

As Amended by House Committee

Session of 2015

HOUSE BILL No. 2282

By Committee on Health and Human Services

2-10

1 AN ACT concerning hemp preparation treatments for seizure disorders;
2 establishing registration of patients and preparation centers; protecting
3 from arrest, prosecution or discrimination for authorized use.
4

5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. The provisions of sections 1 through~~14~~ 11, and
7 amendments thereto, shall be known and may be cited as Otis's law.

8 Sec. 2. As used in sections 1 through~~14~~ 11, and amendments thereto,
9 unless the context requires otherwise:

10 **(a) "Cannabis" means all parts of all varieties of the plant**
11 **cannabis sativa L. not exceeding 3% tetrahydrocannabinol by weight.**

12 ~~(a)~~ **(b) "Cardholder"** means a patient or a designated caregiver to
13 whom the department has issued a hemp preparation registration card or
14 who has documentation that is deemed to be a hemp preparation
15 registration card.

16 ~~(b)~~ **(c) "Designated caregiver"** means a person who:

- 17 (1) Is either at least 21 years of age or a parent of a patient;
18 (2) has significant responsibility for managing the well-being of a
19 patient; and
20 (3) has been approved by the department to assist a patient in
21 obtaining hemp preparations.

22 ~~(c)~~ **(d) "Department"** means the department of health and
23 environment.

24 ~~(d)~~ **(e) "Hemp preparation" includes means:**

25 (1) Cannabis plant material that is no more than 3%
26 tetrahydrocannabinol by weight; **or**

27 (2) an extract, mixture or preparation containing cannabis plant
28 material that is no more than 3% tetrahydrocannabinol by weight; ~~and~~

29 ~~(3) cannabis plant material or an extract, mixture or preparation~~
30 ~~containing cannabis plant material that is approved by the department~~
31 ~~pursuant to section 10, and amendments thereto.~~

32 ~~(e)~~ **(f) "Hemp preparation center agent"** means an owner, officer,
33 board member, employee, volunteer, contractor, property owner or
34 landlord of a registered hemp preparation center.

35 ~~(f)~~ **(g) "Medical hemp establishment"** means a registered hemp
36 preparation center or a registered hemp testing laboratory.

1 ~~(g)~~ **(h)** "Medical use" includes the acquisition, administration,
2 delivery, possession, purchase, transfer, transportation or use of hemp
3 preparations and paraphernalia relating to the administration of hemp
4 preparations to treat or alleviate a patient cardholder's qualifying medical
5 condition.

6 ~~(h)~~ **(i)** "Parent" means a parent or legal guardian responsible for the
7 medical care of a patient under the age of 18.

8 ~~(i)~~ **(j)** "Patient" means an individual who has been diagnosed with a
9 qualifying medical condition.

10 ~~(j)~~ **(k)** "Physician" means a person who is licensed by the state board
11 of healing arts to practice medicine and surgery.

12 ~~(k)~~ **(l)** "Qualifying medical condition" means:

13 ~~(1)~~ a condition causing seizures, including those characteristic of
14 epilepsy; ~~or~~

15 ~~(2) any other debilitating or life-threatening medical condition or~~
16 ~~treatment approved by the department pursuant to section 9, and~~
17 ~~amendments thereto.~~

18 ~~(l)~~ **(m)** "Registered hemp preparation center" means an entity
19 registered pursuant to section ~~11 9~~, and amendments thereto, that acquires,
20 possesses, cultivates, transports and manufactures cannabis, hemp
21 preparations and related paraphernalia and transfers, transports, sells,
22 supplies or dispenses hemp preparations, paraphernalia related to hemp
23 preparations and related supplies and educational materials to cardholders,
24 visiting cardholders and other registered hemp preparation centers.

25 ~~(m)~~ **(n)** "Registered testing laboratory" means an entity registered
26 pursuant to section ~~11 9~~, and amendments thereto, to analyze the safety
27 and potency of hemp.

28 ~~(n)~~ **(o)** "Registration card" means a card issued by the department
29 pursuant to section 3, and amendments thereto.

30 ~~(o)~~ **(p)** "Testing laboratory agent" means an owner, officer, board
31 member, employee, volunteer, contractor, property owner or landlord of a
32 registered testing laboratory.

33 ~~(p)~~ **(q)** "Written certification" means a document signed and dated by
34 a physician stating that, in the physician's professional opinion, the patient
35 may receive therapeutic or palliative benefit from the medical use of hemp
36 preparations to treat or alleviate the patient's qualifying medical condition
37 or symptoms associated with such patient's qualifying medical condition.

38 ~~(q)~~ **(r)** "Visiting cardholder" means a person who:

39 (1) Has been diagnosed with a qualifying medical condition or is the
40 parent, child, sibling, spouse, domestic partner, grandparent, grandchild or
41 personal aide of an individual who has been diagnosed with a qualifying
42 medical condition;

43 (2) possesses a valid registration card, its equivalent or other

1 documentation that allows the person to possess hemp preparations in
2 another jurisdiction pursuant to the laws of the other state, district,
3 territory, commonwealth, insular possession of the United States or
4 country recognized by the United States;

5 (3) is not a resident of Kansas or has been a resident of Kansas for
6 less than 30 days; and

7 (4) has submitted any required documentation with the department, if
8 the department has required registration.

