

***The Economic Impact of
Substance Abuse in
Oregon & The Need for
A Legislative Solution***

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Scope of Substance Abuse Problem Nationally and in Oregon

ECONorthwest estimates
that in 2006 substance
abuse cost the Oregon
economy:

\$5.9 billion

Scope of Substance Abuse Problem Nationally and in Oregon

Breakdown:

- \$813 million in healthcare costs and alcohol and drug abuse programs
- \$4.15 billion in lost earnings as a result of foregone productivity of users and by victims of crimes
- \$967 million in other costs, such as crime, criminal justice and social welfare programs, and property damages

Substance Use & Abuse in America Today*

- 20.4 million Americans aged 12 or older (8.3% of population) are current illicit drug users
- 15 million Americans (6.1% of population) regularly abuse alcohol
- Marijuana was the most commonly used illicit drug (14.8 million users or 6% of population)
- Among youths aged 12 to 17, illicit drug use rates declined significantly from 11.6% in 2002 to 9.8% in 2006
- More than one fifth (57 million) of Americans aged 12 or older participated in binge drinking (five or more drinks on the same occasion)
- Four in five high schoolers say they have witnessed the use, sale or possession of illegal drugs on high school grounds, or seen someone who was high or drunk on campus
- Over 95% of federal and state spending on addiction is spent dealing with the consequences (e.g., accidents, child abuse, homelessness), and less than 2% on prevention and treatment

*Sources: 2006 NSDUH Survey, SAMHSA, CASA

Substance Use and Abuse Among Workers Nationally*

- 80% of heavy drinkers and two-thirds of illegal drug users are employed
- 10% of the workforce (11.4 million workers) bring substance abuse problems onto the job
- 30% of unemployed workers (2.5 million) have severe substance abuse problems
- 40% of fatalities and 47% of injuries in the workplace are linked to substance abuse
- 10-20% of the workers who die on the job test positive for alcohol or other drugs
- Employees who use drugs cost their employers twice as much in medical claims and are five times more likely to file a worker's comp claim
- Substance-abusing employees have higher instances of theft, turnover, absenteeism and workplace violence, and are routinely less productive at work
- Substance abuse costs the American economy \$81 billion annually in lost productivity

*Sources: US Dept of Labor, SAMHSA 2007

Substance Use & Abuse in Oregon

- The rate of marijuana use by adult Oregonians (6%) is 50% higher than that of the nation (4%)
- Use of illicit drugs other than marijuana by adult Oregonians (10%) is 25% higher than the national rate (8.5%)
- In 2007, Oregon ranked seven in the nation for per capita methamphetamine abuse and first in prescription drug abuse
- Oregon adults have higher rates of alcohol use and heavy drinking than the nation for all age categories over 21 years
- Over 1,000 Oregonians die each year from alcohol-related causes
- 30% of physical assaults, 23% of sexual assaults, and 3% of robberies are attributable to alcohol; and well over 50% of property crimes are linked to drug and alcohol abuse
- The vast majority of inmates (75-85%) have substance abuse problems ranging from moderate to severe addiction
- 62.4% of children placed in foster care in Oregon were removed from their home because of parent drug abuse

Substance Use & Abuse in Oregon, cont. *

- Alcohol use by Oregon 8th graders is 76% higher than nationally (30% in Oregon vs. 17% nationally)
- One of every four 11th graders (11,295 of 45,179) and one of every eight 8th graders (5,631 of 43,312) report binge drinking
- One of 20 Oregon youth ages 12-17 and one of 10 young adults ages 18-25 abuse or are dependent upon one or more illicit drugs
- 8th and 11th graders in Oregon are more likely to smoke marijuana than cigarettes
- In 2006, 47,274 Oregonians sought treatment for substance abuse at publicly funded agencies
- Over 302,000 Oregonians or almost 1 in 10 are in need of treatment
- In excess of 37,000 Oregonians in publicly-funded treatment are unemployed and their substance abuse problem may make it difficult to obtain employment

*Sources: Oregon DHS, SEOW 2007, AOCMHP

Substance Use & Abuse Among Oregon Workers*

- Oregon's drug test failure rate has consistently ranged from 5% to 6% and in some locales, smaller businesses report a 60-80% pre-hire failure rate
- Oregon's drug test failure rate is 50% higher than the national drug test failure rate.
- Marijuana usage is by far the most prevalent reason for testing failure (70.8% of all positive tests in Oregon vs. 52.8% nationally)
- 77% of Oregon employers say that on-the-job substance abuse is of some or great concern and is affecting their business
- Businesses in five of nine Oregon Business Plan bus tour stops in 2005 reported drug use was a key obstacle to hiring otherwise qualified workers
- Only 13% of Oregon businesses with at least 3 employees have comprehensive drugfree workplace programs in place
- Most Oregon employers cite cost, litigation risk and fear of losing key employees as reasons for not adopting a drug-free workplace program; the primary benefit reported was a safer and more productive workplace

