

Meeting

MINUTES

MARCH 21, 2011

10:00 AM – 2:00 PM

DHS
1899 Willamette St
Eugene, OR 97401

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	John Sorensen, OMMP
TIMEKEEPER	Jim Klahr, ACMM Chair
MEETING CALLED TO ORDER	10:00 AM
ATTENDEES	ACMM: Alice Ivany, Brian Michaels, Dr. Alan Cohn, Jim Klahr, Laird Funk, Sandee Burbank, Stormy Ray, Todd Dalotto. Excused: Christine McGarvin, Arthur Witkowski OMMP Staff: Tawana Nichols, Annette Johnston, Aaron Cossel, Roni Scott, John Sorensen
PRESENT AS LISTED ON THE SIGN-IN SHEET	Janice Johnson, Elizabeth McFarland, David Lee, Richard Doughlz, Dan Stadelman, Albert Vandeley, Marilyn Stilwell, Ed Glick, Dan Koozer

Agenda topics

REVIEW OF DECEMBER 13, 2010 MEETING MINUTES

JIM KLAHR

ACTION ITEMS	PERSON RESPONSIBLE	OUTCOME
The retirement of Dr. Grant Higginson was added to the Program Updates. In addition, the word "she's" was changed to "Ms. McGarvin" in the Outreach Committee's section (p.4, Replies to Letters Sent, line 6). Motion to accept minutes with changes by Mr. Funk. Motion 2 nd by Dr. Cohn.	Mr. Funk	Motion passed unanimously.

PROGRAM UPDATE

DHS ADMINISTRATION

DISCUSSION
<p>Staff – The OMMP currently has 29 employees—28 permanent and 1 temporary. The OMMP is currently recruiting for 3 permanent positions, which would bring the total to 31 permanent employees.</p> <p>Statistics – The OMMP currently has 48,578 patients (including pending applications). There are 25,084 patients with a caregiver and 3,864 physicians who have recommended patients for the OMMP.</p> <p>Budget – Chris Gorud, the Program Support Manager for the Office of Community Health and Health Planning, has recently resigned. As a result, Ms. Nichols conducted the Budget Review prepared by Mr. Gorud prior to his resignation. There are interim Program Support Managers supporting the OMMP and other programs at this time. However, it was not known if any of the interim Program Support Managers would be attending the next ACMM meeting. Per Ms. Nichols, Column C in the report provided is the projection made from about a year ago. Column B is the actual revenue and expenditures through end of February with a cash balance of \$448,243. Column A was reported during the December meeting. The current cash balance is approximately \$448,000, which is down \$22,763 from last quarter. The revenue seems to be leveling off. The average monthly revenue is approximately \$275,000. Since the cash balance is down from last quarter, Mr. Gorud would advise the OMMP is not at a place where they can lower the fee. It appears that the Office of Information Systems (OIS) efforts are picking up steam as they spent a bit more than average in the last quarter on projects such as the OMMP's new database. In addition, the OMMP has ordered 7 computers for new employees. Remodel related costs, such as the renting of a second office, has also caused a large expenditure change. Other services and supplies are for a formal summary and review of the administrative rule process.</p>

CONCLUSIONS

- It is recommended that the OMMP's fee structure remain the same at this time.

DIALOGUE BETWEEN ACMM AND ADMINISTRATION

ANNETTE JOHNSTON
AARON COSSEL
TAWANA NICHOLS

DISCUSSION

Personnel – Mr. Dalotto asked if the aforementioned 31 employees would be adequate. Ms. Nichols responded that it was adequate, with overtime, and that the new database will help streamline the OMMP's workflow. Hiring more employees could result in overstaffing once the database is in place and the OMMP wishes to avoid having to remove staff once the database is active.

Budget – Mr. Dalotto asked if the OIS support would continue after the new database is fully in place. Ms. Nichols responded that the support would not affect OMMP's cash balance as it has already been budgeted.

