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November 5, 2023

Subject: Request for Consent to File Amicus Curiae Brief Post-Oral Arguments in Case No. SC23-682

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Dear Esteemed Colleagues,

As the In-House Counsel and President and CEO of The Doc App, Inc., d/b/a My Florida Green, and in light of the recent developments in Case No. SC23-682 following the oral arguments held on November 8, 2023, we are seeking your consent to file an amicus curiae brief beyond the standard timeframe outlined in Florida Rule of Appellate Procedure 9.370(c).

At My Florida Green, we have established ourselves as leaders in healthcare technology within the medicinal marijuana sector. This position grants us a unique and valuable perspective on the ongoing discussions about marijuana regulation reform. We are confident that our insights will significantly enhance the Court's understanding of how regulatory changes might impact

healthcare services and patient accessibility. The oral arguments before the Supreme Court of Florida have brought to light new considerations and angles that were not previously apparent.

The insights and arguments presented have prompted us to contribute further to this significant discussion. Our amicus brief centers on the constitutional implications of Florida's "Smart and Safe Bill," addressing critical areas such as state autonomy versus federal supremacy, privacy rights under the Florida Constitution, equal protection concerns, and the potential economic impact on healthcare related to medical marijuana regulation. Our aim is to shed light on these issues from our vantage point, elucidating the potential consequences these legislative changes may have on patient care and public health.

We acknowledge that our request comes post the usual 10-day deadline for amicus brief submissions. However, Rule 9.370(c) allows for the Court to grant leave for later service of an amicus brief. We believe that our contribution is in the interest of justice and will add substantial value to the case deliberations.

Given the above reasons and the potential impact of our amicus curiae brief on the case, we respectfully request your consent to file the brief at this later stage. We understand the importance of timing in such matters and assure you that our brief will be prepared and filed promptly upon receiving your consent.

Enclosed with this letter, please find a draft of our proposed Amicus Curiae Brief and Motion for Leave to File. We trust that our engagement will be mutually beneficial and stand ready to provide any additional information that may facilitate your decision-making process.

We appreciate your prompt attention to this matter and look forward to your favorable response.

Thank you for your consideration.

Respectfully,

Jsaon K. Castro, Esq.
In-House Counsel
The Doc App, Inc.
d.b.a., My Florida Green

Joined by,

Nicholas Garulay
President and CEO
The Doc App, Inc.
d.b.a., My Florida Green

IN THE SUPREME COURT OF FLORIDA

ADVISORY OPINION TO THE ATTORNEY GENERAL

RE: ADULT PERSONAL USE OF MARIJUANA

ON A PETITION FOR AN ADVISORY OPINION TO THE
ATTORNEY GENERAL

**NOTICE OF INTENT TO FILE AMICUS CURIAE BRIEF IN OPOSITION
OF ADULT PERSONAL USE OF MARIJUANA BALLOT INITIATIVE**

CASE NO. SC23-682

Respectfully submitted,

/s/ Jason K. Castro

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**NOTICE OF INTENT TO FILE AMICUS CURIAE AMICUS BRIEF IN
OPPOSITION OF BALLOT INITIATIVE PURSUANT RULE 9.370, IN
SUPPORT OF ATTORNEY GENERAL AND FLORIDA CHAMBER OF
COMMERCE**

COMES NOW, The Doc App, Inc., d.b.a., My Florida Green, (hereafter ‘My Florida Green’) under the provisions of Florida Rule 9.370(d), please accept notice from My Florida Green of its intent to seek leave to file an amicus curiae brief concerning Case No. SC23-682.

1. My Florida Green services and operations are closely intertwined with medical marijuana patients and the regulatory framework governing these services. My Florida Green services over 40,000 Florida patients that participate in the Medical Marijuana Program. The Court's decision will significantly impact our business operations and the well-being of our clients. Our organization deeply vested in the outcomes of the advisory opinion. This brief aims to offer the Court insights based on our industry-specific expertise.

