the
11 provisions of ORS 475B.785 to 475B.949.

12 “(4) A defendant proposing to use the affirmative defense established in
13 this section in a criminal action shall, not less than five days before the trial
14 of the cause, file and serve upon the district attorney a written notice of the
15 intention to assert the affirmative defense. The notice must specifically state
16 the reasons why the defendant is entitled to assert the affirmative defense
17 and the factual basis for the affirmative defense. If the defendant fails to file
18 and serve the notice, the defendant is not permitted to assert the affirmative
19 defense at the trial of the cause unless the court orders, for good cause,
20 otherwise.

21 **“SECTION 6.** ORS 475B.916 is amended to read:

22 “475B.916. The **Oregon Board of Naturopathic Medicine**, Oregon Med-
23 ical Board **and Oregon State Board of Nursing** may not impose a civil
24 penalty or take other disciplinary action against an attending [*physician*]
25 **provider** for:

26 “(1) Advising a person diagnosed as having a debilitating medical condi-
27 tion by the attending [*physician*] **provider** or another physician licensed
28 under ORS chapter 677, **physician assistant licensed under ORS 677.505**
29 **to 677.525, nurse practitioner licensed under ORS 678.375 to 678.390,**
30 **clinical nurse specialist licensed under ORS 678.370 and 678.372, certi-**

1 **fied registered nurse anesthetist as defined in ORS 678.245 or**
2 **naturopathic physician licensed under ORS chapter 685** about the risks
3 and benefits associated with the medical use of marijuana or that the med-
4 ical use of marijuana may mitigate the symptoms or effects of the person’s
5 debilitating medical condition, provided that the advice is based on the at-
6 tending [*physician’s*] **provider’s** personal assessment of the person’s medical
7 history and current medical condition; or

8 “(2) Providing the written documentation necessary for issuance or re-
9 newal of a registry identification card under ORS 475B.797, provided that the
10 written documentation is based on the attending [*physician’s*] **provider’s**
11 personal assessment of the person’s medical history and current medical
12 condition and the attending [*physician*] **provider** has discussed with the
13 person the potential risks and benefits associated with the medical use of
14 marijuana.

15 **“SECTION 7.** ORS 475B.952 is amended to read:

16 “475B.952. (1) The Oregon Cannabis Commission is established within the
17 Oregon Health Authority. The commission consists of:

18 “(a) The Public Health Officer or the Public Health Officer’s designee;
19 and

20 “(b) Eight members appointed by the Governor as follows:

21 “(A) A registry identification cardholder, as defined in ORS 475B.791;

22 “(B) A person designated to produce marijuana by a registry identifica-
23 tion cardholder, as defined in ORS 475B.791;

24 “(C) An attending [*physician*] **provider**, as defined in ORS 475B.791;

25 “(D) A person representing the Oregon Health Authority;

26 “(E) A person representing the Oregon Liquor Control Commission;

27 “(F) A local health officer, as described in ORS 431.418;

28 “(G) A law enforcement officer; and

29 “(H) A person knowledgeable about research proposal grant protocols.

30 “(2) The term of office of each member of the commission is four years,

1 but a member serves at the pleasure of the Governor. Before the expiration
2 of the term of a member, the Governor shall appoint a successor whose term
3 begins on January 1 of the following year. A member is eligible for reap-
4 pointment. If there is a vacancy for any cause, the Governor shall make an
5 appointment to become immediately effective for the unexpired term.

6 “(3) The appointment of each member of the commission is subject to
7 confirmation by the Senate in the manner prescribed in ORS 171.562 and
8 171.565.

9 “(4) Members of the commission are not entitled to compensation, but may
10 be reimbursed for actual and necessary travel and other expenses incurred
11 by them in the performance of their official duties in the manner and
12 amounts provided for in ORS 292.495.”

13