New OMMP Database – Clarification regarding the status of the new database was requested. Ms. Nichols explained that the new database, which is not yet online, is projected to go live in June with basic functions similar to the existing database. Several iterations will follow—all of which are designed to streamline the OMMP's workflow.

OMMP Workflow – Upon request, Ms. Johnston explained that cards are being issued in a little over a month, noting that the OMMP staff is working overtime to assist in the effort. Ms. Nichols added that data entry for incoming applications is occurring within 3 days of receipt and that change requests are entered the day they are received.

OMMP Handbook Update – Ms. Nichols explained that she has not yet been presented with the design of the pamphlet, noting that she will forward the design to the ACMM upon receipt for review.

Revised Bylaws – A change to Article X of the ACMM Bylaws were noted and discussed. Ms. Burbank asked for clarification of Article X, Section 1 regarding the timeline of the submissions required therein. Ms. Nichols responded that all items listed in this section must be approved by the Chair of the ACMM and submitted to the OMMP prior to the subcommittee meeting.

Managing Change Requests – Mr. Cossel began by stating that a final decision has not yet been made regarding the OMMP's procedures following a grower's request to be removed (or have their grow-site removed) from a patient's application. At this time, the OMMP will remove the grower, per their request, and the patient will then be notified of the change in writing. In addition to the notification, the patient will be asked to provide the OMMP with new grower and/or grow-site information on the change form accompanying the notification. The issue at hand is how the OMMP should proceed when a response to the notification and request is not received. While no decision has been made, Mr. Cossel explained that the OMMP may ultimately have to suspend a patient's card if, after a designated (and currently undetermined) period of time, no response is received from the patient. Mr. Cossel noted that the OMMP may send these notifications to the patients via certified mail in order to verify receipt of the notification and subsequent request for a new grower and/or grow-site.

Ms. Burbank asked for clarification as to whose cards would be suspended in the above noted scenario. Mr. Cossel explained all cards associated with the patient's file would be suspended (i.e. the patient's and caregiver's). Mr. Cossel continued by stating that the statute does require a grower and grow-site to be listed.

Mr. Funk suggested that the OMMP send two letters before suspending the cards. In response, Ms. Nichols noted that there will be additional administrative time spent on a second notification.

Mr. Cossel continued by stating that, in many of these cases, the grower and/or grow-site could default to the patient and/or the patient's mailing address respectively. However, there are times that a patient and their address do not meet the criteria of a grower and grow-site.

Ms. Ray suggested that the grow-site not be removed until the patient responds to the notification and that the letter sent from OMMP includes a statement explaining that a PO Box cannot be used as a grow-site. Ms. Ivany suggested that a second request be sent to the patient for a limited time, such as a year, in order for patients to become accustomed to the change.

Mr. Dalotto suggested a statutory change to rectify the issue and suggested that it may be possible to amend one of several proposed Medical Marijuana Bills to include language which may help solve the problem. Mr.

Cossel and Ms. Nichols agreed to discuss the possibility with Dr. Grant Higginson, the Administrator of the Office of Community Health and Health Planning.

The Held Decision and Law Enforcement Inquiries – This discussion was not on the agenda, but was requested by Mr. Michaels. Mr. Michaels was concerned with the OMMP's response to the case and the ways in which the OMMP may have adjusted their practices as a result. Mr. Cossel stated that an All Points Bulletin (APB) may be sent through the Law Enforcement Data System (LEDS) detailing the appropriate use of LEDS for the purpose of identifying participants in the Oregon Medical Marijuana Program, noting that this is still an option being discussed and that there has yet to be a final decision made. Furthermore, there may also be a similar written statement attached to the OMMP's "yes" or "no" response when a LEDS inquiry is conducted. Lastly, the OMMP's website may be changed to include information for law enforcement regarding the above noted Held decision and the appropriate use of LEDS and the OMMP. Ms. Nichols added that it is outside the authority of the OMMP to monitor law enforcement's use of LEDS.

