

**WALDPORT CITY COUNCIL  
AUGUST 14, 2014  
MEETING NOTICE AND AGENDA**

The Waldport City Council will meet at 2:00 p.m. on Thursday, August 14, 2014 in the City Council Meeting Room, 125 Alsea Highway to take up the following agenda:

1. CALL TO ORDER
2. MINUTES: *July 10, 2014*
3. PUBLIC COMMENTS/PRESENTATIONS:
4. DISCUSSION/ACTION ITEMS
  - A) *Consideration of Ordinance Regarding Regulations for Medical Marijuana Dispensaries*
  - B) *Other Issues*
5. COUNCIL COMMENTS AND CONCERNS
6. REPORTS:
  - City Manager\**
  - Public Works Director*
  - City Librarian*
  - City Planner*
  - Code Compliance Officer*
7. GOOD OF THE ORDER
8. ADJOURNMENT

The City Council Meeting Room is accessible to all individuals. If you will need special accommodations to attend this meeting, please call City Hall, (541)264-7417, during normal office hours.

\* Denotes no material in packet

Notice given this 8<sup>th</sup> day of August, 2014 - Reda Q. Eckerman, City Recorder

**WALDPORT CITY COUNCIL  
JULY 10, 2014  
MEETING MINUTES**

1. **CALL TO ORDER AND ROLL CALL:** Mayor Woodruff called the meeting to order at 2:00 p.m. Mayor Woodruff and Councilors O'Brien, Gates, Brown, Campbell, Cutter and Holland answered the roll. A quorum was present.
2. **MINUTES:** The Council considered the meeting minutes from June 12, 2014. Councilor Cutter **moved** to approve the minutes as presented. Councilor Holland **seconded**, and the motion carried unanimously on a voice vote.
3. **PUBLIC COMMENTS/PRESENTATIONS:** John Maré addressed the Council on behalf of the Waldport Walkers and the Waldport Trails Committee regarding incidents involving graffiti and vandalism. Several benches and restroom facilities, as well as the gymnasium at the old Middle School, have been spray painted, and an attempt was made to burn one of the Woodland Trail benches. Public Works and volunteers from the Trails Committee have been cleaning up the defacements on a regular basis. Mayor Woodruff noted that Mr. Maré had recently received honor from the State of Oregon for his dedication to working on trails, and the Council and audience gave him a round of applause.
4. **DISCUSSION/ACTION ITEMS:**
  - A. **Dahl Disposal Fee Adjustment:** Nic and Zach Dahl made a short presentation and answered questions from the Council regarding recovery numbers, the location of their operations and reallocation of workers, the cost of fuel, and the calculation of the operating margin. Councilor Cutter **moved** to approve the request for rate increase. Councilor Brown **seconded**, and the motion **carried** unanimously.
  - B. **Library Board Reappointment Request:** The Council considered the request to appoint Jan Hansen to another term on the Library Board. Councilor Cutter **moved** to approve the appointment. Councilor Holland **seconded**, and the motion **carried** unanimously.
  - C. **Other Issues:** None.
5. **COUNCIL COMMENTS AND CONCERNS:** Councilor Holland indicated he had an interest in attending the upcoming League of Oregon Cities conference. Councilor O'Brien noted that he might attend as well. There were no objections. Councilor O'Brien reviewed the July SWAC meeting and mentioned an upcoming webinar in August, suggesting that Mr. Kemp might want to watch it as well. They are continuing to prepare a plan for debris removal in the event of a disaster. Mayor Woodruff noted that State Representative Gomberg would be speaking from 3:00 to 4:30 that day at the Oregon Coast Community College campus on Crestline. She mentioned that Wealthworks, a part of the Rural Development Initiatives, was offering a grant of \$640,000 and Lincoln, Tillamook and Columbia counties are working together on a project for food production. Mayor Woodruff and Mr. Kemp had attended a Chamber breakfast in Yachats recently, and the Kayak Shack made an excellent presentation. Councilor Campbell reported that the annual Chamber meeting had been held last month and was attended by about 50 people. They unveiled their new website, which has interactive features for the members, allowing them to integrate and update their own information. He noted that the recent fireworks display had been extremely well-received, though the fund-raising efforts had fallen short of the goal. Mayor Woodruff mentioned that the plans were moving forward for the next Great

Gravel Epic, the bike race to be held on August 23. She noted that the Lincoln County Transit Authority was looking for a board member from Waldport. Following a short discussion, it was determined that Councilor O'Brien would be the official representative, with Councilors Gates and Holland providing backup.

6. **REPORTS:** It was noted that the staff reports had been separately distributed at the meeting. City Manager Kemp indicated that there appeared to be language in the Municipal Code which addressed Fire Chief Cannon's concern about implementation of the International Fire Code. He noted that the recent Beachcomber Days celebration was well-attended, and mentioned that he will be working on a more formal application process for special events for the Council's consideration at a future meeting. Larry Lewis and he had a productive meeting with ODOT regarding additional improvements to Highways 101 and 34. The Council engaged in a brief discussion regarding revisiting the Highway 34 Scenic Byway designation. Mr. Kemp noted that the CoastCom franchise would be expiring in September, though it would automatically renew unless the Council wished to renegotiate. He has invited a representative from CoastCom to the August Council meeting. The Lincoln County Sheriff's Department has authorized a new records management system, which should be implemented in the next few months. One advantage of this will be a better reporting system. In regard to medical marijuana facilities, Mr. Kemp indicated that he would be bringing code language to the next Council meeting for consideration. Councilor O'Brien mentioned the recent vandalism at the old middle school and wondered if the City could provide monetary assistance for repairs. Following a brief discussion, **consensus** of the Council was not in favor. It was noted that funding requests are normally considered during the budget process. Mr. Kemp asked that the Council return their responses regarding the League of Oregon Cities' survey by the end of the following week.
7. **EXECUTIVE SESSION:** At 3:05 p.m. the Council recessed into Executive Session, pursuant to ORS 192.660(2)(l), to review and evaluate, pursuant to standards, criteria and policy directives adopted by the governing body, the employment-related performance of the chief executive officer. At 3:27 p.m. the Council meeting was reconvened.
8. **ACTIONS, IF ANY, FROM EXECUTIVE SESSION:** None.
9. **GOOD OF THE ORDER:** Nothing further.
10. **ADJOURNMENT:** At 3:28 p.m., there being no further business to come before the Council, the meeting was adjourned.

Respectfully submitted,

Reda Q Eckerman, City Recorder

APPROVED by the Waldport City Council this \_\_\_\_ day of \_\_\_\_\_, 2014.  
SIGNED by the Mayor this \_\_\_\_ day of \_\_\_\_\_, 2014.

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Susan Woodruff, Mayor



## **CITY COUNCIL MEETING AGENDA COVER SHEET FOR DISCUSSION / ACTION**

**TITLE OF ISSUE:** Regulations for Medical Marijuana Dispensaries

**REQUESTED BY:** City Council

**FOR MEETING DATE:** August 14, 2014

**SUMMARY OF ISSUE:**

State of Oregon law provides for licensing and regulation of medical marijuana dispensaries, including the adopting by local agencies of regulations with respect to time, manner and place.

**STAFF RECOMMENDATION or ACTION REQUESTED:**

Consider and adopt ordinance regarding regulations of medical marijuana dispensaries.

**BACKGROUND:**

The Oregon Medical Marijuana Act ("OMMA") was passed by the Legislature in 1998. The law is found in ORS 475.300, and provides legal protections for eligible patients, physician statements for each patient, caregiver assistance, and registration system by the Oregon Health Authority ("OHA"). The Oregon Medical Marijuana Program ("OMMP") started in 1999.

Many years later, the Legislature enacted House Bill 3460, which the Governor signed into law in August, 2013. As stated on the Oregon.gov website, key provisions of HB 3460 include:

- No person convicted of the manufacture or delivery of a Schedule I or II substance in the past five years will be allowed to register a dispensary. Persons with more than one conviction are permanently banned from operating dispensaries
- No dispensary may open or operate within 1,000 feet of a primary or secondary school
- No dispensary may open or operate within 1,000 feet of another dispensary.  
(Applications for competing locations will be processed on a first-come, first-served basis)
- Dispensaries must be located only in areas zoned commercial, industrial or agriculture
- All medical marijuana distributed through dispensaries must be tested for pesticides, mold and mildew, and may not be distributed if contaminants are found
- There must be a strong security system in place
- All product brought into and dispensed from the facility must be accounted for
- The Oregon Health Authority will visit and inspect each dispensary and audit its financial records at least once a year

## Medical Marijuana Dispensaries – Regulations

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Under the provisions of HB 3460 the OHA is authorized to establish procedures to license and regulate medical marijuana dispensaries (“Program Rules”).

Due to the lack of oversight at the local level with respect to the dispensary program, SB 1531 was approved by the State legislature and signed by the Governor in March, 2014. SB 1531 authorizes cities and counties to impose reasonable regulations on the operation of medical marijuana dispensaries (“MMDs”) registered, or applying for registration, with respect to time, place and manner in which they operate.

The City Council held a public workshop at its meeting on April 10, 2014, and directed the City Manager to prepare proposed reasonable regulations with respect to MMDs.

The enclosed draft ordinance (including its exhibits) provides regulations that adopt by reference, are additional to, or are more restrictive than, what is provided for in the Program Rules. Proposed regulations in the ordinance include, but are not limited to, the following items (with corresponding Program Rules are identified in brackets):

1. MMDs are not allowed in residential dwelling units [333-008-1110]
2. Drive-through facilities are not allowed
3. MMDs may operate between the hours of 9 a.m. and 7 p.m. (this is consistent with laws for liquor stores)
4. No minors allowed on the premises, unless accompanied by an adult [333-008-1200(1)(a)]
5. No products may be consumed on the premises, except by a card-carrying employee [333-008-1200(1)(b)]
6. All products must be packaged in child-resistant packaging, and be unattractive to minors [333-008-1225]
7. Criminal background checks on all employees [333-008-1130]
8. Report any disturbances or unlawful activity to Sheriff’s Office, and posting of a sign regarding same (an example is enclosed)
9. No product visible from outside, and prevention of substances from exiting
10. Indemnification and waiver of liability
11. Revocation of business license

Please note the following with respect to this ordinance, or marijuana in general: First, marijuana is still an illegal drug under the Controlled Substances Act. There is a potential risk for possible loss of future Federal funding. Second, there remains an open issue with respect to siting and regulating marijuana growing sites. Third, there is a possibility that marijuana products may be taxed, which ties in with the next item. Last, a marijuana legalization initiative appears that it may have qualified for the November 2014 ballot. More information on this matter will be forthcoming as it becomes available and as necessary.

Enclosures: Ordinance

- Exhibit A: Code Provisions
- Exhibit B: Oregon Medical Marijuana Act
- Exhibit C: Temporary Rules for the Medical Marijuana Dispensary Program
- Exhibit D: Chapter 79 of Oregon Laws 2014 (SB 1531)

Sample sign for placement in facility

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY OF WALDPOR, OREGON, AMENDING THE WALDPOR MUNICIPAL CODE BY ADDING CHAPTER 5.06 ENTITLED "MEDICAL MARIJUANA FACILITIES" AND DECLARING AN EMERGENCY.

WHEREAS, the State of Oregon has authorized the use of medical marijuana in accordance with the Oregon Medical Marijuana Act (ORS 475.300 *et seq.*) and has further adopted rules and restrictions of medical marijuana facilities as contained in ORS 475.314; and

WHEREAS, in March 2014 Oregon SB 1531 Section 2 allows governing bodies of a city to adopt reasonable regulations on the operation of medical marijuana facilities registered, or applying for registration, under ORS 475.314 that are located in the area subject to the jurisdiction of the city;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF WALDPOR ORDAINS AS FOLLOWS:

Section 1. Chapter 5.06, entitled "Medical Marijuana Facilities" as outlined in Exhibit A as attached hereto and by reference incorporated herein is added to Title 5 of the Waldport Municipal Code.

Section 2. The City hereby adopts ORS 475.300 to 475.346, OAR 333-008-1000 through 333-008-1290 and SB 1531, attached hereto as Exhibits B, C and D, as now written or hereinafter amended.

Section 3. Emergency Clause. Because it is important to implement this Ordinance as soon as practicable to avoid confusion and to preserve the public peace, health and safety, now, therefore, an emergency is declared to exist and this Ordinance shall go into full force and effect immediately upon its passage and approval.

FIRST read to the Council this \_\_\_\_ day of \_\_\_\_\_, 2014.

PASSED by the Common Council of the City of Waldport this \_\_\_\_ day of \_\_\_\_\_, 2014.

SIGNED by the Mayor this \_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
Susan Woodruff, Mayor

ATTEST:

\_\_\_\_\_  
Reda Eckerman, City Recorder

## EXHIBIT "A"

### Chapter 5.06

#### MEDICAL MARIJUANA DISPENSARIES

##### Sections:

- 5.06.010 Purpose
- 5.06.020 Definitions
- 5.06.030 Location
- 5.06.040 Business License Required
- 5.06.050 Hours and Rules of Operation
- 5.06.060 Security Requirements
- 5.06.070 Report of Disturbances and Unlawful Activity
- 5.06.080 Visibility of Activities; Control of Emissions
- 5.06.090 No City Liability - Indemnification
- 5.06.100 Revocation, Violations and Penalties
- 5.06.110 Adoption by Reference
- 5.06.120 Severability

##### 5.06.010 Purpose.

A. The purpose of this Chapter is to license medical marijuana facilities and to describe the restrictions upon such uses. In addition to compliance with this Chapter, every medical marijuana facility shall be compliant and follow all existing rules and regulations as outlined in the Waldport Municipal Code with regard to business licensing and zoning.

B. No part of this Chapter is intended to or shall be deemed to conflict with federal law, including but not limited to, the Controlled Substances Act, 21 U.S.C. Section 800 *et seq.*, the Uniform Controlled Substances Act (Chapter 69.50 RCW) nor to otherwise permit any activity that is prohibited under either Act, or any other local, state or federal law, statute, rule or regulation. Nothing in this Chapter shall be construed to supersede Oregon state law prohibiting the acquisition, possession, manufacture, sale or use of medical marijuana in any manner not authorized by City Code. Nothing in this Chapter shall be construed to supersede legislation prohibiting persons from engaging in conduct that endangers others, or that creates a nuisance, as defined herein. It is the intention of the City Council that this Chapter be interpreted to be compatible with federal and state enactments and in furtherance of the public purposes that those enactments encompass.

##### 5.06.020 Definitions

A. The City adopts the definitions in ORS 475.300 to 475.346 and OAR 333-008-1000 through 333-008-1290.

B. For the purposes of this Chapter, "employee" means any supervised volunteers, paid associates, agents, business owners, managers, and coordinators that work any hours per week in the medical marijuana facility.

##### 5.06.030 Location

A. A Medical Marijuana Facility as a retail store is allowed in the following zones:

Retail Commercial (C-1), General Commercial (C-2), Downtown District (D-D), or Planned Industrial (I-P) according to the City of Waldport Zoning Map as now established or hereinafter amended.

B. Medical Marijuana Facilities are not allowed in residential uses within any of the permitted zones.

C. Location of all licensed facilities shall comply with the requirements of OAR 333-008-1110 (and all applicable rules and regulations promulgated thereunder).

D. Drive-through access to a Medical Marijuana Facility shall not be permitted.

#### 5.06.040 Business License Required

In addition to all required local, state and/or federal licensing, an annual City of Waldport business license shall be obtained and maintained by the facility. Pursuant to Waldport Municipal Code Chapter 5.04, Section 5.04.040, said business license shall not be assignable or transferable, nor shall it authorize any person other than the person or entity named therein to do business.

#### 5.06.050 Hours and Rules of Operation

A. A Medical Marijuana Facility may be operated seven days a week, including holidays, between the hours of 9:00 a.m. and 7:00 p.m.

B. No minors under the age of 18 are allowed within the premises of the licensed business during hours of operations, unless accompanied by an adult.

C. No marijuana or marijuana-infused product may be smoked, ingested or otherwise consumed on the premises, unless by an employee who is also a patient pursuant to OAR 333-008-1200(1)(b).

D. All such products must be packaged in child-resistant safety packaging, and may not be manufactured, packaged or displayed in a manner that is attractive to minors.

E. No person shall loiter on the premises of a Medical Marijuana Facility.

#### 5.06.060 Security Requirements

A. Security measures at all licensed facilities shall comply with the requirements of OAR 333-008-1140 (and all applicable rules and regulations promulgated thereunder).

B. The person responsible for the facility must conduct a criminal background check on all employees. The person responsible for the facility must include background check information to the City for every employee at the time of business license renewal each year.

#### 5.06.070 Report of Disturbances and Unlawful Activity

A. All licensees and any agent, manager or employee thereof shall immediately report to the Lincoln County Sheriff's Department any disorderly act, conduct or disturbance and any unlawful activity committed in or on the licensed and permitted premises, including, but not limited to, any unlawful resale of marijuana, and shall also immediately report any such activity in the immediate vicinity of the business.

