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**Testimony to the House Health and Human Services Committee  
In Opposition to HB2282  
February 17, 2015**

Chairman Hawkins and Committee Members,

The Kansas Association of Chiefs of Police, Kansas Sheriffs Association, and the Kansas Peace Officers Association recognize the difficult policy decision a legislative body faces in determining the value of the legalization of cannabis for medical use. This is truly a policy decision for our state legislatures and for the US Congress requiring the consideration of all of their constituents, those that support legalization and commercialization and those that don't. As law enforcement officers, we are not experts on the evaluation of legitimate medical needs, and we know others with that expertise will provide testimony to your committee. We do believe the first and foremost consideration of unintended consequences in making this policy decision should be public safety, including the safety of our children. It should not be based on projected tax revenues or on emotions. It should be based on facts and it should be based on the proper balance between benefits and costs. Those costs are both monetary and the cost to public safety.

Our association members are concerned about legalizing cannabis in any form, especially in a manner making a mockery of the physician/pharmaceutical system in place for the legitimate use of other controlled substances for medical purposes. We do not oppose allowing for a proven application of components of cannabis for legitimate scientifically supported medical treatment approved through the same processes applicable to any other drug treatment. If the true intent of allowing medical use of cannabis is at the core of this issue, then the use of existing proven methods in place through our pharmacies for the distribution of approved drugs should be the supply method. We do not need to set up an alternative medical dispensing process with a false front of head shops to support the use of a drug with alternative methods of physician "approval" which are questionable at best for the vast majority of those receiving them.

In reviewing this bill we found many gaps in critical areas to properly control the industry if you decide to move this bill forward. Some of these gaps raise a question of the real intent of the bill. For example, you will find on page 1, line 24 the bill would allow up to a 3% THC content. Yet in our research on this topic (and we admit we are not experts on hemp for commercial uses) we found hemp described on the North American Industrial Hemp Council website as follows: "Hemp cannot be used as a drug because it

produces virtually no THC (less than 1%), where marijuana produces between 5 - 20 % THC.” Is this bill a wolf in sheep’s clothing? Whether it is called hemp or marijuana, this bill appears to be another medical marijuana bill disguised behind a more acceptable and commercial name. One tactic the proponents could be relying on with the 3% THC content is that quantitative testing for THC content is very expensive which would make effective enforcement based on THC content nearly impossible.

There are also other things in the bill that tell us this concept is not ready to move forward. For example, there appears to be nothing to assure the THC product to be legalized would indeed be used by the persons who would be allowed to legally possess it. Caregivers could legally possess it and there is no penalties if they use it as there would be if this was handled through the normal prescription medicine processes established by existing law. We also could not find any restrictions on the methods of delivery of the products proposed. Can they be infused into edibles? Colorado has learned edibles produced dreadful unintended consequences. Will these permit holders be allowed to smoke or otherwise consume the product in public exposing others to the effects?

On page 8, lines 21-33 the language of legalized activity is so vague it will allow the activity for all forms of cannabis not just what is being portrayed as hemp. This includes seeds, plants, paraphernalia, and even to “. . . grow, harvest, plant, possess, propagate, transport or store cannabis. . .” Nowhere in the bill is cannabis defined which means it will include marijuana.

On page 10, section 10 provides that if the legislature authorizes hemp distribution and consumption as provided in this bill you will lose control of the expansion into full blown marijuana shops. You will see on lines 15 that the Department of Health and Environment can be petitioned to administratively “add additional strains, mixtures or preparations of cannabis to the definition of hemp preparations.” Since this authorizes “cannabis” it would not be restricted to the cap of 3% THC the definition of hemp imposes, especially since section 10 allows KDHE to “add. . .to the definition of hemp preparations.” (Emphasis added)

The bill provides a large opportunity to expand the “medical” use of cannabis beyond seizure disorders as the title leads one to believe it is restricted to. On page 10, lines 1-3 allows petitions to KDHE to “add medical conditions to the list of qualifying medical conditions section 2 (k). . .” Section 2 subsection (k) is on page 2 where you will see it allows this expansion to “any other debilitating or life-threatening medical condition. . .” The Colorado experience shows allowing the use of cannabis for pain relief is what opens the door to the rapid expansion of permits and to many of the unintended consequences. The percentage of permits in Colorado for pain relief is extremely high while those for other medical reasons are a very small percentage.

These are just a few samples of inconsistency throughout this bill.

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Last month, at the request of our associations, I attended a three day conference in Colorado on the lessons learned during Colorado’s process of legalization. It was a very good conference with a presentation of an enormous amount of statistical data, discussions of challenges, presentations of what has worked and what hasn’t, and was balanced with presentations by people in the newly created marijuana commercialization industry. This testimony includes some of what I learned at that conference. I should note that one thing I learned is that this is a complex topic and we all have a great

deal to learn before making a decision on whether legalization is right for Kansas, and if the path of legalization is chosen, what precautions should be taken to minimize unintended consequences.

