



# REPORT OF THE MEDICAL CANNABIS STUDY COMMISSION

**SENATOR TIM MELSON, M.D., CHAIR**

December 20, 2019



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## TABLE OF CONTENTS

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Members of the Study Commission . . . . .	Page 2
Introduction . . . . .	Page 3
Overview of Cannabis . . . . .	Page 3
State Medical Marijuana and Cannabis Programs . . . . .	Page 3
Proposed Medical Cannabis Legislation in Alabama . . . . .	Page 4
Meetings, Presentations, and Public Hearings . . . . .	Page 5
Findings. . . . .	Page 6
Proposed Legislation . . . . .	Page 7
Summary and Recommendations . . . . .	Page 9

## Study Commission Members

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- **Chair:** Tim Melson, M.D., Alabama State Senator
- **Vice Chair:** Steven Stokes, M.D., Radiation Oncologist
- Martina Bebin, M.D., M.P.A, Pediatric Neurologist, University of Alabama at Birmingham
- Brett Bloomston, Criminal Defense Attorney
- Danny Carr, District Attorney, Jefferson County
- Ernst Cebert, Ph.D., Research Associate Professor, Alabama A&M University
- Foster Cook, Associate Professor of Psychiatry, Director, UAB Substance Abuse Programs, Retired
- Angelo Della Manna, Director, Alabama Department of Forensic Sciences
- Aretha Q. Dix, Major, Hospital Administrator, U.S. Air Force, Retired
- Thomas Eden, Labor and Employment Attorney
- Scott Harris, M.D., State Health Officer, Alabama Department of Public Health
- Dexter Hearn, Pharm.D., Pharmacist, Samford University, McWhorter School of Pharmacy
- Jill Lee, District Attorney, Shelby County
- Hunter McBrayer, Farmer, Alabama Farmers Federation
- Tony McGrath, M.D., Pediatric Neurologist, University of Alabama at Birmingham
- Jerzy P. Szaflarski, M.D., Ph.D., Neurologist, University of Alabama at Birmingham
- Stephen M. Taylor, M.D., M.P.H., Psychiatrist, Chief Medical Director, Pathway Healthcare
- Rex Vaughn, ALFA Farmers North Region Vice President, Madison County Farmer

## Introduction

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### *Overview of Cannabis*

Cannabis refers to any plant or derivative of the plant in the genus *Cannabis*. Hemp and marijuana are two different species of plants within that genus. Although the terms “marijuana” and “cannabis” are often used interchangeably, marijuana is a subset of the more general term “cannabis.”

Cannabis plants all contain cannabinoids, including cannabidiol (CBD) and tetrahydrocannabinol (THC), but the concentration of CBD and THC is vastly different in marijuana and hemp. The psychoactive compound THC occurs naturally in a much higher concentration in marijuana versus hemp. CBD is naturally at a higher concentration in hemp.

In 2018, Congress de-scheduled hemp as a controlled substance in the 2018 Farm Bill.<sup>1</sup> Hemp is defined as any part of the plant *Cannabis sativa* L. with a THC concentration of not more than 0.3 percent on a dry weight basis.

Marijuana remains a Schedule I controlled substance under the federal Controlled Substances Act and under state law.<sup>2</sup>

### *State Medical Marijuana and Cannabis Programs*

In the past decade, cannabis has garnered attention because of scientific evidence indicating that compounds found in cannabis plants, including both THC and CBDs, have or may have therapeutic benefits to alleviate symptoms of various medical conditions. Thirty-two states and the District of Columbia have passed laws removing criminal sanctions on marijuana possession and use for medical purposes and allowing for some means of access to marijuana or cannabis, either through an established marketplace (i.e., dispensaries) or through home cultivation of marijuana plants. State medical marijuana or cannabis programs widely vary, although the following common threads run through all these state programs:

- An individual must have a specified medical condition.
- The patient must obtain a medical professional’s recommendation or certification in order to qualify for access to medical marijuana or cannabis.
- Caregivers may also qualify to assist a patient, due to infirmity or disability, or because the patient is a minor.

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<sup>1</sup> Agricultural Improvement Act of 2018.

<sup>2</sup> Section 20-2-23(b)(3)j., Code of Alabama 1975.

