

April 7, 2017

HOUSE EXECUTIVE MESSAGE NO. 59

The Honorable Brian Egolf, Jr., Speaker of the House and
Members of the House of Representatives
State Capitol Building
Santa Fe, NM 87501

Honorable Speaker Egolf and Members of the House:

Pursuant to the Constitution of the State of New Mexico, Article IV, Section 22, I hereby VETO and return HOUSE HEALTH AND HUMAN SERVICES COMMITTEE SUBSTITUTE FOR HOUSE BILL 527, as amended, with emergency clause, enacted by the Fifty-Third Legislature, First Session, 2017.

Maintaining the integrity of our medical marijuana program is vital. While House Bill 527 contains many positive changes to the program, it also contains several aspects that may dilute the program and erode its intent.

The first concern is adding qualifying conditions to statute. Currently, there are seven qualifying conditions in statute to become a patient. The Lynn and Erin Compassionate Use Act also allows the Department of Health (DOH) to add other medical conditions or diseases. Under DOH regulations, anyone may petition for conditions to be added or eliminated, other than those in statute. The petition is presented to the Medical Cannabis Advisory Board, which makes recommendations to the DOH Secretary about whether to include or eliminate a condition. The DOH Secretary makes the final decision. Inclusion of additional conditions in statute would eliminate an important responsibility of the Board.

Second, including “opioid use disorder” to the list of qualifying conditions for which an individual may enroll in the program is problematic. In addition to bypassing the authority of the Medical Cannabis Advisory Board, it is important to note that chronic pain is a qualifying condition currently. This means that people who are dependent on opiates and who have a chronic pain condition may already qualify for program enrollment. Including “opioid use disorder” independently will likely cause a rapid increase in program enrollment, which the program is currently unable to sustain. Additionally, the bill does not define what “treatment” for opioid dependence entails.

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The third concern is the allowance for reciprocity with patients from other states. About 28 states have a medical cannabis program, and each of them has different standards. Therefore, the bill allows reciprocity based on standards set in another state. It also fails to specify a time limit for reciprocity. Additionally, currently, producers are unable to sell to an individual without a New Mexico registry identification card, which creates a challenge for selling to a patient from another state. Not all states issue identification cards, making the verification of enrollment in another state almost impossible to do. Together, these factors may erode program integrity.

Finally, this bill fails to require background checks through the National Crime Information Center (NCIC) for producers, primary caregivers, manufacturers, testing laboratories, and couriers who are involved with the program. Background checks for these individuals are currently required, but they are conducted based on fingerprinting. Requiring that they be conducted through the NCIC would simply make them more thorough.

For these reasons, I veto House Bill 527.

Respectfully yours,

Susana Martinez
Governor

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Time: _____ a.m. p.m.

Date: _____, 2017

By _____
Secretary of State

Time: _____ a.m. p.m.

Date: _____, 2017

By _____
Chief Clerk of the House