

# Meeting

MINUTES 20 JUNE 2011

1:00PM-3:00PM

PSOB  
800 NE OREGON ST, ROOM 1E  
PORTLAND, OREGON 97232

MEETING CALLED BY	Todd Dalotto, ACMM Vice-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	Todd Dalotto, ACMM Vice-Chair
MEETING CALLED TO ORDER	<b>1:00 PM</b>
ATTENDEES	<b>ACMM:</b> Todd Dalotto, Alice Ivany, Sandee Burbank, Jim Klahr, Christine McGarvin (conference call), Dr. Alan Cohn (conference call), and Art Witkowski. Excused: Stormy Ray, Dr. Gerry Lehrburger <b>OMMP Staff:</b> Tawana Nichols, Barry Kast, Aaron Cossel, and John Sorensen
PRESENT AS LISTED ON THE SIGN-IN SHEET	William Parmer, Barry Hayes, Jennifer Alexander, Iva Cunningham, Brian Wilson, Charles O'Neil, Ed Glick, Clifford Spencer, Rose Alford, Mike K, and Elvy Musika

## Agenda topics

### ANNUAL INPUT ON THE OMMP FEE STRUCTURE/ALTERNATIVE FEE PROPOSAL

TODD DALOTTO

DISCUSSION	
	<p>Mr. Dalotto briefly explained the ACMM's statutory responsibility regarding its annual input on the OMMP's fee structure. Given the proposed Senate Bill 5529, which would increase the OMMP's fee, the ACMM has called the meeting to discuss the potential impact the Bill may have on both the program and its participants.</p> <p>Upon request, Mr. Kast provided a brief overview of 5529. According to Mr. Kast, on May 24<sup>th</sup> the Ways and Means Subcommittee on Human Services received a report from the Legislative Fiscal Office, the hearing for which is available on Legislative audio. The LFO's report was responding to a budget which supported certain public health programs with other funds. To keep these programs going, the LFO recommended increasing the OMMP's fees. The increased revenue was projected at \$8.7 million. The Bill passed the Senate and went back to the Ways and Means Committee where concern was raised over removing the reduced fees for participants receiving Food Stamp Benefits. The proposed Bill only allowed the reduced fee for participants receiving Supplemental Security Income. Again, Mr. Kast continued, the revenue generated would be used to support programs which would otherwise be cut—Emergency Medical Services and Trauma System, The Drinking Water Program, School Based Health Centers—and to serve as a partial restoration of reductions in C Care. Smaller allocations on fees will go to Direct Entry Midwives, act as a partial restoration of reductions for the Trauma Systems staff, and would enhance funding for the Seniors Farmer's Market program. To the point of the OMMP drafting new rules to reflect the proposed Bill, Mr. Kast explained that the OMMP started drafting rules assuming that the Bill would be passed. However, since the House has yet to vote on it, the proposed fee increase may not stand.</p> <p>The OMMP has drafted several new rules which will be available within the next week. As it stands, the application fee will be \$200. Participants receiving the Oregon Health Plan and Oregon Food Stamp benefits will pay a \$100 fee. Those on Supplemental Security Income will pay a \$20 fee. The fee for adding a grower was not yet clear and it was not known if the program had the authority to create a fee.</p> <p>Mr. Klahr asked Mr. Kast how the OMMP would be affected if the projected revenue increase was not met. Mr. Kast explained that the OMMP will not be affected if the projected revenue increase is not met. Furthermore, if the funding needs are not met, the Oregon Health Authority will either have to go back to an emergency board meeting or the legislature next February to propose other options to create the revenue or to cut programs.</p> <p>Mr. Dalotto asked Mr. Kast if the OHA has offered any alternatives to the LFO's proposed fee structure. Mr. Kast responded by stating that the OMMP, as well as every other State program, must have rules which conform to legislative directives. Therefore, the OMMP has not offered any alternatives at this time. Mr. Dalotto then asked if it is possible for</p>

alternative fee structures to be proposed which may still allow the State to raise the revenue it needs. Mr. Kast stated that the answer was a “yes and no”. He explained by stating the OHA can not deviate to far from what the legislative intent is, but that the legislative intent of 5529 does not necessarily reflect the complexities of the OMMP. There is flexibility, he explained, but not enough to avoid raising fees altogether.

Ms. McGarvin asked why fees are the only focus for generating revenue rather than increasing program efficiency. Ms. Nichols noted that the OMMP’s new database will drastically increase the program’s efficiency. Ms. Ivany asked if any other programs within the State would be drastically increasing their fees. Mr. Kast stated he was not aware of any, but that it may be possible.