We should look closely at the reality of the need for medical cannabis including how many people it really effects for legitimate medical treatment and the balance between such an identified need and the unintended consequences. If a real need is identified, what disease processes should trigger the authorization for medical use. The most problematic situation seems to be when it is used for “pain relief” instead of for specified medical diagnosis. This single aspect seems to be the factor that makes a mockery of legalization under the guise of medical need. These decisions should follow the science and strong consideration should be given to using the same methods of medical and pharmacy supervision of this controlled substance the same as we utilize for other drugs. In our opinion, the risk of unintended consequences to public safety relating to self-medication using marijuana are real. Those risks expose not only the intended user of the drugs, but also unintended ingestion or consumption and involving increased access to of this drug to our children.

#### LAW ENFORCEMENT OPERATIONAL CONSIDERATIONS

The legalization of cannabis in any form has tremendous implications for law enforcement.

1. Law enforcement must retrain, develop new policy and formulate new investigative techniques to enforce remaining laws relating to cannabis. State legalization creates a conflict between state and federal laws on cannabis. But enforcement must continue on violations that do not fall under the new legalized parameters. These investigations are complicated as some possession is legal while others are not.
2. Probable cause for searches and arrests become clouded requiring error on the side of caution by not arresting or not searching unless clarity exists. New standards and procedures must be developed by law enforcement leaders, district and city attorneys and policymakers clarifying the criteria for determining an illegal marijuana operation and providing guidance for acceptable criteria for marijuana based search warrants
3. Once marijuana is seized, if later investigation reveals the possession did not violate state law, a dilemma is created for law enforcement in returning the property to the person from whom it was seized which would still violate federal law.
4. Drug dogs have to be retrained or replaced. Drug dogs are trained to “hit” on various drugs. Unfortunately they can’t tell us what drug they smell. So dogs that have been trained to detect drugs including marijuana are rendered useless since the mere detection of marijuana may not indicate a criminal violation. This will result in not only an expense, but also a degradation of our ability to locate and seize other illegal drugs.
5. Enforcement of marijuana violations under the newly created laws and regulations will require a multi-team approach involving law enforcement, prosecutors, zoning professionals, fire inspectors, building inspectors, food inspectors, code compliance inspectors, medical professionals and others.
6. Liability issues will be difficult as law enforcement walks a thin line between potential violations of the rights of those who can legally possess and being liable for not taking action which may lead to harm to others when encountering a person who is not legally authorized to possess marijuana.

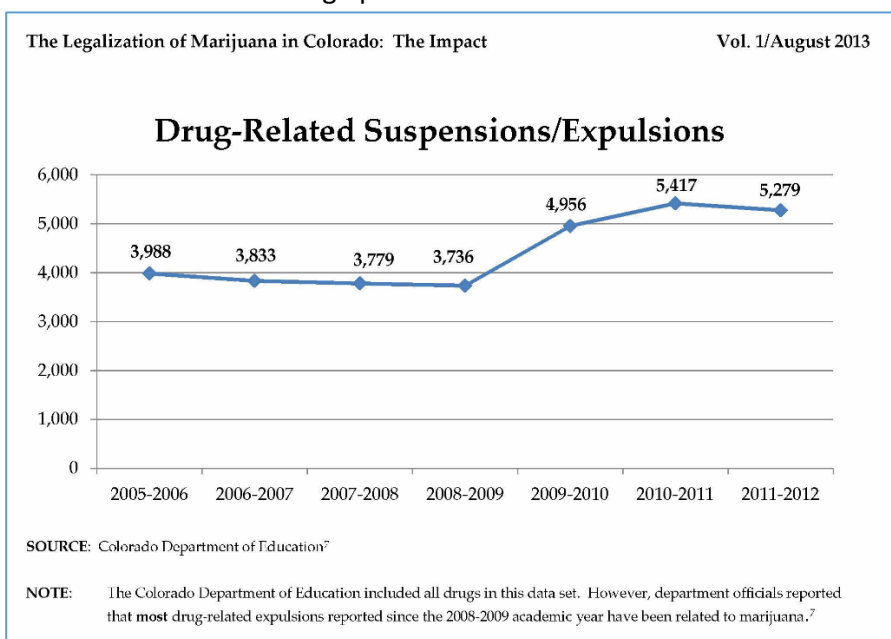
## PUBLIC SAFETY CONSIDERATIONS

In the following discussion, keep in mind Colorado commercialized medical marijuana (dispensaries started opening) in 2010 and legalized commercialization of marijuana (recreational use) began January 1, 2014.

