

Therapeutic Cannabis Program

Protections and Prohibitions for Qualifying Patients

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 Qualifying Patients 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, I:

“A qualifying patient 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, if the qualifying patient possesses an amount of cannabis that does not exceed the following: (a) Two ounces of usable cannabis; and (b) Any amount of unusable cannabis.”

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

“(a) A qualifying patient is presumed to be lawfully engaged in the therapeutic use of cannabis in accordance with this chapter if the qualifying patient 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 (a)] 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, VI:

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

Pursuant to RSA 126-X:2, VII:

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

PROHIBITIONS / LIMITATIONS

Listed below are some of the prohibitions and limitations established by RSA 126-X regarding a Qualifying Patient'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 being under the influence of cannabis while:

- Operating a motor vehicle, commercial vehicle, boat, vessel, or any other vehicle propelled or drawn by power other than muscular power; or
- In his or her place of employment, without the written permission of the employer; or
- Operating heavy machinery or handling a dangerous instrumentality.

There are no protections from arrest or prosecution under RSA 126-X for the smoking or vaporization of cannabis IN ANY PUBLIC PLACE, including:

- A public bus or other public vehicle; or
- Any public park, public beach, or public field.

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.

Private Property

RSA 126-X does not require any individual or entity in lawful possession of property to allow a guest, client, customer, or other visitor to use therapeutic cannabis on or in that property.

Pursuant to RSA 126-X:3, I:

- A qualifying patient must obtain written permission from the property owner to use cannabis on the privately owned property.
- In the case of leased property, such permission must be obtained from the tenant in possession of the property.
- A tenant shall not grant permission to smoke cannabis on the leased or rented property if smoking violates the lease or rental policies that apply to all other tenants.
- If smoking on the property violates the lease or the rental policies that apply to all tenants at the property, the tenant shall not grant the qualifying patient permission to smoke cannabis on the property. However, the tenant may grant permission to the qualifying patient to ingest cannabis or inhale cannabis through vaporization (ie, no burning of the cannabis).

Place of Employment

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

RSA 126-X does not limit in any way an employer's ability to discipline an employee for using cannabis in the workplace or for working while under the influence of cannabis.

Other

RSA 126-X does not require any health insurance provider, health care plan, or medical assistance program, including Medicaid and Medicare, to cover or reimburse any costs associated with the purchase or use of therapeutic cannabis.

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 Qualifying Patient 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 Qualifying Patient 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.