

CHAPTER 242
HB 573-FN – FINAL VERSION

20Mar2013... 0797h
05/23/13 1631s
26June2013... 2098CofC
26June2013... 2200EBA

2013 SESSION

13-0279
04/01

HOUSE BILL ***573-FN***

AN ACT relative to the use of cannabis for therapeutic purposes.

SPONSORS: Rep. Schlachman, Rock 18; Rep. Vaillancourt, Hills 15; Rep. Robertson, Ches 6;
Rep. Wright, Carr 8; Rep. Renzullo, Hills 37; Rep. LeBrun, Hills 32;
Rep. DeSimone, Rock 14; Rep. Kidder, Merr 5; Rep. Gale, Hills 28; Rep. Lovejoy,
Rock 36; Sen. Woodburn, Dist 1; Sen. Reagan, Dist 17; Sen. Fuller Clark, Dist 21;
Sen. Cataldo, Dist 6

COMMITTEE: Health, Human Services and Elderly Affairs

AMENDED ANALYSIS

This bill authorizes the use of therapeutic cannabis in New Hampshire.

Explanation: Matter added to current law appears in ***bold italics***.
Matter removed from current law appears [~~in brackets and struck through~~].
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Thirteen

AN ACT relative to the use of cannabis for therapeutic purposes.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 242:1 New Chapter; Use of Cannabis for Therapeutic Purposes. Amend RSA by inserting after
2 chapter 126-V the following new chapter:

CHAPTER 126-W

USE OF CANNABIS FOR THERAPEUTIC PURPOSES

5 126-W:1 Definitions. In this chapter:

6 I. “Alternative treatment center” means a not-for-profit entity registered under RSA 126-
7 W:7 that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, sells, supplies,
8 and dispenses cannabis, and related supplies and educational materials, to qualifying patients and
9 alternative treatment centers.

10 II. “Alternative treatment center agent” means a principal officer, board member, employee,
11 manager, or volunteer of an alternative treatment center who is 21 years of age or older and has not
12 been convicted of a felony or any felony drug-related offense.

13 III. “Cannabis” means all parts of any plant of the Cannabis genus of plants, whether
14 growing or not; the seeds thereof; the resin extracted from any part of such plant; and every
15 compound, salt, derivative, mixture, or preparation of such plant, its seeds, or resin. Such term shall
16 not include the mature stalks of such plants, fiber produced from such stalks, oil, or cake made from
17 the seeds of such plants, any other compound, salt, derivative, mixture, or preparation of such
18 mature stalks (except the resin extracted therefrom), fiber, oil or cake, or the sterilized seeds of such
19 plants which are incapable of germination.

20 IV. “Cultivation location” means a locked and enclosed site, under the control of an
21 alternative treatment center where cannabis is cultivated, secured with one or more locks or other
22 security devices in accordance with the provisions of this chapter.

23 V. “Department” means the department of health and human services.

24 VI. “Designated caregiver” means an individual who:

25 (a) Is at least 21 years of age;

26 (b) Has agreed to assist with one or more (not to exceed 5) qualifying patient’s
27 therapeutic use of cannabis, except if the qualifying patient and designated caregiver each live

CHAPTER 242
HB 573-FN – FINAL VERSION
- Page 2 -

1 greater than 50 miles from the nearest alternative treatment center, in which case the designated
2 caregiver may assist with the therapeutic use of cannabis for up to 9 qualifying patients;

3 (c) Has never been convicted of a felony or any felony drug-related offense; and

4 (d) Possesses a valid registry identification card issued pursuant to RSA 126-W:4.

5 VII.(a) “Provider” means a physician licensed to prescribe drugs to humans under RSA 329
6 and who possesses certification from the United States Drug Enforcement Administration to
7 prescribe controlled substances. “Provider” shall also mean an advanced practice registered nurse
8 licensed pursuant to RSA 326-B:18.

9 (b) For a visiting qualifying patient, “provider” means an individual licensed to prescribe
10 drugs to humans in the state of the patient’s residence and who possesses certification from the
11 United States Drug Enforcement Administration to prescribe controlled substances. Such visiting
12 patient shall not be eligible to purchase or transfer cannabis from an eligible New Hampshire
13 patient.

14 VIII. “Provider-patient relationship” means at least a 3-month medical relationship between
15 a licensed provider and a patient that includes an in-person exam, a history, a diagnosis, and a
16 treatment plan appropriate for the licensee’s medical specialty.

17 IX.(a) “Qualifying medical condition” means the presence of:

18 (1) Cancer, glaucoma, positive status for human immunodeficiency virus, acquired
19 immune deficiency syndrome, hepatitis C currently receiving antiviral treatment, amyotrophic
20 lateral sclerosis, muscular dystrophy, Crohn’s disease, agitation of Alzheimer’s disease, multiple
21 sclerosis, chronic pancreatitis, spinal cord injury or disease, traumatic brain injury, or one or more
22 injuries that significantly interferes with daily activities as documented by the patient’s provider;
23 and

24 (2) A severely debilitating or terminal medical condition or its treatment that has
25 produced at least one of the following: elevated intraocular pressure, cachexia, chemotherapy-
26 induced anorexia, wasting syndrome, severe pain that has not responded to previously prescribed
27 medication or surgical measures or for which other treatment options produced serious side effects,
28 constant or severe nausea, moderate to severe vomiting, seizures, or severe, persistent muscle
29 spasms.

30 (b) The department may include a medical condition that is not listed in subparagraph
31 (a) that the department determines, on a case by case basis, is severely debilitating or terminal,
32 based upon the written request of a provider who furnishes written certification to the department.

33 X. “Qualifying patient” means a resident of New Hampshire who has been diagnosed by a
34 provider as having a qualifying medical condition and who possesses a valid registry identification
35 card issued pursuant to RSA 126-W:4.

36 XI. “Registry identification card” means a document indicating the date issued and

CHAPTER 242
HB 573-FN – FINAL VERSION
- Page 3 -

1 expiration date by the department pursuant to RSA 126-W:4 that identifies an individual as a
2 qualifying patient or a designated caregiver.

3 XII. “Seedling” means a cannabis plant that has no flowers and is less than 12 inches in
4 height and less than 12 inches in diameter.

5 XIII. “Therapeutic use” means the acquisition, possession, cultivation, preparation, use,
6 delivery, transfer, or transportation of cannabis or paraphernalia relating to the administration of
7 cannabis to treat or alleviate a qualifying patient’s qualifying medical condition or symptoms or
8 results of treatment associated with the qualifying patient’s qualifying medical condition. It shall
9 not include:

- 10 (a) The use of cannabis by a designated caregiver who is not a qualifying patient; or
- 11 (b) Cultivation or purchase by a visiting qualifying patient; or
- 12 (c) Cultivation by a designated caregiver or qualifying patient.

13 XIV. “Unusable cannabis” means any cannabis, other than usable cannabis, including the
14 seeds, stalks, and roots of the plant.

15 XV. “Usable cannabis” means the dried leaves and flowers of the cannabis plant and any
16 mixture or preparation thereof, but does not include the seeds, stalks, and roots of the plant and does
17 not include the weight of any non-cannabis ingredients combined with cannabis and prepared for
18 consumption as food or drink.

19 XVI. “Visiting qualifying patient” means a patient with a qualifying medical condition who
20 is not a resident of New Hampshire or who has been a resident of New Hampshire for fewer than 30
21 days and is not eligible to purchase therapeutic cannabis in New Hampshire or receive cannabis
22 from a qualifying New Hampshire patient.

