

## **Favorable HB683 & SB461.pdf**

Uploaded by: Doersam, Stephanie

Position: FAV

Written Testimony

HB 683 & SB 461

Position: Favorable

I am writing to ask your support for HB 683 & SB 461.

“Opioids in the Workplace” data from the CDC website, shows that opiate prescriptions for workman’s compensation injuries, while decreasing remains significant. There is a national opiate crisis and according to research posted on drugabuse.gov, up to 29% of people prescribed opiates for chronic pain misuse them and up to 12% will develop an opiate use disorder.

Further, a 2020 systematic review of 9 studies, demonstrated that cannabis reduced opiate usage in chronic pain 64-75% and 32-59% of patients reported substituting cannabis for opiates. The evidence is clear, medical cannabis is a viable alternative or adjunct for opiates to treat pain.

As medical cannabis is a legal option in Maryland which is proven by research to be an alternative for chronic pain and as we have a significant national opiate crisis, it is logical for workman’s compensation to reimburse for medical cannabis as either an alternative or a supplement to an opiate prescription.

Thank you,



Dr. Stephanie Doersam, PT, DPT, M.Ed. #17910  
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410-508-4048

<https://www.cdc.gov/niosh/topics/opioids/data.html#:~:text=In%202016%2C%2044%25%20of%20all,declined%20from%2055%25%20since%202012.>

[https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7388229/pdf/13643\\_2020\\_Article\\_1425.pdf](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7388229/pdf/13643_2020_Article_1425.pdf)

<https://www.drugabuse.gov/drug-topics/opioids/opioid-overdose-crisis>

# **SB0461-453529-01.pdf**

Uploaded by: Feldman, Brian

Position: FAV



**SB0461/453529/1**

AMENDMENTS  
PREPARED  
BY THE  
DEPT. OF LEGISLATIVE  
SERVICES

05 FEB 21  
15:15:24

BY: Senator Feldman

(To be offered in the Finance Committee)

AMENDMENTS TO SENATE BILL 461

(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 8, strike “or the written instructions of a physician”; and in line 10, after “circumstances;” insert “requiring the Workers’ Compensation Commission to adopt certain regulations on or before a certain date;”.

AMENDMENT NO. 2

On page 2, in line 18, strike “**OR THE WRITTEN INSTRUCTIONS OF A PHYSICIAN**” and substitute “**OBTAINED IN ACCORDANCE WITH TITLE 13, SUBTITLE 33 OF THE HEALTH – GENERAL ARTICLE**”; and in line 26, after “CANNABIS” insert “**OBTAINED IN ACCORDANCE WITH TITLE 13, SUBTITLE 33 OF THE HEALTH – GENERAL ARTICLE**”.

On page 3, after line 1, insert:

“SECTION 2. AND BE IT FURTHER ENACTED, That, on or before October 1, 2021, the Workers’ Compensation Commission shall adopt any regulations necessary to carry out Section 1 of this Act.”;

in lines 2 and 5, strike “2.” and “3.”, respectively, and substitute “3.” and “4.”, respectively; and in line 6, strike “October” and substitute “July”.

# **LaFree\_SB0461 Written Testimony.pdf**

Uploaded by: LaFree, Alexandra

Position: FAV

**Written Testimony in Support of Senate Bill 461****Workers' Compensation - Medical Cannabis - Compensation and Benefits**  
*Before the Finance Committee: February 18, 2021*

Senate Bill 461 protects the health of Marylanders by amending the term “treatment” to include medical cannabis as a treatment option compensable under Maryland’s Workers’ Compensation system. This bill is narrowly tailored to protect employers and insurers from unreasonable claims. Under this bill, a covered employee or their dependent cannot receive compensation under workers’ compensation if the employee’s accidental injury, compensable hernia, or occupational disease was solely caused by the effects of cannabis and the cannabis was taken without a certifying provider or not in accordance with the provider’s instructions.<sup>1</sup>

Senate Bill 461 should be adopted because it provides much needed reimbursement for medical cannabis treatment to employees for injuries suffered within the workplace. This bill will improve the lives of employees while simultaneously benefiting the State, employers, and insurers by decreasing injuries, claims, and time away from work. Further, the passage of Senate Bill 461 presents the opportunity to clarify the law and set expectations for employees who seek to use medical cannabis treatment.

