

State of Maryland

Commission on Civil Rights

“Our vision is to have a State that is free from any trace of unlawful discrimination.”



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February 9, 2021

Senate Bill 504 – Discrimination in Employment – Use of Medical Cannabis – Prohibition **POSITION: Support**

Dear Chairperson Smith, Vice Chairperson Waldstreicher, and Members of the Senate Judicial Proceedings Committee:

The Maryland Commission on Civil Rights (“MCCR”; “The Commission”) is the State agency responsible for the enforcement of laws prohibiting discrimination in employment, housing, public accommodations, and state contracts based upon race, color, religion, sex, age, national origin, marital status, familial status, sexual orientation, gender identity, genetic information, physical and mental disability, and source of income.

Senate Bill 504 prohibits an employer from discriminating against an employee or applicant because they hold a written certification for the use of medical cannabis under state law, or the individual tests positive for cannabis components or metabolites because they hold that written certification. The bill provides an exemption if having the employee carry out job duties would violate federal law or regulations or cause the employer to lose a monetary or licensing-related benefit under federal law or regulation. Employers are permitted under the bill to adopt policies and procedures that prohibit an employee from performing the job duties while impaired by medical cannabis.

According to the National Conference of State Legislatures, there are currently 13 states that prohibit an employer from discriminating against a qualifying medical cannabis patient or cardholder¹. They are Arizona, Arkansas, Connecticut, Delaware, the District of Columbia, Illinois, Maine, Minnesota, Nevada, New York, Oklahoma, Pennsylvania, and Rhode Island. Of these states, only Nevada requires an employer to accommodate medical cannabis patients as well as those individuals who engage in the recreational use of cannabis.

With the passage of Maryland’s medical cannabis program, employers began raising concerns regarding under what circumstances they are permitted to hire/retain employees who are cardholding patients. The State’s employment anti-discrimination law in State Government Article Title 20 has not been updated to include an employer’s obligations, as well as what conditions exist whereby an employer can deny an applicant or dismiss an employee from employment. Senate Bill 504 is a carefully crafted bill that incorporates the similar provisions

¹ <https://www.ncsl.org/research/labor-and-employment/cannabis-employment-laws.aspx>

found in the aforementioned 13 states that strike the balance between an individual's right to be free from employment discrimination and an employer's right to conduct business without being subjected to undue hardship.

Page 2, lines 11 through 14 of the bill permit an employer to adopt policies and procedures that prohibit an employee from performing the employee's duties while impaired by medical cannabis. However, the bill does not define the term "impaired by medical cannabis", nor does existing statute offer MCCR any guidance. If the Committee entertains any amendments for this legislation, then the Maryland Commission on Civil Rights respectfully recommends considering clarifying language defining "impairment".

For these reasons, the Maryland Commission on Civil Rights urges a favorable vote on SB504. Thank you for your time and consideration of the information contained in this letter. The Maryland Commission on Civil Rights looks forward to the continued opportunity to work with you to improve and promote civil rights in Maryland.