23 XVII. “Written certification” means documentation of a qualifying medical condition by a
24 provider pursuant to rules adopted by the department pursuant to RSA 541-A for the purpose of
25 issuing registry identification cards, after having completed a full assessment of the patient’s
26 medical history and current medical condition made in the course of a provider-patient relationship
27 of at least 3 months in duration. The 3-month requirement for the provider-patient relationship
28 required in this paragraph shall not apply if the provider issuing the written certification certifies
29 that the onset of the patient’s qualifying medical condition occurred within the past 3 months, and
30 the certifying provider is primarily responsible for the patient’s care related to his or her qualifying
31 medical condition. The date of issuance and the patient’s qualifying medical condition, symptoms or
32 side effects, the certifying provider’s name, medical specialty, and signature shall be specified on the
33 written certification.

34 126-W:2 Therapeutic Use of Cannabis Protections.

35 I. A qualifying patient shall not be subject to arrest by state or local law enforcement,
36 prosecution or penalty under state or municipal law, or denied any right or privilege for the

CHAPTER 242
HB 573-FN – FINAL VERSION
- Page 4 -

1 therapeutic use of cannabis in accordance with this chapter, if the qualifying patient possesses an
2 amount of cannabis that does not exceed the following:

3 (a) Two ounces of usable cannabis; and

4 (b) Any amount of unusable cannabis.

5 II. A designated caregiver shall not be subject to arrest by state or local law enforcement,
6 prosecution or penalty under state or municipal law, or denied any right or privilege for the
7 therapeutic use of cannabis in accordance with this chapter on behalf of a qualifying patient if the
8 designated caregiver possesses an amount of cannabis that does not exceed the following:

9 (a) Two ounces of usable cannabis, or the total amount allowable for the number of
10 qualifying patients for which he or she is a designated caregiver; and

11 (b) Any amount of unusable cannabis.

12 III. A designated caregiver may receive compensation for costs, not including labor,
13 associated with assisting a qualifying patient who has designated the designated caregiver to assist
14 him or her with the therapeutic use of cannabis. Such compensation shall not constitute the sale of
15 controlled substances.

16 IV.(a) A qualifying patient is presumed to be lawfully engaged in the therapeutic use of
17 cannabis in accordance with this chapter if the qualifying patient possesses a valid registry
18 identification card and possesses an amount of cannabis that does not exceed the amount allowed
19 under this chapter.

20 (b) A designated caregiver is presumed to be lawfully engaged in assisting with the
21 therapeutic use of cannabis in accordance with this chapter if the designated caregiver possesses a
22 valid registry identification card and possesses an amount of cannabis that does not exceed the
23 amount allowed under this chapter.

24 (c) The presumptions made in subparagraphs (a) and (b) may be rebutted by evidence
25 that conduct related to cannabis was not for the purpose of treating or alleviating the qualifying
26 patient's qualifying medical condition or symptoms or effects of the treatment associated with the
27 qualifying medical condition, in accordance with this chapter.

28 V. A valid registry identification card, or its equivalent, that is issued under the laws of
29 another state, district, territory, commonwealth, or insular possession of the United States that
30 allows, in the jurisdiction of issuance, a visiting qualifying patient to possess cannabis for
31 therapeutic purposes, shall have the same force and effect as a valid registry identification card
32 issued by the department in this state, provided that:

33 (a) The visiting qualifying patient shall also produce a statement from his or her
34 provider stating that the visiting qualifying patient has a qualifying medical condition as defined in
35 RSA 126-W:1; and

36 (b) A visiting qualifying patient shall not cultivate or purchase cannabis in

CHAPTER 242
HB 573-FN – FINAL VERSION
- Page 5 -

1 New Hampshire or obtain cannabis from alternative treatment centers or from a qualifying
2 New Hampshire patient.

3 VI. A person otherwise entitled to custody of, or visitation or parenting time with, a minor
4 shall not be denied such a right solely for conduct allowed under this chapter, and there shall be no
5 presumption of neglect or child endangerment.

6 VII. For the purposes of medical care, including organ transplants, a qualifying patient's
7 authorized use of cannabis in accordance with this chapter shall be considered the equivalent of the
8 authorized use of any other medication used at the direction of a provider, and shall not constitute
9 the use of an illicit substance.

10 VIII. A provider shall not be subject to arrest by state or local law enforcement, prosecution
11 or penalty under state or municipal law, or denied any right or privilege, including but not limited to
12 a civil penalty or disciplinary action by the New Hampshire board of medicine or any other
13 occupational or professional licensing entity, solely for providing written certifications, provided that
14 nothing shall prevent a professional licensing entity from sanctioning a provider for failing to
15 properly evaluate a patient's medical condition.

16 IX. An alternative treatment center shall not be subject to prosecution under state or
17 municipal law, search, or inspection, except by the department pursuant to RSA 126-W:7, IX;
18 seizure; or penalty in any manner under state or municipal law for acting pursuant to this chapter
19 and department rules to:

- 20 (a) Acquire or purchase cannabis seeds or seedlings;
21 (b) Possess, cultivate, manufacture, or transport cannabis and seedlings; or
22 (c) Deliver, transfer, supply, sell, or dispense cannabis and related supplies and
23 educational materials to qualifying patients who have designated the alternative treatment center to
24 provide for them, to designated caregivers on behalf of the qualifying patients who have designated
25 the alternative treatment center, or to other alternative treatment centers.

26 X. An alternative treatment center agent shall not be subject to arrest by state or local law
27 enforcement, prosecution or penalty in any manner under state or municipal law, search, or denied
28 any right or privilege for working for an alternative treatment center pursuant to this chapter and
29 department rules to engage in any of the actions listed in paragraph IX.

30 XI. Any cannabis, cannabis paraphernalia, licit property, or interest in licit property that is
31 possessed, owned, or used in connection with the therapeutic use of cannabis as allowed under this
32 chapter, or acts incidental to such use, shall not be seized or forfeited if the basis for the seizure or
33 forfeiture is activity related to cannabis that is exempt from state criminal penalties under this
34 chapter.

35 XII. An individual shall not be subject to arrest by state or local law enforcement,
36 prosecution or penalty under state or municipal law, or denied any right or privilege, including but

CHAPTER 242
HB 573-FN – FINAL VERSION
- Page 6 -

1 not limited to a civil penalty or disciplinary action by a court or occupational or professional licensing
2 entity, simply for being in the presence or vicinity of the therapeutic use of cannabis as allowed
3 under this chapter.

4 XIII. If a state or local law enforcement officer encounters an alternative treatment center or
5 an individual who the officer knows is an alternative treatment center agent, a designated caregiver,
6 or a qualifying patient, or who credibly asserts he or she is an alternative treatment center agent, a
7 designated caregiver, or a qualifying patient, the law enforcement officer shall not provide any
8 information concerning any cannabis-related activity involving the individual or entity, except
9 pursuant to a lawfully-issued subpoena, to any law enforcement agency that does not recognize the
10 protection of this chapter, and any prosecution of the individual or entity for a violation of this
11 chapter shall be conducted pursuant to the laws of this state. This paragraph shall not apply in
12 cases where the state or local law enforcement agency has probable cause to believe the person is
13 distributing cannabis to a person who is not allowed to possess it under this chapter. Any seizure of
14 cannabis by law enforcement officers for a violation of this chapter shall be limited to the amount of
15 cannabis in excess of the quantities permitted under this chapter and any such cannabis seized shall
16 not be returned.

17 XIV. A person who ceases to be a qualifying patient or designated caregiver shall have 10
18 days after notification by the department to dispose of cannabis in one of the following ways:

19 (a) If the person was a designated caregiver and the qualifying patient who designated
20 the caregiver is still a qualifying patient, but has designated a new caregiver, the designated
21 caregiver may transfer cannabis to the new designated caregiver;

22 (b) The person may notify local law enforcement and request that they dispose of the
23 cannabis; or

24 (c) The person may dispose of the cannabis, after mixing the cannabis with other
25 ingredients such as soil to render it unusable.