B. Each licensee shall post and keep at all times visible to the public in a conspicuous place on the premises a notice, in a design approved by the City, which shall read as follows:

**WARNING:** The Lincoln County Sheriff's Department and the City of Waldport shall be notified of all disorderly acts, conduct or disturbances and all unlawful activities which occur on or within the premises of this licensed establishment.

C. It shall not be a defense to a prosecution of a Code enforcement action under this Section that the licensee was not personally present on the premises at the time such unlawful activity, disorderly act, conduct or disturbance was committed; however, no agent or employee of the licensee shall be personally responsible for failing to report any disorderly act, conduct or disturbance and any unlawful activity hereunder if such agent or employee was absent from the premises at the time such activity was committed.

D. The City or its designee may conduct a complaint inspection at any time following the receipt of a complaint that alleges that a Medical Marijuana Facility is in violation of any of the terms of this chapter.

#### 5.06.080 Visibility of Activities; Control of Emissions

A. No marijuana or paraphernalia shall be displayed or kept in a business so as to be visible from outside the licensed premises.

B. Sufficient measures and means of preventing odors, debris, fluids and other substances from exiting the Medical Marijuana Facility must be in effect at all times. In the event that any odors, dust, fluids or other substances exit a Medical Marijuana Facility, the owner of the subject premises and the licensee shall be jointly and severally liable for such conditions and shall be responsible for the immediate, full clean-up and correction of such condition. The licensee shall properly dispose of all such materials, items and other substances in a safe, sanitary and secure manner and in accordance with all applicable federal, state and local laws and regulations.

#### 5.06.090 No City Liability - Indemnification

A. By accepting a Medical Marijuana Facility business license issued pursuant to this Chapter, the licensee waives and releases the City, its officers, elected officials, employees, volunteers and agents from any liability for injuries, damages, or liabilities of any kind that result from any arrest or prosecution of business owners, operators, employees, clients or customers for a violation of federal, state or local laws and regulations.

B. By accepting a license issued pursuant to this Chapter, all licensees, jointly and severally, if more than one, agree to indemnify, defend and hold harmless the City, its officers, elected officials, employees, volunteers and agents, insurers and self-insurance pool against all liability, claims and demands on account of any injury, loss or damage, including, without limitation, claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever arising out of or in any manner connected with the operation of the medical marijuana facility that is the subject of the license.

#### 5.06.100 Revocation, Violations and Penalties

A. The City may choose to not renew or to revoke a license based on any of the following:

- 1) A failure to meet the conditions or maintain compliance with the standards

established in reference to applications for a new license or the renewal of an existing license; or

2) One or more violations of any City ordinance on the premises; or

3) A demonstrated history of excessive calls for public safety (police, fire, and EMS) originating from the premises, being three or more calls in any 30 day period.

B. In addition to any applicable state or federal penalties, violation of regulations with regard to this Chapter will be considered a Class B civil infraction and shall be subject to the procedures and penalties of Chapter 1.08 of the Waldport Municipal Code.

#### 5.06.110 Adoption by Reference

The City hereby adopts ORS 475.300 to 475.346, OAR 333-008-1000 through 333-008-1290 and HB 3460 by reference, as now written or hereinafter amended.

#### 5.06.120 Severability

If any section, sentence, clause or phrase of this Chapter should be held to be unconstitutional or unlawful by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this Chapter.

OREGON MEDICAL MARIJUANA ACT

- 475.300 Findings
- 475.302 Definitions for ORS 475.300 to 475.346
- 475.303 Advisory Committee on Medical Marijuana
- 475.304 Marijuana grow site registration system; rules; fee
- 475.306 Medical use of marijuana; rules
- 475.309 Registry identification card; issuance; eligibility; duties of cardholder; revocation; immunity
- 475.312 Designated primary caregiver
- 475.314 Medical marijuana facility registration; qualifications; inspections; revocation; rules; fees
- 475.316 Limitations on cardholder's immunity from criminal laws involving marijuana
- 475.319 Affirmative defense to certain criminal laws involving marijuana; notice
- 475.320 Limits on amounts possessed
- 475.323 Effect of possession of registry identification card, designated primary caregiver card or proof of registration as medical marijuana facility on search and seizure rights
- 475.324 Limits on confiscation of marijuana
- 475.326 Attending physician; limitation on civil penalty and professional discipline
- 475.328 Limits on professional licensing board's authority to sanction licensee for medical use of marijuana; authorizes licensed health care professional to administer medical marijuana
- 475.331 List of persons and locations; disclosure
- 475.334 Adding diseases or conditions that qualify as debilitating medical conditions; rules
- 475.338 Rules
- 475.340 Limitations on reimbursement of costs and employer accommodation
- 475.342 Limitations on protection from criminal liability

475.346 Short title

## OREGON MEDICAL MARIJUANA ACT

**475.300 Findings.** 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 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 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 doctors the possible risks and benefits of medical marijuana use and to have the benefit of their doctor's professional advice; and

(4) ORS 475.300 to 475.346 are intended to make only those changes to existing Oregon laws that are necessary to protect patients and their doctors from criminal and civil penalties, and are not intended to change current civil and criminal laws governing the use of marijuana for nonmedical purposes. [1999 c.4 §2]

**Note:** 475.300 to 475.346 were enacted into law but were not added to or made a part of ORS chapter 475 or any series therein by law. See Preface to Oregon Revised Statutes for further explanation.

**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) "Authority" means the Oregon Health Authority.

(3) "Debilitating medical condition" means:

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

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

(A) Cachexia;

(B) Severe pain;

(C) Severe nausea;

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

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

(c) Post-traumatic stress disorder; or

(d) Any other medical condition or side effect related to the treatment of a medical condition adopted by the authority by rule or approved by the authority pursuant to a petition submitted under ORS 475.334.

(4)(a) “Delivery” has the meaning given that term in ORS 475.005.

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

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

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

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

(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 authority. “Designated primary caregiver” does not include the person’s attending physician.

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

(7) “Marijuana grow site” means a location registered under ORS 475.304 where marijuana is produced for use by a registry identification cardholder.

(8) “Medical use of marijuana” means the production, possession, delivery, distribution 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) “Production” has the meaning given that term in ORS 475.005.

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

(11) “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) “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. [1999 c.4 §3; 2001 c.900 §205; 2003 c.14 §305; 2005 c.22 §346; 2005 c.822 §1; 2007 c.573 §1; 2009 c.595 §964; 2013 c.337 §1; 2013 c.726 §3]

**Note:** The amendments to 475.302 by section 3, chapter 726, Oregon Laws 2013, become operative March 1, 2014. See section 9, chapter 726, Oregon Laws 2013. The text that is operative until March 1, 2014, including amendments by section 1, chapter 337, Oregon Laws 2013, is set forth for the user’s convenience.

**475.302.** 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) “Authority” means the Oregon Health Authority.

(3) “Debilitating medical condition” means:

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

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

(A) Cachexia;

(B) Severe pain;

(C) Severe nausea;

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

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

(c) Post-traumatic stress disorder; or

(d) Any other medical condition or side effect related to the treatment of a medical condition adopted by the authority by rule or approved by the authority pursuant to a petition submitted under ORS 475.334.

(4) "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.

(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 authority. "Designated primary caregiver" does not include the person's attending physician.

(6) "Marijuana" has the meaning given that term in ORS 475.005.

(7) "Marijuana grow site" means a location registered under ORS 475.304 where marijuana is produced for use by a registry identification cardholder.

(8) "Medical use of marijuana" means the production, possession, delivery, distribution 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) "Production" has the meaning given that term in ORS 475.005.

(10) "Registry identification card" means a document issued by the authority that identifies a person authorized to engage in the medical use of marijuana and, if the person has a designated primary caregiver under ORS 475.312, the person's designated primary caregiver.

(11) "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) "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.

**Note:** See note under 475.300.

**475.303 Advisory Committee on Medical Marijuana.** (1) There is created the Advisory Committee on Medical Marijuana in the Oregon Health Authority, consisting of 11 members appointed by the Director of the Oregon Health Authority.

(2) The director shall appoint members of the committee from persons who possess registry identification cards, designated primary caregivers of persons who possess registry identification cards and advocates of the Oregon Medical Marijuana Act.

(3) The committee shall advise the director on the administrative aspects of the Oregon Medical Marijuana Program, review current and proposed administrative rules of the program and provide annual input on the fee structure of the program.

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

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

(6) All agencies of state government, as defined in ORS 174.111, are directed to assist the committee in the performance of its duties and, to the extent permitted by laws relating to confidentiality, to furnish information and advice that the members of the committee consider necessary to perform their duties. [2005 c.822 §7; 2009 c.595 §965]

**Note:** See note under 475.300. 475.303 was added to and made a part of 475.300 to 475.346 by legislative action.

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

- (a) The name of the person responsible for the marijuana grow site;
- (b) The address of the marijuana grow site;
- (c) The registry identification card number of the registry cardholder for whom the marijuana is being produced; and
- (d) Any other information the authority considers necessary.

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

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

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

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

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

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

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

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

(8) The authority may adopt rules imposing a fee in an amount established by the authority for registration of a marijuana grow site under this section. [2005 c.822 §8; 2007 c.573 §2; 2009 c.595 §966; 2011 c.630 §92; 2013 c.726 §4]

**Note:** The amendments to 475.304 by section 4, chapter 726, Oregon Laws 2013, become operative March 1, 2014. See section 9, chapter 726, Oregon Laws 2013. The text that is operative until March 1, 2014, is set forth for the user's convenience.

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

- (a) The name of the person responsible for the marijuana grow site;
- (b) The address of the marijuana grow site;
- (c) The registry identification card number of the registry cardholder for whom the marijuana is being produced; and
- (d) Any other information the authority considers necessary.

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

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

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

(5) All usable marijuana, plants, seedlings and seeds associated with the production of marijuana for a registry identification cardholder by a person responsible for a marijuana grow site are the property of the registry identification cardholder and must be provided to the registry identification cardholder upon request.

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

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

(c) A person convicted more than once of a Class A or Class B felony under ORS 475.752 to 475.920 for the manufacture or delivery of a controlled substance in Schedule I or Schedule II

may not be issued a marijuana grow site registration card or produce marijuana for a registry identification cardholder.

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

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

**Note:** Section 7, chapter 573, Oregon Laws 2007, provides:

**Sec. 7.** The amendments to ORS 475.304 and 475.320 by sections 2 and 5 of this 2007 Act apply only to a person convicted after January 1, 2006, of a Class A or Class B felony under ORS 475.840 to 475.920 [series became 475.752 to 475.920] for the manufacture or delivery of a controlled substance in Schedule I or Schedule II. [2007 c.573 §7]

**Note:** See note under 475.300. 475.304 was added to and made a part of 475.300 to 475.346 by legislative action.

**475.305** [1977 c.636 §1; 1979 c.674 §1; repealed by 1993 c.571 §30]

**475.306 Medical use of marijuana; rules.** (1) A person who possesses a registry identification card issued pursuant to ORS 475.309 may engage in, and a designated primary caregiver of such a person may assist in, the medical use of marijuana only as justified to mitigate the symptoms or effects of the person's debilitating medical condition.

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

(3) The Oregon Health Authority shall define by rule when a marijuana plant is mature and when it is immature. The rule shall provide that a plant that has no flowers and that is less than 12 inches in height and less than 12 inches in diameter is a seedling or a start and is not a mature plant. [1999 c.4 §7; 2005 c.822 §2; 2009 c.595 §967]

**Note:** See note under 475.300.

**475.309 Registry identification card; issuance; eligibility; duties of cardholder; revocation; immunity.** (1) Except as provided in ORS 475.316, 475.320 and 475.342, a person engaged in or assisting in the medical use of marijuana is excepted from the criminal laws of the state for possession, delivery or production of marijuana, aiding and abetting another in the possession, delivery or production of marijuana or any other criminal offense in which possession, delivery or production of marijuana is an element if the following conditions have been satisfied:

(a)(A) The person holds a registry identification card issued pursuant to this section, has applied for a registry identification card pursuant to subsection (9) of this section, is the designated primary caregiver of the cardholder or applicant, or is the person responsible for a

marijuana grow site that is producing marijuana for the cardholder and is registered under ORS 475.304; and

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

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

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

(a) Valid, written documentation from the person's attending physician stating that the person has been diagnosed with a debilitating medical condition and that the medical use of marijuana may mitigate the symptoms or effects of the person's debilitating medical condition;

(b) The name, address and date of birth of the person;

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

(d) The name and address of the person's designated primary caregiver, if the person has designated a primary caregiver at the time of application; and

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

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

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

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

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

(d) The custodial parent or legal guardian with responsibility for health care decisions for the person under 18 years of age agrees to control the acquisition of marijuana and the dosage and frequency of use by the person under 18 years of age.

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

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

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

(A) The applicant did not provide the information required pursuant to this section to establish the applicant's debilitating medical condition and to document the applicant's consultation with an attending physician regarding the medical use of marijuana in connection with such condition, as provided in subsections (2) and (3) of this section;

(B) The authority determines that the information provided was falsified; or

(C) The applicant has been prohibited by a court order from obtaining a registry identification card.

(c) Denial of a registry identification card shall be considered a final authority action, subject to judicial review. Only the person whose application has been denied, or, in the case of a person under the age of 18 years of age whose application has been denied, the person's parent or legal guardian, shall have standing to contest the authority's action.

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

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

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

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

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

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

(E) Any other information that the authority may specify by rule.

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

(7)(a) A person who possesses a registry identification card shall:

(A) Notify the authority of any change in the person's name, address, attending physician or designated primary caregiver.

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

(i) The assignment of another individual as the designated primary caregiver of the cardholder;

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

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

(C) Annually submit to the authority:

(i) Updated written documentation from the cardholder's attending physician of the person's debilitating medical condition and that the medical use of marijuana may mitigate the symptoms or effects of the person's debilitating medical condition; and

(ii) The name of the person's designated primary caregiver if a primary caregiver has been designated for the upcoming year.

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

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

(b) If, due to circumstances beyond the control of the registry identification cardholder, a cardholder is unable to obtain a second medical opinion about the cardholder's continuing eligibility to use medical marijuana before the 30-day period specified in paragraph (a) of this subsection has expired, the authority may grant the cardholder additional time to obtain a second opinion before requiring the cardholder to return the registry identification card and any associated cards.

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

(10)(a) A registry identification cardholder has the primary responsibility of notifying the designated primary caregiver, the person responsible for the marijuana grow site that produces marijuana for the cardholder and any person responsible for a medical marijuana facility that transfers usable marijuana or immature marijuana plants to the cardholder under ORS 475.314 of any change in status of the cardholder.

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

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

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

(13) The authority and employees and agents of the authority acting within the course and scope of their employment are immune from any civil liability that might be incurred or imposed for the performance of or failure to perform duties required by this section. [1999 c.4 §4; 1999 c.825 §2; 2003 c.14 §306; 2005 c.822 §3; 2007 c.573 §3; 2009 c.595 §968; 2013 c.726 §5]

**Note:** The amendments to 475.309 by section 5, chapter 726, Oregon Laws 2013, become operative March 1, 2014. See section 9, chapter 726, Oregon Laws 2013. The text that is operative until March 1, 2014, is set forth for the user's convenience.

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

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

(b) The person who has a debilitating medical condition, the person's primary caregiver and the person responsible for a marijuana grow site that is producing marijuana for the cardholder and is registered under ORS 475.304 are collectively in possession of, delivering or producing marijuana for medical use in amounts allowed under ORS 475.320.

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

(a) Valid, written documentation from the person's attending physician stating that the person has been diagnosed with a debilitating medical condition and that the medical use of marijuana may mitigate the symptoms or effects of the person's debilitating medical condition;

(b) The name, address and date of birth of the person;

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

(d) The name and address of the person's designated primary caregiver, if the person has designated a primary caregiver at the time of application; and

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

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

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

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

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

(d) The custodial parent or legal guardian with responsibility for health care decisions for the person under 18 years of age agrees to control the acquisition of marijuana and the dosage and frequency of use by the person under 18 years of age.

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

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

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

(A) The applicant did not provide the information required pursuant to this section to establish the applicant's debilitating medical condition and to document the applicant's consultation with an attending physician regarding the medical use of marijuana in connection with such condition, as provided in subsections (2) and (3) of this section;

(B) The authority determines that the information provided was falsified; or

(C) The applicant has been prohibited by a court order from obtaining a registry identification card.

(c) Denial of a registry identification card shall be considered a final authority action, subject to judicial review. Only the person whose application has been denied, or, in the case of a person under the age of 18 years of age whose application has been denied, the person's parent or legal guardian, shall have standing to contest the authority's action.

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

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

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

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

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

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

(E) Any other information that the authority may specify by rule.

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

(7)(a) A person who possesses a registry identification card shall:

(A) Notify the authority of any change in the person's name, address, attending physician or designated primary caregiver.