**Medical Cannabis is a Legitimate Treatment**

Maryland and thirty-five other states recognize medical cannabis as a lawful medication. However, in Maryland and many of these other states, the law does not require that workers’ compensation coverage include reimbursement for medical cannabis. This undermines the effectiveness of a medical cannabis system. Employers and workers’ compensation insurers must not be permitted to treat medical cannabis differently than other medication. Generally, workers’ compensation systems cannot and do not deny coverage simply because of the type of medication involved. For example, insurers won’t refuse to compensate an employee for the employee’s legal prescription of opioid medications simply because that medication is an opioid. But that is exactly what insurers do with legitimate medical cannabis treatment. Senate Bill 461 simply seeks to include medical cannabis as a treatment option compensable by workers’ compensation.

Even if medical cannabis is included as an option, this would not change the insurers’ ability to review compensation claims or appeal claims with the Workers’ Compensation Commission. Therefore, insurers may still deny coverage for a variety of reasons, such as a finding that the treatment is not medically necessary, reasonable, or efficacious, based upon facts and evidence presented by the injured employee regarding their condition. Accordingly, Senate

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<sup>1</sup> This bill’s reference to “dependents” is for cases where an employee dies and their dependent seeks to claim benefits for their loss.

Bill 461 merely seeks to normalize the use of cannabis as a valid medication and does not require treatment reimbursement without just cause.

### **Public Health Impacts of Covering Medical Cannabis Under Workers' Compensation**

Providing workers' compensation coverage for medical cannabis patients who lawfully obtain certification improves the health and wellbeing of Maryland's workers. In a study published in the International Journal of Drug Policy, researchers found an association between a 19.5% drop in the number of workplace fatalities among workers aged 25-44 and the legalization of medical cannabis.<sup>2</sup> This research indicates that legalizing medical cannabis benefits employees and their families by improving workplace safety and reducing the number of employees who die on the job. Further, the reduction in workplace fatalities also financially benefits employers and their insurers because of the decrease in dependent claims.

In addition, allowing for reimbursement of medical cannabis under workers' compensation mitigates the devastating effects of the opioid epidemic. There is a distinct overlap between medical cannabis treatment and chronic pain for which employees often file workers' compensation claims. Since the early 2000s, almost 220,000 Americans have died as a result of opioids.<sup>3</sup> As related to the workplace, a 2017 study by the National Safety Council found that seventy-percent of employers reported that their businesses were affected by opioid drug abuse, including absenteeism, injuries, accidents, and overdoses.<sup>4</sup> Further, the Bureau of Labor Statistics reports that workplace opioid overdose deaths have been increasing by twenty-five percent or more each year since 2010.<sup>5</sup> Several scientific studies have found that cannabis is effective in treating pain symptoms and that many patients would even prefer medical cannabis to opioids to treat their symptoms.<sup>6</sup> Reimbursing for medical cannabis treatment provides Maryland workers with a safer alternative to opioids.<sup>7</sup> Accordingly, Maryland must look toward medical cannabis as a better option for pain management to reduce fatalities and improve the health and the quality of life for workers.

### **Senate Bill 461 Protects Employers and Insurers**

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<sup>2</sup> Mark Anderson, Daniel I. Rees, & Erdal Tekin, Medical Marijuana Laws and Workplace Fatalities in the United States, International Journal of Drug Policy (Oct. 2018).

<sup>3</sup> James G. Hodge, Jr. et al., From Opioids to Marijuana: Out of the Tunnel and into the Fog, 67 Kan. L. Rev. 879 (2019).

<sup>4</sup> Jenny Gold, Workers Overdose on the Job and Employers Struggle to Respond, New York Times (Sept. 21, 2018), <https://www.nytimes.com/2018/09/21/business/economy/opioid-overdose-workplace.html>.

<sup>5</sup> Jenny Gold, Workers Overdose on the Job and Employers Struggle to Respond, New York Times (Sept. 21, 2018), <https://www.nytimes.com/2018/09/21/business/economy/opioid-overdose-workplace.html>.

<sup>6</sup> James G. Hodge, Jr. et al., From Opioids to Marijuana: Out of the Tunnel and into the Fog, 67 Kan. L. Rev. 879 (2019).

<sup>7</sup> Devon Q. Toro, How Come Mary-Jane is not on Workers' Comp?: Requiring Rhode Island Workers' Compensation Insurers to Reimburse Employees for Medical Marijuana, 3 Roger Williams University L. Rev. 25 (2020).