26 126-W:3 Prohibitions and Limitations on the Therapeutic Use of Cannabis.

27 I. A qualifying patient may use cannabis on privately-owned real property only with written
28 permission of the property owner or, in the case of leased property, with the permission of the tenant
29 in possession of the property, except that a tenant shall not allow a qualifying patient to smoke
30 cannabis on rented property if smoking on the property violates the lease or the lessor's rental
31 policies that apply to all tenants at the property. However, a tenant may permit a qualifying patient
32 to use cannabis on leased property by ingestion or inhalation through vaporization even if smoking is
33 prohibited by the lease or rental policies. For purposes of this chapter, vaporization shall mean the
34 inhalation of cannabis without the combustion of the cannabis.

35 II. Nothing in this chapter shall exempt any person from arrest or prosecution for:

36 (a) Being under the influence of cannabis while:

CHAPTER 242
HB 573-FN – FINAL VERSION
- Page 7 -

1 (1) Operating a motor vehicle, commercial vehicle, boat, vessel, or any other vehicle
2 propelled or drawn by power other than muscular power; or

3 (2) In his or her place of employment, without the written permission of the
4 employer; or

5 (3) Operating heavy machinery or handling a dangerous instrumentality.

6 (b) The use or possession of cannabis by a qualifying patient or designated caregiver for
7 purposes other than for therapeutic use as permitted by this chapter;

8 (c) The smoking or vaporization of cannabis in any public place, including:

9 (1) A public bus or other public vehicle; or

10 (2) Any public park, public beach, or public field.

11 (d) The possession of cannabis in any of the following:

12 (1) The building and grounds of any preschool, elementary, or secondary school,
13 which are located in an area designated as a drug free zone; or

14 (2) A place of employment, without the written permission of the employer; or

15 (3) Any correctional facility; or

16 (4) Any public recreation center or youth center; or

17 (5) Any law enforcement facility.

18 III. Nothing in this chapter shall be construed to require:

19 (a) Any health insurance provider, health care plan, or medical assistance program to be
20 liable for any claim for reimbursement for the therapeutic use of cannabis; or

21 (b) Any individual or entity in lawful possession of property to allow a guest, client,
22 customer, or other visitor to use cannabis on or in that property; or

23 (c) Any accommodation of the therapeutic use of cannabis on the property or premises of
24 any place of employment or on the property or premises of any jail, correctional facility, or other type
25 of penal institution where prisoners reside or persons under arrest are detained. This chapter shall
26 in no way limit an employer's ability to discipline an employee for ingesting cannabis in the
27 workplace or for working while under the influence of cannabis.

28 IV. Any person who makes a fraudulent representation to a law enforcement official of any
29 fact or circumstance relating to the therapeutic use of cannabis to avoid arrest or prosecution shall
30 be guilty of a violation and may be fined \$500, which shall be in addition to any other penalties that
31 may apply for making a false statement to a law enforcement officer or for the use of cannabis other
32 than use undertaken pursuant to this chapter.

33 V. A qualifying patient or designated caregiver who is found to be in possession of cannabis
34 outside of his or her home and is not in possession of his or her registry identification card may be
35 subject to a fine of up to \$100.

36 VI. Any qualifying patient or designated caregiver who sells cannabis to another person who

CHAPTER 242
HB 573-FN – FINAL VERSION
- Page 8 -

1 is not a qualifying patient or designated caregiver under this chapter shall be subject to the penalties
2 specified in RSA 318-B:26, IX-a, shall have his or her registry identification card revoked, and shall
3 be subject to other penalties as provided in RSA 318-B:26.

4 VII. The department may revoke the registry identification card of a qualifying patient or
5 designated caregiver for violation of rules adopted by the department or for violation of any other
6 provision of this chapter, and the qualifying patient or designated caregiver shall be subject to any
7 other penalties established in law for the violation.

8 126-W:4 Departmental Administration; Registry Identification Cards.

9 I. Except as provided in paragraph V, the department shall create and issue a registry
10 identification card to a person applying as a qualifying patient who submits all of the following
11 information:

12 (a) Written certification as defined in RSA 126-W:1.

13 (b) An application or a renewal application accompanied by the application or renewal
14 fee.

15 (c) A recent passport-sized photograph of the applicant's face.

16 (d) Name, residential and mailing address, and date of birth of the applicant, except that
17 if the applicant is homeless, no residential address is required.

18 (e) Name, address, and telephone number of the applicant's provider.

19 (f) Name, address, and date of birth of the applicant's designated caregiver, if any. A
20 qualifying patient shall have only one designated caregiver.

21 (g) Name of the alternative treatment center that the qualifying patient designates. A
22 qualifying patient may designate no more than one alternative treatment center at any time.

23 (h) A statement signed by the applicant, pledging not to divert cannabis to anyone who
24 is not allowed to possess cannabis pursuant to this chapter and acknowledging that his or her
25 diversion of cannabis is punishable as a class B felony and revocation of his or her registry
26 identification card, in addition to other penalties for the illegal sale of cannabis.

27 II. Except as provided in paragraph V, the department shall create and issue a registry
28 identification card to a person applying as a designated caregiver who submits all of the following
29 information:

30 (a) An application or a renewal application.

31 (b) A recent passport-sized photograph of the applicant's face.

32 (c) Name, residential and mailing address, and date of birth of the applicant.

33 (d) Name, residential and mailing address, and date of birth of each qualifying patient
34 for whom the applicant will act as designated caregiver, except that if the qualifying patient is
35 homeless, no residential address is required. An applicant shall not act as a designated caregiver for
36 more than 5 qualifying patients.

CHAPTER 242
HB 573-FN – FINAL VERSION
- Page 9 -

1 (e) Street address of the alternative treatment center.

2 (f) A signed statement from the applicant agreeing to act as the designated caregiver for
3 the qualifying patient named in the application and pledging not to divert cannabis to anyone who is
4 not allowed to possess cannabis pursuant to this chapter and acknowledging that the diversion of
5 cannabis is punishable as a class B felony and revocation of one's registry identification card, in
6 addition to other penalties for the illegal sale of cannabis.

7 (g) A notarized criminal history record release form, as provided by the New Hampshire
8 division of state police, department of safety, which authorizes the release of his or her criminal
9 history record, if any, to the department. The applicant shall submit with the release from a
10 complete set of fingerprints taken by a qualified law enforcement agency or an authorized employee
11 of the department of safety. In the event that the first set of fingerprints is invalid due to
12 insufficient pattern, a second set of fingerprints shall be necessary in order to complete the criminal
13 history records check. If, after 2 attempts, a set of fingerprints is invalid due to insufficient pattern,
14 the department may, in lieu of the criminal history records check, accept police clearances from
15 every city, town, or county where the person has lived during the past 5 years. The department shall
16 submit the criminal history records release form and fingerprint form to the division of state police
17 which shall conduct a criminal history records check through its records and through the Federal
18 Bureau of Investigation. Upon completion of the records check, the division of state police shall
19 release copies of the criminal history records to the department. The department shall maintain the
20 confidentiality of all criminal history records information received pursuant to this section. The
21 applicant shall bear the cost of a criminal history record check.

