



March 7, 2023

The Honorable Joseline Peña-Melnyk  
Chair, Health and Government Operations Committee  
Room 241  
House Office Building  
Annapolis, Maryland 21401

**RE: House Bill 1135 – Health Care Facilities – Use of Medical Cannabis – Letter of Information**

Dear Chair Peña-Melnyk:

The Maryland Medical Cannabis Commission (the Commission) is submitting this letter of support for House Bill 1135 – Health Care Facilities – Use of Medical Cannabis.

HB 1135 would require certain hospitals and hospice facilities to allow a qualifying patient with a written certification to consume medical cannabis within the facility if the patient is receiving certain non-emergency medical care. The Commission believes that HB 1135 is consistent with the General Assembly's approach to regulate medical cannabis in a similar manner to other medicines and would expand patient access to medical cannabis, regardless of treatment setting.

The Commission's authorizing statutes and regulations allow qualifying patients to consume cannabis at medical facilities, if permitted by the medical facility, and provide medical facilities with legal protections if they allow patients to consume medical cannabis during treatment at the facility. (see COMAR 10.62.30.04, which allows for the delivery of medical cannabis, by a licensed dispensary, to a "medical facility where the qualifying patient is receiving in-patient treatment," and Health-General Article, §13-3313(a)(8), which grants certain legal protections to "a hospital, medical facility, or hospice program a qualifying patient is receiving treatment.")

In January 2022, California implemented similar legislation, allowing for the use of medical cannabis products by terminally ill patients (Chapter 384, Statutes of 2021). Prior to adoption, the California State Legislature received assurances from the U.S. Centers for Medicaid and Medicare (CMS) that permitting medical cannabis patients to use medical cannabis products at a healthcare facility would not jeopardize federal funding. The California legislature passed revisions to this act effective January 1, 2023 (Chapter 242, Statutes of 2022) clarifying the initial legislation, including:

- Exempting from the health care facilities required to participate in this program:
  - Chemical dependency recovery hospitals,
  - State hospitals; and
  - Emergency departments of a General Acute Care Hospital.

- Making explicit that the patient or primary caregiver is responsible for acquiring, retrieving, administering, and removing the medicinal cannabis and that health care professionals and facility staff are prohibited from administering medicinal cannabis or retrieving it from storage;
- Removing a requirement for health care facilities permitting use of medicinal cannabis to comply with drug and medication requirements applicable to Schedule II, III, and IV drugs and instead updates the requirements for storage to specify that it must be stored securely at all times, in a locked container in the patient's room, other designated area or with the patient's primary caregiver; and
- Requiring health care facilities to adopt guidelines for disposal of medicinal cannabis. Upon discharge, patients or primary caregivers will be responsible for the removal of the medicinal cannabis. However, if they are unable to remove the medicinal cannabis, the product must be disposed of according to the health care facility's policies and procedures.

HB 1135 also includes safe harbor provisions that would allow hospitals to restrict medical cannabis use in their facilities if certain federal agencies revise this position, or begin to take enforcement actions against healthcare facilities for allowing medical cannabis consumption on-site.

Lastly, the Commission would highlight that as introduced, HB 1135 references to the Medical Cannabis Program in Title 13, Subtitle 33 of the Health - General Article. HB 556, which is emergency legislation, contemplates large-scale cannabis reform, including repealing Title 13, Subtitle 33 and recodifying many of its provisions in a new Alcoholic Beverages and Cannabis Article. The Commission believes that if both bills ultimately pass the General Assembly, a corrective bill would be necessary to move this provision into the new Alcoholic Beverages and Cannabis Article.

I hope you and the committee find this information useful. If you would like to discuss this further please contact Andrew Garrison, MPA, Deputy Director, Office of Policy and Government Affairs at [andrew.garrison@maryland.gov](mailto:andrew.garrison@maryland.gov) or (443) 844-6114.

Sincerely,

A handwritten signature in blue ink that reads "Will Tilburg". The signature is written in a cursive style and is underlined with a horizontal line.

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

*This position does not necessarily reflect the position of the Maryland Department of Health or the Office of the Governor.*