

BILL BRADBURY
SECRETARY OF STATE



ELECTIONS DIVISION
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August 20, 2007

To All Interested Parties:

Secretary of State Bill Bradbury is responsible for the pre-election review of proposed initiative petitions for compliance with the procedural constitutional requirements established in the Oregon Constitution for initiative petitions. This review will be completed before approving the form of the cover and signature sheets for the purpose of circulating the proposed initiative petition to gather signatures.

The Secretary of State is seeking public input on whether proposed initiative petition (#124), satisfies the procedural constitutional requirements for circulation as a proposed initiative petition. Petition #124 was filed in our office on August 17, 2007, by James L. Klahr, for the General Election of November 4, 2008.

Enclosed is a copy of the text of this proposed initiative petition. If you are interested in providing comments on whether the proposed initiative petition meets the procedural constitutional requirements, please write to the secretary at the Elections Division in the State Capitol. Your comments, if any, must be received by the Elections Division no later than September 11, 2007, in order for them to be considered in the review.

BILL BRADBURY
Secretary of State

BY:

Summer Davis
Compliance Specialist

An Act

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

This Act shall be known as:

The Oregon Regulated Medical Marijuana Supply System

SECTION 1. ORS 475.302 is amended to read:

475.302 Definitions for ORS 475.300 to 475.346. As used in ORS 475.300 to 475.346:

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

(2) “Debilitating medical condition” means:

(a) Cancer, glaucoma, agitation due to Alzheimer’s disease, positive status for human immunodeficiency virus or acquired immune deficiency syndrome, or treatment for these conditions;

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

(A) Cachexia;

(B) Severe pain;

(C) Severe nausea;

(D) Seizures, including but not limited to seizures caused by epilepsy; or

(E) Persistent muscle spasms, including but not limited to spasms caused by multiple sclerosis; or

(c) Any other medical condition or treatment for a medical condition adopted by the department by rule or approved by the department pursuant to a petition submitted pursuant to ORS 475.334.

(3) “Delivery” has the meaning given that term in ORS 475.005. “Delivery” does not include transfer of marijuana by a registry identification cardholder to another registry identification cardholder if no consideration is paid for the transfer.

(4) “Department” means the Department of Human Services.

(5) “Designated primary caregiver” means an individual 18 years of age or older who has significant responsibility for managing the well-being of a person who has been diagnosed with a debilitating medical condition and who is designated as such on that person’s application for a registry identification card or in other written notification to the department. “Designated primary caregiver” does not include the person’s attending physician.

(6) “Dispensary” means any nonprofit entity, including the directors, employees or agents of such an entity, licensed to possess, produce, deliver, transport, supply and dispense usable medical marijuana and medical marijuana plants to registry identification cardholders and to other dispensaries. Dispensaries may also assist patients with other products and services including equipment, supplies, and educational materials.

(7) “Licensed medical marijuana producer” or “producer” means a person or an entity licensed to produce medical marijuana and medical marijuana plants for dispensaries. A licensed medical marijuana producer may be an individual Oregon resident and the employees of the individual or a licensed dispensary and the directors and employees of the dispensary.

~~[(6)]~~ **(8) “Marijuana” has the meaning given that term in ORS 475.005.**

~~[(7)]~~ **(9) “Marijuana grow site” means a location where marijuana is produced for use by a registry identification cardholder and that is registered under the provisions of ORS 475.304.**

~~[(8)]~~ **(10) “Medical use of marijuana” means the production, possession, delivery, or administration of marijuana, or paraphernalia used to administer marijuana, as necessary for the exclusive benefit of a person to mitigate the symptoms or effects of the person’s debilitating medical condition.**

~~[(9)]~~ **(11) “Production” has the meaning given that term in ORS 475.005.**

~~[(10)]~~ **(12) “Registry identification card” means a document issued by the department that identifies a person authorized to engage in the medical use of marijuana and the person’s designated primary caregiver, if any.**

(13) “Regulated medical marijuana supply system” or “system” means the method authorized by rules adopted by the department for producing and distributing medical marijuana to registry identification cardholders and the individuals and nonprofit entities licensed to produce and distribute medical marijuana to registry identification cardholders.

~~[(11)]~~ **(14) “Usable marijuana” means the dried leaves and flowers of the plant Cannabis family Moraceae, and any mixture or preparation thereof, that are appropriate for medical use as allowed in ORS 475.300 to 475.346. “Usable marijuana” does not include the seeds, stalks and roots of the plant.**

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

SECTION 2. Sections 3, 4 and 5 of this Act are added to and made a part of ORS 475.300 to 475.346.

SECTION 3. (1) The Department of Human Services shall establish a regulated medical marijuana supply system. No general fund revenue shall be used to establish the system. The system shall be funded through program fees. The purpose of the system is to provide a safe, regulated supply of medical marijuana

for registry identification cardholders and to provide revenue to help fund the systems established under ORS 475.300 to 475.346 and other department programs.

