

**SENATE BILL No. 489**

By Committee on Ways and Means

3-7

1 AN ACT concerning health and healthcare; relating to medical hemp  
2 preparation treatments; establishing registration for patients and  
3 establishments; protecting from arrest, prosecution or discrimination  
4 for authorized use.

5  
6 *Be it enacted by the Legislature of the State of Kansas:*

7 Section 1. The provisions of sections 1 through 12, and amendments  
8 thereto, shall be known and may be cited as Otis's law.

9 Sec. 2. As used in this act, unless the context requires otherwise:

10 (a) "Cannabis" means all parts of all varieties of the plant cannabis  
11 sativa L. not exceeding 3% tetrahydrocannabinol by weight.

12 (b) "Cardholder" means a patient or a designated caregiver to whom  
13 the department has issued a medical hemp preparation registration card or  
14 who has documentation that is deemed to be a medical hemp preparation  
15 registration card.

16 (c) "Designated caregiver" means a person who:

17 (1) Is either at least 21 years of age or a parent of a patient;

18 (2) has significant responsibility for managing the well-being of a  
19 patient; and

20 (3) has been approved by the department to assist a patient in  
21 obtaining medical hemp preparations.

22 (d) "Department" means the Kansas department of health and  
23 environment.

24 (e) "Medical hemp preparation" means cannabis plant material that is  
25 no more than 3% tetrahydrocannabinol by weight or an extract, mixture or  
26 preparation containing cannabis plant material that is no more than 3%  
27 tetrahydrocannabinol by weight.

28 (f) "Medical hemp preparation center agent" means an owner, officer,  
29 board member, employee, volunteer, contractor, property owner or  
30 landlord of a registered medical hemp preparation center.

31 (g) "Medical hemp establishment" means a registered medical hemp  
32 preparation center or a registered medical hemp testing laboratory.

33 (h) "Medical use" includes the acquisition, administration, delivery,  
34 possession, purchase, transfer, transportation or use of hemp preparations  
35 and paraphernalia relating to the administration of hemp preparations to  
36 treat or alleviate a patient cardholder's qualifying medical condition.

1 (i) "Parent" means a parent or legal guardian responsible for the  
2 medical care of a patient under the age of 18.

3 (j) "Patient" means an individual who has been diagnosed with a  
4 qualifying medical condition.

5 (k) "Physician" means a person who is licensed by the state board of  
6 healing arts to practice medicine and surgery.

7 (l) "Qualifying medical condition" means a condition causing  
8 seizures, including those characteristic of epilepsy, Alzheimer's disease,  
9 cancer, multiple sclerosis or post-traumatic stress disorder.

10 (m) "Registered medical hemp preparation center" means an entity  
11 registered pursuant to section 9, and amendments thereto, that acquires,  
12 possesses, cultivates, transports and manufactures cannabis, medical hemp  
13 preparations and related paraphernalia and transfers, transports, sells,  
14 supplies or dispenses medical hemp preparations, paraphernalia related to  
15 hemp preparations and related supplies and educational materials to  
16 cardholders, visiting cardholders and other registered medical hemp  
17 preparation centers.

18 (n) "Registered testing laboratory" means an entity registered  
19 pursuant to section 9, and amendments thereto, to analyze the safety and  
20 potency of cannabis.

21 (o) "Registration card" means a card issued by the department  
22 pursuant to section 3, and amendments thereto.

23 (p) "Testing laboratory agent" means an owner, officer, board  
24 member, employee, volunteer, contractor, property owner or landlord of a  
25 registered testing laboratory.

26 (q) "Written certification" means a document signed and dated by a  
27 physician stating that, in the physician's professional opinion, the patient  
28 may receive therapeutic or palliative benefit from the use of medical hemp  
29 preparations to treat or alleviate the patient's qualifying medical condition  
30 or symptoms associated with such patient's qualifying medical condition.

31 (r) "Visiting cardholder" means a person who:

32 (1) Has been diagnosed with a qualifying medical condition or is the  
33 parent, child, sibling, spouse, domestic partner, grandparent, grandchild or  
34 personal aide of an individual who has been diagnosed with a qualifying  
35 medical condition;

36 (2) possesses a valid registration card, its equivalent or other  
37 documentation that allows the person to possess medical hemp  
38 preparations in another state or jurisdiction pursuant to the laws of the  
39 other state or jurisdiction;

40 (3) is not a resident of Kansas or has been a resident of Kansas for  
41 fewer than 30 days; and

42 (4) has submitted any required documentation to the department, if  
43 the department has required registration.

