



March 11, 2021

The Honorable Delores Kelley
Chair, Senate Finance Committee
3 East, Miller Senate Office Building
Annapolis, Maryland 21401

RE: SB 884 – Medical Cannabis – Visiting Qualifying Patient – Letter of Information

Dear Chair Kelley and Committee Members:

The Maryland Medical Cannabis Commission (the Commission) is submitting this letter of information for Senate Bill (SB) 884 entitled “Medical Cannabis – Visiting Qualifying Patient.” SB 884 authorizes a visiting qualifying medical cannabis patient who resides in another state to obtain medical cannabis at a licensed dispensary in Maryland upon providing to the dispensary (1) documentation that the individual has a valid medical cannabis certification issued by the individual’s state of residence; and (2) photographic identification or a valid driver’s license issued by the individual’s state of residence.

Medical cannabis is legal in 34 states and the District of Columbia. The vast majority of these jurisdictions require patients to be a resident of, or live in, the state. States prohibit access for non-residents because the federal Controlled Substances Act prohibits the manufacture, distribution, transport, possession or use of cannabis, and subsequently (1) interstate transport of cannabis remains illegal; and (2) state protections for patients against arrest or prosecution do not extend beyond state lines. This means an out-of-state patient who purchases medical cannabis in Maryland may not be protected under any other state law. Furthermore, allowing out-of-state patients to obtain medical cannabis from Maryland dispensaries significantly increases the risk of interstate transport of cannabis from the State.

The Commission notes that as introduced, SB 884 establishes a system for permitting out-of-state patients to purchase medical cannabis without regulatory oversight which creates a high potential for diversion (i.e. the transfer of legally obtained medical cannabis from the patient to another person for any illicit use). As referenced above, medical cannabis remains illegal at the federal level under the Controlled Substances Act, and federal authorities may enforce laws involving cannabis where they have jurisdiction. Since the federal government has jurisdiction over interstate commerce, the sole act of transporting cannabis across state lines is a federal offense, regardless of whether cannabis is legal in the state where it is being transported. Guidance from the U.S. Justice Department states that due to limited resources, the federal government will not enforce the federal cannabis prohibition in states that legalized cannabis *except where lack of federal enforcement would undermine federal priorities*. One of the eight federal priority areas identified by the U.S. Department of Justice includes enforcing drug cases involving “Diversion of cannabis from states where it is legal under state law in some form to other states.”

Furthermore, as introduced, SB884 puts out-of-state patients first and Marylanders second. The bill does not contain any requirement that out-of-state patients register with the Commission, nor

does the bill limit or track out-of-state patients or purchases in any way. This means that the Commission has no ability to monitor which out-of-state patients are purchasing medical cannabis in Maryland, or the amount that is being purchased. Maryland law limits the amount of medical cannabis that registered patients may purchase within a 30-day period and tracks that allotment through the State’s seed-to-sale inventory system. SB 884 would not require the same tracking or limitation on quantity for out-of-state patients, permitting out-of-state patients to purchase an unlimited amount of medical cannabis at the expense of similarly situated Maryland residents.

If the General Assembly is interested in extending access to medical cannabis in Maryland to out-of-state patients, the Commission proposes that the bill be amended to treat out-of-state patients the same as Maryland residents. This means (1) out-of-state patients must possess a valid medical cannabis patient license or registration from another state, and (2) requiring the out-of-state patient to register with the Commission. This would enable the Commission to track the medical cannabis products sold to ensure that the patient does not receive more than the authorized amount and that products are not diverted to non-patients. These amendments are set forth below.

Article – Health-General
13-3301.

(P) “VISITING QUALIFYING PATIENT” MEANS AN INDIVIDUAL WHO PROVIDES TO A DISPENSARY:

(1) ~~DOCUMENTATION THAT THE INDIVIDUAL HAS A VALID MEDICAL CANNABIS CERTIFICATION ISSUED BY THE INDIVIDUAL’S STATE OF RESIDENCE;~~ HOLDS A VALID MEDICAL CANNABIS PATIENT LICENSE OR REGISTRATION ISSUED BY ANOTHER STATE; AND

(2) ~~Photographic identification or a valid driver’s license issued by the individual’s state of residence.~~ REGISTERS WITH THE COMMISSION.

The Commission appreciates the work the General Assembly has done over the past seven years to advance the medical cannabis program. If you would like to discuss this further, please contact Taylor Kasky, Director, Policy and Government Affairs, at (443) 915-5297 or at taylors.kasky@maryland.gov.

Sincerely,



William Tilburg, JD, MPH
Executive Director
Maryland Medical Cannabis Commission

cc: Members of the Senate Finance Committee
Enclosure – Attachment – States with Reciprocity for Out-of-State Medical Cannabis Patients

ATTACHMENT

STATES WITH RECIPROCITY FOR OUT-OF-STATE MEDICAL CANNABIS PATIENTS

The following states authorize a visiting qualifying medical cannabis patient to obtain medical cannabis at a licensed dispensary in the visiting state:

Arkansas. Arkansas accepts out-of-state medical cannabis ID cards. Out-of-state medical cannabis patients must complete the out-of-state registration and pay a \$50 visiting patient application fee. Those approved may purchase medical cannabis in Arkansas for 30 days.
https://www.dfa.arkansas.gov/images/uploads/medicalMarijuanaCommission/ABC_MMRules.pdf

Hawaii. Out-of-state medical cannabis patients may apply for registration for an \$49.50 application fee. Using the online registration system, qualified patients can obtain an electronic registration card up to 60 days before their arrival in Hawaii. The process requires applicants to submit an ID and their medical cannabis registration from their home state. The registration card is valid for 60 days, and patients can apply twice in a calendar year.
Act 116, Session Laws of Hawaii 2018, Section 2.

Maine. Dispensaries accept medical cannabis credentials from other states if those states allow them to use their credentials to purchase medical cannabis in Maine.
PL 2017, c. 452, §3 (AMD)

Michigan. A qualifying medical cannabis patient, who is not a resident of the state or who has been a resident of the state for less than 30 days, may purchase medical cannabis in Michigan using an out-of-state medical cannabis registration card.
MI Compiled Laws §333.26423

Nevada. Nevada recognizes nonresident medical cannabis identification cards. Each dispensary that recognizes a nonresident ID card shall enter the information it obtains into the electronic verification system.
NAC 453A.454

New Mexico. New Mexico recognizes out-of-state medical cannabis cardholders as reciprocal patients. A reciprocal patient means an individual who holds proof of authorization to participate in the medical cannabis program in another state of the United States, a territory or commonwealth of the United States or a New Mexico Indian nation, tribe, or pueblo.
NM Stat §26-2B-3

Oklahoma. Oklahoma provides a medical cannabis temporary adult patient license, which allows a person with a valid medical cannabis license from another state to legally buy, use, and grow medical cannabis and medical cannabis products in Oklahoma.
OAC 310:681-2-1 and OAC 310:681-2-2

Rhode Island. Rhode Island accepts out-of-state medical cannabis cards. Out-of-state cards are limited to states that track medical cannabis sales.

Washington, DC. As of 2019, patients from any state with a medical cannabis program may use their medical cannabis cards to purchase medical cannabis at a DC dispensary.