Thank you for the opportunity to respond to concerns raised by the Palmetto Family and for your careful review of the legislation. We support a highly regulated program that provides reasonable access for patients and limits abuse. Wherever possible, we have tried to strike a careful balance. While we may disagree on some of the areas you mention, like the Palmetto Family, we would expect that any program enacted in South Carolina should be well under control.

We wanted to respond to some of your comments with our own perspective. In some of these areas, we do not object to clarifying or amending the current language to address concerns. These are written in response to comments the Palmetto Family made available in materials published on March 20.

**S366 does not allow smoking.**

We disagree that because state law would allow access to the entire plant, including flower, that the law would accommodate cannabis smoking. At the outset, the measure specifically prohibits smoking cannabis and does not interfere with local laws that prohibit smoking in public or otherwise.

There are several reasons the entire plant is included, including the need for some patients to vaporize cannabis – particularly those who require rapid onset of its therapeutic effect, such as those with severe pain or those who suffer from seizure conditions. Other patients consume cannabis in its raw form, which is good for those seeking THC-a, rather than the decarboxylated form that results from heat or many types of processing.

It is very often the case that medical cannabis programs that limit access to a very narrow set of processed products tend to struggle to make ends meet. Patients with limited options often turn to the underground market for the products they seek, if they are unavailable through a regulated channel. South Carolina should allow a range of products broad enough so that patients aren’t driven to the illicit market to get products that can help them.

Finally, markets that only offer a limited range of products often come with very high prices for the products that are available. Without insurance companies willing to include medical cannabis purchases in their drug plans, patients must pay out of pocket. More types of products mean generally better prices for patients.

**S366 does not allow impaired driving.**

The legislation prohibits driving while impaired and states that "[n]othing in this article may be construed to prevent the arrest or prosecution of a qualifying patient for reckless driving or driving under the influence of cannabis if probable cause exists; however, the mere presence of cannabis metabolites shall not automatically deem a person under the influence."

Metabolites refer to compounds contained in cannabis that can show in a person’s blood system for days or even weeks after consumption – long after the effects have worn off – and not active THC, which could be present. Detection of *active* THC, in addition to the indicators law enforcement officers look for in DUI cases, would still be available to law enforcement, as they are in prosecutions in any drug-based DUI claim.

Law enforcement, as they do with other drugs, must show that a person was under the influence while driving, and there are several tools with which it can be shown. One is to show impairment using field sobriety tests or other indicators that a person was under the influence of cannabis. In some cases, a Drug Recognition Expert is called in to evaluate a suspect. Currently, there is no test for impairment as there is in an alcohol-based DUI case. Alcohol is unique in how it is detected, and drugs – including prescription drugs – cannot be detected in the same way. This bill recognizes that the measurement of the metabolized form of THC is not an indicator. In fact, the National Highway Traffic Safety Administration, a federal agency which studies impaired driving, has published reports indicating these tests should not be used because they are inaccurate and would unfairly convict individuals who are not impaired.

Law enforcement would have the same resources available to them when considering impairment through OxyContin or other, more harmful drugs. It is through their DUI-detection training and observations, a possible blood draw to show the presence of active THC, or an evaluation by a Drug Recognition Expert, and mostly likely a combination of these things.

Within the Senate subcommittee hearing, lawmakers expressed interest in providing additional funding to improve impairment testing methods and to offer related training, which we support.

Finally, we should point out that where medical cannabis laws have passed, we generally see a reduction in the number of DUI cases. The studies are not clear on the basis for that reduction, but it is certainly the case that despite fears it could result in more impaired driving, that does not seem to be the case.

**Those who purchase too much would be flagged.**

The concern was raised that some may seek to go over the two ounce limit. The seed-to-sale tracking system would allow the state to monitor purchases across multiple locations for each patient. And as indicated below, we would not oppose a separate system to track purchases if needed.

It should be noted that those who do go over the limit would continue to face the same penalty they do today. And in addition to strict criminal penalties that apply, individuals who seek to exploit the law would lose their ability to participate in the medical cannabis program.

**Local control**

Local government would be able to enact time, manner, and place restrictions, as they do with other lawful businesses. But it is reasonable for patients who wish to be part of a regulatory program to have access no matter where they live in the state, and local communities could not simply close the doors to their patient population.

**Consumption outside a residence**

A concern was raised related to consumption in pubic, or by minors or the homeless. Medical cannabis is used as a rescue medicine for some, and access is important when it is needed. Those who need to stop a seizure would be needlessly homebound by such a restriction out of fear that they might suffer a medical emergency without access to relief. There are not similar limitations with respect to far more dangerous drugs, like opiates, under state law. Smoking in public, which is often the concern, would remain illegal statewide.

**Access for out-of-state visitors**

There should be a way for patients visiting the state to lawfully obtain medical cannabis, which is illegal to transport across state lines. Those with conditions that qualify under South Carolina’s law and who are out-of-state card holders, should have access – particularly those who are visiting family or loved ones over holidays.

**Areas where we support changes or clarification**

* While we believe the prospect of abuse is very limited, we would support a limitation that minors must be accompanied by a parent or guardian to enter a dispensary facility.
* Devices that are designed for smoking such as bongs, pipes, papers, or similar items should be prohibited in medical cannabis dispensaries, since smoking is not allowed.
* The bill already allows for more evaluation for patients with substance abuse disorders than in most other states, but we would not oppose a requirement that at-risk patients be evaluated.
* We believe the language currently in the bill would allow patients to be flagged if they attempt to purchase over the limit. However, we would not oppose language making that clearer, or allowing a separate system that could be used to specifically track purchases.

Thanks again for the opportunity to review and respond to your concerns! Overall, we believe that a well-regulated system is better than none, and we hope you do as well, even if we disagree on aspects of the measure. We are all far better off when we can engage with each other and address concerns together.

Best Regards,

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