

Meeting

MINUTES DECEMBER 13, 2010

10:00 AM – 2:30 PM

KEIZER FIRE DISTRICT
661 CHEMAWA ROAD NE
KEIZER, OR 97303-4436

MEETING CALLED BY	Jim Klahr, ACMM Chair
TYPE OF MEETING	The Oregon Medical Marijuana Program (OMMP) Advisory Committee on Medical Marijuana (ACMM) provides an opportunity for public to discuss administrative issues with the OMMP management.
NOTE TAKER	Roni Scott, OMMP
TIMEKEEPER	Jim Klahr, ACMM Chair
MEETING CALLED TO ORDER	10:00 AM
ATTENDEES	ACMM: Alice Ivany, Brian Michaels, Christine McGarvin, Dr. Alan Cohn, Jim Klahr, Sandee Burbank, Stormy Ray, Todd Dalotto, Dr. Gerry Lehrburger. Excused: Laird Funk and Arthur Witkowski. OMMP Staff: Annette Johnston, Roni Scott, Aaron Cossel, Chris Grorud and Dr. Grant Higginson. Excused: Tawana Nichols.
PRESENT AS LISTED ON THE SIGN-IN SHEET	Jaime Angel, Michael McGinnis, Peter Kraymer, Jerry Wade, Keta Tom, Margaret Goodwin, Ed Glick, Cheryl Smith, Krista Delaney, Gen Bensinger, Richard Doughy, Albert Vandehey, Xavier Small, Caron Salisbury.

Agenda topics

REVIEW OF SEPTEMBER 13, 2010 MEETING MINUTES

ACMM CHAIR

ACTION ITEMS	PERSON RESPONSIBLE	OUTCOME
Motion by Ms. McGarvin to accept minutes with corrections. Correction under Outreach Committee, first paragraph. Change Mr. to Ms. Correction under Horticulture and Safety, second paragraph. Change to Oregon Medical Cannabis Research Act. Second paragraph, third sentence change to word change to charge.	Ms. McGarvin	Motion passed unanimously.

PROGRAM UPDATE

DHS ADMINISTRATION

DISCUSSION
<p>Staff – The program currently has 21 permanent employees and 8 temporary employees, which gives us a total of twenty-nine. We are currently recruiting for one permanent position.</p> <p>Statistics – The OMMP currently has 49,007 patients, an increase of 3,884 since September. The number of patients with a caregiver is 25,475 which is an increase of 2,044 since September. Current physicians who have recommended patients for the OMMP is 3,675 which is an increase of 157 since September. Physicians who currently have patients on the program is close to 2,000. The number of cardholders removed from the system for 2010 is less than 50 with less than 10 court ordered. Staff are entering applications received November 22, 2010 and reviewing applications received September 16, 2010. Changes received on December 7, 2010 are being entered. Changes received on August 30, 2010 are being reviewed.</p> <p>Budget – Mr. Grorud provided an overview of the financial statement. Column C is the projection made from about a year ago. Column B is the biennium to date figures as of December 3rd. Column A was reported during the September meeting. The current cash balance is approximately \$471,000, which is approximately \$90,000 greater than three months ago. The revenue seems to be leveling off. The average monthly revenue is approximately \$218,000. Remodel related costs caused the large expenditure change. Other services and supplies are for a formal summary and review of the administrative rule process. In regards to the cash balance at this time he does not recommend a fee decrease. It is slightly higher than what would be a desirable 3 month operating cash balance. Legislature taking money from the cash balance was discussed.</p>
CONCLUSIONS

- The OMMP currently has twenty one permanent employees and eight temporary employees, total of twenty-nine.
- OMMP currently has 49,007 patients. The number of patients with a caregiver is 25,475. Physicians who have recommended patients for the medical marijuana program is 3,675. The number of cardholders removed from the database for 2010 is less than 50; 10 court ordered. Staff are entering applications received on November 22, 2010; reviewing applications received on September 16, 2010 and entering changes received on December 7, 2010; reviewing changes received on August 30, 2010.

DIALOGUE BETWEEN ACMM AND ADMINISTRATION

**ANNETTE JOHNSTON
AARON COSSEL**

DISCUSSION

Personnel – All data entry staff have been moved to a new office area. They are no longer answering the phones so they'll be able to get caught up. We are looking at going from temporary to limited duration positions in the future so we don't have the 6 month turn over. Limited duration positions last for 17 months.

