

House Bill 3400

Sponsored by Representative BUCKLEY

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 Health Authority to develop and maintain database of information related to producing and processing of marijuana by persons responsible for marijuana grow sites under Oregon Medical Marijuana Program.

Requires person responsible for marijuana grow site under program to submit to authority certain information related to producing and processing marijuana.

Specifies number of mature marijuana plants that may be produced at single address.

Makes other changes to Oregon Medical Marijuana Act, including changes to harmonize Oregon Medical Marijuana Act with chapter 1, Oregon Laws 2015.

Becomes operative January 1, 2016.

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 potable liquid into which a cannabinoid extract
16 or the dried leaves or flowers of marijuana have been incorporated.

17 (3)(a) "Cannabinoid extract" means a product containing cannabinoids that have been
18 separated from marijuana, generally by chemical processes.

19 (b) "Cannabinoid extract" does not include:

20 (A) A product containing cannabinoids that have been separated from marijuana by me-
21 chanical processes;

22 (B) A product containing cannabinoids that have been separated from marijuana using
23 glycerin, fats, oils or water; or

24 (C) If no heat or pressure is used to separate the cannabinoids from the marijuana, a
25 product containing cannabinoids that have been separated from marijuana using ethanol and
26 carbon dioxide.

27 [(3)] (4) "Debilitating medical condition" means:

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

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

6 (A) Cachexia;

7 (B) Severe pain;

8 (C) Severe nausea;

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

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

11 (c) Post-traumatic stress disorder; or

12 (d) Any other medical condition or side effect related to the treatment of a medical condition
 13 adopted by the **Oregon Health** Authority by rule or approved by the authority pursuant to a peti-
 14 tion *[submitted]* **filed** under ORS 475.334.

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

16 (b) “Delivery” does not include transfer of:

17 (A) Marijuana by a registry identification cardholder to another registry identification
 18 cardholder if no consideration is paid for the transfer;

19 (B) Usable marijuana or immature marijuana plants from a registry identification cardholder,
 20 the designated primary caregiver of a registry identification cardholder or a marijuana grow site to
 21 a medical marijuana facility registered under ORS 475.314; or

22 (C) Usable marijuana or immature marijuana plants from a medical marijuana facility registered
 23 under ORS 475.314 to a registry identification cardholder or the designated primary caregiver of a
 24 registry identification cardholder.

25 *[(5)]* **(6)(a)** “Designated primary caregiver” means an individual:

26 **(A) Who is** 18 years of age or older *[who]*;

27 **(B) Who** has significant responsibility for managing the well-being of a person who has been
 28 diagnosed with a debilitating medical condition *[and who]*; **and**

29 **(C) Who** is designated as *[such on that]* **the person responsible for managing the well-being**
 30 **of a person who has been diagnosed with a debilitating medical condition on the** person’s ap-
 31 plication for a registry identification card or in other written notification **submitted** to the au-
 32 thority.

33 **(b)** “Designated primary caregiver” does not include *[the]* a person’s attending physician.

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

35 **(7)(a) “Marijuana” means the plant Cannabis family Cannabaceae and any part of the**
 36 **plant.**

37 **(b) “Marijuana” does not include industrial hemp, as defined in ORS 571.300.**

38 *[(7)]* **(8)** “Marijuana grow site” means a location registered under ORS 475.304 where marijuana
 39 is produced **or processed** for use by a registry identification cardholder.

40 **(9) “Medical marijuana product” means a cannabinoid edible, a cannabinoid extract or**
 41 **any other product into which a cannabinoid extract or the dried leaves or flowers of**
 42 **marijuana have been incorporated.**

43 *[(8)]* **(10)** “Medical use of marijuana” means the production, **processing**, possession, delivery[,
 44 *distribution]* or administration of marijuana, or paraphernalia used to administer marijuana, *[as*
 45 *necessary for the exclusive benefit of a person]* to mitigate the symptoms or effects of *[the person’s]*

1 a debilitating medical condition.

2 (11) **“Processing” means the conversion of marijuana into medical marijuana products.**

3 [(9)] (12) **“Production” [has the meaning given that term in ORS 475.005] means planting, cul-**
 4 **tivating, growing and harvesting marijuana, and drying marijuana leaves or flowers.**

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

9 [(11)] (14)(a) **“Usable marijuana” means the dried leaves and flowers of [the plant Cannabis**
 10 **family Moraceae] marijuana, and any mixture or preparation thereof, including any medical**
 11 **marijuana product, that [are] is appropriate for medical use as allowed in ORS 475.300 to 475.346.**

12 (b) **“Usable marijuana” does not include the unprocessed seeds, stalks and roots of [the plant]**
 13 **marijuana.**

14 [(12)] (15) **“Written documentation” means a statement signed by the attending physician of a**
 15 **person diagnosed with a debilitating medical condition or copies of the person’s relevant medical**
 16 **records.**

17
 18 **MARIJUANA GROW SITES**

19
 20 **(Registration)**

21
 22 **SECTION 2.** ORS 475.304 is amended to read:

23 475.304. (1) The Oregon Health Authority shall establish by rule a marijuana grow site regis-
 24 tration system to [authorize] **track the production and processing** of marijuana by a registry
 25 identification cardholder, a designated primary caregiver who grows marijuana for the **registry**
 26 **identification cardholder** or [a person who is responsible for a marijuana grow site. The marijuana
 27 grow site registration system adopted] **another individual designated by the registry identification**
 28 **cardholder to produce and process marijuana for the registry identification cardholder.**
 29 **Rules adopted under this section** must require a registry identification cardholder to submit an
 30 application to the authority that includes:

31 (a) The name of the person responsible for the marijuana grow site[;] **and whether the person**
 32 **responsible for the marijuana grow site is the registry identification cardholder, the desig-**
 33 **nated primary caregiver of the registry identification cardholder or another individual des-**
 34 **ignated by the registry identification cardholder to produce and process marijuana for the**
 35 **registry identification cardholder;**

36 (b) **Proof of residency, as required by the authority by rule;**

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

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

40 [(d)] (e) Any other information **that** the authority considers necessary **to track the production**
 41 **and processing of marijuana under ORS 475.300 to 475.346[.]; and**

42 (f) **Any fee adopted by the authority under subsection (8) of this section.**

43 (2) **Subject to subsection (6) of this section,** the authority shall issue a marijuana grow site
 44 registration card to a registry identification cardholder who [has met] **submits an application that**
 45 **meets** the requirements of subsection (1) of this section.

