

NARROWLY & NEGATIVELY RESTRICTED TO PROVE TYPES OF CARE  
NOT MEDICAL  
PEOPLE WITH LEGITIMATELY MEDICAL BENEFITS  
COVERAGE COVERAGE  
COMMON FUNDERS ON THIS BILL

DO ANYTHING TO HELP OUR CITIZENS  
3 QUESTIONS  
1. IS IT THE RIGHT ANSWER  
2. ARE THERE OTHER WAYS TO ACHIEVE IT?  
3. IS IT REALLY NARROWLY FOCUSED.

BALANCE  
PLATFORM FOR MEDICAL M.D.



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OTIS  
01/15/15

**Testimony to the House Health and Human Services Committee  
In Opposition to HB2282  
February 17, 2015**

Chairman Hawkins and Committee Members,

The Kansas Association of Chiefs of Police, Kansas Sheriffs Association, and the Kansas Peace Officers Association recognize the difficult policy decision a legislative body faces in determining the value of the legalization of cannabis for medical use. This is truly a policy decision for our state legislatures and for the US Congress requiring the consideration of all of their constituents, those that support legalization and commercialization and those that don't. As law enforcement officers, we are not experts on the evaluation of legitimate medical needs, and we know others with that expertise will provide testimony to your committee. We do believe the first and foremost consideration of unintended consequences in making this policy decision should be public safety, including the safety of our children. It should not be based on projected tax revenues or on emotions. It should be based on facts and it should be based on the proper balance between benefits and costs. Those costs are both monetary and the cost to public safety.

Our association members are concerned about legalizing cannabis in any form, especially in a manner making a mockery of the physician/pharmaceutical system in place for the legitimate use of other controlled substances for medical purposes. We do not oppose allowing for a proven application of components of cannabis for legitimate scientifically supported medical treatment approved through the same processes applicable to any other drug treatment. If the true intent of allowing medical use of cannabis is at the core of this issue, then the use of existing proven methods in place through our pharmacies for the distribution of approved drugs should be the supply method. We do not need to set up an alternative medical dispensing process with a false front of head shops to support the use of a drug with alternative methods of physician "approval" which are questionable at best for the vast majority of those receiving them.

In reviewing this bill we found many gaps in critical areas to properly control the industry if you decide to move this bill forward. Some of these gaps raise a question of the real intent of the bill. For example, you will find on page 1, line 24 the bill would allow up to a 3% THC content. Yet in our research on this topic (and we admit we are not experts on hemp for commercial uses) we found hemp described on the North American Industrial Hemp Council website as follows: "Hemp cannot be used as a drug because it

produces virtually no THC (less than 1%), where marijuana produces between 5 - 20 % THC." Is this bill a wolf in sheep's clothing? Whether it is called hemp or marijuana, this bill appears to be another medical marijuana bill disguised behind a more acceptable and commercial name. One tactic the proponents could be relying on with the 3% THC content is that quantitative testing for THC content is very expensive which would make effective enforcement based on THC content nearly impossible.

There are also other things in the bill that tell us this concept is not ready to move forward. For example, there appears to be nothing to assure the THC product to be legalized would indeed be used by the persons who would be allowed to legally possess it. Caregivers could legally possess it and there is no penalties if they use it as there would be if this was handled through the normal prescription medicine processes established by existing law. We also could not find any restrictions on the methods of delivery of the products proposed. Can they be infused into edibles? Colorado has learned edibles produced dreadful unintended consequences. Will these permit holders be allowed to smoke or otherwise consume the product in public exposing others to the effects?

On page 8, lines 21-33 the language of legalized activity is so vague it will allow the activity for all forms of cannabis not just what is being portrayed as hemp. This includes seeds, plants, paraphernalia, and even to ". . . grow, harvest, plant, possess, propagate, transport or store cannabis. . ." Nowhere in the bill is cannabis defined which means it will include marijuana.

On page 10, section 10 provides that if the legislature authorizes hemp distribution and consumption as provided in this bill you will lose control of the expansion into full blown marijuana shops. You will see on lines 15 that the Department of Health and Environment can be petitioned to administratively "add additional strains, mixtures or preparations of cannabis to the definition of hemp preparations." Since this authorizes "cannabis" it would not be restricted to the cap of 3% THC the definition of hemp imposes, especially since section 10 allows KDHE to "add. . . to the definition of hemp preparations." (Emphasis added)

The bill provides a large opportunity to expand the "medical" use of cannabis beyond seizure disorders as the title leads one to believe it is restricted to. On page 10, lines 1-3 allows petitions to KDHE to "add medical conditions to the list of qualifying medical conditions section 2 (k). . ." Section 2 subsection (k) is on page 2 where you will see it allows this expansion to "any other debilitating or life-threatening medical condition. . ." The Colorado experience shows allowing the use of cannabis for pain relief is what opens the door to the rapid expansion of permits and to many of the unintended consequences. The percentage of permits in Colorado for pain relief is extremely high while those for other medical reasons are a very small percentage.

COULD BE WORSE FOR PAIN

These are just a few samples of inconsistency throughout this bill.

COLO  
EDIBLES  
HOME GROWS  
32 EXPOSURES IN CO.  
THE OIL

=====

DATA BASED IN COLORADO  
MEDICAL MJ - NOT REGULATED

Last month, at the request of our associations, I attended a three day conference in Colorado on the lessons learned during Colorado's process of legalization. It was a very good conference with a presentation of an enormous amount of statistical data, discussions of challenges, presentations of what has worked and what hasn't, and was balanced with presentations by people in the newly created marijuana commercialization industry. This testimony includes some of what I learned at that conference. I should note that one thing I learned is that this is a complex topic and we all have a great

deal to learn before making a decision on whether legalization is right for Kansas, and if the path of legalization is chosen, what precautions should be taken to minimize unintended consequences.

We should look closely at the reality of the need for medical cannabis including how many people it really effects for legitimate medical treatment and the balance between such an identified need and the unintended consequences. If a real need is identified, what disease processes should trigger the authorization for medical use. The most problematic situation seems to be when it is used for “pain relief” instead of for specified medical diagnosis. This single aspect seems to be the factor that makes a mockery of legalization under the guise of medical need. These decisions should follow the science and strong consideration should be given to using the same methods of medical and pharmacy supervision of this controlled substance the same as we utilize for other drugs. In our opinion, the risk of unintended consequences to public safety relating to self-medication using marijuana are real. Those risks expose not only the intended user of the drugs, but also unintended ingestion or consumption and involving increased access to of this drug to our children.

#### LAW ENFORCEMENT OPERATIONAL CONSIDERATIONS

The legalization of cannabis in any form has tremendous implications for law enforcement.

1. Law enforcement must retrain, develop new policy and formulate new investigative techniques to enforce remaining laws relating to cannabis. State legalization creates a conflict between state and federal laws on cannabis. But enforcement must continue on violations that do not fall under the new legalized parameters. These investigations are complicated as some possession is legal while others are not.
2. Probable cause for searches and arrests become clouded requiring error on the side of caution by not arresting or not searching unless clarity exists. New standards and procedures must be developed by law enforcement leaders, district and city attorneys and policymakers clarifying the criteria for determining an illegal marijuana operation and providing guidance for acceptable criteria for marijuana based search warrants
3. Once marijuana is seized, if later investigation reveals the possession did not violate state law, a dilemma is created for law enforcement in returning the property to the person from whom it was seized which would still violate federal law.
4. Drug dogs have to be retrained or replaced. Drug dogs are trained to “hit” on various drugs. Unfortunately they can’t tell us what drug they smell. So dogs that have been trained to detect drugs including marijuana are rendered useless since the mere detection of marijuana may not indicate a criminal violation. This will result in not only an expense, but also a degradation of our ability to locate and seize other illegal drugs.
5. Enforcement of marijuana violations under the newly created laws and regulations will require a multi-team approach involving law enforcement, prosecutors, zoning professionals, fire inspectors, building inspectors, food inspectors, code compliance inspectors, medical professionals and others.
6. Liability issues will be difficult as law enforcement walks a thin line between potential violations of the rights of those who can legally possess and being liable for not taking action which may lead to harm to others when encountering a person who is not legally authorized to possess marijuana.

