

Testimony in Support of Senate Bill 439 with Amendment

Employment Discrimination - Fire and Rescue Public Safety Employees - Use of Medical Cannabis

Before the Finance Committee: February 19, 2026

The Public Health Law Clinic submits this testimony in support of Senate Bill 439, which would create employment discrimination protections for fire and rescue public safety employees who are certified medical cannabis patients. Adoption of this bill would be consistent with Maryland's policy decision to recognize cannabis as a legitimate form of medical treatment and would protect qualified employees from adverse employment action based solely on their status as certified medical cannabis patients or a positive drug test for cannabis. The bill also preserves an employer's authority to prohibit on-duty cannabis use and impairment and comply with federal law and funding requirements. Passage of SB 439 would bring Maryland in alignment with the District of Columbia and 22 states that have enacted employment discrimination protections for medical cannabis patients. However, the Public Health Law Clinic recommends a targeted amendment to the mandatory incident reporting provision to ensure consistency within existing regulatory and policy frameworks.

Cannabis as a Legitimate Medical Treatment

Maryland is among 40 states that have recognized medical cannabis as a lawful and legitimate form of medical treatment. To qualify as a medical cannabis patient, an individual must register with the Maryland Cannabis Administration and obtain a written certification from a certifying health care provider confirming that the patient has a qualifying medical condition and that the potential benefits of medical cannabis outweigh the risks.¹ Qualifying conditions include chronic or debilitating diseases and conditions, such as chronic pain, severe nausea, and post-traumatic stress disorder (PTSD).² These conditions are particularly relevant to firefighters, paramedics, and other public safety employees, who frequently suffer from job-related injury, illness, and psychological trauma.³ If a licensed provider has determined that medical cannabis is an appropriate treatment, the patient is legally authorized to use it. Fire and rescue public safety employees who are certified patients should not face negative employment actions based solely on their lawful medical treatment.

Senate Bill 439 Protects Public Health and Accommodates Employers

Senate Bill 439 protects public health by allowing fire and rescue public safety employees to use their legally recognized medication without fearing adverse employment actions. Fire and rescue public safety employees face disproportionately higher rates of physical and psychological injury due to the demands of emergency response work. Research shows a

¹ Md. Code Regs.14.17.04.03.

² Md. Code Regs.14.17.04.01.

³ Audrey Reichard et al., *Occupational Injuries and Exposures Among Emergency Medical Services Workers*, 21 *Prehosp. Emerg. Care* 420 (2017), <https://doi.org/10.1080/10903127.2016.1274350>; Gloria Obuobi-Donkor et al., *A Scoping Review on the Prevalence and Determinants of Post-Traumatic Stress Disorder Among Military Personnel and Firefighters: Implications for Public Policy and Practice*, 19 *Int'l J. Env't Rsch. Pub. Health* (2022), <https://doi.org/10.3390/ijerph19031565>.

significant prevalence of musculoskeletal disorders in firefighters including injuries to lower back, shoulder, and knees, with one study reporting an overall prevalence of 46.39% among over 36,000 firefighters.⁴ Rates of PTSD have been shown to be as high as 57% for firefighters.⁵ Furthermore, firefighters experience increased incidence and mortality for cancer compared to the general public due to carcinogen exposure.⁶ Cancer treatment often involves chemotherapy, which commonly produces severe nausea, impacting a significant number of patients.⁷ These are chronic conditions and treatment-related symptoms that may qualify an individual for medical cannabis treatment under Maryland law.

Policies that permit negative employment actions based on lawful medical cannabis use may deter qualified public safety employees from seeking effective treatment. In some instances, discouraging access to medical cannabis could prolong reliance on alternative therapies, such as long-term opioid use, which is associated with significant adverse health consequences.⁸ This risks worsening untreated or inadequately treated physical and mental health conditions within a profession that already faces elevated occupational hazards. Ensuring access to lawful medical cannabis treatment would support workforce retention, health, and ultimately everyone's safety.

