

HB 1616-FN – AS INTRODUCED

2014 SESSION

14-2031  
04/06

HOUSE BILL            ***1616-FN***

AN ACT                making changes to the therapeutic cannabis laws.

SPONSORS:            Rep. Wright, Carr 8; Rep. Renzullo, Hills 37; Sen. Reagan, Dist 17

COMMITTEE:          Health, Human Services and Elderly Affairs

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ANALYSIS

This bill makes various changes to the law governing the use of cannabis for therapeutic purposes.

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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                                Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Fourteen*

AN ACT making changes to the therapeutic cannabis laws.

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

1 1 Use of Cannabis for Therapeutic Purposes; Definitions. Amend RSA 126-X:1, VIII to read as  
2 follows:

3 VIII. “Provider-patient relationship” means at least a 3-month medical relationship between  
4 a licensed provider and a patient that includes an in-person exam, a history, **a review of the**  
5 **patient’s medical records**, a diagnosis, and a treatment plan appropriate for the licensee’s medical  
6 specialty.

7 2 Use of Cannabis for Therapeutic Purposes; Definitions. Amend RSA 126-X:1, IX(a)(1) to read  
8 as follows:

9 (1) Cancer, glaucoma, positive status for human immunodeficiency virus, acquired  
10 immune deficiency syndrome, hepatitis C currently receiving antiviral treatment, amyotrophic  
11 lateral sclerosis, muscular dystrophy, Crohn’s disease, agitation of Alzheimer’s disease, multiple  
12 sclerosis, chronic pancreatitis, spinal cord injury or disease, traumatic brain injury, **epilepsy, lupus,**  
13 **Parkinson’s disease**, or one or more injuries that significantly interferes with daily activities as  
14 documented by the patient’s provider; and

15 3 Use of Cannabis for Therapeutic Purposes; Protections. Amend RSA 126-X:2, XIII to read as  
16 follows:

17 XIII. If a state or local law enforcement officer encounters an alternative treatment center or  
18 an individual who the officer knows is an alternative treatment center agent, a designated caregiver,  
19 or a qualifying patient, or who credibly asserts he or she is an alternative treatment center agent, a  
20 designated caregiver, or a qualifying patient, the law enforcement officer shall not provide any  
21 information concerning any cannabis-related activity involving the individual or entity, except  
22 pursuant to a lawfully-issued subpoena, to any law enforcement agency that does not recognize the  
23 protection of this chapter, and any prosecution of the individual or entity for a violation of this  
24 chapter shall be conducted pursuant to the laws of this state. This paragraph shall not apply in  
25 cases where the state or local law enforcement agency has probable cause to believe the person is  
26 distributing cannabis to a person who is not allowed to possess it under this chapter. ~~[Any]~~ **The**  
27 seizure of cannabis by **a** law enforcement ~~[officers]~~ **officer** for a violation of this chapter shall ~~[be~~  
28 ~~limited to the amount of cannabis in excess of the quantities permitted under this chapter]~~ **include**  
29 **all cannabis in the possession of the individual** and any such cannabis seized shall not be  
30 returned.

31 4 Use of Cannabis for Therapeutic Purposes; Protections. Amend RSA 126-X:2, V(b) to read as

1 follows:

2 (b) A visiting qualifying patient shall not cultivate or purchase cannabis in  
3 New Hampshire or obtain cannabis from alternative treatment centers or from a qualifying  
4 New Hampshire patient. ***No visiting qualifying patient shall possess more than 2 ounces of***  
5 ***therapeutic cannabis while in this state.***

6 5 Use of Cannabis for Therapeutic Purposes; Prohibitions and Limitations. Amend RSA 126-  
7 X:3, II(d) to read as follows:

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

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

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

12 (3) Any correctional facility; or

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

14 (5) ***A motor vehicle, except if the cannabis is secured in a locked container;***

15 ***or***

16 (6) Any law enforcement facility.

17 6 Use of Cannabis for Therapeutic Purposes; Protections and Limitations. Amend RSA 126-X:3,  
18 VI to read as follows:

19 VI. Any qualifying patient ~~[or]~~, designated caregiver, ***or alternative treatment center***  
20 ***agent*** who sells cannabis to another person who is not a qualifying patient or designated caregiver  
21 under this chapter shall be subject to the penalties specified in RSA 318-B:26, IX-a, shall have his or  
22 her registry identification card revoked, and shall be subject to other penalties as provided in  
23 RSA 318-B:26.

24 7 Use of Cannabis for Therapeutic Purposes; Departmental Administration. Amend RSA 126-  
25 X:4, XI(b)(4) to read as follows:

26 (4) Counsel for the department ~~[may]~~ ***shall*** notify law enforcement officials about  
27 falsified or fraudulent information submitted to the department where counsel has made a legal  
28 determination that there is probable cause to believe the information is false or falsified.