<b>CONCLUSIONS</b>		
The LFO and Ways and Means Committee has elected to increase the Oregon Medical Marijuana Program’s fees in an effort to support programs which would otherwise be cut with the State’s proposed budget. The OMMP is working to develop a new pricing structure in order to reach the legislative mandate.		
<b>ACTION ITEMS</b>	<b>PERSON RESPONSIBLE</b>	<b>OUTCOME</b>
N/A		

**REVIEW CURRENT AND PROPOSED ADMINISTRATIVE RULES FOR OMMP**

**TODD DALOTTO**

<b>DISCUSSION</b>
<p><b><u>NEW FEE STRUCTURE:</u></b></p> <p>Dr. Carla Orcut, a former financial analyst for the State of Oregon was present to offer an alternative proposal. She began by asking Mr. Kast who has the authority to set program fees. Mr. Kast responded by stating that there are some fees set by statute, but this is not the case with the OMMP. The OMMP sets the fees in its rules. She then asked if revisions in the proposed fee structure would need legislative approval. Mr. Kast responded that the OMMP would not need prior approval, but that any changes would be reviewed in the next legislative session.</p> <p>Dr. Orcut suggested that the numbers used to project the proposed additional revenues seem to be outdated. She then pointed out that both Oregon Food Stamp holders and Oregon Health Plan recipients would no longer qualify for the reduced fee under the current fee increase proposal. She then asked for clarification regarding the history of the OMMP’s fee structure concerning low income applicants. Mr. Dalotto explained that there was initially a set fee but, after a few years, a low income fee structure was put in place. Following that, he explained, the finer details of the reduced fee structure were ironed out.</p> <p>Dr. Orcut suggested the following fee structure to raise the required program funding and noted that this proposal simply shifts who is paying the different fees while maintaining the legislative intent. Her calculations were, in part, based upon projected operating costs the OMMP provided at the previous ACMM meeting as well as the current number of participants in the program:</p> <ol style="list-style-type: none"> <li>1. Application fee: \$180</li> <li>2. Reduced Application fee for food stamp holders and OHP/SSI recipients: \$40</li> <li>3. Replacement Card fee: \$20</li> <li>4. Growers fee: \$200</li> </ol> <p>Based upon her calculations and assumptions, Dr. Orcut’s suggested fee structure would allow the OMMP to generate the funds needed while leaving the OMMP with a balance of approximately \$114,000.</p> <p>She then assumed that the program would continue to grow over the next two years (based upon data reviewed spanning the last 30 months), estimating a 25% increase in participants paying the higher fee and a 15% for those paying the reduced fee (noting that replacement cards, in her opinion, would go down 50% while the number of growers would be reduced by 10%) and offered a second fee option based upon the program’s projected growth:</p> <ol style="list-style-type: none"> <li>1. Application fee: \$110</li> <li>2. Reduced Application fee for food stamp holders and OHP/SSI recipients: \$25</li> <li>3. Replacement Card fee: \$20</li> <li>4. Growers fee: \$200</li> </ol> <p>Again, Dr. Orcut suggested that the State could generate the necessary funds using these proposed fees as well.</p> <p>Mr. Dalotto and Ms. Nichols agreed that the proposed rule changes regarding the program’s fee structure would be made available to the ACMM by July 1, 2011 and that Dr. Orcut would work with the ACMM on making further suggestions on the issue.</p>

**ADDING PTSD AS A QUALIFYING CONDITION:**

Mr. Dalotto stated that New Mexico is currently the only state with a medical marijuana program that has Post Traumatic Stress Disorder as a qualifying condition. Furthermore, he explained, PTSD is currently their most marked condition. Mr. Dalotto suggested that adding PTSD and/or anxiety to the OMMP’s current list of accepted conditions may result in the necessary revenue being raised.

Mr. Dalotto asked if an expert panel was needed for a condition to be added to the OMMP, and recognized Lee Berger to speak on the issue. Mr. Berger explained that when Mr. Edward Glick petitioned to have several psychiatric conditions added to the program, the panel assigned to review the petition was unable to come to a consensus **because the panel composition included enough unwavering opponents to medical marijuana to ensure a majority vote opposing any proposed additional condition.** Mr. Berger explained that it was his understanding that a condition could be added by administrative rules. Ms. Nichols agreed to get more information on the issue.

**CONCLUSIONS**

1. The OMMP will verify the procedures for adding a new condition.
2. Drafter rules for the proposed fee structure will be delivered by the OMMP to the ACMM by July 1, 2011.
3. The ACMM has provided alternative fee structure which it claims will not be as detrimental to patients as the current proposal while raising the funds required by the Legislature.

