



Nebraska Medical Cannabis Laws FAQs

On November 5, 2024, Nebraska voters approved two companion medical cannabis initiatives. Initiative 437 received 71% of the vote while Initiative 438 garnered 67%.

When do Nebraska’s medical cannabis laws take effect?

The initiatives became law on December 10, 2024, when Gov. Jim Pillen (R) signed a proclamation that certified those election results.

Initiative 437 — the Nebraska Medical Cannabis Patient Protection Act — removes penalties from patients who possess and use allowable amounts of cannabis with a healthcare practitioner's written recommendation. It is “self-executing,” meaning it does not require any further action from the Legislature.

Initiative 438 — the Nebraska Medical Cannabis Regulation Act — creates a Nebraska Medical Cannabis Commission to license and regulate private businesses that provide medical cannabis to qualified patients. Regulations are due on July 1, 2025. The commission is required to begin granting applications for medical cannabis businesses by October 1, 2025.

What are the qualifying conditions?

There is no list of qualifying conditions. Healthcare practitioners can certify any patient for whom “in the healthcare practitioner’s professional judgment, the potential benefits of cannabis outweigh the potential harms for the alleviation of a patient’s medical condition, its symptoms, or side effects of the condition’s treatment.”

How does a patient who is 18 or older qualify?

An adult patient must have a written recommendation from a healthcare practitioner stating that, in the practitioner’s professional judgment, “the potential benefits of cannabis outweigh the potential harms for the alleviation of a patient’s medical condition, its symptoms, or side effects of the condition’s treatment.” The declaration must be signed and dated by the practitioner.

How does a patient under 18 qualify?

Minor patients must also have a signed and dated written recommendation from a healthcare practitioner, with the same requirements as adult patients. They also must have written permission

from a parent or legal guardian who has authority to make their healthcare decisions.

How long is a written recommendation valid?

For two years after its issuance, unless the healthcare practitioner specifies a different period of time in the recommendation.

Which types of healthcare providers can certify patients?

Any physician (MD), osteopathic physician (DO), physician assistant, or nurse practitioner who is licensed under Nebraska's Uniform Credentialing Act or who is licensed in any state and practicing in compliance with the Uniform Credentialing Act.

Can a patient have a loved one assist them as a caregiver?

Yes, caregivers may assist patients "by possessing and acquiring an allowable amount of cannabis and cannabis accessories on behalf of the qualified patient and delivering an allowable amount of cannabis and cannabis accessories to the qualified patient."

Caregivers for adults who are 18 or older must be at least 21 years of age and must have been designated by the qualified patient in a signed affidavit.

In the case of minors and patients under the protection of a legal guardian, a caregiver is either the person's guardian or parent with authority to make healthcare decisions for them or is a person designated in a sworn affidavit by the legal guardian or parent.

Healthcare facilities and home health agencies may also be designated by sworn affidavit if they agree in writing to serve as a caregiver.

Is home cultivation allowed?

No.

How much cannabis can a patient possess?

Up to five ounces of cannabis not counting "the weight of any other ingredient combined with cannabis as part of topical or oral administrations, food, drink, or other preparations."

Where can patients and caregivers obtain medical cannabis?

Penalties are removed for patients who possess, use, and acquire medical cannabis and for caregivers

who assist them by possessing and acquiring cannabis on their behalf. The law does not specify that the cannabis must be acquired from any specific source. Medical cannabis businesses will likely not open in Nebraska until 2026. However, cannabis is legal for all adults 21 and older in two of Nebraska's border states — Colorado and Missouri.

Who will produce and sell medical cannabis businesses in Nebraska?

A new Nebraska Medical Cannabis Commission will license private businesses to possess, manufacture, distribute, deliver, and dispense medical cannabis. It can issue different types of licenses for different activities.

Who will be on the Nebraska Medical Cannabis Commission?

The first three members of the Nebraska Medical Cannabis Commission will be the three members of the Nebraska Liquor Control Commission. The governor can appoint two more members, which would need confirmation from the legislature. The commission will also have staff.

What else will the commission do?

It will promulgate and enforce reasonable rules for those businesses and conduct inspections.

Can patients use cannabis in public?

The law is silent on this point. It is advisable to be discreet, however. Even if public smoking of cannabis was found to be allowed, doing so may spur backlash that could increase support for hostile revisions to the law. Public smoking of cannabis was part of what spurred backlash in Montana that resulted in that state's voter-enacted medical cannabis law being gutted by lawmakers in 2011.

Is medical cannabis legal under federal law?

No. Every cannabis consumer, medical or otherwise, and every person who sells cannabis is currently in violation of federal law. While the federal government has generally not been prosecuting those who comply with state cannabis laws for over a decade, federal law can still create many issues for medical cannabis patients.

Does the law prevent patients from losing their jobs if they test positive for THC?

Unfortunately, probably not. Nebraska's medical cannabis initiatives had to be very simple and narrow due to a 2020 single-subject ruling. They do not include any explicit non-discrimination protections

such as those included in MPP's model bill to make sure people can't lose their jobs, custody of their children, or their access to medical care based on medical cannabis. While at least two states' courts have ruled those states' generally applicable disabilities laws protect disabled patients from being fired for medical cannabis, other states' courts have ruled otherwise. The federal Americans with Disabilities Act (ADA) does not apply to medical cannabis because it is federally illegal — though that could possibly change if cannabis is rescheduled to Schedule III.

Can the legislature revise the law?

Yes, but the Legislature can only "amend, repeal, modify, or impair" a voter-approved ballot initiative if two-thirds of its members or more vote to do so.

How can we defend the compassionate, voter-enacted laws?

Patients and their allies need to make their voices heard. Reach out to your [state senator](#) and [Gov. Pillen](#) and let them know you want them to stand with patients, their loved ones, and a supermajority of voters.

Plug into [Nebraska Families 4 Medical Cannabis](#) and subscribe to MPP's email alerts at mpp.org/subscribe.

IMPORTANT NOTE: This is not legal advice. It is offered for educational purposes. For legal advice, consult with a Nebraska-licensed attorney. You can also read the laws yourself: Nebraska Revised Statute at [71-24,103](#) to [71-24,111](#).