

# 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

1  
2 Relating to marijuana for medical use; creating new provisions; amending ORS 475C.770, 475C.777,  
3 475C.791, 475C.883 and 475C.891; and prescribing an effective date.

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

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

6 475C.770. The people of the State of Oregon find that:

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

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

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

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

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

22 475C.777. As used in ORS 475C.770 to 475C.919:

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

25 (a) A physician licensed under ORS chapter 677;

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

27 (c) A nurse practitioner licensed under ORS 678.375 to 678.390;

28 (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.

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

2 (f) A naturopathic physician licensed under ORS chapter 685.

3 (2) "Cannabinoid" means any of the chemical compounds that are the active constituents of  
4 marijuana.

5 (3) "Cannabinoid concentrate" means a substance obtained by separating cannabinoids from  
6 marijuana by:

7 (a) A mechanical extraction process;

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

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

12 (d) Any other process identified by the Oregon Health Authority, in consultation with the  
13 Oregon Liquor and Cannabis Commission, by rule.

14 (4) "Cannabinoid edible" means food or potable liquid into which a cannabinoid concentrate,  
15 cannabinoid extract or dried leaves or flowers of marijuana have been incorporated.

16 (5) "Cannabinoid extract" means a substance obtained by separating cannabinoids from  
17 marijuana by:

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

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

22 (c) Any other process identified by the Oregon Health Authority, in consultation with the  
23 Oregon Liquor and Cannabis Commission, by rule.

24 (6) "Debilitating medical condition" means:

25 (a) Cancer, glaucoma, a degenerative or pervasive neurological condition, positive status for  
26 human immunodeficiency virus or acquired immune deficiency syndrome, or a side effect related to  
27 the treatment of those medical conditions;

28 (b) A medical condition or treatment for a medical condition that produces, for a specific pa-  
29 tient, one or more of the following:

30 (A) Cachexia;

31 (B) Severe pain;

32 (C) Severe nausea;

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

34 (E) Persistent muscle spasms, including spasms caused by multiple sclerosis;

35 (c) Post-traumatic stress disorder; [or]

36 **(d) The need for hospice, palliative care, comfort care or other symptom management,**  
37 **including comprehensive pain management; or**

38 [(d)] (e) Any other medical condition or side effect related to the treatment of a medical condi-  
39 tion adopted by the Oregon Health Authority by rule or approved by the authority pursuant to a  
40 petition filed under ORS 475C.913.

41 (7)(a) "Delivery" has the meaning given that term in ORS 475.005.

42 (b) "Delivery" does not include transfer of marijuana by a registry identification cardholder to  
43 another registry identification cardholder if no consideration is paid for the transfer.

44 (8)(a) "Designated primary caregiver" means an individual:

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

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

3 (C) Who is designated as the person responsible for managing the well-being of a person who  
4 has been diagnosed with a debilitating medical condition on that person's application for a registry  
5 identification card or in other written notification submitted to the authority.

6 (b) "Designated primary caregiver" does not include a person's attending provider.

7 (9) "High heat" means a temperature exceeding 180 degrees.

8 (10) "Immature marijuana plant" means a marijuana plant that is not flowering.

9 (11)(a) "Marijuana" means the plant Cannabis family Cannabaceae, any part of the plant  
10 Cannabis family Cannabaceae and the seeds of the plant Cannabis family Cannabaceae.

11 (b) "Marijuana" does not include:

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

13 (B) Prescription drugs, as that term is defined in ORS 689.005, including those containing one  
14 or more cannabinoids, that are approved by the United States Food and Drug Administration and  
15 dispensed by a pharmacy, as defined in ORS 689.005.

16 (12) "Marijuana grow site" means a location registered under ORS 475C.792 where marijuana  
17 is produced for use by a registry identification cardholder.

18 (13) "Marijuana processing site" means a marijuana processing site registered under ORS  
19 475C.815 or a site for which an applicant has submitted an application for registration under ORS  
20 475C.815.

21 (14) "Mature marijuana plant" means a marijuana plant that is not an immature marijuana  
22 plant.

23 (15)(a) "Medical cannabinoid product" means a cannabinoid edible and any other product in-  
24 tended for human consumption or use, including a product intended to be applied to a person's skin  
25 or hair, that contains cannabinoids or dried leaves or flowers of marijuana.

26 (b) "Medical cannabinoid product" does not include:

27 (A) Usable marijuana by itself;

28 (B) A cannabinoid concentrate by itself;

29 (C) A cannabinoid extract by itself; or

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

31 (16) "Medical marijuana dispensary" means a medical marijuana dispensary registered under  
32 ORS 475C.833 or a site for which an applicant has submitted an application for registration under  
33 ORS 475C.833.

