19.0483.01000

FISCAL NOTE

Requested by Legislative Council
01/05/2019

Bill/Resolution No.: SB 2134

1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2017-2019 Biennium		2019-2021 Biennium		2021-2023 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2017-2019 Biennium	2019-2021 Biennium	2021-2023 Biennium
Counties			
Cities			
School Districts			
Townships			

2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

The bill allows a registered qualifying patient to cultivate their own marijuana plants, eliminates the requirement for a health care provider to authorize the use of dried leaves or flowers, and allows certain facilities to adopt reasonable restrictions on the cultivation of marijuana.

B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

The bill would require changes to the information technology system, however, the Department feels the cost of these changes would be minimal.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

The Department believes the increase in the qualifying patient population would have a minimal impact on projected revenue amounts (non-refundable $50 application fee that is deposited into a special fund).

B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

The Department believes the cost to complete necessary coding changes to the information system would be minimal.

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

Name: Brenda M. Weisz

Agency: Department of Health

Telephone: 7013284542

Date Prepared: 01/09/2019

2019 SENATE JUDICIARY COMMITTEE

SB 2134

2019 SENATE STANDING COMMITTEE MINUTES

Judiciary Committee
Fort Lincoln Room, State Capitol

SB 2134
1/16/2019
#30893 (1:17:35)

☐ Subcommittee
☐ Conference Committee

Committee Clerk: Meghan Pegel

Explanation or reason for introduction of bill/resolution:

A BILL for an Act to create and enact a new section to chapter 19-24.1 of the North Dakota Century Code, relating to cultivation of medical marijuana; and to amend and reenact sections 19-24.1-01, 19-24.1-03, 19-24.1-11, 19-24.1-32, and 19-24.1-35 of the North Dakota Century Code, relating to purchase and cultivation of medical marijuana.

Minutes: 5 Attachments

Chair Larson opens the hearing on SB 2143.

Oley Larsen, District 3 Senator, testifies in favor of the bill

Senator O. Larsen: The intention and history of this bill- we had medical marijuana passing the ballot and brought forward to the legislative body. We had a vote of the body to make it more favorable for legal reasons. We knew there would be hiccups along the way. At the passing of legislation in the Senate, there was a part in which smoking was available in the bill. I was always reluctant about that, but when it was offered I was open to allowing smoking, but it had to have a fingerprint on it. Currently we can have this product and it can have a fingerprint. You have to have your registration card and go to the dispensary to pick it up. If someone needs to look at it, you could open that package and see that it is medical marijuana. Right now when that piece of packaging is opened, you cannot tell if that is recreational, medical, hemp, etc. You can't tell what it is by just looking at it; it has to be inspected with more than just the eye. I want to put forward a floor amendment to just let the people grow that have the symptoms that the bill allowed. That's basically what the bill is. It is the same as the floor amendment that was issued. I know that the therapy being used that this legislation speaks of is effective. It is one thing they can do. My real concern is the price of the product. Last session when it was going through, I remember that doing this therapy was very expensive and not covered by insurance. I felt that if someone wants to grow their own medical marijuana on their own, that should be okay.

(5:30) Senator Luick: Does this bill allow smoking marijuana?
Senator O. Larsen: The only people who could are the people who have gotten the card and have gone to the physician to say they have those conditions. I believe there is other legislation floating around because it's problematic for folks to have the physician sign off,

but that's another rabbit hole. But yes, if I have my card and I have the condition, I have the ability to grow the 9 plants.

Senator Bakke: Page 7 line 3 you've crossed out "A health care provider may authorize". Why did you eliminate that directive from the health care provider as to what part of the plant is used?
Senator O. Larsen: If that's struck from the language, it's not my intention. Perhaps it's in a different part to make it flower better.

Senator Myrdal: Why 9 plants?
Senator O. Larsen: That followed the line of the original intent of the bill. That's a lot, and it's up to the committee what they would want to do with that. In the language, it also says you can only have 3 ounces dried material. There's some massaging that the committee can do with that. People interested in it are open to that. I think the main thing is the cost savings. I can think of someone with pancreatic cancer. They do not have $8,000 to put out for this therapy, so if they can grow a couple of plants instead, they should be able to.

Vice Chairman Dwyer: So there's two purposes- the growing and then the use of dried leaves without having to have the authorization of a healthcare provider?
Senator O. Larsen: You can't grow without the card and you still need the relationship with the health care provider. That legislation should not change that. The physician needs to confirm that the person has one of the 14 conditions. I don't necessarily think we should increase those 14 conditions either

(12:10) Steven James Peterson, Compassionate Care of ND, testifies in favor of the bill (see attachment #1)

(15:45) Senator Bakke: Do you know why "health care provider may authorize" is taken out?
Peterson: I was not involved with the Senator for that drafting. There's a lot of wet product availability for cancer patients. What we saw in California, Colorado and other states is that you would have patients juice the raw plant. So they would be clipping from the raw plant while it's still growing and put it into a cold press juice extractor. The reason for the cold press is that they don't want to activate the THCA into a THC. They don't want the psychoactive effect. It's not all about the dried material. The wet material is actually my primary concern when we're talking about patient growth, so they can do the cold press juicing at home should they choose.

In regards to the 9 plants, the way my committee sees that is that allows for seedlings and clones that are immature. They're not able to be used for medicinal aspect when they're in the vegetative state. You can have 3 clones or seedlings, 3 vegetative state plants. Those are non-harvestable at that time. Then you have 3 flowering plants. To get to that flowering period takes a minimum of 3 months up to 6 months up to 9 months depending on the variation of the plant that you have. It's our estimation that there are 75,000 patients here in the state.

(18:50) Dustin Peyer, ND Cannabis Caucus, testifies in favor (see attachment #2)
Peyer: The only issue is at the end, page 13 line 13 and 14, it says a "a registered designated caregiver may not cultivate a plant of the genus cannabis for use by another registered qualifying patient". I believe there will be people not able to grow their own medicine and they should be able to select a designated caregiver for them. That falls in line with the 1,000-foot rule of the schools. They're going to need people to grow for them as well. I'm in full support of this. By only allowing 9 dispensaries and 2 grow houses, we've basically created a monopoly and until we have a true, free market, it's going to be pretty expensive.

(21:10) John Bailey, Compassionate Care of ND member, testifies in favor of the bill

Bailey: I have a few problems with this bill, but I think they're all workable. We would like to see the limits increased for the patients. Some of the storage methods such as freezing them before they're processed, may or may not be a good idea depending on the intention of the use of the crop. It's like a vegetable- some things you can freeze before you process it, other things you can't.

Page 2 line 9-21 concerning the bona fide patient relationship, there's better language out there and in process now. There's an easier, cleaner way to satisfy that relationship. It's currently in a House Bill.

Page 4 line 12- there are a few things here we need to work on. Number one would be Arthritis, Rheumatoid Osteoarthritis, Retinitis Pigmentosa, Autism and Ehlers-Danlos Syndrome. The numbers are few, but I assure you those patients are just as important.

Page 5 line 14 talks about the dried leaves and flowers of the plant genus cannabis by itself. This is concerning medical cannabinoid products. This would be different than medical marijuana. I believe they're limited to 6% THC content.

Senator Luick: 6% I believe that is for pediatric care.
Bailey: Correct. I apologize.

Bailey: Page 6 line 29 to page 7 line 6 addresses the doctor's written opinion and certification. Once again there is other language in other bills that simplify this much more.

Page 7 line 24-26 again deals with the doctor patient relationship. The condition is justification. The conditions that are on the approved list and we're asking to be added are not simple conditions that will be healed and go away in a few days. You're asking for the doctor to put a professional opinion on a federally scheduled 1 medicine. There is a big problem with doctors doing that. You're asking them to take too much responsibility with none of the authority. Line 27-31 we think that should be removed.

Page 8 lines 16-19 concerns the Department of Health having access to the medical records. Many of us feel this is a HIPPA violation. The DOH has no responsibility in those records and therefor they have no authority to ask for those records; that should be between the patient and doctor.

Page 9 line 24-26 again with the healthcare provider and a written certification. We don't have a problem with that per say but again the conditions that it takes to qualify for this are not easily ramified. They are long-lasting and in several cases life-ending conditions. The expiration or the issuance of a card for less than one year- the only times I can see an application for that is in experimental practice.

Page 13 line 8 with the 1000-foot restriction- None of us want unauthorized children that don't need this type of medicine to have it. We are responsible and were once productive.

The 1000-foot limitation would remove the ability to self-grow for a greater number of patients than it would allow. Elsewhere in this language, simply to qualify for the card, you are to register quite a bit of personal information. You are also to notify the police department before you attempt to grow and is to be kept in a locked facility. Line 14 I'm asking for clarification. If they are a caregiver, then they are a caregiver of a qualifying patient. Does that mean they can't take another qualified patient and grow for them or that they cannot grow for the patient that they are to take care of? We have a lot of people, myself included, who could not properly tend 9 plants.

Page 8 line 1 language is struck I believe as to relieve the doctor from saying that that is the only form. I believe that's between the doctor and the patient and removes that qualification on a certification.

(33:20) Mr. Bailey presents testimony (see attachment #3)

Bailey: All voted for measure 5 and they all passed waiting on medical marijuana. Would medical marijuana have saved them? No one could say, but I believe it would have made their end days' quality of life, much better. It would have made their passing easier.

(38:08) Chris Nolden, North Dakotan patient, testifies in favor of the bill

Nolden: I understand that everyone's time is pressed here today; my time is also pressed. I stand before you as a patient with 4 qualifying conditions under current law. Doctors are scared to certify me. I look at all of the proposed bills; I do what I can with the info that I have to fix what I know to be a very broken system. I am here to protect that system. I'm not here to discuss responsible adult use, but I am here to fix and save the program we already have because the sick people in my position deserve to have this. I didn't ask to try to cope or deal with all of this. This has totally changed my life. I have survived the opioid epidemic.

My doctors have all told me to move. They have no faith that anybody here can fix it right. They have told me for my medical well-being that if I don't want to end up in a wheelchair or dead, I have to leave. I've searched the entire united states, all 48 programs that exist in the nation and done extensive research on every one to point us in the right direction. I know I am standing in support of this bill because it's bringing what we voted for back with self-grow. There is a lot of language issues, but we can fix this.

William Barr who is looking to be the confirmed AG for the federal government, made a statement yesterday that he won't stand in the way of the Cole memo. He's pushing for a federally fix. We shouldn't leave in fear anymore. I don't think the people want to come kick down our doors for trying to help the six people. I fear that if our program fails, it will be gone forever; there are states that already prove this. No matter what happens in the future whether it's full legalization or not, we have admitted that marijuana has therapeutic value. If my only choice is to stay here and die or leave, understand that I'm sacrificing my body to be here for the 50-75,000 other people in this state that can use this in a safe way. I believe this bill in some level is going to be a critical part of fixing what is wrong.

Montana has a fairly simple 52-page law and been in place since 2004. I feel my situation would be a lot different than it is right now if we had a functional system like they do. Their system is based on a plant count per patient. That's what I'm here to push and what I think is the only hope at fixing it. I have data to prove it. Otherwise I think numbers are arbitrary. What are the numbers based on? They have to be based on the patient. I also truly believe in a caregiver system. Once my body fails I might not be able to grow my own medicine. At

that point I want my plant count to go to a reputable caregiver that I trust that will do a good job, providing this to me affordably and safely. People shouldn't be forced to go to the black market and risk consuming poison. You don't know their intentions. The black market is dangerous and we need to push to get people into the white market. We need to support this for the sick people. I think our universities can be a great help in this- NDSU, UND, Lake Region State College. Minot State University already has a program that's teaching people to leave our state related to all of this. It's a shame- why can't we be teaching these people to go to jobs here?