9 Sec. 3. (a) The department shall issue a hemp preparation registration
10 card to each individual who is over the age of 18 who:

11 (1) Provides the department with a written certification signed by a
12 physician that was issued within 90 days immediately preceding the date
13 of an application;

14 (2) pays the department a fee in an amount established by the
15 department pursuant to section 5, and amendments thereto; and

16 (3) submits an application or renewal to the department on a form
17 created by the department that contains:

18 (A) The individual's name and address;

19 (B) a copy of the individual's valid photo identification; and

20 (C) any other information the department reasonably considers
21 necessary to implement the provisions of this section.

22 (b) The department shall issue a hemp preparation registration card to
23 each individual who is under the age of 18 whose parent:

24 (1) Submits the information required of patients over the age of 18
25 according to subsection (a); and

26 (2) agrees to serve as a designated caregiver for the patient.

27 (c) Except as provided in subsection (d), the department shall issue a
28 hemp preparation registration card to each designated caregiver applicant
29 who:

30 (1) Is designated in a patient's application; and

31 (2) submits an application to the department on a form created by the
32 department that contains:

33 (A) The applicant's name and address;

34 (B) the patient's name;

35 (C) a copy of the designated caregiver's valid photo identification;
36 and

37 (D) any other information the department reasonably considers
38 necessary to implement the provisions of this section.

39 (d) A patient may designate only one caregiver at any given time
40 unless the patient or such patient's parent submits documentation
41 demonstrating that a greater number of designated caregivers are needed
42 due to the patient's age or medical condition.

43 (e) The department shall, not later than 30 calendar days after the date

1 of the receipt of the completed application materials, approve the
2 application and issue to the applicant a registration card with a unique,
3 random identification number.

4 (f) Until the department issues, renews or denies a registration card, a
5 copy of the individual's application, a copy of the patient's written
6 certification and proof that the application was submitted to the
7 department shall be deemed a registration card.

8 (g) Until the department makes applications available, a valid, written
9 certification issued within the previous year shall be deemed a registration
10 card for a patient.

11 (h) Until the department makes applications available, the following
12 shall be deemed a designated caregiver registration card:

13 (1) A copy of a patient's valid written certification issued within the
14 previous year; and

15 (2) a signed affidavit attesting that the person has significant
16 responsibility for managing the well-being of the patient and that the
17 person has been chosen to assist a patient in obtaining hemp preparations.

18 (i) Except as provided in this subsection, the expiration date of a
19 registration card shall be one year after the date of issuance. If a physician
20 states in the written certification that a patient would benefit from hemp
21 preparations until a specified earlier date, then the registration card shall
22 expire on that date.

23 Sec. 4. (a) The department shall maintain a confidential list of all
24 cardholders and each cardholder's address and registry identification
25 number. This confidential list shall not be combined or linked in any
26 manner with any other list or database, nor shall it be used for any purpose
27 not provided for in sections 1 through ~~14~~ **11**, and amendments thereto.

28 (b) The department shall treat written certifications, applications,
29 renewals, supporting information, the names of applicants, cardholders,
30 visiting cardholders and physicians and related records as protected health
31 information under the health insurance portability and accountability act of
32 1996 (public law 104-191), exempt from disclosure under the Kansas open
33 records act, K.S.A. ~~45-415~~ **45-215** et seq., and amendments thereto, and
34 not subject to disclosure to any individual or public or private entity,
35 except as provided in this section.

36 (c) Nothing in this section shall preclude the following:

37 (1) Authorized employees of the department accessing the
38 information to perform official duties pursuant to this act;

39 (2) department employees notifying state or local law enforcement
40 about falsified or fraudulent information submitted to the department or of
41 other apparent criminal violations of this act;

42 (3) department employees notifying the state board of healing arts if
43 the department has reasonable suspicion to believe a physician violated the

1 standard of care or for other suspected violations of this act by a physician;

2 (4) the department verifying registration cards pursuant to subsection
3 (d);

4 (5) at a cardholder's request, the department confirming such
5 cardholder's status as a cardholder to a third party, such as a landlord,
6 school, medical professional or court; and

7 (6) provided that no identifying information pertaining to
8 cardholders, visiting cardholders, or physicians is disclosed:

9 (A) The department may release data that was voluntarily submitted
10 by cardholders and visiting cardholders on the effectiveness and any side
11 effects of medical hemp preparations to researchers at institutions of
12 higher education; and

13 (B) the department may release information on the number of patients
14 and designated caregivers approved, the number of registry identification
15 cards revoked and aggregate information from voluntary reports on the
16 effectiveness of medical hemp preparations and any side effects patients
17 have experienced.

18 (d) Within 120 days of the effective date of this act, the department
19 shall establish a secure phone or web-based verification system. Such
20 verification system must allow law enforcement personnel, medical hemp
21 establishments and medical hemp establishment agents to enter a registry
22 identification number and determine whether or not the number
23 corresponds with a current, valid registration card. The system may
24 disclose only whether the registration card is valid, the name of the
25 cardholder and whether the cardholder is a registered patient or a
26 designated caregiver. The department may also include visiting
27 cardholders in the database.

