

**Department of Human Services  
Oregon Medical Marijuana Program  
Advisory Committee on Medical Marijuana**

**Thursday March 29, 2007  
Department of Administrative Services  
155 Cottage St NE, Room A  
Salem OR 97301  
10:00 am – 2:30 pm**

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.

**MEETING CALLED  
BY**

Sandee Burbank, ACMM Chair

**Meeting called to order at 10:10 am**

**HANDOUTS:** ACMM Order of Business, January 22, 2007 Meeting Minutes, ACMM Handbook, March 23, 2007 Financial Statement, License 2000 Database Medical Conditions, Symptoms, and Diagnoses. March 28, 2007 OMMP Statistics

**ATTENDEES:**

**ACMM:** Sandee Burbank, Leland Berger, Todd Dalotto, Laird Funk, Dr. Darryl George, Jim Klahr, Madeline Martinez, Brian Michaels, Stormy Ray, John Sajo

**OMMP Management:** Mellony Bernal, Pamela Salsbury-Guertin, Jennifer Hiromura, Tawana Nichols

**Present as listed on the sign-in sheet:** Jon Carter, Dan Chandler, Jim Greig, Kristen Gustafson, Alice Ivany, Anthony Johnson, Marilyn Klahr, S Lori Link, Jacqui Lomont, Steve Schwerdt, Delton Stacey, Roger Tower, Tom Tower, Sonny Watkins

**AGENDA TOPICS**

**REVIEW OF JANUARY 22, 2007 MEETING MINUTES**

**ACMM**

**DISCUSSION**

- It was noted Melody Silverwolf's name was misspelled on page 10.

**ACTION ITEMS**

- Mr. Funk moved to accept the meeting minutes as approved with corrected amendments; Mr. Klahr seconded. Motion passed (8-2) with one abstention from Mr. Michaels and one absentee (Mr. Berger).

**UNINTERRUPTED ADMINISTRATIVE  
REPORTS**

**OMMP  
ADMINISTRATION**

**DISCUSSION**

### Program Update

- Tawana Nichols was introduced as the Program Manager for the OMMP, effective April 9, 2007.
- There are four vacancies within the Program, one Office Specialist 2 and three Administrative Specialist 1; recruitment has been started for all open positions.

### Program Statistics

- Ms. Bernal provided data as of March 28, 2007: number of current OMMP patients (including pending applications) was 15,790, number of patients with a caregiver was 7,579, number of doctors who have recommended patients for the OMMP was 2,508, and the average time the date an application is reviewed by staff to the date cards are issued was 17 days.
- Data entry is up-to-date with processing change request forms and about two days behind in entering applications.
- Ms. Bernal emailed the figures for grow site information on March 8, 2007 and the figures have not been updated since.

### Training for Governor Boards and Commissions

- Ms. Burbank and Mr. Klahr had attended and Ms. Bernal received some positive feedback with recommendations and will look to set something up specific to the ACMM.
- Ms. Burbank explained the training had been set up specifically designed for those appointed by the Governor to councils and commissions. While most of the information presented did not apply to the ACMM, there was information provided on what occurs in executive sessions and subcommittees. Ms. Burbank stated she hopes they can provide a similar training for the ACMM to present standards and practices. Ms. Bernal will follow-up with identifying the presenters and communicating with the ACMM which topics to be presented.

### License 2000 (L2K) Database Update

- Using the L2K Conditions, Symptoms, and Diagnoses handout, Ms. Salsbury-Guertin updated the Committee with a list that has been compiled for the database to track. There are forty common diagnoses the Program intends to track. Ms. Salsbury-Guertin encouraged the ACMM to contact the Program for additional diagnoses to track.
- There are three stages in building L2K; the Program has bypassed the second stage, My License Office. My License will allow patients to submit their applications and update their registry electronically. The second stage has been bypassed due to working with physicians to receive the attending physician's statement electronically and how L2K would work with 24/7. The Program has been working on resolving electronic issues with the Office of Information Services (OIS), such as possibly establishing PIN numbers for patients and physicians. A preliminary conversion has begun from the Access database to the L2K database.
- The original completion date was March 2007. However, the software had flaws

and the completion date has been pushed to August 2007.

