

Opinion No. 2012-026

March 8, 2012

Mr. Rex Petty, Spokesperson
Arkansas Cannabis and Hemp Study Advocates
5162 Bells Chapel West
Atkins, Arkansas 72823

Dear Mr. Petty:

This is in response to your request for certification, pursuant to A.C.A. § 7-9-107 (Repl. 2007), of the popular name and ballot title for a proposed initiated measure. You have previously submitted a similar measure, which this office rejected due to ambiguities in the text of your proposed initiated act. *See* Op. Att’y Gen. No. 2011-052. You have made changes in the text of your proposal since your last submission and have now submitted the following proposed popular name and ballot title for my certification:

Popular Name

THE ARKANSAS CANNABIS AND HEMP STUDY ACT

Ballot Title

CANNABIS (“MARIJUANA”) AND HEMP ARE GENERAL USE CONTROLLED SUBSTANCES UNDER FEDERAL AND ARKANSAS LAW; THIS ACT, WHICH DOES NOT LEGALIZE CANNABIS OR HEMP, AUTHORIZES A STATE-WIDE, SCIENTIFIC AND ACADEMIC STUDY, LONG-TERM, AND LARGELY SELF-FINANCING STUDY TO COMPREHENSIVELY RESEARCH HEMP AGRICULTURE, PROCESSING AND INDUSTRIAL UTILITY AND DEMONSTRATE THE ECONOMIC EFFECT OF AN

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ARKANSAS GEMP [SIC] INDUSTRY; AND TO RESEARCH CANNABIS PHARMACOLOGY AND MEDICAL APPLICATIONS AND EVALUATE THE ECONOMIC, MEDICAL, AND SOCIETAL EFFECTS OF REGULATED PRODUCTION AND USE OF CANNBIS [SIC] FOR MEDICAL/THERAPEUTIC AND NON-MEDICAL APPLICATIONS; THE STUDY INCLUDES TRIALS AND TESTS WHOSE SUBJECTS ARE REGISTERED STUDY PARTICIPANTS; ALL COMPETENT, NON-INCARCERATED RESIDENTS (AND TOURISTS/VISITORS, WHILE IN ARKANSAS) AGED 21 AND OLDER ARE ELIGIBLE TO REGISTER TO PARTICIPATE IN THE STUDY

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

In this regard, A.C.A. § 7-9-107 neither requires nor authorizes this office to make legal determinations concerning the merits of the act or amendment, or concerning the likelihood that it will accomplish its stated objective. In addition, following Arkansas Supreme Court precedent, this office will not address the constitutionality of proposed measures in the context of a ballot title review unless the measure is “clearly contrary to law.” *Kurrus v. Priest*, 342 Ark. 434, 29 S.W.3d 669 (2000); *Donovan v. Priest*, 326 Ark. 353, 931 S.W.2d (1996); *Plugge v. McCuen*, 310 Ark. 654, 841 S.W.2d 139 (1992). Consequently, this review has been limited to a determination, pursuant to the guidelines that have been set forth by the Arkansas Supreme Court, discussed below, of whether the proposed popular name and ballot title accurately and impartially summarize the provisions of your proposed amendment or act.

The purpose of my review and certification is to ensure that the popular name and ballot title honestly, intelligibly, and fairly set forth the purpose of the proposed amendment or act. See *Arkansas Women's Political Caucus v. Riviere*, 283 Ark. 463, 466, 677 S.W.2d 846 (1984).

The popular name is primarily a useful legislative device. *Pafford v. Hall*, 217 Ark. 734, 233 S.W.2d 72 (1950). It need not contain detailed information or include exceptions that might be required of a ballot title, but it must not be misleading or give partisan coloring to the merit of the proposal. *Chaney v. Bryant*, 259 Ark. 294, 532 S.W.2d 741 (1976); *Moore v. Hall*, 229 Ark. 411, 316 S.W.2d 207 (1958). The popular name is to be considered together with the ballot title in determining the ballot title's sufficiency. *Id.*

The ballot title must include an impartial summary of the proposed amendment or act that will give the voter a fair understanding of the issues presented. *Hoban v. Hall*, 229 Ark. 416, 417, 316 S.W.2d 185 (1958); *Becker v. Riviere*, 270 Ark. 219, 223, 226, 604 S.W.2d 555 (1980). According to the court, if information omitted from the ballot title is an "essential fact which would give the voter serious ground for reflection, it must be disclosed." *Bailey v. McCuen*, 318 Ark. 277, 285, 884 S.W.2d 938 (1994), citing *Finn v. McCuen*, 303 Ark. 418, 798 S.W.2d 34 (1990); *Gaines v. McCuen*, 296 Ark. 513, 758 S.W.2d 403 (1988); *Hoban v. Hall, supra*; and *Walton v. McDonald*, 192 Ark. 1155, 97 S.W.2d 81 (1936). At the same time, however, a ballot title must be brief and concise (*see* A.C.A. § 7-9-107(b)); otherwise voters could run afoul of A.C.A. § 7-5-522's five minute limit in voting booths when other voters are waiting in line. *Bailey v. McCuen, supra*. The ballot title is not required to be perfect, nor is it reasonable to expect the title to cover or anticipate every possible legal argument the proposed measure might evoke. *Plugge v. McCuen, supra*. The title, however, must be free from any misleading tendency, whether by amplification, omission, or fallacy; it must not be tinged with partisan coloring. *Id.* A ballot title must convey an intelligible idea of the scope and significance of a proposed change in the law. *Christian Civic Action Committee v. McCuen*, 318 Ark. 241, 884 S.W.2d 605 (1994). It has been stated that the ballot title must be: 1) intelligible, 2) honest, and 3) impartial. *Becker v. McCuen*, 303 Ark. 482, 798 S.W.2d 71 (1990), citing *Leigh v. Hall*, 232 Ark. 558, 339 S.W.2d 104 (1960).