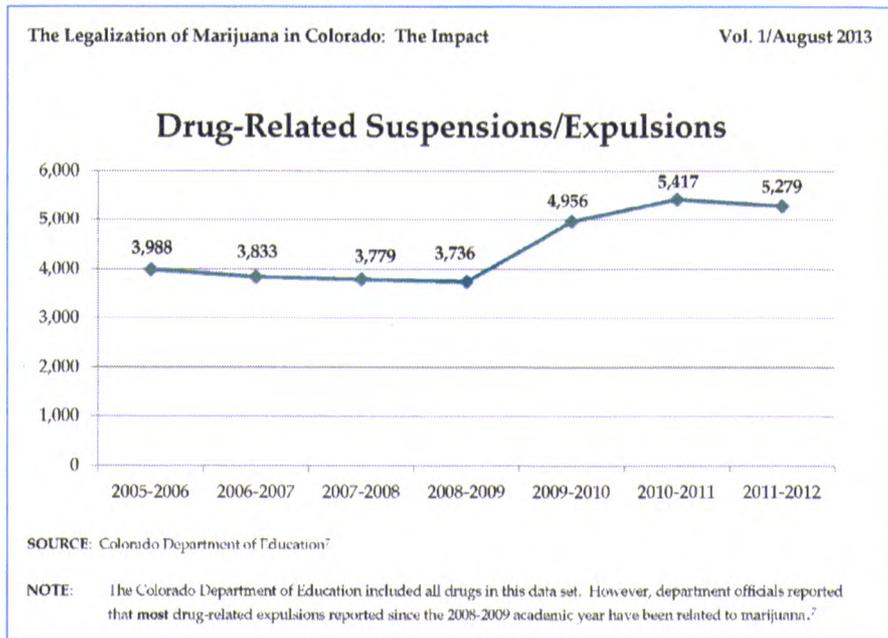
## PUBLIC SAFETY CONSIDERATIONS

In the following discussion, keep in mind Colorado commercialized medical marijuana (dispensaries started opening) in 2010 and legalized commercialization of marijuana (recreational use) began January 1, 2014.

1. How will legalization for either medical or recreational use effect our children?

I learned in Colorado the data does indicate an increase in drug use over the same years marijuana was legal for medical purposes. It is too early to see an impact from legalization for recreational purposes, but there doesn't seem to be any signs legalization has no impact or a positive impact on use by children.

**Colorado Youth Marijuana Use:** In 2011, the national average for youth 12 to 17 years old considered "current" marijuana users was 7.64 percent which was the highest average since 1981. The Colorado average percent was 10.



#### Comments:

"Drug violations shot up dramatically in Colorado schools during the 2009-2010 school year, reversing a decade of steady decline..."<sup>9</sup>

*Rebecca Jones, reporter, EdNews Colorado*

"If Denver Public High Schools were considered a state, that state would have the highest past month marijuana use rate in the United States, behind New Hampshire. Denver has more marijuana dispensaries than liquor stores or licensed pharmacies."

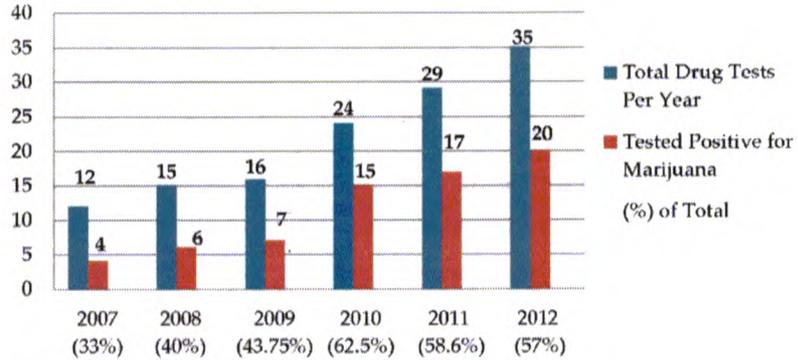
*Christian Thurstone, M.D., attending physician, Denver Health Medical Center*

"A typical kid (*is*) between 50 and 100 nanograms. Now we're seeing these (*test results in nanograms*) up in the over 500, 700, 800 and climbing."<sup>8</sup>

*Jo McGuire, director, Compliance and Corporate Training, Conspire!*

### Conspire! Drug Testing Summary

Average THC results per 3-year cycle in nanograms:  
 2007-2009 = 225  
 2010-2012 = 396

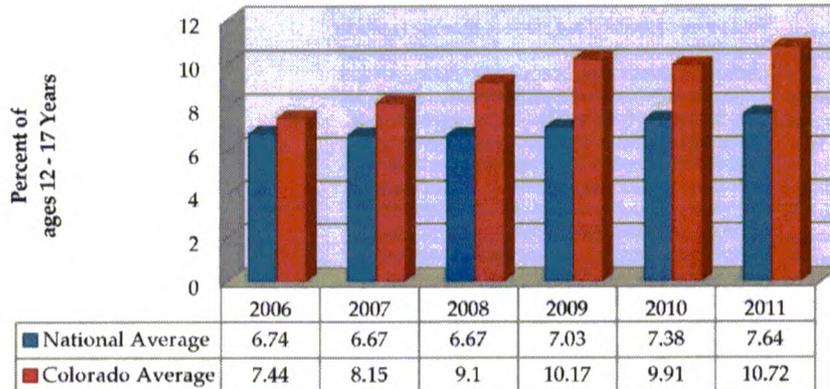


SOURCE: Conspire! Colorado Springs Drug Testing Summary

NOTE: The majority of the data was collected from high school students in the Colorado Springs, CO area sent for drug testing due to behavior issues.