Ms. Burbank reported a possible violation of the LEDS system. She received a phone call on February 24th from Katie Siefkes, a licensed investigator for the OLCC in Bend, Oregon. Ms. Siefkes was conducting an investigation, during which she contacted the OMMP regarding the individual who was the subject of her investigation and their possible participation in the OMMP. The OMMP did not give Ms. Siefkes any information. She then called a local law enforcement officer who, in turn, performed a Law Enforcement Inquiry with the OMMP. The officer was told that the person they were inquiring about was not a participant in the OMMP. Ms. Burbank will send Ms. Nichols the information she has on the matter. Ms. Nichols will review upon receipt.

Mr. Burbank had several questions regarding LEDS access and the security of the system. Mr. Cossel explained that this system was not operated by the OMMP. However, Ms. Nichols noted that she would seek clarification from a State Security Officer regarding access and security.

Mr. Dalotto asked about the potential benefits of making a rule limiting the types of inquiries that the OMMP would receive via phone during the OMMP's business hours. Mr. Cossel responded that it is beneficial to law enforcement, as well as OMMP cardholders, for law enforcement officers to be able to make inquiries over the phone in addition to using LEDS.

Letter from Parole Board – Ms. Ray sought clarification regarding the Oregon Parole Board's position on a parolee's participation in the OMMP. She received a written reply, dated 3/3/11, from Kim Gonzales. Ms. Gonzales, a Hearing/Scheduling Specialist with the Board of Parole and Post-Prison Supervision, responded as follows:

"Offender shall not hold, possess, or apply for a registry ID card for the purpose of using medical marijuana without the permission of the board and the express written permission from the supervising officer. The supervising officer's written permission must be based on medical records made by the offender's attending physician stating: (1) that the physician had diagnosed the offender as suffering from a debilitating medical condition, as defined by the Oregon Medical Marijuana Act, and (2) that the medical use of marijuana may mitigate the symptoms or effects of the debilitating medical condition. The supervising officer and the board will grant the offender permission to hold, possess, or apply for a registry ID card only if they determine that the potential medical benefits of allowing the offender to use medical marijuana outweigh and potential risk to public safety and any potential negative impact on the offender's reformation."

Ms. Ray noted that the response above reflects a potential avenue for parolees to utilize and benefit from medical marijuana. Mr. Michaels questioned the ability of Parole Board members to make medical decisions as referenced in Ms. Gonzales' response.

OMMP Website Homepage – Mr. Cossel stated that there are several changes occurring to all State websites and that any issues regarding broken links are being addressed.

Schedule Next Meeting – The next ACMM meeting will be held Monday, June 6th at the Portland State Office Building from 10AM-2:30PM.

CONCLUSIONS

- 31 permanent OMMP employees are adequate to meet the demands of the program.
- The OMMP's new database has an expected launch date in June, 2011.
- The design of the OMMP Handbook is not complete. Once a design is proposed, the OMMP will forward a copy of it to the ACMM for review.
- A decision regarding the OMMP's procedures following a patient's failure to reply to notification that their

grower has requested they be removed from the patient's file has yet to be finalized.

- A possible violation of LEDS protocol will be reviewed.

ACTION ITEMS	PERSON RESPONSIBLE	OUTCOME
None		

LEGISLATION REPORT

TODD DALOTTO

DISCUSSION

Proposed Cannabis Bills – Mr. Dalotto began with an update on his legislative proposal, the Oregon Medical Cannabis Research Act and reported that it did not receive a sponsor. He noted that there are currently 31 cannabis related bills, 24 of which roll back the rights of Oregon medical marijuana patients. 13 bills would affect the Oregon Medical Marijuana Program administration. 2 proposed bills regulated medical marijuana dispensaries and licensed producers. Currently, all House bills are on hold, but are being considered by a legislative workgroup—including Representatives Barker, Olson, and Krieger. Their mission is to take all of the previously mentioned House bills and create an Omnibus medical marijuana bill.