1       Sec. 3. (a) The department shall issue a medical hemp preparation  
2 registration card to each patient applicant who is over the age of 18 who:

3       (1) Provides the department with a written certification signed by a  
4 physician that was issued within 90 days immediately preceding the date  
5 of an application;

6       (2) pays the department a fee established pursuant to section 5, and  
7 amendments thereto; and

8       (3) submits an application or renewal to the department on a form  
9 created by the department that contains:

10       (A) The applicant's name and address;

11       (B) a copy of the applicant's valid photo identification; and

12       (C) any other information the department reasonably considers  
13 necessary to implement the provisions of this subsection.

14       (b) The department shall issue a medical hemp preparation  
15 registration card to each patient applicant who is under the age of 18  
16 whose parent:

17       (1) Submits the information required of patients over the age of 18  
18 under subsection (a); and

19       (2) agrees to serve as a designated caregiver for the patient.

20       (c) The department shall issue a medical hemp preparation  
21 registration card to each designated caregiver applicant who:

22       (1) Is designated in a patient's application, provided that a patient  
23 may designate only one caregiver at any given time unless the patient or  
24 such patient's parent submits documentation demonstrating that a greater  
25 number of designated caregivers are needed due to the patient's age or  
26 medical condition; and

27       (2) submits an application to the department on a form created by the  
28 department that contains:

29       (A) The designated caregiver applicant's name and address;

30       (B) the patient's name and address, if different than the designated  
31 caregiver's address;

32       (C) a copy of the designated caregiver's valid photo identification;  
33 and

34       (D) any other information the department reasonably considers  
35 necessary to implement the provisions of this subsection.

36       (d) The department shall, not later than 30 calendar days after the  
37 date of the receipt of the completed application materials, approve the  
38 application and issue to the applicant a registration card with a unique,  
39 random identification number.

40       (e) Until the department issues, renews or denies a registration card, a  
41 copy of the individual's application, a copy of the patient's written  
42 certification and proof that the application was submitted to the  
43 department shall be deemed a registration card.

1 (f) Until the department makes applications available, a valid, written  
2 certification issued within the previous year shall be deemed a registration  
3 card for a patient.

4 (g) Until the department makes applications available, the following  
5 shall be deemed a designated caregiver registration card:

6 (1) A copy of a patient's valid written certification issued within the  
7 previous year; and

8 (2) a signed affidavit attesting that the person has significant  
9 responsibility for managing the well-being of the patient and that the  
10 person has been chosen to assist a patient in obtaining medical hemp  
11 preparations.

12 (h) Except as provided in this subsection, the expiration date of a  
13 registration card shall be one year after the date of issuance. If a physician  
14 states in the written certification that a patient would only benefit from  
15 medical hemp preparations until a specified earlier date, then the  
16 registration card shall expire on that date.

17 Sec. 4. (a) The department shall maintain a confidential list of all  
18 cardholders and each cardholder's address and registry identification  
19 number. This confidential list shall not be combined or linked in any  
20 manner with any other list or database, nor shall it be used for any purpose  
21 not provided for in this act.

22 (b) The department shall treat written certifications, applications,  
23 renewals, supporting information, the names of applicants, cardholders,  
24 visiting cardholders and physicians and related records as protected health  
25 information under the health insurance portability and accountability act of  
26 1996 (public law 104-191), exempt from disclosure under the Kansas open  
27 records act and not subject to disclosure to any individual or public or  
28 private entity, except as provided in this section. The provisions of this  
29 subsection providing confidentiality shall expire on July 1, 2021, unless  
30 the legislature reviews and reenacts such provisions pursuant to K.S.A. 45-  
31 225, and amendments thereto, prior to July 1, 2021.

