

HB 1796-FN - AS INTRODUCED

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HOUSE BILL ***1796-FN***

AN ACT allowing the use of psilocybin in approved clinical settings to treat qualified medical conditions.

SPONSORS: Rep. Moffett, Merr. 4; Rep. Giasson, Hills. 29; Rep. Mandelbaum, Rock. 21; Rep. Tom Mannion, Hills. 1; Rep. C. McGuire, Merr. 27; Rep. Roy, Rock. 31; Rep. Sabourin dit Choiniere, Rock. 30; Sen. Pearl, Dist 17; Sen. Watters, Dist 4

COMMITTEE: Health, Human Services and Elderly Affairs

ANALYSIS

This bill allows the use of psilocybin in approved clinical settings to treat qualified medical conditions. The bill establishes a medical psilocybin program and regulatory board in the department of health and human services and directs the department to license qualified providers.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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

AN ACT allowing the use of psilocybin in approved clinical settings to treat qualified medical conditions.

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

1 1 Short Title. This act may be cited as the "Therapeutic Psilocybin Act".

2 2 Purpose Statement. The purpose of the Therapeutic Psilocybin Act is to allow the beneficial
3 use of psilocybin in a regulated system for alleviating qualified medical conditions.

4 3 New Chapter; Therapeutic Use of Psilocybin. Amend RSA by inserting after chapter 126-X
5 the following new chapter:

6 CHAPTER 126-XX

7 THERAPEUTIC USE OF PSILOCYBIN

8 126-XX:1 Definitions. In this chapter:

9 I. "Board" means the psilocybin production establishment licensing board created pursuant
10 to RSA 126-XX:7.

11 II. "Provider" means an approved medical or therapy provider licensed in this state who also
12 holds a license from the department to recommend or provide services to qualified patients.

13 III. "Department" means the department of health and human services.

14 IV. "Administration session" means services provided to a patient in an approved setting
15 before, during, and after the ingestion of psilocybin and includes a preparation session, an
16 administration session, and an integration session.

17 V. "Cultivation facility agent" means a person who has a permit from the department to
18 grow and harvest or prepare psilocybin from psilocybin-producing mushrooms, including to
19 compound, convert, process, or manufacture psilocybin products directly or indirectly from psilocybin
20 mushrooms and to package or repackage or label or relabel the products.

21 VI. "Program" means the medical use of psilocybin program.

22 VII. "Psilocybin":

23 (a) Means fungi that contain naturally-occurring psilocybin and psilocin compounds
24 produced by such fungi, including but not limited to members of the genus *Psilocybin*;

25 (b) Includes psilocin;

26 (c) Includes psilocybin-producing fungi and mixtures or a substance containing a
27 detectable amount of psilocybin.

28 VIII. "Patient" means an individual for whom a qualified medical psilocybin provider
29 recommends psilocybin.

30 IX. "Qualifying condition" includes:

- 1 (a) Major treatment-resistant depression;
- 2 (b) Posttraumatic stress disorder;
- 3 (c) Substance use disorders;
- 4 (d) End-of-life care; and
- 5 (e) Other conditions approved by the department.

6 X. "Commissioner" means the commissioner of the department of health and human
7 services.

8 XI. "Adverse event" means an injury or suspected injury to a patient that results in an
9 escalation of care, harm to a patient, or rescue of a patient and occurs during a psilocybin
10 administration session or within 24 hours from when the administration session ended.

11 XII. "Independent psilocybin testing laboratory" means a person that does any of the
12 following:

- 13 (a) Conducts a chemical or other analysis of psilocybin or a psilocybin product.
- 14 (b) Acquires, possesses, and transports psilocybin or a psilocybin product with the intent
15 to conduct a chemical or other analysis of the psilocybin or psilocybin product.

16 XIII. "Independent psilocybin testing laboratory agent" means an individual who holds a
17 valid psilocybin production establishment agent registration card with a psilocybin testing
18 laboratory designation.

19 XIV. "Psilocybin administration session" means the time period from when a qualified
20 medical provider administers psilocybin to a patient to the time the patient leaves the qualified
21 therapy provider location.

22 XV. "Psilocybin cultivation facility" means a person that possesses psilocybin, grows or
23 intends to grow psilocybin, and sells or intends to sell psilocybin to a qualified therapy provider.

24 XVI. "Psilocybin cultivation facility agent" means an individual who holds a valid psilocybin
25 production establishment agent registration card with a cultivation facility designation.

26 XVII. "Psilocybin production establishment" or "establishment" means a psilocybin
27 cultivation facility or an independent psilocybin testing laboratory.

28 XVIII. "Psilocybin production establishment agent registration card" means a registration
29 card issued by the department that authorizes an individual to act as a psilocybin production
30 establishment agent, and that designates the type of psilocybin production establishment for which
31 an individual is authorized to act as an agent.

32 XIX. "Qualified medical psilocybin provider" means a physician, surgeon or osteopathic
33 physician and surgeon licensed pursuant to RSA 329, a physician associate licensed pursuant to RSA
34 328-D, or an advanced practice registered nurse pursuant to RSA 326-B, who is registered by the
35 department to recommend treatment with psilocybin.

36 XX. "Qualified therapy provider" means a physician and surgeon or osteopathic physician
37 and surgeon licensed pursuant to RSA 329, a physician associate licensed pursuant to RSA 328-D,

1 an advanced practice registered nurse under RSA 326-B, a psychologist licensed pursuant to RSA
2 329-B, or a social worker licensed pursuant to RSA 330-A, who is registered by the department to
3 administer treatment with psilocybin.

4 XXI. “Qualified therapy provider agent” means an individual who holds a valid qualified
5 therapy provider agent registration card.

6 XXII. “Qualified therapy provider agent registration card” means a registration card issued
7 by the department that authorizes an individual to act as a qualified therapy provider agent.