Senate Bill 461 is narrowly tailored to protect employers and insurers from unreasonable claims and financial loss. Specifically, an employer can deny reimbursement if an employee's injury was caused solely by cannabis and the employee unlawfully used cannabis without a certifying provider or failed to use the medical cannabis in accordance with the provider's instructions. Therefore, under this bill, an employee who is not using cannabis as permitted by law is not eligible for benefits under workers' compensation. The impact of this exclusion would be minimal on medical cannabis patients because they, by definition, use cannabis with certification by a provider and in accordance with that provider's instructions.

Additionally, requiring workers' compensation to reimburse employees for costs associated with medical cannabis is cost-effective. For example, reimbursement of medical cannabis may lead to fewer claims brought by employees. A 2019 study conducted by researchers at Temple University and the University of Cincinnati,<sup>8</sup> found that states with laws that enabled general access to medical cannabis experienced nearly a seven-percent decline in workers' compensation claims. Moreover, "when workers did present claims in these states, the claims were for shorter periods of time, on average, after medical marijuana was legalized," thereby increasing the total number of hours worked by employees. Further, according to the bill's fiscal and policy note, "if medical cannabis is prescribed instead of a more expensive medication or treatment, total expenditures [to the State, local government, and small businesses] decrease."<sup>9</sup> This should hold true for all private employers as well. These cost-saving measures provide a powerful incentive to the enactment of Senate Bill 461.

### **The Maryland Legislature Must Decide the Law**

Maryland must enact Senate Bill 461 to clarify the law. Maryland workers need to know whether their medical cannabis treatment is covered by workers' compensation. Not only has Maryland determined medical cannabis to be a valid form of treatment, the Workers' Compensation Commission has recently opined that legally allowed treatment must be covered, including medical cannabis.<sup>10</sup> Other states have also addressed this issue on a case-by-case basis through the courts, rather than through legislation. Of these states, at least six have found that medical cannabis is reimbursable by workers' compensation. For example, several New Mexico courts<sup>11</sup> have held that the use of medical cannabis is to be treated as the 'functional equivalent of a prescription' and to be paid for under New Mexico's Workers' Compensation if such treatment is reasonable and medically necessary.

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<sup>8</sup> Keshar M. Ghimire and Johanna Catherine Maclean, Access to Medical Marijuana Tied to Reduced Workers' Compensation Claims, Health Economics, (Dec. 4, 2019)

<sup>9</sup> 2021 Regular Session - Fiscal and Policy Note, Senate Bill 461.

<sup>10</sup> Byron Warnken, Our Results Last Month (Jan 2020), Warnken, LLC (Feb. 29, 2020).

<sup>11</sup> *Maez v. Riley Indus.*, 347 P.3d 732 (N.M. Ct. of Appeals, 2015); *see also Vialpando v. Ben's Automotive Services and Redwood Fire Casualty*, No. 32,920 (N.M. Ct. of Appeals, 2014).



The Maryland Legislature should not allow the case-by-case approach taken by other states because it creates confusion, inequitable results, and fails to provide employees with any clear guidelines as to coverage options. Accordingly, Senate Bill 461 allows the General Assembly to act swiftly and meaningfully to clarify the law in this area and to set expectations for employees seeking medical cannabis treatment for injuries they sustained in the workplace.

### **Conclusion**

Since 2014, medical cannabis has been a legally authorized medical treatment in Maryland. Despite this recognition, Maryland does not clearly allow injured employees to seek reimbursement for their lawful use of medical cannabis under workers' compensation. As such, Maryland should adopt SB461 to secure the health, safety, and well-being of employees by allowing Maryland's workers to receive repayment for this legal treatment.

