

Updated Cannabis Laws in America-2017

Recreational Cannabis Law Updates

Florida

Voters approved Amendment 2 — Expand Medical Marijuana — in Florida. The amendment calls for legalizing medical marijuana for individuals with specific debilitating diseases or conditions as determined by a licensed state physician. It is also designed to require the Department of Health to register and regulate marijuana production and distribution centers.

Initiative design

The legal language of Amendment 2 was written to explicitly allow medical marijuana to be provided as a treatment for patients with the following specific diseases:

cancer

epilepsy

glaucoma

HIV

AIDS

post-traumatic stress disorder (PTSD)

amyotrophic lateral sclerosis (ALS)

Crohn's disease
Parkinson's disease
multiple sclerosis

Amendment 2 was also designed to allow licensed physicians to certify patients for medical marijuana use after diagnosing them with some "other debilitating medical conditions of the same kind or class as or comparable to those enumerated."

Current status of Florida medical marijuana

The Florida government enacted the Compassionate Medical Cannabis Act of 2014 and it became effective on January 1, 2015. The program allowed for access to non-smoked, low-THC marijuana for qualified patients.[3]

Defeat of Amendment 2 in 2014

Florida Right to Medical Marijuana Initiative, Amendment 2 (2014)

United for Care successfully placed a similar initiative, also named Amendment 2, on the November 4, 2014, ballot in Florida, but the measure was defeated on Election Day. Although a 57.62 percent majority voted in favor of the amendment, Florida's state constitution requires a 60 percent supermajority vote for an amendment to pass. Thus, the measure failed by a little over 139,000 votes, or 2.38 percent.

Following the defeat of 2014's Amendment 2, John Morgan, the central proponent of and largest donor to the

defeated measure, started planning a re-run for 2016. United for Care, which supported the defeated Amendment 2 of 2014, supported the 2016 medical marijuana initiative. The group's director, Ben Pollara, said the new initiative contains explicit language clarifying issues about which some opponents of Amendment 2 were concerned in 2014.

Differences between 2014 and 2016 measures:

Although the 2014 measure and the 2016 measure were both designed to legalize medical marijuana, there were some differences between the two proposals.

The 2016 measure clarifies requirements for parental consent for the use of medical marijuana by minors and also further defined what is meant by "debilitating" illnesses that would qualify for marijuana as a treatment option.

The 2016 measure also addressed concerns regarding caregivers by making it clear that doctors would not be immune from malpractice claims for negligent prescribing of marijuana and by limiting how many patients a caregiver can treat with marijuana.

Financial impact statement

The financial impact statement for Amendment 2 was as follows:

Increased costs from this amendment to state and local governments cannot be determined.

There will be additional regulatory costs and enforcement activities associated with the production, sale, use and possession of medical marijuana.

Fees may offset some of the regulatory costs. Sales tax will likely apply to most purchases, resulting in a substantial increase in state and local government revenues that cannot be determined precisely.

The impact on property tax revenues cannot be determined.

To get involved with the cannabis business in Florida, the website that is handling most of the issues is:

<http://www.floridahealth.gov/programs-and-services/office-of-compassionate-use/>

Massachusetts

The Massachusetts Marijuana Legalization Initiative, also known as Question 4 was on the November 8, 2016, ballot in Massachusetts as an indirect initiated state statute. It

was approved.

A "yes" vote supported this proposal to legalize marijuana but regulate it in ways similar to alcoholic beverages. A "no" vote opposed this proposal to legalize recreational marijuana, keeping only medical marijuana legal.

Initiative design

Question 4 legalized and created a commission to regulate marijuana in Massachusetts. Previously, marijuana was only permitted for medicinal purposes. Under the new law, individuals at least 21 years old will be able to use it, grow it, and possess it. The measure stipulated that individuals could possess under ten ounces of marijuana inside their homes and under one ounce in public. They will also be able to grow up to six marijuana plants in their homes.

The measure created a regulatory structure called the Cannabis Control Commission. This body oversees marijuana legalization and issue licenses to firms that seek to sell marijuana products.

Under the measure, retail marijuana will be subjected to the state sales tax with an additional 3.75 percent excise tax.

If it chooses, a local municipality may add another 2 percent tax. Revenue from excise taxes, license

application fees, and fines for minor violations of this law will be placed in a Marijuana Regulation Fund, which will help to pay for administrative costs of the new law.