Having analyzed your proposed amendment, as well as your proposed popular name and ballot title under the above precepts, it is my conclusion that I must reject your proposed popular name and ballot title due to ambiguities in the *text* of your proposed measure. A number of additions or changes to your ballot title are, in my view, necessary in order to more fully and correctly summarize your proposal. I cannot, however, at this time, fairly or completely summarize the effect of your proposed measure to the electorate in a popular name or ballot title without the resolution of the ambiguities. I am therefore unable to substitute and certify a more suitable and correct popular name and ballot title pursuant to A.C.A. § 7-9-107(b).

I refer to the following ambiguities:

I will not here repeat the catalog of ambiguities I recited in my response to your previous submission. I will merely note that those ambiguities remain unresolved – indeed, unaddressed – in your resubmission, which reflects little more than a minor reorganization of your measure. Should you resolve to resubmit your proposal, I must advise you to attend in detail to the textual concerns I have already reviewed. Given this office’s limited resources, my staff cannot devote its efforts to reconsidering submissions already reviewed in substantially identical form.

In an effort to clarify my primary points of concern, I will offer the following remarks. First, the basic operative details of the enterprise you contemplate remain far from clear. Your measure refers to various entities whose organizational nature, composition and interrelationships are impossible to determine from a review of your submission. I consequently remain unable to summarize your proposal in a ballot title.

Notwithstanding your characterization of your proposed enterprise as a “research project,” it would in effect be an operation to produce and to distribute legalized cannabis for commercial, medical and recreational purposes. This newly authorized use of marijuana would apparently be by any study “participants” willing to pay for

the privilege. I am unable to determine, and hence to summarize in a ballot title, what aspect of “research” might be involved in the mere sale of marijuana to such study “participants,” including the “tourists” referenced in your ballot title.

You represent in your proposal that this enterprise would comply with state and federal law and that its implementation would be subject to unspecified “review and advice” by various state and federal offices. However, as I noted in my previous opinion, your proposal runs afoul of preemptive federal law. You have failed altogether to address this conflict, much less to clarify how the referenced “review and advice” could consist of anything more than a notice of your proposal’s illegality in the face of preemptive law.

I cannot begin to certify a ballot title for your proposed amendment in the face of the ambiguities noted above. You must remedy these confusing and ambiguous points before I can perform my statutory duty.

My office, in the certification of ballot titles and popular names, does not concern itself with the merits, philosophy, or ideology of proposed measures. I have no constitutional role in the shaping or drafting of such measures. My statutory mandate is embodied only in A.C.A. § 7-9-107 and my duty is to the electorate. I am not your counsel in this matter and cannot advise you as to the substance of your proposal.

At the same time, however, the Arkansas Supreme Court, through its decisions, has placed a practical duty on the Attorney General, in exercising his statutory duty, to include language in a ballot title about the effects of a proposed measure on current law. *See, e.g., Finn v. McCuen, supra*. Furthermore, the Court has recently confirmed that a proposed amendment cannot be approved if “[t]he text of the proposed amendment itself contribute[s] to the confusion and disconnect between the language in the popular name and the ballot title and the language in the proposed measure.” *Roberts v. Priest*, 341 Ark. 813, 20 S.W.3d 376 (2000). The Court concluded: “[I]nternal inconsistencies would inevitably lead to confusion in drafting a popular name and ballot title and to confusion in the ballot title itself.” *Id.* Where the effects of a proposed measure on current law are

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unclear or ambiguous, it is impossible for me to perform my statutory duty to the satisfaction of the Arkansas Supreme Court without clarification of the ambiguities.

Sincerely,

DUSTIN MCDANIEL
Attorney General

DM/cyh

Enclosure(s)

Initiated Act of The People of Arkansas

The Arkansas Cannabis and Hemp Study Act

CANNABIS (“MARIJUANA”) AND HEMP ARE GENERAL USE CONTROLLED SUBSTANCES UNDER FEDERAL AND ARKANSAS LAW; THIS ACT, WHICH DOES NOT LEGALIZE CANNABIS OR HEMP, AUTHORIZES A STATE-WIDE, SCIENTIFIC AND ACADEMIC STUDY, LONG-TERM, AND LARGELY SELF-FINANCING STUDY TO COMPREHENSIVELY RESEARCH HEMP AGRICULTURE, PROCESSING AND INDUSTRIAL UTILITY AND DEMONSTRATE THE ECONOMIC EFFECT OF AN ARKANSAS GEMP INDUSTRY; AND TO RESEARCH CANNABIS PHARMACOLOGY AND MEDICAL APPLICATIONS AND EVALUATE THE ECONOMIC, MEDICAL, AND SOCIETAL EFFECTS OF REGULATED PRODUCTION AND USE OF CANNBIS FOR MEDICAL/THERAPEUTIC AND NON-MEDICAL APPLICATIONS: THE STUDY INCLUDES TRIALS AND TESTS WHOSE SUBJECTS ARE REGISTERED STUDY PARTICIPANTS; ALL COMPETENT, NON- INCARCERATED RESIDENTS (AND TOURISTS/VISITORS, WHILE IN ARKANSAS) AGED 21 AND OLDER ARE ELIGIBLE TO REGISTER TO PARTICIPATE IN THE STUDY.

