

House Bill 2676

Sponsored by Representative BUCKLEY (Pre-session 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**.

Directs Oregon Liquor Control Commission to register medical marijuana production sites, processing sites, wholesale sites and individuals who perform work that requires handling marijuana. Provides for testing of marijuana through existing laboratory accreditation program.

Transfers regulation of medical marijuana dispensaries from Oregon Health Authority to commission.

Amends other provisions of Oregon Medical Marijuana Act.

Becomes operative January 1, 2016, and January 1, 2017.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to marijuana; creating new provisions; amending ORS 181.534, 181.537, 475.300, 475.302,
3 475.303, 475.304, 475.306, 475.309, 475.312, 475.314, 475.316, 475.319, 475.320, 475.323, 475.326,
4 475.328, 475.331, 475.334, 475.338, 475.340 and 475.342 and section 2, chapter 79, Oregon Laws
5 2014; repealing ORS 475.324; and declaring an emergency.

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

DEFINITIONS

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8
9
10 **SECTION 1.** ORS 475.302 is amended to read:

11 475.302. As used in ORS 475.300 to 475.346:

12 (1) "Attending physician" means a physician licensed under ORS chapter 677 who has primary
13 responsibility for the care and treatment of a person diagnosed with a debilitating medical condition.

14 [(2) "Authority" means the Oregon Health Authority.]

15 (2) "Cannabinoid edible" means food or drink into which a cannabinoid extract or the
16 dried leaves or flowers of the plant Cannabis family Moraceae have been incorporated.

17 (3)(a) "Cannabinoid extract" means a product meant to be ingested, vaporized or smoked
18 that contains cannabinoids extracted from the plant Cannabis family Moraceae by using a
19 solvent to dissolve the cannabinoids. For purposes of this paragraph, "solvent" does not in-
20 clude water, glycerin derived from animal fat or vegetable oils or grain alcohol.

21 (b) "Cannabinoid extract" does not include cannabinoid edibles.

22 [(3)] (4) "Debilitating medical condition" means:

23 (a) Cancer, glaucoma, agitation incident to Alzheimer's disease, positive status for human
24 immunodeficiency virus or acquired immune deficiency syndrome, or a side effect related to the
25 treatment of [these] those medical conditions;

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

28 (A) Cachexia;

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 (B) Severe pain;
- 2 (C) Severe nausea;
- 3 (D) Seizures, including seizures caused by epilepsy; or
- 4 (E) Persistent muscle spasms, including spasms caused by multiple sclerosis;
- 5 (c) Post-traumatic stress disorder; or
- 6 (d) Any other medical condition or side effect related to the treatment of a medical condition
- 7 adopted by the **Oregon Health** Authority by rule or approved by the authority pursuant to a peti-
- 8 tion submitted under ORS 475.334.

9 [(4)(a)] **(5)** “Delivery” has the meaning given that term in ORS 475.005.

10 [(b) “Delivery” does not include transfer of:]

11 [(A) Marijuana by a registry identification cardholder to another registry identification cardholder

12 if no consideration is paid for the transfer;]

13 [(B) Usable marijuana or immature marijuana plants from a registry identification cardholder, the

14 designated primary caregiver of a registry identification cardholder or a marijuana grow site to a

15 medical marijuana facility registered under ORS 475.314; or]

16 [(C) Usable marijuana or immature marijuana plants from a medical marijuana facility registered

17 under ORS 475.314 to a registry identification cardholder or the designated primary caregiver of a

18 registry identification cardholder.]

19 [(5) “Designated primary caregiver” means an individual 18 years of age or older who has signif-

20 icant responsibility for managing the well-being of a person who has been diagnosed with a debilitating

21 medical condition and who is designated as such on that person’s application for a registry identifica-

22 tion card or in other written notification to the authority. “Designated primary caregiver” does not in-

23 clude the person’s attending physician.]

24 **(6) “Manufacture” has the meaning given that term in ORS 475.005.**

25 [(6)] **(7)** “Marijuana” has the meaning given that term in ORS 475.005.

26 [(7) “Marijuana grow site” means a location registered under ORS 475.304 where marijuana is

27 produced for use by a registry identification cardholder.]

28 **(8) “Medical marijuana facility” means a medical marijuana production site registered**

29 **under section 9 of this 2015 Act, a medical marijuana processing site registered under section**

30 **10 of this 2015 Act, a medical marijuana wholesale site registered under section 11 of this**

31 **2015 Act or a medical marijuana dispensary registered under ORS 475.314.**

32 **(9) “Medical marijuana product” means a cannabinoid edible, a cannabinoid extract or**

33 **any other product, other than dried leaves and flowers, made from the plant Cannabis family**

34 **Moraceae.**

35 [(8)] **(10)** “Medical use of marijuana” means the production, possession, delivery[, *distribution*]

36 or administration of marijuana, or paraphernalia used to administer marijuana, [*as necessary for the*

37 *exclusive benefit of a person*] to mitigate the symptoms or effects of [*the person’s*] a debilitating

38 medical condition.

39 **(11)(a) “Processing” includes:**

- 40 **(A) Drying marijuana leaves and flowers;**
- 41 **(B) The conversion of marijuana into medical marijuana products;**
- 42 **(C) The packaging or repackaging of marijuana products; and**
- 43 **(D) The labeling or relabeling of marijuana products.**

44 **(b) “Processing” does not include the drying of marijuana leaves or flowers by a medical**

45 **marijuana production site registered under section 10 of this 2015 Act.**

1 [(9)] (12)(a) “Production” [*has the meaning given that term in ORS 475.005*] **includes planting,**
 2 **cultivating, growing and harvesting marijuana, and drying marijuana leaves or flowers.**

3 (b) “Production” **does not include the drying of marijuana leaves or flowers by a medical**
 4 **marijuana processing site registered under section 9 of this 2015 Act.**

5 [(10)] (13) “Registry identification card” means a document issued by the authority [*that identi-*
 6 *fies a person authorized to engage in the medical use of marijuana and, if the person has a designated*
 7 *primary caregiver under ORS 475.312, the person’s designated primary caregiver.*] **to a person under**
 8 **ORS 475.309 (2) or (3).**

9 (14) “Registry identification cardholder” **means a person who holds a registry identifica-**
 10 **tion card.**

11 [(11)] (15)(a) “Usable marijuana” means the dried leaves and flowers of the plant Cannabis
 12 family Moraceae, and any mixture or preparation thereof, **including any medical marijuana**
 13 **product,** that are appropriate for medical use as allowed in ORS 475.300 to 475.346.

14 (b) “Usable marijuana” does not include the seeds, stalks and roots of the plant.

15 [(12)] (16) “Written documentation” means a statement signed by the attending physician of a
 16 person diagnosed with a debilitating medical condition or copies of the person’s relevant medical
 17 records.

18
 19 **REGISTRY IDENTIFICATION CARDHOLDERS, DESIGNATED**
 20 **PRIMARY CAREGIVERS AND DESIGNATED GROWERS**

21
 22 **(Registry Identification Cardholders)**

23
 24 **SECTION 2.** ORS 475.309 is amended to read:

25 475.309. [(1) *Except as provided in ORS 475.316, 475.320 and 475.342, a person engaged in or as-*
 26 *isting in the medical use of marijuana is excepted from the criminal laws of the state for possession,*
 27 *delivery or production of marijuana, aiding and abetting another in the possession, delivery or pro-*
 28 *duction of marijuana or any other criminal offense in which possession, delivery or production of*
 29 *marijuana is an element if the following conditions have been satisfied:]*

30 [(a)(A) *The person holds a registry identification card issued pursuant to this section, has applied*
 31 *for a registry identification card pursuant to subsection (9) of this section, is the designated primary*
 32 *caregiver of the cardholder or applicant, or is the person responsible for a marijuana grow site that*
 33 *is producing marijuana for the cardholder and is registered under ORS 475.304; and]*

34 [(B) *The person who has a debilitating medical condition, the person’s primary caregiver and the*
 35 *person responsible for a marijuana grow site that is producing marijuana for the cardholder and is*
 36 *registered under ORS 475.304 are collectively in possession of, delivering or producing marijuana for*
 37 *medical use in amounts allowed under ORS 475.320; or]*

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

41 [(2) *The Oregon Health Authority shall establish and maintain a program for the issuance of reg-*
 42 *istry identification cards to persons who meet the requirements of this section. Except as provided in*
 43 *subsection (3) of this section, the authority shall issue a registry identification card to any person who*
 44 *pays a fee in the amount established by the authority and provides the following:]*

45 [(a) *Valid, written documentation from the person’s attending physician stating that the person has*

1 *been diagnosed with a debilitating medical condition and that the medical use of marijuana may miti-*
2 *gate the symptoms or effects of the person's debilitating medical condition;]*

3 *[(b) The name, address and date of birth of the person;]*

4 *[(c) The name, address and telephone number of the person's attending physician;]*

5 *[(d) The name and address of the person's designated primary caregiver, if the person has desig-*
6 *ated a primary caregiver at the time of application; and]*

7 *[(e) A written statement that indicates whether the marijuana used by the cardholder will be*
8 *produced at a location where the cardholder or designated primary caregiver is present or at another*
9 *location.]*

10 *[(3) The authority shall issue a registry identification card to a person who is under 18 years of*
11 *age if the person submits the materials required under subsection (2) of this section, and the custodial*
12 *parent or legal guardian with responsibility for health care decisions for the person under 18 years of*
13 *age signs a written statement that:]*

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

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

20 *[(c) The custodial parent or legal guardian with responsibility for health care decisions for the*
21 *person under 18 years of age agrees to serve as the designated primary caregiver for the person under*
22 *18 years of age; and]*

23 *[(d) The custodial parent or legal guardian with responsibility for health care decisions for the*
24 *person under 18 years of age agrees to control the acquisition of marijuana and the dosage and fre-*
25 *quency of use by the person under 18 years of age.]*

26 *[(4) A person applying for a registry identification card pursuant to this section may submit the*
27 *information required in this section to a county health department for transmittal to the authority. A*
28 *county health department that receives the information pursuant to this subsection shall transmit the*
29 *information to the authority within five days of receipt of the information. Information received by a*
30 *county health department pursuant to this subsection shall be confidential and not subject to disclosure,*
31 *except as required to transmit the information to the authority.]*

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

35 *[(b) In addition to the authority granted to the authority under ORS 475.316 to deny an application,*
36 *the authority may deny an application for the following reasons:]*

37 *[(A) The applicant did not provide the information required pursuant to this section to establish*
38 *the applicant's debilitating medical condition and to document the applicant's consultation with an at-*
39 *tending physician regarding the medical use of marijuana in connection with such condition, as pro-*
40 *vided in subsections (2) and (3) of this section;]*

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

42 *[(C) The applicant has been prohibited by a court order from obtaining a registry identification*
43 *card.]*

44 *[(c) Denial of a registry identification card shall be considered a final authority action, subject to*
45 *judicial review. Only the person whose application has been denied, or, in the case of a person under*

1 *the age of 18 years of age whose application has been denied, the person's parent or legal guardian,*
 2 *shall have standing to contest the authority's action.]*

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

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

9 *[(A) The cardholder's name, address and date of birth;]*

10 *[(B) The date of issuance and expiration date of the registry identification card;]*

11 *[(C) The name and address of the person's designated primary caregiver, if any;]*

12 *[(D) Whether the marijuana used by the cardholder will be produced at a location where the*
 13 *cardholder or designated primary caregiver is present or at another location; and]*

14 *[(E) Any other information that the authority may specify by rule.]*

15 *[(b) When the person to whom the authority has issued a registry identification card pursuant to*
 16 *this section has specified a designated primary caregiver, the authority shall issue an identification*
 17 *card to the designated primary caregiver. The primary caregiver's registry identification card shall*
 18 *contain the information provided in paragraph (a) of this subsection.]*

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

20 *[(A) Notify the authority of any change in the person's name, address, attending physician or des-*
 21 *ignated primary caregiver.]*

22 *[(B) If applicable, notify the designated primary caregiver of the cardholder, the person responsible*
 23 *for the marijuana grow site that produces marijuana for the cardholder and any person responsible for*
 24 *a medical marijuana facility that transfers usable marijuana or immature marijuana plants to the*
 25 *cardholder under ORS 475.314 of any change in status including, but not limited to:]*

26 *[(i) The assignment of another individual as the designated primary caregiver of the cardholder;]*

27 *[(ii) The assignment of another individual as the person responsible for a marijuana grow site*
 28 *producing marijuana for the cardholder; or]*

29 *[(iii) The end of the eligibility of the cardholder to hold a valid registry identification card.]*

30 *[(C) Annually submit to the authority:]*

31 *[(i) Updated written documentation from the cardholder's attending physician of the person's de-*
 32 *bilating medical condition and that the medical use of marijuana may mitigate the symptoms or effects*
 33 *of the person's debilitating medical condition; and]*

34 *[(ii) The name of the person's designated primary caregiver if a primary caregiver has been des-*
 35 *ignated for the upcoming year.]*

36 *[(b) If a person who possesses a registry identification card fails to comply with this subsection,*
 37 *the card shall be deemed expired. If a registry identification card expires, the identification card of any*
 38 *designated primary caregiver of the cardholder shall also expire.]*

39 *[(8)(a) A person who possesses a registry identification card pursuant to this section and who has*
 40 *been diagnosed by the person's attending physician as no longer having a debilitating medical condi-*
 41 *tion or whose attending physician has determined that the medical use of marijuana is contraindicated*
 42 *for the person's debilitating medical condition shall return the registry identification card and any*
 43 *other associated Oregon Medical Marijuana Program cards to the authority within 30 calendar days*
 44 *of notification of the diagnosis or notification of the contraindication.]*

45 *[(b) If, due to circumstances beyond the control of the registry identification cardholder, a*

1 cardholder is unable to obtain a second medical opinion about the cardholder's continuing eligibility
2 to use medical marijuana before the 30-day period specified in paragraph (a) of this subsection has
3 expired, the authority may grant the cardholder additional time to obtain a second opinion before re-
4 quiring the cardholder to return the registry identification card and any associated cards.]

