

# Meeting

## MINUTES

DECEMBER 5, 2012

10:00

800 NE OREGON ST, STE 1E  
PORTLAND, OREGON 97232

<b>MEETING CALLED BY</b>	Todd Dalotto, ACMM Chair
<b>TYPE OF MEETING</b>	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.
<b>NOTE TAKER</b>	Roni Carroll, OMMP
<b>TIMEKEEPER</b>	Todd Dalotto, ACMM Chair
<b>MEETING CALLED TO ORDER</b>	<b>10:00 AM</b>
<b>ATTENDEES</b>	<b>ACMM:</b> Sandee Burbank, Todd Dalotto, Alice Ivany, Jim Klahr, Dr. Gerry Lehrburger, Ben Mackaness, Brian Michaels, Stormy Ray, Cheryl Smith <b>Excused:</b> Dr. Alan Cohn and Laird Funk <b>OMMP Staff:</b> Tawana Nichols, Aaron Cossel, Roni Carroll
<b>PRESENT AS LISTED ON THE SIGN-IN SHEET</b>	Brenda Thomas, Lori Duckworth, David Akin, Jerry Wade, Peter Kraymer

## Agenda topics

### REVIEW OF SEPTEMBER 12, 2012 MEETING MINUTES

ACMM CHAIR

ACTION ITEMS	PERSON RESPONSIBLE	OUTCOME
<b>Motion:</b> By Ms. Burbank to approve the September 12, 2012 meeting minutes with correction to 2 <sup>nd</sup> page 10 <sup>th</sup> line. Change Ms. Dalotto to Mr. Dalotto. Second by Ms. Smith.	Ms. Burbank	Motion passed unanimously

### UNINTERRUPTED ADMINISTRATIVE REPORTS

OHA ADMINISTRATION

DISCUSSION
<p><b>Program Update:</b> Ms. Nichols stated the OMMP currently has 27 permanent employees and 1 temporary employee. One employee that was on medical leave did not return. The OMMP is in process of recruiting 4 positions, which does not include the office manager position. FTE for the program is 31. The program is looking at restructuring with the possibility of hiring an assistant to Ms. Nichols and 2 additional managers. The Senate bill effective in July 2012 states supervisors to employees should be 11 to 1. Ms. Nichols stated Ms. Gail Shibley has accepted a position with the Portland Mayor's office as the Chief of Staff. Her last day will be December 15, 2012. There is no interim administrator at this time. Ms. Nichols will notify the ACMM as soon as the new administrator is announced.</p> <p><b>Statistics:</b> Mr. Cossel stated OMMP currently has 57, 634 patients, 28, 736 of whom list themselves as the grower. The figure includes patients who have a current card and a renewal application pending. In addition, there are 31, 116 registrations where the patient has listed someone else as the grower. The figure includes patients who have a current card and a renewal application pending. There are 28, 865 unique OMMP caregivers and 40, 600 unique OMMP growers. Mr. Cossel stated there are 1, 587 physicians with a current patient on the OMMP. There are 875 out-of-state patients, 338 out-of-state caregivers, and 361 out-of-state growers participating in the OMMP.</p> <p><b>Budget Review:</b> Ms. Nichols stated the cash balance is \$3.2 million and the total revenue for the biennium is over \$10 million. Ms. Nichols also noted so far \$3.4 million has been transferred out to support other programs.</p> <p>Ms. Burbank stated lowering fees was discussed during the last 2 meetings, motions were passed, and there was no response from OHA Administration to recommend how much to reduce the fees. Ms. Nichols responded she has sent that request twice to Jeff Carlson and Gail Shibley. Ms. Nichols stated she is waiting for a response. Ms. Burbank, Mr. Dalotto, and Mr. Mackaness addressed concerns regarding the lack of response from OHA administration. Mr. Mackaness stated only 9 of 60 motions made since the inception of the ACMM 7 years ago were implemented. Mr. Mackaness also noted since 2010 no motions passed by the ACMM has been implemented. Ms. Nichols responded she would forward concerns directly to Dr. Goldberg. Ms. Ivany formerly requested a timely response from OHA administrators regarding the fee structure.</p>