8 XXIII. “Qualified therapy provider location” or “provider location” means a facility with all of
9 the following:

10 (a) A single, secure public entrance.

11 (b) A security system with a backup power source that detects and records entry and
12 provides notice of an unauthorized entry to law enforcement when the facility is closed.

13 (c) A lock or equivalent restrictive security feature on any area where the psilocybin or
14 psilocybin product is stored at the facility.

15 126-XX:2 General Provisions. A person may knowingly or intentionally recommend, possess, or
16 use, dispense, deliver, transport, or administer psilocybin if the recommendation, possession, use,
17 dispensing, delivery, transporting, or administering is in accordance with the provisions of this
18 chapter.

19 126-XX:3 Applicability. Federal Food and Drug Administration-approved products that contain
20 psilocybin shall be exempt from this chapter, with the exception that such products shall be
21 authorized for use:

22 I. In any research conducted by state research universities or health care providers
23 pursuant to grants awarded through the medical psilocybin research fund; and

24 II. By qualified patients whose treatments may be funded through the medical psilocybin
25 treatment equity fund.

26 126-XX:4 Exemption from Criminal and Civil Penalties for the Medical Use of Psilocybin.

27 I. A cultivator, therapist, clinician or qualified patient shall not be subject to arrest,
28 prosecution or penalty for participating in the program.

29 II. The following conduct is lawful and shall not constitute grounds for detention, search, or
30 arrest of a person or for a violation of probation or parole, and psilocybin that relates to the conduct
31 is not contraband or subject to seizure or forfeiture pursuant to RSA 318-B:

32 (a) A cultivator or provider possessing or transporting not more than an adequate supply
33 of psilocybin for medical purposes as defined by department rule; and

34 (b) A provider administering or a qualified patient taking psilocybin in an approved
35 setting in accordance with this chapter or rules adopted thereunder.

36 III. A clinician shall not be subject to arrest or prosecution or denied any right or privilege
37 for recommending the program or providing medical services authorized in this chapter.

1 IV. A person shall not be subject to arrest or prosecution for a psilocybin-related offense for
2 simply being in the presence of the medical use of psilocybin as allowed under the provisions of this
3 chapter.

4 V. This chapter does not apply to federal Food and Drug Administration approved clinical
5 trials.

6 126-XX:5 Prohibitions, Restrictions and Limitations on the Use of Psilocybin; Criminal
7 Penalties.

8 Participation in the program by a cultivator, provider, or qualified patient does not relieve the
9 cultivator, provider, or qualified patient from:

10 I. Criminal prosecution or civil penalties for activities not authorized under this chapter; or

11 II. Liability for damages or criminal prosecution arising out of the operation of a motor
12 vehicle if driving while under the influence of psilocybin.

13 126-XX:6 Medical Use of Psilocybin Program Established.

14 I. The medical use of psilocybin program is created in the department. In developing the
15 program, the department shall establish:

16 (a) Appropriate education and resources for patients.

17 (b) Guidance on roles and responsibilities of qualified medical psilocybin providers,
18 qualified therapy providers, and psilocybin cultivators.

19 (c) Necessary initial and ongoing training for providers and cultivators.

20 (d) Treatment protocols, including patient selection criteria, medical service standards,
21 dosage standards and approved settings for administration of psilocybin to patients.

22 (e) Safety protocols for producing psilocybin from mushrooms, transporting, storing, and
23 handling psilocybin and treating patients.

24 (f) Other best practices for cultivators and providers.

25 (g) Requirements for data collection to evaluate the program and the use of best
26 practices by cultivators and providers.

27 (h) Recommendation of program expansion to additional psychedelic substances proving
28 of medical
29 and/or therapeutic value for patients.

30 (i) Other requirements, restrictions, and limitations promulgated by the department to
31 ensure an efficacious program.

32 II. The department shall monitor cultivators and clinicians to ensure compliance with this
33 chapter and rules promulgated in accordance with the chapter.

34 III. The department shall collaborate with the board, state higher education institutions,
35 and health care providers to collect and analyze data to develop best practices, and within 180 days
36 of the effective date of this chapter, implement the program.

1 IV. The department shall collaborate with the board regarding recommended programmatic
2 changes and expansion of the program, including consideration of additional psychedelic
3 therapeutics modalities.

4 126-XX:7 Psilocybin Licensing Board.

5 I. There is created within the department the psilocybin licensing board.

6 II. The board shall include at minimum the following members, appointed by the
7 commissioner:

8 (a) One member of the public with knowledge of psilocybin.

9 (b) One member with knowledge and experience in the pharmaceutical or nutraceutical
10 manufacturing industry.

11 (c) One member representing a public safety authority.

12 (d) One member who is a chemist or researcher with experience in manufacturing and
13 who is associated with a research university.

14 (e) One member who is licensed to provide behavioral health care services.

15 (f) The commissioner or the commissioner's designee, who shall serve as the chairperson
16 of the board and as a nonvoting member, except to cast a deciding vote in the event of a tie.

17 III. A majority of the members constitutes a quorum, and a quorum of the members present
18 and a majority vote are needed to take any action.

19 IV. A person is ineligible for appointment to the board if any of the following apply:

20 (a) The person has any commercial or ownership interest in a psilocybin production
21 establishment.

22 (b) The person is associated with a business that has an owner, officer, director, or
23 employee whose family member holds a license or has an interest in a psilocybin production
24 establishment.

25 (c) The person is employed or contracted to lobby on behalf of a psilocybin production
26 establishment.

27 V. The director shall ensure that no 2 members of the board are employed by or represent
28 the same business or nonprofit organization.

29 VI. Members of the board shall serve a term of 4 years, except that initial members of the
30 board shall be appointed for staggered terms such that the director appoints 2 or 3 board members
31 every 2 years. The director shall fill a vacancy on the board for the balance of the unexpired term.