*This testimony is submitted on behalf of the Public Health Law Clinic at the University of Maryland Carey School of Law and not by the School of Law or the University of Maryland system.*

## **SB461\_Favorable\_KevinMerillat.pdf**

Uploaded by: Merillat, Kevin

Position: FAV

February 16, 2021

**RE:** Senate Bill 461 – Workers Compensation – Medical Cannabis – Compensation and Benefits

**Position:** Favorable

Kevin D. Merillat, MBA  
345 Madeline Drive  
Saint Leonard, Maryland 20685

Dear Honorable Members of the Senate Finance Committee:

I am writing today in favor of SB 461. The State of Maryland has recognized cannabis as an essential medicine, and now it is time to adjust our local laws to meet this new reality. The ability for an injured worker to choose cannabinoid therapy over highly addictive drugs such as opioids will be paramount in fighting our opioid epidemic. I will graduate this May from the inaugural class at the University of Maryland earning a Master of Science degree in Medical Cannabis Science and Therapeutics, we have extensively studied the negative effects that can arise from cannabis use, and it is true that cannabis is one of the least toxic drugs in existence representing a minimal risk to those that consume it. We have also studied the case for edibles and the biphasic reactions to cannabis, but the fact remains that NO person has ever suffered death as the result of cannabis toxicity making cannabis one of the safest ligands in existence.

The fear of violating federal law is currently unfounded due to the Cole Memo and the priorities it places on cannabis enforcement. In addition, the Controlled Substance Act – 21 U.S.C. Section 903 states that “No provision of this subchapter shall be construed as indicating an intent on the part of the Congress to occupy the field in which that provision operates, including criminal penalties, to the exclusion of any State law on the same subject matter which would otherwise be within the authority of the State, unless there is a positive conflict between that provision of this subchapter and that State law so that the two cannot consistently stand together.” There is no positive conflict nor precedents for State legal operations of medical or adult-use programs being prosecuted for operations that are in accordance with state law. Furthermore, the principal of Federalism and the 10<sup>th</sup> Amendment clearly indicate “Powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively...” and, the Anti-Commandeering Doctrine provides further protection to State of Maryland concerning preemption of State law. In other words, the Federal Governments inaction concerning cannabis should not be cause for Maryland not to act in the best interests of its citizens.

Senate Bill 461 and House Bill 683 will provide Maryland citizens with a voice in their recovery from injury instead of forcing them to use more harmful traditional pain medications that are addictive and have long-term side effects such as liver damage. A recent study published in PubMed.gov states that “Among study participants, medical cannabis use was associated with a 64% decrease in opioid use.” <sup>1</sup>

Cannabis is proven to reduce pain, is a legally recommended drug in the State of Maryland and should be included as a reimbursable expense when dealing with a worker compensation issues. As an employer in the construction industry (Merillat Pools, Inc.) I would prefer to have my employees to have access to a pain management drug that has the least possibility of addiction or bodily harm from the medication itself. Please allow past stigma's surrounding cannabis to expire as we move towards ending the prohibitions on cannabis.

Best Regards,

Kevin D. Merillat, MBA

[kmerillat@umaryland.edu](mailto:kmerillat@umaryland.edu)

References:

1. Boehnke KF, Litinas E, Clauw DJ. Medical Cannabis Use Is Associated With Decreased Opiate Medication Use in a Retrospective Cross-Sectional Survey of Patients With Chronic Pain. *J Pain*. 2016;17(6):739-744. doi:10.1016/j.jpain.2016.03.002

# **SB461\_Shepherd\_FAV (1)(1).pdf**

Uploaded by: Shepherd, Aaron

Position: FAV

Good Afternoon,

My name is Aaron Shepherd, and I am hoping that you will return a vote in favor of HB683/SB461. I was hoping to explain the importance of this bill, and why we must have it passed into law. HB683 is being heard in your committee on Tuesday 2/9/2021.

In 2002, I began a series of procedures on both of my knees. Although this may have been a work related injury, I could not pinpoint the exact time that my injuries occurred, so I did not submit a claim under Workers Compensation. One surgery led to another, which led to a total of seven surgeries over a four year timeframe. As you could imagine, during these years of treatment, I was taking pain medication, opioids in particular. My doctor was careless in treating me, and in the end, I was left addicted to the pills that I thought were helping me. To sum this up, after my knee procedures, I was heavily addicted to opioids, and my doctor stopped prescribing, which led me to the streets. I lost my wife, and custody of my daughter, which were my entire world. In 2006, it all came to an end, when my life also almost came to an end. One day I took too much, and did not wake up for almost fourteen hours. When I awoke, I knew I had to change everything. I tried detoxing cold turkey, but immediately became sick from the withdrawals. I had messed around with recreational cannabis in my teenage years, but remembered the benefits that I received, so I decided to give it a try to help my detox. Sure enough, this took away most of the sickness that I was feeling from the withdrawal, and also was helping with the pain that I still have to this day, from several knee surgeries.

