



Summary of the South Carolina Compassionate Care Act — H. 3361



The South Carolina Compassionate Care Act would create a well-regulated medical cannabis program to allow individuals with serious illnesses to use and safely access medical cannabis when recommended by their physicians. Thirty-six states — including Arkansas, Florida, Louisiana, and Mississippi — give their residents this medical freedom.

Here are key provisions of House Bill 3361.

Qualifying for the Program: To qualify, patients must have at least one qualifying medical condition and a written certification issued by a physician with whom they have a bona fide relationship. Patients must apply to the health department (DHEC) for a registration card that will allow access to dispensaries and provide legal protections.

Debilitating Medical Conditions:

- The bill's qualifying conditions are: cancer, multiple sclerosis, neurological disease or disorder — including epilepsy, sickle cell anemia, autism, chronic pain, glaucoma, PTSD, Crohn's disease, ulcerative colitis, cachexia or wasting syndrome, severe or persistent nausea, a terminal illness with less than a year to live, a condition causing severe and persistent muscle spasms, or a condition for which opiates are or could be prescribed. Physicians could also recommend medical cannabis for any condition that the physician finds is debilitating to the individual patient that the doctor is qualified to treat.
- The bill would also create a Medical Cannabis Advisory Board, which would consider petitions to add serious conditions to the program.
- If the patient is expected to recover within a year, or no longer needs cannabis, the physician must make a notation so their ID expires earlier.

Designated Caregivers:

- Patients could apply to the department to designate a caregiver to assist them with the medical use of cannabis, such as by picking up their cannabis from a dispensary. DHEC would issue caregivers registration cards.
- If the patient's age, medical condition, or location requires more than one caregiver, they can submit evidence that one or more additional caregivers are necessary.
- Caregivers are limited to one patient, unless they are related to each patient by marriage or blood or if they are healthcare professionals. In those cases, they may assist no more than four patients.
- A healthcare facility, residential care facility, or home health aide service may serve as a caregiver for any of their patients who are enrolled in the program and who designate it as their caregiver. They must abide by additional rules.

Limitations:

- Patients may not drive, operate a boat, train, or aircraft, or undertake any task that would be negligent or professional malpractice while under the influence of cannabis.
- Patients and caregivers are not allowed to grow their own cannabis.
- A patient may purchase or possess no more than two ounces of dried cannabis (and the equivalent amount of topical or consumable products) per 14-day period.
- Cardholders and medical cannabis establishment staffers who violate the law can have their ID cards revoked or suspended and, where applicable, face civil and/or criminal penalties.

Legal Protections:

- The bill protects patients, caregivers, medical cannabis establishment agents, financial institutions, attorneys, accountants, doctors, and anyone who associates with them from arrest, prosecution, or penalties for actions allowed by the bill.
- Registered patients are protected from discrimination in child custody disputes and eligibility for organ transplants.
- Employers could continue to prohibit employees from working under the influence or using cannabis at or during work. Private employers will not be required to change their policies related to drug testing.

Visiting Patients: Patients who aren't South Carolina residents — but who are certified to use medical cannabis in another state — qualify for legal protections if they have a medical condition included in South Carolina's law. They could only purchase cannabis in South Carolina if they register with DHEC.

Medical Cannabis Establishments: After a merit-based, scored application process, DHEC will license and regulate 15 cultivation centers, 30 processing facilities, and one dispensary for every 20 pharmacies in the state, in addition to five independent testing laboratories and four transporters. The application process will consider location, background and qualifications, security plans (and SLED's input on them), and localities' preferences.

Safeguards and Security:

- DHEC will create regulations, including for seed-to-sale tracking, odor mitigation, recordkeeping, oversight, security, health and safety, transportation, employee training, capital requirements, and safe packaging and labeling. It will also restrict advertising, logos, and signage and ensure businesses have discreet, medical appearances. Cultivation centers' security must include perimeter intrusion detection systems and a 24-hour surveillance system accessible to law enforcement and DHEC.
- Cannabis will be dispensed with a safety information flyer, including advice about possible risks, the need to safeguard cannabis from children, and noting federal law.
- Cannabis could only be grown and processed by licensees in a secure, enclosed facility, using a seed-to-sale tracking system.
- Medical cannabis businesses may not be located within 1,000 feet of a school, unless it is demonstrated that an exception is needed to provide adequate access.
- Regulators could inspect anywhere marijuana is grown, packaged, or processed.
- A 24-hour secure verification system will enable law enforcement to verify ID cards.

Physicians: Physicians who recommend medical cannabis to 15 or more patients must take a three-hour continuing medical education course approved by the state.

Local Role: Local governments may regulate the location, hours of operation, and number of medical cannabis establishments in the locality. However, they may not completely prohibit dispensaries.

Taxation and Fees:

- DHEC will set application and licensing fees to cover regulatory costs.
- Cannabis will be taxed at the same rate as non-prescription medications, 6%.
- Revenue will be distributed as follows: 3% to improving DUI detection, 2% to drug safety education, 5% to medical cannabis research, and 90% to the General Fund.