



**Kerri Evelyn Harris**  
*Majority Whip*  
STATE REPRESENTATIVE  
32<sup>nd</sup> District

HOUSE OF REPRESENTATIVES  
STATE OF DELAWARE  
411 LEGISLATIVE AVENUE  
DOVER, DELAWARE 19901

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Administration, Vice-Chair  
Ethics, Vice-Chair  
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Legislative Council  
Natural Resources & Energy  
Transportation  
Veterans Affairs

## **House Health & Human Development Committee Meeting Minutes**

1.10.2024

*House Committee Recording*

Chair Harris called the meeting to order at 10:06 a.m.

Members present:

Rep. Harris, Chair

Rep. Morrison, Vice-Chair

Rep. Baumbach

Rep. Chukwuocha

Rep. Heffernan

Rep. Johnson

Rep. Neal

Rep. Parker Selby

Rep. Romer

Rep. Jones Giltner

Rep. Hilovsky

Rep. Postles

Rep. Smith

Rep. Osienski was also in attendance

Chair Harris introduced **HB 268 AN ACT TO AMEND TITLE 31 OF THE DELAWARE CODE RELATING TO ANNUAL BEHAVIORAL HEALTH WELL CHECKS.** *Time Stamp: 10:08*

Sponsored by Rep. Longhurst, House Bill No. 303, with House Amendment No. 2, from the 151<sup>st</sup> General Assembly created an annual behavioral health well check and required carriers to provide coverage for this service. HB 303 required carriers to reimburse through the common

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procedural technology (CPT) codes. This Act amends Title 31 of the Delaware Code to allow the Division of Medicaid and Medical Assistance (DMMA) to develop and implement new billing codes for a behavioral health well check. These developed codes must be comparable to the reimbursement rates under the cited CPT codes (99381-99387, 99391-99397).

Chair Harris opened the floor for public comment. *Time Stamp: 10:10*

Members of the public who voiced support of the bill included Robert Overmiller and Drew Wilson.

A motion was made by Rep. Baumbach and seconded by Rep. Neal to release HB 268 from committee; motion carried. Yes = 12 (Baumbach, Chukwuocha, Harris, Heffernan, Johnson, Jones Giltner, Morrison, Neal, Parker Selby, Postles, Romer, Smith); No = 0; Absent = 4 (Hensley, Hilovsky, Minor-Brown, Shupe). The bill was released from committee with a F=6, M=6, U=0 vote.

Chair Harris introduced **HB 285 AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE RELATING TO MEDICAL MARIJUANA.** *Time Stamp: 10:17*

This Act, sponsored by Rep. Osienski, amends the Delaware Medical Marijuana Act by removing the requirement that a patient have a debilitating medical condition to qualify for a registry identification card, instead allowing health-care providers to make the determination of whether a patient has a diagnosed medical condition for which the patient would receive therapeutic or palliative benefit from the use of medical marijuana. This Act allows patients aged 65 and older to self-certify their qualification for a registry identification card without a written certification from a health-care provider. This Act authorizes the Department to issue registry identification cards with 1-, 2-, or 3-year expiration dates. It also requires the issuance of a registry identification card with an indefinite expiration date where the qualifying patient has a terminal illness. This Act allows individuals with out-of-state registry identification cards or equivalent certifications who would qualify for a registry identification card in this State to use those cards or certifications for any purpose for which the person would be authorized to use a registry identification card issued under this chapter.

Rep. Osienski introduced Medical Director Joe Schlimer, Marijuana Commissioner Robert Coupe, and Deputy Marijuana Commissioner Paul Hyland as experts brought in to answer questions.

Rep. Postles asked for clarification regarding the first strike through on page 1 lines 5 through 7 on if the elimination of “CBD rich” from the Delaware code would change the level of THC available. Rep. Osienski answered that this section was struck through because state code had

previously allowed people with anything other than the list of debilitating illnesses required to obtain a medical marijuana card to be able to get a CBD Rich Card or Compassion Care Card. This section would be struck from the code as patients would be able to obtain a medical marijuana card for illnesses not on the list. Deputy Marijuana Commissioner Paul Hyland stated that the bill would not change the access or concentration of CBD rich products.

Rep. Hilovsky asked why there was an exemption from getting a doctor's approval for those aged 65 and above, citing the reduced reaction time and decreased hearing, taste, and smell often found in this age group. Rep. Osienski answered that the exemption aims to remove financial barriers that people aged 65 years and up may have from costs of doctor's visits for diagnoses and the 15 percent sales tax on recreational marijuana sales. Rep. Osienski stated that there is no federally funded research on the effects of cannabis use in persons aged 65 and older nor is there medical data on whom in this age group should be prescribed cannabis. The recommendation for every age group is to start with small doses and slowly increase the dosage.

Rep. Romer asked where the provision that persons aged 65 and older are exempt from getting a doctors approval came from and if any other states have similar provisions. Rep. Osienski stated that in conversations with the commissioners it was revealed that the population of persons 65 years and older experience cost restrictions to obtaining a medical marijuana card.