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

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

7 (5)(a) All usable marijuana, plants, seedlings and seeds associated with the production **and**
8 **processing** of marijuana for a registry identification cardholder by a person responsible for a
9 marijuana grow site are the property of the registry identification cardholder [*and*].

10 (b) **All usable marijuana, plants, seedlings and seeds associated with the production and**
11 **processing of marijuana for a registry identification cardholder by a person responsible for**
12 **a marijuana grow site** must be [*provided*] **transferred** to the registry identification cardholder[,
13 *or, if the marijuana is*] **upon request**.

14 (c) **All** usable marijuana [*or an*] **and** immature marijuana [*plant,*] **plants associated with the**
15 **production and processing of marijuana for a registry identification cardholder by a person**
16 **responsible for a marijuana grow site must be** transferred to a medical marijuana facility regis-
17 **tered under ORS 475.314[,]** upon request **of the registry identification cardholder. For purposes**
18 **of this paragraph, a request to transfer usable marijuana or an immature marijuana plant**
19 **constitutes an assignment of the right to possess the usable marijuana or immature**
20 **marijuana plant from the registry identification cardholder to the medical marijuana facility.**

21 (d) **Information related to transfers made under this subsection to a registry identifica-**
22 **tion cardholder or a medical marijuana facility registered under ORS 475.314 must be sub-**
23 **mitted to the authority in the manner required by section 5 of this 2015 Act.**

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

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

30 (c) A person convicted more than once of a Class A or Class B felony under ORS 475.752 to
31 475.920 for the manufacture or delivery of a controlled substance in Schedule I or Schedule II may
32 not be issued a marijuana grow site registration card or produce **or process** marijuana for a regis-
33 **try identification cardholder.**

34 (7) A registry identification cardholder or the designated primary caregiver of [*the*] **a registry**
35 **identification** cardholder may reimburse [*the*] **a person** responsible for a marijuana grow site for the
36 costs of supplies and utilities associated with the production **and processing** of marijuana for the
37 registry identification cardholder. No other costs associated with the production **and processing**
38 of marijuana for the registry identification cardholder, including the cost of labor, may be reim-
39 **bursed.**

40 (8) The authority may adopt [*rules imposing a fee in an amount established by the authority for*
41 *registration of a marijuana grow site under this section.*] **by rule a fee for registering a marijuana**
42 **grow site under this section that is reasonably calculated to pay the costs of registering**
43 **marijuana grow sites and the costs of developing and maintaining the database described in**
44 **section 4 of this 2015 Act.**

45

(Records)

SECTION 3. Sections 4, 5 and 6 of this 2015 Act are added to and made a part of ORS 475.300 to 475.346.

SECTION 4. (1) The Oregon Health Authority shall develop and maintain a database of information related to the production and processing of marijuana by persons responsible for a marijuana grow site under ORS 475.304. At a minimum, the database must include all information submitted to the authority under section 5 of this 2015 Act.

(2) Upon request, the authority shall share information in the database with the Oregon Liquor Control Commission.

SECTION 5. (1) Not less than once per month, a person responsible for a marijuana grow site under ORS 475.304 must submit to the Oregon Health Authority, in a form and manner prescribed by the authority, the following information related to the production and processing of marijuana:

(a) The amount of usable marijuana and the numbers of mature marijuana plants and immature marijuana plants in the person's possession;

(b) The amount of marijuana that the person has processed into cannabinoid edibles;

(c) The amount of marijuana that the person has processed into cannabinoid extracts;

(d) The amounts of marijuana, cannabinoid edibles and cannabinoid extracts and the numbers of mature marijuana plants and immature marijuana plants that the person transfers to each registry identification cardholder for whom the person produces and processes marijuana; and

(e) The amounts of marijuana, cannabinoid edibles and cannabinoid extracts and the number of immature marijuana plants that the person transfers to each medical marijuana facility registered under ORS 475.314.

(2) In addition to reporting the information as required by subsection (1) of this section, a person responsible for a marijuana grow site under ORS 475.304 must keep a record of the information described in subsection (1) of this section for at least one year after the date on which the person submits the information to the authority.

SECTION 6. The Oregon Health Authority may inspect a record kept pursuant to section 5 of this 2015 Act at any time to ensure that a person responsible for a marijuana grow site under ORS 475.304 is in compliance with section 5 of this 2015 Act.

(Licensure under Section 19 or 20,
Chapter 1, Oregon Laws 2015)

SECTION 7. A marijuana grow site may be located at the same address as a premises licensed under section 19 or 20, chapter 1, Oregon Laws 2015, provided that the person responsible for the marijuana grow site:

(1) Stores all mature marijuana plants and immature marijuana plants produced at the marijuana grow site as allowed under the provisions ORS 475.300 to 475.346 and any cannabinoid edible or cannabinoid extract processed at the marijuana grow site as allowed under the provisions of ORS 475.300 to 475.346 separately from any marijuana item, as that term is defined in section 5, chapter 1, Oregon Laws 2015, that is produced or processed as allowed under the provisions of sections 3 to 70, chapter 1, Oregon Laws 2015; and

1 (2) Includes as part of the record kept pursuant to section 5 of this 2015 Act the amount
2 of marijuana and the amount of each type of marijuana extract or marijuana product, as
3 those terms are defined in section 5, chapter 1, Oregon Laws 2015, that is produced or pro-
4 cessed as allowed under the provisions of sections 3 to 70, chapter 1, Oregon Laws 2015.

