

Proposition 122: Access to Natural Psychedelic Substances

Placed on the ballot by citizen initiative • Passes with a majority vote

1 Proposition 122 proposes amending Colorado statutes to:

- 2 • decriminalize the personal possession, growing, sharing, and use, but not the
3 sale, of five natural psychedelic substances by individuals aged 21 and over,
4 including two substances found in psychedelic mushrooms — psilocybin and
5 psilocin — and three plant-based psychedelic substances —
6 dimethyltryptamine, ibogaine, and mescaline;
- 7 • by late 2024, allow the supervised use of psychedelic mushrooms by
8 individuals aged 21 and over at licensed facilities and require the state to
9 create a regulatory structure for the operation of these licensed facilities;
- 10 • allow the state to expand the types of substances that may be used in
11 licensed facilities to include the use of additional plant-based psychedelic
12 substances — dimethyltryptamine (DMT), ibogaine, or mescaline — starting
13 in 2026;
- 14 • prohibit local governments from banning licensed facilities, services, and use
15 of natural psychedelic substances as permitted by the measure, while
16 allowing local governments to regulate the time, place, and manner of
17 operation of these facilities; and
- 18 • establish penalties for individuals under the age of 21 for possessing, using,
19 or transporting natural psychedelic substances and for individuals aged 21
20 and over who allow underage access to these substances.

21

22 What Your Vote Means

YES

23 A “yes” vote on
24 Proposition 122

25 decriminalizes the possession and use of
26 psychedelic mushrooms and certain
27 plant-based psychedelic substances in
28 Colorado law for individuals aged 21 and
29 over, and requires the state to establish a
30 regulated system for accessing
31 psychedelic mushrooms and, if approved
32 by the regulating state agency, additional
33 plant-based psychedelic substances.

NO

A “no” vote on Proposition 122
means that the possession and
use of psychedelic mushrooms and other
plant-based psychedelic substances will
remain illegal under state law.

1 **Summary and Analysis for Proposition 122**

2 **What does the measure do?**

3 This measure allows individuals aged 21 and older to use five specific types of
4 natural psychedelic substances. Specifically, the measure covers two chemicals
5 found in psychedelic mushrooms — psilocybin and psilocin — and three other
6 plant-based psychedelic substances — ibogaine, mescaline, and
7 dimethyltryptamine, also known as DMT. Psychedelic substances can alter a
8 person’s consciousness, mood, and awareness of their surroundings.

9 **Personal use.** Upon passage of the measure, psychedelic mushrooms and the
10 other plant-based psychedelic substances will be decriminalized in state law, and
11 individuals aged 21 and older will be able to grow, possess, share, and use them.
12 Personal use does not allow for the sale of psychedelic mushrooms and other
13 plant-based psychedelic substances.

14 **Licensed facilities.** The measure also requires the state to establish a
15 regulated system for licensed facilities to offer supervised use of psychedelic
16 mushrooms for individuals aged 21 and older, starting in 2024. Starting in 2026,
17 the state may choose to expand the type of substances that may be used at
18 these facilities to include additional plant-based psychedelic substances.

19 **How are these substances currently treated under state and federal law?**

20 All the substances listed in the measure are Schedule I controlled substances
21 under federal and state law. Schedule I controlled substances are defined as
22 drugs with no currently accepted medical use and a high potential for abuse. If
23 the measure is approved, the state will no longer treat these substances as
24 illegal drugs for the purposes of state criminal law. However, they will remain
25 illegal under federal law.

26 The measure does not decriminalize the possession or use of peyote, a type of
27 mescaline. Federal law already permits the use of peyote by certain Native
28 American tribes for ceremonial purposes.

29 **Do these substances have medical uses?**

30 Currently, research is being done on the potential medical uses of psychedelic
31 mushrooms and other plant-based psychedelic substances for treating
32 depression, post-traumatic stress disorder, substance use disorders, and other
33 mental health disorders. The U.S. Food and Drug Administration (FDA) has
34 designated psychedelic mushrooms as a Breakthrough Therapy for treating
35 depression. Breakthrough Therapy designation is used to speed up the
36 research, development, and review of a drug when it may offer substantial
37 improvements over existing treatments. The other plant-based psychedelic
38 substances permitted for personal use under the measure have been the subject
39 of research on their potential benefits; however, the FDA has not approved them
40 for any specific medical use.

Legislative Council Draft

1 **How will these substances be regulated?**

2 The Department of Regulatory Agencies (DORA) is the state agency charged
3 with regulating activities involving psychedelic mushrooms and other plant-based
4 psychedelic substances for individuals aged 21 and older. Specifically, it will
5 manage the licensing and registration for facilities where supervised use will
6 occur, as well as people who are licensed to facilitate the use of them at licensed
7 facilities. DORA will also regulate related businesses, such as cultivators and
8 product manufacturers. Additionally, DORA is tasked with protecting consumers,
9 developing public education campaigns, making recommendations to the state
10 legislature regarding the potential for off-site use of natural psychedelic
11 substances received at regulated facilities, and providing data on the
12 implementation and outcomes of the program. Licensed facilities and related
13 businesses will be required to pay a licensing fee to cover the cost of regulating
14 these businesses.

15 Under the measure, local governments can regulate the time, place, and manner
16 of operation of licensed facilities. Local governments cannot ban or prohibit
17 licensed facilities, or ban or prohibit the personal use of psychedelic mushrooms
18 or other plant-based psychedelic substances in their communities.

19 The measure also establishes a 15-member advisory board appointed by the
20 Governor. The board is charged with making regulatory and policy
21 recommendations to DORA, other affected state agencies, and the state
22 legislature.

23 **What restrictions does the measure place on the use of substances?**

24 The measure states that it is not intended to:

- 25 • allow the sale of psychedelic mushrooms or other plant-based
26 psychedelic substances for personal use;
- 27 • allow driving under the influence of these substances;
- 28 • permit use in a school, public building, or public place;
- 29 • permit underage access; or
- 30 • require an employer to permit the use of these substances in the
31 workplace.

32 **What are the criminal penalties and legal protections under the measure?**

33 The measure impacts criminal penalties in several ways. First, it establishes
34 specific penalties for individuals under the age of 21 who possess or use natural
35 psychedelic substances, as well as penalties for people who allow underage
36 access when cultivating these substances. Penalties range from requiring drug
37 counseling to a \$250 fine. In addition, the measure states that the removal and
38 reduction of criminal penalties apply retroactively to someone who has already
39 been convicted of an offense that would be decriminalized under the measure.
40 Individuals who have completed their sentence may file a petition to the courts to
41 have their criminal record sealed at no cost. Selling natural psychedelic
42 substances outside of the licensed supervised use facilities will remain illegal.

Legislative Council Draft

1 The measure also offers protections for people who use psychedelic mushrooms
2 and other plant-based psychedelic substances, including, but not limited to,
3 protections from professional discipline, loss of a professional license, or denial
4 of eligibility for public benefits unless required by federal law.

For information on those issue committees that support or oppose the measures on the ballot at the November 8, 2022, election, go to the Colorado Secretary of State's elections center web site hyperlink for ballot and initiative information:

<http://www.sos.state.co.us/pubs/elections/Initiatives/InitiativesHome.html>

5 **Arguments For Proposition 122**

- 6 1) The measure provides a valuable tool for meeting the mental health needs of
7 Coloradans. Studies have shown that psychedelic mushrooms and other
8 plant-based psychedelic substances, combined with counseling, may provide
9 effective treatment for severe depression, anxiety, and post-traumatic stress
10 disorder. The FDA has specifically found psychedelic mushrooms may offer
11 substantial improvement in treating depression more successfully than
12 existing therapies. Increasing access to psychedelic mushrooms and other
13 plant-based psychedelic substances may help people who are struggling to
14 find effective mental health treatment.
- 15 2) Putting people in the criminal justice system for using naturally occurring
16 substances that have potential mental health benefits does not benefit society
17 and costs taxpayers money. Possession and use of these substances are
18 nonviolent offenses that do not pose a public safety risk. Studies have shown
19 that psychedelic mushrooms are not addictive and that long-term adverse
20 health impacts are rare, unlike tobacco use, which is legal. Individuals who
21 are aged 21 or older should be allowed to access these naturally occurring
22 substances without fear of criminal penalties.

23 **Arguments Against Proposition 122**

- 24 1) There are currently no approved therapies that use psychedelic mushrooms
25 or other plant-based psychedelic substances, and the effects of them can
26 vary widely from person to person, depending on the dose, frequency of use,
27 and type of substance. Breakthrough Therapy designation does not mean
28 that the use of psychedelic mushrooms is safe or recommended. Further,
29 DMT, ibogaine, and mescaline have not received a similar designation, and,
30 specifically, ibogaine may cause life-threatening heart conditions. Proposing
31 a regulatory framework for the use of these substances suggests that they
32 offer legitimate treatment before they have received federal approval,
33 potentially putting people's health and public safety at risk.
- 34 2) Under the guise of health care, Proposition 122 legalizes drugs that have
35 been illegal for over 50 years and forces local communities to allow use of
36 these substances. It also provides broad protections for criminals by allowing
37 convictions to be wiped from their records. By decriminalizing personal use,

Legislative Council Draft

1 the black market for these drugs may expand and provide access to youth or
2 expose people to psychedelic substances that are tainted with other drugs.
3 This may create additional burdens on local governments which, under the
4 measure, have limited say on what is allowed in their communities.

5 **Fiscal Impact for Proposition 122**

6 Proposition 122 will increase state revenue and spending, and potentially
7 impacts local government spending, as described below. The state's budget
8 year runs from July 1 through June 30.

9 **State revenue.** Under Proposition 122, state revenue will increase by about
10 \$5.2 million per year in budget year 2024-25, \$5.6 million in 2025-26, and
11 \$4.5 million per year in future years. This revenue is from facility and facilitator
12 licensing fees; it is expected that fees will be set at a level needed to cover the
13 costs of the program when fully implemented. In the first two years, additional
14 fee revenue will be necessary to pay back the anticipated loan of state funds
15 used to pay for initial start-up costs. The increase in revenue will depend on fee
16 amounts and the number of license applications submitted. Revenue from
17 licensing fees is subject to the state's TABOR limit.

18 **State spending.** Proposition 122 will increase costs in the Department of
19 Regulatory Agencies (DORA) by an estimated \$0.7 million in budget year
20 2022-23 and \$2.2 million in budget year 2023-24 to establish program rules,
21 support the advisory board, and issue initial licenses prior to the start of the new
22 regulatory program created by the measure. The measure requires a loan from
23 the state General Fund be used to cover these start-up costs for the program,
24 which will be paid back in subsequent years.

25 Once regulation begins, DORA will have costs of approximately \$5.2 million in
26 budget year 2024-25 and \$5.6 million in budget year 2025-26 to regulate the
27 manufacture, cultivation, testing, storage, transfer, transport, delivery, sale, use,
28 and purchase of psychedelic mushrooms by licensed facilities. Actual
29 expenditures will depend on the number of regulated entities participating in this
30 industry. Estimated spending in budget years 2024-25 and 2025-26 also
31 includes the repayment of state money used to cover costs in the first two years.

32 To the extent that Proposition 122 reduces the number of people convicted of
33 crimes related to controlled substances that become regulated under the
34 measure, costs in the criminal justice system will be reduced.

35 **Local government impact.** Local government workload and spending will
36 increase to the extent local governments issue additional regulations on the
37 operation of licensed facilities in their jurisdiction. County jail costs may be
38 reduced to the extent fewer people are held in jails for offenses relating to
39 controlled substances that become decriminalized and regulated under the
40 measure.

Proposition ? : Access to Natural Psychedelic Substances

Placed on the ballot by citizen initiative • Passes with a majority vote

1 Proposition ? proposes amending Colorado statutes to:

- 2 • decriminalize the personal possession, growing, sharing, and use, but not the
3 sale, of five natural psychedelic substances by people aged 21 and over,
4 including two types of psychedelic mushrooms — psilocybin and psilocin —
5 and three plant-based psychedelic substances —dimethyltryptamine,
6 ibogaine, and mescaline;
- 7 • by late 2024, allow the supervised use of psychedelic mushrooms by people
8 aged 21 and over at licensed facilities and require the state to create a
9 regulatory structure for the operation of these licensed facilities;
- 10 • allow the state to expand the types of substances that may be used in
11 licensed facilities to include the use of additional plant-based psychedelic
12 substances — dimethyltryptamine (DMT), ibogaine, or mescaline — starting
13 in 2026;
- 14 • prohibit local governments from banning licensed facilities, services, and use
15 of natural psychedelic substances as permitted by the measure, while
16 allowing local governments to regulate the location and hours of operation of
17 these facilities; and
- 18 • establish penalties for people under the age of 21 for possessing, using, or
19 transporting natural psychedelic substances and for people aged 21 and over
20 who allow underage access to these substances.

21 What Your Vote Means

YES

22 A “yes” vote on
23 Proposition ?

24 decriminalizes the possession and use of
25 psychedelic mushrooms and certain
26 plant-based psychedelic substances in
27 Colorado law for people aged 21 and over,
28 and requires the state to establish a
29 regulated system for accessing
30 psychedelic mushrooms and, if approved
31 by the regulating state agency, additional
32 planted-based psychedelic substances.

NO

A “no” vote on Proposition ?

means that the possession and use of
psychedelic mushrooms and other
psychedelic substances will remain illegal
under state law.

34
35

1 **Summary and Analysis for Proposition ?**

2 **What does the measure do?**

3 This measure allows people aged 21 and older to use five specific types of
4 natural psychedelic substances. Specifically, the measure covers two chemicals
5 found in psychedelic mushrooms — psilocybin and psilocin — and three other
6 plant-based psychedelic substances — ibogaine, mescaline, and
7 dimethyltryptamine, also known as DMT. Psychedelic substances can alter a
8 person’s consciousness, mood, and awareness of their surroundings.

9 **Personal use.** Upon passage of the measure, psychedelic mushrooms and the
10 other plant-based psychedelic substances will be decriminalized in state law, and
11 people aged 21 and older will be able to grow, possess, share, and use them.
12 Personal use does not allow for the sale of psychedelic mushrooms and other
13 psychedelic substances.

14 **Licensed facilities.** The measure also requires the state to establish a
15 regulated system for licensed facilities to offer supervised use of psychedelic
16 mushrooms for people aged 21 and older, starting in 2024. Starting in 2026, the
17 state may choose to expand the type of substances that may be used at these
18 facilities to include additional plant-based psychedelic substances.

19 **How are these substances currently treated under state and federal law?**

20 All the substances listed in the measure are Schedule 1 controlled substances
21 under federal and state law. Schedule 1 controlled substances are defined as
22 drugs with no currently accepted medical use and a high potential for abuse. If
23 the measure is approved, the state will no longer treat these substances as
24 illegal drugs for the purposes of state criminal law. However, they will remain
25 illegal under federal law.

26 The measure does not decriminalize the possession or use of peyote, a type of
27 mescaline. Federal law already permits the use of peyote by certain Native
28 American tribes for ceremonial purposes.

29 **Do these substances have medical uses?**

30 Currently, research is being done on the potential medical uses of psychedelic
31 mushrooms and other psychedelic substances for treating depression,
32 post-traumatic stress, substance use disorders, and other mental health
33 disorders. The U.S. Food and Drug Administration (FDA) has designated
34 psychedelic mushrooms as a Breakthrough Therapy for treating depression.
35 Breakthrough Therapy designation is used to speed up the research,
36 development, and review of a drug when it may offer substantial improvements
37 over existing treatments. The other psychedelic substances permitted for
38 personal use under the measure have been the subject of research on their
39 potential benefits; however, the FDA has not approved them for any specific
40 medical use.

1 **How will these substances be regulated?**

2 The Department of Regulatory Agencies (DORA) is the state agency charged
3 with regulating activities involving psychedelic mushrooms and other psychedelic
4 substances for people aged 21 and older. Specifically, it will manage the
5 licensing and registration for facilities where supervised use will occur, as well as
6 people who are licensed to facilitate the use of them at licensed facilities. DORA
7 will also regulate other related businesses, such as cultivators and product
8 manufacturers. Additionally, DORA is tasked with protecting consumers,
9 developing public education campaigns, making recommendations to the state
10 legislature regarding the potential for off-site use of natural psychedelic
11 substances received at regulated facilities, and providing data on the
12 implementation and outcomes of the program. Licensed facilities and related
13 businesses will be required to pay a licensing fee to cover the cost of regulating
14 these businesses.

15 Under the measure, local governments can regulate the hours of operation and
16 location of licensed facilities. Local governments cannot ban or prohibit licensed
17 facilities, or ban or prohibit the personal use of psychedelic mushrooms or other
18 psychedelic substances in their communities.

19 The measure also establishes a 15-member public advisory board appointed by
20 the Governor. The board is charged with making regulatory recommendations to
21 the state legislature, DORA, and other relevant state agencies.

22 **What restrictions does the measure place on the use of substances?**

23 The measure states it is not intended to:

- 24 • allow the sale of psychedelic mushrooms or other psychedelic
25 substances for personal use;
- 26 • allow driving under the influence of these substances;
- 27 • permit use in a school, public building, or public place;
- 28 • permit underage access; or
- 29 • require an employer to permit the use of these substances in the
30 workplace.

31 **What are the criminal penalties and legal protections under the measure?**

32 The measure impacts criminal penalties in several ways. First, it establishes
33 specific penalties for people under the age of 21 who possess or use natural
34 psychedelic substances, as well as penalties for people who allow underage
35 access when cultivating these substances. Penalties range from requiring drug
36 counseling to a \$250 fine. In addition, the measure states that the removal and
37 reduction of criminal penalties apply retroactively to someone who has already
38 been convicted of an offense that would be decriminalized under the measure.
39 Individuals who have completed their sentence may file a petition to the courts to
40 have their criminal record sealed at no cost. Selling natural psychedelic
41 substances outside of the licensed supervised use facilities will remain illegal.

1 The measure also offers protections for people who use psychedelic mushrooms
2 and other psychedelic substances, including, but not limited to, protections from
3 professional discipline, loss of a professional license, or denial of eligibility for
4 public benefits unless required by federal law.

For information on those issue committees that support or oppose the measures on the ballot at the November 8, 2022, election, go to the Colorado Secretary of State's elections center web site hyperlink for ballot and initiative information:

<http://www.sos.state.co.us/pubs/elections/Initiatives/InitiativesHome.html>

5 **Arguments For Proposition ?**

- 6 1) The measure provides a valuable tool for meeting the mental health needs of
7 Coloradans. Studies have shown that psychedelic mushrooms and other
8 psychedelic substances, combined with counseling, can provide effective
9 treatment for severe depression and anxiety. The FDA has specifically found
10 psychedelic mushrooms may offer substantial improvement in treating
11 depression more successfully than existing therapies. Increasing access to
12 psychedelic mushrooms and other natural psychedelic substances may help
13 people who are struggling to find effective mental health treatment.
- 14 2) Putting people in the criminal justice system for using naturally occurring
15 substances that have potential mental health benefits does not benefit society
16 and costs taxpayers money. Possession and use of these substances are
17 nonviolent offenses that do not pose a public safety risk. Studies have shown
18 that psychedelic mushrooms are not addictive and that long-term adverse
19 health impacts are rare, unlike tobacco use, which is legal. People who are
20 aged 21 or older should be allowed to take these naturally occurring
21 substances without fear of criminal penalties.

22 **Arguments Against Proposition ?**

- 23 1) There are currently no approved therapies that use psychedelic mushrooms
24 or psychedelic substances, and the effects of them can vary widely from
25 person to person, depending on the dose, frequency of use, and type of
26 substance. Breakthrough therapy designation does not mean that the use of
27 psychedelic mushrooms is safe or recommended. Further, DMT, ibogaine,
28 and mescaline have not received a similar designation, and, specifically,
29 ibogaine may cause life-threatening heart conditions. Proposing a regulatory
30 framework for the use of these substances suggests that they offer legitimate
31 treatment before they have received federal approval, potentially putting
32 people's health and public safety at risk.
- 33 2) Proposition ? allows illicit drug use under the guise of health care. It legalizes
34 drugs that have been illegal for over 50 years and provides broad protections
35 for criminals by allowing convictions to be wiped from their records. By
36 decriminalizing personal use, the black market for these drugs may expand
37 and provide access to underage youth or expose people to psychedelic
38 substances that are tainted with other drugs.

1 **Fiscal Impact for Proposition ?**

2 Proposition ? will increase state revenue and spending, and potentially impacts
3 local government spending, as described below. The state’s budget year runs
4 from July 1 through June 30.

5 **State revenue.** Under Proposition ?, state revenue will increase by about
6 \$5.2 million per year in budget year 2024-25, \$5.6 million in 2025-26, and
7 \$4.5 million per year in future years. This revenue is from licensing fees charged
8 to licensed facilities and facilitators that dispense and provide services related to
9 psychedelic mushrooms and other psychedelic substances allowed under the
10 measure. It is expected that fees will be set at a level needed to cover the costs
11 of the program when fully implemented. In the first two years, additional fee
12 revenue will be necessary to pay back the anticipated loan of state funds used to
13 pay for initial start-up costs. The increase in revenue will depend on fee amounts
14 and the number of license applications submitted.

15 **State spending.** Proposition ? will increase costs in the Department of
16 Regulatory Agencies (DORA) by an estimated \$0.7 million in budget year
17 2022-23 and \$2.2 million in budget year 2023-24 to establish program rules,
18 support the advisory board, and issue initial licenses prior to the start of the new
19 regulatory program created by the measure. The measure requires a loan from
20 the state General Fund be used to cover these start-up costs for the program,
21 which will be paid back in subsequent years.

22 Once regulation begins, DORA will have costs of approximately \$5.2 million in
23 budget year 2024-25 and \$5.6 million in budget year 2025-26 to regulate the
24 manufacture, cultivation, testing, storage, transfer, transport, delivery, sale, use,
25 and purchase of psychedelic mushrooms by licensed facilities. Actual
26 expenditures will depend on the number of regulated entities participating in this
27 industry. Estimated spending in budget years 2024-25 and 2025-26 also
28 includes the repayment of state money used to cover costs in the first two years.

29 Lastly, to the extent that Proposition ? reduces the number of people convicted of
30 crimes related to controlled substances that become regulated under the
31 measure, costs in the criminal justice system will be reduced.

32 **Local government impact.** Local government workload and spending will
33 increase to the extent local governments issue additional regulations on the
34 operation of licensed facilities in their jurisdiction. County jail costs may be
35 reduced to the extent fewer people are held in jails for offenses relating to
36 controlled substances that become decriminalized and regulated under the
37 measure.

Last Draft Comments from Interested Parties

Proposition 122 Access to Natural Psychedelic Substances

Eric H. Bergman, representing Colorado Counties Inc.:

Good morning! My apologies for the delay in getting this to you. I thought I had submitted comments previously but they don't seem to be reflected in the second draft. Our main concern with the measure is the prohibition on local governments being able to ban the sale and cultivation of psilocybin mushrooms. The strong local control tradition in Colorado – which was featured in both the medical and recreational marijuana ballot measures – is absent here and it is very concerning. Local communities should be able to decide for themselves if they want these centers in their midst. We would like to see a third bullet point in the “Arguments Against” that talks about lack of local government oversight and consultation.

Peter Criscione, representing himself:

I am including my comments for Draft 2 onto the thread started from my Draft 1 comments. Also, I'm just now seeing that Aaron deleted an attachment I provided for Draft 1 comments (Partial transcript 58 Final Hearing for Blue Book Research Staff.docx), so I've copied the contents of that below my Draft 1 comments at the bottom of this thread (below a line of asterisks I inserted as a line break).

Thanks
Peter

To the Legislative Council Research Staff:
Aaron Carpenter
Amanda King
Colin Schroeder
Jeanette Chapman

Hi Aaron,

I'm not sure why, and would appreciate hearing some explanation of, why I did not received notification of the release of Draft 2 as I've submitted comments on Draft 1

and had a length phone chat with you. I happened to check the SoS website today and discovered that comments are due today on Draft 2.

