

IN THE ARKANSAS SUPREME COURT

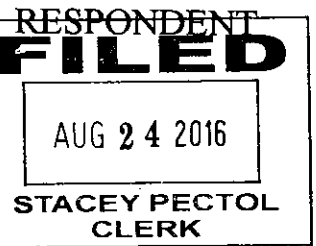
MELANIE CONWAY, M.D., Individually
And on Behalf of ARKANSANS AGAINST
LEGALIZED MARIJUANA

PETITIONERS

v.

No. CV-16-756

MARK MARTIN, SECRETARY OF STATE



ORIGINAL ACTION

ORIGINAL ACTION COMPLAINT

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FRIDAY, ELDREDGE & CLARK, LLP
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Little Rock, AR 72201
Telephone: (501) 276-2011
Facsimile: (501) 376-2147

Attorneys for Petitioners

IN THE ARKANSAS SUPREME COURT

MELANIE CONWAY, M.D., Individually
And on Behalf of ARKANSANS AGAINST
LEGALIZED MARIJUANA

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v.

No. CV-16-756

MARK MARTIN, SECRETARY OF STATE

RESPONDENT

ORIGINAL ACTION COMPLAINT

Come Petitioners, and for their Original Action Complaint pursuant to Article 5, § 1 of the Arkansas Constitution, as amended by Amendment 7 to the Arkansas Constitution (“Amendment 7”), state and allege as follows:

1. Petitioner Melanie Conway, M.D., is a resident and registered voter of the State of Arkansas and a member of Arkansans Against Legalized Marijuana. Petitioner Arkansans Against Legalized Marijuana is a ballot question committee as defined in Ark. Code Ann. § 7-9-402(2) (Supp. 2015).

2. An accurate copy of the Statement of Organization for Arkansans Against Legalized Marijuana as filed with the Arkansas Ethics Commission is attached hereto as Exhibit A and incorporated herein by reference.

3. Respondent is the duly elected, qualified, and acting Secretary of State of the State of Arkansas, a member of the State Board of Election Commissioners (“State Board”), and the Chair and Secretary of the State Board.

4. On August 14, 2014, the Attorney General of the State of Arkansas issued Opinion No. 2014-086, certifying the popular name and ballot title of a proposed initiative act with the popular name, “The Arkansas Medical Cannabis Act” (the “Act”).

5. An accurate copy of Opinion No. 2014-086, including the certified popular name and ballot title and the text of the proposed Act, is attached hereto as Exhibit B and incorporated herein by reference.

6. On June 20, 2016, the sponsors of the Act, acting on behalf of the ballot question committee, Arkansans for Compassionate Care, filed their initiative petition containing signatures of registered voters with Respondent.

7. An accurate copy of a page of the petition including the popular name, ballot title, and text of the Act is attached hereto as Exhibit C and incorporated herein by reference.

8. On July 7, 2016, Respondent declared that the initiative petition contained a sufficient number of signatures of registered voters and that the Act was entitled to appear on the November 8, 2016 general election ballot. Respondent announced that the Act would be identified on the general election ballot as “Ballot Issue No. 4.”

9. An accurate copy of Respondent’s certification of July 7, 2016 is attached hereto as Exhibit D and incorporated herein by reference.

10. This Court has jurisdiction of the parties and original and exclusive jurisdiction pursuant to Amendment 7 and Amendment 80, § 2(D)(4) to review the sufficiency of the initiative petition containing the Act.

Ballot Title Insufficiency

11. The ballot title fails to convey an intelligible idea of the scope and import of the proposed Act. It contains misleading statements, omits material information that is essential for a fair understanding of the Act, and is tinged with partisan coloring in the following respects:

(a) The ballot title falsely tells the voters that the Act limits the use of marijuana when in fact there is no limit on the amount of marijuana that patients may use legally.

(b) The ballot title falsely tells the voters that the number of “cannabis care centers” will be limited when in fact the number is potentially unlimited.

(c) The ballot title gives the false impression that all marijuana will be tested for quality, safety, and potency when in fact home-grown marijuana is not required to be tested and cannot be tested.

(d) The ballot title fails to tell the voters that the Act permits “cannabis care centers” to sell food and drink that contains marijuana.

(e) The ballot title is incomplete and misleading with regard to the effect of the Act on employers, landlords, churches, and schools.

(f) The ballot title uses partisan coloring in order to appeal to the compassionate and sympathetic instincts of the voters.

Prayer For Relief

12. Based on the foregoing, the proposed Act is not entitled to be initiated pursuant to Amendment 7 and should be removed from the general election ballot.

WHEREFORE, Petitioners pray (i) that this Court declare that the ballot title of the proposed Act is insufficient, (ii) that Respondent be enjoined from canvassing and certifying any ballots cast for the Act at the general election to be held on November 8, 2016, and (iii) that Petitioners be awarded their costs and all other just and proper relief.