Currently, there have been only 2 hearings—one on House Bill 2982 and the other on Senate Bill 777. Mr. Dalotto continued by addressing the 13 proposed bills which would directly affect the Oregon Medical Marijuana Program as noted below:

- **HB 2994** (Rep. Richardson) Prohibits operation of marijuana grow site within 2,500 feet of school or place of worship.
 - Current wording does not require OMMP to deny applications based upon proximity to school or place of worship, but we should stay alert for such an amendment.
- **HB 3046** (Rep. Schaufler / SRCF) Directs Oregon Health Authority to register marijuana cooperatives to operate marijuana grow sites and sell marijuana to registry identification cardholders. Imposes 10 percent tax on net profit from sale of marijuana by cooperative. Continuously appropriates 50 percent of moneys from tax to authority for purposes of administering Oregon Medical Marijuana Program. As of January 1, 2013, eliminates registration of marijuana grow sites not operated by cooperative or at residence of registry identification cardholder or designated primary caregiver. Modifies other provisions relating to administration of program.
 - Major changes to both OMMP administration and OMMP cardholders
- **HB 3077** (Rep. Hunt) Requires medical marijuana registry identification cardholder to be Oregon resident.
- **HB 3103** (Rep. Hicks) Prohibits issuance of registry identification cards for medical marijuana to persons under 18 years of age.
- **HB 3129** (Rep. Olson, et.al.) Modifies provisions relating to the release of information from Oregon Medical Marijuana Program to Oregon Health Authority and law enforcement.
- **HB 3132** (Rep. Olson, et.al.) Modifies provisions relating to registry identification card for medical use of marijuana. Provides that Oregon Health Authority shall revoke registry identification card if cardholder is convicted of drug crime.
- **HB 3202** (Rep. Esquivel, Et.al.) Modifies provisions of Oregon Medical Marijuana Act.
 - Numerous changes affecting both program and patients
- **HB 3423** (House Health Care Committee) Requires Oregon Health Authority to adopt rules that establish standards and procedures for registration of manufacture and delivery of medical marijuana.
- **HB 3426** (Rep. Sprenger, et.al.) Requires applicant for marijuana grow site registration to notify Oregon Health Authority if premises of marijuana grow site are rented or leased and provide name and address of owner. Requires authority to notify owner of premises that authority has registered marijuana grow site at premises. Declares emergency, effective on passage.
- **SB 708** (Sen. Atkinson) Directs Oregon Health Authority to develop system by which certain law enforcement employees may determine whether person is medical marijuana registry identification cardholder or designated primary caregiver of cardholder or whether location is authorized marijuana grow site.
- **SB 777** (Sen. Kruse, et.al.) Modifies list of debilitating medical conditions for which medical marijuana is available and removes power of Oregon Health Authority to add other debilitating medical conditions to list. Requires registry identification cardholder to provide updated documentation from physician about debilitating medical condition to authority every six months.

- **SB 874** (Senate Judiciary Committee) Provides that registry identification cardholders and designated primary caregivers may be responsible for indoor marijuana grow site. Directs State Department of Agriculture to establish registration system for marijuana farms. Directs State Board of Pharmacy to adopt rules allowing pharmacy or pharmacist to purchase marijuana from marijuana farm and dispense usable marijuana to registry identification cardholders.
 - OHA would exchange registry information with Oregon Department of Agriculture for 'marijuana farms'
 - OHA would consult with Board of Pharmacy on their administrative rules
 - Some information management changes by OMMP
- **SB 5530** (Sen. President / Budget & Mgmt. Div., ODAS) Approves certain new or increased fees adopted by Oregon Health Authority.
 - Would remove the authority of the ODA to determine program fees and gives that authority to the Legislature.

Ms. Ray noted that the first motion listed below may place a serious burden whoever is selected to attend all legislative hearings. Mr. Dalotto responded that there have only been 2 hearings thus far in the current session and less than a half dozen in the previous.