*Questions and Comments:*

- Dr. George corrected the some diagnoses on the handout and Ms. Salsbury-Guertin verified the list was compiled what the physician signed and noted on the attending physician's statement.
- Mr. Berger inquired if statistics were available for Post Traumatic Stress Disorder (PTSD) and if they would be available at the next meeting. Ms. Salsbury-Guertin ascertained the current database does not have the ability to track PTSD and the Program does not have statistics for PTSD. The numbers will be preliminary numbers until 2008. Ms. Salsbury-Guertin cautioned the conversion will not include tracking previous application years attending physician's statements.
- Mr. Berger stated it would be helpful to have numbers for PTSD and anxiety as Mr. Glick, RN, filed a petition to add qualifying medical conditions including those. He spoke about meetings with the Attorney General in the Trial Division, Liani Reeves, to work out rules for fair hearings, unlike the 2000 hearings, and it would be helpful to have the numbers and a timeline for the hearings. Ms. Salsbury-Guertin stated she does not know the timeline for hearings.

*Financial Report*

- Ms. Bernal updated the ACMM of the Financial Statement using the March 23, 2007 handout as Mr. Grorud was unable to attend the meeting. Column A represents the cost information reported at the last meeting. Column B represents data as of March 23, 2007, includes \$9,587 ACMM costs and \$27,256 L2K costs. Column C represents the projection made after the September 19, 2005 meeting where the ACMM decided on the fee increase option. Column D represents the actual percentage of the projection; par would be 83% or 20 of 24 months.
- The major cost issues in Column B include low personnel, higher healthcare costs starting January 2007, attorney general is lower than projected, professional services is less due to staffing, printing and postages increase due to updated information packets and envelope orders, telecommunications increased due to adding and moving phones to the new location, information systems increase due to L2K costs, cost allocation increase for no explicable reason, possibly crunching budget numbers due to end of biennium, cash balance increase, however, L2K is expected to consume most of the cash balance.
- The ACMM costs are not referenced in Column B on the Financial Statement handout. Ms. Bernal recommended emailing Mr. Grorud for questions with the statement or for further clarification for cost allocation increase.

*Questions and Comments:*

- Ms. Burbank inquired if it was necessary to duplicate the application packet for renewal applicants causing higher postage and printing costs. Mr. Berger

recommended sending letters to notify renewal patients of their renewal date and for them to request renewal paperwork from the OMMP. Ms. Salsbury-Guertin stated the legal advice the Program received was to ensure that every patient has a copy of current statutes and rules. Administratively, it would be save time to send out the packets to every renewal patient rather than to process requests for specific paperwork.

- Mr. Dalotto asked about Column C being projected, but being close to the end of the biennium, the expenses would be closer to the actual, however several of the columns show less. He inquired what caused the difference. Ms. Bernal stated she will contact Mr. Grorud for the answer.
- Mr. Berger raised the question of different information from clinics and perhaps the regulation of clinic. He stated he hopes the ACMM will take a closer look at clinics in the future to ensure those helping patients are educating them consistently. Ms. Burbank postponed discussing this topic for the future.

#### Audio Archives

- Mr. Sajo suggested the Program have available on the OMMP website audio archives of the ACMM meetings. Ms. Bernal researched this option and informed the ACMM the Program has purchased a digital recorder that enables the Program to record and save the meetings electronically. Ms. Bernal sent a request to the Director's Office for website approval and communications. The Program is waiting and working through the initial feedback and concerns of the Director's Office, such as file size, depending on quality, whether the Program needs to purchase audio editing software. Additionally, the current OMMP website does not support web streaming audio files.
- Ms. Bernal further discussed whether there are any confidentiality concerns with public testimony and or comment where the public would sign a waiver acknowledging their voice and name will be on a public site. The ACMM recommended the question for Shannon O'Fallon, Assistant Attorney General, to answer.

#### Law Enforcement Training

- Mr. Berger inquired about Law Enforcement training and felt the Program needs to outreach to agencies. He stated the most needed training includes instructing agencies inspections are not permitted under the law, especially in Curry County and the city of Kiezer and The Dalles, in some areas the aerial flights are directed solely for patient gardens, checking before applying for a search warrant, educating agencies on the limitation of removed plants, and prohibiting agencies from re-releasing information received from the Program.
- Mr. Berger stressed the Program's primary function is to protect patients from law enforcement and by doing so is ensuring law enforcement is knowledgeable of the rules and requested the Program create an outreach plan to educate law enforcement, especially as there may be changes from the legislature this session, and present it to the ACMM for input. Mr. Michaels added the training

should be certified by Department of Public Safety Standards and Training (DPSST) for trainings with the affidavit portion.