22 III. The department shall verify the information contained in an application or renewal
23 submitted pursuant to this section. The department shall approve or deny an application or renewal
24 for a qualifying patient within 15 days of receipt of the application. The department shall approve or
25 deny an application or renewal to serve as a designated caregiver within 15 days of receipt of the
26 application. The department may deny an application or renewal only if the applicant did not
27 provide the information required pursuant to this section, or if the applicant previously had a
28 registry identification card revoked for violating the provisions of this chapter or rules adopted by
29 the department, or if the department determines that the information provided was falsified or did
30 not meet the requirements of this chapter or rules adopted by the department. The department shall
31 notify an applicant of the denial of an application. An applicant who is aggrieved by a department
32 decision may request an administrative hearing at the department.

33 IV. The department shall create and issue a registry identification card to a person applying
34 as a qualifying patient or designated caregiver within 5 days of approving an application or renewal.
35 Each registry identification card shall expire one year after the date of issuance, unless the provider
36 states in the written certification that the certification should expire at an earlier specified date,

CHAPTER 242
HB 573-FN – FINAL VERSION
- Page 10 -

1 then the registry identification card shall expire on that date. Registry identification cards shall
2 contain all of the following:

3 (a) Name, mailing address, and date of birth of the qualifying patient or designated
4 caregiver.

5 (b) The date of issuance and expiration date of the registry identification card.

6 (c) A random 10-digit identification number, containing at least 4 numbers and at least 4
7 letters, that is unique to the qualifying patient or the designated caregiver.

8 (d) A designation that the person is either a “qualifying patient” or a “designated
9 caregiver.” If the person is a designated caregiver, the identification card shall include the random
10 10-digit identification number for each qualifying patient for whom he or she is providing care.

11 (e) The registry identification number corresponding with the alternative treatment
12 center the qualifying patient designated, if any.

13 (f) A passport-sized photograph of the qualifying patient’s or designated caregiver’s face.

14 (g) A statement that the qualifying patient or designated caregiver is permitted under
15 state law to possess cannabis pursuant to this chapter for the therapeutic use of the qualifying
16 patient.

17 V. The department shall not issue a registry identification card to an applicant under 18
18 years of age who is applying as a qualifying patient unless:

19 (a) A custodial parent or legal guardian responsible for health care decisions for the
20 qualifying patient submits a written certification from 2 providers, one of whom shall be a
21 pediatrician.

22 (b) The applicant’s provider has explained the potential risks and benefits of the
23 therapeutic use of cannabis to the custodial parent or legal guardian with responsibility for health
24 care decisions for the applicant.

25 (c) The custodial parent or legal guardian with responsibility for health care decisions
26 for the applicant consents in writing to:

27 (1) Allow the applicant’s therapeutic use of cannabis; and

28 (2) Serve as the applicant’s designated caregiver and control the acquisition of the
29 cannabis and the frequency of the therapeutic use of cannabis by the applicant.

30 (d) The custodial parent or legal guardian completes an application in accordance with
31 the requirements of paragraph I on behalf of the applicant.

32 VI. The department shall provide each approved qualifying patient and designated caregiver
33 a statement with the registry identification card explaining federal law on the possession of cannabis
34 and that possession of a state registry identification card does not protect a person from federal
35 criminal penalties.

36 VII.(a) The department shall track the number of qualifying patients who have designated

CHAPTER 242
HB 573-FN – FINAL VERSION
- Page 11 -

1 each alternative treatment center and issue a monthly written statement to the alternative
2 treatment center identifying the number of qualifying patients who have designated that alternative
3 treatment center along with the registry identification numbers of each qualifying patient and each
4 qualifying patient's designated caregiver.

5 (b) The department shall track the number of qualifying patients certified by each
6 provider and registered with the department. Any concerns regarding provider conduct shall be
7 referred to the New Hampshire board of medicine or the New Hampshire board of nursing.

8 VIII. In addition to the monthly reports, the department shall also provide written notice to
9 an alternative treatment center which identifies the names and registration identification numbers
10 of a qualifying patient and his or her designated caregiver whenever any of the following events
11 occur:

12 (a) A qualifying patient designates the alternative treatment center to serve his or her
13 needs under this chapter;

14 (b) A qualifying patient revokes the designation of the alternative treatment center; or

15 (c) A qualifying patient who has designated the alternative treatment center loses his or
16 her status as a qualifying patient under this chapter.

17 IX.(a) A qualifying patient shall notify the department before changing his or her designated
18 caregiver or alternative treatment center.

19 (b) A qualifying patient shall notify the department of any change in his or her name or
20 address within 10 days of such change. If the qualifying patient's certifying provider notifies the
21 department in writing that the qualifying patient no longer suffers from a qualifying medical
22 condition or should discontinue using cannabis for another compelling reason, the registry
23 identification card shall become void upon notification by the department to the qualifying patient.

24 (c) When a qualifying patient or a designated caregiver notifies the department of any
25 change to a name, address, or alternative treatment center, the department shall issue the
26 qualifying patient or designated caregiver a new registry identification card with a new random 10-
27 digit identification number within 20 days of receiving the updated information.

28 (d) If a qualifying patient notifies the department of a change in his or her designated
29 caregiver and the prospective designated caregiver meets the requirements of this chapter, the
30 department shall issue the designated caregiver a registry identification card with a new random 10-
31 digit identification number within 50 days of receiving the designated caregiver's application.

32 (e) A qualifying patient or designated caregiver who fails to notify the department of any
33 changes to his or her name, address, or designated caregiver shall be guilty of a violation and may be
34 subject to a fine not to exceed \$150 under rules adopted by the department.

35 (f) If a qualifying patient or designated caregiver loses his or her registry identification
36 card, he or she shall notify the department within 10 days of losing the card. Within 5 days after

CHAPTER 242
HB 573-FN – FINAL VERSION
- Page 12 -

1 such notification, the department shall issue a new registry identification card with a new random
2 10-digit identification number. The fee for new registry cards shall be established in rules set by the
3 department pursuant to RSA 541-A.

4 X. Mere possession of, or application for, a registry identification card shall not constitute
5 probable cause or reasonable suspicion, nor shall it be used to support the search of the individual or
6 property of the individual possessing or applying for the registry identification card. The possession
7 of, or application for, a registry identification card shall not preclude the existence of probable cause
8 if probable cause exists on other grounds.

9 XI.(a) The department shall create and maintain a confidential registry of each individual
10 who has applied for and received a registry identification card as a qualifying patient or a designated
11 caregiver in accordance with the provisions of this chapter. Each entry in the registry shall contain
12 the qualifying patient's or designated caregiver's name, mailing address, date of birth, date of
13 registry identification card issuance, date of registry identification card expiration, random 10-digit
14 identification number, and registry identification number of the qualifying patient's designated
15 alternative treatment center, if any. The confidential registry and the information contained in it
16 shall be exempt from disclosure under RSA 91-A.

17 (b)(1) Except as specifically provided in this chapter, no person shall have access to any
18 information about qualifying patients or designated caregivers in the department's confidential
19 registry, or any information otherwise maintained by the department about providers and
20 alternative treatment centers, except for authorized employees of the department in the course of
21 their official duties and local and state law enforcement personnel who have detained or arrested an
22 individual who claims to be engaged in the therapeutic use of cannabis.

23 (2) If a local or state law enforcement officer submits a sworn affidavit to the
24 department affirming that he or she has probable cause to believe cannabis is possessed at a specific
25 address, an authorized employee for the department may disclose whether the location is associated
26 with a qualifying patient, designated caregiver, or cultivation location of an alternative treatment
27 center.

28 (3) If a local or state law enforcement officer submits a sworn affidavit to the
29 department affirming that he or she has probable cause to believe a specific individual possesses
30 cannabis, an authorized employee for the department may disclose whether the person is a
31 qualifying patient or a designated caregiver, provided that the law enforcement officer provides the
32 person's name and address or name and date of birth.