(46:25) Jody Vetter, North Dakota patient, testifies in favor of the bill

Vetter: As a hobby I completed a certification program in the physiology and health of THC and CBD. I'm very interested in growing and juicing raw cannabis. It's a way to get the desired amount of THC and CBD as well as the 100+ cannabinoids in cannabis without the psychotropic effects. This is particularly helpful in people with cancer because THC has been proven to stop the spread of cancer and shrink tumors. It helps degenerative diseases. It will stop the disease from progressing, also helping with pain and mobility. I'm interested in home-grow because this is the only way you would be able to juice raw cannabis. You cannot go to the dispensary and buy cannabis leaves to juice. This is the way I can consume cannabis without the psychotropic effects and continue on with my life.

(48:45) Darl Brandt, concerned citizen, testifies in opposition to bill

Brandt: With medical marijuana, what we have is fine. The only thing I have against it is growing plants. We will have plants growing all over the place; we need control on this. You have dispensaries that will grow it and pharmacies that will sell it. If we're going to do something, let's get a price control so these so people can get it. As far as locations, there's always somebody that can take you there. I have a daughter with M.S. I'm proud of her, she's working herself through it. Let's keep this controlled that there's just dispensaries growing it, not everybody. I have 3 grandkids and I don't want this stuff growing all over the place. I'm worried about kids. Let's keep the 1000-foot school mark. We don't need it that close to schools. I want these kids to be protected, not having this stuff growing wide open.

(51:20) Jason Wahl, Director of the Division of Medical Marijuana, testifies in opposition to bill (see attachment #4)

(59:30) Chair Larson: I've heard several times about the length of time it has taken to implement this medical marijuana plan. Please speak to this.

Wahl: In relation to implementation of the program, what I've always said since becoming involved in the program, is that the DOH is committed to implementing this program in a well regulatory manner to ensure the health and safety of the qualifying patients as well as the public. Has it been implemented as quickly as people would like? I think you all know the answer to that question. What we see from other states, it's usually an 18 to 24-month process from the time that the law is effective to the time that products are available. Our law

became effective in the middle of April of 2017. Right now we're on track to have the products being dispensed next month, so we fall right in that 18 to 24-month time period.

In relation to getting the program up and running, there were a number of things that needed to be done such as new administrative code in determining what the Department believed were the right regulations under the current guidance at that time from the federal government as well as making sure that the products that are being dispensed go through a very well regulated testing regime to ensure that they are not obtaining a product that would be harmful to them with their medical conditions. We procured 2 different vendors. We had to implement a new IT system and had to contract with the laboratory and get them set up. We have 2 manufacturing facilities currently registered and growing- one in Bismarck and one in Fargo. It has taken a little more time with them in relation to real estate transactions and getting their buildings up and ready and to obtain a registration certificate. We went through the same thing with dispensaries in regards to taking more time than anticipated with them to complete real estate transactions and get their renovation work done.

A lot went into this. Those are the major ones, and there are a number of other things, but I would certainly say that what I've seen in relation to getting this program implemented is we have been doing what we can to get this program implemented as quickly as possible. We haven't been able to do that without help of a number of different state entities and organizations as well.

Senator Myrdal: You said you will monitor the price, that's not assuring to hear for some of these people. Generally, medicine is way too expensive as is. We're taking advantage of, any of us as patients. Monitoring-what does that mean? For those who can't afford it, are there qualifications for that? People have said that doctors are scared to give them a certificate. Please comment on this as well.

Wahl: In regards to pricing when I talk about monitoring, we'll be able to see what prices are being charged to the patients. The way the legislature wrote the law, they provided us in my opinion with the right authority to do what was needed to backtrack to determine where that price came from as we do have access to all records including accounting records at the manufacturing facilities and dispensaries. We will be able to know what expenses actually are of both of those entities. We'll know the wholesale price for manufacturing facility to dispensary and the markup percentage dispensaries place on those products in regard to pricing.

We're able to compare information that is available in other states as medical dispensaries in states including Minnesota do provide product and pricing information directly on their website. We've identified similar states we'd like to compare ourselves to in regards to pricing. Their certificate is good for 2 years and they need to go through a renewal process with us. If you talk to the manufacturing facilities, they probably would tell you they've heard me bring this up to them multiple times- that their renewal certificate is contingent on pricing. It's not a specific requirement within the statute, but it is something that we will take into consideration.

Each applicant has a specific plan in their applications that they've submitted. We will follow through and ensure then that they have information available at a dispensary level in regards to those programs so people are aware of them, what forms they use to collect that information and that they actually follow through and charge prices accordingly in relation to if they've offered discount percentages based on certain criteria.

Health care providers within the state- We began accepting applications from qualifying patients and designated caregivers near the end of October. We will print cards tomorrow if

everything goes as planned for those who've submitted complete applications and gone through our review process and have been approved. Are there certain health care providers that are unwilling under the current requirements to complete a certification form? Yes. How many of them there are? I couldn't tell you. We've heard a lot of different things on what their concerns are. We have provided a lot of information to the medical community in regards to this program. We do various presentations; we have direct phone calls and contacts of physicians and nurses in relation to the program.

Based on discussions we had with other states and their initial qualifying patient data when the program first is getting implemented, they've experienced some similar things in certain states that kind of have the same criteria in regards to what is on the certification and bona fide provider patient relationships. Health care providers are concerned with the language in the current law that they need to state in their professional opinion, they believe the qualifying patient may benefit from the medical use of marijuana in treating or alleviating symptoms in relation to their medical condition. A Sanford representative earlier this week provided testimony that Sanford would like that removed and they believed that a number of their physicians would be more likely to complete written certification forms then.

There are also concerns to the current law that it provides state protection but not federal protection, and obviously we can't provide that federal protection. We reached out to the industry about this concern. Nobody is aware of a current raid following the requirements of a state's medical marijuana program, but I cannot provide them a 100% assurance. We provide physicians assurance that the information in an application is confidential and we do not provide a list of health care providers that have signed forms. That's been beneficial. Those health care providers who want to be known of signing forms are going to make it known.

(1:10:04) Senator Myrdal: We've been told 50-75,000 patients, that seems very large. If you started the application process for the certification in October, how many applicants have you had?

Wahl: As far as patient population, I can't give any concrete numbers in regards to what we anticipate under the current laws. Is it going to be 50-70,000? My opinion is no, not under the current way the program is structured. Are there 50-70,000 people with those medical conditions? Possibly, but I won't provide any assurance for that. In relation to billing a budget for the upcoming biennium, while you don't see our budget numbers specifically in the Governor's Executive recommendation as we have a continuing appropriation, we still did build a budget. We budgeted for revenue and expenditures and in building that, we are looking at 2,000 patients by the end of the next fiscal year and by the next biennium, right around 4,000 patients. That would put us pretty similar to what we're seeing in Delaware, one of the closer laws in relation to comparing programs. We don't get a very good apples to apples comparison however. We have heard from others in the industry that they think that we'll probably be over 5,000. Some of it relates to how this program rolls out, product availability, word of mouth, and health care provider certifying patients.

Senator Osland: How many states have medical marijuana laws as we do and have the ability to grow their own?

Wahl: We are 1 of 33 states in the nation with medical marijuana laws. There are other states that don't have home grow as an option in regards to that. We would need to spend some significant time to get that information together. Minnesota and Delaware don't allow home grow, but there are a number of states that do in fact allow it. Plant numbers in those home

grow areas do vary, typically you'll see around 6. I'm told that a specific plant number is usually not the way to go, but instead in relation to what stage you're talking. There's no restrictions on height. If you follow the definition plant that we use under the medical program currently, there's a seed and clone, and until that clone produces its first leaf, it isn't in our system as a plant. Once they cut or harvest that plant, that's no longer considered a plant. If there are no restrictions or additional requirements in this bill, we may struggle at determining the amounts. One harvested plant will likely be over that 3oz possession limit. Also determining if it's legal or not legal to do the juicing that was talked about in extraction methods.

(1:16:15) Donnell Preskey, ND Association of Counties, testifies in opposition
Preskey: I serve as the executive director for the Sheriffs and Deputies Association. They would oppose this bill particularly when describing the volume that can be homegrown. 3oz and 9 plants is an awful lot of product. If you want to know more about what they know about that, I have 2 sheriffs here today that could share their expertise.

Chair Larson closes the hearing on SB 2134.

Further testimony by Chris Nolden was emailed after hearing (see attachment #5).

2019 SENATE STANDING COMMITTEE MINUTES

Judiciary Committee
Fort Lincoln Room, State Capitol

SB 2134
1/16/2019
#30920 (57:34)

☐ Subcommittee
☐ Conference Committee

Committee Clerk: Meghan Pegel

Explanation or reason for introduction of bill/resolution:

A BILL for an Act to create and enact a new section to chapter 19-24.1 of the North Dakota Century Code, relating to cultivation of medical marijuana; and to amend and reenact sections 19-24.1-01, 19-24.1-03, 19-24.1-11, 19-24.1-32, and 19-24.1-35 of the North Dakota Century Code, relating to purchase and cultivation of medical marijuana.

Minutes: 2 Attachments

Chair Larson calls the committee to order to discuss SB 2134.

Chair Larson: The testimony was quite lengthy from a lot of different people. Let's discuss some things. There are some people from the Attorney General's office here to give us more information. They are not testifying in favor or against. They have information I've asked them to bring.

Tara Brandner, Assistant Attorney General, neutral party (see attachment #1)

Brandner: I brought a report from the DEA intelligence division that discusses the residential marijuana grows in Colorado. It discusses some of the public health and safety concerns that arise when marijuana is grown in a residential property.

Senator Osland: You mention about the health issues that arose from people growing their own. Could you expand?
Brandner: I'll differ that to Louie.

(3:07) Louie David Bjorndahl, Narcotics Task Force, neutral party

Deputy Bjorndahl: We're a multijurisdictional task force that targets drugs and drug crime in our area. When we talk about what a plant can produce, it's like any agricultural item. There are people who can make them flourish and produce quite a bit and others who don't have quite the green thumb as some of the others. In my training and experience over the last 14 years dealing with marijuana grows, I've seen plants produce an upwards of 20+ pounds for one plant. It depends whether it's grown inside or outside and it can be held in

different states such as vegetation or flowering. The photo I saw that produced over 20 pounds was an outdoor grow plant in Washington. You can have 3oz of dried material and 9 plants, you almost come to a stage at the end of that plant, when I harvest it and start to dry it, I'm already ahead of my 3oz mission in one plant. When you have all of these plants with an indoor grow, the heat, humidity and chemicals provide conditions for mold. The DEA did a study and found it can be as toxic as meth labs can be because of the mold issues and spores produced. Also you're getting other fungal issues on that plant, there's no way to regulate that.

Senator Myrdal: I have many indoor plants and they are difficult to care for all them. Is it reasonable for us to assume that somebody who is very ill is capable of learning how maintain these plants and treat themselves without causing high risk?
Deputy Bjorndahl: It is reasonable for me to believe if you are sick, you should have access to any medicine that may make you better. Much of the testimony I heard talked about how it is medicine. However, we don't allow people to manufacture antibiotics in their backyard. If you're going to ingest something, we need to monitor that. Some of the homes I've seen these in, and granted they are clandestine labs, are not necessarily the conditions I'd want to ingest medicine out of. I'm not saying somebody couldn't do it very well, but will that be the exception or the norm?

(9) Senator Bakke: What is the danger for children in this situation, as you say they have the same potential of toxicity as meth?
Deputy Bjorndahl: When I talk about being toxic, we're talking about the mold spores and things like that when you have high humidity inside these homes. When you look at the commercial growing operations, they're clean and manufactured in a way to resist those kind of things. Most of our homes are stick built homes in North Dakota and humidity gets behind the drywall and attacks the wood. It runs a higher risk of the mold becoming a health issue, it's not necessarily the substance itself.

Vice Chairman Dwyer: The purpose of the bill is to home grow. Then you have to have the provisions that you can possess or to grow, and that's all those other provisions that are in there. Is that correct?
Deputy Bjorndahl: From what I understand, it allows the home grow and to possess what you harvest, yet it only allows you to keep 3oz of that harvest. If the harvest exceeds that 3oz my question is, what happens to it? As far as I understand the other part is it allows a caregiver to grow 5 plants for each person they give care to. That means you could have possibly 45 plants as a caregiver.