Marijuana legalization will take effect on December 15, 2016

The proposed law would permit the possession, use, distribution, and cultivation of marijuana in limited amounts by persons age 21 and older and would remove criminal penalties for such activities. It would provide for the regulation of commerce in marijuana, marijuana accessories, and marijuana products and for the taxation of proceeds from sales of these items.

The proposed law would authorize persons at least 21 years old to possess up to one ounce of marijuana outside of their residences; possess up to ten ounces of marijuana inside their residences; grow up to six marijuana plants in their residences; give one ounce or less of marijuana to a person at least 21 years old without payment; possess, produce or transfer hemp; or make or transfer items related to marijuana use, storage, cultivation, or processing.

The measure would create a Cannabis Control Commission of three members appointed by the state Treasurer which would generally administer the law governing marijuana use and distribution, promulgate regulations, and be responsible for the licensing of

marijuana commercial establishments.

The proposed law would also create a Cannabis Advisory Board of fifteen members.

Information on the Massachusetts cannabis industry will be handled by <http://www.mass.gov/eohhs/gov/departments/dph/programs/hcq/medical-marijuana/>

California

California Proposition 64, the California Marijuana Legalization Initiative, was on the November 8, 2016, ballot in California as an initiated state statute. Supporters referred to the initiative as the Adult Use of Marijuana Act. It was approved.

Status of marijuana in California

In California, the possession or use of marijuana for recreational purposes was illegal. The passage of Proposition 215 in 1996 legalized medical marijuana. Although the Department of Justice under President Obama does not prosecute most individuals and businesses following state and local marijuana laws, both medical and recreational marijuana are illegal under federal law.[8][9] Proposition 64 made recreational marijuana legal in California state law.

Changes to state law

Proposition 64 allowed adults aged 21 years or older to possess and use marijuana for recreational purposes. The measure created two new taxes, one levied on cultivation and the other on retail price. Revenue from the taxes will be spent on drug research, treatment, and enforcement, health and safety grants addressing marijuana, youth programs, and preventing environmental damage resulting from illegal marijuana production.

State of ballot measure campaigns

The Yes on 64 campaign out-raised opponents eleven-to-one. As of November 7, 2016, supporters had raised \$22.5 million in contributions, while No on 64 had raised \$2.1 million. Sean Parker, founder of Napster and former Facebook president, had contributed \$8.6 million to Yes on 64. As of November 7, 2016, the California Secretary of State reported that Julie Schauer, based in Pennsylvania, contributed almost \$1.4 million in opposition to Proposition 64, which amounted to about 65 percent of opposition funds. California's two largest newspapers, the Los Angeles Times and the San Francisco Chronicle, endorsed the measure. The California Democratic Party also endorsed Proposition 64, and the California Republican Party came out in opposition. Support for the initiative ranged between 51 and 60 percent, and averaged around 56 percent, since the beginning of

September 2016.

Initiative design

Who can use marijuana?

Proposition 64 legalized the recreational use of marijuana for adults aged 21 years or older. Smoking was permitted in a private home or at a business licensed for on-site marijuana consumption. Smoking remains illegal while driving a vehicle, anywhere smoking tobacco is, and in all public places.

Up to 28.5 grams of marijuana and 8 grams of concentrated marijuana are legal to possess. However, possession on the grounds of a school, day care center, or youth center while children are present remains illegal. An individual is permitted to grow up to six plants within a private home, as long as the area is locked and not visible from a public place.

Who can sell marijuana?

To sell marijuana for recreational use, businesses need to acquire a state license. Local governments can also require them to obtain a local license. Businesses are not be authorized to sell within 600 feet of a school, day care center, or youth center. The initiative also prevents licenses for large-scale marijuana businesses for five years in order to prevent "unlawful monopoly power."

Who will regulate marijuana?

The Bureau of Medical Cannabis Regulation was renamed the Bureau of Marijuana Control. It is responsible for regulating and licensing marijuana businesses.

Counties and municipalities have been empowered to restrict where marijuana businesses could be located. Local governments can also completely ban the sale of marijuana from their jurisdictions.

How will marijuana be taxed?