BE IT ENACTED BY THE PEOPLE OF ARKANSAS

1. PURPOSE

The Cannabis and Hemp Study, hereinafter referred to as the Study, is a comprehensive research project to determine and develop positive, rational, socially viable and self-financing methods, means and procedures for regulating hemp and cannabis production and use in Arkansas and to establish standard definitions of “use”, “misuse” and “abuse” and standardized methods of scientifically evaluating these substances.

This act (the Study Act) creates the Arkansas Cannabis and Hemp Study Authority (CHA). The CHA develops and conducts a 10-year academic, clinical, medical, scientific and statistical study and analysis of the economic, medical, public-health and societal effects of regulated culture and use of cannabis for medical/therapeutic and non-medical application and of regulated culture and use of hemp for industrial and commercial applications.

The Study is a comprehensive, state-wide and self-financing research, investigation and demonstration project to determine the feasibility and desirability of hemp culture and industry in Arkansas and to scientifically evaluate and establish clinical, medical, pharmacological, public-health and social standards for regulated culture and use of cannabis.

2. DEFINITIONS

The Study Act stipulates the definition of hemp in the Arkansas Controlled Substances Act (Act 590) of 1971. The Study Act’s definitions of and disclaimers regarding cannabis are identical to those regarding “marijuana” in Act 590 of 1971.

3. AUTHORITY

Authority for the Study Act is A.C.A §7-9-107(Repl. 2000).

4. COMPLIANCE

The Study Act will comply with Title 5 of the Arkansas Code Annotated, more specifically §5-64-508(b). Additionally, the Study Act is consistent with the objectives of A.C.A. §5-64-508(a)-(c). Historical references cited in the above referenced statute are incorporated herein.

The Arkansas Controlled Substances Act of 1971 is in accord with the Comprehensive Drug Abuse and Prevention and Control Act of 1970 and both acts have provisions for research and for individuals involved in research.

5. ENACTMENT

This Initiated Act authorizes research and study of cannabis culture and applications, and of the culture and use of hemp; it further authorizes the creation of the Cannabis and Hemp Authority (CHA),

a non-governmental, non-profit entity to direct the Study. The Act sets forth rules and guidelines for the CHA's organization, objectives and functions.

6. PROVISIONS TO RESOLVE POSSIBLE CONFLICTS WITH OTHER INITIATED ACTS

In the event that the people approve an act which overlaps the provisions of the Study Act, in the same election in which they approve this act, the Study Act's Administrators are authorized to liaise with the other act(s) administrators and to amend administrative and regulatory rules to eliminate such redundancies and conflicts so as to further the objectives of both Acts.

However, under no conditions may the Study contravene its intent, purpose and scientific objectives. A super-majority vote, 75% of IAP members or CHA Board members, is required for any amendment made under these circumstances.

7. TRANSPARENCY AND INFORMATIONAL AND EDUCATIONAL RESPONSIBILITIES

The Act requires the CHA to submit to the Arkansas Office of the Attorney General, the Director of the Arkansas Department of Health, the Arkansas Office of Alcohol and Drug Abuse Prevention, the U.S. Department of Justice, the federal Food and Drug Administration and the Drug Enforcement Administration of the U.S. Department of Justice for their review and advice, the following: the CHA's initial Study plan, all Study plan revisions as they occur and all CHA reports and findings. The same documentation shall be available to the public via the Internet, and, by request, via other media.

8. STUDY DURATION

The Study is authorized under the Act to last 10 years. The CHA, by a super-majority vote (9 of the 15 divisional board members as established herein), may end the Study in less than 10 years if it determines that it has met Study objectives or that the Study's goals are unattainable under the Act's provisions or that the CHA is insolvent. The CHA may, by super-majority vote, extend the Study for a finite period, with no limit on the number of extensions, by forwarding a notification of extension, with substantiating documentation, to the Director of the Arkansas Department of Health. Notification of extension is due no less than six months preceding the expiration date in effect at the time of the notification. The Study Act takes effect upon on the date of the vote certification of the election at which it is passed. Data collection and reporting requirements apply to data generated during the life of the Study.

9. ARKANSAS CANNABIS AND HEMP STUDY COMMISSION (CHA)

The Arkansas Cannabis and Hemp Study Authority, CHA, will consist of 15 divisional members—three Division boards; Industrial, Medical and Scientific, and Non-Medical. Each CHA division has both individualized and inter-divisional roles.

Each division is governed by a 5-member board to be appointed as follows: The Governor or a person designated by the Governor will have the power to appoint two (2) members of the CHA Industrial Division. The Director of the Arkansas Department of Health and the Chancellor of the Arkansas College of Public Health have the authority to appoint one (1) member each to the board of the Medical and Scientific Division. The Director of the Division of Behavioral Health and the Director of the Department of Public Safety have the authority to appoint one (1) member each to the board of the Non-Medical Division.

The remaining two (2) members of each division board as well as a chairman of each division board will be elected by majority vote of Study participants. Appointed board members serve at the pleasure of the appointing officials. Elected board members serve four years and may run for re-election. Vacancies are filled by

appointment or election as appropriate to the board position vacated. Each Board member has administrative responsibilities to develop or monitor and coordinate Study projects.