5
6 (Applicability)
7

8 **SECTION 8.** (1) Except as provided in subsection (2) of this section, sections 4 to 7 of this
9 2015 Act and the amendments to ORS 475.304 by section 2 of this 2015 Act apply to persons
10 who have registered with the Oregon Health Authority under ORS 475.304 before, on and af-
11 ter the operative date specified in section 53 of this 2015 Act.

12 (2) The amendments to ORS 475.304 (1) by section 2 of this 2015 Act apply to:

13 (a) Applications received by the authority to register a marijuana grow site under ORS
14 475.304 on or after the operative date specified in section 53 of this 2015 Act; and

15 (b) Applications received by the authority under ORS 475.309 (7)(a)(B)(ii) on or after the
16 operative date specified in section 53 of this 2015 Act that update information related to a
17 person responsible for a marijuana grow site under ORS 475.304.

18
19 **REGISTRY IDENTIFICATION CARDHOLDERS**
20 **AND DESIGNATED PRIMARY CAREGIVERS**
21

22 (Registry Identification Cardholders)
23

24 **SECTION 9.** 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 sisting 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) Proof of residency, as required by the authority by rule;
- 3 (e) The name and address of the applicant's designated primary caregiver, if the applicant
- 4 is designating a primary caregiver under ORS 475.312;
- 5 (f) The name and address of the person responsible for the marijuana grow site that will
- 6 produce and process marijuana for the applicant, if the applicant has made a designation
- 7 under ORS 475.304; and
- 8 (g) The address at which the marijuana used by the applicant will be produced.
- 9 (3) The authority shall issue a registry identification card to an applicant who is under
- 10 18 years of age if:
 - 11 (a) The applicant pays the fee and submits the application described in subsection (2) of
 - 12 this section; and
 - 13 (b) The custodial parent or legal guardian who is responsible for the health care decisions
 - 14 of the applicant signs and submits to the authority a written statement that:
 - 15 (A) The attending physician of the applicant has explained to the applicant and to the
 - 16 custodial parent or legal guardian the possible risks and benefits of the medical use of
 - 17 marijuana;
 - 18 (B) The custodial parent or legal guardian consents to the medical use of marijuana by
 - 19 the applicant;
 - 20 (C) The custodial parent or legal guardian agrees to serve as the designated primary
 - 21 caregiver of the applicant; and
 - 22 (D) The custodial parent or legal guardian agrees to control the acquisition, dosage and
 - 23 frequency of use of marijuana by the applicant.
 - 24 (4) A person applying for a registry identification card pursuant to this section may
 - 25 submit the information required by this section to a county health department for trans-
 - 26 mittal to the authority. A county health department that receives the information pursuant
 - 27 to this subsection shall transmit the information to the authority within five days after re-
 - 28 ceiving the information. Information received by a county health department pursuant to
 - 29 this subsection is confidential and not subject to public disclosure.
 - 30 (5) The authority shall approve or deny an application within 30 days after receiving the
 - 31 application.
 - 32 (6)(a) If the authority approves an application, the authority shall issue a serially num-
 - 33 bered registry identification card to the applicant within five days after approving the appli-
 - 34 cation. The registry identification card must include the following information:
 - 35 (A) The registry identification cardholder's name, address and date of birth;
 - 36 (B) The issuance date and expiration date of the registry identification card;
 - 37 (C) If the registry identification cardholder is designating a primary caregiver under ORS
 - 38 475.312, the name and address of the registry identification cardholder's designated primary
 - 39 caregiver;
 - 40 (D) If the registry identification cardholder makes a designation under ORS 475.304, the
 - 41 name and address of the person responsible for the marijuana grow site that produces and
 - 42 processes marijuana for the registry identification cardholder;
 - 43 (E) The address at which the marijuana used by the registry identification cardholder
 - 44 will be produced; and
 - 45 (F) Any other information required by the authority by rule.

1 (b) If the registry identification cardholder designates a primary caregiver under ORS
 2 475.312, the authority shall issue an identification card to the designated primary caregiver.
 3 The identification card must contain the information provided in paragraph (a) of this sub-
 4 section.

5 (c) If the registry identification cardholder makes a designation under ORS 475.304, the
 6 authority shall issue an identification card to the person responsible for the marijuana grow
 7 site that produces and processes marijuana for the registry identification cardholder. The
 8 identification card must contain the information provided in paragraph (a) of this subsection.

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

10 (A) Notify the authority of any change concerning the registry identification cardholder's
 11 name, address, attending physician, designated primary caregiver or person responsible for
 12 the marijuana grow site that produces and processes marijuana for the registry identification
 13 cardholder, or of any change concerning the address at which the marijuana used by the
 14 registry identification cardholder will be produced; and

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

18 (i) Updated written documentation from the registry identification cardholder's attending
 19 physician of the registry identification cardholder's debilitating medical condition and
 20 whether the medical use of marijuana may mitigate the symptoms or effects of the registry
 21 identification cardholder's debilitating medical condition;

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

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

26 (b) If a registry identification cardholder fails to comply with this subsection, the au-
 27 thority, subject to subsection (9) of this section, may revoke the registry identification card.
 28 If a registry identification card is revoked, the identification cards issued under subsection
 29 (6)(b) and (c) of this section shall also be revoked.

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

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

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

45 (A) The applicant or registry identification cardholder does not provide the information

1 required by this section;

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

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

6 (b) Denial of an application for a registry identification card or an application to renew
7 a registry identification card, or revocation of a registry identification card, is a final agency
8 action subject to judicial review. Only the applicant or, if the applicant is under 18 years of
9 age, the custodial parent or legal guardian of the applicant has standing to contest the denial
10 or revocation.