- Ms. Bernal updated the ACMM she did contact John Minnis, Director of Department of Public Safety Standards and Training, and forwarded the letter on February 26, 2007 to the ACMM to discuss further. Mr. Minnis was working with Joe O’Leary, Senior Policy Advisor, and was going to forward the ACMM’s concerns to Mr. O’Leary with further discussion. Ms. Bernal will resend the letter to the ACMM.

**Other**

- Ms. Burbank inquired of the possible form change to include a checkbox near the applicant’s grow site location as not intending to grow, as the current forms require applicants to lie. Ms. Bernal informed the Committee the Program received legal advice which was initially no; however, Dr. Higginson is willing to entertain other options.
- Mr. Berger requested Ms. O’Fallon to email the ACMM explaining her advice and reasons. Mr. Berger also inquired if Dr. Higginson changed his position on research and surveys. Ms. Bernal informed the Committee the initial no was from the Program performing an internal research. She also added the resistance to initiating research and surveys is if the Program were to do the research, it would require the Program to sponsor a research survey with the Institutional Review Board (IRB) to protect human subjects with research protocols. Ms. Salisbury-Guertin added that Dr. Higginson is not against research and surveys as the Program is exploring other avenues to use, other than the application form.
- Mr. Berger also requested the inquiry to Ms. O’Fallon to include the Program’s broad authority in the Oregon Medical Marijuana Act (OMMA) to include the information on the application and to collect this information.

**CONCLUSIONS**

- The ACMM formed a sub-committee, Law Enforcement Committee, to work with the Mr. Minnis and Mr. O’Leary generating ideas for training Law Enforcement. The Law Enforcement Committee consists of Lee Berger, Brian Michaels, Stormy Ray, Reggie Desoto, and Jim Krieg. Mr. Berger nominated Mr. Michaels as chair; Mr. Michaels accepted. Ms. Martinez withdrew from sub-committee.

**ACTION ITEMS**

- The Law Enforcement sub-committee will meet and report back to the Committee at the next meeting.

**Meeting adjourned for break at 11:06 am**

**Meeting called to order at 11:23 am**

## DISCUSSION

- Ms. Burbank inquires where the term limit issue stands. Ms. Bernal states that they are still waiting for an answer.

## CONCLUSIONS

- Waiting for an answer.

## EMAIL (PERSONAL VS ACMM ADDRESSED)

ACMM

## DISCUSSION

- Ms. Burbank states that the ACMM can talk freely on emails, but must inform the public if they are going to do a conference email. There was a clear answer from Marla Ray that emails are permissible. Ms Burbank reminds everyone that any email is a matter of public record and must be archived as such. Even private emails are still a matter of public record and must be forwarded to the ACMM and the program.
- Mr. Berger inquires whether that applies to sub-committees as well.
- Ms. Burbank states that she didn't specifically ask about sub committees but that it makes sense that it does apply to sub-committees.
- Dr. George asks whether email that comes to him privately must be forwarded to everyone else.
- Ms. Burbank states if it is regarding the ACMM, it must be forwarded to everybody. Even if it comes to a private email account, anything regarding ACMM activity needs to be forwarded to the program.
- Mr. Dalotto wants to know if this applies to people who are unaware their email will be public record.
- Ms. Burbank suggests that Mr. Dalotto inform the person, because the email is already a matter of public record.
- Dr. George suggests that if someone inquires about patient confidentiality, the committee members could write back to that person, informing the person that if the committee member responds to the question it will become public record. The person can then decide whether they want to continue the correspondence.
- Ms. Salsbury-Guertin reminds everyone that if people go through the ACMM on the department's website, there is a disclaimer that all email is a public record.
- Mr. Berger wants to know if the emails that come through the program go to all the members of the ACMM. Mr. Berger questions whether there has been any email.
- Ms. Salsbury-Guertin states she would have to check the archives. She goes on to say that the system is set up to go to everyone's email. First it goes to the ACMM, then it is dispersed to all 11 members, then it's forwarded and saved in the archives.

