

# Implementing Medical Cannabis in Northern Kentucky

**The following pages contain information summarizing Senate Bill 47, which allows for the use of medical cannabis in Kentucky for patients with qualifying medical conditions.**

**This summary is not all encompassing and focuses on key points relevant to implementation in local communities.**

**SB47 goes in to full effect on January 1, 2025.**

**For additional information on medical cannabis in Kentucky, see SB47 in its entirety or visit [kymedcan.ky.gov](http://kymedcan.ky.gov).**

**As of April 2024, this document has been updated to include HB829, which made revisions to SB47 and medical cannabis in Kentucky. For all revisions, see HB829 in its entirety.**

## Section 6

**Outlines restrictions on activities someone can engage in and areas where they can be if they are under the influence of medical cannabis**

**A person may not:**

- **Possess or engage in the use of medical cannabis:**
  - **on the grounds of a preschool, primary, or secondary school (unless administering to a registered patient under age 18)**
  - **in a correctional facility**
  - **on any property of the federal government**
- **Use if not a registered qualified patient**
- **Use or consume by smoking**
- **Use or consume by vaping while on any form of public transportation, in any public place, or in any place of public accommodation, resort, or amusement**
- **Cultivate medical cannabis unless licensed to do so**

**A person under the influence of medical cannabis may not:**

- **Operate, navigate, or be in actual physical control of any aircraft, vehicle, vessel, or any other device known, or hereafter invented, that is powered by machinery and that is or may be used to transport persons or property**
  - **This also includes possessing medical cannabis that is within the operator's arm's reach or requires less than a 2 step process to access**
- **Undertake any task when doing so would constitute negligence or professional malpractice**

4/25/2024

## Section 7

This section outlines the guidelines for employment policies in regard to the use of medical cannabis

- **Employers are NOT required to permit or accommodate the use, consumption, possession, transfer, display, transportation, distribution, sale or growing of medical cannabis in the workplace.**
- **Employers are NOT prohibited from implementing policies promoting workplace health and safety by:**
  - **Restricting the use of medical cannabis by employees**
  - **Restricting or prohibiting the use of equipment, machinery, or power tools by an employee who is a registered, qualified patient, if the employer believes that the use of such equipment, machinery, or power tools by an employee who is a registered, qualified patient poses an unreasonable safety risk**
- **Employers are NOT prohibited from including in any contract provisions that prohibit the use of medical cannabis by employees**
- **This act does NOT permit a cause of action against an employer for wrongful discharge or discrimination**
- **Employers are NOT prohibited from establishing and enforcing a drug testing policy, drug-free workplace, or zero-tolerance policy**
- **Employers shall NOT be penalized or denied any benefit under state law for employing a cardholder**

## Section 8

**This section outlines various rights maintained by a cardholder (registered, qualified patient)**

### **Parenting**

- **A cardholder will not be penalized for conduct permitted under this Act in regard to child custody or visitation, unless the activities pose an unreasonable danger to the safety of the child**

### **Healthcare**

- **For the purpose of medical care, including organ transplant, use of medical cannabis by a cardholder shall be considered the same as any other prescription taken at a physician's directive.**
- **Health care facilities may develop policies to allow cardholders to use medical cannabis in their facilities.**

## Section 8 (Continued)

### This section outlines requirements for Schools

#### Schools

- **A school shall not refuse to enroll a person solely for his or her status as a cardholder, unless failing to do so would violate federal law or regulations and cause the school to lose a monetary or licensing-related benefit under federal laws or regulations.**
- **A school shall not be penalized or denied any benefit under state law for enrolling a cardholder.**
- **By December 1, 2024 each local board of education, each board of directors of a public charter school, and the governing body of each certified nonpublic school shall establish policies related to the use of medicinal cannabis by a pupil who is a registered, qualified patient on school property. These policies shall either prohibit or permit the use of medicinal cannabis on school property by a pupil who is a registered qualified patient as deemed necessary by the pupil's parent or legal guardian. If a policy is enacted to permit the use of medicinal cannabis by a pupil who is a registered qualified patient that policy shall:**
  - **Require medicinal cannabis be administered**
    - **By a school nurse or under the supervision of appropriate school staff; or**
    - **By the parent or legal guardian of the pupil who is a registered qualified patient; and**
    - **Out of view of other students; and**
    - **Include a process by which a school nurse or other school staff member may refuse to administer or supervise the administration of medicinal cannabis**

