



STATE OF KANSAS
Tenth Judicial District

OFFICE OF DISTRICT ATTORNEY
STEPHEN M. HOWE, DISTRICT ATTORNEY

March 16, 2023

Senate Committee on Federal and State Affairs
Attention: Chairman Thompson,
State Capitol, Room 144S
Topeka, Kansas 66612

Re: Testimony in opposition of SB 135

Dear Chairman Thompson and members of the Senate Federal and State Affairs Committee,

Thank you for the opportunity to submit my written testimony in opposition of efforts to pass legislation to create a medical marijuana law and eventually legalize marijuana in Kansas.

When making your decision on medical marijuana or outright legalization you should make decisions on this important public safety and health issue based on facts - not fiction. I will set forth in this testimony the facts that should be compelling evidence in opposition of medical marijuana or outright legalization.

Let's start with the position of the medical community on medical marijuana and outright legalization of this schedule I drug.

American Medical Association (AMA)

The American Medical Association has been clear about their stance on legalizing marijuana and the protentional harm it has on people. Specifically, they have signaled a warning to the community about the harm of marijuana to teenagers and young adults.

In August of 2019 they released the following statement:

"The American Medical Association commended the Surgeon General for issuing an advisory today on the harmful health effects of cannabis use by pregnant women and youth. We strongly support this effort as the AMA has long discouraged cannabis use by "youth", pregnant women,

and women who are breastfeeding and has called for research to determine the consequences of long-term cannabis use in these populations.

The AMA has urged legislatures to delay legalizing cannabis until further research is completed on the public health, medical, economic, and social consequences of its use. In states that have already legalized cannabis, the AMA has urged jurisdictions to take steps to regulate the product effectively to protect the health and safety of high risk populations and the public.

The AMA believes that scientifically valid and well-controlled clinical trials conducted under federal investigational new drug applications are necessary to assess the safety and effectiveness of all new drugs, As physicians, we rely on clinical experience, combined with evidence from clinical trials and biomedical research, to guide us during the diagnostic and treatment process—and cannabis should be no different.

American Academy of Pediatrics (AAP)

In March of 2021 the American Academy of Pediatrics (AAP) reaffirmed its opposition to legalizing marijuana, citing the potential harms to children and adolescents. Seth Ammerman, member of the AAP committee on Substance Abuse and author of the policy statement noted;

“For adolescents, marijuana can impair memory and concentration, interfering with learning, and is linked to lower odds of completing high school or obtaining a college degree. It can alter motor control, coordination, and judgment, which may contribute to unintentional deaths and injuries. Regular use is also linked to psychological problems, poorer lung health, and a higher likelihood of drug dependence in adulthood.”

The AAP opposes medical marijuana outside usual process by the Food and Drug Administration to approve pharmaceutical products. Only limited research has been conducted on medical marijuana for adults, and there have been no published studies of cannabinoids - either in the form of marijuana or other preparations - that involve children.

William P. Adelman, MD, FAAP, a member of the AAP Committee on Adolescence and an author of the policy stated, *“We need further research to determine the efficacy and correct dosing for cannabinoids, and we need to formulate cannabinoids safely as we do for any other medication.”*

American Academy of Child and Adolescent Psychiatry (AACAP)

The American Academy of Child and Adolescent Psychiatry also made a policy statement on marijuana legalization in 2017, noting that adolescents are especially vulnerable to marijuana's many known adverse effects. The report stated, *“One in six adolescent marijuana users develops cannabis use disorder, a well-characterized syndrome involving tolerance, withdrawal, and continued use despite significant associated impairments.”* According to National Institute of Drug Abuse (NIDA), students who use marijuana before age 18 are four to seven times as likely to develop a marijuana use disorder than adults who begin using marijuana.

Furthermore, NIDA reports that marijuana potency has steadily increased over the past 30 years, further increasing the risk of marijuana addiction. In the early 1990s, the average THC content in confiscated marijuana samples was roughly 3.8 percent. By 2020, the THC content had risen dramatically, to an average of more than 15 percent and, in some vaping products, as high as 80 percent.

Researchers note the following data and urge caution in approving medical marijuana or outright legalization.

- A review study published in September 2020 found that cannabis use in adolescents is associated with an increased likelihood of suicidal thoughts and attempts. The researchers analyzed 12 studies and concluded that “cannabis is an independent predictor of suicide.” The review found that how frequently a teen uses marijuana is directly correlated with increased suicide attempts.
- People who use marijuana prior to the age of 12 are more likely to experience a serious mental illness, including anxiety, depression, and schizophrenia, compared to those who first use marijuana at age 18 or older, according to SAMHSA.
- The American Association of Colleges of Pharmacy (AACP) report noted that heavy teenage marijuana use is associated with a higher risk of psychotic, mood, anxiety, and substance use disorders.

The medical community has been absolutely clear on their position on medical marijuana or legalization. They are opposed because of the demonstrated negative affects it has on the human body. They also recognize that there are no legitimate studies supporting the use of marijuana for medical purposes.