Chair Larson: Can you grow a single plant or does it take multiple ones in order to grow properly?
Deputy Bjorndahl: There are a couple different ways they go about growing marijuana. You can buy a clone plant, one that's basically ready to go. A clone plant isn't considered a plant until it produces a leaf. You can buy that plant and get it to grow and produce. However, if you were going to take 2 seeds and plant them, you would need a male and female to cross-pollinate to help with that. Just like any other agricultural industry, we are constantly designing the genomes of the seeds to produce differently. That's something that could change as time went on.

(13:20) Senator Luick: What's the storability of the processed dope?
Deputy Bjorndahl: It's like picking a tomato from a vine. As soon as you take that plant from the hydroponic grow or dirt, it immediately begins to deteriorate. The THC deteriorates and the plant begins to deteriorate as well. Once you store that marijuana., even with that slowing process, it degrades very quickly. That was the big drive behind these other processed goods in the marijuana industry- How do you get it to be shelf-stable?

Vice Chairman Dwyer: Useable marijuana means medical marijuana product or the dried leaves in a combustible delivery form. What does that mean?
Deputy Bjorndahl: When you process marijuana, not all of it usually gets processed to ingest. They'll process usually the leaves or buds, the fruits of it. That's usually what contains the THC. They'll dry it so that its more easily lit on fire so they can pull the vapors into their lungs and consume it.

Vice Chairman Dwyer: We don't allow smoking, do we?
Chair Larson: The constitutional measure that was passed allows smoking, not specified in this bill.
Wahl: Yes, with authorization from the healthcare provider. This bill removes that additional authorization.

Vice Chairman Dwyer: "However, the term does not include the dried leaves unless authorized". So you can always smoke if you have that additional authorization?
Deputy Bjorndahl: Correct.

(16:10) Senator Myrdal: If this should pass, basically a large amount of the efforts of our state to comply with this constitutional measure over the last two years and the regulations to protect children and others, will be wiped out right when we're at the cusp of implementing it and having product ready.
Brandner: When the original bill 2334 was considered by the legislative branch last year, the concern was what industry calls "the Cole memo". **(see attachment #2)** The Cole memo is a memo issued by the United States Department of Justice saying that the federal government will not expend its resources to prosecute people who are in states that are complying with a program that meets certain requirements. The problem is that it was issued under the Obama Administration and with the transition to the Trump administration, the memo has been rescinded by Jeff Sessions. At this point in time the memo is not currently existing. However, from some of my conference calls from attorney generals across the state, it seems they are continuing to follow that guidance because they believe it provides them a protection. One of the concerns the legislative body had when considering the initiated measure in the new legislation, was that one of the priorities of the Cole memo is diversion- the diversion of legal substance produced through the medical marijuana program into an illegal market. The concern is that they see the most diversion occurring in residential grows. The goal removing that by the last legislature was to maintain compliance.

Senator Myrdal: A caretaker is a big concern for me because one can have up to 45 plants is what was mentioned. Are there really that many caretakers that will be proficient in growing this without compensation of any kind? Do we assume that they will throw away the excess marijuana? Is that what you're alluding to?

Brandner: Correct. There is a concern on whether or not it authorizes designated caregivers to grow for patients or not. Should this committee go forward with the bill, that language needs clarification.

(20:05) Senator Bakke: What do you smoke?
Deputy Bjorndahl: The leaves and flowers are what you smoke. It would be the stems and other things that you would usually discard.
Senator Bakke: They said something about juicing it. Is that with the leaves and flowers?
Deputy Bjorndahl: They put it in a commercial juicer.
Senator Bakke: Is that harmful?
Brandner: I'm not sure

Chair Larson: There is no FDA stamp of approval or no real medical evidence that this works. In the few things that do show to be effective are federally legal. Will the Federal Government legalize marijuana products for medical study to find out if this really is medicine, or do people just think it does so they say it does? We don't know that it's helping anybody.
Brandner: There is some discrepancy and a bill before the legislature currently to revise the definition of marijuana under the controlled substances act. That's due to the passage of the 2018 farm bill which essentially said products made from hemp that contain CBD are no longer illegal. The definition of hemp is essentially a marijuana plant with THC less than .3%, so those plants will not contain the euphoric effects that others will.

Chair Larson: Will it be deregulated for medical study?
Brandner: I'm not sure. There is one report that was done by an institution where they just scrap the surface of the testing. It goes through whether or not there is any correlation between the use of marijuana and various conditions. A lot of what came out of that report is that essentially marijuana has a pretty detrimental effect on the developing brain of a child. I'm a lawyer not a pharmacist, so I can't go into many of the details. However, there are prescription grade products that contain CBD such as epidyiolex and sativex. Those contain CBD and have gone through the process. It's my understanding that they don't contain THC. Another one that is available through a prescription is marinol, primarily prescribed for cancer patients. That contains both CBD and THC.

Chair Larson: These are drugs that doctors can legally prescribe?
Brandner: Correct.

Senator Bakke: It is my understanding that marijuana isn't a cure, but instead lessons the pain and makes the person more comfortable. It also helps children with seizure disorders. However, I worry about long-term effect on people because we haven't had enough time to know what that looks like. In many cases, these people are terminal and it's simply to make their end of life more comfortable, but not necessarily there to cure anything.
Brandner: Correct. There is no scientific evidence at this point that says that marijuana is a cure for any of the debilitating medical conditions. I'll note that with children who suffer with seizures, oftentimes the research, which was with epidyolex, has shown that they receive more benefits from the CBD, the non-euphoric substance in marijuana. What the law does is restrict the amount of THC that a child can have in their products to 6%, trying to mitigate some of the damage that THC can potentially cause.

(27:25) Jason Wahl, Division of Medical Marijuana

Jason Wahl: Since taking over the Director program, the term "medicine" has come out of the division's vocabulary. I have taken a lot of grief from patient advocacy groups for making this statement- We have a division of medical marijuana and we have a medical marijuana program. We do not call marijuana dispensed under this program "medicine". The legislature did not change the term marijuana to medicine; it is still marijuana and a federally illegal drug. Is it the same marijuana you buy on the street? It's marijuana. However, ours has been tested and should be safe for individuals to use. We can tell you the THC and CBD level and it's gone through the testing. Street marijuana is different.

Chair Larson: It's safe to use?
Wahl: It has been tested to be safe from harmful contaminates in regards to that. There are still side effects to marijuana that need to be discussed with patients and that is the dispensaries' role in this program. Prior to dispensing, they have to have a consultation with that patient. They have to understand and know what the medical condition is that they have and their symptoms. They then offer and try to match up the best product type to them and have a discussion about the potential side effects that they may have. We have forms established requiring people to fill out for adverse effects and we try to track cases like that.

(29:55) Senator Myrdal: I think we should allow you to finish out the program and dispense of it safely as you discuss it. I didn't vote measure nor for the bill last time. Yes, there are sick people, but is it your opinion that a lot of this backlash we're getting and why it's such a sensitive issue in our state is because there are people who really just want to grow it and smoke it for no medical reasons?
Wahl: The passion that individuals show within the state in order to obtain products is certainly there. Where that passion comes from and what their intent is I couldn't answer that. I know there are sick individuals who are waiting to obtain the products, and we certainly want them to have it with the program implemented. Once it is implemented, there will still be complaints in regard to access, products, availability, pricing, etc. We'll take it how it comes and try to adjust and modify to make the program as successful as we can.

Vice Chairman Dwyer: Please explain CBD and THC.
Wahl: THC is the psychoactive part of marijuana and it gives you the high, the euphoria. CBD does not give you a high. They're starting to see that in some cases people are seeing benefits of CBD in appetite and overall health as being beneficial. There are thousands of studies out there on marijuana and there will continue to be studies. When you talk about CBD, you have to be careful that it not contains any THC. What I've been told by counterparts in other states testing products is that there is a lot of THC in supposedly CBD only products. The CBD label is not even close to what's in the bottle and in some cases, they're testing and finding no CBD at all and it is basically water. That is obviously very concerning. Under our program, CBD products would become available, but we'll make sure it does not exceed the 6% THC. You'll probably see more 1 to 1 ratios of CBD to THC, like 10% and 10%, that is becoming more popular in the medical area where people are seeing more benefits from those types of products. More of the recent studies start to see that the CBD that your body is taking in actually needs some THC to make CBD work in your body the way they want it to.

Vice Chairman Dwyer: Is CBD from marijuana?
Wahl: Yes, CBD and THC are cannabinoids in marijuana. There are a lot of cannabinoids in marijuana; these are the two main ones.

Vice Chairman Dwyer: We're still acting on the measure, so it takes a 2/3 vote correct?
Bradner: The bill passed initially as an initiated measure. The measure came in and it was hog house amended in the end. There was a question as to whether or not the law would require 2/3 vote to pass. The Attorney General issued an opinion that says that in order for anything that is amending the marijuana statute to go forward and become law, it needs a 2/3 vote.

(37:40) Senator Bakke: How is the average person growing 9 plants going to be able to tell how much THC and CBD is in their plants? Isn't there a danger in not knowing what you're getting?
Bradner: they won't know.

Senator Osland: Jason- This morning you alluded to the fact that there's difficulty for people to get the cards from medical professionals. Please elaborate.
Wahl: The health care providers, which under current law are licensed, state physicians or an advanced practiced registered nurse, complete a written certification form as part of the patient's application that is submitted to us. It's an online application. The health care provider identifies the medical condition and how long they believe that condition is going to last. They attest to certain statements and electronically sign that piece. We review it and do some verification work, approve it, then issue them the card. We're actually printing cards tomorrow.

Some health care providers are not willing to complete the written certification form. Some are completely against marijuana and will never sign the form no matter what we do or say. That's their opinion and we respect that. Some have apprehension to complete the form because it is still a federally illegal drug. The law requires a statement that "In my professional opinion, I believe that patient will benefit from the medical use of marijuana to treat or alleviate the medical symptoms". There is a current HB that is removing that language. We're not going to oppose that. Healthcare providers may be in a position where they don't have enough information to make the determination. They didn't get educated on marijuana in school. Sanford believes that removing the language, a number of their physicians will be more open to a completing a written certification form. They're protected in part with the Cole memo, but the rescinding of the memo had a negative impact. Some are waiting to see how the program roles out as well. Every week we're getting more health care providers into the system. We're seeing slow progress.

Chair Larson: Can one physician refer to another?
Wahl: They certainly could. A patient has the right to seek the best medical care they believe they deserve. They can find another physician and establish that care if that would be necessary. There are certain providers that flat out said their providers will not sign the form or they risk being fired. There is one here in Bismarck that has made that statement publicly. However, if one of their healthcare providers ignored what the facility administration said and signed a form, we would keep it confidential.

(44:32) Senator Luick: What is the life expectancy of a plant?
Deputy Bjorndahl: You plant it and when you harvest it, you end its life cycle. There are some ways they're working with right now to try to get a better yield out of the plant by continuously grooming it; however, they've found that depending on the stages, the life cycle ends roughly when it's completed.

Senator Luick: Do we have a long enough growing period to grow outside in the state?
Deputy Bjorndahl: I believe you can set up a greenhouse; it would be no different than the manufacturing plants that are providing for the program now.

Senator Bakke: In your personal opinion, do you see this need to grow it privately in their homes simply as a financial issue?
Wahl: If it's truly for a medical purpose, shouldn't they want to know what the CBD amount is and that it's not containing a harmful contaminate?

Chair Larson: I'm thinking about limiting this to only homes that the person owns. It will destroy rental property.

(49:43) Shawn McNamara, Attorney General Legislative Intern, neutral party
McNamara: For home grow- we're seeing a lot of problems in rural North Dakota with counties that don't have any physicians or lawyers. This bill would help those people have access to the products that they might otherwise not. Travelling can be a substantial burden on these sick individuals.

Wahl: He is correct and we took that into consideration when setting up the dispensary regions. Typically, the people with conditions have medical appointments. That is why we have the designated caregiver option. We also have a home delivery option available for dispensaries, a new addition in this industry. We're still working on how many will offer that and how far they will go. Obviously there will be a price factor involved, but we're trying to do the things we can within the requirements of the law to try to make that accessible.