29 8 Use of Cannabis for Therapeutic Purposes; Alternative Treatment Centers. Amend RSA 126-  
30 X:8, XIII to read as follows:

31 XIII.(a) Each time an alternative treatment center agent dispenses cannabis to a qualifying  
32 patient directly or through the qualifying patient's designated caregiver, he or she shall consult the  
33 alternative treatment center's records to verify that the records do not indicate that the dispensing of  
34 the cannabis would cause the qualifying patient to receive more cannabis than is permitted in a ~~[10-~~  
35 ~~day]~~ ***30-day*** period. Each time cannabis is dispensed, the alternative treatment center agent shall  
36 record the date the cannabis was dispensed and the amount dispensed. All records shall be kept  
37 according to the registry identification number of the qualifying patient and designated caregiver, if

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1 any.

2 (b) Except as provided in subparagraph (c), a qualifying patient shall not obtain more  
3 than 2 ounces of usable cannabis directly or through the qualifying patient’s designated caregiver  
4 during a [~~10-day~~] **30-day** period.

5 (c) After providing an opportunity for patients, experts, researchers, and physicians to be  
6 heard, the department may issue a rule adjusting the limit specified in subparagraph (a) to an  
7 amount that is reasonably necessary for a [~~10-day~~] **30-day** supply.

8 9 Controlled Drug Act; Acts Prohibited. Amend RSA 318-B:2, I-b to read as follows:

9 I-b. It shall be unlawful for a qualifying patient [~~or~~], designated caregiver, **or alternative**  
10 **treatment center agent** as defined under RSA 126-X:1 to sell cannabis to another person who is not  
11 a qualifying patient or designated caregiver. A conviction for the sale of cannabis to a person who is  
12 not a qualifying patient or designated caregiver shall not preclude or limit a prosecution or  
13 conviction of any person for sale of cannabis or any other offense defined in this chapter.

14 10 Effective Date. This act shall take effect 60 days after its passage.

**HB 1616-FN - FISCAL NOTE**

AN ACT                    making changes to the therapeutic cannabis laws.

**FISCAL IMPACT:**

The Judicial Branch, Department of Corrections, and New Hampshire Association of Counties state this bill, **as introduced**, will have an indeterminable fiscal impact on state and county expenditures in FY 2014 and each year thereafter. The Department of Safety states this bill, **as introduced**, may increase state expenditures by an indeterminable amount in FY 2014 and each year thereafter. There will be no fiscal impact on state, county or local revenue, or local expenditures.

**METHODOLOGY:**

The Judicial Branch states the proposed bill would amend several sections of the medicinal use of marijuana statute. The Branch indicates there are provisions in the proposed bill which could increase and reduce costs to the Judicial Branch. The Branch identified two sections of the bill that could reduce expenditures:

- Section 2 adds more diseases that qualify for medical use of marijuana and could result in fewer prosecutions for marijuana related offenses as more individuals will be allowed to use the drug legally; and
- Section 4 permits visiting qualifying patients to possess up to two ounces of marijuana could also lead to fewer prosecutions.

The Branch identified two sections of the bill that could increase expenditures:

- Sections 6 and 9 add alternative treatment center agent to those subject to penalties for selling marijuana to a person who is not a qualifying patient or designated caregiver and could result in additional prosecutions.

The Judicial Branch has no information on how many fewer or how many more marijuana prosecutions may be brought as a result of the proposed bill.

The Department of Corrections states it is not able to determine the fiscal impact of this bill because it does not have sufficient detail to predict the number of individuals who would be subject to this legislation. The Department states the average annual cost of incarcerating an individual in the general prison population for the fiscal year ending June 30, 2013 was \$32,872. The cost to supervise an individual by the Department's division of field services for the fiscal year ending June 30, 2013 was \$570.

The New Hampshire Association of Counties states to the extent more or fewer individuals are charged, convicted, and sentenced to incarceration in a county correctional facility, county expenditures will increase or decrease. The Association is unable to determine the impact on number of individuals who will be charged, convicted or incarcerated as a result of this bill to determine an exact fiscal impact. The average annual cost to incarcerate an individual in a county correctional facility is approximately \$35,000. There is no impact on county revenue.

The Department of Safety, Division of State Police, states the proposed legislation could increase abuse of marijuana due to an increase in availability. The Department states any increase in the number of arrests due to illegal use of marijuana will increase expenditures for drug testing, prosecutions, and court time. The Department is not able to estimate the potential increase in state expenditures.

The Judicial Council states this bill would have no effect on Judicial Council expenditures for the defense of the indigent accused.

The New Hampshire Municipal Association states this bill will have no fiscal impact on local revenues and expenditures.

The Department of Health and Human Services states this bill would have no fiscal impact on the Department.