Proposition 64 created two new excise taxes on marijuana. One is be a cultivation tax of \$9.25 per ounce for flowers and \$2.75 per ounce for leaves, with exceptions for certain medical marijuana sales and cultivation. The second is a 15 percent tax on the retail price of marijuana. Taxes will be adjusted for inflation starting in 2020.

Local governments have been authorized to levy taxes on marijuana as well.

Where will revenue be spent?

Revenue from the two taxes will be deposited in a new California Marijuana Tax Fund. First, the revenue will be used to cover costs of administrating and enforcing the

measure. Next, it will be distributed to drug research, treatment, and enforcement, including:

\$2 million per year to the UC San Diego Center for Medical Cannabis Research to study medical marijuana.

\$10 million per year for 11 years for public California universities to research and evaluate the implementation and impact of Proposition 64. Researchers would make policy-change recommendations to the California Legislature and California Governor.

\$3 million annually for five years to the Department of the California Highway Patrol for developing protocols to determine whether a vehicle driver is impaired due to marijuana consumption.

\$10 million, increasing each year by \$10 million until settling at \$50 million in 2022, for grants to local health departments and community-based nonprofits supporting "job placement, mental health treatment, substance use disorder treatment, system navigation services, legal services to address barriers to reentry, and linkages to medical care for communities disproportionately affected by past federal and state drug policies."

The remaining revenue will be distributed as follows:

60 percent to youth programs, including drug education, prevention, and treatment.

20 percent to prevent and alleviate environmental damage

from illegal marijuana producers.

20 percent to programs designed to reduce driving under the influence of marijuana and a grant program designed to reduce negative impacts on health or safety resulting from the proposition.

What will penalties be?

Individuals under age 18 convicted of marijuana use or possession are required to attend drug education or a counseling program and complete community service. Selling marijuana without a license is punishable by up to six months in a county jail, a fine up to \$500, or both.

With Proposition 64's approval, individuals serving criminal sentences for activities made legal under the measure are eligible for re-sentencing.

The official ballot title was as follows:

Marijuana Legalization. Initiative Statute.

The long-form ballot summary was as follows:

Legalizes marijuana under state law, for use by adults 21 or older.

Designates state agencies to license and regulate marijuana industry.

Imposes state excise tax of 15% on retail sales of marijuana, and state cultivation taxes on marijuana of

\$9.25 per ounce of flowers and \$2.75 per ounce of leaves.

Exempts medical marijuana from some taxation.

Establishes packaging, labeling, advertising, and marketing standards and restrictions for marijuana products.

Prohibits marketing and advertising marijuana directly to minors.

Allows local regulation and taxation of marijuana.

Authorizes re-sentencing and destruction of records for prior marijuana convictions.

The shorter ballot label summary was as follows:

Legalizes marijuana under state law, for use by adults 21 or older. Imposes state taxes on sales and cultivation.

Provides for industry licensing and establishes standards for marijuana products. Allows local regulation and taxation.

Fiscal Impact: Additional tax revenues ranging from high hundreds of millions of dollars to over \$1 billion annually, mostly dedicated to specific purposes.

Reduced criminal justice costs of tens of millions of dollars annually.

Petition summary

The long-form, official ballot summary for Proposition 64 was changed from the initial summary provided to initiative proponents for the purpose of circulating the initiative for signature collection. The original summary provided for inclusion on signature petition sheets was:

Legalizes marijuana and hemp under state law. Designates state agencies to license and regulate marijuana industry. Imposes state excise tax on retail sales of marijuana equal to 15% of sales price, and state cultivation taxes on marijuana of \$9.25 per ounce of flowers and \$2.75 per ounce of leaves. Exempts medical marijuana from some taxation. Establishes packaging, labeling, advertising, and marketing standards and restrictions for marijuana products. Allows local regulation and taxation of marijuana. Prohibits marketing and advertising marijuana to minors. Authorizes re-sentencing and destruction of records for prior marijuana convictions.

Fiscal impact

Note: The fiscal impact statement for a California ballot initiative authorized for circulation is jointly prepared by the state's legislative analyst and its director of finance. The statement was as follows:

The size of the measure's fiscal effects could vary significantly depending on:

(1) how state and local governments choose to regulate

and tax marijuana,
(2) whether the federal government enforces federal laws prohibiting marijuana, and
(3) how marijuana prices and consumption change under the measure.