CONCLUSIONS		
Ms. Nichols will notify the ACMM as soon as the new administrator for the Center for Health Protection is announced.		
Ms. Nichols will send the budget sheet to the ACMM at a later time.		
Ms. Nichols will forward ACMM concerns directly to Dr. Goldberg.		
ACTION ITEMS	PERSON RESPONSIBLE	OUTCOME
<b>Motion:</b> By Ms. Burbank for Mr. Dalotto and Ms. Ray to draft a letter to Dr. Goldberg regarding fee structure and reduction of fees. Second by Ms. Ivany.	Ms. Burbank	Motion passed unanimously

**DIALOGUE BETWEEN ACMM AND ADMINISTRATION**

**TAWANA NICHOLS**

DISCUSSION		
<b>Schedule Next Meeting:</b> Ms. Nichols stated Dr. Goldberg will be available March 11, 2013 for the Salem meeting. The ACMM's next meeting will be on March 11, 2013 in the Salem/Keizer area.		
Mr. Dalotto asked Mr. Cossel if the OMMP has received federal subpoenas since 2007 and that it was attempted in 2007 but was quashed. Mr. Cossel responded there is nothing in statute requiring the OMMP to answer such questions and it was beyond the role of the ACMM to ask. Ms. Nichols responded in agreement to Mr. Cossel's statement and noted the question will be followed up with by someone with the authority to answer.		
ACTION ITEMS	PERSON RESPONSIBLE	OUTCOME
<b>Motion:</b> By Ms. Burbank to hold the next meeting on March 11, 2013 in the Salem/Keizer area. Second by Mr. Mackaness.	Ms. Burbank	Motion passed unanimously

**GUEST SPEAKER**

**AMANDA MARSHALL, U.S.  
ATTORNEY FOR OREGON**

DISCUSSION		
Ms. Marshall stated she cannot comment on pending state legislation. Additionally, Ms. Marshall noted she could provide people with an idea of the abuses that have been seen. No one has been prosecuted for using marijuana for medical purposes and that is not a target. People hiding behind the act and profiting from drug trafficking have been prosecuted. Ms. Marshall commented what happens, particularly in southern Oregon where the grows have become so rampant and the money has become so tempting where pot grows provide \$5000 a pound on the east coast, is that while law enforcement is looking for methamphetamine, heroin, and the illegal caching of firearms, they're tripping over kilos and kilos of marijuana; much of which is on its way outside the state of Oregon for sale to people who are not Oregon medical marijuana card holders. Ms. Marshall stated an increase in illegal drug trafficking has been seen as well as the increase in Drug Trafficking Organizations (DTOs) operating in Oregon. There are several ongoing conversations with the attorney general which address overproduction.		
Ms. Marshall stated prosecution in jury trials where the defense was medical marijuana – the people are criminals and not acting in consistence with state law. The office made the choice to affirmatively show the defendant was also in violation of OMMA.		
Mr. Michaels commented on Ms. Marshall's opening statement in terms of forfeiture and the seizure of money. Mr. Michaels additionally commented that when applicable information on OMMP patients is obtained illegally from LEDs and used as a factor for probable cause. Mr. Michaels asked if the OMMP administration is able to answer questions regarding receiving federal subpoenas; the OMMP representatives felt it was not for them to respond and they did not. Ms. Marshall responded she wouldn't comment on any pending investigation.		
Mr. Dalotto asked if an interest in legalization initiatives existed and stated the OMMP exists because of state and federal prohibition. Mr. Dalotto further stated if prohibition didn't exist, criminals wouldn't be found and prohibition impacts behaviors of patients. Ms. Marshall responded alcohol is legal and people are prosecuted for furnishing alcohol to children; she expects even with legalization of marijuana there would still be crime and potential for a black market.		
Ms. Burbank asked dispensaries in California by state law are legal? Ms. Marshall responded she did not want to get into a conversation about California law. Ms. Burbank responded in Oregon it says no sales. Ms. Marshall responded we all have really different laws and issues.		
Dr. Lehrburger asked what drives the decision of prosecution. Ms. Marshall responded forfeitures are not issued to people who are clearly and unambiguously compliant with state law. Ms. Marshall noted the concern is patterns that develop as a part of drug trafficking; currently, because of the laws we have, people who profit in illegal distribution also tend to be involved in tax evasion, possession of illegal fire arms, and all sorts of other problems related to drug trafficking		

organizations. Lastly, Ms. Marshall stated consideration has been an important factor in a prosecution decision point because it shows someone has not been compliant with state law.