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Facsimile: (501) 376-2147

By: 
Robert S. Shafer

Attorneys for Petitioners

Case Name: *Melanie Conway, M.D., et al. v. Mark Martin,
Secretary of State*
Docket Number: No. CV-16-_____
Title of Document: Original Action Complaint

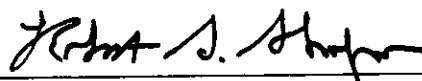
CERTIFICATE OF COMPLIANCE AND IDENTIFICATION OF PAPER
DOCUMENTS NOT IN PDF FORMAT

Certification: I hereby certify that:

I have submitted and served on opposing counsel (except for incarcerated pro se litigants) an unredacted and, if required, a redacted PDF document(s) that comply with the Rules of the Supreme Court and Court of Appeals. The PDF document(s) are identical to the corresponding parts of the paper document(s) from which they were created as filed with the court. To the best of my knowledge, information, and belief formed after scanning the PDF documents for viruses with an antivirus program, the PDF documents are free of computer viruses. A copy of this certificate has been submitted with the paper copies filed with the court and has been served on all opposing parties.

Identification of paper documents not in PDF format:

The following original paper documents are not in PDF format and are not included in the PDF document(s): None.



Signature of filing party

Robert S. Shafer

Friday, Eldredge & Clark, LLP

8/24/16
Date

**BALLOT QUESTION COMMITTEE (BQC)
STATEMENT OF ORGANIZATION**

To be filed with:
Arkansas Ethics Commission
Post Office Box 1917
Little Rock, AR 72203
Phone (501) 324-9600
Fax (501) 324-9606

(Arkansas Ethics Commission File Stamp)

FILED

AUG 22 2016

ARKANSAS ETHICS
COMMISSION

BY DIS

Check if this is an amendment to a previously filed statement of organization

Section One: BQC Name

Name of BQC (in full): Arkansans Against Legalized Marijuana

Section Two: BQC Address & Phone Number

If BQC has no office address, use the address of the BQC officer authorized to receive notices on behalf of the BQC.

Address: P.O. Box 3645

City: Little Rock State AR Zip 72203 Telephone Number 501-372-2222

Section Three: BQC Officers and Directors

Provide the name, title, address, and telephone number of the treasurer and other principal officers and directors of the BQC.

Name: Kenneth R. Hall Title: Treasurer

Address: P.O. Box 3645 City: Little Rock State: AR Zip: 72203

Telephone Number: 501-372-2222

Name: Stanley Hill Title: Director

Address: P.O. Box 31 City: Little Rock State: AR Zip: 72203

Telephone Number: 501-224-4400

Name: Kevin Russell Title: Director

Address: 301 Roya Lane, Suite 2A City: Bryant State: AR Zip: 72022

Telephone Number: 501-823-3626

Name: Jerry Cox Title: Director

Address: 414 S Pulaski St., Suite 2 City: Little Rock State: AR Zip: 72201

Telephone Number: 501-375-7000

EXHIBIT A

Name: Larry Page Title: Director
Address: P.O. Box 25112 City: Little Rock State: AR Zip: 72221
Telephone Number: 501-330-2853

Section Four: Financial Information

Provide the name and address of each financial institution in which the BQC deposits money or anything else of monetary value.

Name of Financial Institution: Bank of Little Rock
Address: 200 North State Street City: Little Rock State: AR Zip: 72201
Name of Financial Institution: _____
Address: _____ City: _____ State: _____ Zip: _____

Section Five: Members

Provide the name of each person who is a member of the committee. A person that is not an individual may be listed by its name without also listing its own members, if any.

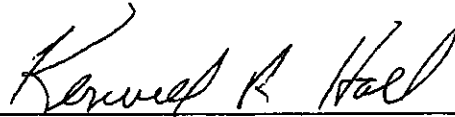
1. Arkansas State Chamber of Commerce/AIA
2. Arkansas Farm Bureau Federation
3. Coalition for Safer Arkansas Communities
4. Family Council Action Committee
5. Arkansas Committee for Ethics Policy
6. Dr. Melanie Conway
7. Toni Rose

Section Six: Brief Statement

Provide a brief statement identifying the substance of each ballot question as to which the BQC will expressly advocate the qualification, disqualification, passage, or defeat, and, if known, the date each ballot question shall be presented to a popular vote at an election.

Arkansans Against Legalized Marijuana will advocate the disqualification and defeat of the Arkansas Medical Cannabis Act and the Arkansas Medical Marijuana Amendment of 2016.

