

Utah Medical Cannabis Advocates Gain Ground After Lawsuit

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Vices

I keep a finger on the pulse of cannabis, LGBTQ, health, and politics.

For Utahns like Christine Stenquist, Nathan Kizerian, Douglas Rice, and Andrew Talbott, M.D., unfettered access to medical cannabis is essential. Taking that away is unacceptable, they believe, which is why they banded together to fight back when Utah’s voter-approved medical cannabis initiative was hijacked.



Stenquist resorted to medical cannabis after surviving a brain tumor operation and while living with fibromyalgia, among a host other conditions. She lobbied as a citizen to help pass Charlee’s Law, the first-of-its-kind CBD-only law in 2014, and worked on a succession of other bills and amendments, but with mixed results. So in 2016, Stenquist founded Together for Responsible Use and Cannabis Education (TRUCE), further pushing the issue. Finally, on November 6, 2018, Utah voters approved Proposition 2, establishing a medical cannabis program.

But Utah State Legislature’s knee-jerk reaction—after being blindsided by the surprise—resulted in a special session to install H.B. 3001, a so-called “compromise” that replaced the bill approved by voters with something fundamentally different.

Under H.B. 3001, dispensaries were slashed from 40 to seven, cannabis would be sold in one-gram blister packs, and state and local agencies would be required to operate the program within county health departments—which would have been legally impossible, as cannabis remains under schedule 1 of the Controlled Substances Act.

Then, patients and doctors fought back.



Christine Stenquist and other advocates at the Utah State Capitol Building.
Photo Courtesy Christine Stenquist

A team of co-plaintiffs, including the Epilepsy Association of Utah (EAU), TRUCE, Stenquist, Rice, Kizerian, and Dr. Talbott, filed a lawsuit against Governor Gary Herbert and Dr. Joseph Miner, the director of the Utah Department of Health, challenging H.B. 3001. The central fill pharmacy provisions, they argued, were unconstitutional. The lawsuit also argued that H.B. 3001 threatened the democratic process—because the compromise bill was not what voters approved.

The co-plaintiffs filed a motion to dismiss the lawsuit on September 14, after achieving one of their primary goals of getting rid of a state-run central fill pharmacy plan.

Mormons filled nearly 90 percent of seats in the Utah State Legislature in 2019. The Church of Jesus Christ of Latter-Day Saints announced its support for limited forms of medical cannabis, but publicly opposed Proposition 2, which instantly swayed statewide

support. Emails from church officials indicate an individual goal to “protect the children.” The church also announced on October 9 that it is opposed to a recreational cannabis bill in Arizona. However, the church recently updated its policies to allow upstanding members to use medical cannabis under a physician, minus smoking and vaping methods.

“When I did decide to file the lawsuit, the biggest concern for all of us, was [the perception] that we were trying to go after the church,” says Stenquist. “I was very concerned that we’d get caught up in a sort of religious war.” They ultimately decided to drop the claim of church involvement.

Thanks to Stenquist and the others, the central fill pharmacy concept with government-run pharmacies was abandoned in a draft bill supported by Governor Herbert. “The biggest thing the lawsuit did—besides getting rid of the central fill—was that it actually shows to the legislators that the people are united. The central fill concept was the biggest poison pill,” Stenquist explains. “I felt that if we could at least get that removed, we could have a victory and keep chiseling away.”

H.B. 3001 was spearheaded by State Senator Evan Vickers. “[Vickers’] whole fight with me over the past six years has been that this is medicine and needs to be dispensed like medicine in a pharmacy,” says Stenquist.

Vickers coincidentally is an opioid tycoon, along with other potential conflicts of interest, which were outlined in a laser-focused analysis by journalist Angela Bacca, who fully supported the lawsuit. “Someone had to take a stand and say this isn't right. There is no separation of church and state in Utah,” says Bacca, adding that there is a financial agenda at play, and that state lawmakers “continue not to ‘choose the right’.”

Bacca’s report prompted Vickers to respond publicly, in defense of his business ties.





Christine Stenquist, founder of Together for Responsible Use and Cannabis Education (TRUCE).
Photo Courtesy Christine Stenquist

One of Stenquist’s grievances is Utah’s dosing parameters, much different than requirements seen in other states. “Every patient in the state has to have a dosage written, and it’s on file at the dispensary, and the state tracks that,” says Stenquist. “When a patient goes in, the pharmacist, or qualified medical provider, is supposed to write down the parameters for each patient. Mind you—our state is notorious for breaching databases.”

The lawsuit’s plaintiffs were represented by Attorney Rocky Anderson, who is the former mayor of Salt Lake City, and frequently involved in Utah politics, dating back to his battle against gentrification. “The central fill is dead—because of our lawsuit and because of our

pushing on this issue with everyone involved, including County [and] District Attorneys,” says Anderson.