ACTION ITEMS	PERSON RESPONSIBLE	OUTCOME
<b>MOTION: The ACMM strongly recommends that the OHA follow Dr. Orcut’s recommendations with the intention of minimal impact to the abilities of the patients to stay on the program.</b> <b>MOTION 2<sup>nd</sup> by Ms. Burbank</b> ---	Mr. Dalotto	Passed unanimously
<b>MOTION: The OMMP verifies the rule making procedure for adding additional conditions.</b> <b>MOTION 2<sup>ND</sup> BY Ms. McGarvin</b> ---	Mr. Dalotto	Passed unanimously
<b>MOTION: The ACMM strongly recommends that the OMMP adopts, by administrative rule, PTSD as a medical condition without the need for panel review before September 1<sup>st</sup>, 2011.</b> <b>MOTION 2<sup>nd</sup> by Ms. Burbank</b>	Mr. Dalotto	Passed unanimously

**PUBLIC ANNOUNCEMENT AND COMMENT**

**TODD DALOTTO**

**DISCUSSION**

William Parmer: His wife is on Social Security Disability, and feels SSDI should be included as part of the lower fee structure as she would be making more money if she was receiving SSI. Mr. Parmer also feels that the State is taking advantage of lower income residents.

Barry Hayes: Mr. Hayes asked how many patients would drop off the OMMP because of the proposed rate increase. Mr. Dalotto stated that the State projected a 50% drop-off from participants who previously paid the lower fee and a 15% drop-off for those who paid the higher fee of \$100. Mr. Hayes suggested that those who drop will become felons and the proposed. Bill was not a reasonable one.

Jennifer Alexander: Ms. Alexander stated she was waiting for a response to several questions she had sent Mr. Kast. She stated Mr. Kast had sent her a letter stating that allowing public testimony at the hearings for Senate Bill 5529 could damage relationships with the Legislature. Mr. Kast stated that it is important to work in conjunction with the Ways and Means Committee. Ms. Alexander stated that she felt Mr. Kast was not being honest with the ACMM.

Iva Cunningham: Ms. Cunningham asked if a patient would have to pay \$200 every time they changed their grower. Ms. Nichols noted that the large amount of Changes received slows down the application processing time. Ms. Cunningham asked whose responsibility the fee would be, and Ms. Nichols stated it would be the patient’s. However, as Ms. Burbank noted, there is no reason the grower could not give the patient the money to make the change. Furthermore, Ms. Burbank

explained, this is not a conspiracy created by the OMMP. Mr. Dalotto noted that the OMMP has won awards for efficiency and performance.

Brian Wilson: A cannabis activist, Mr. Wilson noted that medical cannabis has helped several family members in the past and is a magical plant which should not be taken from people with low incomes.

Charles O’Neil: Mr. O’Neil is a veteran who uses marijuana to mitigate the pain he suffers from an injury. He thinks it’s ridiculous that he should have to pay \$180, but will because he has no choice. He is upset that patients are being treated like cash-cows.

Ed Glick: Mr. Glick can’t imagine a society that does this to people who are suffering. He called the fee a protection racket fee so that the police will not bother them. He continued by stating that Law Enforcement is trying to roll back the rights of patients. He concluded by stating that patients should consider more direct actions against Bills such as 5529.

Clifford Spencer: Mr. Spencer is the founder of a co-op who works with hospice care related to the Oregon Medical Marijuana Act (OMMA). Mr. Spencer stated that the legislative intent of the OMMA was to protect patients, not make them a cash-cow and asked if the grower fee would be a one-time payment or an annual fee. Ms. Nichols responded that the OMMP will not have an answer until the rules are written, reviewed, and approved. Mr. Clifford continued by suggesting that patient’s will be forced to buy marijuana on the black-market. Furthermore, he explained, patients will place stress on the Oregon Health Plan by requiring more prescription medications and may resort to using an affirmative defense rather than applying to the OMMP.

Rose Alford: Ms. Alford was present with her son who suffers from Autism. Medical marijuana helps him greatly, she explained, and helps her manage him. If she cannot manage him, Ms. Alford noted, she will be forced to place him with the State for care, which will stress the system ever further.

Mike Kravitz: A disabled Air Force veteran turned advocate for veteran’s use of cannabis, Mr. Kravitz suggested that PTSD suicide rates for veterans returning from Iraq and Afghanistan are reaching Vietnam proportions—roughly 12 a day. Mr. Kravitz asked that the OMMP consider him a resource in deciding whether or not to add PTSD as an accepted condition.

Elvy Musika: Stated that the State cannot fix the budget on the backs of patients.

CONCLUSIONS		
N/A		
ACTION ITEMS	PERSON RESPONSIBLE	OUTCOME
N/A		

<b>MEETING AJOURNED</b>	<b>3:00 PM</b>
<b>MINUTES SUBMITTED BY</b>	John Sorensen
<b>SPECIAL NOTES</b>	