STATE OF IDAHO

OFFICE OF THE ATTORNEY GENERAL

LAWRENCE G. WASDEN

September 28, 2012

The Honorable Ben Ysursa
Idaho Secretary of State
VIA HAND DELIVERY

Re: Certificate of Review
Proposed Initiative Related to Legalization of Medical Use of Marijuana

Dear Secretary of State Ysursa:

An initiative petition was filed with your office on August 31, 2012. Pursuant to Idaho Code § 34-1809, this office has reviewed the petition and has prepared the following advisory comments. Given the strict statutory timeframe within which this office must review the petition, our review can only isolate areas of concern and cannot provide in-depth analysis of each issue that may present problems. Further, under the review statute, the Attorney General's recommendations are "advisory only." The petitioners are free to "accept or reject them in whole or in part." Due to the available resources and limited time for performing the review, we did not communicate directly with the petitioner as part of the review process. The opinions expressed in this review are only those that may affect the legality of the initiative. This office offers no opinion with regard to the policy issues raised by the proposed initiative.

BALLOT TITLES

Following the filing of the proposed Initiative, this office will prepare short and long ballot titles. The ballot titles must impartially and succinctly state the purpose of the measure without being argumentative and without creating prejudice for or against the measure. While our office prepares titles for the Initiative, petitioners may submit proposed titles for consideration. Any proposed titles should be consistent with the standard set forth above.

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MATTERS OF SUBSTANTIVE IMPORT

A. Summary of the Initiative

The proposed initiative ("initiative) which is self-titled the "Idaho Medical Marijuana Act," declares that persons engaged in the use, possession, manufacture, sale, and/or distribution of marijuana to persons suffering from debilitating medical conditions, as authorized by the procedures established in the Initiative, are protected from arrest, prosecution, property forfeiture, and criminal and other penalties under Idaho law. A summary of the Initiative's provisions, tentatively denominated as Idaho Code § 39-4700, *et seq.*, begins with its purpose, which is:

> THEREFORE the purpose of this chapter is to protect from arrest, prosecution, property forfeiture, and criminal and other penalties, those patients who use marijuana to alleviate suffering from debilitating medical conditions, as well as their physicians, primary caregivers and those who are authorized to produce marijuana for medical purposes and to facilitate the availability of marijuana in Idaho for legal medical use.

Prop. I.C. § 39-4702.[1]

The Initiative authorizes the Idaho Department of Health and Welfare ("Department") to "establish a registry of qualifying patients, their primary caregivers, their designated growers and alternative treatment centers." Prop. I.C. § 39-4704(1). The Initiative allows: (1) qualifying patients ("patients") to possess up to three ounces of marijuana for medical purposes, (2) primary caregivers ("caregivers") to assist qualifying patients' medical use of marijuana, (3) designated growers ("growers") to grow marijuana for up to six qualifying patients at "marijuana grow sites," and (4) alternative treatment centers ("Centers") to grow, harvest, process, display, and supply marijuana to patients or their caregivers. Prop. I.C. §§ 39-4703, 39-4704, 39-4708. The Department is required to issue "registry identification cards," valid for one year, to patients, caregivers, growers, and Center agents (i.e., officers, board members, and employees) whose applications for such cards are approved. Prop. I.C. §§ 39-4703(1), 39-4704(1), 39-4709(2).

To be a patient, the patient must have a "bona fide physician-patient relationship," and the patient's primary care physician must certify that the patient "may receive therapeutic or palliative benefit from the medical use of marijuana to treat or alleviate the patient's debilitating medical condition or symptoms associated with the debilitating medical condition[.]" Prop. I.C. § 39-4703(2), (4), (20). The

[1] References to "proposed" I.C. § 39-4700, *et seq.*, will read, "Prop. I.C. § 39-4700," etc.

physician must have "completed a full assessment of the . . . patient's current medical condition and past twelve (12) month medical history, including a personal physical examination." Prop. I.C. § 39-4703(2). Minors are also entitled to be issued registry identification cards (impliedly) as patients under certain criteria. Prop. I.C. § 39-4704(17).