(B) If applicable, notify the designated primary caregiver of the cardholder and the person responsible for the marijuana grow site that produces marijuana for the cardholder of any change in status including, but not limited to:

(i) The assignment of another individual as the designated primary caregiver of the cardholder;

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

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

(C) Annually submit to the authority:

(i) Updated written documentation from the cardholder's attending physician of the person's debilitating medical condition and that the medical use of marijuana may mitigate the symptoms or effects of the person's debilitating medical condition; and

(ii) The name of the person's designated primary caregiver if a primary caregiver has been designated for the upcoming year.

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

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

(b) If, due to circumstances beyond the control of the registry identification cardholder, a cardholder is unable to obtain a second medical opinion about the cardholder's continuing eligibility to use medical marijuana before the 30-day period specified in paragraph (a) of this subsection has expired, the authority may grant the cardholder additional time to obtain a second opinion before requiring the cardholder to return the registry identification card and any associated cards.

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

until such time as the person receives notification that the application has been approved or denied.

(10) A registry identification cardholder has the primary responsibility of notifying the primary caregiver and person responsible for the marijuana grow site that produces marijuana for the cardholder of any change in status of the cardholder. If the authority is notified by the cardholder that a primary caregiver or person responsible for a marijuana grow site has changed, the authority shall notify the primary caregiver or the person responsible for the marijuana grow site by mail at the address of record confirming the change in status and informing the caregiver or person that their card is no longer valid and must be returned to the authority.

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

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

**Note:** See note under 475.300.

**475.312 Designated primary caregiver.** (1) If a person who possesses a registry identification card issued pursuant to ORS 475.309 chooses to have a designated primary caregiver, the person must designate the primary caregiver by including the primary caregiver's name and address:

- (a) On the person's application for a registry identification card;
- (b) In the annual updated information required under ORS 475.309; or
- (c) In a written, signed statement submitted to the Oregon Health Authority.

(2) A person described in this section may have only one designated primary caregiver at any given time. [1999 c.4 §13; 2009 c.595 §969]

**Note:** See note under 475.300.

**475.314 Medical marijuana facility registration; qualifications; inspections; revocation; rules; fees.** (1) The Oregon Health Authority shall establish by rule a medical marijuana facility registration system to authorize the transfer of usable marijuana and immature marijuana plants from:

(a) A registry identification cardholder, the designated primary caregiver of a registry identification cardholder, or a person responsible for a marijuana grow site to the medical marijuana facility; or

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

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

- (a) The name of the person responsible for the medical marijuana facility;
- (b) The address of the medical marijuana facility;

(c) Proof that the person responsible for the medical marijuana facility is a resident of Oregon;

(d) Documentation, as required by the authority by rule, that demonstrates the medical marijuana facility meets the qualifications for a medical marijuana facility as described in subsection (3) of this section; and

(e) Any other information that the authority considers necessary.

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

(a) Must be located in an area that is zoned for commercial, industrial or mixed use or as agricultural land and may not be located at the same address as a marijuana grow site;

(b) Must be registered as a business or have filed a pending application to register as a business with the Office of the Secretary of State;

(c) Must not be located within 1,000 feet of the real property comprising a public or private elementary, secondary or career school attended primarily by minors;

(d) Must not be located within 1,000 feet of another medical marijuana facility; and

(e) Must comport with rules adopted by the authority related to:

(A) Installing a minimum security system, including a video surveillance system, alarm system and safe; and

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

(4)(a) The authority shall conduct a criminal records check under ORS 181.534 of a person whose name is submitted as the person responsible for a medical marijuana facility under subsection (2) of this section.

(b) A person convicted for the manufacture or delivery of a controlled substance in Schedule I or Schedule II may not be the person responsible for a medical marijuana facility for five years from the date the person is convicted.

(c) A person convicted more than once for the manufacture or delivery of a controlled substance in Schedule I or Schedule II may not be the person responsible for a medical marijuana facility.

(5) If a person submits the application required under subsection (2) of this section, the medical marijuana facility identified in the application meets the qualifications for a medical marijuana facility described in subsection (3) of this section and the person responsible for the medical marijuana facility passes the criminal records check required under subsection (4) of this section, the authority shall register the medical marijuana facility and issue the person responsible for the medical marijuana facility proof of registration. The person responsible for the medical marijuana facility shall display the proof of registration on the premises of the medical marijuana facility at all times when usable marijuana or immature marijuana plants are being transferred as described in subsection (1) of this section.

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

(b) A registered medical marijuana facility shall maintain:

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

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

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

(8) The authority may inspect:

(a) The premises of an applicant for a medical marijuana facility or a registered medical marijuana facility to ensure compliance with the qualifications for a medical marijuana facility described in subsection (3) of this section; and

(b) The records of a registered medical marijuana facility to ensure compliance with subsection (6)(b) of this section.

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

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

(10) The authority may revoke the registration of a medical marijuana facility registered under this section for failure to comply with ORS 475.300 to 475.346 or rules adopted under ORS 475.300 to 475.346. The authority may release to the public a final order revoking a medical marijuana facility registration.

(11) The authority shall adopt rules to implement this section, including rules that:

(a) Require a medical marijuana facility registered under this section to annually renew that registration; and

(b) Establish fees for registering and renewing registration for a medical marijuana facility under this section. [2013 c.726 §2]

**Note:** 475.314 becomes operative March 1, 2014. See section 9, chapter 726, Oregon Laws 2013.

**Note:** See note under 475.300. 475.314 was added to and made a part of 475.300 to 475.346 by legislative action.

**475.315** [1977 c.636 §2; 1979 c.674 §2; repealed by 1993 c.571 §30]

**475.316 Limitations on cardholder's immunity from criminal laws involving marijuana.**

(1) No person authorized to possess, deliver or produce marijuana for medical use pursuant to ORS 475.300 to 475.346 shall be excepted from the criminal laws of this state or shall be deemed to have established an affirmative defense to criminal charges of which possession, delivery or production of marijuana is an element if the person, in connection with the facts giving rise to such charges:

(a) Drives under the influence of marijuana as provided in ORS 813.010;

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

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

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

(e) Manufactures or produces marijuana at a place other than a marijuana grow site authorized under ORS 475.304; or

(f) Manufactures or produces marijuana at more than one address.

(2) In addition to any other penalty allowed by law, a person who the Oregon Health Authority finds has willfully violated the provisions of ORS 475.300 to 475.346, or rules adopted under ORS 475.300 to 475.346, may be precluded from obtaining or using a registry identification card for the medical use of marijuana for a period of up to six months, at the discretion of the authority. [1999 c.4 §5; 1999 c.825 §3; 2005 c.822 §13; 2007 c.573 §4; 2009 c.595 §970]

**Note:** See note under 475.300.

**475.319 Affirmative defense to certain criminal laws involving marijuana; notice.** (1)

Except as provided in ORS 475.316 and 475.342, it is an affirmative defense to a criminal charge of possession or production of marijuana, or any other criminal offense in which possession or production of marijuana is an element, that the person charged with the offense is a person who:

(a) Has been diagnosed with a debilitating medical condition within 12 months prior to arrest and been advised by the person's attending physician that the medical use of marijuana may mitigate the symptoms or effects of that debilitating medical condition;

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

(c) Possesses or produces marijuana only in amounts permitted under ORS 475.320.

(2) It is not necessary for a person asserting an affirmative defense pursuant to this section to have received a registry identification card in order to assert the affirmative defense established in this section.

(3) No person engaged in the medical use of marijuana who claims that marijuana provides medically necessary benefits and who is charged with a crime pertaining to such use of marijuana shall be precluded from presenting a defense of choice of evils, as set forth in ORS 161.200, or from presenting evidence supporting the necessity of marijuana for treatment of a specific disease or medical condition, provided that the amount of marijuana at issue is no greater than permitted under ORS 475.320 and the patient has taken a substantial step to comply with the provisions of ORS 475.300 to 475.346.

(4) Any defendant proposing to use the affirmative defense provided for by this section in a criminal action shall, not less than five days before the trial of the cause, file and serve upon the district attorney a written notice of the intention to offer such a defense that specifically states the reasons why the defendant is entitled to assert and the factual basis for such affirmative defense. If the defendant fails to file and serve such notice, the defendant is not permitted to assert the affirmative defense at the trial of the cause unless the court for good cause orders otherwise. [1999 c.4 §6; 1999 c.825 §4; 2005 c.22 §347; 2005 c.822 §12]

**Note:** See note under 475.300.

**475.320 Limits on amounts possessed.** (1)(a) A registry identification cardholder or the designated primary caregiver of the cardholder may possess up to six mature marijuana plants and 24 ounces of usable marijuana.

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

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

(a) May produce marijuana for and provide marijuana:

(A) To a registry identification cardholder or a cardholder's designated primary caregiver as authorized under this section; or

(B) If the marijuana is usable marijuana or an immature marijuana plant and the registry identification cardholder authorizes the person responsible for the marijuana grow site to transfer the usable marijuana or immature marijuana plant to a medical marijuana facility registered under ORS 475.314, to the medical marijuana facility.

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

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

(d) Must obtain and display a marijuana grow site registration card issued under ORS 475.304 for each registry identification cardholder or designated primary caregiver for whom marijuana is being produced.

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

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

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

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

(b) A person responsible for a marijuana grow site may possess up to 18 marijuana seedlings or starts as defined by rule of the authority for each registry identification cardholder for whom the person responsible for the marijuana grow site is producing marijuana. [2005 c.822 §9; 2007 c.573 §5; 2009 c.595 §971; 2013 c.726 §6]

**Note:** The amendments to 475.320 by section 6, chapter 726, Oregon Laws 2013, become operative March 1, 2014. See section 9, chapter 726, Oregon Laws 2013. The text that is operative until March 1, 2014, is set forth for the user's convenience.

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

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

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

(a) May produce marijuana for and provide marijuana to a registry identification cardholder or that person's designated primary caregiver as authorized under this section.

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

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

(d) Must obtain and display a marijuana grow site registration card issued under ORS 475.304 for each registry identification cardholder or designated primary caregiver for whom marijuana is being produced.

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

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

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

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

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

**Note:** See second note under 475.304.

**Note:** See note under 475.300. 475.320 was added to and made a part of 475.300 to 475.346 by legislative action.

**475.323 Effect of possession of registry identification card, designated primary caregiver card or proof of registration as medical marijuana facility on search and seizure rights.** (1) Possession of a registry identification card, designated primary caregiver identification card pursuant to ORS 475.309 or proof of registration as a medical marijuana facility under ORS 475.314 does not alone constitute probable cause to search the person or property of the cardholder or otherwise subject the person or property of the cardholder to inspection by any governmental agency. However, the Oregon Health Authority may inspect a medical marijuana facility registered under ORS 475.314 at any reasonable time to determine whether the facility is in compliance with ORS 475.300 to 475.346.

(2) Any property interest possessed, owned or used in connection with the medical use of marijuana or acts incidental to the medical use of marijuana that has been seized by state or local law enforcement officers may not be harmed, neglected, injured or destroyed while in the possession of any law enforcement agency. A law enforcement agency has no responsibility to maintain live marijuana plants lawfully seized. No such property interest may be forfeited under any provision of law providing for the forfeiture of property other than as a sentence imposed after conviction of a criminal offense. Usable marijuana and paraphernalia used to administer marijuana that was seized by any law enforcement office shall be returned immediately upon a determination by the district attorney in whose county the property was seized, or the district attorney's designee, that the person from whom the marijuana or paraphernalia used to administer marijuana was seized is entitled to the protections contained in ORS 475.300 to 475.346. The determination may be evidenced, for example, by a decision not to prosecute, the dismissal of charges or acquittal. [1999 c.4 §8; 1999 c.825 §5; 2005 c.22 §348; 2013 c.726 §7]

**Note:** The amendments to 475.323 by section 7, chapter 726, Oregon Laws 2013, become operative March 1, 2014. See section 9, chapter 726, Oregon Laws 2013. The text that is operative until March 1, 2014, is set forth for the user's convenience.

**475.323.** (1) Possession of a registry identification card or designated primary caregiver identification card pursuant to ORS 475.309 does not alone constitute probable cause to search the person or property of the cardholder or otherwise subject the person or property of the cardholder to inspection by any governmental agency.

(2) Any property interest possessed, owned or used in connection with the medical use of marijuana or acts incidental to the medical use of marijuana that has been seized by state or local law enforcement officers may not be harmed, neglected, injured or destroyed while in the possession of any law enforcement agency. A law enforcement agency has no responsibility to maintain live marijuana plants lawfully seized. No such property interest may be forfeited under any provision of law providing for the forfeiture of property other than as a sentence imposed after conviction of a criminal offense. Usable marijuana and paraphernalia used to administer marijuana that was seized by any law enforcement office shall be returned immediately upon a determination by the district attorney in whose county the property was seized, or the district attorney's designee, that the person from whom the marijuana or paraphernalia used to administer marijuana was seized is entitled to the protections contained in ORS 475.300 to 475.346. The determination may be evidenced, for example, by a decision not to prosecute, the dismissal of charges or acquittal.

**Note:** See note under 475.300.

**475.324 Limits on confiscation of marijuana.** A law enforcement officer who determines that a registry identification cardholder is in possession of amounts of usable marijuana or numbers of marijuana plants in excess of the amount or number authorized by ORS 475.320 may confiscate only any usable marijuana or plants that are in excess of the amount or number authorized. [2005 c.822 §10]

**Note:** See note under 475.300. 475.324 was added to and made a part of 475.300 to 475.346 by legislative action.

**475.325** [1977 c.636 §3; 1979 c.674 §3; repealed by 1993 c.571 §30]

**475.326 Attending physician; limitation on civil penalty and professional discipline.** No attending physician may be subjected to civil penalty or discipline by the Oregon Medical Board for:

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

(2) Providing the written documentation necessary for issuance of a registry identification card under ORS 475.309, if the documentation is based on the attending physician's personal assessment of the applicant's medical history and current medical condition and the attending physician has discussed the potential medical risks and benefits of the medical use of marijuana with the applicant. [1999 c.4 §9; 2005 c.822 §11]

**Note:** See note under 475.300.

**475.328 Limits on professional licensing board's authority to sanction licensee for medical use of marijuana; authorizes licensed health care professional to administer medical marijuana.** (1) No professional licensing board may impose a civil penalty or take other disciplinary action against a licensee based on the licensee's medical use of marijuana in accordance with the provisions of ORS 475.300 to 475.346 or actions taken by the licensee that are necessary to carry out the licensee's role as a designated primary caregiver to a person who possesses a lawful registry identification card.

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

(b) Nothing in this subsection requires:

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

(B) A licensed health care facility to make accommodations for the administration of medical marijuana. [1999 c.4 §10; 2005 c.822 §4]

**Note:** See note under 475.300.

**475.331 List of persons and locations; disclosure.** (1)(a) The Oregon Health Authority shall create and maintain a list of the persons to whom the authority has issued registry identification cards, the names of any designated primary caregivers, the names of persons responsible for a medical marijuana facility registered under ORS 475.314, the addresses of authorized marijuana grow sites and the addresses of registered medical marijuana facilities. Except as provided in subsection (2) of this section, the list shall be confidential and not subject to public disclosure.

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

(A) A person is a lawful possessor of a registry identification card;

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

(C) A location is an authorized marijuana grow site;

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

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

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

(a) Authorized employees of the authority as necessary to perform official duties of the authority.

(b) Authorized employees of state or local law enforcement agencies, who provide to the authority adequate identification, such as a badge number or similar authentication of authority, only as necessary to verify that:

(A) A person is a lawful possessor of a registry identification card;

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

(C) A location is an authorized marijuana grow site;

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

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

(3) Authorized employees of state or local law enforcement agencies that obtain identifying information from the list as authorized under this section may not release or use the information for any purpose other than verification that:

(a) A person is a lawful possessor of a registry identification card;

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

(c) A location is an authorized marijuana grow site;

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

(e) A person is the person listed as the person responsible for a registered medical marijuana facility. [1999 c.4 §12; 2005 c.822 §5; 2009 c.595 §972; 2013 c.726 §8]

**Note:** The amendments to 475.331 by section 8, chapter 726, Oregon Laws 2013, become operative March 1, 2014. See section 9, chapter 726, Oregon Laws 2013. The text that is operative until March 1, 2014, is set forth for the user's convenience.

**475.331.** (1)(a) The Oregon Health Authority shall create and maintain a list of the persons to whom the authority has issued registry identification cards, the names of any designated primary caregivers and the addresses of authorized marijuana grow sites. Except as provided in subsection (2) of this section, the list shall be confidential and not subject to public disclosure.

(b) The authority shall develop a system by which authorized employees of state and local law enforcement agencies may verify at all times that a person is a lawful possessor of a registry identification card or the designated primary caregiver of a lawful possessor of a registry identification card or that a location is an authorized marijuana grow site.

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

(a) Authorized employees of the authority as necessary to perform official duties of the authority; and

(b) Authorized employees of state or local law enforcement agencies, only as necessary to verify that a person is a lawful possessor of a registry identification card or the designated primary caregiver of a lawful possessor of a registry identification card or that a location is an authorized marijuana grow site. Prior to being provided identifying information from the list, authorized employees of state or local law enforcement agencies shall provide to the authority adequate identification, such as a badge number or similar authentication of authority.