Announcement of Retirement - Dr. Grant Higginson will be retiring on May 9th, 2011.

Handbook – During the last few meetings the Program Manager mentioned that the program is working with DHS Communications program to establish a user friendly handbook for all key stakeholders. This is to help provide effective guidance to the patients, growers and caregivers. It will be available on the website; we will provide a limited amount to clinics upfront, share it with other state agencies including Law Enforcement. It will be available for deaf and hearing impaired as well as Spanish. The Program Manager shared the ACMM's comments with the editor and the handbook was revised. In the packets is the final draft which has been sent to the designers. It will be in pamphlet style with a table of contents as well as tabs to make it easy to navigate. On each page our phone number and website will be present. There will be pictures to show what type of ID is accepted as well as other pictures for guidance. Ms. McGarvin stated this is a fairly close replica of the Power Point presentation created by the Outreach Committee. The Power Point presentation isn't really being accessed by the public. She believes the handbook is ideal and it will be a great service to the people who use the program. Dr. Higginson stated both will stay on the website.

Managing Change Requests – The committee arranged for a subcommittee to work on a solution to resolve the high volume of change requests as well as the situation when a caregiver or grower chooses to withdraw from the program directly to OMMP without notifying the patient. The committee shared with the program their solution. On October 9, 2010 the Program Manager responded via e-mail to the committee, which is in your packet. After conferring with counsel, and based on the text and context of the statute, we continue to believe a grow site is required of all applicants. Also, what was provided the program doesn't have the authority to do it. If a caregiver, grower or patient wants to make a change, we can't force someone to stay in the program for 30 more days. The program has drafted a change request policy using some of the ACMM's suggestions. Ms. Johnston read situations from the Change Request policy handout. OMMP removing a grower and not changing the grow site and the grow site being defaulted to the patient's home address were discussed. Mr. Cossel stated the policy is based on situations when the patient doesn't respond. He stated a physical grow site is required and there is an issue with patients listing a PO Box. The policy on fees for changes will be reassessed once the new database is implemented. Dr. Higginson stated OMMP will take suggestions and revisit the policy.

Status of OAR – The hearing for the amended administrative rules was held on December 3rd. We didn't receive any written comments or public testimony. Next, the final OAR will be filed with the Secretary of State.

New Inserter Machine – Four staff have been trained on programming and setup of the inserter machine. Four more staff will also be trained next week and then those staff will use train the trainer methodology to continue to train other staff on the basic operation of the machine. We are currently able to use it for mailing letters and registry cards. It is being scheduled to be programmed to tie in with our current database and eventually the new database.

Lean Improvements – Staff meet 10 to 15 minutes throughout the week to discuss processes and opportunities that could be instituted or piloted toward improving processing time. Productivity has increased by 103 percent Our telephone system has been updated with new messaging. Every Monday, Aaron will update the messaging regarding our status so patients can better predict when they'll receive their cards. We are hoping this change will decrease the need to directly check their status with our staff. Dr. Higginson stated the OMMP received the Director's Excellence Award for utilizing Lean methods.

Revision of Bylaws – During the last meeting, the suggested revisions to the ACMM bylaws were approved to be incorporated into the bylaws; however, it was not clarified who would be making those corrections. During the June meeting it was determined that the committee would revise the bylaws and submit a draft. Ms. Johnston asked if anyone has made the revisions. Ms. McGarvin responded she will write it and submit it to Mr. Klahr.

Schedule Next Meeting – The next ACMM meeting will be held on Monday, March 21st in Eugene.
Update on Data System – Dr. Higginson stated Jean Richardson is the new project manager for the development of the new data system. Rus Hargrave is no longer working on the project.

CONCLUSIONS

- OMMP data entry staff have moved to a new office area. The OMMP is looking at hiring limited duration employees rather than temporary employees.
- The OMMP will take ACMM suggestions and revisit the change request policy.
- The amended administrative rules are ready to be filed with the Secretary of State.
- The OMMP phone messaging will be updated weekly with new messaging to help patients better predict when they'll receive their cards.
- Ms. McGarvin will write a draft of the revision of the bylaws and submit it to OMMP through Mr. Klahr.
- The next ACMM meeting is scheduled for Monday, March 21st in Eugene.