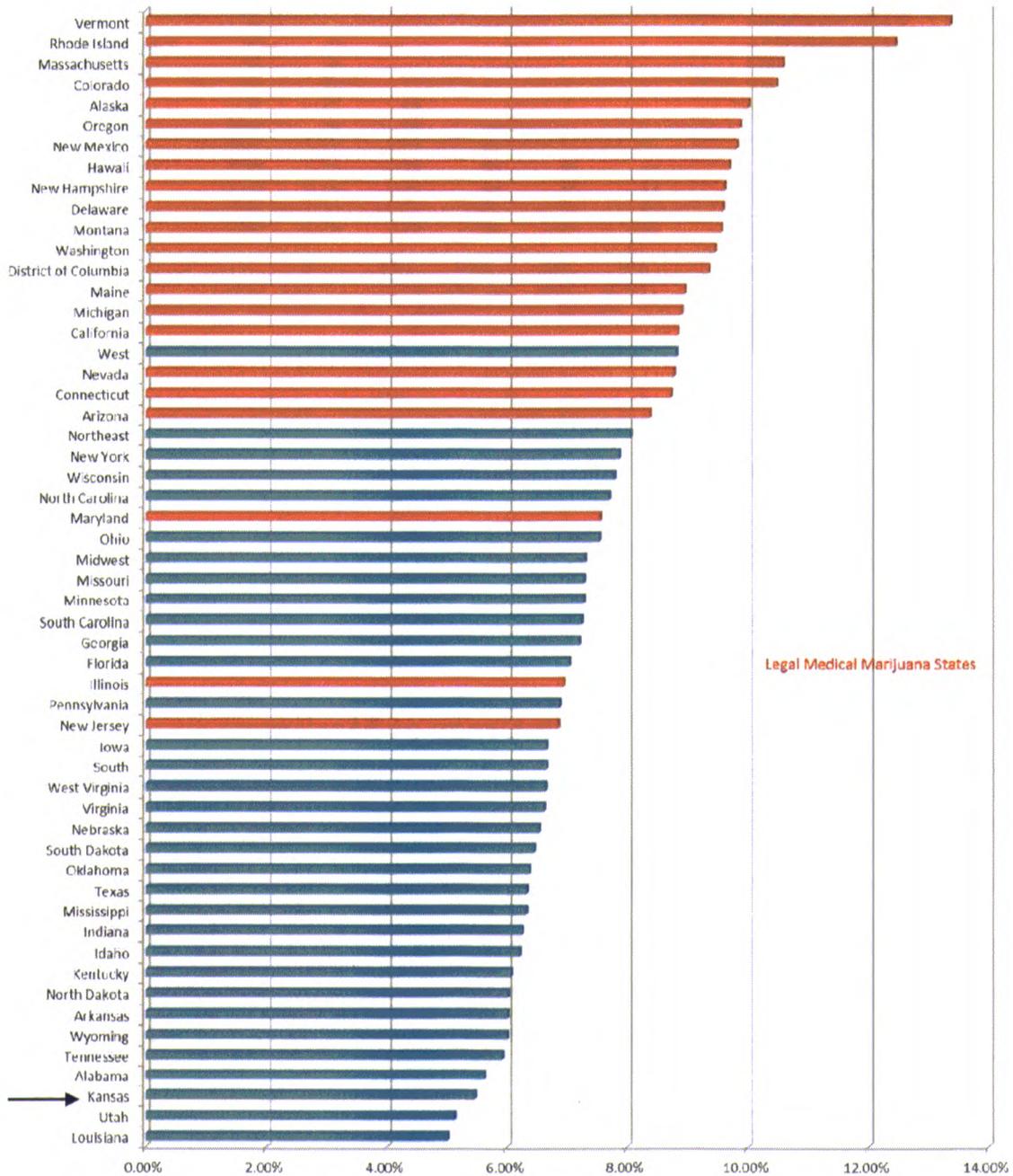
Data:

### Past Month Usage of Marijuana - National v. Colorado



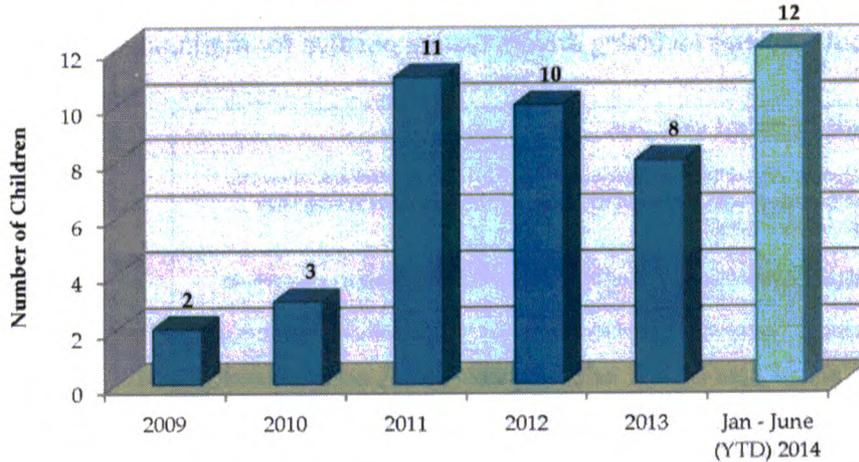
SOURCE: Data from SAMHSA.gov, National Survey on Drug Use and Health

## Past Month Usage by 12 to 17-Year-Olds in Medical Marijuana States, 2012



SOURCE: SAMHSA.gov, National Survey on Drug Use and Health, 2013

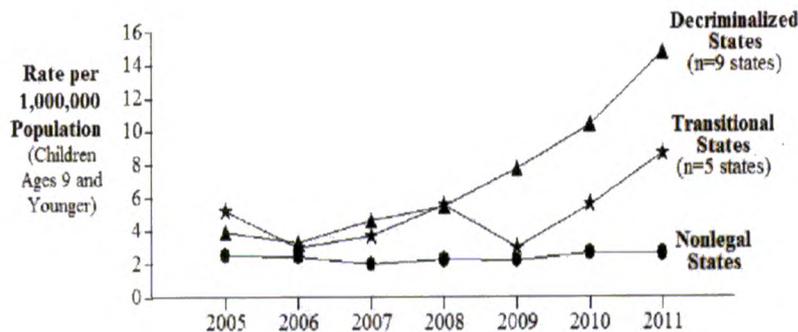
### Marijuana Ingestion Among Children Under 12 Years-of-Age



SOURCE: Dr. George Sam Wang, pediatric emergency physician, Children’s Hospital Colorado, July 8, 2014

### Rate (per 1,000,000 population) of Unintentional Pediatric Marijuana Exposure Poison Center Calls, by Marijuana Legalization States\*, 2005-2011<sup>2</sup>

(n=985 single substance, unintentional exposures in children ages 9 and younger)



\* *Decriminalized States*: Passed marijuana decriminalization legislation (for medical and/or recreational purposes) before 2005 (AK, CA, CO, HI, ME, NV, OR, VT, and WA).

\* *Transitional States*: Enacted legislation between 2005 and 2011 (AZ, MI, MT, NM, RI). *Nonlegal States*: Had not passed legislation as of December 31, 2011.<sup>2</sup>

2. How will it affect highway safety? Advocates often site the decrease in fatalities in Colorado since legalization for medical purposes and again in 2014 with commercial recreational legalization. What they don't usually reveal is that traffic fatalities have been dropping in most states even those that haven't legalized commercialization of marijuana. They also usually don't mention that while the number of total fatalities is dropping, the number of drug related fatalities is increasing.

**Colorado Driving Fatalities:** From 2006 to 2011, traffic fatalities decreased in Colorado 16 percent, but fatalities involving drivers testing positive for marijuana increased 114 percent.

**Definitions in Reviewing Fatality Data:**

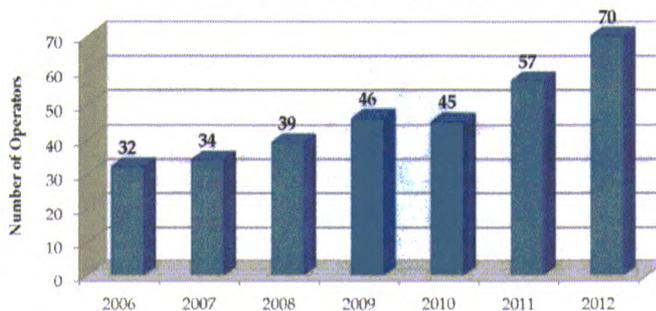
- **Marijuana:** Also called "marijuana mentions," is any time marijuana shows up in the toxicology report. It could be marijuana only or marijuana with other drugs and/or alcohol.
- **Fatalities:** A fatal injury resulting from a traffic crash involving a motor vehicle.
- **Operators:** Anyone in control of their movements such as a driver, pedestrian or bicyclist.