32 VII. The director may remove a member of the board for cause, neglect of duty, inefficiency,
33 or malfeasance.

34 VIII. Members of the board shall serve without compensation but may be reimbursed for
35 actual expenses.

36 IX. The board shall meet as called by the chairperson to do all of the following:

1 (a) Review each license application for compliance with this chapter and rules adopted
2 by the department.

3 (b) Conduct a public hearing to consider a license application.

4 (c) Make a determination on a license application.

5 X. The board shall hold a public hearing to review a psilocybin production establishment's
6 license if the establishment changes location or as necessary based on the recommendation of the
7 department.

8 XI. The board shall:

9 (a) Review and recommend to the department medical conditions that may benefit from
10 the medical use of psilocybin.

11 (b) Recommend for approval programmatic expansion to additional psychedelic
12 substances proving of medical and/or therapeutic value for patients.

13 (c) Assist the department in establishing, monitoring, and evaluating best practices for
14 cultivators and providers.

15 126-XX:8 License Renewal. The commissioner shall renew a license issued under this chapter
16 on a biannual basis if all of the following apply:

17 I. The licensee meets all of the requirements for initial licensure.

18 II. The commissioner does not identify a significant failure of compliance with this chapter
19 or grounds for revocation.

20 III. The licensee pays a renewal fee as determined by the department by rule.

21 126-XX:9 Reporting. The commissioner shall adopt rules under RSA 541-A for the collection of
22 data from cultivators, providers, and qualified patients as a means to evaluate the efficacy of the
23 medical use of psilocybin and publish an annual assessment of the program. The assessment shall
24 consider the needs of qualified patients who live in rural areas and federal subsidized housing as
25 long as the qualified patient's place of residence is wholly within the exterior boundaries of the state.
26 Data shall be reported in such a way that an individual qualified patient cannot be identified.

27 126-XX:10 Persons Under State Supervision; Protections. A person who is serving a period of
28 probation or parole or who is in the custody or under the supervision of the state or a local
29 government pending trial as part of a community supervision program shall not be penalized for
30 participation in the program.

31 126-XX:11 Therapeutic Psilocybin Treatment Fund Established.

32 There is established in the state treasury the "therapeutic psilocybin treatment fund", which
33 shall be kept separate and distinct from all other funds. The nonlapsing fund shall be continually
34 appropriated to the department for the purposes of this chapter. The fund shall consist of
35 appropriations, grants, and revenues generated by program licensing fees. The department shall
36 administer the fund.

37 126-XX:12 Psilocybin Production Establishment License.

1 I. A person shall not operate a psilocybin production establishment unless the person holds
2 a psilocybin production establishment license issued by the licensing board pursuant to this chapter.

3 II. The department shall adopt rules under RSA 541-A to develop a process for soliciting and
4 evaluating applications for a psilocybin production establishment license.

5 III. An applicant for a psilocybin production establishment license shall submit all of the
6 following:

7 (a) The proposed name of the establishment and the address where the establishment
8 will be located, except as provided in subparagraph (b).

9 (b) The board may issue a provisional license to an applicant who submits an application
10 that does not include the address at which the establishment will be located. The department shall
11 convert a provisional license to a license if the provisional licensee submits documentation
12 confirming that the provisional licensee has purchased or leased a location meeting the requirements
13 of RSA 126-XX:1, XXIII.

14 (c) The name and address of any individual who has any of the following:

15 (1) For a privately held company, a financial or voting interest in the proposed
16 psilocybin production establishment.

17 (2) The power to direct the management or control of the proposed psilocybin
18 production establishment.

19 (d) An operating plan, approved by the department, that complies with RSA 126-XX:13
20 and any laws that the municipality or county in which the person is located adopts regarding the
21 operation of psilocybin production establishments.

22 (e) An application fee in an amount determined by the department.

23 IV. Upon the approval of an application for a license under this section, the applicant shall
24 pay to the department the initial licensing fee, as determined by the department by rule, and the
25 department shall inform the department of public safety of the license approval.

26 V. A psilocybin production establishment may be located at the same location as a medical
27 cannabidiol manufacturer if a separate license is obtained for each.

28 VI. The licensing board shall not issue a license to operate an independent psilocybin testing
29 laboratory to any person who holds a license or has an ownership interest to operate a psilocybin
30 cultivation facility.

31 VII. The licensing board shall not issue a license to operate a psilocybin production
32 establishment to an applicant if an individual has been convicted of a felony for drug distribution, or
33 is younger than 21 years of age.

34 VIII. The licensing board may, at the discretion of the licensing board, grant preference to
35 an applicant registered as an alternative treatment center under RSA 126-X.

36 IX. The licensing board may revoke a license issued pursuant to this section if any of the
37 following apply:

1 (a) The psilocybin production establishment does not begin operations within one year
2 after the date on which the licensing board issues the initial license.

3 (b) An individual psilocybin production establishment operated by the licensee has
4 violated the same provision of this chapter 3 times.

5 (c) An individual described in subparagraph III(c), is convicted of a felony for drug
6 distribution.

7 (d) The licensee fails to cooperate with an investigation of the psilocybin production
8 establishment conducted by the licensing board.

9 (e) The psilocybin production establishment demonstrates a willful or reckless disregard
10 for the requirements of this chapter or the rules of the department.

11 (f) The licensing board determines that the psilocybin production establishment no
12 longer meets the minimum standards for licensure and operation of the psilocybin production
13 establishment.

14 (g) For an independent psilocybin testing laboratory, the independent psilocybin testing
15 laboratory fails to substantially meet the performance standards adopted by the department by rule.

16 X. If the municipality or county where the licensed psilocybin production establishment will
17 be located requires a local land use permit, a person who is issued a psilocybin production
18 establishment license under this chapter shall submit to the licensing board a copy of the licensee's
19 approved land use permit within 120 days after the date on which the licensing board issues the
20 license.