28 Sec. 5. (a) Not later than 120 days after the effective date of this act,
29 the department shall promulgate rules and regulations:

30 (1) Establishing the form and content of registration and renewal
31 applications submitted under this act;

32 (2) establishing the form and content of registration cards;

33 ~~(3) governing the manner in which the department shall consider~~
34 ~~petitions from the public to add to qualifying medical conditions set forth~~
35 ~~in section 2(k), and amendments thereto, and hemp preparations set forth~~
36 ~~in section 2(d), and amendments thereto, including public notice of and an~~
37 ~~opportunity to comment in public hearings on the petitions;~~

38 ~~(4) (3) determining the number of testing laboratories that will be~~
39 ~~allowed in the state, which may not be fewer than two;~~

40 ~~(5) (4) determining the number of hemp preparation centers that will~~
41 ~~be allowed in the state, which shall be:~~

42 (A) No fewer than is reasonably necessary to ensure safe, steady
43 access to hemp preparations to cardholders located throughout the state;

1 and

2 (B) no fewer than a total of ~~five~~ **three**;

3 ~~(6)~~ **(5)** establishing a system to numerically score competing medical
4 hemp establishment applicants that must include analysis of:

5 (A) in the case of hemp preparation centers, the suitability of the
6 proposed location and its accessibility for patients;

7 (B) the character, veracity, background and relevant experience of
8 principal officers and board members; and

9 (C) the business plan proposed by the applicant, which in the case of
10 hemp preparation centers shall include the ability to maintain an adequate
11 supply of hemp preparations, plans to ensure safety and security of patrons
12 and the community and procedures to be used to prevent diversion;

13 ~~(7)~~ **(6)** governing the manner in which it shall consider applications
14 for and renewals of registration cards, which may include creating a
15 standardized written certification form;

16 ~~(8)~~ **(7)** governing medical hemp establishments to prevent diversion
17 and theft without imposing an undue burden or compromising the
18 confidentiality of cardholders, including:

19 (A) Oversight requirements;

20 (B) recordkeeping requirements;

21 (C) security requirements, including at a minimum, lighting, physical
22 security, transportation, waste destruction, video, and alarm requirements;

23 (D) health and safety requirements, including prohibiting the use of
24 harmful pesticides;

25 (E) restrictions on advertising and signage;

26 (F) requirements and procedures for the safe and accurate packaging
27 and labeling of medical hemp including requiring:

28 (i) Disclosure of whether the hemp preparation is organic or non-
29 organic;

30 (ii) specifying the length of time it typically takes for a product to
31 take effect;

32 (iii) listing ingredients and possible allergens in edible and potable
33 preparations;

34 (iv) a nutritional fact panel on all edible and potable products; and

35 (v) a unique serial number that will match the product with a hemp
36 preparation center batch and lot number so as to facilitate any warnings or
37 recalls;

38 (G) rules for random sample testing to ensure that hemp preparations
39 available to cardholders and visiting cardholders are accurately labeled for
40 content and potency in accordance with standards established by the
41 department to ensure the health and safety of patient cardholders;

42 (H) procedures for mandatory and voluntary recalls of hemp
43 preparations; and

1 (I) reporting requirements for changes, alterations or modifications of
2 the premises;

3 ~~(9)~~ **(8)** establishing procedures for suspending or terminating the
4 registration certificates or registration cards of cardholders and medical
5 hemp establishments that commit multiple or serious violations of the
6 provisions of this act or any rules and regulations promulgated pursuant to
7 this section; and

8 ~~(10)~~ **(9)** establishing reasonable application and renewal fees for
9 registration cards, hemp preparation center registration certificates, ~~and~~
10 testing laboratory registration certificates **and such other fees that the**
11 **department deems reasonably necessary to administer this act,**
12 according to the following:

13 (A) The fees shall be no greater than the amount reasonably
14 necessary to cover the cost the department incurs to implement the
15 provisions of this act;

16 (B) the fees for registration cards shall be no greater than the amount
17 reasonably necessary to cover the cost the department incurs processing
18 the identification cards; ~~and~~

19 (C) the fee structure established by the department must incorporate a
20 sliding scale for cardholders who receive medicaid, supplemental security
21 income or social security disability insurance; **and**

22 **(D) the following fees shall not exceed:**

23	Hemp preparation center registration certificate application.....	\$5,000
24	Hemp preparation center registration certificate.....	\$20,000
25	Testing laboratory registration certificate.....	\$2,000
26	Individual hemp preparation registration card.....	\$75
27	Visiting cardholder.....	\$80

28 (b) The department may promulgate rules and regulations:

29 (1) Establishing a presumptive maximum quantity of hemp
30 preparations that a cardholder or a visiting cardholder may possess,
31 provided that:

32 (A) The amount should be no less than a reasonable 60-day supply;
33 and

34 (B) a patient may apply for a waiver if a physician provides a
35 substantial medical basis in a signed, written statement asserting that,
36 based on the patient's medical history, in the physician's professional
37 judgment, the amount established by the department is an insufficient
38 amount to properly alleviate the patient's medical condition or symptoms
39 associated with such medical condition;

40 (2) requiring visiting cardholders to submit a medical practitioner's
41 statement confirming that the patient has a qualifying medical condition
42 and documentation demonstrating that the visiting cardholder is allowed to
43 possess cannabis or hemp preparations in the jurisdiction where such

1 person resides, provided that:

2 (A) Any fee required of visiting cardholders must be no greater than
3 the amount reasonably necessary to cover the cost the department incurs in
4 processing their documentation and issuing any confirmation; and

5 (B) if the department requires visiting cardholders to submit
6 documentation to the department, a confirmation must be issued
7 electronically to the individual no later than seven calendar days after such
8 documentation is submitted.