**Fatalities Involving Operators Testing Positive for Marijuana**

Crash Year	Total Statewide Fatalities	Fatalities with Operators Testing Positive for Cannabis	Percentage Total Fatalities (Cannabis)
2006	535	37	6.92%
2007	554	39	7.04%
2008	548	43	7.85%
2009	465	47	10.1%
2010	450	49	10.89%
2011	447	63	14.09%
2012	472	78	16.53%

SOURCE: National Highway Transportation Safety Administration, Fatality Analysis Reporting System (FARS), 2006-2011 and RMHIDA 2012 (See NOTE on page 8)

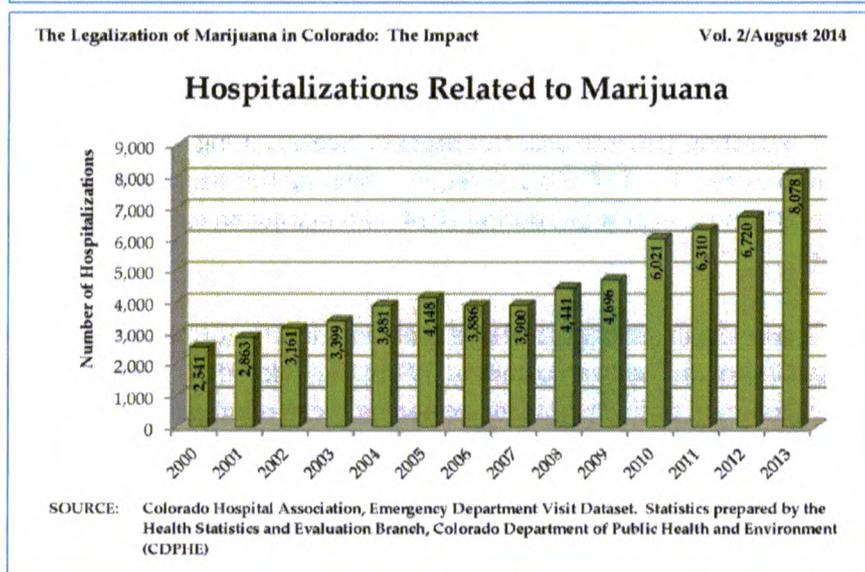
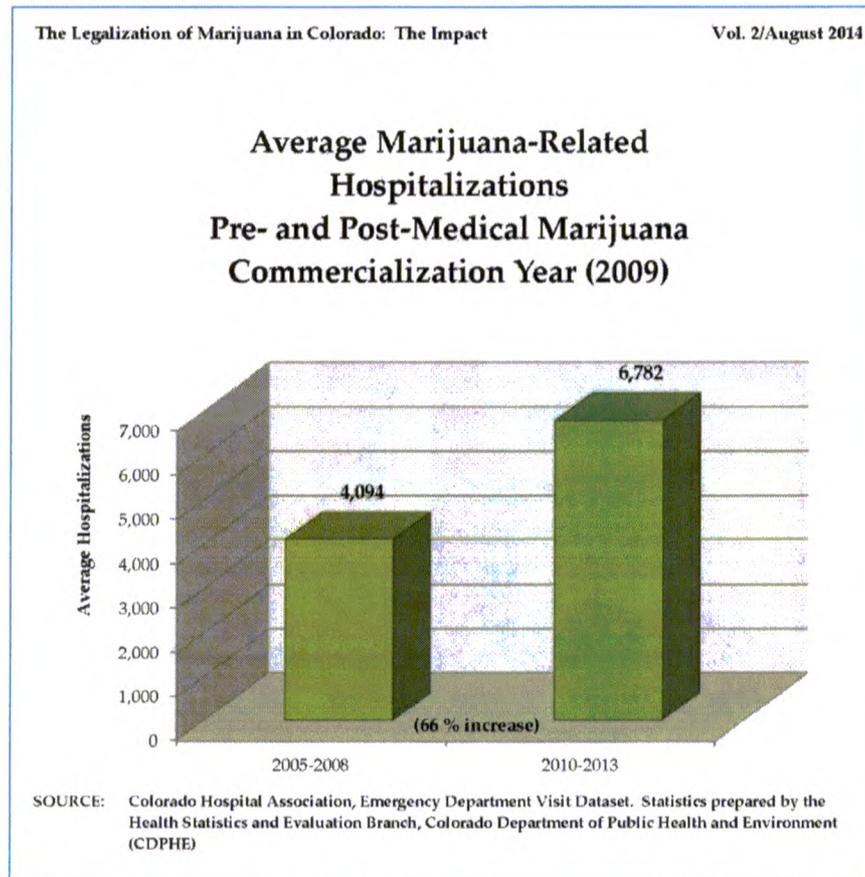
**Operators Involved in Fatalities Testing Positive for Marijuana**



SOURCE: National Highway Transportation Safety Administration, Fatality Analysis Reporting System (FARS), 2006-2011 and RMHIDA 2012 (See NOTE on page 8)

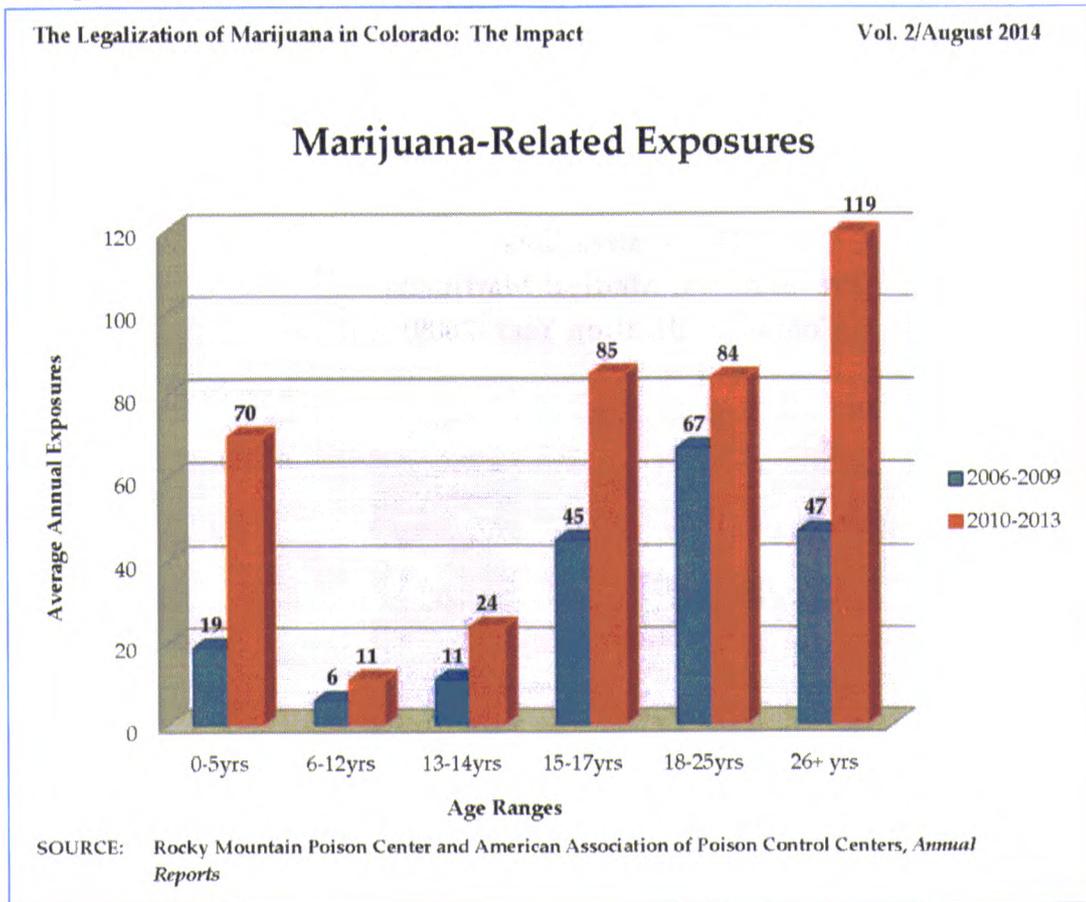
3. Does marijuana legalization create more health emergencies?

**Colorado Emergency Room – Marijuana Admissions:** From 2005 through 2008 there was an average of 741 visits per year to the emergency room in Colorado for marijuana-related incidents involving youth. That number increased to 800 visits per year between 2009 and 2011.



