

**In The Matter Of:**  
*Delaware Health and Social Services*  
*Division of Public Health*

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*In Re: DE Med Marijuana Qualifying Condition Petition*  
*August 27, 2015*

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STATE OF DELAWARE  
DEPARTMENT OF HEALTH AND SOCIAL SERVICES  
DIVISION OF PUBLIC HEALTH  
HEALTH SYSTEMS PROTECTION SECTION

In Re: Delaware Medical  
Marijuana Program Qualifying  
Condition Petition

PUBLIC HEARING

Division of Public Health  
417 Federal Street  
Dover, Delaware

Thursday, August 27, 2015  
1:00 p.m.

BEFORE:

JAMIE MACK  
The Hearing Officer

APPEARANCES:

PAUL R. HYLAND  
DAWN R. BRUBAKER  
DHSS

TRANSCRIPT OF PROCEEDINGS

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1 THE HEARING OFFICER: Good  
2 afternoon. My name is Jamie Mack, and I'm the  
3 hearing officer for this public hearing.

4 At this time I ask you to please  
5 turn off all cellular devices or put them in a  
6 silent or vibrate mode.

7 I welcome you to the public  
8 hearing to discuss the petition to add autism  
9 with aggressive and/or self-injurious behavior  
10 to the list of qualifying medical conditions  
11 in the Delaware Medical Marijuana Code.

12 Today is Thursday, August 27th,  
13 2015. It is now 1:00 p.m. This hearing is  
14 being held in the first-floor conference room  
15 located in the Jesse Cooper Building,  
16 417 Federal Street in Dover, Delaware.

17 The sequence of events for this  
18 public hearing will be: Brief opening  
19 statement on public hearings; overview of  
20 petition, agency exhibits, ground rules for  
21 public hearing, public comments, closing  
22 remarks, and hearing closure.

23 The public hearing is being held  
24 in accordance with Section 644 of the Delaware



1 Medical Marijuana Code on a petitions for the  
2 addition of qualifying medical conditions.  
3 The Division of Public Health pledges that  
4 they will consider your input carefully,  
5 thoughtfully, and in a responsible way. We  
6 ask that your comments not only identify  
7 problems with the proposed but potential  
8 solutions. While we acknowledge that no  
9 public policy serves everyone equally, our  
10 goal is to implement policies that do public  
11 good for many people as possible.

12                   Following today's public  
13 hearing, the division will analyze the  
14 comments received. You will note that a court  
15 reporter is present and will type a verbatim  
16 transcript of the proceedings. In addition,  
17 the division will analyze comments on the  
18 proposed petition submitted in writing during  
19 the official comment period. The official  
20 comment period is August 1st, 2015, through  
21 October 5th, 2015.

22                   At the conclusion of this  
23 hearing, and after receipt of all written  
24 materials, the department shall determine



1 whether the petition shall be adopted, I guess  
2 is the correct word, and at that point we  
3 would then revise that as a qualifying medical  
4 condition in the application.

5 And once we have made our  
6 determination, we shall issue an order which  
7 shall include a brief summary of the evidence  
8 and information submitted, a brief summary of  
9 findings of fact, the decision regarding the  
10 petition, the exact text and citation of the  
11 regulatory changes in the petition, and the  
12 effective date of the order.

13 Are you prepared to read a  
14 little bit about what we're doing?

15 MS. BRUBAKER: I wasn't given  
16 anything to read. I can talk about it.

17 THE HEARING OFFICER: I would  
18 now like to introduce Ms. Dawn Brubaker from  
19 Health Systems Protection to give an overview  
20 of the petition.

21 MS. BRUBAKER: The petition was  
22 submitted, as Jamie said, for autism with  
23 aggressive and/or self-injurious behaviors.  
24 It was complete as far as the regulatory



1 directions include as far as what was required  
2 to be submitted. It included a lot of  
3 examples relevant to the petitioner and  
4 basically talks about the dangers of autism  
5 with self-injurious behavior, as well as what  
6 medical marijuana can do to help those folks  
7 that have this condition.

8 So it was, as I said, very, very  
9 complete, and we didn't have any questions  
10 about any of the holes or potential holes. It  
11 was all explained well and documented well.  
12 So we recognize it as a valid petition.

13 THE HEARING OFFICER: Thank you.  
14 Now agency exhibits will be entered into the  
15 proceeding record.

16 Exhibit 1 is the Affidavit of  
17 Publication of the Notice of Public Hearing  
18 for the petition which was published in The  
19 News Journal on Sunday, August 2nd, 2015.

20 Exhibit 2 is the Affidavit of  
21 Publication of the Notice of Public Hearing  
22 for the petition which was published in the  
23 Delaware State News on Sunday, August 2nd,  
24 2015.



1                   Exhibit 3 would be the copy of  
2 the petition itself.

3                   Now, the ground rules for  
4 today's hearing. I would like to emphasize  
5 that the primary purpose of this hearing is to  
6 seek public comment on the petition to add  
7 autism with aggressive self-injurious behavior  
8 as published, and I would ask that you limit  
9 your comments to that petition. This is not a  
10 debate, so do not expect rebuttal. Because  
11 our interest is to know precisely what your  
12 concerns and solutions are, you may be asked  
13 questions to clarify your comments.