Sources: OEDI, Legacy Metrolab, OML

Hoffman's Experience

- DFW Program in effect since 1986
- Initial first year failure rate as 18%
- Direct correlation between our failure rate and our accident rate
- 10 year average Oregon failure rate is 4.79% (nearly 200,000 tests)
- 2006 Oregon failure rate was 4.5% (nearly 20,000 tests)
- Follow-up random/jobwide failure rate is nearly 4%
- Nearly 1000 workers permanently barred for multiple failures
- 250 post accident failures in past 10 years (90 accidents involved marijuana)
 - Marijuana 45% of Failures
 - Cocaine 16% of Failures
 - Meth 14% of Failures
 - Alcohol 14% of Failures
- The Costs Are Significant... but the human benefits and cost avoidance benefits substantially outweigh them
 - Testing Costs
 - Administrative Costs
 - Legal Costs
 - UI Benefits Adjudication Costs

Impact of OMMA on Employers

- While Oregon's Medical Marijuana Act was designed for seriously ill individuals, there are now **over 23,000** medical marijuana cardholders, many of whom are in the workplace
- The May 2006 Oregon Supreme Court ruling in *Washburn v. Columbia Forest Products* only peripherally addressed whether employers must accommodate employees' use of medical marijuana
- The employer's position is further complicated by the inability to measure impairment with medical marijuana where, unlike prescription drugs, quantities and dosage are unknown and no physician oversight exists after the card is issued.
- **Emerald Steel Fabricators Inc. vs. BOLI**
Court of Appeals affirmed BOLI's final order on procedural grounds finding that employer failed to preserve its claim that BOLI erred in finding that employers are obligated to reasonably accommodate medical marijuana.
Case is under review by the Oregon Supreme Court
On review, the issues are:
 - (1) Whether employer preserved the issues raised on appeal.
 - (2) Whether anything in Oregon law imposes a duty upon an employer to accommodate an employee's use of medical marijuana.Oral arguments occurred on March 6, 2009 and went well.
A decision is expected in the Fall of 2009.



“Medical” Marijuana: Myths, Distortions, Misrepresentations & Propaganda

"Marijuana is not harmful to your health"

Not true!

What is true –

- Research by the National Institute of Drug Abuse has found the following harmful consequences of marijuana abuse
 - a. THC impairs memory and learning skills
 - b. THC impairs the immune system's ability to fight off infectious diseases and cancer.
 - c. THC increases the risk of heart attack during the first hour of use.
 - d. THC increases the risk of chronic cough and bronchitis.
 - e. Long term use of THC increases the risk of cancer and emphysema. (Smoking one joint deposits about four times more tar into the lungs than a filtered tobacco cigarette.)
- The American Medical Association concurs that smoked marijuana is harmful to the user's health.
- Recent research by international scientists has determined that there is a link between marijuana use and mental illness.
- Even advocates of continued research into marijuana, such as the American College of Physicians, do not advocate the use of smoked marijuana.

“Marijuana is a medicine”

Not true!

What is true –

- Oregon has not approved marijuana as a medicine but has merely agreed not to enforce its criminal code related to possession and use of marijuana for a select group of people.
- The Institute of Medicine conducted comprehensive research on the potential health benefits of marijuana and concluded that marijuana is not recommended for the treatment of any disease condition.
- While research is continuing, no research has yet to conclude that marijuana is an effective medication and most have concluded that there are more effective medications for such conditions.
- No research has advocated the use of smoked marijuana as a medicine.
- The American Medical Association continues to recommend that marijuana remain a Schedule 1 Controlled Substance.



“OMMA is only for people with debilitating conditions, like cancer patients”

Not true!

What is true –

- While approximately 17,000 Oregonians are diagnosed with cancer each year, only 584 cancer patients hold cards.
- In addition, only 316 glaucoma patients hold cards and only 384 HIV/AIDS patients hold cards.
- The vast majority (nearly 90%) of cardholders are registered for the completely subjective condition of “severe pain”.
- If our “Medical” Marijuana Law was constructed like Colorado’s, limiting users to the truly debilitated, there would be fewer than 1500 cardholders and Oregon would not be needing to debate accommodation in the workplace.