4. Does legalization create more unintentional drug poisoning?

**Colorado Marijuana-Related Exposure Cases:** From 2005 through 2008, the yearly average number of marijuana-related exposures for children ages 0 to 5 years was 4. For 2009 through 2012, that number increased 200 percent to an average of 12 per year.



5. Are there any environmental risks associated with marijuana legalization?

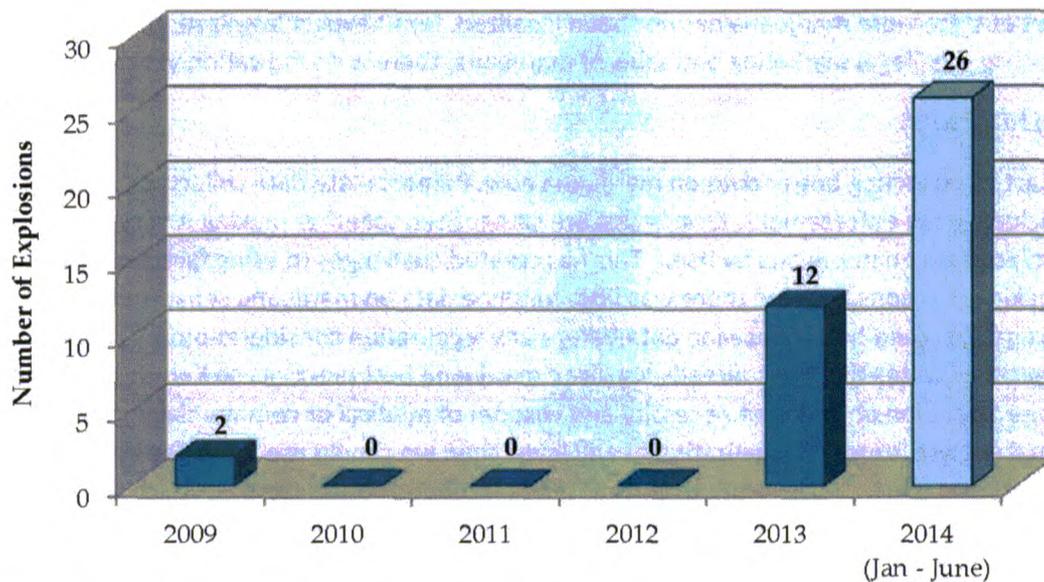
First and most critically, there is a risk of explosions similar to the meth lab risks for marijuana during the process of extracting THC into oils. This process involves using volatile chemicals with marijuana vegetation to extract the THC oils and requires heating this flammable mixture in the process. Colorado had 31 house explosions during 2014 with marijuana extraction operations identified as the cause.

In addition, marijuana growing in residences has been problematic. The formation of mold in areas of heavy marijuana plant growth has been common. While the Colorado law limits plants to six per person, it is not uncommon to find plants far exceeding those numbers in a single residence. This situation is allowed through the ability of a grower to “assist” others with medical license to grow their marijuana and claims of multiple people with medical marijuana cards in the household. Many cases have revealed these plants being grown in children’s rooms.

- Reported injuries from the extraction lab explosions in Colorado.<sup>1</sup>
  - 2013: 18 injuries reported
  - Six months of 2014: 27 injuries reported
    - This is a **50 percent** increase in only six months of 2014 compared to all of 2013
- The University of Colorado Hospital Burn Unit treated self-admitted burn patients from extraction lab explosions/fires.<sup>2</sup>
  - In 2011, the Burn Unit had treated 1 self-admitted patient
  - In 2012, the Burn Unit had treated 1 self-admitted patient
  - In 2013, the Burn Unit had treated 11 self-admitted patients
  - As of April 30, 2014 (four months) the Burn Unit has treated 10 self-admitted victims

Data

### Colorado Reported THC Extraction Lab Explosions



SOURCE: Rocky Mountain HIDTA Investigative Support Center

## THINGS TO CONSIDER

1. Move slowly. There is starting to be some good data providing an avenue for fact based decisions. But that data is developing slowly and needs time to provide better relationship of results and consequences to the legalization. In Colorado the legalization occurred before proper law enforcement training and regulation could take place. So they have been behind the curve and continue to develop appropriate responses to problems. One speaker described it as finishing building the airplane after takeoff.
2. One of the biggest challenges facing the process in Colorado and other states has been marijuana infused food products. The problems have ranged from inaccurate product labeling, inadequate packaging, no way to identify infused food items from those not containing marijuana, indistinguishable dosage units, varying potency, and food items looking like candy attracting children. These problems have led to accidental/unintentional marijuana ingestion by both adults and children. Advocates claim these infused food items are necessary to allow consumption for medical purposes in public places where smoking would be problematic. Our question is: If the marijuana components that are medically helpful can be infused into food items, why can't they be infused into traditional pharmaceutical delivery systems such as liquids, tablets and capsules?
3. One of the issues in Colorado has been the complicated law that makes it difficult for law enforcement officers to know if marijuana they find is legal or illegal. The number of plants a person can have is different for medical use than from recreational use. A per person count is difficult to evaluate while a limit in a single building is easy to enforce.
4. Colorado has faced difficult challenges on several fronts, but primarily with the law allowing home plant growing and in the edible marijuana industry. It has also been difficult to distinguish between marijuana obtained through the regulated legal process and the black market and the gray market. The black market is the traditional drug dealer we have dealt with for years, and the gray market is the market of what starts out to be legal marijuana diverted in illegal ways to those who cannot legally possess the product, such as under age persons and product shipped out of state where marijuana has not been legalized. Don't expect legalization to significantly reduce the illegal marketing and sales of marijuana, there is no indication yet that it will.

## RECOMMENDATIONS

1. Start by collecting better data on marijuana now. In most state data collections systems, including law enforcement, drug issues are categorized together making it very difficult to isolate data on marijuana by itself. This has created challenges to using fact based processes for making decisions because there was little baseline data on marijuana separated from other drugs. We need better baseline data before any legalization considerations or actions.
2. Let other states that have already legalized marijuana best practices so Kansas can make a fact based decision on both the necessity and wisdom of medical or commercial legalization. If the final analysis supports legalization at any level, then we should use fact based studies on what works and what doesn't work to control the unintended consequences, which we already know accompany legalization, at least in the format tried in other states.

Primary Recommendation for Further Information:

A report by the Police Foundation on the impact of public safety of Colorado's marijuana legalization:

<http://www.policefoundation.org/sites/g/files/g798246/f/201501/Police%20Foundation%20Legalized%20Marijuana%20Practical%20Guide%20for%20Law%20Enforcement.pdf>

The mission of the Police Foundation is "Advancing Policing Through Innovation & Science." The Foundation is a national non-profit bipartisan organization that, consistent with its commitment to improve policing, has been on the cutting edge of police innovation for over 40 years. The professional staff at the Police Foundation works closely with law enforcement, judges, prosecutors, defense attorneys, and community based organizations to develop research, comprehensive reports, policy briefs, model policies, and innovative programs that will support strong community-police partnerships. The Police Foundation conducts innovative research and provides on-the-ground technical assistance to police and sheriffs, as well as engaging practitioners from multiple systems (corrections, mental health, housing, etc.), and local, state, and federal jurisdictions on topics related to police research, policy, and practice.