Caregivers and growers must be at least 18 years old, cannot be on felony probation, parole, or misdemeanor probation, and cannot have been "convicted of a felony drug offense, with the exception of medical use, production and possession of marijuana that would have been covered by this act had it been law[.]"[2] Prop. I.C. § 39-4703(10)(d), (19)(d). Additionally, "felony drug offense" does not include "[o]ne (1) offense for which the sentence, including any term of probation, incarceration or supervised release, was completed five (5) or more years earlier[.]" Prop. I.C. § 39-4703(9)(a). Center agents cannot have been convicted of a felony drug offense and must be at least 21 years old. Prop. I.C. §§ 39-4703(1), 39-4709(4). A denial by the Department of an application or renewal request for a registry identification card based on falsified information or a previous card revocation "may be a final agency decision" subject to the provisions of the Idaho Administrative Procedure Act, otherwise the applicant has ten days to appeal a denial to the Department. Prop. I.C. § 39-4710(8), (9).

The Department is required to establish rules for a "marijuana grow site registration system" to authorize production of marijuana by patients, caregivers, and growers who have been issued a registry identification card. Prop. I.C. §§ 39-4703(3), 39-4704(4). Patients, caregivers, and growers may possess three ounces or less of "usable marijuana" and twelve or fewer marijuana plants (up to four mature, four immature, and four seedlings). Prop. I.C. § 39-4706(1). All growers, whether a patient, caregiver, or mere "grower," "must contain all marijuana plants in an enclosed, locked facility," which "means a closet, room, greenhouse, fenced area or other enclosed area equipped with locks or other security devices that permit access only by a cardholder." Prop. I.C. §§ 39-4703(8), 39-4704(8). A patient does not need to have an affiliated grower, caregiver, or Center to legally use marijuana – a patient may register as a grower. Prop. I.C. § 39-4704(14). Prop I.C. § 39-4706(4)(a) states that "[p]ossession as a result of excess above (3) three ounces of usable marijuana that has been cured, and manicured to be taken to an alternative treatment center is allowed." Any "excess" marijuana, up to one pound, harvested by a grower must be taken to a Center within three weeks of harvesting, and the grower will be reimbursed for the excess only "for proven legitimate growing costs, such as electricity and water." Prop. I.C. § 39-4706(4)(a).

[2] Whether a prior felony drug offense is excepted because it would have fallen under the proposed Act's protections if the Act had been in effect is a matter that would be subject to litigation.

The Department is authorized to accept application from entities for permits to operate as Alternative Treatment Centers, which are to be non-profit entities. Prop. I.C. § 39-4708. Centers are authorized to:

> Acquire a reasonable initial and ongoing inventory, as determined by the department, of usable marijuana, or marijuana seeds or seedlings and any apparatus, possess, cultivate, plant, grow, harvest, process, display, manufacture, deliver, transfer, transport, distribute, supply, sell or dispense marijuana, or related supplies to qualifying patients or their primary caregivers who are registered with the department pursuant to Section 39-4704, Idaho Code.

Prop. I.C. § 39-4708(1). The Department is authorized to charge fees for Center permits every two years, and is mandated to adopt rules for Centers to: document deliveries and pick-ups of marijuana for patients; monitor, oversee, and investigate "all activities performed by an alternative treatment center;" and, ensure 24-hour security for their locations and delivery methods. Prop. I.C. § 39-4708(9). Centers are allowed to dispense no more than three ounces of marijuana to a patient (or affiliated caregiver) in any 14 day period, and charge patients and caregivers for the "reasonable costs associated with the production and distribution of marijuana for the cardholder." Prop. I.C. §§ 39-4708(8), 39-4714. The Initiative requires Centers to "determine the grade and quality [of marijuana] and test for mold, pesticides, and other contaminates[,]" which may be done at the Center or by sending the marijuana to be tested to an independent lab. Prop. I.C. § 39-4714. Center "agents" must be registered with the Department before working at a Center, and may obtain a registry identification card. Prop. I.C. § 39-4709(2).

The Initiative mandates constant updating of information pertinent to the issuance of registration identification cards by patients, caregivers, growers, and Center agents. Prop. I.C. § 39-4704, *et seq.* The Department is required to maintain a "list of the persons to whom it has issued registry cards," which, along with "information contained in any application form or accompanying or supporting document, shall be confidential[,]" the only exceptions being: (a) use by Department employees as is necessary to perform official duties, and (b) use by state and local law enforcement agencies "only as necessary to verify that a person who is engaged in the suspected or alleged medical use of marijuana is lawful [sic] in possession of a registry identification card." Prop. I.C. § 39-4704(11). Unlawful disclosure of registry identification card information constitutes a misdemeanor, punishable for not more than six months in jail, a $1,000 fine, or both. Prop. I.C. § 39-4704(12).