## *Proposed Medical Cannabis Legislation in Alabama*

Senator Tim Melson introduced SB236 during the 2019 Regular Session. As introduced, this bill would have created a comprehensive medical cannabis program in the state. Although the bill was passed by the full Senate, the bill was pared down by the House Health Committee to create the Medical Cannabis Study Commission, which was enacted as Act 2019-511 and signed into law by Governor Kay Ivey on June 10, 2019. The Medical Cannabis Study Commission (“Study Commission”) was charged with the following objectives:

- Hold a minimum of three public hearings to hear from patients and families who may benefit from the use of medical cannabis, from physicians and other health care providers who may be involved in the implementation of medical cannabis use in the state, and from members of the public who have interests or concerns regarding medical cannabis.
- Examine federal laws and regulations and other states' laws and legislation, as well as legislation in this state, relating to the medical use of cannabis, specifically considering issues relating to patient qualification; the role of physicians in recommending the medical use of cannabis; patient registration; licensing of facilities and providers of medical cannabis services such as cultivation, processing, labelling, transporting, shipping, and dispensing of medical cannabis; testing of medical cannabis to ensure product safety; the role of law enforcement; the role of other state regulatory agencies or boards; current criminal laws relating to possession and use of marijuana; and any other issues relevant to the medical use of cannabis.
- Make recommendations to the Legislature relating to the medical use of cannabis in the state.
- Submit findings and proposed legislation to the Speaker of the House of Representatives and the President Pro Tempore of the Senate.

This report fulfills the Study Commission’s duty to make recommendations, submit findings, and submit proposed legislation.

## Meetings, Presentations, and Public Hearings

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The Study Commission held a total of four meetings as follows:

- August 13, 2019, 10:30 a.m., Room 807, Alabama State House, Montgomery, Alabama
- September 9, 2019, 10:30 a.m., Room 825, Alabama State House, Montgomery, Alabama
- October 13, 2019, 10:30 a.m., Room 825, Alabama State House, Montgomery, Alabama
- November 7, 2019, 10:30 a.m., Room 825, Alabama State House, Montgomery, Alabama

Formal presentations were made by the following presenters:

- Commission member Tommy Eden, Labor and Employment Attorney, (September 9, 2019 Meeting) – Outlined employment issues and concerns arising from medical marijuana use in the workplace, including issues relating to safety, adverse employment actions, drug testing, and worker efficacy.
- Dr. Curt Harper, Chief Toxicologist, Alabama Department of Forensic Sciences, (October 3, 2019 Meeting) – Summarized the incidence of DUIs, and specifically, driving under the influence of marijuana, and the methodologies used in the state for testing THC levels in blood and oral fluids.
- Commission member Dr. Jerzy P. Szaflarski, M.D., Ph.D., Neurologist at UAB School of Medicine, (October 3, 2019 Meeting) – Reviewed and discussed medical studies on the efficacy of using cannabinoids and medical cannabis to treat various medical conditions or their symptoms.
- Dr. Dr. Bertha Madras, M.D., Professor of Psychobiology, Harvard Medical School (November 7, 2019 Meeting) – Reviewed the negative impacts of marijuana use and reviewed meta-analyses that disproved or were inconclusive regarding the safety and efficacy of using cannabis as a medical treatment of various medical conditions.
- Barry Matson, Executive Director, Office of Prosecution Services (November 7, 2019 Meeting) – Reviewed legal issues, from a prosecutor’s perspective, concerning a potential medical cannabis program in the state and suggested several legal concepts relating to the medical cannabis program that should be addressed through legislation.
- Dr. Alan Shackelford, M.D., founder of Amarimed of Colorado (November 7, 2019 Meeting) – Discussed potential benefits of medical cannabis to treat specific debilitating conditions and symptoms, reviewed scientific investigations on the use of medical cannabis, and chronicled his personal experience treating patients using medical cannabis.

Public hearings were held on September 9, October 13, and November 7, 2019. Most, but not all, of the comments were made by members of the public with various medical conditions who support a medical cannabis program in the state. Some of these individuals have used medical cannabis products in other states and believe that these products provided meaningful therapeutic benefits and relief from symptoms.

## Findings

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Members of the Study Commission brought diverse perspectives to the group and provided various opinions on the use of cannabis to treat the symptoms of medical conditions and the broader topic of marijuana use in general.

Based on the presentations and discussions, the Study Commission found that, although some medical study results are inconclusive and some results are mixed, there is strong scientific evidence that both hemp and marijuana contain compounds that provide significant relief for symptoms of certain specified medical conditions. Furthermore, there is strong public interest for a medical cannabis program in Alabama.

Although the majority of Study Commission members generally support a medical cannabis program, there was not consensus among members on the underlying premise that Alabama should adopt and implement a program for medical use of cannabis within the state. Dissenting members cited a number of reasons for opposing a medical cannabis program in Alabama, including:

- The fact that marijuana remains a Class I Controlled Substance under state and federal law
- A concern that legalization of cannabis for medical use will open the door to legalization of recreational marijuana
- A concern that any medical cannabis program will be abused by individuals seeking a way to obtain and use marijuana or THC by falsely claiming to have a medical condition
- The inability to easily and inexpensively test THC levels to effectively determine whether a person is impaired in the workplace
- A concern that ingestion of cannabis, and more specifically marijuana, can impair a worker's judgment and abilities, thereby leading to safety issues and the inability to adequately perform job duties
- A concern that employers will not be able to enforce and administer "drug free" policies if cannabis is viewed as a "medicine"
- A concern that employers may be legally vulnerable to employees claiming a "right" to use cannabis in the workplace
- A concern that characterizing marijuana or cannabis as a "medicine" will destigmatize the drug and imply that the drug is less harmful, thereby weakening the deterrent of marijuana use among youths
- A concern that children may be tempted to ingest cannabis if it resembles a candy or edible product
- A general lack of easy, precise, inexpensive field testing of cannabis products for THC/CBD levels
- A general lack of a readily available method of field testing THC levels in bodily fluids if an individual is driving under the influence
- A concern that incidents of driving while impaired or driving under the influence will increase