(3) Authorized employees of state or local law enforcement agencies that obtain identifying information from the list as authorized under this section may not release or use the information for any purpose other than verification that a person is a lawful possessor of a registry identification card or the designated primary caregiver of a lawful possessor of a registry identification card or that a location is an authorized marijuana grow site.

**Note:** See note under 475.300.

**475.334 Adding diseases or conditions that qualify as debilitating medical conditions; rules.** Any person may submit a petition to the Oregon Health Authority requesting that a particular disease or condition be included among the diseases and conditions that qualify as debilitating medical conditions under ORS 475.302. The authority shall adopt rules establishing the manner in which the authority will evaluate petitions submitted under this section. Any rules adopted pursuant to this section shall require the authority to approve or deny a petition within 180 days of receipt of the petition by the authority. Denial of a petition shall be considered a final authority action subject to judicial review. [1999 c.4 §14; 2009 c.595 §973]

**Note:** See note under 475.300.

**475.335** [1977 c.636 §4; 1979 c.674 §4; repealed by 1993 c.571 §30]

**475.338 Rules.** The Oregon Health Authority shall adopt all rules necessary for the implementation and administration of ORS 475.300 to 475.346. [1999 c.4 §15; 2009 c.595 §974]

**Note:** See note under 475.300.

**475.340 Limitations on reimbursement of costs and employer accommodation.** Nothing in ORS 475.300 to 475.346 shall be construed to require:

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

(2) An employer to accommodate the medical use of marijuana in any workplace. [1999 c.4 §16]

**Note:** See note under 475.300.

**475.342 Limitations on protection from criminal liability.** Nothing in ORS 475.300 to 475.346 shall protect a person from a criminal cause of action based on possession, production, or delivery of marijuana that is not authorized by ORS 475.300 to 475.346. [1999 c.4 §11]

**Note:** See note under 475.300.

**475.345** [1977 c.636 §5; 1979 c.674 §5; repealed by 1993 c.571 §30]

**475.346 Short title.** ORS 475.300 to 475.346 shall be known as the Oregon Medical Marijuana Act. [1999 c.4 §1]

# Temporary Rules for the Medical Marijuana Dispensary Program

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*Apr. 4, 2014*

These are the temporary rules governing medical marijuana dispensaries in Oregon. The process to make these rules permanent has begun. Rules hearings for public comment will be held in May. This version also incorporates the temporary rules based on SB 1531, Oregon Laws 2014, chapter 79. Individuals intending to file an application to register a dispensary should use these rules as a guide. Visit [mmj.oregon.gov](http://mmj.oregon.gov) for more information.

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OREGON ADMINISTRATIVE RULES  
OREGON HEALTH AUTHORITY, PUBLIC HEALTH DIVISION  
CHAPTER 333

**DIVISION 8**

**MEDICAL MARIJUANA**

**Medical Marijuana Facilities**

**333-008-1000**

**Applicability**

- (1) A person may not establish, conduct, maintain, manage or operate a facility on or after March 1, 2014, unless the facility has been registered by the Authority under these rules.
- (2) Nothing in these rules exempts a PRF, an employee of a registered facility, or a registered facility from complying with any other applicable state or local laws.
- (3) Registration of a facility does not protect a PRF or employees from possible criminal prosecution under federal law.

Stat. Auth.: ORS 475.314, 475.338

Stats. Implemented: ORS 475.314

**333-008-1010**

**Definitions**

For the purposes of OAR 333-008-1000 through 333-008-1290 the following definitions apply:

- (1) "Agricultural land" means land that is located within an exclusive farm use zone as that term is described in ORS 215.203.
- (2) "Attended primarily by minors" means that a majority of the students are minors.
- (3) "Authority" means the Oregon Health Authority.
- (4) "Batch" means a quantity of usable marijuana or a number of immature plants transferred at one time to a facility by a person authorized by a patient to transfer usable marijuana to a registered facility.
- (5) "Career school" means any private proprietary professional, technical, business or other school instruction, organization or person that offers any instruction or training for the purpose or purported purpose of instructing, training or preparing persons for any profession at a physical location attended primarily by minors.
- (6) "Conviction" means an adjudication of guilt upon a verdict or finding entered in a criminal proceeding in a court of competent jurisdiction.
- (7)(a) "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 Authority.
- (b) "Designated primary caregiver" does not include the person's attending physician.
- (8) "Domicile" means the place of abode of an individual where the person intends to remain and to which, if absent, the individual intends to return.
- (9) "Edible" means a product made with marijuana that is intended for ingestion.

- (10)(a) "Employee" means any person, including aliens, employed for remuneration or under any contract of hire, written or oral, express or implied, by an employer.
- (b) "Employee" does not include a person who volunteers or donates services performed for no remuneration or without expectation or contemplation of remuneration as the adequate consideration for the services performed for a religious or charitable institution or a governmental entity.
- (11) "Facility" means a medical marijuana facility.
- (12) "Farm use" has the meaning given that term in ORS 215.203.
- (13) "Finished product" means a product infused with usable marijuana that is intended for use, ingestion or consumption other than by smoking, including but not limited to edible products, ointments, and tinctures.
- (14) "Grower" has the same meaning as "person responsible for a marijuana grow site."
- (15) "Grow site" means a specific location registered by the Authority and used by the grower to produce marijuana for medical use by a specific patient.
- (16)(a) "Immature marijuana plant or immature plant" means a marijuana plant that has no flowers, is less than 12 inches in height, and less than 12 inches in diameter.
- (b) A seedling or start that does not meet all three criteria in subsection (16)(a) is a mature plant.
- (17) "Macroscopic screening" means visual observation without the aid of magnifying lens(es).
- (18) "Microscopic screening" means visual observation with a minimum magnification of 40x.
- (19) "Minor" means an individual under the age of 18.
- (20) "Oregon Medical Marijuana Program or OMMP" means the program operated and administered by the Authority that registers patients, designated primary caregivers, and growers.
- (21) "Patient" has the same meaning as "registry identification cardholder."
- (22) "Person" means an individual.
- (23) "Person responsible for a marijuana grow site" means a person who has been selected by a patient to produce medical marijuana for the patient, and who has been registered by the Authority for this purpose and has the same meaning as "grower".
- (24) "Person responsible for a medical marijuana facility or PRF" means an individual who owns, operates, or otherwise has legal responsibility for a facility and who meets the qualifications established in these rules and has been approved by the Authority.
- (25) "Pesticide" means any substance or mixture of substances, intended to prevent, destroy, repel, or mitigate any pest.
- (26) "Premises" means a location registered by the Authority under these rules and includes all areas at the location that are used in the business operated at the location, including offices, kitchens, rest rooms and storerooms, including all public and private areas where individuals are permitted to be present.
- (27) "Primary school" means a learning institution containing any combination of grades Kindergarten through 8 or age level equivalent.
- (28) "Random sample" means an amount of usable marijuana taken from a batch in which different fractions of the usable marijuana have an equal probability of being represented.
- (29) "Registry identification cardholder" means a person who has been diagnosed by an attending physician with a debilitating medical condition and for whom the use of medical marijuana may mitigate the symptoms or effects of the person's debilitating medical condition, and who has been issued a registry identification card by the Authority.

(30) "Remuneration" means compensation resulting from the employer-employee relationship, including wages, salaries, incentive pay, sick pay, compensatory pay, bonuses, commissions, stand-by pay, and tips.

(31) "Resident" means an individual who has a domicile within this state.

(32) "Safe" means a metal receptacle with a locking mechanism capable of storing all usable marijuana at a registered facility that is rendered immobile by being securely anchored to a permanent structure of the building, or a "vault".

(33) "Secondary school" means a learning institution containing any combination of grades 9 through 12 or age level equivalent and includes those institutions that provide junior high schools which include 9th grade.

(34) "These rules" means OAR 333-008-1000 through 333-008-1290.

(35) "Usable marijuana" has the meaning given that term is ORS 475.302 and includes "finished product".

(36) "Valid testing methodology" means a scientifically valid testing methodology described in a published national or international reference and validated by the testing laboratory.

(37) "Vault" means an enclosed area that is constructed of steel-reinforced or block concrete and has a door that contains a multiple-position combination lock or the equivalent, a relocking device or equivalent, and a steel plate with a thickness of at least one-half inch.

Stat. Auth.: ORS 475.314, 475.338

Stats. Implemented: ORS 475.314

### **333-008-1020**

#### **Application for Medical Marijuana Facility Registration**

(1) Beginning on March 3, 2014, at 8:30 a.m. Pacific Standard Time (PST), the Authority shall begin accepting applications for the registration of a facility. An application may be submitted at any time on or after March 3, 2014, at 8:30 a.m., PST.

(2) A PRF wishing to apply to register a facility must provide to the Authority:

(a) An application on a form prescribed by the Authority;

(b) Any additional documentation required by the Authority in accordance with these rules;

(c) The applicable fee as specified in OAR 333-008-1030; and

(d) Information and fingerprints required for a criminal background check in accordance with OAR 333-008-1130.

(3) An application for the registration of a facility must be submitted by a PRF electronically via the Authority's website, <http://mmj.oregon.gov>. The documentation required in subsection (2)(b) of this rule and the information and fingerprints described in subsection (2)(d) of this rule may be submitted electronically to the Authority or may be mailed but must be postmarked within five calendar days of the date the application was submitted electronically to the Authority or the application will be considered to be incomplete. Applicable fees must be paid online at the time of application.

(4) The Authority must review each application received to ensure the application is complete, that the required documentation has been submitted, and the fee paid. The Authority shall return an incomplete application to the person that submitted the application. A person may re-submit an application that was returned as incomplete at any time.

(5) Applications will be reviewed in the order they are received by the Authority. An application that is returned as incomplete must be treated by the Authority as if it was never received.

(6) A PRF who wishes to register more than one location must submit a separate application and application fee for each location.

(7) At the time of application the PRF will be asked, by the Authority, to sign an authorization permitting the Authority to publish the location of the facility if the facility is registered.

Stat. Auth.: ORS 475.314, 475.338

Stats. Implemented: ORS 475.314

### **333-008-1030**

#### **Fees**

(1) The initial fees for the registration of a facility are:

(a) A non-refundable application fee of \$500; and

(b) A \$3,500 registration fee.

(2) The annual renewal fees for the registration of a facility are:

(a) A \$500 non-refundable renewal fee; and

(b) A \$3,500 registration fee.

(3) The Authority must return the registration fee if:

(a) An application is returned to the applicant as incomplete;

(b) The Authority denies an application; or

(c) An applicant withdraws an application.

Stat. Auth.: ORS 475.314, 475.338

Stats. Implemented: 475.314

### **333-008-1040**

#### **Application Review**

(1) Once the Authority has determined that an application is complete it must review the application to determine compliance with ORS 475.314 and these rules.

(2) The Authority may, in its discretion, prior to acting on an application:

(a) Contact the applicant and request additional documentation or information; and

(b) Inspect the premises of the proposed facility.

(3) Prior to making a decision whether to approve or deny an application the Authority must:

(a) Ensure that the criminal background check process has been completed and review the results;

(b) Contact the OMMP and obtain documentation of whether the location of the facility is the same location as a registered grow site under OAR 333-008-0025;

(c) Review available records and information to determine whether the proposed facility is located within 1,000 feet of the real property comprising a public or private elementary, secondary or career school; and

(d) Review the list of registered facilities to determine whether any registered facilities are within 1,000 feet of the proposed facility.

(4) If during the review process the Authority determines that the application or supporting documentation contains intentionally false or misleading information the Authority must return the application to the applicant as incomplete.

Stat. Auth.: ORS 475.314, 475.338

Stats. Implemented: 475.314

### **333-008-1050**

#### **Approval of Application**

- (1) If the proposed facility appears to be in compliance with ORS 475.314 and these rules, and the PRF has passed the criminal background check and is determined to reside in Oregon, the Authority must notify the applicant in writing that the application has been approved, that the facility is registered, and provide the applicant with proof of registration that includes a unique registration number.
- (2) A facility that has been registered must display proof of registration in a prominent place inside the facility so that proof of registration is easily visible to individuals authorized to transfer usable marijuana and immature plants to the facility and individuals who are authorized to receive a transfer of usable marijuana and immature plants from the facility at all times when usable marijuana or immature plants are being transferred.
- (3) A registered facility may not post any signs at the facility that use the Authority or the OMMP name or logo except to the extent that information is contained on the proof of registration.
- (4) A facility's registration is only valid for the location indicated on the proof of registration and is only issued to the PRF that is listed on the application or subsequently approved by the Authority.
- (5) A facility's registration may not be transferred to another location.
- (6) If a proposed facility appears to be in compliance with ORS 475.314 and these rules except that the proposed facility does not yet have a security system installed and other security requirements in place, the Authority may issue a provisional registration that is valid for 60 days.
  - (a) In order to receive provisional registration a PRF must submit to the Authority at the time of application a floor plan of the facility that has marked and labeled all points of entry to the facility, all secure areas required by these rules and the proposed placement of all video cameras.
  - (b) The provisionally registered facility may not receive transfers of usable marijuana or immature plants or transfer usable marijuana or immature plants until the security system and other security requirements are in place and the Authority has approved the provisionally registered facility to begin operating.
  - (c) When the security system and other security requirements are in place the PRF must notify the Authority and if the Authority determines that the provisionally registered facility is in full compliance with these rules, the Authority must approve the facility for operation.

Stat. Auth.: ORS 475.314, 475.338

Stats. Implemented: 475.314

### **333-008-1060**

#### **Denial of Application**

- (1) The Authority must deny an application if:
  - (a) An applicant fails to provide sufficient documentation that the proposed facility meets the qualifications for a facility in these rules; or
  - (b) The PRF has been:
    - (A) Convicted for the manufacture or delivery of a controlled substance in Schedule I or Schedule II within five years from the date the application was received by the Authority; or
    - (B) Convicted more than once for the manufacture or delivery of a controlled substance in Schedule I or Schedule II; or
    - (C) Prohibited by a court from participating in the OMMP.

(2) If the Authority intends to deny an application for registration it must issue a Notice of Proposed Denial in accordance with ORS 183.411 through 183.470.

Stat. Auth.: ORS 475.314, 475.338

Stats. Implemented: 475.314

### **333-008-1070**

#### **Expiration and Renewal of Registration**

(1) A facility's registration expires one year following the date of application approval.

(2) If a PRF wishes to renew the facility's registration, the person must submit to the Authority within 60 days of the registration's expiration:

(a) An application renewal form prescribed by the Authority;

(b) The required renewal fees;

(c) Forms required for the Authority to do a criminal background check on the PRF.

Stat. Auth.: ORS 475.314, 475.338

Stats. Implemented: 475.314

### **333-008-1080**

#### **Notification of Changes**

(1) A PRF must notify the Authority within 10 calendar days of any of the following:

(a) The person's conviction for the manufacture or delivery of a controlled substance in Schedule I or Schedule II;

(b) The issuance of a court order that prohibits the person from participating in the OMMP;

(c) A decision to change the PRF;

(d) A decision to permanently close the facility at that location;

(e) A decision to move to a new location;

(f) A change in the person's residency; and

(g) The location of an elementary, secondary or career school attended primarily by minors within 1,000 feet of the facility.

(2) The notification required in section (1) of this rule must include a description of what has changed and any documentation necessary for the Authority to determine whether the facility is still in compliance with ORS 474.314 and these rules including but not limited to, as applicable:

(a) A copy of the criminal judgment or order;

(b) A copy of the court order prohibiting the PRF from participating in the OMMP;

(c) The location of the school that has been identified as being within 1,000 feet of the facility; or

(d) The information required in OAR 333-008-1120 and 333-008-1130 to determine the residency of the new PRF and to perform the criminal background check.

(3) Failure of the PRF to notify the Authority in accordance with this rule may result in revocation of a facility's registration.