Senator Osland: Are the supporting people for home grow trying to find permission for what they are already doing?
Deputy Bjorndahl: I wouldn't necessarily say that. I assume it is permission for something that they want to do, whether it's a way for medication or for diversion possibilities. It's irrelevant either way. They want to be able to get this at a reduced price, make and cultivate the plant the way they want, and use it the way they want. They don't want the regulation.

Senator Myrdal: If I'm smoking and sick at a farm in Mayville today, what is the likelihood of law enforcement arresting me?
Deputy Bjorndahl: I am the assistant coordinator of the metro area narcotics task force. We are 8 members, state and local, that combat drugs on both sides of the river. If someone came to me right now and told me they know where there is a weed grow, it probably wouldn't be our top priority. We've had multiple overdoses in the last 2 weeks, executed search warrants because of that, and targeted many pound level traffickers of methamphetamine. It is illegal so when I do a search warrant and it's there, I don't have a choice, we enforce the law. However, I can tell you we are not targeting people that bring that kind of stuff here. We have other epidemics that are really tearing up our community right now that we are targeting.

I’m not saying you couldn’t get in trouble for that, I’m saying we as a task force would not target that.

Chair Larson: We will close this for now and bring it up again next week so we can make the best decisions. I believe the people who were here advocating for this have a firm belief that this will help them alleviate pain and suffering for themselves or their loved ones; their intent is good. It’s smart for us to tread carefully and pray for God’s wisdom for us to make the right choices in the legislation.

Chair Larson ends the discussion on SB 2134.

2019 SENATE STANDING COMMITTEE MINUTES

Judiciary Committee
Fort Lincoln Room, State Capitol

SB 2134
1/22/2019
#31221 (06:51)

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature: Meghan Pegel

Explanation or reason for introduction of bill/resolution:

A BILL for an Act to create and enact a new section to chapter 19-24.1 of the North Dakota Century Code, relating to cultivation of medical marijuana; and to amend and reenact sections 19-24.1-01, 19-24.1-03, 19-24.1-11, 19-24.1-32, and 19-24.1-35 of the North Dakota Century Code, relating to purchase and cultivation of medical marijuana.

Minutes: No Attachments

Chair Larson calls the committee to order to discuss SB 2134.

Chair Larson: I asked a realtor I know personally if there's a problem with homes with marijuana growing in it. He told me that the amount of humidity in growing marijuana plants that it takes, creates black mold. In Minnesota, they have a law prohibiting the sale of a house that has been used to grow marijuana. We're not considering that at this point, but I think if we start looking at growing marijuana in private homes that can't be in any way regulated, we're going to be opening a huge can of worms.

Vice Chairman Dwyer: The legislature wrestled with this 2 years ago. The Health Department has spent almost 2 years and it may be a serious mistake to have this major change and setback what the Department is doing.

Senator Osland: I agree. We've got this far and we don't need to make adjustments at this time.

Senator Bakke: I have concerns about this bill. They have no way of knowing the potency of the marijuana that they will be smoking and it can be more harmful than helpful. This idea that they have to travel so far to get the marijuana is not an issue because it was said that it can be mailed. And the pure amount of marijuana that you get off of 9 plants- what are they doing with the excess? I can't support this bill.
Chair Larson: Yes, the proponents didn't know what they would do with the excess.

Senator Myrdal: It's clear that all of us have compassion for those who testified and were ill. It was quite emotional to listen to. However, I concur with Vice Chairman Dwyer- let's give the state a chance to fulfil the will of the people through that measure from 16. I think we've

done a phenomenal job and sometimes the internet warriors and the desire for recreational marijuana is sadly loud in our state. I recently wrote an article in my local papers that this is a divisive issue. I was told by a constituent that it's not divisive, we voted for it. Yes, we voted for medical marijuana and that has to be controlled like any other drug. My concern is that the pharmacy empires are really putting us in a difficult position by overpricing medication. I fully see the need of these people, but I don't think we can go down this road. I've seen it in Colorado. We need to trust our health officials here to do the right thing for the right people. But again, that doesn't mean we're not compassionate for those who are hurting. I'm going to vote No.

Chair Larson: If anything legally is going to be done about marijuana, what should happen is that the federal level should loosen up the restrictions to allow for some study to be done so that a pharmaceutical company could produce it if the FDA finds that there are some truly good, medicinal reasons for it. Apparently there already are a couple that they've identified and legalized for sale. But to just go ahead because somebody believes this will be their answer, is a dangerous thing for us to do. I'm in agreement with the rest of the committee.

Senator Osland: Moves a Do Not Pass.
Senator Bakke: Seconds.

A Roll Call Vote Was Taken: 6 Yeas, 0 Nays, 0 Absent. Motion carries.

Vice Chairman Dwyer will carry.

Date:1/22/2019
Roll Call Vote: 1

2019 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2134

Senate **Judiciary** Committee

☐ Subcommittee

Amendment LC# or Description: _____

Recommendation: ☐ Adopt Amendment
☐ Do Pass ☒ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☐ _____

Motion Made By Senator Osland Seconded By Senator Bakke

Senators	Yes	No	Senators	Yes	No
Chair Larson	X		Senator Bakke	X	
Vice Chair Dwyer	X				
Senator Luick	X				
Senator Myrdal	X				
Senator Osland	X				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Vice Chairman Dwyer

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2134: Judiciary Committee (Sen. D. Larson, Chairman) recommends **DO NOT PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2134 was placed on the Eleventh order on the calendar.

2019 TESTIMONY

SB 2134

#1
SB 2134
1/16

North Dakota Senate Judiciary Committee

January 16th 2019

Chairwoman Diane Larson and members of the Committee, my name is Steven James Peterson of The Committee for Compassionate Care of North Dakota.

The Committee for Compassionate Care is a patient advocacy group seeking to enable fair and reasonable access to medical marijuana in the state of North Dakota.

I am in support of Senate Bill 2134

- The ability of home growing cannabis by patients is extremely important to our low income and fixed income patients
- Many of our state patients cannot afford the physical toll of travel to dispensaries and the costs of the products being sold there
- Home growing cannabis by patients allows those who are in the far flung corners of the state to be self sufficient
- It is therapeutic for many of these patients to grow their own as that allows them during this time to feel in control of their destiny while coping with cancer and other conditions that lead to possible death
- Many medical marijuana program states allow the sale of seeds and immature plants for patients to raise themselves

My only concern is

- The 1000 foot restriction prevents many patients who live inside of that range of school zones from growing. I live within 1000 feet of a school zone.
- Since law enforcement notification is required this should be left to the discretion of the jurisdiction (sheriff or police) to allow variances on a case by case basis.
- Most of the law enforcement agencies I have interviewed are not opposed to removing the 1000 foot rule.

I am available for any questions about this bill.

Steven James Peterson, District 44 Fargo North Dakota

701-936-4362 Steven@ravenrisingllc.com

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I AM in full support of self grow as many will not have means to travel to dispensaries. It is also about having medicine on demand. I would suggest changing the 1000 foot rule from schools as many will be disqualified from self grow.

Dustin Peyer
District 28
ND Cannabis Caucus

I am not a drinker, smoker, never used "weed". I am a mother, a wife, and a business owner. Here is why I am voting yes t then do your research and find your reason why:

I have a liver disease and was given high levels if dilaudid. After 9 months they finally switched me to fentanyl in 2012 I am still on them. I am so dependent that the 3 day patch can not last 3 days and the doctors have me switch the patch in 48 hours instead even though the box from the manufacture says it is to be used for 3 days. I was also placed on prn hydrocodone (another opioid) to help if I have daily pain a normal person would take Tylenol for but for me would be a placebo.

Everyday I hear of people dying from the legal-for-me drug. I have to carry narcan with me. I had to show my kids how to use it on me because of the legal-for-me drug I am on that they are told are bad. I have to face the worst of 2 evils: be on opioids so my nerve damage doesn't cause heart palpitations t continue to damage my liver OR save my liver and not be on opioids causing damage to my heart.

I have been waiting for MM to be put in place and nothing... 2+ years more damage to my body in the catch 22 I live daily. 2+ years of seeing the way my teenage looks when he sees me on the necessary evil he knows I could easily OD on t may have to save mom. I am for this measure so I do not have to continually wait for them to make getting MM harder for me. I am voting for this because I am tired of being high on opioids 24/7... think about that. I am HIGH ON OPIOIDS 24/7 and I am still ALLOWED to drive? (Which I do not do if I can help it and wait for my husband to drive me). People who oppose are worried about people being high driving... they do not realize that they probably already are high on opioids! They are worried about me being addicted when I am already legally addicted by being doctor prescribed dependency. I would rather have MM then the devil I am dancing with now.

Tamara Barz
District 31
ND Cannabis Caucus

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Chairman, committee members,

My name is Waylon Pretends Eagle, I am a triple winner of citizenship of not only this already Great State, but i am also an enrolled citizen of the Mandan, Hidatsa and Arikara Nation and I also reside in District 31 and 4 at times. Family and clanship ties keep us together on Fort Berthold and we have been moving in large numbers to this urban environment we call Bismarck today. I am here today to show support for SB 2134, with a few notable changes.

Our people were horticulturalists prior to European contact so I'll spare you the quotes from non-Indigenous leaders with regard to rights and men and what not. Because i stand before you a whole man today - 150 years ago, the thought process wasn't exactly equality and that's all I will say about our Great History. Today I want to talk about a natural plant that has been given a bad reputation for the last 82 years thanks to the henchmen of rich white men with one thing in mind - profiteering. As a result our laws have been written to demonize an entire plant with medicinal properties of which the research has not been allowed to happen here in the already Great United States. It would be a travesty to keep with the archaic language that made the cannabis plant illegal.

Each and every possible patient has their own individual needs, and in most medical cannabis states, dosage is based on those individual needs. Some patients may not get the right amount of medicine should the overgeneralized limitations currently set forth in the bill be allowed to remain. Any real or measurable analysis of data has been curtailed due to federal and state lawmakers' paralysis to act on the matter. Limiting the amount of medical cannabis available to patients would be too broad and over-reaching in terms of patient privacy and could possibly be unconstitutional.

Measurable results for dosages and have not been available to this point due to the state and federal limitations that have been imposed upon this medicinal plant and industry that surrounds it. As a result, we need to be able to have more access which will prove the efficacy and provide the necessary data to support more research, and provide a safe route and Federal protection for doctors to recommend cannabis to their patients.

With regard to edible cannabis products, it would be counter-productive to omit this form of usable cannabis as some people are unable to ingest through combustible means. Under these circumstances, oral ingestion is a more comfortable and natural method of receiving the medication. These are some of the changes that I see would be of benefit to our entire STATE, and it is with the best of intentions that I submit this testimony.

Sincerely,

Waylon Pretends Eagle, Owner
Xhoshga Consulting, LLC
waylon@xhoshga.com
701-805-6310 m.

Bill #2134

I am in support of the home grow for medical Cannabis patient card holders! There are many of us have a debilitating conditions to get a medical marijuana card yet can't and we're still trying to find doctors to help us along with that process. I know patients in my condition will not be able to take the long drives to go get the medicine to help us live with a higher quality of life. I can only spend about two hours in a car before I'm in a lot of pain and there are many others like me! I also am on disability and only get $500 a month to support myself and my three children. I do get a little bit of food assistance in a very small amount of child support, but it is barely enough to make ends meet, so on top of cost of the medicine (whatever that may be, we still have no idea what that looks like, but with only 2000 plants allowed in state, I am expecting the price to be out of my range, such as $400 for 1 ounce, and 1 ounce MIGHT last 2 weeks for me), the gas money, and time it will cost to drive to get it it is not really feasible in my circumstances.

