

**Oregon Medical Marijuana Program
Advisory Committee on Medical Marijuana
December 14, 2005, 9:00 AM – 12:00 PM
Winema Place 4074 Winema NE Bldg 53
Room 227/228 Salem OR 97305**

The Oregon Medical Marijuana Program (OMMP) Advisory Committee on Medical Marijuana provides an opportunity for public to discuss administrative issues with the OMMP management.

Handouts: Meeting Agenda, September 12, 2005 Meeting Minutes, October 31, 2005 OMMP Financial Statement, Draft By-Laws Advisory Committee on Medical Marijuana, Proposed Oregon Administrative Rules Hearing

Meeting called to order by Dr. Grant Higginson at 9:04 a.m.

WELCOME AND INTRODUCTIONS

Dr. Higginson welcomed group and invited introductions.

ANNOUNCEMENTS

- Announcements were not made at this time.

REVIEW OF SEPTEMBER 12, 2005 MINUTES

The group was asked to review the meeting minutes; the minutes were deemed approved.

AGENDA TOPICS

PROGRAM MANAGER UPDATE

- Patti Gustafson is no longer the Program Manager. Due to the history of recruiting difficulties, Pamela Salsbury will have a trial period as the OMMP manager. Ms. Salsbury was welcomed with enthusiasm as the new manager.
- Internal shifting will help cover management responsibilities. Ms. Salsbury will have more roles as the Program Manager; an Office Specialist 2 will take on Office Management roles, and an individual with Juris Doctorate (JD) to work on the legal work of the program. Dr. Higginson will remain involved in management issues. With this shifting, a workable situation can succeed.

Comments and Discussion:

- A question if hiring an individual with a JD will help save the budget without the Attorney General expenditure. It will probably not be budget saving because the OMMP will continue to work with the Department of Justice (DOJ) and the Assistant Attorney General (AAG) with every court case involved, subpoenas, and will continue to seek AAG advice.
- It is projected there will be little savings to the program due to the internal shift; there will be one manager, senior staff with more office management role, and the individual with legal training working part-time with the program.

PROGRAM STAFFING UPDATE / PROCESSING TIMES

- Currently, there are eight staff members, Office Specialist 1 and Office Specialist 2. The two vacant positions cannot be filled until the hiring freeze is lifted.
- As of December 12, 2005, there are 12,052 patients and 5,784 caregivers in the program. Application processing times remain very rapid. Application goes from creation to incomplete in one day. From the date a complete application is received and a complete letter is sent is two days. From the date an application is received and cards have been issued is around ten days.
- The OMMP expects a backlog after January 1, 2006 due to the many changes and is asking for patience. The OMMP is still working on application forms, FAQ, and basic facts; which depend on the rules regarding criminal background checks for the persons responsible for grow site. Until decisions have been made, the application packets cannot be distributed.

Comments and Discussion:

- The reception area where patients are able to come into the office will not start construction until February 2006. A solid wall must be constructed separate from the office for confidentiality reasons. The plan will not only service clients better, but it will allow clients to come in to the office, submit applications and payments directly to the OMMP, rather than the Cashier's Office, and the applications will be

processed quicker. There will be a ten-day hold on applications paid with a personal check payment.

FINACIAL STATEMENT REVIEW

- Christian Gorud, the program support manager, explained the OMMP Financial Statement with the October 31, 2005 Financial Statement handout. The most important topic of last meeting was the fee increase; with the paperwork filed and implemented, he has not evaluated the account yet.
- The second right column on the handout shows the Cash Balance ending of \$2,000 and as of December 13, 2005 the Cash Balance ending was negative \$10,184. Some funds will be saved on managerial costs for the time being, we will examine month to month, and if a red light appears, we will explore options to manage finances better.

Comments and Discussion:

- After the surplus was taken, the account was not completely depleted. The cash balance was about \$1,030,000, the amount taken about \$902,000, leaving less than \$200,000 in the balance. The intention before the transfer to General Fund was to spend the balance over two years and then adjust the fee. Dr. Higginson clarified the OMMP was not singled out in the transfer; all programs with a cash balance were considered. The OMMP surplus went to other programs in DHS.

REDUCED FEE GROUP FINDINGS

- The fee workgroup has explored need-based options that are easy to verify, such as food stamps, veteran's benefits, low-income housing, and Social Security Disability Insurance (SSDI). Proof of food stamp eligibility was recommended by the group to qualify for the reduced fee and asked if it is possible to rewrite it with the new Administrative Rules. The group will continue to examine other possible programs that could be used for eligibility proof for the reduced fee.
- To move this issue forward, it was requested that testimony on food stamps as eligibility proof at the rules hearing on December 22, 2005.

