

# *Public Hearing*

before

## SENATE HEALTH HUMAN SERVICES AND SENIOR CITIZENS COMMITTEE

### SENATE CONCURRENT RESOLUTION No. 130

*(Determines that draft proposed medicinal marijuana  
program rules are inconsistent with legislative intent)*

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**LOCATION:** Committee Room 1  
State House Annex  
Trenton, New Jersey

**DATE:** January 20, 2011  
1:00 p.m.

#### **MEMBERS OF COMMITTEE PRESENT:**

Senator Loretta Weinberg, Chair  
Senator Joseph F. Vitale, Vice Chair  
Senator Robert M. Gordon  
Senator Fred H. Madden Jr.  
Senator Jim Whelan  
Senator Dawn Marie Addiego  
Senator Sean T. Kean  
Senator Robert W. Singer



#### **ALSO PRESENT:**

Eleanor H. Seel  
Elizabeth Boyd  
*Office of Legislative Services  
Committee Aides*

Jason Redd  
*Senate Majority  
Committee Aide*

Christina Velazquez  
*Senate Republican  
Committee Aide*

***Hearing Recorded and Transcribed by  
The Office of Legislative Services, Public Information Office,  
Hearing Unit, State House Annex, PO 068, Trenton, New Jersey***

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**SENATOR LORETTA WEINBERG (Chair):** Okay, we are going to be opening the hearing on SCR-130, which has been filed with the Secretary of State and apparently as part of the constitutional process in order to, if the Committee so chooses, move to the next step to overrule the promulgated regulations.

So, first, Senator Whelan, do you have some remarks?

**SENATOR WHELAN:** Thank you, Madam Chairwoman.

If I could, just to put this into context -- this situation that we're in. The medical marijuana bill that this Legislature ultimately passed is probably the most conservative, most restrictive medical marijuana bill in the country. We're not California, where you show up, and you say you have a headache, and you can go out and buy some pot. There are very, very strict regulations in the bill so that people who are seriously ill can have access to the compassionate use of marijuana: cancer patients, people with multiple sclerosis. Again, it's not something where you can just go out, claim a headache, and get some pot.

The bill, in the process, was tightened up as it went through that process. The original Senate bill was amended in the Assembly and became even more strict. Senator Scutari, as the prime, and myself as the co-sponsor, went along with that in the interest of compassion, frankly, and not arguing forever over trying to achieve a perfect compromise.

The bill passes, signed into law by the Governor-- And we know Governor Corzine-- We know that Governor Christie indicated he was not in favor of the bill, that he even wanted further restrictions. I don't recall him articulating, frankly, what those additional restrictions were. But be that as it may, we have the bill that we have.

And the concern and the reason for this hearing is that the rules that have been promulgated are -- not only are they stricter than what the legislative -- what is in the legislation and the legislative intent. Frankly, they undermine the very spirit of what we're trying to do here. The notion that very sick people -- that their doctors, at some point, should have to stop administering marijuana if, in fact, it's giving them relief from their pain and suffering-- That's nowhere in the bill, but yet that's part of the regulation. There are other examples where things that aren't in the bill have just come about and have come into being part of the regulations. And it is our hope here today, and going forward, that these regulations can be revisited and brought into line with what's in the legislation, which, again, is probably the strictest in the country so that those individuals who need this relief cannot be forced to be criminals and go out -- and we've heard testimony in this Committee and others in public forums -- have gone out and acknowledged that they're committing criminal acts. They go and they buy marijuana to get relief from suffering. That's what's driving this.

So, again, my hope, and I believe the hope of Senator Scutari and many of us, is to try to get regulations that are consistent with the legislation so that we can provide relief to those who need it.

Thank you, Madam Chair.

SENATOR WEINBERG: Thank you, Senator Whelan.

I would like to add my own remarks to what Senator Whelan said, and I've spoken about this publicly before.

My husband died of cancer almost 12 years ago. And I had him home in hospice for a number of weeks -- the final weeks of his life. And, you know, the doctor freely prescribed morphine -- one of those



controlled, dangerous substances. They gave me the prescription and said, "Here, fill it. Don't be afraid to use it." And I will tell you that when one uses morphine, in case you don't know, it then removes the ability of the patient to communicate, and it removes the ability of the family member to be able to communicate with the patient.

Now, I have no idea what medical marijuana would have been of use in his particular case. And certainly in those years it never occurred to me to even think about it. But had such a substance been available that would have relieved any pain, any anxiety, and yet still keep him as a member of our family during those last weeks-- How can I overstate how important this is for people who find themselves in these kinds of predicaments.

And Senator Whelan was quite polite, I think, when he talked about one of the regulations about how you have to remove the patient from the use of medical marijuana, or wean the patient off every three months. Well, nobody had to wean a patient off morphine, or OxyContin, or codeine. I find it offensive, personally, that patients with this particular medication should be treated in this manner and that physicians who prescribe it should be treated in this manner. (applause) Applause is not going to help us get the bill through. (laughter) We need to hear from people.

But as you can see, I have more than a passing interest and a passion about this. I felt a need to express it.

SENATOR KEAN: Chair, can I just make a quick statement?

SENATOR WEINBERG: Yes, Senator Kean -- Senator Kean.  
(indicating pronunciation)

SENATOR KEAN: Kean. (indicating pronunciation)

Thank you very much, Chairwoman. Thank you.

And I supported the bill. There weren't many Republicans, I don't believe, who voted for the compassionate use of marijuana bill. I did, because I do believe that -- exactly what you said, Chairwoman. People who are dying of terrible illnesses can take drugs like morphine without really any appreciable oversight. And then when you come across a substance such as this, it's just socially not acceptable. Let's face it.

My concern is, and my question is -- whether it be to my good friend Senator Whelan or perhaps OLS is -- if we pass this legislation, won't it delay the implementation of legal marijuana?

SENATOR WHELAN: If we pass this, there would be some delay, yes. I'm not going to mislead anyone. But we are this close to getting it right. And if we have to take another month to get the regulations in line with what the legislative intent -- and what the intent was when you voted for it. And I applaud your support. And you have been steadfast in this, Senator. I think it's worth taking that extra time.

The regulations that we have now -- and I just gave one example. There is another regulation that reduces the level of the potency of the marijuana to-- You know, you may as well give somebody an aspirin. So, you know, what are we doing? If we're going to neuter the bill -- accept regulations that effectively neuter the bill so that people aren't getting any relief from their pain -- let's take the extra month and try to get the regulations consistent with what the Legislature intended.

SENATOR KEAN: Through the Chair, I have people who are friends, people who are in politics, people who I know are waiting for

passage of this bill, people who are suffering from diseases like MS and other types of diseases, who want to have this happen as soon as possible. By voting in the affirmative on this legislation, we're going to be delaying the availability of medical marijuana.

What I think is going to happen -- and we're all going to find some point in the future where we look back on this process. And what I believe we're going to see is that once this becomes available, a lot of these concerns are just going to go by the wayside. Whether you have to have a pediatrician monitor it, whether you have to have a second opinion, things such as dosages-- I think the goal should be: Get this available, make this available as soon as possible by working with the Administration. By delaying it and voting for this particular piece of legislation, we're denying it just another month, another matter of weeks. And I believe it's form over substance. And I believe that if we just get it done and let the course run it -- let the process run its course, we will, in the end, be doing a better service to the people who are anxiously waiting for this drug than we would be by getting into some of these partisan dialogues.

Thank you, Chair.

SENATOR WHELAN: Madam Chair, if I may.

SENATOR WEINBERG: Yes, Senator Whelan.

SENATOR WHELAN: And, again, we respectfully disagree with Senator Kean, although I have a great admiration for him generally, and particularly on this issue because he was one of the few Republicans who supported this from the outset.

I think we will hear from some people today who are involved in this field who will testify that these regulations are unworkable. And I

would just ask that we keep an open mind and listen to that testimony. And if, in fact, we hear that, "No, they're fine," then maybe we'll withdraw this. But I think we're going to find out that there are a lot of people with skin in this game who are going to tell us it's not going to work.

Part of my problem, frankly, is that some of the regulations, quite bluntly, are politically driven; they're not science driven. Why are we setting regulations that say to the doctor, "You can only prescribe this level, this potency," and the patient may need this level of potency? We don't do that with morphine, we don't do that with OxyContin, we don't do that with other controlled, dangerous substances that are prescribed, but we're doing it with marijuana.

So I'm hopeful that we can listen to the testimony with an open mind and make a determination of how we can provide the compassion -- the people of New Jersey who are in desperate need of marijuana can get to it.

SENATOR WEINBERG: Senator Vitale, and then Senator Addiego.

SENATOR VITALE: Thank you, Chairwoman Weinberg.