There are a few issues I have with the bill that I have brought up about other bills when I was at the capitol to testify. I don't think that the department of health needs our entire medical records I have probably four 4" thick three ring binder's full of medical records from the last four years. I was in a car accident October 19 of 2014 and I have seen 56 different doctors in that amount of time. I have also been to Mayo in Rochester Minnesota three times for surgeries, but been there numerous times for appointments! Many of my conditions I don't think the department of health would even understand the terms that are used for what happened with some of my surgeries and conditions! I feel a doctor certifying that you have a certain condition should be enough for the department of health to make their decisions on granting your medical card!

I'm also not totally sure the physicians around here are educated enough on medical Cannabis to keep a record and know what to recommend for you, that's also part of what makes the Doctors reluctant to even help us with the medical application. I think that should be left up to the dispensary agents who DO have the Cannabis knowledge for you to explain your symptoms to them and they can make recommendations as to what you should be using or what amount you should be using to help ease your symptoms!

The one other thing that I would ask to be removed, but not sure if it's possible! I don't like or think the distance from the school should matter, a lot of us are in a home by a school even my kids are around much more dangerous medications that I'm on now which I already keep locked up and keep it safe from them! So I think if it's growing it in a locked room inside your house I don't think there is any reason why we shouldn't be able to provide ourselves with safe medication just because we live next to a school, it's not like any of us are giving any of our medication to school kids when we already have to keep our current medications locked up and away from children! How many houses have a liquor cabinet right next door to a school?

I actually see neighbors in the spring that sit out on their porch and will drink alcohol while school kids are walking right past them going home so I don't see why something that is used as medication and locked in our house Plus in a locked room keeping it safe and away from other kids and our own kids! Our location shouldn't be held against us in anyway because it's no different than other medication at that point we are using it for our own relief! Another thing is there are very limited places that are in town and that far away from a school, that rule not to grow within certain distances of a school would pertain to half of in town people or at least close to half of residential people!

I have addressed other concerns about the language of this bill as well as provided a full and complete history of the reason I am seeking medical Cannabis in my testimony for House Bill 1283. I urge you to listen to my testimony please and thank you.

Other than those items I am in favor of being able to grow our own medicine if possible rather than spending money, in my case money from Medicaid, that pays for all these medications I could be getting off of or at least on a much reduced amount! I would think a large majority of us who qualify under the conditions listed cannot work and are on disability with limited income on Medicaid so we can't travel far and pay extreme prices for a medicine that is much safer for us than what we are currently taking! Medical Cannabis also has almost no side effects! The side effects are much of what eventually cause death from our current medications!

It would actually save the Medicaid health care program a lot of money if we were allowed to grow our medicine and not have Medicaid pay for so many pharmaceuticals that could be replaced or at least reduced to a much smaller amount without our health and life being risked! I do not think our location should be held against us. If it is in our house, in the safe, in a locked room, there should be no

reason our location should have any effect on us being able to provide our own safe medicine, to lower our cost, saving the state money, and allowing us to still pay our bills along with providing our own safe alternative medication!

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Thank you for your time and consideration on this bill! To some of us it would mean getting a large portion of our life back with a better quality of living for us and our families!

#2
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To whom it may concern,

My name is Leslie Hulbert. I live in District 29 Carrington, ND. I have been married for 29 years, have raised children, own multiple homes, and operate a business as well. I also have end stage liver disease.

I was diagnosed with my condition in 2004. I spent a month in the hospital and my family was told twice to go home and make arrangements for me because I would not be leaving the hospital alive. I was immediately placed on a transplant list, in the hopes that an immediate transplant would save me. My doctors and I decided it would be best for me to go home and spend my last days with my family instead of in the hospital accruing more debt. I remained on the list for 10 years yet never received a liver.

After I went home my family and I starting doing intense research, we looked for ANYTHING that could help. I followed my doctor's orders to a T and also began using cannabis medicinally. Slowly, VERY slowly, I began to feel better. My medical team was astounded. My doctor even wrote an article about my case.

Since moving to North Dakota, I have not been able to continue any cannabis therapy. My liver is still in very bad condition, I am still very ill. I get by but it is difficult. I am on 14 different prescriptions, and have outlived my doctor's expectations by 3X. I have been able to raise my children, enjoy my family, participate in my community, and recently became a grandmother. I am hoping for another 25 years, but I know I don't have a chance of that without access to cannabis therapy.

Thank you for your consideration,

Leslie

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To Whom It May Concern; 1/10/2019

In 1970 my Mom was diagnosed with Retinitis Pigmentosa (RP) which causes blindness. In 1976 She was told by her Doctor She would be blind in 6 years. I was 12 at the time and thought about what that meant. She would Never see me graduate High School. She would Never see me graduate Collage. She would Never see me get married. She would Never see her Grandchildren. She would Never drive again. She would Never read another book. The list of Nevers was endless.

The research began to find a cure for her. We did not find a cure but found a handful of studies that showed positive results treating RP with cannabis. By this time I was a little older and knew her light was dimming. We found a clean safe source for cannabis and treatment began. Her disease slowed. In fact it slowed so much She Did see me graduate High School and Collage. She Did see me get married, and She Did see her Beautiful Grandchildren, all 6 of them. She travelled to Europe a few times. Went back to College and earned 2 degrees. She learned to read and right Braille. She taught pottery for 4 years at Braille Institute. She was the Treasure for 2 years and President 1 year of the Local Chapter National Federation for the Blind. She traveled to Washington DC and Lobbied for accessibility for visually impaired.

Unfortunately I lost my incredible Mom a few years ago. She passed away with an extra 42 years of vision. She effected big change in the lives of many with low vision or no vision, teaching, serving her community, and lobbying.

Best of all She was able to see her Children and Grandchildren grow-up and become the people she always dreamed they would be.

CANNABIS MADE ALL THIS POSSIBLE.

Thank You for your consideration,

Leslie Hulbert, Carrington N.D. District 29

Leslie Hulbert

To whom it may concern,

My name is Amy Bailey and as of January 16th of 2019 I am 39 years old and have been a home owning, tax paying, voting resident of District 29 for 7 years. I am a wife, a mother, and a child of adoption. I was adopted due to the fact that I was born to a physically abusive situation. I was brought to the hospital at 7 months old with a twisted beak of my left leg. In the course of the investigation my biological mother was diagnosed with post-partum depression and I was placed in foster care while she sought treatment. I was remanded to her care and something else occured and I was again placed in foster care, at this point the exact details become fuzzy but the fact is, I spent the next four years of my life going back and forth between my biological mother and one particular foster family. When I was four years old my biological mother was intercepted by her sister while in the act of chasing me around with a hammer and the intent to kill me. It was at this that my biological mother was diagnosed with Schizophrenia and I was officially adopted.

I firmly believe I began life with PTSD. It is my normal. Of course it took many years of child hood counseling and psychiatric care for me to realize this. I was also diagnosed with ADD when I was about 12 years old. It is a real thing I assure you. In fact, I know many people with these conditions faking being well. I have been prescribed many medications for these things over the years and I have also used Cannabis at many points in my life.

At this point i feel it necessary to point out that the plant we are talking about already has a name. We don't really need to go trying to reinvent the wheel here. The plant in question is Cannabis Sativa, an annual herbaceous flowering plant indigenous to eastern Asia but now of cosmopolitan distribution due to widespread cultivation. It has been cultivated throughout recorded history, used as a source of industrial fiber, seed oil, food, recreation, religious and spiritual moods and medicine. Each part of the plant is harvested differently, depending on the purpose of its use. The species was first classified by Carl Linnaeus in 1753. As defined on Wikipedia (source:https://en.wikipedia.org/wiki/Cannabis_sativa). Please take a moment to truly educate yourselves on this plant.

Further, when speaking of Cannabis as a "gateway drug", I think we need to look at the picture with a much broader scope. Many individuals who have addiction issues begin seeking self medication due to some personal trauma they have experienced. Many turn to alcohol, others tobacco, and some to Cannabis. Many who start with tobacco and alcohol eventually find Cannabis. When they do, many times they find themselves in trouble with the law, and many it will be for no other reason than possession of Cannabis or "Cannabis paraphernalia", and, when they do, often they find themselves under the oversight of a probation officer who requires regular urine analysis.

It is a known fact that Cannabis is retained in the fats of the body and detectable by urine analysis for an extended period of time while many illicit drugs wash out of the same systems in a very short time and are not then detectable by urine analysis therefore it is easier for the user to escape detection.

That leads these individuals who are self-medicating to seek these compounds which are in-fact very physically addictive and will cause said addicts to require hospitalization in order to detoxify their system if they choose to seek treatment for the addiction. How many people actually need intensive medical care to quit using Cannabis? It is in fact the very fact that Cannabis is federally illegal causing the addiction issues we are seeing across the nation. How many more lives must be ruined? How many more people need to die before we open our eyes and admit that we were lied to 70 years ago and we have in fact caused many of our own problems along the way? For cripes sake it is a plant!!!!! It cannot be manufactured in a lab. It must be grown from a seed. Can you show me a hydrocodone seed? How about a methamphetamine seed? Heroin seed? Lisinopril seed?

Let me guess, you are going to say "Ah-Ha! I gotcha! Tobacco grows from a seed!" Yes, it does and tobacco also dries dead and brown where as Cannabis dries green and sappy like many other herbs I can think of, such as parsley, oregano, basil, sage, comfrey, thyme, and the list goes on. Let's all use some common sense here. Let's think for ourselves and not let greedy dead men such as John D. Rockefeller continue to affect our way of thinking.

If you have any questions I can be reached at 701-435-2959 or 701-368-1337 as well as e-mail at comm4care@gmail.com. I aslo suggest reading up on the endo-cannabinoid system at

https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2241751/ Which is of course the

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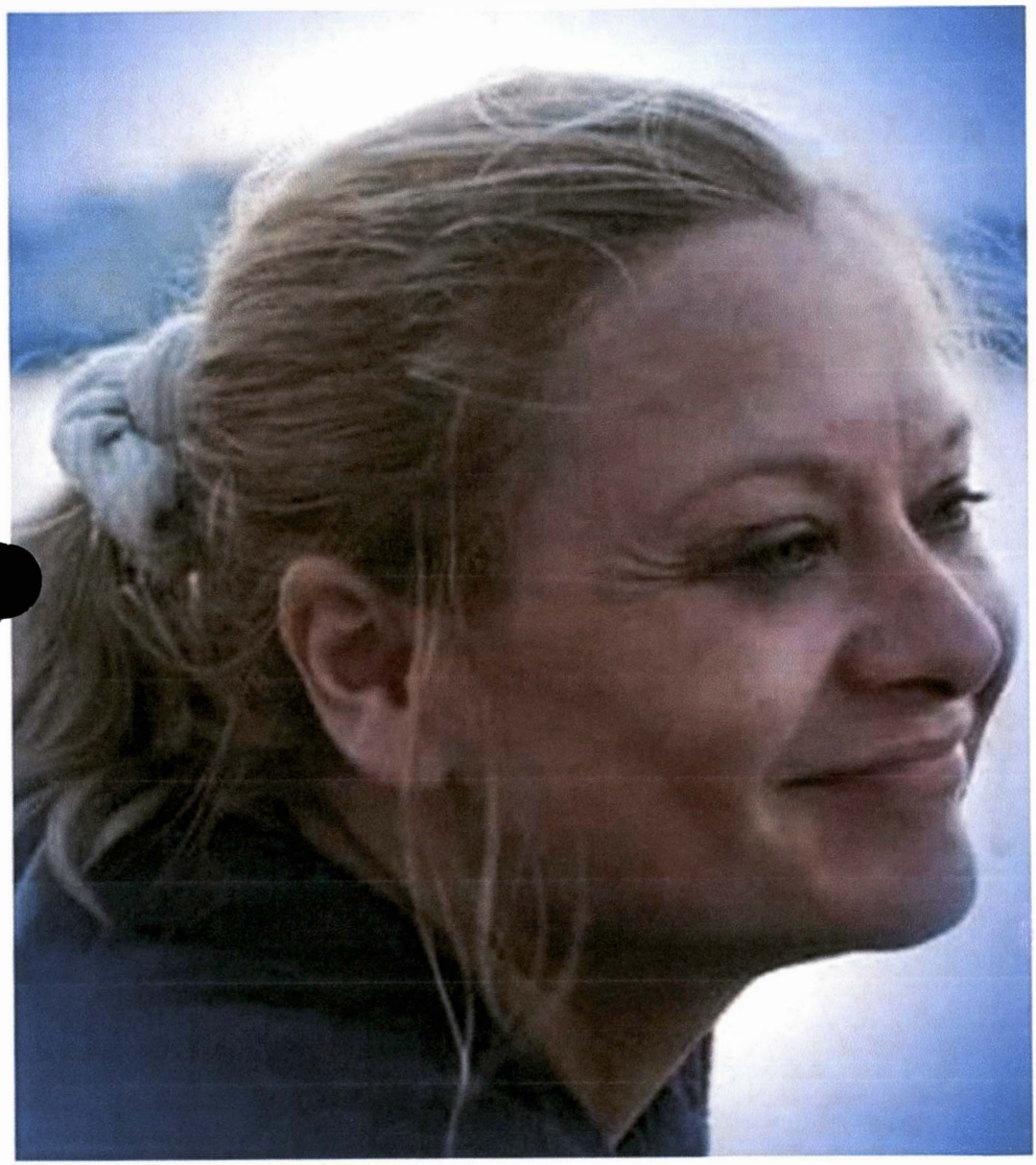