WHEREFORE, The Doc App, Inc. d.b.a., My Florida Green, respectfully requests that this Honorable Court grant leave to file an amicus curiae brief.

Respectfully submitted,

/s/ Jason K. Castro

By: Jason K. Castro, Esq.

Fla. Bar No.: 118604

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CERTIFICATE OF SERVICE

I certify that a copy of the foregoing was furnished via the e- Filing Portal on this ____ day of November 2023, to the following:

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ATTORNEY GENERAL AND FLORIDA CHAMBER OF COMMERCE**

COMES NOW, The Doc App, Inc., d.b.a., My Florida Green (hereinafter ‘My Florida Green’) by and through its undersigned counsel, and pursuant to Florida Rule of Appellate Procedure 9.370, respectfully moves for leave of this honorable Court to file an amicus curiae brief in the above-referenced case. In support of this motion, My Florida Green states as follows:

1. Introduction and Interest of the Amicus Curiae: My Florida Green has been a key advocate for medical marijuana rights in Florida, influencing patient care dynamics since before the 2016 amendment to the Florida Constitution. Representing over 40,000 patients, our organization offers the Court a unique perspective, especially concerning the interplay between state autonomy in healthcare management and federal supremacy under the Commerce Clause.

2. Issues to be Addressed and Relevance of Amicus Brief:

- a. The brief will analyze the constitutional complexities presented by the "Smart and Safe Bill," focusing on its potential to blur the lines between medicinal and recreational marijuana use.

- b. It will argue the importance of state-exclusive regulation of medical marijuana, highlighting the Tenth and Fourteenth Amendments, while considering federal interests in regulating interstate commerce for recreational use.
 - c. The brief will address how the Bill's requirements for medical disclosures and dosage restrictions may infringe upon individual privacy rights and equal protection under the law.
 - d. It will also discuss the economic and healthcare impacts of the Bill, emphasizing the need for clarity and transparency for the electorate.
3. **Timeline for Filing and Service:** Should the Court grant this motion, My Florida Green is prepared to serve the amicus brief within three (3) business days of the order granting leave to file.
4. **Opposition:** While My Florida Green anticipates consent from some parties, it recognizes the possibility of opposition. Notwithstanding any opposition, My Florida Green believes its contribution will be beneficial for a thorough examination of the constitutional questions presented.
- a. **Consent:** My Florida Green has solicited consent from all parties to file the amicus brief.

Note: [If consent has been obtained from all parties, this should be stated clearly; if not, it should be indicated which parties have consented, and which have not, or if consent has not been sought.]

5. **Compliance with Rule 9.210(b):** My Florida Green’s amicus brief is compliant with the requirements of Florida Rule of Appellate Procedure 9.210(b), focusing on the legal arguments relevant to the issues raised, omitting any statement of case and facts, and not exceeding 20 pages, as required.
6. **Prejudice:** The brief will not prejudice any party as it introduces no new evidence but rather provides legal arguments and an analysis of the potential impacts of the Court’s decision, relying on the amicus curiae’s expertise in medical marijuana law and patient advocacy.
7. **Assistance to Tribunal:** My Florida Green respectfully submits that its participation as amicus curiae will assist the Court by presenting considerations from the vantage point of an established entity deeply involved in patient care and regulatory compliance within the medical marijuana sector.

WHEREFORE, My Florida Green respectfully requests that this Court grant it leave to file the attached amicus curiae brief.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that a copy of the foregoing was furnished via the e- Filing Portal on this ___ day of November 2023, to the following:

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SC23-682

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Respectfully submitted,

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AMICUS BRIEF IN OPPOSITION OF BALLOT INITIATIVE

COMES NOW, The Doc App, Inc., d.b.a., My Florida Green, (hereafter ‘My Florida Green’) submits this brief as an entity operating in Florida, deeply troubled by the proposed changes to our state's medical marijuana laws, currently slated for the ballot in 2024.