8-17-16
Date


Signature of BQC Officer



**STATE OF ARKANSAS
THE ATTORNEY GENERAL
DUSTIN MCDANIEL**

Opinion No. 2014-086

August 14, 2014

Melissa Fults, Campaign Director
Arkansans for Compassionate Care 2016
Post Office Box 420
Hensley, Arkansas 72065

Dear Mrs. Fults:

This is in response to your submission, on behalf of Arkansans for Compassionate Care, for certification of the popular name and ballot title for a proposed initiated act pursuant to A.C.A. § 7-9-107 (Repl. 2013). Several similar measures were rejected due to ambiguities in the text of the proposed acts. *See* Op. Att’y Gen. 2014-072, 2013-099, 2013-079, 2013-046, 2013-033, 2013-015, 2011-038 and 2011-023. This office certified two of your proposed measures in Op. Att’y Gen. 2013-118 and 2011-049. You have made changes to the text of the measure and resubmitted your previously proposed popular name and ballot title, as follows:

Popular Name

THE ARKANSAS MEDICAL CANNABIS ACT

Ballot Title

An act making the medical use of cannabis, commonly called marijuana, legal under Arkansas state law, but acknowledging that cannabis use, possession, and distribution for any purpose remain illegal under federal law; establishing a system for the cultivation and distribution of cannabis for qualifying patients through nonprofit cannabis care centers and for the testing for quality, safety and potency of cannabis through cannabis testing labs and granting those nonprofit cannabis care centers and cannabis testing labs limited

EXHIBIT B

immunity; allowing localities to limit the number of nonprofit cannabis care centers and to enact zoning regulations governing their operations; providing that qualifying patients, their designated caregivers, cannabis testing lab agents and nonprofit cannabis care center agents shall not be subject to criminal or civil penalties or other forms of discrimination for engaging in or assisting with the qualifying patients' medical use of cannabis or for testing and labeling cannabis; allowing limited cultivation of cannabis by qualifying patients and designated caregivers if the qualifying patient and his or her designated caregiver lacks access to a nonprofit cannabis care center and obtains a hardship cultivation certificate from the Department of Health; allowing compensation for designated caregivers; requiring that in order to become a qualifying patient, a person submit to the state a written certification from a physician that he or she is suffering from a qualifying medical condition; establishing an initial list of qualifying medical conditions; directing the Department of Health to establish rules related to the processing of applications for registry identification cards, hardship cultivation certificates, the operations of nonprofit cannabis care centers and cannabis testing labs, and the addition of qualifying medical conditions if such additions will enable patients to derive therapeutic benefit from the medical use of cannabis; setting maximum registration fees for nonprofit cannabis care centers; directing the Department of Health to establish a system to provide affordable cannabis from nonprofit cannabis care centers to low income patients; establishing qualifications for registry identification cards; establishing qualifications for hardship cultivation certificates; establishing standards to ensure that qualifying patient and designated caregiver registration information is treated as confidential; directing the Department of Health to provide the legislature annual quantitative reports about the Medical Cannabis Program; setting certain limitations on the use of medical cannabis by qualifying patients; establishing an affirmative defense for the medical use of cannabis; establishing registration and operation requirements for nonprofit cannabis care centers; setting limits on the number of nonprofit cannabis care centers; setting limits on the amount of cannabis a nonprofit cannabis care center

may cultivate and the amount of usable cannabis a nonprofit cannabis care center may dispense to qualifying patient; prohibiting certain conduct by and imposing certain conditions and requirements on physicians, nonprofit cannabis care centers, nonprofit cannabis care center agents, cannabis testing labs, cannabis testing lab agents, qualifying patients, and designated caregivers; prohibiting felons from serving as designated caregivers, owners, board members, or officers of nonprofit cannabis care centers, nonprofit cannabis care center agents, cannabis testing labs or cannabis testing lab agents; allowing visiting qualifying patients suffering from qualifying medical conditions to utilize the Arkansas Medical Cannabis Program; and directing the sales tax revenues received from the sale of cannabis to cover the costs to the Department of Health for administering the Medical Cannabis Program and the remainder to aid low income qualifying patients through the affordability clause.

The Attorney General is required, pursuant to A.C.A. § 7-9-107, to certify the popular name and ballot title of all proposed initiative and referendum acts or amendments before the petitions are circulated for signature. The law provides that the Attorney General may substitute and certify a more suitable and correct popular name and ballot title, if he can do so, or if the proposed popular name and ballot title are sufficiently misleading, may reject the entire petition. **Neither certification nor rejection of a popular name and ballot title reflects my view of the merits of the proposal. This Office has been given no authority to consider the merits of any measure.**

In this regard, A.C.A. § 7-9-107 neither requires nor authorizes this office to make legal determinations concerning the merits of the act or amendment, or concerning the likelihood that it will accomplish its stated objective. In addition, consistent with Arkansas Supreme Court precedent, unless the measure is “clearly contrary to law,”¹ this office will not require that a measure’s proponents acknowledge in the ballot title any possible constitutional infirmities. As part of my review, however, I may address constitutional concerns for consideration by the measure’s proponents.