RIP Darla

Ehlers
Danlos
Angel

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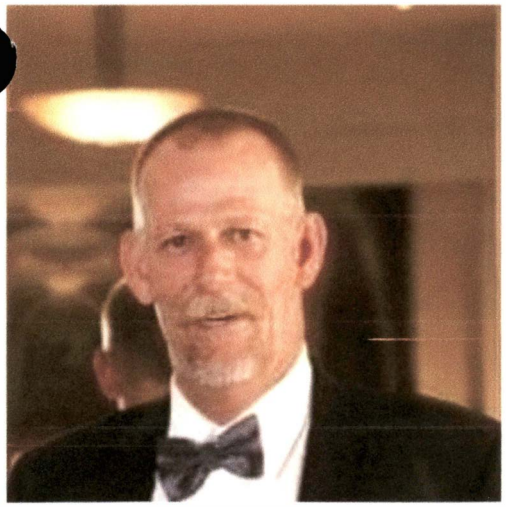
Jerrold V. Schalesky | 1963 - 2017 | Obituary



Jerrold V. Schalesky

November 30, 1963 - July 17, 2017

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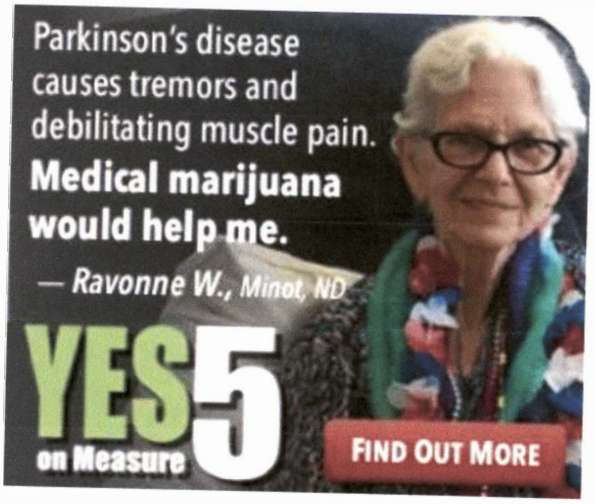

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My personal story.

qualifying conditions I have 4 or more that can be certified.

I have had 2 surgeries on my back half of my back ~~is~~ has rods. screws, bracket spacers, where discs once were and vertabrae that are fused together this process will continue until it reaches the base of my skull. Chronic Severe Pain...

In the last year I spent 5 months with my left foot in a cast from a break in my metatarsal. NOV 2 2018 I fractured my pelvis, Jan 7th 2019 MRI on left hip Jan 11th 2019 diagnosis a little bursitis and degeneration in the hip appt to "see" where we go from there. Chronic Severe Pain

I have vision loss in both eyes the right one 95% the left one 23% ischemic optic Neuropathy Medical cannabis could possibly help return some of my vision

I have Osteo and RA ~~and~~ have tried all the traditional treatments it continues to progress unchecked slowly destroying joints bones and vital organs traditional "Pharmaceutical" treatment has not put it into remission but has managed more harm with side effects.

*Osteoarthritis and *Rheumatoid Arthritis

* www.ncbi.nim.nih.gov

scientific evidence which supports the analgesic tential of cannabinoids to treat OA pain nanifests as a combo of inflammatory, inociceptive and neuropathic pain each equiring a specific analgesics.

*Cochranelibrary.com,

Neuromodulators for pain management in RA. pain management is high priority dispite fficies in research data. Neuromodulators have ained widespread clinical acceptance as djuvants.

* *Spinal Stenosis *degenertive disc disease

* www.ncbi.nih.gov/pmc/articles 21 articles ffect of Medical Cannabis therapy. Chronic low back pain Sciatica, disc herniation or Spinal Stenosis

* International Journal of Anesthesiology & pain medicine Corresponding Author

* DR Dror Robinson

* Head Orthopedic Research Dept

Tel - 972-3-9372233

Fax - 972-3-9372501

Bursitis joint with RA, Scientific Studies Listed

* www. Fundacion-Canna-E3 The Ailments

** Ischemic Optic Neuropathy

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* www.marijuanadoctors.com articles on research being conducted with positive results.

* Fracture Healing (Bone density loss osteopenia)

* www.Labroots.com/trending/cannabis sciences cannabidiol enhances fracture healing

* www.biotrack.com/CBD-and-bone-fracture

Start

Darla Allen (Cousin) Dec 2016 Ehlers Danlos Cancer *
Jerrold Schalesky July 2017 Cancer (cousin) *
Lavonne Whorley (Schalesky) (Mom) Sept 2017 parkinsons *
Wesley Schalesky Dec 2018 (Uncle) heart never fully recovered from Auto accident 201

4. family members last who voted for Measure 5 Yes +0

I could continue and fill pages for you to read over but I feel your time is valuable and there is much work to be done.

I don't know if I will ever get to try Medical Cannabis to see if it could help. 2 reasons

1) My primary care from Northland Clinic is not allowed and my specialists are located in Rochester Mn Mayo Clinic, (Im waiting for a new Referral as Im writing this

2) I am highly allergic to many things, medications and must carry epi pens x 2 with me at all times

Enclosed you will find documented diagnosis I have and a ref of research I have found for each

Respect fully
Kimberly Dworshak
701-340-6503

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Shelly Bartow NP Northland Clinic
Matthew J Koster MD Internist, Rheumatologists
Mayo Clinic Rochester Minnesota

NORTH Dakota | Health
Be Legendary.™

Senate Bill 2134
Judiciary Committee
January 16, 2019

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1/16

Good morning Chair Larson and members of the Judiciary Committee. My name is Jason Wahl, Director of the Division of Medical Marijuana within the Department of Health. I am here to oppose and provide information on Senate Bill 2134 related to proposed changes to language within the Medical Marijuana chapter of state law.

The major changes to state law included in the bill relate to the authorization of registered qualifying patients to grow their own marijuana plants. Currently, registered qualifying patients are only authorized to purchase dried leaves and flowers and marijuana products at a registered dispensary. The bill would allow up to nine live plants and authorize a registered qualifying patient to possess three ounces of self-grown dried leaves or flowers. We oppose these changes to law for several reasons; most reasons directly relate to the health and safety of the qualifying patients as well as the public.

Under Senate Bill 2134, there are no requirements or regulations related to the testing of self-grown marijuana. Thus, qualifying patients with certain medical conditions are at risk of consuming marijuana that may contain harmful contaminants. Given the medical conditions of certain qualifying patients, certain contaminants could have an adverse impact on their health. Rather than being helpful, the marijuana may be detrimental to them. Contaminants could be in the growing medium, water, fertilizers, or the seeds

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or clones obtained for growing without a registered qualifying patient knowing they exist. Since the bill does not address regulations on where and how the seeds or clones are obtained, there is a risk they may be contaminated as well.

With no testing requirements related to potency, individuals using self-grown marijuana also do not have laboratory verified THC (tetrahydrocannabinol) amounts. While marijuana strains have a typical range of THC, the actual THC in dried leaves or flowers can vary greatly depending on growing mediums, lights, nutrients, and other cultivation methodologies. This may impact the effectiveness of the use of marijuana for medical purposes if the THC percentage is significantly less than expected. On the other hand, if the THC percentage is significantly higher than expected, unanticipated results may occur. For example, according to the Centers for Disease Control and Prevention, signs of using too much marijuana may include extreme confusion, anxiety, paranoia, panic, fast heart rate, delusions or hallucinations, increased blood pressure, and severe nausea or vomiting.

Under the provisions of the bill, the amount of dried leaves or flowers a registered qualifying patient may possess doubles the current possession amount. A registered qualifying patient could still possess up to three ounces of dried leaves or flowers purchased from a dispensary as well as the three ounces from their self-grown marijuana. Doubling possession limits may lead to increased abuses or misuse of marijuana under the program. In addition, since self-grow marijuana has no packaging or labeling requirements, it may

be difficult to determine if the registered qualifying patient is in possession of self-grown marijuana or illegally purchased marijuana.

While the proposed changes allow a registered qualifying patient to grow nine marijuana plants, the legal amount allowed in possession is three ounces. One marijuana plant may yield more than three ounces of dried leaves and flowers. It is unclear how a registered qualifying patient will remain within the possession limit when they harvest even one plant. This too may lead to an increased risk of diversion.

Extraction methods can involve various explosive materials and, if not done correctly, could lead to a concentrate with harmful chemicals in it. Nine self-grow marijuana plants may provide enough dried leaves and flowers to make a home extraction process viable and we are concerned registered qualifying patients may attempt their own extraction processes. Home extractions increase risks for the registered qualifying patient, those in the same residency and the public. Under the current laws, the amount of dried leaves and flowers purchased would not typically be sufficient to attempt a home extraction process.

The changes in the bill establish limited to no regulation or required monitoring related to self-grown marijuana. Outside of the provision of not growing within 1,000 feet of a school and using an enclosed, locked facility, no additional requirements exist for self-growing up to nine marijuana plants. The plants could be grown in multiple locations or on various properties with no

means to determine what the total plant count is for a registered qualifying patient. This could lead to an increase risk of diversion.

While the bill requires an enclosed, locked facility to be used for self-grow, there is no monitoring requirements of the facility being used. Thus, it is unclear how compliance with the requirements to use an enclosed, locked facility will be accomplished. Also, while a registered qualifying patient may have a lock on the door, there is still risk for someone within the residency, including a child, to locate a key and access the room.

The number of proposed plants allowed under the provisions of this bill also creates concerns. Multiple registered qualifying patients may reside within the same home which potentially increases the number of plants in the residency. The bill does not address a maximum number of plants in one specified location. The bill also does not specify how many of the plants can be immature or mature or place any restrictions on the size of a plant. This may lead registered qualifying patients to grow very large plants. This could increase the likelihood of mold, mildew, or other problems with the plants that could have a negative impact on a qualifying patient.

Regarding pricing of products under the current Medical Marijuana Program, while the Department of Health has no regulating authority on pricing, we will be monitoring pricing and mark-up information. Manufacturing facilities and dispensaries are required by state law to have plans for making dried leaves and flowers and marijuana products available on

an affordable basis to registered qualifying patients with limited financial resources. Each of the entities selected to be a registered manufacturing facility or dispensary will be monitored to ensure compliance with this requirement.

Allowing self-grown marijuana plants under the program may have an impact on the manufacturing facilities and dispensaries. If self-grow were to reduce demand, the operations of a manufacturing facility or a dispensary may be negatively impacted. This may lead to price increases or impact the ability of a manufacturing facility or dispensary to continue to operate. A dispensary closing could negatively impact access for registered qualifying patients who do not self-grow plants.