I echo Senator Whelan's remarks and also recognize Senator Kean for being one of the Republicans who did vote for the bill. It's a remarkable vote, and thank you for that.

We do disagree, in terms of implementation. And I -- and a couple different concerns that I have. The first is that if we do nothing and allow these regulations to go into effect and to be implemented the way they're designed, we put the Legislature at a disadvantage going forward in terms of trying to make changes to those regulations. And we could file a

claim in court, we could do any number of things. We could have Legislative Oversight hearings. We could find that they're in violation of the Administrative Procedures Act, that they're not following the intent of the law, all of those things. But if the Legislature sits back and does nothing, and doesn't object to the way and manner in which these regulations were promulgated and ultimately adopted, then it puts us at a disadvantage, particularly in going forward in trying to make a change -- and do we make that change legislatively? Do we have a chance to have that law, if it is that we wanted to increase or make the law -- or the way the law is applied -- more effective, from the medical perspective, to patients -- it puts us at a real disadvantage. We would not-- Certainly I don't believe the Governor would sign that legislation, and so we'd really be back to where we are today. And with the law that was intended to do more -- to do better for patients, to provide greater access and efficacy as it relates to their treatment. And so it is that I think we should be supportive of this in this way. Delaying it a little bit longer certainly would have an effect, I understand that. But in the long term, having the right policy implemented the correct way, driven by science and medicine, is, in my view, the right thing to do and the way that we have tried to operate as a Committee for all the years that I've been a member of it. And it's really the thing to do.

So, thank you, Senator.

SENATOR WEINBERG: Senator Addiego.

SENATOR ADDIEGO: Thank you, Senator.

I guess having recently come up from the lower House in the Assembly, my question is-- When I down there, the prime sponsor in the Assembly -- it was my understanding -- reached an agreement with the

Governor's Office with regard to new proposed regulations. So my question is: Where are we on the-- Are we talking about the new proposed regulations or the-- Where are we on that? Because I believe he did have an agreement that was satisfactory to him.

SENATOR WHELAN: Well, with all due respect to Assemblyman Gusciora who, many of us here -- including Senator Gordon and Senator Kean -- we're all colleagues of the Assemblyman. Senator Scutari has been the prime mover of this in our chamber. And neither he nor I, and I don't believe anyone in leadership -- I don't believe the Chair of this Committee or leadership positions -- were consulted at all on that so-called *agreement*. So that's kind of the opposite of what happened in the process of establishing the bill. The bill was amended on the Assembly side. It came back to us after that, and in the spirit of compromise and moving forward -- frankly, in the spirit of what Senator Kean has described -- Senator Scutari made the ultimate decision, with my support as the co-sponsor and various other people -- "All right, let's move it."

But now we keep backing up, and backing up, and backing up to the point where it's not going to be effective. And that's the fear that I have, and I think many members who supported this have. And I think we should hear the testimony today from people who may be able to provide some insight.

The fact that one Assemblyman agrees with the regulations -- we voted for the bill -- I don't think that means we automatically have carte blanche to say, "Oh, okay. Well then it's worked out." There are some real problems. I've cited two. There are others where this is not based on any medical or scientific opinions. It's based on: "Let's have the most

restrictive, the least effective medical marijuana -- because we really don't want a medical marijuana bill in the first place, but we have it -- so let's gut it as much as we can."

SENATOR WEINBERG: Senator Gordon, and then I would like to open the testimony.

SENATOR GORDON: Thank you, Madam Chair.

This Committee normally does not deal with constitutional issues. And clearly this is a bill about trying to provide people in pain with a compassionate way of easing their pain. But I think it's also about the Constitution and the balance of power in our structure of government. The Legislature passes the laws; the Governor, if he or she does not like the law, has the right to veto them or a portion of them. The Governor doesn't have the right to decide what the legislative intent was, or worse, move in a different direction than the clear legislative intent. And that's what we have seen here. And I think this is important to our structure of government and the Constitution to make it clear to the Governor that we passed the law, and we expect the Executive Branch to execute it as we drafted it. And so I think we need to be mindful of these bigger issues as well.

Thank you.

SENATOR VITALE: Senator.

SENATOR WEINBERG: We do have a big audience waiting to testify.

SENATOR VITALE: I just ask you a question if we had-- Is there anyone here from the Department of Health to speak? Anyone?

SENATOR WEINBERG: Not to my knowledge. In going through the -- reviewing these slips, I didn't see anybody.

Is there anybody from the Department of Health to speak? (no response)

SENATOR GORDON: I'm shocked.

SENATOR WEINBERG: That answered your question.

SENATOR VITALE: Okay. Well, I won't say what I'm thinking. (laughter)

Thank you, Senator.

SENATOR WEINBERG: Okay. We are going to enforce the three-minute rule. We're getting technologically advanced. (laughter) We have actually something that will show the minutes, and then it's going to make -- I haven't heard the sound yet -- but I understand a loud, noisy, ugly sound when you reach three minutes. So that will be your signal to finish whatever sentence you are in the middle of, but not whatever paragraph you're in the middle of so that we can get to everybody, and get finished, and deal with some other important bills that we have on our agenda today.

So with that, I'd like to call Roseanne Scotti, from the Drug Policy Alliance.

**R O S E A N N E S C O T T I:** Thank you, and good afternoon to the members of the Committee. Thank you for letting me speak on this.

Oh, that is a big clock. (laughter)

I will be very brief. Hopefully I can do this under three minutes.

We do support this resolution. We testified on it a month ago for the initial vote, and we have resubmitted our written testimony on this. I know that there are people like Dr. Denis Petro here and Don Pendley, from the Hospice and Palliative Care Organization. And I think that their



testimony will be, I think, more relevant and answer some of the questions that the members have.

I will say that we represent a group of patients, many of whom were not able to be here, although you've heard from them: Diane Riportella, who has ALS; Michael Oliveri, who has muscular dystrophy; and some of our other patients. They send their regrets. They did submit written testimony. I know there are some other patients here today. It's very, very difficult with them, because of their disabilities -- for them to get back and forth to Trenton with their caregivers. But they are in support of this. They've been up here many, many times. And, again, our greatest wish is we can move forward as quickly as possible with this program because there are so, so many people like Diane and Mike who are waiting for this.

And I thank the members. I can answer any questions people have. And thank you for your consideration of this resolution.

SENATOR WEINBERG: Thank you, Roseanne.

Does anybody have any questions? (no response)

Thank you. Good start for timing.

Candice Singer.

**CANDICE SINGER:** Madam Chair, members of the Committee, thank you for the opportunity to testify on this.

My name is Candice Singer. I'm from the National Council on Alcoholism and Drug Dependence-New Jersey.

And we oppose this resolution primarily because of the concern for youth. We had opposed the bill but -- because we were concerned that when medical marijuana has been introduced in other states, marijuana use

has gone up, and drugs are (indiscernible) has confirmed that drug use went up as a result of passage of medical marijuana laws.

These regulations are strict, which will protect the youth. And so we are in favor of the regulations.

Thank you.

SENATOR WEINBERG: Thank you very much.

Ms. Singer, let me ask you a question: Are you in favor of further regulating the kinds of things we talked about, which are routinely prescribed particularly to patients in hospice and so on; for instance morphine, OxyContin, and all those things we talked about?

MS. SINGER: I think the problem is that those are regulated by the FDA. They've been approved by the FDA. We don't have FDA oversight over medical marijuana.

SENATOR WEINBERG: So you don't believe the State can provide the appropriate oversight the way the bill was originally intended?

MS. SINGER: As I said, I think that the strict regulations benefit youth. If the regulations are too loose, youth will perceive marijuana being available and perceive less harm.

SENATOR WEINBERG: Did you oppose-- I just want to make sure I understand. You opposed the bill originally--

MS. SINGER: Yes.

SENATOR WEINBERG: --as it was written.

MS. SINGER: Yes.

SENATOR WEINBERG: Okay. Thank you very much.

MS. SINGER: Thank you.

SENATOR WEINBERG: And we have no need to testify, but John Tomicki, League of American Families; and Beverly Lynch, of the New Jersey Prevention Network -- are the only two folks I have in opposition and no need to testify.

Lisa Levine, from Pringle Quinn Anzano.

**L I S A R. L E V I N E, ESQ.:** Hello.

Thank you for letting me speak today with the giant iPad timer. I appreciate that.

I'm testifying on-- My name is Lisa Levine. I'm testifying on behalf of my firm's client. My firm is Pringle Quinn Anzano. We were retained by a New Jersey nonprofit corporation formed for the purpose of functioning as an alternative treatment center in New Jersey.

The key officers in the corporation included two former pharmaceutical executives with combined experience of over 40 years; one of which developed -- designed vaccine labs throughout the world. We had a financial expert. We had an agricultural expert who had land that was zoned agricultural in New Jersey who had extensive experience growing indoor and outdoor plants. We had retained media professionals to design materials for patients, physicians, and anybody else who needed to know what the Act said and what the requirements were. We also had a financial expert who was working on cost projections to bring costs down and make sure the product was affordable.