### 1. How will legalization for either medical or recreational use effect our children?

I learned in Colorado the data does indicate an increase in drug use over the same years marijuana was legal for medical purposes. It is too early to see an impact from legalization for recreational purposes, but there doesn't seem to be any signs legalization has no impact or a positive impact on use by children.

**Colorado Youth Marijuana Use:** In 2011, the national average for youth 12 to 17 years old considered "current" marijuana users was 7.64 percent which was the highest average since 1981. The Colorado average percent was 10.



#### Comments:

"Drug violations shot up dramatically in Colorado schools during the 2009-2010 school year, reversing a decade of steady decline..."<sup>9</sup>

*Rebecca Jones, reporter, EdNews Colorado*

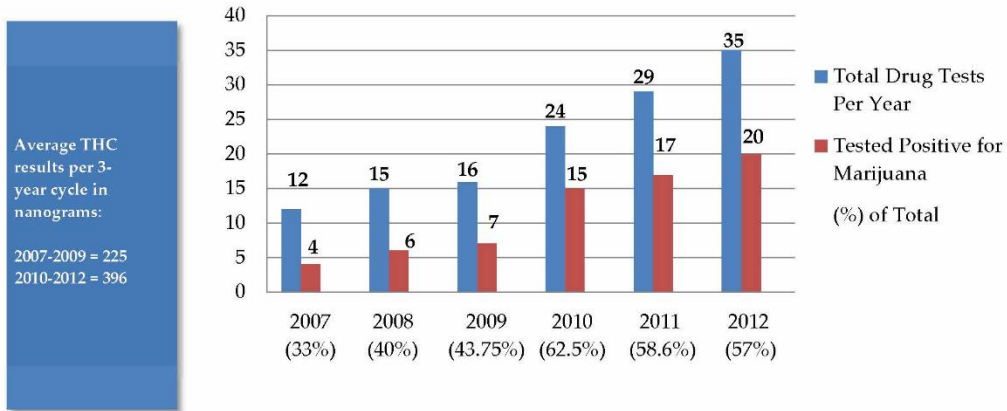
"If Denver Public High Schools were considered a state, that state would have the highest past month marijuana use rate in the United States, behind New Hampshire. Denver has more marijuana dispensaries than liquor stores or licensed pharmacies."

*Christian Thurstone, M.D., attending physician, Denver Health Medical Center*

"A typical kid (is) between 50 and 100 nanograms. Now we're seeing these (test results in nanograms) up in the over 500, 700, 800 and climbing."<sup>8</sup>

*Jo McGuire, director, Compliance and Corporate Training, Conspire!*

## Conspire! Drug Testing Summary

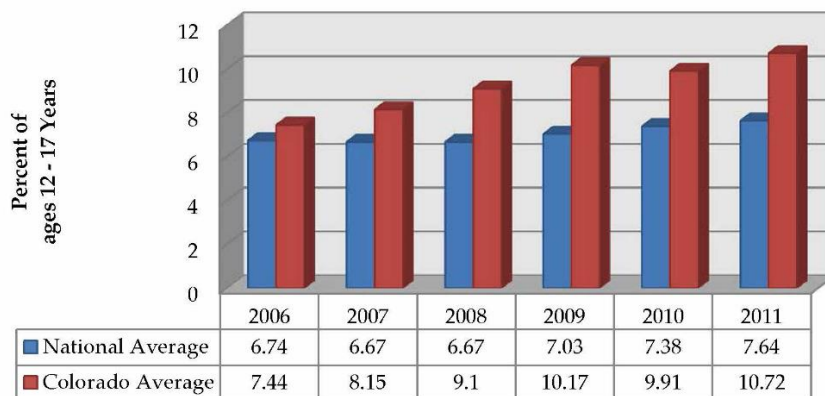


SOURCE: Conspire! Colorado Springs Drug Testing Summary

NOTE: The majority of the data was collected from high school students in the Colorado Springs, CO area sent for drug testing due to behavior issues.

