

HOUSE BILL 1135

J3, J1

3lr1895
CF SB 587

By: **Delegates S. Johnson, Alston, Bagnall, Bhandari, Boyce, Chisholm, Cullison, Hill, A. Johnson, Kelly, Kerr, Kipke, R. Lewis, Lopez, Nawrocki, Reilly, Rosenberg, Szeliga, Taveras, White, and Woods**

Introduced and read first time: February 10, 2023

Assigned to: Health and Government Operations and Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Health Care Facilities – Use of Medical Cannabis**

3 FOR the purpose of requiring certain health care facilities to allow a qualifying patient
4 with a certain written certification to consume medical cannabis within the health
5 care facility if the patient is receiving certain medical care at the health care facility;
6 authorizing a health care facility to suspend compliance with the requirement under
7 certain circumstances; and generally relating to the use of medical cannabis in
8 health care facilities.

9 BY repealing and reenacting, without amendments,
10 Article – Health – General
11 Section 13–3301(p) and (q)
12 Annotated Code of Maryland
13 (2019 Replacement Volume and 2022 Supplement)

14 BY adding to
15 Article – Health – General
16 Section 20–2301 through 20–2303 to be under the new subtitle “Subtitle 23. Medical
17 Cannabis Use in Health Care Facilities”
18 Annotated Code of Maryland
19 (2019 Replacement Volume and 2022 Supplement)

20 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
21 That the Laws of Maryland read as follows:

22 **Article – Health – General**

23 13–3301.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(p) “Qualifying patient” means an individual who:

(1) Has been provided with a written certification by a certifying provider in accordance with a bona fide provider–patient relationship; and

(2) If under the age of 18 years, has a caregiver.

(q) “Written certification” means a certification that:

(1) Is issued by a certifying provider to a qualifying patient with whom the provider has a bona fide provider–patient relationship;

(2) Includes a written statement certifying that, in the provider’s professional opinion, after having completed an assessment of the patient’s medical history and current medical condition, the patient has a condition:

(i) That meets the inclusion criteria and does not meet the exclusion criteria of the certifying provider’s application; and

(ii) For which the potential benefits of the medical use of cannabis would likely outweigh the health risks for the patient; and

(3) May include a written statement certifying that, in the provider’s professional opinion, a 30–day supply of medical cannabis would be inadequate to meet the medical needs of the qualifying patient.

SUBTITLE 23. MEDICAL CANNABIS USE IN HEALTH CARE FACILITIES.

20–2301.

(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) (1) “HEALTH CARE FACILITY” MEANS:

(I) A HOSPITAL OR RELATED INSTITUTION AS DEFINED IN § 19–301 OF THIS ARTICLE; AND

(II) A HOSPICE FACILITY, AS DEFINED IN § 19–901 OF THIS ARTICLE.

(2) “HEALTH CARE FACILITY” DOES NOT INCLUDE:

(I) A HOSPITAL OR RELATED INSTITUTION THAT PRIMARILY PROVIDES TREATMENT FOR INDIVIDUALS WITH SUBSTANCE-RELATED DISORDER, AS DEFINED IN § 7.5-101 OF THIS ARTICLE; OR

(II) THE EMERGENCY DEPARTMENT OF A HOSPITAL.

(C) “QUALIFYING PATIENT” HAS THE MEANING STATED IN § 13-3301 OF THIS ARTICLE.

(D) “WRITTEN CERTIFICATION” HAS THE MEANING STATED IN § 13-3301 OF THIS ARTICLE.

20-2302.

THIS SUBTITLE MAY NOT BE CONSTRUED TO:

(1) REQUIRE A HEALTH CARE FACILITY TO ISSUE A WRITTEN CERTIFICATION TO A PATIENT OR INCLUDE MEDICAL CANNABIS IN A PATIENT’S DISCHARGE PLAN;

(2) REQUIRE COMPLIANCE WITH THIS SUBTITLE AS A CONDITION FOR OBTAINING, RETAINING, OR RENEWING A LICENSE AS A HEALTH CARE FACILITY;

(3) REDUCE, EXPAND, OR OTHERWISE MODIFY ANY PROVISION OF LAW RESTRICTING THE CULTIVATION, POSSESSION, DISTRIBUTION, OR USE OF CANNABIS THAT MAY OTHERWISE BE APPLICABLE; OR

(4) AUTHORIZE A HEALTH CARE FACILITY TO PROHIBIT PATIENT USE OF MEDICAL CANNABIS BASED ON THE CLASSIFICATION OF CANNABIS AS A SCHEDULE I DRUG UNDER THE FEDERAL UNIFORM CONTROLLED SUBSTANCES ACT OR OTHER FEDERAL PROHIBITIONS ON THE USE OF MEDICAL CANNABIS.