## CONCLUSIONS

- All email regarding the ACMM, regardless if it goes to a public or private email, is considered public record and must be forwarded to the ACMM and the Oregon Medical Marijuana Program.

**THE PATIENT HANDBOOK**

**ACMM**

**DISCUSSION**

- Ms. Burbank inquires about the four (4) people who submitted changes for the patient handbook. She states she has Mr. Klahr's change.
- Ms. Ray informs the chair that she has received no update on the handbook or the work that's being done on it. She also states that she found 1998 and 1999 email addresses were being sent out, instead of the current email address. She wants to continue to enter the copy Dr. Bayer accepted before he resigned.
- Ms. Burbank states she recalls Dr. Bayer taking Ms. Ray's copy and someone else's copy; possibly Mr. Funk's. Ms. Burbank says that Dr. Bayer merged those two copies with Mr. Klahr's edition. Ms. Burbank continues, to say that this copy was accessible before the last ACMM meeting (January 22, 2007) and the information was available for Ms. Ray when the meeting started.
- Ms. Ray states that there was a problem with the email. She continues to say the version Ms. Burbank is referring to (version 6) was before the version Dr. Bayer approved (before he resigned).
- Ms. Burbank clarifies that the version sent out 2 or 3 meetings ago, before the special meeting, has Dr. Bayer's entries removed and Mr. Klahr's, Mr. Funk's, and Ms. Burbank's changes. Ms. Burbank expresses that this version is the version Ms. Ray need to incorporate her changes into.
- Ms. Ray replies that her changes are over an inch thick, she is willing to go over the handbook but cannot support, unless it is cleaned up a lot; for the patient's benefit.
- Ms. Burbank asks how the board wants to approach the handbook.
- Mr. Funk suggests they continue with the changes because the vote will reflect how everyone feels about it.
- Ms. Burbank states that they are going forward with the changes. Ms. Burbank asks Mr. Klahr about an added change on page 5, line 20 and removed item on page six.
- Mr. Klahr responds that his concern is that the handbook matches the actual statute to avoid confusion.
- Ms. Burbank clarifies that the changes Mr. Klahr is referring to is on page 5, at the bottom of line 21. Will be removing the section discussing the caregiver and grower's right to be compensated for cost's associated with growing the medication. Mr. Klahr wants to change it to match the statutes.
- Ms. Burbank calls for a motion to accept it, and then asks if anyone opposes it.
- Mr. Berger states that he liked how it was, and asks Mr. Klahr what problem he had with the original language. Mr. Berger goes on to say he appreciates what

Mr. Klahr is saying but he wants the patients to know how serious this matter is.

- Mr. Klahr inquires about putting both the old language followed by the statute in the handbook.
- Mr. Berger suggests that the original language with a footnote containing the statute.
- Ms. Ray asks if the word “a” should be changed to “their”.
- Mr. Klahr reiterates that it is important that the handbook doesn’t interpret the law, and the patient is educated on the statutes. The statutes can only be interpreted by a court of law.
- Ms. Ray continues to ask for clarification about cardholder’s and reimbursement.
- Mr. Berger states he agrees with Ms. Ray. He continues to say that if the handbook is advising people on how to stay out of trouble, it should state that cardholders could reimburse the grower for cost of supplies and utilities.
- Mr. Berger and Mr. Klahr continue to discuss the matter.
- Mr. Sajo makes a motion to leave all the language that Mr. Klahr’s wanted to delete and do a footnote with the statute. Ms. Martinez seconds the motion.
- Mr. Sajo, Mr. Klahr, Ms. Burbank, and Mr. Berger continue to discuss alternatives to the motion.
- Mr. Michaels moves to add “or anything of value” next to no money can be charged.
- Ms. Martinez states she would like to address the fact that OMMA doesn’t protect people from federal prosecution in the patient handbook.
- Ms. Ray asks where the section on what a patient can do is.
- Ms. Burbank feels these subjects are already addressed in other areas. Ms. Burbank and Ms. Ray continue to discuss the matter.
- Mr. Berger suggests that the wording on pg. 3, lines 7-8 says his/her instead of their.
- The board agrees with Mr. Berger and the change will be made.
- Mr. Berger moves to accept the patient handbook with the corrections made today; Mr. Funk seconds. A discussion of possible changes follows.
- Ms. Martinez makes a motion to add the no federal protection clause to the beginning of the patient handbook (friendly amendment).
- Mr. Klahr reminds everyone that the patient handbook will be an ever-changing document, especially if SB 161 is passed. The ACMM will revisit changes to the patient handbook as long as they have the changes and wording prepared.

