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EXECUTIVE ACTION RELATING TO MEDICAL CANNABIS

Kentuckians throughout the Commonwealth suffer from a multitude of medical conditions from which they deserve relief.

Medical cannabis is a term for derivatives of the *Cannabis sativa* plant that are used to ease symptoms caused by certain medical conditions. *Cannabis sativa* contains many active compounds. The best known are delta-9 tetrahydrocannabinol (THC) and cannabidiol (CBD). Medical cannabis comes in a variety of forms, including pill, liquid, oil, powder, and dried leaves.

A total of 37 states, the District of Columbia, Guam, Puerto Rico, the U.S. Virgin Islands, and the Commonwealth of the Northern Mariana Island allow cannabis for medical use by qualified individuals. In May 2021, Alabama legalized medical cannabis. This year, Mississippi did the same. Our neighboring states of Ohio, Illinois, Missouri and West Virginia have legalized medical cannabis.

States have legalized medical cannabis for treatment of such medical conditions as: cancer; ALS or Lou Gehrig's disease; epilepsy; intractable seizures; Parkinson's disease; Crohn's disease; multiple sclerosis; sickle cell anemia; severe and chronic pain; cachexia or wasting syndrome; glaucoma; neuropathies; Huntington's disease; severe arthritis; hepatitis C; fibromyalgia; intractable pain; and muscular dystrophy. States have also legalized medical cannabis to treat post-traumatic stress disorder, allowing its use to help our military veterans who have risked their lives to protect our freedom.

In Kentucky, despite polling that suggests 90 percent (90%) of Kentucky adults support legalizing medical cannabis, any amount of cannabis possession, cultivation and distribution remains criminalized. Past efforts to legalize medical cannabis through legislation have failed in the General Assembly, including during the 2020 Regular Session and the 2022 Regular Session when bills passed the House of Representatives in bipartisan fashion, but did not reach debate in the Senate.

Allowing Kentuckians diagnosed with certain medical conditions and receiving palliative care to purchase, possess and/or use medical cannabis would improve the quality of their lives, and it may help reduce abuse of other more dangerous and addictive medications, such as opiates.

For more than two decades, the opioid epidemic has plagued the Commonwealth of Kentucky, wreaking havoc on Kentuckians and their families. The epidemic arose in part from Kentuckians suffering from chronic pain turning to highly addictive opioids, from opioid medications to fentanyl, methamphetamine, and heroin. In 2020, 1,964 Kentucky residents died of overdose deaths, approximately 49 percent (49%) more than the year before. The increase in overdose deaths was driven mostly by a rise in opioid abuse, fentanyl and fentanyl analogues, which were found in 1,393 cases, or approximately 71 percent (71%) of all overdose deaths. The number of overdose deaths increased by 14.5% in 2021, to 2,250 deaths, again driven mostly by a rise in opioid abuse, fentanyl and fentanyl analogues.

One recent study showed a 64% reduction in opioid use among chronic pain patients who used medical cannabis. These patients experienced fewer side effects and

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improved quality of life. Unlike opioids, cannabis does not cause respiratory depression, leading to lesser mortality rates, and medical cannabis is far less addictive.

According to the CDC, chronic pain affects approximately 1 in every 5 Americans, with an estimated cost of \$560 billion for medical care and disability. Over the course of many years, countless studies have addressed the effectiveness of medical cannabis in treating chronic pain. One particular study evaluated chronic pain patients' perspectives on medical cannabis. The study included 984 chronic pain patients, including those with neuropathic pain, back pain, arthritis, post-surgical pain, headaches, and abdominal pain. In this particular study, two-thirds of patients reported pain relief as the main benefit of medical cannabis use. Improved sleep was the second most commonly reported benefit.

In the absence of legislation legalizing medical cannabis in Kentucky, I have reviewed what executive action could provide relief to Kentuckians and allow those suffering from chronic pain and other medical conditions to use medical cannabis. As part of my commitment to this effort, on June 14, 2022, I created the Team Kentucky Medical Cannabis Advisory Committee in Executive Order 2022-338, consisting of members with relevant experience in health care, treatment of opioid use disorder and other diseases of addiction, law enforcement, criminal justice, and advocacy for medical cannabis. The advisory committee held public meetings in various regions of the Commonwealth throughout the summer months and heard from Kentuckians at these meetings and through the committee's website. The Team Kentucky Medical Cannabis Advisory Committee provided feedback from the public to me as Governor.

