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

Be it enacted by the Legislature of the State of Kansas:

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

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

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

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

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

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

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

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

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

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

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

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

(h) "Medical use" includes the acquisition, administration, delivery, possession, purchase, transfer, transportation or use of hemp preparations and paraphernalia relating to the administration of hemp preparations to treat or alleviate a patient cardholder's qualifying medical condition.
(i) "Parent" means a parent or legal guardian responsible for the medical care of a patient under the age of 18.
(j) "Patient" means an individual who has been diagnosed with a qualifying medical condition.
(k) "Physician" means a person who is licensed by the state board of healing arts to practice medicine and surgery.
(l) "Qualifying medical condition" means a condition causing seizures, including those characteristic of epilepsy, Alzheimer's disease, cancer, multiple sclerosis or post-traumatic stress disorder.
(m) "Registered medical hemp preparation center" means an entity registered pursuant to section 9, and amendments thereto, that acquires, possesses, cultivates, transports and manufactures cannabis, medical hemp preparations and related paraphernalia and transfers, transports, sells, supplies or dispenses medical hemp preparations, paraphernalia related to hemp preparations and related supplies and educational materials to cardholders, visiting cardholders and other registered medical hemp preparation centers.
(n) "Registered testing laboratory" means an entity registered pursuant to section 9, and amendments thereto, to analyze the safety and potency of cannabis.
(o) "Registration card" means a card issued by the department pursuant to section 3, and amendments thereto.
(p) "Testing laboratory agent" means an owner, officer, board member, employee, volunteer, contractor, property owner or landlord of a registered testing laboratory.
(q) "Written certification" means a document signed and dated by a physician stating that, in the physician's professional opinion, the patient may receive therapeutic or palliative benefit from the use of medical hemp preparations to treat or alleviate the patient's qualifying medical condition or symptoms associated with such patient's qualifying medical condition.
(r) "Visiting cardholder" means a person who:
   (1) Has been diagnosed with a qualifying medical condition or is the parent, child, sibling, spouse, domestic partner, grandparent, grandchild or personal aide of an individual who has been diagnosed with a qualifying medical condition;
   (2) possesses a valid registration card, its equivalent or other documentation that allows the person to possess medical hemp preparations in another state or jurisdiction pursuant to the laws of the other state or jurisdiction;
   (3) is not a resident of Kansas or has been a resident of Kansas for fewer than 30 days; and
   (4) has submitted any required documentation to the department, if the department has required registration.
Sec. 3. (a) The department shall issue a medical hemp preparation registration card to each patient applicant who is over the age of 18 who:

(1) Provides the department with a written certification signed by a physician that was issued within 90 days immediately preceding the date of an application;
(2) pays the department a fee established pursuant to section 5, and amendments thereto; and
(3) submits an application or renewal to the department on a form created by the department that contains:
   (A) The applicant's name and address;
   (B) a copy of the applicant's valid photo identification; and
   (C) any other information the department reasonably considers necessary to implement the provisions of this subsection.

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

(1) submits the information required of patients over the age of 18 under subsection (a); and
(2) agrees to serve as a designated caregiver for the patient.

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

(1) is designated in a patient's application, provided that a patient may designate only one caregiver at any given time unless the patient or such patient's parent submits documentation demonstrating that a greater number of designated caregivers are needed due to the patient's age or medical condition; and
(2) submits an application to the department on a form created by the department that contains:
   (A) The designated caregiver applicant's name and address;
   (B) the patient's name and address, if different than the designated caregiver's address;
   (C) a copy of the designated caregiver's valid photo identification; and
   (D) any other information the department reasonably considers necessary to implement the provisions of this subsection.

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

(e) Until the department issues, renews or denies a registration card, a copy of the individual's application, a copy of the patient's written certification and proof that the application was submitted to the department shall be deemed a registration card.
(f) Until the department makes applications available, a valid, written certification issued within the previous year shall be deemed a registration card for a patient.