## Section 9

This section outlines the requirements for a practitioner to provide written certifications to patients

### Practitioners must:

- **Have an established, bona fide practitioner-patient relationship with the patient.**
- **Diagnose the patient, or confirm a diagnosis provided by another health care provider, with a medical condition for which practitioner believes that the patient is likely to receive safe and effective therapeutic or palliative benefit from the use of medical cannabis.**
- **Review the patients records in the established electronic monitoring system for at least the prior 12 months.**
- **Inform the patient, or custodial parent/legal guardian for a minor, of the possible risks and side effects associated with medical cannabis, including possible interactions with other drugs or medications that the patient is currently taking.**
- **Obtain consent from custodial parent or legal guardian for a minor.**
- **Within 24 hours of providing the certification, record the issuance of the certification in the electronic monitoring system.**

### Frequency of visits to maintain certification:

- **The bona-fide practitioner-patient relationship cannot be established via TeleHealth; it must be done with an in-person visit.**
- **The initial certification must be provided during an in-person examination. Subsequent certifications may be provided electronically or via TeleHealth.**
- **A written certification is valid for no more than 60 days and can be renewed up to 3 times for no more than 60 days at a time. After this, the medical cannabis practitioner may issue another certification to the patient only after an in-person or TeleHealth examination.**

4/25/2024

## Sections 15 & 16

**This section outlines the licensing requirement for  
Cannabis businesses**

**The following are considered a separate business license under this Act:**

- **Tier I cannabis cultivator (2,500 square feet)**
- **Tier II cannabis cultivator (10,000 square feet)**
- **Tier III cannabis cultivator (25,000 square feet)**
- **Tier IV cannabis cultivator (50,000 square feet)**
- **Cannabis dispensary**
- **Cannabis processor**
- **Cannabis producer**
- **Cannabis safety compliance facility**

**There is one exception to these being separate licenses, which is a cannabis producer may operate cultivating and processing activities at separate locations, so long as there is only 1 of each per producer license.**

**Business licenses will remain valid for 1 year. Renewal will be contingent upon successful achievement of minimal performance standards as part of the biennial accreditation process.**

**Applicants will be required to submit:**

- **Proposed legal name of the cannabis business**
- **Proposed physical address of business and global positioning coordinates for proposed cultivation activities**
- **The name, address, and DOB of each principal officer and board member of the cannabis business**
- **Any instances in which a business or not-for-profit entity that any of the prospective board members managed or served on the board of was convicted, fined, censured, or had a registration or license suspended or revoked in any administrative or judicial proceeding**
- **Any other information required by the Cabinet**

4/25/2024

## Section 17

### This section outlines the processing of Cannabis business applications

**The Cabinet will acknowledge receipt of an application within 15 days and issue an approval or denial within 45 days.**

**When reviewing and considering cannabis business applications, the Cabinet will prioritize the review of applications submitted by an individual or entity who is an existing Kentucky hemp business in good standing with the Kentucky Department of Agriculture, if they meet the application requirements.**

**The Cabinet may deny an application for any reason, in the exercise of sound discretion, which includes but is not limited to:**