STATEMENT OF INTEREST OF THE AMICUS CURIAE

AMICUS CURIAE, My Florida Green, a prominent advocate for medical marijuana rights in Florida, has a significant interest in the outcome of the "Smart and Safe Bill." Servicing over 40,000 patients reliant Florida’s Medical Marijuana Program, our organization is deeply invested in ensuring that legal developments favor patient care and access. Our expertise in navigating the intersection of state healthcare management and Federal Supremacy under the Commerce Clause positions us to offer valuable insights into the bill's implications. Our involvement is driven by a commitment to uphold the rights and well-being of medical marijuana patients in Florida.

SUMMARY OF ARGUMENT

The "Smart and Safe Bill," proposed in Florida, addresses the evolving legal landscape of marijuana regulation, a landscape that has historically oscillated between state-led initiatives and federal oversight. This brief critically examines the bill within the context of state sovereignty, federal supremacy, privacy concerns,

equal protection under the Fourteenth Amendment, economic impacts on healthcare, and the differentiation between medical and recreational marijuana use.

Historically, states regulated marijuana for medical purposes until federal intervention through the Marijuana Tax Act of 1937. This early autonomy aligns with the Supreme Court's recent emphasis on state sovereignty in *Dobbs v. Jackson Women's Health Organization*. The Court in *Dobbs* underscored the historical authority of states, stating, “[f]or the first 185 years after the adoption of the Constitution, each State was permitted to address this issue in accordance with the views of its citizens.” *Dobbs v. Jackson Women's Health Org.*, 142 S. Ct. 2228, 2240 (2022) This decision highlights the significant role states play in health and welfare matters, including marijuana policy.

Issue & Analysis I: The "Smart and Safe Bill" must navigate the complex interplay between state autonomy and federal supremacy. The Supreme Court's decision in *Gonzales v. Raich* asserts federal authority under the Commerce Clause over marijuana regulation, yet *Dobbs* emphasizes the importance of state sovereignty in health and welfare matters. This bill, therefore, presents a critical test of Florida's ability to uphold its legislative autonomy while respecting federal law.

Issue & Analysis II: Concerns about the bill's impact on privacy rights emerge, particularly regarding extensive medical disclosures for medical marijuana exemptions. These concerns are framed within the robust privacy protections

afforded by the Florida Constitution, as highlighted in *Weaver v. Myers* and *State v. Shaul*. These cases underscore the state's commitment to protecting individual privacy, a key consideration in evaluating the bill's compliance with constitutional standards.

Issue & Analysis III: The proposal of uniform medical marijuana dosage restrictions raises questions about potential conflicts with the Equal Protection Clause. The legal principles in *Bolling v. Sharpe* and *Reed v. Reed* underscore the necessity for laws to be fair and equitable, especially in the context of individual medical needs.

Issue & Analysis IV: The bill's potential economic impacts on healthcare providers and the state economy warrant scrutiny. The standards of clarity and transparency, as mandated by Florida jurisprudence, are essential in ensuring that the electorate is adequately informed about these impacts.

Issue & Analysis V: Finally, the bifurcation in marijuana regulation between state-regulated medical use and federally regulated recreational use is examined. This differentiation must align with constitutional principles and the respective roles of state and federal governments, as delineated in *Gonzales v. Raich* and other relevant cases.

In summary, the "Smart and Safe Bill" presents an opportunity for Florida to address the complexities of marijuana regulation in a manner that respects both state

autonomy and federal authority, while also considering the broader implications for privacy, equal protection, economic impact, and the healthcare system. The bill's success hinges on its ability to integrate these multifaceted constitutional and legal considerations into a coherent and legally sound framework.

ARGUMENT

The sections that follow delve into each issue in-depth, elucidating the potential implications of the "Smart and Safe Bill" within this nuanced constitutional landscape.