The regulations were released, and all key players took their marbles and went home. What was a restrictive environment has now become a strangled environment. Demand and supply under the statute was very restrictive. Under the regulations, it's obliterated. Under the

statute, physicians are the gatekeepers, and they decide who can get medical marijuana. The patient population was already restricted because of the types of medical conditions, and insurance is not covering it. So you had to have a narrow patient population with appropriate financial means to afford the medical marijuana and the physician visits.

Under the regulations, the patients now have to visit the doctor every three months. That's an additional cost that may not be covered by insurance. Physicians have to coach the patients on reducing the amount they're using, explore other alternatives, and a bunch of other obligations imposed upon them. And at every juncture, that exposes them to medical malpractice liability, licensing discipline. And they also have to coach the patient on the addictive risks. Now, the State has inserted themselves in that patient/physician relationship in an unprecedented way. So what was a small physician pool has now crushed to we don't know what, and that's why everyone is pulling back.

The ATC costs are already going to be expensive. All the redundancies in reporting and requirements-- The safety requirement of how you store the products now is a Schedule I drug, as if you're storing heroin. It's very expensive.

I know my time is almost up.

SENATOR WEINBERG: Wait until three minutes. I want to hear the sound. (laughter)

MS. LEVINE: Thank you. I appreciate that. Oh, I can get another three, I hope. (laughter)

Now that's just the demand side.

On the supply side, that's also limited. (alarm sounds)

Oh, boy, that's the alarm on my iPod.

When the statute was being drafted, one of the original versions contained a restriction on the inventory. So the inventory was going to be tied to, like, five plants per patient. That was specifically removed so that inventory restrictions were not contained in the statute, and now that's in. So my pharmaceutical executives who were going to use their skills and knowledge to breed superior plants -- that ability is now gone.

SENATOR WEINBERG: Thank you very much. And I think you've outlined very clearly the problems that physicians might find with this.

SENATOR ADDIEGO: When you have a second.

SENATOR WEINBERG: I'm sorry, Senator Addiego.

SENATOR ADDIEGO: Thank you.

Just a quick question.

MS. LEVINE: Yes.

SENATOR ADDIEGO: You were talking about the regulations as proposed. Did you have an opportunity to take a look at the new regulations?

MS. LEVINE: Yes.

SENATOR ADDIEGO: And are your statements the same with regard to them or are they different?

MS. LEVINE: No, they're the same. Actually, the new regulations eliminate home delivery, which is provided for in the statute. Now it's a specific statutory provision as well. They alter whether the ATCs are only grow-ATCs or distribution-ATCs. So the changes don't impact the supply and demand issue how it's constrained on both sides of the market.

SENATOR ADDIEGO: Okay. Thank you.

MS. LEVINE: Thank you, Senator.

SENATOR WEINBERG: Any other questions? (no response)

Thank you very much.

MS. LEVINE: I'll provide a copy of my testimony as well.

Thank you.

SENATOR WEINBERG: Please.

Thank you.

Dr. Denis Petro.

Correct the pronunciation of that.

**D E N I S J. P E T R O, M.D.:** Petro. (indicating pronunciation)

My name is Dr. Denis Petro. I testified actually in December of '08 with regard to this bill.

I'm here today with certain objections to the regulations as promulgated for the folks of New Jersey. If you remember, I've done clinical research with marijuana. I've published at least a dozen articles on the subject. I was the first researcher to do a double-blind placebo control trial in patients with multiple sclerosis published, now, 30 years ago. I've written five book chapters on the subject and at least a dozen peer-reviewed medical articles on the subject of medicinal Cannabis.

Again, I object to the rules that have been promulgated, and I'd like to focus on several problems with the rules. In medical research, one uses proven trial -- clinical trial technology and exposes our results to scientific review. The regulations appear to ignore the last 30 years of research on Cannabis and return New Jersey to the 1970s model set by the DEA and the production of a low-quality marijuana at the University of

Mississippi. Even with three species available, this approach is grossly inadequate, and the medical community of New Jersey should be embarrassed by this proposal.

Now, last night I happened to read a statement by a doctor in Mays Landing who is a general internist. And if you have access to his three-page statement, I think he hits upon the major issues we have with regard to this problem. But unfortunately he is in practice and can't be here today. But I would ask you to look at his suggestions. Again, marijuana is recognized as safe and effective.

A second major objection, obviously, is the limitation in THC concentration. We now have published, clinical data in thousands of patients -- clinical patients who have used Cannabis and Cannabis preparations. And, again, we have exposures at six times the dosage level recommended as the maximum in the State of New Jersey. And there has been no evidence for any withdrawal issues or psychiatric symptomatology. And, again, these several thousand patients who have been well-documented--

Along with ignoring the last 30 years of Cannabis research, we also have the experience of the LaGuardia Committee Report from the 1930s, we have the Schaffer Report from 1972, we have Judge Francis Young's decision in the DEA rescheduling petition in 1988. Incidentally, I testified at that hearing. And also, I testified at the White House Office of Drug -- National Drug Control and their Institute of Medicine Report.

SENATOR WEINBERG: Do you have your testimony in writing by the way?

DR. PETRO: Excuse me?

SENATOR WEINBERG: Do you have your testimony here in writing?

DR. PETRO: I have the testimony that I gave to someone to submit, yes.

SENATOR WEINBERG: Can we-- Do we all have a copy?  
(affirmative response)

Okay, so we do have your testimony in writing.

DR. PETRO: Yes, just one final statement.

SENATOR WEINBERG: Yes.

DR. PETRO: We do have a representative of the hospice community here. And as a neurologist, I'm dealing with patients who have diseases like ALS, diseases like multiple sclerosis, diseases like Alzheimer's, etc. And the logistic issues that you have put into these regulations are impossible for not only physicians, but patients to go with.

And I'd like to remind you that there are 1,800 pharmacies in the State of New Jersey where you can get Schedule II opiates at any one occasion. So if you have 1,800 locations, you might have more than just a few locations to receive Cannabis.

SENATOR WEINBERG: Thank you, doctor. We have to move on.

Question, Senator Whelan.

SENATOR WHELAN: Dr. Petro, I appreciate your testimony, both today and prior.

DR. PETRO: Sure.



SENATOR WHELAN: You said there's a doctor from Mays Landing. I went through the statement, but I don't see him, and it's in my district. Do you know that doctor's name?

DR. PETRO: Yes, actually it was sent to me as a .pdf, and I don't have a copy of it. But his name is Jeffrey Pollack, P-O-L-L-A-C-K, from Mays Landing, New Jersey. And his statement hits upon all those practical issues. It also goes through the dosing issue and the--

SENATOR WHELAN: Okay. I will reach out to him and make sure we get a copy for the Committee members.

DR. PETRO: It's actually the best statement of anyone that I've seen on this point.

SENATOR WHELAN: The gist of your testimony today, in terms of the current proposed regulations that the State has, is that they have no scientific or medical basis.

DR. PETRO: As I said, this ignores everything we've learned in the last 40 years. And I won't go through what happened in the 1970s with the University of Mississippi -- low-quality Cannabis, which is even available today. I mean, it's a farce, but again, that's why people go out in the street to buy street Cannabis -- because the government variety is such poor quality.

Now, these regulations mimic that 1970s era policy, which the physicians of New Jersey are smarter than that. Again, that's why I referenced Dr. Pollack's testimony, because it's brilliant in what he sets out.

SENATOR WHELAN: Thank you.

SENATOR WEINBERG: Senator Addiego.

SENATOR ADDIEGO: Thank you, Senator.

Doctor, your main objection, I believe, is the THC percentage.

DR. PETRO: No, actually it's multiple objections.

SENATOR ADDIEGO: Okay. Well, let's start -- let's at least just talk about that for one moment. In the legislation itself -- I don't believe anywhere in the legislation it actually had a specific level. Am I correct?

SENATOR WHELAN: No.

SENATOR ADDIEGO: So the legislation itself does not speak to a specific level. So your objection would be to the level that the rules that were promulgated--

DR. PETRO: Well, it's not only the level. Again, I don't want to spend too much time on this, but there are, now, species that are better for anxiolytic potential, for analgesic potential in cancer patients, etc. And if you limit it to three-- Well, again, in ALS, there are certain reasons why -- technical reasons why a certain variety would be preferred over others. But, again, that's off the topic for today.

Certainly the limit -- that number 10 -- is absurd. As I said, there's clinical trial data from the 1980s with doses that are six times higher than that in people who got that dose for periods of weeks with no problems. Now, when you read these regulations, you say, "Well, I guess that person isn't aware that the FDA has approved the research that was conducted and submitted in the mid-1980s at that level of dosage."

