

Meeting

MINUTES JUNE 22, 2012

10:00 AM

1300 NW WALL ST
BEND, OREGON
97701

MEETING CALLED BY	Todd Dalotto, 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	Todd Dalotto, ACMM Chair
MEETING CALLED TO ORDER	10:00 AM
ATTENDEES	ACMM: Sandee Burbank, Dr. Alan Cohn, Todd Dalotto, Laird Funk, Alice Ivany, Jim Klahr, Dr. Gerry Lehrburger (excused absence), Ben Mackaness, Christine McGarvin, Brian Michaels (excused absence), Stormy Ray OMMP Staff: Tawana Nichols, Aaron Cossel, John Sorensen, Annette Johnston (excused absence)
PRESENT AS LISTED ON THE SIGN-IN SHEET	Cheryl Smith, Claire Dalzell, Jean Adams, John Kriner, "H" Wiff, Lori Duckworth, Rosy Huffman, Richard Doughrty, Lisa Nichols, Peke, Jennifer Rock, Sarah Bennett, Anthony Taylor, Opal Batchelor

Agenda topics

REVIEW OF MARCH 1, 2012 MEETING MINUTES

ACMM CHAIR

ACTION ITEMS	PERSON RESPONSIBLE	OUTCOME
Motion: To approve meeting minutes with the addition of the phrase, "Originating Agency Identifier," from which the initial components forming the acronym "ORI" is derived. The motion was made by Dr. Cohn, 2 nd by Mr. Funk.	Dr. Cohn	Motion Passed Unanimously

UNINTERRUPTED ADMINISTRATIVE REPORTS

OHA ADMINISTRATION

DISCUSSION
<p>Program Update: Ms. Nichols stated that the OMMP currently has 28 permanent employees. Two employees have resigned, two have retired, and three temporary employees have left due to the ending of their assignments. In addition, one employee has recently accepted a job rotation with a different program. The OMMP is currently recruiting for two of the vacant positions. Because of the statewide hiring freeze, not all vacant positions will be filled. However, there is an exception process which can be initiated if it is deemed there is a critical need to fill the positions. In addition, the program may opt to fill the open positions through internal job rotations.</p> <p>Ms. Nichols stated that the OMMP will be shifting under The Center for Health Protection. Because of this, the program will have a new administrator—Gail Shibley. She will be responsible for ensuring public health and safety in a wide array of regulatory and non-regulatory environmental public health efforts. Her credentials were covered as well.</p> <p>Statistics: Mr. Cossel stated that there are currently 54,658 patients participating in the OMMP. In addition, there are 27,452 unique caregivers, 40,125 unique growers, and 26,747 registrations where the patient lists themselves as the grower. Furthermore, there are 29,713 registrations listing someone other than the patient as the grower. He added that there are 700 patients, 233 caregivers, and 272 growers residing out of state. Mr. Cossel noted that there may seem to be discrepancies in the totals listed above, but explained that the statistics include patients who have both a current card and a renewal application pending. Lastly, he noted that there are 2,107 physicians with patients currently participating in the OMMP. Mr. Dalotto asked for clarification regarding out of state growers. Mr. Cossel stated that the grower may reside out of state, but that the grow site itself must be located in Oregon. Mr. Cossel also provided a trend report showing that the number of patients listing themselves as their own grower has remained fairly constant since the October, 2011 fee increase. Mr. Dalotto asked if there are any statistics on the number of Change Requests the program is receiving. Mr. Cossel stated there are not, but that the number has dropped dramatically. Ms. Nichols noted that the decrease in changes has helped the</p>

program's workflow increase.