9.1 CHA DIVISIONS

CHA Divisions have administrative, regulatory, academic, reporting and other functions. Their primary functions are to gather, maintain, analyze and report Study data as required by the CHA. CHA Divisions collect data related to their assigned functions and from research they perform, commission or contract. Additionally, the divisions receive and process data from the County Co-ops. The County Co-ops receive and forward to the divisions the extensive data they collect. Data collection, storage, transmission and analysis utilize digital technology to the greatest extent possible.

9.1.1 THE CHA MEDICAL AND SCIENTIFIC DIVISION

Is responsible for and develops, commissions, contracts, oversees and evaluates numerous research projects, including academic, clinical and medical research of medical cannabis. It gathers and evaluates data regarding uses, effects, and effectiveness of cannabis employed as or included in medicine and therapies. Additionally, the division tests, analyzes, classifies and certifies industrial hemp and cannabis and cannabis clones and seeds.

The Medical and Scientific Division assists the Industrial and Non-Medical Applications Divisions as needed to establish product classifications, categories and standards. The Medical and Scientific Division secures and scientifically analyzes, assesses, and classifies all cannabis and hemp specimens submitted to it by the County Cooperatives (as set in § 9.2 of this initiative) on behalf of the producers. It reports its findings, actions and conclusions to the CHA. CHA regulations include provisions to ensure physician and patient confidentiality in all matters related to participation in the medical study. Participants in the non-medical applications studies are never publicly identified by the CHA.

The CHA Medical and Scientific Division will establish the maximum average level of THC allowed in industrial hemp and routinely monitors for variances. (These are production standards and do not apply to cannabis disposed of by processing it as industrial hemp.)

9.1.2 THE CHA INDUSTRIAL DIVISION

Is responsible for cooperation and coordination with hemp growers, processors, transporters and end-users (manufacturers, wholesalers, retailers and consumers) to ascertain and develop horticultural and processing best practices, quality-control benchmarks and standards, marketing tools, market access and consumer applications. The Industrial Division and the Medical and Scientific Division cooperate with respect to the science and technology related to quality assurance and industrial and commercial standards and practices. For instance, the Medical and Scientific Division analyzes, quantifies and regulates the THC level of industrial hemp.

9.1.3 THE CHA NON-MEDICAL APPLICATIONS DIVISION

Is responsible for and administers research and data collection regarding non-medical cannabis applications. It monitors and studies the cannabis production and distribution systems in Arkansas, audits the County Cooperatives operations and finances. The Non-Medical Applications Division is responsible for collecting, analyzing and reporting information regarding the physical-health, mental-health and societal effects of cannabis use in personal non-medical applications. The Non-Medical Applications Division may have additional tasks and duties.

9.2 CHA COUNTY COOPERATIVES

CHA County Cooperatives (“County Co-ops” or “Co-ops”) regulate the Study at the participant level. Their activities finance the Study.

Among their duties are registering study participants, monitoring and reporting hemp and cannabis production, coordinating cannabis distribution and inventories, submitting required specimens and samples to the CHA, retailing non-medical cannabis, dispensing medical cannabis, remitting portions of their revenues to the CHA and reporting Study data to the CHA.

Each County shall have one (1) Co-op. Co-ops may have numerous locations within their county. All Co-op locations have identical responsibilities. Co-ops are subject to local zoning and other codes, but no municipality or county may enact ordinances that effectively prevent *any* Co-op from operating in their jurisdiction.

The CHA may set equitable participant registration fees, but initially Co-ops charge a \$25.00 registration fee to cannabis users and hemp-industry participants and \$50.00 to (medical or non-therapeutic) cannabis growers-for-sale. There is no registration fee for non-profit cannabis growers and physicians. All registration fees are electronically forwarded daily to the Study's designated bank account. During Study Implementation Phases I through IV, the County Co-op locations remit at least weekly, by electronic funds transfer, 20% of their retail sales (less any allowances that may apply) to a bank account set up by the Interim Advisory Panel. The CHA will monitor revenue and recalculate the pass-through sales- percentage as needed.

9.3 CHA INVESTIGATION AND ENFORCEMENT UNIT

The CHA establishes and staffs an Investigative and Enforcement Unit (IEU). The IEU responds to evidence or reports that Study participants, employees or contractors are not complying with Study parameters, requirements, protocols or procedures. The IEU responds to participant appeals of adverse CHA action and to participant inquiries or complaints regarding discrimination or alleged unjust treatment arising from their status as Study participants.

The IEU's responsibilities and powers, such as random and selective audit, may be further detailed in the IAP's and CHA's implementing and operating regulations. The IEU does not have law enforcement or judicial authority; however, it reports to the appropriate authorities any evidence it finds of unlawful activity.

IEU activities are integral to the Study; therefore, the IEU shall compile statistical and other reports for incorporation into the CHA's annual and other reports. The CHA is authorized and empowered by the Act to request and to receive reasonable, appropriate and timely cooperation and assistance from private entities and from State agencies. Minimal cooperation under the Act is that required by statute and the Arkansas Freedom of Information Act. The CHA shall remit to any cooperating entity or agency, public or private, reasonable claimed compensation or service fees for such assistance, in accordance with generally established accounting standards and procedures and pertinent CHA regulations. The CHA maintains registration with the Office of the Secretary of State as required and complies with that Office's requirements.