Within 120 days of the Act's enactment, the Director of the Department ("Director") is required to appoint between seven and thirteen persons (at least one person from each of the seven Department regions of the state) to serve on a

Medical Marijuana Oversight Committee ("Committee"). Prop. I.C. § 39-4717. The Committee is required to have "at least one physician . . . who recommends medical marijuana to some of his or her patients[,]" and all other members "shall be cardholders, or proponents of the legal availability of medical marijuana." *Id.* The Committee is mandated to meet at least four times each year in public, and provide recommendations to ensure proper implementation of the Act, as well as report at least annually to the Department on the implementation of the Act and ongoing needs. *Id.* The Committee will "have the power to promulgate rules and regulations not inconsistent with [the Act] to govern its own conduct and public meetings." *Id.*

Also within 120 days of the Act's enactment, the Department must establish a "verification system," which allows law enforcement personnel a way to determine whether a person is a current registered qualifying patient, grower, or registered primary caregiver. Prop. I.C. § 39-4704(19).

The Initiative exempts patients, caregivers, growers, Centers, physicians and laboratories from "criminal penalties if they are following the provisions set forth in this chapter."[3] Prop. I.C. § 39-4715. The Initiative further provides:

> An alternative treatment center, an alternative treatment center agent, a physician, or any other person active [sic] in accordance with the provisions of this chapter shall not be subject to arrest, prosecution or any civil or administrative penalty, or denied any right or privilege including, but not limited to, civil penalty or disciplinary action by a professional licensing board, related to the medical use of marijuana as authorized under this chapter[.]

Prop. I.C. § 39-4706(2). The Initiative exempts all persons assisting, or aiding and abetting in the use, possession, delivery, or production of medical marijuana, and all parents (and guardians, etc.) assisting minors in the authorized use of medical marijuana, from arrest and prosecution. Prop. I.C. § 39-4706(6), (7). Schools, landlords, and employers may not be penalized or denied any state benefit for enrolling, leasing to, or employing patients, caregivers or growers. Prop. I.C. § 39-4717. Further, interests in, or rights to, property that is owned, possessed or used "in connection with the medical use of marijuana or acts incidental to the medical use of marijuana may not be forfeited under any provision of state law providing that the property is used in accordance with the provisions of this [Act]." Prop. I.C. § 39-4706(8). Prop. I.C. § 39-4706(12) creates a "presumption," which reads:

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[3] The Initiative makes it a crime for persons to knowingly sell (etc.) a registration card, or altered registration card, issued under the Act. Prop. I.C. § 39-4713(1). Additionally a "cardholder who sells or distributes marijuana to a person who is not allowed to use marijuana for medical purposes under [the Act] shall have his or her registry identification card revoked and is guilty of a crime." Prop. I.C. § 39-4713(2).

> There will exist a presumption that a qualifying patient, primary caregiver, or grower is engaged in the medical use of marijuana if the qualifying patient, primary caregiver, or grower:
>
> (a) Is in possession of a registry identification card issued pursuant to this Chapter; and
> (b) Is in possession of an amount of marijuana that does not exceed the amount of allowed of [sic] usable marijuana.

It should be noted that the provision does not delineate whether the presumption described pertains to criminal proceedings, civil proceedings, or both. Nor does the provision state whether such a presumption is rebuttable.

Under the heading, "Discrimination Prohibited," the Initiative makes it illegal for schools and landlords to discriminate against any person on the basis of their status as a cardholder (unless the school or landlord would lose a federal benefit), and for employers to discriminate on the basis of a person's status as a cardholder or positive drug test for the presence of marijuana unless the person is impaired on the job. Prop. I.C. § 39-4707. The Initiative prohibits discrimination against cardholders in regard to medical care, organ transplants, custody and visitation rights, state related benefits, and pain management plan contracts. Prop. I.C. § 39-4707(3)-(6).

In two unrelated, yet notable provisions, the Initiative requires reciprocity with other states' registry identification card equivalents, Prop. I.C. § 39-4706(9), and allows patients, caregivers and growers to "give marijuana to another . . . patient, . . . caregiver, or grower to whom they are not connected through the department's registration process, . . . provided no moneys are exchanged for the marijuana, and that the recipient does not exceed the applicable limits of three (3) ounces of usable marijuana," Prop. I.C. § 39-4707(7). There are no direct monitoring requirements for such exchanges of marijuana.