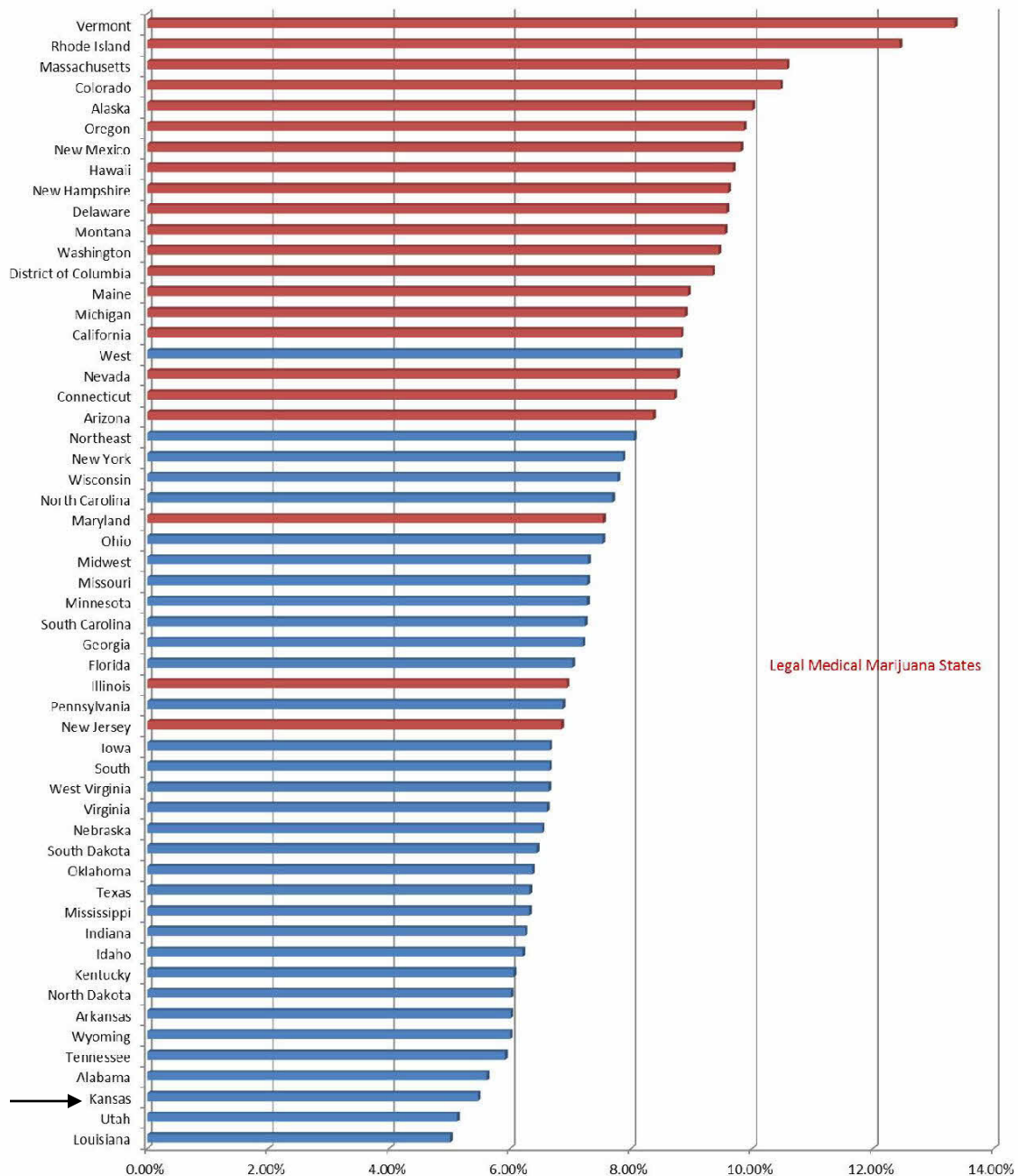
### Data:

## Past Month Usage of Marijuana - National v. Colorado



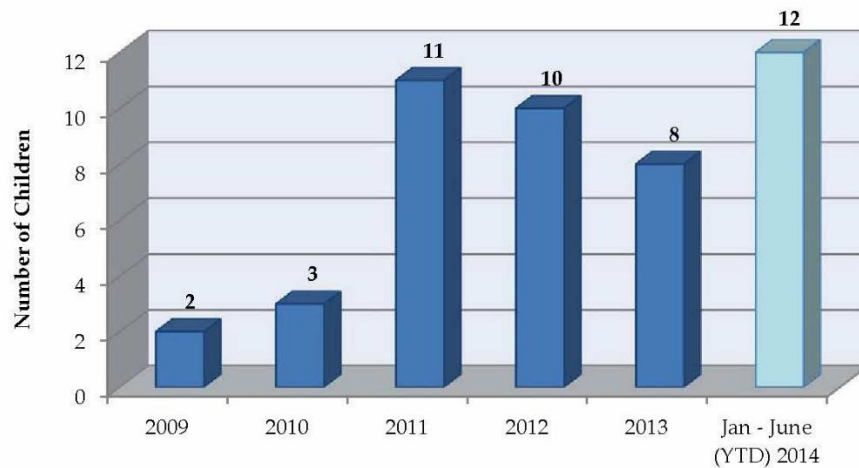
SOURCE: Data from SAMHSA.gov, National Survey on Drug Use and Health