¹ See *Kurrus v. Priest*, 342 Ark. 434, 445, 29 S.W.3d 669, 675 (2000); *Donovan v. Priest*, 326 Ark. 353, 359, 931 S.W.2d 119, 121 (1996); *Plugge v. McCuen*, 310 Ark. 654, 841 S.W.2d 139 (1992).

Consequently, this review has been limited primarily to a determination, pursuant to the guidelines that have been set forth by the Arkansas Supreme Court, discussed below, of whether the popular name and ballot title you have submitted accurately and impartially summarize the provisions of your proposed amendment.

The purpose of my review and certification is to ensure that the popular name and ballot title honestly, intelligibly, and fairly set forth the purpose of the proposed amendment or act.²

The popular name is primarily a useful legislative device.³ It need not contain detailed information or include exceptions that might be required of a ballot title, but it must not be misleading or give partisan coloring to the merit of the proposal.⁴ The popular name is to be considered together with the ballot title in determining the ballot title's sufficiency.⁵

The ballot title must include an impartial summary of the proposed amendment or act that will give the voter a fair understanding of the issues presented.⁶ According to the court, if information omitted from the ballot title is an "essential fact which would give the voter serious ground for reflection, it must be disclosed."⁷ At the same time, however, a ballot title must be brief and concise (*see* A.C.A. § 7-9-107(b)); otherwise voters could run afoul of A.C.A. § 7-5-522's five minute limit in voting booths when other voters are waiting in line.⁸ The ballot title is not required to be perfect, nor is it reasonable to expect the title to cover or anticipate

² *See Arkansas Women's Political Caucus v. Riviere*, 283 Ark. 463, 466, 677 S.W.2d 846 (1984).

³ *Pafford v. Hall*, 217 Ark. 734, 739, 233 S.W.2d 72, 75 (1950).

⁴ *E.g., Chaney v. Bryant*, 259 Ark. 294, 297, 532 S.W.2d 741, 743 (1976); *Moore v. Hall*, 229 Ark. 411, 316 S.W.2d 207 (1958).

⁵ *May v. Daniels*, 359 Ark. 100, 105, 194 S.W.3d 771, 776 (2004).

⁶ *Becker v. Riviere*, 270 Ark. 219, 226, 604 S.W.2d 555, 558 (1980).

⁷ *Bailey v. McCuen*, 318 Ark. 277, 285, 884 S.W.2d 938, 942 (1994).

⁸ *Id.* at 288, 884 S.W.2d at 944.

every possible legal argument the proposed measure might evoke.⁹ The title, however, must be free from any misleading tendency, whether by amplification, omission, or fallacy; it must not be tinged with partisan coloring.¹⁰ The ballot title must be honest and impartial,¹¹ and it must convey an intelligible idea of the scope and significance of a proposed change in the law.¹²

Furthermore, the Court has confirmed that a proposed amendment cannot be approved if “[t]he text of the proposed amendment itself contribute[s] to the confusion and disconnect between the language in the popular name and the ballot title and the language in the proposed measure.”¹³ The Court concluded that “internal inconsistencies would inevitably lead to confusion in drafting a popular name and ballot title and to confusion in the ballot title itself.”¹⁴ Where the effects of a proposed measure on current law are unclear or ambiguous, it is impossible for me to perform my statutory duty to the satisfaction of the Arkansas Supreme Court without clarification of the ambiguities.

Applying the above precepts, it is my conclusion that the popular name of your proposal is adequate but that a more suitable, complete, and correct ballot title should be substituted for that proposed. The following ballot title is hereby certified in order to ensure that, when construed together, the popular name and ballot title accurately set forth the purpose of the proposed amendment:

Ballot Title

An act making the medical use of cannabis, commonly called marijuana, legal under Arkansas state law, but acknowledging that

⁹ *Id.* 293, 884 S.W.2d at 946–47.

¹⁰ *Id.* at 284, 884 S.W.2d at 942.

¹¹ *Becker v. McCuen*, 303 Ark. 482, 489, 798 S.W.2d 71, 74 (1990).

¹² *Christian Civic Action Committee v. McCuen*, 318 Ark. 241, 245, 884 S.W.2d 605, 607 (1994) (internal quotations omitted).

¹³ *Roberts v. Priest*, 341 Ark. 813, 825, 20 S.W.3d 376, 383 (2000).