The bill appears to only allow registered qualifying patients to self-grow marijuana (Section 1, Lines 14 and 15). However, Section 4 and certain other sections of the bill appear to be contradictory to this. We would like to clarify whether a designated caregiver could grow for or assist a registered qualifying patient with growing. If designated caregivers are allowed to grow for up to five registered qualifying patients, the Department of Health would be concerned that a designated caregiver could be legally growing up to 45 plants and in possession of 30 ounces of dried leaves or flowers.

The Department of Health was requested to provide a fiscal note related to Senate Bill 2134. No additional regulations are established for the self-grow provisions for the Department to monitor or enforce. The bill does

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eliminate the requirement for a health care provider to authorize the use of dried leaves or flowers. This, in turn, would eliminate the requirement for a registry identification card to include whether the qualifying patient is authorized for dried leaves or flowers. While we would need to have changes made to the information technology system used for the program, the Department feels the cost of these changes would be minimal.

This concludes my testimony. I am happy to answer any questions you may have.

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On Jan 16, 2019, at 7:30 PM, Chris Nolden <nolden278@icloud.com> wrote:

Senator,

My name is Chris Nolden. I testified today in the committee hearing.

There seemed to be a lot of questions you all had, that were left totally unanswered. I would like to try to attempt to answer them.

It seemed as though there was some confusion as to what Senator O. Larsen was trying to describe as a "fingerprint" on the cannabis.
I am fairly certain he was trying to describe what is known in the industry as a "seed to sale" tracking system. These are only used if the product is to be sold from the caregivers and dispensaries. In the systems like Montana, a person who chooses to grow their own; cannot sell it, that would be illegal.

One of the questions revolved around some wording on Page 7 line 2.

I believe Senators O. Larsen's intent, would have been to have it read "All adult patients are authorized use of dried leaves or flowers of the plant of the genus cannabis in a combustible delivery form to treat or alleviate the patients debilitating medical condition".

Using this logic, then the strikethrough on Page 8 line 1 makes sense, as it would just be redundant.

I feel it is important that you know, the flowers are the most natural form of this medicine. The flower does not need to be combusted to benefit from the very effective therapeutic benefits.

In the hospitals, and long term health care facilities in Israel they vaporize flower. There is no combustion involved.
It is a fairly simple gadget, where the patient places a little bit of crushed flower into a tray. It then heats it to a predetermined temperature to be able to unlock all of the beneficial parts of the plant, with zero combustion involved.

At some point there was talk of people getting torches out and trying to burn wet flower. I can assure you this couldn't be farther from reality.
Also, by this logic, all of the approved medicine is combustible.

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It is crucial to realize here, the goal of self growing cannabis, is to grow its flower. The language changes to allow all adult patients to have access to the flower, I feel could also be very beneficial to the program.

People like to have some choices. Different variations or "strains" have different affects, therefore, work better or worse for some conditions.
Many want access to the most natural form they can get it in, and that would be to grow it, just as growing the food in a garden.

There were some questions, and objections to amounts and plant counts. I also believe this needs some work, however feel there is very workable, easy solutions.

Such as, it should be legal for you to keep what you grow. Any amount over the set amount of 3 ounces, could have a requirement to be locked up.
No one that wants to be in this program, and actually make it work, would want to do anything illegal with it, in fear of losing the ability to do it.

However, they would need to be able to store it. There is crop cycles to consider, possible crop failure and such.

When it comes to plant count, it gets a little trickier. Once again, I feel there are legitimate ways to go about this, however are bit much to type in an email, because it's pretty complex, and at some level will also require some changes to the caregiver, production, and dispensary system.

This certainly would take a bit of hard work, and collaboration of many, though I do not feel like it would be impossible either.

Also, as far as system implementation goes, and how long it has taken to roll out. In July of 2018, Oklahoma legalized medicinal cannabis.
Today is the January 16th, and they are fully up and running. People have cards, product is going out, the people seem pretty happy with it so far.
They obviously did some things right as well, especially when it comes to certification and reciprocity.

Thank you again, for your time. If you have any other questions I can help you with let me know.

Kindly,
Chris Nolden

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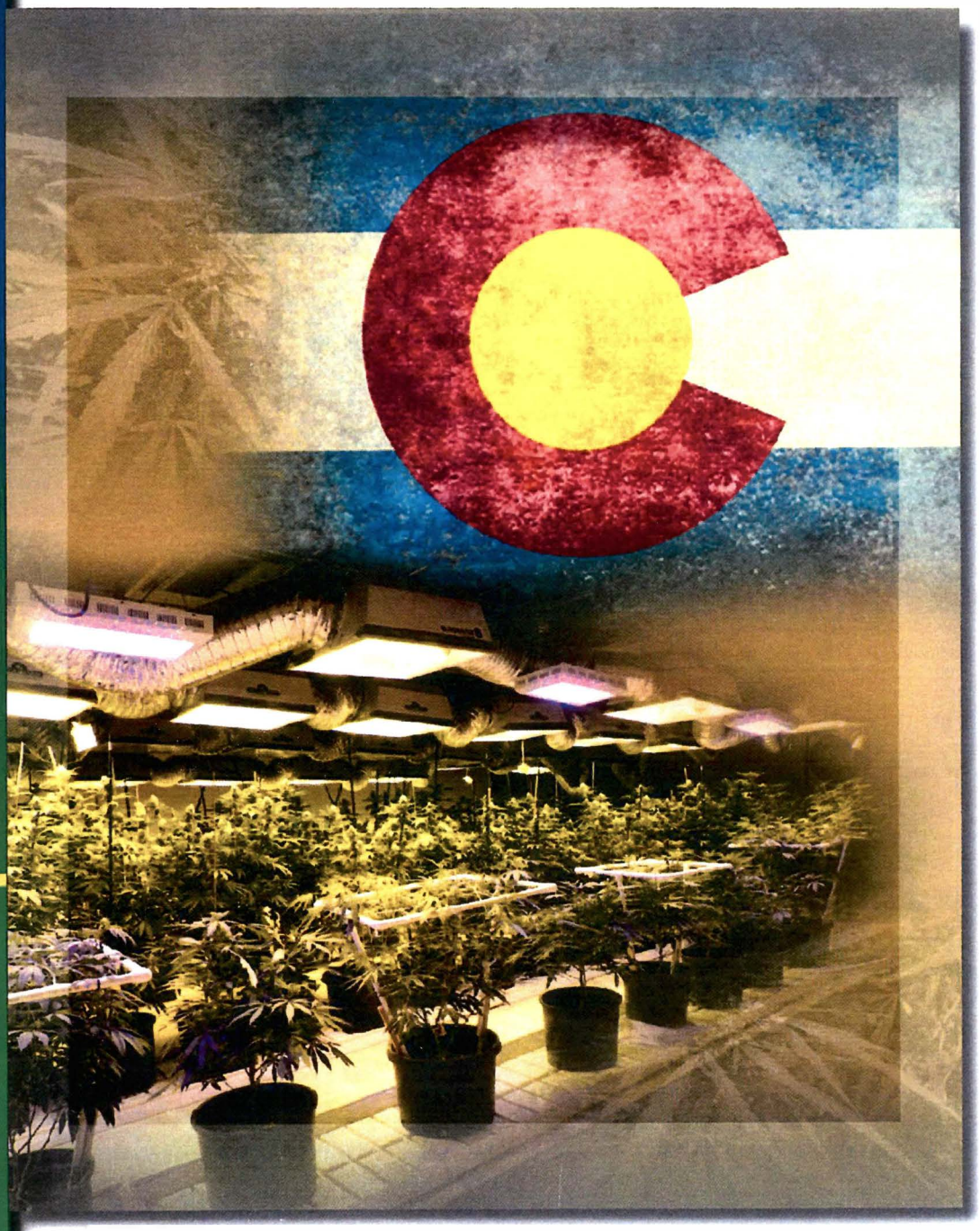
DEA
INTELLIGENCE
REPORT

Residential Marijuana Grows in Colorado: The New Meth Houses?

DEA-DEN-DIR-041-16
JUNE 2016



Residential Marijuana Grows in Colorado: The New Meth Houses?

Executive Summary

Colorado's state laws legalizing marijuana do not limit how much marijuana can be grown within a private residence. Further, there is no mechanism at the state-level to document or regulate home grows, even large ones. This has led to a proliferation of large-scale marijuana grow operations in hundreds of homes throughout the state. Much of the marijuana produced in large home grows is shipped out of Colorado and sold in markets where it commands a high price.

Although growing a large number of marijuana plants within private residences can fall within the parameters of state law, it presents potential risk to the occupants, homeowners, and neighbors of these residences, as well as to first responders who are called to them. Marijuana grows often cause extensive damage to the houses where they are maintained and are increasingly the causes of house fires, blown electrical transformers, and environmental damage. Much like the "meth houses" of the 1990s, many of these homes may ultimately be rendered uninhabitable.

Details

Colorado's legalization of medical marijuana and recreational marijuana by voter referendum set the stage for unfettered marijuana production in the state. Both Amendment 20 and Amendment 64 contain loopholes that allow for large marijuana grows within private residences. Although the State of Colorado created the Marijuana Enforcement Division (MED)—a regulatory body for licensed marijuana businesses—the MED does not have authority to regulate home grows.

According to the Colorado Department of Public Health and Environment, in January 2016 there were 8,210 medical marijuana patients in Colorado with physician recommendations to grow 50 to 99 plants. If each patient grew 50 plants, that equals 410,000 marijuana plants.

From each plant, they would likely harvest 1 pound of finished marijuana every 90 days. That is 1.64 million pounds of harvested marijuana per year.

Access to medical marijuana became every Coloradan's constitutional right in November 2000 when voters approved Amendment 20. Amendment 20 allows patients to possess six marijuana plants, unless a physician recommends more. As of 2016, physician recommendations for 75 to 99 plants are commonly used to justify large residential grows, many of which produce marijuana for sale outside the state. In January 2016, there were 107,798 medical marijuana registry patients. Of those, roughly 8 percent (8,210 patients) had physician recommendations for 50 to 99 plants.[1] Notably, in January 2014, when cultivation and possession of recreational marijuana became legal under state law, there were more overall medical marijuana patients (110,979), but fewer with elevated plant counts of 50 or more plants (5,308).[2]

As of March 2016, there is not a state-imposed limit on either the number of plants a physician may recommend for a medical marijuana patient or on the number of plants a patient may grow in a private residence. In May 2015, state legislation was passed that limited medical marijuana patients to growing 99 plants on private property—it will take effect January 2017.[3]

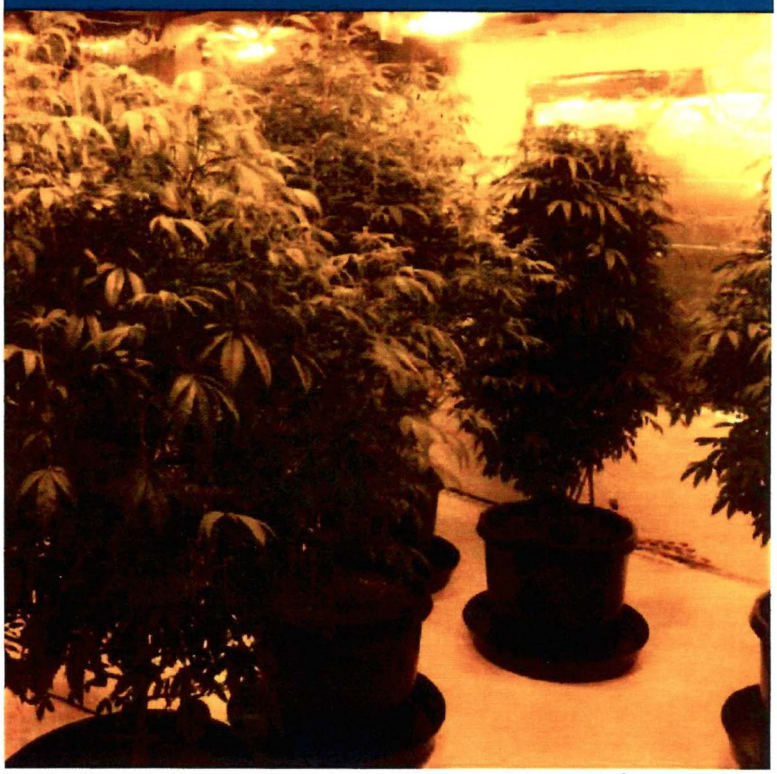
Amendment 64 allows any adult 21 years old or older in Colorado to cultivate up to six plants. It further allows for the possession of all marijuana produced by those plants, provided the marijuana remains in the enclosed residence and is not sold.[4] Amendment 64 also allows any adult in Colorado to "assist" any other adult in Colorado in "possessing, growing, processing, or transporting" his/her marijuana.[5] Consequently, large grows and/or quantities of processed marijuana within a residence are often justified through the claim

Residential Marijuana Grows in Colorado: The New Meth Houses?

that the resident is assisting others by growing or storing their marijuana. As there is no mechanism at the state or local level to document or regulate recreational marijuana home grows, there is no practical means for local police to verify whose plants are grown or whose marijuana is stored in any given residence.