Budget Review: Ms. Nichols explained that the OMMP's Program Support Manager, Michelle Fusak, has resigned and that the Public Health Division is in the process of restructuring into three new "Centers"—Health Protection, Prevention and Health Promotion, and Public Health Practice. She stated that Jeff Carlson will be taking over for Ms. Fusak. However, due to budgetary and time constraints, he was unable to attend the meeting. Ms. Nichols stated she had not received the financial report until that morning and would ensure that it was posted on the OMMP's website with the meeting minutes for the public to view. She noted that revenue is up from the previous meeting, as is the program's cash balance. Ms. Burbank asked for clarification regarding the monetary transfers noted in the report. Ms. Nichols explained that the transfers referred to the six Public Health programs the OMMP was mandated to support. Mr. Mackaness asked if it is possible to have year over year reports provided. Ms. Nichols stated that the ACMM has reports from previous years. Ms. McGarvin asked for clarification regarding the amounts the other programs are allocated. Ms. Nichols stated that the amounts were set and capped by the legislature, and that the funding support provided by the OMMP will not exceed those amounts. Ms. McGarvin asked what will happen if the mandated funds are raised ahead of schedule. Ms. Nichols was unsure what the legislature would do. Dr. Cohn asked if the program's fees could be adjusted down as the mandated funding needs are met. Ms. Nichols was unsure and noted that the decision would lie with the Ways and Means Committee. She did add that the majority of complaints received by the program are related to the increased fees. Mr. Dalotto asked if the power to set the program's fees had been permanently removed from the Oregon Health Authority (OHA). Ms. Nichols stated, again, that she was unsure how the legislature will proceed. Mr. Dalotto that the 2010 legislature adjusted the fee structure and the OMMP followed through on the legislature's directive. The ACMM, he continued, will follow through with its statutory responsibility to provide annual input on the fee structure by recommending that the fees be lowered in light of the OMMP's nearly \$1.5 million balance. Ms. Burbank made a motion to begin the process of recommending the lowering of fees. It was 2nd by Ms. McGarvin. A lengthy series of amendments and discussion ensued, beginning with Dr. Cohn noting that the increased fees are causing patients to suffer. Ms. Ivany noted that the OMMP is a healthcare program and there needs to be some measure of compassion for the people it is serving, adding that individuals are being met with increased fees and cuts to services. Mr. Dalotto stated that the ACMM has a statutory responsibility to provide annual input to the fee structure, something that the legislature has ignored.

Dr. Cohn asked if there has been a decrease in the number of applications the OMMP has received since the 2011 fee increase. Mr. Cossel stated that there are more participants now than there have ever been. Ms. Ray asked for clarification regarding the number of physicians with patients participating in the OMMP. Mr. Cossel stated that the number provided referred to the number of physicians with patients currently participating, not the number who have ever recommended an individual.

Several questions were raised regarding the proposed online application system. Ms. Nichols stated that the OMMP is moving towards an online application, but that a timeline has yet to be laid out. She added that, although there is no timeline, it is a goal she has set for the program. The statewide hiring freeze, she continued, has made it difficult to start new projects, but not impossible. Mr. Mackaness asked if the program's cash balance could be put towards an online application. Again, Ms. Nichols stated that the issue with creating the system does not lie solely with the costs, noting that the hiring freeze and limited available resources makes it difficult. In addition, she noted that the Office of Information Systems (OIS) may have other top priorities. Mr. Dalotto made a motion regarding the OMMP's online application and can be found below.

Mr. Dalotto noted that there continues to be an issue with the ACMM members not receiving e-mails from the OMMP. The source of the problem, he continued, is unknown and asked that it be looked into. Mr. Cossel agreed to the request. Mr. Mackaness made a motion regarding the use of an alternate e-mail provider which can be found below.

Mr. Dalotto asked if the OMMP charged \$75 to a patient in order to check for Law Enforcement Data System (LEDS) searches regarding an individual's participation in the program. Mr. Cossel stated that there is a \$75 charge to conduct the check, but added that he recommends against requesting it. He explained that the OMMP will not give a participant the information if law enforcement officials have an ongoing investigation, adding that if law enforcement allows the information to be release by the OMMP, law enforcement would also give the information to the participant; thereby removing the need to request the information from OMMP and avoiding the fee.

CONCLUSIONS

A participant's grow site must be located in Oregon, but the grower may reside out of state.