20-2303.

(A) SUBJECT TO SUBSECTION (B) OF THIS SECTION, A HEALTH CARE FACILITY SHALL ALLOW A QUALIFYING PATIENT WITH A VALID WRITTEN CERTIFICATION TO CONSUME MEDICAL CANNABIS WITHIN THE HEALTH CARE FACILITY IF THE PATIENT IS RECEIVING NONEMERGENCY MEDICAL CARE AT THE HEALTH CARE FACILITY.

(B) A HEALTH CARE FACILITY SHALL:

1 **(1) PROHIBIT THE CONSUMPTION OF MEDICAL CANNABIS BY**
2 **SMOKING OR VAPING;**

3 **(2) DOCUMENT THE USE OF MEDICAL CANNABIS IN THE RECORD OF A**
4 **PATIENT WHO CONSUMES MEDICAL CANNABIS WITHIN THE HEALTH CARE FACILITY;**

5 **(3) REQUIRE A PATIENT TO PROVIDE A COPY OF THE PATIENT'S**
6 **WRITTEN CERTIFICATION;**

7 **(4) REASONABLY RESTRICT THE MANNER IN WHICH A PATIENT MAY**
8 **STORE MEDICAL CANNABIS, INCLUDING REQUIRING THAT THE MEDICAL CANNABIS**
9 **BE STORED IN A LOCKED CONTAINER;**

10 **(5) NOTWITHSTANDING THE CLASSIFICATION OF MEDICAL CANNABIS**
11 **AS A SCHEDULE I DRUG, COMPLY WITH DRUG AND MEDICATION REQUIREMENTS**
12 **APPLICABLE TO SCHEDULE II, III, AND IV DRUGS; AND**

13 **(6) DEVELOP AND DISSEMINATE WRITTEN GUIDELINES FOR THE USE**
14 **OF MEDICAL CANNABIS UNDER THIS SUBTITLE.**

15 **(C) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A HEALTH**
16 **CARE FACILITY MAY SUSPEND COMPLIANCE WITH THIS SUBTITLE IF:**

17 **(I) A FEDERAL REGULATORY AGENCY OR THE U.S.**
18 **DEPARTMENT OF JUSTICE INITIATES AN ENFORCEMENT ACTION AGAINST THE**
19 **HEALTH CARE FACILITY RELATED TO THE HEALTH CARE FACILITY'S COMPLIANCE**
20 **WITH A STATE-REGULATED MEDICAL CANNABIS PROGRAM; OR**

21 **(II) A FEDERAL REGULATORY AGENCY, THE U.S. DEPARTMENT**
22 **OF JUSTICE, OR THE CENTERS FOR MEDICARE AND MEDICAID SERVICES ADOPTS A**
23 **REGULATION OR OTHERWISE PROVIDES NOTIFICATION TO A HEALTH CARE**
24 **FACILITY THAT EXPRESSLY PROHIBITS THE USE OF MEDICAL CANNABIS IN A**
25 **HEALTH CARE FACILITY OR OTHERWISE PROHIBITS COMPLIANCE WITH THE**
26 **STATE'S MEDICAL CANNABIS PROGRAM.**

27 **(2) IF A HEALTH CARE FACILITY SUSPENDS COMPLIANCE WITH THIS**
28 **SUBTITLE UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE HEALTH CARE**
29 **FACILITY SHALL SUSPEND COMPLIANCE UNTIL THE REGULATORY AGENCY, THE U.S.**
30 **DEPARTMENT OF JUSTICE, OR THE CENTERS FOR MEDICARE AND MEDICAID**
31 **SERVICES NOTIFIES THE HEALTH CARE FACILITY THAT THE HEALTH CARE FACILITY**
32 **MAY RESUME COMPLIANCE WITH THIS SUBTITLE.**

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 2023.