5 [(9) A person who has applied for a registry identification card pursuant to this section but whose
6 application has not yet been approved or denied, and who is contacted by any law enforcement officer
7 in connection with the person's administration, possession, delivery or production of marijuana for
8 medical use may provide to the law enforcement officer a copy of the written documentation submitted
9 to the authority pursuant to subsection (2) or (3) of this section and proof of the date of mailing or other
10 transmission of the documentation to the authority. This documentation shall have the same legal effect
11 as a registry identification card until such time as the person receives notification that the application
12 has been approved or denied.]

13 [(10)(a) A registry identification cardholder has the primary responsibility of notifying the desig-
14 nated primary caregiver, the person responsible for the marijuana grow site that produces marijuana
15 for the cardholder and any person responsible for a medical marijuana facility that transfers usable
16 marijuana or immature marijuana plants to the cardholder under ORS 475.314 of any change in status
17 of the cardholder.]

18 [(b) If the authority is notified by the cardholder that a primary caregiver or person responsible
19 for a marijuana grow site has changed, the authority shall notify the primary caregiver or the person
20 responsible for the marijuana grow site by mail at the address of record confirming the change in
21 status and informing the caregiver or person responsible for the marijuana grow site that their card
22 is no longer valid and must be returned to the authority.]

23 [(11) The authority shall revoke the registry identification card of a cardholder if a court has is-
24 sued an order that prohibits the cardholder from participating in the medical use of marijuana or
25 otherwise participating in the Oregon Medical Marijuana Program under ORS 475.300 to 475.346. The
26 cardholder shall return the registry identification card to the authority within seven calendar days of
27 notification of the revocation. If the cardholder is a patient, the patient shall return the patient's card
28 and all other associated Oregon Medical Marijuana Program cards.]

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

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

36 **(1) The Oregon Health Authority shall establish a program for the issuance of registry**
37 **identification cards to applicants who meet the requirements of this section.**

38 **(2) The authority shall issue a registry identification card to an applicant who is 18 years**
39 **of age or older if the applicant pays a fee in an amount established by the authority by rule**
40 **and submits to the authority an application containing the following information:**

41 **(a) Written documentation from the applicant's attending physician stating that the at-**
42 **tending physician has diagnosed the applicant as having a debilitating medical condition and**
43 **that the medical use of marijuana may mitigate the symptoms or effects of the applicant's**
44 **debilitating medical condition;**

45 **(b) The name, address and date of birth of the applicant;**

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

2 (d) The name and address of the applicant's designated primary caregiver, if the applicant
3 is designating a primary caregiver under ORS 475.312;

4 (e) The name and address of the applicant's designated grower, if the applicant is desig-
5 nating a grower under ORS 475.304; and

6 (f) The address at which the marijuana used by the applicant will be produced.

7 (3) The authority shall issue a registry identification card to an applicant who is under
8 18 years of age if:

9 (a) The applicant pays the fee and submits the application described in subsection (2) of
10 this section; and

11 (b) The custodial parent or legal guardian who is responsible for the health care decisions
12 of the applicant signs and submits to the authority a written statement that:

13 (A) The attending physician of the applicant has explained to the applicant and to the
14 custodial parent or legal guardian the possible risks and benefits of the medical use of
15 marijuana;

16 (B) The custodial parent or legal guardian consents to the medical use of marijuana by
17 the applicant;

18 (C) The custodial parent or legal guardian agrees to serve as the designated primary
19 caregiver of the applicant; and

20 (D) The custodial parent or legal guardian agrees to control the acquisition, dosage and
21 frequency of use of marijuana by the applicant.

22 (4) A person applying for a registry identification card pursuant to this section may
23 submit the information required by this section to a county health department for trans-
24 mittal to the authority. A county health department that receives the information pursuant
25 to this subsection shall transmit the information to the authority within five days after re-
26 ceiving the information. Information received by a county health department pursuant to
27 this subsection is confidential and not subject to public disclosure.

28 (5) The authority shall approve or deny an application within 30 days after receiving the
29 application.

30 (6)(a) If the authority approves an application, the authority shall issue a serially num-
31 bered registry identification card to the applicant within five days after approving the appli-
32 cation. The registry identification card must include the following information:

33 (A) The registry identification cardholder's name, address and date of birth;

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

35 (C) If the registry identification cardholder is designating a primary caregiver under ORS
36 475.312, the name and address of the registry identification cardholder's designated primary
37 caregiver;

38 (D) If the registry identification cardholder is designating a grower under ORS 475.304,
39 the name and address of the registry identification cardholder's designated grower;

40 (E) The address at which the marijuana used by the registry identification cardholder
41 will be produced; and

42 (F) Any other information required by the authority by rule.

43 (b) If the registry identification cardholder designates a primary caregiver under ORS
44 475.312, the authority shall issue an identification card to the designated primary caregiver.
45 The designated primary caregiver's identification card must contain the information provided

1 in paragraph (a) of this subsection.

2 (c) If the registry identification cardholder designates a grower under ORS 475.304, the
 3 authority shall issue an identification card to the designated grower. The designated grower's
 4 identification card must contain the information provided in paragraph (a) of this subsection.

5 (7)(a) A registry identification cardholder shall:

6 (A) Notify the authority of any change concerning the registry identification cardholder's
 7 name, address, attending physician, designated primary caregiver or designated grower or
 8 the address at which the marijuana used by the registry identification cardholder will be
 9 produced; and

10 (B) Annually renew the registry identification card by paying a fee in an amount estab-
 11 lished by the authority by rule and submitting to the authority an application that contains
 12 the following information:

13 (i) Updated written documentation from the registry identification cardholder's attending
 14 physician of the registry identification cardholder's debilitating medical condition and
 15 whether the medical use of marijuana may mitigate the symptoms or effects of the registry
 16 identification cardholder's debilitating medical condition;

17 (ii) The information described in subsection (2)(b) to (f) of this section; and

18 (iii) If the registry identification cardholder is under 18 years of age, a statement signed
 19 by the custodial parent or legal guardian of the registry identification cardholder that meets
 20 the requirements of subsection (3) of this section.

21 (b) If a registry identification cardholder fails to comply with this subsection, the au-
 22 thority, subject to subsection (9) of this section, may revoke the registry identification card.
 23 If a registry identification card is revoked, the identification cards of the registry identifi-
 24 cation cardholder's designated primary caregiver and designated grower expire.

25 (8)(a) If the attending physician of a registry identification cardholder determines that
 26 the registry identification cardholder no longer has a debilitating medical condition or de-
 27 termines that the medical use of marijuana is contraindicated for the registry identification
 28 cardholder's debilitating medical condition, the registry identification cardholder shall return
 29 the registry identification card to the authority within 30 calendar days after receiving notice
 30 of the determination.

31 (b) If, because of circumstances beyond the control of the registry identification
 32 cardholder, a registry identification cardholder is unable to obtain a second medical opinion
 33 about the registry identification cardholder's continuing eligibility to use medical marijuana
 34 before having to return the registry identification card to the authority, the authority may
 35 grant the registry identification cardholder additional time to obtain a second medical opin-
 36 ion.

37 (9)(a) The authority may deny an application for a registry identification card or an ap-
 38 plication to renew a registry identification card, or may revoke a registry identification card,
 39 if:

40 (A) The applicant or registry identification cardholder does not provide the information
 41 required by this section;

42 (B) The authority determines that the applicant or registry identification cardholder
 43 provided false information; or

44 (C) The authority determines that the applicant or registry identification cardholder vi-
 45 olated a provision of ORS 475.300 to 475.346 or a rule adopted under ORS 475.300 to 475.346.

1 (b) Denial of an application for a registry identification card or an application to renew
 2 a registry identification card, or revocation of a registry identification card, is a final agency
 3 action subject to judicial review. Only the applicant or, if the applicant is under 18 years of
 4 age, the custodial parent or legal guardian of the applicant has standing to contest the de-
 5 nial.

6 (c) A person whose application has been denied or whose registry identification card has
 7 been revoked under this subsection may not reapply for a registry identification card for six
 8 months from the date of the denial or revocation unless otherwise authorized by the au-
 9 thority.

10 (10)(a) The authority may deny a designation made under ORS 475.304 or 475.312 or re-
 11 voke an identification card issued under subsection (6)(b) or (c) of this section if the au-
 12 thority determines that the designee or the identification cardholder violated a provision of
 13 ORS 475.300 to 475.346 or a rule adopted under ORS 475.300 to 475.346.

14 (b) Denial of a designation or revocation of an identification card is a final agency action
 15 subject to judicial review. Only the applicant or, if the applicant is under 18 years of age, the
 16 custodial parent or legal guardian of the applicant has standing to contest the denial or re-
 17 vocation.

18 (c) A person whose designation has been denied or whose identification card has been
 19 revoked under this subsection may not be designated as a primary caregiver under ORS
 20 475.312 or a grower under ORS 475.304 for six months from the date of the denial or revo-
 21 cation unless otherwise authorized by the authority.

22 (11) For any purpose described in ORS 475.300 to 475.346, including exemption from
 23 criminal liability under section 36 of this 2015 Act, written documentation submitted to the
 24 authority under subsections (2) and (3) of this section has the same legal effect as a registry
 25 identification card until the person who submitted the documentation has been notified that
 26 the person's application for registry identification card has been approved or denied.

27
 28 (Designated Primary Caregivers)

29
 30 **SECTION 3.** ORS 475.312 is amended to read:

31 475.312. (1) If a person who [*possesses a registry identification card issued pursuant to ORS*
 32 *475.309*] **is applying for a registry identification card under ORS 475.309, or who is a registry**
 33 **identification cardholder**, chooses to [*have a designated*] **designate, or to change the designation**
 34 **of, a primary caregiver**, the person must [*designate the primary caregiver by including*] **include** the
 35 primary caregiver's name and address:

36 (a) On the person's application for a registry identification card;

37 [*(b) In the annual updated information required under ORS 475.309; or*]

38 **(b) On the person's application to renew a registry identification card; or**

39 (c) In a [*written,*] signed statement [*submitted to*] **notifying** the Oregon Health Authority.

40 (2) A [*person described in this section*] **registry identification cardholder** may have only one
 41 designated primary caregiver at any given time.

42 (3) **If a registry identification cardholder who previously designated a primary caregiver**
 43 **chooses to designate a different primary caregiver, the authority shall notify the previous**
 44 **designee of the new designation and issue an identification card to the newly designated**
 45 **primary caregiver.**

(Designated Growers)

SECTION 4. ORS 475.304 is amended to read:

475.304. [(1) *The Oregon Health Authority shall establish by rule a marijuana grow site registration system to authorize production of marijuana by a registry identification cardholder, a designated primary caregiver who grows marijuana for the cardholder or a person who is responsible for a marijuana grow site. The marijuana grow site registration system adopted must require a registry identification cardholder to submit an application to the authority that includes:*]

[(a) *The name of the person responsible for the marijuana grow site;*]

[(b) *The address of the marijuana grow site;*]

[(c) *The registry identification card number of the registry cardholder for whom the marijuana is being produced; and*]

[(d) *Any other information the authority considers necessary.*]

[(2) *The authority shall issue a marijuana grow site registration card to a registry identification cardholder who has met the requirements of subsection (1) of this section.*]

[(3) *A person who has been issued a marijuana grow site registration card under this section must display the registration card at the marijuana grow site at all times when marijuana is being produced.*]

[(4) *A marijuana grow site registration card must be obtained and posted for each registry identification cardholder for whom marijuana is being produced at a marijuana grow site.*]

[(5) *All usable marijuana, plants, seedlings and seeds associated with the production of marijuana for a registry identification cardholder by a person responsible for a marijuana grow site are the property of the registry identification cardholder and must be provided to the registry identification cardholder, or, if the marijuana is usable marijuana or an immature marijuana plant, transferred to a medical marijuana facility registered under ORS 475.314, upon request.*]

[(6)(a) *The authority shall conduct a criminal records check under ORS 181.534 of any person whose name is submitted as a person responsible for a marijuana grow site.*]

[(b) *A person convicted of a Class A or Class B felony under ORS 475.752 to 475.920 for the manufacture or delivery of a controlled substance in Schedule I or Schedule II may not be issued a marijuana grow site registration card or produce marijuana for a registry identification cardholder for five years from the date of conviction.*]

[(c) *A person convicted more than once of a Class A or Class B felony under ORS 475.752 to 475.920 for the manufacture or delivery of a controlled substance in Schedule I or Schedule II may not be issued a marijuana grow site registration card or produce marijuana for a registry identification cardholder.*]

[(7) *A registry identification cardholder or the designated primary caregiver of the cardholder may reimburse the person responsible for a marijuana grow site for the costs of supplies and utilities associated with the production of marijuana for the registry identification cardholder. No other costs associated with the production of marijuana for the registry identification cardholder, including the cost of labor, may be reimbursed.*]

[(8) *The authority may adopt rules imposing a fee in an amount established by the authority for registration of a marijuana grow site under this section.*]

(1) If a person who is applying for a registry identification card under ORS 475.309, or who is a registry identification cardholder, chooses to designate, or to change the designation of, a grower of marijuana, the person must include the grower's name and address:

- 1 (a) On the person's application for a registry identification card;
- 2 (b) On the person's application to renew a registry identification card; or
- 3 (c) In a signed statement notifying the Oregon Health Authority.