Comments and Discussion:

- Whether food stamps are included for the reduced fee depends what the Hearings Officer determines. If the Hearings Officer believes

- adding food stamps substantially changes the rules, they may ask a separate rule hearing be placed.
- The question if a fee could be waived for applications that are low-income was not answered at this time. The fee workgroup committee communicated it was organized to identify applications who are low-income who were not qualifying under OHP or SSI.
 - The wide difference between \$100 and \$20 was noted and some asked if there could be a fee amid the two figures. The OMMP would have to recreate the overall projections, change other fees, and go through rule process. The philosophy on the fees was simplicity and style to the applicants and the program. If the fees are complicated, there is an increase cost in running the program.

ADDING ADDITIONAL MEDICAL CONDITIONS

- Dr. Higginson noted he decided not to go forward with initiating a review panel for adding additional medical conditions. The decision to discontinue the process to add six new conditions was made after receiving input from medical experts who felt there was insufficient methodologically sound evidence to support the inclusion of these conditions or that there were conflicting findings found in the research.

Comments and Discussion:

- Ed Glick, RN, who submitted the petition, stated that the process was not transparent as who was evaluating the petition and he was not contacted for the raw data and to verify the data and information presented. He would like a more specific response regarding the persons evaluating the petition for who they are and their qualifications and purpose. Mr. Glick, RN, requests the letters and responses regarding the mental expert's assessments and conclusions.
- Any concerns regarding the decision from the mental health experts needs to be addressed to Dr. Higginson in writing. If his response does not produce a satisfactory response, the concern would go to his supervisor, Dr. Susan Allan, State Public Health Director, then to Dr. Bruce Goldberg, Director of DHS.
- There were questions if the program was monitoring patients and what the program is doing to provide statistics to the public. Dr. Higginson stated the program was not monitoring and does not see it happening in the near future. The department's position is to administer a

registration program; conducting survey information is not part of running the program. A study can be proposed from an outside group using non-identifying client information. If the study includes calling clients; additionally, it would need to go through an institutional review board process.

COMPLAINTS TO OMMP FROM PATIENTS

- Richard Bayer introduced the topic questioning how the OMMP handles patient and caregiver conflicts. He encouraged the workgroup to discuss how they would like complaints handled by the OMMP, the changes with patient ownership, when and/or how to report caregivers to LE, and if the OMMP will answer differently with new statues and rules.
- The OMMP receives general complaints from patients concerning caregivers. Possibly due to fear, there are not as many complaints to the OMMP, about one every other month. The program can report and investigate complaints regarding patients, caregivers, and physicians. Patients in the OMMP have the ability to write a statement and provide contact information to LE. As of the meeting, there have been no results provided.
- The position of the OMMP has been, if there has been any legal criminal offense from patient, caregiver, and/or physician, to refer clients to the proper authority.

OTHER

- Dr. Higginson explained if contacted by the Michigan legislature, the program would testify and provide information about the OMMP. However, the program will not contact the Michigan legislature and provide information regarding the program, even though advocates requested this.
- Ms. Salsbury has made the commitment for strong customer service to all interested parties with the Advisory Committee on Medical Marijuana (ACMM). The program will continue to look for community outreach with individuals from all over Oregon for feedback to the ACMM. Additionally, Ms Salsbury has provided education to LE in the past and will continue to educate LE in regards to the program, statues, and rules; educational presentations are available to LE agencies around the state.

SB 1085

PROPOSED OAR FOR SB 1085

- The public hearing for OMMP Administrative Rule was announced to be on December 22, 2005 in Keizer, Oregon.
- There was concern attending physicians at clinics will not be able to operate under the proposed 333-008-0010(17)(c) “and” on pg. 5 in the Administrative Rule hearing handout and requests to change “and” to “or”.
- Dr. Higginson’s understanding of the “Primary Responsibility” was explained as requiring an attending physician who must provide primary health care to the patient, medical specialty care, or a consultant who has been asked to provide specialty care by the physician; the physician must be providing one of the aforementioned types of cares. Additionally, the physician must review the patient’s medical records, perform a physical examination, and plan to provide follow-up care. Physicians who operate with the clinics should not be affected, if they provide primary health care, review of medical records, physical examination, and plan for follow-up care in a written statement. Mr. Bayer requested this be noted in the minutes.
- There was an argument that the American Board of Medical Specialists is outdated, delayed, and does not recognize physicians who specialize in medical marijuana. The patient should determine what primary health care is, from 333-008-0010(17)(A) “*to the patient*”, and list the physician they consider who provides primary health care. Mr. Bayer requested this be noted in the minutes.
- It was noted the mature plant definition is problematic and inconsistent; there are three stages of a marijuana plant, but only two are recognized. It will be pointed out to the rules hearing officer.
- Clarification for 333-008-0020(4) was given, the OMMP will verify information on applications, contacting can be included in verifying.
- Shannon O’Fallon, Assistant Attorney General, cautioned the group to not only express suggestions and changes to the rules at workgroup meetings, but also to submit suggestions, comments, and concerns to the Department in writing for the rules hearing that takes place December 22, 2005. However, it was noted that the rule making hearing is not the time to pronounce changes to the rules, but to take written and oral testimonies and comments concerning proposed changes.

