

INTERIM STUDY PROPOSAL 2019-014

1  
2 State of Arkansas  
3 92nd General Assembly  
4 Regular Session, 2019  
5  
6 By: Representative House

**A Bill**

JMB/JMB  
HOUSE BILL

7 Filed with: Arkansas Legislative Council  
8 pursuant to A.C.A. §10-3-217.

**For An Act To Be Entitled**

9  
10 AN ACT TO AMEND ARKANSAS CONSTITUTION, AMENDMENT 98,  
11 ALSO KNOWN AS THE "ARKANSAS MEDICAL MARIJUANA  
12 AMENDMENT OF 2016"; TO AUTHORIZE PATIENTS WITH A  
13 MEDICAL CONDITION THAT HAS BEEN TREATED OR COULD BE  
14 TREATED WITH AN OPIOID TO USE MEDICAL MARIJUANA AS AN  
15 ALTERNATIVE TO TREATMENT WITH AN OPIOID; AND FOR  
16 OTHER PURPOSES.

**Subtitle**

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20 TO AMEND THE ARKANSAS MEDICAL MARIJUANA  
21 AMENDMENT OF 2016; AND TO AUTHORIZE  
22 CERTAIN PATIENTS TO USE MEDICAL MARIJUANA  
23 AS AN ALTERNATIVE TO TREATMENT WITH AN  
24 OPIOID.

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27 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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29 SECTION 1. DO NOT CODIFY. Legislative findings and intent.

30 (a) The General Assembly finds that:

31 (1) The opioid epidemic is the most significant public health  
32 and safety crisis that this state is facing;

33 (2) Fueled by the growing opioid epidemic, drug overdoses have  
34 now become the leading cause of death nationwide for people under fifty-five  
35 (55) years of age;

36 (3) Physical tolerance to opioids can begin to develop as early

1 as two (2) to three (3) days following the continuous use of opioids, which  
2 is a factor contributing significantly to the addictive potential of opioids;

3 (4) The increased prevalence of opioid use disorder and the  
4 risking number of opioid overdose deaths are largely due to the dramatic rise  
5 in the rate and amount of opioids prescribed for pain over the past several  
6 decades;

7 (5) In the absence of alternative treatments, reducing the  
8 supply of prescription opioids too abruptly may cause a person who had been  
9 using prescription opioids to begin using an illicit drug such as heroin,  
10 thus increasing the risk of a drug overdose;

11 (6) In 2018, Illinois enacted legislation to create a program  
12 that allows qualified patients in Illinois who have a medical condition for  
13 which an opioid has been or could be prescribed to use medical cannabis as an  
14 alternative to opioid;

15 (7) Patients began registering for the Illinois program, known  
16 as the "Opioid Alternative Pilot Program", on January 31, 2019;

17 (8) In Arkansas, the drug overdose death rate has increased from  
18 five and four-tenths (5.4) deaths per one hundred thousand (100,000) persons  
19 in 2000 to fourteen (14.0) deaths per one hundred thousand (100,000) persons  
20 in 2016;

21 (9) If this trend continues, the drug overdose death rate may  
22 surpass the motor vehicle death rate, which was twenty (20) deaths per one  
23 hundred thousand (100,000) persons in 2016; and

24 (10) All additional measures must be taken to combat the  
25 increased prevalence of opioid use disorder and opioid addiction in this  
26 state.

27 (b) It is the intent of this act to authorize a program for citizens  
28 of Arkansas to use medical marijuana as an alternative to use of opioids.