“Medical Marijuana Patient’s use of marijuana is protected by the ADA”

Not true!

What is true –

- The Americans with Disabilities Act does not protect “the current use of illegal drugs”.
- Marijuana, a Schedule 1 substance, is an illegal drug.
- Employees using marijuana do not have protection under the ADA.
- State Law permits employers to require employees to follow Federal law, including the Controlled Substances Act and the Federal Drug Free Workplace Act.

“Employers who refuse to accommodate Medical Marijuana are discriminating against sick people”

Not true!

What is true –

- Employers are obligated to accommodate the disability or sickness but are not obligated to agree to the use of marijuana as a treatment choice.
- As employers, we often have to make such restrictive decisions:
 - The right to bear arms is protected by the Second Amendment, but we do not allow guns in the workplace.
 - Free Speech is protected by the First Amendment, but we prohibit racial epithets and harassing statements.
- It is not discrimination when you, as an employer restrain someone’s conduct (in this case, choice to use marijuana) in your workplace in order to protect the rights of others (in this case, the right to a safe workplace).

“There is not rampant fraud and abuse of the OMMA but rather impressive compliance with the law”

Not true!

What is true –

- 17,900 cardholders claim their use is for debilitating “severe pain”.
- Nearly 8000 patient cards were approved by one doctor in an 18 month period.
- As of July 1, 2009: 20,307 patient cards, 10,378 caregiver cards, more than 15,000 grow sites, 11,900 new applications since 2008 and at least 40,000 pounds of marijuana.
- Only 500 applications annually were predicted when OMMA was passed in 1998, each being permitted to possess up to one ounce.
- Depart. Of Justice survey estimates 40% of growers have violated one or more laws.
- Oregon State Police report 15 of 46 illegal crop seizures in 2006 involved “medical” marijuana growers; 40 pounds were seized in a single traffic stop.
- Convicted drug dealers have been allowed to have patient cards and grower cards.
- Both individuals in the Washburn and Emerald Steel Fabrications cases indicated under oath that their prescription drugs were effective but that they chose to use medical marijuana.
- Curry, Coos, Josephine, Jackson and Douglas Counties have the highest per capita concentration of cardholders (1 in 100 residents) nearly 3 times that of the Portland tri-county area.
- Douglas County Drug Task Force seized 281 plants and 1687 pounds of processed cannabis with a street value of \$4 million from 25 cardholders in 2006.

“Medical Marijuana is no threat to safety”

Not true!

What is true –

- Drug & Alcohol abuse is one of the leading causes of injury and death in the work place, nationally and in Oregon.
- Marijuana is the most commonly used drug in the workplace, accounting for 76% of test failures.
- Marijuana affects many skills required in the workplace including alertness, the ability to concentrate, coordination and reaction time.
- A majority of post-accident test failures are for marijuana.
- It is safe to say, marijuana, in any form, including “medical” marijuana is the leading threat to safety in the workplace.

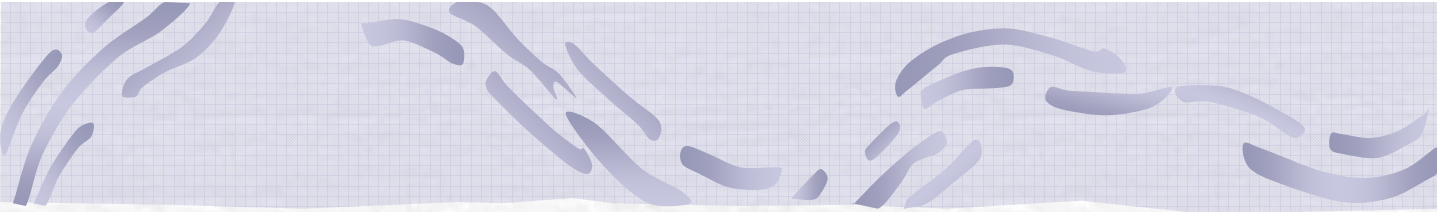


“There have been no accidents involving ‘Medical’ Marijuana Patients”

Not true!

What is true –

- Hoffman has experienced 90 accidents in the last 10 years involving marijuana, resulting in property damage, equipment loss and injury to individuals and co-workers.
- Providence MCO reports that “there have been several injuries to MM card holders”.



“On the job accident rates have steadily declined since the OMMA was implemented”

Not true!