21 XI. The department shall deposit fees imposed under this section into the therapeutic
22 psilocybin treatment fund under RSA 126-XX:11.

23 XII. The department shall begin accepting applications under this section within 180 days of
24 the effective date of this chapter.

25 XIII. The licensing board shall not issue more than 4 licenses to operate an independent
26 psilocybin testing laboratory.

27 XIV. The department may operate or partner with a research university to operate an
28 independent psilocybin testing laboratory.

29 XV. A psilocybin production establishment license shall not be transferable or assignable.

30 XVI. The licensing board's authority to issue a license under this section shall be plenary
31 and not subject to review.

32 126-XX:13 Operating Plan. A person applying for a psilocybin production establishment license
33 or license renewal shall submit to the department for the department's review a proposed operating
34 plan that includes all of the following:

35 I. A description of the physical characteristics of the proposed facility or, for a psilocybin
36 cultivation facility, no more than 2 facility locations, including a floor plan and an architectural
37 elevation.

1 II. A description of the credentials and experience of each officer, director, and owner of the
2 proposed psilocybin production establishment.

3 III. The psilocybin production establishment's employee training standards.

4 IV. A security plan.

5 V. A description of the psilocybin production establishment's inventory control system.

6 VI. Storage protocols to ensure that psilocybin is stored in a manner that is sanitary and
7 preserves the integrity of the psilocybin.

8 VII. For a psilocybin cultivation facility:

9 (a) Psilocybin cultivation practices, including the facility's intended pesticide and
10 fertilizer use.

11 (b) Square footage under cultivation and anticipated psilocybin yield.

12 VIII. For an independent psilocybin testing laboratory:

13 (a) Psilocybin and psilocybin product testing capacity.

14 (b) Psilocybin and psilocybin product testing equipment.

15 (c) Testing methods, standards, practices, and procedures for testing psilocybin or
16 psilocybin product.

17 126-XX:14 Psilocybin Production Establishment; General Operation Requirements.

18 I. A psilocybin production establishment shall operate in accordance with the operating plan
19 submitted by the psilocybin production establishment pursuant to RSA 126-XX:13. A psilocybin
20 production establishment shall notify the department prior to implementing a change to the
21 establishment's operating plan. The department shall inform the establishment of any deficiencies
22 in the new operating plan.

23 II. A psilocybin production establishment shall operate in a facility that has all of the
24 following:

25 (a) A single, secure public entrance.

26 (b) A security system with a backup power source that does all of the following:

27 (1) Detects and records entry into the psilocybin production establishment.

28 (2) Provides notice of an unauthorized entry to law enforcement when the psilocybin
29 production establishment is closed.

30 (3) Secures any area where the psilocybin production establishment stores psilocybin
31 or a psilocybin product.

32 126-XX:15 Inventory Control System.

33 I. Each psilocybin production establishment and qualified therapy provider shall maintain
34 an inventory control system that meets all of the requirements of this section.

35 II. An inventory control system shall do all of the following:

36 (a) Track, in real time, psilocybin and psilocybin product using a unique identifier from
37 the time psilocybin is ready to be harvested.

1 (b) Maintain in real time a record of the amount of psilocybin or psilocybin product in
2 the possession of the establishment or provider.

3 (c) Include a video recording system that is tamper proof and does all of the following:

4 (1) Tracks all handling and processing of psilocybin or psilocybin product in the
5 establishment or provider location.

6 (2) Stores each video record for at least 45 days.

7 III. A psilocybin production establishment or qualified therapy provider shall allow the
8 department, or a financial institution designated by the department, to validate transactions to
9 access the inventory control system at any time.

10 IV. The department shall adopt rules pursuant to RSA 541-A to implement this section, and
11 the rules shall include requirements for aggregate or batch records regarding the planting and
12 propagation of psilocybin before being tracked, and which may include compatibility standards for
13 inventory control systems.

14 126-XX:16 Inspections.

15 I. The department may inspect the records and facility of a psilocybin production
16 establishment at any time during business hours to determine if the psilocybin production
17 establishment complies with this chapter.

18 II. An inspection under this section may include all of the following:

19 (a) Inspection of a site, facility, vehicle, book, record, paper, document, data, and other
20 physical or electronic information.

21 (b) Questioning of any relevant individual.

22 (c) Observation of an independent psilocybin testing laboratory's methods, standards,
23 practices, and procedures.

24 (d) The sampling of a specimen of psilocybin or psilocybin product sufficient for testing
25 purposes.

26 (e) Inspection of equipment, an instrument, a tool, or machinery, including a container
27 or label.

28 III. In conducting an inspection under this section, the department may review and make
29 copies of a book, record, paper, document, data, or other physical or electrical information, including
30 financial data, sales data, shipping data, pricing data, and employee data.

31 IV. The department may impose a fee, or a license or registration suspension or revocation,
32 if a psilocybin production establishment fails to comply with this section.

33 126-XX:17 Psilocybin Cultivation Facility; Growing And Harvesting.

34 I. A psilocybin cultivation facility shall use a unique identifier that is connected to the
35 facility's inventory control system to identify all of the following:

36 (a) Each unique harvest of psilocybin.

1 (b) Each batch of psilocybin that the facility transfers to an independent psilocybin
2 testing laboratory.

3 II. A psilocybin cultivation facility shall identify psilocybin biomass as psilocybin byproduct
4 or psilocybin product before transferring the psilocybin biomass from the facility.

5 126-XX:18 Psilocybin Cultivation Facility; Sales.

6 I. A psilocybin cultivation facility shall not sell a product other than a psilocybin product or
7 educational material related to the medical use of psilocybin.

8 II. A psilocybin cultivation facility shall not sell a product to a person other than a qualified
9 therapy provider or a registered agent of a qualified therapy provider.