Net additional state and local tax revenues that could eventually range from the high hundreds of millions of dollars to over \$1 billion annually. Most of these funds would be required to be spent for specific purposes such as youth programs, environmental protection, and law enforcement.

Net reduced costs potentially in the tens of millions of dollars annually to state and local governments primarily related to a decline in the number of marijuana offenders held in state prisons and county jails.

California's paperwork for starting a business, or getting involved in the industry is handled at <https://www.cdph.ca.gov/programs/MMP/Pages/default.aspx>

Nevada

The Nevada Marijuana Legalization Initiative, also known as Question 2, was on the November 8, 2016, ballot in Nevada as an indirect initiated state statute. It was approved.

Status of marijuana in Nevada

Prior to the passage of Question 2, the possession or use

of marijuana for recreational purposes was illegal in Nevada. The passage of Question 9 in 2000 legalized medical marijuana. Although the Department of Justice under Obama does not prosecute most individuals and businesses following state and local marijuana laws, both medical and recreational marijuana are illegal under federal law.

Question 2 made some recreational marijuana legal under Nevada state law.

Changes to state law

Question 2 was designed to allow adults aged 21 or older to possess, consume, and cultivate some marijuana for recreational purposes. The initiative created a new 15 percent excise tax, with revenue from the tax being spent on enforcing the measure and schools. It also authorized and regulated marijuana retail stores, cultivation facilities, manufacturing facilities, testing facilities, and distributors.

State of ballot measure campaigns

The “Yes on 2” campaign raised \$4.2 million, according to the most recent campaign finance filing from November 4, 2016. The “No on 2” campaign received \$3.5 million. The largest donor in support of Question 2 was the Marijuana Policy Project, while the largest donor in opposition was casino mogul Sheldon Adelson.

The state's largest newspaper, the Las Vegas Review-Journal, endorsed Question 2 in 2014, but changed positions in June 2016 and opposed the initiative. Polls indicated that support for the measure was around 51 percent prior to the election.

Initiative design

Who could use marijuana?

Question 2 was designed to make lawful the purchase, possession, and consumption of one ounce of less of marijuana or one-eighth of an ounce or less of concentrated marijuana for individuals 21 years of age or older. The measure permitted individual 21 years of age or older to grow up to six marijuana plants for personal use. It required cultivation to take place in an enclosed area with a lock.

Who could sell marijuana?

The measure authorized the operation of marijuana establishments. It authorized the Nevada Department of Taxation to regulate them. The measure mandated that for the first 18 months of licensing, the Department of Taxation would only accept license applications for marijuana stores, production facilities, and cultivation facilities from registered medical marijuana establishments. During the same time period, only registered wholesale liquor dealers would be permitted to

apply for marijuana distributor licenses.

Question 2 prohibited marijuana establishments within 1,000 feet of a school or 300 feet of a community facility. Question 2 also set limits on the number of retail marijuana stores permissible in each county depending on the county's population size.

How would it be taxed?

The measure imposed a 15 percent excise tax on marijuana sales by cultivation facilities. It mandated that annual licensing fees range from \$3,300 to \$30,000, depending on the type of license.

Question 2 was designed to allocate revenue from the tax, licensing fees, and penalties first to the Department of Taxation and local governments to cover costs related to the measure, and then all remaining revenue to the State Distributive School Account.

What would penalties be?

Question 2 permitted the government to enforce or implement policies prohibiting driving or operating a vehicle under the influence of marijuana, selling or giving marijuana to someone under 21, possessing or using marijuana on the grounds of schools or the Nevada Department of Corrections, or allowing workplaces to ban marijuana use.

The initiative also established new penalties for cultivating marijuana within public view, smoking in a public place or moving vehicle, and providing marijuana to persons less than 21 years of age.

The question on the ballot was as follows:

Shall the Nevada Revised Statutes be amended to allow a person, 21 years old or older, to purchase, cultivate, possess, or consume a certain amount of marijuana or concentrated marijuana, as well as manufacture, possess, use, transport, purchase, distribute, or sell marijuana paraphernalia; impose a 15 percent excise tax on wholesale sales of marijuana; require the regulation and licensing of marijuana cultivators, testing facilities, distributors, suppliers, and retailers; and provide for certain criminal penalties?