9 Sec. 6. (a) A cardholder or visiting cardholder shall not be subject to
10 arrest, prosecution under state or municipal law or denial of any right or
11 privilege, including, but not limited to, civil penalty or disciplinary action
12 by a court or occupational or professional licensing board or bureau, for
13 the medical use of hemp preparations pursuant to sections 1 through ~~14~~ **11**,
14 and amendments thereto.

15 (b) No person may be subject to arrest, prosecution under state or
16 municipal law or denial of any right or privilege, including, but not limited
17 to, civil penalty or disciplinary action by a court or occupational or
18 professional licensing board or bureau, for:

19 (1) Selling hemp paraphernalia to a registered medical hemp
20 establishment, a cardholder or a visiting cardholder;

21 (2) being in the presence or vicinity of the medical use of hemp
22 preparations as allowed by sections 1 through ~~14~~ **11**, and amendments
23 thereto; or

24 (3) assisting a patient with a registration card in the act of using or
25 administering hemp.

26 (c) A hemp preparation center or hemp preparation center agent shall
27 not be subject to prosecution under state or municipal law, search or
28 inspection, except by the department pursuant to section ~~12(a)~~ **10(a)**, and
29 amendments thereto, seizure or penalty in any manner or be denied any
30 right or privilege, including, but not limited to, civil penalty or disciplinary
31 action by a court or business licensing board or entity, for acting pursuant
32 to sections 1 through ~~14~~ **11**, and amendments thereto, and department rules
33 and regulations to:

34 (1) Sell cannabis seeds to similar entities that are registered to
35 dispense cannabis for medical use in other jurisdictions;

36 (2) acquire, cultivate, grow, harvest, manufacture, plant, possess,
37 prepare, propagate, transport or store cannabis, hemp paraphernalia and
38 hemp preparations;

39 (3) deliver, dispense, supply, sell, transfer or transport hemp
40 preparations, paraphernalia for use with hemp preparations or related
41 supplies and educational materials to cardholders and visiting cardholders;

42 (4) deliver, dispense, transfer, transport, sell or supply cannabis seeds,
43 cannabis seedlings, cannabis plants, cannabis, hemp preparations or related

1 supplies and educational materials to other hemp preparation centers; or

2 (5) deliver, transfer or transport cannabis or hemp preparations to
3 registered testing laboratories.

4 (d) A registered testing laboratory and testing laboratory agents acting
5 on behalf of a testing laboratory shall not be subject to prosecution under
6 state or municipal law, search, except by the department pursuant to
7 section ~~12(a)~~ **10(a)**, and amendments thereto, seizure or penalty in any
8 manner, or be denied any right or privilege, including, but not limited to,
9 civil penalty or disciplinary action by a court or business licensing board
10 or entity, solely for acting in accordance with this act and department rules
11 and regulations to provide the following services:

12 (1) Acquiring, possessing, storing, analyzing, testing or transporting
13 cannabis obtained from hemp preparation centers and hemp preparations
14 obtained from cardholders, visiting cardholders or hemp preparation
15 centers;

16 (2) possessing, storing or transporting hemp paraphernalia;

17 (3) returning the hemp preparations to cardholders or hemp
18 preparation centers; or

19 (4) receiving compensation for actions allowed under this section.

20 (e) Mere possession of, or application for, a registration card or
21 medical hemp establishment registration shall not constitute probable
22 cause or reasonable suspicion, nor shall it be used to support the search of
23 the person, property or home of the person possessing or applying for the
24 registration card. The possession of, or application for, a registration card
25 or registration certificate shall not preclude the existence of probable cause
26 if probable cause exists on other grounds.

27 (f) For the purposes of state law, the medical use of hemp
28 preparations by a cardholder or visiting cardholder and activities a
29 registered medical hemp establishment are registered to engage in shall be
30 considered lawful as long as they are undertaken in accordance with
31 sections 1 through ~~14~~ **11**, and amendments thereto.

32 Sec. 7. (a) For the purposes of medical care, including organ and
33 tissue transplants, a patient's medical use of hemp preparations in
34 accordance with sections 1 through ~~14~~ **11**, and amendments thereto, is the
35 equivalent of the authorized use of any other medication in accordance
36 with a prescription issued by a physician and does not constitute the use of
37 an illicit substance or otherwise disqualify a patient cardholder from
38 needed medical care.

39 (b) A person otherwise entitled to custody of or visitation or parenting
40 time with a minor shall not be denied such a right, and there shall be no
41 presumption of neglect or child endangerment, for conduct allowed by
42 sections 1 through ~~14~~ **11**, and amendments thereto, unless the person's
43 actions in relation to hemp preparations were such that they created an

1 unreasonable danger to the safety of the minor as established by clear and
2 convincing evidence.

3 Sec. 8. (a) Sections 1 through ~~4~~ **11**, and amendments thereto, do not
4 authorize any person to engage in, and do not prevent the imposition of
5 any civil, criminal or other penalties for engaging in the following
6 conduct:

7 (1) Undertaking any task under the influence of hemp preparations
8 when doing so would constitute negligence or professional malpractice; or

9 (2) operating, navigating or being in actual physical control of any
10 motor vehicle, aircraft or motorboat while impaired by hemp preparations.