SENATOR ADDIEGO: Well, doctor, the reason I'm trying to get to the bottom of this specifically is because when we're -- the process that we're doing here, under the New Jersey Constitution -- we have to look at the language as expressed in the--

DR. PETRO: In the bill.

SENATOR ADDIEGO: --in the bill itself. And so that particular part was not even expressed in the bill. So this is just something that the rule -- the rules that were promulgated came up with that percentage. It was not expressed in the bill.

DR. PETRO: Exactly. Well, obviously, the Legislature had no part in this implementation, which-- It's laughable. When you look at the implementation, you say, "Well, this is absurd that someone would say, 'The 10 percent requirement, the limited number of species, etc.--'" It makes no sense when one looks at the whole area of what cannabinoids do in treatment of diseases. You have to recognize that dosages higher than this are readily available in Canada.

SENATOR ADDIEGO: Could other doctors, or could our Commissioner, legitimately disagree with you on some of this opinion?

DR. PETRO: Well, actually, I've testified at many occasions over the years -- other states -- and as I said, in cases. So we had the New Jersey Wilson case. There would have been no other doctor who would have objected, certainly, to the use of a Cannabis preparation in an MS patient, because my research has been confirmed by at least a dozen clinical trials showing that Cannabis works in MS. It's available in the country of Canada. So if a doctor would say, "Well, I object to Dr. Petro's use of it in MS," you say, "Well, why then did the country of Canada approve it?" Do you understand? (affirmative response)

Now, they may have other objections with regard to issues, but I'm going to the premise set up in those regulations. They're just absurd.

The other thing is, if you say you have a limited dose in a seriously ill -- say cancer patient -- you're certainly not providing relief of their problem. They're going to need to smoke more, or inhale more, or eat more of it in an oral form to get relief. Well, that's 19th-century medicine. We know now that higher doses work better than lower doses. We know that higher doses offer no greater risk than lower doses. So why would you limit, in a terminal hospice patient, access to something which we know not only works, but we know works effectively at a dose that's greater than this limit set in those regulations?

SENATOR ADDIEGO: All I'm saying to you, doctor, is, unfortunately, the legislation itself, as written, was silent on that specific number.

SENATOR WEINBERG: Well, I don't want to speak for the legislative writers, but I would assume, because they -- that they assumed that it would be up to the doctors--

SENATOR WHELAN: Absolutely, Madam Chair. Absolutely.

SENATOR WEINBERG: --to prescribe what the appropriate limit was.

And let me ask you a question, doctor, because I don't know if you've heard my earlier statements.

DR. PETRO: Yes.

SENATOR WEINBERG: So what would have been the difference, had I been able to give my husband medical marijuana rather than morphine?

DR. PETRO: That's a great question, because different analgesics work in different parts of the body. Aspirin works at peripheral

receptors, opioid drugs work at opioid receptors in the brain. And they produce analgesia. Cannabis works centrally at two different areas. One is, it has a direct analgesic affect, and it also has an anxiolytic affect. It makes people feel good. You might say it's anti-depressant in a certain way. So that would essentially allow them to need or require lower amounts of opioids. Opioids, remember, are sedative, and they have -- many affect the GI track, and on, and on. Well, the deal is, if you then need lower amounts of the opioid when you use Cannabis, working by a different mechanism, the patient can get adequate relief. In many of the terminal patients you see, you have to give sedative doses of the opioid. In other words, enough opioid to make them get relief of pain essentially puts them in stupor, in coma. So here is a way that, in a hospice situation-- The cancer is not going to go away, but, in fact, they're more effectively treated for the pain.

And there's an element of pain also that's called *neuropathic pain*. It's central. It's the whole perception that, "Not only do I have the pain, but it makes me anxious, because I don't want to have the pain, and I know it's getting worse, etc." So it's a vicious cycle. Well, the Cannabis is different from, again, the opioid because it has that anxiolytic property. It makes you feel, "Well, I'm more comfortable."

SENATOR WEINBERG: Well, you're putting in very technical terms what I want to put in--

DR. PETRO: Well, again, the deal is, if you're in a situation where you need -- you require opioids, you most likely will require less opioids, which have toxicity, and you can certainly tolerate Cannabis. So the deal is, you get a synergy there, because it's a different mechanism.

SENATOR WEINBERG: Well, could I assume then that the patient would then not be put into a stupor, as you described it?

DR. PETRO: Oh, absolutely. Well, that's the whole point. You see--

SENATOR WEINBERG: Well, that's the point I wanted to get to. (laughter)

DR. PETRO: The whole lethality-- In other words, if you take one OxyContin, you get relief of pain. If you take 10 OxyContin, you die. If you take one Cannabis, you may or may not get relief of pain. You take two, you get relief. You take 20,000 times the dose you still don't go into stupor and coma. And you realize, for example, there are 14,000 patients or people, per year, in the United States who die from opioid "overdose" or whatever terminology you use. So we're talking about 14,000 per year -- probably certainly in the hundreds in the State of New Jersey -- versus zero. I mean, that's pretty dramatic.

SENATOR WEINBERG: Thank you very much.

SENATOR WHELAN: Thank you, doctor.

SENATOR WHELAN: Anne Davis.

**A N N E M. D A V I S, E S Q.:** Thank you, Senator.

I did submit written testimony, so I'm going to try and just give an overview on some key points.

I'm an attorney in Ocean County. I'm also the Executive Director for NORML-New Jersey, the National Organization for the Reform of Marijuana Laws. I'm on their national legal committee. We meet twice a year, and we communicate daily to discuss marijuana policy in this country. So we have a lot of information to offer.

This is really a political game right now, and patients are dying while this game is being played at the direction of Governor Christie. I've attached to my testimony a letter from Bob Van Sant, who is a cancer patient desperate to be a participant in the program who has since passed away. And he is just one of many patients who are dying while we continue debating over this bill.

The regulations, I would say, in my opinion, are set forth in bad faith in Governor Christie's point in blocking the program. One of those things-- They put online the proposed regulations -- the new set. And the publication date in the New Jersey Register is February 22. They simultaneously posted online the RFA, which has a deadline of February 14. So now I have countless applicants calling me, saying, "What do we do? What do we do? There's this deadline of February 14," to which the regulations themselves say the RFA is going to be published in the New Jersey Register, which isn't going to happen until February 22. So these applicants are scrambling to lease properties, put contracts on properties, and put out money to show, pursuant to the regs, they're in compliance with zoning. It's a great expense. It's not a game to these ATC applicants. And I'm a consultant to many of them. There is a lot of money, a lot of financial risk. And they're working very hard to participate.

I want to set forth a few things that you may or may not know. We're always compared to California and Colorado. Colorado has over 800 medical marijuana centers. They are now licensed. California has over 1,000. So if we look at Colorado, for example, they have, now, 95,477 registered patients. If we apply the limited qualifying medical conditions that we have in New Jersey to that same pool of patients, only 5,742 of

those patients qualify. So when the Department is saying, "We're going to have this big program. We need all these safeguards. There's going to be so many people," there are not going to be a lot of patients registering for the program just because of the limited qualifying medical conditions that we have. So they propose, in their economic impact statement -- the Department -- a \$2.5 million budget with nuances that are to the level of absolutely ridiculous. And I just want to point out some of those.

The physician registry: These are ready, licensed physicians in the state. There is no reason to continue to monitor them through a program. They want surveillance cameras in the ATC centers with a remote to the State -- that patients and employees of these ATC centers are going to be monitored by State employees. That, to me, rises to the level of communistic. (alarm sounds)

I'm out of time. I don't know if you'll let me continue with a few more points. I can do it very quickly.

SENATOR WEINBERG: You can finish-- As I said, you can finish your sentence, but not the paragraph.

MS. DAVIS: Okay. Some of our safeguards: We have no home cultivation, a one-on-one relationship with an ATC, no doctor shop, and it must be a treating physician, and we have these limited qualifying conditions. And our main contentions are the level of THC at 10 percent. The Department only used NIDA and the University of Mississippi research; not all of the available research, as Dr. Petro was testifying to. The three-strain limitation ignores the fact there's indica, sativa, and hybrids. So if they're saying there is a high, medium, and a low, with a 10 percent max on THC, they're basically telling patients they have one choice



and one choice only. As Dr. Petro testified, some work differently on different conditions.

SENATOR WEINBERG: Any questions? (no response)

Welcome, Senator Singer. I know you've come from a--

SENATOR SINGER: Funeral.

SENATOR WEINBERG: --funeral of the Lakewood policeman who was shot so tragically. So thank you and welcome back here.

Ken Wolski.

