



Public Testimony in Support of Senate Bill 366
South Carolina Compassionate Care Act
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On behalf of the Epilepsy Foundation and the approximately 53,400 South Carolinians living with epilepsy and seizures, I thank you for the opportunity to provide testimony in support of S. 366, the *South Carolina Compassionate Care Act*. The Epilepsy Foundation is committed to supporting physician-directed care, including for medical cannabis or cannabidiol, and believe providers and their patients are in the best position to decide whether a treatment option would be beneficial. We are, however, concerned with certain provisions that would create additional barriers for a select group of individuals, and caution against further amending the bill in a way that would severely impede access, including amendments that would: require physicians to *prescribe*, rather than recommend, medical cannabis; limit the definition of neurological disorders as a qualifying conditions; or limit providers who may recommend cannabis to specialists.

The Epilepsy Foundation is the leading national voluntary health organization that speaks on behalf of the approximately 3.4 million Americans living with epilepsy and seizures. We foster the wellbeing of children and adults affected by seizures through research programs, educational activities, advocacy, and direct services. Epilepsy is a medical condition characterized by seizures, which are sudden surges of electrical activity in the brain, that affects a variety of mental and physical functions. Approximately 1 in 26 Americans will develop epilepsy at some point in their lifetime.

There is no “one size fits all” treatment option for epilepsy, and about a third of people living with epilepsy – approximately 1 million – suffer from uncontrolled or intractable seizures, with many more living with significant side-effects, despite available treatments. Uncontrolled seizures can lead to disability, injury, and early death. This is why people living with uncontrolled seizures turn to medical cannabis when other treatment options have failed.

The Epilepsy Foundation is committed to supporting physician-directed care, and to exploring and advocating for all potential treatment options for epilepsy, including cannabidiol and medical cannabis. Individuals with uncontrolled seizures live with the continual risk of serious injury and loss of life. If an individual and their health care providers feel that the potential benefit of medical cannabis for epilepsy outweigh the risks, then families need to have that legal option as well as meaningful access. Nothing should stand in the way of individuals gaining access to this potentially life-changing and life-saving treatment.

The Epilepsy Foundation opposes policies that create additional access barriers for a select group of individuals. While we understand the sensitive nature of cannabis, the provision requiring individuals between 18 and 23 years of age to get a second opinion would act as a significant hurdle for those seeking care. We believe that an individual and their health care team are in the best position to choose



which treatment option may work best. Requiring a non-treating physician to give a second opinion on a treatment option carefully and thoughtfully chosen by an individual and their treating provider would devalue the expert and personalized care offered to that individual. Further, this not only places a burden on the individual seeking care, but also potentially their family or caregivers as well. Individuals who have not yet achieved seizure control are ineligible to hold a driver's license in the state. As such, any second opinion or additional requirements – especially those that only exist as an arbitrary access barrier for a particular group of adults – could hinder an individual's ability to access care. We urge you to remove this requirement and treat the physician-patient relationship equally across all demographics.

The Epilepsy Foundation is also deeply troubled by the possible requirement that physicians must specify a dose, rather than provide a general recommendation that the individual would benefit from medical cannabis or CBD, which is in violation of federal law and we strongly urge you to remove this requirement. Currently, it is illegal for physicians, even those in states where medical cannabis is legal, to take steps to assist an individual in procuring cannabis due to its designation as a Schedule I substance on the federal level. Prescribing behavior, which includes providing specific dosing information, as it relates to cannabis would thus constitute aiding and abetting the acquisition of cannabis and could result in a revocation of a physician's DEA licensure, and in some cases, even prison time.¹ Physicians can, however, provide a recommendation for the use of medical cannabis as protected speech under the First Amendment – a loophole that has been upheld by the Ninth Circuit in *Contant v. Walter*.² By requiring physicians to provide specific dosing information, S 366 would overstep the bounds of legal protections offered to physicians who choose to speak to their patients about this potential treatment option. As a result, physicians would be forced to place their DEA license – and thus, their ability to prescribe controlled substances – in jeopardy which would impede their ability to properly care for their patients. Epilepsy is a spectrum condition requiring individually-designed treatment plans. As a result, physicians **must** have access to the full range of antiepileptic medications, including those that are classified as controlled substances, and other treatment options including medical cannabis. We believe the prescribing behavior requirement acts as a significant, and possibly insurmountable, access barrier for individuals living with epilepsy, and one that would endanger a physician's ability to treat his or her patients. A medical cannabis program with substantial barriers that interfere with access is not a meaningful program.

The Epilepsy Foundation supports comprehensive medical cannabis programs that provide safe, legal access to cannabis when an individual and their health care team find the benefits outweigh possible risks. However, we urge you to carefully consider the impact certain provisions may have on the epilepsy and seizure community and their ability to meaningfully access this potentially life-changing and lifesaving treatment options. Please do not hesitate to contact Laura Weidner, Esq., Vice President Government Relations & Advocacy, at 301-918-3766 or lweidner@efa.org with questions or concerns.

¹ Garvey T, Doyle C. Marijuana: medical and retail—selected legal issues. Washington, DC: Congressional Research Service; March 25, 2014: 8. <http://fas.org/sgp/crs/misc/R43435.pdf>. Accessed March 18, 2019.

² *Contant v. Walter*, 309 F3d 629, 6363 (9th Cir. 2002)