

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

***One Hundred and Ninth
Legislature***

OF THE

STATE OF MAINE

Volume II

First Regular Session

May 7, 1979 to June 15, 1979

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Senator from Androscoggin, Senator Trafton.

Senator TRAFTON: Mr. President and Members of the Senate: I would hope that you would not Accept the Ought Not to Pass Report today, so that we might accept the Ought to Pass Report.

This bill does indeed make some changes with regard to patient access to hospital medical records. I would like to outline those for you today. First of all it would change the existing law so that it would not only apply to hospitals, but it would also apply to nursing homes. The Committee on Aging is particularly interested in this change, because it has been abused in nursing homes and they would particularly like to have access to those records.

Secondly, there's a provision that the hospital or nursing home facility would post a notice that medical records would be available to the patient as specified under the law. As the good Senator has already pointed out, it would provide that a patient would have access to his records within a reasonable time frame while she or he were currently in the hospital as opposed as to just after discharge.

I think that's reflective of a view that's very important for the patient to be involved in his or her medical treatment. It's important to understand the processes which you're undergoing in any kind of health care facility, and that it indeed shouldn't be just within the scope of what the doctor feels is appropriate, but also what you in consultation with him feels is appropriate. That a sharing of any official documents is certainly well within the scope of patient's rights.

Fourthly, it changes the representative who may receive your records. If the hospital feels it would not be in your best interests to receive the records yourself, that that specified representative would be an adult.

It again allows, as current law does for the purchase of copies of a portion or all of the records. Another change, which I think is very important. It specifies how the release of records will occur, with a patient's consent. As it is now the records can be released to many individuals and the patient does not have to give his informed consent that these records can be released to those individuals.

Also under the new law there would be an expiration date of 2 years from the time of signing of an informed consent form, so that it can be reviewed periodically both by the patient and the institution. In other words the patient would have the ability to say to whom and when his records would be released.

The hospital would be asked to keep a record of all those to whom the records were released. Then there would be a civil violation of not less than \$250, if there was a violation of this bill.

I don't believe that current law goes far enough in spelling out exactly how medical records would be handled. I think it's important that individuals have access to something which is of a very personal nature to them. I think these represent good improvements to existing law.

On Motion by Senator Lovell of York, Retabled for 1 Legislative Day.

The Chair laid before the Senate. Bill, "An Act to Clarify the Form of the Local Consent Resolution regarding State Housing Authority, Housing Assistance Allocation." (H. P. 402) (L. D. 508), tabled earlier in today's session by Senator Pierce of Kennebec, pending the Motion by Senator Devoe of Penobscot, to Reconsider Passage to be Engrossed.

On Motion by Senator Pierce of Kennebec, Retabled for 1 Legislative Day.

The Chair laid before the Senate. Bill, "An Act to Establish a Marijuana Therapeutic Research Program." (H. P. 523) (L. D. 665), tabled earlier in today's session by Senator Katz of Kennebec, pending Consideration.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Gill.

Senator GILL: Mr. President, I have asked for this bill to be tabled many times because I've been working to try to get an amendment, Fiscal Note put on this bill. Everyone in the department recognizes that there should be money put on. They're having trouble trying to decide how much money whether it's purely for administrative costs, whether it's purely for other things that could become involved. I've heard anywhere from \$4,000 to 40 or \$50,000. But instead of asking the Senate to wait until a Fiscal Note, I'm prepared to offer my reason why I don't think the bill should pass in the first place.

I didn't approve of it. I signed it out of committee that it shouldn't pass. I feel I have good reasons for doing this. The bill was presented under the guise of humaneness to relieve suffering of those people who are cancer victims, who are wracked with nausea and vomiting and who are victims of glaucoma and the ocular pressure that is ever present with glaucoma.

This Therapeutic Marijuana Research Program is now before us. It is another particularly emotion issue, because all of us have been exposed to the horrors of cancer either through friends or loved ones. We would do almost anything to prevent that disease and that suffering. Medicine through research has come a long way in finding cures for many dread diseases of the past, and it continues to do it with its research in ridding us of these most dreaded diseases.

We look at this and it's a Therapeutic Research Program. I went to Webster's New World Dictionary to look up to see what he thought research meant, to see if it was the same thing I felt it meant. It is. "Research is a careful, systematic, patient study and investigation in some field of knowledge, undertaken to establish or discover facts". Therapeutic, what does that mean? Therapeutic means to "nurse or treat medically".