**K E N N E T H   R.   W O L S K I:** Senator Weinberg, Committee members, my name is Ken Wolski. I'm a registered nurse. I've been an R.N. in New Jersey, practicing in Pennsylvania and New Jersey for the past 35 years. Now I'm Executive Director of the Coalition for Medical Marijuana-New Jersey.

The mission of our Organization is to educate the public about the benefits of medical marijuana. Marijuana is a safe, effective, and inexpensive therapeutic agent for a wide variety of diseases, and symptoms, and conditions. It should be available to anybody who can benefit from it. No patient should suffer needlessly, and no patient should ever go to jail for following the advice of a doctor.

The Coalition for Medical Marijuana-New Jersey has submitted to the Health Committee an extensive, 20-page comment/critique on the revised rules from the Department of Health and Senior Services.

CMMNJ contends that the people of the state cannot rely on the Department of Health to craft reasonable rules to ensure safe and adequate access to medical marijuana. In its misguided efforts, all the Department of Health has done is ensure the patients will be driven to the

illegal drug market. This is exactly opposite to the basic goal of the law. Patients requiring effective marijuana, to which they are entitled under the Act, simply cannot expect to obtain it under these rules. Thus, they must choose, again, between continuing to suffer or the commission of the crime to alleviate their suffering.

CMMNJ is calling on the New Jersey State Legislature to rewrite these rules to ensure timely access to affordable, medical-grade marijuana to qualified patients in a safe and secure manner. CMMNJ's objections to the revised rules include: these rules still regulate ATCs more strictly than full-service pharmacies are regulated, and this is inappropriate. The rules so micromanage these ATCs that none may ever get started.

The law calls for a patient registry. It does not require physicians to register in order to certify that patients have a qualifying condition. The physician registration process is unnecessary, outside the scope of the law, and will have a chilling effect on the program. So far, less than one-half of 1 percent of all New Jersey doctors have registered for this program.

The patient ID card application is impossible to complete as it requires not only a registered physician, but the name and address of the yet nonexistent alternative treatment center.

The 10 percent cap on THC and the limit on marijuana strains is arbitrary, capricious, and inappropriate.

The DHSS has said on its website for months that it would allow chronic pain, but now it's limiting that to cancer and AIDS patients. And it states that patients must suffer at least until October 13 before they'll even consider accepting petitions to add qualifying conditions.

The DHSS says that the Act finds and declares that marijuana has beneficial uses in treating or alleviating pain or other symptoms associated with certain debilitating medical conditions, yet the DHSS continues to require physicians to attest that they have provided education on the lack of the scientific consensus for the use of medical marijuana. And they continue to say that it's a Schedule I drug when they recognize medical uses for it. And a Schedule I drug has no accepted medical uses.

SENATOR WEINBERG: Thank you very much. And I know we have your written testimony too.

MR. WOLSKI: Yes, you do, Senator Weinberg.

SENATOR WEINBERG: Thank you.

Any questions? (no response)

Thank you.

MR. WOLSKI: Thank you.

SENATOR WEINBERG: Chris Goldstein.

**CHRIS GOLDSTEIN:** Thank you, Senator Weinberg, members of the Committee.

My name is Chris Goldstein. I'm on the Board of Directors of the Coalition for Medical Marijuana of New Jersey. I serve as a media coordinator and sort of legislative liaison for this issue.

SENATOR WEINBERG: Mr. Goldstein, would you tell us who the Coalition is made up of?

MR. GOLDSTEIN: The Coalition for Medical Marijuana-New Jersey is a singular, 501(c)(3) nonprofit entity. It is made up of physicians, doctors, patients, and likeminded individuals who supported the Compassionate Use Medical Marijuana Act of New Jersey. It was formed in

2003 and remains the only 501(c)(3) nonprofit in the state dedicated to this issue.

SENATOR WEINBERG: Okay.

MR. GOLDSTEIN: I'm here to talk a bit about the process, because I was invited into a series of meetings at the Department of Health and Senior Services to discuss these regulations. I want to talk about how patients' and our perspective was completely ignored in this.

Right now, today, patients have only two access points for marijuana. They can move to a state that has better regulations and has a working program, of which there are 13; or they can go out into the street and break the law. The entire point of the exercise of passing this law was to alleviate those problems.

As Senator Whelan and some of the other members of this Committee have pointed out, the regulations, so far, show a complete disregard for medicine and science, and basically are a political bias toward medical marijuana. Local knowledge and input, of which is available here in this room -- you've heard here before this Committee for many years. Everyone here today -- the patients, the advocates -- we've all been ignored by DHSS and Governor Christie in the process of creating these rules, which may be why they're so bad today.

There should not be any cap on cannabinoid content. One of the changes in the new regulations is that it doesn't just cap THC. The line in the regulations, if you read it, says all cannabinoids, including THC. Now, if you look at that-- I've spoken with cultivation experts. I don't think that it's even possible within the realm of science to grow marijuana that is less than 10 percent in all cannabinoid content, including THC.

We need to allow provisions in New Jersey for the delivery of edibles at these alternative treatment centers. The regulations severely limit the intent of the law in the idea of the actual medical marijuana supplied to patients. Medical marijuana, under the law, says any mixture or preparation thereof. The regulations say only raw plant material, topical cream, and lozenges -- something that is a brand new technology that is unproven.

Again, I was invited to two meetings at the Department of Health and Senior Services to discuss these regulations. We were asked about the intent of the law. We were asked our opinion. All of our opinion was ignored. When the original draft of the regulations was released, we were invited into a meeting. We were handed a page -- I think it was, like, 93 pages slapped down. We were told to read it in 30 minutes. We couldn't take copies with us -- and not to talk about it once we left the room.

This is the nontransparent aura around these regulations right now, and that's really what has to change. That's why we're here today engaged in this process. The patients and advocates in this room spent five years working with you to pass a bill. Now we're a year later, and we should have had a program by now, but no marijuana is available yet. That's why we're here today. We beg of you to work transparently to create working regulations. Otherwise, patients will go to the underground market as they do today, or they will continue to move out of state.

Thank you very much.

SENATOR WEINBERG: Thank you.

Any questions?

SENATOR KEAN: One question, Chair. Just one.

SENATOR WEINBERG: Senator Kean.

SENATOR KEAN: Thank you.

Thank you for your testimony.

You've been working on this issue for about five years?

MR. GOLDSTEIN: I've personally been working here in New Jersey for about two years.

SENATOR KEAN: Would it be better for New Jersey to implement this legislation and delay the ultimate legalization, or do you think it would be better to get it up and running, and then we can look at the process as it moves forward?

MR. GOLDSTEIN: Senator Kean, as Senator Whelan pointed out, there were many restrictions added to the law before it was passed last year. That was on the basis of: Let's get the program running. Something is better than nothing. That's how we got home cultivation cut out of the bill. That's how we came down to two ounces of plant material per month. That's how we came up with the most restrictive law in the country.

So at this point, when we talk about delays-- And I'm glad you brought that up because, unfortunately, the implementation process has been delayed several times by DHSS and Governor Christie himself. The law was originally supposed to be running by the fall of last year. Now, over the summer, if you'll recall, an idea was floated that Rutgers University be given a monopoly on all cultivation.

SENATOR KEAN: Is that a yes or a no?

MR. GOLDSTEIN: The law has already been delayed. The regulations--

SENATOR KEAN: Thank you.

MR. GOLDSTEIN: Yes, the regulations that were re-released actually -- and I do want to make this point. Regulations were re-released on the 14th, last week. They actually delay the implementation into April, once again. So regardless of the exercise of this Committee, DHSS and Governor Christie have already delayed the law, once again. So we couldn't delay it any further than it's already being delayed I guess is the question.

SENATOR KEAN: But, through the Chair, you heard testimony saying that if we pass this legislation -- the sponsor even said it -- it would possibly delay this for another month.

MR. GOLDSTEIN: Again, that might have been based on not seeing the regulations that were issued last week on the 14th. You'll note right at the top of those new regulations that the filing date is tomorrow and that the public comment period extends into April. So, again, it's already been delayed. This Committee would delay it no more than it's already being.

SENATOR WEINBERG: Any other questions? (no response)  
Thank you very much.

MR. GOLDSTEIN: Thank you.

SENATOR WEINBERG: If any of you are here for Senator Greenstein's bill, Senate Bill 2475, it is going to be held at the request of the sponsor.

Jennifer Lande.

Is she here?

UNIDENTIFIED SPEAKER FROM AUDIENCE: She's here.

**JENNIFER LANDE:** Hello, my name is Jennifer Lande.

I'd like to thank Senator Weinberg and the Committee for hearing me today.

I live in Medford, New Jersey.

The best way I can explain to you my medical case is that it's extremely complex. There is one thing that I can easily tell you though, and that is that marijuana is medicine for me. Without it, I am unable to eat, drink, or take my other medications without extreme nausea, pain, and vomiting usually. That is unless I am very diligent to medicate before and after these activities. Unfortunately, I've found only one medication with the ability to quell my stomach spasms and other issues that take -- make my condition truly debilitating.