## Past Month Usage by 12 to 17-Year-Olds in Medical Marijuana States, 2012



SOURCE: SAMHSA.gov, National Survey on Drug Use and Health, 2013

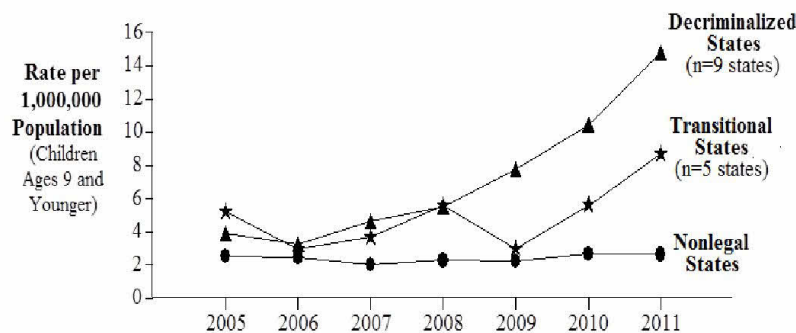
## Marijuana Ingestion Among Children Under 12 Years-of-Age



SOURCE: Dr. George Sam Wang, pediatric emergency physician, Children's Hospital Colorado, July 8, 2014

## Rate (per 1,000,000 population) of Unintentional Pediatric Marijuana Exposure Poison Center Calls, by Marijuana Legalization States\*, 2005-2011<sup>2</sup>

(n=985 single substance, unintentional exposures in children ages 9 and younger)



\* *Decriminalized States*: Passed marijuana decriminalization legislation (for medical and/or recreational purposes) before 2005 (AK, CA, CO, HI, ME, NV, OR, VT, and WA).

\* *Transitional States*: Enacted legislation between 2005 and 2011 (AZ, MI, MT, NM, RI). Nonlegal States: Had not passed legislation as of December 31, 2011.<sup>2</sup>

2. How will it affect highway safety? Advocates often site the decrease in fatalities in Colorado since legalization for medical purposes and again in 2014 with commercial recreational legalization. What they don't usually reveal is that traffic fatalities have been dropping in most states even those that haven't legalized commercialization of marijuana. They also usually don't mention that while the number of total fatalities is dropping, the number of drug related fatalities is increasing.

**Colorado Driving Fatalities:** From 2006 to 2011, traffic fatalities decreased in Colorado 16 percent, but fatalities involving drivers testing positive for marijuana increased 114 percent.

**Definitions in Reviewing Fatality Data:**

- **Marijuana:** Also called "marijuana mentions," is any time marijuana shows up in the toxicology report. It could be marijuana only or marijuana with other drugs and/or alcohol.
- **Fatalities:** A fatal injury resulting from a traffic crash involving a motor vehicle.
- **Operators:** Anyone in control of their movements such as a driver, pedestrian or bicyclist.

**Fatalities Involving Operators Testing Positive for Marijuana**

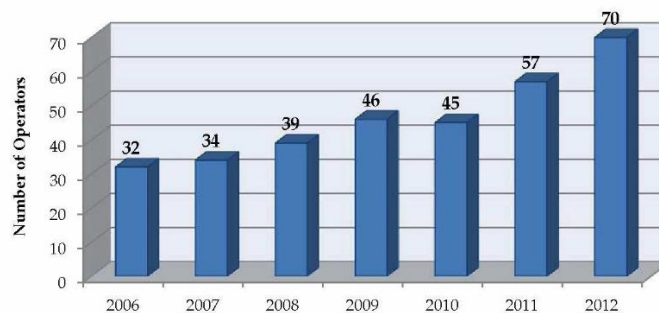
Crash Year	Total Statewide Fatalities	Fatalities with Operators Testing Positive for Cannabis	Percentage Total Fatalities (Cannabis)
2006	535	37	6.92%
2007	554	39	7.04%
2008	548	43	7.85%
2009	465	47	10.1%
2010	450	49	10.89%
2011	447	63	14.09%
2012	472	78	16.53%

SOURCE: National Highway Transportation Safety Administration, Fatality Analysis Reporting System (FARS), 2006-2011 and RMHIDTA 2012 (See NOTE on page 8)

The Legalization of Marijuana in Colorado: The Impact

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**Operators Involved in Fatalities Testing Positive for Marijuana**



SOURCE: National Highway Transportation Safety Administration, Fatality Analysis Reporting System (FARS), 2006-2011 and RMHIDTA 2012 (See NOTE on page 8)



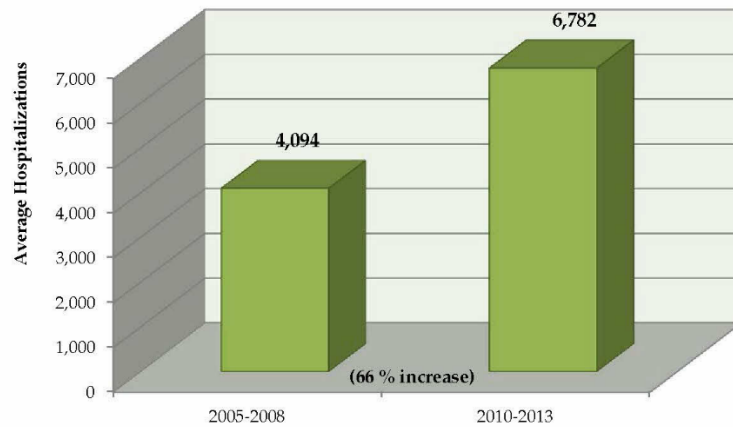
3. Does marijuana legalization create more health emergencies?