33 (4) Counsel for the department may notify law enforcement officials about falsified
34 or fraudulent information submitted to the department where counsel has made a legal
35 determination that there is probable cause to believe the information is false or falsified.

36 XII. Within 5 days of learning of the death of a qualifying patient, a surviving family

CHAPTER 242
HB 573-FN – FINAL VERSION
- Page 13 -

1 member, caretaker, executor, or the patient's designated caregiver shall notify the department that
2 the qualifying patient has died. Within 5 days of learning of the death of a qualifying patient, the
3 surviving family member, caretaker, executor, or the patient's designated caregiver shall either
4 request that the local law enforcement agency remove any remaining cannabis or shall dispose of the
5 cannabis in a manner that is specified in 126-W:2, XIV.

6 126-W:5 Affirmative Defense.

7 I. It shall be an affirmative defense for any person charged with manufacturing, possessing,
8 having under his or her control, selling, purchasing, prescribing, administering, transporting, or
9 possessing with intent to sell, dispense, or compound cannabis, cannabis analog, or any preparation
10 containing cannabis, if:

11 (a) The actor is a qualifying patient who has been issued a valid registry identification
12 card, was in possession of cannabis in a quantity and location permitted pursuant to this chapter,
13 and was engaged in the therapeutic use of cannabis; or

14 (b) The actor is a designated caregiver who has been issued a valid registry identification
15 card was in possession of a cannabis in a quantity and location permitted pursuant to this chapter,
16 and was engaged in the therapeutic use of cannabis on behalf of a qualifying patient.

17 II. This section shall not be construed as an affirmative defense for any offense other than
18 those acts as set forth in paragraph I.

19 126-W:6 Departmental Rules.

20 I. Not later than one year after the effective date of this chapter, the department shall adopt
21 rules, pursuant to RSA 541-A, governing:

22 (a) The form and content of applications for issuance and renewals of registry
23 identification cards for qualifying patients and designated caregivers.

24 (b) The form and content of providers' written certifications.

25 (c) Procedures for considering, approving, and denying applications for issuance and
26 renewals of registry identification cards, and for revoking registry identification cards.

27 (d) Fees pursuant to RSA 126-W:4, I(b) and paragraph II of this section for applications
28 for registry identification cards, and pursuant to RSA 126-W:4, IX(f) for re-issuance of replacement
29 registry identification cards.

30 (e) Fines pursuant to RSA 126-W:4, IX(e) for failure of the qualifying patient or
31 designated caregiver to notify the department of any changes to his or her name, address, designated
32 caregiver in the case of a qualifying patient, or alternative treatment center.

33 II. The department's rules shall establish application and renewal fees for registry
34 identification cards in accordance with the following:

35 (a) The fee structure by the department for alternative treatment centers and registry
36 identification cards shall generate revenues sufficient to offset all department expenses of

CHAPTER 242
HB 573-FN – FINAL VERSION
- Page 14 -

1 implementing and administering this chapter; however,

2 (b) The department may accept donations from private sources without the approval of
3 the governor and council in order to reduce the application and renewal fees for qualifying patients.

4 III.(a) Not later than 18 months after the effective date of this section, the department shall
5 adopt rules, pursuant to RSA 541-A, governing alternative treatment centers and the manner in
6 which it shall consider applications for registration certificates for alternative treatment centers,
7 including, but not limited to:

8 (1) The form and content of registration and renewal applications.

9 (2) Administrative requirements.

10 (3) Security requirements, which shall include at a minimum, lighting, physical
11 security, video security, alarm requirements, measures to prevent loitering, and on-site parking.

12 (4) Liability insurance.

13 (5) Sanitary requirements.

14 (6) Electrical safety requirements.

15 (7) The specification of acceptable forms of picture identification that an alternative
16 treatment center may accept when verifying a sale.

17 (8) Personnel requirements including how many volunteers an alternative treatment
18 center is permitted to have and requirements for supervision.

19 (9) Labeling standards.

20 (10) Procedures for suspending or terminating the registration of alternative
21 treatment centers that violate the provisions of this chapter or the rules adopted pursuant to this
22 chapter, a schedule of fines for such violations, and procedures for appealing any enforcement
23 actions.

24 (11) Procedures for inspections and investigations.

25 (12) Advertising restrictions, including a prohibition of misrepresentation and unfair
26 practices.

27 (13) Permissible hours of operation.

28 (14) The fees for the processing and review of applications for registration as an
29 alternative treatment center and regulation of an alternative treatment center after it has been
30 approved by the department. Such fees shall be established in an amount that covers all costs of the
31 department for the review, registration, and regulation of alternative treatment centers.

32 (15) Procedures for determining and enforcing the daily maximum amount of
33 therapeutic cannabis which an alternative treatment center may cultivate or possess pursuant to
34 RSA 126-W:8, XV(a).

35 (b) The department shall adopt rules with the goal of protecting against diversion and
36 theft, without imposing an undue burden on the alternative treatment centers or compromising the

CHAPTER 242
HB 573-FN – FINAL VERSION
- Page 15 -

1 confidentiality of qualifying patients and their designated caregivers.

2 126-W:7 Departmental Administration; Alternative Treatment Centers.

3 I. Within 18 months of the effective date of this section, provided that at least 2 applications
4 have been submitted that score sufficiently high to receive a certificate, the department shall issue
5 alternative treatment center registration certificates to the 2 highest-scoring applicants. Each
6 registration certificate shall include a registry number that is unique to the alternative treatment
7 center.

8 II. Any time an alternative treatment center registration certificate is revoked, relinquished,
9 or expires without a renewal application being submitted, the department shall accept applications
10 for a new alternative treatment center and issue a registration certificate to the applicant who scores
11 the highest.

12 III. If at any time after 2 years after the effective date of this section, fewer than 4
13 alternative treatment centers hold valid registration certificates in New Hampshire, the department
14 shall accept applications for a new alternative treatment center. No more than 4 alternative
15 treatment centers shall hold valid registration certificates at one time.

16 IV.(a) An alternative treatment center applicant shall submit a completed department-
17 approved application form with all required documentation and a nonrefundable fee in an amount
18 set by department rule. The alternative treatment center application and supporting materials shall
19 include, at a minimum:

20 (1) The legal name, articles of incorporation, and bylaws of the alternative treatment
21 center.

22 (2) The proposed physical address of the alternative treatment center, if a precise
23 address has been determined, or, if not, the general location where it would be located. This may
24 include a second location for the cultivation of cannabis.

25 (3) A description of the enclosed, locked facility that would be used in the cultivation
26 of cannabis by the alternative treatment center.

27 (4) The name, address, and date of birth of each principal officer and board member
28 of the alternative treatment center. The board of directors for the nonprofit shall include at least one
29 physician, advance practice registered nurse, or pharmacist licensed to practice in New Hampshire
30 and at least one patient qualified to register as a qualifying patient. The majority of board members
31 shall be New Hampshire residents. A medical professional listed in this subparagraph may be a
32 member of the alternative treatment center board but shall not maintain an ownership interest in
33 the center.

34 (5) Proposed security and safety measures that comply with the rules adopted
35 pursuant to RSA 126-W:6, including a description of interior and exterior lighting and security
36 systems.

CHAPTER 242
HB 573-FN – FINAL VERSION
- Page 16 -

1 (6) The distance from any pre-existing private or public school.

2 (7) A copy of the proposed policy regarding services to qualifying patients who cannot
3 afford to purchase cannabis for therapeutic use.

4 (8) Information demonstrating the applicant's knowledge of organic growing
5 methods to be used in the growing and cultivation of cannabis.

