



Kentucky Medical Cannabis Law Summary

Kentucky's medical cannabis law which was — [SB 47](#) — creates a well-regulated medical cannabis program to allow seriously ill individuals to register with the health department to use medical cannabis when recommended by their practitioners and dispensed by a regulated medical cannabis dispensary.

On March 16, 2023, the Kentucky Senate approved SB 47 in a 26-11 vote. The Kentucky House of Representatives followed suit on March 30 in a 66-32 vote, sending the bill to Gov. Andy Beshear (D), who promptly signed it into law. The law does not take effect until January 1, 2025, but rulemaking will begin before then.

Here is a summary of this new law:

Qualifying for the Program

- To legally use and access medical cannabis, patients must have a qualifying condition, a written certification from a practitioner (doctor or an advanced nurse practitioner who can prescribe controlled substances), and a state identification card. They cannot have a disqualifying felony conviction.
 - Qualifying conditions: any type or form of cancer; chronic severe, intractable, or debilitating pain; epilepsy or any other intractable seizure disorder; multiple sclerosis, muscle spasms, or spasticity; chronic nausea or cyclical vomiting; post-traumatic stress disorder; and any other medical condition or disease for which the Kentucky Center for Cannabis finds medical cannabis appropriate. Patients under 18 could not possess or purchase cannabis. Their parents or legal would need to pick up and administer their medical cannabis.

Legal Protections

- Qualifying patients, medical practitioners, caregivers, and medical cannabis dispensaries and their staff are not subject to criminal or civil penalties, including discipline from professional and occupational licensing boards, for actions authorized by the bill. (The protections do not prevent discipline if cannabis use interferes with one's professional duties.)
- A patient may have a 30-day supply in their residence and a 10-day supply on their person. Default amounts will be determined by the Kentucky Center for Cannabis. However, practitioners may authorize a larger quantity if the "practitioner reasonably believes that the standard 30-day supply would be insufficient" for the patient.
- The presence of cannabis metabolites alone (which can stay in one's urine for a month) do not constitute a patient being considered under the influence.
- A patient cannot be denied organ transplants and other medical procedures based on medical cannabis use.

- Provides protections for child custody and child welfare determinations for the state-legal medical use of cannabis, as long as it does not endanger the child.
 - Provides protections for students using medical cannabis.
 - Visiting patients may possess and purchase up to a 10-day supply if they are allowed to use medical cannabis in their home jurisdiction and have a qualifying condition.
 - Medical cannabis is treated as any other prescription drug regarding drug testing that is required by state or local law.
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Physicians' Role and Regulation

- To certify patients, practitioners must be authorized to do so by the Kentucky State Board of Medical Licensure or the Kentucky Board of Nursing.
 - The state licensing boards will determine continuing medical education requirements for certifying practitioners and pharmacists.
 - Patients need a new certification every 60 days. The initial visit must be in person. After the first visit, telemedicine is allowed.
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Caregivers

- Patients may designate caregivers to pick up their cannabis for them.
 - Caregivers must be at least 21 years old, unless they are the patient's parent or guardian. They may not assist more than three patients.
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Limitations and Penalties

- The only limitation on the methods of administration is that smoking is not allowed and cannabis for vaporization can only be sold to patients who are 21 or over. Raw cannabis is allowed.
 - Medical cannabis that is not at one's home must be kept in the original container it was purchased in from a dispensary.
 - There is a 35% THC cap for raw cannabis, edibles cannot exceed 10 mg of THC per serving, and concentrates are capped at 70% THC.
 - Patients may not undertake any task while under the influence of cannabis that would be negligent.
 - Cannabis cannot be within a driver's reach unless it requires at least a two-step process to open.
 - Health insurance, workers compensation, and governmental medical assistance do have to reimburse for medical cannabis costs.
 - Employers may still retain drug-free workplaces.
 - Home cultivation is not allowed.
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Regulatory Authority

- The Cabinet of Health and Family Services will oversee the implementation, operation, oversight, and regulation of the medical program.
 - A nine-member Board of Physicians and Advisors is created consisting of seven physicians and two advanced nurse practitioners with prescriptive authority. It will make recommendations, including regarding how much cannabis constitutes a 10-day and 30-day supply, adding or removing qualifying conditions, and performance standards for medical cannabis businesses.
 - The State Board of Medical Licensure and the State Board of Nursing oversees certifying practitioners.
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Medical Cannabis Establishment Licensing

- The state will license the following types of medical cannabis businesses:
 - dispensaries
 - cannabis processors
 - cannabis producers (holding both cultivator and processor licenses)
 - cannabis safety compliance facilities (testing labs)
 - cannabis cultivators, in four tiers:
 - Tier I not to exceed 2,500 square feet of canopy;
 - Tier II not to exceed 10,000 square feet of canopy;
 - Tier III not to exceed 25,000 square feet of canopy; and
 - Tier IV not to exceed 50,000 square feet of canopy;

Regulators could increase those amounts if there is a need for additional cultivation canopy.

- There is no numerical limit on the number of any of the types of businesses.
 - Regulators may “deny an application for a cannabis business license for any reason that the cabinet, in the exercise of sound discretion, deems sufficient.” If they do so, the applicant may request and receive an administrative hearing.
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Medical Cannabis Regulation

- Cannabis businesses must be at least 1,000 feet from pre-existing elementary and secondary schools and daycare centers.
- Workers must be at least 21 and cannot have disqualifying felony offenses.
- Most advertising is prohibited. Signs and business listings are allowed.
- The Cabinet of Health and Family Services will establish comprehensive regulations by July 1, 2024, including requirements and standards for employees and training, recordkeeping, inventory control, security (including lighting, video, alarms, and parking), transportation and delivery, packing and labeling, restricting on additives and hazardous pesticides and fertilizers, testing requirements, and safe processing and extraction. It will also create a rating system for terpenes and require the distribution of evidence-based educational materials regarding dosage and impairment to patients.
- Local governments may opt out of cannabis businesses, but citizens may petition to be opted back in by local ballot measure.
- Local governments may also regulate the time, place, and manner of cannabis businesses as

long as they don't impose an undue burden on cannabis businesses.

Taxes and Fees

- Licensing and patient registration fees are to be determined.
- Medical cannabis would be subject to sales and excise taxes.