ACTION ITEMS	PERSON RESPONSIBLE	OUTCOME
<p>Motion: A competent and qualified Oregon Health Authority/Oregon Medical Marijuana Program official shall attend all legislative hearings for measures that would affect the Oregon Medical Marijuana Program. The official shall come prepared with accurate and updated program data relevant to the measure in anticipation of questions that may be asked by legislators. The official shall not take a position for or against the measure, but rather provide accurate testimony so that legislators can make better informed decisions on laws that affect the Oregon Medical Marijuana Program. Motion 2nd by Ms. Burbank.</p>	Mr. Dalotto	Passed unanimously
<p>Motion: Renew the "Horticulture & Safety Committee" and rename it as the "Horticulture, Research, & Safety Committee" in order to make better informed policy and legislative recommendations to the OMMP and to utilize the new research and data reporting opportunities created by the new data system. In addition, there will be an option to create another committee strictly concerned with research should the singular committee deem it necessary. 2nd by Mr. Funk.</p>		

HORTICULTURE

TODD DALOTTO

DISCUSSION
<p>See the above noted Motion to rename the Horticulture & Safety Committee. Concerns over what the addition of "Research" would entail were addressed by Mr. Dalotto as such: The ACMM would benefit from organized, demographical and statistical data provided by the OMMP.</p> <p>Mr. Funk read from a section of proposed House Bill 3202.</p>
CONCLUSIONS
<ul style="list-style-type: none"> • A legislative workgroup consisting of Representatives Barker, Olson, and Krieger is attempting to create an Omnibus medical marijuana bill. • A representative from the OMMP will be present at all legislative hearings.
<p>MEETING ADJOURNED FOR LUNCH: 12:00PM</p>
<p>MEETING CALLED TO ORDER: 1:00PM</p>

OUTREACH

CHRISTINE MCGARVIN

DISCUSSION
<p>Ms. McGarvin was unable to attend. As a result, Ms. Burbank delivered Ms. McGarvin's Community Outreach Report.</p> <p>Mission Statement – The report requested a change in the Committee's Mission Statement to the following:</p>

"Through outreach, education, and honest discussion, the ACMM-Outreach Committee looks forward to shedding light on the truth about the Oregon Patient Cannabis using community demonstrating success through compliance, co-operation, and innovation under often difficult circumstances."

Letter Writing Protocol – Any letter sent requesting information clarifying (usually erroneous) statements made in the media need to also include a copy of the media contact responsible for publicizing the statement.

Letters Sent – A letter sent to Dr. Grant Higginson from Brian Michaels of the ACMM regarding the recent Oregon Court of Appeals (Held Decision) ruling that law enforcement officers cannot look into the medical marijuana database unless they are investigating a crime. The ACMM has advised the OMMP that: "it is incumbent upon the Program to further limit access by law enforcement to insure the protection of its members." It is the opinion of the ACMM for the OMMP to accomplish this task by: 1- Requiring each law enforcement officer to give their NAME and ID# along with a brief statement on the nature of the pending investigation giving rise to the request; 2-The data base must include a "warning" or other similar statement informing each requester that the information is only available for pending criminal investigations. 3-The OMMP must send out some notice flowing from, and consistent with the Held Decision informing law enforcement agencies of this change in data base access. 4-OMMP must notify all cardholders of this change in policy and procedure. 5-These changes may require revisions to the current OMMP application and other forms.

A letter to the Director of the Eugene OR Airport, Tom Doll, was sent in January requesting information regarding their policies pertaining to OMMP patients boarding airplanes with their cannabis medicine

A letter to Sheriff Gil Gilbertson in Josephine County was sent in January requesting he provide the ACMM with factual data justifying the statement that he made in the Oct 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."

Letters Received – Ms. McGarvin had no knowledge of any replies to letters sent by the ACMM last quarter.

