

# **Nebraska Medical Cannabis Defenders Reject Lawsuit as 'Meritless'**

## **Attorneys Defending Nebraska's Voter-Passed Medical Cannabis Law Blast Former GOP Senator's Lawsuit as 'Meritless' and Unconstitutional**

In a strongly-worded filing last Friday, the legal teams representing the new commissioners tasked with regulating medical cannabis in Nebraska, as well as the sponsors of the 2024 ballot initiative to legalize medical marijuana, have blasted an ongoing lawsuit filed by former Republican state senator John Kuehn as “meritless” and designed to create a “false conflict” around the issue of medical cannabis in the state.

### **Nebraska Medical Cannabis Law Faces Legal Challenge from Former State Senator**

The lawsuit, filed in December 2024, seeks to declare the voter-approved legalization and regulation of medical cannabis unconstitutional. The case, *John Kuehn v. Gov. Jim Pillen*, challenges the state laws based on the argument that they are preempted by the federal Controlled Substances Act. However, Kuehn, a longtime marijuana opponent and former member of the State Board of Health, has admitted he cannot prove standing, which is typically required to bring a lawsuit forward.

Instead, Kuehn argues that he has standing on behalf of the “taxpayer” or for the “great public interest,” which are narrow legal paths for cases that affect public dollars or have significant impact on the state. Legal representatives for five state officials, including the three commissioners of the Nebraska Medical Cannabis Commission, however, argue that Kuehn’s claim is without merit.

### **Legal Teams Argue Kuehn's Case Is an Unjustified Attempt to Overturn Voter Approval of Medical Marijuana**

The attorneys representing the commissioners and ballot sponsors argue that Kuehn’s lawsuit is a direct challenge to the will of Nebraska voters, who overwhelmingly supported the legalization of medical marijuana. The first part of the measure passed with 71 percent support and the second, which created the Medical Cannabis Commission to oversee regulations, passed with 67 percent support.

“There is no ‘great public interest’ in invalidating a law approved by a massive supermajority of Nebraska voters,” the defense team argued in their filing. They further emphasized that the federal government has taken no steps to prevent states from implementing their medical cannabis laws, despite marijuana remaining classified as a Schedule I drug.

### **Sponsors of the Medical Cannabis Law Defend State's Right to Enact Its Own Marijuana Laws**

The sponsors of the 2024 ballot measure have similarly criticized the lawsuit, accusing Kuehn of trying to “flip federalism on its head.” The sponsors pointed out that Kuehn’s stance supports an expansive federal government and weakens Nebraska’s ability to govern itself, contradicting the wishes of the state’s voters.

“The federal government has historically refrained from taking preemption action, and Congress has continuously prohibited the Department of Justice from interfering with state-level medical marijuana laws,” the sponsors argued in their legal brief. They also pointed out that no state has been forced to roll back its medical cannabis laws due to federal preemption.

## **Defendants Stress Importance of State Sovereignty in Medical Marijuana Laws**

Attorney Jason Grams, representing the commissioners, underscored that federal law’s illegality of marijuana does not automatically invalidate state laws. “Preemption occurs when it is ‘physically impossible’ for a state law to coexist with federal law, but that is not the case here,” Grams argued.

Grams also highlighted that the 39 states, including Nebraska, that have legalized medical cannabis have faced no significant legal repercussions from federal law. The defense team is holding the principle of state sovereignty in greater regard than federal restrictions on cannabis.

## **State’s Medical Cannabis Commission Faces Resource Shortage, Threatening Regulatory Work**

A critical aspect of the ongoing legal battle is the lack of resources for the Nebraska Medical Cannabis Commission. Grams pointed out that the commission currently has no public funding, office space, staff, or even contracts, making it impossible for the commission to carry out its regulatory responsibilities. The commission is tasked with setting up licensing regulations by July 1, with licensing slated to begin by October 1, but with no financial resources, these deadlines remain uncertain.

The defense team argued that the case should not proceed based on taxpayer standing because the commission has no public dollars to manage at this point. The sponsors of the ballot measure also criticized the legal challenge for potentially delaying the medical cannabis law’s implementation, which they argued would ultimately harm taxpayers rather than benefit them.

## **Nebraska’s Medical Cannabis Laws Face Uncertain Future Amid Legal and Legislative Challenges**

As Kuehn’s lawsuit moves forward, additional legislation related to the cannabis program may make the case moot. Legislative Bill 677, introduced by state Sen. Ben Hansen, could affect the medical cannabis statutes and extend deadlines for the commission’s work. The Nebraska Legislature has yet to act on this bill, and a vote is expected soon.

Meanwhile, other challenges to the legality of cannabis-related laws in Nebraska could emerge, including potential action from Attorney General Mike Hilgers. As the state works through these legal and legislative hurdles, the future of medical cannabis regulation in Nebraska remains uncertain.

## **Kuehn’s Lawsuit Faces High Hurdles, While Nebraska Cannabis Law Moves Forward Despite Legal Pushback**

The defense attorneys concluded that Kuehn’s case lacks the necessary legal standing to proceed and that any action on the matter should be taken up with the Nebraska Legislature, not the courts. They also emphasized

that allowing this type of lawsuit to move forward would open the door for any taxpayer to challenge laws on similar grounds, undermining the rule of law and the rights of voters in Nebraska.

With hearings scheduled for May 20, the case is set to continue as Kuehn's challenge to Nebraska's voter-approved medical marijuana laws faces stiff resistance from state officials and cannabis advocates alike.

Email: [info@cannabisriskmanager.com](mailto:info@cannabisriskmanager.com) | Phone: +415-226-4060

© Copyright 2025 Cannabis Risk Manager. All Rights Reserved