11 (b) Nothing in this act requires a government medical assistance
12 program or private insurer to reimburse a person for costs associated with
13 the medical use of hemp preparations.

14 ~~Sec. 9. (a) Any resident of Kansas may petition the department to add
15 medical conditions to the list of qualifying medical conditions in section
16 2(k), and amendments thereto. The department shall consider petitions in
17 the manner required by department rules and regulations, including public
18 notice, a hearing and consideration of the recommendation from the
19 advisory council.~~

20 ~~(b) The department shall accept petitions at least once every 180
21 days.~~

22 ~~(c) The department shall approve or deny a petition within 180 days
23 of its submission.~~

24 ~~(d) The approval or denial of any petition is a final decision of the
25 department subject to judicial review pursuant to the Kansas judicial
26 review act, K.S.A. 77-601 et seq., and amendments thereto.~~

27 ~~Sec. 10. (a) Any resident of Kansas may petition the department to
28 add additional strains, mixtures or preparations of cannabis to the
29 definition of hemp preparations according to section 1(d), and
30 amendments thereto. The department shall consider petitions in the manner
31 required by department rules and regulations, including public notice, a
32 hearing and consultation with the advisory council.~~

33 ~~(b) The department shall approve or deny a petition within 180 days
34 of its submission.~~

35 ~~(c) The approval or denial of any petition is a final decision of the
36 department subject to judicial review pursuant to the Kansas judicial
37 review act, K.S.A. 77-601 et seq., and amendments thereto.~~

38 ~~Sec.—H. 9.~~ (a) Any person who operates a medical hemp
39 establishment must first submit an application form to the department and
40 receive approval. Each application must be for a single type of a medical
41 hemp establishment.

42 (b) No later than 120 days after the effective date of this act, the
43 department shall begin accepting applications for hemp preparation centers

1 and testing laboratories.

2 (c) Except as otherwise provided in this act, not later than 90 calendar
3 days after receiving an application to operate a medical hemp
4 establishment, the department shall register the medical hemp
5 establishment and issue a registration certificate and a random
6 identification number if:

7 (1) The person or persons who wish to operate the proposed medical
8 hemp establishment have submitted to the department all of the following:

9 (A) The application fee, as established by the department; and

10 (B) an application, which must include:

11 (i) The legal name of the proposed medical cannabis establishment;

12 (ii) the physical address where the proposed medical hemp
13 establishment will be located and the physical address of any co-owned
14 additional or otherwise associated medical hemp establishments, so long
15 as the location of the proposed medical hemp establishment is not within
16 1,000 feet of a public or private school that provides formal education
17 traditionally associated with preschool or kindergarten through grade 12
18 which existed on the date on which the application for the proposed
19 medical hemp establishment was submitted to the department;

20 (C) evidence that the applicant controls not less than \$250,000 in
21 liquid assets;

22 (D) evidence that the applicant owns the property on which the
23 proposed medical hemp establishment will be located or has the written
24 permission of the property owner to operate the proposed medical hemp
25 establishment on that property;

26 (E) the name, address and date of birth of each person who is
27 proposed to be an owner, officer or board member of the proposed medical
28 hemp establishment;

29 (F) operating procedures consistent with rules and regulations of the
30 department for oversight of the proposed medical hemp establishment,
31 including procedures to ensure the use of adequate security measures;

32 (G) if the city, town or, in the case of a location in an unincorporated
33 area, county in which the proposed medical hemp establishment will be
34 located has enacted zoning restrictions or licensing requirements, proof of
35 licensure with the applicable local governmental authority or an
36 affirmation signed by the applicant that the proposed medical hemp
37 establishment will be in compliance with those restrictions and satisfies all
38 applicable zoning requirements; and

39 (H) such other information as the department may reasonably require
40 by rules and regulations;

41 (2) none of the persons who are proposed to be owners, officers or
42 board members of the proposed medical hemp establishment have served
43 as an owner, officer or board member for a medical hemp establishment

1 that has had its medical hemp establishment registration certificate
2 revoked; and

3 (3) none of the persons who are proposed to be owners, officers or
4 board members of the proposed medical hemp establishment are under 21
5 years of age.

6 (b) When more qualifying applications are submitted for a proposed
7 hemp preparation center or testing laboratory than the department will
8 approve, the department shall use an impartial and numerically scored
9 merit-based selection process to determine which application or
10 applications to approve. The department may approve the highest scoring
11 application or applications in specific geographic regions of the state. The
12 department may conduct a background check of the principal officers and
13 board members of any prospective hemp preparation center to carry out
14 the provisions of this subsection.

15 (c) Except as otherwise provided in this act, if an application for
16 registration as a medical hemp establishment satisfies the requirements of
17 this section and the establishment is not disqualified from being registered
18 as a medical hemp establishment pursuant to this act or other applicable
19 law, the department shall issue to the establishment a medical hemp
20 establishment registration certificate. A medical hemp establishment
21 registration certificate expires two years after the date of issuance and may
22 be renewed upon:

23 (1) Submission of a renewal application; and

24 (2) payment of the renewal fee established by the department.

25 ~~Sec.—12:~~ **10.** (a) Medical hemp establishments are subject to
26 reasonable inspection by the department.

27 (b) A medical hemp establishment may not employ or accept as a
28 volunteer any person who is under 21 years of age.