Stat. Auth.: ORS 475.314, 475.338

Stats. Implemented: 475.314

### **333-008-1090**

#### **Required Closures**

A facility may not receive transfers of usable marijuana or immature plants or transfer usable marijuana or immature plants if:

- (1) The PRF is convicted for the manufacture or delivery of a controlled substance in Schedule I or Schedule II;
  - (2) The PRF changes and the Authority has not:
    - (a) Performed a criminal background check on the proposed PRF in accordance with OAR 333-008-1130;
    - (b) Determined whether the individual is a resident of Oregon; and
    - (c) Provided written approval that the new PRF meets the requirements of ORS 475.314.
  - (3) The PRF has been ordered by the court not to participate in the OMMP; or
  - (4) An elementary, secondary or career school attended primarily by minors is found to be within 1,000 of the registered facility.
- Stat. Auth.: ORS 475.314, 475.338  
Stats. Implemented: 475.314

### **333-008-1100**

#### **Business Qualifications for Medical Marijuana Facility Registration**

- (1) A facility must be registered as a business or at the time of applying to register a facility have filed a pending application to register as a business with the Office of the Secretary of State.
  - (2) The Authority may not approve an application until it has verified that the facility is registered as a business with the Office of the Secretary of State.
- Stat. Auth.: ORS 475.314, 475.338  
Stats. Implemented: 475.314

### **333-008-1110**

#### **Locations of Medical Marijuana Facilities**

- (1) In order to be registered a facility must be located in an area that is zoned by the local governing agency for commercial, industrial or mixed use or as agricultural land.
- (2) Registration by the Authority is not a guarantee that a facility is permitted to operate under applicable land use or other local government laws where the facility is located.
- (3) A facility may not be located:
  - (a) At the same address as a registered marijuana grow site;
  - (b) Within 1,000 feet of the real property comprising a public or private elementary, secondary or career school attended primarily by minors; or
  - (c) Within 1,000 feet of another medical marijuana facility;
- (4) In order for the Authority to ensure compliance with this rule a PRF must submit with an initial application documentation that shows the current zoning for the location of the proposed facility.
- (5) For purposes of determining the distance between a facility and a school referenced in subsection (3)(b) of this rule, “within 1,000 feet” means a straight line measurement in a radius extending for 1,000 feet or less in every direction from any point on the boundary line of the real property comprising an existing public or private elementary, secondary or career school primarily attended by minors.
- (6) For purposes of determining the distance between a facility and another registered facility “within 1,000 feet” means a straight line measurement in a radius extending for 1,000 feet or less in every direction from any point on the boundary line of the real property comprising a registered facility.

(7) In order to be registered a facility must operate at a particular location as specified in the application and may not be mobile.

Stat. Auth.: ORS 475.314, 475.338

Stats. Implemented: 475.314

### **333-008-1120**

#### **Person Responsible for a Medical Marijuana Facility (PRF)**

(1) A PRF must:

(a) Be a resident of Oregon. Residency may be proved by submitting to the Authority:

(A) An Oregon driver's license, an Oregon identification card that includes a photograph of the person, or a military identification card that includes a photograph of the person; and

(B) Copies of utility bills, rental receipts, mortgage statements or similar documents that contain the name and address of the domicile of the PRF.

(b) Have legal authority to act on behalf of the facility; and

(c) Be responsible for ensuring the facility complies with applicable laws, if registered.

(2) A PRF may not:

(a) Have been convicted in any state for the manufacture or delivery of a controlled substance in Schedule I or Schedule II within five years from the date of application; or

(b) Have been convicted more than once in any state for the manufacture or delivery of a controlled substance in Schedule I or Schedule II.

(3) At the time of application a PRF must submit to the Authority a copy of the information described in paragraphs (1)(a)(A) and (B) of this rule.

(4) A PRF is accountable for any intentional or unintentional action of its owners, officers, managers, employees or agents, with or without the knowledge of the PRF, who violate ORS 475.314 or these rules.

(5) If a PRF no longer meets the criteria of a PRF the Authority shall inform the PRF and the owner of the facility if different that:

(a) The PRF may no longer serve in that capacity;

(b) In order to remain certified, a change of PRF form must be submitted; and

(c) The facility may not operate until the Authority has approved a new PRF.

(6) If the Authority is notified that a change of PRF is needed, the current PRF is no longer able to serve as the PRF, or the PRF has been or will be removed by the owner of a facility, the owner of the facility must submit a change of PRF form to Authority within 10 business days of the notification or the Authority will begin proceedings to revoke the certification of the facility.

(7) If the PRF of record for the facility is no longer serving in that capacity the facility may not operate until a new PRF has been approved by the Authority.

Stat. Auth.: ORS 475.314, 475.338

Stats. Implemented: 475.314

### **333-008-1130**

#### **Criminal Background Checks**

(1) A PRF must, at the time of application, provide to the Authority:

(a) A criminal background check request form, prescribed by the Authority that includes but is not limited to:

(A) First, middle and last name;

(B) Any aliases;

- (C) Date of birth;
  - (D) Driver's license information; and
  - (E) Address and recent residency information.
  - (b) Fingerprints in accordance with the instructions on the Authority's webpage:  
<http://mmj.oregon.gov>.
  - (2) The Authority may request that the PRF disclose his or her Social Security Number if notice is provided that:
    - (a) Indicates the disclosure of the Social Security Number is voluntary; and
    - (b) That the Authority requests the Social Security Number solely for the purpose of positively identifying the PRF during the criminal records check process.
  - (3) The Authority shall conduct a criminal records check in order to determine whether the PRF has been convicted of the manufacture or delivery of a controlled substance in Schedule I or Schedule II in any state.
  - (4) The Authority must conduct a criminal background check in accordance with this rule on a PRF every year at the time of application renewal.
  - (5) If a PRF wishes to challenge the accuracy or completeness of information provided by the Department of State Police, the Federal Bureau of Investigation and agencies reporting information to the Department of State Police or Federal Bureau of Investigation, those challenges must be made through the Department of State Police, Federal Bureau of Investigation or reporting agency and not through the contested case process specified in OAR 333-008-1060(2).
- Stat. Auth.: ORS 475.314, 475.338  
Stats. Implemented: 475.314

### **333-008-1140**

#### **Security for Registered Facilities**

- (1) The PRF must ensure that a registered facility complies with OAR 333-008-1140 through 333-008-1180.
- (2) The PRF is responsible for the security of all usable marijuana and immature plants in the registered facility, including providing adequate safeguards against theft or diversion of usable marijuana and immature plants and records that are required to be kept.
- (3) The PRF must ensure that commercial grade, non-residential door locks are installed on every external door at a registered facility prior to opening for business and used while a facility is registered.
- (4) During all hours when the registered facility is open for business, the PRF must ensure that:
  - (a) All usable marijuana and immature plants received and all usable marijuana and immature plants available for transfer to a patient or a designated primary caregiver are kept in a locked, secure area that can only be accessed by authorized personnel.
  - (b) All areas where usable marijuana or immature plants are received for transfer by a registered facility are identified as a restricted access area by posting a sign not less than 12 inches wide and 12 inches long, composed of letters not less than one-half inch in height that reads, "Restricted Access Area – Authorized Personnel Only".
  - (c) All areas where usable marijuana or immature plants are available for transfer to a patient or designated primary caregiver are:

- (A) Identified as a restricted access area and clearly identified by the posting of a sign not less than 12 inches wide and 12 inches long, composed of letters not less than one-half inch in height that reads “Restricted Access Area – No Minors Allowed”;
  - (B) Supervised by the PRF or an employee of the registered facility at all times when a patient or designated primary caregiver is present; and
  - (C) Separate from any area where usable marijuana or immature plants are being transferred to a registered facility.
- (5) During all hours when the registered facility is not open for business the PRF must ensure that:
- (a) All entrances to and exits from the facility are securely locked and any keys or key codes to the facility remain in the possession of the PRF or authorized employees;
  - (b) All usable marijuana is kept in a safe; and
  - (c) All immature plants are in a locked room.
- (6) The PRF must ensure that:
- (a) Electronic records are encrypted, and securely stored to prevent unauthorized access and to ensure confidentiality;
  - (b) There is an electronic back-up system for all electronic records; and
  - (c) All video recordings and archived required records not stored electronically are kept in a locked storage area. Current records may be kept in a locked cupboard or desk outside the locked storage area during hours when the registered facility is open.
- Stat. Auth.: ORS 475.314, 475.338  
Stats. Implemented: 475.314

### **333-008-1150**

#### **Alarm System for Registered Facilities**

- (1) Prior to opening for business, a PRF must ensure that a registered facility has a security alarm system, installed by an alarm installation company, on all facility entry or exit points and perimeter windows.
  - (2) At the time of application a PRF must submit to the Authority documentation of the:
    - (a) Alarm system that is installed or proposed for installation;
    - (b) Company that installed the system or plans to install the system;
    - (c) Features of the system that meet the criteria of this rule.
  - (3) A PRF must ensure that the facility is continuously monitored by the alarm system.
  - (4) The security alarm system for the registered facility must:
    - (a) Be able to detect movement inside the registered facility;
    - (b) Be programmed to notify a security company that will notify the PRF or his or her designee in the event of a breach; and
    - (c) Have at least two “panic buttons” located inside the registered facility that are linked with the alarm system.
- Stat. Auth.: ORS 475.314, 475.338  
Stats. Implemented: 475.314

### **333-008-1160**

#### **Video Surveillance Equipment for Registered Facilities**

- (1) Prior to opening for business, a PRF must install a fully operational video surveillance recording system.

- (2) At the time of application a PRF must submit to the Authority documentation of the:
- (a) Video surveillance system that is installed or proposed for installation;
  - (b) Company or person that installed the system or plans to install the system;
  - (c) Features of the system that meet the criteria of this rule.
- (3) Video surveillance equipment must, at a minimum:
- (a) Consist of:
    - (A) Digital or network video recorders;
    - (B) Cameras capable of meeting the requirements of OAR 333-008-1170 and this rule;
    - (C) Video monitors;
    - (D) Digital archiving devices; and
    - (E) A color printer capable of producing still photos.
  - (b) Be equipped with a failure notification system that provides prompt notification to the PRF or employees of any prolonged surveillance interruption or failure; and
  - (c) Have sufficient battery backup to support a minimum of one hour of recording time in the event of a power outage.
- (4) All video surveillance equipment and recordings must be stored in a locked secure area that is accessible only to the PRF, authorized employees of the registered facility and the Authority.
- Stat. Auth.: ORS 475.314, 475.338  
Stats. Implemented: 475.314

### **333-008-1170**

#### **Required Camera Coverage and Camera Placement for Registered Facilities**

- (1) A PRF must ensure that a registered facility has camera coverage for:
- (a) All secure and restricted access areas described in OAR 333-008-1140;
  - (b) All point of sale areas;
  - (c) All points of entry to or exit from secure and restricted access areas; and
  - (d) All points of entry to or exit from the registered facility.
- (2) A PRF must ensure that camera placement is capable of identifying activity occurring within 15 feet of all points of entry to the registered facility and exit from the registered facility and shall allow for the clear and certain identification of any individual and activities on the facility premises.
- Stat. Auth.: ORS 475.314, 475.338  
Stats. Implemented: 475.314

### **333-008-1180**

#### **Video Recording Requirements for Registered Facilities**

- (1) The PRF must ensure that all camera views of all secure and restricted access areas and points of entry to or exit from the registered facility are continuously monitored by motion sensor video equipment or similar technology 24 hours a day.
- (2) A PRF must ensure that:
- (a) All surveillance recordings are kept for a minimum of 30 days and are in a format that can be easily accessed for viewing;
  - (b) The surveillance system has the capability to produce a color still photograph from any camera image;
  - (c) The date and time is embedded on all surveillance recordings without significantly obscuring the picture;

(d) Video recordings are archived in a format that ensures authentication of the recording as a legitimately-captured video and guarantees that no alterations of the recorded image has taken place; and

(e) Video surveillance records and recordings are available upon request to the Authority for the purpose of ensuring compliance with ORS 475.314 and these rules.

Stat. Auth.: ORS 475.314, 475.338

Stats. Implemented: 475.314

### **333-008-1190**

#### **Testing**

(1) A PRF must ensure that usable marijuana and immature plants are tested for pesticides, mold and mildew in accordance with this rule prior to the usable marijuana or immature plants being transferred to a patient or a designated primary caregiver.

(2) Upon usable marijuana being transferred to a registered facility in accordance with OAR 333-008-1230, the PRF must ensure the usable marijuana is segregated into batches, that each batch is placed in an individual container or bag, and that a label is attached to the container or bag that includes at least the following information:

(a) A unique identifier;

(b) The name of the person who transferred it; and

(c) The date the usable marijuana was received by the registered facility.

(3) Sampling. A PRF must ensure that random samples from each batch are taken in an amount necessary to conduct the applicable test, that the samples are labeled with the batch's unique identifier, and submitted for testing.

(4) Testing. A PRF must ensure that each sample is tested for pesticides, mold, and mildew and for an analysis of the levels of tetrahydrocannabinol (THC) and Cannabidiol (CBD).

(a) Immature Plants. An immature plant may be tested for pesticides, mold or mildew by conducting a macroscopic or microscopic screening to determine if the plant has visible pesticide residue, mold or mildew.

(b) Flowers or other usable marijuana plant material. Usable marijuana in the form of flowers or other plant material must be:

(A) Tested for pesticides, mold and mildew using valid testing methodologies and macroscopic or microscopic screening may not be used;

(B) Tested for pesticides by testing for the following analytes:

(i) Chlorinated Hydrocarbons;

(ii) Organophosphates;

(iii) Carbamates; and

(iv) Pyrethroids; and

(C) Analyzed, using valid testing methodologies, to determine the levels of THC and CBD.

(c) Edibles, Liquids and Solid Extracts. If the usable marijuana used in the edible, liquid or solid extract has been tested in accordance with this rule and tested negative for pesticides, mold or mildew, the edible, liquid or solid extract does not need to be tested for pesticides, mold and mildew but does need to be tested for an analysis of the levels of THC and CBD. If the usable marijuana used in the edible, liquid, or solid extract was not tested in accordance with this rule, the edible, liquid or solid extract must be tested for pesticides, mold or mildew in accordance with subsection (4)(b) of this rule.

(5) Laboratory Requirements. A PRF must ensure that all testing, except for testing of immature plants, is done by a third party or in-house laboratory that:

(a) Uses valid testing methodologies; and

(b) Has a Quality System for testing of pesticides, mold and mildew that is compliant with the:

(A) 2005 International Organization for Standardization 17025 Standard; or

(B) 2009 National Environmental Laboratory Accreditation Conference Institute TNI Standards.

(6) Macroscopic or microscopic screening of immature plants must be conducted by a person who has a minimum of a bachelor's degree in horticulture, botany, plant pathology, microbiology, or an equivalent degree but is not required to be done by a laboratory.

(7) Testing Results. A laboratory must provide testing results to the PRF signed by an official of the laboratory who can attest to the accuracy of the results, and that includes the levels of pesticides, mold or mildew detected and the levels of THC and CBD.

(a) If an immature plant has visible pesticide residue, mold or mildew it must be deemed to test positive and must be returned to the person who transferred the immature plant to the registered facility.

(b) A sample of usable marijuana shall be deemed to test positive for mold and mildew if the sample has levels that exceed the maximum acceptable counts listed in Appendix A.

(c) A sample of usable marijuana shall be deemed to test positive for pesticides with a detection of more than 0.1 parts per million of any pesticide.

(8) If an immature plant or sample of usable marijuana tests positive for pesticides, mold or mildew based on the standards in this rule the PRF must ensure the entire batch from which the sample was taken is returned to the person who transferred the immature plant or usable marijuana to the registered facility and must document how many or how much was returned, to whom, and the date it was returned.

(9) A registered facility may perform its own testing as long as the testing complies with this rule.

(10) The PRF may permit laboratory personnel or other persons authorized to do testing access to secure or restricted access areas of the registered facility where usable marijuana or immature plants are stored. The PRF must log the date and time in and out of all such persons.

Stat. Auth.: ORS 475.314, 475.338

Stats. Implemented: 475.314

### **333-008-1200**

#### **Operation of Registered Facilities**

(1) A PRF must ensure that a registered facility does not permit:

(a) A minor to be present in any area of a registered facility where usable marijuana or immature plants are present, even if the minor is a patient or an employee; and

(b) Consumption, ingestion, inhalation or topical application of usable marijuana anywhere on the premises of the registered facility, except that an employee of a registered facility who is a patient may consume usable marijuana during their work shift as necessary for his or her medical condition, in a closed room, alone if the usable marijuana is being smoked, not visible to the public or to patients or caregivers on the premises of the registered facility to receive a transfer of usable marijuana or an immature plant.

(2) A PRF must ensure that a registered facility uses an Oregon Department of Agriculture approved scale to weigh all usable marijuana.

(3) The following persons are the only persons permitted in any area of a registered facility where usable marijuana or immature plants are present, and only in accordance with these rules, as applicable:

- (a) A PRF;
- (b) An owner of a registered facility;
- (c) An employee of the registered facility;
- (d) Laboratory personnel in accordance with OAR 333-008-1190;
- (e) A contractor authorized by the PRF to be on the premises of a registered facility;
- (f) A patient, designated primary caregiver, or growers;
- (g) An authorized employee or authorized contractor of the Authority; and
- (h) Other government officials that have jurisdiction over some aspect of the registered facility or that otherwise have authority to be on the premises of the registered facility.

(4) A PRF must have written detailed policies and procedures and training for employees on the policies and procedures that at a minimum, cover the following:

- (a) Security;
- (b) Testing;
- (c) Transfers of usable marijuana and plants to and from the facility;
- (d) Operation of a registered facility;
- (e) Required record keeping;
- (f) Labeling; and
- (g) Violations and enforcement.

