

# Mississippi medical marijuana rhetoric intensifies as November vote approaches

*By Geoff Pender*

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Mississippi is poised to legalize medical marijuana, depending on the outcome of a vote this November, but exactly what that will look like is the subject of increasing debate as the Nov. 3 election approaches.

Voters statewide will decide between three choices:

- Approve Initiative 65, for which more than 228,000 Mississippians signed a petition, which opponents say is too permissive and written to help the marijuana industry, not patients.
- Approve Initiative 65A, put forth by the Legislature, which would allow lawmakers to regulate a medical marijuana program, but which opponents say is a rope-a-dope by lawmakers to thwart medical marijuana usage and dilute the vote for Initiative 65.
- Vote against both. But voters who do this can still vote for one of the two initiatives, should one pass.

Supporters and opponents of legalized medical marijuana—including well-known politicians — are dialing up their campaigns. Mississippi would be the 35th state to legalize medical marijuana, although regulations and programs vary widely from state to state. Proponents and opponents point to other states' programs as examples of what to avoid, particularly Oklahoma and Arkansas, which have similar population sizes to Mississippi.

In Oklahoma, more than 342,000 people have medical marijuana patient cards – about one of every 12 residents – and nearly 6,000 growers and 2,087 dispensaries have been licensed, more than in many more populous states. The state’s governor has opined that Oklahoma, for all intents and purposes, has legalized recreational marijuana use with its permissive medical marijuana laws.

By contrast, Arkansas has 32 dispensaries, a handful of growers and strict regulations. Many of the state’s 60,000 patients approved for medical marijuana say they can’t obtain it and dispensaries say growers aren’t supplying enough. Some patients are getting temporary out-of-state licenses from Oklahoma and buying marijuana there. Others, quite likely, are turning to the black market.

In both states, medical marijuana is generating millions of dollars (\$345 million in Oklahoma in 2019) a year in sales, and there is a push now in both states to legalize recreational use.

Opponents say Initiative 65 would leave Mississippi awash in pot and that it lacks thorough regulations or the ability to change or add them. Proponents say the legislative alternative Initiative 65A would effectively prevent sick Mississippians being able to use a treatment helping millions of people in other states.

“Big Marijuana wants to take your money and leave Mississippi families, teachers, health care workers, and law enforcement with the mess they help create,” former Gov. Phil Bryant wrote last week in an op-ed distributed statewide. “...Make no mistake this is about MONEY. They will tell you they just want to help sick people, but they are a predatory industry. They have already fed on the compassion of many other states and now they are selling the same scheme here.”

Jamie Grantham, spokeswoman for Medical Marijuana 2020, said

the reason Initiative 65 is on the ballot is because lawmakers have long failed to help sick people who would benefit from marijuana, and now voters are taking matters in hand. “There is zero reason why people in Mississippi suffering from horrible, incurable conditions such as cancer, seizures, ALS, chronic pain and spinal cord injuries should not be able to benefit from the use of a plant that God made and put on this earth, under the care of their physicians,” Grantham said.

### **Voters support, Legislature has balked**

Angie Calhoun of Puckett said her son, Austin, had been a healthy teen but several years ago, Austin began suffering seizures and extreme joint pain and could not hold down food. Doctors were at a loss – other than believing a bacterial infection, such as Lyme disease, was attacking his autonomic nervous system. Treatments didn’t help and, Calhoun said, “Our son looked like he was dying.”

Eventually, her now-adult son moved out of state so he could use medical marijuana. Calhoun said it has helped, “and he has been able to stop taking 17 other medications.” “If Mississippi would vote for Initiative 65, it would allow Austin to come back to me, come back to Mississippi,” Calhoun said.

Initiative 65 would allow Mississippi physicians to certify patients with more than 20 specific medical conditions, as well as a couple of catch-alls such as chronic or debilitating pain and “another medical condition of the same kind or class” for which a doctor believes medical marijuana would help.

Numerous polls in recent years have shown a majority of Mississippians support legalizing the medical use of marijuana – similar to voter sentiment nationwide, but the state Legislature has balked. More than 20 bills legalizing medical marijuana had been shot down, with none making it to the floors of the House or Senate for a full vote.

Only after Initiative 65 made it to the ballot did the Legislature pass medical marijuana legislation, Initiative 65A. Its alternate amendment would allow only terminally ill patients to smoke marijuana and otherwise require pharmaceutical-grade products and strict oversight by physicians, nurses, and pharmacists. It would leave tax rates, possession limits, and other details up to the Legislature.

Some opponents of Initiative 65 acknowledge voter compassion for those who might benefit from therapeutic use of marijuana, but they say the devil is in the details of the proposed amendment and that it would create major problems.

Mississippi doctors and medical officials appear divided. Initiative 65's more than 70-member steering committee includes many doctors and health advocates that support it, but the politically-appointed State Board of Health – which would be tasked with regulating the marijuana program and overseeing the Health Department's running of it – has passed a resolution opposing Initiative 65.

### **'Never been a product in the constitution'**

Opponents of Initiative 65 say that putting medical marijuana into the constitution would make it difficult for elected officials to make future changes to the program without having to go back before voters in statewide referendum.

"There has never been a product in the constitution," said Ed Langton, a Hattiesburg businessman and Board of Health member. "Call it medical marijuana, call it medical ice cream – putting medical in the name doesn't make it medical unless it's truly a medical product. Some of my friends are for medical marijuana and some are against it. I'm for my friends but no matter which side you are on, you need to read the (Initiative 65) amendment, not just listen to soundbites and snippets. You need to understand the complications and consequences that will result if we pass this. This is not the

amendment to vote for.”