The OMMP will post the quarterly finance report on its website with the meeting minutes.

Mr. Cossel will update the ACMM's information on the state website. Mr. Dalotto provided a list of information in need of

update.

Mr. Cossel will e-mail the ACMM a LEDES usage report.

Mr. Dalotto submitted a hardcopy of the OMMP Online Application suggestions, gathered from members of the community and other stakeholders, to the program and emailed them on 6/21/12 as well. He stated that some ACMM members would be happy to assist in the development.

ACTION ITEMS	PERSON RESPONSIBLE	OUTCOME
<p>Motion: Whereas the ACMM has the statutory responsibility to provide annual input on the OMMP’s fee structure, whereas there is revenue in the excess of the program’s operating budget and normal reserves and the program has met the legislature’s mandated increases which have led to undue hardships on the severely ill and financially vulnerable citizens in our state, the ACMM recommends that the OHA lower their current fee structure.</p>	Ms. Burbank	Motion Passed Unanimously
<p>Motion: Whereas the effects of the OMMP’s window closure has made it difficult for applicants to submit applications and whereas the drop box does not give proof of receipt, therefore subjecting participants to possible arrest, and whereas the program has sufficient cash balance, the ACMM strongly recommends to the OHA that the implementation and development of a cost, time, and space saving online application system be made a high priority, whereas the current system is cost and labor intensive. 2nd by Mr. Funk.</p>	Mr. Dalotto	Motion Passed Unanimously
<p>Motion: To create a secure, Google e-mail account for communication between the OMMP and the ACMM should the problem continue into the next quarter. 2nd by Ms. McGarvin. Dr. Cohn moved to table the motion until the next meeting in order to allow the OMMP time to resolve the matter.</p>	Mr. Dalotto	Motion Tabled

	DIALOGUE BETWEEN THE ACMM AND ADMINISTRATION	MS. NICHOLS
DISCUSSION		

OHA/Public Health Organizational Changes: Ms. Nichols stated that, although the transition to the new structure will not occur until July 1st, the administration is actively working to make the change as smooth as possible. Logistical considerations played a role in the decisions, she noted, and the primary criterion was leadership’s best judgment on how to maximize opportunities between programs for synergy and leverage. In addition, the restructured groups will fit the primary theme of each Center in a way that will make sense, ensure the best public health practices, and aide in the communication of their primary goals—health protection, prevention, and health promotion.

The OMMP will be under The Center for Health Protection. The Center’s primary theme is to work with healthcare facilities, licensing, and environmental health/regulations. By joining these program areas together, the Center will leverage available licensing and regulatory tools, where it makes sense, while improving upon its ability to speak with one voice about approaching public health. Programs in this Center touch every hospital, drinking water system, and restaurant in Oregon and the restructuring represents an incredible opportunity to ensure the protection of health in creative and innovative ways.

Schedule Next Meeting: The next ACMM meeting will be held in the Portland State Office Building (PSOB) on September 12th, 2012 in room 1E

ACMM Vacancy: Applications for the open ACMM seat must be submitted to the OMMP no later than July 31, 2012. The new member will be selected by September 1, 2012.

CONCLUSIONS	
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The next ACMM meeting will be held in the Portland State Office Building (PSOB) on September 12th, 2012 in room 1E

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ACTION ITEMS	PERSON RESPONSIBLE	OUTCOME
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GUEST SPEAKER