10 126-XX:19 Psilocybin Cultivation Facility; Labeling.

11 I. A psilocybin cultivation facility shall label a psilocybin or psilocybin product with the
12 amount of active psilocybin in the psilocybin or psilocybin product.

13 II. The department may adopt rules pursuant to RSA 541-A to establish labeling
14 requirements for a psilocybin product.

15 126-XX:20 Independent Psilocybin Testing Laboratory; Psilocybin and Psilocybin Product
16 Testing.

17 I. The department shall adopt rules pursuant to RSA 541-A to do all of the following:

18 (a) Identify the adulterant analyses required to be performed on psilocybin or psilocybin
19 product.

20 (b) Determine the level of each adulterant that is safe for human consumption.

21 (c) Establish protocols for a recall of psilocybin or psilocybin product by a psilocybin
22 production establishment.

23 II. The department may require an independent psilocybin testing laboratory to test for a
24 toxin if the department receives information indicating the potential presence of a toxin, or the
25 department's inspector has reason to believe a toxin may be present based on the inspection of a
26 facility.

27 III. A psilocybin production establishment may not transfer psilocybin or psilocybin product
28 to a qualified therapy provider until an independent psilocybin testing laboratory tests a
29 representative sample of the psilocybin or psilocybin product as provided by the department by rule.

30 IV. Before the sale of a psilocybin product, an independent psilocybin testing laboratory
31 shall identify and quantify the amount of active psilocybin present in the psilocybin product.

32 V. The department shall adopt rules under RSA 541-A for standards, methods, practices,
33 and procedures for the testing of psilocybin and psilocybin products by an independent psilocybin
34 laboratory.

35 VI. The department may require an independent psilocybin testing laboratory to participate
36 in a proficiency evaluation that the department conducts, or that an organization that the
37 department approves conducts.

1 126-XX:21 Independent Psilocybin Testing Laboratory; Inspections.

2 I. If an independent psilocybin testing laboratory determines that the results of a laboratory
3 test indicate that a psilocybin or psilocybin product batch may be unsafe for human use:

4 (a) The independent psilocybin testing laboratory shall report the laboratory test results
5 and the psilocybin or psilocybin product batch to the department and the psilocybin cultivation
6 facility from which the batch originated.

7 (b) The department shall place a hold on the psilocybin or psilocybin products to conduct
8 a root cause analysis of the defective batch and make a determination as to the root cause. The
9 psilocybin cultivation facility that grew the psilocybin may appeal the determination of the
10 department.

11 II. If the department determines that psilocybin or psilocybin product prepared by a
12 psilocybin cultivation establishment is unsafe for human consumption, the department may seize,
13 embargo, or destroy the psilocybin or psilocybin product batch.

14 III. If an independent psilocybin testing laboratory determines that the results of a lab test
15 indicate that the active psilocybin content of psilocybin or a psilocybin product batch diverges more
16 than 10 percent from the amount the label indicates, the psilocybin cultivation facility shall not sell
17 the psilocybin or psilocybin product batch unless the facility replaces the incorrect label with a label
18 that correctly indicates the active psilocybin content.

19 126-XX:22 Psilocybin Electronic Verification System.

20 I. The department shall adopt rules under RSA 541-A for the creation and operation of an
21 electronic verification system that, at minimum, does all of the following:

22 (a) Allows a qualified medical psilocybin provider to access dispensing information
23 regarding a patient of the qualified medical psilocybin provider, electronically recommend or renew a
24 recommendation for psilocybin or a psilocybin product, connect with an inventory control system
25 that a psilocybin production establishment uses to track in real time and archive purchases of any
26 psilocybin or psilocybin product, and connect with an inventory control system that a psilocybin
27 production establishment utilizes.

28 (b) Allows the department access as necessary to carry out the department's functions
29 and responsibilities under this chapter, including inspections, appeals, and licensing responsibilities
30 related to the participation of qualified medical psilocybin providers and qualified therapy providers
31 in the recommendation and administration of psilocybin.

32 (c) Creates a record each time a person accesses the system that identifies the person
33 who accessed the system and the individual whose records the person accessed.

34 (d) Keeps a current record of the total number of individuals who have a psilocybin
35 recommendation issued.

36 II. The department may release limited data from the electronic verification system for the
37 purposes of conducting research, issuing required reports, or for other official department purposes.

1 III. This section shall not prohibit a person who rightfully obtains information from the
2 state electronic verification system from including the information in the person's medical chart or
3 file for access by a person authorized to review the medical chart or file, providing the information to
4 a person in accordance with the requirements of the federal Health Insurance Portability and
5 Accountability Act of 1996, Pub. L. No. 104-191, or discussing or sharing that information about the
6 patient with the patient.

7 126-XX:23 Qualified Medical Psilocybin Provider Registration; Continuing Education;
8 Treatment Recommendation.

9 I. An individual shall not recommend a medical psilocybin treatment unless the department
10 registers the individual as a qualified medical psilocybin provider under this section.

11 II. The department shall, within 15 days after the date the department receives an
12 application from an individual, register and issue a qualified medical psilocybin provider registration
13 card to the individual if the individual does all of the following:

14 (a) Provides to the department the individual's name and address.

15 (b) Provides to the department a report detailing the individual's completion of the
16 applicable continuing education requirements.

17 (c) Provides to the department evidence that the individual holds a license that qualifies
18 the individual as a qualified medical psilocybin provider.

19 (d) Pays an application fee as determined by the department by rule.

20 III. An individual applying for initial registration or renewal of a registration shall complete
21 a continuing education program as determined by the department by rule. The continuing education
22 program shall be offered by the department or a continuing education provider approved by the
23 department. The continuing education program shall address all of the following:

24 (a) This chapter.

25 (b) General information about psilocybin under federal and state law.

26 (c) The latest scientific research on medical psilocybin, including risks and benefit.

