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Background Brief on ...

Medical Marijuana

It is a crime to possess, distribute, or grow marijuana in Oregon unless done so pursuant to Oregon's Medical Marijuana Act. It still is a crime under federal law to do so. However, the federal government is not currently prosecuting individuals who possess, distribute, or grow small amounts of marijuana pursuant to a state's medical marijuana law. Whether federal government continues this policy in the future remains to be seen.

Oregon's Medical Marijuana Act

ORS 475.300 to 475.346 sets forth Oregon's statutory provisions as it relates to the legal growing, distribution, possession, and use of marijuana. The law was enacted through the initiative process with the passage of Ballot Measure 67 in November of 1999.

The findings upon which Oregon's Medical Marijuana Act is based are:

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 any 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 regardless of the use.
3. The Oregon Medical Marijuana Act is intended to allow Oregonians with debilitating medical conditions that may benefit from 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.

4. The Oregon Medical Marijuana Act is intended to make only those changes that are necessary to protect patients and their doctors from criminal and civil penalties, and is not intended to change current civil and criminal laws governing the use of marijuana for nonmedical purposes.

Who has an Affirmative Defense for Criminal Prosecution under Oregon law?

- (1) A person with a “debilitating medical condition” and valid medical marijuana card issued by the Oregon Health Authority.
- (2) A “designated primary caregiver” with a registry identification card.
- (3) A person responsible for the marijuana grow site that is producing marijuana for a cardholder and is registered as a grow site.
- (4) A person responsible for or employed by a registered medical marijuana facility.

Who is Eligible for a Card?

A person with written documentation from the person’s physician stating that the person has a “debilitating medical condition.” ORS 475.309

What is a “Debilitating Medical Condition”?

“Debilitating Medical Condition” means:

1. 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.
2. Medical condition or treatment for a medical condition that produces, for 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.
3. Post-traumatic stress disorder. Or
4. Any other medical condition or side effect related to the treatment of a medical condition adopted by the Oregon Health Authority. ORS 475.302(3)

Designated Primary Caregiver

“Designated primary caregiver” is an individual 18 years or older who has significant responsibility for managing the wellbeing of a person diagnosed with a debilitating medical condition and who is designated as such. ORS 475.302(5).

Marijuana Grow Site

Marijuana grow site is a location registered under ORS 475.304 where marijuana is produced for use by a person with a registry identification card. ORS 475.302(7).

Medical Marijuana Facility

The Oregon Health Authority (OHA) has created a medical marijuana facility registration system pursuant to ORS 475.314 for the regulation of transfers of marijuana and immature marijuana plants between cardholders, caregivers, and medical marijuana facilities. A facility must be registered with OHA in order to comply with Oregon law.

Limits on the Amounts Possessed

Cardholders and caregivers can possess up to six mature marijuana plants and 24 ounces of marijuana. However, if the cardholder has been convicted of a Class A or B felony for the manufacture or delivery of a controlled substance, the cardholder can only possess one ounce at any given time for a period of five years from the date of the conviction.

A person authorized to produce marijuana may possess up to six mature plants and 24 ounces of marijuana for each cardholder or caregiver for whom marijuana is being produced with a limit of not producing for more than four cardholders and caregivers at any given time. ORS 475.320(1) and (2). In addition, the person may possess up to 18 marijuana seedlings for each cardholder the person is producing marijuana for. ORS 475.320(4)(b).

Oregon Health Authority (OHA)

The Oregon Medical Marijuana Act specifically directs OHA to adopt all rules necessary for the implementation of the Act. The rules can be

found at
<https://public.health.oregon.gov/DiseasesConditions/ChronicDisease/MedicalMarijuanaProgram/Documents/OARs.pdf>.

OHA is required to maintain a list of persons to whom the Authority has issued medical marijuana cards, the names of primary caregivers, persons responsible for marijuana facilities, and the addresses of these facilities. This information can only be released to employees of OHA or state and local law enforcement for the purposes of enforcing the Act. ORS 475.331.

Advisory Committee on Medical Marijuana

ORS 475.303 directs OHA to create the Advisory Committee on Medical Marijuana for the purposes of advising the Director of OHA on the administrative aspects of the Act and to review current and proposed rules. The committee consists of eleven persons appointed by the director.

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