Anderson and Stenquist sent out hundreds of copies of a letter to prosecutors and lawmakers, explaining the legal consequences of involving health departments with cannabis. “We had to explain to legislators, many of whom are attorneys, health department officials, county commissioners/council members, and County/District Attorneys, that the state cannot mandate state and local health departments and employees to participate in what—in the eyes of pre-emptive federal law—constitutes a full-service drug cartel,” Anderson warns.

Last month, the Utah State Legislature held a special session and approved changes to the state’s medical cannabis system that will allow for 14 pharmacies—up from seven—and more in the future, and increase the number of growers.



Nathan and Shalyce Kizerian.
Photo Courtesy Nathan Kizerian

Kizerian’s wife Shalyce passed away last year, after a brave battle with colon cancer, but not until after becoming a hero for the medical cannabis movement in Utah. Kizerian was already known in the community for the popular Facebook page Utah Satire, and for targeting local politicians—something they’ve come to fear, Stenquist says.

Without the changes to the original law, Kizerian guesses that Utahns would currently be growing at home. “Home grow was key for my wife’s recovery,” he says. “The compromise shortened—if not ended—my wife’s life. We were having so much success with cannabis. Her [tumor] markers were up around 6,000. When we introduced THC, they dropped down to 100.” Properties associated with colon cancer inhibition, cancer cell death, and THC are real, Kizerian promises.

Utah’s cultural perceptions, however, are changing rapidly. “Originally, we were doing CBD,” Kizerian adds. “Even CBD was sketchy in Utah at the time. Originally, the guy we got CBD from wouldn’t put ‘CBD’ on my bottles.”

Kizerian is especially active in feats of activism, sometimes at the Utah State Capitol Building. “I’ve been the one out there, beating the drum,” Kizerian says, adhering to his stance that he’ll accept nothing short of “full reinstatement” of Proposition 2. Kizerian ran for office as Lt. Governor alongside Zach Moses, candidate for Governor of Utah, coming in second place in Utah’s Democratic Convention. Kizerian and Moses also launched a PAC called Part the Red Sea.

There are plenty of other issues that lurk within Utah’s medical cannabis system. “Far and away the most common complaint I hear regarding Utah’s current cannabis program is the lack of access and the high prices,” says Rice, who serves as president of EAU. “While the state and some ‘activists’ celebrate the handful of ‘pharmacies’ we have, most people are staying away due to prices that are double (and sometimes triple) the cost in nearby legal states; and of course the black market is thriving because of the prices required to do legal business in Utah. Local plugs are able to easily underprice the state dispensaries and still make a handsome profit. We need more access, in the form of dispensaries and lower prices.” Rice believes Utah could double the 10,000 cardholders that the state “is so proud of.” EAU raises awareness for Utahns suffering from epilepsy, and it now boasts over 1,000 members statewide.

Rice’s daughter Ashley suffers from a rare genetic disorder that can cause intractable epilepsy. Thanks to CBD in combination with THC and other compounds, Ashley went from 8-24 seizures per day to 3-6 seizures per day, and for much shorter lengths.

“The second major complaint is the lack of home grow,” Rice adds. “And the state absolutely refuses to address that, saying home cultivation is more about recreational use than medical. I refute that, since my daughter’s medical problems would be better served with raw plant. I’d love to do smoothies and baked goods for her, but edibles are yet another Utah issue: no edibles other than gummies in the shape of a cube. No cookies, no drinks, no candies. Those both need to change.”

Rice has also dealt with the cultural influences in Utah. “Anti-cannabis lobbyists say ‘think of the children’,” adds Rice. “Well, I *am* thinking of the children— *my* child, specifically. My daughter has PURA Syndrome—one of less than 2000 people in the world. *In the world.*” Rice explained that lawmakers ignore that hundreds of sick kids could be helped by edibles and raw plant access, and instead defend their physically healthy kids. “I’m growing tired of being left in the shadows because my kid and my religion are different than most people in this state.”

Co-plaintiff Dr. Talbott specializes in pain management in the Park City area. Talbott, Stenquist, and Weber State University Neuroscience Professor Jim Hutchins, helped answer questions about medical cannabis before Proposition 2 was approved. Talbott understands the unique role cannabinoids play for difficult-to-treat pain.

“Our largest need for improvement is better patient access to medical cannabis, through knowledgeable medical providers,” says Talbott. To do this we need to abolish the arbitrary patient cap and provide legal protection to those providers. What we are seeing is a large number of medical providers with little to no understanding of phytocannabinoids and their effect on the endocannabinoid system. Patients (especially those new to cannabis) are not receiving the counseling they need.”

The changes under the compromise bill also put doctors such as Talbott at risk, without revision.

These are the people on the frontlines, who are pushing to regain the medical cannabis system that Utah voters approved.

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Before journalism, I studied art at the University of Utah and professional writing at Southern New Hampshire University, with a short stint at Carnegie Mellon

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