House Bill 3567

Sponsored by Representatives TRAN, DIEHL, Senator PROZANSKI; Representatives HUDSON, NELSON, WALTERS, Senator MANNING JR

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.

Expands definition of “debilitating medical condition” for medical use of marijuana. Allows specified entities to be designated as primary caregiver for registry identification cardholder. Protects entities and employees of entities from certain criminal liability related to medical use of marijuana. Prohibits Oregon State Board of Nursing from taking disciplinary action against nurse for discussing medical use of marijuana with patient.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

Relating to marijuana for medical use; creating new provisions; amending ORS 475C.770, 475C.777, 475C.791, 475C.883 and 475C.891; and prescribing an effective date.

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

SECTION 1. ORS 475C.770 is amended to read:

475C.770. The people of the State of Oregon find that:

(1) Patients and [doctors] attending providers have found marijuana to be an effective treatment for suffering caused by debilitating medical conditions and, therefore, marijuana must be treated like other medicines;

(2) Oregonians suffering from debilitating medical conditions should be allowed to use marijuana without fear of civil or criminal penalties when [a doctor] an attending provider advises that using marijuana may provide a medical benefit and when other reasonable restrictions are met regarding that use;

(3) ORS 475C.770 to 475C.919 are intended to allow Oregonians with debilitating medical conditions who may benefit from the medical use of marijuana to be able to freely discuss with [doctors] attending providers the possible risks and benefits associated with the medical use of marijuana and to have the benefit of professional medical advice; and

(4) ORS 475C.770 to 475C.919 are intended to protect patients and [doctors] attending providers from criminal and civil penalties and are not intended to change current civil and criminal laws governing the use of marijuana for nonmedical purposes.

SECTION 2. ORS 475C.777 is amended to read:

475C.777. As used in ORS 475C.770 to 475C.919:

(1) “Attending provider” means one of the following health care providers who has primary responsibility for the care and treatment of a person diagnosed with a debilitating medical condition:

(a) A physician licensed under ORS chapter 677;

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

(c) A nurse practitioner licensed under ORS 678.370 to 678.372;

(d) A clinical nurse specialist licensed under ORS 678.370 and 678.372;

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.