Here are some inaccuracies in the Blue Book Draft 2 (BBDraft2) for initiative 58 that I've noted. As before, I've added suggestions for how to correct the inaccuracies.

- **BBDraft2: throughout the document**

I am surprised to see that the term “hallucinogen” has been dropped and instead “psychedelic” has been substituted.

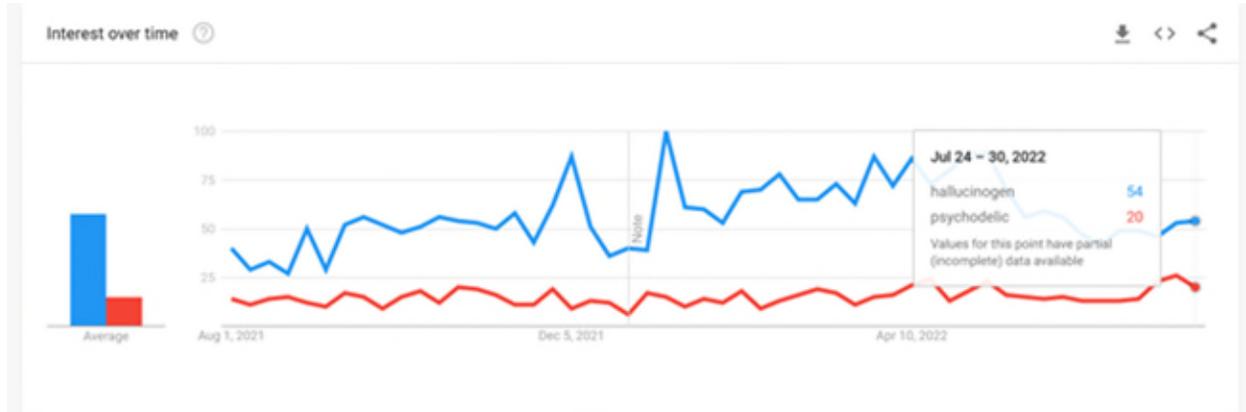
Please check out this google search term comparison of the two words:

<https://trends.google.com/trends/explore?geo=US&q=hallucinogen,psychedelic>

Last Draft Comments from Interested Parties

Peter Criscione, representing himself (Cont.):

The numbers here indicate relative use, with “hallucinogen” being searched for more than twice as often as “psychedelic”. The chart below indicates that the former is more widely used than the latter over the last year, and thus would be a better term to use for the public to understand what this initiative is about. It's not clear why a less familiar word would have been chosen here if the ultimate intention is to make this as easily understood by the public as possible.



I suggest going back to “hallucinogen”.

- **BBDraft2 page 1, Lines 2-6:**

“decriminalize the personal possession, growing, sharing, and use, but not the sale, of five natural psychedelic substances by people aged 21 and over, including two types of psychedelic mushrooms — psilocybin and psilocin — and three plant-based psychedelic substances — dimethyltryptamine, ibogaine, and mescaline;”

This is misleading as it implies there will no longer be any penalty for possession, etc. That is not true. As I established in my Draft 1 comments (which are at the bottom of this email), DORA will set limits on personal possession and cultivation. Above these limits, the full force of the Controlled Substances Act will come into play and people can be arrested and prosecuted for any amounts above those set by DORA. This initiative does not establish that penalties for any amounts above these limits will be reduced. As it is worded, the public will believe that any amount of these medicines are beyond persecution and that is simply incorrect.

It would be accurate to state:

“Decriminalizes the personal possession and growing **below certain amounts to be established by DORA's rulemaking**, in addition to the sharing and use, but not the sale of, five natural psychedelic substances....” Etc. /

The same argument applies to:

- **BBDraft2 page 1, Lines 22-25, What your vote means?**

A “yes” vote on 22 Proposition ? decriminalizes the possession and use of psychedelic mushrooms and certain

Last Draft Comments from Interested Parties

Peter Criscione, representing himself (Cont.):

Suggestion: "A "yes" vote on 22 Proposition ? **partially** decriminalizes the possession and use of psychedelic mushrooms and certain..."

The same argument also applies to:

- **BBDraft2 page 2, Lines 9-13, What does the measure do?**

Personal use. Upon passage of the measure, psychedelic mushrooms and the other plant-based psychedelic substances **will be decriminalized in state law, and people aged 21 and older will be able to grow, possess, share, and use them.** Personal use does not allow for the sale of psychedelic mushrooms and other psychedelic substances.

Suggested change:

"...will be **partly** decriminalized in state law, and people aged 21 and older will be able to **grow and possess them below certain amounts to be established by DORA's rulemaking, as well as share, and use them...**"

And again applies to this section:

- **BBDraft2 page 3, Lines 1-14, How will these substances be regulated?**

The Department of Regulatory Agencies (DORA) is the state agency charged with regulating activities involving psychedelic mushrooms and other psychedelic substances for people aged 21 and older...

While this section appears to be accurate as to what it says, it omits the relevant piece that DORA will also regulate personal use. To omit this will confuse the public as to what behaviors will or will not be considered criminal should this pass.

Suggested change, either as its own short paragraph or as an addendum to the first paragraph:

"DORA will also set limits in its rulemaking process for person possession and cultivation amounts. Amounts above these limits will still be subject to prosecution under the Controlled Substances Act (or just "existing law"). DORA may also regulate other aspects of Personal Use"

- **BBDraft2 page 3, Lines 15-18, How will these substances be regulated?**

Local governments cannot ban or prohibit licensed facilities, or ban or prohibit the personal use of psychedelic mushrooms or other psychedelic substances in their communities.

While the initiative states this, it's unclear how this is not a violation of Colorado's Home Rule constitutional construction. Statues cannot change the constitution, only constitutional amendments can. So by listing this assertion, it deceives the public into believing it can deliver something that it legally can't.

Suggestion: drop this sentence.

- **BBDraft2 page 3, Lines 19-21, How will these substances be regulated?**

The measure also establishes a 15-member public advisory board appointed by the Governor. **The board is charged with making regulatory recommendations to the state legislature, DORA, and other relevant state agencies.**

Last Draft Comments from Interested Parties

Peter Criscione, representing himself (Cont.):

I reiterate the point I made in Draft 1 comments (see below for full explanation). By listing “state legislature” first, it misleads the public that the primary function of the board is to the legislature, which is simply incorrect. The initiative *specifically defines the function of the board at the very start* of the advisory board section:

12-170-105. Natural Medicine Advisory Board (1) THE NATURAL MEDICINE ADVISORY BOARD SHALL BE ESTABLISHED WITHIN THE DEPARTMENT **FOR THE PURPOSE OF ADVISING THE DEPARTMENT** AS TO THE IMPLEMENTATION OF THE REGULATED NATURAL MEDICINE ACCESS PROGRAM.

Furthermore and perhaps more importantly, it also elevates the legislature to a false level of authority over how any initiative can be implemented. The legislature has NO authority over implementation. *The legislature can only “legislate”, it cannot “regulate”. That power is vested with the state agencies, such as DORA.* As the existing wording does not differentiate the types of recommendations called for from the board, it **confuses the powers and basic functions of government as laid out by the CO constitution and statutes.**

Suggested change: “**The board is primarily charged with making *regulatory* recommendations to DORA, as well as *other* recommendations to the state legislature and other state agencies.**”

- **BBDraft2 page 3, Lines 19-21, How will these substances be regulated?**

The measure also establishes a 15-member **public** advisory board appointed by the Governor.

This is misleading on several accounts:

- The board is appointed solely at the discretion of the Governor, with approval of the Senate. The public has no say in who is on the board.
- Since this is a Colorado initiative, ‘public’ will be read as “from” or “in” Colorado. However, there are no residency requirement for this board, so they don’t even have to be from, or even reside in Colorado.
- There is nothing in the initiative that establishes any duty of the board to represent the public.

Suggestion: drop the word “public”

- **BBDraft2 page 3, Lines 31-41, page 4, Lines 1-4, What are the criminal penalties and legal protections under the measure?**

There is no mention here that penalties under existing law (the CSA) still exist in their entirety for anyone who exceeds the possession and cultivation limits that will be set by DORA’s rulemaking.

Suggested addition:

Anyone exceeding the Personal Use possession and cultivation limits that will be set by DORA’s rulemaking will still be subject to full prosecution under existing law (the Controlled Substances Act). There are no protections in this initiative for people who exceed these limits.

- **BBDraft page 4, Arguments Against Proposition ?**

Last Draft Comments from Interested Parties

Peter Criscione, representing himself (Cont.):

Suggested replacement for Against Argument #2 (assuming there are only 2 Against Arguments allowed):

The initiative establishes a framework for large corporations to extract from thousands of years of native and indigenous use of these substances. The baked in conflicts of interests include language that specifically allows any entity, including those regulated by DORA, to contribute any amount of money to the regulators, baking into law a path for the potential buying of influence. In addition, there is no language to prohibit the advisory board from having personal financial interests in the market they will make regulatory recommendations on. Also, there are no restrictions on the number of Healing Centers a corporation can be vested in and no residency requirements for the companies that will operate in Colorado. All of these provisions enable a for-profit driven system to take advantage of the local and indigenous communities. Furthermore, the out-of-state political action committee funding this initiative has refused to disclose where their funding comes from, which prevents any real evaluation of their intentions.

Thank you
Peter

Mr. Criscione also submitted a copy of his draft 1 comments (Attachment A) and his transcript of the Title Board meeting (Attachment B).

Travis Fluck, representing himself:

In the first draft, these substances were referred to as hallucinogens. This second draft has shifted in scope to using a term outside of the contextual legal landscape and therefore lacks integrity. The controlled substance act categorizes these substances as hallucinogens which is one of five categories that illicit controlled and dangerous compounds fall under.

It is imperative that voters that are new and naive to this conversation are not confused by the nuance of terminology that “psychedelic” instills.

Thank you for your time and attention to this matter

Travis Tyler Fluck

Nicole Foerster, representing herself:

Hello,

I would like to suggest that the arguments against i58 be expanded to include the concern that i58 does not allow counties/local municipalities to opt-out of the measure if passed. This will create mandates that place unnecessary burdens and spending on local government. In

Last Draft Comments from Interested Parties

Nicole Foerster, representing herself (Cont.):

Oregon, we are seeing issues where counties are wishing to opt-out of m109 (which is similar to NMHA i58 and funded by the same organization).

Local governments and their populations should be able to decide if these regulated healing centers are right for their communities rather than have no option to opt out of statewide policy.

--

Nicole Foerster

Kevin Matthews, representing Natural Medicine Colorado:

Comments are included as Attachment C. Mr. Matthews also submitted a copy of their draft 1 comments (Attachment D).

Melanie Rodgers, representing herself:

Hello, here is my feedback for the blue book. I look forward to hearing next steps and that this feedback was received. Please let me know if you have any questions or need any additional information. I thought I signed up to be part of this Blue Book process but grateful that Nicole Foerster forwarded the email that the feedback was due today.

Accessibility and Affordability to all Coloradans

Due to psilocybin's Federal Controlled Schedule 1 status, therapeutic services are estimated to be very costly and therefore not accessible to people in low income communities and to veterans. Insurance won't cover it so the promise of making this accessible and affordable to the people in communities that need this the most is questionable. If Colorado is to introduce innovation mental health solutions under the guise of healthcare, it needs to be affordable for ALL Coloradans.

Social Equity and Health Equity in Creating a New Industry

Colorado should be cautious in creating a new industry for only the rich and wealthy to participate similar to what happened when Colorado became the first state to legalize cannabis. Look at who owns majority of licensing and look who's been impacted and who's sitting in jail. Social equity was an afterthought in drafting Amendment 64. No people of color or Indigenous legacy keepers of these natural medicines were involved with the drafting of this policy and Colorado's cannabis law firms were involved in the process, so how can the public trust that this won't be another self serving industry that caters to an only pay to play audience. The social equity provisions in the Natural Medicine Health Act are not enough. If Colorado rushes psilocybin legislation, will it be equitable?

Home Rule

Colorado is a home rule state. Municipalities and cities should not be mandated to have and host licensed healing centers.

Last Draft Comments from Interested Parties

Melanie Rodgers, representing herself (Cont.):

Millions of out of state Funding and Influence

Initiative 58 is heavily funded by millions by an out of state PAC. By not requiring residency requirements and opening licenses to ANYONE that can pay to have a license, this opens the floodgates for out of state interests looking to corner the potential market and it will dominate local economic growth and small businesses wanting to provide this to their communities.

Thank you so much.

In gratitude,

Melanie Rose Rodgers

Robert Sheesley, representing Colorado Municipal League:

To Legislative Council Staff,

Thank you for the opportunity to review the second draft of the analysis on Initiative 58 – Access to Natural Psychedelic Substances. The Colorado Municipal League’s comments on this analysis are as follows:

- Page 3, lines 15-16 and Page 5, lines 32-24: The analysis incorrectly suggests that the measure limits local government regulation to “hours of operation and location” with regard to licensed facilities or that local regulations will be related to the “operation of licensed facilities.”

The measure specifically authorizes a “locality” to regulate the “time, place, and manner of the operation” of state-licensed healing centers,if the establishment or operation of healing centers is not banned or completely prohibited. We recommend that the analysis not suggest a limited role of local authority that is not supported by the measure’s express language.

- Page 4, line 4: In the discussion of “legal protections” under the measure, we suggest that the analysis include discussion of the limitations on law enforcementas provided in proposed C.R.S. § 12-70-108(1)(a) and § 12-170-109(5) and plainly indicate that local governments would be preempted from addressing local issues directly affecting their communities.

Thank you for your consideration,

Robert D. Sheesley

To the Legislative Council Research Staff:
 Aaron Carpenter
 Amanda King
 Colin Schroeder
 Jeanette Chapman

Hi Aaron,

Thanks for speaking with me yesterday. As we discussed, I've noticed a few inaccuracies in the Blue Book Draft 1 (BBDraft) for initiative 58. I've noted them here and added suggestions for how to correct the inaccuracies.

- **BBDraft page 3, How will these substances be regulated? Lines 14-15:**

“DORA will not regulate hallucinogenic substances for personal use outside of designated facilities.”

That sentence is factually incorrect according to the intention stated in the Title Board Final Hearing, as well as other elements in the language of 58.

While 58 sets up two pieces (Regulated Access Program and Personal Use) that on the surface appear to be entirely disconnected, that is called into question by at least two parts in the language:

1. Personal Use starts off with: “12-170-109. Personal Use. (1) **SUBJECT TO THE LIMITATIONS IN THIS ARTICLE 170, BUT NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE FOLLOWING ACTS ARE NOT AN OFFENSE UNDER STATE LAW...**”

The phrase “Subject to the limitations in this article 170” can be interpreted to make the entire Personal Use section subordinate to the rest of the document, such that anything seen as a limitation found anywhere in the document can be applied to it, giving DORA purview over it.

2. The following section also contains enabling language for DORA:

12-170-104. Regulated natural medicine access program.

(6) THE RULES ADOPTED BY THE DEPARTMENT SHALL INCLUDE, BUT ARE NOT LIMITED TO, RULES TO:

(i) ADOPT, AMEND, AND REPEAL RULES AS NECESSARY TO IMPLEMENT THE REGULATED NATURAL MEDICINE ACCESS PROGRAM AND **TO PROTECT THE PUBLIC HEALTH AND SAFETY.**

Even though (i) is contained in the Program section (104), the fact that it doesn't say “to protect the health and safety of those in the program” and instead names “the public”, which is everyone, both those in and out of the program, this could be interpreted to give DORA purview to issue rules for anything and everything contained in the entirety of Article 170, including Personal Use.

Since the purpose of the Program is to provide a safe space for Natural Medicine usage, any usage outside of that, including both personal cultivation, consumption, etc or someone

providing community healing/sitter services (called a Facilitator in the Program) could be interpreted as endangering the public health and safety.

If there is any doubt about the intention for having DORA regulate Personal Use, see also the Title Board Final Hearing. As I listened to it, I made a rough transcript, which I have attached separately due to its length.

Since 58's legal council sets the intention in the Final Hearing to allow DORA to regulate cultivation and possession limits in Personal Use, this 'breaks the seal' on what looks to be on first glance a distinct section of the Article. It establishes the precedent that the Personal Use section is within the purview of DORA (though not part of the regulated program). This, plus the other language ambiguities noted above, means it's possible that DORA can interpret all of this to regulate any component of Personal Use, not just limits. Since it's unclear (and likely will be decided in court) how far DORA's reach goes over Personal Use, here's a suggested change that leaves the exact scope of purview open:

"DORA is also being allowed to limit certain aspects of Personal Use, including personal cultivation and possession limits."

- **BBDraft Page 3, How will these substances be regulated? Lines 20-21.**

This statement is a little misleading:

"The board is charged with making regulatory recommendations to the state legislature, DORA, and other relevant state agencies."

(1) of 105 provides the Board's purpose, which is to advise DORA:

12-170-105. Natural Medicine Advisory Board (1) THE NATURAL MEDICINE ADVISORY BOARD SHALL BE ESTABLISHED WITHIN THE DEPARTMENT FOR THE PURPOSE OF ADVISING THE DEPARTMENT AS TO THE IMPLEMENTATION OF THE REGULATED NATURAL MEDICINE ACCESS PROGRAM.

There are two other callouts that refer to the legislature, however these are not defined as part of the Board's purpose in (1).

12-170-104. Regulated natural medicine access program

(6) THE RULES ADOPTED BY THE DEPARTMENT SHALL INCLUDE, BUT ARE NOT LIMITED TO, RULES TO:

(g) STUDY AND DELIVER RECOMMENDATIONS TO THE LEGISLATURE REGARDING THE REGULATION OF DOSAGE FOR OFF-SITE USE OF NATURAL MEDICINES.

12-170-105. Natural Medicine Advisory Board

(6) THE BOARD SHALL, ON AN ONGOING BASIS, REVIEW AND EVALUATE EXISTING RESEARCH, STUDIES, AND REAL-WORLD DATA RELATED TO NATURAL MEDICINE AND MAKE RECOMMENDATIONS TO THE LEGISLATURE AND OTHER RELEVANT STATE AGENCIES AS TO WHETHER NATURAL MEDICINE AND ASSOCIATED SERVICES SHOULD BE COVERED UNDER HEALTH FIRST COLORADO OR OTHER INSURANCE PROGRAMS AS A COST EFFECTIVE INTERVENTION FOR VARIOUS MENTAL HEALTH CONDITIONS, INCLUDING BUT NOT LIMITED TO END OF LIFE ANXIETY, SUBSTANCE USE DISORDER, ALCOHOLISM, DEPRESSIVE DISORDERS, NEUROLOGICAL DISORDERS, CLUSTER HEADACHES, AND POST TRAUMATIC STRESS DISORDER.

Suggested change: “The board is primarily charged with making regulatory recommendations to DORA, as well as some recommendations to the state legislature and other state agencies.”

- **BBDraft Page 3: What restrictions does the measure place on the use of hallucinogenic substances? L 26**

This item is missing an important component of Article 170:
“The measure states it is not intended to:

- allow driving under the influence;
- permit use in a school or other public building;”

From the initiative language: 12-170-111. Limitations (c) TO PERMIT A PERSON TO INGEST NATURAL MEDICINES IN A PUBLIC PLACE, OTHER THAN A PLACE LICENSED OR OTHERWISE PERMITTED BY THE DEPARTMENT FOR SUCH USE;

Many people now use Natural Medicines in Nature. Not allowing for this action as part of Personal Use will have a significant impact on the public so they should know this is a restriction.

Suggested change: Permit use in a school, public building or public place.

- **BBDraft page 4, Arguments Against Proposition ?, 2)**

This part is unsubstantiated: “The measure goes too far in allowing personal use 33 without any guardrails and...”

There have been around a dozen municipalities around the country, including Denver, that have decriminalized some form of natural medicines. To date, there have been no significant problems reported as a result of these efforts.

Suggested change: Don’t have a quick solution for this, other than perhaps mentioning what I’ve pointed out. There certainly are still risks, but there’s no evidence of significant harm resulting from decriminalization efforts.

- **BBDraft page 4, Arguments Against Proposition ?**

Here are two new potential arguments against 58:

1. The language is so ambiguous in many places that it’s unclear what the outcomes of this measure will be. This could result in unintended and unknown consequences both in the implementation of the program as well as for Personal Use. [Note: I can flesh this out in the Draft 2 stage to highlight some of the particularly ambiguous parts of the language, don’t have time to get into it all now.]

2. This initiative codifies what will be legal vs criminal not by making fixed changes to the Controlled Substances Act, but by transferring authority over what can define a criminal offence to DORA. Thus, in order to know what is legal or criminal at any given time, the average citizen would not only have to understand the statutes in the Controlled Substances Act, but also the

regulations that DORA decides in its initial rulemaking process and in any future rulemakings that change the regulations. While citizens in general are expected to know the law, this framework creates an undo burden on the average citizen to understand how to behave in accordance with the law.

Thank you for your time!
Peter Criscione
303-547-5726

Here are the contents of the deleted attachment (in case this didn't make it through on Draft 1):

58's Final Hearing before the Title Board (2-16-22).

Below is a pretty close transcript of part of that hearing. To call attention to dialog that gives DORA purview over limits / Personal Use, here's the notation I use.... the **bolded red** parts are more instructive than the **lighter red**. The **yellow hi-lighted bolded red** is the most telling. The dialog isn't always audible, and speakers (especially Theresa) don't always use full sentences, making parts a little hard to follow. Theresa and Gelender are Title Board members. Ed is Ed Ramey. Taylor West is the new Communications Director for the PSFC (Psychedelic Science Founders Collaborative), an organization supporting 58. Here's the link if you want to listen (time stamps in my transcription are approximate):

https://csos.granicus.com/player/clip/287?view_id=1&redirect=true

Here's the relevant text from 58, the definition of Personal Use: 12-170-109 (2)

“FOR THE PURPOSE OF THIS ARTICLE 170, “PERSONAL USE” MEANS THE PERSONAL INGESTION OR USE OF A NATURAL MEDICINE AND INCLUDES THE AMOUNT A PERSON MAY CULTIVATE OR POSSESS OF NATURAL MEDICINE NECESSARY TO SHARE NATURAL MEDICINES WITH OTHER PERSONS TWENTY-ONE YEARS OF AGE OR OLDER WITHIN THE CONTEXT OF COUNSELING, SPIRITUAL GUIDANCE, BENEFICIAL COMMUNITY-BASED USE AND HEALING, SUPPORTED USE, OR RELATED SERVICES.”

And the relevant part from the Title that was set at the Final Hearing, where it summaries Personal Use using the word “limited”. It says: “allowing limited personal possession, use, and uncompensated sharing of natural medicine”.

https://csos.granicus.com/MetaViewer.php?view_id=1&clip_id=287&meta_id=2641

Btw, Gelender references 49... that was one of the first initiative drafts that New Approach submitted to the state.

Notations in [brackets] reflect actions on the video, i.e. the screen shot of their computer where they are making changes to the title, or other actions of the group.

21:20 Gelender: Looking back at 49... the Definition of Personal Use. 49 had specific amount limit. Slightly different concept for Personal Use, I think we had an allowable amount. (Ed: Yes) Here it talks about the amount... “Necessary to share with others”. In title we talked about having limited personal possession or use. Still limited, but in a different way. Do you feel you’ve expanded how much someone can have. Is Title misleading as is?

Ed: Purpose is to still have it limited. We did, Mr Gelender, you are correct, take out, we had established a specific amount as a statutory manor in 49, and that’s gone. **Not that one can’t be established in rulemaking and so forth**, but we have not done it in this measure. So that is a change.

Gelender: Is it still limited given the parameters of Personal Use.

Ed: I would suggest that it is and the Title would not be misleading (?? Not audible).