As we all had a tough 2020, mine was in particularly tough. January 8<sup>th</sup> of 2020, I started out early in the morning on my job. I install security (alarm systems, cameras, and other low voltage) and was wiring up a house that was under construction. Not long into the day, I took that dreadful step that resulted in a ten foot fall directly onto my back. I was flown to Washington Medstar, where this journey began. I spent 3 days in intensive care, and two weeks in a regular hospital room. Although I was terrified of the helicopter ride, as it was my first on an extremely windy day, I was more afraid of what was to come. I knew that this was going to require me having to take medication for pain, which would be opioids. With my addiction behind me, it took several friends and family members to convince me that I had to take them, as I was laying there with a burst fracture in one vertebrae, and a compression fracture in another. The problem was, I have become a medical cannabis patient over the years to help my knee pain, but because I was receiving benefits through Workers Compensation, the only thing that was available to me was opioids. If you can imagine, I was absolutely terrified to go down that rabbit hole again.

I spent the entire year of 2020 at home recovering from my injuries, which led to a very serious surgery to fuse my spine together, just recently. Because of my history with opioids, thankfully I had the knowledge to get off the opioids as soon as I could. Just as soon as possible, I switched my pain management back over to medical cannabis, which is how I am treating my pain to this day. Unfortunately because of the laws in place, this has put a huge burden on me financially, as I am having to spend roughly \$1200/month out of pocket, on medical cannabis. Because of this, I reached out to Delegate Valderrama and Senator Feldman seeking assistance, which is how this very needed bill came about. Although it may not help in my case, nobody should have to be put in that situation, when we have a much safer alternative. As you may know, nobody in the history of known data has ever died from overdosed on cannabis. Opioids do have there place, but I am living proof that medical cannabis has a larger place for long term ailments. I am begging you to please pass this bill so that nobody has to

suffer like I did, if they choose to use a legal, safe alternative. This bill if passed would be a very significant tool in fighting the opioid crisis, as most opioid addictions begin with an injury, and incompetent doctors. This is nothing new in this country, as six other states so far, have taken this important measure.

If you have any questions, please feel free to reach out. This bill must be passed if you want to help fight the opioid crisis.

Thank you,

Aaron Shepherd (240) 561-2332

TO HELP OTHERS, YOU LOSE NOTHING!

# **1 - SB 461 - FIN - MMCC - SWA .pdf**

Uploaded by: Bennardi, Maryland Department of Health /Office of Governmen

Position: FWA





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## 2021 SESSION POSITION PAPER

**BILL NO: SB 461**

**COMMITTEE: Finance**

**POSITION: Support with Amendments**

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

**BILL ANALYSIS:** Senate Bill 461 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 Senate Bill 461 with the sponsor's amendments.

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. SB 461 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, at least six states (CT, MN, NH, NJ, NM, and NY) authorize insurers to pay workers' compensation claims involving medical cannabis.

SB 461 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 SB 461 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 endorses the sponsor's amendments as set forth 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. Likewise, the amendment also clarifies that medical cannabis may only be reimbursed under a workers' compensation claim if it is obtained in accordance with the enabling statute of the medical cannabis program under Title 13, Subtitle 33 of the Health-General Article. In addition, the amendments require the WCC to adopt regulations to carry out the bill's provisions.

On page 1, in line 8, strike "or the written instructions of a physician".

On page 2, in line 18, after 'PROVIDER' insert "OBTAINED IN ACCORDANCE WITH TITLE 13, SUBTITLE 33 OF THE HEALTH-GENERAL ARTICLE"; in the same line, strike "OR THE WRITTEN INSTRUCTIONS OF A PHYSICIAN".

On page 2, in line 26, after "CANNABIS" insert "OBTAINED IN ACCORDANCE WITH TITLE 13, SUBTITLE 33 OF THE HEALTH-GENERAL ARTICLE".

On page 3, after line 4, insert:

"SECTION 3. AND BE IT FURTHER ENACTED, That regulations necessary to carry out the provisions of Section 1 of this Act shall be adopted by the State Workers' Compensation Commission on or before October 1, 2021."

On page 3, in line 5, strike "3" and insert "4".

The Commission would appreciate a favorable report on SB 461, as amended.

