

Therapeutic Cannabis Program

Protections and Prohibitions for Designated Caregivers

RSA 126-X creates an exemption in state law from criminal penalties for the therapeutic use of cannabis provided that its use is in compliance with RSA 126-X.

PROTECTIONS

Listed below are some of the protections granted to Designated Caregivers by RSA 126-X regarding the therapeutic use of cannabis. These protections are applicable only in the State of New Hampshire and do not extend beyond the borders of the state.

Pursuant to RSA 126-X:2, II:

“A designated caregiver shall not be subject to arrest by state or local law enforcement, prosecution or penalty under state or municipal law, or denied any right or privilege for the therapeutic use of cannabis in accordance with this chapter on behalf of a qualifying patient if the designated caregiver possesses an amount of cannabis that does not exceed the following: (a) Two ounces of usable cannabis, or the total amount allowable for the number of qualifying patients for which he or she is a designated caregiver; and (b) Any amount of unusable cannabis. “

Pursuant to RSA 126-X:2, IV(b) and (c):

“(b) A designated caregiver is presumed to be lawfully engaged in assisting with the therapeutic use of cannabis in accordance with this chapter if the designated caregiver possesses a valid registry identification card and possesses an amount of cannabis that does not exceed the amount allowed under this chapter. (c) The presumptions made in [subparagraph (b)] may be rebutted by evidence that conduct related to cannabis was not for the purpose of treating or alleviating the qualifying patient's qualifying medical condition or symptoms or effects of the treatment associated with the qualifying medical condition, in accordance with this chapter.”

Pursuant to RSA 126-X:2, II:

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

PROHIBITIONS / LIMITATIONS

Listed below are some of the prohibitions and limitations established by RSA 126-X regarding a Designated Caregiver's therapeutic use of cannabis.

There are no protections from arrest or prosecution under RSA 126-X for the use or possession of cannabis for purposes other than for therapeutic use as permitted by RSA 126-X.

There are no protections from arrest or prosecution under RSA 126-X for the possession of cannabis in any of the following locations:

- The building and grounds of any preschool, elementary, or secondary school, which are located in an area designated as a drug free zone; or
- A place of employment, without the written permission of the employer; or
- Any correctional facility; or
- Any public recreation center or youth center; or
- Any law enforcement facility.

RSA 126-X does not require any accommodation of the therapeutic use of cannabis on the property or premises of any place of employment.

As noted above, RSA 126-X does not allow the possession of therapeutic cannabis or require any accommodation of the therapeutic use of cannabis on the property or premises of any jail, correctional facility, or other type of penal institution where prisoners reside or persons under arrest are detained.

Additional Penalties

A Designated Caregiver who is found to be in possession of cannabis outside of his or her home and is not in possession of his or her Registry Identification Card may be subject to a fine of up to \$100, to be issued by a law enforcement official, and you may be subject to arrest.

Any person who makes a fraudulent representation to a law enforcement official of any fact or circumstance relating to the therapeutic use of cannabis to avoid arrest or prosecution shall be guilty of a violation and may be fined \$500, which shall be in addition to any other penalties that may apply for making a false statement to a law enforcement officer or for the use of cannabis other than use allowed under RSA 126-X.

Any Designated Caregiver who sells or diverts cannabis to another person who is not a Qualifying Patient or Designated Caregiver under RSA 126-X shall be subject to the penalties specified in RSA 318-B:26, IX-a, shall have his or her Registry Identification Card revoked, and shall be subject to other penalties as provided in RSA 318-B:26.