Stat. Auth.: ORS 475.314, 475.338

Stats. Implemented: 475.314

### **333-008-1210**

#### **Record Keeping**

(1) A PRF must ensure that the following information is documented and maintained electronically in a manner that can easily be shared with the Authority or accessed by the Authority:

- (a) All Authorization to Transfer forms, including the date on which a form was received;
- (b) Any written notifications from a patient with regard to any change in status as required by ORS 475.309(7)(a)(B) or (10)(a);
- (c) Any revocation of an Authorization to Transfer form;
- (d) All transfer information required in OAR 333-008-1230 and 333-008-1245;
- (e) Documentation of the costs of doing normal and customary business used to establish the reimbursement amounts for transfers of usable marijuana or immature plants, including costs related to transferring, handling, securing, insuring, testing, packaging and processing usable marijuana and immature marijuana plants and the cost of supplies, utilities and rent or mortgage.
- (f) The amount of money paid by a registered facility to a grower for each transfer of usable marijuana or immature plants;
- (g) The amount of money paid by each patient or designated primary caregiver for a transfer of usable marijuana or an immature plant;
- (h) The laboratory reports of all testing and other information required to be documented in OAR 333-008-1190; and
- (i) All other information required to be documented and retained in these rules.

(2) The PRF must ensure that information required to be documented pursuant to section (1) of this rule is maintained in a safe and secure manner that protects the information from unauthorized access, theft, fire, or other destructive forces, and is easily retrievable for inspection by the Authority upon request, either at the registered facility or online.

(3) A PRF must ensure that a registered facility uses an electronic data management system for the recording of transfers of usable marijuana and immature plants. The system must meet the following minimum requirements:

(a) Record the information required to be documented in this rule and OAR 333-008-1230 and 333-008-1245;

(b) Provide for off-site or secondary backup system;

(c) Assign a unique transaction number for each transfer to or from the registered facility;

(d) Monitor date of testing and testing results;

(e) Track products by unique transaction number through the transfer in, testing and transfer out processes;

(f) Generate transaction and other reports requested by the Authority viewable in PDF format;

(g) Produce reports, including but not limited to inventory reports; and

(h) Provide security measures to ensure patient and grower records are kept confidential.

(4) Documents and information required to be maintained in these rules must be retained by the PRF for at least one year.

(5) A PRF must provide the Authority with any documentation required to be maintained in these rules upon request, in the format requested by the Authority, or permit the Authority access to such documentation on-site.

Stat. Auth.: ORS 475.314, 475.338

Stats. Implemented: 475.314

### **333-008-1220**

#### **Labeling**

(1) Prior to transferring usable marijuana a PRF must ensure that a label is affixed to the usable marijuana that includes but is not limited to:

(a) The amount of THC and CBD in the usable marijuana;

(b) If pre-packaged, the weight or volume of the packaged usable marijuana in metric units;

(c) The amount of usable marijuana in a finished product in metric units;

(d) Potency information; and

(e) Who performed the testing.

(2) If the registered facility transfers usable marijuana in a form that is edible, the PRF must ensure that the usable marijuana has a warning label on the outside of the packaging that includes the following: "WARNING: MEDICINAL PRODUCT – KEEP OUT OF REACH OF CHILDREN" in bold capital letters, in a font size that is larger than the type-size of the other printing on the label such that it is easy to read and prominently displayed on the product.

Stat. Auth.: ORS 475.314, 475.338

Stats. Implemented: 475.314

### **333-008-1225**

#### **Packaging**

**(1) For purposes of this rule:**

**(a) "Child-resistant safety packaging" means:**

- (A) Tamper-proof, child-proof containers designed and constructed to be significantly difficult for children under five years of age to open and not difficult for adults to use properly;
  - (B) Opaque so that the product cannot be seen from outside the packaging;
  - (C) Closable for any product intended for more than a single use or containing multiple servings;  
and
  - (D) Labeled in accordance with OAR 333-008-1220.
  - (b) "Container" means a sealed, hard or soft-bodied receptacle in which a tetrahydrocannabinol-infused product is placed prior to being transferred to a patient or caregiver.
  - (c) "Packaged in a manner not attractive to minors" means the tetrahydrocannabinol-infused product is not in a container that is brightly colored, depicts cartoons or images other than the logo of the facility, unless the logo of the facility depicts cartoons, in which case only the name of the facility is permitted.
  - (2) A registered facility may not transfer any tetrahydrocannabinol-infused product that is meant to be swallowed or inhaled, unless the product is:
    - (a) Packaged in child-resistant safety packaging; and
    - (b) Packaged in a manner that is not attractive to minors.
- Stat. Auth.: ORS 475.314  
Stats. Implemented: ORS 475.314

### **333-008-1230**

#### **Transfers to a Registered Facility**

- (1) A patient may authorize usable marijuana or immature marijuana plants to be transferred to a registered facility by signing an Authorization to Transfer form prescribed by the Authority. A patient may authorize transfers to more than one registered facility. A separate form must be provided for each registered facility. The Authorization must include, but is not limited to, the following information:
- (a) The patient's name, OMMP card number and expiration date and contact information;
  - (b) The name and contact information of the individual who is authorized to transfer the usable marijuana or immature marijuana plants to the registered facility and that individual's OMMP card number and expiration date;
  - (c) The name and address of the registered facility that is authorized to receive the usable marijuana or immature marijuana plants; and
  - (d) The date the authorization expires, if earlier than the expiration date of the patient's OMMP card.
- (2) Only a patient, the patient's designated primary caregiver, or the patient's grower may be authorized to transfer usable marijuana or immature plants to a registered facility.
- (3) The original Authorization to Transfer form must be provided to the registered facility to which a transfer may be made by the patient or person authorized to transfer the usable marijuana or immature plants. The patient should retain a copy of the Authorization to Transfer form for his or her records and provide a copy to the person authorized to transfer the usable marijuana or immature plants.
- (4) An Authorization to Transfer form automatically expires on the date the patient's OMMP card expires, unless the patient has specified an earlier expiration date. If the patient renews his or her OMMP card the patient may execute a new Authorization to Transfer form in accordance with this rule.

- (5) Once usable marijuana or an immature plant is transferred to a registered facility pursuant to a valid Authorization to Transfer form, the usable marijuana or immature plant is no longer the property of the patient unless the usable marijuana or immature plants are returned by the registered facility.
- (6) Prior to a registered facility accepting a transfer of usable marijuana or immature plants the PRF must ensure that:
- (a) It has a valid Authorization to Transfer form on file that authorizes the individual that is transferring the usable marijuana or immature plants to make the transfer; and
  - (b) The individual transferring the usable marijuana or immature plants is the individual authorized to make the transfer.
- (7) A PRF must ensure that when a registered facility accepts a transfer of usable marijuana or an immature plant the batch of usable marijuana and each immature plant are segregated in accordance with the testing rule, OAR 333-008-1190 and that the following information is documented, as applicable:
- (a) The unique identifier;
  - (b) The weight in metric units of all usable marijuana received by the registered facility;
  - (c) The number of immature plants received by the registered facility;
  - (d) The amount of a finished product received by the registered facility, including, as applicable, the weight in metric units, or the number of units of a finished product;
  - (e) A description of the form the usable marijuana was in when it was received, for example, oil or an edible product;
  - (f) Who transferred the usable marijuana or the immature plant, the individual's OMMP card number and expiration date of the card, a copy of the individual's picture identification, the date the usable marijuana or an immature plant was received, and the name of the patient who authorized the transfer; and
  - (g) The amount of reimbursement paid by the registered facility.
- (8) Nothing in these rules requires a PRF or a registered facility to accept a transfer of usable marijuana or immature plants.
- (9) A PRF must ensure that:
- (a) From the time that a batch or plant has been received by the registered facility until it is tested in accordance with these rules, the usable marijuana and immature plants are segregated, withheld from use, and kept in a secure location so as to prevent the marijuana or plants from becoming contaminated or losing efficacy, or from being tampered with or transferred except that samples may be removed for testing; and
  - (b) No usable marijuana or immature plants are transferred to a patient or designated primary caregiver until testing has been completed, the registered facility has received a written testing report, and the usable marijuana and immature plants have tested negative for pesticides, mold and mildew.
- (10) Usable marijuana and immature plants must be kept on-site at the facility. The Authority may cite a PRF for a violation of these rules if during an inspection it cannot account for its inventory or if the amount of usable marijuana at the registered facility is not within five percent of the documented inventory.

Stat. Auth.: ORS 475.314, 475.338

Stats. Implemented: ORS 475.314

**333-008-1245**

**Transfers to a Patient or Designated Primary Caregiver**

- (1) A registered facility may not transfer a tetrahydrocannabinol-infused product that is manufactured in a manner that is attractive to minors. For purposes of this section a product is considered to be manufactured in a manner that is attractive to minors if it is:
- (a) Brightly colored; or
  - (b) In the shape of an animal or any other commercially recognizable toy or candy.
- (2) Prior to a registered facility transferring usable marijuana or an immature plant to a patient or a designated primary caregiver the PRF must ensure that:
- (a) The usable marijuana or an immature plant has not tested positive for mold, mildew or pesticides as specified in OAR 333-008-1190; and
  - (b) The identity and cardholder status of the person requesting usable marijuana or an immature plant is verified by viewing the person's OMMP card and picture identification and making sure the two match.
- (3) The PRF must ensure that for each transfer of usable marijuana or an immature plant to a patient or a designated primary caregiver the following information is documented:
- (a) The name, OMMP card number and expiration date of the card of each person to whom the registered facility transfers usable marijuana or an immature plant;
  - (b) A copy of the person's picture identification;
  - (c) The amount of usable marijuana transferred in metric units, if applicable;
  - (d) The number of immature plants transferred, if applicable;
  - (e) The amount of a finished product transferred in metric units, or units of the finished product, if applicable;
  - (f) A description of what was transferred;
  - (g) The date of the transfer; and
  - (h) The amount of money paid by a patient or a designated primary caregiver to a registered facility for the transfer of usable marijuana or an immature plant.
- (4) The PRF must ensure that a registered facility does not transfer at any one time more usable marijuana or immature plants than a patient or designated primary caregiver is permitted to possess under ORS 475.320(1)(a). A PRF is not responsible for determining whether a patient or designated primary caregiver is limited in the amount of usable marijuana he or she can possess under 475.320(1)(b).

Stat. Auth.: ORS 475.314 & 475.338

Stats. Implemented: ORS 475.314

**333-008-1250**

**Inspections**

- (1) The Authority must conduct an initial inspection of every registered facility within six months of approving an application to ensure compliance with these rules, and must conduct a routine inspection of every registered facility at least every year.
- (2) The Authority may conduct a complaint inspection at any time following the receipt of a complaint that alleges a registered facility is in violation of ORS 475.314 or these rules.
- (3) The Authority may conduct an inspection at any time if it believes, for any reason, that a registered facility or a PRF is in violation of ORS 475.314 or these rules.

(4) A PRF and any employees, contractors, or other individuals working at a registered facility must cooperate with the Authority during an inspection.

(5) If an individual at a registered facility fails to permit the Authority to conduct an inspection the Authority may seek an administrative warrant authorizing the inspection pursuant to ORS 431.262.

Stat. Auth.: ORS 431.262, 475.314, 475.338

Stats. Implemented: ORS 431.262, 475.314

### **333-008-1260**

#### **Violations**

(1) A registered facility is in violation of ORS 475.314 or these rules for:

(a) A PRF or an employee of a facility failing to cooperate with an inspection;

(b) The submission by a PRF of false or misleading information to the Authority in support of an application or in seeking to retain registration;

(c) Transferring usable marijuana or immature plants to an individual who is not a patient or a designated primary caregiver;

(d) Accepting a transfer of usable marijuana or immature plants without a valid authorization from the patient;

(e) Possessing a mature marijuana plant at the registered facility;

(f) Failing to document and maintain information in the manner required by these rules;

(g) Failing to account for usable marijuana or immature plants on the premises of the registered facility, taking into account a five percent loss;

(g) Failing to submit a plan of correction in accordance with OAR 333-008-1275;

(h) Failing to comply with a final order of the Authority, including failing to pay a civil penalty; or

(i) Failing to comply with ORS 475.314 or any of these rules.

(2) It is a violation of ORS 475.314 and these rules to operate a facility without being registered by the Authority.

Stat. Auth.: ORS 475.314, 475.338

Stats. Implemented: ORS 475.314

### **333-008-1275**

#### **Enforcement**

(1)(a) Informal Enforcement. If, during an inspection the Authority documents violations of ORS 475.314 or any of these rules, the Authority may issue a written Notice of Violation to the PRF that cites the laws alleged to have been violated and the facts supporting the allegations.

(b) The PRF must submit to the Authority a signed plan of correction within 10 business days from the date the Notice of Violation was mailed to the person. A signed plan of correction will not be used by the Authority as an admission of the violations alleged in the Notice.

(c) A PRF must correct all deficiencies within 10 days from the date of the Notice, unless an extension of time is requested from the Authority. A request for such an extension shall be submitted in writing and must accompany the plan of correction.

(d) The Authority must determine if a written plan of correction is acceptable. If the plan of correction is not acceptable to the Authority it must notify the PRF in writing and request that the

plan of correction be modified and resubmitted no later than 10 working days from the date the letter of non-acceptance was mailed.

(e) If the registered facility does not come into compliance by the date of correction reflected on the plan of correction, the Authority may propose to revoke the registration of the facility or impose civil penalties.

(f) The Authority may conduct an inspection at any time to determine whether a registered facility has corrected the deficiencies in a Notice of Violation.

(2) Formal Enforcement. If, during an inspection or based on other information the Authority determines that a registered facility or PRF is in violation of ORS 475.314 or these rules the Authority may issue:

(a) A Notice of Proposed Revocation in accordance with ORS 183.411 through 183.470; or

(b) A Notice of Imposition of Civil Penalties in accordance with ORS 183.745. Civil penalties may be issued for any violation of ORS 475.314 and these rules, not to exceed \$500 per violation per day.

(3) The Authority must determine whether to use the informal or formal enforcement process based on the nature of the alleged violations, whether there are mitigating or aggravating factors, and whether the PRF or the registered facility has a history of violations.

(4) The Authority must issue a Notice of Proposed Revocation if the:

(a) Facility no longer meets the criteria in ORS 475.314(3)(a) to (d); or

(b) PRF is not a resident of Oregon, has disqualifying criminal convictions as described in OAR 333-008-1120, or a court has issued an order that prohibits the PRF from participating in the OMMP under ORS 475.300 through 475.346 unless a new PRF is approved by the Authority.

(5) The Authority may maintain a civil action against a facility that is operating but not registered in accordance with ORS 475.314 and these rules.

(6) The Authority may revoke the registration of a facility for failure to comply with an ordinance adopted by a city or county pursuant to Oregon Laws 2014, chapter 79, section 2, if the city or county:

(a) Has provided the facility with due process substantially similar to the due process provided to a registration or license holder under the Administrative Procedures Act, ORS 183.413 to 183.470; and

(b) Provides the Authority with a final order that is substantially similar to the requirements for a final order under ORS 183.470 that establishes the facility is in violation of the local ordinance.

(7) The Authority must post a final order revoking the registration of a facility on the Authority's website and provide a copy of the final order to the OMMP.

(8) To the extent permitted by law, if the Authority discovers violations that may constitute criminal conduct or conduct that is in violation of laws within the jurisdiction of other state or local governmental entities, the Authority may refer the matter to the applicable agency.

(9) If the registration of a facility is revoked the PRF must make arrangements to return the usable marijuana and immature plants in amounts still possessed by the facility, to the person who transferred the usable marijuana or immature plants and must document the same.

Stat. Auth.: ORS 431.262, 475.314 & 475.338

Stats. Implemented: ORS 431.262 & 475.314

**333-008-1280**

**Confidentiality**

- (1) Any criminal background information received by the Authority about a PRF during the criminal background check process is confidential and is not subject to disclosure without a court order.
  - (2) The name of a PRF and the address of a registered facility is confidential and is not subject to disclosure without a court order, except as provided in section (5) of this rule, or unless a PRF has authorized disclosure.
  - (3) If an application has been denied, the information submitted to the Authority in an application for registration of a facility is not confidential and may be subject to disclosure under ORS 192.410 through 192.505.
  - (4) A final order revoking the registration of a facility is not confidential and may be posted on the Authority's website or otherwise made public by the Authority.
  - (5) Authorized employees of state and local law enforcement agencies may verify with the Authority at all times whether:
    - (a) A location is the location of a registered facility; or
    - (b) A person is listed as the PRF of a registered facility.
- Stat. Auth.: ORS 475.314, 475.338  
Stats. Implemented: ORS 475.314, 475.331

**333-008-1290**

**Change of Location**

- (1) A registered facility that changes location must submit a new application that complies with OAR 333-008-1020.
  - (2) A facility may not operate at a new location unless it is registered by the Authority.
- Stat. Auth.: ORS 475.314, 475.338  
Stats. Implemented: ORS 475.314

**333-008-1400**

**Moratoriums**

- (1) For purposes of this rule, "moratorium" means an ordinance, adopted by the governing body of a city or county by May 1, 2014, that specifically suspends the operation of registered medical marijuana facilities within the area subject to the jurisdiction of the city or county, for a period of time that does not extend past May 1, 2015.
- (2) If a city or county adopts a moratorium it must notify the Authority and provide a copy of the ordinance.
- (3) An applicant applying for registration of a facility proposing to operate in an area subject to a moratorium may submit a request, in writing, to withdraw the application and may request a refund of the fees.
- (4) A PRF of a registered facility located in an area subject to a moratorium may submit a request, in writing, to surrender its registration and request a refund of the fees.
- (5) Upon receipt of a request to withdraw an application or surrender a registration under sections (3) or (4) of this rule the Authority shall determine whether the ordinance falls within the definition of moratorium and inform the applicant or PRF in writing whether:
  - (a) The application is considered withdrawn and the fees refunded; or
  - (b) The registration has been surrendered and the fees refunded.