27 (d) Best practices for recommending the form and dosage of psilocybin.

28 (e) Systems and receptors affected by psilocybin.

29 (f) Mechanisms of action.

30 (g) Drug interactions.

31 (h) Diagnostic criteria.

32 (i) Contraindications.

33 (j) Side effects and mitigation of side effects.

34 (k) Administrative set and setting, including physical patient safety.

35 (l) Integration.

36 (m) Potential outcomes.

37 (n) Ethical considerations.

1 (o) Discharge safety planning.

2 II. An applicant for initial registration shall complete 16 hours of continuing education. A
3 qualified medical psilocybin provider shall complete 4 hours of continuing education every 2 years.

4 III. A qualified medical psilocybin provider shall not recommend psilocybin to a patient, or
5 renew a recommendation for psilocybin, unless the qualified medical psilocybin provider has done all
6 of the following:

7 (a) Completed and documented in the patient's medical record a thorough assessment of
8 the patient's condition and medical history based on the appropriate standard of care.

9 (b) Verified that the patient is at least 21 years of age.

10 (c) Met with the patient face to face if the qualified medical psilocybin provider has not
11 recommended a psilocybin treatment to the patient in the past.

12 IV. Except as provided in this paragraph, an individual shall not advertise that the
13 individual recommends medical psilocybin treatment. A qualified medical psilocybin provider, or a
14 clinic or office that employs a qualified medical psilocybin provider, may advertise the following:

15 (a) The provider's or clinic's name and logo.

16 (b) That the individual is registered as a qualified medical psilocybin provider and
17 recommends medical psilocybin.

18 (c) A scientific study regarding medical psilocybin use.

19 V. A qualified medical psilocybin provider registration card shall expire 2 years from the
20 date the department issued the card. The department shall adopt rules under RSA 541-A for the
21 renewal of a medical psilocybin provider registration card.

22 VI. The department may revoke a medical psilocybin provider registration card if a qualified
23 medical psilocybin provider fails to maintain compliance with this section.

24 VII. A qualified medical psilocybin provider shall not receive any compensation or benefit for
25 the qualified medical psilocybin provider's medical psilocybin treatment recommendation from a
26 psilocybin production establishment or an owner, officer, director, board member, employee, or agent
27 of a psilocybin production establishment.

28 VIII. On or before January 1 of each year, a qualified medical provider shall report to the
29 department all of the following:

30 (a) That the qualified medical psilocybin provider, or the entity that employs the
31 qualified medical psilocybin provider, represents online or in printed material that the qualified
32 medical psilocybin provider is a qualified medical psilocybin provider or offers medical psilocybin
33 recommendations to patients, if applicable.

34 (b) The fee amount that the qualified medical psilocybin provider, or the entity that
35 employs the qualified medical psilocybin provider, charges a patient for a medical psilocybin
36 recommendation, either as an actual cash rate or, if the psilocybin provider or entity bills insurance,
37 an average cash rate.

1 126-XX:24 Standard of Care; Provider Not Liable; No Private Right of Action.

2 I. A qualified medical psilocybin provider or a qualified therapy provider who recommends
3 or administers psilocybin in compliance with this chapter shall not be subject to a civil or criminal
4 penalty, or license discipline, solely for violating a federal law or regulation that prohibits
5 recommending, prescribing, possessing, or dispensing psilocybin or a psilocybin product.

6 II. This chapter shall not be construed to reduce or negate the duty of a qualified medical
7 psilocybin provider or qualified therapy provider to use reasonable and ordinary care in the
8 treatment of a patient.

9 16-XX:25 Nondiscrimination for Use of Psilocybin.

10 I. For purposes of medical care, including an organ or tissue transplant, a patient's use of
11 psilocybin as provided in this chapter is the equivalent of authorized use of any other medication
12 used at the discretion of a physician, and does not constitute the use of an illicit substance or
13 otherwise disqualify an individual from needed medical care.

14 II.(a) Except as otherwise provided in subparagraph (b), the state or a political subdivision
15 of the state shall treat an employee's use of medical psilocybin as provided in this chapter in the
16 same way the state or political subdivision treats an employee's use of any prescribed controlled
17 substance, and an employee's medical psilocybin recommendation from a qualified medical
18 psilocybin provider in the same way the state or political subdivision treats an employee's
19 prescription for any prescribed controlled substance.

20 (b) A state or political subdivision employee who has a valid medical psilocybin
21 registration shall not be subject to adverse action for failing a drug test due to psilocybin or psilocin
22 without evidence that the employee was impaired or otherwise adversely affected in the employee's
23 job performance due to the use of medical psilocybin. This paragraph shall not apply in any of the
24 following circumstances:

25 (1) The employee's use of psilocybin jeopardizes federal funding, a federal security
26 clearance, or any other federal background determination required for the employee's position.

27 (2) The employee's position is dependent on a license or peace officer certification
28 that is subject to federal regulations, including 18 U.S.C. section 922(g)(3).

29 (3) An employee who uses medical psilocybin during the 12 hours immediately
30 preceding the employee's shift or during the employee's shift.

31 III. An agency of this state or a political subdivision thereof, including any law enforcement
32 agency, shall not remove or initiate proceedings to remove a child under the age of 18 from the home
33 of a parent based solely upon the parent's possession or use of psilocybin as authorized under this
34 chapter.

35 126-XX:26 Insurance; Coverage Requirement. This chapter shall not be construed to require an
36 insurer, a third-party administrator, or an employer to pay for or reimburse an employee for
37 psilocybin or psilocybin product.

1 126-XX:27 Approved Drugs. This chapter shall not be construed to restrict or otherwise affect
2 the prescription, distribution, or dispensing of a product that the United States Food and Drug
3 Administration has approved.

4 126-XX:28 Qualified Therapy Provider Registration; Continuing Education; Psilocybin
5 Administration.