The Initiative contains a provision allowing nursing care type institutions to adopt reasonable restrictions on the use of marijuana by their residents. The provision, Prop. I.C. § 39-4711, states that such facilities "will not store or maintain the patient's supply of marijuana[,]" and that the facility employees are not responsible for providing marijuana to qualifying patients. However, a facility may not "unreasonably limit" a patient's access to or use of marijuana authorized by the Act, unless the facility would lose money or a licensing benefit under federal law.

The Director is mandated to issue a report to the governor and legislature annually on the work of the Medical Marijuana Oversight Committee, the actions taken by the Department to implement the provisions of the Act, and report the number of applications for registry identification cards, the number of qualifying patients and primary caregivers registered, and other relevant information. Prop. I.C. § 39-4718. Finally, the Department must promulgate such rules necessary to implement the Act within 90 days of the Act's enactment, unless otherwise specified.

In sum, the Initiative generally decriminalizes under state law the possession of up to three ounces of marijuana for patients and caregivers, and up to three ounces of marijuana and twelve marijuana plants for growers. The Initiative protects participants from civil forfeitures and penalties under state law, and makes it illegal under state law to discriminate against such participants in regard to education, housing, and employment. Patients certified by physicians as having debilitating medical conditions may obtain marijuana for medicinal use from a grower authorized to grow marijuana at a marijuana grow site or from an alternative treatment center. Patients, caregivers, and growers must obtain a registry identification card from the Department, and Center agents must be registered with the Department before working at a Center. The Department is tasked with an extensive list of duties, including, *inter alia*: formulating rules and regulations to implement and maintain the initiative's numerous and far-reaching measures; verifying information and approving applications submitted for various types of permits; establishing and maintaining a law enforcement verification system; and, providing comprehensive annual reports to the Idaho Legislature and Governor.

B. If Enacted, the Initiative Would Have No Legal Impact on Federal Criminal, Employment, or Housing Laws Regarding Marijuana

Idaho is free to enforce its own laws, just as the federal government is free to do the same. The United States Supreme Court has explained:

> In *Bartkus v. Illinois*, 359 U.S. 121 [1959], . . . and *Abbate v. United States*, 359 U.S. 187 [1959], . . . this Court reaffirmed the well-established principle that a federal prosecution does not bar a subsequent state prosecution of the same person for the same acts, and a state prosecution does not bar a federal one. The basis for this doctrine is that prosecutions under the laws of separate sovereigns do not, in the language of the Fifth Amendment, "subject [the defendant] for the same offence to be twice put in jeopardy":
>
> > An offence, in its legal signification, means the transgression of a law. . . . Every citizen of the United States is also a citizen of a State or territory. He may be

> said to owe allegiance to two sovereigns, and may be liable to punishment for an infraction of the laws of either. The same act may be an offense or transgression of the laws of both. . . . *That either or both may (if they see fit) punish such an offender, cannot be doubted.*"

United States v. Wheeler, 435 U.S. 313, 317, 98 S. Ct. 1079, 1083, 55 L.Ed.2d 303 (1978) (superseded by statute) (quoting Moore v. Illinois, 14 How. 13, 19-20, 14 L.Ed. 306 (1852)) (footnote omitted; emphasis added); *See* State v. Marek, 112 Idaho 860, 865, 736 P.2d 1314, 1319 (1987) ("[T]he double jeopardy clause of the fifth amendment does not prohibit separate sovereigns from pursuing separate prosecutions since separate sovereigns do not prosecute for the 'same offense.'"). Under the concept of "separate sovereigns," the State of Idaho is free to create its own criminal laws and exceptions pertaining to the use of marijuana. However, the State of Idaho cannot limit the federal government, as a separate sovereign, from prosecuting marijuana-related conduct under its own laws.

In U.S. v. Oakland Cannabis Buyers' Cooperative, 532 U.S. 483, 486, 121 S. Ct. 1711, 1715, 149 L.Ed.2d 722 (2001), the United States Supreme Court described a set of circumstances that appear similar to the system proposed in the Initiative:

> In November 1996, California voters enacted an initiative measure entitled the Compassionate Use Act of 1996. Attempting "[t]o ensure that seriously ill Californians have the right to obtain and use marijuana for medical purposes," Cal. Health & Safety Code Ann. § 11362.5 (West Supp. 2001), the statute creates an exception to California laws prohibiting the possession and cultivation of marijuana. These prohibitions no longer apply to a patient or his primary caregiver who possesses or cultivates marijuana for the patient's medical purposes upon the recommendation or approval of a physician. *Ibid.* In the wake of this voter initiative, several groups organized "medical cannabis dispensaries" to meet the needs of qualified patients. . . . Respondent Oakland Cannabis Buyers' Cooperative is one of these groups.