OAR 333-008-0090 — Ms. McGarvin's report noted that the ACMM is awaiting the OMMP's determination regarding the request from the ACMM that panel selection criteria for OAR 333-008-0090 be changed to state: "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..."

Communicating with Physicians – A suggestion was made by Mr. Klahr that the OMMP should, moving forward, attempt to determine the best way to create mass communications with both clinics and private physicians. A possible motion was discussed to create a new ACMM Committee to assist in the process, but was tabled for a later date.

ACTION ITEMS	PERSON RESPONSIBLE	OUTCOME
Motion to change mission statement by Mr. Klahr. 2 nd by Mr. Funk.	Mr. Klahr	Passed Unanimously

	ELECTIONS	JIM KLAHR
DISCUSSION		

Elections were held and the results were as follows:

Chair: Laird Funk

Vice Chair: Todd Dalotto

Outreach Committee Chair: Christine McGarvin

Outreach Committee Members: Dr. Alan Cohn, Art Witkowski, Sandee Burbank, Christine McGarvin

Patient Advocates for Outreach Committee: Kristen Gustafson, Sarah Duff, Sarah Bennett, Jennifer Alexander

Horticulture Research and Safety Committee Chair: Todd Dalotto

Horticulture Research and Safety Committee Members: Edward Glick, Lucas Littlefield

CONCLUSIONS	
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See above

ACTION ITEMS	PERSON RESPONSIBLE	OUTCOME
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None		
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PUBLIC ANNOUNCEMENTS AND COMMENT

PUBLIC-ACMM

Cheryl Smith, of the Compassion Center, asked if there was a fee associated with filing a Change Request form with the OMMP. Ms. Johnston replied that there is no fee for submitting a Change Request form with the OMMP, but that there is a replacement card fee of \$10 per card.

Richard Doughtry suggested that addiction specialists be added to the expert panels created to consider the addition of conditions to the OMMP. Mr. Doughtry also noted that his physician with the Department of Veterans Affairs will not help him participate in the OMMP.

Dan Stadelman, of Cost Based Network, stated that he believes that marijuana “dispensaries” are selling their marijuana at too high a price—up to \$500 an ounce. Mr. Stadelman believes that there should be a top reimbursement cost for marijuana in Oregon.

Elizabeth McFarland asked if a grow-site may be located within 1000 feet of a school. She was unclear as to the definition of a school. Mr. Funk stated that he was unaware of any such rule as stated by Ms. McFarland.

Sarah Bennett believes the next logical step for medical marijuana in Oregon is the creation of a supply system. Ms. Bennett asked Ms. Nichols to review a report she produced concerning the number of suppliers needed throughout the state. In addition, she offered the Human Collective as a pilot program should certain bills be passed.

MEETING AJOURNED	2:30PM
MINUTES SUBMITTED BY	John Sorensen
SPECIAL NOTES	

Guest Speaker – Mr. Leland Berger spoke to the ACMM regarding the outcome of a petition created by Mr. Edward Glick. Mr. Berger explained that the petition was originally filed with the intent of adding certain psychiatric conditions such as Post Traumatic Stress Disorder to the OMMPs list of acceptable conditions for participation in the program. The petition was denied as frivolous. Following that decision, Mr. Glick asked for a judicial review in Benton County. At this point, the denial of the petition was reversed. The reversal, Mr. Berger explained, made judicial review moot.

Mr. Berger suggested that, moving forward, the expert panels reviewing petitions such as Mr. Glick’s should be composed of individuals who, at the very least, can agree that the existing conditions are appropriate or individuals trained in the therapeutic values of cannabis. The current make-up of three advocates and three prohibitionists, he suggests, will inherently arrive a stale-mate. He also asked that anecdotal evidence on the benefits of cannabis be treated as scientific. Lastly, Mr. Berger encouraged the ACMM to begin outlining proposed rule changes now for next year’s legislative sessions.