Rep. Jones Giltner asked why there was a delineation between persons below the age of 65 and those 65 years or older and why there was an assumption that this age group would have a therapeutic need for marijuana. Rep. Osienski answered that people would not apply for the medical marijuana card if they did not have a therapeutic need that a medical marijuana card would benefit.

Rep. Jones Giltner asked how they would prevent the abuse of medical marijuana cards. Rep. Osienski answered that they would not need guardrails because by the time this legislation would take effect, the legalization of recreational marijuana use in Delaware will be in place.

Rep. Chukwuocha asked about any unintended consequences of this bill, citing the landmark D.C. case of marijuana smoke drifting in a senior residential facility, and noting this as a frequent issue in the senior living facilities in his district. Rep. Osienski answered that medical marijuana comes in multiple forms that are not smoke and they could advise constituents to use another product. Rep. Osienski stated that issues would be addressed on a case-by-case basis.

Rep. Smith asked what the current labeled conditions that persons aged 65 years and older have that would make the provision a reasonable request. Deputy Marijuana Commissioner Paul Hyland stated that of the approximately 5000 patients aged 65 and up that use medical marijuana

in Delaware, the most common conditions are pain, post-traumatic stress disorder (PTSD), cancer, and multiple sclerosis (MS).

Chair Harris opened the floor for public comment. *Time Stamp: 10:45*

Members of the public who voiced support of the bill included Robert Overmiller, Lizzie Golob, Wayne Packard, Zoë Patchell, Jen Stark, Mark Lally, and Emily Wilkins.

A motion was made by Rep. Baumbach and seconded by Rep. Heffernan to release HB 285 from committee; motion carried. Yes = 9 (Baumbach, Chukwuocha, Harris, Heffernan, Johnson, Morrison, Neal, Parker Selby, Romer); No = 3 (Jones Giltner, Hilovsky, Postles); Not voting = 1 (Smith); Absent = 3 (Hensley, Minor-Brown, Shupe). The bill was released from committee with a F=6, M=5, U=0 vote.

Chair Harris adjourned the meeting at 11:01 a.m.

Respectfully submitted by:

Anna Squiers

#### **Attendance List**

- Lizzie Golob, DENORML
- Wayne Packard, DECAV/DENORML
- Drew Wilson, Director of the Division of Medicaid and Medical Assistance
- Zoë Patchell, Executive Director and Co-Chair of the Delaware Cannabis Advocacy Network (DE CAN)
- Jen Stark, DCIA/CEO and Co-Owner of the Farm Medical Cannabis Company
- Mark Lally, President and CEO of First Aid Compassion Center (FSC)
- Emily Wilkins, Vice President of FSC
- Robert Overmiller

As a senior who will turn 80 this year, I get significant relief from arthritis and insomnia by using cannabis. I don't like to drive at night, so edible weed gives me great recreational pleasure while watching films, reading poetry, listening to music, and then enjoying a restful sleep. As well, a friend of mine died a couple of years ago from cancer, and cannabis was key to gentling his transition and making it peaceful.

Additionally, I don't need the Nanny state telling me what to do or putting me through bureaucratic loopholes and unnecessary expenses to get relief. I particularly resent the way the state puts seniors in legal jeopardy since we have to get cannabis through illegitimate sources or by crossing state lines where the jeopardy is from the sluggish and arbitrary federal bureaucracy. You can stop making a federal case out of it by passing this resolution.

So, let's lift the state's bureaucratic torments for those seeking a little well-being and pleasure and Pass HB 285.

Thank you.

Respectfully,

Phillip Bannowsky

To: Members of the Delaware House Health & Human Development Committee

From: Paul Armentano, Deputy Director, National Organization for the Reform of Marijuana Laws (NORML): Washington, DC

RE: Support for HB 285 (Providing physicians with greater discretion to authorize medical Cannabis products to their patients)

Distinguished members of the Committee,

I have worked professionally in the field of marijuana policy for nearly 30 years, and I am currently the Deputy Director of NORML – the National Organization for the Reform of Marijuana Laws, a public interest advocacy organization based in Washington, DC.

During my professional career, I have authored several books on the science surrounding the impact of cannabis on health and my writing has been featured in over two dozen academic anthologies. One of these books, *Clinical Applications for Cannabis & Cannabinoids*, summarizes over 450 peer-reviewed studies specific to the efficacy of cannabis/cannabinoids in more than two dozen different patient populations. Editions of this book have been translated and published internationally.

My familiarity with this literature, in addition to the three decades I have spent interacting with medical cannabis patients, leads me to support the advancement of HB 285.

Physicians already possess the sole discretion to either recommend and/or prescribe other medications, like opioids, many of which pose far greater risks to health than does marijuana. It is appropriate that doctors possess the same freedom to make medical cannabis-related decisions as they do when choosing to authorize other therapeutic options for their patients.

A patient's treatment options should not be limited by the government, but rather, they should be determined in confidence between that patient and their doctor.

For your convenience, I have enclosed my entire testimony and footnotes as both text and as a word document below my signature. Please do not hesitate to reach out to me directly with any questions or concerns. I'd be more than happy to address them.

Sincerely,

Paul Armentano  
Deputy Director  
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paul@norml.org <mailto:paul@norml.org>  
703-606-7539 (cell)  
January 10, 2024