That is the direction into the rulemaking process. I’m not sure if there’s much more I can say on this.

23:35 Veronica starts to talk: before it was limited by numbers, but here it’s limited by ... (Someone talks over her “getting a little feedback”)

Ed: Limited as the purpose of the use here, as opposed to the previous measure we established black letter statutory quantities. Which we decided to take out.

23:50 Taylor West: Essentially gives some discretion for implementation in case of law to determine ...

Q: can you please repeat that into the record...and introduce yourself.

24:10 My name is Taylor West. Essentially what we are saying by limiting it by purpose rather than set numerical we are allowing implementation and case law to be the determinate of what the reasonable definition of personal use is.

24:30: Theresa: I have a question on this section. When it says Personal Use ... (reads rest of definition)

"...amount a person may cultivate or possess..." so even with the amount a person can cultivate is not prescribed anywhere, correct? (Ed: right) so that is a "term of art" that will be played out in case law and regulatory, and maybe the rules, as well as possess.

[someone else starts talking, she cuts them off]. The limit is that.... sorry. Basically, the purpose is that is that it's for their use or the ability to share with someone else that's of age. They can't sell it (Ed: that's right)

24:44: Theresa: The limit is that, basically is that it's for their use, or the ability to share with someone else of age but they can't sell it.

25:15 Ed: So we put a statutory sense around what Personal Use can entail. For example, it does not involve commercial industry, uh, selling. **The rest of it there is an intended deference to the rulemaking process. To the advisory board informed rulemaking process. So we're sort of shifting this it from a legislative to a regulatory.** Think that was some of the thinking going on, in terms of the (? Inaudible).

26:16 Theresa: I do think that is something we should think about in the title because "the limited" doesn't make sense anymore because it says allowing personal use and personal possession and that's basically what is allowed. Ok. Thank you Mr Galender those were excellent.

26:45 Theresa: Did 49 have the retroactive? (Ed: it did)

[They are poking around with trying to find a certain file... Hearing Results from 49]

29:00 [looking at the word "limited" for Personal Use"] you wanted to use 49 for 50, correct? [copies the Hearing Results from 49 into the that for 58]

33:00 ? We're a little confused. This is not the language we were going to go with When I started the hearing, we said we'd like to start with 49. Because its similar.... I'm catching up.

35:00 [redid the doc] We do have protection under state law, including immunity, so I want to make sure.

Seems like Title 18 is reconciling that a Natural Health Facility, I'm not sure if we need something reconciling to capture this new permissive use under criminal law.

I think we probably have it captured.

Minor tweaks to make sure this aligns with criminal provisions.

Man speaking: local government, not sure why we're changing that now

37:00 use positive language. I'm sorry, I flipped it in my head.

39:00 Man Speaking: **I think it's still limited, it's just limited in a different way than in prior version.** We can capture it by

40:00 [changed text to : allowing limited non-commercial personal and shared possession or use of natural medicine

None of these provisions under T18 or T16 (criminal proceedings) are reflected.

Potentially what they do is provide specific protection under state law.

42:00 Board has made some suggestions [the board rewrote the PU part]. Do the Proponents have anything to say?

Ed: shared possession is strange.

46:00 take out 'transport, delivery' add in "to protect health and safety", regulatory structure is designed not to ... what else.... The regulatory structure is designed primarily (...inaudible...). With that qualifier that string of words would be complying to the correct regulatory concepts.

50:00 [hard to hear, board is trying to rewrite the title]

51:00 **Ed** Adding in 'public health and safety'. saying something about "comprehensive regulation".

Theresa: do you think we've discussed this quite at length during initial title setting, about adding health and safety, I may be misremembering, maybe was just the natural medicines and a persons health. Wasn't in this exact spot. That's what you're saying to improve the health and safety?

52:00 **Ed:** to protect ... the exact words are to protect the public health and safety ...? In the measure itself. **Theresa:** where is that?

Ed: page 8,

53:45 **Theresa:** I have less concerns with it there than with some of the language we were talking about last time, it was more subjective (about health and safety) whether natural medicine was for the public benefit, or public health or whatever. I don't remember exactly our conversation. But this could be implementation and regulatory scheme is to protect the public health and safety. Which seems less subjective. Any other concerns about this language.

54:30 **Gelender** (or **Rick**?) (Don't?) think it adds a lot. ? frankly. Leave it out. Doesn't rise to catch phrase level, leave it out, I personally would.

Theresa: can you live with it in there? **Gelender:** yes

Theresa: I think it makes sense in terms of what the regulatory program is going to do.

56:00 **Ed:** would it be more accurate to say, 'personal possession and transfer without remuneration'

Theresa: our task is to inform the voter what's happening. And I don't think that is ...

57:00 non-commercial

58:00 Ed: Line 4 (of draft on screen) "establishing a natural medicine regulated access program". Don't know if we discussed this before. the regulated access program itself is only directed at the healing centers and supervised there. I recommend adding after words "reg med access program" .. ":for supervised care". **The reg access program does not discuss personal use issues.**

59:15 Theresa? I like "supervised" there.. the right term (...inaudible...).

Ed: unless they want to regulate ??

Theresa: well I wasn't sure if it was, um..

1:00:00 Hi my name is Faye ? I think you just need to get rid of ...

Theresa: I think we were trying to tie it to personal use and personal possession. I'm generally not the grammar expert in the room. I thought that was what we were trying to capture. Cause it isn't shared possession, take out the comma personal use, **[going back to "allowing limited personal possession, ...]**

Gelender?: I don't think it's really a series. It's two things. One...??... sharing.

Theresa: Thank you. this is the time to offer these ideas.

Ed: so, we're ok

Towards the end of this transcript, Ed says this:

58:00 Ed: Don't know if we discussed this before. the regulated access program itself is only directed at the healing centers and supervised there. I recommend adding after words "regulated medicine access program" .. ", "for supervised care". **The reg access program does not discuss personal use issues.**

This makes it somewhat clear at least that the Program itself doesn't have purview over Personal Use. However, the other discussion, including where Ed says (at 25:15) that the intention with the Personal Use language is to defer to the "Advisory Board rulemaking process"... and the intention is around "shifting from a legislative to a regulatory [process]" clearly establish that they are asking DORA to regulate it. While they don't name DORA, I don't know any other way to interpret this but as referring to DORA (who else has an "Advisory Board informed rulemaking process"?). The General Assembly doesn't have an "advisory board" and they don't regulate, they legislate, so who else could they be referring to?

In summary: I see the above statements as giving new power to DORA to regulate amounts for Personal Use cultivation and possession.

Note, I have heard supporters of 58 claim that 58 does not establish statutory limits for Personal Use. This is true, but as a stand alone statement, is grossly misleading. I've also heard them go on to say that the amount of medicine people can have is not limited. That is false given the dialog highlighted above. DORA is being asked to set limits. You may have to pull in your legal eagles to weigh in if they assert otherwise.

August 1, 2022

Colorado Legislative Council
987 State Street
Denver, Colorado

To the Legislative Council:

We are the co-Designated Representatives of the Natural Medicine Health Act of 2022 (Initiative 58), and we write today regarding your second draft analysis of the initiative for the Colorado State Ballot Information Booklet (the “Blue Book”) for the 2022 General Election.

First and foremost, we want to express our gratitude for the extensive work that went into this second draft. This draft more accurately reflects the intent of the measure and adds in critical language that better assists voters in “understanding the purpose and effect of the measure” as the Colorado Constitution requires. We’re keenly aware of the effort and time that must have taken, and we appreciate the seriousness with which the Legislative Council approached these revisions.

In the next round of revisions, we believe additional improvements are still needed to increase the clarity and comprehensibility of the analysis. In particular, we offer here recommendations that will better align the language of the analysis with that of the ballot question approved by the Title Board. We believe this alignment is key to voters gaining a fair, impartial, and easy-to-follow understanding of the measure’s intent and impact.

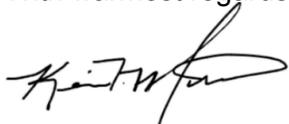
The four recommendations are summarized below, with more detail in the attached memo:

1. Align the order of the key elements in the initial summary, the “What Your Vote Means - Yes” section, and the “What does the measure do?” section with the order of those points as they appear in the ballot question language.
2. Align the order of information about local government authority in the initial summary with the ballot question language, such that authority to regulate time, place, and manner is outlined first, followed by the restriction on outright bans.
3. Replace “natural psychedelic substances” throughout with “natural medicine” or “natural psychedelic medicine,” for consistency with the title approved by the Colorado Title Board.
4. In the “Arguments For” section, include post-traumatic stress disorder and end-of-life anxiety as additional common mental health challenges for which these medicines can provide healing.

Finally, we remain committed to the comments and recommendations we raised in our previous submission that were not addressed and adopted in the second draft. We ask that you review and consider those items again as you develop the third draft. Our initial comments are [included again here](#) as an addendum for reference.

Thank you again for your work in service of Colorado’s voters. Please do not hesitate to contact us with additional questions throughout the Blue Book process.

With warmest regards,



Kevin Matthews

Veronica Perez

Analysis and Remedies

While the second draft of the ballot analysis marks a significant improvement in clarity and comprehensibility over the initial draft, there are two primary concerns that, if not addressed, will continue to interfere with voters' clear understanding of the purpose and effect of the measure.

1. Lack of Consistency with Approved Ballot Question Language

Colorado's Blue Book serves as a critical companion to the state's all-mail ballot. The genius of the combination is that Colorado voters can sit down with their ballot, read a ballot question, and then immediately refer to the Blue Book for more detailed information about the language and key elements of that question. In order to most effectively serve that process, the Blue Book analysis should reflect, as closely as possible, the key language and elements in the order in which they appear in the ballot question. On Page 5 of our prior comments, we showed one example of that formulation, represented by Proposition 114 (2020), as well as referencing the same pattern recurring in Propositions 115, 116, 117, and 118 in that year. Further analysis shows that ten of the eleven ballot questions that appeared on the 2020 ballot follow this formula of the Blue Book summary mirroring the ballot question order.

The importance of this consistency is not limited to ease of use by voters. It also reflects the emphasis and weighting of the major policy changes proposed in the measure, as determined by the Colorado Title Board. This independent body is charged with composing a ballot question that best represents the policy proposal, and that includes appropriately prioritizing the key elements of the proposal. As supported extensively in our prior comments (Page 4), the regulated access program is, by far, the most substantial policy change proposed by a measure. The Title Board came to that conclusion in their own assessment, leading them to lead the ballot question with a reference to "legal regulated access" and describe "establishing a natural medicine regulated access program for supervised care" before any other policy element.

The following updates will bring consistency between the Blue Book analysis and the approved ballot question language, improving the effectiveness of the analysis and aligning the analysis with the assessment of the initiative as determined by the Colorado Title Board. (Please see Section 1.5 for a redline summary of the recommended revisions.)

1.1 Re-order the bullets in the initial summary to match the order of key elements in the ballot question.

In the ballot question for the Natural Medicine Health Act, as approved by the Colorado Title Board, the order of key elements can be summarized as 1) Regulated Access Program, 2) Local Government Authority, and 3) Personal Possession Rules. However, in the Blue Book analysis initial summary, that order is scrambled, first addressing Personal Possession Rules, then providing two bullets on the Regulated Access Program, then addressing Local Government Authority.

This is unnecessarily confusing to a voter comparing the two documents. It can and should be

easily remedied by moving the Personal Possession Rules bullet below the two bullets addressing the Regulated Access Program.

1.2 Re-order the language in the “What Your Vote Means - Yes” and the “What does the measure do?” sections to match the order of key elements in the ballot question.

Similarly, these sections are unnecessarily confusing when compared to the ballot language, due to the ordering of the key elements.

In the “What Your Vote Means - Yes” section, this can be easily remedied by moving the clause beginning with “requires the state to establish a regulated system” to come **before** the clause beginning with “decriminalizes the possession and use.”

In the “What does the measure do?” section, this can be easily remedied by moving the “Licensed facilities” paragraph to come **before** the “Personal use” paragraph, as well as clarifying in the opening sentence of the section that use will be allowed within a regulated access program.

1.3 Re-order the information regarding local authority in the initial summary to match the ballot question.

The ballot question language addresses local authority with the clause, “granting a local government limited authority to regulate the time, place, and manner of providing natural medicine services,” but the bullet regarding local authority in the initial summary leads with prohibitions. This creates another confusing inconsistency.

This can be easily remedied by moving the clause, “allowing local governments to regulate the location and hours of operation of these facilities,” to come **before** the clause that begins with “prohibit local governments from banning.”

Note: Elsewhere in the Blue Book analysis (Page 3, Lines 15-18), the local authority provisions are described in the appropriate order, so remedying this in the initial summary will also bring the summary in line with the rest of the analysis.

1.4 Replace the term “Natural Psychedelic Substances” with “Natural Medicines” or “Natural Psychedelic Medicines.”

The ballot question language approved by the Colorado Title Board references “natural medicine” repeatedly and includes a clear definition of what that term encompasses. For the greatest clarity, the terminology used by state authorities - whether the Title Board or the Legislative Council - should be consistent.

This can be easily remedied by replacing the terms “natural psychedelic substances” and “psychedelic substances” throughout the initial summary with “natural medicines” or “natural psychedelic medicines.”

1.5 Redline Summary

Proposition ??: Access to Natural ~~Psychedelic Substances~~ Medicines

Proposition ? proposes amending Colorado statutes to:

- ~~decriminalize the personal possession, growing, sharing, and use, but not the sale, of five natural psychedelic substances by people aged 21 and over, including two types of psychedelic mushrooms — psilocybin and psilocin — and three plant-based psychedelic substances — dimethyltryptamine, ibogaine, and mescaline;~~
- by late 2024, allow the supervised use of psychedelic mushrooms by people aged 21 and over at licensed facilities and require the state to create a regulatory structure for the operation of these licensed facilities;
- allow the state to expand the types of **substances** natural medicines that may be used in licensed facilities to include the use of additional plant-based psychedelic **substances** medicines — dimethyltryptamine (DMT), ibogaine, or mescaline — starting in 2026;
- decriminalize the personal possession, growing, sharing, and use, but not the sale, of five natural psychedelic medicines by people aged 21 and over, including two types of psychedelic mushrooms — psilocybin and psilocin — and three plant-based psychedelic medicines — dimethyltryptamine, ibogaine, and mescaline;
- ~~prohibit local governments from banning licensed facilities, services, and use of natural psychedelic substances as permitted by the measure, while allowing~~ local governments to regulate the location and hours of operation of ~~these~~ licensed facilities, ~~while prohibiting~~ local governments from banning these facilities, services, and use of natural psychedelic medicines as permitted by the measure; and
- establish penalties for people under the age of 21 for possessing, using, or transporting natural psychedelic **substances** medicines and for people aged 21 and over who allow underage access to these **substances** medicines.

What Your Vote Means

A “yes” vote on Proposition ? ~~decriminalizes the possession and use of psychedelic mushrooms and certain plant-based psychedelic substances in Colorado law for people aged 21 and over, and~~ requires the state to establish a regulated system for accessing psychedelic mushrooms and, if approved by the regulating state agency, additional plant-based psychedelic **substances** medicines, and decriminalizes the possession and use of psychedelic mushrooms and certain plant-based psychedelic medicines in Colorado law for people aged 21 and over.

A “no” vote on Proposition ? means that the possession and use of psychedelic mushrooms and other natural psychedelic **substances** medicines will remain illegal under state law.

Summary and Analysis for Proposition ?

What does the measure do?

This measure allows people aged 21 and older to use five specific types of natural psychedelic **substances** medicines at licensed facilities within a regulated access program. Specifically, the measure covers two chemicals found in psychedelic mushrooms — psilocybin and psilocin — and three other plant-based psychedelic **substances** medicines — ibogaine, mescaline, and dimethyltryptamine, also known as DMT. Natural Ppsychedelic **substances** medicines can alter a person’s consciousness, mood, and awareness of their surroundings.

~~**Personal use.** Upon passage of the measure, psychedelic mushrooms and the other plant-based psychedelic substances will be decriminalized in state law, and people aged 21~~

~~and older will be able to grow, possess, share, and use them. Personal use does not allow for the sale of psychedelic mushrooms and other psychedelic substances.~~

Licensed facilities. *The measure requires the state to establish a regulated system for licensed facilities to offer supervised use of psychedelic mushrooms for people aged 21 and older, starting in 2024. Starting in 2026, the state may choose to expand the type of ~~substances~~ medicines that may be used at these facilities to include additional plant-based psychedelic ~~substances~~ medicines.*

Personal use. *Upon passage of the measure, psychedelic mushrooms and the other plant-based psychedelic medicines will be decriminalized in state law, and people aged 21 and older will be able to grow, possess, share, and use them. Personal use does not allow for the sale of psychedelic mushrooms and other psychedelic medicines.*

2. Incomplete Information in the “Arguments For” Section

The most important argument in favor of this initiative is that it creates safe, regulated access to natural medicines that can be effective in treating common, but bedeviling, mental health challenges. The “Arguments For” section currently references severe depression and anxiety, but we believe it is important for voters to know that people have also found transformative healing for other conditions, including post-traumatic stress disorder and the acute anxiety that accompanies a terminal or end-of-life diagnosis.

As we are the proponents of this initiative, and those conditions are a significant part of our arguments in favor of our work, we feel it’s important that they be included in this section of the Blue Book analysis.

This can be easily remedied by editing the first sentence of the “Arguments For” section as follows:

Arguments For Proposition ?

1) *The measure provides a valuable tool for meeting the mental health needs of Coloradans, including addressing post-traumatic stress disorder (PTSD), depression, anxiety, and the psychological challenges of an end-of-life diagnosis. Studies have shown that psychedelic mushrooms and other psychedelic ~~substances~~ medicines, combined with counseling, can provide effective treatment for severe depression and anxiety. The FDA has specifically found psychedelic mushrooms may offer substantial improvement in treating depression more successfully than existing therapies. Increasing access to psychedelic mushrooms and other natural psychedelic ~~substances~~ medicines may help people who are struggling to find effective mental health treatment.*

July 7, 2022

Colorado Legislative Council
987 State Street
Denver, Colorado

To the Legislative Council:

We are the co-Designated Representatives of the Natural Medicine Health Act of 2022 (Initiative 58), and we write today regarding your first draft analysis of the initiative for the Colorado State Ballot Information Booklet (the “Blue Book”) for the 2022 General Election.

The stated purpose of the Blue Book is to provide voters with “a fair and impartial analysis” and “information that would assist understanding the purpose and effect of the measure” for each initiative on the ballot (Colo. Const. art. V, §1(7.5)). Respectfully, the first draft of the ballot analysis of the Natural Medicine Health Act falls significantly short of that purpose.

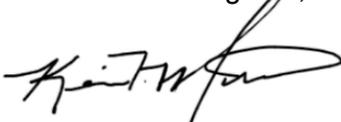
We appreciate the work that has gone into this draft, and recognize the challenge inherent in summarizing a policy for which there is not extensive precedent. We believe that substantial changes are needed to provide voters with accurate information that will fairly and impartially assist their understanding of the initiative.

The following package of memos addresses in detail the needed amendments. While we recognize we are including quite a bit of information, these documents are germane and illustrate our issues of concern with the initial draft. Our recommended changes are summarized in five main categories:

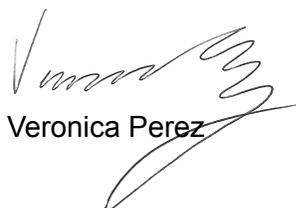
1. Replace the overly broad and potentially misleading term “hallucinogen” with the defined phrase “natural medicine,” as approved by the Colorado Title Board, or with “natural psychedelic medicine” throughout;
2. Accurately communicate the primary impact of the initiative by leading with and focusing the majority of the initiative summary on the regulated access program;
3. Clearly state that the initiative does not allow retail sales of the relevant medicines;
4. Correlate the summary explanation with the ballot question language by re-ordering the bullets to align in order with the key points of the ballot question; and
5. Communicate that local governments will retain time, place, and manner regulatory authority, and that any commercial distribution outside of licensed healing centers will remain prohibited statewide.

We hope these comments will assist your office in creating a final analysis that gives voters the accurate and understandable information they need to make decisions in November. Please do not hesitate to contact us with additional questions throughout the Blue Book process.

With warmest regards,



Kevin Matthews



Veronica Perez

Analysis

The first draft of the ballot analysis of the Natural Medicine Health Act falls short of a clear, understandable, and impartial explanation of the measure in four ways:

1. Inaccurate and prejudicial use of terminology
2. Inaccurate description of the primary intent and impact of the initiative
3. Lack of clear correlation between the ballot question and initiative language and the Blue Book analysis
4. Inaccurate description of the role of local government in the initiative

1. Inaccurate and Prejudicial Use of Terminology

The Blue Book analysis draft replaces the approved ballot title term “natural medicine” with the term “hallucinogenic substances” — a phrase that is inaccurate in its broadness, misleading and prejudicial to voters, and notably uncommon compared to other, more accurate terms. This interferes with the voters’ “understanding the purpose and effect of the measure.”

Our concerns are summarized below, but for more detail on this topic, please also see the [attached letter from Dr. Sarah Abedi](#) of the Pacific Neuroscience Institute (“the Abedi Letter”), discussing the generally accepted terminology for these medicines within the medical and research fields, as well as [Section I of the attached memo provided by legal counsel](#) with extensive experience in statutory language related to controlled substance policy (“the Legal Counsel Memo”).

1.1. Inaccurate

Using “hallucinogenic substances” to define the medicines covered by this initiative is overly broad to the point of inaccuracy. The technical term “hallucinogens” covers a very large class of substances, including many drugs that have no connection to the initiative’s topic - “dissociatives” such as PCP, “deliriant” such as Benadryl and Dramamine, and synthetic psychedelics such as LSD. The five plant-or-fungi-based substances covered by this measure are classified accurately and specifically as **naturally-occurring psychedelic medicines**. The Colorado Title Board drafted and approved “natural medicines” as fair, plain-language terminology.

1.2. Misleading and Prejudicial

The term “hallucinogenic” naturally conjures up the idea of hallucinations - wild, out-of-control, and terrifying delusions. That association will inevitably trigger a negative response from voters. And it is not an accurate description of the way most people experience these natural medicines, especially in the therapeutic setting that is the context of this initiative.

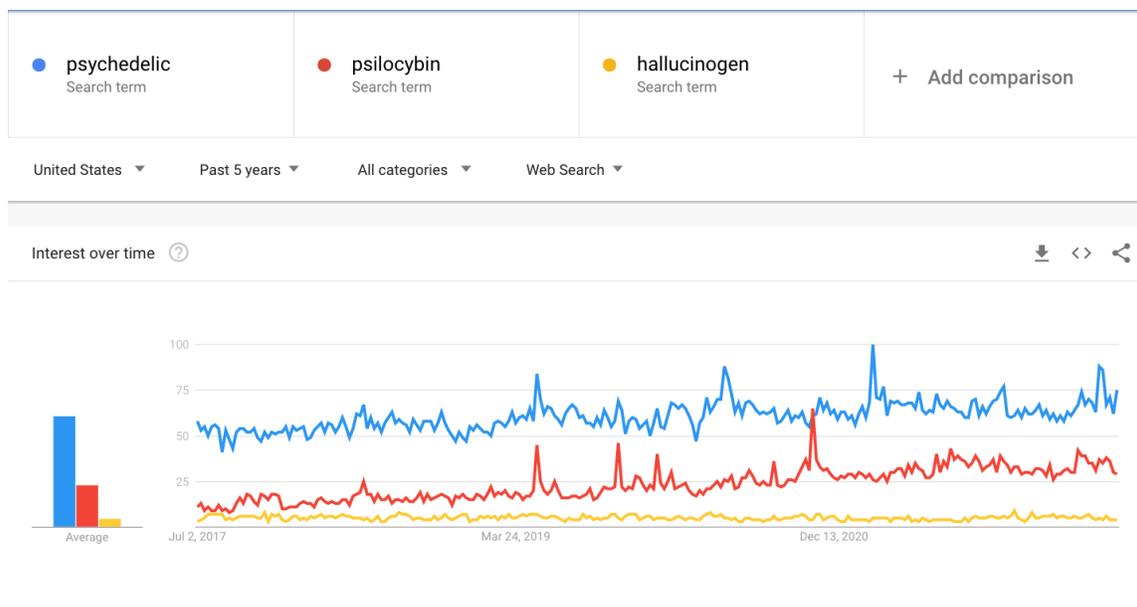
As Dr. Abedi points out in detail in her letter, researchers avoid the word “hallucinogenic” because it implies that the experiences people have in treatment will always involve hallucinations. This is not typically true. The research suggests that psychedelics belong to a more general class of compounds known as psychoplastogens, which enhance neural plasticity in critical circuits related to brain health.