We should follow their recommendations and treat marijuana like every other drug we take for illnesses, have it vetted through the FDA to ensure it is safe. Why should we treat marijuana any different than the thousands of other drugs, which were required to go through rigorous studies and testing before being released to the public?

United States Agencies

In 2022 the U.S. Department of Health and Human Services has echoed those same concerns noting the negative consequences in brain health, mental health, athletic performance, driving and infant health and development.

The U.S. Department of Health and Human Services has also noted that over the past few decades, the amount of THC in marijuana has steadily climbed; today's marijuana has three times the concentration of THC compared to 25 years ago. The higher the THC amount, the stronger the effects on the brain—likely contributing to increased rates of marijuana-related emergency room visits. While there is no research yet on how higher potency affects the long-term risks of marijuana use, greater THC use is likely to lead to higher rates of dependency and addiction. People also smoke or eat different forms of marijuana extracts, which deliver a large amount of THC and can be potentially more dangerous.

Realities of Reported Medicinal Purposes

There have been decades of public campaigns against smoking tobacco. Somehow, we have lost sight of this when discussing medical marijuana or outright legalization. Unfiltered marijuana cigarettes, and vaping THC products cause citizens to inhale smoke into their lungs, with many of the same negative health consequences as cigarettes. Why does this happen? The big money industries seek to profit off the back of the health of the people of Kansas and this country.

There have been many proponents who have professed the positive medicinal purposes of marijuana. As noted above there are no true studies that validate these statements. One of the purposes cited by proponents is the use of medical marijuana to treat seizures. However, the “medical marijuana” used for those purposes does not contain THC, it’s the other properties within the plant that are used to combat seizures. In other words, people don’t get high taking it.

Another area cited by proponents is helping those who suffer from PTSD. They use veterans as a rallying cry for their efforts. As a District Attorney who helps run a veterans treatment court, in which there are veterans dealing with serious PTSD, the medical and mental health members of the team in no way support the use of marijuana to treat PTSD. The medical evidence shows that using marijuana could be dangerous to their mental health. This again is a false narrative used to gather sympathy for their cause. However, the mental health and medical communities do not support veterans getting “high” to deal with their mental health issues.

Are there potential uses for pain management? There is already small dosage cannabis available for use, that has been approved through the FDA. While these other treatment methods may eventually be determined as a means to manage pain or for palliative care, the medical community is requesting further studies through the FDA to validate use as a safe and effective treatment option. We all count on the FDA to validate drugs before putting them into the market. This is done to keep our community safe. Why are proponents opposed to waiting until clinical trials are completed through the FDA? Why should we treat cannabis differently than any other drug? Contrary to the comments of the proponents, there are other safe and tested drugs available to treat pain management and palliative care.

Negative Effects on Communities in Neighboring States

You can look to our neighboring states; like Colorado, Missouri and most recently Oklahoma for data on the negative effects medical marijuana and outright legalization has had on their communities. Those impacts have been spelled out by other opponents you have heard from this last couple of weeks.

Missouri has had medical marijuana for several years and just this year legalized it. This is another example of medical marijuana being a trojan horse for legalizing the drug. In Missouri where they have medical marijuana, it is permitted for a long list of ailments. There are no real limits on the type of ailments approved for medical marijuana. Even though the AMA has stated there are no legitimate studies noting that marijuana is truly effective in treating the variety of illnesses listed in Missouri. The general population used to complain about pill

doctors, who would give out oxycodone to anyone who asked, who caused or facilitated addictions. Are we not creating the same thing for a different drug? We would have THC doctors who create the same situation we tried to eliminate with opiates. Is that the road we want to travel down?

Effect on Crime

Proponents argue that violence and illegal drug trade will be diminished by legalizing marijuana. This has not played out in Colorado, Oklahoma, and other states. The HIDTA report released in 2021 found that violence has not gone down, and illegal drug trade remains strong. The negative effects on their communities and public safety have been noted in previous testimony and continue in those States.

Have we seen a drop in violence in KCMO since medical marijuana passed? NO. Will we see a drop in violence associated with drug trade now that its legal? NO. Colorado, Oklahoma, and the other states who have legalized marijuana give us plenty of data showing otherwise.

All the drug related murders in my county are teenagers and young adults killing each other for marijuana. The data from the other states, who have legalized this drug, demonstrates that legalization or medical marijuana will not curb this violence. It also fails to slow down the impact the Mexican Cartels have on selling this drug in our communities. This has occurred in Colorado and Oklahoma. The black markets for marijuana will still occur and we would only empower the Cartels to sell marijuana to Kansans by adopting the proponent's bill.

The proponents have constantly cited that legalization is an effort to help avoid needless incarceration of individuals for possession of marijuana. That assertion is false! Prosecutors across this state are not incarcerating large amounts of individuals for possession of marijuana. Instead, the prosecutors and courts are focusing on treatment for those individuals addicted to drugs like marijuana. The data is from the Department of Corrections bares this out. You have passed laws providing funding to support treatment. Diversion and other pretrial conviction options is the norm, not incarceration.