32 (c) Nothing in this section shall preclude the following:

33 (1) Authorized employees of the department accessing the  
34 information to perform official duties pursuant to this act;

35 (2) department employees notifying state or local law enforcement  
36 about falsified or fraudulent information submitted to the department or  
37 about other apparent criminal violations of this act;

38 (3) department employees notifying the state board of healing arts if  
39 the department has reasonable suspicion to believe that a physician has  
40 violated the applicable standard of care or for other suspected violations of  
41 this act by a physician;

42 (4) the department verifying registration cards pursuant to subsection  
43 (d);

1 (5) at a cardholder's request, the department confirming such  
2 cardholder's status as a cardholder to a third party, such as a landlord,  
3 school, medical professional or court; and

4 (6) provided that no identifying information pertaining to  
5 cardholders, visiting cardholders, or physicians is disclosed:

6 (A) The department releasing data that was voluntarily submitted by  
7 cardholders and visiting cardholders on the effectiveness and any side  
8 effects of medical hemp preparations to researchers at institutions of  
9 higher education; and

10 (B) the department releasing information on the number of patients  
11 and designated caregivers approved, the number of registry identification  
12 cards revoked and aggregate information from voluntary reports on the  
13 effectiveness of medical hemp preparations and any side effects patients  
14 have experienced.

15 (d) Within 120 days of the effective date of this act, the department  
16 shall establish a secure phone or web-based verification system. Such  
17 verification system must allow law enforcement personnel, medical hemp  
18 establishments and medical hemp establishment agents to enter a registry  
19 identification number and determine whether or not the number  
20 corresponds with a current, valid registration card. The system may  
21 disclose only whether the registration card is valid, the name of the  
22 cardholder and whether the cardholder is a registered patient or a  
23 designated caregiver. The department may also include visiting  
24 cardholders in the database.

25 Sec. 5. (a) Not later than 120 days after the effective date of this act,  
26 the department shall adopt rules and regulations to establish:

27 (1) The form and content of registration and renewal applications  
28 submitted under this act and registration cards;

29 (2) the number of testing laboratories that will be allowed in the state,  
30 which may not be fewer than two;

31 (3) the number of medical hemp preparation centers that will be  
32 allowed in the state, which shall be no fewer than is reasonably necessary  
33 to ensure safe, steady access to hemp preparations to cardholders located  
34 throughout the state and no fewer than a total of three centers;

35 (4) a system to numerically score competing medical hemp  
36 establishment applicants, which must include analysis of:

37 (A) The suitability of the proposed location of a medical hemp  
38 preparation center and its accessibility to patients;

39 (B) the character, veracity, background and relevant experience of  
40 principal officers and board members; and

41 (C) the business plan proposed by the applicant, which in the case of  
42 medical hemp preparation centers shall include the ability to maintain an  
43 adequate supply of medical hemp preparations, plans to ensure safety and

- 1 security of patrons and the community and procedures to be used to  
2 prevent theft or diversion;
- 3 (5) requirements for medical hemp establishments to prevent  
4 diversion and theft and ensure safety, without imposing an undue burden  
5 or compromising the confidentiality of cardholders, including:
- 6 (A) Oversight requirements;
- 7 (B) recordkeeping requirements;
- 8 (C) security requirements, including at a minimum, lighting, physical  
9 security, transportation, waste destruction, video and alarm;
- 10 (D) health and safety requirements, including prohibiting the use of  
11 harmful pesticides; and
- 12 (E) restrictions on advertising and signage;
- 13 (6) minimum requirements and procedures for the safe and accurate  
14 packaging and labeling of medical hemp preparations including  
15 requirements to:
- 16 (A) Disclose whether the medical hemp preparation is organic or non-  
17 organic;
- 18 (B) specify the length of time it typically takes for a product to take  
19 effect;
- 20 (C) print a nutritional fact panel on all edible and potable product  
21 containers, including a list of ingredients and possible allergens; and
- 22 (D) include a unique serial number that will match the product with a  
23 medical hemp preparation center batch and lot number, so as to facilitate  
24 any warnings or recalls;
- 25 (7) procedures for random sample testing to ensure that medical hemp  
26 preparations available to cardholders and visiting cardholders are  
27 accurately labeled for content and potency, in accordance with standards  
28 established by the department to ensure the health and safety of patient  
29 cardholders;
- 30 (8) procedures for initiating mandatory and voluntary recalls of hemp  
31 preparations; and
- 32 (9) procedures for suspending or terminating the registration  
33 certificates or registration cards of cardholders or medical hemp  
34 establishments that commit multiple or serious violations of the provisions  
35 of this act or any rules and regulations adopted thereunder.
- 36 (b) The department may adopt rules and regulations to:
- 37 (1) Establish a presumptive maximum quantity of medical hemp  
38 preparations that a cardholder or visiting cardholder may possess, provided  
39 that:
- 40 (A) The amount should be no less than a reasonable 60-day supply;  
41 and
- 42 (B) a patient may apply for a waiver if a physician provides a  
43 substantial medical basis in a signed, written statement asserting that,