For more information, please contact Taylor Kasky, Director of Policy and Government Affairs, at (443) 915-5297 or [taylors.kasky@maryland.gov](mailto:taylors.kasky@maryland.gov).

# **MAJ Position Paper 21 -SB 461 - WC Medical Cannabi**

Uploaded by: Howe, Josh

Position: FWA



# Maryland Association for Justice, Inc.

## 2021 Position Paper

### SB 461

### Workers' Compensation - Medical Cannabis - Compensation and Benefits

#### *FAVORABLE WITH AMENDMENTS*

The Maryland Association for Justice, Inc. (MAJ) represents over 1,200 trial attorneys throughout the state of Maryland. MAJ advocates for the preservation of the civil justice system and the protection of the rights of consumers. A portion of MAJ members represent individuals harmed due to work related injury or illness before the Maryland State Workers' Compensation Commission.

MAJ supports SB 461; however, MAJ would offer a clarifying amendment to the bill based on opposition testimony from insurers that was heard on the House Bill cross-file of this legislation.

#### **Proposed Amendment:**

In Section 9-660 (a)(3) beginning on PAGE 2; LINE 26 of the bill,

Include the following language: **“and reimbursement of a covered employee for medical cannabis purchased by the covered employ in accordance with Maryland law.”**

#### **Amended Language of Section 9-660 (a)(3) would read as follows:**

(3) medicine, **INCLUDING MEDICAL CANNABIS** and reimbursement of a covered employee for medical cannabis purchased by the covered employee in accordance with Maryland law;

**MAJ respectfully suggests this clarifying amendment to SB 461**

# **SB0461-FIN\_MACo\_SWA.pdf**

Uploaded by: Jabin, Drew

Position: FWA



**MARYLAND**  
*Association of*  
**COUNTIES**

## **Senate Bill 461**

### *Workers' Compensation - Medical Cannabis - Compensation and Benefits*

MACo Position: **SUPPORT**  
**WITH AMENDMENTS**

To: Finance Committee

Date: February 18, 2021

From: Drew Jabin

The Maryland Association of Counties (MACo) **SUPPORTS SB 461 WITH CLARIFYING AMENDMENTS**. The bill would require medical cannabis to be among covered medications that an employer or its insurer is required to provide to a covered employee under certain circumstances. The legislation would also deny benefits if the injury or disease was caused solely by the effect of cannabis on the employee without the written certification of a certifying provider or the written instructions of a physician.

**Counties raise concern that due to cannabis being illegal under federal law, being required to provide this as medicine under state law may jeopardize federal funding for local jurisdictions.**

MACo suggests an amendment to address this concern by adding language to say that this legislation is not applicable if doing so would violate federal law or regulations or cause the employer to lose a monetary or licensing-related benefit under federal law or regulations. Comparable language has been incorporated into similar legislation to ensure these unwanted outcomes – MACo encourages the same approach in SB 461.

Maryland county governments all have a common goal of providing for the health and well-being of their employees, but understandably do not want to lose federal assistance in that pursuit. Accordingly, MACo urges the committee to issue a **FAVORABLE with AMENDMENTS** report on SB 461.

# **SB 461 Oppose APCIA 02182021 .pdf**

Uploaded by: Egan, Nancy

Position: UNF



Testimony of  
American Property Casualty Insurance Association (APCIA)  
Senate Finance Committee  
SB 461 Workers' Compensation - Medical Cannabis - Compensation and Benefits  
February 18, 2021

**Letter of Opposition**

The American Property Casualty Insurance Association (APCIA) is a national trade organization representing nearly 60 percent of the U.S. property casualty insurance market and 86% of the workers compensation market in Maryland. APCIA appreciates the opportunity to provide written comments in opposition to Senate Bill 461. Senate Bill 461 would (i) require the employer/carrier to provide injured workers with medical cannabis, which would be characterized as “medicine”; and (ii) require compensability even where an accident is solely caused by medical cannabis, if it was administered or taken in accordance with a physician’s or certified provider’s written certification and instructions. APCIA policy opposes mandatory reimbursement under workers’ compensation, based on both the federal illegality of cannabis and the lack of sufficient objective medical evidence of its efficacy in treating workplace injuries.

