Maryland
Hospital Association

**House Bill 1135- Health Care Facilities – Use of Medical Cannabis**

**Position: *Oppose***
March 7, 2023
House Health & Government Operations Committee

**MHA Position**

On behalf of the Maryland Hospital Association's (MHA) 60 member hospitals and health systems, we appreciate the opportunity to comment in opposition to House Bill 1135. Maryland hospitals sympathize with patients who rely on medical cannabis to ease symptoms caused by medical conditions, but there are legal and medical concerns with permitting cannabis in hospital facilities.

A primary concern is the federal rules regarding cannabis use, particularly as it relates to hospital's participation in the Medicare program. Allowing the use of cannabis in hospitals risks violating Medicare Conditions of Participation (CoP), which require facilities to comply with all federal law. Violating the CoP can lead to loss of Medicare funding, which would devastate a hospital's financial viability. Cannabis is a Schedule I drug under the Controlled Substances Act (CSA), which means that "it has a high potential for abuse, no currently accepted medical use in treatment in the United States, and a lack of accepted safety for use under medical supervision."[1] The U.S. Food and Drug Administration, which has regulatory authority over the approval of drugs, has not approved any marijuana product for any clinical indication.[2] As a Schedule I substance, possession of cannabis alone is an offense under the CSA.[3]

Research into the effects of cannabis on clinical conditions—including its interaction with treatment regimens—are limited. Using cannabis in combination with other medication without established empirical data may create unanticipated side effects or worsen disease progression. This places providers in a double bind: Providers must choose between prioritizing a patient's health and denying cannabis at the risk of violating this law or permitting the consumption of cannabis and face potential medical malpractice claims when a patient suffers adverse health outcomes.

Finally, while the hospital industry appreciates the intent behind the two proposed carveouts, in practice the exemptions offer little protection. Proposed Section 20-2303(C)(1)(I) would allow for a suspension from compliance when an enforcement action has been initiated against the facility, but this provides cold comfort as the facility would have already committed the offenses charged by the federal agencies and must suffer the consequences. Similarly, proposed Section

[1] www.dea.gov/sites/default/files/2020-06/Marijuana-Cannabis-2020_0.pdf
[2] www.dea.gov/sites/default/files/2020-06/Marijuana-Cannabis-2020_0.pdf
[3] crsreports.congress.gov/product/pdf/IN/IN11204

20-2303(C)(1)(II) requires facilities to wait for a federal regulatory agency to adopt a regulation that expressly prohibits the use of medical cannabis, but since cannabis is already a Schedule I substance, no further regulatory action is necessary to make it illegal.

For these reasons, we request an ***unfavorable*** report on HB 1135.

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