



**2021 SESSION
POSITION PAPER**

BILL NO: SB 461

COMMITTEE: Finance

POSITION: Support with Amendments

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.