9.4 CHA RESEARCH DUTIES AND REPORTS

The CHA analyzes the data and information it receives from participants, County Cooperatives and individuals and entities (as created herein) with which it contracts for academic, medical, scientific, technical, agricultural and other research necessary for an exhaustive and comprehensive study.

The CHA has the authority to contract, as needed and when within its budget, original scientific and academic research. Besides collecting participant data, the CHA's first research objective is to identify

and academically and scientifically authenticate existing data and literature pertinent to hemp and cannabis, and to incorporate any such validated documentation as appropriate into its evaluations and analysis.

The CHA must publish annual reports on its work and its findings. The CHA deploys standard spreadsheet and relational database software, such as Microsoft Excel and MSAccess or compatible proprietary or open-source equivalents, for all business and information transactions and records. The CHA contracts with appropriate technical personnel to develop intermediary and linking applications for end-users, as defined therein, (County Cooperatives, CHA staff and contractors, some participants in the hemp industry and physicians) to run on CHA-approved hardware and software. End- users provide and maintain their own software and hardware, including required backup hardware, backup media and secure, fireproof, off-premises backup storage. Participant surveys are conducted electronically, but participants without Internet access and those with certain disabilities will be surveyed by other means.

The CHA must publish and make publicly available an annual report. It may publish interim or special reports when it deems them especially important. The CHA sets its reporting schedule, but the first annual report is due no later than one (1) year and nine (9) months following the study's effective date, and subsequent annual reports are due no later than one (1) year following the most recent annual report. The second and subsequent annual reports shall be in two (2) parts--the reporting-year data and analysis, and the cumulative data and analysis from the first day of operation.

At the end of the Study, and any time during the Study, the CHA may propose any legislation or course(s) of action consistent with its findings.

9.5 ADDITIONAL FUNCTIONS AND OBLIGATIONS OF THE CHA

The CHA administers the Study and ensures that the Study meets or exceeds the requirements of the Act. The CHA is not a Department, Commission or Agency of Arkansas State Government and receives no State or other outside funding, but it may apply for and accept grants, if a majority of the CHA Board approves. The CHA, while subject to reasonable statutory oversight customary to other public and private entities, governs and operates this research, investigation and demonstration project. The CHA organizes and staffs a small and efficient administrative unit to conduct day-to-day business functions and to facilitate coordination among its divisions.

The CHA operates in a manner consistent with State-agency administrative procedures and guidelines and cooperates with the General Assembly, the Arkansas Department of Health and the Office of the Governor.

The CHA operates in general accordance with Arkansas Department of Finance and Administration guidelines. The CHA follows uniform rules for contracts and purchased services, patterned where practicable after Arkansas State Government rules. CHA wages must generally be commensurate with Arkansas State employee wages for positions of similar responsibilities and duties.

10. INTERIM ADVISORY PANEL

The County Co-op locations' timely deployment and startup depend on the Interim Advisory Panel (IAP). The Interim Advisory Panel is formed and begins operation on the Act's effective date. The Governor or his designee(s) shall appoint five (5) Arkansas citizens to serve on the IAP.

There should be one member with a background in each of the following areas; science, medicine, business, agriculture, information technology and relational databases. The IAP may at its discretion obtain assistance from other citizens. The IAP may hire or contract temporary clerical help as needed. The IAP may acquire essential office supplies and equipment, leasing whenever feasible.

IAP service is part-time with minimal personal expenses; most or all of its work can be done by electronic communications and media, with perhaps no need of a permanent, fixed office. Members serve without salaries. The CHA is authorized to make reasonable reimbursement and compensation to IAP members for necessary and documented expenditures of time and resources—when the money is available.

The Interim Advisory Panel shall establish a bank account, to be initially funded from state reserves, but to which county co-ops shall remit funds and an operating account from which the IAP may pay expenses. The IAP and the bank accounts are essential to timely Study implementation. Among the IAP's first action items are establishing the bank accounts and advising the co-ops of the means by which to transfer funds to the designated account.

The IAP establishes the interim rules and operating procedures of the Study. It sets the Study's initial goals and re- search protocols and specifies the data to be processed. It develops a system design that makes optimal use of electronic automation and digital technology and coordinates its deployment. Co-ops bear the expense of hardware required to run Study software. The IAP determines hardware requirements. The IAP contracts with an electronic in- formation network to update and verify Study participant registration online in real time and by telephone 24 hours a day.

UPON THE DAY the CHA Board of Director elections are final, the CHA Board shall assume all duties, responsibilities and accounts of the IAP and the IAP shall be dismissed.

11. STUDY IMPLEMENTATION

Study implementation shall consist of 4 phases overseen by the IAP:

11.1 PHASE I

During Phase I, CHA Co-op locations establish themselves, register and begin operation. Initially, County Co-op locations register at their County Clerk's office. County Clerk offices may charge a registration fee not to exceed \$20.00. The IAP establishes the registration procedure, forms and identification system, advises the Clerks' Offices and provides necessary forms (in digital format whenever possible) and any specialized software applications.

11.2 PHASE II

In Phase II, Study participants in each county elect a County Co-op Board of Directors. Co-op elections must take place within 100 days following the effective date of the Study Act and be by majority vote of each individual County Co-op participants.