ACTION ITEMS	PERSON RESPONSIBLE	OUTCOME
Ms. McGarvin will write a draft of the revision to the bylaws and submit it to the OMMP through Mr. Klahr.	Ms. McGarvin	Pending
Motion by Ms. McGarvin for next ACMM meeting to be held in Eugene on March 21, 2011.	Ms. McGarvin	Motion passed unanimously.

GUEST SPEAKER

ED GLICK

DISCUSSION

Mr. Glick read the letter he wrote to the ACMM. Copies of the "The Tail Wags the Dog" were provided.

He stated he has been pursuing a petition to DHS to place mood and emotions symptoms and conditions onto the list of qualifying conditions in the OMMA. In his opinion, DHS chose to create a process with rejection as the expectation. The strategy included limiting research, composing the panel with a majority of uneducated professionals, and limited his contribution time while giving unlimited time to the other research body. He doesn't believe the conclusion is base on evidence. He believes this process will guarantee that no future petition will be accepted unless it's based on human clinical double-blinded research.

He requested a statement by the ACMM repudiating the DHS petition processes as flawed. He hopes that the ACMM will actively participate in the revision process.

Ms. McGarvin responded, the ACMM has sent a request for changes to the OAR on panel selection criteria. Specifically the quotation of the change request is *"All members on the panel to add qualifying conditions must have demonstrated in their professional field recognition of the therapeutic qualities of cannabis. Only those members who have demonstrated recognition of the therapeutic qualities of cannabis who are serving on the panel when new membership is considered will be responsible for selecting any new members by a majority vote."*

ACMM was told there would need to be a decision on Mr. Glick's case before it would be considered. She asked if he is requesting an additional statement. He responded an additional statement to DHS administrators would be helpful.

Ms. McGarvin stated the hearings for the psychological conditions were held. The ACMM was given a request to change the specific OARs dealing with the panel selection in a way that conformed with the process had been done on the psychological conditions hearing. The ACMM objected to it at that time. They provided an alternative recommendation that panel selection criteria have acknowledgement of therapeutic value.

Ms. McGarvin asked if the panel selection criteria existed a certain way and they did that particular hearing the way they did it and then afterward wanted to change it to conform to the way the hearings were held, and the ACMM objected to that, if that sequence of events isn't somehow already a representation of some level of unfairness. The ACMM agreed there was a level of unfairness.

Ms. McGarvin stated she would draft a letter for ACMM to add that procedural element to it of what occurred. Dr. Higginson stated DHS didn't want to change the rules to panel selection until after we were finished with litigation with Mr. Glick. That will not start until a response from the administrative law judge about the process and the fairness of it is received. Ms. Burbank asked if the statement already made would be included in that

process. Dr. Higginson responded he assumes so. Mr. Klahr asked Mr. Michaels whether or not it's within their authority to make a statement. Mr. Michaels responded the ACMM has already stated they believe the panel selection criterion is in conflict with the statute and that he does believe it's within their authority.

Ms. McGarvin asked who the letter would be addressed to. Mr. Glick stated he'd like the letter addressed to the DHS with a copy to him. Mr. Klahr motioned to write the letter. Second by Dr. Cohn. Ms. Ray declined to vote. The motion passed.

ACTION ITEMS	PERSON RESPONSIBLE	OUTCOME
Motion by Mr. Klahr for Ms. McGarvin to draft an additional statement regarding procedure and panel selection criteria. Second by Dr. Cohn. Declined vote by Ms. Ray.	Mr. Klahr/Ms. McGarvin	Motion passed with majority vote.

MEETING ADJOURNED FOR LUNCH: 11:50 AM

MEETING CALLED TO ORDER: 12:50 PM

OUTREACH COMMITTEE

CHRISTINE MCGARVIN

DISCUSSION

Letters Sent - A letter to the Director of the Eugene Airport, Tom Doll, will be sent today requesting information regarding their policies pertaining to OMMP patients boarding airplanes with their cannabis medicine.

A letter to Sheriff Gil Gilbertson in Josephine County will be sent today requesting he provide the ACMM with factual data justifying the statement that he made in the October 12, 2010 issue of the Grants Pass Daily Courier: "Current law (re: OMMA) is a travesty...only 4 percent (of patients) actually need (medical marijuana), the others are recreational users."