BRENDAN MCCARTHY

DISCUSSION		
<p>Mr. McCarthy, of Portland General Electric (PGE), was present to discuss safety issues related to the indoor growing of medical marijuana. An increasing number of fires and electrical system failures have been seen in Oregon because of high-intensity indoor lamps used to raise marijuana and other plants, overloading the electrical circuits in which they are plugged. This overload can pose a hazard to homeowners, electrical utility workers and neighbors when they fail. If you are using grow lamps or other equipment that significantly increases electrical use, it is important to do two things: 1) Call your service provider and talk to them about your electricity use. This will help them ensure that the proper equipment is installed in your neighborhood. 2) Contact a certified electrician to evaluate the electrical system in your home. Upgrades may be needed.</p> <p>Ms. Burbank asked what PGE's policy was on keeping patient confidentiality. Mr. McCarthy stated that PGE does not need to know the nature of your electric consumption, only that you will have an increased need.</p>		
CONCLUSIONS		
ACTION ITEMS	PERSON RESPONSIBLE	OUTCOME
Motion: That Mr. Dalotto will work with PGE in an effort to craft a safety message, by Mr. Funk. 2 nd by Ms. McGarvin.	Mr. Funk	Motion Passed Unanimously

HORTICULTURE, RESEARCH, & SAFETY COMMITTEE REPORT (HRSC)

MR. DALOTTO

DISCUSSION		
<p>Mr. Dalotto noted that the committee submitted research and data reporting ideas to the OMMP in December, 2012, but that the ideas were not able to be implemented in the first phase of the program's new database.</p> <p>Mr. Dalotto had a phone conference with Jean O'Connor on April 3, 2012. He stated that Ms. O'Connor indicated the OHA's willingness and interest in amending the process by which qualifying, debilitating medical conditions could be added. Ms. O'Connor was to meet with Shannon O'Fallon, an Assistant Attorney General for OHA to discuss the possible change. Mr. Dalotto has yet to receive the results of that discussion. However, he has a meeting scheduled with Ms. Nichols, Ms. O'Fallon, and Ms. O'Connor to discuss the topic.</p>		
CONCLUSIONS		
Wade Holman and Daniel Bauer are new members of the HRSC.		
ACTION ITEMS	PERSON RESPONSIBLE	OUTCOME
Motion: Nominations for new HRSC members, Wade Holman (2 nd by Ms. McGarvin) and Daniel Bauer (2 nd by Mr. Funk).	Mr. Dalotto	Motions Passed Unanimously

MEETING ADJOURNED FOR LUNCH: 12:00 PM

MEETING CALLED TO ORDER: 1:00 PM

OUTREACH COMMITTEE REPORT

MS. MCGARVIN

DISCUSSION		
<p>Ms. McGarvin stated she would like the committee to start pricing the components for equipment to provide an audio/visual feed of the ACMM meetings. She continued by following up on a suggestion made to her by the program's former administrator, Jody Noon, regarding the gathering of information in support of adding new conditions to the program. People participating on the selection panels must be versed in the benefits of cannabis therapeutics, she explained.</p> <p>Ms. McGarvin stated that an ongoing Outreach Committee goal has been to address the possible misuse of LEDS by law enforcement officials. Over the last three years, the committee has been collecting information and testimony regarding the alleged misuse and misconduct and has now compiled a detailed report to that effect. The report and a letter was sent to Senator Prozanski and Governor Kitzhauber. The Outreach Committee will continue to work with the senator regarding the possible misuse of LEDS.</p>		
CONCLUSIONS		
Ms. Burbank is the new Outreach Committee Chair.		
ACTION ITEMS	PERSON RESPONSIBLE	OUTCOME

Motion: Nomination of Ms. Burbank as the new Outreach Committee Chair by Dr. Cohn. 2 nd by Mr. Klahr	Dr. Cohn	Motion Passed Unanimously
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ADDING NEW CONDITIONS PROCESS (OAR 333-008-0090)