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

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

19 (b) Denial of a designation or revocation of an identification card is a final agency action
20 subject to judicial review. Only the person whose designation has been denied or whose
21 identification card has been revoked has standing to contest the denial or revocation.

22 (c) A person whose designation has been denied or whose identification card has been
23 revoked under this subsection may not be designated under ORS 475.304 or 475.312 for six
24 months from the date of the denial or revocation unless otherwise authorized by the au-
25 thority.

26 (11) Notwithstanding subsection (2) or (7) of this section, if an applicant for a registry
27 identification card, or if a registry identification cardholder applying to renew a registry
28 identification card, submits to the authority proof of having served in the Armed Forces of
29 the United States and of having been diagnosed with post-traumatic stress disorder, the au-
30 thority may not impose a fee that is greater than \$20 for the issuance or renewal of the
31 registry identification card.

32 (12) For any purpose described in ORS 475.300 to 475.346, including exemption from
33 criminal liability under section 30 of this 2015 Act, written documentation submitted to the
34 authority under subsections (2) and (3) of this section has the same legal effect as a registry
35 identification card until the person who submitted the documentation has been notified that
36 the person's application for a registry identification card has been approved or denied.

37
38 (Designated Primary Caregivers)

39
40 **SECTION 10.** ORS 475.312 is amended to read:

41 475.312. (1) If a person who [*possesses a registry identification card issued pursuant to ORS*
42 *475.309*] **is applying for a registry identification card under ORS 475.309, or who is a registry**
43 **identification cardholder**, chooses to [*have a designated*] **designate, or to change the designation**
44 **of, a primary caregiver**, the person must [*designate the primary caregiver by including*] **include** the
45 primary caregiver's name and address:

1 (a) On the person’s application for a registry identification card;

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

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

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

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

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

11
12 (Applicability)

13
14 **SECTION 11.** The amendments to ORS 475.309 and 475.312 by sections 9 and 10 of this 2015
15 Act apply to:

16 (1) Applications received by the Oregon Health Authority for a registry identification
17 card on or after the operative date specified in section 53 of this 2015 Act;

18 (2) Applications received by the authority to renew a registry identification card on or
19 after the operative date specified in section 53 of this 2015 Act; and

20 (3) Registry identification cards updated by the authority on or after the operative date
21 specified in section 53 of this 2015 Act.

22
23 **PROVISIONS THAT APPLY TO ALL CARDHOLDERS**

24
25 (Proof of Issuance)

26
27 **SECTION 12.** ORS 475.306 is amended to read:

28 475.306. [(1) A person who possesses a registry identification card issued pursuant to ORS 475.309
29 may engage in, and a designated primary caregiver of such a person may assist in, the medical use
30 of marijuana only as justified to mitigate the symptoms or effects of the person’s debilitating medical
31 condition.]

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

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

37 **A person to whom a registry identification card has been issued under ORS 475.309 (6)(a),**
38 **or to whom an identification card has been issued under ORS 475.309 (6)(b) or (c), may not**
39 **possess marijuana in a location other than the address identified pursuant to ORS 475.309**
40 **(6)(a)(A) or (E) unless the person is carrying the registry identification card or the identifi-**
41 **cation card.**

42
43 (Possession Limits)

44
45 **SECTION 13.** ORS 475.320 is amended to read:

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

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

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

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

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

12 [(B) If the marijuana is usable marijuana or an immature marijuana plant and the registry iden-
13 tification cardholder authorizes the person responsible for the marijuana grow site to transfer the us-
14 able marijuana or immature marijuana plant to a medical marijuana facility registered under ORS
15 475.314, to the medical marijuana facility.]

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

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

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

23 [(e) Must provide all marijuana produced for a registry identification cardholder or designated
24 primary caregiver to the cardholder or caregiver at the time the person responsible for a marijuana
25 grow site ceases producing marijuana for the cardholder or caregiver.]

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

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

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

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

40 **(1) Subject to subsection (2) of this section, a registry identification cardholder, the des-
41 ignated primary caregiver of the registry identification cardholder and the person responsible
42 for a marijuana grow site under ORS 475.304 who grows marijuana for the registry identifi-
43 cation cardholder may jointly possess up to six mature marijuana plants.**

44 **(2)(a) If the address of a person responsible for a marijuana grow site under ORS 475.304
45 is located within city limits in an area zoned for residential use, only 12 mature marijuana**

1 plants may be produced at the address.

2 (b) If the address of a person responsible for a marijuana grow site under ORS 475.304
 3 is located in an area other than an area described in paragraph (a) of this subsection, only
 4 48 mature marijuana plants may be produced at the address.

5 (c) This subsection does not apply to any mature marijuana plants produced as allowed
 6 under the provisions of sections 3 to 70, chapter 1, Oregon Laws 2015, at a premises licensed
 7 under section 19, chapter 1, Oregon Laws 2015, that are kept separate from mature
 8 marijuana plants produced as allowed under the provisions of ORS 475.300 to 475.346 as de-
 9 scribed in section 7 of this 2015 Act.

10 (3) If a law enforcement officer determines that a registry identification cardholder, the
 11 designated primary caregiver of a registry identification cardholder or a person responsible
 12 for a marijuana grow site under ORS 475.304 who grows marijuana for a registry identifica-
 13 tion cardholder possesses an amount of usable marijuana or a number of mature or imma-
 14 ture marijuana plants in excess of the quantities specified in subsection (1) or (2) of this
 15 section, the law enforcement officer may confiscate only the excess amount of usable
 16 marijuana or the excess number of mature or immature marijuana plants.