I've been experiencing chronic nausea, vomiting, and muscle wasting for years now. I'm very bothered by the fact that New Jersey is the only state with a medical marijuana law that does not include chronic nausea or vomiting with the exception of having these conditions if the qualifying patient has AIDS, HIV, or cancer. I think that it's entirely incorrect for the DHSS to make distinctions between one patient's suffering and another. That should be left between the patient and the doctor.

My doctors have agreed with me with my medical use of marijuana for over a decade and have encouraged it. Many propose leaving the state if at all possible. But even if so, why should I be forced to leave my home due to an inability to write workable regulations for a law that patients have been waiting for years for, and should have already had access to some time ago?

Despite force-feeding almost 3,000 calories a day, I'm continuing to lose weight. It's about an average of over two pounds a week



actually. I told Chris Christie this the last time I met him. And I let him know that if that was to continue, I would not be here for the opening of the implementation. So it's a little bit frightening to tell you the truth. I'm continuing to have this weight loss and muscle wasting. It's led to serious consequences at this point. I weighed myself before coming here. I currently only weight 95 pounds. I'm 5-foot, 7, putting me a full 38 to 52 pounds underweight.

I'm doing what I need to do to survive, pure and simple, by medicating. With the clear disconcert and even what seems to be attempts to sabotage the entire program by the New Jersey DHSS and the Christie Administration, I do not feel, in my opinion, that they could be trusted to enact workable regulations at this time even. The current ones I'm not even going to go into. I really think that they were covered pretty well by the other people here. And the reason the regulations need to be overturned is because they make no sense. If you've read them then you know that.

I did read them. They're 110 pages. There are a multitude of issues that they contain with no compassion to suffering patients who need safe and legal access to medical marijuana.

Thank you for hearing me.

SENATOR VITALE: Thank you.

Any questions from the members? (no response)

Roger Tower, CMMNJ.

Roger, if you can, tell us what that stands for please when you testify.

**R O G E R   T O W E R:** Sure.

SENATOR VITALE: Thank you.

MR. TOWER: It stands for the Coalition of Medical Marijuana-New Jersey. But I would say I more represent Students for Sensible Drug Policy, which I was a part of at Emerson College, in Boston.

SENATOR VITALE: Thank you.

MR. TOWER: Let me begin by quoting the first President of the United States. In a letter to his gardener, George Washington wrote, "Make the most of the Indian hemp seed and sow it everywhere."

According to the Merriam-Webster Dictionary, the definition of *medicine* is a substance or preparation used in treating disease or something that affects well-being. I don't need to go into detail, because a quick Google search will tell you all you need to know about the many diseases treated by marijuana. But to list a few: cancer, HIV, Crohn's, multiple sclerosis, glaucoma, epilepsy, arthritis, and depression. It has been consumed by humans for over 12,000 years and not once has a human death been recorded to marijuana use alone. Yet, thousands die of alcohol-related deaths every year.

In the past 70 years, Cannabis has been condemned as an evil drug, with billions of taxpayers' dollars put into propaganda and untrue advertising. The Office of National Drug Control Policy reports that the U.S. Government spent over \$15 billion in 2010 on the war on drugs. And this year alone, we have already spent over \$2 billion and counting, at \$500 per second.

The policies drawn up by the Christie Administration are very far off from the bill that was passed over a year ago. It is unacceptable that not one patient has received any medicine and that no plants have begun cultivation. It is imperative that the Governor stop resisting these policies

from moving forward. They're already the most restrictive policies in America. And it's terrible that the ones who need this medicine the most do not have access to any treatment centers. Once the system is in place, we will see what works and what doesn't. But what is most important is that the system begin functioning and we quit this dillydallying.

The current drug policy puts power and money in the drug dealers' hands. They then purchase weapons to defend themselves, and thus the violence begins. Not only could our state value from extra taxes, but a controlled and regulated system would end the drug dealer competition and would make the drug inaccessible to adolescents. Right now, it is easier for a teenager to purchase marijuana on the street than it is for them to buy alcohol. I hope this is not the first time you've heard that statement.

My major problem with the regulations proposed here in New Jersey is that they will not end the marijuana black market.

Lastly, the bill that was passed states that there is a potential medicinal value of marijuana, thus making it unconstitutional by remaining a Schedule I drug. I insist we reschedule this drug and conduct the needed research to be clearly educated on its therapeutic value. Education leads to knowledge, and knowledge is power.

Thank you for your time.

SENATOR WEINBERG: Thank you.

Any questions? (no response)

Roger, thank you very much.

Robert McKenna.

**R O B E R T M c K E N N A SR.:** Madam Chairwoman, members of the Committee, my name is Robert McKenna. I'm here to speak to you about the benefits of home delivery.

I am the President and CEO of not only NCD Transport, but NCD Package Express, formally Imperatore Courier. And we've had many years experience delivering home deliveries for medical -- various medical companies.

The details on how to safely grow and dispense medical marijuana to patients in New Jersey continue to be discussed by the Christie Administration and the Legislature. One issue, however, seems to be clear: home delivery of the product is an important option and should be preserved.

NCD Package Express operates as one of the largest carriers -- courier-type businesses in the State of New Jersey. We have over 80 drivers, employees, vehicles. And we deliver approximately almost 2 million packages a year.

Working with the New Jersey Council of Teaching Hospitals, which would oversee our program -- would evaluate the feasibility of a home delivery program. And after much analysis, all parties have concluded that the merits of this approach greatly exceeded the bricks and mortar dispensary approach.

Why? First and foremost, it will actually work. Home delivery can be scaled up to meet whatever the demand is, while it is unlikely that six ATCs could ever do so. A preliminary estimate -- and it is in a three-year -- we would make 25,000 deliveries a month. And in our business, that's not really a big number.

It is absolutely secure. The supply chain is unbroken. An unmarked vehicle with two drivers -- professionals -- will transport product from a secure warehouse directly to the residents, placing it into a lock-box at a patient's home. The patient then has the opportunity to remove the lock-box immediately, bring it inside the home, and the deliveries are made.

The vehicles are all with GPS and two-way communications to be in constant contact. They're monitored from start to finish.

The exact qualities of the product are transported -- are scanned. We have -- scanned in, scanned out. We transport -- the vehicles will not have any empties or returns. And there is no cash transactions.

Home delivery removes the need of most caretakers. It's both cheaper-- And with our vehicles, we are moving into the green -- with electric vehicles that would be able to deliver the goods. And the privacy of the home delivery for the patients would be utmost. And regardless of their health status -- not everyone has a car. You would add pollution to this state that we're trying to eliminate. I think that, statewide, a distribution system would be much easier for the state.

SENATOR WEINBERG: Perfect timing. (laughter)

MR. McKENNA: I tried to squeeze it in, Madam Chair.

SENATOR WEINBERG: Any questions? (no response)

Thank you.

Robert Kane.

**ROBERT KANE:** Hello, everybody.

Thank you, Madam Chair, everybody, for letting me speak today.

My name is Robert Kane. I have traveled extensively in 2010 to California, Hawaii, Colorado, Florida, New York, New Jersey, and Rhode Island to see this industry develop over the last 18 months with my own eyes. My background is in finance. For 20 years I've written business planning and investment -- bankers -- financing those plans. For 12 of those years, I actually worked for a top-10 brokerage firm in the United States, a member of the New York Stock Exchange.

My clients in the medical Cannabis industry range from pharmaceuticals, franchises, media, education, consulting, real estate. I'm personally former director of investor relations for the first-ever publicly traded medical marijuana company. I'm a former CFO for a business university, which held educational symposiums across the country.

Every state has different laws and procedures, but the patients are the same, and the patients are going to access their medicine one way or the other. This is evident in the \$32 billion to \$71 billion industry, which is considered a black market legitimizing itself.

I believe the role of government is to provide a legal structure necessary for the medical Cannabis industry to operate in New Jersey with integrity and with some kind of responsible manner. I ask you to please allow home cultivation. I ask you to please remove restrictions placed on the doctors, interfering with their discretion to do their jobs on a case-by-case basis. There are resources and organizations, including Patients Out of Time, whose educational materials on all of this science and medicine that we're discussing today, are certified by the American Medical Association and the American Nurses Association. Use these resources to help you make these decisions.

I ask you to punish those who are going to abuse this industry just as you would punish those who abuse other industries. I ask you to allow caregivers to help more than one patient. I recommend reciprocity for patients in other states. And above all else, please do not let your fear of speculation influence your decision as much as finding the courage to help those who are suffering.

