

TO THE MISSISSIPPI HOUSE OF REPRESENTATIVES:

GOVERNOR'S VETO MESSAGE FOR HOUSE BILL 1152

1 am returning House Bill 1152: "AN ACT TO BE KNOWN AS THE RIGHT TO TRY MEDICAL CANNABIS ACT; TO PROVIDE A PROCEDURE FOR PERSONS WHO DO NOT HAVE A QUALIFYING DEBILITATING MEDICAL CONDITION UNDER THE MISSISSIPPI MEDICAL CANNABIS ACT BUT HAVE AN ILLNESS THAT IS CHRONIC, PROGRESSIVE, SEVERELY DISABLING OR TERMINAL IN NATURE, TO BE CONSIDERED FOR INCLUSION IN THE MISSISSIPPI MEDICAL CANNABIS PROGRAM; TO PROVIDE THAT THE PATIENT'S TREATING MEDICAL PROVIDER MAY SUBMIT A PETITION TO THE STATE DEPARTMENT OF HEALTH REQUESTING AUTHORIZATION FOR THE PATIENT TO ACCESS MEDICAL CANNABIS; TO SPECIFY THE INFORMATION THAT MUST BE INCLUDED IN THE PETITION; TO PROVIDE THAT THE STATE HEALTH OFFICER IS THE SOLE DECISION MAKING AUTHORITY ON ALL SUCH PETITIONS SUBMITTED; TO PROVIDE THAT IF THE PETITION IS APPROVED, THE PATIENT SHALL BECOME ELIGIBLE TO APPLY FOR A REGISTRY IDENTIFICATION CARD UNDER THE MISSISSIPPI MEDICAL CANNABIS PROGRAM, SUBJECT TO ALL APPLICABLE RULES, LIMITS AND REGULATIONS; TO PROVIDE THAT THE DECISION OF THE STATE HEALTH OFFICER ON A PETITION SHALL BE FINAL AND MAY NOT BE APPEALED; TO PROVIDE THAT THE DEPARTMENT MAY LIMIT THE TYPE, FORM OR VOLUME OF CANNABIS AUTHORIZED FOR PATIENTS APPROVED UNDER THIS ACT IN ACCORDANCE WITH PUBLIC HEALTH AND SAFETY STANDARDS; TO PROVIDE THAT PATIENTS APPROVED UNDER THIS ACT SHALL BE SUBJECT TO PERIODIC REEVALUATION BY THE TREATING PROVIDER NO LESS THAN ONCE EVERY 12 MONTHS; TO AMEND SECTION 41-137-3, MISSISSIPPI CODE OF 1972, TO REVISE THE DEFINITION OF "QUALIFYING PATIENT"; TO AMEND SECTION 41-137-5, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PROVISIONS OF THIS ACT; AND FOR RELATED PURPOSES."

House Bill 1152 seeks to establish a statutory "right" for any non-resident of the State of Mississippi to travel to our state and submit a petition to the Mississippi Department of Health requesting to try medical marijuana to treat any chronic, progressive, debilitating or terminal illness that is not a qualifying medical condition under the Mississippi Medical Cannabis Act (Miss. Code 41-137-1, et seq.)("Act"). Specifically, the proposed legislation defines "qualifying patients" to include "a person who is not a resident of Mississippi or who has been a resident of Mississippi for less than forty-five (45) days." (See Lines 404-413.) The petition must be signed by a medical provider, submitted to the State Health Officer and contain the following information: (a) a statement of the patient's diagnosis, prognosis, and medical history; (b) a narrative explanation of how medical cannabis may benefit the patient, including past treatment outcomes and contraindications; (c) an attestation that conventional therapies have been attempted, are unavailable, or are contraindicated; (d) a recommendation that the patient be permitted to access medical cannabis; (e) an outline of the proposed cannabis use regimen, if known, including route of administration and expected duration; and (f) consent by the patient or legal guardian authorizing the department to review medical records relevant to the petition. (See Lines 61-76.) The State Health Officer, in his/her sole discretion shall issue a written determination approving or denying the petition within forty-five (45) calendar days. (See Lines 77-82.) If the petition is denied, "the decision shall include written findings explaining the basis for denial, which shall be limited to: (a) insufficient medical justification or documentation; (b) risks to public health or patient safety; or (c) lack of provider qualification or incomplete submission. (See Lines 83-90.) If the petition is approved, the petitioner is entitled to receive a cannabis card and shall have the right to purchase medical marijuana in Mississippi, subject to an annual reevaluation by their medical provider. (See Lines 91-94 and 114-116.) The decision of the State Health Officer on a petition shall be final and not subject to any appeal. (See Lines 95-97.) Finally, despite containing a "disclaimer" that HB 1152 does not "authorize interstate transport or distribution of cannabis," (presumably in an attempt to disclaim liability for aiding and abetting in such actions), the bill contains no requirement that a person granted the "right to try medical cannabis" remain within the borders of the State of Mississippi during their trial.

The original intent of House Bill 1152 when filed was commendable, to afford to Mississippians with painful and debilitating terminal illnesses that do not qualify under the Act an opportunity to petition the State Health Officer for authorization to try medical marijuana. This would allow medical providers who are not registered under the Act

and treating terminally ill patients the opportunity, on a case-by-case basis, to work with the State Health Officer to provide compassionate end of life care. I believe nearly all reasonable people would agree that a Mississippian suffering from a painful and debilitating terminal illness should be afforded an opportunity, subject to medical review, to try any medication or treatment to ease their suffering when they are near the end of life.

However, when HB 1152 reached the other legislative chamber, it was amended to extend the "right to try medical cannabis" to every person on the planet. In the words of the State Health Officer: "The amendment making out of state residents eligible for the program, in our opinion, shifts the intent of the bill away from giving Mississippians the ability to work with their treating physicians in dire situation when all other options have failed. This policy position of MSDH was clearly communicated to leadership and in committee that we could only support this narrowly drafted and strict language and would not support anything to make the program more recreational in nature. Unfortunately, the amended language distorts the purpose of the bill's original intent."

Since the adoption of the Act in 2022, it has been a continuing challenge to strike the appropriate balance between the utilization of marijuana for medical purposes versus the utilization of marijuana for recreational purposes. To this end, the Act places appropriate safeguards by requiring a person seeking to utilize medical marijuana be diagnosed by a registered healthcare provider with whom the patient has a bona fide relationship with a statutorily enumerated debilitating medical condition, and a finding that the use of medical marijuana will likely provide a medical or palliative benefit. (See Miss. Code 41-137-5(1).) The Act further requires that such persons be reevaluated at least once every twelve months to ensure such medical or palliative benefit from the use of medical marijuana continues. These safeguards have been largely successful in achieving their intended purpose, to cabin the use of marijuana in Mississippi to the treatment of medical conditions, and not for recreational purposes.

I share the State Health Officer's concerns that the amendment of HB 1152 beyond its original intent has the potential to upset the tenuous balance struck by the Act and poses an unreasonable risk of pushing the medical marijuana program in the direction of facilitating recreational use. In the future, if the Legislature returns this legislation to my desk as originally proposed and passed the House, limiting its application to Mississippi residents that are suffering from a debilitating and terminal illness, accompanied by a reasonable repealer date to allow for an evaluation of the "right to try" program a couple of years after its implementation, I will sign such legislation into law. However, I am compelled to veto House Bill 1152 at this time.

Respectfully submitted,


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GOVERNOR

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4:55 P.M.