Issue I: *Under the principles of state autonomy and federal supremacy, does the "Smart and Safe Bill" effectively distinguish between medicinal and recreational marijuana use in a way that is constitutionally resilient, when considering the Supreme Court's emphasis on states' rights in *Dobbs* and the federal authority under the Commerce Clause as upheld in *Gonzales*?*

Analysis I:

Florida's "Smart and Safe Bill" concerning the medicinal and recreational use of marijuana stands at the crossroads of two significant legal principles: the emphasis on states' rights to regulate aspects of public health and welfare of its residents underscored by the Supreme Court in *Dobbs*, and the federal framework and supremacy emphasized in *Gonzales*. The state must craft a policy that respects federal law, while protecting access to marijuana for medicinal purposes, while also

aligning with federal regulations under the Controlled Substances Act in the context of recreational marijuana. The language of the Smart and Safe Bill, in the context of recreational marijuana, fails to delineate a clear, defensible, and constitutionally resilient policy that differentiates between medicinal and recreational use, while upholding both individual rights and federal mandates.

“In deciding whether a precedent should be overruled is whether the rule it imposes is workable—that is, whether it can be understood and applied in a consistent and predictable manner. *Dobbs v. Jackson Women's Health Org.*, 142 S. Ct. 2228, 2272 (2022). *Dobbs* reinforced that *stare decisis*, while important, is not an unyielding command. The Court noted, “We have long recognized, however, that *stare decisis* is not an inexorable command and it is at its weakest when we interpret the Constitution.” *Dobbs*, 142 S. Ct. at 2262. This flexibility in precedent has implications for marijuana policy. As societal attitudes and scientific understanding evolve, it's arguable that previously established notions or regulations on marijuana may warrant re-examination, especially when they appear misaligned with the evolving consensus.

The Supreme Court in *Dobbs* underscored the importance of state autonomy and the historical grounding of rights. The Court stated, “The Constitution makes no reference to abortion,” and any right to it must be deeply rooted in the Nation's history and tradition and be implicit in the concept of ordered liberty. *Dobbs*, 142 S.

Ct. at 2242. This principle resonates in the context of the "Smart and Safe Bill." It can be argued that the choice of the states to adopt marijuana, especially for medicinal purposes, aligns with state autonomy to regulate health and welfare of its residents, as the right to regulate marijuana use in the context of medical treatment is not explicitly mentioned in the Constitution as a federal power; it must therefore fall to the states.

Gonzales upheld federal supremacy in regulating substances, including marijuana, emphasizing the broad scope of the Commerce Clause strictly in the context of consumer goods. The Court held, "The CSA [Controlled Substances Act] is a valid exercise of federal power, even as applied to the troubling facts of this case." *Gonzales*, 545 U.S. 1, 9 (2005). This federal stance forms a significant backdrop to the "Smart and Safe Bill." It establishes that marijuana, whether for medicinal or recreational purposes, falls within the purview of federal regulation under the CSA. However, as previously explained, in light of *Dobbs*, in the context of health and welfare an exception can be crafted. That is to say that any state policy must navigate this federal framework, as the proposed amendment fails to consider. *Gonzales* brought to light the potential risks of an unclear policy landscape.

Florida's court must determine if the Smart and Safe Bill is a well-crafted policy that is clear and defensible, especially when it comes to distinguishing between medicinal and recreational marijuana. An ambiguous policy could weaken

its defense against federal challenges, as highlighted by *Gonzales*. In harmonizing these principles, Florida must tread carefully. By preserving the sanctity of medical marijuana and ensuring its clear demarcation from recreational use, the state can both uphold the practice of the states to regulate policy as championed by *Dobbs* and avoid a head-on collision with federal mandates solidified by *Gonzales*. As the Court in *Dobbs* noted, "It has been said that it is sometimes more important that an issue be settled than that it be settled right. But when it comes to the interpretation of the Constitution... we place a high value on having the matter 'settled right.'" *Dobbs*, 142 S. Ct. at 2262.

In this delicate balancing act, Florida must ensure that its marijuana policies are not just settled but also settled right, respecting the balance between State rights and the broader federal landscape. The intricate dance between *Dobbs* and *Gonzales* presents Florida with a unique challenge. By striking the “Smart and Safe Bill, under the reasoning above, Florida is clearly distinguishing between medicinal and recreational domains, emphasized in *Dobbs*, while also acknowledging the broader federal landscape shaped by *Gonzales*. Such a distinction not only upholds the rights of patients, but also ensures that Florida's marijuana policies remain constitutionally resilient.