34 (17) "Medical use of marijuana" means the production, processing, possession, delivery or ad-  
35 ministration of marijuana, or use of paraphernalia used to administer marijuana, to mitigate the  
36 symptoms or effects of a debilitating medical condition.

37 (18) "Person designated to produce marijuana by a registry identification cardholder" means a  
38 person designated to produce marijuana by a registry identification cardholder under ORS 475C.792  
39 who produces marijuana for a registry identification cardholder at an address other than the address  
40 where the registry identification cardholder resides or at an address where more than 12 mature  
41 marijuana plants are produced.

42 (19) "Process" means the compounding or conversion of marijuana into medical cannabinoid  
43 products, cannabinoid concentrates or cannabinoid extracts.

44 (20) "Production" means:

45 (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.791 is amended to read:

475C.791. (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:**

1 (a) Does not apply to an emergency department or to a patient receiving emergency care;

2 (b) Does not require an entity designated under subsection (1) of this section to recom-  
3 mend the medical use of marijuana; and

4 (c) May not be a condition of the entity's licensure or other authorization required for  
5 operation.

6 **SECTION 4.** ORS 475C.883 is amended to read:

7 475C.883. Except as provided in ORS 475C.886, a person, **or an entity described in ORS**  
8 **475C.791**, engaged in or assisting in the medical use of marijuana is exempt from the criminal laws  
9 of this state for possession, delivery or manufacture of marijuana, aiding and abetting another in the  
10 possession, delivery or manufacture of marijuana, or any other criminal offense in which possession,  
11 delivery or manufacture of marijuana is an element if:

12 (1) The person holds a registry identification card.

13 (2) The person has applied for a registry identification card under ORS 475C.783 and the person  
14 has proof of written documentation described in ORS 475C.783 (2)(a) and proof of the date on which  
15 the person submitted the application to the Oregon Health Authority. An exemption under this  
16 subsection applies only until the authority approves or denies the application.

17 (3)(a) The person is designated as a primary caregiver under ORS 475C.789.

18 (b) **The entity is designated as a primary caregiver under ORS 475C.791, or the person is**  
19 **employed by or has contracted with an entity that is designated as a primary caregiver under**  
20 **ORS 475C.791.**

21 (4) The person is responsible for or is employed by a marijuana grow site registered under ORS  
22 475C.792.

23 (5) The person owns, is responsible for, or is employed by, a marijuana processing site.

24 (6) The person owns, is responsible for, or is employed by, a medical marijuana dispensary.

25 **SECTION 5.** ORS 475C.891 is amended to read:

26 475C.891. (1) The Oregon Board of Naturopathic Medicine, Oregon Medical Board and Oregon  
27 State Board of Nursing may not impose a civil penalty or take other disciplinary action against an  
28 attending provider for:

29 [(1)] (a) Advising a person diagnosed as having a debilitating medical condition by the attending  
30 provider or another physician licensed under ORS chapter 677, physician assistant licensed under  
31 ORS 677.505 to 677.525, nurse practitioner licensed under ORS 678.375 to 678.390, clinical nurse  
32 specialist licensed under ORS 678.370 and 678.372, certified registered nurse anesthetist as defined  
33 in ORS 678.245 or naturopathic physician licensed under ORS chapter 685 about the risks and ben-  
34 efits associated with the medical use of marijuana or that the medical use of marijuana may mitigate  
35 the symptoms or effects of the person's debilitating medical condition, provided that the advice is  
36 based on the attending provider's personal assessment of the person's medical history and current  
37 medical condition; or

38 [(2)] (b) Providing the written documentation necessary for issuance or renewal of a registry  
39 identification card under ORS 475C.783, provided that the written documentation is based on the  
40 attending provider's personal assessment of the person's medical history and current medical con-  
41 dition and the attending provider has discussed with the person the potential risks and benefits as-  
42 sociated with the medical use of marijuana.

43 (2) **The Oregon State Board of Nursing may not impose a civil penalty or take other**  
44 **disciplinary action against a nurse licensed under ORS 678.040 to 678.101 for discussing the**  
45 **medical use of marijuana with a person with whom the nurse has a patient-provider re-**

1 **lationship.**

2 **SECTION 6. (1) The amendments to ORS 475C.770, 475C.777, 475C.791, 475C.883 and**  
3 **475C.891 by sections 1 to 5 of this 2023 Act become operative on January 1, 2024.**

4 **(2) The Oregon Health Authority and the Oregon State Board of Nursing may take any**  
5 **action before the operative date specified in subsection (1) of this section that is necessary**  
6 **to enable the authority and the board to exercise, on and after the operative date specified**  
7 **in subsection (1) of this section, all of the duties, functions and powers conferred on the**  
8 **authority and the board by the amendments to ORS 475C.770, 475C.777, 475C.791, 475C.883 and**  
9 **475C.891 by sections 1 to 5 of this 2023 Act.**

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

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