MS. NICHOLS

DISCUSSION		
<p>The OHA, Ms. Nichols explained, is considering making a change to the way in which petitions to add new conditions are handled. The proposed change, now submitted to the Public Health Director, would do away with the expert panel and leave the decisions up to the State Public Health Officer (SPHO), who may consult with experts in cannabis therapeutics and experts on the disease or condition proposed to be added as a debilitating medical condition. The SPHO may request a literature review, summaries of scientific studies, and other information related to the therapeutic use of marijuana and the disease or condition proposed. The SPHO will be a neutral person or persons knowledgeable of conducting such a review.</p> <p>Due to the costs associated with making a rule change, Ms. Nichols asked that the process not be initiated until after the 2013 legislative session. Mr. Klahr suggested adding a new condition, such as Post Traumatic Stress Disorder (PTSD) through statute rather than rule.</p>		
CONCLUSIONS		
<p>A proposed rule change regarding the process by which a new condition could be added to the list of OMMP's qualifying conditions has been submitted to the Public Health Director.</p> <p>Mr. Dalotto, Ms. Nichols, Ms. O'Connor, and Ms. O'Fallon will hold a phone conference on 6/27/12 to discuss the ways in which to proceed with amending the process for adding new conditions to the OMMP.</p>		
ACTION ITEMS	PERSON RESPONSIBLE	OUTCOME
None	N/A	N/A

ATTORNEY GENERAL/DEPARTMENT OF JUSTICE (DOJ) MEMO UPDATE

MR. MICHAELS AND MR. DALOTTO

DISCUSSION		
<p>Mr. Dalotto stated that the current Attorney General (AG) is on the way out, and that it is important for the ACMM to attempt to communicate with the interim AG. He continued by making a motion to that effect. There was a discussion which followed, during which Ms. McGarvin asked that the Outreach Committee's above noted report be given to the new AG. There was also a discussion regarding how to request the meeting. Mr. Dalotto stated it should be a public meeting.</p> <p>Mr. Michaels had several questions regarding letters he has sent in response to a DOJ memo, but was not present to discuss them. He has previously asked that his letters be posted on OMMP's website, as letters from the Oregon State Police have been. Mr. Cossel stated there is a concern that the letters may be construed as legal advice given by the OHA when, in fact, it is not. Ms. Nichols suggested that Mr. Dalotto raise these questions during his upcoming meeting with Public Health administrators. Ms. McGarvin noted that all of Mr. Michaels' letters can be found at ictoregon.com.</p>		
CONCLUSIONS		
Mr. Michaels' responses to DOJ issued letters regarding medical marijuana can be found at ictoregon.com.		
ACTION ITEMS	PERSON RESPONSIBLE	OUTCOME
Motion: The ACMM shall hold a special meeting before September for the purpose of meeting with Interim Attorney General, and likely Attorney General Elect, Ellen Rosenblum about the Attorney General's representation of the OMMP, pending Ms. Rosenblum's acceptance of the committee's invitation to meet. Motion made by Mr. Dalotto, 2 nd by Mr. Funk.	Mr. Dalotto	Motion Passed Unanimously

UPCOMING POTENTIAL LEGISLATIVE CHANGES AFFECTING OMP

MR. DALOTTO

DISCUSSION		
<p>Mr. Dalotto asked if there are any OHA sponsored, legislative concepts in the upcoming session. Ms. Nichols stated that she was not aware of any. Mr. Dalotto continued by stating that the legislative intent in creating the ACMM was for the committee to advise the legislature in addition to the OMMP, particularly when it comes to the program's fee structure. Due to the need to communicate with multiple parties in accordance with the aforementioned legislative intent, Mr. Dalotto made a motion which can be found below. Ms. Ray suggested that the motion should note which committees it was referring to. She also shared concerns that this may be too lofty a goal, suggesting that other, more obtainable solutions be considered.</p>		

CONCLUSIONS

None.

ACTION ITEMS	PERSON RESPONSIBLE	OUTCOME
Motion: The ACMM shall make requests to relevant, state legislative committees to be included in their interim legislative agenda for the purpose of reporting on the effects of prior legislative changes and to suggest legislative solutions to administrative problems in the OMMP. Motion made by Mr. Dalotto, 2 nd by Ms. McGarvin.	Mr. Dalotto	Motion Passed, 8-1

PUBLIC COMMENT**PUBLIC****DISCUSSION**

Cheryl Smith: Ms. Smith stated that the fees need to be decreased and that there is an issue with patients choosing not to renew their registrations, or continue with their current registration, because their physicians are limiting their access to prescription medication because of their patient's participation in the OMMP. She also stated that the e-mail notification system is not working and that there may be a problem with the program's phone system.