14                   We will proceed as follows: You  
15 will be called up for comments in the order in  
16 which your name appears on the hearing sign-in  
17 sheet. As you are called to provide comments,  
18 please clearly state your full name and the  
19 organization you represent, if any, before  
20 giving your remarks.

21                   With that, I think we're ready  
22 to begin taking remarks. And we have  
23 Ms. Humphreys.

24                   MS. HUMPHREYS: I'm just here to



1 represent my petition in memory of my son  
2 Scott, who passed away on June 20th of this  
3 year, and I feel that it's beneficial or  
4 hopefully will be beneficial to other people  
5 with this debilitating condition.

6 Scott, we had tried over  
7 20 different medications with him, and nothing  
8 worked, and his life was always a struggle,  
9 and I think with -- I wanted the opportunity  
10 for him to try medical marijuana. Of the  
11 things that I had heard about it, in  
12 considering the side effects of some of the  
13 psychotropic medications that he had been on  
14 that -- devastating, could have lasting  
15 effects, it certainly seemed worth pursuing a  
16 natural course of treatment for Scott. And I  
17 had the support of his doctors for doing this.

18 Unfortunately, like I said,  
19 Scott will never have the opportunity, but I'm  
20 hoping that there are other parents and  
21 guardians out there that will want to do this  
22 for their son or daughter or guardian.

23 THE HEARING OFFICER: Thank you  
24 very much.



1 Ms. Thomas, did you have  
2 anything you'd like to add?

3 MS. THOMAS: No. Basically I'm  
4 just here for support for Sue.

5 THE HEARING OFFICER: Thank you.  
6 Brandon?

7 MR. KALBFLEISCH: My name is  
8 Brandon Kalbfleisch. I basically was born in  
9 Newark, Delaware. I'm hear to absolutely  
10 support the petition. I moved out to Colorado  
11 and I basically got to see firsthand what  
12 medical marijuana can do for so many different  
13 ailments and so many different people and  
14 truly believe it can help people with autism  
15 and people with chronic disease and  
16 debilitating diseases. It basically helps  
17 brings new perspective into people's lives and  
18 can give them at least a chance to heal.

19 I'm here to support that, and I  
20 truly have read over the petition and I  
21 believe in its -- I hope it will help so many  
22 people to come.

23 Thank you for letting me come  
24 and comment.



1 THE HEARING OFFICER: Thank you  
2 very much.

3 At this time is there anyone  
4 else in the room that would like to make  
5 further comment?

6 (No response.)

7 THE HEARING OFFICER: The time  
8 is now 1:07. What we will do now is go off  
9 the record for a few minutes and then what we  
10 will do is at least Dawn and I will stay here  
11 for at least half an hour or so in case anyone  
12 else comes in with comments, and at that point  
13 we can either enter them into the record or  
14 close the meeting with a few basic remarks at  
15 that point.

16 I thank you all for coming out  
17 to provide comments.

18 (A recess was taken.)

19 THE HEARING OFFICER: The time  
20 is now 1:32. We're coming back to take  
21 additional comments, and we have Ms. Donahue.

22 MS. DONAHUE: My name is  
23 Carol A. Donahue. I'm mother and guardian for  
24 my son, Thomas Donahue, and he's age 46 years



1 old. He is a resident of Delaware and he  
2 resides in a group home. Do you need the  
3 address? Group home which is run by Chimes  
4 Delaware.

5 My son is -- he has  
6 hyperactivity and he's also -- he has pica and  
7 he's a walk-away/run-away. He needs  
8 one-on-one supervision. And his behaviors are  
9 cyclical. At times he will be calm, but at  
10 other times he's just so agitated and  
11 hyperactive. He can tire in front of me. He  
12 walks almost all of the day. His activity is  
13 walking. But when his behavior gets out of  
14 control, he will be throwing things and  
15 knocking things, not really aware of his  
16 surroundings as far as bumping into things.  
17 He will just walk into anything in the way, he  
18 just bumps into them.

19 I don't know if -- he does not  
20 take medications to alter his behavior. He  
21 does take like a sedative, tranquilizer  
22 Lorazepam, to somewhat quiet him, but it's  
23 basically when he has a high activity and  
24 hyperactivity and irrational behavior, it



1 doesn't do anything.

2 In the past when we did try  
3 antipsychiatric medication at one time in his  
4 life when he was younger, all that did was it  
5 made him aphasic and subject to fall,  
6 behaviors continue.

7 So nothing really, really helps.  
8 And I don't know if at sometime I might be  
9 pressed that he be prescribed medical  
10 marijuana to help quiet him if the cyclical  
11 behaviors continue over a long period of time,  
12 just for his own safety and also the safety of  
13 the staff who monitor his safety and  
14 behaviors, his daily needs. And when he's  
15 real excitable, like doing his daily showering  
16 and daily activities, he -- it's just  
17 difficult to handle. I don't know if it's  
18 something -- that it's a natural substance and  
19 it might be better than the chemicals that are  
20 out there.

