



Overview of Arkansas's Medical Marijuana Amendment

On November 8, 2016, 53% of Arkansas voters approved a medical marijuana initiative — Amendment 98. In 2017, the legislature made revisions to the amendment. The Arkansas Medical Marijuana Amendment of 2016 allows seriously ill patients to use and safely obtain medical marijuana with their doctors' approval.

Qualifying for the program: In order to register, patients must submit a written certification from an Arkansas-licensed physician (issued no more than 30 days prior to the application) certifying that they suffer from an applicable disease to the Department of Health, a \$50 application fee, and a copy of their state-issued photo ID. Designated caregivers can enroll in the program to assist the physically disabled and minors under 18. Caregivers also have to undergo a \$34 criminal background check. Note, due to an amendment to the program by the legislature, members of the Arkansas National Guard and the U.S. military are not permitted to enroll in the program as either patients or caregivers.

Qualifying conditions: Cancer, glaucoma, HIV/AIDS, hepatitis C, ALS, Tourette's syndrome, Crohn's disease, ulcerative colitis, PTSD, severe arthritis, fibromyalgia, Alzheimer's disease, or the treatment of any of these conditions qualify. In addition, patients with doctors' certifications qualify if they have a chronic or debilitating medical condition (or its treatment) that produces cachexia or wasting syndrome, peripheral neuropathy, intractable pain that has not responded to other treatment for at least six months, severe nausea, seizures, and severe or persistent muscle spasms. The Department of Health has the power to approve new qualifying conditions.

Medical cannabis access: Amendment 98 will allow patients to receive cannabis from regulated dispensaries. Under the law, home cultivation is not permitted. The Arkansas Medical Marijuana Commission will issue five cultivation licenses, and the Alcohol Beverage Control Division will license 32 dispensaries. More may be added at a later date.

Local control: Cities, towns, and counties may pass reasonable zoning restrictions on dispensaries and cultivation facilities. Localities can only outright prohibit the operation of any facilities through a popular election pursuant to Arkansas' initiative process.

Limitations:

- Patients will be able to possess no more than 2.5 ounces of cannabis, not including the weight of any food or beverage combined with cannabis.
- It remains illegal for patients to possess or use cannabis at a number of locations, including schools, daycare centers, drug or alcohol treatment facilities, youth centers, correctional facilities, or in public places.
- Cannabis may not be smoked in the presence of a person under 14; in a motor vehicle, aircraft, or motorized watercraft; knowingly in the presence of a pregnant woman; or somewhere it's likely to impair another person who's not a registered patient.
- It remains illegal to operate a vehicle, motorized boat, or plane under the influence of cannabis.

- It remains illegal for any person who does not have a qualifying medical condition to use cannabis.
- The amendment allows landlords to prohibit on-site cannabis smoking, but they may not prevent non-smoked consumption of medical cannabis.

Legal protections: The amendment offers limited employment protections for patients, along with protections related to child custody or welfare, education, and medical care, including organ transplants.

As amended by the legislature, the amendment provides, “An employer shall not discriminate against an applicant or employee in hiring, termination, or any term or condition of employment, or otherwise penalize an applicant or employee, based upon the applicant's or employee's past or present status as a qualifying patient or designated caregiver.” However, it also has a number of limitations, including that it does not prohibit an employer from implementing a drug free-workplace policy that may include drug testing and taking action pursuant to that policy.

Visiting patients: Some medical cannabis patients who are registered in another state or territory qualify for legal protections. Visiting patients must have a medical condition that qualifies under Arkansas law and must either not be Arkansas residents or they must have moved to the state less than 30 days prior. Regulators may establish rules regarding visiting patients obtaining cannabis from dispensaries.

Taxes and revenue: Patients, caregivers, and cannabis facilities will pay registration fees to the Health Department. Cannabis will also be subject to all existing sales taxes. All sales tax revenues will first go to covering the administrative costs of running the program after which the rest will be distributed to the General Revenue Fund.

Timeline: While the amendment became effective immediately, patients are not permitted to possess medical cannabis unless they also have a registry card, which will be issued 30 days before dispensaries open. Patients were allowed to begin applying for cards on July 1, 2017.