29 (c) The operating documents of a medical hemp establishment must
30 include procedures for the oversight of the medical hemp establishment
31 and procedures to ensure accurate recordkeeping.

32 (d) A medical hemp establishment shall implement appropriate
33 security measures designed to deter and prevent:

34 (1) The theft of cannabis and hemp preparations; and

35 (2) unauthorized entrance into areas containing cannabis or hemp
36 preparations.

37 (e) Before hemp preparations may be dispensed to a cardholder or
38 visiting cardholder, a hemp preparation center agent must:

39 (1) Make a diligent effort to verify that the registration card or other
40 documentation presented to the hemp preparation center is valid; and

41 (2) make a diligent effort to verify that the person presenting the card
42 is the person identified on the registration card presented to the hemp
43 preparation center agent.

1 (f) A hemp preparation center must dispense hemp preparations in a
2 sealed container with a label that conforms to department regulations and
3 that indicates the hemp preparation's ingredients and its percentages of
4 tetrahydrocannabinol and cannabidiol by weight.

5 (g) Hemp preparation centers shall collect and submit to the
6 department data on strains used, methods of delivery, any side effects
7 experienced and the therapeutic effectiveness of hemp preparations for
8 each patient who is willing to provide the information. Such data
9 collection shall be done under the patient's registry identification number
10 to protect the patient's confidentiality.

11 ~~Sec. 13. (a) There is hereby established a nine-member advisory~~
12 ~~council on medical hemp. The advisory council shall meet at least three~~
13 ~~times per year for the purpose of evaluating and making recommendations~~
14 ~~to the legislature and the department regarding:~~

15 ~~(1) The ability of qualifying patients in all areas of the state to obtain~~
16 ~~timely access to high-quality medical hemp preparations;~~

17 ~~(2) the effectiveness of registered hemp preparation centers,~~
18 ~~individually and together, in serving the needs of qualifying patients,~~
19 ~~including the provision of educational and support services, the~~
20 ~~reasonableness of their prices, whether they are generating any complaints~~
21 ~~or security problems and the sufficiency of the number operating to serve~~
22 ~~the state's patient cardholders;~~

23 ~~(3) the effectiveness of the registered hemp testing laboratories,~~
24 ~~including whether a sufficient number are operating and the~~
25 ~~reasonableness of their fees;~~

26 ~~(4) the sufficiency of the regulatory, health and safety and security~~
27 ~~safeguards contained in this act and in rules and regulations adopted by the~~
28 ~~department;~~

29 ~~(5) any recommended additions or revisions to the department rules~~
30 ~~and regulations or this act, including relating to security, health and safety,~~
31 ~~qualifications of staff, labeling and nomenclature;~~

32 ~~(6) whether additional qualifying medical conditions should be~~
33 ~~approved; and~~

34 ~~(7) whether additional hemp preparations should be approved.~~

35 ~~(b) The advisory council shall consist of the following members:~~

36 ~~(1) One member of the house of representatives, selected by the~~
37 ~~speaker of the house of representatives;~~

38 ~~(2) one member of the senate, selected by the president of the senate;~~

39 ~~(3) one parent of a minor patient who is either a registered cardholder~~
40 ~~or who intends to become one once the registry is open;~~

41 ~~(4) one member who is either a patient or the parent of a minor~~
42 ~~patient who is either a registered cardholder or who intends to become one~~
43 ~~once the registry is open;~~

1 ~~(5) four members representing health care providers, including one~~
2 ~~physician who has issued written certifications to patients and one certified~~
3 ~~pain specialist; and~~

4 ~~(6) the secretary of health and environment or the secretary's~~
5 ~~designee.~~

6 ~~(e) Advisory council members specified in paragraphs (3), (4) and (5)~~
7 ~~shall be appointed by the governor in consultation with the secretary of~~
8 ~~health and environment.~~

9 ~~(d) On or before January 15 of each year, the advisory council shall~~
10 ~~submit a report to the department summarizing its recommendations.~~

11 ~~(e) The advisory council shall submit written recommendations to the~~
12 ~~department within 120 days of the department's receipt of a petition to:~~

13 ~~(1) Add a condition to the list of qualifying medical conditions; or~~

14 ~~(2) revise the definition of hemp preparations.~~

15 ~~Sec. 14. 11.~~ If any provision of sections 1 through ~~14~~ **11**, and
16 amendments thereto, or the application thereof to any person or
17 circumstance is held invalid, such invalidity shall not affect the application
18 of any other provision of this act that can be given full effect without the
19 invalid section or application.

20 ~~Sec. 15. 12.~~ This act shall take effect and be in force from and after
21 its publication in the statute book.

SESSION OF 2015

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2282

As Amended by House Committee on Health
and Human Services

Brief*

HB 2282, as amended, would allow use of medical hemp preparations to treat or alleviate a patient's condition causing seizures, including those characteristic of epilepsy. The provisions of the bill would be known and cited as Otis's Law.