**Colorado Emergency Room – Marijuana Admissions:** From 2005 through 2008 there was an average of 741 visits per year to the emergency room in Colorado for marijuana-related incidents involving youth. That number increased to 800 visits per year between 2009 and 2011.

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**Average Marijuana-Related  
Hospitalizations  
Pre- and Post-Medical Marijuana  
Commercialization Year (2009)**

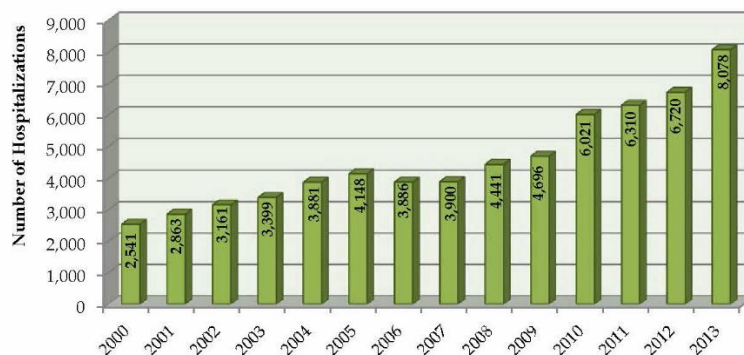


SOURCE: Colorado Hospital Association, Emergency Department Visit Dataset. Statistics prepared by the Health Statistics and Evaluation Branch, Colorado Department of Public Health and Environment (CDPHE)

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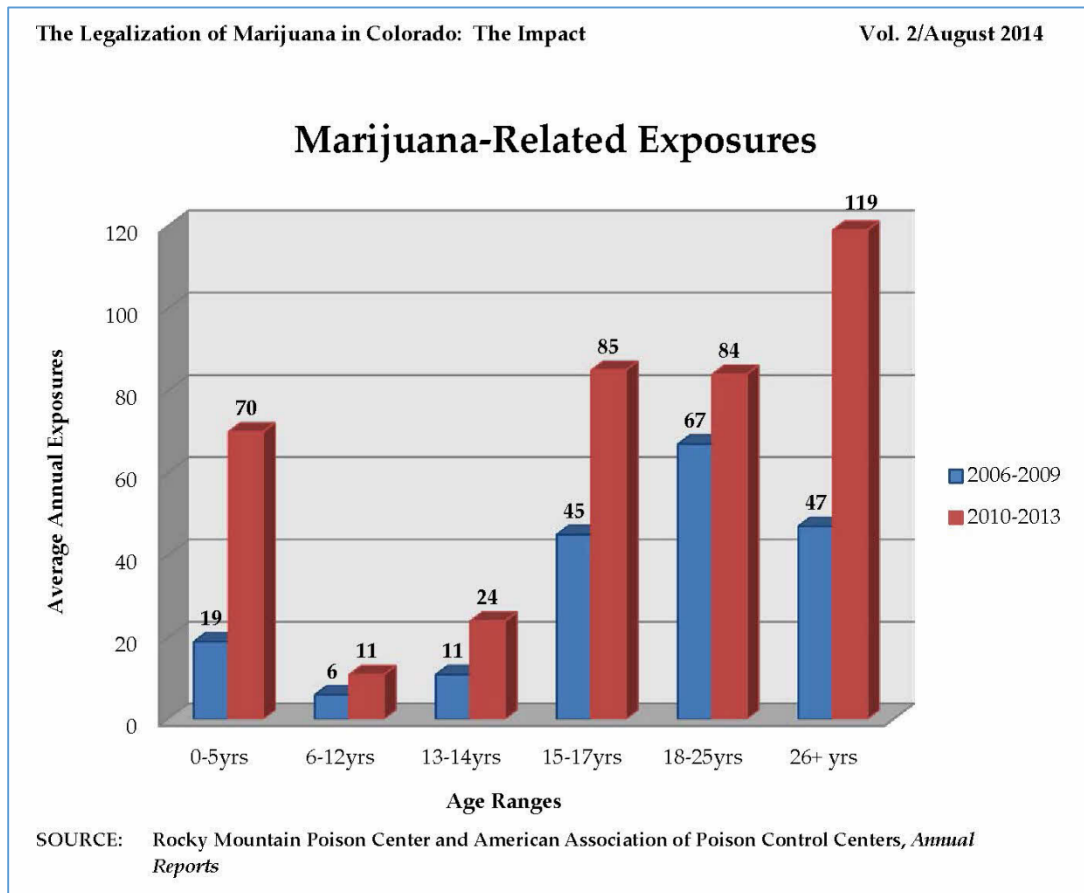
**Hospitalizations Related to Marijuana**