The more accurate and generally accepted medical term to describe the substances included in Initiative 58 is “psychedelics”. The medical definition of a psychedelic substance is one that produces an altered state of awareness associated with an apparent expansion of consciousness. Indeed, in a double-blind study conducted by Johns Hopkins researchers in 2008, 67% of subjects given a therapeutic psilocybin dose reported 14 months later that it ranked as one of the five most spiritually significant experiences of their lives, and 64% indicated the experience increased their well-being or life satisfaction. These results describe a therapeutic experience, not one aligned with the intensely negative implication attached to the term “hallucinogenic.”

Furthermore, use of the term “hallucinogen” is not consistent with the Blue Book analysis for other drug-policy-related initiatives from previous cycles. [Analysis regarding cannabis in 2012](#) uses the common-language term “marijuana,” and the [Denver Voter Information Guide analysis](#) regarding decriminalization of psilocybin in 2019 uses the term “psilocybin mushrooms.”

1.3. Notably Uncommon Jargon

The goal of the Blue Book is to present the initiative in language a layperson can understand. But “hallucinogen” and “hallucinogenic substances” are notably obsolete, overly-broad jargon, uncommon in comparison to more accurate, specific, and generally known terms. As an example, a [comparison of Google search trends](#) in the last five years shows that users have searched for the term “psychedelic” (blue in the image below) more than **twelve** times as often as the term “hallucinogen” (in yellow). Even the specific term “psilocybin” (in red) is searched for more than four times as often as “hallucinogen.”



A review of news media drives home the same point. A search on [Newspaper Source Plus](#), a common media database that includes millions of full-text news articles, as well as radio and television transcripts, shows that media stories over the last five years have used the term “psychedelic” over “hallucinogen” at a 4:1 ratio. Even more striking, when the search is limited to headlines or titles - the part of a story designed to be **most** understandable to a layperson - “psychedelic” appears over “hallucinogen” at a **22:1 ratio**.

2. Inaccurate Description of Primary Intent and Impact

The primary intent of Initiative 58, as clearly stated in the ballot title language written and approved by the Colorado Title Board, is to establish a “natural medicine regulated access program for supervised care,” for plant- and fungi-based medicines and to require “the department of regulatory agencies to implement the program and comprehensively regulate natural medicine to protect public health and safety.” The initiative also clearly prohibits the sale of any of these medicines outside the regulated therapeutic program or for recreational purposes and does not allow for the creation of retail stores. A legally sufficient Blue Book analysis should begin with and focus upon this actual primary intent. Otherwise it is misleading to voters.

For more on the primary intent of the initiative, please see [Section 1 of the attached memo from Tamar Todd](#), Legal Director at New Approach PAC and primary drafter of Initiative 58’s language (“the Todd Memo”). As she notes, “The primary intent of the proposition is to direct the Department of Regulatory Agencies to license and comprehensively regulate the provision of natural medicines, as defined by the initiative, to persons 21 and older, under the supervision of trained facilitators at licensed and regulated facilities. This is the biggest change to state law created by the proposition.”

In precedent, and for practical reasons, the Blue Book analysis historically leads with the most substantial policy change proposed by a measure. For example, the [Blue Book summary of Amendment 64 in 2012](#), which created a regulated adult-use retail program for cannabis, led with the significant regulatory structure being developed by the measure to manage the change in access to cannabis products. In comparison to the broad access to cannabis that Amendment 64 created, Initiative 58’s proposed access to natural medicines is narrow and limited — it does not allow retail sales of natural medicines — while the regulatory system needed to oversee the therapeutic program is just as significant. With that comparison in mind, the Amendment 64 example provides a template that should be replicated here.

However, the initial draft of the Blue Book analysis departs substantially from leading with the most significant policy change, instead focusing first and foremost on the removal of criminal penalties for personal possession and use of the relevant medicines, a comparatively minor change to Colorado policy. As explained in [Section II of the Legal Counsel Memo](#), “the practical effect of the decriminalization of natural medicines for personal use is minimal compared to the substantial regulatory access program being proposed. One way to conceptualize the impact of the decriminalization provision is to look at the current number of arrests for these substances. The most popular of these substances, psilocybin, for example, accounted for less than 1% of drug felonies and misdemeanors in Denver. Highlighting the decriminalization portion of the measure throughout the analysis while ignoring the creation of a robust regulatory regime and the creation of a new licensed profession in Colorado is not a fair and impartial summary and does not reflect the true intent and meaning of the Initiative.”

The analysis also inaccurately describes the initiative as “allowing” personal use, rather than the correct description of “removing criminal penalties” subject to key limitations. For more on this concern, please see [Section 2 of the Todd Memo](#).

3. Lack of Clear Correlation to Initiative Language

The goal of the Blue Book is to allow a voter to read the ballot title that has been written and approved by the Colorado Title Board, then refer to an impartial analysis that summarizes the key points of the ballot title in language a layperson can easily understand. For a voter to easily understand the ballot title, the summary should clearly track the primary points of the title, in the order in which they appear. This makes it simple for the voter to move back and forth between the title language they are voting on and the layperson explanation. The current draft Blue Book analysis is insufficient insofar as it significantly departs from the ordering of the approved ballot question, leading to confusion for voters.

Below is an example of a correlated Blue Book Analysis from 2020. The highlighted portions clearly correspond to one another in an order that is simple for a voter to understand and track, in keeping with the Blue Book's purpose.

| | |
|--|---|
| <p>Proposition 114 (2020) Ballot Title: Gray Wolf Reintroduction Initiative</p> <p>Shall there be a change to the Colorado Revised Statutes concerning the restoration of gray wolves through their reintroduction on designated lands in Colorado located west of the continental divide, and, in connection therewith, requiring the Colorado parks and wildlife commission, after holding statewide hearings and using scientific data, to implement a plan to restore and manage gray wolves; prohibiting the commission from imposing any land, water, or resource use restrictions on private landowners to further the plan; and requiring the commission to fairly compensate owners for losses of livestock caused by gray wolves?</p> | <p>Blue Book Analysis: Reintroduction and Management of Gray Wolves</p> <p>Proposition 114 proposes amending the Colorado statutes to require the state to:</p> <ul style="list-style-type: none"> develop a plan to reintroduce and manage gray wolves in Colorado; take necessary steps to begin reintroduction by December 31, 2023; and pay fair compensation for livestock losses caused by gray wolves. |
|--|---|

This pattern of correlation is repeated with Propositions 115, 116, 117, and 118 (2020) and their relevant Blue Book analyses.

By contrast, the draft analysis of Initiative 58 substantially re-orders the key points of the initiative and reinterprets them in ways that are both confusing to the voter and misleading about the initiative's intent. Below, the key points of the ballot title are highlighted, but the Blue Book analysis does not correspond to these points in order or in anything like a plain-language explanation. Indeed, the analysis is nearly as long and technical as the title language itself.

Initiative 58 Ballot Title: Natural Medicine Health Act

Shall there be a change to the Colorado Revised Statutes concerning legal regulated access to natural medicine for persons 21 years of age or older, and, in connection therewith, defining natural medicine as certain plants or fungi that affect a person's mental health and are controlled substances under state law; establishing a natural medicine regulated access program for supervised care, and requiring the department of regulatory agencies to implement the program and comprehensively regulate natural medicine to protect public health and safety; creating an advisory board to advise the department as to the implementation of the program; granting a local government limited authority to regulate the time, place, and manner of providing natural medicine services; allowing limited personal possession, use, and uncompensated sharing of natural medicine; providing specified protections under state law, including criminal and civil immunity, for authorized providers and users of natural medicine; and, in limited circumstances, allowing the retroactive removal and reduction of criminal penalties related to the possession, use, and sale of natural medicine?

Blue Book Analysis: Access to Hallucinogenic Substances

Proposition ? proposes amending Colorado statutes to:

- allow persons aged 21 and over to cultivate, share, and use hallucinogenic mushrooms (psilocybin and psilocin) and other hallucinogenic substances derived from plants (dimethyltryptamine, ibogaine, and mescaline) for personal use;
- by late 2024, allow the supervised use of hallucinogenic mushrooms by persons aged 21 and over at designated facilities and:
 - require the state to create a regulatory structure for the operation of these designated facilities; and
 - allow the state to expand the substances that may be used at designated facilities to include dimethyltryptamine, ibogaine, or mescaline;
- prohibit local governments from banning the distribution and use of hallucinogenic mushrooms or other substances, or the operation of designated facilities for the supervised use of hallucinogens, in their areas; and
- establish penalties for individuals under the age of 21 for possessing, using, or transporting hallucinogenic mushrooms or other approved hallucinogenic substances or for individuals aged 21 and over for not securing these substances.

4. Inaccurate Description of the Role of Local Government

The analysis inaccurately describes, and then places undue emphasis upon, a secondary element of the initiative concerning the role of local governments. An accurate description would note that the measure grants local governments the power to levy time, place, and manner restrictions on healing center activity. Instead, the current Blue Book draft inaccurately states that localities lack the power to ban sale of medicines within their jurisdictions (in fact, sale of these medicines would remain illegal in every jurisdiction), while simultaneously omitting reference to localities' power to set time, place, and manner restrictions. For more detail on this problem, please reference [Section III of the Legal Counsel Memo](#) and [Section 3 of the Todd Memo](#).

Remedies

1. General Amendments

The following remedies outline changes to broad organizational structures, descriptions, and terminology contained in the Blue Book draft. These changes are needed to ensure accuracy, impartiality, and voter comprehension.

1.1. Replace all instances of “hallucinogen” and “hallucinogenic” with more accurate terminology.

With the goal of providing “a fair and impartial analysis” and “information that will help voters understand” the initiative, the language of the Blue Book should reflect the language decided upon and approved for the ballot by the Colorado Title Board - namely “natural medicine,” clearly defined in the ballot title as “certain plants or fungi that affect a person’s mental health and are controlled substances under state law.”

However, if it is the opinion of the Legislative Council that the term “natural medicine” is not specific enough to meet the statutory requirements for the ballot summary, it must be noted that neither is the term “hallucinogenic.” To strike the appropriate balance, we would then recommend the use of “natural psychedelic medicines” or “natural psychedelics,” which are much more accurate, specific, impartial, and commonly understood terms.

“Natural psychedelic medicine” is an appropriate descriptor for three reasons. First, the initiative is limited to “plants or fungi” that contain these substances and does not permit synthetic substances, which makes “natural” an appropriate and specific descriptor. Second, “psychedelic” is both the specific and accurate subclass of the substances relevant to the initiative *and* the much more commonly used term by the layperson. Third, all the substances that are the subject of the initiative have historically been used as medicine.¹ For more detail on this medicinal history, please reference [Section IV of the Legal Counsel Memo](#). The historical medicinal use is a key differentiator between the relevant medicines and other substances classified as hallucinogens in the Controlled Substances Act.

By taking this approach, the Council ensures that voters understand that the policy change is limited to only the specific naturally-occurring substances defined in the initiative and avoids using trigger words that do not contribute to the voters’ understanding of the initiative.

1.2. Accurately communicate the primary impact of the initiative by leading and focusing the majority of the initiative summary on the regulated access program.

The current summary language creates voter confusion by omitting key components of the initiative while elevating minor elements in ways that can lead to misunderstanding of the intent of the measure. We recommend the Council revise the first draft of the initiative summary to

¹ See Soren Ventegodt & Pavlina Kordova, *Contemporary Strategies in Peru for Medical Use of the Hallucinogenic Tea Ayahuasca Containing DMT: In Search of the Optimal Strategy for the Use of Medical Hallucinogens*, JOURNAL OF ALTERNATIVE MEDICINE RESEARCH, Vol. 8, Iss. 4, Hauppauge (2016) (describing historical medical uses of DMT-containing ayahuasca tea) [hereinafter Ventegodt]; Brian E. McGeeney, *Cannabinoids and Hallucinogens for Headache*, HEADACHE: THE JOURNAL OF HEAD AND FACE PAIN, Vol. 53, Iss. 3, 447-458 (Dec. 20, 2012), <https://doi-org.du.idm.oclc.org/10.1111/head.12025> (describing the use of psilocybin and DMT in treating cluster headaches); Malin Veoy Uthaug et al., *The Epidemiology of Mescaline Use: Pattern of Use, Motivations for Consumption, and Perceived Consequences, Benefits, and Acute and Enduring Subjective Effects*, JOURNAL OF PSYCHOPHARMACOLOGY, British Association of Psychopharmacology (May 2021) (describing the historical use of mescaline to treat chronic anxiety, alcoholism and obsessive compulsive disorder) [hereinafter Veoy Uthaug]; Kenneth R. Alper et al., *The Ibogaine Medical Subculture*, JOURNAL OF ETHNOPHARMACOLOGY, Vol. 115, Iss. 1 (Jan. 2008) (describing the historical use of ibogaine as treatment for substance-related disorders) [hereinafter Alper].

reflect its “true intent and meaning” (as required by the Colorado Supreme Court²) – to provide Coloradans regulated and supervised access to these natural medicines at licensed healing centers under the supervision of licensed facilitators. This can be done by summarizing the regulated natural medicine access program first. This summary should include key components of the program:

- Specific requirements for training programs and licensing for facilitators
- Specific requirements for the licensing of healing centers for on-site use
- A four-year rule-making process to set guidelines and rules for the program that “protect health and safety”
- A governor-appointed advisory board of experts to guide rule-making

Correspondingly, the removal of criminal penalties for personal possession and use and the provision regarding local government should be de-emphasized in keeping with their secondary policy impact. Regarding the criminal penalties, as demonstrated above, the change in status will have a very small impact on current enforcement actions in the state. Regarding the local government provision, it is typically true that local governments can regulate time, place and manner but cannot opt out of statutory laws of statewide concern altogether, and voters would not expect Initiative 58 to be an exception.

By implementing these recommendations, the Council ensures that their summary reflects the true impact of the initiative, and provides voters the necessary information to make an informed decision when casting their vote.

1.3. Clearly state that the initiative does not allow retail sales of the relevant medicines.

Critical to the understanding of this initiative’s impact is the fact that it maintains the current prohibition on any commercial or retail sales of the relevant medicines.

1.4. Re-order the summary bullets to match the order of the ballot question language.

Re-ordering the summary creates correlation between the ballot question language and the summary, making it significantly easier for voters to understand the measure.

1.5. Communicate that local governments will retain time, place, and manner authority, and that sales and distribution outside of licensed healing centers will remain prohibited statewide.

To the extent that the summary continues to reference local government authority, we recommend the Council revise the wording pertaining to this aspect of the initiative to make it accurate. The language should state what local governments *can* do: regulate time, place and manner of licensed healing centers and continue to ban the sale of natural medicines. And if the summary also retains the language about what local governments *cannot* do, then the Council should replace “distribution and use” with “authorized on-site use at licensed healing centers.” The word “distribution” in this context is particularly misleading and should be corrected.

With these revisions, the Council ensures that both voters and local governments accurately understand the authority granted by the initiative.

² *In re Proposed Initiative Concerning a Tobacco Tax*, 830 P.2d 984, 991 (Colo. 1992).

2. Sectional Amendments

The following remedies outline changes to wording and conceptual elements within specific sections of the draft. Again, these changes are needed to ensure accuracy, impartiality, and voter comprehension.

2.1. What Your Vote Means

The “Yes” vote section should be amended to reflect the updated summary, focused on the regulated and supervised access program primarily, and should include that the measure only applies to adults 21 and older.

The “No” vote section should be amended to reflect that a “no” vote will reject the creation of a regulated and supervised access program for adults 21 and older.

2.2. What does the measure do?

As drafted, the proposed answer to this question implies that Initiative 58 gives Coloradans access to natural medicines without restriction. The opening sentence is inaccurate because it fails to make clear that access is limited, restricted to licensed healing centers or to personal possession. At the very least, the language should include that the proposition provides “*limited* access and use” or “access and use under *limited circumstances*.”

The answer also overemphasizes the decriminalization of natural medicines and underemphasizes the regulatory system created by Initiative 58.

“Designated facilities” is not an accurate description of the *comprehensive regulated access program* created and overseen by a state agency under the guidance of a 15- person expert advisory body. There is no mention of the training and licensure of facilitators, which creates a new licensed profession in the state; the strict oversight of licensed healing centers; or the many regulations required to protect health and safety.

The “personal use” section does not include any of the limitations or associated penalties, creating the inaccurate impression that the proposition allows for more than it does.

To aid in voter understanding, the answer to this question should mirror the content and emphasis of the ballot question written and approved by the title board.

2.3. What are the hallucinogenic substances allowed by the measure?

As drafted, the proposed answer does not answer the proposed question. Indeed, the question itself implies changes in the law not considered by the initiative. The initiative affects certain substances and creates a regulatory program for therapy with certain substances, and even removes criminal penalties for the personal possession and use of the substances, but it does not “allow” them.

An impartial question would be “What are the substances affected by the measure?”

The current proposed answer also includes an overly simplistic description of the experience some people have during natural medicine therapy. Leaving aside the inaccuracy of the

description, there is simply not precedent for the Blue Book analysis to attempt to describe the effects of the relevant substances, nor does that description answer the question posed.

A more accurate answer to this question is embedded in the draft. Slightly amending the second sentence of the answer in the draft could provide voters with the clarity they need:

The measure impacts a number of natural medicines, a subset of certain psychedelic substances. Specifically, the measure affects psilocybin, psilocin, ibogaine, mescaline, and DMT, which are derived from mushrooms or plants. Peyote, a type of cactus, is not a permitted source of mescaline under the measure. Peyote is used by certain Native American tribes for ceremonial purposes and federal law allows this type of use for tribal members.

This answer would also remove the ambiguity created by the phrase, “The measure allows the use of several types of hallucinogenic substances, including...” which could be interpreted to mean that there are additional substances other than the specific ones listed after the word “including.”

2.4. How are these substances currently treated under state and federal law?

We recommend that the answer to this question include the existing state criminal penalties for these substances:

- Possession of up to 4 grams of a controlled substance is a misdemeanor under Colorado law, punishable by 6-18 months in jail and up to \$5,000 in fines.
- Possession of more than 4 grams of a controlled substance is a class 4 drug felony under Colorado law, punishable by up to one year in prison and \$100,000 in fines.

2.5. Do these substances have medical uses?

Again, the answer does not address the posed question but instead focuses on the single category of FDA status. Many remedies currently available to all Coloradans are used for medical or therapeutic treatment and do not have FDA approval, especially in mental health. While the Council correctly acknowledges the FDA’s designation of psilocybin mushrooms as a Breakthrough Therapy for treating depression, it omits all references to the extensive historical medical use and ongoing medical studies of the initiative’s substances beyond psilocybin. By limiting the answer here to focus on FDA status, the answer misleads the voter into believing that there are no medical uses for natural medicines.

All of the natural medicines proposed by the initiative are used for mental health treatment. Many of them, including psilocybin, ayahuasca³, ibogaine⁴, and mescaline⁵ have been the subject of clinical or medical trials for conditions including depression and addiction. For a more detailed summary of medical uses of the initiative’s substances, please see [Section IV of the Legal Counsel Memo](#).

³ <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6378413/>

⁴ <https://www.iceers.org/first-ever-clinical-trial-with-ibogaine-for-opioid-dependency/>

⁵ <https://clinicaltrials.gov/ct2/show/NCT04849013>

To ensure that Coloradans are given the opportunity to consider a “fair and impartial analysis” of the Initiative prior to casting their vote, we recommend the Council revise this answer to provide voters a basic understanding of the historical use of these natural psychedelic medicines, the potential benefits, and the relevant aspects of current medical studies discussed above.

2.6. What restrictions does the measure place on the use of hallucinogenic substances?

The answer should include that the measure prohibits the retail sale of natural medicines or the creation of dispensaries.

2.7. How will these substances be regulated?

This section should include several additional details about the regulatory program for voters to get an accurate understanding of what it entails:

- The regulatory program includes the training and licensing of facilitators to supervise use.
- Access is limited to persons 21 and older.
- The local government paragraph should state that localities may not ban or prohibit personal use *to the extent that it is permitted by state law*.

2.8. Arguments Against Proposition

In the “Arguments Against Proposition” section, the second argument states that the measure allows personal use of natural medicines “without any guardrails.” This is inaccurate. The measure includes a number of guardrails regarding personal use, including:

- a prohibition on sales of natural medicines,
- a prohibition against driving under the influence of natural medicines,
- a prohibition against use in a school or other public building,
- a prohibition on underage access; and more.

The argument should be revised to reflect these guardrails.

Addenda

Addendum 1 - Letter from Dr. Sarah Abedi

Dr. Sarah Abedi
Treatment and Research in Psychedelics
Pacific Neuroscience Institute
2125 Arizona Ave.
Santa Monica, CA 90404

July 5, 2022

Colorado Legislative Council
987 State Street
Denver, Colorado

To the Legislative Council:

I am a physician and clinical researcher of psychedelic medicine. I have participated in the Phase 2 FDA clinical trial for psilocybin as a treatment for depression and as a researcher at the Veterans Affairs (VA) Psychedelic Research and Education Center.

I write to you today in regards to your first draft description of Initiative 58 for the 2022 election. The draft language contains a number of inaccurate descriptions of psychedelic therapies that could confuse voters and unfairly bias voters against the initiative in question.

Most importantly, the draft description uses the word “hallucinogenic” to describe the substances included in the measure. That term is inaccurate in this context and does not authentically portray the vast therapeutic experience that people encounter, especially when it comes to psychedelic treatments.

The medical definition of “hallucination” is a perception in the absence of an external stimuli. Although psychedelics can produce hallucinogenic perceptions, there are many other medical causes of hallucinations, including delirium tremens, certain forms of dementia, drug-induced hallucinations, and hypnagogic hallucinations, to name a few. In that respect, “hallucinogenic substances” is too broad a term to accurately describe the therapeutic properties of psychedelics.

In our research, we avoid the word “hallucinogenic” because it implies that the experiences people have in treatment will always create hallucinations. This is not typically true. The research suggests that psychedelics belong to a more general class of compounds known as psychoplastogens, which enhance neural plasticity in critical circuits related to brain health.

The more accurate and generally accepted medical term to describe the substances included in Initiative 58 is “psychedelics”. The medical definition of a psychedelic substance is one that produces an altered state of awareness associated with an apparent expansion of consciousness. The term “psychedelic” is derived from the Greek words that roughly translate to “mind-manifesting”.

Research studies that include these substances most commonly refer to them as psychedelics. You can see that reflected in the Johns Hopkins study looking at the effects of psilocybin on major depressive disorder, as well as the landmark phase 3 FDA study looking at the effects of MDMA-assisted therapy for severe PTSD.

“Psychedelics” is the preferred term because these drugs do not require hallucination to be effective in their treatment and hallucination is not a persistent effect of the treatment. Often, these drugs alter the mind and expand a patient’s consciousness without causing a false sense of reality — a core tenet of hallucinogens and hallucination. For Initiative 58, an even more precise description of the substances affected would be “naturally-occurring psychedelics” because all of the substances under consideration here are plant- or fungi-based.