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

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

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

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

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

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

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

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

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

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

(4) the department verifying registration cards pursuant to subsection (d);
(5) at a cardholder's request, the department confirming such
cardholder's status as a cardholder to a third party, such as a landlord,
school, medical professional or court; and
(6) provided that no identifying information pertaining to
cardholders, visiting cardholders, or physicians is disclosed:
(A) The department releasing data that was voluntarily submitted by
and designated caregivers approved, the number of registry identification
cards revoked and aggregate information from voluntary reports on the
effectiveness of medical hemp preparations to researchers at institutions of
higher education; and
(B) the department releasing information on the number of patients
and designated caregivers approved, the number of registry identification
cards revoked and aggregate information from voluntary reports on the
effectiveness of medical hemp preparations and any side effects patients
have experienced.

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

Sec. 5. (a) Not later than 120 days after the effective date of this act,
the department shall adopt rules and regulations to establish:
(1) The form and content of registration and renewal applications
submitted under this act and registration cards;
(2) the number of testing laboratories that will be allowed in the state,
which may not be fewer than two;
(3) the number of medical hemp preparation centers that will be
allowed in the state, which shall be no fewer than is reasonably necessary
to ensure safe, steady access to hemp preparations to cardholders located
throughout the state and no fewer than a total of three centers;
(4) a system to numerically score competing medical hemp
establishment applicants, which must include analysis of:
(A) The suitability of the proposed location of a medical hemp
preparation center and its accessibility to patients;
(B) the character, veracity, background and relevant experience of
principal officers and board members; and
(C) the business plan proposed by the applicant, which in the case of
medical hemp preparation centers shall include the ability to maintain an
adequate supply of medical hemp preparations, plans to ensure safety and
security of patrons and the community and procedures to be used to prevent theft or diversion;

(5) requirements for medical hemp establishments to prevent diversion and theft and ensure safety, without imposing an undue burden or compromising the confidentiality of cardholders, including:

(A) Oversight requirements;

(B) recordkeeping requirements;

(C) security requirements, including at a minimum, lighting, physical security, transportation, waste destruction, video and alarm;

(D) health and safety requirements, including prohibiting the use of harmful pesticides; and

(E) restrictions on advertising and signage;

(6) minimum requirements and procedures for the safe and accurate packaging and labeling of medical hemp preparations including requirements to:

(A) Disclose whether the medical hemp preparation is organic or non-organic;

(B) specify the length of time it typically takes for a product to take effect;

(C) print a nutritional fact panel on all edible and potable product containers, including a list of ingredients and possible allergens; and

(D) include a unique serial number that will match the product with a medical hemp preparation center batch and lot number, so as to facilitate any warnings or recalls;

(7) procedures for random sample testing to ensure that medical hemp preparations available to cardholders and visiting cardholders are accurately labeled for content and potency, in accordance with standards established by the department to ensure the health and safety of patient cardholders;

(8) procedures for initiating mandatory and voluntary recalls of hemp preparations; and

(9) procedures for suspending or terminating the registration certificates or registration cards of cardholders or medical hemp establishments that commit multiple or serious violations of the provisions of this act or any rules and regulations adopted thereunder.

(b) The department may adopt rules and regulations to:

(1) Establish a presumptive maximum quantity of medical hemp preparations that a cardholder or visiting cardholder may possess, provided that:

(A) The amount should be no less than a reasonable 60-day supply; and

(B) a patient may apply for a waiver if a physician provides a substantial medical basis in a signed, written statement asserting that,
based on the patient's medical history, in the physician's professional
judgment, the amount established by the department is an insufficient
amount to properly alleviate the patient's qualifying medical condition or
symptoms associated with such medical condition; and

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

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

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

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

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

- Medical hemp preparation center registration certificate application........................................ $5,000
- Medical hemp preparation center registration certificate.............................................................. $20,000
- Testing laboratory registration certificate...................................................................................... $2,000
- Individual medical hemp preparation registration card................................................................. $75
- Visiting cardholder documentation................................................................................................ $80

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

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

(1) Selling medical hemp paraphernalia to a registered medical hemp
establishment, a cardholder or a visiting cardholder;
(2) being in the presence or vicinity of the use of medical hemp preparations as allowed by this act; or
(3) assisting a patient with a registration card in the act of using or administering hemp.