## **CONCLUSIONS**

- The patient handbook was adopted pending several minor changes.

## **ACTION ITEMS**

- Mr. Sajo moved to accept Mr. Klahr’s additions and deletions to the patient

handbook; Ms. Martinez seconded. Motion passed (8-2) Mr. Berger and Ms. Ray opposed.

- Mr. Michaels moves to add language “or anything of value” to the section on grower reimbursement. Motion passes unanimously (10-0).
- Mr. Berger moves to change “their” on pg. 3, lines 7-8 to “his or hers”; Ms. Burbank seconds. Motion passes unanimously (10-0).
- Mr. Berger moves to adopt the handbook as it was corrected today; Mr. Funk seconded.
- Ms. Martinez moves to adopt the language on the application about federal protection on line one (1) of the patient handbook. Motion passed (9-1), Ms. Ray opposed.

**Meeting adjourned for lunch at 12:15 pm**

**Meeting called to order at 1:20 pm**

**FOOD STAMPS**

**ACMM**

**DISCUSSION**

- Ms. Burbank asks Ms. Bernal when people can qualify for the reduced fee for being on food stamps.
- Ms. Bernal stated that there are some issues with regarding proof of eligibility. People will need to show current eligibility not the card, and if they don't have it they can get it from a self-sufficiency office. A public hearing will have to be held with an administrative rule change. They will incorporate all changes in one hearing, after legislation ends in late July or August.

**CONCLUSIONS**

- There will be a public hearing for OMMP administrative rule changes (including food stamps as a qualifier for the reduced fee) in late July or early August.

**DOMINO EFFECT**

**ACMM**

**DISCUSSION**

- Ms. Burbank, Mr. Klahr, and Mr. Sajo attended a meeting with the governor's council, chair, vice chair, and Gary Smith. The people doing the research were not only uninformed but misinformed. They thought the extra money from application fees goes to a general fund. Dr. Higginson confirmed that none of the money goes into a general fund. They are open to education from medical marijuana patients. Ms. Burbank feels there is a great opportunity for education.
- Mr. Klahr and Mr. Sajo feel it was a positive experience.
- Ms. Burbank encourages everyone to attend the meetings, which are once a month every month.
- Mr. Berger wants those meetings posted on the website a week before; Ms. Burbank agrees.

**DISCUSSION**

- The Department of Justice subcommittee, which consists of Ms. Ray, Mr. Berger, and Mr. Funk, drafted a letter asking Mr. Briggs of the DOJ, to address some concerns the ACMM has about the DOJ’s 2006 Organized Crime in Oregon Report (specifically on page 6). The letter is a melding of all three of the subcommittee member’s input.
- Mr. Funk and Mr. Berger agree with the letter and Ms. Ray opposes the letter.
- Mr. Berger added the part with the ORS 475.303-6 about law enforcement being required to answer the letter.
- Ms. Ray’s would like to make the third paragraph a little kinder, because it is an introduction.
- Mr. Berger suggests the wording “we write requesting you please provide us with...”.
- Mr. Berger moves to send the letter to Mr. Briggs with the changes of deleting the footnote on page 2, adding Brian Michaels, and adding the additional words discussed with Ms. Ray; Mr. Funk seconds.
- Ms. Bernal adds that Tawana Nichols name should replace hers in the letter.
- Motion passes unanimously; letter will be sent with changes.
- Mr. Berger asks the chair if she can follow up on the letter. He would also like a follow up to Dr. Higginson’s response from the Board of Pharmacy in regards to rescheduling Marijuana.
- Ms. Bernal responds that Dr. Higginson did send a message to Dr. Goldberg and agrees to follow up and report the findings at the next meeting.