I submit that voters will be better served by the Blue Book description if the phrase “naturally-occurring psychedelic” replaces “hallucinogen” throughout your summary.

Sincerely,

Sarah Abedi, MD

A handwritten signature in cursive script, appearing to read "Sarah Abedi".

Treatment and Research in Psychedelics, Pacific Neuroscience Institute
Veterans Affairs Psychedelic Research and Education Center, West Los Angeles VA

Addendum 2 - Memo from Josh Kaplan and Sean McAllister, Legal Counsel

July 6, 2022

Colorado Legislative Council
987 State Street
Denver, Colorado

Re: Initial Comments on Draft Blue Book Language Regarding Initiative 58

Dear Legislative Council,

This letter is submitted on behalf of two of the legal advisors for Initiative 58 (“the Initiative”), in response to the Legislative Council’s (“the Council”) first draft of the Blue Book ballot analysis for the Initiative. While acknowledging the Council’s diligent and commendable efforts in drafting the first version of the Blue Book ballot analysis for the Initiative, the first draft fails to relay to voters a “fair and impartial analysis” of the proposed Natural Medicine Health Act of 2022 as required by the Colorado Constitution.⁶

As explained in more detail below, the main faults in this first analysis are (I) the use of inaccurate and overly broad terminology by labeling natural medicines as hallucinogens, which is also inconsistent with past ballot initiatives on related matters; (II) downplaying the primary focus of the Initiative – safe access for all adults to natural medicine at a licensed healing center under the supervision of a licensed facilitator; (III) an inaccurate summary of local government authority under the measure; and (IV) cultural and medical uses of natural medicines other than psilocybin are not discussed.

By way of background, Mr. Kappel was part of the drafting committee for this Initiative and is intimately familiar with the purpose and intent of the measure. Mr. Kappel was also one of the drafters of Amendment 64 (2012), which legalized cannabis for adult use in Colorado. Mr. Kappel’s day-to-day work includes representing cannabis companies in Colorado under the Marijuana Code.

Similarly, Mr. McAllister is a lawyer who has worked in Colorado on drug policy reform for nearly 25 years, including work on committees of the Colorado Commission for Criminal and Juvenile Justice. Mr. McAllister was a legal advisor to the campaign that decriminalized psilocybin mushrooms in Denver in 2019. He was part of the drafting committee for this Initiative and serves on the Steering Committee of the campaign to pass the Initiative. As such, he is intimately familiar with the purpose and intent of Initiative 58. In addition, Mr. McAllister was one of the drafters of Amendment 64, and like Mr. Kappel he represents cannabis companies under the Colorado Marijuana Code. Finally, Mr. McAllister represents several religious organizations that use natural medicines as sacraments and is involved in ongoing litigation around the legal use of natural medicines under state and federal law for religious organizations.

I. The term “Hallucinogenic” is an overbroad descriptor of the substances being regulated under Initiative 58 and may trigger misleading or negative responses from average voters.

The Colorado Supreme Court has stated that the summary of any initiative should not mislead voters “into support ‘for or against a proposition by reason of the words employed.’”⁷ The use of “hallucinogenic” to identify the five natural medicines (psilocybin, psilocyn, mescaline, DMT, and

⁶ COLO. CONST. ART. V, § 1 cl. 7.5(a)(II).

⁷ *In re Proposed Initiated Constitutional Amendment Concerning Limited Gaming in the Town of Burlington*, 830 P.2d 1023, 1026 (Colo. 1992) (quoting *Dye v. Baker*, 354 P.2d 498, 500 (Colo. 1960)).

ibogaine) covered by the Initiative is not only overly broad, but confusingly encompasses a considerable number of substances that the Initiative does not, and is not intended to, address.

The Colorado Controlled Substance Act (“CSA”) lists 27 controlled substances as “hallucinogenic substances,” including the five natural medicines that are the subject of the Initiative.⁸ What is troubling is that the CSA’s definition of hallucinogenic substances includes other drugs such as LSD, PCP, and Tetrahydrocannabinols.⁹ The CSA’s definition also includes the synthetic versions of the five natural medicines that are the subject of the Initiative. Additionally, in providing the public a “Drug Fact Sheet” on hallucinogens, the Drug Enforcement Administration states that “[h]allucinogens come in a variety of forms,” including synthetic MDMA, commonly known as ecstasy.¹⁰

Using “hallucinogenic” as the main descriptor to refer to the five natural medicines in the Initiative fails to accurately inform voters of what the Initiative encompasses because the term is overbroad. Additionally, the phrase will bias voters against the Initiative because they will not know what substances are the target of the Initiative due to the broad types of dangerous and synthetic drugs classified with the term “hallucinogenic.” This uncertainty is further emphasized by the initial draft of the analysis not addressing the Initiative’s limitation to provide regulated access to only *natural* medicines, not unlimited access to these substances in any form they may take.

Next, we note the use of the term “hallucinogen” is not consistent with the Blue Book analysis regarding cannabis in 2012, the state of Oregon description of the psilocybin ballot initiative in that state in 2020, nor the City of Denver Blue Book analysis of decriminalizing psilocybin in 2019. The cannabis initiative Amendment 64 legalized or decriminalized all parts of the plant, including the tetrahydrocannabinol (“THC”) which is listed as a hallucinogen under state criminal laws.¹¹ Despite containing a compound listed as a hallucinogen under state law, the Blue Book for Amendment 64 did not discuss the effects of cannabis on the brain and did not contain any discussion of its hallucinogenic properties.¹² Similarly, Amendment 64 legalized industrial hemp, containing THC, but did not refer to hemp as “hallucinogenic.” Instead, the Blue Book spoke in terms that voters could easily understand and just used the common names of the substances themselves. Finally, the Colorado Marijuana Enforcement Division’s definition of cannabis does not include any reference to its potential psychoactive effects and merely says cannabis contains cannabinoids which have the “chemical compounds that are the active principals of marijuana.”¹³

Next, the state of Oregon’s voter explanation of Measure 109 creating a regulated access program for psilocybin never used the term “hallucinogen.”¹⁴ Additionally, United Nations treaties do not refer to these substances as “hallucinogens.”¹⁵ Finally, the decriminalization of psilocybin in 2019 in Denver did not use the term “hallucinogen” to discuss the substance. Each of these other examples strongly intimates in favor of using a word other than “hallucinogen.”

⁸ CO ST § 18-18-203 (2022)

⁹ *Id.*

¹⁰ “Drug Fact Sheet – Hallucinogens,” DRUG ENFORCEMENT ADMINISTRATION, DOJ (Apr. 2020); *see also* Davis Wade, *Hallucinogenic Plants and Their Use in Traditional Societies – An Overview*, Cultural Survival Quarterly Magazine (Dec. 1985) (stating that 120 hallucinogenic plants and fungi have been discovered worldwide).

¹¹ *See* C.R.S. § 18-18-203.

¹² *See* Amendment 64 Blue Book, at https://leg.colorado.gov/sites/default/files/2012_english_blue_book_internet_version.pdf

¹³ *See* Colorado Marijuana Enforcement Division Rule, 1 CCR 212-3, MED Rule 1-115.

¹⁴ *See* Oregon Voter Pamphlet for Measure 109, at <https://sos.oregon.gov/admin/Documents/irr/2020/034cvt.pdf>

¹⁵ *See* UN Treaty on Psychotropic Substances, at https://www.unodc.org/pdf/convention_1971_en.pdf

II. Deemphasizing the “Regulated Natural Medicine Access Program” leads to an inaccurate and biased analysis and misses the intent and meaning of the Initiative

The first draft of the ballot analysis misconstrues the Initiative’s primary intent, implying it to be about the personal use of natural medicines. The actual primary intent of the Initiative is to provide safe, regulated, and supervised use of natural medicines. The Colorado Supreme Court states that an initiative’s summary must represent “the true intent and meaning of the proposed initiative.”¹⁶

The Initiative’s text and primary focus is to provide Coloradoans with *regulated access* to natural medicines. This is evident by the Initiative’s “Regulated Natural Medicine Access Program,” which provides numerous guidelines for the implementation of the proposed regulatory structure, including specific requirements for the licensing of healing centers for on-site use, preparation and integration sessions, programs for equitable access, testing requirements, the development of training and licensing for facilitators, and other requirements. The Initiative’s requirement for the Department of Regulatory Agencies (“DORA”) to develop tiered training requirements for licensing natural medicine facilitators, who will supervise the use of natural medicine, is also a key component of the Initiative and the regulatory regime. Licensing and training natural medicine facilitators will require substantial public input and a lengthy regulatory process. The creation of this new professional licensing program in Colorado will not only create a new profession (and all the corresponding jobs) in Colorado but will also set the standard for natural psychedelic therapy across the country. The first draft of the Blue Book summary only mentions facilitators once in the context of the fiscal analysis of raising revenue. Creating a new licensed profession in Colorado deserves at least a detailed description in the summary.

Additionally, the initial draft refers to licensed healing centers as “designated facilities.” This term is not technically incorrect because the initial draft subsequently states that designated facilities will “pay a licensing fee.” However, the use of “designated facilities” does not inform the layperson voter that these facilities are required to be licensed by the DORA. It also ignores the fact that these licensed facilities will be overseen by DORA and that DORA can revoke or suspend their license. Finally, there is no mention of the requirements that licensed healing centers must meet regarding certain environmental, social and governance standards, in order to obtain a license. By using the term “designated facilities” the summary implies that there is a non-existent regulatory regime as opposed to a very strict licensing regime with a gating mechanism around what entities are even permitted to apply.

The practical effect of the decriminalization of the natural medicines for personal use is minimal compared to the substantial regulatory access program being proposed. One way to conceptualize the impact of the decriminalization provision is to look at the current number of arrests for these substances. The most popular of these substances, psilocybin, for example, accounted for less than 1% of drug felonies and misdemeanors in Denver.¹⁷ Highlighting the decriminalization portion of the measure throughout the analysis while ignoring the creation of a robust regulatory regime and the creation of a new licensed profession in Colorado is not a fair and impartial summary and does not reflect the true intent and meaning of the Initiative.

The main intent and purpose of the Initiative is to provide adults over the age of twenty-one with regulated and supervised access to natural medicines at licensed healing centers by licensed facilitators. The incidental decriminalization of these substances for personal use is a distant second to the main purpose of the Initiative.

¹⁶ *In re Proposed Initiative Concerning a Tobacco Tax*, 830 P.2d 984, 991 (Colo. 1992).

¹⁷ Hannah Metzger, *Denver Panel Reports No Issues Since Decriminalization of Psilocybin Mushrooms*, THE DENVER GAZETTE (Nov. 9, 2021), https://denvergazette.com/news/crime/denver-panel-reports-no-issues-since-decriminalization-of-psilocybin-mushrooms/article_bc0acd76-41b6-11ec-a67f-330bffb87af2.html.

III. Inaccuracy of Local Government Authority

The initial summary on the first page implicitly mischaracterizes local government’s ability to regulate healing centers by hyper-focusing only on their inability to ban licensed healing centers. Local governments can clearly regulate time, place and manner of licensed healing centers in their jurisdiction under the Initiative. This means that local governments can regulate zoning, including requiring public hearings, issue and revoke licenses, and regulate the operations of licensed healing centers, including setting operating hours. By failing to mention the authority of local governments to regulate these licensed establishments on the initial summary, the voting public will likely believe that local governments have no regulatory authority over these licensed healing centers.

Additionally, the first page summary inaccurately states the Initiative “prohibit[s] local governments from banning the *distribution* and use.” The use of the word “distribution,” in relaying the Initiative’s restrictions on local government, is inaccurate. The retail sale of natural medicines is already prohibited under the Initiative for licensed healing centers and individuals. Local governments will still have the ability to ban the sale of these natural medicines in either scenario (except for on-site use at a healing center) because sales, which is a form of distribution, is not protected by the Initiative. Again, the hyper-focus on what local governments cannot do will mislead voters into believing that the retail sale of natural medicines is permitted by the initiative and cannot be controlled by local governments.

Although the ability of local governments to regulate these businesses is a valid issue, it does not rise to the level of needing to be in the initial summary on the first page. The local government issue is better situated as a question-and-answer on the following pages of the analysis where it is also located. This summary on page 3 of the analysis, although sparse in terms of how local governments can regulate these licensed businesses, is substantially more accurate than the hyper-focused and inaccurate bullet point on the first page of the analysis.

IV. Cultural and Medical Uses of Natural Medicines other than Psilocybin Not Discussed

Finally, while the Council correctly acknowledges the Food and Drug Administration’s (“FDA”) designation of psilocybin mushrooms as a Breakthrough Therapy for treating depression, it omits all references to the extensive historical medical use and ongoing medical studies of the Initiative’s substances beyond psilocybin.¹⁸ The Council only relays that the remaining substances under the Initiative “have not received Breakthrough Therapy designation.” This dismissive description does not present a “fair and impartial analysis” of the medical literature as there has been a number of significant positive studies that reflect the medical applications of these substances. By not acknowledging these facts, the initial draft results in Coloradoans voting on DMT, mescaline, and ibogaine, with little-to-no understanding of these substances, except that they are Schedule I controlled substances and do not possess an FDA designation.

¹⁸ See Soren Ventegodt & Pavlina Kordova, *Contemporary Strategies in Peru for Medical Use of the Hallucinogenic Tea Ayahuasca Containing DMT: In Search of the Optimal Strategy for the Use of Medical Hallucinogens*, JOURNAL OF ALTERNATIVE MEDICINE RESEARCH, Vol. 8, Iss. 4, Hauppauge (2016) (describing historical medical uses of DMT-containing ayahuasca tea) [hereinafter Ventegodt]; Brian E. McGeeney, *Cannabinoids and Hallucinogens for Headache*, HEADACHE: THE JOURNAL OF HEAD AND FACE PAIN, Vol. 53, Iss. 3, 447-458 (Dec. 20, 2012), <https://doi-org.du.idm.oclc.org/10.1111/head.12025> (describing the use of psilocybin and DMT in treating cluster headaches); Malin Veoy Uthaug et al., *The Epidemiology of Mescaline Use: Pattern of Use, Motivations for Consumption, and Perceived Consequences, Benefits, and Acute and Enduring Subjective Effects*, JOURNAL OF PSYCHOPHARMACOLOGY, British Association of Psychopharmacology (May 2021) (describing the historical use of mescaline to treat chronic anxiety, alcoholism and obsessive compulsive disorder) [hereinafter Veoy Uthaug]; Kenneth R. Alper et al., *The Ibogaine Medical Subculture*, JOURNAL OF ETHNOPHARMACOLOGY, Vol. 115, Iss. 1 (Jan. 2008) (describing the historical use of ibogaine as treatment for substance-related disorders) [hereinafter Alper].

A. DMT (N,N-Dimethyltryptamine)

DMT is a naturally occurring psychedelic substance found in a wide variety of plant species, as well as the primary natural psychedelic substance found in ayahuasca tea. As one of the primary means of consuming DMT, ayahuasca tea has been utilized by Indigenous populations as treatment for mental and physical issues for as long as 5,000 years.¹⁹ Further, research into ayahuasca, dating back to 2005, has corroborated and explained “the medical safety and pharmacology of ayahuasca use.”²⁰ Studies have shown that the potential benefits of ayahuasca include: combating depression, treating anxiety, decreasing substance abuse, and enhancing psychological well-being.²¹ Some studies suggest that DMT may play a role in the “development, growth, maintenance, and repair of the brain.”²² Further, the promising results of first clinical trial of using DMT to treat major depressive disorder by a British neuropharmaceutical company has resulted in discussion and guidance provided by the FDA in the continuance of the study.²³ Additionally, contrary to DMT’s current status as a Schedule I controlled substance, studies show “no compulsive drug-seeking precipitated by consumption of DMT or ayahuasca has been reported in humans.”²⁴ None of these positive cultural uses or medical studies are mentioned in the initial Blue Book draft.

B. Ibogaine

Ibogaine is a naturally occurring psychedelic substance found primarily in the *Tabernanthe iboga* plant but also found in several other species of African shrubs.²⁵ While the Indigenous peoples of Africa have utilized ibogaine for religious purposes for several centuries, it wasn’t until the 1960s when ibogaine’s application as treatment for substance-related disorders began to be recognized in modern medicine.²⁶ Recent studies have reinforced ibogaine’s medical value in treating substance abuse disorders, as well as having anti-depressant properties and treating trauma-related psychological symptoms.²⁷ None of these positive cultural uses or medical studies are mentioned in the initial Blue Book draft.

C. Mescaline

The initial Blue Book draft does not acknowledge Indigenous populations have utilized mescaline-producing cactuses for medical, ceremonial, and religious purposes for thousands of years.²⁸ Studies in recent years have suggested that mescaline use can result in improved mental health and meaningful spiritual experiences.²⁹ Further, these studies additionally show that the effects and risks of

¹⁹ Ventegodt, *supra* note 8.

²⁰ Albert Garcia-Romeu et al., *Clinical Applications of Hallucinogens: A Review*, NATIONAL LIBRARY OF MEDICINE, (2016).

²¹ Garcia-Romeu, *supra* note 12; see also Andrea Machado Brito-da-Costa et al., *Toxicokinetics and Toxicodynamics of Ayahuasca Alkaloids N, N-Dimethyltryptamine (DMT), Harmine, Harmaline and Tetrahydroharmine: Clinical and Forensic Impact*, PHARMACEUTICALS (2020) [hereinafter Machado Brito-da-Costa].

²² Steven A. Barker, *Administration of N,N-dimethyltryptamine (DMT) in psychedelic therapeutic and research and the study of endogenous DMT*, PSYCHOPHARMACOLOGY (2022).

²³ *Discussions with FDA Provide Guidance for Phase IIB Clinical Trial Design for DMT-Assisted Therapy for Major Depressive Disorder*, Small Pharma Inc. (Nov. 15, 2021; 07:50 ET), <https://www.globenewswire.com/en/news-release/2021/11/15/2334192/0/en/Discussions-With-FDA-Provide-Guidance-for-Phase-IIB-Clinical-Trial-Design-for-DMT-Assisted-Therapy-for-Major-Depressive-Disorder.html>.

²⁴ Machado Brito-da-Costa, *supra* note 13.

²⁵ Alper, *supra* note 8.

²⁶ *Id.*

²⁷ Patrick Kock et al., *A Systematic Literature Review of Clinical Trials and Therapeutic Applications of Ibogaine*, Journal of Substance Abuse Treatment, Vol. 123, JSAT (2022).

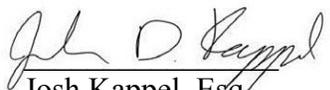
²⁸ Amirah Al Idrus, *Psychedelics are getting closer to approval, but the market may not be ready*, FIERCEBIOTECH (Aug. 17, 2021).

²⁹ Veoy Uthaug, *supra* note 8.

mescaline use are comparable to those of psilocybin use and have a low probability for addiction and misuse.³⁰ None of these positive cultural uses or medical studies are mentioned in the initial Blue Book draft.

Thank you for your thoughtful consideration of our input on your draft. We trust after a thorough review of this matter, you will agree that the changes above are needed to ensure Colorado voters receive an accurate description of the Initiative.

Sincerely,


Josh Kappel, Esq.
Vicente Sederberg, LLP


Sean T. McAllister, Esq.
McAllister Law Office, P.C.

³⁰ Garcia-Romeu, *supra* note 12.

Addendum 3 - Memo from Tamar Todd, Legal Director, New Approach

Colorado Legislative Council
987 State Street
Denver, Colorado

Comments Regarding Draft Blue Book Language Regarding Initiative 58

Colorado Legislative Council,

I serve as the Legal Director for New Approach, a policy reform organization that supports the Natural Medicine Health Act of 2022 (Initiative 58). In my role as Legal Director, I develop policy on behalf of New Approach, and I worked as a lead drafter of Initiative 58.

This memo is a response to the Colorado Legislative Council's first draft of Blue Book voter information related to Initiative 58. The draft analysis presents an inaccurate and unbalanced overview of how Initiative 58 amends Colorado statutes and what it will allow if enacted. The description omits key components of the program designed specifically to protect public health and safety that are necessary to properly understand the proposition.

This policy memo briefly outlines the most significant discrepancies between what the proposition does and the draft analysis prepared by your office.

I appreciate the difficulty of summarizing propositions in a digestible and succinct way that aid in voter understanding and offer these comments in the hopes that all Colorado voters will better understand the intent of Initiative 58.

Thank you for your time and attention to these matters,



Tamar Todd
Legal Director
New Approach

Analysis for Consideration

The description of the proposition 1) omits key details of the regulatory program necessary for voters to understand its function, 2) places improper emphasis on personal use and describes personal use too broadly, and 3) improperly describes the limits on local governments.

- 1) The primary intent of the proposition is to direct the Department of Regulatory Agencies to license and comprehensively regulate the provision of natural medicines, as defined by the initiative, to persons 21 and older, under the supervision of trained facilitators at licensed and regulated facilities. This is the biggest change to state law created by the proposition. It should be the first bullet point in the description of the proposition and it should reference the role of the regulatory agency, that use happens under the supervision of trained facilitators, and that the facilities are licensed and regulated. The description should also reference the 15-member expert advisory committee that will assist in developing and overseeing the regulatory program.
- 2) Personal use should be described as “removing penalties” rather than “allowing” which is an overly broad description of what the initiative does, as the conduct will still not be allowed in a variety of contexts and settings. Additionally key limitations on personal use are omitted in the description, including that cultivation must only be at a private home and secured from access by persons under 21 years of age, giving a misleading impression of the scope of conduct that is protected from sanction.
- 3) The description of the local government provisions in the measure are misleading and confusing by including the terms “distribution” and “use” and omitting other actions allowed or mentioning any of the restrictions included in the text. The summary also omits that localities may regulate the time, place, and manner for facilities, giving the false impression that localities retain no local control at all. A clearer, more accurate description would be to simply say that the proposition allows localities to regulate the time, place, and manner, but that they cannot completely prohibit what state law allows.