ADDITIONAL INFORMATION:

The Legalization of Marijuana in Colorado, The Impact, Volume 1, Aug. 2014 by Rocky Mountain High Intensity Drug Trafficking Area

<http://www.rmhidta.org/html/2014%20Legalization%20of%20Marijuana.pdf>

Colorado's Medical Marijuana: Are Regulations Working or is Medical Marijuana Being Diverted, Aug. 2012 by Rocky Mountain High Intensity Drug Trafficking Area

<http://www.rmhidta.org/html/MMJ%20Supplemental%20Report%20July%202012%20FINAL%20For%20Release.pdf>

NEWS ARTICLES

Hash Oil Explosions on the Rise in Colorado [https://www.youtube.com/watch?v=3P\\_CEXRt010](https://www.youtube.com/watch?v=3P_CEXRt010)

Inside Colorado's Flourishing Segregated Black Market for Pot

<http://www.washingtonpost.com/news/storyline/wp/2014/07/30/inside-colorados-flourishing-segregated-black-market-for-pot/>

How Many Joints Would It Take to Smoke a Year's Supply of Medical Marijuana

[http://www.huffingtonpost.com/2013/11/07/how-many-joints\\_n\\_4236586.html](http://www.huffingtonpost.com/2013/11/07/how-many-joints_n_4236586.html)



A marijuana-infused gummy bear next to a regular one.

source: International Business Times –

<http://www.ibtimes.com/marijuana-edibles-colorado-officials-want-ban-some-strict-regulations-others-1707957>

CBS Wakes Up to the Dangers of 'Edible Pot,' Notes Deaths in Colorado

<http://newsbusters.org/blogs/scott-whitlock/2014/04/30/cbs-wakes-dangers-edible-pot-notes-deaths-colorado>

**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, and amendments  
7 thereto, shall be known and may be cited as Otis's law.

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

10 (a) "Cardholder" means a patient or a designated caregiver to whom  
11 the department has issued a hemp preparation registration card or who has  
12 documentation that is deemed to be a hemp preparation registration card.

13 (b) "Designated caregiver" means a person who:

14 (1) Is either at least 21 years of age or a parent of a patient;

15 (2) has significant responsibility for managing the well-being of a  
16 patient; and

17 (3) has been approved by the department to assist a patient in  
18 obtaining hemp preparations.

19 (c) "Department" means the department of health and environment.

20 (d) "Hemp preparation" includes:

21 (1) Cannabis plant material that is no more than 3%  
22 tetrahydrocannabinol by weight;

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

25 (3) cannabis plant material or an extract, mixture or preparation  
26 containing cannabis plant material that is approved by the department  
27 pursuant to section 10, and amendments thereto.

28 (e) "Hemp preparation center agent" means an owner, officer, board  
29 member, employee, volunteer, contractor, property owner or landlord of a  
30 registered hemp preparation center.

31 (f) "Medical hemp establishment" means a registered hemp  
32 preparation center or a registered hemp testing laboratory.

33 (g) "Medical use" includes the acquisition, administration, delivery,  
34 possession, purchase, transfer, transportation or use of hemp preparations  
35 and paraphernalia relating to the administration of hemp preparations to  
36 treat or alleviate a patient cardholder's qualifying medical condition.

- 1 (h) "Parent" means a parent or legal guardian responsible for the  
2 medical care of a patient under the age of 18.
- 3 (i) "Patient" means an individual who has been diagnosed with a  
4 qualifying medical condition.
- 5 (j) "Physician" means a person who is licensed by the state board of  
6 healing arts to practice medicine and surgery.
- 7 (k) "Qualifying medical condition" means:
- 8 (1) A condition causing seizures, including those characteristic of  
9 epilepsy; or
- 10 (2) any other debilitating or life-threatening medical condition or  
11 treatment approved by the department pursuant to section 9, and  
12 amendments thereto.
- 13 (l) "Registered hemp preparation center" means an entity registered  
14 pursuant to section 11, and amendments thereto, that acquires, possesses,  
15 cultivates, transports and manufactures cannabis, hemp preparations and  
16 related paraphernalia and transfers, transports, sells, supplies or dispenses  
17 hemp preparations, paraphernalia related to hemp preparations and related  
18 supplies and educational materials to cardholders, visiting cardholders and  
19 other registered hemp preparation centers.
- 20 (m) "Registered testing laboratory" means an entity registered  
21 pursuant to section 11, and amendments thereto, to analyze the safety and  
22 potency of hemp.
- 23 (n) "Registration card" means a card issued by the department  
24 pursuant to section 3, and amendments thereto.
- 25 (o) "Testing laboratory agent" means an owner, officer, board  
26 member, employee, volunteer, contractor, property owner or landlord of a  
27 registered testing laboratory.
- 28 (p) "Written certification" means a document signed and dated by a  
29 physician stating that, in the physician's professional opinion, the patient  
30 may receive therapeutic or palliative benefit from the medical use of hemp  
31 preparations to treat or alleviate the patient's qualifying medical condition  
32 or symptoms associated with such patient's qualifying medical condition.
- 33 (q) "Visiting cardholder" means a person who:
- 34 (1) Has been diagnosed with a qualifying medical condition or is the  
35 parent, child, sibling, spouse, domestic partner, grandparent, grandchild or  
36 personal aide of an individual who has been diagnosed with a qualifying  
37 medical condition;
- 38 (2) possesses a valid registration card, its equivalent or other  
39 documentation that allows the person to possess hemp preparations in  
40 another jurisdiction pursuant to the laws of the other state, district,  
41 territory, commonwealth, insular possession of the United States or  
42 country recognized by the United States;
- 43 (3) is not a resident of Kansas or has been a resident of Kansas for

- 1 less than 30 days; and
- 2 (4) has submitted any required documentation with the department, if
- 3 the department has required registration.
- 4 Sec. 3. (a) The department shall issue a hemp preparation registration
- 5 card to each individual who is over the age of 18 who:
- 6 (1) Provides the department with a written certification signed by a
- 7 physician that was issued within 90 days immediately preceding the date
- 8 of an application;
- 9 (2) pays the department a fee in an amount established by the
- 10 department pursuant to section 5, and amendments thereto; and
- 11 (3) submits an application or renewal to the department on a form
- 12 created by the department that contains:
- 13 (A) The individual's name and address;
- 14 (B) a copy of the individual's valid photo identification; and
- 15 (C) any other information the department reasonably considers
- 16 necessary to implement the provisions of this section.
- 17 (b) The department shall issue a hemp preparation registration card to
- 18 each individual who is under the age of 18 whose parent:
- 19 (1) Submits the information required of patients over the age of 18
- 20 according to subsection (a); and
- 21 (2) agrees to serve as a designated caregiver for the patient.
- 22 (c) Except as provided in subsection (d), the department shall issue a
- 23 hemp preparation registration card to each designated caregiver applicant
- 24 who:
- 25 (1) Is designated in a patient's application; and
- 26 (2) submits an application to the department on a form created by the
- 27 department that contains:
- 28 (A) The applicant's name and address;
- 29 (B) the patient's name;
- 30 (C) a copy of the designated caregiver's valid photo identification;
- 31 and
- 32 (D) any other information the department reasonably considers
- 33 necessary to implement the provisions of this section.
- 34 (d) A patient may designate only one caregiver at any given time
- 35 unless the patient or such patient's parent submits documentation
- 36 demonstrating that a greater number of designated caregivers are needed
- 37 due to the patient's age or medical condition.
- 38 (e) The department shall, not later than 30 calendar days after the date
- 39 of the receipt of the completed application materials, approve the
- 40 application and issue to the applicant a registration card with a unique,
- 41 random identification number.
- 42 (f) Until the department issues, renews or denies a registration card, a
- 43 copy of the individual's application, a copy of the patient's written

1 certification and proof that the application was submitted to the  
2 department shall be deemed a registration card.

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

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

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

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

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

18 Sec. 4. (a) The department shall maintain a confidential list of all  
19 cardholders and each cardholder's address and registry identification  
20 number. This confidential list shall not be combined or linked in any  
21 manner with any other list or database, nor shall it be used for any purpose  
22 not provided for in sections 1 through 14, and amendments thereto.