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(e) A certified registered nurse anesthetist as defined in ORS 678.245; or
(f) A naturopathic physician licensed under ORS chapter 685.
(2) “Cannabinoid” means any of the chemical compounds that are the active constituents of marijuana.
(3) “Cannabinoid concentrate” means a substance obtained by separating cannabinoids from marijuana by:
   (a) A mechanical extraction process;
   (b) A chemical extraction process using a nonhydrocarbon-based solvent, such as vegetable glycerin, vegetable oils, animal fats, isopropyl alcohol or ethanol;
   (c) A chemical extraction process using the hydrocarbon-based solvent carbon dioxide, provided that the process does not involve the use of high heat or pressure; or
   (d) Any other process identified by the Oregon Health Authority, in consultation with the Oregon Liquor and Cannabis Commission, by rule.
(4) “Cannabinoid edible” means food or potable liquid into which a cannabinoid concentrate, cannabinoid extract or dried leaves or flowers of marijuana have been incorporated.
(5) “Cannabinoid extract” means a substance obtained by separating cannabinoids from marijuana by:
   (a) A chemical extraction process using a hydrocarbon-based solvent, such as butane, hexane or propane;
   (b) A chemical extraction process using the hydrocarbon-based solvent carbon dioxide, if the process uses high heat or pressure; or
   (c) Any other process identified by the Oregon Health Authority, in consultation with the Oregon Liquor and Cannabis Commission, by rule.
(6) “Debilitating medical condition” means:
   (a) Cancer, glaucoma, a degenerative or pervasive neurological condition, positive status for human immunodeficiency virus or acquired immune deficiency syndrome, or a side effect related to the treatment of those medical conditions;
   (b) A medical condition or treatment for a medical condition that produces, for a specific patient, one or more of the following:
      (A) Cachexia;
      (B) Severe pain;
      (C) Severe nausea;
      (D) Seizures, including seizures caused by epilepsy; or
      (E) Persistent muscle spasms, including spasms caused by multiple sclerosis;
      (c) Post-traumatic stress disorder; [or]
   (d) The need for hospice, palliative care, comfort care or other symptom management, including comprehensive pain management; or
   [d] (e) Any other medical condition or side effect related to the treatment of a medical condition adopted by the Oregon Health Authority by rule or approved by the authority pursuant to a petition filed under ORS 475C.913.
(7) “Delivery” has the meaning given that term in ORS 475.005.
(b) “Delivery” does not include transfer of marijuana by a registry identification cardholder to another registry identification cardholder if no consideration is paid for the transfer.
(8) “Designated primary caregiver” means an individual:
   (A) Who is 18 years of age or older;
(B) Who has significant responsibility for managing the well-being of a person who has been
diagnosed with a debilitating medical condition; and
(C) Who is designated as the person responsible for managing the well-being of a person who
has been diagnosed with a debilitating medical condition on that person’s application for a registry
identification card or in other written notification submitted to the authority.
(b) “Designated primary caregiver” does not include a person’s attending provider.
(9) “High heat” means a temperature exceeding 180 degrees.
(10) “Immature marijuana plant” means a marijuana plant that is not flowering.
(11)(a) “Marijuana” means the plant Cannabis family Cannabaceae, any part of the plant
Cannabis family Cannabaceae and the seeds of the plant Cannabis family Cannabaceae.
(b) “Marijuana” does not include:
(A) Industrial hemp, as defined in ORS 571.269; or
(B) Prescription drugs, as that term is defined in ORS 689.005, including those containing one
or more cannabinoids, that are approved by the United States Food and Drug Administration and
dispensed by a pharmacy, as defined in ORS 689.005.
(12) “Marijuana grow site” means a location registered under ORS 475C.792 where marijuana
is produced for use by a registry identification cardholder.
(13) “Marijuana processing site” means a marijuana processing site registered under ORS
475C.815 or a site for which an applicant has submitted an application for registration under ORS
475C.815.
(14) “Mature marijuana plant” means a marijuana plant that is not an immature marijuana
plant.
(15)(a) “Medical cannabinoid product” means a cannabinoid edible and any other product in-
tended for human consumption or use, including a product intended to be applied to a person’s skin
or hair, that contains cannabinoids or dried leaves or flowers of marijuana.
(b) “Medical cannabinoid product” does not include:
(A) Usable marijuana by itself;
(B) A cannabinoid concentrate by itself;
(C) A cannabinoid extract by itself; or
(D) Industrial hemp, as defined in ORS 571.269.
(16) “Medical marijuana dispensary” means a medical marijuana dispensary registered under
ORS 475C.833 or a site for which an applicant has submitted an application for registration under
ORS 475C.833.
(17) “Medical use of marijuana” means the production, processing, possession, delivery or ad-
ministration of marijuana, or use of paraphernalia used to administer marijuana, to mitigate the
symptoms or effects of a debilitating medical condition.
(18) “Person designated to produce marijuana by a registry identification cardholder” means a
person designated to produce marijuana by a registry identification cardholder under ORS 475C.792
who produces marijuana for a registry identification cardholder at an address other than the address
where the registry identification cardholder resides or at an address where more than 12 mature
marijuana plants are produced.
(19) “Process” means the compounding or conversion of marijuana into medical cannabinoid
products, cannabinoid concentrates or cannabinoid extracts.
(20) “Production” means:
(a) Planting, cultivating, growing, trimming or harvesting marijuana; or
(b) Drying marijuana leaves or flowers.

(21) “Registry identification card” means a document issued by the Oregon Health Authority under ORS 475C.783 that identifies a person authorized to engage in the medical use of marijuana and, if the person has a designated primary caregiver under ORS 475C.789, the person’s designated primary caregiver.

(22) “Registry identification cardholder” means a person to whom a registry identification card has been issued under ORS 475C.783.

(23)(a) “Usable marijuana” means the dried leaves and flowers of marijuana.
(b) “Usable marijuana” does not include:
(A) The seeds, stalks and roots of marijuana; or
(B) Waste material that is a by-product of producing marijuana.

(24) “Written documentation” means a statement signed by the attending provider of a person diagnosed with a debilitating medical condition or copies of the person’s relevant medical records.

SECTION 3. ORS 475C.789 is amended to read:

475C.789. (1) Notwithstanding ORS 475C.789, [an organization that provides hospice, palliative or home health care services, or a residential facility as defined in ORS 443.400,] an entity that is one of the following and that has significant responsibility for managing the well-being of a person who has been diagnosed with a debilitating medical condition may be designated, in addition to an individual designated pursuant to ORS 475C.789, as an additional caregiver for a registry identification cardholder in the same manner that an individual is designated as the primary caregiver for a registry identification cardholder under ORS 475C.789[.]

(a) An organization that provides hospice, palliative or home health care services;
(b) A residential facility, as defined in ORS 443.400;
(c) A nursing home, as defined in ORS 678.710;
(d) An adult foster home, as defined in ORS 443.705;
(e) A hospital, as defined in ORS 442.015; or
(f) Another facility that provides health care services, as defined by the Oregon Health Authority by rule.

(2) An [organization or residential facility] entity that is designated under this section has all the duties, functions and powers of a designated primary caregiver as prescribed by ORS 475C.770 to 475C.919 or a rule adopted under ORS 475C.770 to 475C.919.