Definitions (Section 2)

Several terms would be defined in the bill, including "department," "parent," "patient," and "physician." The additional terms that would be defined are the following:

- "Cannabis" would mean all parts of all varieties of the plant *cannabis sativa L.*, not exceeding 3 percent tetrahydrocannabinol (THC) by weight;
- "Cardholder" would mean a patient or designated caregiver to whom the Kansas Department of Health and Environment (KDHE) has issued a hemp preparation registration card;
- "Designated caregiver" would mean a person who is at least 21 years old or a parent of the patient; has responsibility for managing the well-being of a patient; and has been approved by KDHE to assist a patient in obtaining hemp preparations;

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

- “Hemp preparation” would mean cannabis plant material that is no more than 3 percent THC by weight or an extract, mixture, or preparation containing cannabis plant material that is no more than 3 percent THC by weight;
- “Hemp preparation center agent” would mean a representative of a hemp preparation center including those either in an employment or volunteer capacity;
- “Medical hemp establishment” would mean a registered hemp preparation center or testing laboratory;
- “Medical use” would include the acquisition, administration, delivery, possession, purchase, transfer, transportation, or use of hemp preparations and related paraphernalia to treat or alleviate a patient cardholder’s condition causing seizures;
- “Qualifying medical condition” would mean a condition causing seizures;
- “Registered hemp preparation center” would mean a registered entity that acquires, possesses, cultivates, transports, and manufactures cannabis, hemp preparation, and related paraphernalia and transfers, transports, sells supplies, or dispenses hemp preparations, related paraphernalia and related supplies, and educational materials to cardholders, visiting cardholders, and other registered hemp preparations centers;
- “Registered testing laboratory” would mean an entity registered to analyze the safety and potency of hemp;

- “Registration card” would mean a hemp preparations registration card issued by KDHE;
- “Testing laboratory agent” would mean a representative of a laboratory including those either in an employment or volunteer capacity;
- “Written certification” would mean a document signed and dated by a physician stating the patient may receive therapeutic or palliative benefit from the medical use of hemp preparations to treat a condition causing seizures; and
- “Visiting cardholder” would mean a person who meets the qualifications of a cardholder except that the person is not a resident of Kansas but does possess a valid registration card, or the equivalent, that allows the person to lawfully possess hemp preparations in another jurisdiction.

Hemp Preparation Registration Card (Section 3)

The KDHE would be required to issue a hemp preparation registration card to an individual who is over the age of 18 who:

- Provides KDHE with a written certification signed by a physician;
- Pays the fee required by KDHE; and
- Submits the required application form created by KDHE.

The KDHE would be required to issue a registration card to each individual under the age of 18 whose parent:

- Submits the information required of patients over the age of 18; and

- Agrees to serve as a designated caregiver for the patient.

The KDHE would be required to issue a registration card to each designated care giver applicant who is designated in a patient's application and submits an application to KDHE on the required form. A patient would be allowed to designate only one caregiver unless it could be demonstrated a greater number would be needed due to age or medical condition.

The KDHE would have not more than 30 days from receipt of the completed application to issue a registration card with a unique random identification number. Until KDHE issues a decision about an application, a copy of the application, a copy of the certification, and proof the application was submitted would be deemed a registration card. The bill would make provisions for designated registration cards and designated caregiver registration cards until the KDHE applications were made available.

Registration cards would expire one year after date of issuance unless a physician would certify in writing the care should expire at an earlier date.

KDHE Requirements and Responsibilities (Section 4)

The KDHE would be required to maintain cardholder information in accordance with the Health Insurance Portability and Accountability Act of 1996, exempt from Kansas Open Records Act. The KDHE also would be prohibited from utilizing cardholder information for any purpose not set forth in the bill. The following activities would not be precluded:

- Authorized employees of KDHE accessing the information to perform official duties;

- KDHE employees notifying law enforcement about falsified or fraudulent information submitted to KDHE;
- KDHE employees notifying the Board of Healing Arts if KDHE has reasonable suspicion to believe a physician violated the standard of care or committed other violations of this Act;
- KDHE verifying registration cards as it relates to the secure phone or web-based verification system KDHE would be required to establish; and
- At a cardholder's request, KDHE confirming the cardholder's status to a third party.

The KDHE would be allowed to release data to researchers at institutions of higher education and to release aggregate data, provided no identifying information pertaining to cardholders, visiting cardholders, or physicians would be disclosed.

Rules and Regulations (Section 5)

The KDHE would be required to promulgate rules and regulations within 120 days of the effective date of the Act as follows:

- Establishing the application form;
- Establishing the form and content of registration cards;
- Determining the number of testing laboratories, not fewer than two;
- Determining the number of hemp preparation centers, not fewer than three;

- Establishing a system to numerically score competing medical hemp establishment applicants;
- Governing the manner in which it shall consider applications for and renewals of registration cards;
- Governing medical hemp establishments to prevent diversion and theft without imposing an undue burden or compromising the confidentiality of cardholders;
- Establishing procedures for suspending or terminating registration certificates or registration cards of cardholders and medical hemp establishments that commit multiple or serious violations of the Act; and
- Establishing reasonable application and renewal fees and other such fees KDHE deems reasonably necessary to administer this law and setting forth statutory caps as follows:
 - Hemp preparation center registration certificate application – \$5,000;
 - Hemp preparation center registration certificate – \$20,000;
 - Testing laboratory registration certificate – \$2,000;
 - Individual hemp preparation registration card – \$75; and
 - Visiting cardholder – \$80.

The KDHE would be allowed to promulgate rules and regulations as follows:

- Establishing a presumptive maximum quantity of hemp preparations that a cardholder or a visiting cardholder may possess; and

- Requiring visiting cardholders to submit a medical practitioner's statement confirming the patient has a qualifying medical condition and documentation demonstrating the visiting cardholder is allowed to possess cannabis or hemp preparations in the jurisdiction where such person resides.