Replies to Letters Sent – Attorney Rob Bovett replied by email to the letter sent by the ACMM requesting data supporting his testimony to the Board of Pharmacy regarding rescheduling marijuana. Mr. Bovett replied that in no way, shape or form did he make those statements that were in quotes in the minutes. The committee had to confirm with the Board of Pharmacy that there were no other transcripts, audio/visual or anything else to prove who made certain statements. Mr. Michaels of the ACMM and attorney responded to Mr. Bovett, which was then followed by several emails in dialogue form. Ms. McGarvin has made several copies of that 16 page dialogue for the ACMM and the OMMP administration. If anyone else wants a copy, they will need to contact her or the OMMP. She asked Mr. Michaels if he had any comments to make. Mr. Michaels responded when he read it, it was difficult to know who was speaking. Ms. McGarvin stated she would revise the document and resubmit it. At that point, it will be available to the public.

To her knowledge, there have been no other replies to the letters sent out by the ACMM last quarter. Given the lack of response to our many letters requesting actual crime statistics involving OMMP cardholders per county, we are still interested in finding ways to obtain this data. Given that two counties (Washington and Josephine Counties) have reported a conviction rate of less than 10 OMMP cardholders per county in 2009, we extrapolate from that information that there are less than 10 convictions in each Oregon County. Since there are 36 counties, we extrapolate the maximum potential number of convictions of OMMP cardholders are less than 360. This means that there are less than one percent of cardholders being convicted for being out of compliance with OMMA. A less than one percent crime rate for cardholders is lower than the average reported crime rate of 3,639 crimes per 1000,000 or .035 (3 ½ %). This is significantly lower than the claims made by law enforcement officials to the media.

LEDS Data and Reporting – The ACMM Outreach committee officially requested LEDS data quarterly reports on March 29, 2010. Mr. Cossel provided an Excel file of raw data during 2009 and 2010 relating to inquiries made by various law enforcement agencies sorted by Originating Agency Identifier (ORI) number and inquiries sorted by grow site city per month. Mr. Cossel also provided us with contact information on: Dan Malin, LEDS Auditor, who can be reached at dan.malin@state.or.us if we want to get further information. The purpose of our inquiries is to ascertain whether or not law enforcement agencies are abusing the LEDS system by conducting unwarranted inquiries. For example, it has been reported to the ACMM from numerous OMMP cardholders that they believed law enforcement officers driving on I-5 would pull over drivers and already knew, before they approached the vehicle that the driver/owner of the car was an OMMP cardholder. Similar reports have come from OMMP cardholders regarding law enforcement showing up at their home to do a "grow site

compliance check”, which is actually a warrantless search of the medical marijuana garden, violating the cardholder’s 4th Amendment right to be secure in their person and property.

To her knowledge, there have been no public requests for the Power Point presentation prepared by the Outreach Committee. The committee will reconsider the value of keeping this presentation updated quarterly.

Ms. McGarvin received an inquiry from a physician regarding OMMP’s change of language in letters verifying that a physician has primary responsibility for the care and treatment of the above name patient. She referred this question to Mr. Michaels who provided his insights: *"The OMMP, in drafting its own rules, made special definitions of these terms: 333-008-0010."* An overview of the definitions was given.

Ms. McGarvin stated Jennifer Alexander gave her the newly revised 2012 version of the Oregon Cannabis Tax Act, a new legislative proposal. Copies are available for the public through Paul Stanford (The Hemp and Cannabis Foundation), Jennifer Alexander and the Secretary of State’s office.

CONCLUSIONS

- Ms. McGarvin will revise the email dialogue between Mr. Michaels and Mr. Bovett regarding rescheduling marijuana.

HORTICULTURE AND OMCR ACT 2011

TODD DALOTTO

DISCUSSION

Mr. Dalotto stated that unofficially there is no new information to report on for the Horticulture and Safety Committee due to energy being focused on the Oregon Medical Cannabis Research Act (OMCRA).

Mr. Dalotto stated he reported last September that outside the ACMM he is pursuing a legislative proposal called the Oregon Medical Cannabis Research Act of 2011 to introduce this coming legislative session. The act seeks to charge the OHA with licensing cannabis research facilities and issuing cards to their employees and agents to grow and possess cannabis in amounts necessary to conduct proper research and breeding. Under the current act only cardholders may possess, cultivate or use cannabis. He is a patient and a researcher and he sees first hand the difficulties in trying to conduct horticultural research with only six plants per patient.