This ballot measure proposes to amend the Nevada Revised Statutes to make it lawful for a person 21 years of age or older to purchase and consume one ounce or less of marijuana other than concentrated marijuana, or one-eighth of an ounce or less of concentrated marijuana. It would also make it lawful for a person 21 years of age or older to cultivate not more than six marijuana plants for personal use, as well as obtain and use marijuana paraphernalia.

The ballot measure would also allow for the operation of

marijuana establishments, which would be regulated by the Department of Taxation. Regulated marijuana establishments would include marijuana cultivation facilities, marijuana testing facilities, marijuana product manufacturing facilities, marijuana distributors, and retail marijuana stores.

For the first 18 months, the Department of Taxation would only accept license applications for retail marijuana stores, marijuana product manufacturing facilities, and marijuana cultivation facilities from persons holding a medical marijuana establishment registration certificate. Similarly, for the first 18 months, the Department of Taxation would only issue marijuana distributors licenses to persons holding a Nevada wholesale liquor dealers.

Nevada's cannabis program for starting a business or becoming a patient is handled by http://dpbh.nv.gov/Reg/Medical_Marijuana/

New Medical Marijuana Laws

North Dakota

The North Dakota Medical Marijuana Legalization

Initiative, also known as Initiated Statutory Measure 5, was on the November 8, 2016, ballot in North Dakota as an initiated state statute. It was approved.

North Dakota approved a ballot initiative that allows medical use of marijuana, raising the number of states with such laws to 27. With more than 60 percent of precincts reporting, Initiated Statutory Measure 5 was favored by 64 percent of voters.

Measure 5 allows the use of marijuana for treatment of specified "debilitating medical conditions" and others added by the North Dakota Department of Health.

It authorizes production and distribution of medical marijuana by state-registered, nonprofit "compassion centers." The initiative allows patients located more than 40 miles from the nearest licensed supplier to grow up to eight plants in "an enclosed, locked facility."

"Measure 5 is going to improve the quality of life for many North Dakotans," said Anita Morgan of North Dakota Compassionate Care, the committee that promoted the initiative. "There is no longer any doubt that cannabis is effective in the treatment of several debilitating medical conditions. It can alleviate the nausea that cancer patients experience as they undergo chemotherapy. It can dramatically reduce or even eliminate seizures in patients suffering from epilepsy. And it can serve as a much safer alternative to prescription drugs that are often prescribed

to patients who are dealing with severe and chronic pain."

Under the specifications of the measure, patients would need identification cards listing specific criteria. The act was known as the "North Dakota Compassionate Care Act".

Initiative design

Qualified patients

Measure 5 was designed to allow medical marijuana treatment for patients with the following debilitating medical conditions:

Cancer and its treatments

Human immunodeficiency virus (HIV)

Acquired immune deficiency syndrome (AIDS)

Decompensated cirrhosis (Hepatitis C)

Amyotrophic lateral sclerosis (ALS or Lou Gehrig's disease)

Post-traumatic stress disorder (PTSD)

Agitation of Alzheimer's disease, dementia, or the treatment of these conditions

Crohn's disease or Fibromyalgia

Glaucoma

Epilepsy

Spinal stenosis or chronic back pain including neuropathy or damage to the nervous tissue of the spinal cord with objective neurological indication of intractable spasticity, and any other medical condition or its treatment added by

the North Dakota Department of Health.

A chronic or debilitating disease or medical condition or its treatment that produces one or more of the following: cachexia or wasting syndrome; severe debilitating pain that has not responded to previously prescribed medication or surgical measures for more than three months or for which other treatment options produced serious side effects; intractable nausea; seizures; or severe and persistent muscle spasms, including but not limited to those characteristic of multiple sclerosis.

Patients may petition the North Dakota Department of Health to add to the list of qualifying medical conditions.

Identification cards

The measure was designed to require patients and designated caregivers to apply for registry identification cards in order to participate in the medical marijuana compassionate care program. The patient application would have to include certain documentation, a written certification from the applicant's physician, and an application fee.

Designated caregivers would be responsible for treating one to five qualified patients, and can be qualified patients themselves. The designated caregiver application would have to include certain documentation verifying identity, written approval and contact information from qualified patient(s), and a criminal history screening/background

check. An individual convicted of a felony offense would not be able to serve as a designated caregiver.