23 (b) The department shall treat written certifications, applications,  
24 renewals, supporting information, the names of applicants, cardholders,  
25 visiting cardholders and physicians and related records as protected health  
26 information under the health insurance portability and accountability act of  
27 1996 (public law 104-191), exempt from disclosure under the Kansas open  
28 records act, K.S.A. 45-415 et seq., and amendments thereto, and not  
29 subject to disclosure to any individual or public or private entity, except as  
30 provided in this section.

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

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

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

37 (3) department employees notifying the state board of healing arts if  
38 the department has reasonable suspicion to believe a physician violated the  
39 standard of care or for other suspected violations of this act by a physician;

40 (4) the department verifying registration cards pursuant to subsection  
41 (d);

42 (5) at a cardholder's request, the department confirming such  
43 cardholder's status as a cardholder to a third party, such as a landlord,

1 school, medical professional or court; and  
2 (6) provided that no identifying information pertaining to cardholders,  
3 visiting cardholders, or physicians is disclosed:

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

8 (B) the department may release information on the number of patients  
9 and designated caregivers approved, the number of registry identification  
10 cards revoked and aggregate information from voluntary reports on the  
11 effectiveness of medical hemp preparations and any side effects patients  
12 have experienced.

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

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

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

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

28 (3) governing the manner in which the department shall consider  
29 petitions from the public to add to qualifying medical conditions set forth  
30 in section 2(k), and amendments thereto, and hemp preparations set forth  
31 in section 2(d), and amendments thereto, including public notice of and an  
32 opportunity to comment in public hearings on the petitions;

33 (4) determining the number of testing laboratories that will be  
34 allowed in the state, which may not be fewer than two;

35 (5) determining the number of hemp preparation centers that will be  
36 allowed in the state, which shall be:

37 (A) No fewer than is reasonably necessary to ensure safe, steady  
38 access to hemp preparations to cardholders located throughout the state;  
39 and

40 (B) no fewer than a total of five;

41 (6) establishing a system to numerically score competing medical  
42 hemp establishment applicants that must include analysis of:

43 (A) in the case of hemp preparation centers, the suitability of the

- 1 proposed location and its accessibility for patients;
- 2 (B) the character, veracity, background and relevant experience of  
3 principal officers and board members; and
- 4 (C) the business plan proposed by the applicant, which in the case of  
5 hemp preparation centers shall include the ability to maintain an adequate  
6 supply of hemp preparations, plans to ensure safety and security of patrons  
7 and the community and procedures to be used to prevent diversion;
- 8 (7) governing the manner in which it shall consider applications for  
9 and renewals of registration cards, which may include creating a  
10 standardized written certification form;
- 11 (8) governing medical hemp establishments to prevent diversion and  
12 theft without imposing an undue burden or compromising the  
13 confidentiality of cardholders, including:
- 14 (A) Oversight requirements;
- 15 (B) recordkeeping requirements;
- 16 (C) security requirements, including at a minimum, lighting, physical  
17 security, transportation, waste destruction, video, and alarm requirements;
- 18 (D) health and safety requirements, including prohibiting the use of  
19 harmful pesticides;
- 20 (E) restrictions on advertising and signage;
- 21 (F) requirements and procedures for the safe and accurate packaging  
22 and labeling of medical hemp including requiring:
- 23 (i) Disclosure of whether the hemp preparation is organic or non-  
24 organic;
- 25 (ii) specifying the length of time it typically takes for a product to  
26 take effect;
- 27 (iii) listing ingredients and possible allergens in edible and potable  
28 preparations;
- 29 (iv) a nutritional fact panel on all edible and potable products; and
- 30 (v) a unique serial number that will match the product with a hemp  
31 preparation center batch and lot number so as to facilitate any warnings or  
32 recalls;
- 33 (G) rules for random sample testing to ensure that hemp preparations  
34 available to cardholders and visiting cardholders are accurately labeled for  
35 content and potency in accordance with standards established by the  
36 department to ensure the health and safety of patient cardholders;
- 37 (H) procedures for mandatory and voluntary recalls of hemp  
38 preparations; and
- 39 (I) reporting requirements for changes, alterations or modifications of  
40 the premises;
- 41 (9) establishing procedures for suspending or terminating the  
42 registration certificates or registration cards of cardholders and medical  
43 hemp establishments that commit multiple or serious violations of the

1 provisions of this act or any rules and regulations promulgated pursuant to  
2 this section; and

3 (10) establishing reasonable application and renewal fees for  
4 registration cards, hemp preparation center registration certificates, and  
5 testing laboratory registration certificates, according to the following:

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

9 (B) the fees for registration cards shall be no greater than the amount  
10 reasonably necessary to cover the cost the department incurs processing  
11 the identification cards; and

12 (C) the fee structure established by the department must incorporate a  
13 sliding scale for cardholders who receive medicaid, supplemental security  
14 income or social security disability insurance.

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

16 (1) Establishing a presumptive maximum quantity of hemp  
17 preparations that a cardholder or a visiting cardholder may possess,  
18 provided that:

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

21 (B) a patient may apply for a waiver if a physician provides a  
22 substantial medical basis in a signed, written statement asserting that,  
23 based on the patient's medical history, in the physician's professional  
24 judgment, the amount established by the department is an insufficient  
25 amount to properly alleviate the patient's medical condition or symptoms  
26 associated with such medical condition;

27 (2) requiring visiting cardholders to submit a medical practitioner's  
28 statement confirming that the patient has a qualifying medical condition  
29 and documentation demonstrating that the visiting cardholder is allowed to  
30 possess cannabis or hemp preparations in the jurisdiction where such  
31 person resides, provided that:

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

35 (B) if the department requires visiting cardholders to submit  
36 documentation to the department, a confirmation must be issued  
37 electronically to the individual no later than seven calendar days after such  
38 documentation is submitted.

39 Sec. 6. (a) A cardholder or visiting cardholder shall not be subject to  
40 arrest, prosecution under state or municipal law or denial of any right or  
41 privilege, including, but not limited to, civil penalty or disciplinary action  
42 by a court or occupational or professional licensing board or bureau, for  
43 the medical use of hemp preparations pursuant to sections 1 through 14,

1 and amendments thereto.

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

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

8 (2) being in the presence or vicinity of the medical use of hemp  
9 preparations as allowed by sections 1 through 14, and amendments thereto;  
10 or

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

13 (c) A hemp preparation center or hemp preparation center agent shall  
14 not be subject to prosecution under state or municipal law, search or  
15 inspection, except by the department pursuant to section 12(a), and  
16 amendments thereto, seizure or penalty in any manner or be denied any  
17 right or privilege, including, but not limited to, civil penalty or disciplinary  
18 action by a court or business licensing board or entity, for acting pursuant  
19 to sections 1 through 14, and amendments thereto, and department rules  
20 and regulations to:

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

23 (2) acquire, cultivate, grow, harvest, manufacture, plant, possess,  
24 prepare, propagate, transport or store cannabis, hemp paraphernalia and  
25 hemp preparations;

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

29 (4) deliver, dispense, transfer, transport, sell or supply cannabis seeds,  
30 cannabis seedlings, cannabis plants, cannabis, hemp preparations or related  
31 supplies and educational materials to other hemp preparation centers; or

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

34 (d) A registered testing laboratory and testing laboratory agents acting  
35 on behalf of a testing laboratory shall not be subject to prosecution under  
36 state or municipal law, search, except by the department pursuant to  
37 section 12(a), and amendments thereto, seizure or penalty in any manner,  
38 or be denied any right or privilege, including, but not limited to, civil  
39 penalty or disciplinary action by a court or business licensing board or  
40 entity, solely for acting in accordance with this act and department rules  
41 and regulations to provide the following services:

42 (1) Acquiring, possessing, storing, analyzing, testing or transporting  
43 cannabis obtained from hemp preparation centers and hemp preparations

1 obtained from cardholders, visiting cardholders or hemp preparation  
2 centers;

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

4 (3) returning the hemp preparations to cardholders or hemp  
5 preparation centers; or

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

7 (e) Mere possession of, or application for, a registration card or  
8 medical hemp establishment registration shall not constitute probable  
9 cause or reasonable suspicion, nor shall it be used to support the search of  
10 the person, property or home of the person possessing or applying for the  
11 registration card. The possession of, or application for, a registration card  
12 or registration certificate shall not preclude the existence of probable cause  
13 if probable cause exists on other grounds.

