

STATE OF COLORADO

Colorado General Assembly

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MEMORANDUM

TO: Edward Ramey and Natasia Poinatte
FROM: Legislative Council Staff and Office of Legislative Legal Services
DATE: November 30, 2021

SUBJECT: Proposed initiative measure 2021-2022 #50, Access to Natural Medicine

Section 1-40-105 (1), C.R.S., requires the directors of the Colorado Legislative Council and the Office of Legislative Legal Services to "review and comment" on initiative petitions for proposed laws and amendments to the Colorado Constitution. We hereby submit our comments regarding the appended proposed initiative.

The purpose of this statutory requirement of the directors of the Colorado Legislative Council and the Office of Legislative Legal Services is to provide comments intended to aid proponents in determining the language of their proposal and to avail the public of knowledge of the contents of the proposal. Our first objective is to be sure we understand your intent and your objective in proposing the amendment. We hope that the statements and questions contained in this memorandum will provide a basis for discussion and understanding of the proposal.

This initiative was submitted with proposed initiative 2021-2022 #49. Comments and questions addressed in that memorandum may also be relevant, and those questions and comments are hereby incorporated by reference in this memorandum. All other substantive comments and questions in this memorandum are new.

Purposes

The major purposes of the proposed amendment to the **Colorado Revised Statutes** appear to be:

1. To require the department of regulatory agencies (department) to regulate the manufacture, testing, storage, transport, delivery, sale, and purchase of natural medicines;
2. To require the department to adopt rules to establish the qualifications, education, and training requirements for facilitators who wish to provide natural medicine services;
3. To require the department to adopt rules to establish the requirements for the licensure of healing centers and facilitators;
4. To create the regulated access program fund;
5. To allow a county, municipality, or city and county to prohibit the establishment and operation of healing centers and prohibit a licensed health facility or individual from providing natural medicine services. A county, municipality, or city and county may enact laws imposing lesser criminal or civil penalties than provided in the initiative.
6. To provide criminal immunity, civil immunity, and protection from action against a professional licensee for the use of natural medicine or the provision of natural medicine services; and
7. To allow the personal use of natural medicine.

Substantive Comments and Questions

In addition to the relevant comments and questions in the memorandum for proposed initiative 2021-2022 #49, the substance of the proposed initiative raises the following comments and questions:

1. In the definition of "permitted organization", what is meant by the term "positive impact organization"? The measure states that qualification is determined based on "standards set by the department" but the measure does not direct the department to develop standards. How does a permitted organization qualify as a positive impact organization?
2. In section 18-18-703 (5)(a)(XI) and in the definition of "natural medicine", the measure purports to allow the department to modify the definition of "natural medicine" by regulation to include additional controlled substances. If the department expands the definition by rule, but the statute is not changed, will it be clear to the public and law enforcement that a person may lawfully- possess, use, or sell the particular controlled substance? The criminal statutes the

measure amends refer to the "Natural Medicine and Health Act of 2022", which is the statutory provision. Will adding more controlled substances to the definition only by rule and not by amending the statute cause confusion?

Technical Comments

The following comments address technical issues raised by the form of the proposed initiative. The comments addressing proposed initiative 2021-2022 #49 are incorporated by reference. These comments will be read aloud at the public meeting only if the proponents so request. You will have the opportunity to ask questions about these comments at the review and comment meeting. Please consider revising the proposed initiative as suggested below.

1. In the list in section 18-18-703 (4), consider adding the bolded words as shown below:
 - a. "Psychedelic therapy, medicine, **and** research"; and
 - b. "Corporate social responsibility **and** environmental sustainability."
2. The parallel structure of the list in 18-18-707 (2) appears to be incorrect. Should it read: "This provision does not preclude the charitable donation of natural medicine, payment for harm-reduction services, **or** payment for therapy services, or limit ..."?