

MINUTES OF THE SENATE HEALTH CARE STRATEGIES COMMITTEE

The meeting was called to order by Chairperson Susan Wagle at 1:30 P.M. on February 11, 2008 in Room 136-N of the Capitol.

Committee members absent: Senator Mark Gilstrap- excused  
Senator Nick Jordan- excused

Committee staff present: Ms. Emalene Correll, Kansas Legislative Research Department  
Mrs. Terry Weber, Kansas Legislative Research Department  
Ms. Nobuko Folmsbee, Revisor of Statutes Office  
Ms. Renae Jefferies, Revisor of Statutes Office  
Ms. Margaret Cianciarulo, Committee Secretary

Conferees appearing before the Committee: Mr. Robert Stephan, former Attorney General, Kansas  
Ms. Laura Green, Coalition Director,  
Kansas Compassionate Care Coalition  
Ms. Bette Hulser, Private Citizen, Topeka, Kansas  
Dr. Jon Hauxwell, Retired Physician, Stockton, Kansas  
Mr. Anthony Buckland, Private Citizen, Mission, Kansas  
Dr. Eric Voth, M.D., Chairman,  
The Institute on Global Drug Policy  
Ms. Jean Holthaus, Director, S.P.I.C.E.  
Shawnee Regional Prevention & Recovery Services  
representing Safe Street Coalition  
Mr. Jeffery Brandau, Special-Agent-in-Charge, KBI  
Lt. Michael Life, Junction City Police Department  
Mr. Karl Fruendt, President, of Board of Directors,  
Kansas Family Partnership  
Mr. Chris Schneider, Assistant District Attorney for  
Wyandotte County, Kansas City, Kansas  
Ms. Debbie Billingsley, Executive Secretary,  
Kansas Board of Pharmacy  
Ms. Teresa Walters, Executive Director,  
Emporians for Drug Awareness  
Mr. Don Morin, Director of Government Affairs,  
Kansas Medical Society  
Ms. Callie Denton Hardle, Kansans Association for Justice

Others in attendance: Please see Guest List

**Hearing on SB556 - An act concerning controlled substance; establishing the medical marijuana defense act**

Upon calling the meeting to order, The Chair asked Ms. Renae Jefferies, Assistant Revisor, Office of Revisor of Statutes, to give an overview of the bill. Ms. Jefferies stated the bill allows individuals with a written certification from a physician to claim a defense against prosecution for having marijuana, tetrahydrocannabinol or drug paraphernalia to aid in the use of such substances in their control or possession. She covered:

1. the specifics of the written certification,
2. defined debilitating medical conditions,
3. A registry ID card outside of Kansas does not constitute a defense to the possession of marijuana,
4. civil or criminal liability or a disciplinary proceeding and sanctioning a practitioner,

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She concluded by stating that if the bill was worked, amendments would need to be made to the act, at the committee's discretion, either to remove tetrahydrocannabinol from the act or to insert it after the word marijuana on page 1, line 30, and page 2, line 14. A copy of her overview is ([Attachment 1](#)) attached.

As there were no questions of Ms. Jefferies, the Chair called on the first of six proponents to testify, Mr. Robert Stephan, former Attorney General of Kansas, who stated he is not asking the legislature to legalize marijuana but to provide a defense for individuals whose suffering is relieved through the use of marijuana and, by passing this bill, you will send a message to the federal government and the DEA that it must allow appropriate research of the marijuana plant and place marijuana as a Schedule II drug. A copy of his testimony is ([Attachment 2](#)) attached.

Next was Ms. Laura Green, Coalition Director, Kansas Compassionate Care Coalition, who stated that in 1995, SB333, a bill to make the possession of marijuana a felony for a second conviction was amended by the House to include the a medical marijuana defense clause. A copy of her testimony is ([Attachment 3](#)) attached.

The third conferee was Ms. Bette Hulser, a private citizen from Topeka who offered the story of her son who was diagnosed with Chronic Progressive Multiple Sclerosis at the age of 24. She asks that all Kansans who are sick have the opportunity to relieve their pain in the manner that works for them. A copy of her testimony is ([Attachment 4](#)) attached.

Dr. Jon Hauxwell was next to testify. He stated that he considers the whole-plant cannabis to be both a drug and a medicine (meaning any substance or combination of substances which, when administered to a human, can influence human physiology and pathology in a beneficial manner.) Dr. Hauxwell went on to offer case studies, drug dependence and safety issues, medication delivery methods, and consistency of dosing. In conclusion, he stated that side effects exist, but the most devastating of the medicinal therapeutic use of cannabis is its legal status, and the potential for life-disrupting legal penalties. A copy of his testimony is ([Attachment 5](#)) attached.