Ms. Smith stated accessibility to medication is an issue for patients and asked if sharing medication without consideration to other patients is a problem. Ms. Marshall responded she could not answer the question; transfer is a violation of federal law. Ms. Marshall stated it is hard for her to understand why people have difficult access when she has over 100 dispensaries in Oregon. Ms. Burbank responded some people think dispensaries are illegal.

**MEETING ADJOURNED FOR LUNCH: 12:00 PM**

**MEETING CALLED TO ORDER: 1:00 PM**

**SUBCOMMITTEE AND OTHER REPORTS**

**TODD DALOTTO/  
OUTREACH COMMITTEE**

DISCUSSION		
<p><b>Horticulture Research &amp; Safety Report:</b> Mr. Dalotto followed up on discussion from the September 12, 2012 meeting regarding PGE and an electrical utility cautionary statement. Mr. Dalotto asked if Brendan McCarthy of PGE had contacted Mr. Cossel. Mr. Cossel responded he has not heard anything regarding this since the last meeting.</p> <p><b>ACMM Chair Report:</b> Mr. Dalotto stated the Rules Advisory Committee met on September 13, 2012. Mr. Dalotto noted he provided public testimony strongly advising the OMMP to add language to the OARs regarding important goals such as protections against bias, prejudice, and conflict of interest.</p> <p><b>Outreach Report &amp; Outreach Chair election:</b> Nominations for Outreach Committee Chair were held. Ms. Smith nominated Ms. Burbank as Chair. Ms. Ivany seconded.</p> <p>Ms. Burbank stated the purpose of the Outreach Committee was to reach out and educate people. She noted activities of the committee were the production of an educational Power Point presentation and gathering information on policies of the Port of Portland. Ms. Smith responded she has been unable to obtain the CD of the Power Point presentation and it still needs to be distributed.</p>		
CONCLUSIONS		
<p>Ms. Smith and Ms. Burbank to collaborate on the further development of the educational Power Point DVD produced by the Outreach Committee needs to be more easily accessible and more widely distributed.</p> <p>Ms. Burbank to follow up on obtaining and distributing the Power Point presentation.</p>		
ACTION ITEMS	PERSON RESPONSIBLE	OUTCOME
<b>Motion:</b> By Ms. Smith to nominate Ms. Burbank as Chair of the Outreach Committee. Second by Ms. Ivany.	Ms. Smith	Motion passed unanimously

**PROPOSED ACMM BYLAW AMENDMENTS**

**TAWANA NICHOLS**

DISCUSSION		
<p>Ms. Nichols led an overview of the reasoning for amendments to the ACMM Bylaws and stated due to confusion and lack of clarity around various areas of the bylaws, she was directed to draft language to address the process on the ACMM requesting special meetings to provide clear direction and to stay within guidelines on when people are reimbursed for travel for meetings and when holding special meetings. Ms. Nichols also explained under objectives, statute already outlines what the role is of the ACMM and is the same as the mission – the section was removed. Lastly, Ms. Nichols explained she, Gail Shibley, and Shannon O’Fallon drafted the changes and amendments were made to other areas not consistent or clear. Mr. Dalotto asked what the reason was to delete statutory authority for the ACMM. Ms. Nichols responded the language wasn’t necessary. Mr. Dalotto requested to review the bylaws section by section and to agree to edit bylaws, develop a new draft on the interim, and bring back to the next ACMM meeting.</p> <p>Mr. Michaels discussed Article III, Section 3a and stated he would like to change the language to say the director must recommend to the ACMM for removal of a board member with approval of the majority vote of the ACMM. Ms. Nichols responded the statute clearly states the director appoints and appointment is by the state and the OHA director. Mr. Michaels and Mr. Mackaness responded the statute states appoint not remove. Ms. Nichols stated the language was removed because the director has the authority to appoint and remove; the role of the ACMM is only to advise.</p>		
ACTION ITEMS	PERSON RESPONSIBLE	OUTCOME
<b>Motion:</b> By Ms. Burbank to edit Article II, Section 1 to bring to present tense rather than delete the section. Second by Mr. Mackaness. Ms. Smith abstained.	Ms. Burbank	Motion passed, 8-1
ACTION ITEMS	PERSON RESPONSIBLE	OUTCOME