- (6) The Authority may refund all fees, including the non-refundable registration fee.
  - (7) Notifications or requests described in sections (2) to (4) of this rule may be submitted to the Authority:
    - (a) By mail at P.O. Box 14116, Portland, OR 97293; or
    - (b) By electronic mail to [medmj.dispensaries@state.or.us](mailto:medmj.dispensaries@state.or.us).
- Stat. Auth.: Oregon Laws 2014, Chapter 79, Section 3  
Stats. Implemented: Oregon Laws 2014, Chapter 79, Section 3

**333-008-1190**

**Appendix A**

**Mold and Mildew limits for cannabis products (CFU/g)**

	<b>Total viable aerobic bacteria (mildew)</b>	<b>Total yeast and mold</b>
<b>Unprocessed materials*</b>	10 <sup>5</sup>	10 <sup>4</sup>
<b>Processed materials*</b>	10 <sup>5</sup>	10 <sup>4</sup>
<b>CO<sub>2</sub> and solvent based extracts</b>	10 <sup>4</sup>	10 <sup>3</sup>

\*Unprocessed materials include minimally processed crude cannabis preparations such as inflorescences, accumulated resin glands (kief), and compressed resin glands (hashish). Processed materials include various solid or liquid infused edible preparations, oils, topical preparations, and water-processed resin glands (“bubble hash”).

*Source: American Herbal Pharmacopoeia Monograph, December 18<sup>th</sup>, 2013*

**Oregon Medical Marijuana Program proposed revised rules**

**333-008-0010**

**Definitions**

For the purposes of OAR 333-008-0000 through 333-008-0120, the following definitions apply:

- (1) "Act" means the Oregon Medical Marijuana Act.
- (2) "Applicant" means a person applying for an Oregon Medical Marijuana registry identification card on a form prescribed by the Authority.
- (3) "Attending physician" means a Doctor of Medicine (MD) or Doctor of Osteopathy (DO), licensed under ORS chapter 677, who has primary responsibility for the care and treatment of a person diagnosed with a debilitating medical condition.
- (4) "Authority" means the Oregon Health Authority.
- (5) "Debilitating medical condition" means:
  - (a) Cancer, glaucoma, agitation incident to Alzheimer's disease, positive status for human immunodeficiency virus or acquired immune deficiency syndrome, or a side effect related to the treatment of these medical conditions;
  - (b) A medical condition or treatment for a medical condition that produces, for a specific patient, one or more of the following:
    - (A) Cachexia;
    - (B) Severe pain;
    - (C) Severe nausea;
    - (D) Seizures, including but not limited to seizures caused by epilepsy; or
    - (E) Persistent muscle spasms, including but not limited to spasms caused by multiple sclerosis;
  - (c) Post-traumatic stress disorder; or
  - (d) Any other medical condition or side effect related to the treatment of a medical condition adopted by the Authority by rule or approved by the Authority pursuant to a petition submitted under OAR 333-008-0090.
- (6) "Delivery" means the actual, constructive or attempted transfer, other than by administering or dispensing, from one person to another of a controlled substance, whether or not there is an agency relationship, but does not include transfer of marijuana from one patient to another patient if no consideration is paid for the transfer.
- (7) "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 Authority. "Designated primary caregiver" does not include the person's attending physician.
- (8) "Food stamps" means the Supplemental Nutrition Assistance Program as defined and governed by ORS 411.806 through 411.845.
- (9) "Grow site" means a specific location registered by the Authority used by the grower to produce marijuana for medical use by a specific patient.
- (10) "Grow site registration card" means the card issued to the patient and displayed at the grow site.
- (11) "Grower" has the same meaning as "person responsible for a marijuana grow site."
- (12) "Immature plant" has the same meaning as "seedling or start."
- (13) "Marijuana" means all parts of the plant Cannabis family Moraceae, whether growing or not; the resin extracted from any part of the plant; and every compound, manufacture, salt,

derivative, mixture, or preparation of the plant or its resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.

(14) "Mature plant" means a marijuana plant that does not fall within the definition of a seedling or a start.

(15) "Medical marijuana facility" is a facility, registered by the Authority, under OAR 333-008-1050.

(16) "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 his or her debilitating medical condition.

(17) "Oregon Health Plan (OHP)" means the medical assistance program administered by the Authority under ORS chapter 414.

(18) "OMMP" refers to the office within the Authority that administers the provisions of the OMMA, and all policies and procedures pertaining thereto, as set forth in these rules.

(19) "Parent or legal guardian" means the custodial parent or legal guardian with responsibility for health care decisions for the person under 18 years of age.

(20) "Patient" has the same meaning as "registry identification cardholder."

(21) "Person responsible for a marijuana grow site" means a person who has been selected by a patient to produce medical marijuana for the patient, and who has been registered by the Authority for this purpose.

(22) "Person responsible for a medical marijuana facility" has the meaning given that term in OAR 333-008-1010.

(23) "Primary responsibility" as that term is used in relation to an attending physician means that the physician:

(a) Provides primary health care to the patient; or

(b) Provides medical specialty care and treatment to the patient as recognized by the American Board of Medical Specialties; or

(c) Is a consultant who has been asked to examine and treat the patient by the patient's primary care physician licensed under ORS chapter 677, the patient's physician assistant licensed under ORS chapter 677, or the patient's nurse practitioner licensed under ORS chapter 678; and,

(d) Has reviewed a patient's medical records at the patient's request and has conducted a thorough physical examination of the patient, has provided or planned follow-up care, and has documented these activities in the patient's medical record.

(24) "Production" includes the manufacture, planting, cultivation, growing or harvesting of a controlled substance.

(25) "Registry identification card" means a document issued by the Authority that identifies a person authorized to engage in the medical use of marijuana, and the person's designated primary caregiver, if any.

(26) "Registry identification cardholder" means a person who has been diagnosed by an attending physician with a debilitating medical condition and for whom the use of medical marijuana may mitigate the symptoms or effects of the person's debilitating medical condition, and who has been issued a registry identification card by the Authority.

(27) "Replacement registry identification card" means a new card issued in the event that a registry identification cardholder's card, designated primary caregiver identification card, grower

identification card, or grow site registration card is lost or stolen, or if a registry identification cardholder's designation of primary caregiver, grower, or grow site has changed.

(28) "Seedling or start" means a marijuana plant that has no flowers, is less than 12 inches in height, and less than 12 inches in diameter. A seedling or start that does not meet all three criteria shall be considered a mature plant.

(29) "Supplemental Security Income (SSI)" means the monthly benefit assistance program administered by the federal government for persons who are age 65 or older, or blind, or disabled and who have limited income and financial resources.

(30) "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. "Usable marijuana" does not include the seeds, stalks and roots of the plant.

(31) "Written documentation" means a statement signed and dated by the attending physician of a person diagnosed with a debilitating medical condition or copies of the person's relevant medical records, maintained in accordance with standard medical record practices.

Stat. Auth.: ORS 475.338

Stats. Implemented: ORS 475.300 - 475.346

### **333-008-0020**

#### **New Registration Application and Verification**

(1) A person may apply for a registry identification card on forms prescribed by the Authority. In order for an application to be considered complete, an applicant must submit the following:

(a) An application form signed and dated by the applicant;

(b) Copies of legible and valid U.S. state or federal issued photographic identification that includes last name, first name, and date of birth from the applicant, the designated primary caregiver, and grower, as applicable. Acceptable forms of current U.S. state or federal issued photographic identification include but are not limited to:

(A) Driver's license;

(B) State identification card;

(C) Passport; or

(D) Military identification card.

(c) Written documentation, which may consist of relevant portions of the applicant's medical record, signed by the applicant's attending physician within 90 days of the date of receipt by the Authority, which describes the applicant's debilitating medical condition and states that the use of marijuana may mitigate the symptoms or effects of the applicant's debilitating medical condition;

(d) If applicable, a completed and notarized "Declaration of Person Responsible for Minor" form for any person under 18 years of age, signed and dated by the person responsible for the minor;

(e) The name of a designated primary caregiver, if any;

(f) The name of a designated grower (either the patient or another person), if any and the location of the grow site; and

(g) An application fee and grow site registration fee, if applicable, in the form of cash, bank check, money order, or personal check.

(2) The Authority shall process an application prior to issuing registry identification cards to assure that the application is complete and information provided has been verified.

(a) The Authority shall only accept applications that are mailed or are hand-delivered.

(b) If an applicant does not provide all the information required and the application is considered incomplete, the Authority shall notify the applicant of the information that is missing, and shall allow the applicant 14 days to submit the missing information.

(c) If an applicant does not provide the information necessary to declare an application complete, or to complete the verification process within the timelines established in subsections (2)(b) and (3)(e) of this rule, the application shall be rejected as incomplete. An applicant whose application is rejected as incomplete may reapply at any time. If an applicant submits an application fee and the application is subsequently denied or rejected, the application fee may be applied toward a new application submitted within one year of the denial or rejection date.

(d) The Authority may reject an application if the application or supporting documents appear to be altered (for example, writing is whited out). An application shall be denied in accordance with OAR 333-008-0030 if an application or supporting documents are determined to have been falsified.

(e) The Authority may verify information on each application and accompanying documentation, including:

(A) Contacting each applicant by telephone or by mail. If proof of identity is uncertain, the Authority may require a face-to-face meeting and may require the production of additional identification materials;

(B) Contacting a minor's parent or legal guardian;

(C) Contacting the Oregon Medical Board to verify that an attending physician is licensed to practice in the state and is in good standing;

(D) Contacting the attending physician to request further documentation to support a finding that the physician is the applicant's attending physician. The Authority shall notify the applicant of the intent to review the medical records and request the applicant's authorization to conduct the review. Failure to authorize a review of medical records may result in the application being declared incomplete, or denial of an application. If the Authority is unable to verify that the applicant's attending physician meets the definition under OAR 333-008-0010(3) the applicant will be allowed 30 days to submit written documentation or a new attending physician's declaration from a physician meeting the requirements of these rules. Failure to submit the required attending physician documentation is grounds for denial under ORS 475.309 and OAR 333-008-0030;

(E) Contacting the Division of Medical Assistance Programs, Department of Human Services-Self Sufficiency, or the Social Security Administration (SSA) to verify eligibility for benefits; and

(F) Conducting a criminal records check under ORS 181.534 of any person whose name is submitted as a grower.

(3) Application fees.

(a) A non-refundable application fee of \$200 is required at the time of application.

(b) If applicable as specified in OAR 333-008-0025, a non-refundable grow site registration fee of \$50 is required at the time of application.

(c) An applicant who can demonstrate current receipt of SSI benefits, current eligibility for OHP benefits or current receipt of food stamp benefits through the Oregon SNAP program qualifies for a reduced non-refundable application fee.

(A) An applicant demonstrating receipt of SSI benefits by providing a copy of a current monthly SSI benefit card showing dates of coverage is entitled to a reduced application fee of \$20.

- (B) An applicant demonstrating current eligibility for OHP benefits by providing a copy of the applicant's current eligibility statement is entitled to a reduced application fee of \$50.
- (C) An applicant demonstrating receipt of current food stamp benefits, verified by enrollment in Oregon's Food Stamp Management Information System database system and by providing current proof of his or her food stamp benefits, is entitled to a reduced application fee of \$60.
- (d) The Authority shall place a 10-day hold on the issuance of a registry identification card for an application accompanied by a personal check. Upon receipt by the Authority of a notice of non-sufficient funds (NSF) or stop payment, an applicant will be allowed 14 days to submit payment in the form of a bank check or cash. Application fees paid in the form of cash must be hand-delivered. Applicants are advised not to make payments in cash through the United States mail or private delivery services. The Authority will not accept responsibility for payments of cash that are lost in the mail or stolen in transit.
- (e) The Authority shall notify an applicant who submits a reduced application fee for which the applicant is not eligible and will allow the applicant 14 days from the date of notice to pay the correct application fee and submit a current valid proof of eligibility.
- (f) The application fees established in paragraphs (3)(c)(B) and (C) of this rule are effective for applications received on or after October 1, 2013.
- (4) The application forms referenced in this rule may be obtained by contacting the Oregon Medical Marijuana Program (OMMP) at PO Box 14450, Portland, OR 97293-0450 or by calling 971-673-1234.

Stat. Auth.: ORS 475.338

Stats. Implemented: ORS 475.300 - 475.346

### **333-008-0025**

#### **Marijuana Grow Site Registration**

- (1) A patient may register a marijuana grow site with the Authority. The address of a medical marijuana facility may not be listed by a patient on the grow site application as the location of the marijuana grow site. The Authority will register only one grow site per patient, and will only register grow sites in Oregon.
- (2) To register a marijuana grow site, an applicant or patient must submit to the Authority an application, prescribed by the Authority, that includes:
- (a) The name of the grower;
  - (b) The date of birth of the grower;
  - (c) The physical address of the marijuana grow site where marijuana is to be produced;
  - (d) The mailing address of the grower;
  - (e) The registry identification card number of the patient, if known, for whom the marijuana is being produced; and
- (f) A non-refundable grow site registration fee of \$50 in the form of cash, bank check, money order, or personal check. If the grower is the applicant, he or she is not required to pay the grow site registration fee. The Authority shall place a 10-day hold on the issuance of a registry identification card for an application accompanied by a personal check. Upon receipt by the Authority of a notice of non-sufficient funds (NSF) or stop payment, an applicant will be allowed 14 days to submit payment in the form of a bank check or cash. Application fees paid in the form of cash must be hand-delivered. Applicants are advised not to make payments in cash through the United States mail or private delivery services. The Authority will not accept responsibility for payments of cash that are lost in the mail or stolen in transit.

- (3) The Authority shall conduct a criminal background check on the grower as authorized under ORS 475.304.
- (a) A person convicted of a Class A or Class B felony under ORS 475.752 to 475.920 for the manufacture or delivery of a controlled substance in Schedule I or Schedule II, if the offense occurred on or after January 1, 2006, may not be issued a marijuana grow site registration card or produce marijuana for a registry identification cardholder for five years from the date of conviction.
- (b) A person convicted more than once of a Class A or Class B felony under ORS 475.752 to 475.920 for the manufacture or delivery of a controlled substance in Schedule I or Schedule II, if the offenses occurred after January 1, 2006, may not be issued a marijuana grow site registration card or produce marijuana for a registry identification cardholder.
- (c) The Authority shall notify a patient by certified mail that the grower is ineligible and the patient will be allowed the opportunity to identify another grower.
- (4) The Authority shall issue a marijuana grow site registration card to a patient who has met the requirements of section (2) of this rule, unless the grower is disqualified under section (3) of this rule.
- (5) A grower must display a marijuana grow site registration card for each patient for whom marijuana is being produced, at the marijuana grow site at all times.
- (6) All usable marijuana, plants, seedlings and seeds, associated with the production of marijuana for a patient by a grower, are the property of the patient and must be provided to the patient, or, if the marijuana is usable marijuana or an immature marijuana plant, transferred to a registered medical marijuana facility, upon request.
- (7) All marijuana produced for a patient must be provided to the patient or designated primary caregiver when the grower ceases producing marijuana for the patient.
- (8) A grower must return the grow site registration card to the patient to whom the card was issued when requested to do so by the patient or when the grower ceases producing marijuana for the patient.
- (9) A patient or the designated primary caregiver of the patient may reimburse the grower for the costs of supplies and utilities associated with production of marijuana for patient. No other costs associated with the production of marijuana for the patient, including the cost of labor, may be reimbursed.
- (10) A grower may produce marijuana for no more than four patients or designated primary caregivers concurrently.
- (11) The Authority may not register a grow site if the location of the grow site is the same location as a medical marijuana facility.