The Chair then called on Mr. Anthony Buckland, private citizen from Mission, Kansas who offered the story of his 16 year old stepdaughter and her fight with an aggressive form of bone cancer (Ostersarcoma of the right pelvic bone.) He stated that if medical marijuana practice was available now, it would replace two of her anti-depression medicines, five of her anti-vomiting medications, replace or reduce the amounts of Oxycodone and Fentanyl for pain, relieve stress, her depression and help her sleep, plus eliminate any additional drugs to counter the side effect of the pain medicine. A copy of his testimony is ([Attachment 6](#)) attached.

Written testimony in support of the bill is as follows:

1. Ms. Susan Hughes-Storm, private citizen from El Dorado;
2. Ms. Rhonda O'Donnell, private citizen, from Rockville, Rhode Island
3. Mr. Paul Armentano, Deputy Director, NORML Foundation, Washington, DC
4. Mr. Michael Byington, Voluntary CEO, Kansas Association for the Blind & Visually Impaired

A copy of their written testimony is ([Attachment 7](#)) attached.

Chairperson Wagle then called upon the first of seven opponents to testify, Dr. Eric Voth, M.D., Chairman, The Institute on Global Drug Policy, who stated that the major active ingredient in marijuana, THC, is available as a legal medicine, marijuana is impure, containing 488 substances and it is virtually impossible

to assure what dose of THC is present with a particular grade. He stated that medical marijuana as set forth in this bill is opposed by the FDA and bypasses the FDA. A copy of his testimony and attachments are

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(Attachment 8) attached.

The next opponent was Ms. Jean Holthaus, Director, S.P.I.C.E. who read testimony for Mrs. Christi Cain, Project Coordinator, Shawnee Regional Prevention & recovery Services representing Safe Street Coalition,. In FY 2007, marijuana accounted for over 26% of treatment admissions (3,916 Kansas residents) to state-funded treatment organizations. She went on to say that history has shown that legalization increases addiction rates which is demonstrated by the fact that alcohol was the number one problem at admission to state-funded treatment organizations in FY2007. A copy of Mrs. Cain's testimony is (Attachment 9) attached.

The third opponent, Mr. Jeff Randolph, Special-Agent-in-Charge, Kansas Bureau of Investigation, said that he would also be testifying for Lt. Michael Life of the Junction City Police Department and President of the Kansas Narcotics Officers Association.

In Mr. Jeff Randolph's testimony, he offered marijuana's impact on users influenced by the potency of the THC that marijuana contains. He stated :

- the National Highway Traffic Safety Administration reports marijuana is the second most found drug in crash involved drivers, only alcohol is involved in more accidents;
- the Controlled Substances Act (CSA) placed substances into one of five categories depending on the substances potential for abuse and medical use, Schedule 1 drugs are those that have the highest potential for abuse and have no currently accepted medical use in the United States; and,
- in order for a drug within the CSA to meet the current accepted medical use, it must meet 5 factors, which he listed, but according to the Drug Enforcement Administration, botanical marijuana meets none of these requirements.

He offered information regarding the Compassionate Use Program providing seriously ill patients marijuana. And lastly he concluded the most damage from the passage of this bill would be to tell our young people that marijuana is not dangerous and lower their perception of risk of using the drug. A copy of his testimony is (Attachment 10) attached.

-In Lt. Michael Life's testimony, he stated that as a narcotics officer they are already fighting this very same battle with synthetic opiates such Oxycontin, Delaudid, or other prescription pain medicines and currently have several abusers in his city alone that will drive 240 miles round trip to a popular doctor in another city who will easily prescribe these drugs. He asked the Committee to look at specifics of the bill (part (b)(1) "debilitating medical condition" may include, but not limited to", (B) "Cachexia" and (B) "severe pain" He offered quotes from officers of NORML (National Organization for the Reform of Marijuana Laws (ex. the medicinal use of marijuana is an integral part of the strategy to legalize marijuana). And lastly, he has attached a recent article from a publication where the author of this article is writing from a position of having observed Oregon's Medical Marijuana Act in effect. A copy of his testimony and attachment are (Attachment 11) attached

Next to testify was Mr. Karl Fruendt, President, Board of Directors, Kansas Family Partnership, Inc. who stated if there were truly a real need for smoked marijuana, the American Medical Association, the American Pediatrics Association, and the many subspecialties in the medical field would be calling for this legislation. Consider the litany of unintended consequences that have occurred as a result in the states that have voted to have "medical marijuana" as a defense to prosecution. He has also attached to his testimony a list of seven statewide organizations and 26 local and county individuals, organizations, and coalitions who oppose the use of leaf marijuana as medicine. A copy of his testimony and attachment are (Attachment 12) attached.