Board of Health member Jim Perry said: “There’s a reason why Initiative 65 would put into the state constitution such liberal rules for the sale of marijuana, with extremely low fees, and a prohibition on reasonable restrictions on where it’s sold. It’s because Initiative 65 was written for proponents of the marijuana industry, which wants to sell as much of their drug to as many people as possible.

“If Initiative 65 passes, the board and Department of Health will do our best to implement what is required by the state constitution,” Perry said, “but we believe a more effective program for patients and communities is one that could be adjusted as we learn more about marijuana as more research is done and as federal laws may or may not change.”

Enshrining the program in the state constitution will ensure it gets rolling, proponents said, and have doctors and patients, not politicians, deciding on treatment.

### **Health Department would become taxing authority**

Taxpayers wouldn’t have to foot the bill for Initiative 65, but neither would state tax coffers benefit. The constitutional amendment would have fees collected by the Health Department be used to run the medical marijuana program, and would prohibit any of the revenue from going into the state’s general fund.

The amendment would allow three sources of revenue for the Health Department to use for the program:

- An assessment up to the state’s sales tax rate on final sale of marijuana.
- Fees up to \$50 for identification cards.
- “Reasonable” fees for dispensaries.

Opponents – including the Board of Health – say this would make the Health Department, run by non-elected officials, a taxing and spending authority without legislative oversight. Any money collected above the cost of the program would, apparently, sit in a Health Department account and couldn't be used for schools, health care, roads, or other services. "None of that money would be going back to cities or counties or anywhere," Langton said.

Another issue – one that has come up in other states – is that medical marijuana is primarily a cash retail business. Since marijuana is still federally illegal, banks are leery of handling the money and insurance companies won't cover its purchase.

"How to manage a cash-only business for a product that is illegal under federal law is just one of the many problems that would come about if Initiative 65 is put into the constitution," Perry said. "Yes, there are real issues in complying with money laundering and other statutes that govern banks, and real issues with the marijuana industry... I don't know how the Department of Health would deal with that, but we would be required to do so."

Initiative 65 supporters say having the Health Department set fees and collect money without relying on legislative appropriations will create a sustainable and self-funded program. Spence Flatgard, an attorney for Medical Marijuana 2020, said the cash and banking issues have been overcome in other states, and state-chartered banks can deal with the industry.

Perry said he believes Initiative 65 would "effectively legalize marijuana for those who are rich enough and well-connected enough to take advantage of it," and leave those of modest means to buy it on the streets. "If you have access to a doctor, and can pay for a certificate, and if you can pay cash at a pot shop charging 20% to 40% more than on a street

corner, and you are not living in public housing (where it is forbidden by federal law), then yes, you can have your marijuana and it be legal," Perry said.

### **'Leave it to doctors, not politicians'**

Opponents say Initiative 65 is too liberal with what patients could be certified to use marijuana and with the amount they can purchase. They also say the amendment not restricting the number of dispensaries could result in pot shops on every corner, and that the amendment would supersede local zoning laws.

Certified patients could purchase up to 2.5 ounces of marijuana every 14 days under Initiative 65. Some state law enforcement leaders have said that is an amount large enough to ensure some or much of the medical marijuana gets sold on the streets by patients. Madison County Sheriff Randy Tucker is among state law officers vocally opposed to Initiative 65, and he warned at a recent press conference, "We are fixing to open Pandora's box.

"Law enforcement is overburdened already, pushed to the limit with manpower, and resources as it is," Tucker said. "I've got constituents on both sides of this, friends on both sides. I'm not here to talk about the medical part of it – I'm not a doctor... What I will tell you about is the law enforcement side of it. It will be highly abused." He warned that people should prepare to see petty crimes, violent crimes and DUI deaths increase if the initiative passes.

Proponents said Initiative 65's allowance of 2.5 ounces every two weeks is in line with – or even lower than – limits in other states with legal medical marijuana. Arkansas' limit is the same as proposed in the initiative. Oklahoma allows for possession of up to three ounces at any given time. California allows possession of up to eight ounces and Oregon allows up to 24 ounces.

Under Initiative 65, the Health Department would license and regulate dispensaries or "treatment centers." No dispensary could be located within 500 feet of a school, church, or child care center but local zoning ordinances, the amendment says, cannot be any more restrictive on dispensaries than they are on pharmacies and, "shall not impair the availability of and reasonable access to medical marijuana."

"This would prohibit any mayor or city council from putting in place normal and standard zoning restrictions about where dispensaries, growers, cultivators, where they operate," Perry said. "...It's absolutely possible and probable that a dispensary could locate across the street from a home, and there would be nothing that family or community leaders could do about it because it's protected by the state constitution."

"They are saying there will be pot shops on every corner. I don't want that, either," Grantham said. "The same free-market system that prevents communities from having more drug stores, grocery stores, or retail space than they can support will be at play here." Grantham said that other states with strict limits on dispensaries and programs, such as in Arkansas, have seen "delays, lawsuits, and monopolies." As for some of the language in the amendment on what patients can be treated with medical marijuana, Flatgard said it was drafted after careful study of other states and in consultation with physicians. "We'll leave that to doctors, not politicians," Flatgard said.

In a written statement early this year, the state Board of Health said: "Don't be fooled, this proposal is not about medicine, and it's not about parents with cancer or kids with epilepsy... On Nov. 3, we urge you to vote no on (Initiative 65)."

In a rebuttal to the board written by seven doctors, they said the board and other opponents are relying on "misinformation and outdated arguments" in their opposition to Initiative 65. "While medical marijuana is not a cure-all, Mississippians



with debilitating medical conditions deserve to have this option available to them,” the doctors’ statement said. “The experiences in 34 other states show that it can be effective, and we believe the benefits of medical marijuana make it a viable treatment option for many in our state who are suffering. The medical marijuana initiative is absolutely about medicine.”



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