24-HOUR LEDS VERIFICATION UPDATE

- Ms. Salsbury reported the program is actively working on it, even though it is required by January 1, 2006, it seems doubtful “24/7” will be ready by then. The terminal connection is completed; yet, the testing portions have not been completed. There is a standstill between DHS and Oregon State Police (OSP) regarding the Memorandum of Understanding. In addition, the OMMP intends to be confident in “24/7” producing accurate and complete information before it is made ready for tests and LE.
- There will be two phases with “24/7”. In the first phase, the OSP will have access via client’s card number, full name, and date of birth. Due to technical script language with spaces there will be a second phase where address verification is added.

Comments and Discussion:

- If the grow site is in a rural area, how will the physical location be checked in “24/7”? It was agreed the grow site location listed on the application should be the address patients tell LE. The topic of using GPS coordinates, tax lots, and rural properties will be addressed later when more technical issues are smoothed out.
- Concerns regarding confidentiality and “24/7” were addressed. LE is aware of the requirement to keep inquiry and verification information confidential. The program is mandated to allow LE to verify; the information LE receives from the OMMP is “yes” or “no”. The OMMP cannot guarantee how LE addresses the issue. “24/7” will be no different than when LE telephones the OMMP with inquiries.

ADVISORY COMMITTEE ON MEDICAL MARIJUANA (ACMM)

- The Director of DHS will select the 11-member board; the program will recommend 20 qualified candidates who indicate a group representing a broad constituent. Interested candidates should submit a brief explanation why they want to participate on the ACMM and their qualifications to be on ACMM to the OMMP via mail, fax, or email. Individuals can also recommend and suggest others for the ACMM.
- The majority approved the handout, the By-Laws of the ACMM draft, after minor typos are addressed.

- Under the duties and responsibilities of a director, subsection C, it will be corrected to note if contacted by media regarding the committee and committee information.

Comments and Discussion:

- The ACMM will be open meetings under Oregon law. The committee members will be present and interested parties are allowed to attend the meetings.

OTHER

- The handbook has been updated using the proposed administrative rules and a copy will be provided to Ms. Salsbury to review for any changes that need to be made; after the administrative rule hearing is finalized, the handbook will be updated and provided to the Handbook Committee to review. Although the Handbook Committee has not met, the handbook is in process.
- The most economical and quickest way to implement the grow site registration requirement is for the OMMP to send patients a cover letter, change form, and release form for criminal background check. When the forms are received by the OMMP, completely filled out, a placard will be provided for the patient to post at the grow site location, listing the patient's card number and date of birth, caregiver card number and caregiver date of birth, if applicable, and person responsible for the grow site name and address.
- The application packets are complete, except for the criminal background check. The statute says the program will run criminal background checks, however it does not give the program the statutory authority to do so.

ALBANY MM IN THE WORKPLACE CONFERENCE

- The Washburn court case discussion was postponed until the beginning of next meeting.

WASHINGTON COUNTY SHERIFF CONCEALED WEAPONS PERMIT

- Leland Berger summarized the circuit court hearing ruling regarding Washington County's policy in denying and revoking Concealed Weapons Permit applications if the applicant was a medical marijuana cardholder.

- The judge ruled the sheriff in Washington County does not have the authority to deny or revoke handgun permits, based solely on the fact that a person is a registered cardholder with the medical marijuana program.
- It is important to let patients know the court ruling does not require the sheriff to change the policy; patients may decline providing additional information on forms.

NEXT MEETING

- March 23, 2006, 9:00 a.m. to 12:00 p.m.
Portland State Office Building
800 NE Oregon Street
Suite 120C
Portland, OR 97232

Meeting adjourned at 12:12 p.m.