<b>Motion:</b> By Ms. Ray to keep the mission statement in Article, II Section 2 with further discussion on topic, to change the language to say Committee shall. Second by Mr. Dalotto. Ms. Smith opposed.	Ms. Ray	Motion passed, 8-1
<b>ACTION ITEMS</b>	<b>PERSON RESPONSIBLE</b>	<b>OUTCOME</b>
<b>Motion:</b> By Mr. Michaels to amend Article III, Section 3a to say director must recommend to the ACMM for removal of a board member with approval of the majority of the ACMM. Second by Ms. Ivany. Ms. Ray opposed.	Mr. Michaels	Motion passed, 8-1
<b>ACTION ITEMS</b>	<b>PERSON RESPONSIBLE</b>	<b>OUTCOME</b>
<b>Motion:</b> By Mr. Michaels to retain Article III, Section 3b. Second by Ms. Ivany. Ms. Ray abstained.	Mr. Michaels	Motion passed, 8-1
<b>ACTION ITEMS</b>	<b>PERSON RESPONSIBLE</b>	<b>OUTCOME</b>
<b>Motion:</b> By Ms. Burbank to add language under terms of service, first paragraph a member is eligible to apply for reappointment appointment for 2 full terms. Second by Ms. Ivany.	Ms. Burbank	Motion passed unanimously
<b>ACTION ITEMS</b>	<b>PERSON RESPONSIBLE</b>	<b>OUTCOME</b>
<b>Motion:</b> By Ms. Smith to change language from terms fewer to terms less than 4 years. Second by Ms. Burbank.	Ms. Smith	Motion passed unanimously
<b>ACTION ITEMS</b>	<b>PERSON RESPONSIBLE</b>	<b>OUTCOME</b>
<b>Motion:</b> By Mr. Dalotto to accept changes with the exception of deleting health and safety to Article III, Section 4. Second by Ms. Ivany.	Mr. Dalotto	Motion passed unanimously
<b>ACTION ITEMS</b>	<b>PERSON RESPONSIBLE</b>	<b>OUTCOME</b>
<b>Motion:</b> By Ms. Smith to change Article IV, Section 2c to change OCHHP to Center for Health Protection. Second by Mr. Dalotto.	Ms. Smith	Motion passed unanimously
<b>ACTION ITEMS</b>	<b>PERSON RESPONSIBLE</b>	<b>OUTCOME</b>
<b>Motion:</b> By Mr. Dalotto to accept changes to Article V with the exception of adding regularly scheduled and correcting the grammar in the second paragraph, second line to change the semi-colon to a comma. Second by Mr. Klahr.	Mr. Dalotto	Motion passed unanimously
<b>ACTION ITEMS</b>	<b>PERSON RESPONSIBLE</b>	<b>OUTCOME</b>
<b>Motion:</b> By Mr. Dalotto to change language in Article VI, Section 1 to adopt suggested changes and change must to shall, committee should meet rather than shall meet and not adopt changes to Article VI, Section 2. Second by Mr. Mackaness.	Mr. Dalotto	Motion passed unanimously
<b>ACTION ITEMS</b>	<b>PERSON RESPONSIBLE</b>	<b>OUTCOME</b>
<b>Motion:</b> By Dr. Lehrburger to include Portland, Salem, and Eugene metropolitan areas to Article VI, Section 1. Second by Mr. Dalotto. Ms. Burbank opposed.	Dr. Lehrburger	Motion passed, 8-1
<b>ACTION ITEMS</b>	<b>PERSON RESPONSIBLE</b>	<b>OUTCOME</b>
<b>Motion:</b> By Ms. Smith to change board members to say 6 committee members in Article VI, Quorum. Second by Mr. Dalotto.	Ms. Smith	Motion passed unanimously
<b>ACTION ITEMS</b>	<b>PERSON RESPONSIBLE</b>	<b>OUTCOME</b>
<b>Motion:</b> By Ms. Burbank to change board members to 6 votes by committee members in Article VI, Committee Action. Second by Mr. Dalotto.	Ms. Burbank	Motion passed unanimously
<b>ACTION ITEMS</b>	<b>PERSON RESPONSIBLE</b>	<b>OUTCOME</b>
<b>Motion:</b> By Mr. Dalotto to not implement suggested changes to Article VI, Special Meetings. Second by Mr. Mackaness.	Mr. Dalotto	Motion passed unanimously
<b>ACTION ITEMS</b>	<b>PERSON RESPONSIBLE</b>	<b>OUTCOME</b>