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30 SECTION 2. Pursuant to § 23 of Arkansas Constitution, Amendment 98,  
31 also known as the "Arkansas Medical Marijuana Amendment of 2016", Arkansas  
32 Constitution, Amendment 98, § 2(13), concerning the definition of "qualifying  
33 medical condition", is amended to read as follows:

34 (13) "Qualifying medical condition" means one (1) or more of the  
35 following:

1 (A) Cancer, glaucoma, positive status for human  
2 immunodeficiency virus/acquired immune deficiency syndrome, hepatitis C,  
3 amyotrophic lateral sclerosis, Tourette's syndrome, Crohn's disease,  
4 ulcerative colitis, post-traumatic stress disorder, severe arthritis,  
5 fibromyalgia, Alzheimer's disease, or the treatment of these conditions;

6 (B) A chronic or debilitating disease or medical condition  
7 or its treatment that produces one (1) or more of the following: cachexia or  
8 wasting syndrome; peripheral neuropathy; intractable pain, which is pain that  
9 has not responded to ordinary medications, treatment, or surgical measures  
10 for more than six (6) months; severe nausea; seizures, including without  
11 limitation those characteristic of epilepsy; or severe and persistent muscle  
12 spasms, including without limitation those characteristic of multiple  
13 sclerosis; ~~and~~

14 (C) Any other medical condition for which an opioid has  
15 been or could be prescribed by a physician based on generally accepted  
16 standards of care; and

17 ~~(C)(D)~~ Any other medical condition or its treatment  
18 approved by the Department of Health under § 4 of this amendment;

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20 SECTION 3. Pursuant to § 23 of Arkansas Constitution, Amendment 98,  
21 also known as the "Arkansas Medical Marijuana Amendment of 2016", Arkansas  
22 Constitution, Amendment 98, § 2, concerning the definitions under the  
23 Arkansas Medical Marijuana Amendment of 2016, is amended to add an additional  
24 subdivision to read as follows:

25 (27) "Opioid" means a drug or medication that is a Schedule II  
26 controlled substance that is used to relieve pain, including without  
27 limitation:

- 28 (A) Codeine;
- 29 (B) Fentanyl;
- 30 (C) Hydrocodone;
- 31 (D) Morphine; and
- 32 (E) Oxycodone.

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34 SECTION 4. Arkansas Code Title 20, Chapter 56, Subchapter 3, is  
35 amended to add an additional section to read as follows:

36 20-56-305. Alternative to opioids.

1       (a) The Department of Health, the Medical Marijuana Commission, and  
2 the Alcoholic Beverage Control Division shall ensure that qualifying patients  
3 under Arkansas Constitution, Amendment 98, who have a medical condition for  
4 which an opioid has been or could be prescribed by a physician based on  
5 generally accepted standards of care have access to medical marijuana in the  
6 same manner as qualifying patients with other qualifying medical conditions  
7 as defined in Arkansas Constitution, Amendment 98, § 2.

8       (b)(1) Within thirty (30) days of the effective date of this section,  
9 the department, commission, and division shall promulgate rules to implement  
10 this section.

11       (2)(A) When adopting the initial rules to implement this  
12 section, the final rules shall be filed with the Secretary of State for  
13 adoption under § 25-15-204(f):

14               (i) On or before January 1, 2020; or

15               (ii) If approval under § 10-3-309 has not occurred  
16 by January 1, 2020, as soon as practicable after approval under § 10-3-309.

17       (B) The department, commission, and division shall file  
18 the proposed rules with the Legislative Council under § 10-3-309(c)  
19 sufficiently in advance of January 1, 2020, so that the Legislative Council  
20 may consider the rule for approval before January 1, 2020.

21       (c) The department, commission, and division shall report annually to  
22 the Legislative Council regarding:

23       (1) The number of applications received from applicants seeking  
24 a registry identification card due to a medical condition for which an opioid  
25 has been or could be prescribed by a physician based on generally accepted  
26 standards of care;

27       (2) The nature of the medical condition of each applicant  
28 seeking a registry identification card due to a medical condition for which  
29 an opioid has been or could be prescribed by a physician based on generally  
30 accepted standards of care; and

31       (3) The number of applications for registry identification cards  
32 approved and denied from applicants seeking a registry identification card  
33 due to a medical condition for which an opioid has been or could be  
34 prescribed by a physician based on generally accepted standards of care.

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1 Referred by Representative House

2 Prepared by: JMB/JMB

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