Marijuana is not a medical treatment. I tried to bring that home when I spoke about it, seems like 2 weeks ago now, but Marijuana is not a cure, we're talking about some relief, possible relief to some victims. All tests admit that release has not come to 100% nor 60% of the people involved in research in the past.

Along with this step we find information that tells us of side effects, above and beyond the cancer, the nausea and the vomiting.

I'd like to go back to the human aspect to relieve the suffering. I think this is permissive legislation from the word 'go'. I don't think we should kid ourselves. I don't think we should lull ourselves into the position that we're thinking this is a humane approach. This is the dangerous position to take.

I can see expansion of this permissive legislation. We talk about suffering. I know some arthritics who suffer, they might get some relief. I know of people who wake up in the morning, they may get some relief. I know of people who just wake up in the morning and decide it's a bad day they don't want to fact, they might get some relief.

I see an expansion here. I look at what problems we have with existing situations now. We're talking about all the money spent on social problems. We get involved in social drinking, for instance, and all the abuses that come because of social drinking, and the money that's spent in that area. We talked about therapeutic drugs, that have been used effectively for diseases in the past. Now we see the abuses and we're taking care of those abuses under programs.

I think it would be very easy to legalize, after all, so that we can say that we allow sick people to have Marijuana. I think you look at that and say well, sick people can handle it. Well people can handle it even better. I think if you're going to legalize it, legalize it. Don't put it under the guise of a Marijuana Research Program.

I bothered to find out from the State of New Mexico what they are involved in, in their re-

search program. This is why I'm looking for a Fiscal Note, because all the materials and all the questionnaires that are asked of patients who are involved in it are pages. They're trying to get data. They're trying to get facts and see whether it really worked. This costs somebody something. The Department of Human Services is not going to be able to do this without additional funding. As they say, they recognized that fact, but it's a matter of coming up with funding. I don't think we've got the money that we can spend in it when we don't know really that it's going to be effective with that many people. I move that we Recede.

The PRESIDENT: The Chair recognizes the Senator from York, Senator Lovell.

Senator LOVELL: Mr. President and Ladies and Gentlemen of the Senate. As your oldest member of the Senate, and as a pharmacist for 50 years, I trust most pharmacists and most doctors. I don't think that this is going to cause any problem, any more than having morphine, codeine and other dangerous drugs in the store.

We have several thousand dangerous therapeutic drugs that an overdose will kill. Now I know that an overdose of Marijuana won't kill, it'll put you to sleep. So consequently, if Marijuana will help save somebody's life, if they have glaucoma, if it will save them so that they can see a few years longer, let them try it out. Let's try this process out.

They have this bill amended so that you can't go wrong. The doctor's got to pay a fee, the druggist has got to pay a fee, the doctor has to write a prescription, and be a registered M. D. The House Amendment "A" you can't miss. The doctor writes a prescription and he has to have special permission from the Board. Now most doctors aren't even going to bother with it unless they have a cancer patient or a glaucoma patient and that cancer patient or glaucoma patient wants to try Marijuana to see if it is going to do him any good and God bless 'em, let 'em try it, cause it might help. You can't cure cancer, you can't cure glaucoma. Glaucoma is going to make you blind. Cancer's going to make you die. So I say let's pass this bill and try it out and if it doesn't work you can always bring it up again and knock it off. I think definitely we should try this out and I appreciate your attentiveness and I hope that you will go along with this bill.

The PRESIDENT: The Chair recognizes the Senator from Oxford, Senator Sutton.

Senator SUTTON: Mr. President, Ladies and Gentlemen of the Senate: My good friend and colleague from Cumberland, Senator Gill has, if you really weren't paying attention would find out that she has muddied the waters so much, that it's hard to really tell what we're talking about here. I think she even confused the good Senator from York, Senator Lovell there for a little while.

This bill is not a cure for cancer and hasn't been purported to be a cure for cancer, and to suggest that it's going to drift into migraine headaches and all the other things that were suggested, I think is really stretching the imagination a long way.

This bill is very simply to take people that are dying and have had Chemotherapy and especially treatments that leave them in a very, very miserable shape and possibly make the days after the Chemotherapy Treatment a little bit more tolerable. Nothing more than that. I don't think there is any suggestion whatsoever, or at least not in my mind that this bill is to try to cure cancer or glaucoma. It's nothing more than to try to help people that are in a miserable state be less miserable.

I don't see any possibility, 'never say never, and forever is a long time,' so I guess there is always a possibility, but it would seem very unlikely to me that anyone would try to stretch this into being a remedy for other aches and pains. It's not what its for and its not what the intention of the bill is for and I would certainly urge you to defeat this Indefinite Postpone-

ment so that we can Concur with the House.