4 (2) A registry identification cardholder may have only one designated grower of
5 marijuana at any given time.

6 (3) If a registry identification cardholder who previously designated a grower of
7 marijuana chooses to designate a different grower of marijuana, the authority shall notify
8 the previous designee of the new designation and issue an identification card to the newly
9 designated grower.

10 (4) Except as provided in subsection (5) of this section, a person may be designated under
11 this section by no more than four registry identification cardholders at one time. Pursuant
12 to ORS 475.309 (6)(c), the authority shall issue an identification card to the person for each
13 registry identification cardholder who designates the person under this section as the
14 cardholder's grower of marijuana.

15 (5) An individual responsible for a medical marijuana production site registered under
16 section 9 of this 2015 Act may be designated under this section for an unlimited number of
17 registry identification cardholders.

18
19 (Limits on Possession)

20
21 **SECTION 5.** ORS 475.320 is amended to read:

22 475.320. [(1)(a) A registry identification cardholder or the designated primary caregiver of the
23 cardholder may possess up to six mature marijuana plants and 24 ounces of usable marijuana.]

24 [(b) Notwithstanding paragraph (a) of this subsection, if a registry identification cardholder has
25 been convicted of a Class A or Class B felony under ORS 475.752 to 475.920 for the manufacture or
26 delivery of a controlled substance in Schedule I or Schedule II, the registry identification cardholder
27 or the designated primary caregiver of the cardholder may possess one ounce of usable marijuana at
28 any given time for a period of five years from the date of the conviction.]

29 [(2) A person authorized under ORS 475.304 to produce marijuana at a marijuana grow site:]

30 [(a) May produce marijuana for and provide marijuana:]

31 [(A) To a registry identification cardholder or a cardholder's designated primary caregiver as au-
32 thorized under this section; or]

33 [(B) If the marijuana is usable marijuana or an immature marijuana plant and the registry iden-
34 tification cardholder authorizes the person responsible for the marijuana grow site to transfer the us-
35 able marijuana or immature marijuana plant to a medical marijuana facility registered under ORS
36 475.314, to the medical marijuana facility.]

37 [(b) May possess up to six mature plants and up to 24 ounces of usable marijuana for each
38 cardholder or caregiver for whom marijuana is being produced.]

39 [(c) May produce marijuana for no more than four registry identification cardholders or designated
40 primary caregivers concurrently.]

41 [(d) Must obtain and display a marijuana grow site registration card issued under ORS 475.304
42 for each registry identification cardholder or designated primary caregiver for whom marijuana is be-
43 ing produced.]

44 [(e) Must provide all marijuana produced for a registry identification cardholder or designated
45 primary caregiver to the cardholder or caregiver at the time the person responsible for a marijuana

1 *grow site ceases producing marijuana for the cardholder or caregiver.]*

2 *[(f) Must return the marijuana grow site registration card to the registry identification cardholder*
 3 *to whom the card was issued when requested to do so by the cardholder or when the person responsible*
 4 *for a marijuana grow site ceases producing marijuana for the cardholder or caregiver.]*

5 *[(3) Except as provided in subsections (1) and (2) of this section, a registry identification*
 6 *cardholder, the designated primary caregiver of the cardholder and the person responsible for a*
 7 *marijuana grow site producing marijuana for the registry identification cardholder may possess a*
 8 *combined total of up to six mature plants and 24 ounces of usable marijuana for that registry iden-*
 9 *tification cardholder.]*

10 *[(4)(a) A registry identification cardholder and the designated primary caregiver of the cardholder*
 11 *may possess a combined total of up to 18 marijuana seedlings or starts as defined by rule of the Oregon*
 12 *Health Authority.]*

13 *[(b) A person responsible for a marijuana grow site may possess up to 18 marijuana seedlings or*
 14 *starts as defined by rule of the authority for each registry identification cardholder for whom the per-*
 15 *son responsible for the marijuana grow site is producing marijuana.]*

16 **(1)(a) A registry identification cardholder, the person designated under ORS 475.312 as**
 17 **the primary caregiver of the registry identification cardholder and the person designated**
 18 **under ORS 475.304 as the grower of marijuana for the registry identification cardholder may**
 19 **jointly possess up to 24 ounces of usable marijuana.**

20 **(b) A registry identification cardholder, the designated primary caregiver of the registry**
 21 **identification cardholder and the designated grower of marijuana for the registry identifica-**
 22 **tion cardholder may jointly possess up to six mature marijuana plants.**

23 **(c) A registry identification cardholder, the designated primary caregiver of the registry**
 24 **identification cardholder and the designated grower of marijuana for the registry identifica-**
 25 **tion cardholder may jointly possess up to 18 immature marijuana plants.**

26 **(2) A person designated as a grower of marijuana by multiple registry identification**
 27 **cardholders may possess up to 24 ounces of usable marijuana, six mature marijuana plants**
 28 **and 18 immature marijuana plants jointly with each registry identification cardholder and**
 29 **that registry identification cardholder’s designated primary caregiver.**

30 **(3) If a law enforcement officer determines that a registry identification cardholder, the**
 31 **designated primary caregiver of the registry identification cardholder and the designated**
 32 **grower of marijuana for the registry identification cardholder possess an amount of usable**
 33 **marijuana or a number of marijuana plants in excess of the quantities specified in subsection**
 34 **(1) or (2) of this section, the law enforcement officer may confiscate only the excess amount**
 35 **of usable marijuana or the excess number of marijuana plants.**

36 **(4) This section does not apply to a person that:**

37 **(a) Is the designated grower of marijuana for a registry identification cardholder; and**

38 **(b) Grows marijuana for the registry identification cardholder at a medical marijuana**
 39 **production site registered under section 9 of this 2015 Act.**

40
 41 **(Proof of Issuance)**
 42

43 **SECTION 6.** ORS 475.306 is amended to read:

44 **475.306. [(1) A person who possesses a registry identification card issued pursuant to ORS 475.309**
 45 **may engage in, and a designated primary caregiver of such a person may assist in, the medical use**

1 of marijuana only as justified to mitigate the symptoms or effects of the person's debilitating medical
2 condition.]

3 [(2) A person who is a registry identification cardholder must possess the registry identification
4 card when using or transporting marijuana in a location other than the residence of the cardholder.]

5 [(3) The Oregon Health Authority shall define by rule when a marijuana plant is mature and when
6 it is immature. The rule shall provide that a plant that has no flowers and that is less than 12 inches
7 in height and less than 12 inches in diameter is a seedling or a start and is not a mature plant.]

8 **A person to whom a registry identification card has been issued under ORS 475.309 (6)(a),
9 or to whom an identification card has been issued under ORS 475.309 (6)(b) or (c), may not
10 possess marijuana in a location other than the address identified pursuant to ORS 475.309
11 (6)(a)(A) or (E) unless the registry identification card or the identification card is readily
12 accessible.**

13
14 (Applicability)

15
16 **SECTION 7. (1) The amendments to ORS 475.304, 475.309 and 475.312 by sections 2 to 4
17 of this 2015 Act apply to:**

18 **(a) Applications received by the Oregon Health Authority for a registry identification
19 card on or after the operative date specified in section 58 of this 2015 Act;**

20 **(b) Applications received to renew a registry identification card on or after the operative
21 date specified in section 58 of this 2015 Act; and**

22 **(c) Registry identification cards updated by the authority on or after the operative date
23 specified in section 58 of this 2015 Act.**

24 **(2) The amendments to ORS 475.320 by section 5 of this 2015 Act apply to conduct oc-
25 ccurring on or after the operative date specified in section 58 of this 2015 Act.**

26
27 **MEDICAL MARIJUANA FACILITIES**

28
29 **(Medical Marijuana Production Sites)**

30
31 **SECTION 8. Sections 9, 10 and 11 of this 2015 Act are added to and made a part of ORS
32 475.300 to 475.346.**

33 **SECTION 9. (1) The Oregon Liquor Control Commission shall establish by rule a system
34 for registering sites where marijuana is produced for purposes related to using marijuana for
35 medical use.**

36 **(2) The registration system established in subsection (1) of this section must require an
37 applicant for a medical marijuana production site to submit an application to the commission
38 that includes:**

39 **(a) The name of the individual who owns the medical marijuana production site or, if a
40 business entity owns the medical marijuana production site, each individual who has a fi-
41 nancial interest in the medical marijuana production site;**

42 **(b) The name of the individual or individuals responsible for the medical marijuana pro-
43 duction site, if different from the name of the person that owns the medical marijuana pro-
44 duction site;**

45 **(c) The address of the medical marijuana production site;**

1 (d) Proof that each individual responsible for the medical marijuana production site is a
2 resident of this state;

3 (e) Documentation, as required by the commission by rule, that demonstrates the med-
4 ical marijuana production site meets the requirements of subsection (3) of this section; and

5 (f) Any other information that the commission considers necessary.

6 (3) To qualify for registration under this section:

7 (a) If a medical marijuana production site is located in an area that is under the juris-
8 diction of a city, the medical marijuana production site may not be located in an area that
9 is zoned for residential use;

10 (b) A medical marijuana production site must be registered as a business, or have filed
11 an application to register as a business, with the Office of the Secretary of State; and

12 (c) A medical marijuana production site must meet the requirements of any rules
13 adopted by the commission under subsection (10) of this section.

14 (4)(a) The commission shall conduct a criminal records check under ORS 181.534 for each
15 individual named in an application under subsection (2) of this section.

16 (b) An individual convicted for the manufacture or delivery of a controlled substance in
17 Schedule I or Schedule II may not own or be responsible for a medical marijuana production
18 site for five years from the date the individual is convicted.

19 (c) An individual convicted more than once for the manufacture or delivery of a con-
20 trolled substance in Schedule I or Schedule II may not own or be responsible for a medical
21 marijuana production site.

22 (5) If a person submits the application required under subsection (2) of this section, if the
23 medical marijuana production site identified in the application meets the requirements of
24 this section and any rules adopted under this section and if each individual named in the
25 application passes the criminal records check required under subsection (4) of this section,
26 the commission shall register the medical marijuana production site and issue proof of reg-
27 istration. Proof of registration must be displayed on the premises of the medical marijuana
28 production site at all times when marijuana is being produced as described in subsection (1)
29 of this section.

30 (6) A medical marijuana production site that is registered under this section is not re-
31 quired to register with the State Board of Pharmacy under ORS 475.125.

32 (7) The individual or individuals responsible for a registered medical marijuana pro-
33 duction site shall maintain documentation of each transfer of marijuana.

34 (8) The commission may inspect:

35 (a) The premises of a proposed medical marijuana production site or a registered medical
36 marijuana production site to ensure compliance with this section and any rules adopted un-
37 der this section; and

38 (b) The records of a registered medical marijuana production site to ensure compliance
39 with subsection (7) of this section.

40 (9) Subject to the provisions of ORS chapter 183, the commission may revoke the regis-
41 tration of a medical marijuana production site for failure to comply with ORS 475.300 to
42 475.346 or rules adopted under ORS 475.300 to 475.346.

43 (10) The commission shall adopt rules to implement this section, including rules that:

44 (a) Require a registered medical marijuana production site to annually renew the regis-
45 tration for that site;

1 (b) Establish fees for registering and renewing registration for a medical marijuana pro-
2 duction site;

3 (c) Require installation of a minimum security system that includes video surveillance,
4 an alarm system and a safe;

5 (d) Require the testing of marijuana produced at a medical marijuana production site to
6 ensure the public health and safety; and

7 (e) Impose any other standard on the operation of a medical marijuana production site
8 to ensure the public health and safety.

9
10 (Medical Marijuana Processing Sites)

11
12 **SECTION 10.** (1) The Oregon Liquor Control Commission shall establish by rule a system
13 for registering sites where marijuana is processed for purposes related to using marijuana
14 for medical use.

15 (2) The registration system established in subsection (1) of this section must require an
16 applicant for a medical marijuana processing site to submit an application to the commission
17 that includes:

18 (a) The name of the individual who owns the medical marijuana processing site or, if a
19 business entity owns the medical marijuana processing site, each individual who has a fi-
20 nancial interest in the medical marijuana processing site;

21 (b) The name of the individual or individuals responsible for the medical marijuana pro-
22 cessing site, if different from the name of the person that owns the medical marijuana pro-
23 cessing site;

24 (c) The address of the medical marijuana processing site;

25 (d) Proof that each individual responsible for the medical marijuana processing site is a
26 resident of this state;

27 (e) Documentation, as required by the commission by rule, that demonstrates the med-
28 ical marijuana processing site meets the requirements of subsection (3) of this section; and

29 (f) Any other information that the commission considers necessary.

30 (3) To qualify for registration under this section:

31 (a) If a medical marijuana processing site is located in an area that is under the juris-
32 diction of a city, the medical marijuana processing site may not be located in an area that
33 is zoned for residential use;

34 (b) A medical marijuana processing site must be registered as a business, or have filed
35 an application to register as a business, with the Office of the Secretary of State; and

36 (c) A medical marijuana processing site must meet the requirements of any rule adopted
37 by the commission under subsection (10) of this section.