- **Applicant failed to submit all required materials, or plans do not satisfy the security, oversight, or recordkeeping regulations**
- **Submitting false information**
- **The applicant would be violating local cannabis business prohibitions**
- **If one or more prospective officer or board member:**
  - **Has been convicted of a disqualifying felony offense**
  - **Has served as a principal officer or board member of a cannabis business whose license has been revoked**
  - **Is under 21**
  - **Is a medical cannabis practitioner**
- **For safety compliance facilities, no principal officers or board members may also be a principal officer or board member for a cultivator, processor, producer, or dispensary licensed in Kentucky; the opposite also applies**



## Section 17 (Continued)

### This section outlines the processing of Cannabis business applications

**If approved, the Cabinet will:**

- **Issue a copy of the license which includes the business's identification number**
- **Provide licensed dispensaries with contact and access information for the electronic monitoring system**
- **Provide notice to the city and county in which the cannabis business intends to operate**

**If denied, the Cabinet will notify the applicant by certified mail of the denial and reasons. The applicant has 30 days to file a written request for an administrative hearing on a denied application.**

**Notwithstanding any provision of law to the contrary, a cannabis business licensed by the cabinet pursuant to this chapter shall be subject to and required to comply with:**

- **Any subsequent action that may be taken pursuant to this Act by the local government within whose territory the cannabis business is licensed to operate if such action is taken prior to January 1, 2025, including but not limited to the prohibition of cannabis business operations within the territory of the local government; and**
- **Any local zoning ordinances and regulations that may be adopted pursuant to this Act by the local government within whose territory the cannabis business is licensed to operate.**

## Section 18

### This section outlines requirements for Cannabis businesses

#### **Cannabis businesses must:**

- **Conduct background checks on all prospective principal officers, board members, agents, volunteers, or employees before beginning work. None of these groups can be involved in the business if they:**
  - **Were convicted of a disqualifying felony**
  - **Are under 21**
- **Implement security measures to deter and prevent theft of medical cannabis**
- **Demonstrate sufficient capital to operate the cannabis business**
- **Display license on the premises at all times**
- **Only acquire, possess, cultivate, manufacture, deliver, transfer, transport, supply, or dispense of medical cannabis:**
  - **For the purpose of distributing to qualified registered cardholders or visiting patients**
  - **From a cannabis business with a valid license**

**Operating documents must include procedures for oversight and procedures to ensure accurate recordkeeping and inventory control.**

**Cultivation may only be done by licensed cultivators and producers, in an enclosed, locked facility which can only be accessed by cultivator agents working on behalf of the cultivator or producer at the physical address or global positioning system coordinates provided to the Cabinet**

## Section 18 (Continued)

### This section outlines requirements for Cannabis businesses

#### **Cannabis businesses shall not:**

- **Be located within 1,000 feet of an existing elementary school, secondary school, or daycare center**
- **Permit a person under 18 to enter or remain on the premises of a cannabis business**
- **Permit non cardholders to enter or remain on the premises, unless:**
  - **They are at least 18 and are there to do contract work such as electrical, plumbing, or security maintenance that does not involve handling medical cannabis**
  - **At least 18 and a government employee doing their official duties**
- **Employ, have as a board member, or be owned by a medical cannabis practitioner**
- **Advertise medical cannabis sales in print, broadcast, online, by paid in-person solicitation of customers, except:**
  - **Appropriate signs on the property of the cannabis business**
  - **Listings in business directories including phone books**
  - **Listings in trade or medical publications**
  - **Sponsorship of health or not-for-profit charity or advocacy events**

#### **When transporting medical cannabis, the cannabis business agent must have:**

- **A copy of the cannabis business license for the business that employs them**
- **Documentation of how much medical cannabis is being transported and the date of transport**
- **Business license number and telephone number for any other cannabis business involved in the transaction**

4/25/2024

## Section 25

**This section outlines the options for local governments**

**Local government means city, county, urban county government, consolidated local government, charter county government, or unified local government.**

**A local government:**

**Before January 1, 2025 or prior to the cabinet issuing a license to a cannabis business to conduct business operations within its territory, may:**

- **Pass a local ordinance that would prohibit all cannabis business operations in its territory**
- **Allow the question of cannabis business operations to be brought to the voters during the next regular election**