The fifth opponent was Mr. Chris Schneider, Assistant District Attorney for Wyandotte County in Kansas City, Kansas, who stated that though this legislation provides a defense to those possessing and using marijuana who have "written certification" from a doctor, there is still no legal way for a person to obtain either marijuana, either in a form ready to be smoked or in a form to be grown. Under both state and federal

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law it would still be a crime to sell, deliver, or possess with intent to sell or deliver marijuana. A copy of his testimony is ([Attachment 13](#)) attached.

Ms. Debbie Billingsley, Executive Secretary, Kansas Board of Pharmacy also spoke in opposition to the bill stating that the Board determined there are safe and effective reliable medicines that do exist that are best for patients and Kansans should be ensured safe medicinal practices through rigorous research and FDA standards prior to any drug being used. Lastly, she has attached to her testimony, a copy of a Resolution for the Committee's review, which the Board unanimously passed opposing the use of leaf marijuana for medicinal purposes. A copy of her testimony and Resolution are ([Attachment 14](#)) attached.

The last opponent to testify was Mr. Dan Morin, Director of Government Affairs, Kansas Medical Society who stated that as recently as April 2006, the FDA again declared that marijuana has a high potential for abuse, has no currently accepted medical use in treatment in the United States, and has a lack of accepted safety for use under medical supervision. He went on to say that the FDA has approved a synthetic marijuana-based drug called Marinol that contains THC, which studies have shown to be effective in the treatment of nausea, vomiting, and chronic pain. Lastly, he concluded that even though states can statutorily create a medical use exception for marijuana and its derivatives under their own, state-level substance laws, federal agents, at the same time, can investigate, arrest, and prosecute medical marijuana patients, care givers, and providers in accordance with the CSA. A copy of his testimony is ([Attachment 15](#)) attached.

Written testimony in opposition to the bill was also submitted by:

1. Ms. Teresa Walters, Executive Director, Emporians for Drug Awareness
2. Ms. Dorothy Jochem, Prevention Consultant, Regional Prevention Center of the Flint Hills at Emporia, Kansas;
3. Dr. Irving Cohen, Physician, Topeka, Kansas
4. Mr. Ed Klumpp, chief of Police Topeka, Kansas for Kansas Association of chief of Police
5. Mr. Ed Klumpp, chief of Police Topeka, Kansas for Kansas Peace Officers Association

A copy of their testimonies are ([Attachment 16](#)) attached.

Neutral written testimony was also offered by Ms. Callie Denton Hardle, Kansas Association for Justice. A copy of her testimony is ([Attachment 17](#)) attached.

Committee discussion included questions from Senators Journey, Schmidt, Wagle and Barnett including

- KMS, like many of the other medical Boards and professionals, support medical relief and merits some research, does it provide relief, antidotially provided

- is it understood that federal administrative judges have ordered the FDA to allow these studies to go forward but they, according to the judges, unreasonably withheld their approval of this study?

- a 2 ½ page document was handed out entitled "Medical Marijuana: The Fact" from the DEA printed off of the their website (offered by Senator Schmidt) A copy of this document is ([Attachment 18](#)) attached.

- in the last 5 years there has been so many more drugs available to cancer patients from Kytrol and Marinol and other pain and nausea relievers, every year something new is coming out that does not have the side

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effects;

- regarding the case that AG Stephan referred to, there was an expert for the DEA that actually testified the questions relative to the Massachusetts professor was whether or not the government could provide enough marijuana of good enough quality for the Mississippi marijuana farms so there was no reason for Massachusetts to start a marijuana farm;

- when will Marinol become generic?

- in dealing with this in a criminal sense it is a little problematic in how the court process is going to work and rather than making it an affirmative offense, perhaps going a different route where it sets a different threshold and different maximum for the penalty, for example a simple fine, so it does not become a question of fact for a jury or judge to determine

### **Adjournment**

As it was going on Senate session time, the meeting was adjourned. The time was 2:30 p.m.

The next meeting is scheduled for February 12, 2008.