SOURCE: Colorado Hospital Association, Emergency Department Visit Dataset. Statistics prepared by the Health Statistics and Evaluation Branch, Colorado Department of Public Health and Environment (CDPHE)

4. Does legalization create more unintentional drug poisoning?

**Colorado Marijuana-Related Exposure Cases:** From 2005 through 2008, the yearly average number of marijuana-related exposures for children ages 0 to 5 years was 4. For 2009 through 2012, that number increased 200 percent to an average of 12 per year.



5. Are there any environmental risks associated with marijuana legalization?

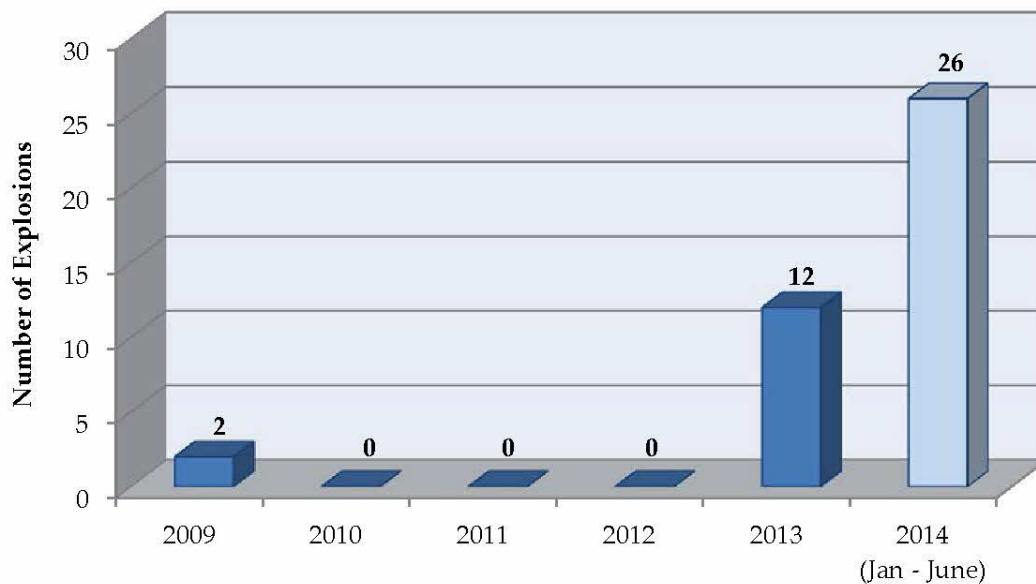
First and most critically, there is a risk of explosions similar to the meth lab risks for marijuana during the process of extracting THC into oils. This process involves using volatile chemicals with marijuana vegetation to extract the THC oils and requires heating this flammable mixture in the process. Colorado had 31 house explosions during 2014 with marijuana extraction operations identified as the cause.

In addition, marijuana growing in residences has been problematic. The formation of mold in areas of heavy marijuana plant growth has been common. While the Colorado law limits plants to six per person, it is not uncommon to find plants far exceeding those numbers in a single residence. This situation is allowed through the ability of a grower to “assist” others with medical license to grow their marijuana and claims of multiple people with medical marijuana cards in the household. Many cases have revealed these plants being grown in children’s rooms.

- Reported injuries from the extraction lab explosions in Colorado.<sup>1</sup>
  - 2013: 18 injuries reported
  - Six months of 2014: **27** injuries reported
    - This is a **50 percent** increase in only six months of 2014 compared to all of 2013
- The University of Colorado Hospital Burn Unit treated self-admitted burn patients from extraction lab explosions/fires.<sup>2</sup>
  - In 2011, the Burn Unit had treated 1 self-admitted patient
  - In 2012, the Burn Unit had treated 1 self-admitted patient
  - In 2013, the Burn Unit had treated 11 self-admitted patients
  - As of April 30, 2014 (four months) the Burn Unit has treated **10** self-admitted victims