## Proposed Legislation:

Mindful of the concerns voiced by members of the Study Commission, members of the public, and those who made presentations, while also complying with its mission to provide proposed legislation, the commission endeavored to craft a medical cannabis program with these underlying objectives:

- Prevent abuse by individuals seeking marijuana products but who are not genuinely in need of therapeutic relief from a medical condition
- Determine which medical conditions should qualify a patient for medical cannabis use based on rigorous medical studies indicating therapeutic benefit of the conditions or symptoms of the conditions
- Ensure that physicians receive proper training and require a physician to have established a bona fide relationship with a patient before recommending medical cannabis
- Prohibit ingestion of any raw plant materials (i.e., medical cannabis should not include seeds, buds, leaves, etc.)
- Prohibit smoking or combustion of cannabis products as a method of cannabis delivery
- Prohibit processors (i.e., manufacturers) of cannabis products from making products that resemble food or candy or package or label products in a manner that entices children or otherwise misleads a consumer
- Require that all medical cannabis products, from seed to sale, originate in the state
- Require all medical cannabis products to be free of any additives, be accurately labelled, and be tested for contamination and THC and CBD levels
- Require detailed tracking of all medical cannabis products, byproducts, waste, etc. from seed to sale in order to eliminate diversion of any cannabis products or materials
- Establish a state oversight commission that is independent from influence by the medical cannabis industry, is given clear guidelines on how to implement the medical cannabis program, and is empowered with the appropriate support to implement a comprehensive medical cannabis program
- Provide strict measures to secure all facilities where cannabis plants or medical cannabis products are present from intrusion, tampering, or diversion
- Require stringent experience and financial qualifications for applicants seeking licensure as a cultivator (i.e., grower), processor (i.e., manufacturer), transporter, testing laboratory, or dispensary
- Require criminal background checks on all employees of licensees and prohibit employment by certain individuals with felony drug convictions
- Provide strong oversight by the regulatory oversight commission and law enforcement when necessary
- Include stringent employer protection measures relating to medical cannabis use



Several iterations of draft legislation were circulated to Study Commission members, who then voted on the proposed legislation via email before the 12:00 p.m. December 20, 2019 deadline. The vote is as follows:

	<u>In Favor:</u>	<u>Opposed:</u>	<u>Abstain:</u>
Tim Melson (Chair)	X		
Steven Stokes (Vice Chair)	X		
Martina Bebin	X		
Brett Bloomston	X		
Danny Carr	X		
Ernst Cebert	X		
Foster Cook	X		
Angelo Della Manna			X
Aretha Q. Dix	X		
Thomas Eden		X	
Scott Harris		X	
Dexter Hearn	X		
Jill Lee		X	
Hunter McBrayer			X
Tony McGrath	X		
Jerzy P. Szaflarski	X		
Stephen M. Taylor			X
Rex Vaughn	X		
<b>Total Vote Count:</b>	<b>12</b>	<b>3</b>	<b>3</b>



## Summary and Recommendations:

The majority of members of the Study Commission support the proposed legislation but understand that the Legislature has ultimate control over any legislative proposal. With this in mind, the Study Commission recommends that any legislation creating a medical cannabis program must be crafted to:

- Reduce or eliminate abuse by individuals not truly in need
- Reduce or eliminate unlawful diversion of cannabis products
- Ensure that the process for obtaining medical cannabis products by a patient who may genuinely benefit from medical cannabis is not overly burdensome
- Ensure physicians are well informed about their role and responsibilities under the program
- Protect businesses in the state by making sure the cannabis industry is run by businesses within the state, to the extent possible
- Balance patients' needs for affordable, readily available products that provide therapeutic relief with a desire to provide revenue to the state
- Support research to further beneficial uses for both marijuana and hemp in the medical field
- Ensure that law enforcement agencies can continue to enforce the state's drug laws
- Include measures to increase diversity in the ownership of medical cannabis businesses and to ensure women, minorities, and veteran-owned businesses are not discriminated against and have equal access to business opportunities
- Require the agency overseeing the medical cannabis program to continue to evaluate the program and make suggestions to the Legislature on revising state laws as necessary based on federal regulation and accepted medical and scientific research

### **Dissent:**

One member of the Study Commission who strongly opposes a state medical cannabis program recommends that the State continue to recognize marijuana as a Class I Controlled Substance, as it is classified by Congress under the federal Controlled Substances Act.