A federal district court denied the Cooperative's motion to modify an injunction that was predicated on the Cooperative's continued violation of the federal Controlled Substance Act's "prohibitions on distributing, manufacturing, and possessing with the intent to distribute or manufacture a controlled substance." *Id.* at 487. On appeal, the Ninth Circuit determined "medical necessity is a legally cognizable defense to violations of the Controlled Substances Act." *Id.* at 489. However, the United States Supreme Court reversed the Ninth Circuit and held:

> It is clear from the text of the [Controlled Substances] Act that Congress has made a determination that marijuana has no medical benefits worthy of an exception. The statute expressly contemplates that many drugs "have a useful and legitimate medical purpose and are necessary to maintain the health and general welfare of the American people," § 801(1), but it includes no exception at all for any medical use of marijuana. Unwilling to view this omission as an accident, and unable in any event to override a legislative determination manifest in a statute, we reject the Cooperative's argument.
>
> . . . .
>
> For these reasons, we hold that medical necessity is not a defense to manufacturing and distributing marijuana. The Court of Appeals erred when it held that medical necessity is a "legally cognizable defense." 190 F.3d. at 1114. It further erred when it instructed the District Court on remand to consider "the criteria for a medical necessity exemption, and, should it modify the injunction, to set forth those criteria in the modification order." *Id.*, at 1115.

The Oakland Cannabis Buyers' Cooperative decision makes clear that prosecutions under the federal Controlled Substances Act are not subject to a "medical necessity defense," even though state law precludes prosecuting persons authorized to use marijuana for medical purposes, as well as those who manufacture and distribute marijuana for such use. Therefore, passage of the Initiative would not affect the ability of the federal government to prosecute marijuana related crimes under federal laws.

In sum, Idaho is free to pass and enforce its own laws creating or negating criminal liability relative to marijuana. But, as the United States Supreme Court's Oakland Cannabis Buyers' Cooperative decision demonstrates, even if the Initiative is enacted, persons exempted from state law criminal liability under its provisions would still be subject to criminal liability under federal law.

The same holds true in regard to federal regulations pertaining to housing and employment. In Assenberg v. Anacortes Housing Authority, 268 Fed. Appx. 643, 2008 WL 598310 at 1) (unpublished) (9th Cir. 2008), contrary to the plaintiff's contention that, because he was authorized under state law to use marijuana for medical purposes, he was illegally denied housing. The Ninth Circuit explained:

> The district court properly rejected the Plaintiffs' attempt to assert the medical necessity defense. *See Raich v. Gonzales*, 500 F.3d 850,

> 861 (9th Cir.2007) (stating that the defense may be considered only when the medical marijuana user has been charged and faces criminal prosecution). The Fair Housing Act, Americans with Disabilities Act, and Rehabilitation Act all expressly exclude illegal drug use, and AHA did not have a duty to reasonably accommodate Assenberg's medical marijuana use. *See* 42 U.S.C. §§ 3602(h), 12210(a); 29 U.S.C. § 705(20)(C)(i).
>
> AHA did not violate the Department of Housing and Urban Development's ("HUD") policy by automatically terminating the Plaintiffs' lease based on Assenberg's drug use without considering factors HUD listed in its September 24, 1999 memo. . . . .
>
> Because the Plaintiffs' eviction is substantiated by Assenberg's illegal drug use, we need not address his claim . . . whether AHA offered a reasonable accommodation.
>
> The district court properly dismissed Assenberg's state law claims. Washington law requires only "reasonable" accommodation. [Citation omitted.] Requiring public housing authorities to violate federal law would not be reasonable.

Similarly, the Oregon Supreme Court recently held that, under Oregon's employment discrimination laws, an employer was not required to accommodate an employee's use of medical marijuana. Emerald Steel Fabricators, Inc. v. Bureau of Labor and Industries, 230 P.3d 518, 520 (2010). Therefore, the provisions of the Initiative, Prop. I.C. §§ 39-4701, *et seq.*, cannot interfere or otherwise have an effect on federal laws, criminal or civil, which rely, in whole or part, on marijuana being illegal under the federal Controlled Substances Act.