Issue II: *Under the robust right to privacy protected by the Florida Constitution, does the proposed "Smart and Safe Bill" initiative infringe upon individual privacy rights, particularly concerning the requirement of extensive medical disclosures for medical marijuana exemption?*

Analysis II:

The proposed ballot initiative's potential infringement on an individual's constitutional right to privacy as delineated by the Florida Constitution may challenge the sanctity of the doctor-patient relationship and provide ambiguous information to Florida's electorate. This initiative risks violating fundamental rights and the integrity of the democratic process, especially when viewed in light of precedent set by cases such as *Dobbs*, *Weaver v. Myers*, and *State v. Shaul*. The core concern is balancing the state's ability to regulate with its obligation to uphold robust privacy protections and the sacrosanct nature of personal medical decisions.

In *Weaver*, the Florida Supreme Court delineated a significant tenet: the right to privacy in the Florida Constitution attaches during the life of a citizen and is not retroactively destroyed by death. *Weaver v. Myers*, 229 So. 3d 1118, 1139–42 (Fla. 2017) This enshrined principle has profound implications. The proposed amendment, by demanding extensive medical disclosures, could run afoul of this established constitutional protection. Patients would find themselves in the paradoxical situation of having to relinquish their privacy rights to access medical

marijuana to be granted exemption for milligram restrictions - a direct echo of the *Weaver* concern where personal medical details could be exposed without direct relevance to the primary issue. That being, preventing fraud and abuse within Florida's Medical Marijuana program.

In *State v. Shaul*, 321 So. 3d 824, 826 (Fla. 4th DCA 2021), Florida's appellate courts have reinforced the idea that Florida's Constitution offers stronger privacy protections than the U.S. Constitution. This case further enshrines the state's commitment to ensure its residents are shielded from unwarranted governmental intrusions, especially when such intrusions touch upon intimate decisions related to their health and welfare. Given this backdrop, when you juxtapose the proposed regulations with these two seminal Florida cases, a disconcerting picture emerges. The potential for governmental intrusion, as envisioned by the amendments, clashes directly with the heightened privacy protections Floridians have come to expect, which the courts have consistently upheld.

The proposed regulations, by imposing stringent limitations and demanding invasive disclosures, infringe upon this robust protection. Drawing from *Dobbs*, *Weaver*, and *Shaul*, it is evident that while states wield the power to legislate on intimate aspects of their citizens' lives pertaining to health and welfare, such powers must be wielded judiciously and in alignment with established constitutional protections. Florida's commitment to protecting the inviolable bond between a

patient and their doctor, and states right to regulate issues concerning health and welfare, should be paramount.

Issue III: *Under the Equal Protection Clause of the Fourteenth Amendment, does the "Smart and Safe Bill" initiative's implementation of uniform medical marijuana dosage restrictions result in unequal treatment of patients with varied medical needs?*

Analysis III:

The proposed ballot initiative's approach to uniform medical marijuana dosage restrictions could result in unequal treatment of patients due to the varied individual medical needs, posing a potential conflict with the Equal Protection Clause of the Fourteenth Amendment. The challenge lies in balancing regulatory interests with the principles of individualized medical care and constitutional rights, particularly when considering precedent cases such as *Bolling v. Sharpe* and *Reed v. Reed*. The imperative is ensuring that regulations do not compromise the personalized nature of medical marijuana treatment, thereby maintaining alignment with the constitution's commitment to equal protection.

“A law regulating ... health and welfare laws, is entitled to a strong presumption of constitutional validity. It must be sustained if there is a rational basis on which the legislature could have thought that it would serve legitimate state

interests.” These interests include respect for and preservation ... of ... health and safety, elimination of particularly gruesome or barbaric medical procedures, preservation of integrity of medical profession, mitigation of ... pain, and prevention of discrimination on basis of race, sex, or disability.” *Dobbs v. Jackson Women's Health Org.*, 142 S. Ct. 2284 (2022).

