



**2021 SESSION
POSITION PAPER**

BILL NO: House Bill (HB) 683
COMMITTEE: House Economic Matters Committee
POSITION: Support with Amendment

TITLE: Workers' Compensation – Medical Cannabis – Compensation and Benefits

BILL ANALYSIS: House Bill 683 authorizes workers' compensation and benefits to an employee who sustains an accidental personal injury, compensable hernia, or occupational disease caused solely by the effect of medical cannabis on the employee provided that the medical cannabis was taken pursuant to the written certification of a certifying provider or the written instructions of a physician. The bill also includes medical cannabis in the medicine that an employer or its insurer is required to cover for the medical treatment of a covered employee with a compensable claim.

POSITION AND RATIONALE: The Maryland Medical Cannabis Commission (the Commission) supports HB 683 with an amendment.

Medical cannabis has been legalized in 33 states and the District of Columbia. The authorized use of cannabis for medical conditions has sparked debate over whether workers' compensation coverage should extend to medical cannabis patients and treatment. HB 683 is groundbreaking legislation that would provide workers' compensation and benefits, including treatment with medical cannabis, for injuries and illnesses sustained by medical cannabis patients in the course of their employment. Many insurers do not have a direct policy that expressly covers or denies coverage for medical cannabis. Thus far, only five states (CT, ME, MN, NJ, and NM) require insurers to pay workers' compensation claims involving medical cannabis.

HB 683 represents an important advance in creating equity under the law for medical cannabis patients. Parity in worker's compensation coverage for medical cannabis patients, as it already exists for patients who are prescribed pharmaceuticals, acknowledges the current reality of the use of medical cannabis as an important and valued medicine for the treatment of medical conditions.

If HB 683 is enacted, the Workers' Compensation Commission (WCC) would set the applicable rate of reimbursement for medical cannabis treatment via regulations and their fee guide. The median cost of medical cannabis for a certified patient in Maryland is \$300 per month. It is notable that although the majority of states have legalized medical cannabis, there have been no federal prosecutions for violations of the Controlled Substances Act (CSA) against employers or insurers for the reimbursement for legal medical cannabis. Further, workers' compensation coverage for medical cannabis is not in direct conflict with the federal Controlled Substances Act since it does not involve the possession, manufacturer, or distribution of cannabis, but instead only requires reimbursement for the cost of medical cannabis treatment.

Lastly, the Commission proposes the amendment below to clarify that a compensable claim under the workers' compensation law extends only to medical cannabis patients who hold a written certification issued by a certifying medical cannabis provider (physicians, physician assistants, dentists, certified nurse practitioners, nurse midwives, and podiatrists) -- not just any physician, regardless of whether the physician is certified to recommend a patient for medical cannabis under the Maryland Medical Cannabis Program. The amendment also acknowledges that the written certification is only required to come with written instructions when the recommendation for the monthly allotment of medical cannabis would exceed the normal purchase limits established by regulation.

On page 1, in line 8, strike “or the written instructions of a physician” and substitute “or the written instructions of the certifying provider, if any”

On page 2, in line 18, strike “OR WRITTEN INSTRUCTIONS OF A PHYSICIAN” and substitute “AND THE WRITTEN INSTRUCTIONS OF THE CERTIFYING PROVIDER, IF ANY”.

The Commission would appreciate a favorable report on HB 683, as amended.

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