

# STATE OF COLORADO

## Colorado General Assembly

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### MEMORANDUM

March 16, 2012

TO: Sam Gambrell, Katie-Grace Gambrell, and Rodrigo Hernandez

FROM: Legislative Council Staff and Office of Legislative Legal Services

SUBJECT: Proposed initiative measure 2011-2012 #65, concerning Medical Use of Marijuana

Section 1-40-105 (1), Colorado Revised Statutes, requires the directors of the Colorado Legislative Council and the Office of Legislative Legal Services to "review and comment" on initiative petitions for proposed laws and amendments to the Colorado constitution. We hereby submit our comments to you regarding the appended proposed initiative.

The purpose of this statutory requirement of the Legislative Council and the Office of Legislative Legal Services is to provide comments intended to aid proponents in determining the language of their proposal and to avail the public of knowledge of the contents of the proposal. Our first objective is to be sure we understand your intent and your objective in proposing the amendment. We hope that the statements and questions contained in this memorandum will provide a basis for discussion and understanding of the proposal.

#### Purposes

The major purposes of the proposed amendment appear to be:

1. To permit the use of medical marijuana for any condition for a specific patient for which, in the professional opinion of the patient's physician, the condition reasonably may be alleviated by the medical use of marijuana.

#### Technical Comments:

The following comments address technical issues raised by the form of the proposed

initiative. These comments will be read aloud at the public meeting only if the proponents so request. You will have the opportunity to ask questions about these comments at the review and comment meeting. Please consider revising the proposed initiative as suggested below.

1. A new amending clause format has been adopted in standard drafting practice. The new format looks like this: "In the constitution of the state of Colorado, Section 14 of article XVIII, **amend** (1) (a) (II) and (1) (a) (III); and **add** (1) (a) (IV) as follows:".

2. The first paragraph of the new text in the proposed initiative appears to be a declaration or statement of purpose. That language does not flow off the introductory portion in paragraph (1) (a) of section 14 of article XVIII, which defines "debilitating medical condition". The language in the first paragraph of the new text should be in a new subsection of section 14 of article XVIII or in a separate, non-constitutional section of the proposed initiative. If the proponents want to add the language in a non-constitutional section of the proposed initiative, that language would not appear in small capitals, but rather in regular type.

3. The last paragraph of the new text in the proposed initiative appears to be the effective date provision of the proposed initiative. That language does not flow off the introductory portion in paragraph (1) (a) of section 14 of article XVIII, which defines "debilitating medical condition". The last paragraph of the new text should be in a separate, non-constitutional section of the proposed initiative. If the proponents want to add the language in a non-constitutional section of the proposed initiative, that language would not appear in small capitals, but rather in regular type.

### **Substantive Comments and Questions**

The substance of the proposed initiative raises the following comments and questions:

1. Subsection (5.5) of section 1 of article V of the state constitution requires each proposed initiative to have a single subject. What is the single subject of the proponents' proposed initiative?

2. How would the proponents define "marijuana, in its natural form"? What forms of marijuana would qualify as "marijuana in its natural form" and what forms would not?

3. What is meant by the phrase "less bodily harm" in the sentence "The people of the state of Colorado also find and declare that marijuana, in its natural form, induces less bodily harm than alcohol or tobacco"?

4. The second paragraph of the new text that defines "debilitating medical condition" states "any other condition, or treatment for such condition". What do the proponents mean by "treatment for such condition"? How is "treatment for such condition" a debilitating condition?

5. The second paragraph of new text refers to a physician's "professional opinion" that the patient's condition or conditions reasonably may be alleviated by the medical use of marijuana. Would the physician need to document the opinion? If so, what form would the documentation take and who would receive the documentation? How would a patient apply to be placed on the patient registry using such an opinion?