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COVER

NYS ASSEMBLY PASSES MEDICAL MARIJUANA BILL; OPPOSITIONERS, ADVOCATES PUSH FORWARD

By Lisa Dumas

The New York State Assembly Tuesday passed a bill legalizing medical marijuana. The vote came in the wake of the State Senate's Health Committee's 9-8 vote last week on the measure.

Next, the bill will head to the Senate's Finance Committee, and, should it pass, could end up in a full-floor vote in the Senate by the end of next month.

In the past few months, neither the advocates of the legislation nor those in opposition to the bill have been shy about their positions on the matter, and Rochester's constituents have been no exception.

Sen. Diane Savino (D-Staten Island), sponsor of the Compassionate Care Act, said she recently revised the legislation in hopes that it would pass in the more-conservative Senate as easily as it had in the heavily-Democratic Assembly. Under the bill's new version, the conditions for which medical marijuana could be prescribed have been limited, there has been a proposed advisory board to consider the expansion or reduction of the list, and no one under 21 would be allowed to smoke the drug for medical purposes.

Savino said the revised bill would implement the "tightest, most regulated system in the nation."

But, according to Jennifer Faringer, director of DePaul's National Council on Alcoholism and Drug Dependence in the Rochester area, although advocates of the bill have placed tighter restrictions on the legislation, she's not sure whether the guidelines will be strict enough.

"They're working hard to jump the gun on what the governor's proposed," Faringer stated. "He's proposed a more measured response. We want a compassionate response, but let's do it responsibly. Let's do it in a way so that we don't create more addicts."

Earlier this year, Gov. Andrew Cuomo changed his position on the legislation, and proposed a more limited medical marijuana research program; one

in which he said 20 hospitals would dispense marijuana to patients with debilitating or life-threatening illnesses.

In addition, Faringer said medical marijuana still needs to go through an evaluation process, and, according to Faringer; it's a stretch to call a substance that hasn't even been approved by the Federal Drug Administration, "medical," especially when it comes to smoking marijuana.

"We are for scientific FDA approval," she stated. "Scientific approval, we are for that 100 percent. With smokable marijuana that you get in a dispensary, and not in a pharmacy, there's no ability to regulate. The FDA is the only process by which any medication is approved, and if we cut out that piece of it, we don't assure consumers of risk and dosage."

Faringer said she is not against the use of medical marijuana in FDA-approved forms of the medication, including the oral drug Marinol, and another soon-to-be-released oral spray called Savitol.

However, she said the difference between those medications and smoking pot is that they do not have the high Tetrahydrocannabinol, or THC, content, which is the main psychoactive ingredient in smokable marijuana.

"We want more of the approved medications," Faringer stated. "There are good applications, if pain medications are prescribed and appropriately monitored. In some states, where they have approved medical marijuana, and I'm talking about the smokable form as medicine, California is one; I don't really think they understood what they were approving."

Due to California's highly-criticized medical marijuana program, lawmakers introduced legislation in April to impose additional restrictions on the measure, which has been legal in the state since 1996.

According to Faringer, many patients, such as those in Calif. and other medical marijuana states, usually receive their

medication from dispensaries instead of pharmacies, and they receive it based on doctor "recommendations," instead of actual prescriptions. In addition, she said the physicians who recommend marijuana in those states normally screen a patient's history so briefly, you can do it online.

"They're doing 10-minute histories, and writing these recommendations, because it doesn't carry the weight of a prescription," she stated.

Additionally, Faringer said the real reason politicians have been pushing to legalize medical marijuana in New York has been less about helping patients, and more about making money.

"I think the approval rate is so high because of the misinformation," she stated. "It's a very well-funded approval campaign. It's all about politics, and it's all about the money. So, a state that's in trouble tax-wise; they look for ways to beef up their tax fund. What they don't take into consideration is the increased number of addicts, and the cost to society."

However, on the contrary, Sen. Ted O'Brien (D-Irondequoit), a committee member who voted in support of the bill, said medical marijuana would only provide a small amount of tax revenue for the state.

"There are provisions that could give some relatively small percentage back to the state," O'Brien stated. "But, if it were all about money, there would be a lot fewer limitations on medical marijuana than there are in this bill. We're not talking about the kind of free-for-all we're seeing in Colorado. It's not legislation for recreational purposes. So, our use in New York is going to be very limited."

Under the current bill, New York would receive seven percent in sales tax from each sale of medical marijuana.

In addition, O'Brien said, although he initially also had reservations about the bill, he now realizes the potential for medical marijuana to be used as a medication for patients' pain.

Consequently, he said he now supports

the legislation.

"I do think that FDA approval makes a lot of sense," O'Brien stated. "In this case, I was not a supporter of the Compassionate Care Act for a long time, because I was afraid that creating the impression that smoking was good for you created a problem. I thought that the delivery system of smoking wasn't the best way. I was unsure about that, until we had enough controls in the language of the bill. Having to register with the health department I think is an important control. Having to be certified by a physician is an important control. Also, the latest version of the bill does prohibit physicians to prescribe smoking to someone 21 years or younger. So, vaporization would be allowed for someone under 21. These controls are probably not perfect, but, at some point, if you do believe that some people are suffering right now, and that suffering could be alleviated; we should get the bill passed now, and amend it later."