**CONCLUSIONS**

- The letter drafted by the DOJ subcommittee, with amendments, will be sent to Mr. Briggs of the DOJ.
- Ms. Bernal will follow up on the response from the Board of Pharmacy at the next meeting.

**ACTION ITEMS**

- Mr. Berger moved to send the letter (after discussed changes are made), to Mr. Briggs of the DOJ; Mr. Funk seconded. The motion passed unanimously (10-0).

**CHANGES TO BI-LAWS**

**ACMM**

**DISCUSSION**

- Mr. Funk would like to add some wording to the by-laws amend section that deals with offices. The amendments are two sentences: 1) Upon a vacancy in the office of chair, the person in the office of vice chair will immediately assume the office of chair, and 2) Should a vacancy occur in the office of vice chair, and more than 90 days remain, the vice chair vacancy will be replaced at the next

quarterly meeting.

- Mr. Berger moves to accept the amendment; Mr. Klahr seconds.
- There is discussion about needing the wording in a written form.
- Mr. Berger withdraws his motion; Mr. Klahr withdraws his seconding of the motion.

## CONCLUSIONS

- This amendment will be discussed at the next meeting, when the wording will be submitted in written form.

## ACTION ITEMS

- Mr. Berger moved to accept the amendment; Mr. Klahr seconds. Mr. Berger withdraws the motion; Mr. Klahr withdraws his seconding of the motion.

## ELECTION OF OFFICERS

ACMM

## DISCUSSION

- Ms. Burbank states that there is a year long position available for both chair and vice chair.
- Mr. Funk nominates Ms. Burbank for chair; Ms. Martinez seconds. There are no other people nominated. Motion passes unanimously; Ms. Burbank abstains.
- Mr. Michaels nominates Mr. Funk for vice chair; Mr. Sajo seconds.
- Mr. Berger nominates Mr. Sajo; Mr. Sajo declines.
- Motion for Mr. Funk as vice chair for one year passes unanimously.

## CONCLUSIONS

- Ms. Burbank is the chair for another year; Mr. Funk will be vice chair for one year.

## ACTION ITEMS

- Mr. Funk moves to nominate Ms. Burbank for chair; Ms. Martinez seconds. Motion passes unanimously (9-0); Ms. Burbank abstains.
- Mr. Michaels nominates Mr. Funk for vice chair; Mr. Sajo seconds. Motion passes unanimously (10-0).

## PUBLIC ANNOUNCEMENTS AND COMMENT

PUBLIC-ACMM

### *Announcements*

- Ms. Martinez would like to be removed from the LE subcommittee.
- Mr. Funk addressed some legislative updates: bill 465 has moved to the house.
- Ms. Martinez updated everyone on bill 767: Senator Morrisette doesn't have the votes to pass it. There are 13 discriminatory bills this legislative session, including one on patients automatically losing their job if they test positive for Marijuana.
- Mr. Berger is meeting with someone? on 3299.
- Ms. Burbank states that MAMA is hosting OMMP patient's day on Monday

(April 2, 2007). It will be on the front steps of the capitol in the morning, and from 12-4 pm in hearing room 50. There will be a lot of speakers, including Jim Byron and Dr. Higginson. The event is free.

*Comments*

- Ms. Burbank strongly suggests putting comments/action items in writing. Ms. Salsbury-Guertin states there are two methods: go to website and click on ACMM link or send something in writing to the program and the program will forward it to the ACMM.
- Jerry Wade wanted to thank the new officers and welcome Brian to the committee.
- J.R. Grant stated it was his first meeting and he's glad to be here.
- Jennifer Valley wanted to say that one of the people on the committee, looking at 767, is Senator Lauri Anderson; she's on the governor's council domino effect committee. People can go down and lobby her and get to know her, and let her get to know us. Lauri Monis Anderson the senator.
- Kat Koehn states that there is a real need for positive outreach for this program. Ms. Koehn suggests creating and using a video as an educational tool for law enforcement. Ms. Koehn feels that if the public were informed on the patients and the program they may not have a problem with it. Ms. Koehn would like to volunteer to find funding for a 10-minute video if the committee would set up a timeline.

**Meeting adjourned at 2:01 p.m.**

*Minutes submitted by Sanya Rusynyk*