The state should be wary of overstepping its bounds, especially when its actions might infringe upon constitutionally enshrined rights, which Florida's courts have robustly defended in the past. The Equal Protection Clause of the Fourteenth Amendment is a foundational pillar of the U.S. Constitution, ensuring that individuals are not subjected to discriminatory treatment by the government. This principle applies to state-level initiatives as well. The Equal Protection Clause, as expounded in *Bolling v. Sharpe*, 347 U.S. 497 (1954), requires that individuals in similar circumstances be treated equally under the law. By imposing uniform dosage restrictions, regardless of these individualized factors, the amendment could potentially run afoul of this constitutional principle.

Medical marijuana is a highly individualized form of treatment. Patients' needs vary widely, influenced by factors such as the nature and severity of their medical conditions, their tolerance to the treatment, and their unique physiological responses. The proposed amendment, by mandating uniform dosage restrictions, might inadvertently lead to unequal treatment. This calls into question the objective

of the amendment, in that is a policy crafted to promote the health and welfare of its residents, or a policy crafted to promote recreational marijuana use and availability for commercial purposes.

Requiring all medical marijuana patients, irrespective of their unique medical conditions, to adhere to uniform dosage limits might not bear a fair and substantial relation to the objectives of the amendment. Instead, it could undermine the fundamental principle of medical marijuana as a personalized treatment approach, especially when an exemption request requires the sacrifice of the patient's constitutional right to privacy, while the state can take the opportunity to second guess the opinion of a doctor practicing and licensed under Florida law. Therefore, the uniform restrictions might disproportionately affect certain patient groups, such as those with the most severe, painful, or rare medical conditions, that require higher dosages for effective symptom management. Moreover, granting the State of Florida the right to second guess a doctor's recommendation for deviation from milligram restrictions will result in these patients being denied equal access to a treatment option that is, for them, medically necessary.

To ensure compliance with the Equal Protection Clause, the amendment should consider allowing for individualized dosage recommendations by qualified healthcare providers without additional medical disclosures, which would align with the principles of personalized medical care and equal protection under the law.

While the government has a legitimate interest in regulating medical marijuana to protect public health and safety, these regulations should be carefully crafted to avoid unequal treatment of patients based on their unique medical conditions and needs. Striking the right balance between regulation and individualized medical care is essential to ensure compliance with the Equal Protection Clause.

Issue IV: Does the "Smart and Safe Bill" fail to provide Florida's electorate with sufficient information about the economic impacts on healthcare providers and the broader state economy, contrary to the standards of clarity and transparency mandated by Florida jurisprudence, particularly as reflected in the advisory opinion regarding the use of marijuana for certain medical conditions?

Analysis IV:

The "Smart and Safe Bill" ballot initiative may raise concerns about its potential impact on the healthcare system, particularly in terms of treatment and patient monitoring. While proponents of the initiative may argue that it aims to address certain medical conditions and provide access to medical marijuana for therapeutic purposes, there are valid concerns about how it could inadvertently make treatment more difficult and potentially prioritize recreational use over health and welfare.

One of the primary concerns is the potential for increased administrative burdens on healthcare providers. If the initiative leads to a broader adoption of medical marijuana, physicians and healthcare facilities may face additional responsibilities in terms of evaluating and monitoring patient use. This could divert resources and attention away from patient-centric care, potentially resulting in rising healthcare costs and limited access to quality care. As highlighted in previous cases, increased administrative burdens can have adverse effects on the healthcare system, potentially hindering its ability to provide effective treatment (In re: Advisory Opinion to Attorney General re Use of Marijuana for Certain Medical Conditions, 132 So. 3d 786, 808–10).