There are extra costs associated with a doctor registry when doctors are already registered in New Jersey. And at this time it seems fiscally ignorant. I think the State of New Jersey has grossly underestimated the staff and operational costs, evidence that the State of New Jersey does not fully understand how many people are sick and suffering. The budgets would probably be double.

There are many people who suffer, including a story like yours, who I have met who have changed me, in addition to the financial background. Most of them are addicted to painkillers and have had an experience of either being comatose or in pain and cannot relate to their families, or their children, or get kisses from loved ones like we take for granted every day. These are the people who I wish you'd concern when you make your decisions.

Lastly, there is me. I am a patient, and my condition is not listed here in New Jersey. And due to the procedures here, I'm going to be having to move myself, my family, and my New Jersey taxpaying business to another state. This is not something I wish to do, but the legal risk and suffering is just simply not worth it.

Thank you very much.

SENATOR WEINBERG: Thank you, Mr. Kane. (alarm sounds)

Everybody is getting the program down pat.

Any questions for Mr. Kane?

SENATOR SINGER: Is that a fire alarm or just--

SENATOR WEINBERG: No, the three minutes.

SENATOR SINGER: Oh, three minutes. Does that count for us also?

SENATOR WEINBERG: You weren't here to see that.

SENATOR SINGER: Madam Chairwoman, does that count for us also?

SENATOR WEINBERG: No. (laughter) Absolutely not.

SENATOR SINGER: It should.

SENATOR ADDIEGO: We only get two minutes.

SENATOR WEINBERG: You weren't here to see the new technology that we have.

SENATOR SINGER: Oh, that's excellent.

SENATOR WEINBERG: Thank you.

MR. KANE: Thank you.

SENATOR WEINBERG: Don Pendley, from the New Jersey Hospice and Palliative Care Organization.

**DONALD L. PENDLEY:** Good afternoon, Madam Chairperson, members of the Committee.

We appreciate the opportunity to speak before you on behalf of the resolution. We have a number of technical objections to the rules,



which are included in our written testimony and were covered very handsomely by a number of the speakers before hand.

To get to the bottom line: The rules need to be made more humane if they are going to be of any good to chronically ill patients and families. We applaud the Committee's courage in taking the stand that they have.

And in response to Senator Kean's genuine concerns about the timing of this, we'd rather see the rules get done right than get done fast. Any corrective legislation, as we know, is going to be subject to the same kind of possibly slow rule making that this is. So on behalf of the Hospice Association -- our members care for 30,000 dying patients and families every year. We strongly encourage you to support the resolution.

Thank you, Madam Chairperson.

SENATOR WEINBERG: Any questions? (no response)

Thank you very much.

David Barnes.

**D A V I D   B A R N E S:** Good afternoon, Madam Chairwoman, Senators.

My name is David Barnes. I live up in Califon.

I find myself before you today a member of a very limited group, and that's someone who qualifies for medical marijuana, even under your more restrictive rules -- or DHSS. I'm sorry to prescribe them to you.

I also find myself in a smaller group, where next week I will go to court for the 11th time, I think it is, to stand trial -- to stand charges for possession of marijuana. It was approximately a half-gram of marijuana. It was after the law was passed but before it was implemented. The

prosecutor in the town agreed to express the compassion shown in the Act and has told me that once I present a card from DHSS showing that I'm a qualified patient, she will not prosecute and the charges against me will be dismissed.

I've spoken to Governor Christie about this at his Raritan Town Hall meeting in September of this year. Governor Christie promised me, at that time, that I would have a -- that I should my medical -- that I should have my ID card in the month of October. I went back and spoke to Governor Christie again at his Town Hall meeting in Livingston in the month of December. He told me I should have it before the end of January. It's apparent to me that there are no ID cards coming.

The judge in the town that I have to go to court in is requesting me to stay on top of the people in Trenton to apprise him of what's happening. When I went to court in September, I told him that I went to the Governor himself, and the Governor told me I should have a card in October. He adjourned my hearing until October. October came and went. I've been back to court twice since then. Again, my next appearance is next week. What do I tell the judge when I go court is happening in Trenton? And when can I tell the judge that he can get this matter off his docket? Like I said, I've had some -- I believe it's 11 appearances that have been scheduled now. This judge is tolerant of this. But, again, he's a judge. He would like to clear his docket. And it's been going on, and on, and on. What do I tell this judge? How do I-- I'm one of the people-- I'm the person who you wrote this bill for. It says right there to protect people who use marijuana from prosecution for its simple possession. That's me. Please help me. What do I do now?

SENATOR WEINBERG: I assume that's a rhetorical question which we do not have the ability to comment on. (laughter)

MR. BARNES: Madam, if you could tell me what I could tell the judge next week when I go to see him--

SENATOR WEINBERG: Well, since I regularly practice law without a license (laughter) you could tell the judge that I said we're looking into it. (laughter)

MR. BARNES: Okay. I just want to express I agree with-- I've listened to Senator Kean, and I've listened to Senator Whelan. And while I agree with what Senator Whelan has said over doing it right, for my own, selfish purposes, I agree with what Senator Kean has said as well about doing it quickly. Like I said, I qualify under either one of these statutes. Either way you've written it, I'm qualified. But there are a lot of other people out there, unfortunately, who do suffer. And that's all I have to say.

Thank you.

SENATOR WEINBERG: Thank you, Mr. Barnes.

Any questions? (no response)

Thank you very much.

MR. BARNES: Thank you, Madam.

SENATOR WEINBERG: Justin Alpert.

We have just two more folks after this.

**J U S T I N   E S C H E R   A L P E R T:** Thank you.

We shouldn't be here. This, obviously, should have been up and running.

But, Senator Kean, I appreciate the fact that you want to get this up and running. I'm a very conservative Republican. But the problem

is that the Administration has reinvented the wheel on this, and they've invented a wheel with flat sides, and it's not going to go anywhere. And we can say, "Okay, let's do it. Let's go forward with this just because we need to go forward with this." But they've ignored the letter of the law, they've ignored the spirit of the law, they've ignored the will of the people, they've ignored this Legislature, treating it like a less-than-equal branch of government. And it's time to say stop. Let's stop the whole thing. Because if it goes forward the way it is-- I'm an attorney. I represent people who want to open alternative treatment centers. If it goes the way it is, we're going to be delivering an inferior product, at a higher price, that people who do quality will choose possibly to continue to get it from the streets. And these ATC operators who are trying to work within the law are going to put a lot of capital into this, and they're not going to get the kind of volumes that we expect because patients are going to continue to go to the streets. It's not enough to say let's go forward.

But, Senator Kean, your vote is very important here. This Committee could pass this out without your vote, but that's not enough. We need to listen to the advocates, and the patients, and the relatives, and the people who say, "You know what? The law was designed to help me. These regulations aren't going to help me."

It's not enough to listen to the one person who was against the law to begin with to say, "Okay, yes, now let's go forward with these regulations." The people who are here, the people who the law was designed to provide compassion to-- These people -- the people who've worked for years, the people who have jobs who don't have the time to be doing this-- These people are saying, "You know what? These regulations

were drafted in bad faith. They were drafted with blinders on.” And you represent the will of the people, and the people have spoken. And this Committee has taken the time -- more time than you probably ever wanted to spend on it -- and we thank you for it. It’s not time to just say, “Okay, let’s move forward.” Because the wheels have flat sides, and we’re not going to go anywhere.

Let’s get it right. Let’s tell the Governor that it’s time to get it right. Let’s tell the Governor to start listening to the will of the people and the will of the Legislature.

And I really thank you for your time, and I really thank you for seriously reconsidering what your point of view is on this. And this Committee needs your vote on this.

Thank you very much.

SENATOR WEINBERG: Thank you.

Stephen Cuspilich.

**S T E P H E N C U S P I L I C H:** Dear ladies and gentlemen of the New Jersey Senate, my name is Stephen Cuspilich, and I’d like to take this time to thank you on passing the new law.

Now, here it is, a year later, and it is still not up and running. This is a good law -- or should I say it was until Governor Christie decided to go way above and beyond. Now, in my case, it is a gastroenterologist who would sign my application. And I didn’t ask him to register for fear that it would be held against him, and I think I was right.

I have Crohn’s disease. I am on a lot of medications. And a bunch of them I can get away with throwing them out, but you’re making it

so hard for someone like me to be able to take advantage of this. Now my doctor has to go and take pain management classes.

I find that there is nothing here that works as good as Cannabis. There is nothing. I have 100 milligram morphine, I have steroids, I have antibiotics that are \$1,200 a month for someone without health insurance. And that's just to get rid of the inflammation in my intestines -- the overgrowth of bacteria that comes with the Crohn's disease.