Of the more than 3,500 public comments the advisory committee received, 98.6 percent (98.6%) were in favor of legalizing medical cannabis. The advisory committee reported that military veterans are finding relief from medical conditions like PTSD with medical cannabis. The advisory committee also reported that Kentuckians cross state lines to purchase medical cannabis where it is legal to do so, but fear arrest once they return to Kentucky.

Our citizens should not face criminal punishment for treating certain medical conditions with medical cannabis where the medical cannabis was legally purchased in another state.

NOW, THEREFORE, I, Andy Beshear, Governor of the Commonwealth of Kentucky, in consideration of the foregoing, and by virtue of the authority vested in me by Section 77 and related provisions of the Kentucky Constitution, do hereby **GRANT** a full, complete, and conditional pardon to any and all persons who after the effective date of this Order are accused of possession of marijuana under KRS 218A.1422, if and only if all of the following conditions are satisfied:

1. The medical cannabis shall have been lawfully purchased in a jurisdiction within the United States of America but outside of the Commonwealth of Kentucky.
2. The individual shall produce a written proof of purchase that shows the place of purchase, the physical location of the place of purchase, and the date of purchase.

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3. The amount of medical cannabis in the individual's possession shall be a legal amount under the laws of the jurisdiction in which the purchase occurred, but shall not exceed eight (8) ounces.
4. The individual or the individual's caregiver shall produce a written certification by a healthcare provider who is licensed to practice medicine in the Commonwealth of Kentucky or in the jurisdiction of the individual's residence, and is in good standing with the appropriate licensure board within the Commonwealth of Kentucky or in the jurisdiction of the individual's residence, that shows that the individual has been diagnosed with at least one of the following medical conditions:
 - a. cancer;
 - b. amyotrophic lateral sclerosis (ALS) or Lou Gehrig's disease;
 - c. epilepsy;
 - d. intractable seizures;
 - e. Parkinson's disease;
 - f. Crohn's disease;
 - g. multiple sclerosis;
 - h. sickle cell anemia;
 - i. severe and chronic pain;
 - j. post traumatic stress disorder;
 - k. cachexia or wasting syndrome;
 - l. neuropathies;
 - m. severe arthritis;
 - n. hepatitis C;
 - o. fibromyalgia;
 - p. intractable pain;
 - q. muscular dystrophy;
 - r. Huntington's disease;
 - s. human immunodeficiency virus (HIV) or acquired immune deficiency syndrome (AIDS);
 - t. glaucoma; or
 - u. a terminal illness.
5. The written certification required in paragraph 4. of this Order shall include the following:
 - a. the patient's name, date of birth, home address, and telephone number;
 - b. the healthcare provider's name, address, telephone number, and professional license number;
 - c. a statement that the healthcare provider has a bona fide healthcare provider-patient relationship with the individual,;
 - d. a statement that in the healthcare provider's professional opinion the patient suffers from a medical condition identified in this Order; and

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- e. the healthcare provider’s signature and date.
- 6. The written certification required in paragraph 4. of this Order shall not constitute a prescription for medical cannabis.
- 7. For the purposes of this Order, a “healthcare provider” shall mean a doctor of medicine or a doctor of osteopathy who is licensed to practice medicine in the Commonwealth of Kentucky or in the jurisdiction of the individual’s residence, and is in good standing with the appropriate licensure board within the Commonwealth of Kentucky or in the jurisdiction of the individual’s residence.
- 8. For the purposes of this Order, a “caregiver” shall mean a person who is 21 years of age or older who has significant responsibility for managing the well-being of the individual on whose behalf the medical cannabis was purchased. A caregiver shall produce a written document showing that he or she is a caregiver for the individual. The caregiver shall have lawfully purchased the medical cannabis in a jurisdiction that allows a caregiver to purchase medical cannabis. A parent or legal guardian of the individual shall not be required to produce the written document referenced in this paragraph.
- 9. The pardon shall apply only to the criminal offense of possession of marijuana under KRS 218A.1422.

This Order shall be effective January 1, 2023.

ANDY BESHEAR, Governor
Commonwealth of Kentucky

MICHAEL G. ADAMS
Secretary of State