38 (4)(a) The commission shall conduct a criminal records check under ORS 181.534 for each
39 individual named in an application under subsection (2) of this section.

40 (b) An individual convicted for the manufacture or delivery of a controlled substance in
41 Schedule I or Schedule II may not own or be responsible for a medical marijuana processing
42 site for five years from the date the individual is convicted.

43 (c) An individual convicted more than once for the manufacture or delivery of a con-
44 trolled substance in Schedule I or Schedule II may not own or be responsible for a medical
45 marijuana processing site.

1 (5) If a person submits the application required under subsection (2) of this section, if the
2 medical marijuana processing site identified in the application meets the requirements of this
3 section and any rules adopted under this section and if each individual named in the appli-
4 cation passes the criminal records check required under subsection (4) of this section, the
5 commission shall register the medical marijuana processing site and issue proof of registra-
6 tion. Proof of registration must be displayed on the premises of the medical marijuana pro-
7 cessing site at all times when marijuana is being processed as described in subsection (1) of
8 this section.

9 (6) A medical marijuana processing site that is registered under this section is not re-
10 quired to register with the State Board of Pharmacy under ORS 475.125.

11 (7) The individual or individuals responsible for a registered medical marijuana processing
12 site shall maintain documentation of each transfer of marijuana.

13 (8) The commission may inspect:

14 (a) The premises of a proposed medical marijuana processing site or a registered medical
15 marijuana processing site to ensure compliance with this section and any rules adopted un-
16 der this section; and

17 (b) The records of a registered medical marijuana processing site to ensure compliance
18 with subsection (7) of this section.

19 (9) Subject to the provisions of ORS chapter 183, the commission may revoke the regis-
20 tration of a medical marijuana processing site for failure to comply with ORS 475.300 to
21 475.346 or rules adopted under ORS 475.300 to 475.346.

22 (10) The commission shall adopt rules to implement this section, including rules that:

23 (a) Require a registered medical marijuana processing site to annually renew the regis-
24 tration for that site;

25 (b) Establish fees for registering and renewing registration for a medical marijuana pro-
26 cessing site;

27 (c) Require installation of a minimum security system that includes video surveillance,
28 an alarm system and a safe;

29 (d) Require the testing of marijuana processed at a medical marijuana processing site to
30 ensure the public health and safety; and

31 (e) Impose any other standard on the operation of a medical marijuana processing site
32 to ensure the public health and safety.

33
34 (Medical Marijuana Wholesale Sites)

35
36 **SECTION 11.** (1) The Oregon Liquor Control Commission shall establish by rule a system
37 for registering sites where marijuana is sold at wholesale for purposes related to using
38 marijuana for medical use.

39 (2) The registration system established in subsection (1) of this section must require an
40 applicant for a medical marijuana wholesale site to submit an application to the commission
41 that includes:

42 (a) The name of the individual who owns the medical marijuana wholesale site or, if a
43 business entity owns the medical marijuana wholesale site, each individual who has a finan-
44 cial interest in the medical marijuana wholesale site;

45 (b) The name of the individual or individuals responsible for the medical marijuana

1 wholesale site, if different from the name of the person that owns the medical marijuana
2 wholesale site;

3 (c) The address of the medical marijuana wholesale site;

4 (d) Proof that each individual responsible for the medical marijuana wholesale site is a
5 resident of this state;

6 (e) Documentation, as required by the commission by rule, that demonstrates the med-
7 ical marijuana wholesale site meets the requirements of subsection (3) of this section; and

8 (f) Any other information that the commission considers necessary.

9 (3) To qualify for registration under this section:

10 (a) If a medical marijuana wholesale site is located in an area that is under the jurisdic-
11 tion of a city, the medical marijuana wholesale site may not be located in an area that is
12 zoned for residential use;

13 (b) A medical marijuana wholesale site must be registered as a business, or have filed
14 an application to register as a business, with the Office of the Secretary of State; and

15 (c) A medical marijuana wholesale site must meet the requirements of any rule adopted
16 by the commission under subsection (10) of this section.

17 (4)(a) The commission shall conduct a criminal records check under ORS 181.534 for each
18 individual named in an application under subsection (2) of this section.

19 (b) An individual convicted for the manufacture or delivery of a controlled substance in
20 Schedule I or Schedule II may not own or be responsible for a medical marijuana wholesale
21 site for five years from the date the individual is convicted.

22 (c) An individual convicted more than once for the manufacture or delivery of a con-
23 trolled substance in Schedule I or Schedule II may not own or be responsible for a medical
24 marijuana wholesale site.

25 (5) If a person submits the application required under subsection (2) of this section, if the
26 medical marijuana wholesale site identified in the application meets the requirements of this
27 section and any rules adopted under this section and if each individual named in the appli-
28 cation passes the criminal records check required under subsection (4) of this section, the
29 commission shall register the medical marijuana wholesale site and issue proof of registra-
30 tion. Proof of registration must be displayed on the premises of the medical marijuana
31 wholesale site at all times when marijuana is being sold at wholesale as described in sub-
32 section (1) of this section.

33 (6) A medical marijuana wholesale site that is registered under this section is not re-
34 quired to register with the State Board of Pharmacy under ORS 475.125.

35 (7) The individual or individuals responsible for a registered medical marijuana wholesale
36 site shall maintain documentation of each transfer of marijuana.

37 (8) The commission may inspect:

38 (a) The premises of a proposed medical marijuana wholesale site or a registered medical
39 marijuana wholesale site to ensure compliance with this section and any rules adopted under
40 this section; and

41 (b) The records of a registered medical marijuana wholesale site to ensure compliance
42 with subsection (7) of this section.

43 (9) Subject to the provisions of ORS chapter 183, the commission may revoke the regis-
44 tration of a medical marijuana wholesale site for failure to comply with ORS 475.300 to
45 475.346 or rules adopted under ORS 475.300 to 475.346.

1 (10) The commission shall adopt rules to implement this section, including rules that:

2 (a) Require a registered medical marijuana wholesale site to annually renew the regis-
3 tration for that site;

4 (b) Establish fees for registering and renewing registration for a medical marijuana
5 wholesale site;

6 (c) Require installation of a minimum security system that includes video surveillance,
7 an alarm system and a safe;

8 (d) Require the testing of marijuana sold at wholesale by a medical marijuana wholesale
9 site to ensure the public health and safety; and

10 (e) Impose any other standard on the operation of a medical marijuana wholesale site to
11 ensure the public health and safety.

12
13 (Medical Marijuana Dispensaries)

14
15 **SECTION 12.** ORS 475.314, as amended by section 5, chapter 79, Oregon Laws 2014, is amended
16 to read:

17 475.314. [(1) The Oregon Health Authority shall establish by rule a medical marijuana facility
18 registration system to authorize the transfer of usable marijuana and immature marijuana plants
19 from:]

20 [(a) A registry identification cardholder, the designated primary caregiver of a registry identifica-
21 tion cardholder, or a person responsible for a marijuana grow site to the medical marijuana facility;
22 or]

23 [(b) A medical marijuana facility to a registry identification cardholder or the designated primary
24 caregiver of a registry identification cardholder.]

25 (1) The Oregon Liquor Control Commission shall establish by rule a system for register-
26 ing medical marijuana dispensaries.

27 (2) The registration system established under subsection (1) of this section must require **an ap-**
28 **plicant for** a medical marijuana [facility] **dispensary** to submit an application to the [authority]
29 **commission** that includes:

30 (a) **The name of the individual who owns the medical marijuana dispensary or, if a busi-**
31 **ness entity owns the medical marijuana dispensary, each individual who has a financial in-**
32 **terest in the medical marijuana dispensary;**

33 [(a)] (b) **The name of the [person] individual or individuals** responsible for the medical
34 marijuana [facility] **dispensary, if different from the name of the person that owns the medical**
35 **marijuana dispensary;**

36 [(b)] (c) **The address of the medical marijuana [facility] dispensary;**

37 [(c)] (d) **Proof that [the person] each individual** responsible for the medical marijuana [facility]
38 **dispensary** is a resident of [Oregon] **this state;**

39 [(d)] (e) **Documentation, as required by the [authority] commission** by rule, that demonstrates
40 the medical marijuana [facility] **dispensary** meets the [qualifications for a medical marijuana facility
41 as described in] **requirements under** subsection (3) of this section; and

42 [(e)] (f) **Any other information that the [authority] commission** considers necessary.

43 (3) To qualify for registration under this section, a medical marijuana [facility] **dispensary:**

44 [(a) *Must be located in an area that is zoned for commercial, industrial or mixed use or as agri-*
45 *cultural land;*]

1 (a) **May not be located in an area that is zoned for residential use, if the medical**
 2 **marijuana dispensary is located in an area that is under the jurisdiction of a city;**

3 (b) **May not be located at the same address as [a marijuana grow site] that of a person desig-**
 4 **ned under ORS 475.304 as the grower of marijuana for a registry identification cardholder**
 5 **unless the person designated under ORS 475.304 is the person responsible for a medical**
 6 **marijuana production site registered under section 9 of this 2015 Act;**

7 (c) **Must be registered as a business, or have filed [a pending] an application to register as a**
 8 **business, with the Office of the Secretary of State;**

9 *[(d) Must not be located within 1,000 feet of the real property comprising a public or private ele-*
 10 *mentary, secondary or career school attended primarily by minors;]*

11 **(d) May not be located within 1,000 feet of:**

12 **(A) A public elementary or secondary school for which attendance is compulsory under**
 13 **ORS 339.020; or**

14 **(B) A private or parochial elementary or secondary school, teaching children as described**
 15 **in ORS 339.030 (1)(a); and**

16 *[(e) Must not be located within 1,000 feet of another medical marijuana facility; and]*

17 *[(f) Must comport with rules adopted by the authority related to:]*

18 *[(A) Installing a minimum security system, including a video surveillance system, alarm system and*
 19 *safe; and]*

20 *[(B) Testing for pesticides, mold and mildew and the processes by which usable marijuana and*
 21 *immature marijuana plants that test positive for pesticides, mold or mildew must be returned to the*
 22 *registry identification cardholder, the cardholder's designated primary caregiver or the cardholder's*
 23 *registered grower.]*

24 **(e) Must meet the requirements of any rule adopted by the commission under subsection**
 25 **(10) of this section.**

26 (4)(a) The *[authority]* **commission** shall conduct a criminal records check under ORS 181.534
 27 *[of a person whose name is submitted as the person responsible for a medical marijuana facility under*
 28 *subsection (2) of this section.]* **for each individual named in an application under subsection (2)**
 29 **of this section.**

30 (b) *[A person]* **An individual** convicted for the manufacture or delivery of a controlled substance
 31 in Schedule I or Schedule II may not *[be the person]* **own or be** responsible for a medical marijuana
 32 *[facility]* **dispensary** for five years from the date the *[person]* **individual** is convicted.

33 (c) *[A person]* **An individual** convicted more than once for the manufacture or delivery of a
 34 controlled substance in Schedule I or Schedule II may not *[be the person]* **own or be** responsible for
 35 a medical marijuana *[facility]* **dispensary**.

36 (5) If a person submits the application required under subsection (2) of this section, **if the med-**
 37 **ical marijuana [facility] dispensary** identified in the application meets the *[qualifications for a med-*
 38 *ical marijuana facility described in subsection (3) of this section and the person responsible for the*
 39 *medical marijuana facility]* **requirements of this section and any rules adopted under this sec-**
 40 **tion and if each individual named in the application** passes the criminal records check required
 41 under subsection (4) of this section, the *[authority]* **commission** shall register the medical marijuana
 42 *[facility]* **dispensary** and issue *[the person responsible for the medical marijuana facility]* proof of
 43 registration. *[The person responsible for the medical marijuana facility shall display the]* Proof of
 44 registration **must be displayed** on the premises of the medical marijuana *[facility]* **dispensary** at
 45 all times when usable marijuana or immature marijuana plants are being transferred as described

1 in subsection (1) of this section.

2 **(6) A medical marijuana dispensary that is registered under this section is not required**
 3 **to register with the State Board of Pharmacy under ORS 475.125.**

4 [(6)(a) A registered medical marijuana facility may receive usable marijuana or immature
 5 marijuana plants only from a registry identification cardholder, designated primary caregiver or person
 6 responsible for a marijuana grow site if the registered medical marijuana facility obtains authorization,
 7 on a form prescribed by the authority by rule and signed by a registry identification cardholder, to
 8 receive the usable marijuana or immature marijuana plants.]

9 [(b) A registered medical marijuana facility shall maintain:]

10 [(A) A copy of each authorization form described in paragraph (a) of this subsection; and]

11 [(B) Documentation of each transfer of usable marijuana or immature marijuana plants.]

12 **(7) The individual or individuals responsible for a medical marijuana dispensary shall**
 13 **maintain documentation of each transfer of usable marijuana and immature marijuana**
 14 **plants.**

15 [(7) A medical marijuana facility registered under this section may possess usable marijuana and
 16 immature marijuana plants in excess of the limits imposed on registry identification cardholders and
 17 designated primary caregivers under ORS 475.320.]

18 [(8)(a) A registered medical marijuana facility may not transfer any tetrahydrocannabinol-infused
 19 product that is meant to be swallowed or inhaled, unless the product is packaged in child-resistant
 20 safety packaging that meets standards established by the authority by rule.]