1 based on the patient's medical history, in the physician's professional  
2 judgment, the amount established by the department is an insufficient  
3 amount to properly alleviate the patient's qualifying medical condition or  
4 symptoms associated with such medical condition; and

5 (2) require a visiting cardholder to submit a healthcare professional's  
6 statement confirming that the patient has a qualifying medical condition  
7 and documentation demonstrating that the visiting cardholder is authorized  
8 to possess cannabis or medical hemp preparations in the state or  
9 jurisdiction where such person resides. If the department requires visiting  
10 cardholders to submit such documentation, the department shall issue  
11 confirmation to the individual no later than seven calendar days after such  
12 documentation is submitted.

13 Sec. 6. The department shall adopt rules and regulations to establish  
14 fees for applications, registration cards and medical hemp establishment  
15 registration certificates subject to the following requirements:

16 (a) Fees established under this section shall be no greater than the  
17 amount reasonably necessary to cover the cost the department incurs to  
18 implement the provisions of this act. Fees established for registration cards  
19 or visiting cardholder documentation shall be no greater than the amount  
20 reasonably necessary to cover the cost of processing registration cards.

21 (b) Any fee structure established by the department must incorporate  
22 a sliding scale for cardholders who receive medicaid, supplemental  
23 security income or social security disability insurance benefits.

24 (c) The department shall collect fees for the following, not to exceed:

25 Medical hemp preparation center registration	
26 certificate application.....	\$5,000
27 Medical hemp preparation center registration	
28 certificate.....	\$20,000
29 Testing laboratory registration certificate.....	\$2,000
30 Individual medical hemp preparation	
31 registration card.....	\$75
32 Visiting cardholder documentation.....	\$80

33 Sec. 7. (a) A cardholder or visiting cardholder shall not be subject to  
34 arrest, prosecution under state or municipal law or denial of any right or  
35 privilege, including, but not limited to, civil penalty or disciplinary action  
36 by a court or occupational or professional licensing board or bureau, for  
37 the medical use of hemp preparations pursuant to this act.

38 (b) No person may be subject to arrest, prosecution under state or  
39 municipal law or denial of any right or privilege, including, but not limited  
40 to, civil penalty or disciplinary action by a court or occupational or  
41 professional licensing board or bureau, for:

42 (1) Selling medical hemp paraphernalia to a registered medical hemp  
43 establishment, a cardholder or a visiting cardholder;

1 (2) being in the presence or vicinity of the use of medical hemp  
2 preparations as allowed by this act; or

3 (3) assisting a patient with a registration card in the act of using or  
4 administering hemp.

5 (c) A hemp preparation center or hemp preparation center agent shall  
6 not be subject to prosecution under state or municipal law, search or  
7 inspection, except by the department pursuant to section 11, and  
8 amendments thereto, seizure or penalty in any manner or be denied any  
9 right or privilege, including, but not limited to, civil penalty or disciplinary  
10 action by a court or business licensing board or entity, for acting pursuant  
11 to this act and department rules and regulations to:

12 (1) Sell cannabis seeds to similar entities that are registered to  
13 dispense cannabis for medical use in other jurisdictions;

14 (2) acquire, cultivate, grow, harvest, manufacture, plant, possess,  
15 prepare, propagate, transport or store cannabis, hemp paraphernalia and  
16 medical hemp preparations;

17 (3) deliver, dispense, supply, sell, transfer or transport medical hemp  
18 preparations, paraphernalia for use with medical hemp preparations or  
19 related supplies and educational materials to cardholders and visiting  
20 cardholders;

21 (4) deliver, dispense, transfer, transport, sell or supply cannabis seeds,  
22 cannabis seedlings, cannabis plants, cannabis, medical hemp preparations  
23 or related supplies and educational materials to other medical hemp  
24 preparation centers; or

25 (5) deliver, transfer or transport cannabis or medical hemp  
26 preparations to registered testing laboratories.