17
 18 **MEDICAL MARIJUANA FACILITIES**

19
 20 **(Registration)**

21
 22 **SECTION 14.** ORS 475.314, as amended by section 5, chapter 79, Oregon Laws 2014, is amended
 23 to read:

24 475.314. [(1) *The Oregon Health Authority shall establish by rule a medical marijuana facility*
 25 *registration system to authorize the transfer of usable marijuana and immature marijuana plants*
 26 *from:]*

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

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

32 **(1) The Oregon Health Authority shall establish by rule a system for registering medical**
 33 **marijuana facilities.**

34 (2) The registration system established under subsection (1) of this section must require **an ap-**
 35 **plicant for** a medical marijuana facility to submit an application to the authority that includes:

36 **(a) The name of the individual who owns the medical marijuana facility or, if a business**
 37 **entity owns the medical marijuana facility, each individual who has a financial interest in the**
 38 **medical marijuana facility;**

39 [(a)] **(b) The name of the [person] individual or individuals** responsible for the medical
 40 marijuana facility, **if different from the name of the individual who owns the medical**
 41 **marijuana facility;**

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

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

45 [(d)] **(e) Documentation, as required by the authority by rule, that demonstrates the medical**

1 marijuana facility meets the [*qualifications for a medical marijuana facility as described in*] **re-**
 2 **quirements under** subsection (3) of this section; and

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

4 (3) To qualify for registration under this section, a medical marijuana facility:

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

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

9 (b) May not be located at the same address as a marijuana grow site;

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

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

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

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

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

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

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

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

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

27 **(e) Must meet the requirements of any rule adopted by the authority under subsection**
 28 **(10) of this section.**

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

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

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

39 (5) If a person submits the application required under subsection (2) of this section, **if** the med-
 40 ical marijuana facility identified in the application meets the [*qualifications for a medical marijuana*
 41 *facility described in subsection (3) of this section and the person responsible for the medical marijuana*
 42 *facility*] **requirements of this section and any rules adopted under this section and if each**
 43 **individual named in the application** passes the criminal records check required under subsection
 44 (4) of this section, the authority shall register the medical marijuana facility and issue [*the person*
 45 *responsible for the medical marijuana facility*] proof of registration. [*The person responsible for the*

1 *medical marijuana facility shall display the*] Proof of registration **must be displayed** on the premises
 2 of the medical marijuana facility at all times when usable marijuana or immature marijuana plants
 3 are being transferred as described in *[subsection (1) of this section]* **ORS 475.304 (5)(c)**.

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

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

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

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

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

14 **(7) The individual or individuals responsible for a medical marijuana facility shall main-**
 15 **tain documentation of each transfer of usable marijuana and immature marijuana plants.**

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

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

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

25 *[(9)]* **(8)** The authority may inspect:

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

29 **(a) The premises of a proposed medical marijuana facility or a registered medical**
 30 **marijuana facility to ensure compliance with this section and sections 24 and 26 of this 2015**
 31 **Act and any rules adopted under this section or section 26 of this 2015 Act; and**

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

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

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

43 **[(11)] (9) Subject to the provisions of ORS chapter 183,** the authority may revoke the regis-
 44 tration of a medical marijuana facility *[registered under this section]* for failure to comply with ORS
 45 475.300 to 475.346, rules adopted under ORS 475.300 to 475.346 or ordinances adopted pursuant to

1 section 2, chapter 79, Oregon Laws 2014. [*The authority may release to the public a final order re-*
2 *voking a medical marijuana facility registration.*]

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

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

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

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

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

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

14
15 (Designation and Assignment of Responsibility)

16
17 **SECTION 15.** Section 16 of this 2015 Act is added to and made a part of ORS 475.300 to
18 **475.346.**

19 **SECTION 16.** (1) **An individual responsible for a medical marijuana facility registered**
20 **under ORS 475.314 may designate 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 Health Authority proof that the designee or assignee meets the**
23 **requirements and restrictions set forth in ORS 475.314 (4).**

24 (3) **The authority may prescribe the form and manner of making a submission under**
25 **subsection (2) of this section.**

26
27 (School Zone)

28
29 **SECTION 17.** Section 18 of this 2015 Act is added to and made a part of ORS 475.300 to
30 **475.346.**

31 **SECTION 18.** **If a school described in ORS 475.314 (3)(d) is established within 1,000 feet**
32 **of a medical marijuana facility registered under ORS 475.314, the medical marijuana facility**
33 **may remain at its current location until the date on which the medical marijuana facility**
34 **must renew its registration with the Oregon Health Authority for the second time following**
35 **the date on which the school is first attended by students.**

36
37 (Confidentiality)

38
39 **SECTION 19.** Section 20 of this 2015 Act is added to and made a part of ORS 475.300 to
40 **475.346.**

41 **SECTION 20.** (1) **Any personally identifiable information, as defined in ORS 432.005, other**
42 **than a name submitted with an application under ORS 475.314, that the Oregon Health Au-**
43 **thority keeps or maintains for purposes of registering a medical marijuana facility under**
44 **ORS 475.314 is confidential and not subject to public disclosure under ORS 192.410 to 192.505.**

45 (2) **Any record that the authority keeps or maintains for purposes related to the instal-**

1 lation or maintenance of a security system by a registered medical marijuana facility is
2 confidential and not subject to public disclosure under ORS 192.410 to 192.505.

3
4 (Secured Party)

5
6 SECTION 21. Section 22 of this 2015 Act is added to and made a part of ORS 475.300 to
7 475.346.

8 SECTION 22. (1) In the event that a medical marijuana facility registered under ORS
9 475.314 is foreclosed or otherwise ceases operations as described in ORS chapter 79, a secured
10 party, as defined in ORS 79.0102, may continue operations at the medical marijuana facility
11 upon submitting to the Oregon Health Authority proof that the secured party or, if the se-
12 cured party is a business entity, any individual who has a financial interest in the secured
13 party, meets the requirements and restrictions set forth in ORS 475.314 (4).

14 (2) The authority may prescribe the form and manner of making a submission under this
15 section.

