



Hospice & Palliative Care Network  
OF MARYLAND

TO: The Honorable Melony Griffith, Chair  
Members, Senate Finance Committee  
The Honorable Mike McKay

FROM: Danna L. Kauffman  
Pamela Metz Kasemeyer  
Christine K. Krone  
410-244-7000

DATE: March 9, 2023

RE: **LETTER OF INFORMATION** – Senate Bill 523 – *Medical Cannabis – Employees in Health Care Settings Caring for Qualifying Patients – Exemption*

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On behalf of the LifeSpan Network and the Hospice and Palliative Care Network of Maryland, we submit this **letter of information** for Senate Bill 523, which allows an employee in a specified health care setting (i.e., nursing home, assisted living, hospice, home health) to serve as a caregiver for more than five patients for the purpose of medical cannabis. Under Maryland’s current law, a caregiver can obtain cannabis for a patient from a licensed dispensary or licensed grower (Section 13-3304 of the Health-General Article).

The above-referenced associations do not take a position on the use of medical cannabis. This letter of information focuses on guidance that has been given by the State (i.e., Office of Health Care Quality) to the nursing home industry. However, the content in the guidance would extend to any facility that participates in Medicaid/Medicare. Simply stated, the guidance reiterates the federal government’s position that, despite states legalizing cannabis, cannabis remains a Schedule 1 controlled dangerous substance and is illegal. Consequently, providers that participate in Medicare and/or Medicaid must sign a Condition of Participation agreement and comply with all applicable federal and state requirements. The guidance further warns that providers could be subject to federal enforcement, including termination of participation in their provider agreements.

Because this bill states “employee,” it would place employers in a direct conflict between State and federal law because the employer would not have a direct role in the process. Until there is resolution between state/federal law or additional guidance given by the federal government to address this situation, providers and patients will remain in a Catch-22, where the stakes are too high for the provider community.



# MARYLAND Department of Health

Larry Hogan, Governor · Boyd K. Rutherford, Lt. Governor · Robert R. Neall, Secretary

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## Office of Health Care Quality

Spring Grove Center, Bland Bryant Building, 55 Wade Avenue, Catonsville, MD 21228-4663

**To:** All Nursing Homes

*Patricia Tomsko Nay, MD*

**From:** Patricia Tomsko Nay, MD, CMD  
Executive Director, Office of Health Care Quality

**Subject:** Medical Cannabis

**Date:** April 13, 2018

Cannabis (marijuana) is categorized as a Schedule I controlled substance under the U.S. Controlled Substances Act, which means that:

- the drug or substance has a high potential for abuse;
- there is currently no accepted medical treatment use for the substance; and
- there are no accepted safety standards in place for the substance in medical treatment.

Providers certified by the Centers for Medicare and Medicaid Services (CMS) are subject to a Condition of Participation agreement that requires providers to operate and provide services in accordance with all applicable Federal and State laws. Because cannabis is classified as a Schedule I controlled substance, the distribution or possession of cannabis is a criminal offense. Therefore, it is CMS's standpoint that federal law prohibits certified providers from dispensing medical cannabis.

Even though Maryland has legalized the medical use of cannabis, Maryland providers certified by CMS should be aware they may not be insulated from federal enforcement, including termination of their provider agreement. Until the conflict between state and federal law is resolved, Maryland providers should obtain legal advice from their own attorney to determine how they want to approach the use of medical cannabis in their nursing home.

If you have further questions regarding medical cannabis, please contact Margie Heald, Deputy Director of Federal Programs, 410-402-8101.