27 (d) A registered testing laboratory and testing laboratory agent acting  
28 on behalf of a testing laboratory shall not be subject to prosecution under  
29 state or municipal law, search, except by the department pursuant to  
30 section 11, and amendments thereto, seizure or penalty in any manner, or  
31 be denied any right or privilege, including, but not limited to, civil penalty  
32 or disciplinary action by a court or business licensing board or entity,  
33 solely for acting in accordance with this act and department rules and  
34 regulations to provide the following services:

35 (1) Acquiring, possessing, storing, analyzing, testing or transporting  
36 cannabis obtained from medical hemp preparation centers and medical  
37 hemp preparations obtained from cardholders, visiting cardholders or  
38 hemp preparation centers;

39 (2) possessing, storing or transporting hemp paraphernalia;

40 (3) returning medical hemp preparations to cardholders or medical  
41 hemp preparation centers; or

42 (4) receiving compensation for actions allowed under this section.

43 (e) Mere possession of, or application for, a registration card or



1 medical hemp establishment registration shall not constitute probable  
2 cause or reasonable suspicion, nor shall it be used to support the search of  
3 the person, property or home of the person possessing or applying for the  
4 registration card. The possession of, or application for, a registration card  
5 or registration certificate shall not preclude the existence of probable cause  
6 if probable cause exists on other grounds.

7 (f) For the purposes of state law, the use of medical hemp  
8 preparations by a cardholder or visiting cardholder and activities that a  
9 registered medical hemp establishment is registered to engage in shall be  
10 considered lawful, as long as they are undertaken in accordance with this  
11 act.

12 Sec. 8. (a) For the purposes of medical care, including organ and  
13 tissue transplants, a patient's use of medical hemp preparations in  
14 accordance with this act is the equivalent of the authorized use of any  
15 other medication in accordance with a prescription issued by a physician  
16 and does not constitute the use of an illicit substance or otherwise  
17 disqualify a patient cardholder from needed medical care.

18 (b) A person otherwise entitled to custody of or visitation or parenting  
19 time with a minor shall not be denied such a right, and there shall be no  
20 presumption of neglect or child endangerment, for conduct allowed by this  
21 act unless the person's actions in relation to medical hemp preparations  
22 were such that they created an unreasonable danger to the safety of the  
23 minor as established by clear and convincing evidence.

24 Sec. 9. (a) This act does not authorize any person to engage in, and  
25 does not prevent the imposition of any civil, criminal or other penalties for  
26 engaging in the following conduct:

27 (1) Undertaking any task under the influence of medical hemp  
28 preparations when doing so would constitute negligence or professional  
29 malpractice; or

30 (2) operating, navigating or being in actual physical control of any  
31 motor vehicle, aircraft or motorboat while impaired by medical hemp  
32 preparations.

33 (b) Nothing in this act requires a government medical assistance  
34 program or private insurer to reimburse a person for costs associated with  
35 the use of medical hemp preparations.

36 Sec. 10. (a) Any person who operates a medical hemp establishment  
37 must first submit an application form to the department and receive  
38 approval. Each application must be for a single type of medical hemp  
39 establishment.

40 (b) No later than 120 days after the effective date of this act, the  
41 department shall begin accepting applications for hemp preparation centers  
42 and testing laboratories.

43 (c) Except as otherwise provided in this act, not later than 90 calendar

1 days after receiving an application to operate a medical hemp  
2 establishment, the department shall register the medical hemp  
3 establishment and issue a registration certificate and a random  
4 identification number if:

5 (1) The person or persons who wish to operate the proposed medical  
6 hemp establishment have submitted to the department all of the following:

7 (A) The application fee, as established by the department; and

8 (B) an application, which must include:

9 (i) The legal name of the proposed medical hemp establishment; and

10 (ii) the physical address where the proposed medical hemp  
11 establishment will be located and the physical address of any co-owned  
12 additional or otherwise associated medical hemp establishment, so long as  
13 the location of the proposed medical hemp establishment is not within  
14 1,000 feet of a public or private school that provides formal education  
15 traditionally associated with preschool or kindergarten through grade 12,  
16 which existed on the date on which the application for the proposed  
17 medical hemp establishment was submitted to the department;

18 (C) evidence that the applicant controls not less than \$250,000 in  
19 liquid assets;

