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Via email

Rob Kampia
Ohioans for Medical Marijuana
info@ohioansformmj.org

Re: Medical Use of Marijuana Amendment

Dear Mr. Kampia,

In accordance with the provisions of Ohio Revised Code (ORC) Section 3519.01(A), on March 3, 2016, I received a written petition proposing to add the Medical Use of Marijuana Amendment to Ohio's Constitution and a summary of the proposed amendment. One of my statutory duties as Attorney General is to send all of the part-petitions to the appropriate county boards of elections for signature verification. With all of the counties reporting back, at least 1,000 signatures already have been verified.

Pursuant to ORC 3519.01(A), I must examine the summary and determine whether it is a fair and truthful statement of the proposed amendment. If I conclude that the summary is fair and truthful, I must certify that fact to the Secretary of State within ten days of receiving it. In this instance, the tenth day falls on Sunday, March 13, 2016. Therefore, my determination is due Monday, March 14, 2016.

The Ohio Supreme Court has defined "summary" relative to an initiated petition as "a short, concise summing up," which properly advises potential signers of a proposed measure's character and purport. *State ex rel. Hubbell v. Bettman*, 124 Ohio St. 24 (1931). After reviewing the submission, I have concluded that I am unable to certify your summary as a fair and truthful representation of the proposed amendment.

There are a number of discrepancies between the summary and the proposed amendment:

- The summary in section 5(d) requires that the Medical Marijuana Control Division "shall issue no more than fifteen type 1 medical marijuana cultivation facility licenses." In contrast, section (A)(4)(d) of the amendment provides an exception: "The Division shall license additional medical marijuana cultivation facilities if the Division determines, after an analysis of the market for medical marijuana, that additional licenses are necessary to meet the demand for medical marijuana by qualifying patients in an accessible, secure, and efficient manner."
- The summary in section 18(a) provides that the amendment may not be construed to authorize or prevent a person from being penalized for "operating a motor vehicle,

aircraft, train, or motorboat while impaired by marijuana[.]” The summary fails to include the caveat from section (E)(8)(b) of the amendment “that a qualifying patient shall not be considered to be impaired by marijuana or marijuana products solely because of the presence of metabolites or components of marijuana that appear in insufficient concentration to cause impairment[.]”

- The summary in section 23 outlines ways to obtain a valid registry identification card if the Division “is not accepting applications for registry identification cards or has not promulgated rules allowing qualifying patients to submit applications” or “fails to issue or deny a registry identification card within twenty days of the submission of an application” after July 1, 2017. In contrast, Section J of the amendment sets these provisions as effective after August 1, 2017.

For these reasons, I am unable to certify the summary as a fair and truthful statement of the proposed amendment. However, I must caution that this is not intended to be an exhaustive list of all defects in the submitted summary.

Very respectfully yours,



Mike DeWine
Ohio Attorney General

cc: Committee to Represent the Petitioners

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