Proposition 122
Access to Natural Psychedelic Substances
Contact List

| Interested Party | Organization Name | Email Address |
|--------------------------|--|--|
| Geoffrey Alexander | OSPB | geoff.alexander@state.co.us |
| Kevin Amirehsani | Colorado OSPB | kevin.amirehsani@state.co.us |
| Susy Bates | Natural Medicine Colorado | susy@naturalmedicinecolorado.org |
| Michael Belmonte | | mbobmd@gmail.com |
| Rachel Bender | Colorado Municipal League | rbender@cml.org |
| Eric Bergman | Colorado Counties, Inc. | ebergman@ccionline.org |
| Natasha Berwick | New Era Colorado | natasha@neweracolorado.org |
| James Coleman | Office of Sen. James Coleman | colemanforcolorado@gmail.com |
| Nick Coltrain | Denver Post | ncoltrain@denverpost.com |
| Matt Cook | Colorado Association of School Boards | mcook@casb.org |
| Bryce Cooke | Governor's Office | bryce.cooke@state.co.us |
| Peter Criscione | | peterouch@hotmail.com |
| Dominic DelPapa | iQu Strategies | ddp@iqustrategies.com |
| Faye Diamond | RBI Strategies & Research | faye@rbistrategies.com |
| Alison Egbers | | alison.egbers27@gmail.com |
| Cathy Eslinger | | Cathy.eslinger@state.co.us catherinedeslinger@gmail.com |
| Nicole Foerster | | knicolefoerster@gmail.com |
| Dawn Fritz | Colorado PTA | dawnfritz@copta.org |
| Tristan Gorman | Colorado Criminal Defense Bar | tristan@themeyerlawoffice.com |
| Joan Andrew Green Turner | J. Andrew Green & Assoc., Inc. | joangreen@me.com |
| Micki Hackenberger | Husch Blackwell Strategies | mickih@hbstrategies.us |
| Bill Hanna | United Veterans Coalition | bjh@frii.com |
| Micah Jones | Contexture | micah.jones@contexture.org |
| Cathy Kipp | Colorado House of Representatives | cathy.kipp.house@state.co.us |
| Andrea Kuwik | | kuwik@bellpolicy.org |
| Henny Lasley | One Chance to Grow Up | henny@onechancetogrowup.org |
| Yelana Love | OLLS | yelana.love@state.co.us |
| John Magnino | Colorado Secretary of State's Office | john.magnino@coloradosos.gov |
| Kevin Matthews | Natural Medicine Colorado | kevin@naturalmedicinecolorado.org |
| Sean McAllister | McAllister Law Office, PC | sean@mcallisterlawoffice.com |
| Julia McCorvey | Colorado Children's Campaign | julia@coloradokids.org |
| Allison McGrath | | alli.m.mcgrath@gmail.com |
| N. Menten | self on some issues (also a board director for the Taxpayer's Bill of Rights Foundation) | coloradoengaged@gmail.com |
| Dylan Mitchell | Michael Best Strategies | dsmitchell@michaelbeststrategies.com |
| Meredith Moon | OSPB | meredith.moon@state.co.us |
| Nellia Moran | Colorado State Senate | nellie.moran.senate@gmail.com |

Proposition 122
Access to Natural Psychedelic Substances
Contact List (Cont.)

| Interested Party | Organization Name | Email Address |
|-------------------------|---------------------------------------|---|
| Natalie Mullis | | natalie.mullis@state.co.us natmullis@gmail.com |
| Amber Paris | Colorado Technical University | ent.para.util@gmail.com |
| Veronica Perez | Natural Medicine Colorado | lightninghorseschools@gmail.com |
| Hanni Raley | The Arc of Aurora | hraley@thearcofaurora.org |
| Erin Reynolds | | erin.reynolds@state.co.us |
| Corrine Rivera Fowler | The Ballot Initiative Strategy Center | corrine@ballot.org |
| Melanie Rose Rodgers | | melanierose@influentialx.com |
| Julia Scanlan | Aponte & Busam Public Affairs | jscanlan@aponte-busam.com |
| Robert Sheesley | Colorado Municipal League | rsheesley@cml.org |
| Cathy Shull | Pro 15 | cathy@pro15.org |
| Christian Smith | Young Invincibles | christian.smith@younginvincibles.org |
| Lauren Snyder | Mental Health Colorado | lsnyder@mentalhealthcolorado.org |
| Sherry Wolfe | OSPB | sherry.wolfe@state.co.us |

Proposition 122
Access to Natural Psychedelic Substances

1 **Ballot Title:**

2 Shall there be a change to the Colorado Revised Statutes concerning legal regulated access to
3 natural medicine for persons 21 years of age or older, and, in connection therewith, defining
4 natural medicine as certain plants or fungi that affect a person’s mental health and are controlled
5 substances under state law; establishing a natural medicine regulated access program for
6 supervised care, and requiring the department of regulatory agencies to implement the program
7 and comprehensively regulate natural medicine to protect public health and safety; creating an
8 advisory board to advise the department as to the implementation of the program; granting a local
9 government limited authority to regulate the time, place, and manner of providing natural medicine
10 services; allowing limited personal possession, use, and uncompensated sharing of natural
11 medicine; providing specified protections under state law, including criminal and civil immunity,
12 for authorized providers and users of natural medicine; and, in limited circumstances, allowing
13 the retroactive removal and reduction of criminal penalties related to the possession, use, and
14 sale of natural medicine?

15 **Text of Measure:**

16 *Be it Enacted by the People of the State of Colorado:*

17 **SECTION 1.** In Colorado Revised Statutes, **add** Article 170 to Title 12 as follows:

18 ARTICLE 170
19 NATURAL MEDICINE HEALTH ACT of 2022

20 **12-170-101. Short title.** THE SHORT TITLE OF THIS ARTICLE 170 IS THE “NATURAL MEDICINE HEALTH
21 ACT OF 2022.”

22 **12-170-102. Legislative declaration.** (1) THE VOTERS OF THE STATE OF COLORADO FIND AND
23 DECLARE THAT:

24 (a) COLORADO’S CURRENT APPROACH TO MENTAL HEALTH HAS FAILED TO FULFILL ITS PROMISE.
25 COLORADANS DESERVE MORE TOOLS TO ADDRESS MENTAL HEALTH ISSUES, INCLUDING APPROACHES
26 SUCH AS NATURAL MEDICINES THAT ARE GROUNDED IN TREATMENT, RECOVERY, HEALTH, AND WELLNESS
27 RATHER THAN CRIMINALIZATION, STIGMA, SUFFERING, AND PUNISHMENT.

28 (b) COLORADANS ARE EXPERIENCING PROBLEMATIC MENTAL HEALTH ISSUES, INCLUDING BUT NOT
29 LIMITED TO SUICIDALITY, ADDICTION, DEPRESSION, AND ANXIETY.

30 (c) AN EXTENSIVE AND GROWING BODY OF RESEARCH IS ADVANCING TO SUPPORT THE EFFICACY OF
31 NATURAL MEDICINES COMBINED WITH PSYCHOTHERAPY AS TREATMENT FOR DEPRESSION, ANXIETY,
32 SUBSTANCE USE DISORDERS, END-OF-LIFE DISTRESS, AND OTHER CONDITIONS.

- 1 (d) THE FEDERAL GOVERNMENT WILL TAKE YEARS TO ACT AND COLORADANS DESERVE THE RIGHT TO
2 ACCESS NATURAL MEDICINES NOW.
- 3 (e) NATURAL MEDICINES HAVE BEEN USED SAFELY FOR MILLENNIA BY CULTURES FOR HEALING.
- 4 (f) COLORADO CAN BETTER PROMOTE HEALTH AND HEALING BY REDUCING ITS FOCUS ON CRIMINAL
5 PUNISHMENTS FOR PERSONS WHO SUFFER MENTAL HEALTH ISSUES AND BY ESTABLISHING REGULATED
6 ACCESS TO NATURAL MEDICINES THROUGH A HUMANE, COST-EFFECTIVE, AND RESPONSIBLE
7 APPROACH.
- 8 (g) THE CITY AND COUNTY OF DENVER VOTERS ENACTED ORDINANCE 301 IN MAY 2019 TO MAKE THE
9 ADULT PERSONAL POSSESSION AND USE OF THE NATURAL MEDICINE PSILOCYBIN THE LOWEST LAW
10 ENFORCEMENT PRIORITY IN THE CITY AND COUNTY OF DENVER AND TO PROHIBIT THE CITY AND COUNTY
11 FROM SPENDING RESOURCES ON ENFORCING RELATED PENALTIES.
- 12 (h) OREGON VOTERS ENACTED MEASURE 109 IN OREGON IN NOVEMBER 2020 TO ESTABLISH A
13 REGULATED SYSTEM OF DELIVERING A NATURAL MEDICINE, IN PART TO PROVIDE PEOPLE ACCESS TO
14 PSILOCYBIN FOR THERAPEUTIC PURPOSES.
- 15 (i) CRIMINALIZING NATURAL MEDICINES HAS DENIED PEOPLE FROM ACCESSING ACCURATE EDUCATION
16 AND HARM REDUCTION INFORMATION RELATED TO THE USE OF NATURAL MEDICINES, AND LIMITED THE
17 DEVELOPMENT OF APPROPRIATE TRAINING FOR FIRST-AND MULTI-RESPONDERS INCLUDING LAW
18 ENFORCEMENT, EMERGENCY MEDICAL SERVICES, SOCIAL SERVICES, AND FIRE SERVICES.
- 19 (j) THE PURPOSE OF THIS NATURAL MEDICINE HEALTH ACT OF 2022 IS TO ESTABLISH A NEW,
20 COMPASSIONATE, AND EFFECTIVE APPROACH TO NATURAL MEDICINES BY:
- 21 (I) ADOPTING A PUBLIC HEALTH AND HARM REDUCTION APPROACH TO NATURAL MEDICINES BY
22 REMOVING CRIMINAL PENALTIES FOR PERSONAL USE FOR ADULTS TWENTY-ONE YEARS OF AGE AND
23 OLDER;
- 24 (II) DEVELOPING AND PROMOTING PUBLIC EDUCATION RELATED TO THE USE OF NATURAL MEDICINES
25 AND APPROPRIATE TRAINING FOR FIRST RESPONDERS; AND
- 26 (III) ESTABLISHING REGULATED ACCESS BY ADULTS TWENTY-ONE YEARS OF AGE AND OLDER TO
27 NATURAL MEDICINES THAT SHOW PROMISE IN IMPROVING WELL-BEING, LIFE SATISFACTION, AND
28 OVERALL HEALTH.
- 29 (k) THE PROVISIONS OF THIS ARTICLE 170 SHALL BE INTERPRETED CONSISTENTLY WITH THE FINDINGS
30 AND PURPOSES STATED IN THIS SECTION AND SHALL NOT BE LIMITED BY ANY COLORADO LAW THAT
31 COULD CONFLICT WITH OR BE INTERPRETED TO CONFLICT WITH THE PURPOSES AND POLICY
32 OBJECTIVES STATED IN THIS SECTION.
- 33 (l) THE PEOPLE OF THE STATE OF COLORADO FURTHER FIND AND DECLARE THAT IT IS NECESSARY TO
34 ENSURE CONSISTENCY AND FAIRNESS IN THE APPLICATION OF THIS ARTICLE 170 THROUGHOUT THE
35 STATE AND THAT, THEREFORE, THE MATTERS ADDRESSED BY THIS ARTICLE 170 ARE, EXCEPT AS
36 SPECIFIED HEREIN, MATTERS OF STATEWIDE CONCERN.

1 **12-170-103. Definitions.** (1) AS USED IN THIS ARTICLE 170, UNLESS THE CONTEXT OTHERWISE
2 REQUIRES:

3 (a) "ADMINISTRATION SESSION" MEANS A SESSION HELD AT A HEALING CENTER OR ANOTHER LOCATION
4 AS PERMITTED BY RULES ADOPTED BY THE DEPARTMENT AT WHICH A PARTICIPANT PURCHASES,
5 CONSUMES, AND EXPERIENCES THE EFFECTS OF A NATURAL MEDICINE UNDER THE SUPERVISION OF A
6 FACILITATOR.

7 (b) "DEPARTMENT" MEANS THE DEPARTMENT OF REGULATORY AGENCIES.

8 (c) "FACILITATOR" MEANS A PERSON LICENSED BY THE DEPARTMENT WHO:

9 (i) IS TWENTY-ONE YEARS OF AGE OR OLDER.

10 (ii) HAS AGREED TO PROVIDE NATURAL MEDICINE SERVICES TO A PARTICIPANT.

11 (iii) HAS MET THE REQUIREMENTS ESTABLISHED BY THE DEPARTMENT.

12 (d) "HEALING CENTER" MEANS AN ENTITY LICENSED BY THE DEPARTMENT THAT IS ORGANIZED AND
13 OPERATED AS A PERMITTED ORGANIZATION:

14 (i) THAT ACQUIRES, POSSESSES, CULTIVATES, MANUFACTURES, DELIVERS, TRANSFERS, TRANSPORTS,
15 SUPPLIES, SELLS, OR DISPENSES NATURAL MEDICINE AND RELATED SUPPLIES; OR PROVIDES NATURAL
16 MEDICINE FOR NATURAL MEDICINE SERVICES AT LOCATIONS PERMITTED BY THE DEPARTMENT; OR
17 ENGAGES IN TWO OR MORE OF THESE ACTIVITIES;

18 (ii) WHERE ADMINISTRATION SESSIONS ARE HELD; OR

19 (iii) WHERE NATURAL MEDICINE SERVICES ARE PROVIDED BY A FACILITATOR.

20 (e) "HEALTH-CARE FACILITY" MEANS A HOSPITAL, HOSPICE, COMMUNITY MENTAL HEALTH CENTER,
21 FEDERALLY QUALIFIED HEALTH CENTER, RURAL HEALTH CLINIC, PACE ORGANIZATION, LONG-TERM
22 CARE FACILITY, A CONTINUING CARE RETIREMENT COMMUNITY, OR OTHER TYPE OF FACILITY WHERE
23 HEALTH-CARE IS PROVIDED.

24 (f) "INTEGRATION SESSION" MEANS A MEETING BETWEEN A PARTICIPANT AND FACILITATOR THAT
25 OCCURS AFTER THE PARTICIPANT HAS COMPLETED AN ADMINISTRATION SESSION.

26 (g) "LOCALITY" MEANS A COUNTY, MUNICIPALITY, OR CITY AND COUNTY.

27 (h) "NATURAL MEDICINE" MEANS THE FOLLOWING SUBSTANCES IN ANY FORM THAT WOULD CAUSE SUCH
28 PLANT OR FUNGUS TO BE DESCRIBED IN THE "UNIFORM CONTROLLED SUBSTANCES ACT OF 2013",
29 ARTICLE 18 OF TITLE 18: DIMETHYLTRYPTAMINE; IBOGAINE; Mescaline (EXCLUDING LOPHOPHORA
30 WILLIAMSII ("PEYOTE")); PSILOCYBIN; OR PSILOCYN.

31 (i) "NATURAL MEDICINE SERVICES" MEANS SERVICES PROVIDED BY A FACILITATOR OR OTHER
32 AUTHORIZED PERSON TO A PARTICIPANT BEFORE, DURING, AND AFTER THE PARTICIPANT'S
33 CONSUMPTION OF NATURAL MEDICINE, INCLUDING, AT A MINIMUM AT:

- 1 (i) A PREPARATION SESSION;
- 2 (ii) AN ADMINISTRATION SESSION; AND
- 3 (iii) AN INTEGRATION SESSION.
- 4 (j) "PARTICIPANT" MEANS A PERSON TWENTY-ONE YEARS OF AGE OR OLDER WHO RECEIVES NATURAL
5 MEDICINE SERVICES.
- 6 (k) "PERMITTED ORGANIZATION" MEANS ANY LEGAL ENTITY REGISTERED AND QUALIFIED TO DO
7 BUSINESS IN THE STATE OF COLORADO THAT MEETS THE STANDARDS SET BY THE DEPARTMENT UNDER
8 SECTION 12-170-104.
- 9 (l) "PREPARATION SESSION" MEANS A MEETING BETWEEN A PARTICIPANT AND A FACILITATOR THAT
10 OCCURS BEFORE THE PARTICIPANT PARTICIPATES IN THE ADMINISTRATION SESSION.
- 11 **12-170-104. Regulated natural medicine access program.** (1) THE REGULATED NATURAL
12 MEDICINE ACCESS PROGRAM IS ESTABLISHED AND THE DEPARTMENT SHALL REGULATE THE
13 MANUFACTURE, CULTIVATION, TESTING, STORAGE, TRANSFER, TRANSPORT, DELIVERY, SALE, AND
14 PURCHASE OF NATURAL MEDICINES BY AND BETWEEN HEALING CENTERS AND OTHER PERMITTED
15 ENTITIES AND THE PROVISION OF NATURAL MEDICINE SERVICES TO PARTICIPANTS.
- 16 (2) NOT LATER THAN JANUARY 1, 2024, THE DEPARTMENT SHALL ADOPT RULES TO ESTABLISH THE
17 QUALIFICATIONS, EDUCATION, AND TRAINING REQUIREMENTS THAT FACILITATORS MUST MEET PRIOR TO
18 PROVIDING NATURAL MEDICINE SERVICES, AND TO APPROVE ANY REQUIRED TRAINING PROGRAMS.
- 19 (3) NOT LATER THAN SEPTEMBER 30, 2024, THE DEPARTMENT SHALL ADOPT RULES NECESSARY TO
20 IMPLEMENT THE REGULATED NATURAL MEDICINE ACCESS PROGRAM AND SHALL BEGIN ACCEPTING
21 APPLICATIONS FOR LICENSURE BY THAT DATE WITH DECISIONS MADE ON ALL LICENSING APPLICATIONS
22 WITHIN 60 DAYS OF RECEIVING THE APPLICATION.
- 23 (4) FOR PURPOSES OF THE REGULATED NATURAL MEDICINE ACCESS PROGRAM SET FORTH IN THIS
24 SECTION:
- 25 (a) UNTIL JUNE 1, 2026, THE TERM NATURAL MEDICINE SHALL ONLY INCLUDE PSILOCYBIN AND
26 PSILOCYN.
- 27 (b) AFTER JUNE 1, 2026, IF RECOMMENDED BY THE NATURAL MEDICINE ADVISORY BOARD, THE
28 DEPARTMENT MAY ADD ONE OR MORE OF THE FOLLOWING TO THE TERM NATURAL MEDICINE:
29 DIMETHYLTRYPTAMINE; IBOGAINE; AND MESCALINE (EXCLUDING LOPHOPHORA WILLIAMSII ("PEYOTE")).
- 30 (c) THE DEPARTMENT MAY PREPARE PROPOSED RULES FOR THE ADDITION OF DIMETHYLTRYPTAMINE;
31 IBOGAINE; AND MESCALINE (EXCLUDING LOPHOPHORA WILLIAMSII ("PEYOTE")) TO THE TERM NATURAL
32 MEDICINE PRIOR TO JUNE 1, 2026, IN THE EVENT THAT DIMETHYLTRYPTAMINE; IBOGAINE; OR
33 MESCALINE (EXCLUDING LOPHOPHORA WILLIAMSII ("PEYOTE")) IS ADDED TO THE TERM NATURAL
34 MEDICINE UNDER SUBSECTION (4)(B) OF THIS SECTION.
35

- 1 (5) IN CARRYING OUT ITS DUTIES UNDER THIS ARTICLE 170, THE DEPARTMENT SHALL CONSULT WITH THE
2 NATURAL MEDICINE ADVISORY BOARD AND MAY ALSO CONSULT WITH OTHER STATE AGENCIES OR ANY
3 OTHER INDIVIDUAL OR ENTITY THE DEPARTMENT FINDS NECESSARY.
- 4 (6) THE RULES ADOPTED BY THE DEPARTMENT SHALL INCLUDE, BUT ARE NOT LIMITED TO, RULES TO:
- 5 (a) ESTABLISH THE REQUIREMENTS GOVERNING THE SAFE PROVISION OF NATURAL MEDICINE SERVICES
6 TO PARTICIPANTS THAT INCLUDE:
- 7 (I) HOLDING AND VERIFYING COMPLETION OF A PREPARATION SESSION, AN ADMINISTRATION SESSION,
8 AND AN INTEGRATION SESSION.
- 9 (II) HEALTH AND SAFETY WARNINGS THAT MUST BE PROVIDED TO PARTICIPANTS BEFORE NATURAL
10 MEDICINE SERVICES BEGIN.
- 11 (III) EDUCATIONAL MATERIALS THAT MUST BE PROVIDED TO PARTICIPANTS BEFORE NATURAL MEDICINE
12 SERVICES BEGIN.
- 13 (IV) THE FORM THAT EACH FACILITATOR, PARTICIPANT, AND AUTHORIZED REPRESENTATIVE OF A
14 HEALING CENTER MUST SIGN BEFORE PROVIDING OR RECEIVING NATURAL MEDICINE SERVICES
15 VERIFYING THAT THE PARTICIPANT WAS PROVIDED ACCURATE AND COMPLETE HEALTH INFORMATION
16 AND INFORMED OF IDENTIFIED RISK FACTORS AND CONTRAINDICATIONS.
- 17 (V) PROPER SUPERVISION DURING THE ADMINISTRATION SESSION AND SAFE TRANSPORTATION FOR
18 THE PARTICIPANT WHEN THE SESSION IS COMPLETE.
- 19 (VI) PROVISIONS FOR GROUP ADMINISTRATION SESSIONS WHERE ONE OR MORE FACILITATORS
20 PROVIDE NATURAL MEDICINE SERVICES TO MORE THAN ONE PARTICIPANT AS PART OF THE SAME
21 ADMINISTRATION SESSION.
- 22 (VII) PROVISIONS TO ALLOW A FACILITATOR OR A HEALING CENTER TO REFUSE TO PROVIDE NATURAL
23 MEDICINE SERVICES TO A PARTICIPANT.
- 24 (VIII) THE REQUIREMENTS AND STANDARDS FOR INDEPENDENT TESTING OF NATURAL MEDICINE FOR
25 CONCENTRATION AND CONTAMINANTS, TO THE EXTENT AVAILABLE TECHNOLOGY REASONABLY
26 PERMITS.
- 27 (IX) THE LICENSURE OF ENTITIES PERMITTED TO ENGAGE IN THE TESTING OF NATURAL MEDICINE FOR
28 USE IN NATURAL MEDICINE SERVICES OR OTHERWISE.
- 29 (X) THE STANDARDS FOR ADVERTISING AND MARKETING NATURAL MEDICINE AND NATURAL MEDICINE
30 SERVICES.
- 31 (XI) THE STANDARDS FOR QUALIFICATION AS A PERMITTED ORGANIZATION ADDRESSING, WITHOUT
32 LIMITATION, ENVIRONMENTAL, SOCIAL, AND GOVERNANCE CRITERIA DIRECTED TO THE FINDINGS AND
33 DECLARATIONS SET FORTH IN SECTION 12-170-102.
- 34 (b) ESTABLISH THE REQUIREMENTS GOVERNING THE LICENSING AND PRACTICE OF FACILITATORS THAT
35 INCLUDE:

- 1 (I) THE FORM AND CONTENT OF LICENSE AND RENEWAL APPLICATIONS FOR FACILITATORS SUBMITTED
2 UNDER THIS ARTICLE 170.
- 3 (II) THE QUALIFICATIONS, EDUCATION, AND TRAINING REQUIREMENTS THAT FACILITATORS MUST MEET
4 PRIOR TO PROVIDING NATURAL MEDICINE SERVICES. THE REQUIREMENTS SHALL:
- 5 (A) BE TIERED SO AS TO REQUIRE VARYING LEVELS OF EDUCATION AND TRAINING DEPENDING ON THE
6 PARTICIPANTS THE FACILITATOR WILL BE WORKING WITH AND THE SERVICES THE FACILITATOR WILL BE
7 PROVIDING.
- 8 (B) INCLUDE EDUCATION AND TRAINING ON CLIENT SAFETY; CONTRAINDICATIONS; MENTAL HEALTH;
9 MENTAL STATE; PHYSICAL HEALTH; PHYSICAL STATE; SOCIAL AND CULTURAL CONSIDERATIONS;
10 PHYSICAL ENVIRONMENT; PREPARATION; INTEGRATION; AND ETHICS.
- 11 (C) ALLOW FOR LIMITED WAIVERS OF EDUCATION AND TRAINING REQUIREMENTS BASED ON AN
12 APPLICANT'S PRIOR EXPERIENCE, TRAINING, OR SKILL, INCLUDING, BUT NOT LIMITED TO, WITH NATURAL
13 MEDICINES.
- 14 (D) NOT IMPOSE UNREASONABLE FINANCIAL OR LOGISTICAL BARRIERS THAT MAKE OBTAINING A
15 FACILITATOR LICENSE COMMERCIALY UNREASONABLE FOR LOW INCOME PEOPLE OR OTHER
16 APPLICANTS.
- 17 (E) NOT REQUIRE A PROFESSIONAL LICENSE OR PROFESSIONAL DEGREE OTHER THAN A FACILITATOR
18 LICENSE GRANTED PURSUANT TO THIS SECTION.
- 19 (F) ALLOW FOR PAID COMPENSATION FOR NATURAL MEDICINE SERVICES.
- 20 (G) ALLOW FOR THE PROVISION OF NATURAL MEDICINE SERVICES TO MORE THAN ONE PARTICIPANT AT
21 A TIME IN GROUP ADMINISTRATION SESSIONS.
- 22 (III) OVERSIGHT AND SUPERVISION REQUIREMENTS FOR FACILITATORS, INCLUDING PROFESSIONAL
23 RESPONSIBILITY STANDARDS AND CONTINUING EDUCATION REQUIREMENTS.
- 24 (IV) A COMPLAINT, REVIEW, AND DISCIPLINARY PROCESS FOR FACILITATORS WHO ENGAGE IN
25 MISCONDUCT.
- 26 (V) RECORDKEEPING, PRIVACY, AND CONFIDENTIALITY REQUIREMENTS FOR FACILITATORS, PROVIDED
27 SUCH RECORD KEEPING DOES NOT RESULT IN THE DISCLOSURE TO THE PUBLIC OR ANY GOVERNMENT
28 AGENCY OF PERSONALLY IDENTIFIABLE INFORMATION OF PARTICIPANTS.
- 29 (VI) PROCEDURES FOR SUSPENDING OR REVOKING THE LICENSES OF FACILITATORS WHO VIOLATE THE
30 PROVISIONS OF THIS ARTICLE 170 OR THE RULES ADOPTED BY THE DEPARTMENT.
- 31 (c) ESTABLISH THE REQUIREMENTS GOVERNING THE LICENSING AND OPERATION OF HEALING CENTERS
32 THAT INCLUDE:
- 33 (I) QUALIFICATIONS FOR LICENSURE AND RENEWAL.