14 (f) For the purposes of state law, the medical use of hemp  
15 preparations by a cardholder or visiting cardholder and activities a  
16 registered medical hemp establishment are registered to engage in shall be  
17 considered lawful as long as they are undertaken in accordance with  
18 sections 1 through 14, and amendments thereto.

19 Sec. 7. (a) For the purposes of medical care, including organ and  
20 tissue transplants, a patient's medical use of hemp preparations in  
21 accordance with sections 1 through 14, and amendments thereto, is the  
22 equivalent of the authorized use of any other medication in accordance  
23 with a prescription issued by a physician and does not constitute the use of  
24 an illicit substance or otherwise disqualify a patient cardholder from  
25 needed medical care.

26 (b) A person otherwise entitled to custody of or visitation or parenting  
27 time with a minor shall not be denied such a right, and there shall be no  
28 presumption of neglect or child endangerment, for conduct allowed by  
29 sections 1 through 14, and amendments thereto, unless the person's actions  
30 in relation to hemp preparations were such that they created an  
31 unreasonable danger to the safety of the minor as established by clear and  
32 convincing evidence.

33 Sec. 8. (a) Sections 1 through 14, and amendments thereto, do not  
34 authorize any person to engage in, and do not prevent the imposition of  
35 any civil, criminal or other penalties for engaging in the following  
36 conduct:

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

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

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

1       Sec. 9. (a) Any resident of Kansas may petition the department to add  
2 medical conditions to the list of qualifying medical conditions in section  
3 2(k), and amendments thereto. The department shall consider petitions in  
4 the manner required by department rules and regulations, including public  
5 notice, a hearing and consideration of the recommendation from the  
6 advisory council.

7       (b) The department shall accept petitions at least once every 180  
8 days.

9       (c) The department shall approve or deny a petition within 180 days  
10 of its submission.

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

14       Sec. 10. (a) Any resident of Kansas may petition the department to  
15 add additional strains, mixtures or preparations of cannabis to the  
16 definition of hemp preparations according to section 1(d), and  
17 amendments thereto. The department shall consider petitions in the  
18 manner required by department rules and regulations, including public  
19 notice, a hearing and consultation with the advisory council.

20       (b) The department shall approve or deny a petition within 180 days  
21 of its submission.

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

25       Sec. 11. (a) Any person who operates a medical hemp establishment  
26 must first submit an application form to the department and receive  
27 approval. Each application must be for a single type of a medical hemp  
28 establishment.

29       (b) No later than 120 days after the effective date of this act, the  
30 department shall begin accepting applications for hemp preparation centers  
31 and testing laboratories.

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

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

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

40       (B) an application, which must include:

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

42       (ii) the physical address where the proposed medical hemp  
43 establishment will be located and the physical address of any co-owned

1 additional or otherwise associated medical hemp establishments, so long  
2 as the location of the proposed medical hemp establishment is not within  
3 1,000 feet of a public or private school that provides formal education  
4 traditionally associated with preschool or kindergarten through grade 12  
5 which existed on the date on which the application for the proposed  
6 medical hemp establishment was submitted to the department;

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

9 (D) evidence that the applicant owns the property on which the  
10 proposed medical hemp establishment will be located or has the written  
11 permission of the property owner to operate the proposed medical hemp  
12 establishment on that property;

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

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

19 (G) if the city, town or, in the case of a location in an unincorporated  
20 area, county in which the proposed medical hemp establishment will be  
21 located has enacted zoning restrictions or licensing requirements, proof of  
22 licensure with the applicable local governmental authority or an  
23 affirmation signed by the applicant that the proposed medical hemp  
24 establishment will be in compliance with those restrictions and satisfies all  
25 applicable zoning requirements; and

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

28 (2) none of the persons who are proposed to be owners, officers or  
29 board members of the proposed medical hemp establishment have served  
30 as an owner, officer or board member for a medical hemp establishment  
31 that has had its medical hemp establishment registration certificate  
32 revoked; and

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

36 (b) When more qualifying applications are submitted for a proposed  
37 hemp preparation center or testing laboratory than the department will  
38 approve, the department shall use an impartial and numerically scored  
39 merit-based selection process to determine which application or  
40 applications to approve. The department may approve the highest scoring  
41 application or applications in specific geographic regions of the state. The  
42 department may conduct a background check of the principal officers and  
43 board members of any prospective hemp preparation center to carry out

1 the provisions of this subsection.

2 (c) Except as otherwise provided in this act, if an application for  
3 registration as a medical hemp establishment satisfies the requirements of  
4 this section and the establishment is not disqualified from being registered  
5 as a medical hemp establishment pursuant to this act or other applicable  
6 law, the department shall issue to the establishment a medical hemp  
7 establishment registration certificate. A medical hemp establishment  
8 registration certificate expires two years after the date of issuance and may  
9 be renewed upon:

10 (1) Submission of a renewal application; and

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

12 Sec. 12. (a) Medical hemp establishments are subject to reasonable  
13 inspection by the department.

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

16 (c) The operating documents of a medical hemp establishment must  
17 include procedures for the oversight of the medical hemp establishment  
18 and procedures to ensure accurate recordkeeping.

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

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

22 (2) unauthorized entrance into areas containing cannabis or hemp  
23 preparations.

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

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

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

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

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

41 Sec. 13. (a) There is hereby established a nine-member advisory  
42 council on medical hemp. The advisory council shall meet at least three  
43 times per year for the purpose of evaluating and making recommendations

1 to the legislature and the department regarding:

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

4 (2) the effectiveness of registered hemp preparation centers,  
5 individually and together, in serving the needs of qualifying patients,  
6 including the provision of educational and support services, the  
7 reasonableness of their prices, whether they are generating any complaints  
8 or security problems and the sufficiency of the number operating to serve  
9 the state's patient cardholders;

10 (3) the effectiveness of the registered hemp testing laboratories,  
11 including whether a sufficient number are operating and the  
12 reasonableness of their fees;

13 (4) the sufficiency of the regulatory, health and safety and security  
14 safeguards contained in this act and in rules and regulations adopted by the  
15 department;

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

19 (6) whether additional qualifying medical conditions should be  
20 approved; and

21 (7) whether additional hemp preparations should be approved.

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

23 (1) One member of the house of representatives, selected by the  
24 speaker of the house of representatives;

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

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

28 (4) one member who is either a patient or the parent of a minor  
29 patient who is either a registered cardholder or who intends to become one  
30 once the registry is open;

31 (5) four members representing health care providers, including one  
32 physician who has issued written certifications to patients and one certified  
33 pain specialist; and

34 (6) the secretary of health and environment or the secretary's  
35 designee.

36 (c) Advisory council members specified in paragraphs (3), (4) and (5)  
37 shall be appointed by the governor in consultation with the secretary of  
38 health and environment.

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

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

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

1       (2) revise the definition of hemp preparations.

2       Sec. 14. If any provision of sections 1 through 14, and amendments  
3 thereto, or the application thereof to any person or circumstance is held  
4 invalid, such invalidity shall not affect the application of any other  
5 provision of this act that can be given full effect without the invalid section  
6 or application.

7       Sec. 15. This act shall take effect and be in force from and after its  
8 publication in the statute book.