Now, this medication -- the Cannabis -- does wonders for someone with Crohn's disease, but you're making it restrictive to where the gastroenterologist has to be, now, a pain management doctor, and he has to take all of these other classes. My doctor is a specialist. I've been going to him for a long time. I don't want to change doctors. It's very hard to get a good doctor. I've been dealing with this since 1994 when I was diagnosed with the Crohn's. I was put on an immune-suppressant cancer medicine called mercaptopurine, 6-MP, Purinethol, and it wiped out my -- I guess it's my white blood cells, which control your bone health. And since taking that medicine, I was given my first pain killer. I now have degenerative disc, degenerative bone, spinal stenosis. I'm 47, and I just had my left knee replaced. My bones are deteriorating. My front teeth -- bottom teeth -- are all cemented so they all fall out at once because my jaw bone is disappearing.

I can do away with so many of these. But, please, don't make it hard for me to go. I don't want to change doctors. I don't want to ask my doctor -- that he has to now comply with the State to become a pain management doctor -- registered. The law states that I register.

Now, I've been living in Burlington County my whole life. I've raised three children. Two of them are college educated. I have a grandson. I want to stay in New Jersey. Please think about these regulations when you're writing them out that there are people like me. I mean, I'm not asking you to supply some. If what you have is not as good, I will go on the street to get it. I just don't want to be arrested.

Thank you very much.

SENATOR WEINBERG: Thank you.

Any questions? (no response)

Thank you. We appreciate you being here.

Last is Edward Hannaman.

**EDWARD R. HANNAMAN, ESQ.:** Thank you, Madam Chairwoman and members of the Committee.

My name is Edward R. Hannaman. I'm an attorney licensed in New Jersey, and I'm a Board Member for CMMNJ. I'm here on behalf of the patients, and I'm also here on behalf of my government.

As you all know, Article IV of our Constitution says that for every law, it starts with being enacted by the Senate and General Assembly of the State of New Jersey. You, ladies and gentlemen, are the voice of the people. And the people overwhelmingly support medical marijuana by approximately 80 to 86 percent. You passed an effective law, but we do not have effective regulations.

And as you know, under Article V of the Constitution, the Governor is the Executive -- and the Governor is supposed to, according to the Constitution, take care to faithfully execute carrying out those laws. That did not happen. You've had ample evidence, and we've submitted

written documentation from patients, providers, advocates, and experts that show numerous flaws in these regulations; flaws that violate not only the statutory-specific language, but almost in all cases, the statutory intent.

Now, as you also know, Article V that deals with the Executive gives you the right to override these regulations. And this is, I have to say, an unprecedented area. I've dealt with regulations for 30 years, and I've never seen one that would not fit into the Administrative Procedures Act in Title 52:14B-4.3 that allows you to invalidate. I believe you could take a black marker, go through these regulations -- all 97 pages -- and take out everything that violates the statute and perhaps be left with something. But I also think you have an obligation to the people of this state to write anything affirmative. Because we cannot-- As you've heard from the patients suffering, we cannot allow people to suffer while you reject it, send it back to DHSS, and they write more improper, invalid regulations. And that will happen. Because as the Governor has stated, he does not like the Compassionate Use Act. He would not have signed it. He doesn't think it's strict enough. It's a very strict law. As you've heard, it's the strictest law in the nation. We don't need a stricter law, we need effective regulations. The people deserve effective regulations. And that, ladies and gentlemen, is what the Constitution requires that we have. And I believe it's your duty to see that we get that.

The issue of a delay is a false issue. It's better that we have regulations and not give in to, really, an overstepping of Executive power in this case. This is a legislative enactment, it is a statute. The Executive should carry it out as the Constitution requires, faithfully executing it, and



taking care to do that, and even ensuring that State departments and agencies do that.

And so just let me conclude by saying I don't envy you. It's a difficult task. But I know OLS can provide you with legal support in supporting this law that you've passed, that's a good law, for the people of the State of New Jersey.

Thank you.

SENATOR WEINBERG: Thank you very much.

And thank you to all the members of the public who really adhered to our time.

Before I conclude the hearing, does any legislator have anything that they would like to say?

Senator Rice.

SENATOR RICE: Thank you, Madam Chair.

I didn't support this legislation, but I am going to vote the Resolution out -- at least this particular Concurrent Resolution -- primarily because I've been arguing and reminding governors for going on 25 years now that I'm not subordinate to them. I do understand the Constitution. I understand our role to legislate. I understand the Administration's role to administer the things we provide, and oversee budgets, etc. And I also understand the Governor's power to veto, conditionally veto, and do other kinds of things.

But even though I'm going to vote this legislation out -- only to express the intent of the Legislature and to make sure that the Governor and Administration understands that we are co-equal branches of government.

But I do have to go on record as saying that some of the things I read that the Governor is requesting, I agree with. You know -- proposed rules to require physicians to periodically attempt to stop the patient's medical marijuana use and try something else. You know, I have sick members too in my family -- their age -- mother can't speak, wheel chair, Alzheimer's, everything else; father has 20 medicines he takes. But doctors are always trying to see if you get better and try to reduce or eliminate some of the things we're taking. So I don't think that's such a bad thing to periodically see. That's what doctors, to me, should be doing anyway, rather than just taking people's money -- if they're getting better, or if there is something less they can be doing. I agree with the issue that requires physicians to do more.

My father and mother both had occasions when they were really sent by a physician in the wrong direction -- misdiagnosed, things of that magnitude. The doctors wanted to cut them up. And getting other opinions made a big difference in their lives. And they're 85 years old -- especially my mother who is in a wheel chair -- mother not be able to speak. My father is in great shape except for all the pains.

So, for the record, I'm going to vote this only to send a clear message to the fact that there are separate branches of government that are co-equal here in State government. I'm not opposing it because of some of the conditions and changes the Governor wants to make. I just wanted to be clear on that.

SENATOR WEINBERG: Thank you, Senator Rice.

Just before we go on, I want to give you each a chance to say something, because it does become part of the transcript. But we don't actually vote on anything today.

SENATOR GORDON: Not the Resolution either?

SENATOR WEINBERG: No, and I will read what the procedure is so you all know.

"A transcript of this public hearing will be prepared and placed on the desks of the members of each house. Then the Legislature adopts a second concurrent resolution by recorded vote in each house to invalidate or prohibit the adoption of the rule or regulation no sooner than 20 calendar days after the public hearing transcript is placed on the members' desks in both houses. A copy of the concurrent resolution shall be provided by the presiding officer of the house of final adoption to the Office of Administrative Law for publication in the New Jersey Register."

So what we are doing here right now is preparing this transcript that will be placed on the desk of each member of both the Assembly and the Senate.

Senator Whelan.

SENATOR RICE: Madam Chair, before the Senator -- just on my statement -- I understand that rule. That's what 25 years does.

SENATOR WEINBERG: Well, I've been here almost as long, and I didn't understand it.

SENATOR RICE: I understood it. That's why I wanted it in the transcript, because I won't make this statement when it gets to the floor. I'm making the statement for the written record, because we don't transcribe on the floor.

SENATOR WHELAN: Thank you, Madam Chairwoman. Thank you for having this hearing.

I think the testimony today was overwhelming, not just in terms of the sheer volume, but also in terms of the fact that these regulations are not based on science, they're based on something else, well-intentioned as they may be. And I will certainly be supporting this measure when it gets to the floor. We need to do this, we need to do it quickly, and we need to get regulations that are going to really bring some relief to the people who need it.

SENATOR WEINBERG: Anybody else wishing to speak?

SENATOR KEAN: Chair.

SENATOR WEINBERG: I'm sorry, yes, Senator Kean.

SENATOR KEAN: Just very briefly. I listened to the very compelling testimony here today, and I was actually very moved by it. I have to tell you, there's, in my mind, a struggle between getting it done and putting it into place, and letting the, kind of, quirks work themselves out as everybody gets used to the system. Certainly, it was very compelling testimony from people who are much closer to the issue -- people who are suffering from terrible diseases or advocates for those who are. I still believe that when we look in the rear view mirror several months down the road, after this passes into -- after this is implemented -- a lot of the problems of some people to have medicinal marijuana are going to evaporate because they're going to see the benefits of the drug, they're going to see why we should have had it already.

I do believe we should go forward and let these current regulations go into effect without delaying the process. Having said that,

and in some compassion to some of the people who testified today -- and I commit to the folks on the other side of the aisle -- if there are ways we can address this legislatively, let me know. I commit to you that I would support legislation that would tweak the current system, make it better. But I would just, once again, make a clarion call to let these regulations go into effect so we can get it up and running. If we have to tweak it legislatively, I would certainly want to be a part of that process.

Thank you.

SENATOR WEINBERG: Any other member of the Committee wish to speak? (no response)

Then the hearing is concluded, and the transcript of this hearing will be placed on the desk of every member of the Legislature.

I thank all of the members for their courtesy and attention to this.

Thank you.

**(HEARING CONCLUDED)**