- 1 (II) OVERSIGHT REQUIREMENTS FOR HEALING CENTERS.
- 2 (III) RECORDKEEPING, PRIVACY, AND CONFIDENTIALITY REQUIREMENTS FOR HEALING CENTERS,
3 PROVIDED SUCH RECORD KEEPING DOES NOT RESULT IN THE DISCLOSURE TO THE PUBLIC OR ANY
4 GOVERNMENT AGENCY OF PERSONALLY IDENTIFIABLE INFORMATION OF PARTICIPANTS.
- 5 (IV) SECURITY REQUIREMENTS FOR HEALING CENTERS, INCLUDING REQUIREMENTS FOR PROTECTION
6 OF EACH LICENSED HEALING CENTER LOCATION BY A FULLY OPERATIONAL SECURITY ALARM SYSTEM.
- 7 (V) PROCEDURES FOR SUSPENDING OR REVOKING THE LICENSES OF HEALING CENTERS THAT VIOLATE
8 THE PROVISIONS OF THIS ARTICLE 170 OR THE RULES ADOPTED BY THE DEPARTMENT.
- 9 (VI) PERMISSIBLE FINANCIAL RELATIONSHIPS BETWEEN LICENSED HEALING CENTERS, FACILITATORS,
10 AND OTHER ENTITIES.
- 11 (VII) PROCEDURES AND POLICIES THAT ALLOW FOR HEALING CENTERS TO RECEIVE PAYMENT FOR
12 SERVICES AND NATURAL MEDICINES PROVIDED.
- 13 (VIII) PROCEDURES AND POLICIES TO ENSURE STATEWIDE ACCESS TO HEALING CENTERS AND NATURAL
14 MEDICINE SERVICES.
- 15 (IX) RULES THAT PROHIBIT AN INDIVIDUAL FROM HAVING A FINANCIAL INTEREST IN MORE THAN FIVE
16 HEALING CENTERS.
- 17 (X) RULES THAT ALLOW FOR HEALING CENTERS TO SHARE THE SAME PREMISES WITH OTHER HEALING
18 CENTERS OR TO SHARE THE SAME PREMISES WITH HEALTH-CARE FACILITIES.
- 19 (XI) RULES THAT ALLOW FOR LOCATIONS NOT OWNED BY A HEALING CENTER WHERE NATURAL
20 MEDICINE SERVICES MAY BE PROVIDED BY LICENSED FACILITATORS, INCLUDING BUT NOT LIMITED TO,
21 HEALTH-CARE FACILITIES AND PRIVATE RESIDENCES.
- 22 (d) ESTABLISH PROCEDURES, POLICIES, AND PROGRAMS TO ENSURE THE REGULATORY ACCESS
23 PROGRAM IS EQUITABLE AND INCLUSIVE AND TO PROMOTE THE LICENSING OF AND THE PROVISION OF
24 NATURAL MEDICINE SERVICES TO PERSONS FROM COMMUNITIES THAT HAVE BEEN
25 DISPROPORTIONATELY HARMED BY HIGH RATES OF CONTROLLED SUBSTANCES ARRESTS; TO PERSONS
26 WHO FACE BARRIERS TO ACCESS TO HEALTH CARE; TO PERSONS WHO HAVE A TRADITIONAL OR
27 INDIGENOUS HISTORY WITH NATURAL MEDICINES; OR TO PERSONS WHO ARE VETERANS THAT INCLUDE,
28 BUT ARE NOT LIMITED TO:
- 29 (I) REDUCED FEES FOR LICENSURE AND FACILITATOR TRAINING.
- 30 (II) INCENTIVIZING THE PROVISION OF NATURAL MEDICINE SERVICES AT A REDUCED COST TO LOW
31 INCOME INDIVIDUALS.
- 32 (III) INCENTIVIZING GEOGRAPHIC AND CULTURAL DIVERSITY IN LICENSING AND THE PROVISION AND
33 AVAILABILITY OF NATURAL MEDICINE SERVICES.
- 34 (VI) A PROCESS FOR ANNUALLY REVIEWING THE EFFECTIVENESS OF SUCH POLICIES AND PROGRAMS
35 PROMULGATED UNDER THIS SUBSECTION (6)(D).

- 1 (e) ESTABLISH APPLICATION, LICENSING, AND RENEWAL FEES FOR HEALING CENTER AND FACILITATOR
2 LICENSES. THE FEES SHALL BE:
- 3 (I) SUFFICIENT, BUT SHALL NOT EXCEED THE AMOUNT NECESSARY, TO COVER THE COST OF
4 ADMINISTERING THE REGULATED NATURAL MEDICINE ACCESS PROGRAM, INCLUDING THE REGULATED
5 NATURAL MEDICINE ACCESS PROGRAM FUND IN 12-170-106.
- 6 (II) FOR LICENSING AND RENEWAL FEES, SCALED BASED ON EITHER THE VOLUME OF BUSINESS OF THE
7 LICENSEE OR THE GROSS ANNUAL REVENUE OF THE LICENSEE.
- 8 (f) DEVELOP AND PROMOTE ACCURATE PUBLIC EDUCATION CAMPAIGNS RELATED TO THE USE OF
9 NATURAL MEDICINE, INCLUDING BUT NOT LIMITED TO PUBLIC SERVICE ANNOUNCEMENTS, EDUCATIONAL
10 CURRICULA, AND APPROPRIATE CRISIS RESPONSE, AND APPROPRIATE TRAINING FOR FIRST-AND MULTI-
11 RESPONDERS INCLUDING LAW ENFORCEMENT, EMERGENCY MEDICAL SERVICES, SOCIAL SERVICES,
12 AND FIRE SERVICES.
- 13 (g) STUDY AND DELIVER RECOMMENDATIONS TO THE LEGISLATURE REGARDING THE REGULATION OF
14 DOSAGE FOR OFF-SITE USE OF NATURAL MEDICINES.
- 15 (h) COLLECT AND ANNUALLY PUBLISH DATA ON THE IMPLEMENTATION AND OUTCOMES OF THE
16 REGULATED NATURAL MEDICINE ACCESS PROGRAM IN ACCORDANCE WITH GOOD DATA AND PRIVACY
17 PRACTICES AND THAT DOES NOT DISCLOSE ANY IDENTIFYING INFORMATION ABOUT INDIVIDUAL
18 LICENSEES OR PARTICIPANTS.
- 19 (i) ADOPT, AMEND, AND REPEAL RULES AS NECESSARY TO IMPLEMENT THE REGULATED NATURAL
20 MEDICINE ACCESS PROGRAM AND TO PROTECT THE PUBLIC HEALTH AND SAFETY.
- 21 (7) PARTICIPANT RECORDS COLLECTED AND MAINTAINED BY HEALING CENTERS, FACILITATORS,
22 REGISTERED ENTITIES, OR THE DEPARTMENT SHALL CONSTITUTE MEDICAL DATA AS DEFINED BY SECTION
23 24-72-204 (3)(A)(I) AND ARE NOT PUBLIC RECORDS SUBJECT TO DISCLOSURE.
- 24 (8) THE DEPARTMENT SHALL HAVE THE AUTHORITY TO CREATE AND ISSUE ANY ADDITIONAL TYPES OF
25 LICENSES AND REGISTRATIONS IT DEEMS NECESSARY TO CARRY OUT THE INTENTS AND PURPOSES OF
26 THE REGULATED NATURAL MEDICINE ACCESS PROGRAM, INCLUDING ALLOWING NATURAL MEDICINE
27 SERVICES TO BE PROVIDED AT OTHER TYPES OF LICENSED HEALTH FACILITIES OR BY INDIVIDUALS IN
28 ORDER TO INCREASE ACCESS TO AND THE AVAILABILITY OF NATURAL MEDICINE SERVICES.
- 29 (9) THE DEPARTMENT SHALL HAVE THE AUTHORITY TO ADOPT RULES THAT DIFFERENTIATE BETWEEN
30 NATURAL MEDICINES AND THAT REGULATE EACH NATURAL MEDICINE DIFFERENTLY BASED ON ITS
31 SPECIFIC QUALITIES, TRADITIONAL USES, AND SAFETY PROFILE.
- 32 (10) THE DEPARTMENT SHALL ADOPT, AMEND, AND REPEAL ALL RULES IN ACCORDANCE WITH THE
33 STATE ADMINISTRATIVE PROCEDURE ACT, ARTICLE 4 OF TITLE 24, C.R.S., AS AMENDED, AND THE
34 RULES PROMULGATED THEREUNDER.
- 35 **12-170-105. Natural Medicine Advisory Board** (1) THE NATURAL MEDICINE ADVISORY BOARD
36 SHALL BE ESTABLISHED WITHIN THE DEPARTMENT FOR THE PURPOSE OF ADVISING THE DEPARTMENT
37 AS TO THE IMPLEMENTATION OF THE REGULATED NATURAL MEDICINE ACCESS PROGRAM.

1 (2) THE BOARD SHALL CONSIST OF FIFTEEN MEMBERS. MEMBERS SHALL BE APPOINTED BY THE
2 GOVERNOR, WITH THE CONSENT OF THE SENATE.

3 (3) MEMBERS OF THE INITIAL BOARD SHALL BE APPOINTED BY JANUARY 31, 2023. IN MAKING THE
4 APPOINTMENTS, THE GOVERNOR SHALL APPOINT:

5 (a) AT LEAST SEVEN MEMBERS WITH SIGNIFICANT EXPERTISE AND EXPERIENCE IN ONE OR MORE OF
6 THE FOLLOWING AREAS: NATURAL MEDICINE THERAPY, MEDICINE, AND RESEARCH; MYCOLOGY AND
7 NATURAL MEDICINE CULTIVATION; PERMITTED ORGANIZATION CRITERIA; EMERGENCY MEDICAL
8 SERVICES AND SERVICES PROVIDED BY FIRST RESPONDERS; MENTAL AND BEHAVIORAL HEALTH
9 PROVIDERS; HEALTH CARE INSURANCE AND HEALTH CARE POLICY; AND PUBLIC HEALTH, DRUG POLICY,
10 AND HARM REDUCTION.

11 (b) AT LEAST EIGHT MEMBERS WITH SIGNIFICANT EXPERTISE AND EXPERIENCE IN ONE OR MORE OF THE
12 FOLLOWING AREAS: RELIGIOUS USE OF NATURAL MEDICINES; ISSUES CONFRONTING VETERANS;
13 TRADITIONAL INDIGENOUS USE OF NATURAL MEDICINES; LEVELS AND DISPARITIES IN ACCESS TO HEALTH
14 CARE SERVICES AMONG DIFFERENT COMMUNITIES; AND PAST CRIMINAL JUSTICE REFORM EFFORTS IN
15 COLORADO. AT LEAST ONE OF THE EIGHT MEMBERS SHALL HAVE EXPERTISE OR EXPERIENCE IN
16 TRADITIONAL INDIGENOUS USE OF NATURAL MEDICINES.

17 (4) FOR THE INITIAL BOARD, SEVEN OF THE MEMBERS SHALL BE APPOINTED TO A TERM OF TWO YEARS
18 AND EIGHT MEMBERS SHALL BE APPOINTED TO A TERM OF FOUR YEARS. EACH MEMBER APPOINTED
19 THEREAFTER SHALL BE APPOINTED TO A TERM OF FOUR YEARS. MEMBERS OF THE BOARD MAY SERVE
20 UP TO TWO CONSECUTIVE TERMS. MEMBERS ARE SUBJECT TO REMOVAL AS PROVIDED IN ARTICLE IV,
21 SECTION 6 OF THE COLORADO CONSTITUTION.

22 (5) NOT LATER THAN SEPTEMBER 30, 2023, AND ANNUALLY THEREAFTER, THE BOARD SHALL MAKE
23 RECOMMENDATIONS TO THE DEPARTMENT RELATED TO, BUT NOT LIMITED TO, ALL OF THE FOLLOWING
24 AREAS:

25 (a) ACCURATE PUBLIC HEALTH APPROACHES REGARDING USE, EFFECT, AND RISK REDUCTION FOR
26 NATURAL MEDICINE AND THE CONTENT AND SCOPE OF EDUCATIONAL CAMPAIGNS RELATED TO NATURAL
27 MEDICINE;

28 (b) RESEARCH RELATED TO THE EFFICACY AND REGULATION OF NATURAL MEDICINE, INCLUDING
29 RECOMMENDATIONS RELATED TO PRODUCT SAFETY, HARM REDUCTION, AND CULTURAL
30 RESPONSIBILITY;

31 (c) THE PROPER CONTENT OF TRAINING PROGRAMS, EDUCATIONAL AND EXPERIENTIAL REQUIREMENTS,
32 AND QUALIFICATIONS FOR FACILITATORS;

33 (d) AFFORDABLE, EQUITABLE, ETHICAL, AND CULTURALLY RESPONSIBLE ACCESS TO NATURAL
34 MEDICINE AND REQUIREMENTS TO ENSURE THE REGULATED NATURAL MEDICINE ACCESS PROGRAM IS
35 EQUITABLE AND INCLUSIVE;

36 (e) APPROPRIATE REGULATORY CONSIDERATIONS FOR EACH NATURAL MEDICINE;

1 (f) THE ADDITION OF NATURAL MEDICINES TO THE REGULATED NATURAL MEDICINE ACCESS PROGRAM
2 UNDER SECTION 12-170-104(4)(B) BASED ON AVAILABLE MEDICAL, PSYCHOLOGICAL, AND SCIENTIFIC
3 STUDIES, RESEARCH, AND OTHER INFORMATION RELATED TO THE SAFETY AND EFFICACY OF EACH
4 NATURAL MEDICINE;

5 (g) ALL RULES TO BE PROMULGATED BY THE DEPARTMENT UNDER 12-170-104; AND

6 (h) REQUIREMENTS FOR ACCURATE AND COMPLETE DATA COLLECTION, REPORTING, AND PUBLICATION
7 OF INFORMATION RELATED TO THE IMPLEMENTATION OF THIS ARTICLE 170.

8 (6) THE BOARD SHALL, ON AN ONGOING BASIS, REVIEW AND EVALUATE EXISTING RESEARCH, STUDIES,
9 AND REAL-WORLD DATA RELATED TO NATURAL MEDICINE AND MAKE RECOMMENDATIONS TO THE
10 LEGISLATURE AND OTHER RELEVANT STATE AGENCIES AS TO WHETHER NATURAL MEDICINE AND
11 ASSOCIATED SERVICES SHOULD BE COVERED UNDER HEALTH FIRST COLORADO OR OTHER INSURANCE
12 PROGRAMS AS A COST EFFECTIVE INTERVENTION FOR VARIOUS MENTAL HEALTH CONDITIONS,
13 INCLUDING BUT NOT LIMITED TO END OF LIFE ANXIETY, SUBSTANCE USE DISORDER, ALCOHOLISM,
14 DEPRESSIVE DISORDERS, NEUROLOGICAL DISORDERS, CLUSTER HEADACHES, AND POST TRAUMATIC
15 STRESS DISORDER.

16 (7) THE BOARD SHALL, ON AN ONGOING BASIS, REVIEW AND EVALUATE SUSTAINABILITY ISSUES
17 RELATED TO NATURAL MEDICINE AND IMPACT ON INDIGENOUS CULTURES AND DOCUMENT EXISTING
18 RECIPROCITY EFFORTS AND CONTINUING SUPPORT MEASURES THAT ARE NEEDED AS PART OF ITS
19 ANNUAL REPORT.

20 (8) THE BOARD SHALL PUBLISH AN ANNUAL REPORT DESCRIBING ITS ACTIVITIES INCLUDING THE
21 RECOMMENDATIONS AND ADVICE PROVIDED TO THE DEPARTMENT AND THE LEGISLATURE.

22 (9) THE DEPARTMENT SHALL PROVIDE REQUESTED TECHNICAL, LOGISTICAL AND OTHER SUPPORT TO
23 THE BOARD TO ASSIST THE BOARD WITH ITS DUTIES AND OBLIGATIONS.

24 (10) THIS SECTION IS REPEALED EFFECTIVE DECEMBER 31, 2033.

25 **12-170-106. Regulated natural medicine access program fund.** (1) THE REGULATED NATURAL
26 MEDICINE ACCESS PROGRAM FUND IS HEREBY CREATED IN THE STATE TREASURY. THE FUND IS
27 ADMINISTERED BY THE DEPARTMENT AND CONSISTS OF ALL MONEY FROM FEES COLLECTED AND MONEY
28 TRANSFERRED FROM THE GENERAL FUND UNDER THIS ARTICLE 170. ALL INTEREST AND INCOME
29 EARNED ON THE DEPOSIT AND INVESTMENT OF MONEY IN THE FUND SHALL BE CREDITED TO THE FUND
30 AND SHALL NOT BE TRANSFERRED TO THE GENERAL FUND OR ANY OTHER STATE FUND AT THE END OF
31 ANY STATE FISCAL YEAR.

32 (2) THE DEPARTMENT MAY SEEK, ACCEPT, AND EXPEND ANY GIFTS, GRANTS, DONATIONS, LOAN OF
33 FUNDS, PROPERTY, OR ANY OTHER REVENUE OR AID IN ANY FORM FROM THE STATE, ANY STATE
34 AGENCY, ANY OTHER PUBLIC SOURCE, ANY PRIVATE SOURCE, OR ANY COMBINATION THEREOF, AND ANY
35 SUCH MONETARY RECEIPTS SHALL BE CREDITED TO THE FUND AND ANY SUCH IN-KIND RECEIPTS SHALL
36 BE APPLIED FOR THE BENEFIT OF THE FUND.

37 (3) THE MONEY IN THE FUND IS CONTINUALLY APPROPRIATED TO THE DEPARTMENT FOR THE DIRECT AND
38 INDIRECT COSTS OF CARRYING OUT THE PROVISIONS OF THIS ARTICLE 170.

1 (4) FUNDS FOR THE INITIAL ESTABLISHMENT AND SUPPORT OF THE REGULATORY ACTIVITIES BY THE
2 DEPARTMENT UNDER THIS ARTICLE 170, INCLUDING THE NATURAL MEDICINE ADVISORY BOARD, THE
3 DEVELOPMENT AND PROMOTION OF PUBLIC EDUCATION CAMPAIGNS RELATED TO THE USE OF NATURAL
4 MEDICINE, AND THE DEVELOPMENT OF THE POLICIES, PROCEDURES, AND PROGRAMS REQUIRED BY 12-
5 170-104(6)(D) SHALL BE ADVANCED FROM THE GENERAL FUND TO THE REGULATED NATURAL MEDICINE
6 ACCESS PROGRAM FUND AND SHALL BE REPAID TO THE GENERAL FUND BY THE INITIAL PROCEEDS FROM
7 FEES COLLECTED PURSUANT TO THIS ARTICLE 170.

8 (5) THE OFFICE OF STATE PLANNING AND BUDGETING SHALL DETERMINE THE AMOUNT OF THE INITIAL
9 ADVANCE FROM THE GENERAL FUND TO THE REGULATED NATURAL MEDICINE ACCESS PROGRAM FUND
10 BASED ON THE ESTIMATED COSTS OF ESTABLISHING THE PROGRAM.

11 **12-170-107. Localities.** (1) A LOCALITY MAY REGULATE THE TIME, PLACE, AND MANNER OF THE
12 OPERATION OF HEALING CENTERS LICENSED PURSUANT TO THIS ARTICLE 170 WITHIN ITS BOUNDARIES.

13 (2) A LOCALITY MAY NOT BAN OR COMPLETELY PROHIBIT THE ESTABLISHMENT OR OPERATION OF
14 HEALING CENTERS LICENSED PURSUANT TO THIS ARTICLE 170 WITHIN ITS BOUNDARIES.

15 (3) A LOCALITY MAY NOT BAN OR COMPLETELY PROHIBIT A LICENSED HEALTH-CARE FACILITY OR
16 INDIVIDUAL WITHIN ITS BOUNDARIES FROM PROVIDING NATURAL MEDICINE SERVICES IF THE LICENSED
17 HEALTH-CARE FACILITY OR INDIVIDUAL IS PERMITTED TO PROVIDE NATURAL MEDICINE SERVICES BY THE
18 DEPARTMENT PURSUANT TO THIS ARTICLE 170.

19 (4) A LOCALITY MAY NOT PROHIBIT THE TRANSPORTATION OF NATURAL MEDICINE THROUGH ITS
20 JURISDICTION ON PUBLIC ROADS BY A LICENSEE OR AS OTHERWISE ALLOWED BY THIS ARTICLE 170.

21
22 (5) A LOCALITY MAY NOT ADOPT ORDINANCES OR REGULATIONS THAT ARE
23 UNREASONABLE OR IN CONFLICT WITH THIS ARTICLE 170, BUT MAY ENACT LAWS IMPOSING LESSER
24 CRIMINAL OR CIVIL PENALTIES THAN PROVIDED BY THIS ARTICLE 170

25 **12-170-108. Protections.** (1) SUBJECT TO THE LIMITATIONS IN THIS ARTICLE 170, BUT
26 NOTWITHSTANDING ANY OTHER PROVISION OF LAW:

27 (a) ACTIONS AND CONDUCT PERMITTED PURSUANT TO A LICENSE OR REGISTRATION ISSUED BY THE
28 DEPARTMENT OR BY DEPARTMENT RULE, OR BY THOSE WHO ALLOW PROPERTY TO BE USED PURSUANT
29 TO A LICENSE OR REGISTRATION ISSUED BY THE DEPARTMENT OR BY DEPARTMENT RULE, ARE NOT
30 UNLAWFUL AND SHALL NOT BE AN OFFENSE UNDER STATE LAW, OR THE LAWS OF ANY LOCALITY WITHIN
31 THE STATE, OR BE SUBJECT TO A CIVIL FINE, PENALTY, OR SANCTION, OR BE A BASIS FOR DETENTION,
32 SEARCH, OR ARREST, OR TO DENY ANY RIGHT OR PRIVILEGE, OR TO SEIZE OR FORFEIT ASSETS UNDER
33 STATE LAW OR THE LAWS OF ANY LOCALITY WITHIN THE STATE.

34 (b) A CONTRACT IS NOT UNENFORCEABLE ON THE BASIS THAT NATURAL MEDICINES, AS ALLOWED
35 UNDER THIS ARTICLE 170, ARE PROHIBITED BY FEDERAL LAW.

36 (c) A HOLDER OF A PROFESSIONAL OR OCCUPATIONAL LICENSE, CERTIFICATION, OR REGISTRATION IS
37 NOT SUBJECT TO PROFESSIONAL DISCIPLINE OR LOSS OF A PROFESSIONAL LICENSE OR CERTIFICATION
38 FOR PROVIDING ADVICE OR SERVICES ARISING OUT OF OR RELATED TO NATURAL MEDICINE LICENSES,
39 APPLICATIONS FOR LICENSES ON THE BASIS THAT NATURAL MEDICINES ARE PROHIBITED BY FEDERAL

1 LAW, OR FOR PERSONAL USE OF NATURAL MEDICINES AS ALLOWED UNDER THIS ARTICLE 170. THIS
2 SECTION DOES NOT PERMIT A PERSON TO ENGAGE IN MALPRACTICE.