<b>Motion:</b> By Mr. Mackaness to change OHA will not provide to OHA may provide in Article VI, Staffing. Second by Ms. Ray.	Mr. Mackaness	Motion passed unanimously
<b>ACTION ITEMS</b>	<b>PERSON RESPONSIBLE</b>	<b>OUTCOME</b>
<b>Motion:</b> By Ms. Smith to revise the language in Article X Subcommittee Meetings to provide more clarity as per Ms. Smith's comments on bylaws draft handout. Second by Mr. Klahr.	Ms. Smith	Motion passed unanimously
<b>ACTION ITEMS</b>	<b>PERSON RESPONSIBLE</b>	<b>OUTCOME</b>
<b>Motion:</b> By Mr. Michaels to change language in Article X under Subcommittee Meetings to say notify director rather than get permission. Second by Mr. Mackaness. Ms. Ray opposed.	Mr. Michaels	Motion passed, 8-1
<b>ACTION ITEMS</b>	<b>PERSON RESPONSIBLE</b>	<b>OUTCOME</b>
<b>Motion:</b> By Mr. Dalotto to adopt changes to Article XII with the exception of retaining revision history. Second by Ms. Ivany.	Mr. Dalotto	Motion passed unanimously
<b>CONCLUSIONS</b>		
Ms. Nichols will follow up on ACMM members term expirations .		

**OMMP AS PART OF THE OREGON TRANSFORMATIONAL HEALTH CARE SYSTEM      JIM KLAHR**

<b>CONCLUSIONS</b>	
Per Mr. Dalotto, OMMP as part of the Oregon Transformational Health Care System will be tabled to the March 11, 2013 meeting.	

**ADDING NEW CONDITIONS PROCESS (OAR 333-008-0090) – INPUT ON DRAFT OAR LANGUAGE      TODD DALOTTO**

<b>DISCUSSION</b>		
Mr. Michaels stated the ACMM is required by statute to advise the OHA Administration on Administrative Rules processes. Due to lack of time, this will need to be discussed during the March 11, 2013 meeting; otherwise the OHA administration will not have been fully advised. Mr. Cossel responded this is beyond the role of the OMMP or the ACMM and the comment period has ended.		
<b>CONCLUSIONS</b>		
Advising on the process for adding new conditions was tabled to the March 11, 2013 meeting.		
<b>ACTION ITEMS</b>	<b>PERSON RESPONSIBLE</b>	<b>OUTCOME</b>
<b>Motion:</b> By Mr. Michaels to provide input on the draft of OAR language to OHA administration during March 11, 2013 meeting. Second by Ms. Ivany.	Mr. Michaels	Motion passed unanimously

**PUBLIC ANNOUNCEMENTS AND COMMENT      PUBLIC - ACMM**

<b>DISCUSSION</b>		
Lori Duckworth of Oregon NORML stated she represents a large number of patients and over the last grow season she has been left with around 8,000 patients without medication because of grow site raids. Ms. Duckworth implored the fees be reduced. Additionally, Ms. Duckworth noted patients are suffering and to prosecute growers with bad behavior.		
Santa stated there needs to be more support in place for patients.		
Jerry Wade stated Ms. Ray requires an aid to travel and that she was notified the other day travel for an assistant will no longer be paid for. In addition, Mr. Wade noted this denies Ms. Ray access to ACMM meetings.		
Peter Kraymer discussed conditions that are not on the list to qualify for the OMMP.		

<b>MEETING AJOURNED</b>	<b>2:40 PM</b>
<b>MINUTES SUBMITTED BY</b>	Roni Carroll
<b>SPECIAL NOTES</b>	