Stat.Auth.: ORS 475.338

Stats. Implemented: ORS 475.300 - 475.346

### **333-008-0045**

#### **Interim Changes**

- (1) A patient shall notify the Authority within 30 calendar days of any change in the patient's name, address, telephone number, attending physician, designated primary caregiver, grower or grow site address.
- (2) A patient shall notify, as applicable, the designated primary caregiver, the grower, and the person responsible for a medical marijuana facility of any changes in status including, but not limited to:

- (a) The assignment of another individual as the designated primary caregiver for the patient;
  - (b) The assignment of another individual as a grower for the patient;
  - (c) The revocation of an Authorization to Transfer form under OAR 333-008-1230; or
  - (d) The end of eligibility of the patient to hold a registry identification card.
- (3) If the Authority is notified by the patient that a designated primary caregiver or a grower has changed, the Authority shall notify the designated primary caregiver or the grower by mail at the address of record confirming the change in status and informing the caregiver or grower that their card is no longer valid and must be returned to the Authority within seven calendar days.
- (4) A patient who has been diagnosed by an attending physician as no longer having a debilitating medical condition or whose attending physician has determined that the medical use of marijuana is contraindicated for the patient's debilitating medical condition shall return the registry identification card and all associated OMMP cards to the Authority within 30 calendar days of notification of the diagnosis or notification of the contraindication. If, due to circumstances beyond control of the patient he or she is unable to obtain a second medical opinion about the patient's continuing eligibility to use medical marijuana before the 30-day period has expired, the Authority may grant the patient additional time to obtain a second opinion before requiring the patient to return the registry identification card and all associated cards.
- (5) Change forms may only be submitted to the Authority via mail or in person at the OMMP office.
- (6) If a patient's designated primary caregiver, grower or grow site has changed, the non-refundable fee to receive a replacement card is \$100. If the patient qualifies for the reduced application fee of \$20, the non-refundable fee to receive a replacement card is \$20.
- (7) If a patient is registering a new grow site at any time other than when submitting a new application or a renewal application, a grow site registration fee will not be charged.
- Stat. Auth.: ORS 475.309 & 475.312  
Stats. Implemented: ORS 475.309 & 475.312

### **333-008-0050**

#### **Confidentiality**

- (1) The Authority shall create and maintain either paper or computer data files of patients, designated primary caregivers, growers, and grow site addresses. The data files shall include all information collected on the application forms or equivalent information from other written documentation, plus a copy of OMMP registry identification cards, effective date, date of issue, and expiration date. Except as provided in section (2) of this rule, the names and identifying information of registry identification cardholders and the name and identifying information of a pending applicant for a card, a designated primary caregiver, a grower, and a marijuana grow site location, shall be confidential and not subject to public disclosure.
- (2) Names and other identifying information made confidential under section (1) of this rule may be released to:
- (a) Authorized employees of the Authority as necessary to perform official duties of the Authority, including the production of any reports of aggregate (i.e., non-identifying) data or statistics;
  - (b) Authorized employees of state or local law enforcement agencies when they provide a specific name or address. Information will be supplied only as necessary to verify:
- (A) That a person is or was a lawful possessor of a registry identification card;

- (B) That a person is or was a person responsible for a registered medical marijuana facility;
- (C) That the address is or was a documented grow site, and how many people are authorized to grow at that grow site;
- (D) How many people a person was or is authorized to grow for; or
- (E) That an address is or was the location of a registered medical marijuana facility.
- (c) Other persons (such as, but not limited to, employers, lawyers, family members) upon receipt of a properly executed release of information signed by the patient, the patient's parent or legal guardian, designated primary caregiver or grower. The release of information must specify what information the Authority is authorized to release and to whom.

Stat. Auth.: ORS 475.338

Stats. Implemented: ORS 475.300 - 475.346

### **333-008-0120**

#### **System to Allow Verification of Data at All Times**

- (1) The Authority shall establish an interactive method to allow authorized employees of state and local law enforcement agencies to use the Oregon State Police Law Enforcement Data System (LEDS) to query an OMMP data file in order to verify at any time whether a particular patient, designated primary caregiver, grower, person responsible for a medical marijuana facility, grow site location, or medical marijuana facility is listed or registered with the Authority.
- (2) LEDS access will only allow a yes or no answer to the query and the information obtained may not be used for any other purpose other than verification.
- (3) The Authority may allow the release of reports related to verification if it is without identifying data.
- (4) The Authority shall have staff available by phone to verify law enforcement agency employee questions during regular business hours in case the electronic verification system is down, and in the event the system is expected to be down for more than two business days, the Authority shall ensure program staff are available by phone for verification purposes.

Stat. Auth.: ORS 475.338

Stats. Implemented: ORS 475.300 – 475.346

## CHAPTER 79

## AN ACT

SB 1531

Relating to marijuana facilities; creating new provisions; amending ORS 475.314; and declaring an emergency.

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

**SECTION 1.** Section 2 of this 2014 Act is added to and made a part of ORS 475.300 to 475.346.

**SECTION 2.** Notwithstanding ORS 633.738, the governing body of a city or county may adopt ordinances that impose reasonable regulations on the operation of medical marijuana facilities registered, or applying for registration, under ORS 475.314 that are located in the area subject to the jurisdiction of the city or county. For purposes of this section, "reasonable regulations" includes reasonable limitations on the hours during which a medical marijuana facility may be operated, reasonable limitations on where a medical marijuana facility may be located within a zone described in ORS 475.314 (3)(a) and reasonable conditions on the manner in which a medical marijuana facility may dispense medical marijuana.

**SECTION 3.** (1) Notwithstanding ORS 475.314 and section 2 of this 2014 Act, the governing body of a city or county may adopt an ordinance enacting a moratorium on the operation of registered medical marijuana facilities until May 1, 2015, in the area subject to the jurisdiction of the city or county if the moratorium is enacted no later than May 1, 2014.

(2) Notwithstanding ORS 475.309 (1)(b), a person who is responsible for or employed by a registered medical marijuana facility located in an area subject to the jurisdiction of a city or county that enacts a moratorium under this section is not excepted from the criminal laws of this state for possession or delivery of marijuana, aiding and abetting another in the possession or delivery of marijuana or any other criminal offense in which possession or delivery of marijuana is an element.

(3) The governing body of a city or county that enacts a moratorium under this section must notify the Oregon Health Authority, in a manner prescribed by the authority, of the moratorium.

(4) A registered medical marijuana facility that is located in an area subject to the jurisdiction of a city or county that enacts a moratorium under this section may choose to surrender the medical marijuana facility's registration. To surrender registration under this subsection, the medical marijuana facility must notify the authority, in a manner prescribed by

the authority, of the surrender. If a medical marijuana facility surrenders registration under this subsection, the authority may refund any fee imposed by the authority pursuant to ORS 475.314 (12).

**SECTION 4.** Section 3 of this 2014 Act is repealed on January 2, 2016.

**SECTION 5.** ORS 475.314 is amended to read:

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

(a) A registry identification cardholder, the designated primary caregiver of a registry identification cardholder, or a person responsible for a marijuana grow site to the medical marijuana facility; or

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

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

(a) The name of the person responsible for the medical marijuana facility;

(b) The address of the medical marijuana facility;

(c) Proof that the person responsible for the medical marijuana facility is a resident of Oregon;

(d) Documentation, as required by the authority by rule, that demonstrates the medical marijuana facility meets the qualifications for a medical marijuana facility as described in subsection (3) of this section; and

(e) Any other information that the authority considers necessary.

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

(a) Must be located in an area that is zoned for commercial, industrial or mixed use or as agricultural land; *[and may not be located at the same address as a marijuana grow site;]*

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

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

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

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

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

(A) Installing a minimum security system, including a video surveillance system, alarm system and safe; and

(B) Testing for pesticides, mold and mildew and the processes by which usable marijuana and immature marijuana plants that test positive for pesticides, mold or mildew must be returned to the

registry identification cardholder, the cardholder's designated primary caregiver or the cardholder's registered grower.

(4)(a) The authority shall conduct a criminal records check under ORS 181.534 of a person whose name is submitted as the person responsible for a medical marijuana facility under subsection (2) of this section.

(b) A person convicted for the manufacture or delivery of a controlled substance in Schedule I or Schedule II may not be the person responsible for a medical marijuana facility for five years from the date the person is convicted.

(c) A person convicted more than once for the manufacture or delivery of a controlled substance in Schedule I or Schedule II may not be the person responsible for a medical marijuana facility.

(5) If a person submits the application required under subsection (2) of this section, the medical marijuana facility identified in the application meets the qualifications for a medical marijuana facility described in subsection (3) of this section and the person responsible for the medical marijuana facility passes the criminal records check required under subsection (4) of this section, the authority shall register the medical marijuana facility and issue the person responsible for the medical marijuana facility proof of registration. The person responsible for the medical marijuana facility shall display the proof of registration on the premises of the medical marijuana facility at all times when usable marijuana or immature marijuana plants are being transferred as described in subsection (1) of this section.

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

(b) A registered medical marijuana facility shall maintain:

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

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

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

(8)(a) A registered medical marijuana facility may not transfer any tetrahydrocannabinol-infused product that is meant to be swallowed or inhaled, unless the product is packaged in

child-resistant safety packaging that meets standards established by the authority by rule.

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

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

(a) The premises of an applicant for a medical marijuana facility or a registered medical marijuana facility to ensure compliance with the qualifications for a medical marijuana facility described in subsection (3) of this section; and

(b) The records of a registered medical marijuana facility to ensure compliance with subsection (6)(b) of this section.

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

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

[(10)] (11) The authority may revoke the registration of a medical marijuana facility registered under this section for failure to comply with ORS 475.300 to 475.346, [or] rules adopted under ORS 475.300 to 475.346 or ordinances adopted pursuant to section 2 of this 2014 Act. The authority may release to the public a final order revoking a medical marijuana facility registration.

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

(a) Require a medical marijuana facility registered under this section to annually renew that registration; and

(b) Establish fees for registering and renewing registration for a medical marijuana facility under this section.

**SECTION 6. This 2014 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2014 Act takes effect March 1, 2014.**

Approved by the Governor March 19, 2014

Filed in the office of Secretary of State March 19, 2014

Effective date March 19, 2014



# **WARNING:**

**THE LINCOLN COUNTY SHERIFF'S DEPARTMENT AND THE CITY OF WALDPOR T SHALL BE NOTIFIED OF ALL DISORDERLY ACTS, CONDUCT OR DISTURBANCES AND ALL UNLAWFUL ACTIVITIES WHICH OCCUR ON OR WITHIN THE PREMISES OF THIS LICENSED ESTABLISHMENT.**

Lincoln County Sheriff      (541)265-4231  
City of Waldport              (541)264-7417

PUBLIC WORKS DEPARTMENT

REPORT FOR THE MONTH OF July, 2014

Water Treatment Plant

Plant Production: 8.14 MG  
Rainfall: 0.26 Inches

Wastewater Treatment Plant

Influent Flow: 4.0 MG  
Effluent Flow: 4.0 MG  
Rainfall: .7 Inches

Public Works

Alarm Call-Outs 0  
Equipment Services Bucket truck annual  
Facilities Maintenance \_\_\_\_\_  
I & I Repairs \_\_\_\_\_  
Hydrant Repair/Services \_\_\_\_\_  
Lift Station Repair/Maintenance new probe level system @ Golf course/rebuilt Grind  
Locates 8  
Meter Reading ALL  
Plant Repairs:  
    Water Plant Cleaned Basin  
    Wastewater Plant calabrated level control / Replaced Relays in motor starters  
Pump Repair/Replacement \_\_\_\_\_  
Sewer Plugs \_\_\_\_\_  
Sewer Service Installations \_\_\_\_\_  
Storm Sewer Cleaning/Repair \_\_\_\_\_  
Street Maintenance sweeping/curb work  
Water System Maintenance \_\_\_\_\_  
Water Leaks \_\_\_\_\_  
Water Service Installations \_\_\_\_\_

Other Activities: Working on New preventative maint. program.  
Designing new job organization system.

Respectfully Submitted,

Scott Cady

Waldport Public Library  
 Monthly Circulation  
 2013-2014

Patron Category	July	Aug	Sept	Oct	Nov	Dec	Jan	Feb	March	April	May	June	TOTAL
LCLD-Adult	3,071	3,037	2839	3052	2860	2937	3088	2736	2,762	2,637	2,605	2618	34,242
LCLD-Youth	126	227	77	131	112	95	93	62	101	92	96	175	1,387
OCCC	18	17	38	12	23	15	6	5	13	8	0	8	163
Waldport Adult	1,884	1,912	2010	2132	2119	2070	2054	2034	2,028	2,033	1,932	2001	24,209
Waldport Youth	119	144	95	116	97	81	137	101	84	99	110	165	1,348
Adult	70	93	53	75	81	101	126	89	87	67	48	53	943
Youth	0	10	2	0	7	21	13	15	16	11	2	2	99
Temporary 1-year	35	18	1	32	32	32	30	27	43	29	20	75	374
Temporary	64	172	79	16	0	4	12	0	22	40	28	51	488
Oregon Passport	59	49	50	65	47	78	60	83	58	85	83	53	770
Interlibrary loan out	<u>42</u>	<u>39</u>	<u>52</u>	<u>36</u>	<u>50</u>	<u>27</u>	<u>56</u>	<u>41</u>	<u>54</u>	<u>44</u>	<u>62</u>	<u>54</u>	<u>557</u>
Chinook Circ	5,488	5,718	5,296	5,667	5,428	5461	5675	5,193	5,268	5,145	4,986	5,255	64,580
Non-cataloged	672	633	591	668	675	705	793	563	660	539	779	674	7,952
Library2Go *	<u>168</u>	<u>182</u>	<u>166</u>	<u>173</u>	<u>149</u>	<u>177</u>	<u>168</u>	<u>154</u>	<u>159</u>	<u>152</u>	<u>123</u>	<u>160</u>	<u>1,931</u>
	840	815	757	841	824	882	961	717	819	691	902	834	9,883
<b>GRAND TOTAL</b>	<b>6,328</b>	<b>6,533</b>	<b>6,053</b>	<b>6,508</b>	<b>6,252</b>	<b>6,343</b>	<b>6,636</b>	<b>5,910</b>	<b>6,087</b>	<b>5836</b>	<b>5,888</b>	<b>6,089</b>	<b>74,463</b>
<i>Last Year</i>	<i>6,440</i>	<i>6,481</i>	<i>5,744</i>	<i>5,925</i>	<i>5,889</i>	<i>5,863</i>	<i>6,111</i>	<i>5,669</i>	<i>6,535</i>	<i>6,077</i>	<i>5,754</i>	<i>6,086</i>	<i>72,574</i>
Interlibrary loan In	37	42	46	54	45	35	43	26	45	45	33	32	483
Computers	830	896	783	1148	976	1038	1131	1,111	1,185	1,241	1,124	1,101	11,463
WiFi	253	263	204	187	123	163	160	141	178	190	202	226	2,290
New patrons added	55	57	41	41	32	40	54	29	38	36	23	35	481

\*calculated as 47% of public library circulation  
 Closed Saturday June 21- 6 hours

**City of Waldport  
2014 LAND USE / BUILDING PERMIT ACTIVITY**

For the Period June 2, 2014 through August 4, 2014

<b>Date</b>	<b>Application/ Activity</b>	<b>Applicant</b>	<b>Zoning</b>	<b>Tax Map/Lot Location</b>	<b>Description</b>	<b>Status</b>
6/2/14	Property Line Adjustment	Gene Dahl	I-P	13-11-31B/500 & 716 Ann Street Planned Ind. Area	Property line adjustment	Tentative approval granted 6/2/14
6/2/14	Variance	Guy & Donna Hadden	R-2	13-11-20BD/3000 33 Meadowlark Ln	Setback variance for garage addition	Planning Commission approved 6/23/14
6/3/14	Manufactured Home Placement Permit	Leonard Dye & Kyla Lentz	C-2	13-12-24DD/600 985 Hwy 101, Space #5	New manufactured home	Approved 6/6/14
6/10/14	DSL Certificate of Compliance	Linda Piland	R-2	13-11-20BD/2200 1620 NE Asea Hwy	Oregon Dept. of State Lands registration for existing dock	Completed 6/10/14
6/12/14	Building Permit	Dan Schweich	R-1	13-11-30BB/10300 1260 Chad Dr	New single family dwelling	Approved 6/13/14
6/13/14	Manufactured Home Placement Permit	Kathy DeMeyer	R-2	13-11-30BA/7100 360 Wedge Dr Land & Sea Subdiv.	New manufactured home	Approved 6/13/14
6/13/14	Building Permit	Kathy DeMeyer	R-2	13-11-30BA/7100 360 Wedge Dr Land & Sea Subdiv.	New attached garage	Approved 6/13/14
7/10/14	Building Permit	Coastal Pharmacy	D-D	13-11-19BD/6000 110 Hwy 101 (former CK Market)	Free-standing Hi School Pharmacy sign	Approved 7/16/14
8/4/14	Building Permit	Columbia Bank	D-D	13-11-19BD/3200 425 Hemlock St Columbia Bank	Replace roof	Approved 8/4/14



# City of Waldport

P.O. Box 1120  
Waldport, OR 97394  
Phone: (541)264-7417  
Fax: (541)264-7418  
TTY: (800)735-2900

August 6, 2014

Subject: Monthly Report

As of today, there have been 75 ordinance cases opened in 2014. Of these 43 have been worked to completion.

These cases breakdown into the following:

Attractive Nuisances	17 (Misc. junk on property)
Nuisance Vehicles	20 (Unlicensed/Inoperable vehicles left on public streets)
Structure/Buildings	6 (Dilapidated/Improperly Maintained)
Others	32 (Vegetation, Business License, Fences, Zoning, ect)

In addition to these there is 1 case remaining from 2013 and 1 from 2012 for a total of 34 cases actively being worked at this time.