Text of measure

Ballot language

The ballot language was as follows:

This initiated measure would add a new chapter to Title 19 of the North Dakota Century Code creating an Act which provides for the medical use of marijuana for defined medical conditions, such as cancer, AIDS, hepatitis C, ALS, glaucoma, and epilepsy. To participate in the program, the Act would provide for identification cards and certificates of registration which would be issued by the Department of Health for patients, caregivers, and qualified facilities, if all requirements are met. The Act would create provisions for monitoring, inventorying, dispensing, cultivating and growing marijuana to be regulated and enforced by the Department of Health.

A qualified patient could be dispensed up to three ounces of usable marijuana, and could grow marijuana if his or her home is located more than forty miles from the nearest registered facility. For violations, the Act would authorize the Department of Health to provide for corrective action, suspension, revocation, appeal, hearings, and referral for criminal prosecution. The Act would require the Department of Health to submit an annual report to the legislature regarding program statistics.

Measure analysis

The measure analysis was as follows:

Initiated Statutory Measure No. 5 was placed on the ballot by petitions circulated by a sponsoring committee. If approved, this initiated measure would add a new chapter to Title 19 of the North Dakota Century Code creating an Act which provides for the medical use of marijuana for defined medical conditions, such as cancer, AIDS, hepatitis C, ALS, glaucoma, and epilepsy. To participate in the program, the Act would provide for identification cards and certificates of registration which would be issued by the Department of Health for patients, caregivers, and qualified facilities, if all requirements are met.

The Act would create provisions for monitoring, inventorying, dispensing, cultivating and growing marijuana to be regulated and enforced by the Department of Health. A qualified patient could be dispensed up to three ounces of usable marijuana, and could grow marijuana if his or her home is located more than forty miles from the nearest registered facility. For violations, the Act would authorize the Department of Health to provide for corrective action, suspension, revocation, appeal, hearings, and referral for criminal prosecution. The Act would require the Department of Health to submit an annual report to the legislature regarding program statistics. Voting "YES" means you approve the measure as summarized above. Voting "NO" means you reject the

measure as summarized above.

Estimated fiscal impact statement

The fiscal impact was as follows:

The fiscal note prepared by the State Department of Health states the fiscal impact of the statutory measure would total \$12.6 million in additional expenditures and \$6 million in revenue through June 30, 2019. The fiscal impact to the department would be an estimated \$7.4 million in expenditures and \$4.8 million in revenue for the 2017-19 biennium. The department estimates, if implemented in December 2016, expenditures of up to \$2.4 million, including \$1.4 million of one-time costs, and revenues of \$1.2 million during the 2015-17 biennium for an impact of \$9.8 million in expenditures and \$6 million in revenue to the department through June 30, 2019. The fiscal note also stated the fiscal impact to the Attorney General would total \$2.8 million in additional expenditures during the 2017-19 biennium.

Arkansas

Arkansas passed a medical cannabis measure that would allow patients with specific conditions to buy medicine from dispensaries licensed by the government.

Montana

Montana residents voted to expand the state's medical marijuana system with the passage of Initiative 182, which removes limits on the number of patients providers can serve. Proponents of the measure argued that the existing restrictions blocked patients from accessing care.

The passing of the initiative would reverse provisions of a bill passed by the Montana Legislature in 2011. Earlier this year, the Montana Supreme Court upheld parts of the bill that were challenged in a five-year legal battle.

If passed, I-182 would mean that providers of the drug will not be limited to the number of patients they can serve. The previous restriction imposed a limit of three, which was sharply opposed by patients and providers in the program.

The passing of the initiative would reverse provisions of a bill passed by the Montana Legislature in 2011. Earlier this year, the Montana Supreme Court upheld parts of the bill that were challenged in a five-year legal battle.

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Most medical marijuana patients were left without a registered provider under the restrictions. Since they went into effect, patients have left the program. More than a third of patients registered in September left over the next month — 7,785 remained in October, according to the state health department.

I-182 adds post-traumatic stress disorder to the list of eligible conditions, allows for lab testing for marijuana and orders annual health department inspections of providers.

The opposition group to I-182, Safe Montana, was principally funded by Billings businessman Steve Zabawa.

Montana's cannabis program can be found at <https://dphhs.mt.gov/marijuana.aspx>

Cannabis Training University: www.theCTU.com