21 [(b) A registered medical marijuana facility may not transfer any tetrahydrocannabinol-infused
 22 product that is manufactured or packaged in a manner that is attractive to minors, as determined by
 23 the authority by rule.]

24 [(9) **(8) The [authority] commission** may inspect:

25 [(a) The premises of an applicant for a medical marijuana facility or a registered medical
 26 marijuana facility to ensure compliance with the qualifications for a medical marijuana facility de-
 27 scribed in subsection (3) of this section; and]

28 **(a) The premises of a proposed medical marijuana dispensary or a registered medical**
 29 **marijuana dispensary to ensure compliance with this section and any rules adopted under**
 30 **this section; and**

31 (b) The records of a registered medical marijuana [facility] **dispensary** to ensure compliance
 32 with subsection [(6)(b)] **(7)** of this section.

33 [(10)(a) A registry identification cardholder or the designated primary caregiver of a registry
 34 identification cardholder may reimburse a medical marijuana facility registered under this section for
 35 the normal and customary costs of doing business, including costs related to transferring, handling,
 36 securing, insuring, testing, packaging and processing usable marijuana and immature marijuana plants
 37 and the cost of supplies, utilities and rent or mortgage.]

38 [(b) A medical marijuana facility may reimburse a person responsible for a marijuana grow site
 39 under this section for the normal and customary costs of doing business, including costs related to
 40 transferring, handling, securing, insuring, testing, packaging and processing usable marijuana and
 41 immature marijuana plants and the cost of supplies, utilities and rent or mortgage.]

42 [(11) **(9) Subject to the provisions of ORS chapter 183,** the [authority] **commission** may re-
 43 voke the registration of a medical marijuana [facility registered under this section] **dispensary** for
 44 failure to comply with ORS 475.300 to 475.346, rules adopted under ORS 475.300 to 475.346 or ordi-
 45 nances adopted pursuant to section 2, chapter 79, Oregon Laws 2014. [The authority may release to

1 *the public a final order revoking a medical marijuana facility registration.]*

2 [(12)] (10) The [authority] **commission** shall adopt rules to implement this section, including
3 rules that:

4 (a) Require a **registered** medical marijuana [facility registered under this section] **dispensary** to
5 annually renew [that registration; and] **the registration for that dispensary;**

6 (b) Establish fees for registering and renewing registration for a medical marijuana [facility un-
7 der this section.] **dispensary;**

8 (c) **Require installation of a minimum security system that includes video surveillance,
9 an alarm system and a safe;**

10 (d) **Require that usable marijuana and immature marijuana plants transferred by a
11 medical marijuana dispensary be tested to ensure the public health and safety; and**

12 (e) **Impose any other standard on the operation of a medical marijuana dispensary to
13 ensure the public health and safety.**

14
15 (Designation and Assignment of Responsibility)

16
17 **SECTION 13.** Section 14 of this 2015 Act is added to and made a part of ORS 475.300 to
18 475.346.

19 **SECTION 14.** (1) **An individual responsible for a medical marijuana facility may designate
20 or assign that responsibility to another individual.**

21 (2) **If a designation or assignment is made under this section, the designee or assignee
22 must submit to the Oregon Liquor Control Commission proof that the designee or assignee
23 meets the requirements and restrictions set forth in:**

24 (a) **Section 9 (4) of this 2015 Act, if the designation or assignment concerns a medical
25 marijuana production site;**

26 (b) **Section 10 (4) of this 2015 Act, if the designation or assignment concerns a medical
27 marijuana processing site;**

28 (c) **Section 11 (4) of this 2015 Act, if the designation or assignment concerns a medical
29 marijuana wholesale site; or**

30 (d) **ORS 475.314 (4), if the designation or assignment concerns a medical marijuana
31 dispensary.**

32 (3) **The commission may prescribe the form and manner of making a submission under
33 subsection (2) of this section.**

34
35 (Requirements Related to Location)

36
37 **SECTION 15.** Sections 16 and 17 of this 2015 Act are added to and made a part of ORS
38 475.300 to 475.346.

39 **SECTION 16.** The requirement described in section 9 (3)(a) of this 2015 Act for a medical
40 marijuana production site, in 10 (3)(a) of this 2015 Act for a medical marijuana processing
41 site, in 11 (3)(a) of this 2015 Act for a medical marijuana wholesale site and in ORS 475.314
42 (3)(a) for a medical marijuana dispensary is in addition to, and not in lieu of, any generally
43 applicable requirement established in law or rule relating to the location of nonresidential
44 buildings, including any planning or zoning ordinance or regulation and any requirement
45 imposed by the state building code.

1 (a) Deliver to the administrator of the Oregon Liquor Control Commission all records and
 2 property within the jurisdiction of the director that relate to the duties, functions and pow-
 3 ers transferred by section 22 of this 2015 Act; and

4 (b) Transfer to the Oregon Liquor Control Commission those employees engaged prima-
 5 rily in the exercise of the duties, functions and powers transferred by section 22 of this 2015
 6 Act.

7 (2) The Oregon Liquor Control Commission shall take possession of the records and
 8 property, and shall take charge of the employees and employ them in the exercise of the
 9 duties, functions and powers transferred by section 22 of this 2015 Act, without reduction
 10 of compensation but subject to change or termination of employment or compensation as
 11 provided by law.

12 (3) The Governor shall resolve any dispute between the Oregon Health Authority and the
 13 Oregon Liquor Control Commission relating to transfers of records, property and employees
 14 under this section, and the Governor's decision is final.

15 **SECTION 24.** (1) The unexpended balances of amounts authorized to be expended by the
 16 Oregon Health Authority for the biennium beginning July 1, 2015, from revenues dedicated,
 17 continuously appropriated, appropriated or otherwise made available for the purpose of ad-
 18 ministering and enforcing the duties, functions and powers transferred by section 22 of this
 19 2015 Act are transferred to and are available for expenditure by the Oregon Liquor Control
 20 Commission for the biennium beginning July 1, 2015, for the purpose of administering and
 21 enforcing the duties, functions and powers transferred by section 22 of this 2015 Act.

22 (2) The expenditure classifications, if any, established by Acts authorizing or limiting
 23 expenditures by the Oregon Health Authority remain applicable to expenditures by the
 24 Oregon Liquor Control Commission under this section.

25 **SECTION 25.** (1) The transfer of duties, functions and powers to the Oregon Liquor
 26 Control Commission by section 22 of this 2015 Act does not affect any action, proceeding or
 27 prosecution involving or with respect to such duties, functions and powers begun before and
 28 pending at the time of the transfer, except that the Oregon Liquor Control Commission is
 29 substituted for the Oregon Health Authority in the action, proceeding or prosecution.

30 (2) Nothing in sections 22 to 27 of this 2015 Act or in the amendments to ORS 475.314 by
 31 section 12 of this 2015 Act relieves a person of a liability, duty or obligation accruing under
 32 or with respect to the duties, functions and powers transferred by section 22 of this 2015 Act.
 33 The Oregon Liquor Control Commission may undertake the collection or enforcement of any
 34 such liability, duty or obligation.

35 (3) The rights and obligations of the Oregon Health Authority legally incurred under
 36 contracts, leases and business transactions executed, entered into or begun before the op-
 37 erative date of section 22 of this 2015 Act accruing under or with respect to the duties,
 38 functions and powers transferred by section 22 of this 2015 Act are transferred to the Oregon
 39 Liquor Control Commission. For the purpose of succession to these rights and obligations,
 40 the Oregon Liquor Control Commission is a continuation of the Oregon Health Authority and
 41 not a new authority.

42 **SECTION 26.** (1) Notwithstanding the transfer of duties, functions and powers by section
 43 22 of this 2015 Act, the rules of the Oregon Health Authority with respect to such duties,
 44 functions or powers that are in effect on the operative date of section 22 of this 2015 Act
 45 continue in effect until superseded or repealed by rules of the Oregon Liquor Control Com-

1 mission. References in such rules of the Oregon Health Authority to the Oregon Health Au-
 2 thority or an officer or employee of the Oregon Health Authority are considered to be
 3 references to the Oregon Liquor Control Commission or an officer or employee of the Oregon
 4 Liquor Control Commission.

5 (2) Whenever, in any uncodified law or resolution of the Legislative Assembly or in any
 6 rule, document, record or proceeding authorized by the Legislative Assembly, in the context
 7 of the duties, functions and powers transferred by section 22 of this 2015 Act, reference is
 8 made to the Oregon Health Authority, or an officer or employee of the Oregon Health Au-
 9 thority, whose duties, functions or powers are transferred by section 22 of this 2015 Act, the
 10 reference is considered to be a reference to the Oregon Liquor Control Commission or an
 11 officer or employee of the Oregon Liquor Control Commission who by section 22 of this 2015
 12 Act is charged with carrying out such duties, functions and powers.

13 **SECTION 27.** With respect to applications received before the operative date specified in
 14 section 58 of this 2015 Act, the Oregon Liquor Control Commission shall process the regis-
 15 tration of an applicant under section 9 of this 2015 Act who is registered with the Oregon
 16 Health Authority under ORS 475.304 before the operative date specified in section 58 of this
 17 2015 Act before the commission processes the registration of any other applicant.

18
 19 **MEDICAL MARIJUANA HANDLERS**

20
 21 **SECTION 28.** Sections 29 and 30 of this 2015 Act are added to and made a part of ORS
 22 475.300 to 475.346.

23 **SECTION 29.** (1) An individual who is employed by or performs work on behalf of a
 24 medical marijuana facility must register with the Oregon Liquor Control Commission under
 25 section 30 of this 2015 Act if the individual:

- 26 (a) Possesses, grows, produces, processes, manufactures, secures, tests or transfers
 27 marijuana;
- 28 (b) Records any information related to possessing, growing, producing, processing, man-
 29 ufacturing, securing, testing or transferring marijuana; or
- 30 (c) Verifies any information used in the transfer of marijuana.

31 (2) An individual responsible for a medical marijuana facility shall verify that an individ-
 32 ual is registered under section 30 of this 2015 Act before allowing the individual to perform
 33 any work at the facility.

34 **SECTION 30.** (1) The Oregon Liquor Control Commission shall register an individual to
 35 perform work as described in section 29 of this 2015 Act if the individual meets the quali-
 36 fications and satisfies the requirements established by the commission under this section.
 37 The commission shall adopt rules establishing:

- 38 (a) The qualifications for registration to perform work described in section 29 of this 2015
 39 Act;
- 40 (b) The term of registration;
- 41 (c) Procedures for applying for and renewing registration;
- 42 (d) Reasonable application and renewal fees for registration; and
- 43 (e) Any other qualification or standard necessary to ensure the public health and safety.

44 (2)(a) The commission may require an individual applying for registration under this
 45 section to successfully complete a course, provided or approved by the commission, through

1 which the individual receives training on:

2 (A) The provisions of ORS 475.300 to 475.346 and rules adopted under ORS 475.300 to
3 475.346; and

4 (B) Any matter relating to the handling of marijuana deemed necessary by the commis-
5 sion to protect the public health and safety.

6 (b) The commission or other provider of the course may charge a reasonable fee for the
7 course.

8 (c) The commission may not require an individual to successfully complete the course
9 more than once, except that as part of a final order removing the individual from the regis-
10 try established pursuant to this section, the commission shall require an individual to suc-
11 cessfully complete the course prior to reapplying for registration.

12 (3) In implementing this section, the commission may require different qualifications or
13 training for individuals performing the following work:

14 (a) Growing or otherwise producing marijuana;

15 (b) Drying leaves or flowers;

16 (c) Processing cannabinoid edibles;

17 (d) Processing cannabinoid extracts;

18 (e) Processing medical marijuana products other than cannabinoid edibles or cannabinoid
19 extracts;

20 (f) Testing marijuana; or

21 (g) Transferring marijuana.

22 (4) Subject to the applicable provisions of ORS chapter 183, the commission may refuse
23 to register an individual under this section or remove an individual from the registry estab-
24 lished pursuant to this section if the individual:

25 (a) Is convicted for the manufacture or delivery of a controlled substance in Schedule I
26 or Schedule II;

27 (b) Violates any provision of ORS 475.300 to 475.346 or rules adopted under ORS 475.300
28 to 475.346; or

29 (c) Makes a false statement to the commission.

30
31 **TESTING MARIJUANA**

32
33 **SECTION 31.** Section 32 of this 2015 Act is added to and made a part of ORS 475.300 to
34 475.346.

35 **SECTION 32.** Testing of marijuana as required under ORS 475.300 to 475.346 must be
36 conducted by a laboratory accredited under ORS 438.605 to 438.620.

37
38 **PROHIBITIONS**

39
40 **SECTION 33.** Section 34 of this 2015 Act is added to and made a part of ORS 475.300 to
41 475.346.

42 **SECTION 34.** (1) A medical marijuana dispensary registered under ORS 475.314 may not
43 transfer a medical marijuana product to a registry identification cardholder or the desig-
44 nated primary caregiver of the registry identification cardholder if:

45 (a) The medical marijuana product is not packaged in child-resistant safety packaging

1 that meets standards established by the Oregon Liquor Control Commission;

2 (b) The medical marijuana product is manufactured or packaged in a manner that is at-
 3 tractive to minors, as determined by the commission; or

4 (c) The medical marijuana product is marketed in a manner that is untruthful or mis-
 5 leading or that otherwise creates a significant risk to the public health and safety, as de-
 6 termined by the commission.

7 (2) The commission shall adopt rules to implement this section.