6 I. An individual shall not administer a medical psilocybin treatment unless the department
7 registers the individual as a qualified medical psilocybin therapist as provided in this section.

8 II. The department shall, within 15 days after the date the department receives an
9 application from an individual, register and issue a qualified medical psilocybin therapist
10 registration card to the individual if the individual does all of the following:

11 (a) Provides to the department the individual's name and address.

12 (b) Provides to the department the address of the clinic at which the individual will be
13 administering psilocybin to patients.

14 (c) Provides to the department a report detailing the individual's completion of the
15 applicable continuing education requirements described in paragraph III.

16 (d) Certifies to the department that the individual has installed and maintains an
17 inventory control system.

18 (e) Provides to the department evidence that the individual holds a license that qualifies
19 the individual as a qualified medical psilocybin provider.

20 (f) Pays an application fee as determined by the department by rule.

21 (g) Provides to the department an emergency transport plan for patients who experience
22 a medical emergency during the course of treatment.

23 III.(a) An individual applying for initial registration or renewal of a registration shall
24 complete a continuing education program as determined by the department by rule. The continuing
25 education program shall be offered by the department or a continuing education provider approved
26 by the department.

27 (b) The continuing education program shall address all of the following:

28 (1) This chapter.

29 (2) General information about psilocybin under federal and state law.

30 (3) The latest scientific research on medical psilocybin, including risks and benefits.

31 (4) Best practices for recommending the form and dosage of psilocybin.

32 (5) Systems and receptors affected by psilocybin.

33 (6) Mechanisms of action.

34 (7) Drug interactions.

35 (8) Diagnostic criteria.

36 (9) Contraindications.

37 (10) Side effects and mitigation of side effects.

- 1 (11) Administrative set and setting, including physical patient safety.
- 2 (12) Integration.
- 3 (13) Potential outcomes.
- 4 (14) Ethical considerations.
- 5 (15) Discharge safety planning.

6 (e) An applicant for initial registration shall complete 80 hours of continuing education.
7 A qualified therapy provider shall complete 4 hours of continuing education every 2 years.

8 III. A qualified therapy provider shall only administer psilocybin to a patient when all of the
9 following requirements are met:

10 (a) The patient has a recommendation issued by a qualified medical psilocybin provider.

11 (b) The qualified medical therapy provider has obtained and reviewed the patient's
12 mental health history.

13 (c) The qualified therapy provider has provided the patient with a safety data sheet
14 created by the department which outlines the potential risks of psilocybin use.

15 (d) There are unexpired rescue medications on site, as determined by the department by
16 rule.

17 (e) The administration session is video-recorded and the video recording is preserved for
18 one year from the date of the session, or the patient gives written, informed consent waiving the
19 video-recording requirement.

20 (f) The qualified therapy provider has a contractual relationship with a licensed
21 physician and surgeon or osteopathic physician and surgeon who remains on call during the course
22 of the administration session in case the patient requires nonemergency medical intervention.

23 IV. A qualified therapy provider shall only administer psilocybin or a psilocybin product in a
24 qualified therapy provider location.

25 V.(a) Except as provided in subparagraph (b), an individual shall not advertise that the
26 individual administers medical psilocybin treatment.

27 (b) A qualified therapy provider or clinic or office that employs a qualified therapy
28 provider may advertise the following:

29 (1) The provider's or clinic's name and logo.

30 (2) That the individual is registered as a qualified therapy provider and administers
31 medical psilocybin.

32 (3) A scientific study regarding medical psilocybin use.

33 VI. A qualified therapy provider registration card expires 2 years from the date the
34 department issues the card. The department shall adopt rules for the renewal of a qualified therapy
35 provider registration card.

36 VII. Within 7 days of the date on which an adverse event occurs, a qualified therapy
37 provider shall submit to the department a report containing all of the following:

- 1 (a) The age and sex of the patient.
- 2 (b) The patient's preexisting health conditions, if any.
- 3 (c) The amount of psilocybin administered to the patient.
- 4 (d) Factors which contributed to the adverse event.
- 5 (e) The nature and severity of the adverse event.
- 6 (f) The ultimate outcome of the adverse event.
- 7 (g) The department may revoke a qualified therapy provider registration card if a
- 8 qualified therapy provider fails to maintain compliance with this section.

9 126-XX:29 Qualified Therapy Provider Agent; Registration.

10 I. An individual shall not act as a qualified therapy provider agent unless the department
11 registers the individual as a qualified therapy provider agent, regardless of whether the individual is
12 a seasonal, temporary, or permanent employee.

13 II. The department shall, within 15 business days after the date the department receives a
14 complete application from a qualified therapy provider agent, register and issue a qualified therapy
15 provider agent registration card to the prospective agent who successfully passes a criminal
16 background investigation if the prospective agent does all of the following:

- 17 (a) Provides to the department the prospective agent's name and address.
- 18 (b) Pays a fee to the department in an amount determined by the department by rule.

19 III. A qualified therapy provider agent shall comply with either a certification standard
20 developed by the department by rule adopted under RSA 541-A. The certification standard
21 described in this paragraph shall include training in New Hampshire medical psilocybin law.

22 IV. A qualified therapy provider agent registration card shall expire 2 years from the date
23 the department issued the card. A qualified therapy provider agent may renew the agent's
24 registration card if the agent is still eligible to hold a qualified therapy provider agent registration
25 card and pays a fee determined by the department by rule.

26 V. A qualified therapy provider agent shall carry the individual's qualified therapy provider
27 agent card with the agent at all times when the agent is handling psilocybin or psilocybin product. If
28 a qualified therapy provider agent possesses psilocybin or psilocybin product and produces the
29 registration card in the agent's possession, there is a rebuttable presumption that the agent
30 possesses the psilocybin or psilocybin product legally and a law enforcement officer does not have
31 probable cause, based solely on the agent's possession of the psilocybin or psilocybin product, to
32 believe that the individual is engaging in illegal activity.