Criminal Provisions (Section 6)

A cardholder or visiting cardholder would not be subject to arrest, prosecution, or denial of any right or privilege for the medical use of hemp preparations; selling hemp paraphernalia to a registered medical hemp establishment, a cardholder or a visiting cardholder; being in the presence or vicinity of the medical use of hemp preparations; or assisting a patient with a registration card in the act of using or administering hemp.

A hemp preparation center would not be subject to prosecution, search or inspection, seizure or penalty, or be denied any right or privilege for acting in accordance with the Act or corresponding rules and regulations to:

- Sell cannabis seeds to similar entities that are registered to dispense cannabis for medical use in other jurisdictions;
- Acquire, cultivate, grow, harvest, manufacture, plant, possess, prepare, propagate, transport, or store cannabis, hemp paraphernalia, and hemp preparations;
- Deliver, dispense, supply, sell, transfer, or transport hemp preparations, paraphernalia, or related supplies to cardholders and visiting cardholders;
- Deliver, dispense, transfer, transport, sell, or supply cannabis seeds, cannabis seedlings, cannabis plants, cannabis, hemp preparations, or related supplies to hemp preparation centers; or

- Deliver, transfer, or transport cannabis or hemp preparations to registered testing laboratories.

A registered testing laboratory would not be subject to prosecution or search, except by reasonable inspection by KDHE, or seizure or penalty solely for acting in accordance with the Act or the corresponding rules and regulations.

Mere possession of, or application for, a registration card or medical hemp establishment registration would not constitute probable cause or reasonable suspicion.

Medical Care and Parenting (Section 7)

For the purposes of medical care, including organ and tissue transplants, a patient's medical use of hemp preparations would be the equivalent of the authorized use of any other medication prescribed by a physician and would not constitute the use of an illicit substance.

A person otherwise entitled to custody of or visitation or parenting time with a minor would not be denied such a right unless the person's actions in relation to hemp preparations were such that they created an unreasonable danger to the safety of a minor as established by clear and convincing evidence.

Penalties and Insurance Costs (Section 8)

Nothing in the Act would authorize a person to engage in the following conduct:

- Undertaking a task under the influence of hemp preparations when doing so would constitute negligence or professional malpractice; or

- Operating, navigating, or being in actual physical control of a motor vehicle, aircraft, or motorboat while impaired by hemp preparations.

Nothing in this Act would require a government medical assistance program or private insurer to reimburse a person for costs associated with the medical use of hemp preparations.

Medical Hemp Establishment Registration (Section 9)

Any person who operates a medical hemp establishment would be required to first submit an application to KDHE and receive approval. Each application would be required to be for a single type of medical hemp establishment.

The KDHE would be required to begin accepting applications no later than 120 days after the effective date of the Act.

The KDHE also would be required to register a medical hemp establishment and issue a registration certificate and a random identification number within 90 days of receiving an application if all the application requirements were met regarding fees, location, and compliance with the Act and corresponding rules and regulations.

Medical Hemp Establishment Requirements (Section 10)

Medical hemp establishments would be required to comply with the following:

- Be subject to reasonable inspection by the KDHE;
- Not employ or accept as a volunteer any person under 21 years of age;

- Maintain an operating document of a medical hemp establishment including procedures for oversight of the medical hemp establishment and procedures to ensure accurate record keeping;
- Implement appropriate security measures;
- Before dispensing any hemp preparation, make a diligent effort to verify the registration card and that the person presenting the card is the person identified on the card;
- Dispense hemp preparations in a sealed container with a label conforming to the KDHE regulations and indicating the ingredients and percentages of THC and cannabidiol by weight; and
- Collect and submit to KDHE data on strains used, methods of delivery, side effects experienced, and therapeutic effectiveness of hemp preparations for each patient who is willing to provide the information.

Severability (Section 11)

If any section of the bill were found to be invalid, the bill would state such invalidity would not affect the other sections.

Background

The bill was introduced in the House Committee on Health and Human Services at the request of Representative Wilson, who testified in support of the bill. Three private citizens also testified in support of the bill, stating legalization of hemp preparation would provide an alternative treatment to those who have not been helped by traditional medical treatments. Written only proponent testimony was provided by representatives from the Epilepsy Foundation of Missouri

and Kansas, the Marijuana Policy Project, Bleeding Kansas, and three private citizens.

Opponent testimony was provided by representatives from the Kansas Association of Chiefs of Police, Kansas Sheriffs' Association, Kansas Peace Officers Association, and the Kansas Association of Addiction Professionals. Written only opponent testimony was provided by the Director of the Kansas Bureau of Investigation and a representative of the Institute on Global Drug Policy. Opponents testified the language was too broad and could open the door to other forms of cannabis being legalized.

Neutral testimony was provided by a representative of the Kansas Health Institute and by a private citizen.

The House Committee amended the bill by adding a definition of "cannabis," and deleting the option for petitions to be filed to request additional illnesses to be added to the "qualifying medical condition" definition and additional strains of cannabis to be added to the "hemp preparation" definition. The House Committee also amended the bill by decreasing the number of required hemp preparation centers from five to three, removing sections related to the creation of an advisory council, and inserting a statutory cap fee structure for licenses, applications, and registrations.

A fiscal note was not available at the time of the hearing.