By prohibiting employment discrimination based on testing positive for cannabis metabolites, this bill recognizes the limitation of cannabis testing. Tetrahydrocannabinol (THC) metabolites can remain detectable in blood and urine for days or weeks after use, long after active cognitive impairment has ended.⁹ Medical cannabis patients often use cannabis regularly to manage chronic symptoms, thus making positive drug tests more likely in the absence of impairment.¹⁰ Because existing blood and urine testing only measures exposure rather than present impairment, reliance on such testing could result in disciplinary action unrelated to workplace safety and active-duty responsibility.

However, this bill also recognizes an employer's genuine safety concerns. This bill allows employers to enact policies and procedures prohibiting cannabis impairment and use while on duty and to enact disciplinary action such as firing or reprimanding when an employee

⁴ Somayeh Tahernejad et al., *A Systematic Review and Meta-Analysis of Musculoskeletal Disorders Among Firefighters*, 88 J. Safety Rsch. 374 (2024).

⁵ Gloria Obuobi-Donkor et al., *A Scoping Review*, supra note 3.

⁶ Robert Daniels et al., *Mortality and Cancer Incidence in a Pooled Cohort of US Firefighters from San Francisco, Chicago and Philadelphia (1950-2009)*, 71 Occup. Env't Med. 388 (2014); Lauren Teras et al., *Occupation as a Firefighter and Cancer Mortality in a Population-based Cohort in the United States*, 54 Int'l J. Epidemiology (2025), <https://doi.org/10.1093/ije/dyaf104>.

⁷ Derangula Lavanya et al., *A Systemic Review on Chemotherapy Induced Nausea and Vomiting-risk and Clinical Management with Alternative Therapies*, 44 Cancer Treatment & Rsch. Comm. (2025), <https://doi.org/10.1016/j.ctarc.2025.100938>.

⁸ Anna Lembke et al., *Weighing the Risks and Benefits of Chronic Opioid Therapy*, 93 Am. Fam. Physician 982 (2016).

⁹ Ross Lowe et al., *Extended Urinary Tetrahydrocannabinol Excretion in Chronic Cannabis Users Precludes Use as a Biomarker of New Drug Exposure*, 105 Drug Alcohol Depend. 24 (2009), <https://doi.org/10.1016/j.drugalcdep.2009.05.027>.

¹⁰ Mateus Bergamaschi et al., *Impact of Prolonged Cannabinoid Excretion in Chronic Daily Cannabis Smokers' Blood on Per Se Drugged Driving Laws*, 59 Clinical Chem. 519 (2013), <https://doi.org/10.1373/clinchem.2012.195503>.

is impaired by cannabis while on duty. It also includes exemptions for when compliance may conflict with federal law or jeopardize federal funding. These exemptions are particularly important for federal contractors and grantees who are covered by the Drug Free Workplace Act.¹¹ The Drug Free Workplace Act requires employers to notify employees that unlawful possession or use of a controlled substance is prohibited in the workplace, and to sanction an employee if they are convicted for a violation of a criminal drug statute.¹²

Other States Have Employment Protections for Medical Cannabis Use

Of the 40 states with comprehensive medical cannabis programs, 22 provide statutory employment discrimination protections for medical cannabis patients. Most of these state laws apply broadly to employees, including fire and rescue public safety workers. These laws typically prohibit negative employment actions based on patient status, with many also protecting against taking disciplinary action based solely on a positive drug test result for cannabis metabolites, without evidence of impairment or cannabis consumption during work hours. Every state also includes exemptions for businesses that are required to comply with certain federal drug policies due to the receipt of federal grant money or contract work.

Maryland jurisdictions are beginning to adopt similar approaches. As of January 31, 2026, Howard County, Maryland has revised its fire and rescue substance abuse policy to permit off-duty medical cannabis use.¹³ Enactment of Senate Bill 439 would align the whole of Maryland with the growing national trend of providing employment protections for medical cannabis treatment.