(2) The provisions of this section are intended only to provide for an adequate supply of medical marijuana for registry identification cardholders and are not intended to change current civil or criminal laws governing the use of marijuana for nonmedical purposes.

(3) The purpose of the regulated medical marijuana supply system is to supplement the current system which requires patients to produce their own medicine. The system shall not infringe on a registry identification cardholder's ability to produce the registry identification cardholder's own medical marijuana or to designate a person responsible for a marijuana grow site to do so for the registry identification cardholder.

(4)(a) All medical marijuana dispensed by the system shall be produced by licensed producers.

(b) Notwithstanding ORS 475.304:

(A) A licensed dispensary may dispense medical marijuana and medical marijuana plants to any registry identification cardholder or person responsible for a marijuana grow site for use by the patient. A dispensary may be reimbursed for the costs associated with the production and dispensing of the medical marijuana.

(B) A licensed producer may provide medical marijuana and medical marijuana plants to licensed dispensaries and be reimbursed for the costs associated with the production of the medical marijuana and medical marijuana plants. A producer may transfer for no consideration medical marijuana and medical marijuana plants to any registry identification cardholder or person responsible for a marijuana grow site for use by the patient.

(5) System revenues shall be used to fund:

(a) Costs associated with the implementation and operation of the system established under this Act;

(b) The registry system established under ORS 475.300 to 475.346;

(c) The scientific research program established under section 5 of this Act;

(d) The program to assist low-income and needy registry identification cardholders in obtaining medical marijuana, established under section 4 of this Act; and

(e) Other department programs.

(6)(a) A person who has been convicted of a violent felony listed in ORS 137.635 or a felony theft offense listed in 164.015 shall not be licensed as a producer or as an employee of a producer or be licensed as a director or employee of a dispensary for five years from the date of the conviction. Any person convicted of a felony manufacturing or delivery violation of 475.840 (1)(a) or (b) after the effective date of this Act, may not be licensed as a producer or as an employee of a producer or be

licensed as a director or employee of a dispensary for five years from the date of the conviction.

(b) The department shall conduct a criminal records check under ORS 181.534 of any person whose name is submitted as a dispensary director or employee or as a producer or employee of a producer in order to comply with Section (6)(a).

(c) A person who is less than 21 years of age may not be an employee or director of a dispensary or be a producer or be an employee of a producer.

(7) Any dispensary, or any location used by a licensed producer to produce medical marijuana is subject to reasonable inspection by the department.

(8) All dispensaries and producers shall submit quarterly reports on all of their financial transactions, including transfers for no consideration.

(9) Dispensaries and producers shall pay to the department quarterly fees equal to 10 percent of their gross revenue.

(10) The department shall promulgate administrative rules necessary to implement this Act within 6 months of the effective date of this Act, including, but not necessarily limited to, rules governing:

(a) Permissible locations for dispensaries; initially dispensaries shall not be established within 1,000 feet of any school or within residential neighborhoods;

(b) Minimum requirements for security plans of dispensaries; and

(c) Penalties for dispensaries if directors or employees of a dispensary are convicted of criminal violations involving the operation of the dispensary.

(11) The department shall issue a dispensary license to a nonprofit entity that submits to the department:

(a) The name of the entity and any name used in dispensing medical marijuana.

(b) The address of any property used by the dispensary to possess, produce, deliver, transport, dispense, or distribute marijuana.

(c) The names, addresses and dates of birth of all principal officers and board members of the dispensary.

(d) The names, addresses and dates of birth of all dispensary employees.

(e) A nonrefundable fee paid to the department in the amount established by the department by rule. The initial fee for a dispensary license is \$2,000.

(f) Proof of Oregon residency of all principal officers, board members and employees.

(g) Any other information the department considers necessary.

(h) A dispensary license is valid for one year and shall be renewed prior to the expiration of a current license.

(i) The department shall issue a dispensary registry identification card to each listed director and employee of a qualifying dispensary within 30 days of issuing a license. The fee for each card shall initially be set at \$10.

(12) The Department of Human Services shall establish by rule a medical marijuana production site registration system to authorize production of marijuana by a producer. The medical marijuana production site registration system adopted must require a producer to submit an application to the department that includes:

(a) The name of the producer responsible for the medical marijuana production site and any employees of the producer.

(b) The addresses of the property used by the producer to produce marijuana.

(c) A nonrefundable fee paid to the department in the amount established by the department by rule. The initial fee for a producer license is \$1,000.

(d) Proof of Oregon residency and age.

(e) Any other information the department considers necessary.

(f) A producer license is valid for one year and shall be renewed prior to the expiration of a current license.