16
17 (Testing)

18
19 SECTION 23. Section 24 of this 2015 Act is added to and made a part of ORS 475.300 to
20 475.346.

21 SECTION 24. Testing of usable marijuana and immature marijuana plants as required
22 under ORS 475.314 (10) must be conducted by a laboratory accredited under ORS 438.605 to
23 438.620.

24
25 (Safety Standards)

26
27 SECTION 25. Section 26 of this 2015 Act is added to and made a part of ORS 475.300 to
28 475.346.

29 SECTION 26. (1) A medical marijuana facility registered under ORS 475.314 may not
30 transfer a medical marijuana product to a registry identification cardholder or the desig-
31 nated primary caregiver of the registry identification cardholder if:

32 (a) The medical marijuana product is not packaged in child-resistant safety packaging
33 that meets standards established by the Oregon Health Authority;

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

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

39 (2) The authority shall adopt rules to implement this section.

40
41 (Oversight and Implementation Agreement)

42
43 SECTION 27. Section 28 of this 2015 Act is added to and made a part of ORS 475.300 to
44 475.346.

45 SECTION 28. The Oregon Health Authority shall enter into an agreement with the

1 Oregon Liquor Control Commission under which the commission shall oversee the adminis-
 2 tration of medical marijuana facilities registered under ORS 475.314 and provide the author-
 3 ity with any assistance necessary to implement the provisions of ORS 475.314 and sections
 4 16, 18, 20, 22, 24 and 26 of this 2015 Act.

5
 6 **EXEMPTIONS FROM CRIMINAL LIABILITY**
 7 **AND AFFIRMATIVE DEFENSE**
 8

9 **SECTION 29.** Section 30 of this 2015 Act is added to and made a part of ORS 475.300 to
 10 475.346.

11 **SECTION 30.** Except as provided in ORS 475.316, a person engaged in or assisting in the
 12 medical use of marijuana is exempt from the criminal laws of this state for possession, de-
 13 livery or manufacture of marijuana, aiding and abetting another in the possession, delivery
 14 or manufacture of marijuana or any other criminal offense in which possession, delivery or
 15 manufacture of marijuana is an element if:

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

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

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

22 (4) The person is responsible for or is employed by a marijuana grow site registered un-
 23 der ORS 475.304.

24 (5) The person owns, is responsible for or is employed by a medical marijuana facility
 25 registered under ORS 475.314.

26 (6) The person is authorized to conduct tests pursuant to section 24 of this 2015 Act.

27 **SECTION 31.** ORS 475.319 is amended to read:

28 475.319. (1) Except as provided in ORS 475.316 [*and 475.342*], [*it is*] **a person has** an affirmative
 29 defense to a criminal charge of possession [*or production*], **delivery or manufacture** of marijuana,
 30 or any other criminal offense in which possession [*or production*], **delivery or manufacture** of
 31 marijuana is an element, [*that*] **if** the person charged with the offense [*is a person who*]:

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

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

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

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

42 (3) [*No*] **A** person engaged in the medical use of marijuana who claims that marijuana provides
 43 medically necessary benefits and who is charged with a crime pertaining to [*such*] **the** use of
 44 marijuana [*shall be*] **is not** precluded from presenting a defense of choice of evils, as set forth in
 45 ORS 161.200, or from presenting evidence supporting the necessity of marijuana for treatment of a

1 specific disease or medical condition, provided that *[the amount of marijuana at issue is no greater*
 2 *than permitted under ORS 475.320 and the patient]*:

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

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

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

15 **SECTION 32.** ORS 475.316 is amended to read:

16 475.316. *[(1) No person authorized to possess, deliver or produce marijuana for medical use pur-*
 17 *suant to ORS 475.300 to 475.346 shall be excepted from the criminal laws of this state or shall be*
 18 *deemed to have established an affirmative defense to criminal charges of which possession, delivery or*
 19 *production of marijuana is an element if the person, in connection with the facts giving rise to such*
 20 *charges:]* **A person is not exempt from the criminal laws of this state for possession, delivery**
 21 **or manufacture of marijuana, aiding and abetting another in the possession, delivery or**
 22 **manufacture of marijuana or any other criminal offense in which possession, delivery or**
 23 **manufacture of marijuana is an element, and the person may not assert the affirmative de-**
 24 **fense established in ORS 475.319, if the person, in connection with conduct constituting an**
 25 **element of the offense:**

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

27 *[(b)]* **(2)** Engages in the medical use of marijuana in a public place, as *[that term is]* defined in
 28 ORS 161.015, *[or]* in public view or in a correctional facility, as defined in ORS 162.135 (2), or a
 29 youth correction facility, as defined in ORS 162.135 (6);

30 *[(c)]* **(3)** Delivers marijuana to any individual who the person knows is not in possession of a
 31 registry identification card **or to any individual or entity that the person knows has not been**
 32 **designated to receive marijuana or assigned a possessory interest in marijuana by an indi-**
 33 **vidual in possession of a registry identification card;**

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

36 *[(e)]* **(4)** *[Manufactures or]* Produces **or processes** marijuana at a place other than a marijuana
 37 grow site *[authorized]* **registered** under ORS 475.304; or

38 *[(f)]* **(5)** *[Manufactures or]* Produces **or processes** marijuana at more than one address, **unless**
 39 **the person produces or processes marijuana items as allowed under the provisions of**
 40 **sections 3 to 70, chapter 1, Oregon Laws 2015, and the person is in compliance with section**
 41 **7 of this 2015 Act.**

42 *[(2) In addition to any other penalty allowed by law, a person who the Oregon Health Authority*
 43 *finds has willfully violated the provisions of ORS 475.300 to 475.346, or rules adopted under ORS*
 44 *475.300 to 475.346, may be precluded from obtaining or using a registry identification card for the*
 45 *medical use of marijuana for a period of up to six months, at the discretion of the authority.]*

EXEMPTION FROM CIVIL LIABILITY

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

SECTION 34. 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 35. Section 36 of this 2015 Act is added to and made a part of ORS 475.300 to 475.346.