33 126-XX:30 Reports.

34 I. Within 180 days of the effective date of this chapter, and by November 1 of each year
35 thereafter, the department shall submit a report to the general court including all of the following:

- 36 (a) The number of patients for whom psilocybin has been recommended.
- 37 (b) The age and county of patients.

- 1 (c) The number of qualified medical psilocybin providers.
- 2 (d) The number of license applications and renewal applications received.
- 3 (e) The number of licenses the department has issued in each county.
- 4 (f) The number of licenses the department has revoked.
- 5 (g) The expenses incurred and revenues generated from the medical psilocybin program.
- 6 (h) The number and nature of adverse events reported.

7 II. The department shall not include personally identifying information in the report
8 submitted pursuant to paragraph I.

9 III. The department shall submit a report to the general court regarding the efficacy of
10 medical psilocybin, including recommendations, within 180 days of the effective date of this chapter.

11 126-XX:31 Enforcement.

12 If a person that is licensed or registered under this chapter violates a provision of this chapter or
13 rules adopted by the department pursuant to this chapter, or fails to comply with an enforcement
14 action taken under this chapter, the department may: revoke the person's license or registration
15 card; decline to renew the person's license or registration card; and assess an administrative fee, as
16 determined by the department by rule.

17 126-XX:32 Contracts Enforceable. It is the public policy of this state that contracts related to
18 the production, sale, and administration of psilocybin pursuant to this chapter shall be enforceable.
19 It is the public policy of this state that no contract entered into by a psilocybin production
20 establishment, qualified medical psilocybin provider, or qualified therapy provider, or its employees
21 or agents as permitted pursuant to a valid registration, or by an entity who allows property to be
22 used by an establishment, qualified medical psilocybin provider, or qualified therapy provider, its
23 employees, or its agents as permitted pursuant to a valid registration, shall be unenforceable on the
24 basis that cultivating, obtaining, manufacturing, distributing, dispensing, transporting, selling,
25 possessing, or using psilocybin is prohibited by federal law.

26 126-XX:33 Psychedelic Compounds Study. The department of health and human services shall
27 conduct a study regarding the use of psychedelic compounds other than psilocybin in the treatment
28 of medical conditions. The department shall submit a report to the general court, including the
29 department's findings and recommendations, within 180 days of the effective date of this chapter.

30 4 New Subparagraph; Application of Receipts; Therapeutic Psilocybin Treatment Fund. Amend
31 RSA 6:12, I(b) by inserting after subparagraph (410) the following new subparagraph:

32 (411) Moneys deposited in the therapeutic psilocybin treatment fund as established
33 in RSA 126-XX:11.

34 5 Effective Date. This act shall take effect January 1, 2027.

HB 1796-FN- FISCAL NOTE
 AS INTRODUCED

AN ACT allowing the use of psilocybin in approved clinical settings to treat qualified medical conditions.

FISCAL IMPACT: This bill does not provide funding, nor does it authorize new positions.

Estimated State Impact				
	FY 2026	FY 2027	FY 2028	FY 2029
Revenue	\$0	\$0	\$0	\$0
<i>Revenue Fund(s)</i>	Fee and other revenue deposited into the therapeutic psilocybin fund			
Expenditures*	\$0	\$1.27 million +	\$554,000+	\$580,000+
<i>Funding Source(s)</i>	Revenue from the therapeutic psilocybin fund; potential general funds			
Appropriations*	\$0	\$0	\$0	\$0
<i>Funding Source(s)</i>	None			

*Expenditure = Cost of bill

*Appropriation = Authorized funding to cover cost of bill

METHODOLOGY:

This bill establishes a controlled program for the medical use of psilocybin, overseen by a regulatory board within the Department of Health and Human Services. The purpose is to permit regulated therapeutic use of psilocybin for conditions including major treatment-resistant depression, Post-Traumatic Stress Disorder (PTSD), substance use disorders, end-of-life care, and other qualified conditions as approved. The bill sets up a licensing system for cultivation, testing, and therapy providers, plus regulatory requirements for training, data collection, reporting, and continuing education. The Department would be required to study additional psychedelic compounds for possible therapeutic use, with annual reports on efficacy, outreach, and adverse events mandated, along with confidentiality protections. The program would be funded by licensing fees for providers, cultivation facilities, and testing laboratories, as well as possible grants and other revenues specifically generated by the program’s activities. Licensing fees from initial application, renewal, and operational changes would be deposited directly into the therapeutic psilocybin treatment fund, creating a non-lapsing funding stream for oversight, annual assessments, and expansion activities.

The Department assumes that it will need \$1 million to \$1.25 million in upfront costs to develop an IT system to manage the program. The Department further anticipates needing the following five new positions:

- One general operations manager at a cost of \$71,000 in FY27, \$146,000 in FY28, and \$153,000 in FY29;
- One manager at a cost of \$58,000 in FY27, \$118,000 in FY28, and \$124,000 in FY29;
- One medical health services manager at a cost of \$62,000 in FY27, \$127,000 in FY28, and \$133,000 in FY29;
- One network administrator at a cost of \$40,000 in FY27, \$83,000 in FY28, and \$86,000 in FY29; and
- One manager at a cost of \$39,000 in FY27, \$80,000 in FY28, and \$84,000 in FY29.

The total cost of the positions identified above is \$270,000 in FY27, \$554,000 in FY28, and \$580,000 in FY29.

The Department notes that since many of the responsibilities contained in the bill are new and outside of its traditional purview, it is possible that costs will increase, perhaps significantly, beyond those depicted here. In addition, although the program is to be self-funded through fee and other revenue, upfront costs such as the new IT system will need to be funded before such revenue is available. For this reason, initial costs may result in general fund expenditures.

AGENCIES CONTACTED:

Department of Health and Human Services