¹⁴ *Id.*

cannabis use, possession, and distribution for any purpose remain illegal under federal law; establishing a system for the cultivation and distribution of cannabis for qualifying patients through nonprofit cannabis care centers and for the testing for quality, safety, and potency of cannabis through cannabis testing labs; granting nonprofit cannabis care centers and cannabis testing labs limited immunity; allowing localities to limit the number of nonprofit cannabis care centers and to enact zoning regulations governing their operations; providing that qualifying patients, their designated caregivers, cannabis testing lab agents, and nonprofit cannabis care center agents shall not be subject to criminal or civil penalties or other forms of discrimination for engaging in or assisting with qualifying patients' medical use of cannabis or for testing and labeling cannabis; allowing limited cultivation of cannabis by qualifying patients and designated caregivers if the qualifying patient lives more than twenty (20) miles from a nonprofit cannabis care center and obtains a hardship cultivation certificate from the Department of Health; allowing compensation for designated caregivers; requiring that in order to become a qualifying patient, a person submit to the state a written certification from a physician that he or she is suffering from a qualifying medical condition; establishing an initial list of qualifying medical conditions; directing the Department of Health to establish rules related to the processing of applications for registry identification cards and hardship cultivation certificates, the operations of nonprofit cannabis care centers and cannabis testing labs, and the addition of qualifying medical conditions if such additions will enable patients to derive therapeutic benefit from the medical use of cannabis; setting maximum application and renewal fees for nonprofit cannabis care centers and cannabis testing labs; directing the Department of Health to establish a system to provide affordable cannabis from nonprofit cannabis care centers to low income patients; establishing qualifications for registry identification cards; establishing qualifications for hardship cultivation certificates; establishing standards to ensure that qualifying patient and designated caregiver registration information is treated as confidential; directing the Department of Health to provide the legislature annual quantitative

reports about the medical cannabis program; setting certain limitations on the use of medical cannabis by qualifying patients; establishing an affirmative defense for the medical use of cannabis; establishing registration and operation requirements for nonprofit cannabis care centers and cannabis testing labs; setting limits on the number of nonprofit cannabis care centers; setting limits on the amount of cannabis a nonprofit cannabis care center may cultivate and the amount of usable cannabis a nonprofit cannabis care center may dispense to a qualifying patient; prohibiting certain conduct by and imposing certain conditions and requirements on physicians, nonprofit cannabis care centers, nonprofit cannabis care center agents, cannabis testing labs, cannabis testing lab agents, qualifying patients, and designated caregivers; prohibiting felons from serving as designated caregivers, owners, board members, or officers of nonprofit cannabis care centers or cannabis testing labs, nonprofit cannabis care center agents, or cannabis testing lab agents; allowing visiting qualifying patients suffering from qualifying medical conditions to utilize the medical cannabis program; and prohibiting special taxes on the sale of medical cannabis and directing the state sales tax revenues received from the sale of cannabis to cover the costs to the Department of Health for administering the medical cannabis program and the remainder to aid low income qualifying patients through the affordability clause.

In my view, the purpose of your proposed measure is sufficiently stated in the above revised ballot title to satisfy this office's mandate under A.C.A. § 7-9-107. I believe a cautionary note is warranted, however, due to the significance of the subject matter undertaken and the complexity and far-reaching effects of the proposal. You should be aware that according to my experience there is a direct correlation between the length and complexity of initiated acts and their susceptibility to a successful ballot title challenge. Any ambiguity in the text of a measure could lead to a successful challenge. That is why I urge you, if you have not already done so, to consult private counsel in order to be assured that the stated purpose is accomplished by the text of your proposal.

Pursuant to A.C.A. § 7-9-108, instructions to canvassers and signers must precede every petition, informing them of the privileges granted by the Constitution and of

Melissa Fults, Campaign Director
Arkansans for Compassionate Care 2016
Opinion No. 2014-086
Page 8

the penalties imposed for violations of this act. Enclosed herewith, over the signature of the Attorney General, are instructions that should be incorporated in your petition prior to circulation.

Sincerely,

A handwritten signature in black ink, appearing to read "Dustin McDaniel". The signature is fluid and cursive, written over a white background.

DUSTIN MCDANIEL
Attorney General

DM/cyh

Enclosures

INSTRUCTIONS TO CANVASSERS AND SIGNERS

1. Amendment No. 7 to the Arkansas Constitution gives to the people of the State of Arkansas the power to propose legislation or constitutional amendments by initiative petition, and to order the referendum against any general act or any item of an appropriation bill, or measure passed by the General Assembly. The petition must be signed by eight percent (8%) of the legal voters in the case of proposed legislation, ten percent (10%) in the case of proposed constitutional amendments, and six percent (6%) in the case of a referendum. The proposed legislation or constitutional amendment must be submitted to the registered voters of the State at a regular election; referendum petitions may be referred to the people at special elections when fifteen percent (15%) of the registered voters petition for such special election. Any measure submitted to the people shall take effect and become a law when approved by a majority of the votes cast upon such measure.

2. Only registered voters may sign. Printed names, dates of birth, residences, cities or towns of residences, and date of signing must be given as an aid to verification. The petition should contain only the signatures of voters residing in a single county.