Amendment: Mandatory Reporting Provision

Senate Bill 439 requires employers to report to the State Emergency Medical Services Board (EMS Board) when a fire and rescue public safety employee reports to work “impaired by cannabis.” While workplace safety is an important consideration, this reporting requirement raises concerns regarding consistency with existing regulatory and policy frameworks as well as practical implementation.

The current regulations, as administered by Maryland Institute for Emergency Medical Services Systems (MIEMSS) and adopted by the EMS Board, already govern prohibited conduct by EMS providers, such as working while under the influence of alcohol or controlled substances and engaging in habitual intoxication.¹⁴ These regulations also authorize disciplinary action for such conduct, for which the EMS Board has final review.¹⁵ Furthermore, county fire and EMS

¹¹ 41 U.S.C. §§ 8101–8106.

¹² *Id.*

¹³ *Howard County Executive Calvin Ball Announces Groundbreaking Agreement with Howard County International Association of Fire Fighters Local 2000 to Permit Off-Duty Usage of Medical Cannabis*, Howard Cnty. Md. (December 19, 2025), <https://www.howardcountymd.gov/News121925b>.

¹⁴ Md. Code Regs. 30.02.04.01.

¹⁵ Md. Code Regs. 30.02.04.02; Md. Code Regs. 30.02.05.03.

departments commonly maintain internal supervision, substance abuse, and incident reporting policies that address impairment and fitness for duty.¹⁶

The proposed reporting requirement creates a cannabis-specific statutory mandate that does not appear to exist for alcohol impairment or impairment involving other controlled substances. A cannabis-specific statutory reporting requirement may create heightened scrutiny for one substance that incidentally undermines the bill's goal of preventing discrimination based on medical cannabis use. The General Assembly may want to consider whether existing EMS regulations and county departmental policies already provide adequate authority in addressing impairment without creating a new cannabis-specific reporting trigger.

The bill also does not specify how "impairment by cannabis" will be determined. Unlike alcohol, there are no widely accepted or standardized tests that reliably measure active cannabis-specific impairment. Because cannabis metabolites remain detectable within the body for an extended period of time after active cannabis impairment, reliance on traditional testing may not accurately reflect fitness for duty or be a clear indicator that active impairment was specifically caused by cannabis. Clarification regarding how impairment is to be tested, or whether existing policies regarding impairment are sufficient, may reduce potential inconsistency in enforcement across jurisdictions.

We respectfully recommend striking the mandatory reporting provision to ensure alignment with existing regulatory and policy frameworks and clear, practical standards of implementation.

Conclusion

Senate Bill 439 would protect fire and rescue public safety workers from employment discrimination based on lawful medical cannabis use, while preserving employer authority to address on-duty impairment and maintain public safety. As Maryland continues to recognize medical cannabis as a legitimate form of medical treatment, the absence of employment protections leaves certified patients vulnerable to adverse employment action despite lawful use. Removing the bill's mandatory reporting provision would help ensure the creation of a protection grounded in clear legal standards. For these reasons, we request a favorable report with amendments on Senate Bill 439.

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; the University of Maryland, Baltimore; or the University of Maryland System.

Proposed Amendment

¹⁶ *Carroll County Department of Fire & EMS Standard Operating Procedure*, Carroll Cnty. Md., <https://www.carrollcountymd.gov/media/odd1jqbv/216-nicotine-alcohol-controlled-substance-testing.pdf> (updated Apr. 25, 2025); *Substance Abuse Policy*, Prince George's Cnty. Md. (Aug. 2, 2023), <https://www.princegeorgescountymd.gov/sites/default/files/General-Order-08-20-Substance-Abuse-Policy-08-17-PDF.pdf>.

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Page 10 Line 3, ~~(4) IF A FIRE AND RESCUE PUBLIC SAFETY EMPLOYEE REPORTS FOR WORK WHILE IMPAIRED BY CANNABIS, THE EMPLOYER SHALL REPORT THE INCIDENT TO THE STATE EMERGENCY MEDICAL SERVICES BOARD.~~