Since last September, a group of researchers, attorneys, medical professionals and advocates have all been contributing to subsequent drafts in the campaign for the OMCRA. People from all over the country are engaged in either cannabis research or research in similar fields. We are currently seeking sponsorship in the state legislature for introduction this coming session. We’ve received endorsement from national organizations such as the American Cannabis Nurses Association, American Alliance for Medical Cannabis and state organizations such as Mothers Against Misuse and Abuse, Compassion Center, Oregon Green Free and the Institute for Cannabis Therapeutics.

The first draft was written by Mr. Dalotto. The second draft reflects input from a wide range of patient service organization and individuals in the state. The third draft reflects input from a broader scientific community. He went to the institutes of higher learning in the state and spoke with faculty and department heads and other researchers and got some good input. The fourth draft is forthcoming and will reflect input from legislators.

The major change we’ll see in the fourth draft is the removal of language regarding the dispensing of surplus of OMMP cardholders. That was necessary because most of the legislators interpret election results from Measure 74 as meaning the public doesn’t support dispensaries. He believes everyone would agree safe access to medicine is among highest priorities for Medical Marijuana law reform and cannabis research facilities provide an excellent opportunity for this need. He’s worked for vegetable breeding programs where they’ve provided food banks and other organizations with substantial quantities of fresh produce, beans and he sees a similar opportunity for patients. That doesn’t seem to be viable in the current environment in the capitol right now. The most important part of this legislative proposal is to allow research to occur. He hopes safer access will be forthcoming. There is no emphasis on allowing patients to possess more than six plants. It provides for a system of licensing cannabis research facilities and issuing cards to the employees. That system will be separate from the patient system.

If anyone is interested in participating, we have a Google group: OMCRA. Anyone is welcome to apply to join us in that effort. Mr. Dalotto will report further progress at the spring meeting.

DISCUSSION

Michael McGinnis stated he sent letters to the ACMM again. He’s here again to speak again about a business plan for this program. He thought the ACMM was appointed to make a business plan out of it. He sees the ACMM isn’t really interested in a business plan. He’s brought it to their attention several times. He’d like to know what plans are to supply the patients and if there’s a plan at all. He asked if the dispensaries open right now is going to close January 1st. Mr. McGinnis stated there are dispensaries open right now in Coos Bay saying they’ve been notified that they’ll have to close January 1st. He stated everybody else is making business out of this, like Colorado.

The ACMM responded there are no provisions for dispensaries right now and they’re all illegal. The ACMM doesn’t want to make a business plan out of this, that is not their task; Colorado runs under a different set of rules, laws, and policies. They are here to advise the OMMP, no money is to be made out of this and a business plan isn’t appropriate.

Santa declined to speak.

Keta Tom stated she got a newsletter regarding growers being able to get rid of patients. She believes she was being set up for an investigation. She thinks it’s very important that a grower be able to drop a patient. Growers should be treated well.

The ACMM responded the harms are very significant.

Richard Doughty was at the September 13th meeting where a renewal subcommittee was discussed. It was stated that an email would be sent to interested parties but he never received an email. He stated there isn’t privacy being a grower and asked if flybys by law enforcement was legal. He asked about reciprocity. He believes psychiatrists should be able to sign for the card.

The ACMM responded it was a subcommittee that was formed and the issue was taken care of right away. They stated flybys are legal. There are some states that have reciprocity, it would take an act from legislation and the rules have been changed so cardholders don’t have to be an Oregon resident to be on the program but that the card doesn’t protect them in other states.

Xavier Small stated she has severe pain and that if her physician doesn’t write the word severe, her paperwork will be sent back.

Peter Kraymer is a patient and grower. We need to protect the patients’ and growers’ rights. He thanked everyone for their comments. He agreed that Mr. Glick that it’s in the mind that cannabis helps.

Margaret Goodman suffers from chronic pain for a long time. She got very sick this August and had to go to Good Samaritan. Because she suffers from chronic pain, she was refused pain medication. She had to return to the hospital several times and was refused medication for pain each time. She stated nothing is confidential. They found out information on her from old medical records and used that against her. She lives in Section 8 housing, was a nurse until she renewed her card. She believes a lot of card holders are selling medication. Her entire crop died recently. She’s concerned there are problems with the hospitals regarding being a card holder.

Dr. Higginson responded there is an Oregon Pain Commission that will take complaints regarding pain medication.

MEETING AJOURNED	2:00 PM
MINUTES SUBMITTED BY	Roni Scott
SPECIAL NOTES	