21 MR. HYLAND: Right.

22 MS. DONAHUE: I have to rely on  
23 his reaction to taking any medications or  
24 foods or anything because he does not speak to



1 let me know how he feels. It's mostly facial  
2 expressions or his -- like his behavior on  
3 trying something new.

4 MR. HYLAND: Would he eat  
5 something like a brownie or a cookie or  
6 something like that?

7 MS. DONAHUE: Oh, yes. He likes  
8 sweets. And if it's soft, because through the  
9 years he's lost a lot of his teeth. If  
10 something is soft like that and can break it  
11 up small, that would not be a problem. But  
12 sometimes he gets so excitable that it's scary  
13 because nothing, no verbal intervention or  
14 calming seems to help.

15 He's older now, he has mellowed  
16 in some ways, but when he's excitable, he's  
17 good to go, I'll tell you. He will push you  
18 out of the way.

19 Would you like to know anything  
20 else?

21 THE HEARING OFFICER: I think if  
22 that's the end of your comments, do we have  
23 any further questions?

24 MR. HYLAND: So with his



1 situation in the group home, would you be the  
2 only person that would be administering it to  
3 him?

4 MS. DONAHUE: That's something  
5 to think about, because I don't know how his  
6 general physician would feel about this  
7 because I never approached him to ask him, but  
8 that would be the problem, because he lives in  
9 Newark, I live in Townsend, and I visit him  
10 every week, if not more than once a week or  
11 twice a week. And sometimes he's excitable  
12 when I'm not around. So that is -- that would  
13 have -- I don't know if that could ever be  
14 worked out, because talking with my very good  
15 friend, Ms. Humphreys, who was here, we have  
16 talked about that together with how it would  
17 be managed with him getting the medical  
18 marijuana unless it was ordered by a doctor  
19 after his family would agree to it, and then I  
20 don't know how the nursing staff would address  
21 that, because it's brand-new, you know.

22 Yes, but he does receive very,  
23 very harsh chemical medications.

24 MR. HYLAND: This is a



1 Schedule 1 drug.

2 MS. DONAHUE: As time goes on,  
3 other things have been becoming acceptable and  
4 worked out for those who need different  
5 medications and interventions.

6 Thank you very much for  
7 listening to my comments, and thank you for  
8 taking them down.

9 MR. HYLAND: Thank you for  
10 coming in.

11 THE HEARING OFFICER: Thank you  
12 for providing information.

13 MS. DONAHUE: Where will the  
14 outcome of the hearings be readable or when  
15 will they be coming out?

16 MR. HYLAND: At the end of  
17 September is when we have to make a decision  
18 one way or the other. So it will be on our  
19 website. And then I'll have to start the  
20 process if it's approved to open regulations  
21 again and have it inserted into the  
22 regulations if it's acceptable.

23 MS. DONAHUE: Like after  
24 September 30th?



1 MR. HYLAND: Yeah. That's when  
2 a decision will be made.

3 THE HEARING OFFICER: Once a  
4 decision is made, the website process being  
5 what it is, it may take a week or two. It  
6 might even be the first or second week in  
7 October before it's actually posted on the  
8 website.

9 MS. DONAHUE: Do you have any  
10 vision on what the next step might be or next  
11 move or action?

12 MR. HYLAND: As far as the  
13 petition?

14 MS. DONAHUE: Uh-huh.

15 MR. HYLAND: After this hearing  
16 we're going to collect the petition and the  
17 evidence that was provided, any comments, and  
18 then we will go to the DHSS cabinet secretary  
19 and the Oversight Committee and then they will  
20 rule on it. I don't want to use those words.  
21 The petition has already been deemed to have  
22 merit, and that's why we're having the hearing  
23 already. It's moving in a very positive  
24 direction.



1                   THE HEARING OFFICER: I'm going  
2 to make closing remarks. Are there any  
3 further questions or comments?

4                   (No response.)

5                   THE HEARING OFFICER: Hearing  
6 none, I just add a reminder that the public  
7 comment period is open until 4:30 p.m.  
8 October 5th, 2015. My business card with fax,  
9 email, and mailing address is available on the  
10 sign-in table.

11                   Let the record reflect that this  
12 public hearing adjourned at 1:40 on August 27,  
13 2015. Thank you.

14                   (Hearing adjourned at 1:40 p.m.)

15                   - - - - -

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## C E R T I F I C A T E

STATE OF DELAWARE )

)

NEW CASTLE COUNTY)

I, Kimberly A. Hurley,  
Registered Merit Reporter and Notary Public,  
do hereby certify that the foregoing record,  
pages 1 to 17 inclusive, is a true and  
accurate transcript of my stenographic notes  
taken on Thursday, August 27, 2015, in the  
above-captioned matter.

IN WITNESS WHEREOF, I have  
hereunto set my hand and seal this 2nd day of  
September, 2015, at Wilmington.



Kimberly A. Hurley, RMR



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