The PRESIDENT: The Chair recognizes the Senator from Arroostook, Senator Carpenter.

Senator CARPENTER: Mr. President, Ladies and Gentlemen of the Senate: I'm sort of pleased now, looking back that this bill has been held around for a few days because there happens to have been a couple of other States that have enacted similar legislation, since we last debated this bill. I think all the facts on both sides of the issue have been pretty well delineated. The bill very specifically nails down two particular conditions, glaucoma and chemotherapy. It in no way relates to arthritis, migranes, sunburn or anything else. I don't consider it to be permissive legislation. I think it's a long, long ways to consider that we might use this bill as a step toward legalization. I for one, most of you know it, would be one of the first opponents to any attempt to legalize.

As far as the side effects, the good Senator from Cumberland, Senator Gill referred to, I don't know what she is referring to, quite frankly, because I don't know what side effects have been discovered. I do have some information as to some of the well known reputable doctors, research facilities, such as Dr. Steven Salom from the Director of Clinical Research, Sidney Faber Cancer Institute supports this type of legislation. The President of the American Cancer Society, Gladman Memorial Hospital, Oakland, Calif., UCLA Research Psychiatry Department, you know, there has been overwhelming evidence that this does alleviate, that's all we're saying, it alleviates a little bit of human suffering.

I think back to the days of not too long ago, the great laetril discussion in this country which is still going on. One of the arguments that the medical profession puts forward against laetril is that it will prevent people from taking legitimate therapy, Chemotherapy, radiation treatment, whatever. You're going to mask it by using laetril and they are going to think to be cured. There are documented cases in this country of people saying, hey, I know Chemotherapy is good for me, but I can't take it any longer. I can't stand this any longer.

Over the weekend I had occasion to talk to the son-in-law of a constituent of mine who passed away, weighing about 75 pounds, going down from about 150, due not to the cancer, but due to the terrible sickness that was associated with the Chemotherapy.

So I hope that you will take a good hard look at this bill it hasn't been before us for a few days. Look at the other States, look at the red tape and the situation that's involved right now. Practically an impossible situation. New Mexico had four persons who were able to wade through the bureaucracy over the many years and get this prior to the enactment of their program. They presently have 40 physicians licensed.

I know that some physicians in the State of Maine have been opposed to this bill and I don't understand that. There isn't one thing in this bill that says that Doctor X has got to take on this program. It is permissive legislation in that respect, Doctor X has got to come to the State and say, Yes I do have some chemotherapy patients, Yes, I would like to try to give them some relief. No doctor in the State of Maine is going to be forced to take this program on. If they're anti-marijuana, so be it, but if they happen to be cancer specialists, and have the patients, and if they want to take it on, they pay a fee to get licensed. Then they prescribe it, and the prescription goes to the pharmacy. Another control, from the pharmacy it goes to the patient. If you look at the amendment that was tacked on in the other body, the confidentially amendment which was drafted by the Attorney General's Office which has the confidentiality problems taken care of, confidentiality does not apply, if there is any evidence that the patient is selling the Marijuana, or giving it away to somebody else, or if there

is any evidence that the doctor or pharmacy are not complying with the strictest letter of the law. There's no Fiscal Note needed on this bill. I have a letter on my desk from Mr. Fulton, Office of Drug and Alcohol Abuse Prevention, says that he can absorb the costs. There's a fee and then there's a per diem payment to the doctors who make up the licensing board. It's a washout situation.

The bill doesn't require the type of statistical reporting that the good Senator from Cumberland, Senator Gill alluded to in the bill in New Mexico. It's mis-named, I'll accept that, I'll agree with my colleague from Cumberland on that particular issue. It's mis-named, it should have been named something else. It was never the intent of the Committee or the sponsor, I don't believe to set up some sort of a huge statistic gathering, research program. We are not research physiologists or research hospitals, we are not in this State.

We're trying to be able to dispense something that, everybody agrees, is much less dangerous than the substances that the good Senator from York, Senator Lovell has already alluded to. So Mr. President I would make a move that the Senate would Recede and Concur and ask for the yeas and nays.

The PRESIDENT: The Chair advises the Senator that the Motion to Recede has previously been made and does carry a higher priority than to Recede and Concur.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Gill.

Senator GILL: Mr. President I just noticed in the back of the Chamber was the representative from the Department of Human Services who has been trying to get the information for me and he came back and he has the information. They can take care of the situation without any additional cost.