C. Miscellaneous Potential Concerns

The Idaho Constitution, article III, section 16, requires that acts "embrace but one subject and matters properly connected therewith" and that the subject of the act be expressed in the title and that any portion of the act not embraced by the title "shall be void." The proposal in question addresses registration of qualifying patients and caregivers; mandates reciprocity with other states' determinations of eligibility for registration; grants protections against criminal prosecutions; includes anti-discrimination provisions; defines criminal acts and conduct; requires collection and disbursement of funds; and, creates an oversight committee. Although this all deals generally with medical marijuana, it could be argued that the accumulation of requirements does not allow voters to vote for or against a single issue and that the

State Constitution requires that voters should be allowed to cast their votes for discrete portions of the proposed law.

It should further be noted that although proposed section 39-4716 provides that fees collected "will be used" in a particular manner and "shall not go to a general fund," if passed, this statute will not prevent the Legislature from exercising its plenary power over the state fisc. Idaho Const. art. VII, §§ 11, 13, 16.

Finally, proposed section 39-4717 limits membership on the Committee to "one person from within the department," "at least one physician . . . who recommends medical marijuana to some of his or her patients," and "cardholders, or proponents of the legal availability of medical marijuana." Although it is common to create committees that are balanced between the political parties, requiring a particular view on a political topic as a condition for membership on a committee seems unprecedented. Creation of a committee designed to exclude views contrary to the proponents of the law is likely subject to challenge on grounds that it violates the freedom of expression.

D. Recommended Revisions or Alterations

The Initiative contains many "findings" in Prop. I.C. § 39-4701 that, with one exception, have not been verified for the purposes of this review due to time constraints. The claim that the National Association of Attorneys General ("NAAG") is one of the organizations that have endorsed medical access to marijuana, as stated in the first "WHEREAS" clause, is outdated and possibly misleading. On September 17, 2012, counsel for NAAG represented to the Idaho Office of the Attorney General that, although NAAG passed a resolution in 1983 supporting legalization of medical marijuana, that resolution expired four years later. NAAG currently takes no position on the issue.

The Initiative has several internal citations that are incorrect, described as follows:

(1) Prop. I.C. § 39-4703(13) refers to "39-4704(3)" – it should read 39-4704(4);
(2) Prop. I.C. § 39-4704(2) refers to "39-4710(1) or 39-4710(a)" – it appears it should read 39-4710(1)-(3);
(3) Prop. I.C. § 39-4704(17)(b) refers to "39-4703(1)" – it should read 39-4704(1)-(2);
(4) Prop. I.C. § 39-4708(5) refers to "39-4710(3)" – it should read 39-4710(4);
(5) Prop. I.C. § 39-4710(1)(a) refers to "39-4703(2)" – it should read "39-4703(20);

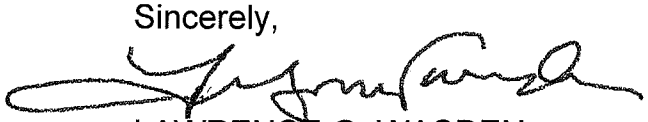
(6) Prop. I.C. § 39-4718(2) refers to "39-3704(11)" – it should read "39-4704(11);
(7) SECTION 2 refers to "39-4704(10)" – it should read 39-4704(1).

There are several grammatical errors in the language of the Initiative. First, the second sentence of the first paragraph of Prop. I.C. § 39-4708(1) reads: "Every alternative treatment center issued a permit regions shall be a nonprofit entity." The word "regions" makes no sense in the overall context of the sentence. Next, subsections (a) and (b) of Prop. I.C. § 39-4717(2) are redundant, as subsection (a) requires the Medical Marijuana Oversight Committee to "[p]rovide recommendations to ensure proper implementation of this Chapter," and subsection (b) requires the Committee to "make recommendation to the department regarding appropriate regulations to carry out this Chapter." Finally, SECTION 2 is grammatically incorrect, and should read in relevant part, "*and* information . . ., *are* exempt from disclosure." (Italicized words indicating correct changes.)

CERTIFICATION

I HEREBY CERTIFY that the enclosed measure has been reviewed for form, style, and matters of substantive import. The recommendations set forth above have been communicated to Petitioner via a copy of this Certificate of Review, deposited in the U.S. Mail to Lindsey Rinehart, 2912 W. Malad, Boise, Idaho 83705.

Sincerely,



LAWRENCE G. WASDEN
Attorney General

Analysis by:

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Deputy Attorney General