Furthermore, the initiative's emphasis on potential revenue streams and the broader marijuana market, including recreational use, may raise concerns about whether its primary focus is on health and welfare or on generating revenue. The healthcare system's primary mission is to promote the health and well-being of patients, and any policy changes should prioritize these goals. If the initiative disproportionately prioritizes recreational use or economic considerations, it may not align with the fundamental principles of healthcare and patient well-being.

It is essential to strike a balance between providing access to medical marijuana for legitimate medical conditions and ensuring that healthcare providers can effectively manage patient care and treatment. A lack of clarity in the initiative

regarding how it addresses these concerns could potentially impact the healthcare system's ability to provide quality care and uphold the health and welfare of patients.

Issue V: Does the existing bifurcation in marijuana regulation between state-regulated medical use and federally regulated recreational use align with constitutional principles, taking into account states' rights to manage healthcare and federal interests in regulating interstate commerce?

Analysis V:

The distinction between medical and recreational marijuana regulations highlights the debate between states' rights and federal oversight. Medical marijuana pertains to states' healthcare decisions, while recreational marijuana, due to its potential misuse and commerce implications, requires federal regulation. This raises the question of how to balance state autonomy with overarching federal interests in marijuana regulation.

It is essential to differentiate between the regulation of medical and recreational marijuana. Medical marijuana, when recommended by healthcare professionals, serves as a legitimate form of treatment for patients facing severe medical conditions. Its regulation falls within the realm of states' rights, where states can tailor their policies to address the unique healthcare needs of their residents while ensuring proper safeguards are in place.

Recreational marijuana, on the other hand, represents a different category altogether. It is consumed for non-medical purposes and is subject to federal regulation under the commerce clause. The federal government has a legitimate interest in regulating substances with potential for abuse when used recreationally, as established in *Gonzales v. Raich*, 545 U.S. 1 (2005).

The unique nature of recreational marijuana, its potential for misuse, and its implications for interstate commerce create a situation where states' authority to regulate is limited. Unlike medical marijuana, recreational marijuana is inherently subject to federal scrutiny and regulation due to its potential impact on commerce and public safety. This distinction reinforces the argument that states should retain their authority to regulate medical marijuana as part of its right to pass law related to health and welfare. However, the federal government's role in regulating recreational marijuana under the commerce clause is clear and presents unique challenges that make it less suitable for state-by-state regulation.

While states have shown an increasing willingness to recognize the therapeutic benefits of medical marijuana, thereby allowing its use under controlled conditions, recreational marijuana presents a different set of challenges. Acknowledging the federal government's established role in regulating substances that can affect commerce and public health emphasizes the need for a dual regulatory framework. This dual framework ensures that while states can focus on the specific

health needs of their residents, the federal government can address broader implications related to the recreational use of marijuana. By maintaining this distinction, we can create a balanced system that respects individual healthcare needs and ensures public safety and regulatory consistency at the national level. This can cure the conflict of law and constitutional crisis created by marijuana policy in the United States.

CONCLUSION

The Florida marijuana policy amendment requires a critical evaluation of its effects on individual rights, equal protection, and legislative clarity. It's vital for ensuring the amendment aligns with constitutional principles while reforming state marijuana laws. The amendment raises issues about state versus federal power under the commerce clause, especially in regulating recreational marijuana. This could lead to conflicts between the state constitution and federal commerce powers. We recommend the Court to consider these significant constitutional concerns and reject the Adult Personal Use of Marijuana initiative.

CERTIFICATE OF COMPLIANCE WITH FLORIDA RULE OF APPELLATE PROCEDURE 9.370 & 9.210

This brief complies with Florida Rule of Appellate Procedure 9.370, being within 20 pages, identifying supported parties on the cover, and including a concise statement of the amicus curiae's identity and interest. It adheres to the 14-point Times New Roman font standard and is double-spaced. In accordance with Rule 9.210, it

contains a table of contents, a table of citations, statutes, other authorities, pages for each citation, a summary of arguments, arguments for each issue, a conclusion (not exceeding one page), a certificate of service, and a certificate of compliance for computer-generated briefs.

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing was furnished via the e- Filing Portal on this ____ day of November 2023, to the following:

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