What is true –

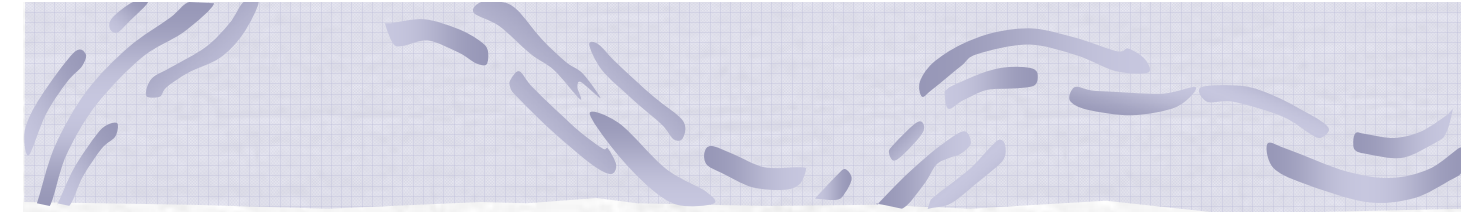
- Lost work day rates fell .80/100k manhours from 1996-2000 (prior to the effective date of Oregon’s Medical Marijuana Program) but have fallen only .25/100k manhours since.
- Incident rates have also slowed dramatically since the implementation of Oregon’s Medical Marijuana Program and like the lost work day rate, improvement has slowed to a near stall.
- Fatalities spiked during the initial inception of Oregon’s Medical Marijuana Program and have not improved.

“Impairment testing is effective and available”

Not true!

What is true –

- Impairment is the only scientifically proven effect of marijuana and the very purpose of the OMMA is to allow people with debilitating illnesses to become impaired to counter the effects of their illness.
- DUII cases have proven that subjective evaluations are inherently unreliable and subject to challenge and that is why the state of Oregon has gone to breathalyzers and an impairment limit of .08.
- The U.S. Supreme Court has indicated that employers should not be required to resolve difficult questions of substance impairment by using subjective judgments, particularly of supervisors who are not professionally trained in drug detection. (Nat'l Treasury Employees Union v. Von Raab, 1989)
- The U.S. Supreme Court has also expressed its support of drug testing as a common sense approach to deterring drug use in the workplace. (Skinner v. Ry. Labor Executives Association, 1989)

- 
- Ten businesses have attempted to develop impairment testing systems. Seven are no longer in business and the other three are still attempting to perfect their systems.
 - The defunct companies appear to include Appiant Technologies/Performance Factors the developer of the Factor 1000 testing system promoted by proponents of impairment testing.
 - One of these systems is computer based, requiring one computer station for each 25 employees, daily testing in a controlled atmosphere, with experts available to evaluate the readings against a baseline.
 - The other two systems are ocular tests.
 - None of the systems are able to diagnose the specific cause of impairment, and all warn that inaccurate test results can occur and require the employer to indemnify the company from all claims arising from the use of the software.
 - Impairment testing studies are being conducted by the Veteran's Administration using a computer based system, but that study is related to the effects of brain injuries and a GAO investigation recently concluded that those testing results are unreliable.
 - Currently no system has been proven to be effective and reliable and such testing is not commercially available and economically feasible.
 - Oregon law does not approve any commercial impairment testing for law enforcement. If a system existed that was reliable and commercially available, law enforcement would be using it.



“Marijuana should be legalized
and taxed just like alcohol”

Big Mistake!

What is true –

- The cost of alcohol abuse on Oregon’s economy is approximately eight times greater than the tax revenues collected.
- The cost of marijuana abuse would clearly exceed by multiples any recovery from tax revenues.

Overview of 2009 Legislation

- **HB 2497/HB 3052:** Clarifies employers are not required to accommodate medical marijuana regardless of where use occurs.
 - **Outcome:** Despite majorities in both the House and Senate to pass these bills, Senate Democratic leadership voted to block the bills. As a result, House leadership did not follow through on commitments to move the bills.
- **HB 2503:** Prohibits discrimination in employment under certain circumstances if discrimination is based on person's status as medical marijuana registry cardholder or use of medical marijuana off property or premises of employment.
 - **Outcome:** Bill was dead on arrival.
- **HB 2881:** Requires employers to use a Medical Review Officer (MRO) to review any positive marijuana test and determine whether medical marijuana cardholders no longer pose a safety risk and can return to work.
 - **Outcome:** AOI quickly dispatched this bill, noting that MROs are not qualified to determine whether an employee under the influence of any drug would be fit for duty, nor are they willing to make return-to-work determinations due to the liability involved.