Some local governments have begun to place limits on the number of plants that can be grown in private residences. However, such local ordinances are widely varied and rarely effectively enforced.

FIGURE 1. A BASEMENT GROW IN A COLORADO HOME.



Source: DEA

As a result of the permissiveness of Colorado's medical and recreational marijuana laws, the system is extensively exploited by traffickers who operate large marijuana grows that supply out-of-state markets. Since 2014, there has been a noticeable increase in organized networks of sophisticated residential grows in Colorado that are orchestrated and operated by drug trafficking organizations. These organizations operate hundreds of large-scale home grows throughout Colorado. Harvested marijuana is shipped or transported from Colorado to markets in the Midwest and along the East Coast.[6]

Indoor marijuana plants can grow as tall as 6 feet or more and yield more than a pound of harvested marijuana every 90 days. Growing them requires specific conditions that consume high levels of electrical power and water and results in the drainage of chemical-laden waste water. Grow rooms must be maintained at temperatures between 71 and 80 degrees Fahrenheit. At certain times during the growing cycle, plants must remain under high-power grow lights for 24 hours a day. Fertilizers and pesticides—sometimes harsh ones—are required to grow robust and healthy plants. At times in the growing cycle, each plant can require 3 or more gallons of water per day.

Local police departments often receive numerous calls from neighbors about marijuana grow houses. Common complaints include strong odors, excessive noise from industrial air-conditioning units, blown electrical transformers, and heavy vehicle traffic.

Colorado homes where marijuana is grown often sustain extensive structural damage. Moisture, condensation, and molds spread throughout the residence. Growers often cut holes in floors and exterior walls in order to install ventilation tubes. Growers often tamper with electrical systems in order to supply multiple high-power grow lights and industrial air-conditioning units. These alterations are often done by tenant growers with little regard for fire risk or the home's structural integrity. This is an increasing concern for first responders.

Residential Marijuana Grows in Colorado: The New Meth Houses?

FIGURE 2. DO-IT-YOURSELF VENTILATION IN A COLORADO GROW HOUSE

Source: DEA

Altered electrical systems with loose and entangled wires, flammable fertilizers and chemicals, explosive materials such as propane and butane, or holes cut into sub-floors for venting all pose clear hazards to firefighters or police officers responding to the residence in an emergency situation.

Outlook

Adding to the list of unintended consequences of marijuana legalization in Colorado, the proliferation of large residential grows is taxing local police and fire departments, consuming power and water resources, and potentially affecting home values in communities throughout the state. Further, the ability to establish large-scale marijuana grow operations within residential homes under the guise of state law will likely continue to attract drug traffickers and criminal organizations. Thus, Colorado will continue to be a source for much of the marijuana destined for markets in other states.

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[1] Colorado Department of Public Health and Environment, January 2016.

[2] Ibid.

[3] Colorado Senate Bill 15-014, passed May 2015.

[4] Colorado Constitution. Article 18, Section 16, Subsection 3(b).

[5] Colorado Constitution. Article 18, Section 16, Subsection 3(e).

[6] DEA Denver Division Investigative Reporting. 2016; extracted information is: (U); overall document classification is: (U).

This product was prepared by the DEA Denver Division. Comments and questions may be addressed to the Chief, Analysis and Production Section at dea.onsi@usdoj.gov.

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U.S. Department of Justice

Office of the Deputy Attorney General

The Deputy Attorney General

Washington, D.C. 20530

August 29, 2013

MEMORANDUM FOR ALL UNITED STATES ATTORNEYS

FROM: James M. Cole
Deputy Attorney General

SUBJECT: Guidance Regarding Marijuana Enforcement

In October 2009 and June 2011, the Department issued guidance to federal prosecutors concerning marijuana enforcement under the Controlled Substances Act (CSA). This memorandum updates that guidance in light of state ballot initiatives that legalize under state law the possession of small amounts of marijuana and provide for the regulation of marijuana production, processing, and sale. The guidance set forth herein applies to all federal enforcement activity, including civil enforcement and criminal investigations and prosecutions, concerning marijuana in all states.

As the Department noted in its previous guidance, Congress has determined that marijuana is a dangerous drug and that the illegal distribution and sale of marijuana is a serious crime that provides a significant source of revenue to large-scale criminal enterprises, gangs, and cartels. The Department of Justice is committed to enforcement of the CSA consistent with those determinations. The Department is also committed to using its limited investigative and prosecutorial resources to address the most significant threats in the most effective, consistent, and rational way. In furtherance of those objectives, as several states enacted laws relating to the use of marijuana for medical purposes, the Department in recent years has focused its efforts on certain enforcement priorities that are particularly important to the federal government:

- Preventing the distribution of marijuana to minors;
- Preventing revenue from the sale of marijuana from going to criminal enterprises, gangs, and cartels;
- Preventing the diversion of marijuana from states where it is legal under state law in some form to other states;
- Preventing state-authorized marijuana activity from being used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity;

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- Preventing violence and the use of firearms in the cultivation and distribution of marijuana;
- Preventing drugged driving and the exacerbation of other adverse public health consequences associated with marijuana use;
- Preventing the growing of marijuana on public lands and the attendant public safety and environmental dangers posed by marijuana production on public lands; and
- Preventing marijuana possession or use on federal property.

These priorities will continue to guide the Department's enforcement of the CSA against marijuana-related conduct. Thus, this memorandum serves as guidance to Department attorneys and law enforcement to focus their enforcement resources and efforts, including prosecution, on persons or organizations whose conduct interferes with any one or more of these priorities, regardless of state law.[1]

Outside of these enforcement priorities, the federal government has traditionally relied on states and local law enforcement agencies to address marijuana activity through enforcement of their own narcotics laws. For example, the Department of Justice has not historically devoted resources to prosecuting individuals whose conduct is limited to possession of small amounts of marijuana for personal use on private property. Instead, the Department has left such lower-level or localized activity to state and local authorities and has stepped in to enforce the CSA only when the use, possession, cultivation, or distribution of marijuana has threatened to cause one of the harms identified above.

The enactment of state laws that endeavor to authorize marijuana production, distribution, and possession by establishing a regulatory scheme for these purposes affects this traditional joint federal-state approach to narcotics enforcement. The Department's guidance in this memorandum rests on its expectation that states and local governments that have enacted laws authorizing marijuana-related conduct will implement strong and effective regulatory and enforcement systems that will address the threat those state laws could pose to public safety, public health, and other law enforcement interests. A system adequate to that task must not only contain robust controls and procedures on paper; it must also be effective in practice. Jurisdictions that have implemented systems that provide for regulation of marijuana activity

[1] These enforcement priorities are listed in general terms; each encompasses a variety of conduct that may merit civil or criminal enforcement of the CSA. By way of example only, the Department's interest in preventing the distribution of marijuana to minors would call for enforcement not just when an individual or entity sells or transfers marijuana to a minor, but also when marijuana trafficking takes place near an area associated with minors; when marijuana or marijuana-infused products are marketed in a manner to appeal to minors; or when marijuana is being diverted, directly or indirectly, and purposefully or otherwise, to minors.

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must provide the necessary resources and demonstrate the willingness to enforce their laws and regulations in a manner that ensures they do not undermine federal enforcement priorities.

In jurisdictions that have enacted laws legalizing marijuana in some form and that have also implemented strong and effective regulatory and enforcement systems to control the cultivation, distribution, sale, and possession of marijuana, conduct in compliance with those laws and regulations is less likely to threaten the federal priorities set forth above. Indeed, a robust system may affirmatively address those priorities by, for example, implementing effective measures to prevent diversion of marijuana outside of the regulated system and to other states, prohibiting access to marijuana by minors, and replacing an illicit marijuana trade that funds criminal enterprises with a tightly regulated market in which revenues are tracked and accounted for. In those circumstances, consistent with the traditional allocation of federal-state efforts in this area, enforcement of state law by state and local law enforcement and regulatory bodies should remain the primary means of addressing marijuana-related activity. If state enforcement efforts are not sufficiently robust to protect against the harms set forth above, the federal government may seek to challenge the regulatory structure itself in addition to continuing to bring individual enforcement actions, including criminal prosecutions, focused on those harms.

The Department's previous memoranda specifically addressed the exercise of prosecutorial discretion in states with laws authorizing marijuana cultivation and distribution for medical use. In those contexts, the Department advised that it likely was not an efficient use of federal resources to focus enforcement efforts on seriously ill individuals, or on their individual caregivers. In doing so, the previous guidance drew a distinction between the seriously ill and their caregivers, on the one hand, and large-scale, for-profit commercial enterprises, on the other, and advised that the latter continued to be appropriate targets for federal enforcement and prosecution. In drawing this distinction, the Department relied on the common-sense judgment that the size of a marijuana operation was a reasonable proxy for assessing whether marijuana trafficking implicates the federal enforcement priorities set forth above.

As explained above, however, both the existence of a strong and effective state regulatory system, and an operation's compliance with such a system, may allay the threat that an operation's size poses to federal enforcement interests. Accordingly, in exercising prosecutorial discretion, prosecutors should not consider the size or commercial nature of a marijuana operation alone as a proxy for assessing whether marijuana trafficking implicates the Department's enforcement priorities listed above. Rather, prosecutors should continue to review marijuana cases on a case-by-case basis and weigh all available information and evidence, including, but not limited to, whether the operation is demonstrably in compliance with a strong and effective state regulatory system. A marijuana operation's large scale or for-profit nature may be a relevant consideration for assessing the extent to which it undermines a particular federal enforcement priority. The primary question in all cases – and in all jurisdictions – should be whether the conduct at issue implicates one or more of the enforcement priorities listed above.

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As with the Department's previous statements on this subject, this memorandum is intended solely as a guide to the exercise of investigative and prosecutorial discretion. This memorandum does not alter in any way the Department's authority to enforce federal law, including federal laws relating to marijuana, regardless of state law. Neither the guidance herein nor any state or local law provides a legal defense to a violation of federal law, including any civil or criminal violation of the CSA. Even in jurisdictions with strong and effective regulatory systems, evidence that particular conduct threatens federal priorities will subject that person or entity to federal enforcement action, based on the circumstances. This memorandum is not intended to, does not, and may not be relied upon to create any rights, substantive or procedural, enforceable at law by any party in any matter civil or criminal. It applies prospectively to the exercise of prosecutorial discretion in future cases and does not provide defendants or subjects of enforcement action with a basis for reconsideration of any pending civil action or criminal prosecution. Finally, nothing herein precludes investigation or prosecution, even in the absence of any one of the factors listed above, in particular circumstances where investigation and prosecution otherwise serves an important federal interest.

cc: Mythili Raman
Acting Assistant Attorney General, Criminal Division

Loretta E. Lynch
United States Attorney
Eastern District of New York
Chair, Attorney General's Advisory Committee

Michele M. Leonhart
Administrator
Drug Enforcement Administration

H. Marshall Jarrett
Director
Executive Office for United States Attorneys

Ronald T. Hosko
Assistant Director
Criminal Investigative Division
Federal Bureau of Investigation