20 (D) evidence that the applicant owns the property on which the  
21 proposed medical hemp establishment will be located or has the written  
22 permission of the property owner to operate the proposed medical hemp  
23 establishment on that property;

24 (E) the name, address and date of birth of each person who is  
25 proposed to be an owner, officer or board member of the proposed medical  
26 hemp establishment;

27 (F) operating procedures consistent with rules and regulations of the  
28 department for oversight of the proposed medical hemp establishment,  
29 including procedures to ensure the use of adequate security measures;

30 (G) if the city, town or, in the case of a location in an unincorporated  
31 area, county in which the proposed medical hemp establishment will be  
32 located has enacted zoning restrictions or licensing requirements, proof of  
33 licensure with the applicable local governmental authority or an  
34 affirmation signed by the applicant that the proposed medical hemp  
35 establishment will be in compliance with those restrictions and satisfies all  
36 applicable zoning requirements; and

37 (H) such other information as the department may reasonably require  
38 by rules and regulations;

39 (2) none of the persons who are proposed to be owners, officers or  
40 board members of the proposed medical hemp establishment have served  
41 as an owner, officer or board member for a medical hemp establishment  
42 that has had its medical hemp establishment registration certificate  
43 revoked; and

1 (3) none of the persons who are proposed to be owners, officers or  
2 board members of the proposed medical hemp establishment are under 21  
3 years of age.

4 (b) When more qualifying applications are submitted for proposed  
5 hemp preparation centers or testing laboratories than the department will  
6 approve, the department shall use an impartial and numerically scored  
7 merit-based selection process to determine which application or  
8 applications to approve. The department may approve the highest scoring  
9 application or applications in specific geographic regions of the state. The  
10 department may conduct a background check of the principal officers and  
11 board members of any prospective hemp preparation center to carry out  
12 the provisions of this subsection.

13 (c) Except as otherwise provided in this act, if an application for  
14 registration as a medical hemp establishment satisfies the requirements of  
15 this section and the establishment is not disqualified from being registered  
16 as a medical hemp establishment pursuant to this act or other applicable  
17 law, the department shall issue to the establishment a medical hemp  
18 establishment registration certificate. A medical hemp establishment  
19 registration certificate expires two years after the date of issuance and may  
20 be renewed upon:

21 (1) Submission of a renewal application; and

22 (2) payment of the renewal fee established by the department.

23 Sec. 11. (a) Medical hemp establishments are subject to reasonable  
24 inspection by the department.

25 (b) A medical hemp establishment may not employ or accept as a  
26 volunteer any person who is under 21 years of age.

27 (c) The operating documents of a medical hemp establishment must  
28 include procedures for the oversight of the medical hemp establishment  
29 and procedures to ensure accurate recordkeeping.

30 (d) A medical hemp establishment shall implement appropriate  
31 security measures designed to deter and prevent:

32 (1) The theft of cannabis and hemp preparations; and

33 (2) unauthorized entrance into areas containing cannabis or hemp  
34 preparations.

35 (e) Before hemp preparations may be dispensed to a cardholder or  
36 visiting cardholder, a hemp preparation center agent must:

37 (1) Make a diligent effort to verify that the registration card or other  
38 documentation presented to the hemp preparation center is valid; and

39 (2) make a diligent effort to verify that the person presenting the card  
40 is the person identified on the registration card presented to the hemp  
41 preparation center agent.

42 (f) A hemp preparation center must dispense hemp preparations in a  
43 sealed container with a label that conforms to department regulations and

1 that indicates the hemp preparation's ingredients and its percentages of  
2 tetrahydrocannabinol and cannabidiol by weight.

3 (g) Hemp preparation centers shall collect and submit to the  
4 department data on strains used, methods of delivery, any side effects  
5 experienced and the therapeutic effectiveness of hemp preparations for  
6 each patient who is willing to provide the information. Such data  
7 collection shall be done under the patient's registry identification number  
8 to protect the patient's confidentiality.

9 Sec. 12. If any provision of this act or the application thereof to any  
10 person or circumstance is held invalid, such invalidity shall not affect the  
11 application of any other provision of this act that can be given full effect  
12 without the invalid provision or application.

13 Sec. 13. This act shall take effect and be in force from and after its  
14 publication in the statute book.