

## **Claire and Lola’s Law—Possession of Certain Cannabidiol Treatment Preparations, Actions and Proceedings Prohibited, Affirmative Defense; Grandfathering of Certain Podiatrists; SB 28**

**SB 28** creates and amends law related to possession of certain cannabidiol treatment preparations. The bill also grandfathers in Doctors of Podiatric Medicine (DPMs) who completed a two-year post-doctoral surgical residency program prior to July 1, 2007, in reconstructive rearfoot/ankle surgery, who were inadvertently excluded in a 2014 statutory revision, and who meet certain conditions, to the podiatrists who may perform surgery on the ankle.

### ***Cannabidiol Treatment Preparations***

#### *Claire and Lola’s Law*

The bill creates “Claire and Lola’s Law,” which prohibits state agencies and political subdivisions from initiating child removal proceedings or child protection actions or proceedings based solely upon the parent’s or child’s possession or use of cannabidiol treatment preparation in accordance with the affirmative defense established by the second section of the bill. “Cannabidiol treatment preparation” is defined to mean an oil containing cannabidiol and tetrahydrocannabinol and having a tetrahydrocannabinol concentration of no more than 5 percent relative to the cannabidiol concentration in the preparation verified through testing by a third-party, independent laboratory.

The bill prohibits construing its provisions to:

- Require the Kansas Medical Assistance Program or various other policies, plans, contracts, or organizations that provide coverage for accident and health services and that are delivered, issued for delivery, amended, or renewed on or after July 1, 2019, to provide payment or reimbursement for any cannabidiol treatment preparation; or
- Allow the possession, sale, production, redistribution, or use of any other form of cannabis.

The bill defines “debilitating medical condition” as a medically diagnosed chronic disease or medical condition causing a serious impairment of strength or ability to function, including one that produces seizures, for which the patient is under current and active treatment by a physician licensed to practice medicine and surgery in Kansas.

The bill also defines “tetrahydrocannabinol concentration” and “third-party, independent laboratory.”

#### *Amendments to Criminal Law*

The bill amends the crime of unlawful possession of controlled substances to provide an affirmative defense to a prosecution of such crime arising out of a person’s possession of any

cannabidiol treatment preparation (as defined in the new section) if the person has a debilitating medical condition (as defined in the new section) or is the parent or guardian of a minor child with such condition; is possessing a cannabidiol treatment preparation being used to treat such condition; and has simultaneous possession of a letter that (a) shall be shown to a law enforcement officer on such officer's request, (b) is dated within the preceding 15 months and signed by the Kansas licensed physician who diagnosed the qualifying condition, (c) is on such physician's letterhead, and (d) identifies the person or minor child as such physician's patient and identifies the patient's qualifying condition.

### ***Grandfathering of Certain Podiatrists and Removal of Expired Committee***

The bill adds DPMs who have completed a two-year post-doctoral surgical residency program prior to July 1, 2007, in reconstructive rearfoot/ankle surgery to the podiatrists who may perform surgery on the ankle, provided such grandfathered podiatrists are also either board-certified or board-qualified progressing to board certification in reconstructive rearfoot/ankle surgery by a nationally recognized certifying organization acceptable to the State Board of Healing Arts. The bill also removes statutory language referencing the Podiatry Interdisciplinary Advisory Committee; authority for it expired on July 1, 2018.