**Within whose territory cannabis business operations are permitted, may enact ordinances:**

- **Relating to the time, place, and manner of cannabis business operations, so long as it is not in conflict this Act or any administrative regulations, or impose an undue burden or make cannabis business operations unreasonable or impractical**
- **To establish and assess reasonable local fees to compensate for any additional costs caused by the operation of cannabis businesses within its territory**

**If a local government prohibits all cannabis business operations, the legislative body of a city located in that local government may:**

- **Pass a local ordinance approving cannabis business operations within the limits of the city**
- **Allow the question of cannabis business operations to be brought to the voters during the next regular election**

**If local cannabis business is brought to a vote and does not pass, it cannot be placed on a ballot again for at least three years.**

4/25/2024

## Section 27

This section outlines the requirements for the Cabinet, no later than July 1, 2024, to establish the electronic monitoring system

**The EMS must be able to:**

- **Allow medical cannabis practitioners to record the issuance of written certifications to qualified patients**
- **Allow the Cabinet and state licensing boards to monitor the issuance of written certifications by medical cannabis practitioners**
- **Allow Cabinet personnel, law enforcement, and dispensaries to verify the validity of registry identification cards issued by the Cabinet by entering the identification number to determine if the number corresponds with a current, valid registry identification card. This will only disclose if the identification card is valid and what type of patient the cardholder is (qualified, visiting, or caregiver)**
- **Allow law enforcement and dispensaries to access medical cannabis sales data recorded by dispensaries**
- **Allow dispensaries to record the amount of medical cannabis that is dispensed to a cardholder during each transaction**
- **Allow the sharing of dispensing data with all dispensaries in real time**

## Section 27 (Continued)

This section outlines the standards for packaging and labeling of medicinal cannabis

### Packaging standards include:

- At least a 2-step process for initial opening
- A warning label which may include the length of time it typically takes for the product to take effect, how long the effects typically last, and any other information deemed appropriate or necessary
- The amount of medical cannabis the product is considered equivalent to
- Disclosing ingredients, possible allergens, and certain bioactive components, as determined by the Cabinet
- A nutritional fact panel
- Opaque, child-resistant packaging
- A requirement that all raw plant material packaged or sold in this state be marked or labeled as “NOT INTENDED FOR CONSUMPTION BY SMOKING”
- A requirement that medical cannabis products be clearly marked with an identifiable and standardized symbol indicating that the product contains cannabis
- A requirement that all medical cannabis product packaging includes an expiration date
- A requirement that medical cannabis products and their packaging not be visually reminiscent of major brands of edible non-cannabis products or otherwise present an attractive nuisance to minors

# Medical Cannabis in Northern Kentucky

## Section 27 (Continued)

### This section outlines the Medical Cannabis Advisory Pamphlet

**The Medicinal Cannabis Advisory Pamphlet shall include but not be limited to:**

- **Information on the risks, dangers, and possible side effects of the use of medicinal cannabis;**
- **Information on the medicinal cannabis adverse drug effects reporting system and how to report adverse drug effects; and**
- **A detachable signature page which shall be:**
  - **Signed by a cardholder each time he or she receives a copy of the Medicinal Cannabis Advisory Pamphlet as required under this Act; and**
  - **Retained by the dispensary for a period of at least thirty-six (36) months.**

4/25/2024

**Initial Business License Types and Amounts**

## Initial License Availability

| License type               | Number of initial licenses |
|----------------------------|----------------------------|
| Tier I cultivator          | 10                         |
| Tier II cultivator         | 4                          |
| Tier III cultivator        | 2                          |
| *Tier IV cultivator        | 0                          |
| Processor                  | 10                         |
| *Producer                  | 0                          |
| Dispensary                 | 48                         |
| Safety compliance facility | No initial limit           |

*\*Tier IV cultivator and producer licenses will not be available during initial license application availability period*