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

(1) Sell cannabis seeds to similar entities that are registered to dispense cannabis for medical use in other jurisdictions;
(2) acquire, cultivate, grow, harvest, manufacture, plant, possess, prepare, propagate, transport or store cannabis, hemp paraphernalia and medical hemp preparations;
(3) deliver, dispense, supply, sell, transfer or transport medical hemp preparations, paraphernalia for use with medical hemp preparations or related supplies and educational materials to cardholders and visiting cardholders;
(4) deliver, dispense, transfer, transport, sell or supply cannabis seeds, cannabis seedlings, cannabis plants, cannabis, medical hemp preparations or related supplies and educational materials to other medical hemp preparation centers; or
(5) deliver, transfer or transport cannabis or medical hemp preparations to registered testing laboratories.

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

(1) Acquiring, possessing, storing, analyzing, testing or transporting cannabis obtained from medical hemp preparation centers and medical hemp preparations obtained from cardholders, visiting cardholders or hemp preparation centers;
(2) possessing, storing or transporting hemp paraphernalia;
(3) returning medical hemp preparations to cardholders or medical hemp preparation centers; or
(4) receiving compensation for actions allowed under this section.

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

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

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

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

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

1. Undertaking any task under the influence of medical hemp
   preparations when doing so would constitute negligence or professional
   malpractice; or

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

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

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

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

(c) Except as otherwise provided in this act, not later than 90 calendar
days after receiving an application to operate a medical hemp
establishment, the department shall register the medical hemp
establishment and issue a registration certificate and a random
identification number if:

(1) The person or persons who wish to operate the proposed medical
hemp establishment have submitted to the department all of the following:
   (A) The application fee, as established by the department; and
   (B) an application, which must include:
      (i) The legal name of the proposed medical hemp establishment; and
      (ii) the physical address where the proposed medical hemp
           establishment will be located and the physical address of any co-owned
           additional or otherwise associated medical hemp establishment, so long as
           the location of the proposed medical hemp establishment is not within
           1,000 feet of a public or private school that provides formal education
           traditionally associated with preschool or kindergarten through grade 12,
           which existed on the date on which the application for the proposed
           medical hemp establishment was submitted to the department;
   (C) evidence that the applicant controls not less than $250,000 in
       liquid assets;
   (D) evidence that the applicant owns the property on which the
       proposed medical hemp establishment will be located or has the written
       permission of the property owner to operate the proposed medical hemp
       establishment on that property;
   (E) the name, address and date of birth of each person who is
       proposed to be an owner, officer or board member of the proposed medical
       hemp establishment;
   (F) operating procedures consistent with rules and regulations of the
       department for oversight of the proposed medical hemp establishment,
       including procedures to ensure the use of adequate security measures;
   (G) if the city, town or, in the case of a location in an unincorporated
       area, county in which the proposed medical hemp establishment will be
       located has enacted zoning restrictions or licensing requirements, proof of
       licensure with the applicable local governmental authority or an
       affirmation signed by the applicant that the proposed medical hemp
       establishment will be in compliance with those restrictions and satisfies all
       applicable zoning requirements; and
   (H) such other information as the department may reasonably require
       by rules and regulations;
   (2) none of the persons who are proposed to be owners, officers or
       board members of the proposed medical hemp establishment have served
       as an owner, officer or board member for a medical hemp establishment
       that has had its medical hemp establishment registration certificate
       revoked; and
none of the persons who are proposed to be owners, officers or board members of the proposed medical hemp establishment are under 21 years of age.

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

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

1. Submission of a renewal application; and
2. Payment of the renewal fee established by the department.

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

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

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

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

1. The theft of cannabis and hemp preparations; and
2. Unauthorized entrance into areas containing cannabis or hemp preparations.

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

1. Make a diligent effort to verify that the registration card or other documentation presented to the hemp preparation center is valid; and
2. Make a diligent effort to verify that the person presenting the card is the person identified on the registration card presented to the hemp preparation center agent.

(f) A hemp preparation center must dispense hemp preparations in a sealed container with a label that conforms to department regulations and
that indicates the hemp preparation's ingredients and its percentages of tetrahydrocannabinol and cannabidiol by weight.

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

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

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