It just makes me a little more suspicious how they can do this, because there is in the bill, or in the Committee Amendment A, if Marijuana is not available from the Food and Drug Administration, the State can contract for confiscated Marijuana. I'm sure that confiscated Marijuana will have to be tested would have to be handled before it was put out into the hands of patients to use.

I was told also by the Department of Human Services that they don't have the equipment to do this testing now. When Police Law Enforcement Agencies want to test confiscated goods to see whether it is Marijuana or what grade it is, then they contract, this out, to private agencies. If the State is going to be involved, we're going to have to buy some equipment to do this, but I don't want to prolong this, I think it is a bad bill. I think the reason we're here today talking about this so long is because we're talking about an illegal substance and we're trying to legalize it.

I think the title of the bill probably should have read, "legalize Marijuana for cancer and glaucoma patients," period, because that's just exactly what we're going to do, is legalize Marijuana.

The PRESIDENT: The Chair recognizes the Senator from York, Senator Lovell.

Senator LOVELL: Just a couple of more words. On the amendment, this bill ends in 2 years. In other words, if it is not effective, it ends in 2 years. As far as adulteration of Marijuana, Marijuana is a leaf, and I have carried it in my drug store years ago when it was legal, and I had it in a tincture, a 10% tincture dissolved in alcohol which they used at the time as an aphrodisiac, in the tincture.

So consequently, I don't think that there is going to be any problem on adulteration because the leaf is a distinctive leaf and any ordinary druggist with experience can recognize the Marijuana leaf. Thank you.

The PRESIDENT: The Chair recognizes the Senator from Arroostook, Senator Carpenter.

Senator CARPENTER: Parliamentary Inquiry, I made a request for a Roll Call, is that

still in order?

The PRESIDENT: The Chair understood the request for a Roll Call was the Recede and Concur Motion or was it on the Recede Motion?

Senator CARPENTER: That's correct. Mr. President, and Ladies and Gentlemen of the Senate: I would hope that we would go along with the Recede motion this afternoon, and get this bill in a posture that we can perhaps later Concur.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Conley.

Senator CONLEY: Mr. President, a Parliamentary Inquiry, once we Recede, the Motion to Concur would be in order?

The PRESIDENT: The Chair would advise the Senator the Motion to Concur would be the highest priority.

Senator CONLEY: Thank you very much, Mr. President.

The PRESIDENT: The Chair will order a Division.

Will all those Senators in favor of the Motion to Recede, please rise in their places to be counted.

Will all those Senators opposed, please rise in their places to be counted.

25 Senators having voted in the affirmative, and 3 Senators in the negative, the Motion to Recede does prevail.

The Chair recognizes the Senator from Cumberland, Senator Conley.

Senator CONLEY: Mr. President, I move that the Senate concur with the House.

The PRESIDENT: The Senator from Cumberland, Senator Conley, moves that the Senate Concur with the House.

Is this the pleasure of the Senate?

The Chair recognizes the Senator from Cumberland, Senator Gill.

Senator GILL: I request a Roll Call.

The PRESIDENT: A Roll Call has been requested. Under the Constitution, in order for the Chair to order a Roll Call it requires the affirmative vote of at least one-fifth of those Senators present and voting.

Will all those Senators in favor of ordering a Roll Call, please rise and remain standing until counted.

Obviously more than one-fifth having arisen a Roll Call is ordered.

The pending question before the Senate is the Motion by the Senator from Cumberland, Senator Conley, that the Senate Concur, with the House.

A Yes vote will be in favor of the Motion to Concur.

A No vote will be opposed.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEA—Ault, Carpenter, Chapman, Clark, Conley, Cote, Emerson, Farley, Huber, Katz, Lovell, Martin, McBreairey, Minkowsky, Najarian, O'Leary, Pierce, Pray, Shute, Sutton, Trafton, Trotzky, Usher.

NAY—Danton, Devoe, Gill, Hichens, Perkins, Redmond, Silverman, Teague.

ABSENT—Collins.

A Roll Call was had.

23 Senators having voted in the affirmative, and 8 Senators in the negative, with 1 Senator being absent, the Motion to Concur does prevail.

The Chair laid before the Senate Bill, "An Act Concerning the Profession of Public Accountancy." (H. P. 234) (L. D. 280), tabled earlier in today's session by Senator Chapman of Sagadahoc, pending the Motion of Senator Lovell of York.

On Motion by Senator Chapman of Sagadahoc, Retabled for 1 Legislative Day.

On Motion by Senator Katz of Kennebec, the Senate voted to take from the Table.

"Senate Order relative to adding a new Senate Rule "39" tabled earlier in today's ses-