11.3 PHASE III

In Phase III, the County Co-op Boards of Directors elect CHA board members and the CHA chairperson. This election takes place within 40 days of the election of the County Co-op Boards of Directors.

11.4. PHASE IV

Phase IV will last up to 100 days, beginning the day the CHA Board of Directors' elections are final. In Phase IV, the CHA further develops Study goals, develops its implementing regulations, hires staff and finalizes operational and Study procedures.

The CHA may, by super-majority vote, extend Phase IV by up to 90 additional days if the initial 100-day period is insufficient to begin operation. County Co-op locations established during Phase I operate in accordance with the provisions of this Act and the rules set forth by the Interim Advisory Panel. They may continue to participate as long as they comply with Study parameters and requirements.

The County Co-op boards and the CHA are responsible for assuring compliance by Co-op locations. Interim registrations expire six (6) months following the Study's effective date or on the 10th working day after the CHA County Cooperative Boards of Directors are elected, whichever date comes first.

Upon expiration of their Phase I registrations, County Co-op locations register with their county's Co-op Board of Directors. Registration is by electronic media. This registration must be executed by the end of the working day on which the Co-op locations' Phase I registration expires or the Co-op must suspend operation until it is registered

Each County Co-op must begin registering Co-op locations within 10 working days of its Board of Directors' election. County Co-ops must register Co-op locations digitally in real time. Study participant registration must be immediately verifiable online at all Co-op locations and through the Study's contracted participation information network

Each participant in the study is issued a number, numeric or alpha numeric, for tracking, regulation and data collection purposes. The CHA Study identification number will be cross-referenced to the participant's driver's license number or state photo ID and date of birth. Using such an ID number system reinforces assurance of necessary confidentiality and facilitates data collection and reporting.

The IAP and the CHA shall contract with an information network and shall upload Study participant registrations in real time, ensuring, as one example, that law enforcement personnel performing routine driver's license checks may immediately determine an individual's status as a Study participant, eliminating any need for retroactive proof of the individual's exemption from arrest and prosecution under certain laws. County-Co-op locations are supervised by and report directly to their county's Co-op Board of Directors. Each County Co-op's Board of Directors is supervised by and reports to the CHA.

12. LIMITATIONS

Only Study participants may grow, process, distribute or obtain hemp in Arkansas. Hemp processors, wholesalers, storage providers and transporters and retailers, their employees and their contractors and subcontractors must be Study participants.

Only properly registered Study participants may distribute and obtain cannabis through a Co-op. Only Co-ops may dispense and sell cannabis to individual participants. Physicians must register as Study participants to be eligible to approve the use of cannabis for medical or therapeutic purposes. Study participants may obtain cannabis through any County Co-op. Individuals not participating in the Study who produce, process, possess or distribute cannabis are subject to the provisions and penalties of applicable Arkansas and federal law.

Study participants are not exempt from laws regarding driving under the influence of any impairing substance; however, the presence of in a Study participant's vicinity does not constitute

probable cause of the individual's having ingested or being impaired by cannabis, although it may be used as corroborative evidence supporting other charges.

13. PHYSICIAN PARTICIPATION

A physician must be registered as a Study participant to issue valid referrals or approvals for patients who must register as participants to use cannabis for medical or therapeutic purposes. There is no registration fee for physicians. Implementing regulations and CHA guidelines will detail the Study's reporting requirements for participating physicians. Reporting requirements for physicians will be specific and minimal. The CHA is authorized, when funds permit, to equitably compensate physician-participants for office and diagnostic services supporting the physician's approval of a cannabis regimen. Initially, physician compensation is the participant-patient's responsibility. Physicians may not charge a fee for issuing a referral or approval.

Physician-patient confidentiality is strictly observed. The CHA sequesters every participant's identifying personal information and uses it only to validate registration and categorization and to maintain data integrity, helping to ensure that each participant has only one registration file and is categorized correctly. The Study does not publish or otherwise distribute any participant's identifying personal information without the participant's signed and dated consent. The Study's public information network confirms or denies only that an individual is a Study participant on a particular day and in which categories he or she participates. Those authorized to access *that* information can tell, for instance, that an individual is a medical-cannabis participant but cannot learn the participant's diagnoses or reason(s) for receiving medical or therapeutic cannabis. Confidentiality is maintained for all participants, not just for medical-cannabis study participants. The confidentiality rules of the Healthcare Insurance Portability and Accountability Act of 1996 (HIPAA) is the model for the CHA's confidentiality rules.

14. PRODUCERS

Producers of cannabis or hemp must register with the Co-op in the county in which they grow the product. Producers operating in more than one (1) county may register in only one of those counties, but they must identify the other counties and separately report, for each county in which they operate, all applicable, required Study data.

15. TOURIST AND VISITORS

Tourists and visitors must register with a Co-op to obtain cannabis for personal or medical use. They are subject to the same rules as Arkansas-resident participants.

16. CANNABIS GROWERS

Study operation relies on Arkansas cannabis producers. To register as a grower of cannabis for sale, an individual must be aged twenty-one (21) or older and must prove at least six (6) months residency in Arkansas. Owning, leasing, renting or borrowing property in Arkansas is not sufficient to establish residence for the purposes of the Study. The Interim Panel and the CHA will establish Study residency requirements.

No association, corporation or partnership may register as a grower of cannabis for sale. Individual producers may belong to a partnership, company, business or association, but they must register and participate only as individual producers, listing the name(s), address(es) and telephone number(s) of any such association(s), corporation(s) or partnership(s). No formal or informal association of growers of cannabis for sale may include more than six (6) Study participants.