O'Brien said he had been persuaded, in part, by advocates from the Breast Cancer Coalition of Rochester. Advocates from the organization have cited medical marijuana as being useful for treating illnesses such as cancer, by curbing side effects from chemotherapy such as nausea.

Holly Anderson, executive director of the Breast Cancer Coalition of Rochester, said it's important to give patients the option to use medical marijuana to treat their illnesses. And, according to Anderson, although medical marijuana has not currently been approved by the FDA, that doesn't mean it's not safe.

"Unfortunately, the FDA process, especially in regards to medical marijuana, has been politicized in ways that have made the normal route of medication approval impossible," Anderson stated. "That anyone would be specifically concerned with smokable marijuana is bewildering. Marijuana in any form has not gone through the FDA approval process. Additionally, claims that FDA approval protects patients are false. FDA approval does not guarantee the safety of any medication, and

there is substantial evidence to demonstrate that marijuana can be safely regulated, even absent the involvement of the FDA. Many FDA-approved medications, like opioids, are dangerous and responsible for thousands of deaths each year. Moreover, the FDA has, on numerous occasions, approved a medication, only to later pull it because it was found to be unsafe. For example, there's Vioxx. Medical marijuana, in contrast, is relatively safe and has no known lethal dose. Concerns about safety can best be addressed by ensuring that patients have access to education and information about the potential risks and benefits of a medication, regardless of how it is administered. That's something that cannot happen if medical marijuana remains illegal. How marijuana is administered, whether by smoking, vaporizer, tincture, oil, patch, ointment, etc., is best determined by a patient's care provider. There are different methods of delivery for this medication. The appropriate route is best determined by a patient's care provider."

Anderson also said New York state's law would be more heavily-regulated than the California law, and patients would first have to be certified by their healthcare provider in order to receive medical marijuana.

"To become eligible to receive medical marijuana, patients must be certified by a healthcare practitioner who is licensed to prescribe controlled substances, i.e., a physician, physician's assistant, or nurse practitioner," she stated. "The certification lasts for a year, and then has to be renewed. Patients with a terminal illness can receive a certification that lasts until the end of their lives. The New York proposal was drafted with careful, strict controls. Under tight regulation, a patient who has been certified by a physician to use medical marijuana would register with the New York State Department of Health (DOH), and receive a patient identification card that has the patient's name, photo, date of certification and its expiration, and physician's contact information. The DOH can charge a reasonable fee for registration. Specially-approved organizations such as hospitals, designated nonprofits, or for-profit businesses would dispense the marijuana to registered patients, under DOH supervision. Actual pharmacies are absolutely included."

In addition, Anderson said there has been no conclusive evidence to support the fact that smoking marijuana may be a "gateway" method to using other drugs, or that it will create an increased number of people who abuse the drug, particularly among youth.

"Research simply does not support the gateway theory, or the notion that marijuana use, especially among youth, leads to the use of other substances," Anderson stated. "Because marijuana is the most widely-used illicit substance, were the gateway theory true, we would expect to see many more users of other illicit



substances than we do."

However, Faringer said, that's simply not the case.

"Addiction has gone up, and will go up significantly if this is approved in New York state," Faringer stated. "We just need to look at states that have done that. Look at California, look at Washington."

And, when it comes to whether New York is on the road to the eventual legalization of marijuana, Faringer said, if that were to happen, the outcome wouldn't be good.

"If we say we're in favor of legalization, there's a difference between legalization and decriminalization," she stated. "New York has already decriminalized marijuana. It's like getting a traffic ticket. But, with legalization, there are no limitations. So, total legalization is not a good idea. Relative to decriminalization, you don't lock people up. You get the addict help. You get them in treatment."

O'Brien said he doesn't think passing Savino's bill will bring New York anywhere near the full legalization of marijuana in the future.

"I don't think so," he stated. "I don't think this is the beginning of a broader legalization. We have no assurance that it will even get to the floor for a vote. But, I don't think that, certainly for me, that there would be support for any greater expansion of the legalization of marijuana use other than for medical purposes."

As for Anderson, amidst rumors that the legislation may not make it through the Finance Committee, she said she plans to be present for the vote.

"Though the Compassionate Care Act was passed by the Senate Health Committee, comments made by Senators Hannon and Golden during the meeting were deeply disturbing," she stated. "Sen. Hannon alluded to a behind-the-scenes maneuver by Gov. Cuomo that would derail this legislation, a move Sen. Hannon supports. Back-room political maneuvers are never a good idea

when constituents, including patients who are suffering, and their advocates, believe so earnestly in the Democratic process. The next step for the Compassionate Care Act is to be heard in the Senate Finance Committee. We will be there."

Faringer said she plans to continue to stay at the forefront of the matter as well.

"We cannot assume that its very narrow passage in the Health Committee means it will necessarily

pass the Finance Committee, nor the full Senate vote," she stated. "We will continue to spread the word to help legislators, and the public, to better understand the conversation, and the risks around non-FDA approved medical marijuana."

Savino has said she has at least 39 votes in support of the measure in the Senate.

Twenty-one states have legalized medical marijuana so far.

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