**Federal / State Conflict**

- Marijuana is classified as a Schedule I drug under the Controlled Substances Act (CSA)<sup>1</sup>, making it illegal under federal law.
- The CSA does not make an exception for marijuana used for medical purposes and prohibits the possession or distribution of even small amounts of marijuana.
- By requiring reimbursement for medical marijuana under workers’ compensation, the state would force the employer and/or insurance carrier to become an accomplice to a federal crime as identified in the CSA.
- Until the US Congress resolves the conflicts between federal law and state law, states should respect the Supremacy Clause and not force unwilling stakeholders to violate federal law.

**Lack of Established Standards**

- Medical marijuana is not prescribed by a physician. While a physician does evaluate if a patient meets the state’s established criteria; the strain, amount, and “dosage schedule” is chosen by the patient at the marijuana dispensary.

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<sup>1</sup> 21 U.S. Code §§ 812, 822, 823(f)

- Recommendations for medical marijuana use are anecdotal. Without high quality scientific study into marijuana's efficacy and treatment applications, it is not appropriate for use in an evidence-based treatment plan.
- Medical marijuana is not regulated by the FDA. The potential for significant variances in purity and potency prevents the development of any type of treatment standard.

### State Activity

- At least seven states<sup>2</sup> have language within the medical marijuana law excluding reimbursement under workers' compensation. Several other states exempt governmental, private, or other health insurers.
- In Vermont, this provision was upheld in a March 2018 decision<sup>3</sup>, which held that the medical marijuana law and its exclusion controlled.
- In June 2018, Maine's state Supreme Court overturned prior decisions which ordered an employer to reimburse for medical marijuana on a workers' compensation claim. The Court cited the supremacy of federal law, stating that the CSA, which established marijuana as an illegal drug, controlled over the Maine Medical Use of Marijuana Act.<sup>4</sup>
- Most recently, in October 2020, the Massachusetts Supreme Judicial Court concluded that a workers' compensation insurer cannot be required to pay for medical marijuana expenses.<sup>5</sup> In its decision upholding the underlying denial, the court cited marijuana's continued illegal status under the CSA and the state's Medical Use of Marijuana law.

For these reasons, the APCIA urges the Committee to provide an unfavorable report on Senate Bill 461.

Respectfully submitted,

Nancy J. Egan, State Government Relations Counsel, DE, MD, VA, WV

[Nancy.egan@apci.org](mailto:Nancy.egan@apci.org) Cell: 443-841-4174

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<sup>2</sup> AZ, FL, MI, MT, ND, LA, VT

<sup>3</sup> *Michael Hall v. Safelite Group Inc.*, Op. No. 06-18WC (2018)

<sup>4</sup> *Bourgoin v. Twin Rivers Paper Co., LLC*, 2018 ME 77

<sup>5</sup> *Wright v. Central Mutual Insurance Company*, SJC-12873

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# **SB 461\_Workers' Compensation - Medical Cannabis -**

Uploaded by: Griffin, Andrew

Position: UNF



**MARYLAND**  
Chamber of Commerce

**LEGISLATIVE POSITION:**

**UNFAVORABLE**

**Senate Bill 461**

**Workers' Compensation – Medical Cannabis – Compensation and Benefits**

**Senate Finance Committee**

**Thursday, February 18, 2021**

Dear Chairwoman Kelley and Members of the Committee:

Founded in 1968, the Maryland Chamber of Commerce is the leading voice for business in Maryland. We are a statewide coalition of more than 5,000 members and federated partners, and we work to develop and promote strong public policy that ensures sustained economic recovery and growth for Maryland businesses, employees, and families.

SB 461 seeks to prevent a covered employee or a dependent of a covered employee from receiving workers' compensation benefits if an injury or occupational disease was caused solely by the effect of medical cannabis.

Our primary concerns with SB 461 are:

1. It does not change existing law. A provision already exists in 9-506 to argue intoxication as the **sole** cause of an accident to prevent claimants from receiving benefits.
2. It is virtually impossible for employers to prove that cannabis consumption (medical or illicit) is the **sole** cause of an accident because there is no metric for testing cannabis intoxication.
3. Even if the use of the medical cannabis while working when the injury occurred was under the direction of a medical provider, there is no regulated way to prescribe it according to type or dose, thus making a determination of **sole** nearly impossible.

The Maryland Chamber of Commerce greatly admires the intent of this legislation; however, we respectfully request an **unfavorable report** on SB 461.

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