3 (d) MENTAL HEALTH, SUBSTANCE USE DISORDER, OR BEHAVIORAL HEALTH SERVICES OTHERWISE
4 COVERED UNDER THE COLORADO MEDICAL ASSISTANCE ACT, ARTICLES 4 TO 6 OF TITLE 25.5, C.R.S.,
5 SHALL NOT BE DENIED ON THE BASIS THAT THEY ARE COVERED IN
6 CONJUNCTION WITH NATURAL MEDICINE SERVICES OR THAT NATURAL MEDICINES ARE PROHIBITED BY
7 FEDERAL LAW. NO INSURANCE OR INSURANCE PROVIDER IS REQUIRED TO COVER THE COST OF THE
8 NATURAL MEDICINE ITSELF.

9 (e) NOTHING IN THIS SECTION SHALL BE CONSTRUED OR INTERPRETED TO PREVENT THE DEPARTMENT
10 FROM ENFORCING ITS RULES AGAINST A LICENSEE OR TO LIMIT A STATE OR LOCAL LAW ENFORCEMENT
11 AGENCY'S ABILITY TO INVESTIGATE UNLAWFUL ACTIVITY IN RELATION TO A LICENSEE.

12 **12-170-109. Personal Use.** (1) SUBJECT TO THE LIMITATIONS IN THIS ARTICLE 170, BUT
13 NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE FOLLOWING ACTS ARE NOT AN OFFENSE
14 UNDER STATE LAW OR THE LAWS OF ANY LOCALITY WITHIN THE STATE OR SUBJECT TO A CIVIL FINE,
15 PENALTY, OR SANCTION, OR THE BASIS FOR DETENTION, SEARCH, OR ARREST, OR TO DENY ANY RIGHT
16 OR PRIVILEGE, OR TO SEIZE OR FORFEIT ASSETS UNDER STATE LAW OR THE LAWS OF ANY LOCALITY, IF
17 THE PERSON IS TWENTY-ONE YEARS OF AGE OR OLDER:

18 (a) POSSESSING, STORING, USING, PROCESSING, TRANSPORTING, PURCHASING, OBTAINING, OR
19 INGESTING NATURAL MEDICINE FOR PERSONAL USE, OR GIVING AWAY NATURAL MEDICINE FOR
20 PERSONAL USE WITHOUT REMUNERATION TO A PERSON OR PERSONS TWENTY-ONE YEARS OF AGE OR
21 OLDER.

22 (b) GROWING, CULTIVATING, OR PROCESSING PLANTS OR FUNGI CAPABLE OF PRODUCING NATURAL
23 MEDICINE FOR PERSONAL USE IF:

24 (I) THE PLANTS AND FUNGI ARE KEPT IN OR ON THE GROUNDS OF A PRIVATE HOME OR RESIDENCE; AND

25 (II) THE PLANTS AND FUNGI ARE SECURED FROM ACCESS BY PERSONS UNDER TWENTY-ONE YEARS OF
26 AGE.

27 (c) ASSISTING ANOTHER PERSON OR PERSONS WHO ARE TWENTY-ONE YEARS OF AGE OR OLDER, OR
28 ALLOWING PROPERTY TO BE USED, IN ANY OF THE ACTIONS OR CONDUCT PERMITTED UNDER
29 SUBSECTION (1).

30 (2) FOR THE PURPOSE OF THIS ARTICLE 170, "PERSONAL USE" MEANS THE PERSONAL INGESTION OR
31 USE OF A NATURAL MEDICINE AND INCLUDES THE AMOUNT A PERSON MAY CULTIVATE OR POSSESS OF
32 NATURAL MEDICINE NECESSARY TO SHARE NATURAL MEDICINES WITH OTHER PERSONS TWENTY-ONE
33 YEARS OF AGE OR OLDER WITHIN THE CONTEXT OF COUNSELING, SPIRITUAL GUIDANCE, BENEFICIAL
34 COMMUNITY-BASED USE AND HEALING, SUPPORTED USE, OR RELATED SERVICES. "PERSONAL USE"
35 DOES NOT INCLUDE THE SALE OF NATURAL MEDICINES FOR REMUNERATION.

36 (3) CONDUCT PERMITTED BY THIS ARTICLE 170 SHALL NOT, BY ITSELF:

37 (a) CONSTITUTE CHILD ABUSE OR NEGLECT WITHOUT A FINDING OF ACTUAL THREAT TO THE HEALTH OR
38 WELFARE OF A CHILD BASED ON ALL RELEVANT FACTORS.

- 1 (b) BE THE BASIS TO RESTRICT PARENTING TIME WITH A CHILD WITHOUT A FINDING THAT THE
2 PARENTING TIME WOULD ENDANGER THE CHILD'S PHYSICAL HEALTH OR SIGNIFICANTLY IMPAIR THE
3 CHILD'S EMOTIONAL DEVELOPMENT.
- 4 (4) CONDUCT PERMITTED BY THIS ARTICLE 170 SHALL NOT, BY ITSELF, BE THE BASIS FOR PUNISHING
5 OR OTHERWISE PENALIZING A PERSON CURRENTLY UNDER PAROLE, PROBATION, OR OTHER STATE
6 SUPERVISION, OR RELEASED AWAITING TRIAL OR OTHER HEARING.
- 7 (5) CONDUCT PERMITTED BY THIS ARTICLE 170 SHALL NOT, BY ITSELF, BE THE BASIS FOR DETENTION,
8 SEARCH, OR ARREST; AND THE POSSESSION OR SUSPICION OF POSSESSION OF NATURAL MEDICINE, OR
9 THE POSSESSION OF MULTIPLE CONTAINERS OF NATURAL MEDICINE, SHALL NOT INDIVIDUALLY OR IN
10 COMBINATION WITH EACH OTHER CONSTITUTE REASONABLY ARTICULABLE SUSPICION OF A CRIME.
11 NATURAL MEDICINES AS PERMITTED BY THIS ARTICLE 170 ARE NOT CONTRABAND NOR SUBJECT TO
12 SEIZURE AND SHALL NOT BE HARMED OR DESTROYED.
- 13 (6) CONDUCT PERMITTED BY THIS ARTICLE 170 SHALL NOT, BY ITSELF, BE THE BASIS TO DENY ELIGIBILITY
14 FOR ANY PUBLIC ASSISTANCE PROGRAM, UNLESS REQUIRED BY FEDERAL LAW.
- 15 (7) FOR THE PURPOSES OF MEDICAL CARE, INCLUDING ORGAN TRANSPLANTS, CONDUCT PERMITTED BY
16 THIS ARTICLE 170 DOES NOT CONSTITUTE THE USE OF AN ILLICIT SUBSTANCE OR OTHERWISE DISQUALIFY
17 A PERSON FROM MEDICAL CARE OR MEDICAL INSURANCE.
- 18 (8) NOTHING IN THIS SECTION SHALL BE CONSTRUED OR INTERPRETED TO PERMIT A PERSON TO GIVE
19 AWAY ANY AMOUNT OF NATURAL MEDICINE AS PART OF A BUSINESS PROMOTION OR OTHER
20 COMMERCIAL ACTIVITY OR TO PERMIT PAID ADVERTISING RELATED TO NATURAL MEDICINE, SHARING OF
21 NATURAL MEDICINE, OR SERVICES INTENDED TO BE USED CONCURRENTLY WITH A PERSON'S
22 CONSUMPTION OF NATURAL MEDICINE. SUCH ADVERTISING MAY BE CONSIDERED EVIDENCE OF
23 COMMERCIAL ACTIVITY THAT IS PROHIBITED UNDER THIS SECTION. THIS PROVISION DOES NOT
24 PRECLUDE THE DONATION OF NATURAL MEDICINE BY A PERSON TWENTY-ONE YEARS OF AGE OR OLDER,
25 PAYMENT FOR BONA FIDE HARM REDUCTION SERVICES, BONA FIDE THERAPY SERVICES, OR OTHER
26 BONA FIDE SUPPORT SERVICES, MAINTAINING PERSONAL OR PROFESSIONAL WEBSITES RELATED TO
27 NATURAL MEDICINE SERVICES, DISSEMINATION OF EDUCATIONAL MATERIALS RELATED TO NATURAL
28 MEDICINE, OR LIMIT THE ABILITY OF A HEALING CENTER TO DONATE NATURAL MEDICINE OR PROVIDE
29 NATURAL MEDICINE AT REDUCED COST CONSISTENT WITH DEPARTMENT RULES.
- 30 (9) A PERSON WHO HAS COMPLETED A SENTENCE FOR A CONVICTION, WHETHER BY TRIAL OR PLEA OF
31 GUILTY OR *NOLO CONTENDERE*, WHO WOULD NOT HAVE BEEN GUILTY OF AN OFFENSE UNDER THIS ACT
32 HAD IT BEEN IN EFFECT AT THE TIME OF THE OFFENSE, MAY FILE A PETITION BEFORE THE TRIAL COURT
33 THAT ENTERED THE JUDGMENT OF CONVICTION IN THE PERSON'S CASE TO SEAL THE RECORD OF THE
34 CONVICTION AT NO COST. IF THERE IS NO OBJECTION FROM THE DISTRICT ATTORNEY, THE COURT SHALL
35 AUTOMATICALLY SEAL SUCH RECORD. IF THERE IS AN OBJECTION BY THE DISTRICT ATTORNEY, A
36 HEARING SHALL BE HELD AND THE COURT SHALL DETERMINE IF THE PRIOR CONVICTION DOES NOT
37 QUALIFY TO BE SEALED UNDER THIS ACT. IF THE RECORD DOES NOT QUALIFY TO BE SEALED, THE COURT
38 SHALL DENY THE SEALING OF THE RECORD. NOTHING IN THIS SECTION SHALL BE CONSTRUED TO
39 DIMINISH OR ABROGATE ANY RIGHTS OR REMEDIES OTHERWISE AVAILABLE TO THE PETITIONER OR
40 APPLICANT.

1 **12-170-110. Personal use penalties.** (1) UNLESS OTHERWISE PROVIDED BY SUBSECTION (2) OF
2 THIS SECTION, A PERSON WHO IS UNDER TWENTY-ONE YEARS OF AGE IS SUBJECT TO A DRUG PETTY
3 OFFENSE, AND UPON CONVICTION THEREOF, SHALL BE SUBJECT ONLY TO A PENALTY OF NO MORE THAN
4 FOUR (4) HOURS OF DRUG EDUCATION OR COUNSELING PROVIDED AT NO COST TO THE PERSON, IF THE
5 PERSON:

6 (a) POSSESSES, USES, INGESTS, INHALES, OR TRANSPORTS NATURAL MEDICINE FOR PERSONAL USE;

7 (b) GIVES AWAY WITHOUT REMUNERATION NATURAL MEDICINE FOR PERSONAL USE; OR

8 (c) POSSESSES, USES, OR GIVES AWAY WITHOUT REMUNERATION NATURAL MEDICINE PARAPHERNALIA.

9 (2) TO THE EXTENT SUBSECTION (1) ESTABLISHES A PENALTY FOR CONDUCT NOT OTHERWISE
10 PROHIBITED BY LAW OR ESTABLISHES A PENALTY THAT IS GREATER THAN EXISTS ELSEWHERE IN LAW
11 FOR THE CONDUCT SET FORTH IN SUBSECTION (1), THE PENALTIES IN SUBSECTION (1) SHALL NOT
12 APPLY.

13 (3) A PERSON WHO CULTIVATES NATURAL MEDICINES THAT ARE NOT SECURE FROM ACCESS BY A
14 PERSON UNDER TWENTY-ONE YEARS OF AGE IN VIOLATION OF 12-170-109(1)(b) IS SUBJECT TO A CIVIL
15 FINE NOT EXCEEDING TWO-HUNDRED AND FIFTY DOLLARS, IN ADDITION TO ANY OTHER APPLICABLE
16 PENALTIES.

17 (4) A PERSON SHALL NOT BE SUBJECT TO ANY ADDITIONAL FEES, FINES, OR OTHER PENALTIES FOR THE
18 VIOLATIONS ADDRESSED IN THIS SECTION OTHER THAN THOSE SET FORTH IN THIS SECTION. FURTHER,
19 A PERSON SHALL NOT BE SUBJECT TO INCREASED PUNISHMENT FOR ANY OTHER CRIME ON THE BASIS
20 OF THAT PERSON HAVING UNDERTAKEN CONDUCT PERMITTED BY THIS ARTICLE 170.

21 **12-170-111. Limitations.** (1) THIS ARTICLE 170 SHALL NOT BE CONSTRUED:

22
23 (a) TO PERMIT A PERSON TO DRIVE OR OPERATE A MOTOR VEHICLE, BOAT, VESSEL, AIRCRAFT, OR
24 OTHER DEVICE THAT IS CAPABLE OF MOVING ITSELF, OR OF BEING MOVED, FROM PLACE TO PLACE UPON
25 WHEELS OR ENDLESS TRACKS UNDER THE INFLUENCE OF NATURAL MEDICINE;

26 (b) TO PERMIT A PERSON TO USE OR POSSESS NATURAL MEDICINE IN A SCHOOL, DETENTION FACILITY,
27 OR PUBLIC BUILDING;

28 (c) TO PERMIT A PERSON TO INGEST NATURAL MEDICINES IN A PUBLIC PLACE, OTHER THAN A PLACE
29 LICENSED OR OTHERWISE PERMITTED BY THE DEPARTMENT FOR SUCH USE;

30 (d) TO PERMIT THE TRANSFER OF NATURAL MEDICINE, WITH OR WITHOUT REMUNERATION, TO A PERSON
31 UNDER TWENTY-ONE YEARS OF AGE OR TO ALLOW A PERSON UNDER TWENTY-ONE YEARS OF AGE TO
32 USE OR POSSESS NATURAL MEDICINE;

33 (e) TO PERMIT A PERSON TO ENGAGE IN CONDUCT THAT ENDANGERS OR HARMS OTHERS;

34 (f) TO REQUIRE A GOVERNMENT MEDICAL ASSISTANCE PROGRAM OR PRIVATE HEALTH INSURER TO
35 REIMBURSE A PERSON FOR COSTS OF PURCHASING NATURAL MEDICINE;

1 (g) TO REQUIRE AN EMPLOYER TO PERMIT OR ACCOMMODATE THE USE, CONSUMPTION, POSSESSION,
2 TRANSFER, DISPLAY, TRANSPORTATION, OR GROWING OF NATURAL MEDICINES IN THE WORKPLACE;

3 (h) TO PROHIBIT A RECIPIENT OF A FEDERAL GRANT OR AN APPLICANT FOR A FEDERAL GRANT FROM
4 PROHIBITING THE USE, CONSUMPTION, POSSESSION, TRANSFER, DISPLAY, TRANSPORTATION, OR
5 GROWING OF NATURAL MEDICINES TO THE EXTENT NECESSARY TO SATISFY FEDERAL REQUIREMENTS
6 FOR THE GRANT;

7 (i) TO PROHIBIT A PARTY TO A FEDERAL CONTRACT OR A PERSON APPLYING TO BE A PARTY TO A
8 FEDERAL CONTRACT FROM PROHIBITING ANY ACT PERMITTED IN THIS ARTICLE 170 TO THE EXTENT
9 NECESSARY TO COMPLY WITH THE TERMS AND CONDITIONS OF THE CONTRACT OR TO SATISFY FEDERAL
10 REQUIREMENTS FOR THE CONTRACT;

11 (j) TO REQUIRE A PERSON TO VIOLATE A FEDERAL LAW; OR

12 (k) TO EXEMPT A PERSON FROM A FEDERAL LAW OR OBSTRUCT THE ENFORCEMENT OF A FEDERAL LAW.

13 **12-170-112. Liberal construction.** THIS ACT SHALL BE LIBERALLY CONSTRUED TO EFFECTUATE ITS
14 PURPOSE.

15 **12-170-113. Preemption.** NO LOCALITY SHALL ADOPT, ENACT, OR ENFORCE ANY ORDINANCE, RULE,
16 OR RESOLUTION IMPOSING ANY GREATER CRIMINAL OR CIVIL PENALTY THAN PROVIDED BY THIS ACT OR
17 THAT IS OTHERWISE IN CONFLICT WITH THE PROVISIONS OF THIS ACT. A LOCALITY MAY ENACT LAWS
18 IMPOSING LESSER CRIMINAL OR CIVIL PENALTIES THAN PROVIDED BY THIS ACT.

19 **12-170-114. Self-executing, severability, conflicting provisions.** ALL PROVISIONS OF THIS
20 ARTICLE 170 ARE SELF-EXECUTING EXCEPT AS SPECIFIED HEREIN, ARE SEVERABLE, AND, EXCEPT
21 WHERE OTHERWISE INDICATED IN THE TEXT, SHALL SUPERSEDE CONFLICTING STATE STATUTORY,
22 LOCAL CHARTER, ORDINANCE, OR RESOLUTION, AND OTHER STATE AND LOCAL PROVISIONS. IF ANY
23 PROVISION OF THIS ACT OR ITS APPLICATION TO ANY PERSON OR CIRCUMSTANCE IS HELD INVALID, THE
24 INVALIDITY DOES NOT AFFECT OTHER PROVISIONS OR APPLICATIONS OF THIS ACT THAT CAN BE GIVEN
25 EFFECT WITHOUT THE INVALID PROVISION OR APPLICATION, AND TO THIS END THE PROVISIONS OF THIS
26 ACT ARE SEVERABLE.

27 **12-170-115. Effective date.** UNLESS OTHERWISE PROVIDED BY THIS ACT, ALL PROVISIONS OF THIS
28 ACT SHALL BECOME EFFECTIVE UPON THE EARLIER OF THE OFFICIAL DECLARATION OF THE VOTE
29 HEREON BY PROCLAMATION OF THE GOVERNOR OR THIRTY DAYS AFTER THE VOTE HAS BEEN
30 CANVASSED, PURSUANT TO SECTION 1(4) OF ARTICLE V OF THE COLORADO CONSTITUTION. THE
31 REMOVAL AND REDUCTION OF CRIMINAL PENALTIES BY THIS ACT IS INTENDED TO HAVE RETROACTIVE
32 EFFECT.

33 **SECTION 2.** In Colorado Revised Statutes, 18-18-403.5, **amend** (1) as follows:

34 **18-18-403.5. Unlawful possession of a controlled substance.** (1) Except as authorized by part
35 1 or 3 of article 280 of title 12, part 2 of article 80 of title 27, section 18-1-711, section 18-18-
36 428(1)(b), ~~or~~ part 2 or 3 of this article 18, OR THE "NATURAL MEDICINE HEALTH ACT OF
37 2022", ARTICLE 170 OF TITLE 12 it is unlawful for a person knowingly to possess a controlled
38 substance.

1 **SECTION 3.** In Colorado Revised Statutes, 18-18-404 **amend** (1)(a) as follows:

2 **18-18-404. Unlawful use of a controlled substance.** (1)(a) Except as is otherwise provided for
3 offenses concerning marijuana and marijuana concentrate in sections 18-18-406 and 18-18-406.5
4 OR BY THE “NATURAL MEDICINE HEALTH ACT OF 2022”, ARTICLE 170 OF TITLE 12 any person who
5 uses any controlled substance, except when it is dispensed by or under the direction of a person
6 licensed or authorized by law to prescribe, administer, or dispense the controlled substance for
7 bona fide medical needs, commits a level 2 drug misdemeanor.

8 **SECTION 4.** In Colorado Revised Statutes, 18-18-405, **amend** (1)(a) as follows:

9 **18-18-405. Unlawful distribution, manufacturing, dispensing, or sale.** (1)(a) Except as
10 authorized by part 1 of article 280 of title 12, part 2 of article 80 of title 27, ~~or~~ part 2 or 3 of this
11 article 18, OR BY “THE NATURAL MEDICINE HEALTH ACT OF 2022”, ARTICLE 170 OF TITLE 12 it is
12 unlawful for any person knowingly to manufacture, dispense, sell, or distribute, or to possess
13 with intent to manufacture, dispense, sell, or distribute, a controlled substance; or induce, attempt
14 to induce, or conspire with one or more other persons, to manufacture, dispense, sell, distribute,
15 or possess with intent to manufacture, dispense, sell, or distribute, a controlled substance; or
16 possess one or more chemicals or supplies or equipment with intent to manufacture a controlled
17 substance.

18 **SECTION 5.** In Colorado Revised Statutes, **amend** 18-18-410 as follows:

19 **18-18-410. Declaration of class 1 public nuisance.** EXCEPT AS PERMITTED BY THE “NATURAL
20 MEDICINE HEALTH ACT OF 2022”, ARTICLE 170 OF TITLE 12 any store, shop, warehouse, dwelling
21 house, building, vehicle, boat, or aircraft or any place whatsoever which is frequented by controlled
22 substance addicts for the unlawful use of controlled substances or which is used for the unlawful
23 storage, manufacture, sale, or distribution of controlled substances is declared to be a class 1
24 public nuisance and subject to the provisions of [section 16-13-303, C.R.S.](#) Any real or personal
25 property which is seized or confiscated as a result of an action to abate a public nuisance shall be
26 disposed of pursuant to part 7 of article 13 of title 16, C.R.S.

27 **SECTION 6.** In Colorado Revised Statutes, 18-18-411, **add** (5) as follows:

28 **18-18-411. keeping, maintaining, controlling, renting, or making available property for**
29 **unlawful distribution or manufacture of controlled substances.**

30 (5) A PERSON ACTING IN COMPLIANCE WITH THE “NATURAL MEDICINE HEALTH ACT OF 2022”, ARTICLE
31 170 OF TITLE 12 DOES NOT VIOLATE THIS SECTION.

32 **SECTION 7.** In Colorado Revised Statutes, 18-18-412.7, **add** (3) as follows:

33 **18-18-412.7. Sale or distribution of materials to manufacture controlled substances.**

34 (3) A PERSON ACTING IN COMPLIANCE WITH THE “NATURAL MEDICINE HEALTH ACT OF 2022”, ARTICLE
35 170 OF TITLE 12 DOES NOT VIOLATE THIS SECTION.

36 **SECTION 8.** In Colorado Revised Statutes, 18-18-430.5, **add** (1)(c) as follows:

1 **18-18-430.5. Drug paraphernalia—exemption.** (1) A person is exempt from sections 18-18-425
2 to 18-18-430 if the person is:

3 (c) USING EQUIPMENT, PRODUCTS OR MATERIALS IN COMPLIANCE WITH THE “NATURAL MEDICINE
4 HEALTH ACT OF 2022”, ARTICLE 170 OF TITLE 12. THE MANUFACTURE, POSSESSION, AND DISTRIBUTION
5 OF SUCH EQUIPMENT, PRODUCTS, OR MATERIALS SHALL BE AUTHORIZED WITHIN THE MEANING OF 21
6 USC 863 SEC. (f).

7 **SECTION 9.** In Colorado Revised Statutes, 16-13-303, **add** (9) as follows:

8

9 **16-13-303. Class 1 public nuisance.**

10 (9) A PERSON ACTING IN COMPLIANCE WITH THE “NATURAL MEDICINE HEALTH ACT OF 2022”, ARTICLE
11 170 OF TITLE 12 DOES NOT VIOLATE THIS SECTION.

12 **SECTION 10.** In Colorado Revised Statutes, 16-13-304, **add** (2) as follows:

13 **16-13-304. Class 2 public nuisance.**

14 (2) A PERSON ACTING IN COMPLIANCE WITH THE “NATURAL MEDICINE HEALTH ACT OF 2022”, ARTICLE
15 170 OF TITLE 12 DOES NOT VIOLATE THIS SECTION.