8
 9 **EXEMPTIONS FROM CRIMINAL LIABILITY**
 10 **AND AFFIRMATIVE DEFENSE**

11
 12 (Operative January 1, 2016)

13
 14 **SECTION 35.** Section 36 of this 2015 Act is added to and made a part of ORS 475.300 to
 15 475.346.

16 **SECTION 36.** Except as provided in ORS 475.316, a person engaged in or assisting in the
 17 medical use of marijuana is exempt from the criminal laws of this state for possession, de-
 18 livery or manufacture of marijuana, aiding and abetting another in the possession, delivery
 19 or manufacture of marijuana or any other criminal offense in which possession, delivery or
 20 manufacture of marijuana is an element if:

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

22 (2) The person has applied for a registry identification card under ORS 475.309 and the
 23 person has proof of written documentation described in ORS 475.309 (2)(a) and the date on
 24 which the person submitted the application to the Oregon Health Authority. An exemption
 25 under this subsection applies only until the authority approves or denies the application.

26 (3) The person is designated as a primary caregiver under ORS 475.312.

27 (4) The person is designated as a grower of marijuana under ORS 475.304.

28 (5) The person owns, is responsible for or is employed by a medical marijuana facility.

29 (6) The person is authorized to conduct tests pursuant to section 32 of this 2015 Act.

30 **SECTION 37.** ORS 475.319 is amended to read:

31 475.319. (1) Except as provided in ORS 475.316 [*and 475.342*], [*it is*] a **person has** an affirmative
 32 defense to a criminal charge of possession or [*production*] **manufacturing** of marijuana, or any other
 33 criminal offense in which possession or [*production*] **manufacturing** of marijuana is an element,
 34 [*that*] **if** the person charged with the offense [*is a person who*]:

35 (a) [*Has been*] **Was** diagnosed with a debilitating medical condition within 12 months [*prior to*
 36 *arrest and been*] **of the date on which the person was arrested and was** advised by the person's
 37 attending physician that the medical use of marijuana may mitigate the symptoms or effects of that
 38 debilitating medical condition;

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

40 (c) Possesses, **delivers or manufactures** [*or produces*] marijuana only in [*amounts*] **quantities**
 41 permitted under ORS 475.320.

42 (2) [*It is not necessary for a person asserting an affirmative defense pursuant to this section to have*
 43 *received*] **A person does not need to have been issued** a registry identification card [*in order*] to
 44 assert the affirmative defense established in this section.

45 (3) [*No*] **A person engaged in the medical use of marijuana who claims that marijuana provides**

1 medically necessary benefits and who is charged with a crime pertaining to *[such]* **the** use of
 2 marijuana *[shall be]* **is not** precluded from presenting a defense of choice of evils, as set forth in
 3 ORS 161.200, or from presenting evidence supporting the necessity of marijuana for treatment of a
 4 specific disease or medical condition, provided that *[the amount of marijuana at issue is no greater*
 5 *than permitted under ORS 475.320 and the patient]*:

6 **(a) The person possesses, delivers or manufactures marijuana only in quantities permit-**
 7 **ted under ORS 475.320; and**

8 **(b) The person** has taken a substantial step *[to comply]* **toward complying** with the provisions
 9 of ORS 475.300 to 475.346.

10 (4) *[Any]* **A** defendant proposing to use the affirmative defense *[provided for by]* **established in**
 11 this section in a criminal action shall, not less than five days before the trial of the cause, file and
 12 serve upon the district attorney a written notice of the intention to *[offer such a]* **assert the affir-**
 13 **mativ**e defense *[that]*. **The notice must** specifically *[states]* **state** the reasons why the defendant is
 14 entitled to assert **the affirmative defense** and the factual basis for *[such]* **the** affirmative defense.
 15 If the defendant fails to file and serve *[such]* **the** notice, the defendant is not permitted to assert the
 16 affirmative defense at the trial of the cause unless the court *[for good cause]* orders, **for good cause,**
 17 otherwise.

18 **SECTION 38.** ORS 475.316 is amended to read:

19 475.316. *[(1) No person authorized to possess, deliver or produce marijuana for medical use pur-*
 20 *suant to ORS 475.300 to 475.346 shall be excepted from the criminal laws of this state or shall be*
 21 *deemed to have established an affirmative defense to criminal charges of which possession, delivery or*
 22 *production of marijuana is an element if the person, in connection with the facts giving rise to such*
 23 *charges:]* **A person is not exempt from the criminal laws of this state for possession, delivery**
 24 **or manufacture of marijuana, aiding and abetting another in the possession, delivery or**
 25 **manufacture of marijuana or any other criminal offense in which possession, delivery or**
 26 **manufacture of marijuana is an element, and the person may not assert the affirmative de-**
 27 **fense established in ORS 475.319, if the person, in connection with conduct constituting an**
 28 **element of the offense:**

29 *[(a)]* **(1)** Drives under the influence of marijuana as provided in ORS 813.010; **or**

30 *[(b)]* **(2)** Engages in the medical use of marijuana in a public place, as *[that term is]* defined in
 31 ORS 161.015, *[or]* in public view or in a correctional facility, as defined in ORS 162.135 (2), or a
 32 youth correction facility, as defined in ORS 162.135 (6)*[:]*.

33 *[(c) Delivers marijuana to any individual who the person knows is not in possession of a registry*
 34 *identification card;]*

35 *[(d) Delivers marijuana for consideration to any individual, even if the individual is in possession*
 36 *of a registry identification card;]*

37 *[(e) Manufactures or produces marijuana at a place other than a marijuana grow site authorized*
 38 *under ORS 475.304; or]*

39 *[(f) Manufactures or produces marijuana at more than one address.]*

40 **(2)** *In addition to any other penalty allowed by law, a person who the Oregon Health Authority*
 41 *finds has willfully violated the provisions of ORS 475.300 to 475.346, or rules adopted under ORS*
 42 *475.300 to 475.346, may be precluded from obtaining or using a registry identification card for the*
 43 *medical use of marijuana for a period of up to six months, at the discretion of the authority.]*

44
 45

(Operative January 1, 2017)

SECTION 39. Section 36 of this 2015 Act is amended to read:

Sec. 36. Except as provided in ORS 475.316, a person 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 475.309 and the person has proof of written documentation described in ORS 475.309 (2)(a) and 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) The person is designated as a primary caregiver under ORS 475.312.

(4) The person is designated as a grower of marijuana under ORS 475.304.

(5) The person owns[,] or is responsible for [*or is employed by*] a medical marijuana facility.

(6) The person is registered under section 30 of this 2015 Act.

[(6)] (7) The person is authorized to conduct tests pursuant to section 32 of this 2015 Act.

EXEMPTION FROM CIVIL LIABILITY

SECTION 40. Section 41 of this 2015 Act is added to and made a part of ORS 475.300 to 475.346.

SECTION 41. The Oregon Health Authority and the Oregon Liquor Control Commission, and the officers, employees and agents of the authority and commission, are immune from any cause of action for the performance of, or the failure to perform, duties required by ORS 475.300 to 475.346.

SEEDS

SECTION 42. Section 43 of this 2015 Act is added to and made a part of ORS 475.300 to 475.346.

SECTION 43. The production and processing of seeds under ORS 475.300 to 475.346 are not subject to the labeling or other requirements of ORS 576.715 to 576.744 or 633.511 to 633.750.

OTHER AMENDMENTS

SECTION 44. ORS 475.300 is amended to read:

475.300. The people of the state of Oregon [*hereby*] find that:

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

(2) Oregonians suffering from debilitating medical conditions should be allowed to use [*small amounts of*] marijuana without fear of civil or criminal penalties when [*their doctors advise that such use*] **a doctor advises that using marijuana** may provide a medical benefit [*to them*] and when other reasonable restrictions are met regarding that use;

1 (3) ORS 475.300 to 475.346 are intended to allow Oregonians with debilitating medical conditions
 2 who may benefit from the medical use of marijuana to be able to [*discuss freely with their*] **freely**
 3 **discuss with** doctors the possible risks and benefits of medical marijuana use and to have the ben-
 4 efit of [*their doctor's*] professional **medical** advice; and

5 (4) ORS 475.300 to 475.346 are intended [*to make only those changes to existing Oregon laws that*
 6 *are necessary*] to protect patients and [*their*] doctors from criminal and civil penalties[,] and are not
 7 intended to change current civil and criminal laws governing the use of marijuana for nonmedical
 8 purposes.

9 **SECTION 45.** ORS 475.303 is amended to read:

10 475.303. (1) There is [*created*] **established within the Oregon Health Authority** the Advisory
 11 Committee on Medical Marijuana [*in the Oregon Health Authority*], consisting of 11 members ap-
 12 pointed by the Director of the Oregon Health Authority.

13 (2) The director shall appoint members of the committee from [*persons who possess registry*
 14 *identification cards, designated primary caregivers of persons who possess registry identification cards*
 15 *and advocates of the Oregon Medical Marijuana Act.*] **persons who are registered with the au-**
 16 **thority under ORS 475.300 to 475.346 and who are advocates of the medical use of marijuana.**

17 (3) The committee shall advise the director on the administrative aspects of [*the Oregon Medical*
 18 *Marijuana Program, review current and proposed administrative rules of the program and provide*
 19 *annual input on the fee structure of the program.*] **ORS 475.300 to 475.346, including rules and fees**
 20 **adopted under and proposed to be adopted under ORS 475.300 to 475.346.**

21 (4) The committee shall meet at least four times per year, at times and places specified by the
 22 director.

23 (5) The authority shall provide staff support to the committee.

24 (6) All agencies of state government, as defined in ORS 174.111, are directed to assist the com-
 25 mittee in the performance of its duties and, to the extent permitted by laws relating to
 26 confidentiality, to furnish information and advice that the members of the committee consider nec-
 27 essary to perform their duties.

28 **SECTION 46.** ORS 475.323 is amended to read:

29 475.323. (1) [*Possession of a registry identification card, designated primary caregiver identification*
 30 *card pursuant to ORS 475.309 or proof of registration as a medical marijuana facility under ORS*
 31 *475.314*] **Registration under ORS 475.300 to 475.346 or possession of proof of registration under**
 32 **ORS 475.300 to 475.346** does not [*alone*] constitute probable cause to search the person or property
 33 of the [*cardholder*] **registrant** or otherwise subject the person or property of the [*cardholder*] **reg-**
 34 **istrant** to inspection by [*any governmental*] **a government** agency. However, the [*Oregon Health*
 35 *Authority may inspect a medical marijuana facility registered under ORS 475.314*] **Oregon Liquor**
 36 **Control Commission may inspect a medical marijuana facility** at any reasonable time to deter-
 37 mine whether the **medical marijuana** facility is in compliance with ORS 475.300 to 475.346 **and**
 38 **rules adopted under ORS 475.300 to 475.346.**

39 (2) Any property interest possessed, owned or used in connection with the medical use of
 40 marijuana or acts incidental to the medical use of marijuana that has been seized by state or local
 41 law enforcement officers may not be harmed, neglected, injured or destroyed while in the possession
 42 of [*any*] **a law enforcement agency**[], **except that** a law enforcement agency has no responsibility
 43 to maintain live marijuana plants lawfully seized. [*No*] Such property interest may **not** be forfeited
 44 under any provision of law providing for the forfeiture of property [*other than as*], **except pursuant**
 45 **to** a sentence imposed after conviction of a criminal offense. [*Usable*] Marijuana and **equipment or**

1 paraphernalia used to **manufacture, produce or** administer marijuana that was seized by *[any]* a
 2 law enforcement *[office]* **officer** shall be returned immediately *[upon a determination by]* **if** the dis-
 3 trict attorney in whose county the property was seized, or the district attorney's designee, **deter-**
 4 **mines** that the person from whom the marijuana, **equipment** or paraphernalia *[used to administer*
 5 *marijuana]* was seized is entitled to the protections *[contained in]* **provided by** ORS 475.300 to
 6 475.346. The determination may be evidenced*[, for example,]* by a decision not to prosecute, the dis-
 7 missal of charges or acquittal.

8 **SECTION 47.** ORS 475.326 is amended to read:

9 475.326. *[No attending physician may be subjected to civil penalty or discipline by the Oregon*
 10 *Medical Board for:]* **The Oregon Medical Board may not impose a civil penalty or take other**
 11 **disciplinary action against an attending physician for:**

12 (1) Advising a person *[whom the attending physician has]* diagnosed as having a debilitating
 13 medical condition*[, or a person who the attending physician knows has been so diagnosed]* by **the**
 14 **attending physician or** another physician licensed under ORS chapter 677*[,]* about the risks and
 15 benefits *[of]* **associated with the** medical use of marijuana or that the medical use of marijuana
 16 may mitigate the symptoms or effects of the person's debilitating medical condition, provided **that**
 17 the advice is based on the attending physician's personal assessment of the person's medical history
 18 and current medical condition; or

19 (2) Providing the written documentation necessary for issuance of a registry identification card
 20 under ORS 475.309*[, if]* **or renewal of a registry identification card under ORS 475.309, provided**
 21 **that** the documentation is based on the attending physician's personal assessment of the
 22 *[applicant's]* **person's** medical history and current medical condition and the attending physician has
 23 discussed **with the person** the potential *[medical]* risks and benefits *[of]* **associated with** the med-
 24 ical use of marijuana *[with the applicant]*.