Claire Dalzell: Ms. Dalzell asked how to make a change to her address. Ms. Nichols explained that she would need to fill out a change form. Ms. Dalzell also asked if the people working at the OMMP are looked at in a negative way. Mr. Cossel stated that there may be some bias, but nothing substantial.

Jean Adams: Ms. Adams asked what the relationship was between OMMP participants and acquiring state gun permits. She also asked about the prospects of joining the OMMP and the OLCC. Mr. Dalotto stated that Oregon residents cannot have their status checked when applying for a permit, but that the federal government may be moving towards precluding card holders from applying for permits. Ms. Burbank said the combining of the OMMP and OLCC is very unlikely.

John Kriner: The fees are too high. His mother is disabled, as is he, and that neither can afford their card. It is not feasible on a fixed income. The price of a card, he stated, was worth half a month's rent. Ms. Burbank noted that it was the state legislature, not the OMMP that raised the fees. She continued by stating that the legislature needs to be addressed on the issue, but when the public had an opportunity, only 78 out of 54,000 participants said anything.

"H" Wiff: Mr. Wiff asked if the fees are different for out of state patients. Mr. Cossel stated that the fees are the same. Mr. Wiff also asked if meetings are ever held in southern Oregon. The committee stated that there have been meetings in southern Oregon.

Lori Duckworth: She did not like that the OMMP will not divulge anything to a grower other than the number of patients they are growing for. Mr. Cossel stated that a patient's confidentiality is of the utmost importance to the OMMP. Ms. Nichols stated that the patients can sign a release of information (ROI), allowing the OMMP to discuss their registration with a third party. Mr. Funk asked if more information could be given to the grower if they submitted the request in writing with a photo ID. Mr. Cossel stated he would look into it.

Rosy Huffman: She wants the PA system to work better so she can listen to the conversation. She also took issue with the new fees and felt as though there should be a sliding scale. Ms. Huffman was also concerned with the way in which law enforcement measures allowable amounts. When she makes a batch of butter, people come from miles around. She is afraid of ending up in jail because of five pounds of butter. After all, she said, a pound of butter is a pound of medicine.

Richard Dougherty: Mr. Dougherty does not think the program is living up to its intent.

Lisa Nichols: Ms. Nichols was concerned that some physicians are no longer allowing their patients access to prescription medications because of the patient's participation in the OMMP, citing the VA as an example. Mr. Dalotto noted that the Oregon Medical Marijuana Act (OMMA) was created not only to protect participants, but their physicians as well.

Peke: Stated that the fees need to be lowered as they are damaging to the sick and poor. He also suggested that the customer service window be opened once again.

Jennifer Roch: Ms. Roch believes that patients should be able to submit their applications and fees via the proposed online system without needing to include their physician's information.

Sarah Bennett: Ms. Bennett thanked Ms. Nichols for submitting the proposed rule change in addition to echoing earlier concerns regarding reports that physicians are dropping patients who use medical cannabis. She also reiterated that the closing of the window is cumbersome.

Anthony Taylor: Mr. Taylor stated that medical marijuana drastically reduces the amount of prescription medication he needs to take on a daily basis. Mr. Taylor also asked if the ACMM addresses issues of reciprocity with other state laws and medical marijuana programs. Mr. Funk stated that the ACMM has addressed the issue, but to no avail.

Opal Batchelor: Ms. Batchelor was not present and his written comments were read by Mr. Dalotto. Ms. Batchelor feels that the OMMP's rules regarding confidentiality are limiting others in the community. For example, landlords should be able to see if a prospective renter has a history of illegally selling marijuana.

CONCLUSIONS

Mr. Cossel will look into the possibility of letting growers request the names of people they are currently growing for, provided they send the request in writing with a copy of their ID.

MEETING AJOURNED	2:30 PM
MINUTES SUBMITTED BY	John Sorensen, OMMP
SPECIAL NOTES	None