3. All signatures must be in the signers' own handwriting in the presence of the persons circulating the petition. If a petition signer requires assistance due to disability, another person may provide the signer's information and that person shall sign and print their name in the margin of the petition.

4. Do not attach additional sheets to this petition unless such sheets contain the full language of the petition. Place as many names as possible on each petition. No additional signatures may be obtained after a petition has been filed until the Secretary of State determines the sufficiency of the petition.

5. TO KNOWINGLY SIGN ANY NAME OTHER THAN YOUR OWN, TO KNOWINGLY SIGN YOUR NAME MORE THAN ONCE TO ANY PETITION, TO KNOWINGLY SIGN YOUR NAME WHEN YOU ARE NOT LEGALLY ENTITLED TO SIGN IT, TO KNOWINGLY PAY A PERSON ANY FORM OF COMPENSATION IN EXCHANGE FOR SIGNING A PETITION AS A PETITIONER, TO ACCEPT MONEY FOR OBTAINING SIGNATURES KNOWING THAT YOU ARE NOT INCLUDED ON THE SPONSOR'S LIST OF PAID CANVASSERS ON FILE WITH THE SECRETARY OF STATE, TO KNOWINGLY AND FALSELY MISREPRESENT THE PURPOSE AND EFFECT OF THIS PETITION FOR THE PURPOSE OF CAUSING ANYONE TO SIGN IT, OR TO KNOWINGLY MAKE A FALSE STATEMENT ON A PETITION VERIFICATION FORM SHALL CONSTITUTE A CLASS "A" MISDEMEANOR AND SUBJECT THE OFFENDER TO A FINE OF UP TO \$1,000.00 AND IMPRISONMENT FOR UP TO ONE (1) YEAR.

The Attorney General is by law required to certify the sufficiency of the popular name and ballot title of all initiative or referendum petitions. This certification does not necessarily indicate the approval or disapproval of the contents thereof.



DUSTIN McDANIEL
Attorney General of the State of Arkansas

(POPULAR NAME)

THE ARKANSAS MEDICAL CANNABIS ACT

(BALLOT TITLE)