25 **SECTION 48.** ORS 475.328 is amended to read:

26 475.328. (1) *[No]* **A** professional licensing board may **not** impose a civil penalty or take other
 27 disciplinary action against a licensee based on the licensee's medical use of marijuana *[in accordance*
 28 *with]* **under** the provisions of ORS 475.300 to 475.346 or actions taken by the licensee *[that are*
 29 *necessary to carry out the licensee's role as a designated primary caregiver to a person who possesses*
 30 *a lawful registry identification card]* **pursuant to the licensee's designation as a primary**
 31 **caregiver under ORS 475.312.**

32 (2)(a) A licensed health care professional may administer medical marijuana to a person who
 33 possesses a registry identification card and resides in a licensed health care facility if the adminis-
 34 tration of pharmaceuticals is within the scope of practice of the licensed health care professional.
 35 Administration of medical marijuana under this subsection may not take place in a public place as
 36 defined in ORS 161.015 or in the presence of a person under 18 years of age. If the medical
 37 marijuana administered under this subsection is smoked, adequate ventilation must be provided.

38 (b) Nothing in this subsection requires:

39 (A) A licensed health care professional to administer medical marijuana; or

40 (B) A licensed health care facility to make accommodations for the administration of medical
 41 marijuana.

42 **SECTION 49.** ORS 475.331 is amended to read:

43 475.331. (1)(a) The Oregon Health Authority shall create and maintain a list of *[the persons to*
 44 *whom the authority has issued registry identification cards, the names of any designated primary*
 45 *caregivers, the names of persons responsible for a medical marijuana facility registered under ORS*

1 475.314, the addresses of authorized marijuana grow sites and the addresses of registered medical
 2 marijuana facilities.]:

3 (A) The names of persons to whom a registry identification card has been issued under
 4 ORS 475.309;

5 (B) The names of persons designated as primary caregivers under ORS 475.312; and

6 (C) The addresses of persons designated as growers of marijuana under ORS 475.304,
 7 unless the designee is registered as a medical marijuana production site under section 9 of
 8 this 2015 Act.

9 (b) Except as provided in subsection (2) of this section, the list shall be confidential and not
 10 subject to public disclosure.

11 [(b)] (c) The authority shall develop a system by which authorized employees of state and local
 12 law enforcement agencies may verify [at all times] that:

13 (A) A person [is a lawful possessor of] **lawfully possesses** a registry identification card;

14 (B) A person is the designated primary caregiver of a lawful possessor of a registry identifica-
 15 tion card; **or**

16 (C) A location is [an authorized marijuana grow site;] **the designated address at which**
 17 **marijuana is grown for a lawful possessor of a registry identification card.**

18 [(D) A location is a registered medical marijuana facility; or]

19 [(E) A person is the person listed as the person responsible for a registered medical marijuana
 20 facility.]

21 (2) Names, **addresses** and other identifying information from the list established pursuant to
 22 subsection (1) of this section may be released to:

23 (a) Authorized employees of the authority as necessary to perform official duties of the author-
 24 ity.

25 (b) Authorized employees of state or local law enforcement agencies, who provide to the au-
 26 thority adequate identification, [such as a badge number or similar authentication of authority,] **but**
 27 only as necessary to verify that:

28 (A) A person [is a lawful possessor of] **lawfully possesses** a registry identification card;

29 (B) A person is the designated primary caregiver of a lawful possessor of a registry identifica-
 30 tion card; **or**

31 (C) A location is [an authorized marijuana grow site;] **the designated address at which**
 32 **marijuana is grown for a lawful possessor of a registry identification card.**

33 [(D) A location is a registered medical marijuana facility; or]

34 [(E) A person is the person listed as the person responsible for a registered medical marijuana
 35 facility.]

36 (3) Authorized employees of state or local law enforcement agencies [that] **who** obtain identify-
 37 ing information [from the list] as authorized [under] **by** this section may not release or use the in-
 38 formation for any purpose other than [verification] **to verify** that:

39 (a) A person [is a lawful possessor of] **lawfully possesses** a registry identification card;

40 (b) A person is the designated primary caregiver of a lawful possessor of a registry identification
 41 card; **or**

42 (c) A location is [an authorized marijuana grow site;] **the designated address at which**
 43 **marijuana is grown for a lawful possessor of a registry identification card.**

44 [(d) A location is a registered medical marijuana facility; or]

45 [(e) A person is the person listed as the person responsible for a registered medical marijuana fa-

1 *cility.]*

2 **SECTION 50.** ORS 475.334 is amended to read:

3 475.334. Any person may [*submit a*] petition [*to*] the Oregon Health Authority [*requesting*] **to**
4 **request** that a [*particular*] disease or condition be included among the diseases and conditions that
5 qualify as debilitating medical conditions under ORS [*475.302*] **475.300 to 475.346**. The authority
6 shall adopt rules establishing [*the manner in which the authority will evaluate petitions submitted*
7 *under this section*] **the procedure for filing a petition under this section and the manner by**
8 **which the authority evaluates a request made under this section.** [*Any*] Rules adopted [*pursuant*
9 *to*] **under** this section [*shall*] **must** require the authority to approve or deny a petition within 180
10 days of [*receipt of*] **receiving** the petition [*by the authority*]. Denial of a petition [*shall be*
11 *considered*] **is** a final [*authority*] **agency** action subject to judicial review.

12 **SECTION 51.** ORS 475.338 is amended to read:

13 475.338. (1)(a) **Except as provided in subsection (2) of this section,** the Oregon Health Au-
14 thority shall adopt [*all*] rules necessary for the implementation and administration of ORS 475.300
15 to 475.346.

16 **(b) The authority shall define by rule when a marijuana plant is mature and when a**
17 **marijuana plant is immature.**

18 **(2) The Oregon Liquor Control Commission shall adopt rules necessary for the imple-**
19 **mentation and administration of ORS 475.314 and sections 9, 10, 11, 14, 16, 17, 19, 21, 29, 30**
20 **and 34 of this 2015 Act.**

21 **SECTION 52.** ORS 475.340 is amended to read:

22 475.340. Nothing in ORS 475.300 to 475.346 [*shall be construed to require*] **requires:**

23 (1) A government medical assistance program or private health insurer to reimburse a person
24 for costs associated with the medical use of marijuana; or

25 (2) An employer to accommodate the medical use of marijuana in [*any*] **the** workplace.

26 **SECTION 53.** ORS 475.342 is amended to read:

27 475.342. [*Nothing in*] **The provisions of** ORS 475.300 to 475.346 [*shall protect*] **do not protect**
28 a person from a criminal cause of action based on possession, [*production,*] **manufacturing** or de-
29 livery of marijuana that is not [*authorized by*] **allowed under** ORS 475.300 to 475.346.

30 **SECTION 54.** Section 2, chapter 79, Oregon Laws 2014, is amended to read:

31 **Sec. 2.** Notwithstanding ORS 633.738, the governing body of a city or county may adopt ordi-
32 nances that impose reasonable regulations on the operation of medical marijuana [*facilities*]
33 **dispensaries** registered, or applying for registration, under ORS 475.314 that are located in the area
34 subject to the jurisdiction of the city or county. For purposes of this section, “reasonable
35 regulations” includes reasonable limitations on the hours during which a medical marijuana
36 [*facility*] **dispensary** may be operated, reasonable limitations on where a medical marijuana
37 [*facility*] **dispensary** may be located within a zone described in ORS 475.314 (3)(a) and reasonable
38 conditions on the manner in which a medical marijuana [*facility may dispense medical marijuana*]
39 **dispensary may transfer usable marijuana and immature marijuana plants.**

40 41 CONFORMING AMENDMENTS

42
43 **SECTION 55.** ORS 181.534 is amended to read:

44 181.534. (1) As used in this section:

45 (a) “Authorized agency” means state government as defined in ORS 174.111 and the Oregon

1 State Bar. "Authorized agency" does not include:

2 (A) The Oregon State Lottery Commission or the Oregon State Lottery; or

3 (B) A criminal justice agency, as defined in ORS 181.010, that is authorized by federal law to
4 receive fingerprint-based criminal records checks from the Federal Bureau of Investigation.

5 (b) "Subject individual" means a person from whom an authorized agency may require finger-
6 prints pursuant to statute for the purpose of enabling the authorized agency to request a state or
7 nationwide criminal records check.

8 (2) An authorized agency may request that the Department of State Police conduct a criminal
9 records check on a subject individual for non-criminal justice purposes. If a nationwide criminal
10 records check of a subject individual is necessary, the authorized agency may request that the De-
11 partment of State Police conduct the check, including fingerprint identification, through the Federal
12 Bureau of Investigation.

13 (3) The Department of State Police shall provide the results of a criminal records check con-
14 ducted pursuant to subsection (2) of this section to the authorized agency requesting the check.

15 (4) The Federal Bureau of Investigation shall return or destroy the fingerprint cards used to
16 conduct the criminal records check and may not keep any record of the fingerprints. If the federal
17 bureau policy authorizing return or destruction of the fingerprint cards is changed, the Department
18 of State Police shall cease to send the cards to the federal bureau but shall continue to process the
19 information through other available resources.

20 (5) If the Federal Bureau of Investigation returns the fingerprint cards to the Department of
21 State Police, the department shall destroy the fingerprint cards and shall retain no facsimiles or
22 other material from which a fingerprint can be reproduced.

23 (6) If only a state criminal records check is conducted, the Department of State Police shall
24 destroy the fingerprint cards after the criminal records check is completed and the results of the
25 criminal records check provided to the authorized agency and shall retain no facsimiles or other
26 material from which a fingerprint can be reproduced.

27 (7) An authorized agency may conduct criminal records checks on subject individuals through
28 the Law Enforcement Data System maintained by the Department of State Police in accordance with
29 rules adopted, and procedures established, by the Department of State Police.

30 (8) An authorized agency and the Department of State Police shall permit a subject individual
31 for whom a fingerprint-based criminal records check was conducted to inspect the individual's own
32 state and national criminal offender records and, if requested by the subject individual, provide the
33 individual with a copy of the individual's own state and national criminal offender records.

34 (9) Each authorized agency, in consultation with the Department of State Police, shall adopt
35 rules to implement this section and other statutes relating to criminal offender information obtained
36 through fingerprint-based criminal records checks. The rules shall include but need not be limited
37 to:

38 (a) Identifying applicable categories of subject individuals as specified by the Oregon Depart-
39 ment of Administrative Services under ORS 181.547 who are subject to criminal records checks by
40 the authorized agency.

41 (b) Identifying applicable information that may be required from a subject individual to permit
42 a criminal records check as specified by the Oregon Department of Administrative Services under
43 ORS 181.547.

44 (c) Specifying which programs or services are subject to this section.

45 (d) If the authorized agency uses criminal records checks for agency employment purposes:

1 (A) Determining when and under what conditions a subject individual may be hired on a pre-
 2 liminary basis pending a criminal records check; and

3 (B) Defining the conditions under which a subject individual may participate in training, orien-
 4 tation and work activities pending completion of a criminal records check.

5 (e) Establishing fees in an amount not to exceed the actual cost of acquiring and furnishing
 6 criminal offender information.

7 (10) The Department of State Police shall verify that an authorized agency has adopted the rules
 8 required by subsection (9) of this section.

9 (11)(a) Except as otherwise provided in ORS 181.612, 342.143, 342.223, 443.735 and ~~475.304~~
 10 **475.300 to 475.346** and paragraph (b) of this subsection, an authorized agency, using the rules
 11 adopted by the authorized agency under subsection (9) of this section and the rules adopted by the
 12 Oregon Department of Administrative Services under ORS 181.547, shall determine whether a sub-
 13 ject individual is fit to hold a position, provide services, be employed or be granted a license, cer-
 14 tification, registration or permit, based on the criminal records check obtained pursuant to this
 15 section, on any false statements made by the individual regarding the criminal history of the indi-
 16 vidual and on any refusal to submit or consent to a criminal records check including fingerprint
 17 identification. If a subject individual is determined to be unfit, then the individual may not hold the
 18 position, provide services, be employed or be granted a license, certification, registration or permit.

19 (b) An individual prohibited from receiving public funds for employment under ORS 443.004 (3)
 20 is not entitled to a determination of fitness as a subject individual under paragraph (a) of this sub-
 21 section.

22 (c)(A) Subject to subparagraph (B) of this paragraph, an authorized agency making a fitness de-
 23 termination of an individual under this subsection may request results of a previously made fitness
 24 determination from an authorized agency that has already made a fitness determination for the in-
 25 dividual. An authorized agency that receives a request under this paragraph shall provide the re-
 26 quested information.

27 (B) An authorized agency may make a request under this paragraph only for individuals:

28 (i) Who are applying to hold a position, provide services, be employed or be granted a license,
 29 certification, registration or permit;

30 (ii) Who are in a category of individuals as specified by the Oregon Department of Administra-
 31 tive Services under ORS 181.547; and

32 (iii) For whom a fitness determination has already been made.

33 (12) Except as otherwise provided in ORS 181.612, in making the fitness determination under
 34 subsection (11) of this section, the authorized agency shall consider:

35 (a) The nature of the crime;

36 (b) The facts that support the conviction or pending indictment or that indicate the making of
 37 the false statement;

38 (c) The relevancy, if any, of the crime or the false statement to the specific requirements of the
 39 subject individual's present or proposed position, services, employment, license, certification or reg-
 40 istration; and

41 (d) Intervening circumstances relevant to the responsibilities and circumstances of the position,
 42 services, employment, license, certification, registration or permit. Intervening circumstances in-
 43 clude but are not limited to:

44 (A) The passage of time since the commission of the crime;

45 (B) The age of the subject individual at the time of the crime;

- 1 (C) The likelihood of a repetition of offenses or of the commission of another crime;
- 2 (D) The subsequent commission of another relevant crime;
- 3 (E) Whether the conviction was set aside and the legal effect of setting aside the conviction; and
- 4 (F) A recommendation of an employer.

