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Testimony to the House Judiciary Committee
In Opposition to HB2244
March 12, 2019

Chairman Patton and Committee members:

While we empathize with the parents who are seeking relief for their children, our associations are opposed to the provisions in HB2244 for multiple reasons.

CBD Oils with levels with THC as described in this bill are illegal under federal law. We encourage the committee to not take our drug laws down this path. We should not forget the dilemma a law passed several years ago placed some of our southeast Kansas citizens in when they engaged in acts the legislature deemed lawful, which were unlawful under federal law. In that case, Kansas citizens acted under the state law only to find themselves being prosecuted, convicted, and sentenced for the federal law violation. Convictions that were upheld in federal appeals. Since CBD products as described in this bill are clearly in violation of federal law, we could be setting up Kansans for this same fate.

We believe there are too many flaws in this bill indicating it has not been well thought out. This concerns us because it indicates a likelihood of unintended consequences not yet identified.

We believe the provisions of subsection (b)(2) are too broad. This definition includes any “chronic or debilitating disease or medical condition”. It is not limited to only those conditions producing seizures, but such seizure conditions are merely included as one type of chronic or debilitating disease. Related to this concern is a lack of anything in the bill to require any relationship of the THC containing treatment product to the “chronic or debilitating disease or condition” it is being used for. There is no requirement for a physician to prescribe or recommend it and requirement for any scientific study supporting its use for the specific diagnosed condition. Several years ago, when nonprescription CBD oils were being proposed for seizure diseases, there were several studies that many children suffering seizures were negatively affected when using CBD oils. Under clinical study they actually became worse with the use of these products. Another thing consistently found in studies is the importance of a high ratio of CBD to THC content for the benefits of the CBD to be effective. The more THC in relationship to the CBD content the less effective the CBD treatment, the CBD is the only component of cannabis studies find have any benefit at all on seizures.

We are concerned with the provision in subsection (b)(2) on page 1, line 25 providing testing companies must use testing "according to agreed to requirements." Agreed to by who? Just the producer and the testing company? Where is the oversight to assure those agreed to requirements are appropriate?

We are very concerned with the provision in section 1, subsection (c) on page 1, line 28 and in section 2, subsection (d) on page 3, line 25, "arising out of a person's possession of any cannabidiol treatment preparation." We believe that is likely to create an affirmative defense of a more serious violation discovered while initially investigating the possession of these products. For example, we are assigned to investigate a complaint of someone providing a cannabis product to a child. We may find the product is being used under this new law, but we also discover during that investigation the possession of other drugs still prohibited by KSA 21-5706.

Another problem we will encounter is law enforcement will not be able to determine if the person has a "chronic or debilitating disease" under this new law. There is no provision for a written diagnosis from a physician, a written prescription or order for the use of THC containing oils from a physician, or the presentation of such documents to law enforcement investigating the possession of these drugs. There is no way we can confirm that the person has the conditions or is under a physician's care. Remember, the government must prove these conditions do not exist if a case outside of what is intended can be prosecuted. That will be nearly impossible to do. The result will be anyone without a qualifying "chronic or debilitating disease" will be able to use these products without fear of consequences.

We are headed down a slippery slope when we start deciding what treatments are effective and safe by legislation rather than scientific study and sufficient regulatory controls, including oversight of product safety. Provisions are in place to do these things the right way through existing regulatory oversight of prescription and nonprescription drugs.

It is our opinion the problems with this bill cannot be fixed in their entirety and urge you to not move this bill forward.

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