(3) An entity that is designated under this section:
(a) Shall develop and disseminate written guidelines for the medical use of marijuana at the premises of the entity;
(b) May not prohibit the medical use of marijuana solely because:
(A) Marijuana is a controlled substance in schedule I of the federal Controlled Substances Act, 21 U.S.C. 811 to 812; or
(B) Of any other federal limitation on the medical use of marijuana in effect prior to the operative date specified in section 6 of this 2023 Act; and
(c) May prohibit the medical use of marijuana if the United States Department of Justice or the Centers for Medicare and Medicaid Services or another federal regulatory agency initiates a compliance enforcement action against the entity, issues a rule or guidance or otherwise requires that the entity prohibit the use of cannabis, until the federal agency notifies the entity that it may rescind the entity’s prohibition on the medical use of marijuana.

(4) Subsection (3) of this section:
(a) Does not apply to an emergency department or to a patient receiving emergency care;
(b) Does not require an entity designated under subsection (1) of this section to recom-
mend the medical use of marijuana; and
(c) May not be a condition of the entity’s licensure or other authorization required for
operation.

SECTION 4. ORS 475C.883 is amended to read:
ORS 475C.883. Except as provided in ORS 475C.886, a person, or an entity described in ORS
475C.791, engaged in or assisting in the medical use of marijuana is exempt from the criminal laws
of this state for possession, delivery or manufacture of marijuana, aiding and abetting another in the
possession, delivery or manufacture of marijuana, or any other criminal offense in which possession,
delivery or manufacture of marijuana is an element if:
(1) The person holds a registry identification card.
(2) The person has applied for a registry identification card under ORS 475C.783 and the person
has proof of written documentation described in ORS 475C.783 (2)(a) and proof of the date on which
the person submitted the application to the Oregon Health Authority. An exemption under this
subsection applies only until the authority approves or denies the application.
(3)(a) The person is designated as a primary caregiver under ORS 475C.789.
(b) The entity is designated as a primary caregiver under ORS 475C.791, or the person is
employed by or has contracted with an entity that is designated as a primary caregiver under
ORS 475C.791.
(4) The person is responsible for or is employed by a marijuana grow site registered under ORS
475C.792.
(5) The person owns, is responsible for, or is employed by, a marijuana processing site.
(6) The person owns, is responsible for, or is employed by, a medical marijuana dispensary.

SECTION 5. ORS 475C.891 is amended to read:
ORS 475C.891. (1) The Oregon Board of Naturopathic Medicine, Oregon Medical Board and Oregon
State Board of Nursing may not impose a civil penalty or take other disciplinary action against an
attending provider for:
[(1) (a) Advising a person diagnosed as having a debilitating medical condition by the attending
provider or another physician licensed under ORS chapter 677, physician assistant licensed under
ORS 677.505 to 677.525, nurse practitioner licensed under ORS 678.375 to 678.390, clinical nurse
specialist licensed under ORS 678.370 and 678.372, certified registered nurse anesthetist as defined
in ORS 678.245 or naturopathic physician licensed under ORS chapter 685 about the risks and ben-
fits associated with the medical use of marijuana or that the medical use of marijuana may mitigate
the symptoms or effects of the person’s debilitating medical condition, provided that the advice is
based on the attending provider’s personal assessment of the person’s medical history and current
medical condition; or
[(2) (b) Providing the written documentation necessary for issuance or renewal of a registry
identification card under ORS 475C.783, provided that the written documentation is based on the
attending provider’s personal assessment of the person’s medical history and current medical condi-
tion and the attending provider has discussed with the person the potential risks and benefits as-
sociated with the medical use of marijuana.
(2) The Oregon State Board of Nursing may not impose a civil penalty or take other
disciplinary action against a nurse licensed under ORS 678.040 to 678.101 for discussing the
medical use of marijuana with a person with whom the nurse has a patient-provider re-
SECTION 6. (1) The amendments to ORS 475C.770, 475C.777, 475C.791, 475C.883 and 475C.891 by sections 1 to 5 of this 2023 Act become operative on January 1, 2024.

(2) The Oregon Health Authority and the Oregon State Board of Nursing may take any action before the operative date specified in subsection (1) of this section that is necessary to enable the authority and the board to exercise, on and after the operative date specified in subsection (1) of this section, all of the duties, functions and powers conferred on the authority and the board by the amendments to ORS 475C.770, 475C.777, 475C.791, 475C.883 and 475C.891 by sections 1 to 5 of this 2023 Act.

SECTION 7. This 2023 Act takes effect on the 91st day after the date on which the 2023 regular session of the Eighty-second Legislative Assembly adjourns sine die.