6 (9) Steps that will be taken to ensure the quality of the cannabis, including purity
7 and consistency of dose.

8 (10) A start-up timetable that provides an estimated time from registration of the
9 alternative treatment center to full operation and the assumptions used for the basis of those
10 estimates.

11 (11) Information showing the applicant's experience running a nonprofit or other
12 business.

13 (12) A description of any additional services that will be available to patients.

14 (13) The applicant's plans for recordkeeping and inventory control.

15 (b) Any time one or more alternative treatment center registration applications are
16 being considered, the department shall, in partnership with the local governing body of the town or
17 city where the alternative treatment center would be located, solicit input from qualifying patients,
18 designated caregivers, and the residents of the towns or cities in which the alternative treatment
19 center would be located.

20 (c) Each time an alternative treatment center certificate is granted, the decision shall be
21 based on the overall health needs of qualifying patients and the safety of the public. The department
22 shall evaluate applications for alternative treatment center registration certificates using an
23 impartial and numerically-scored competitive bidding process developed by the department in
24 accordance with this chapter. The department shall require applicants to meet a minimum score to
25 be considered. The registration considerations shall include the following criteria:

26 (1) The suitability of the proposed location, including compliance with any local
27 zoning laws, and geographic convenience for qualifying patients from throughout the state of New
28 Hampshire to alternative treatment centers if the application is approved. The department shall, to
29 the greatest extent practicable, ensure that alternative treatment centers are geographically located
30 so as to best serve the needs of qualifying patients.

31 (2) The proposed alternative treatment center's plan for operations and services,
32 whether it has sufficient capital to operate, and its ability to provide a steady supply of cannabis to
33 the qualifying patients in the state.

34 (3) The principal officer and board members' character and relevant experience,
35 including any training or professional licensing related to medicine, pharmaceuticals, natural
36 treatments, botany, or cannabis cultivation and preparation, and their experience operating a

CHAPTER 242
HB 573-FN – FINAL VERSION
- Page 17 -

1 nonprofit organization or business.

2 (4) The applicant’s plan for making cannabis available on an affordable basis to
3 qualifying patients enrolled in Medicaid or receiving Supplemental Security Income or Social
4 Security Disability Insurance.

5 (5) The applicant’s plan for safe and accurate packaging and labeling of cannabis,
6 including the applicant’s plan for ensuring that all cannabis is free of contaminants.

7 (6) The sufficiency of the applicant’s plans for recordkeeping and inventory control.
8 Records shall be considered confidential health care information under New Hampshire law and
9 shall be deemed protected health care information for purposes of the federal Health Insurance
10 Portability and Accountability Act of 1996, as amended. Any dispensing records that an alternative
11 treatment center is required to keep shall document transactions according to qualifying patients’
12 and designated caregivers’ registry identification numbers, rather than their names, to protect their
13 confidentiality.

14 (7) The sufficiency of the applicant’s plans for safety and security, including
15 proposed location and security devices employed.

16 (8) Whether the entity possesses or has the right to use sufficient land, buildings,
17 and equipment to properly carry out its duties as an alternative treatment center.

18 V. After an alternative treatment center is approved, but before it begins operations, it shall
19 submit the registration fee paid to the department in accordance with the rules adopted by the
20 department. Annual fees thereafter shall be paid in accordance with the rules adopted by the
21 department.

22 VI. Information required to be submitted to the department on an application for an
23 alternative treatment center identifying the locations where cannabis is proposed to be grown,
24 cultivated, harvested, and otherwise prepared for distribution to qualifying patients, designated
25 caregivers, and alternative treatment centers, and any other department records identifying such
26 location, shall be considered to be confidential information and not subject to disclosure pursuant to
27 RSA 91-A, except that:

28 (a) Such information may be disclosed to a state or local law enforcement agency upon
29 request for purposes of enforcement under this chapter;

30 (b) The location may be disclosed to towns and cities when seeking input on locations,
31 provided that town and city representatives keep the information confidential; and

32 (c) The name, address, and phone number of alternative treatment centers may be
33 disclosed to qualifying patients.

34 VII. The alternative treatment center’s certificate may be revoked at any time it commits a
35 violation of this chapter or rules adopted by the department, including if it negligently or knowingly
36 allows cannabis to be distributed to someone who is not exempt from penalties pursuant to this

CHAPTER 242
HB 573-FN – FINAL VERSION
- Page 18 -

1 chapter.

2 VIII. Not more than one year after an alternative treatment center receives its first registry
3 certificate, the department shall evaluate an alternative treatment center's operations. A
4 registration certificate may be revoked if the alternative treatment center:

- 5 (a) Committed violations of this chapter or department rules; or
- 6 (b) Is not operational.

7 IX. Alternative treatment centers shall be subject to inspection by the department. During
8 an inspection, the department may review the alternative treatment center's records, including its
9 confidential dispensing and data collection records, which shall track transactions and product
10 effectiveness according to qualifying patients' registry identification numbers to protect their
11 confidentiality.

12 126-W:8 Alternative Treatment Centers; Requirements.

13 I. An alternative treatment center shall be operated on a not-for-profit basis for the benefit
14 of its patients. An alternative treatment center need not be recognized as a tax-exempt organization
15 by the Internal Revenue Service.

16 II. An alternative treatment center shall not be located in a residential district or within
17 1,000 feet of the property line of a pre-existing public or private elementary or secondary school or
18 designated drug free school zones.

19 III. An alternative treatment center shall implement appropriate security measures to deter
20 and prevent the unauthorized entrance into areas containing cannabis and the theft of cannabis and
21 shall ensure that each location has an operational security alarm system.

22 IV.(a) An alternative treatment center shall conduct a state and federal criminal records
23 check for every person seeking to become a principal officer, board member, agent, volunteer, or
24 employee before the person begins working at the alternative treatment center pursuant to RSA 126-
25 W:4, II(g). An alternative treatment center shall not allow any person to be an alternative treatment
26 center agent who:

- 27 (1) Was convicted of a felony or felony drug-related offense; or
- 28 (2) Is under 21 years of age.

29 (b) An alternative treatment center shall create an identification badge for each
30 alternative treatment center agent before the alternative treatment center agent possesses,
31 cultivates, or transports cannabis on behalf of the alternative treatment center. The badges may
32 include the alternative treatment center's registration certificate number and either a unique
33 number for each agent or his or her name.

34 (c) An alternative treatment center agent shall wear his or her badge at all times when
35 working at an alternative treatment center, including at any cultivation location.

36 V. No person who has been convicted of a felony or felony drug-related offense shall be an

CHAPTER 242
HB 573-FN – FINAL VERSION
- Page 19 -

1 alternative treatment center agent. A person who is employed by or is an agent, volunteer, principal
2 officer, or board member of an alternative treatment center who violates this paragraph shall be
3 guilty of a violation punishable by a fine of up to \$1,000. A subsequent violation of this paragraph
4 shall be a misdemeanor.

5 VI. The operating documents of an alternative treatment center shall include procedures for
6 the oversight of the alternative treatment center and procedures to ensure accurate recordkeeping.

7 VII. Each alternative treatment center shall keep the following records, in accordance with a
8 records retention schedule established by the department:

9 (a) Records of the disposal of cannabis that is not distributed by the alternative
10 treatment center to qualifying patients who have designated the alternative treatment center to
11 cultivate for them.

12 (b) A record of each transaction, including the amount of cannabis dispensed, the
13 amount of consideration, and the registry identification number of the qualifying patient, designated
14 caregiver, or alternative treatment center, and the qualifying patient's provider.

