

Americans for Safe Access Supports HB 1479 With Amendments

Introduction

Thank you to Chairman Vallario and the members of the House Judiciary Committee for holding this hearing today on Delegate Young's HB 1479. Americans for Safe Access (ASA) is the nation's largest membership-based organization working exclusively on advancing safe and legal access to cannabis for patients and researchers.

ASA strongly supports passage of HB 1479, but asks that it be amended so that it better protects the patients it is designed to help. This bill is a necessary stopgap protection to ensure that patients will no longer have to live in fear of arrest for possession and use of a 30-day supply of medicine if they are registered and have a valid written certification from their physician. Making sure that registered patients in Maryland are no longer subject to arrest is consistent with the spirit of the state's medical cannabis program.

Why HB 1479 is Necessary

Protection from arrest is one of the cornerstones of any medical cannabis program. While the Maryland program does provide arrest protection for registered patients whose medicine is acquired from dispensary licensed by the Natalie M. LaPrade Medical Cannabis Commission, the reality is that dispensaries are not expected to open until sometime in 2017. No patient should have to wait several months or more without legally being able to possess a 30-day supply of medicine. For the patient today who has a stage 4 cancer diagnosis, cannabis may be the only thing that makes it possible for them to live to see 2017.

This bill is a common sense stop gap approach while the Commission does its work award cultivation and dispensing licenses to the most qualified parties. HB 1471 only would protect registered qualifying patients and their caregivers for possession and patient-use of cannabis during the period before dispensaries open up. This provides at least two benefits.

First, it means the end of arrests for patients in possession of 30-day supply. If a patient today is caught with a cannabis, they might find some legal protection through the general cannabis decriminalization or the affirmative defense. However, these protections respectively only offer protection for a 2 ½-day supply and a 7-day supply, and both of have potential adverse consequences. The decriminalization protection includes costly fines, while the affirmative defense protection requires that the patient must suffer an arrest and then incur the expense of finding an attorney who is skilled enough to apply the defense. Additionally, arrest can lead to a loss of job or other benefits that a patient may rely upon. To put it bluntly, these limited protections have serious side effects.

Second, the mechanism serves as something of a motivating force for both the Commission and local governments to help the swift and thorough implementation of the

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program. The ideal place for Maryland patients to acquire their medicine is a state-licensed dispensary, and this bill serves as a check against bureaucratic delays. We've seen some local governments work against safe and legal access, and this bill puts pressure on them to encourage dispensaries to open their doors to patients.

This leads to the question of where patients will obtain their medicine under this stop-gap. Patients would have the option to purchase medicine from medical dispensaries in Maine or Nevada, which are the two jurisdictions that sell to out-of-state registered patients with ID cards from their home state. However, there is a medical cannabis reciprocity bill before the Council of the District of Columbia that we are hopeful will pass and be signed into law this year.

The other source of cannabis that patients could potentially utilize is the same source that many patients are currently acquiring the medicine, the unregulated market. While this is suboptimal in an ideal world, patients having to wait until 2017 is also not ideal. One thing that we should all agree is that patients using cannabis under the supervision of their physician should not be arrested, regardless of the source. If this bill became more limited through amendments by requiring patients to only acquire their cannabis from another state-licensed dispensary, only the most affluent and ambulatory of patients would be able to take advantage of the protection.

Moreover, this bill does not protect those who illegally sell cannabis. The protection is solely limited to medical use (patient or caregiver possession of up to a 30-day supply and patient-use), the selling or cultivation of cannabis is still fully arrestable and prosecutable under Maryland. Therefore, it would be false to characterize this bill as some sort of protection for nefarious activity as non-medical use is still completely illegal.

Suggestions for Improvement

While ASA strongly supports the bill in its introduced form, we think some modifications would improve it from a practical standpoint. We suggest the following changes, beginning by striking from the colon on page 2, line 32 through the end of the bill and inserting the following:

, until 30 calendar days after such time as the Commission, or its Executive Director, provides written notice to qualifying patients and caregivers that at least ten licensed dispensaries are distributing medical cannabis to qualifying patients:

(1) to the mailing address for each qualifying patient and caregiver in the registry; and

(2) posted in a conspicuous location to the homepage of the Natalie M. LaPrade Medical Cannabis Commission website.

This will make sure that patients are given ample notice to either exhaust or dispose of any medicine that have acquired while waiting for dispensaries to open up. Giving patients 30 days' notice provides a short but necessary transition window that will help ensure that patient don't arrested because they have non-Maryland licensed medical cannabis. Because of the price of cannabis, a patient who acquires a 30-day supply of

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medicine on the first of the month shouldn't have to throw that supply away on the 2nd of the month if that happens to be when the Commission provides notice.

Additionally, patients need to receive actual copies of the notice. Thankfully, the patient registration process ensures that the Commission has up to date contact information and can easily send written notice up on the opening of the tenth dispensary. Notice should also be provided on the Commission website, as that is the clearinghouse for all official medical cannabis information in the state.

Conclusion

We believe that it is imperative that patients be protected regardless of the source of medicine during this time. This bill provides a good combination of compassionate protection with common sense boundaries. We urge the Judiciary Committee to give a favorable report to the bill and our supporting amendments.

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