17. CANNABIS PRODUCTION

The County Co-ops perform all cannabis distribution and dispensing to individual participants. Each Co-op manages its county's Study data and reports to the CHA and to CHA divisions as required. A Study participant (i.e., a user— medical or non-medical, or a grower-for-sale) may have in production (growing and flowering) no more than 99 female cannabis plants, seeded or unseeded, 12 inches tall or greater, at any given time. Excess plants must immediately be removed and then processed as compost or industrial hemp.

A Study participant registered only as a producer of hemp may possess no cannabis in any form. There is no limit on hemp production.

Cannabis of any age or sex, in storage awaiting processing as compost or industrial hemp must be clearly labeled, inventoried, audited and reported. It must be securely stored while awaiting transport or processing and securely transported, with a clear chain-of-custody and audit trail.

18. CLONES, SEEDLINGS AND SEEDS

Living clones with less than 5 grams of mature bud, seedlings less than 12 inches tall, and seeds are not included in the limitation to 99 female plants in production.

19. DISTRIBUTION OF CANNABIS

Cannabis (including clones and seeds) may be sold only to a Co-op. A grower may sell cannabis to any Co-op willing to buy it, but the grower must verify registration with a Co-op as a cannabis grower. Only Co-ops may distribute cannabis to individuals. Co-ops may sell and distribute cannabis for personal use only to Study participants. Co-ops may transfer cannabis to other Co-ops as necessary for inventory control and to maintain supplies consistent in quantity, quality and applicability to the co-ops' clientele. Co-ops maintain records of *all* transactions and will maintain and report all data required by the CHA.

19.1 MEDICAL CANNABIS DISPENSING AND CONTROL

County Co-ops dispense donated medical cannabis to medical patient-participants who present a physician-participant's signed referral or approval as a Study participant, a physician (M.D. or Osteopath) may approve a cannabis regimen if, in his or her professional judgment, cannabis should not have serious adverse effects on the patient, and the patient consents in writing to experimental trials of cannabis for his or her condition(s). The physician must include in the written approval the patient's working and established diagnoses and for which conditions cannabis treatment or therapy is approved. The CHA makes the final judgment regarding diagnoses and conditions that do not qualify an individual for cannabis trials.

Initially, a Co-op may charge a patient-participant a fee of up to \$10.00 per month for dispensing donated cannabis to the participant. The CHA is authorized to set and reset this and other fees Co-ops may charge. No Co-op may charge a dispensing fee after a patient has paid a total of \$10.00 in the same calendar month as the current transaction. Donated medical cannabis is dispensed on a first-come, first-served basis. Co-ops may set reasonable limits on amounts dispensed per-visit or per-day or by other criteria, to prevent or alleviate critical shortages. Co-ops lacking free medical cannabis may obtain it from other Co-ops as needed, conditioned on whether another Co-op has stock sufficient to permit the transfer.

In the period before the Medical and Scientific Division has contracted for testing and before it has established protocols and procedures, any cannabis of sale quality may be dispensed or sold and used as experimental medical cannabis. Much subjective and anecdotal documentation is expected during the early going; however, quantities, unique identifiers and other data must be reported. As the plant's attributes are

more and more scientifically quantified and qualified, documentation and reporting become more objective and standardized. When a Co-op begins distributing and dispensing cannabis, identifiers must be used (following a system developed by the IAP) to track individual specimens. From the beginning of operation, Co-ops retain uniquely identified samples of cannabis from each donated parcel or purchase transaction, for later submission to the labs for testing, grading and uniform labeling. Identifying and classifying strains of cannabis begins early and is an ongoing activity.

Participants acknowledge by signature that they are subjects in a scientific trial and they have been given no guarantee that cannabis will have a beneficial effect on them, and they agree to respond timely and honestly to CHA questionnaires and inquiries.

The Division and the Co-ops cooperate with medical cannabis donors and vendors to maintain adequate, diversified and equitable supplies of cannabis already tested or being tested for medical and therapeutic uses. Medical-cannabis participants may purchase at retail, cannabis designated non-medical, but they are subject to both medical and non-medical reporting requirements.

Should there be, at any given time, no medical cannabis available in any Co-op, medical cannabis participants may purchase non-medical cannabis at a Co-op's cost plus 10%. The Co-op may limit the quantity purchased and the selection made available to the participant, and the Co-op reports quarterly any financial loss that may result from such transactions.

20. DISTRIBUTION OF REVENUE

Each cannabis producer negotiates with a Co-op, per transaction, a per-gram wholesale price on a consignment basis. Co-ops and Co-op locations may limit consignment amounts to accommodate storage capability, demand, volume and security. A Co-op's retail price per gram of personal-use, non-medical cannabis is 200% of the whole - sale price, per gram, of the consignment from which the particular sale item or parcel originated. Co-ops retain the fees they are authorized to collect. The CHA may require the Co-ops to remit a portion of the fees to the CHA.