5 (13) An authorized agency and an employee of an authorized agency acting within the course
6 and scope of employment are immune from any civil liability that might otherwise be incurred or
7 imposed for determining, pursuant to subsection (11) of this section, that a subject individual is fit
8 or not fit to hold a position, provide services, be employed or be granted a license, certification,
9 registration or permit. An authorized agency and an employee of an authorized agency acting within
10 the course and scope of employment who in good faith comply with this section are not liable for
11 employment-related decisions based on determinations made under subsection (11) of this section.
12 An authorized agency or an employee of an authorized agency acting within the course and scope
13 of employment is not liable for defamation or invasion of privacy in connection with the lawful dis-
14 semination of information lawfully obtained under this section.

15 (14)(a) Each authorized agency shall establish by rule a contested case process by which a sub-
16 ject individual may appeal the determination that the individual is fit or not fit to hold a position,
17 provide services, be employed or be granted a license, certification, registration or permit on the
18 basis of information obtained as the result of a criminal records check conducted pursuant to this
19 section. Challenges to the accuracy or completeness of information provided by the Department of
20 State Police, the Federal Bureau of Investigation and agencies reporting information to the De-
21 partment of State Police or Federal Bureau of Investigation must be made through the Department
22 of State Police, Federal Bureau of Investigation or reporting agency and not through the contested
23 case process required by this paragraph.

24 (b) A subject individual who is employed by an authorized agency and who is determined not to
25 be fit for a position on the basis of information obtained as the result of a criminal records check
26 conducted pursuant to this section may appeal the determination through the contested case process
27 adopted under this subsection or applicable personnel rules, policies and collective bargaining pro-
28 visions. An individual's decision to appeal a determination through personnel rules, policies and
29 collective bargaining provisions is an election of remedies as to the rights of the individual with
30 respect to the fitness determination and is a waiver of the contested case process.

31 (c) An individual prohibited from receiving public funds for employment under ORS 443.004 (3)
32 is not entitled to appeal a determination under paragraph (a) or (b) of this subsection.

33 (15) Criminal offender information is confidential. Authorized agencies and the Department of
34 State Police shall adopt rules to restrict dissemination of information received under this section to
35 persons with a demonstrated and legitimate need to know the information.

36 (16) If a subject individual refuses to consent to the criminal records check or refuses to be
37 fingerprinted, the authorized agency shall deny the employment of the individual, or revoke or deny
38 any applicable position, authority to provide services, license, certification, registration or permit.

39 (17) If an authorized agency requires a criminal records check of employees, prospective em-
40 ployees, contractors, vendors or volunteers or applicants for a license, certification, registration or
41 permit, the application forms of the authorized agency must contain a notice that the person is
42 subject to fingerprinting and a criminal records check.

43 **SECTION 56.** ORS 181.537 is amended to read:

44 181.537. (1) As used in this section:

- 45 (a) "Care" means the provision of care, treatment, education, training, instruction, supervision,

1 placement services, recreation or support to children, the elderly or persons with disabilities.

2 (b) "Native American tribe" has the meaning given that term in ORS 181.538 (4).

3 (c) "Qualified entity" means a community mental health program, a community developmental
4 disabilities program, a local health department, the government of a Native American tribe or an
5 agency of a Native American tribe responsible for child welfare or an individual or business or or-
6 ganization, whether public, private, for-profit, nonprofit or voluntary, that provides care, including
7 a business or organization that licenses, certifies or registers others to provide care.

8 (2) For the purpose of requesting a state or nationwide criminal records check under ORS
9 181.534, the Department of Human Services, the Oregon Health Authority and the Employment De-
10 partment may require the fingerprints of a person:

11 (a) Who is employed by or is applying for employment with either department or the authority;

12 (b) Who provides or seeks to provide services to either department or the authority as a con-
13 tractor, subcontractor, vendor or volunteer who:

14 (A) May have contact with recipients of care;

15 (B) Has access to personal information about employees of either department or the authority,
16 recipients of care from either department or the authority or members of the public, including Social
17 Security numbers, dates of birth, driver license numbers, medical information, personal financial in-
18 formation or criminal background information;

19 (C) Has access to information the disclosure of which is prohibited by state or federal laws,
20 rules or regulations, or information that is defined as confidential under state or federal laws, rules
21 or regulations;

22 (D) Has access to property held in trust or to private property in the temporary custody of the
23 state;

24 (E) Has payroll or fiscal functions or responsibility for:

25 (i) Receiving, receipting or depositing money or negotiable instruments;

26 (ii) Billing, collections, setting up financial accounts or other financial transactions; or

27 (iii) Purchasing or selling property;

28 (F) Provides security, design or construction services for government buildings, grounds or fa-
29 cilities;

30 (G) Has access to critical infrastructure or secure facilities information; or

31 (H) Is providing information technology services and has control over or access to information
32 technology systems;

33 (c) For the purposes of licensing, certifying, registering or otherwise regulating or administering
34 programs, persons or qualified entities that provide care;

35 (d) For the purposes of employment decisions by or for qualified entities that are regulated or
36 otherwise subject to oversight by the Department of Human Services or the Oregon Health Au-
37 thority and that provide care;

38 (e) For the purposes of employment decisions made by a mass transit district or transportation
39 district for qualified entities that, under contracts with the district or the Oregon Health Authority,
40 employ persons to operate motor vehicles for the transportation of medical assistance program cli-
41 ents; or

42 (f) For the purposes of licensure, certification or registration of foster homes by the government
43 of a Native American tribe or an agency of a Native American tribe responsible for child welfare.

44 (3) The Department of Human Services and the Oregon Health Authority may conduct criminal
45 records checks on a person through the Law Enforcement Data System maintained by the Depart-

1 ment of State Police, if deemed necessary by the Department of Human Services or the Oregon
2 Health Authority to protect children, elderly persons, persons with disabilities or other vulnerable
3 persons.

4 (4) The Department of Human Services and the Oregon Health Authority may furnish to quali-
5 fied entities, in accordance with the rules of the Department of Human Services or the Oregon
6 Health Authority and the rules of the Department of State Police, information received from the
7 Law Enforcement Data System. However, any criminal offender records and information furnished
8 to the Department of Human Services or the Oregon Health Authority by the Federal Bureau of
9 Investigation through the Department of State Police may not be disseminated to qualified entities.

10 (5)(a) Except as otherwise provided in ORS 443.735 and ~~[475.304] 475.300 to 475.346~~, a qualified
11 entity, using rules adopted by the Department of Human Services or the Oregon Health Authority
12 under ORS 181.534 (9) and rules adopted by the Oregon Department of Administrative Services un-
13 der ORS 181.547, shall determine under this section whether a person is fit to hold a position, pro-
14 vide services, be employed or, if the qualified entity has authority to make such a determination,
15 be licensed, certified or registered, based on the criminal records check obtained pursuant to ORS
16 181.534, any false statements made by the person regarding the criminal history of the person and
17 any refusal to submit or consent to a criminal records check including fingerprint identification. If
18 a person is determined to be unfit, then that person may not hold the position, provide services or
19 be employed, licensed, certified or registered.

20 (b) A person prohibited from receiving public funds for employment under ORS 443.004 (3) is not
21 entitled to a determination of fitness under paragraph (a) of this subsection.

22 (6) In making the fitness determination under subsection (5) of this section, the qualified entity
23 shall consider:

24 (a) The nature of the crime;

25 (b) The facts that support the conviction or pending indictment or indicate the making of the
26 false statement;

27 (c) The relevancy, if any, of the crime or the false statement to the specific requirements of the
28 person's present or proposed position, services, employment, license, certification or registration;
29 and

30 (d) Intervening circumstances relevant to the responsibilities and circumstances of the position,
31 services, employment, license, certification or registration. Intervening circumstances include but
32 are not limited to the passage of time since the commission of the crime, the age of the person at
33 the time of the crime, the likelihood of a repetition of offenses, the subsequent commission of an-
34 other relevant crime and a recommendation of an employer.

35 (7) The Department of Human Services, the Oregon Health Authority and the Employment De-
36 partment may make fitness determinations based on criminal offender records and information fur-
37 nished by the Federal Bureau of Investigation through the Department of State Police only as
38 described in ORS 181.534.

39 (8) A qualified entity and an employee of a qualified entity acting within the course and scope
40 of employment are immune from any civil liability that might otherwise be incurred or imposed for
41 determining pursuant to subsection (5) of this section that a person is fit or not fit to hold a position,
42 provide services or be employed, licensed, certified or registered. A qualified entity, employee of a
43 qualified entity acting within the course and scope of employment and an employer or employer's
44 agent who in good faith comply with this section and the decision of the qualified entity or employee
45 of the qualified entity acting within the course and scope of employment are not liable for the fail-

1 ure to hire a prospective employee or the decision to discharge an employee on the basis of the
 2 qualified entity's decision. An employee of the state acting within the course and scope of employ-
 3 ment is not liable for defamation or invasion of privacy in connection with the lawful dissemination
 4 of information lawfully obtained under this section.

5 (9) The Department of Human Services and the Oregon Health Authority, subject to rules
 6 adopted by the Oregon Department of Administrative Services under ORS 181.547, shall develop
 7 systems that maintain information regarding criminal records checks in order to minimize the ad-
 8 ministrative burden imposed by this section and ORS 181.534. Records maintained under this sub-
 9 section are confidential and may not be disseminated except for the purposes of this section and in
 10 accordance with the rules of the Department of Human Services, the Oregon Health Authority and
 11 the Department of State Police. Nothing in this subsection permits the Department of Human Ser-
 12 vices to retain fingerprint cards obtained pursuant to this section.

13 (10) In addition to the rules required by ORS 181.534, the Department of Human Services and
 14 the Oregon Health Authority, in consultation with the Department of State Police, shall adopt rules:

15 (a) Specifying which qualified entities are subject to this section;

16 (b) Specifying which qualified entities may request criminal offender information;

17 (c) Specifying which qualified entities are responsible for deciding, subject to rules adopted by
 18 the Oregon Department of Administrative Services under ORS 181.547, whether a subject individual
 19 is not fit for a position, service, license, certification, registration or employment; and

20 (d) Specifying when a qualified entity, in lieu of conducting a completely new criminal records
 21 check, may proceed to make a fitness determination under subsection (5) of this section using the
 22 information maintained by the Department of Human Services and the Oregon Health Authority
 23 pursuant to subsection (9) of this section.

24 (11) If a person refuses to consent to the criminal records check or refuses to be fingerprinted,
 25 the qualified entity shall deny or terminate the employment of the person, or revoke or deny any
 26 applicable position, authority to provide services, employment, license, certification or registration.

27 (12) If the qualified entity requires a criminal records check of employees or other persons, the
 28 application forms of the qualified entity must contain a notice that employment is subject to fin-
 29 gerprinting and a criminal records check.

30
 31 **REPEALS**

32
 33 **SECTION 57. ORS 475.324 is repealed.**

34
 35 **OPERATIVE DATES**

36
 37 **SECTION 58. (1) Sections 9 to 11, 14, 16, 17, 19, 21 to 27, 32, 34, 36, 41 and 43 of this 2015**
 38 **Act, the amendments to statutes and session law by sections 1 to 6, 12, 37, 38 and 44 to 56**
 39 **of this 2015 Act and the repeal of ORS 475.324 by section 57 of this 2015 Act become operative**
 40 **on January 1, 2016.**

41 **(2) The Oregon Health Authority and the Oregon Liquor Control Commission may take**
 42 **any action before the operative date specified in subsection (1) of this section that is neces-**
 43 **sary to enable the authority and the commission to exercise, on and after the operative date**
 44 **specified in subsection (1) of this section, all the duties, powers and functions conferred on**
 45 **the authority and the commission by sections 9 to 11, 14, 16, 17, 19, 21 to 27, 32, 34, 36, 41 and**

1 43 of this 2015 Act, the amendments to statutes and session law by sections 1 to 6, 12, 37,
2 38 and 44 to 56 of this 2015 Act and the repeal of ORS 475.324 by section 57 of this 2015 Act.

3 **SECTION 59.** (1) Sections 29 and 30 of this 2015 Act and the amendments to section 36
4 of this 2015 Act by section 39 of this 2015 Act become operative on January 1, 2017.

5 (2) The Oregon Liquor Control Commission may take any action before the operative date
6 specified in subsection (1) of this section that is necessary to enable the commission to ex-
7 ercise, on and after the operative date specified in subsection (1) of this section, all the du-
8 ties, powers and functions conferred on the commission by sections 29 and 30 of this 2015
9 Act and the amendments to section 36 of this 2015 Act by section 39 of this 2015 Act.

10
11 **UNIT CAPTIONS**

12
13 **SECTION 60.** The unit captions used in this 2015 Act are provided only for the conven-
14 ience of the reader and do not become part of the statutory law of this state or express any
15 legislative intent in the enactment of this 2015 Act.

16
17 **EMERGENCY CLAUSE**

18
19 **SECTION 61.** This 2015 Act being necessary for the immediate preservation of the public
20 peace, health and safety, an emergency is declared to exist, and this 2015 Act takes effect
21 on its passage.

22