AN ACT MAKING THE MEDICAL USE OF CANNABIS, COMMONLY CALLED MARIJUANA, LEGAL UNDER ARKANSAS STATE LAW, BUT ACKNOWLEDGING THAT CANNABIS USE, POSSESSION, AND DISTRIBUTION FOR ANY PURPOSE REMAIN ILLEGAL UNDER FEDERAL LAW; ESTABLISHING A SYSTEM FOR THE CULTIVATION AND DISTRIBUTION OF CANNABIS FOR QUALIFYING PATIENTS THROUGH NONPROFIT CANNABIS CARE CENTERS AND FOR THE TESTING FOR QUALITY, SAFETY AND POTENCY OF CANNABIS THROUGH CANNABIS TESTING LABS AND GRANTING THOSE NONPROFIT CANNABIS CARE CENTERS AND CANNABIS TESTING LABS LIMITED IMMUNITY; ALLOWING LOCALITIES TO LIMIT THE NUMBER OF NONPROFIT CANNABIS CARE CENTERS AND TO ENACT ZONING REGULATIONS GOVERNING THEIR OPERATIONS; PROVIDING THAT QUALIFYING PATIENTS, THEIR DESIGNATED CAREGIVERS, CANNABIS TESTING LAB AGENTS AND NONPROFIT CANNABIS CARE CENTER AGENTS SHALL NOT BE SUBJECT TO CRIMINAL OR CIVIL PENALTIES OR OTHER FORMS OF DISCRIMINATION FOR ENGAGING IN OR ASSISTING WITH THE QUALIFYING PATIENTS' MEDICAL USE OF CANNABIS OR FOR TESTING AND LABELING CANNABIS; ALLOWING LIMITED CULTIVATION OF CANNABIS BY QUALIFYING PATIENTS AND DESIGNATED CAREGIVERS IF THE QUALIFYING PATIENT AND HIS OR HER DESIGNATED CAREGIVER LACKS ACCESS TO A NONPROFIT CANNABIS CARE CENTER AND OBTAINS A HARDSHIP CULTIVATION CERTIFICATE FROM THE DEPARTMENT OF HEALTH; ALLOWING COMPENSATION FOR DESIGNATED CAREGIVERS; REQUIRING THAT IN ORDER TO BECOME A QUALIFYING PATIENT, A PERSON SUBMIT TO THE STATE A WRITTEN CERTIFICATION FROM A PHYSICIAN THAT HE OR SHE IS SUFFERING FROM A QUALIFYING MEDICAL CONDITION; ESTABLISHING AN INITIAL LIST OF QUALIFYING MEDICAL CONDITIONS; DIRECTING THE DEPARTMENT OF HEALTH TO ESTABLISH RULES RELATED TO THE PROCESSING OF APPLICATIONS FOR REGISTRY IDENTIFICATION CARDS, HARDSHIP CULTIVATION CERTIFICATES, THE OPERATIONS OF NONPROFIT CANNABIS CARE CENTERS AND CANNABIS TESTING LABS, AND THE ADDITION OF QUALIFYING MEDICAL CONDITIONS IF SUCH ADDITIONS WILL ENABLE PATIENTS TO DERIVE THERAPEUTIC BENEFIT FROM THE MEDICAL USE OF CANNABIS; SETTING MAXIMUM REGISTRATION FEES FOR NONPROFIT CANNABIS CARE CENTERS; DIRECTING THE DEPARTMENT OF HEALTH TO ESTABLISH A SYSTEM TO PROVIDE AFFORDABLE CANNABIS FROM NONPROFIT CANNABIS CARE CENTERS TO LOW INCOME PATIENTS; ESTABLISHING QUALIFICATIONS FOR REGISTRY IDENTIFICATION CARDS; ESTABLISHING QUALIFICATIONS FOR HARDSHIP CULTIVATION CERTIFICATES; ESTABLISHING STANDARDS TO ENSURE THAT QUALIFYING PATIENT AND DESIGNATED CAREGIVER REGISTRATION INFORMATION IS TREATED AS CONFIDENTIAL; DIRECTING THE DEPARTMENT OF HEALTH TO PROVIDE THE LEGISLATURE ANNUAL QUANTITATIVE REPORTS ABOUT THE MEDICAL CANNABIS PROGRAM; SETTING CERTAIN LIMITATIONS ON THE USE OF MEDICAL CANNABIS BY QUALIFYING PATIENTS; ESTABLISHING AN AFFIRMATIVE DEFENSE FOR THE MEDICAL USE OF CANNABIS; ESTABLISHING REGISTRATION AND OPERATION REQUIREMENTS FOR NONPROFIT CANNABIS CARE CENTERS; SETTING LIMITS ON THE NUMBER OF NONPROFIT CANNABIS CARE CENTERS; SETTING LIMITS ON THE AMOUNT OF CANNABIS A NONPROFIT CANNABIS CARE CENTER MAY CULTIVATE AND THE AMOUNT OF USABLE CANNABIS A NONPROFIT CANNABIS CARE CENTER MAY DISPENSE TO A QUALIFYING PATIENT; PROHIBITING CERTAIN CONDUCT BY AND IMPOSING CERTAIN CONDITIONS AND REQUIREMENTS ON PHYSICIANS, NONPROFIT CANNABIS CARE CENTERS, NONPROFIT CANNABIS CARE CENTER AGENTS, CANNABIS TESTING LABS, CANNABIS TESTING LAB AGENTS, QUALIFYING PATIENTS, AND DESIGNATED CAREGIVERS; PROHIBITING FELONS FROM SERVING AS DESIGNATED CAREGIVERS, OWNERS, BOARD MEMBERS, OR OFFICERS OF

NONPROFIT CANNABIS CARE CENTERS, NONPROFIT CANNABIS CARE CENTER AGENTS, CANNABIS TESTING LABS OR CANNABIS TESTING LAB AGENTS; ALLOWING VISITING QUALIFYING PATIENTS SUFFERING FROM QUALIFYING MEDICAL CONDITIONS TO UTILIZE THE ARKANSAS MEDICAL CANNABIS PROGRAM; AND DIRECTING THE SALES TAX REVENUES RECEIVED FROM THE SALE OF CANNABIS TO COVER THE COSTS TO THE DEPARTMENT OF HEALTH FOR ADMINISTERING THE MEDICAL CANNABIS PROGRAM AND THE REMAINDER TO AID LOW INCOME QUALIFYING PATIENTS THROUGH THE AFFORDABILITY CLAUSE.

"An Act to Establish the Arkansas Medical Cannabis Act."

Be it enacted by the People of the State of Arkansas as follows:

Amending Arkansas Code Title 20 to add an additional chapter to read: Chapter 65 - Medical Cannabis

Subchapter 1 – Arkansas Medical Cannabis Act

SECTION 101. Short title.

This chapter shall be known and cited as "The Arkansas Medical Cannabis Act" (hereinafter "Act").

SECTION 102. Definitions. As used in this chapter, unless the context otherwise requires:

(a) "Assist" or "Assisting" means helping a Qualifying Patient make such Medical Use of Cannabis by enabling such medical use by any means herein authorized.

(b) "Cannabis" commonly known as marijuana, means any part and any variety or species, or both, of the cannabis plant that contains tetrahydrocannabinol (THC) whether growing or not, the seeds of the plant, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. "Cannabis" does not include the mature stalks of the plant, fiber produced from the stalks, fiber, oil, or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted from the mature stalks), nor the sterilized seed of the plant that is incapable of germination.