Legal Issues with SB 135

Under Section 2 of the bill, it gives a laundry list of qualified medical conditions. First there are no legitimate clinical trials that support Cannabis, as defined in this bill, as effective in treatment of most if not all of the listed medical conditions. Included within this list is "pain that is either chronic and severe or intractable". This catch-all phrase has been the blueprint used in other states to provide unlimited access to medical cannabis. The ultimate result is we are giving virtually unlimited access to a drug and its higher dosages that has not been approved by the FDA.

As a prosecutor I am charged with protecting some of the most vulnerable members of our communities, our children, the elderly and dependent adults. There are several provisions in this bill which put these groups at risk. Despite the overwhelming opposition by the medical community in prescribing cannabis to children and teenagers, this bill would allow children to be

prescribed cannabis without restrictions on dose amounts. In Section 18 all that is required is parents' consent. Section 57 of the bill prohibits filing a *child of need of care* petition against a parent for child who has obtained medical cannabis. Even if the actions of the parents are contrary to established medical standards, including the dosages levels or if an overdose occurs resulting in hospitalization.

Equally troubling is the "caregiver" provision of this bill found in Section 7. It allows third-party requests of cannabis on behalf of another, including children. This is fraught with potential abuse. There is no legal definition of who can be a "caregiver", other than they must be over 18. This is contrary to the legal requirements under Kansas law that require power of attorney designations to make health care decisions for others. This creates a situation where there is no oversight. There is no other situation where a medical doctor will rely on a third party for information to make health care decisions for their patient. This would put elder adults and dependent adults at risk from abuse by these supposed "caregivers". The caregiver designation would also be methods to obtain cannabis that can be provided to others for sale.

Section 71 of the bill reduces the penalty for small amounts of marijuana to a fine. Even if the person did not have a medical cannabis card, as long as they produce a letter from a doctor recommending its use, they are covered. This can occur after the seizure and creates a situation where they are granted immunity from prosecution. That power currently only resides with the District or County Attorney. Once again, this creates an avenue for having cannabis doctors who will abuse the system, just as we saw with pill doctors abusing opioids.

By reviewing the legislation, you see a large bureaucratic complex will be established to monitor these programs. More government and more costs are not mentioned by the proponents. You heard the testimony of Mr. Surber and the difficulties they are having in administrating these type of programs and the cost to the State of Oklahoma.

There is nothing in SB 135 that prevents the straw-man purchasers who will act on behalf of big business and the cartels. It is the same formula they used in Oklahoma with horrible consequences for their State. We are giving the cartels an open door to conduct their black-market business of selling drugs in the state of Kansas.

The bill also provides in Section 18 that medical professionals who prescribe cannabis to patients are immune from civil and criminal liability and disciplinary action. Once again proponents are making a substantial exception to established standards of law. If they are so confident that cannabis' can aid patients, with their listed medical conditions, why would you provide these types of absolute protections? It's because they know there are extreme risks with this type of treatment. There are no clinical studies to substantiate their claims. In fact, the evidence shows to the contrary and there is a high likelihood of its negative impact on Kansans.

Section 46 permits financial institutions to work with the growers and distributors of cannabis without being prosecuted under Kansas law. It is meaningless, since if they provide assistance, it will be in violation of Federal law.

The potency levels permitted under Section 30 fly in the face of medical communities' advice. Especially for children and adolescents. These potency levels do not include advisory

warnings about using machinery, including the operation of a motor vehicle. As seen in other states you will see an increase in driving while drugged, which will put others at risk. There are no established parameters for how much THC in your bloodstream equates to intoxication. This will also make it extremely difficult for law enforcement and prosecutors to prove intoxication and obtain impaired driving convictions.

Conclusion

The reason why this bill is 78 pages long is to create numerous exceptions to established laws and legal rulings in the state of Kansas. This includes important laws that protect Kansans such as, power of attorney, medical malpractice, licensing, child in need of care, financial institutions liability and criminal penalties. All the while establishing a substantial growth in government bureaucracy and the inevitable rise in the black-market marijuana sales. The proponents have not established a clear public benefit to medical marijuana or the outright legalization of this drug. What public need is so at risk that we need to pass this law? As a prosecutor I am used to dealing with and making decisions based on evidence and facts, not antidotal stories, or speculation. The overwhelming evidence has demonstrated that allowing for medical use or legalizing the use of marijuana is ill advised and contrary to the safety and health of the public. Those who are in the best position to know the effects of marijuana, the medical community, have come out strongly in opposition of passage of medical marijuana or legalization.

This is not about the public health, raising taxes or helping those in need. Let's be honest about what the proponents want. They want people to "get high" and a small number of people get rich, which will include the drug cartels. I would instead ask you to follow the evidence and do the right thing for the people of the State of Kansas and oppose passage of medical marijuana and legalization legislation efforts.

I thank you for your time and would be happy to answer any questions you may have regarding this important public safety and health issue.

Sincerely,



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