SECTION 36. (1) For purposes of ORS 475.300 to 475.346, seeds of the plant Cannabis family Cannabaceae are a propagant of nursery stock as defined in ORS 571.005.

(2) Notwithstanding subsection (1) of this section, the production and processing of seeds under ORS 475.300 to 475.346 is not subject to the labeling or other requirements of ORS 576.715 to 576.744 or 633.511 to 633.750.

AUTHORITY TO IMPOSE FEE OR TAX

SECTION 37. Section 38 of this 2015 Act is added to and made a part of ORS 475.300 to 475.346.

SECTION 38. (1) Except as expressly authorized by state statute, the authority to impose a tax or fee on the production, processing or sale of marijuana or medical marijuana products under ORS 475.300 to 475.346 is vested solely in the Legislative Assembly.

(2) Except as expressly authorized by state statute, a county, city or other municipal corporation or district may not enact ordinances imposing a tax or fee on the production, processing or sale of marijuana or medical marijuana products under ORS 475.300 to 475.346.

OTHER AMENDMENTS

SECTION 39. 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;

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

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

5 **SECTION 40.** ORS 475.303 is amended to read:

6 475.303. (1) There is [*created*] **established within the Oregon Health Authority** the Advisory
 7 Committee on Medical Marijuana [*in the Oregon Health Authority*], consisting of 11 members ap-
 8 pointed by the Director of the Oregon Health Authority.

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

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

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

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

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

24 **SECTION 41.** ORS 475.323 is amended to read:

25 475.323. (1) [*Possession of a registry identification card, designated primary caregiver identification*
 26 *card pursuant to ORS 475.309 or proof of registration as a medical marijuana facility under ORS*
 27 *475.314*] **Registration under ORS 475.300 to 475.346 or possession of proof of registration under**
 28 **ORS 475.300 to 475.346** does not [*alone*] constitute probable cause to search the person or property
 29 of the [*cardholder*] **registrant** or otherwise subject the person or property of the [*cardholder*] **reg-**
 30 **istrant** to inspection by [*any governmental*] **a government** agency. However, the [*Oregon Health*
 31 *Authority may inspect a medical marijuana facility registered under ORS 475.314*] **Oregon Health**
 32 **Authority, or the Oregon Liquor Control Commission pursuant to section 28 of this 2015 Act,**
 33 **may inspect a medical marijuana facility registered under ORS 475.314** at any reasonable time
 34 to determine whether the **medical marijuana** facility is in compliance with ORS 475.300 to 475.346
 35 **and rules adopted under ORS 475.300 to 475.346.**

36 (2) Any property interest possessed, owned or used in connection with the medical use of
 37 marijuana or acts incidental to the medical use of marijuana that has been seized by state or local
 38 law enforcement officers may not be harmed, neglected, injured or destroyed while in the possession
 39 of [*any*] **a** law enforcement agency[.], **except that** a law enforcement agency has no responsibility
 40 to maintain live marijuana plants lawfully seized. [*No*] Such property interest may **not** be forfeited
 41 under any provision of law providing for the forfeiture of property [*other than as*], **except pursuant**
 42 **to** a sentence imposed after conviction of a criminal offense. [*Usable*] Marijuana and **equipment or**
 43 **paraphernalia used to manufacture, produce or** administer marijuana that was seized by [*any*] **a**
 44 law enforcement [*office*] **officer** shall be returned immediately [*upon a determination by*] **if** the dis-
 45 trict attorney in whose county the property was seized, or the district attorney's designee, **deter-**

1 **mines** that the person from whom the marijuana, **equipment** or paraphernalia [*used to administer*
2 *marijuana*] was seized is entitled to the protections [*contained in*] **provided by** ORS 475.300 to
3 475.346. The determination may be evidenced[, *for example,*] by a decision not to prosecute, the dis-
4 missal of charges or acquittal.

5 **SECTION 42.** ORS 475.326 is amended to read:

6 475.326. [*No attending physician may be subjected to civil penalty or discipline by the Oregon*
7 *Medical Board for:*] **The Oregon Medical Board may not impose a civil penalty or take other**
8 **disciplinary action against an attending physician for:**

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

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

22 **SECTION 43.** ORS 475.328 is amended to read:

23 475.328. (1) [*No*] **A** professional licensing board may **not** impose a civil penalty or take other
24 disciplinary action against a licensee based on the licensee's medical use of marijuana [*in accordance*
25 *with*] **under** the provisions of ORS 475.300 to 475.346 or actions taken by the licensee [*that are*
26 *necessary to carry out the licensee's role as a designated primary caregiver to a person who possesses*
27 *a lawful registry identification card*] **pursuant to the licensee's designation as a primary**
28 **caregiver under ORS 475.312.**

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

35 (b) Nothing in this subsection requires:

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

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

39 **(3) A licensed health care professional may not refuse to prescribe or dispense a**
40 **medication to a person who possesses a registry identification card, provided that the**
41 **medication is not contraindicated for that person.**

42 **SECTION 44.** 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 names and addresses of persons responsible for a marijuana grow site under ORS**
 7 **475.304.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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 **(D) A submission made under section 5 of this 2015 Act is accurate.**

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

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

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

43 (c) A location is *[an authorized marijuana grow site;]* **the designated address at which**
 44 **marijuana is produced or processed for a lawful possessor of a registry identification card;**
 45 **or**

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

2 *[(e) A person is the person listed as the person responsible for a registered medical marijuana fa-*
3 *cility.]*

4 **(d) A submission made under section 5 of this 2015 Act is accurate.**

5 **SECTION 45.** ORS 475.334 is amended to read:

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

15 **SECTION 46.** ORS 475.338 is amended to read:

16 475.338. **(1) Subject to subsection (2) of this section,** the Oregon Health Authority shall adopt
17 *[all]* rules necessary for the implementation and administration of ORS 475.300 to 475.346.