To fund the Study, ensure an adequate and sufficiently diverse supply of medical grade cannabis, and to explore the development of a hemp industry in Arkansas, the Co-ops remit to the CHA a portion of their receipts from sales. The IAP and the CHA establish remittance schedules that initially allow co-ops to retain a share of proceeds great enough to facilitate timely startup and to fund adequate technology to ensure data integrity and maintenance. The CHA may, if needed and feasible, establish progressively larger percentages of sales revenue to be remitted to the Study fund. The CHA sets the schedule and percentages of Co-ops' remittances, receives and manages those remittances and budgets and allocates the funds in a manner designed to optimally meet the Study's goals. The CHA contracts, to the greatest extent economical and practicable, for services needed to fulfill Study objectives and functions.

21. MINIMUM AGE OF STUDY PARTICIPANTS

The minimum age for Study participation is twenty-one (21), except that the Medical and Scientific Division may allow younger participants as appropriate and consistent with the Division's findings regarding medical and therapeutic applications. Requests for age-exemption must be made to the CHA by the individual's physician, with accompanying medical documentation and the written consent of the patient's parent or guardian.

22. PROTECTED PLOTS

Co-ops may rent or lease fenced, guarded areas to participants growing cannabis.

23. DONATING MEDICAL CANNABIS

Individual participants may donate cannabis through their Co-op to the medical cannabis study. Non-profit organizations producing medical grade cannabis solely for donation must register with their County Co-op and may not produce any cannabis for sale. They must register or incorporate as a non-profit private entity with the Office of the Secretary of State. Members of such an organization who assist in the non-profit's efforts may also individually participate in the Study as growers for profit or as users growing for personal use, but their Study participant ID number must be included on the non-profit's Study registration and they may not grow their own product on the non-profit organization's property or on any property contiguous to or adjacent to property on which the non-profit grows its product. The Co-op and the CHA may establish for such non-profit entities special, but not obstructive, audit trail procedures and requirements for inventory monitoring and reporting in order to impede diversion and theft.

24. PENALTIES FOR NON-COMPLIANCE WITH STUDY PARAMETERS

Study participants not complying with study parameters are subject to review by their local Co-op Board and the CHA to determine the participant's fitness to remain in the Study, and to determine whether any laws may have been broken. Non-participants in the Study are subject to all applicable local, state and federal laws. Participants may be suspended by their Co-ops or by the CHA for involvement in criminal activity, violating study requirements or inability to comply with study requirements. Suspensions may be appealed to the CHA and subsequently to the court system. Individuals with criminal convictions who are not incarcerated, under house arrest or pre-release supervision (such as community correction or other transitional programs) are eligible for consideration as Study participants.

25. MAKE-UP OF COUNTY CO-OPS

Each county has its own Co-op Board, made up of a chairman and 4 members who serve 2-year terms and may succeed themselves if elected.

26. RESPONSIBILITIES OF THE COUNTY CO-OPS

Each County Co-op registers and keeps records on all members of their Co-op, including tourists registered in their county. Co-op locations label all packaging with a producer identifier, the grade of the cannabis and other tracking information as required by the Study. Co-ops are responsible for ongoing determination of the fitness of individual participants to continue in the study. The Co-ops and the CHA may limit, suspend or revoke any member's participation upon a determination that the individual's conduct compromises the integrity and lawfulness of the Study. The Co-op reports in real time to the CHA, any disciplinary actions. All real-time transactions involving a Study participant's status (including suspensions and revocations) include an update to the Study Participant Status file maintained by the CHA's contracted information network.

27. MODIFICATION OF STUDY PARAMETERS

The Study is a comprehensive, scientific research project to determine whether it is possible to develop positive, rational, socially viable and self-financing methods, means and procedures for regulating hemp and cannabis production and use in Arkansas, without creating or increasing social, medical or behavioral problems. To maintain viability and to assure the scientific validity, consistency and integrity of the Study, modifications of the Study plan and protocols may become necessary as the Study proceeds. The CHA may make such modifications to the Study parameters and protocols on the documented advice of

appropriate professionals and staff, and by vote of a super majority (9 of the 15 votes). Any such modifications are included and clearly identified everywhere pertinent in all Study reports, analysis and findings.

28. STUDY TRANSPARENCY AND CHA PERSONNEL POLICY

All aspects of the Study shall be publicly transparent, except insofar as affected individuals' confidentiality is protected under State and federal law and under the 4th, 5th and 14th Amendments to the Constitution of the United States. The CHA and the County Cooperatives generally follow the personnel procedures and rules of Arkansas State Government for applicants, employees, contractors and subcontractors.

29. NO RETROACTIVE RELIEF

An immediate effect and benefit of the Study is the greatly lessened burden on the justice system resulting from not prosecuting a great number of cannabis cases each year. A beneficial consequence is reduced pressure on the corrections system. Nevertheless, there shall remain a prison population incarcerated for activities exempt from prosecution if those activities are Study-compliant. Since this Act merely exempts registered individuals from prosecution for certain activities, and does not repeal laws prohibiting those activities, the Act does not provide for retroactive relief.

30. STUDY PARTICIPANTS AND THE WORKPLACE

A participant applying for a job may not be refused employment solely for positive cannabis test results unless the employer's job-application materials clearly and unambiguously state that cannabis users will not be considered for a specified job or position. The CHA will collect data and statistics specifically related to employers' practices in this regard.

Study participants who believe themselves unjustly treated by employers or potential employers because of their Study participation may appeal to the IEU, and they may seek judicial relief through the courts. Cannabis in the workplace is an important item of interest to the Study, especially because it is challenging to study and analyze and because the need for a categorical prohibition by employers—even of cannabis use on “off” days-- has not been demonstrated.