(c) "Cannabis Testing Lab" means a facility where Cannabis is tested to insure safety, potency and quality of the product.

(d) "Cannabis Testing Lab Agent" means an employee, supervisor, owner, or agent of a Cannabis Testing Lab who:

(1) is twenty-one (21) years of age or older;

(2) Works at the Cannabis Testing Lab; and

(3) Has registered with The Department pursuant to section 111.

(e) "Cardholder" means a Qualifying Patient, a Designated Caregiver, Cannabis Testing Lab Agent or a Nonprofit Cannabis Care Center Agent.

(f) "Designated Caregiver" means a person who is at least twenty-one (21) years of age who has agreed to Assist with a Qualifying Patient's Medical Use of Cannabis, including acquiring Usable Cannabis from a Nonprofit Cannabis Care Center and delivering it to the Qualifying Patient, and who has registered with The Department pursuant to subsection

105(d). A Designated Caregiver may serve as a Designated Caregiver for no more than five (5) Qualifying Patients at a time. A person who has been found guilty or pleaded guilty or *nolo contendere* in a criminal proceeding, regardless of whether or not the adjudication of guilt or sentence is withheld by a court of this state, another state, or the federal government for any felony, shall not be a Designated Caregiver.

(g) "Enclosed, Locked Facility" means a closet, room, greenhouse or other enclosed area equipped with locks or other security devices that permit access only by a Cardholder.

(h) "Hardship Cultivation Certificate" means a document issued by The Department that identifies a location at the primary residence of a Qualifying Patient or Designated Caregiver that is approved for the Qualifying Patient or Designated Caregiver to cultivate Cannabis for the Qualifying Patient's Medical Use based on documentation of the Qualifying Patient's lack of access to a Nonprofit Cannabis Care Center. A person who has been found guilty or pleaded guilty or *nolo contendere* in a criminal proceeding, regardless of whether or not the adjudication of guilt or sentence is withheld by a court of this state, another state, or the federal government for any felony, shall not be permitted to obtain a Hardship Cultivation Certificate.

(i) "Medical Use" means the acquisition, possession, preparation, use, delivery, transfer or transportation of Cannabis or paraphernalia relating to the administration of Cannabis to treat or alleviate a Qualifying Patient's Qualifying Medical Condition or symptoms associated with the Qualifying Patient's Qualifying Medical Condition.

(j) "Nonprofit Cannabis Care Center" means a not-for-profit entity that has registered with The Department pursuant to section 109, and performs any combination of the activities therein described.

(k) "Nonprofit Cannabis Care Center Agent" means an employee, supervisor, volunteer, owner, or agent of a Nonprofit Cannabis Care Center who:

- (1) Is twenty-one (21) years of age or older;
- (2) Works at the Nonprofit Cannabis Care Center; and
- (3) Has registered with The Department pursuant to section 109.

(l) "Physician" means a doctor of medicine who holds a valid and existing license to practice medicine pursuant to Arkansas Code Title 17, Chapter 95 or its successor; or a doctor of osteopathic medicine who holds a valid and existing license pursuant to Arkansas Code Title 17, Chapter 91 or its successor, and has been issued a registration from the United States Drug Enforcement Administration to prescribe controlled substances.

(m) "Qualifying Medical Condition" means one (1) or more of the following:

(1) Adiposis Dolorosa (Dercum's Disease); Alzheimer's Disease or the agitation thereof; Amyotrophic Lateral Sclerosis (ALS); Anorexia; Arnold-Chiari Malformation; Arthritis; Asthma; Attention Deficit Disorder/Attention Deficit Hyperactivity Disorder (ADD/ADHD); Autism; Bipolar Disorder; Bulimia; Cancer; Causalgia; Chronic Inflammatory Demyelinating Polyneuropathy (CIDP); Chronic Insomnia; Chronic Obstructive Pulmonary Disease (COPD); Complex regional pain syndrome (CRPS)—Types I and II; Crohn's Disease; Dystonia; Emphysema; Fibrous Dysplasia; Fibromyalgia; General Anxiety Disorder; Glaucoma; Hepatitis C; Positive Status for Human Immunodeficiency Virus and/or Acquired Immune Deficiency Syndrome (HIV/AIDS); Hydrocephalus; Hydromyelia; Interstitial Cystitis; Lupus; Migraines; Myasthenia Gravis; Myoclonus; Nail-Patella Syndrome; Neurofibromatosis; Parkinson's Disease; Posterior Lateral Sclerosis(PLS); Post-Concussion Syndrome; Post Traumatic Stress Disorder (PTSD); Reflex Sympathetic Dystrophy (RSD); Residual Limb and Phantom Pain; Restless Leg Syndrome (RLS); Sjogren's Syndrome;