15 VIII. Each alternative treatment center shall:

16 (a) Conduct an initial comprehensive inventory of all cannabis, including usable
17 cannabis available for dispensing and mature cannabis plants at each authorized location on the
18 date the alternative treatment center first dispenses cannabis.

19 (b) Conduct a monthly comprehensive inventory of all cannabis, including usable
20 cannabis available for dispensing, mature cannabis plants, and seedlings at each authorized
21 location.

22 IX. An alternative treatment center shall submit a department-approved incident report
23 form on the next business day after it discovers a reportable incident. The report shall indicate the
24 nature of the breach and the corrective actions taken by the alternative treatment center.
25 Reportable incident shall mean:

26 (a) Confidential information accessed or disclosed in violation of department rules;

27 (b) Loss of inventory by theft or diversion;

28 (c) Unauthorized intrusion into the alternative treatment center or the additional
29 location, if any;

30 (d) Any known violation of this chapter or department rules by an alternative treatment
31 center agent; or

32 (e) Any other incident that the department by rule requires to be reported.

33 X. Alternative treatment centers shall only use organic pesticides in cannabis.

34 XI. No cannabis or paraphernalia at an alternative treatment center shall be visible from
35 outside the property of the alternative treatment center.

36 XII. An alternative treatment center shall submit an annual report to the department that

CHAPTER 242
HB 573-FN – FINAL VERSION
- Page 20 -

1 shall provide information required by the department in order to allow the department to evaluate
2 the effectiveness and operations of the alternative treatment center.

3 XIII.(a) Each time an alternative treatment center agent dispenses cannabis to a qualifying
4 patient directly or through the qualifying patient's designated caregiver, he or she shall consult the
5 alternative treatment center's records to verify that the records do not indicate that the dispensing of
6 the cannabis would cause the qualifying patient to receive more cannabis than is permitted in a 10-
7 day period. Each time cannabis is dispensed, the alternative treatment center agent shall record the
8 date the cannabis was dispensed and the amount dispensed. All records shall be kept according to
9 the registry identification number of the qualifying patient and designated caregiver, if any.

10 (b) Except as provided in subparagraph (c), a qualifying patient shall not obtain more
11 than 2 ounces of usable cannabis directly or through the qualifying patient's designated caregiver
12 during a 10-day period.

13 (c) After providing an opportunity for patients, experts, researchers, and physicians to be
14 heard, the department may issue a rule adjusting the limit specified in subparagraph (a) to an
15 amount that is reasonably necessary for a 10-day supply.

16 XIV.(a) Except when transporting cannabis in accordance with subparagraphs (b) or (c), an
17 alternative treatment center agent shall only possess and manufacture cannabis at an alternative
18 treatment center location at which alternative treatment center agents are employed. Volunteers
19 shall only possess and manufacture cannabis at an alternative treatment center location. Volunteers
20 shall not dispense cannabis.

21 (b) Distributions of cannabis to a qualifying patient or a designated caregiver for use by
22 a qualifying patient shall be labeled with a document to identify the alternative treatment center,
23 the patient's registry number, or the caregiver's number, the amount and form, the time and date of
24 origin, and destination of the product.

25 (c) An alternative treatment center with an additional growing location shall label the
26 cannabis that is being moved between the additional growing location and the alternative treatment
27 center with a document that identifies the alternative treatment center by registry number, the
28 time, date, origin, and destination of the material being transported, and the amount and form of
29 cannabis and cannabis material that is being transported. Cannabis shall be transported only by an
30 alternative treatment center agent who is not a volunteer.

31 XV.(a) An alternative treatment center shall not possess or cultivate cannabis in excess of
32 the following quantities:

33 (1) Eighty cannabis plants, 160 seedlings, and 80 ounces of usable cannabis, or 6
34 ounces of usable cannabis per qualifying patient; and

35 (2) Three mature cannabis plants, 12 seedlings, and 6 ounces for each qualifying
36 patient who has designated the alternative treatment center to provide him or her with cannabis for

CHAPTER 242
HB 573-FN – FINAL VERSION
- Page 21 -

1 therapeutic use.

2 (b) An alternative treatment center or alternative treatment center agent shall not
3 dispense, deliver, or otherwise transfer cannabis to any person or entity other than:

4 (1) A qualifying patient who has designated the relevant alternative treatment
5 center; or

6 (2) Such patient's designated caregiver; or

7 (3) Another alternative treatment center.

8 (c) All cultivation of cannabis shall take place in an enclosed, locked facility registered
9 with the department and which can only be accessed by alternative treatment center agents.

10 XVI.(a) All cannabis dispensed by an alternative treatment center shall include a label
11 specifying the weight of the cannabis and any other information the department requires to appear
12 on the label. The label shall also specify that the cannabis is for therapeutic use and that diversion
13 is a class B felony requiring revocation of one's registry identification card.

14 (b) Alternative treatment centers shall collect data on strains used and methods of
15 delivery for qualifying conditions and symptoms, any side effects experienced, and therapeutic
16 effectiveness for each patient who is willing to provide the information. Such data collection shall be
17 done under the qualifying patient's registry identification number to protect the patient's
18 confidentiality.

19 (c) An alternative treatment center shall provide educational materials about cannabis
20 to qualifying patients and their registered primary caregivers. Each alternative treatment center
21 shall have an adequate supply of up-to-date educational material available for distribution.
22 Educational materials shall be available for inspection by the department upon request. The
23 educational material shall at least include information about the following:

24 (1) Strains of cannabis, routes of administration, and their different effects.
25 Alternative treatment centers shall have educational materials available to assist in the selection of
26 prepared cannabis. Alternative treatment centers shall provide tracking sheets to qualifying
27 patients and their providers who request them to keep track of the strains used and their effects.

28 (2) How to achieve proper dosage for different modes of administration. Emphasis
29 shall be on using the smallest amount possible to achieve the desired effect. The impact of potency
30 shall also be explained.

31 (3) Information on tolerance, dependence, and withdrawal shall be provided.

32 (4) Information regarding substance abuse signs and symptoms shall be available, as
33 well as referral information.

34 (5) Information on whether the alternative treatment center's cannabis and
35 associated products meet organic certification standards.

36 (6) Information about possible side effects from the use of cannabis for therapeutic

CHAPTER 242
HB 573-FN – FINAL VERSION
- Page 22 -

1 purposes.

2 XVII.(a) Each alternative treatment center shall develop, implement, and maintain on the
3 premises employee and agent policies and procedures to address the following requirements:

4 (1) A job description or employment contract developed for all employees and a
5 volunteer agreement for all volunteers, which includes duties, authority, responsibilities,
6 qualifications, and supervision.

7 (2) Training in and adherence to confidentiality laws.

8 (3) The proper use of security measures and controls that have been adopted.

9 (4) Specific procedural instructions on how to respond to an emergency.

10 (b) All alternative treatment centers shall prepare training documentation for each
11 employee and have employees sign a statement indicating the date, time, and place the employee
12 received said training and topics discussed, to include name and title of presenters. The alternative
13 treatment center shall maintain documentation of an employee's and a volunteer's training for a
14 period of at least 6 months after termination of an employee's period of employment or the
15 volunteer's period of voluntary service.

16 (c) Each alternative treatment center shall maintain a personnel record for each
17 alternative treatment center agent that includes an application for employment or to volunteer and a
18 record of any disciplinary action taken.

19 XVIII. A provider shall not:

20 (a) Accept, solicit, or offer any form of pecuniary remuneration from or to an alternative
21 treatment center, except if the provider is employed by an alternative treatment center.

22 (b) Offer a discount or other thing of value to a patient who uses or agrees to use a
23 particular alternative treatment center.