## Data

### Colorado Reported THC Extraction Lab Explosions



SOURCE: Rocky Mountain HIDTA Investigative Support Center

## THINGS TO CONSIDER

1. Move slowly. There is starting to be some good data providing an avenue for fact based decisions. But that data is developing slowly and needs time to provide better relationship of results and consequences to the legalization. In Colorado the legalization occurred before proper law enforcement training and regulation could take place. So they have been behind the curve and continue to develop appropriate responses to problems. One speaker described it as finishing building the airplane after takeoff.
2. One of the biggest challenges facing the process in Colorado and other states has been marijuana infused food products. The problems have ranged from inaccurate product labeling, inadequate packaging, no way to identify infused food items from those not containing marijuana, indistinguishable dosage units, varying potency, and food items looking like candy attracting children. These problems have led to accidental/unintentional marijuana ingestion by both adults and children. Advocates claim these infused food items are necessary to allow consumption for medical purposes in public places where smoking would be problematic. Our question is: If the marijuana components that are medically helpful can be infused into food items, why can't they be infused into traditional pharmaceutical delivery systems such as liquids, tablets and capsules?
3. One of the issues in Colorado has been the complicated law that makes it difficult for law enforcement officers to know if marijuana they find is legal or illegal. The number of plants a person can have is different for medical use than from recreational use. A per person count is difficult to evaluate while a limit in a single building is easy to enforce.
4. Colorado has faced difficult challenges on several fronts, but primarily with the law allowing home plant growing and in the edible marijuana industry. It has also been difficult to distinguish between marijuana obtained through the regulated legal process and the black market and the gray market. The black market is the traditional drug dealer we have dealt with for years, and the gray market is the market of what starts out to be legal marijuana diverted in illegal ways to those who cannot legally possess the product, such as under age persons and product shipped out of state where marijuana has not been legalized. Don't expect legalization to significantly reduce the illegal marketing and sales of marijuana, there is no indication yet that it will.

## RECOMMENDATIONS

1. Start by collecting better data on marijuana now. In most state data collections systems, including law enforcement, drug issues are categorized together making it very difficult to isolate data on marijuana by itself. This has created challenges to using fact based processes for making decisions because there was little baseline data on marijuana separated from other drugs. We need better baseline data before any legalization considerations or actions.
2. Let other states that have already legalized marijuana best practices so Kansas can make a fact based decision on both the necessity and wisdom of medical or commercial legalization. If the final analysis supports legalization at any level, then we should use fact based studies on what works and what doesn't work to control the unintended consequences, which we already know accompany legalization, at least in the format tried in other states.

#### Primary Recommendation for Further Information:

A report by the Police Foundation on the impact of public safety of Colorado's marijuana legalization:

<http://www.policefoundation.org/sites/g/files/g798246/f/201501/Police%20Foundation%20Legalized%20Marijuana%20Practical%20Guide%20for%20Law%20Enforcement.pdf>

The mission of the Police Foundation is “Advancing Policing Through Innovation & Science.” The Foundation is a national non-profit bipartisan organization that, consistent with its commitment to improve policing, has been on the cutting edge of police innovation for over 40 years. The professional staff at the Police Foundation works closely with law enforcement, judges, prosecutors, defense attorneys, and community based organizations to develop research, comprehensive reports, policy briefs, model policies, and innovative programs that will support strong community-police partnerships. The Police Foundation conducts innovative research and provides on-the-ground technical assistance to police and sheriffs, as well as engaging practitioners from multiple systems (corrections, mental health, housing, etc.), and local, state, and federal jurisdictions on topics related to police research, policy, and practice.

#### ADDITIONAL INFORMATION:

The Legalization of Marijuana in Colorado, The Impact, Volume 1, Aug. 2014 by Rocky Mountain High Intensity Drug Trafficking Area

<http://www.rmhidta.org/html/2014%20Legalization%20of%20Marijuana.pdf>

Colorado's Medical Marijuana: Are Regulations Working or is Medical Marijuana Being Diverted, Aug. 2012 by Rocky Mountain High Intensity Drug Trafficking Area

<http://www.rmhidta.org/html/MMJ%20Supplemental%20Report%20July%202012%20FINAL%20For%20Release.pdf>

#### NEWS ARTICLES

Hash Oil Explosions on the Rise in Colorado [https://www.youtube.com/watch?v=3P\\_CEXRt010](https://www.youtube.com/watch?v=3P_CEXRt010)

Inside Colorado's Flourishing Segregated Black Market for Pot

<http://www.washingtonpost.com/news/storyline/wp/2014/07/30/inside-colorados-flourishing-segregated-black-market-for-pot/>

How Many Joints Would It Take to Smoke a Year's Supply of Medical Marijuana

[http://www.huffingtonpost.com/2013/11/07/how-many-joints\\_n\\_4236586.html](http://www.huffingtonpost.com/2013/11/07/how-many-joints_n_4236586.html)



A marijuana-infused gummy bear next to a regular one.

source: International Business Times –

<http://www.ibtimes.com/marijuana-edibles-colorado-officials-want-ban-some-strict-regulations-others-1707957>

CBS Wakes Up to the Dangers of 'Edible Pot,' Notes Deaths in Colorado

<http://newsbusters.org/blogs/scott-whitlock/2014/04/30/cbs-wakes-dangers-edible-pot-notes-deaths-colorado>