Overview of 2009 Legislation - continued

- **SB 426:** Expands ability of employers to prohibit use of medical marijuana in the workplace. Sponsored by Sen. Girod.
 - **Outcome:** Bill was dead on arrival. No hearing.
- **SB 427:** Requires applicant for medical marijuana registry identification card to notify employer before engaging in medical use of marijuana. Sponsored by Sen. Girod.
 - **Outcome:** Bill was dead on arrival. No hearing.
- **HB 3274:** Directs Dept. of Human Services to establish and operate marijuana production facility and distribute marijuana to pharmacies for dispensing to medical marijuana cardholders and designated primary caregivers.
 - **Outcome:** Bill created an unexpected amount of momentum and support from both Democrats and Republicans. However, the bill faced too many hurdles and was not moved out of committee.

Overview of 2009 Legislation - continued

- **SB 388:** Permits medical marijuana cardholders to possess certain amounts of hashish and food and tincture that incorporate marijuana or hashish. Changes amounts of marijuana that medical marijuana cardholder and primary caregiver may collectively possess. Decreases amount of marijuana that may be possessed by persons responsible for marijuana grow sites to 24 ounces.
 - **Outcome:** Medical marijuana advocate groups (Oregon NORML, Voter Power, Mothers Against Misuse & Abuse) strongly opposed and bill died in committee.
- **SB 728:** Requires State Board of Pharmacy to classify marijuana as a Schedule II drug.
 - **Outcome:** Original bill proposed by Sen. Ferriolli would have strengthened penalties for manufacturing or delivering Schedule IV drugs. When it failed, Sen. Prozanski gutted and stuffed with SB 728 to declassify marijuana as a Schedule II drug, which passed. Opposed by Board of Pharmacy and original sponsor.

Overview of 2009 Legislation - continued

- **Initiative Petition 28:** Proposed by Oregon NORML for 2010 general election ballot, this initiative also seeks to establish a medical marijuana supply system, including state-licensed medical marijuana dispensaries. Proponents asked Governor's Council on Alcohol & Drug Programs to endorse the petition.
 - **Outcome:** Testimony by business (Hoffman Corp.) and law enforcement on concerns that marijuana dispensaries would only exacerbate the abuses of Oregon's current Medical Marijuana program led to a "no position" vote by the Governor's Council. The problems surrounding marijuana dispensaries in California have become so severe and prevalent that 90 cities and counties have passed bans on dispensaries in their communities and the co-founder of California's "medical" marijuana law has stated that "most of the dispensaries are little more than dope dealers with storefronts...turning California's medical marijuana program into a joke." The Council also voted to research and address the abuse issues in a white paper to DHS leadership.

Overview of 2009 Legislation - continued

- SB 355: Creates a prescription monitoring program. Sponsored by Sen. Kruse.
 - **Outcome**: Currently in Ways & Means and expected to pass.
- SB 494: Require drug testing of all school employees. Sponsored by Sen. Kruse.
 - **Outcome**: Did not get a hearing.
- SB 540: Requires drug testing of state employees. Sponsored by Sen. Kruse.
 - **Outcome**: Did not get a hearing.
- SB 541: Requires drug testing of all people on public assistance. Sponsored by Sen. Kruse.
 - **Outcome**: Did not get a hearing.
- SB 570: Dealing with metal theft. Sponsored by Sen. Kruse.
 - **Outcome**: Passed both Houses.

Perspectives on 2009 Legislation Session

- Stalemate on issues
- Those interested in promoting marijuana use are being protected by a small group of legislators and some leadership.
- Major misinformation and suppression campaign by the advocates of the OMMA.
- The abuses and scope of the program continue to grow, broadening the advocates' constituency.
 - ♦ Oregon's per capita rate of medical marijuana cards is 13 times the per capita ratio of medical marijuana cards in California and 8 times the per capita ratio in Colorado.

night, winning the...

by *RadicalRuss*

Dec 15 2008, 06:35 PM

Comments: 1

WWeek "Working Spliffs"

QUOTE A corporate lawyer is reigniting a four-year legislative battle to stomp out thousands of Oregon medical marijuana...

by *RadicalRuss*

Dec 10 2008, 12:10 PM

Comments: 0

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House Bill 2497 - OPPOSE!

Senate Bill 426 - OPPOSE!

Senate Bill 427 - OPPOSE!