18 **(2) In adopting rules related to the implementation of ORS 475.314 and sections 16, 18,**
19 **20, 22, 24 and 26 of this 2015 Act, the authority shall:**

20 **(a) Adopt rules only after consulting with the Oregon Liquor Control Commission for the**
21 **purpose of harmonizing rules related to the implementation of ORS 475.314 and sections 16,**
22 **18, 20, 22, 24 and 26 of this 2015 Act with the provisions of sections 3 to 70, chapter 1, Oregon**
23 **Laws 2015, providing for the regulation of premises licensed under section 22, chapter 1,**
24 **Oregon Laws 2015; and**

25 **(b) Take into account any difference between marijuana and medical marijuana products**
26 **that are intended for medical use and marijuana items, as that term is defined in section 5,**
27 **chapter 1, Oregon Laws 2015.**

28 **SECTION 47.** ORS 475.340 is amended to read:

29 475.340. Nothing in ORS 475.300 to 475.346 *[shall be construed to require]* **requires:**

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

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

33 **SECTION 48.** ORS 475.342 is amended to read:

34 475.342. *[Nothing in]* **The provisions of** ORS 475.300 to 475.346 *[shall protect]* **do not protect**
35 a person from a criminal cause of action based on possession, *[production, or]*, delivery **or manu-**
36 **facture** of marijuana that is not *[authorized by]* **allowed under** ORS 475.300 to 475.346.

37 **SECTION 49.** Section 2, chapter 79, Oregon Laws 2014, is amended to read:

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

CONFORMING AMENDMENTS

1
2
3 **SECTION 50.** ORS 181.534 is amended to read:

4 181.534. (1) As used in this section:

5 (a) "Authorized agency" means state government as defined in ORS 174.111 and the Oregon
6 State Bar. "Authorized agency" does not include:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

40 (a) The nature of the crime;

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

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

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

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

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

6 (C) The likelihood of a repetition of offenses or of the commission of another crime;

7 (D) The subsequent commission of another relevant crime;

8 (E) Whether the conviction was set aside and the legal effect of setting aside the conviction; and

9 (F) A recommendation of an employer.

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

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

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

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

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

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

44 (17) If an authorized agency requires a criminal records check of employees, prospective em-
45 ployees, contractors, vendors or volunteers or applicants for a license, certification, registration or

1 permit, the application forms of the authorized agency must contain a notice that the person is
 2 subject to fingerprinting and a criminal records check.

3 **SECTION 51.** ORS 181.537 is amended to read:

4 181.537. (1) As used in this section:

5 (a) "Care" means the provision of care, treatment, education, training, instruction, supervision,
 6 placement services, recreation or support to children, the elderly or persons with disabilities.

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

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

13 (2) For the purpose of requesting a state or nationwide criminal records check under ORS
 14 181.534, the Department of Human Services, the Oregon Health Authority and the Employment De-
 15 partment may require the fingerprints of a person:

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

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

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

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

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

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

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

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

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

32 (iii) Purchasing or selling property;

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

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

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

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

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

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

1 ents; or

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

4 (3) The Department of Human Services and the Oregon Health Authority may conduct criminal
5 records checks on a person through the Law Enforcement Data System maintained by the Depart-
6 ment of State Police, if deemed necessary by the Department of Human Services or the Oregon
7 Health Authority to protect children, elderly persons, persons with disabilities or other vulnerable
8 persons.

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

15 (5)(a) Except as otherwise provided in ORS 443.735 and ~~[475.304]~~ **475.300 to 475.346**, a qualified
16 entity, using rules adopted by the Department of Human Services or the Oregon Health Authority
17 under ORS 181.534 (9) and rules adopted by the Oregon Department of Administrative Services un-
18 der ORS 181.547, shall determine under this section whether a person is fit to hold a position, pro-
19 vide services, be employed or, if the qualified entity has authority to make such a determination,
20 be licensed, certified or registered, based on the criminal records check obtained pursuant to ORS
21 181.534, any false statements made by the person regarding the criminal history of the person and
22 any refusal to submit or consent to a criminal records check including fingerprint identification. If
23 a person is determined to be unfit, then that person may not hold the position, provide services or
24 be employed, licensed, certified or registered.

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

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

29 (a) The nature of the crime;

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

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

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

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

44 (8) A qualified entity and an employee of a qualified entity acting within the course and scope
45 of employment are immune from any civil liability that might otherwise be incurred or imposed for

1 determining pursuant to subsection (5) of this section that a person is fit or not fit to hold a position,
 2 provide services or be employed, licensed, certified or registered. A qualified entity, employee of a
 3 qualified entity acting within the course and scope of employment and an employer or employer's
 4 agent who in good faith comply with this section and the decision of the qualified entity or employee
 5 of the qualified entity acting within the course and scope of employment are not liable for the fail-
 6 ure to hire a prospective employee or the decision to discharge an employee on the basis of the
 7 qualified entity's decision. An employee of the state acting within the course and scope of employ-
 8 ment is not liable for defamation or invasion of privacy in connection with the lawful dissemination
 9 of information lawfully obtained under this section.

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

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

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

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

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

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

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

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

35
 36 **REPEALS**

37
 38 **SECTION 52. ORS 475.324 is repealed.**

39
 40 **OPERATIVE DATES**

41
 42 **SECTION 53. (1) Sections 3 to 8, 11, 15 to 30 and 33 to 38 of this 2015 Act, the amend-**
 43 **ments to statutes and session law by sections 1, 2, 9, 10, 12 to 14, 31, 32 and 39 to 51 of this**
 44 **2015 Act and the repeal of ORS 475.324 by section 52 of this 2015 Act become operative on**
 45 **January 1, 2016.**