(g) The Department shall issue a producer registry identification card to each listed producer and employee of the producer within 30 days of issuing a license who has met the requirements of this section. The fee for each card shall initially be set at \$10.

(h) The Department shall issue a medical marijuana production site card to each producer that has met the requirements of this section. The medical marijuana production site card must be prominently posted at the location of the medical marijuana production site.

(13) A dispensary or producer may not:

(a) Dispense to any registry identification cardholder medical marijuana or marijuana plants in excess of the amounts allowed under ORS 475.320; or

(b) Possess more marijuana plants or usable medical marijuana than allowed by department rule. These amounts shall initially be set at the amounts that a person responsible for a marijuana grow site for four patients may possess under the current marijuana grow site registry system.

(14)(a) A medical marijuana dispensary including its directors, agents and employees of the dispensary are excepted from the criminal laws of this state for possession, production, delivery, or transportation of marijuana, or aiding and abetting another in the possession, production, delivery, or transportation of marijuana, or any other criminal offense in which possession, production, delivery, or transportation of marijuana is an element if the dispensary and the directors, agents and employees of the dispensary are in substantial compliance with this section and the applicable rules adopted by the department for regulating medical marijuana dispensaries.

(b) The department may suspend or revoke the license of a dispensary that is not in substantial compliance with this section. The department, by rule, may also establish fines and penalties for minor violations of the provisions of this section.

(c) A producer with a valid license is excepted from the criminal laws of this state for possession, production, delivery, or transportation of marijuana, or aiding and abetting another in the possession, production, delivery, or transportation of marijuana, or any other criminal offense in which possession, production, delivery, or transportation of marijuana is an element if the producer is in substantial compliance with this section and the applicable rules adopted by the department for regulating medical marijuana producers.

(d) The department may suspend or revoke any producer's license that is not in substantial compliance with this section. The department, by rule, may also establish fines and penalties for minor violations of the provisions of this section.

(15) A person authorized to possess, produce, deliver or transport marijuana for medical use pursuant to Section 3 of this Act is not excepted from the criminal laws of this state if the person:

- (a) Drives under the influence of marijuana as provided in ORS 813.010.**
- (b) Engages in the possession, production, distribution, or transportation of marijuana in public view.**
- (c) Delivers marijuana to any individual who the person knows is not a registry identification cardholder or person responsible for a marijuana grow site.**
- (d) Manufactures or distributes marijuana at an address not registered with the department.**
- (e) Fails to report transfer of medical marijuana authorized under this section to the department.**

(16) Dispensaries shall be established as nonprofit entities. They shall be subject to all applicable Oregon laws governing nonprofit entities, but need not have received 501(c)(3) tax exempt status from the Internal Revenue Service.

(17) List of persons and entities licensed as dispensaries and producers shall be protected by the same provisions protecting registry identification cardholders, designated primary caregivers and authorized grow sites under the disclosure rules established by ORS 475.331.

(18) Effect of possession of producer card or dispensary card on search and seizure rights shall have the same effect of possession of registry identification card or designated primary caregiver card established under ORS 475.323

(19) A law enforcement officer who determines that a dispensary or producer cardholder is in possession of amounts of usable marijuana or numbers of marijuana plants in excess of the amount or number authorized by this Act may confiscate only any usable marijuana or plants that are in excess of the amount or number authorized.

SECTION 4. (1) The Department of Human Services, with input from the Advisory Committee on Medical Marijuana, shall develop and adopt rules to implement a program to assist low-income and needy registry identification cardholders in obtaining medical marijuana. The purpose of this program is to help patients who would not otherwise have safe access to obtain a minimum safe supply of medical marijuana.

(2)(a) The department shall annually review the program, submit an annual report on the program to the Advisory Committee on Medical Marijuana, and, with input from the Advisory Committee on Medical Marijuana, adopt rules and procedures necessary to improve the operation of this program.

(b) The department shall, if necessary, establish penalties for violations of the rules adopted under this section.

(3) No general fund revenue shall be used for this program. This program shall be funded by system fees.

SECTION 5. (1) The Department of Human Services may conduct scientific research into the efficacy and safety of medical marijuana used by registry identification cardholders of the Oregon Medical Marijuana Program.

(a) The purpose of the research is to assist physicians and patients in evaluating the risks and benefits of using medical marijuana and to provide a scientific basis for future policies.

(b) The department may provide grants to persons in this state to conduct such research.

(c) Research may include developing quality control, purity, and labeling standards for medical marijuana dispensed through the system.

(2) The department shall report the results of the research required under subsection (1) of this section to the Advisory Committee on Medical Marijuana established under ORS 475.303.

Section 6. Severability. If any Section or part of this Act is declared invalid, then all the remaining Sections remain in effect.

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BILL BRADBURY
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