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TALKING POINTS (read ACLU position | watch informative video)

1. Firing / not-hiring people for their use of certain medicines is discrimination.
2. There have been no reported incidents where a medical marijuana patient's offsite, after-hours use of marijuana contributed to an accident or safety issue.
3. Oregon's OSHA statistics show a steady decline in workplace fatalities and injuries since medical marijuana began in Oregon in 1997.
4. Federal drug-free workplace contracts only mandate that a company maintain a written "drug-free workplace" policy. They do not mandate that companies institute urine screening as part of that policy.
5. Urine testing is not a reliable way to show impairment from marijuana, as the inactive metabolites that are detected only prove use of marijuana within days or weeks, not impairment.
6. Reliable methods of detecting workplace impairment are available and affordable and do not discriminate against medical marijuana patients.
7. Requiring a person to get an employer's permission before using medical marijuana is a breach of medical privacy.
8. Oregon's medical marijuana law, passed by the people, says that "marijuana should be treated like other medicines".

Oregon NORML's Public Cannabis Community C

Today Thursday, F

Showing events after 2/26.
Look for earlier events

Thursday, February 26

4:20pm NORML Daily

Friday, February 27

4:20pm NORML Daily

8:00pm Cannabis Com

Saturday, February 28

12:00pm
Oregon NORML OMI

6:00pm
Oregon NORML Pre

Sunday, March 1

6:00pm
Oregon NORML Pre

Events shown in time zone: Pacific Time

Click here for the full calendar

NEW LOCATION FOR OMI MEETING:

Our next meeting is scheduled for February 28, 2009 will be held in the **Ballroom 700 NE Dekum**, As always, you must be in

A Comprehensive Approach to Reducing Substance Abuse in Oregon

Seven components:

1. Reintroduce SB 465 to confirm that employers are not obligated to accommodate medical marijuana in any workplace regardless of where the use occurs

2. Reintroduce SB 690 to:
 - Establish Drugfree Workplace program standards;
 - Provide employer immunity if DFW program standards are met;
 - Protect employers from lawsuits for false positives;
 - Amend Workers Compensation law to make it clear that failing a drug test establishes a rebuttable presumption that a worker's consumption was a major contributing cause of the accident.

A Comprehensive Approach to Reducing Substance Abuse in Oregon, cont.

- 3. Introduce a new bill that would amend the OMMA to stop the abuse. The statute should be amended as follows:**
 - a. Eliminate all currently approved conditions beyond those approved in the initial ballot measure**
 - b. Prohibit the approval of any further conditions unless there is scientific evidence to support the conclusion that marijuana is actually effective to treat the condition**
 - c. Reduce the quantity in possession to 2 oz., reduce the number of plants allowed to be grown to 3, establish a maximum reasonable plant size and prohibit communal grows**
 - d. Make it a crime, with substantial jail time and fines, for a violation of the OMMA**
 - e. Prohibit any drug dealer or violator of the OMMA from obtaining a patient card, a caregiver card or a grower card**
 - f. Require certification of a bona fide physician-patient relationship of a specific duration before a card may be issued**

A Comprehensive Approach to Reducing Substance Abuse in Oregon, cont.

3. Amend OMMA, cont.

- g. Require physician certification that the individual is currently symptomatic of the disease for which the card is sought and that the patient will remain under the physician's supervision while using marijuana
- h. Require that medical certification for card renewal be as rigorous as for the initial certification
- i. Require, if requested by an employer, that employee's doctor acknowledge on a job description that the individual can safely perform their duties
- j. Require verification of dosage, frequency of use and method of consumption from the doctor
- k. Require unsuccessful use of Marinol before being granted a Medical Marijuana card
- l. Require notification of the employer when an employee makes application for a card

A Comprehensive Approach to Reducing Substance Abuse in Oregon, cont.

4. **Introduce a bill that substantially increases treatment options and funding for uninsured working Oregonians through a dedicated Worker Treatment Program to eliminate barriers to recovery and return to workforce**
5. **Support funding of substance abuse prevention efforts, including a significant expansion of drug-free workplace programs in Oregon, both public and private (Oregon Business Plan).**
6. **Expand employer-to-student outreach to help implement new Oregon Diploma career-related learning standard for safe work behaviors, including working free of the influence of alcohol and drugs (Oregon Business Plan).**
7. **Support Oregon Workforce Investment Board's *Job Seeker Substance Abuse Prevention Policy* applicable to all WorkSource Oregon Agencies (Oregon Business Plan).**