



Hospice & Palliative Care Network  
OF MARYLAND

TO: The Honorable Joseline A. Pena-Melnyk, Chair  
Members, House Health and Government Operations Committee  
The Honorable Steve Johnson

FROM: Danna L. Kauffman  
Pamela Metz Kasemeyer  
Christine K. Krone  
410-244-7000

DATE: March 7, 2023

RE: **LETTER OF INFORMATION** – House Bill 1135 – *Health Care Facilities – Use of Medical Cannabis*

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On behalf of the LifeSpan Network and the Hospice and Palliative Care Network of Maryland, we submit this **letter of information** for House Bill 1135.

House Bill 1135 requires a nursing home or a hospice to permit an individual to use medical cannabis within the facility. The bill does allow the facility to place certain restrictions on the use of cannabis, such as prohibiting smoking of the substance. The bill also seeks to address the conflict that exists between the State law permitting the use of medical cannabis and the federal law categorizing medical cannabis as a Schedule I controlled dangerous substance.

This letter of information focuses on guidance that has been given by the State (i.e., Office of Health Care Quality) to the nursing home industry. However, the content in the guidance would extend to any facility that participates in Medicaid/Medicare, including hospice. Simply stated, the guidance reiterates the federal government's position that, despite states legalizing cannabis, cannabis remains a Schedule 1 controlled dangerous substance and is illegal. Consequently, providers that participate in Medicare and/or Medicaid must sign a Condition of Participation agreement and comply with all applicable federal and state requirements. The guidance further warns that providers could be subject to federal enforcement, including termination of participation in their provider agreements.

Again, while the bill seeks to address this conflict, there is no guarantee that the federal government would cease an enforcement action. Until there is resolution between state/federal law or additional guidance given by the federal government to address this situation, providers and patients remain in the crosshairs, creating an unfortunate situation.



# MARYLAND Department of Health

Larry Hogan, Governor · Boyd K. Rutherford, Lt. Governor · Robert R. Neall, Secretary

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## Office of Health Care Quality

Spring Grove Center, Bland Bryant Building, 55 Wade Avenue, Catonsville, MD 21228-4663

**To:** All Nursing Homes

*Patricia Tomsko Nay, MD*

**From:** Patricia Tomsko Nay, MD, CMD  
Executive Director, Office of Health Care Quality

**Subject:** Medical Cannabis

**Date:** April 13, 2018

Cannabis (marijuana) is categorized as a Schedule I controlled substance under the U.S. Controlled Substances Act, which means that:

- the drug or substance has a high potential for abuse;
- there is currently no accepted medical treatment use for the substance; and
- there are no accepted safety standards in place for the substance in medical treatment.

Providers certified by the Centers for Medicare and Medicaid Services (CMS) are subject to a Condition of Participation agreement that requires providers to operate and provide services in accordance with all applicable Federal and State laws. Because cannabis is classified as a Schedule I controlled substance, the distribution or possession of cannabis is a criminal offense. Therefore, it is CMS's standpoint that federal law prohibits certified providers from dispensing medical cannabis.

Even though Maryland has legalized the medical use of cannabis, Maryland providers certified by CMS should be aware they may not be insulated from federal enforcement, including termination of their provider agreement. Until the conflict between state and federal law is resolved, Maryland providers should obtain legal advice from their own attorney to determine how they want to approach the use of medical cannabis in their nursing home.

If you have further questions regarding medical cannabis, please contact Margie Heald, Deputy Director of Federal Programs, 410-402-8101.