24 (c) Examine a patient in relation to issuing a written certification at a location where
25 cannabis is sold or distributed.

26 (d) Hold an economic interest in an alternative treatment center if the provider issues
27 written certifications to patients.

28 126-W:9 Therapeutic Use of Cannabis Advisory Council.

29 I. There is hereby established a therapeutic use of cannabis advisory council comprised of:

30 (a) Two members of the house of representatives, appointed by the speaker of the house
31 of representatives.

32 (b) One member of the senate, appointed by the senate president.

33 (c) The commissioner of the department of health and human services, or designee.

34 (d) The commissioner of the department of safety, or designee.

35 (e) The attorney general, or designee.

36 (f) One physician with experience in therapeutic use of cannabis issues, appointed by the

CHAPTER 242
HB 573-FN – FINAL VERSION
- Page 23 -

1 New Hampshire Medical Society.

2 (g) One advanced practice registered nurse, appointed by the New Hampshire Nurse
3 Practitioner Association.

4 (h) One representative of a community hospital, appointed by the governor.

5 (i) One representative of the New Hampshire Civil Liberties Union.

6 (j) One qualifying patient, appointed by the governor.

7 (k) One member of the public, appointed by the governor.

8 (l) One member from a hospital in New Hampshire, appointed by the governor.

9 (m) One member from the board of medicine, appointed by the executive director of the
10 board of medicine.

11 (n) One member from the board of nursing, appointed by the executive director of the
12 board of nursing.

13 II. The advisory council shall:

14 (a) Assist the department in adopting and revising rules to implement this chapter.

15 (b) Collect information, including:

16 (1) Satisfaction of qualifying patients with the therapeutic use of cannabis program.

17 (2) Any effect the therapeutic use of cannabis law has had on referrals to regulatory
18 boards.

19 (3) Best practices in other states that allow the therapeutic use of cannabis.

20 (4) The ability of qualifying patients in all areas of the state to obtain timely access
21 to high-quality cannabis.

22 (5) Any research studies regarding health effects of cannabis for patients.

23 (6) The effectiveness of New Hampshire's therapeutic use of cannabis program.

24 (7) Efforts to educate New Hampshire physicians and advanced practice registered
25 nurses about research relating to the therapeutic use of cannabis.

26 (8) The effectiveness of alternative treatment centers, individually and collectively,
27 in serving the needs of qualifying patients, including the therapeutic effectiveness of available
28 products, the provision of educational and support services, the reasonableness of their fees, whether
29 they are generating any complaints or security problems, and the sufficiency of the number
30 operating to serve the registered qualifying patients of New Hampshire.

31 (9) The sufficiency of the regulatory and security safeguards contained in this
32 chapter and adopted by the department to ensure that access to and use of cannabis cultivated is
33 provided only to persons authorized for such purposes.

34 (10) Any illegal distribution or diversion of cannabis cultivated pursuant to this
35 chapter to individuals who are not alternative treatment center agents, qualifying patients, or
36 designated caregivers.

CHAPTER 242
HB 573-FN – FINAL VERSION
- Page 24 -

1 (11) Any statutory issues related to the certification of qualifying patients including,
2 but not limited to, the definition of qualifying medical conditions, the certification process, and the
3 number and location of providers willing and able to certify qualifying patients.

4 (c) Make recommendations to the legislature and the department for any additions or
5 revisions to the department rules or this chapter.

6 (d) Five years after the effective date of this chapter, issue a formal opinion on whether
7 the program should be continued or repealed.

8 III. The advisory council may meet as often as is necessary to effectuate its goals. The first
9 meeting shall be called by the commissioner of the department of health and human services, or
10 designee within 45 days of the effective date of this chapter. At the first meeting, a chairman shall
11 be elected by the members.

12 IV. On or before January 1 of each year, the advisory council shall provide a report to the
13 department of health and human services and the health and human services oversight committee
14 established under RSA 126-A:13, the board of medicine and the board of nursing on its findings.

15 126-W:10 Annual Data Report.

16 I. The commissioner of the department of health and human services shall report annually
17 on the therapeutic use of cannabis program established under this chapter to the health and human
18 services oversight committee established under RSA 126-A:13, to the board of medicine, and to the
19 board of nursing.

20 II. The report shall be in electronic format to allow for identification of patterns of
21 certification by patient and caregiver, location, age, medical condition, symptom, or side effect, and
22 provider, and for analysis and research to inform future policy, educational, and clinical decisions.

23 III. The initial report shall be filed no later than December 1, 2014.

24 IV. The commissioner's data report shall include but not be limited to the following
25 information:

26 (a) The number of designated caregivers and the number of qualifying patients, by town
27 or city and county.

28 (b) The ages of the qualifying patients and the ages of the designated caregivers.

29 (c) The qualifying medical conditions and the number of each qualifying medical
30 condition.

31 (d) The symptoms or side effects and the number of each symptom or side effect.

32 (e) The number of physicians and the number of advanced practice registered nurses
33 issuing written certifications.

34 (f) The number of providers in each medical specialty issuing written certifications.

35 (g) Any other issues related to the therapeutic use of cannabis permitted under this
36 chapter that the health and human services oversight committee shall request.

CHAPTER 242
HB 573-FN – FINAL VERSION
- Page 25 -

1 V. A summary of the report submitted by alternative treatment centers as required under
2 RSA 126-W:8, XII.

3 126-W:11 Registry Identification Card and Certificate Fund. There is hereby established in the
4 office of the state treasurer a fund to be known as the registry identification card and certificate fund
5 which shall be kept separate and distinct from all other funds. The fund is established to pay for the
6 operational expenses of permitting the therapeutic use of cannabis as established in this chapter.
7 The moneys in this fund shall be nonlapsing and continually appropriated to the department.
8 Interest on fund balances shall accrue to the fund. All fines and other income received by the
9 department and all monetary fees, gifts, grants, and donations received by the department pursuant
10 to this chapter shall be deposited in the fund.

11 242:2 New Subparagraph; Application of Receipts; Registry Identification Card and Certificate
12 Fund. Amend RSA 6:12, I(b) by inserting after subparagraph (310) the following new subparagraph:

13 (311) Moneys deposited in the registry identification card and certificate fund
14 established in RSA 126-W:11.

15 242:3 New Paragraph; Controlled Drug Act; Acts Prohibited. Amend RSA 318-B:2 by inserting
16 after paragraph I-a the following new paragraph:

17 I-b. It shall be unlawful for a qualifying patient or designated caregiver as defined under
18 RSA 126-W:1 to sell cannabis to another person who is not a qualifying patient or designated
19 caregiver. A conviction for the sale of cannabis to a person who is not a qualifying patient or
20 designated caregiver shall not preclude or limit a prosecution or conviction of any person for sale of
21 cannabis or any other offense defined in this chapter.

22 242:4 New Paragraph; Controlled Drug Act; Penalties. Amend RSA 318-B:26 by inserting after
23 paragraph IX the following new paragraph:

24 IX-a. A qualifying patient or designated caregiver as defined in RSA 126-W:1 who sells
25 cannabis to a person who is not a qualifying patient or a designated caregiver shall be guilty of a
26 class B felony and shall be sentenced to a maximum term of imprisonment of not more than 7 years,
27 a fine of not more than \$300,000, or both.

28 242:5 Contingency. If SB 17 of the 2013 regular legislative session becomes law, RSA 126-W, as
29 inserted by section 1 of this act and referenced in sections 2-4 of this act, shall be renumbered as
30 RSA 126-X.

31 242:6 Effective Date. This act shall take effect upon its passage.

32
33 Approved: July 23, 2013

34 Effective Date: July 23, 2013