

Bill Presentation and Testimony in Support of HB 1478

By Representative Mary Schneider

Senate Human Services Committee, Judy Lee, Chair

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Chairman Lee and Members of the Human Services Committee:

House Bill 1478 was just a little bill when it started and is much smaller now. I do not know if it will help a lot of people, but it could help some very vulnerable people who need some support.

HB 1478 originally would have allowed an individual over 65 the option to use a form developed by the Department of Human Services Division of Medical Marijuana (Division), with the verifications and information the Division needs, to establish their debilitating condition and eligibility for medical marijuana without necessarily having to go through the traditional medical certification process. It's similar in nature to the process currently in the law for veterans.

Veterans using Veterans Administration doctors had trouble getting medically certified because their doctors work for the federal government, and marijuana, even medical marijuana, is illegal under federal law.

Well, some older persons ran into similar barriers plus those created by advanced age and infirmity.

I was told by two elderly constituents that their doctors would not certify them because their visits were on Medicare, a federal program. Now that is probably an erroneous position, but it did happen because the person was elderly. Neither had another doctor, or private insurance, so gave up. Both had serious and obviously debilitating conditions that would have been well-documented in medical records, but when their doctors declined to certify them, they quit rather than fight the decision.

That position of the medical providers may have been from Center for Medicaid Services (CMS) policy that finds federally illegal medical marijuana non-reimbursable, or from something else entirely. And other doctors have other reasons for not assisting their patients with medical marijuana. I have not once heard expressed a concern for the medical health, drug interactions, or the welfare of patients, but have heard fairly consistently from doctors that it's against their health system's policy or their employer's administration has discouraged it.

If turned down, an older, debilitated person may not be able to get another doctor because of distance, expense, or unavailability. And although such barriers are not unique to people in their sixties, seventies, or eighties, they may happen more frequently to them, and may be more difficult for them to overcome.

There are other aging factors that present additional barriers for elders, too, that justified treating the elderly differently. They may have issues with technology—not having it, or not knowing how to use it, or neurologically being confused by it. There may be poverty issues, transportation issues, or isolation that make it more difficult to get certified.

Let me give you a recent example, I know too well. This man was 74, and was my husband, Mark. I was his caretaker. By the time he thought medical marijuana would be worth serious use for his cancer pain, he was already sick. He had stage 4 metastasized urothelial cancer and was terminal. Although he'd been a brilliant attorney, he couldn't have used the computer adequately or gotten through the application process because his focus and concentration were undermined by pain and heavy doses of fentanyl and morphine.

Even though he frequently saw various doctors in a large medical health system, that system discouraged certification by its medical personnel, so those medical professionals weren't able or willing to do the medical certification. A blindfolded person, however, could have reached into his huge medical record and pulled out a page that would have documented his condition. Nevertheless, he had to find someone else to certify him for medical marijuana.

Mark had gone in the past to another clinic where he'd had a general practitioner who had no problem certifying generally, but that doctor had just left the clinic where he'd practiced for years. Mark said any doctor would do, but the clinic policy had changed, and the clinic no longer allowed their doctors to certify. It took almost two months for Mark's longtime GP to get settled in his new clinic, change his Medical Marijuana information, get a new email, and get ready to see patients. But then Mark had to make an appointment "to establish a relationship" with the new clinic. Mark was really too sick to go by the time he was scheduled but wanted to attend the appointment anyway. Mark was least uncomfortable lying flat, so the trip by car and in a wheelchair caused him terrible pain. The certification visit was excruciating, with his tumors pushing on his spine as he sat moaning in the waiting room. The doctor took a quick look at him, said of course he would complete the certification, and immediately sent him home. All that torture and misery could have been avoided with this bill in any of its forms.

The approval process at the North Dakota Division of Medical Marijuana, after the doctor's paperwork was filed, was blessedly smooth, and the effects of the medical marijuana amazing. Mark was two months from dying at that point, on Hospice at home, and on heavy doses of both Fentanyl patches and morphine. But strangely, when he needed relief from unbearable levels of pain, the medical marijuana often gave him the best relief. In addition, Mark had stopped eating, and after his first use of medical marijuana, he shocked us all by saying, "Hey, what's for dinner?"

I don't use any drugs or marijuana, and I don't know why it worked for severe cancer pain or why it improved appetite, but I would want for others the assistance that medical marijuana gave Mark. He could have had several more months with less suffering if this bill had been law

because someone in the Division, in this building, would have looked at him, or any part of his record, and would have known he was eligible. After I proposed this bill, others in the House shared their difficulties with medical certification requirements. Representative Henderson said I could share that her mother died before the family could get her through the process.

HB 1478 as amended just respects the Division's ability to determine eligibility for some dying elderly people without making them jump through hoops they can't negotiate. And the Division will have the authority to require medical or other verification as needed.

I wish I could say this is a novel idea, but it is not. Other places are even more accepting and accommodating when it comes to helping seniors access medical marijuana when appropriate. Last February, for example, the Mayor of Washington, D.C., signed an act changing the District's medical marijuana law, "to ease registration burdens for seniors entering or remaining in the program." He said, "The recent act permits D.C. residents 65 years of age and older to **self-certify** that they will use cannabis for medical purposes, in lieu of including a recommendation from their healthcare practitioner with their registration application, as is required for all other applicants." Expressed another way, they take a senior's word for it.

This bill doesn't go that far, but will allow Hospice patients, and some of their caregivers, through barriers that might otherwise cause them to fail in getting help, getting relief from pain. The Division has the professionalism, experience, and expertise to certify them without the hassles, if that is warranted. I trust them, and I trust our North Dakota elders, and I think you can, too. Please give HB 1478 a chance to do some good.