HB 1693-FN - AS INTRODUCED

2024 SESSION

24-2523
05/10

HOUSE BILL ***1693-FN***

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

SPONSORS: Rep. Verville, Rock. 2

COMMITTEE: Health, Human Services and Elderly Affairs

ANALYSIS

This bill allows and regulates the use of psychedelics for certain qualifying medical conditions.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

24-2523
05/10

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Four

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

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

1 New Chapter; Use of Psychedelics for Therapeutic Purposes. Amend RSA by inserting after chapter 126-DD the following new chapter:

CHAPTER 126-EE

USE OF PSYCHEDELICS FOR THERAPEUTIC PURPOSES

126-EE:1 Definitions. In this chapter:

I. "Alternative treatment center" means a not-for-profit entity registered under RSA 126-X:7 that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, sells, supplies, and dispenses psychedelics, and related supplies and educational materials, to qualifying patients, designated caregivers, other alternative treatment centers, and visiting qualifying patients.

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

III. "Cultivation location" means a locked and enclosed site, under the control of an alternative treatment center where natural psychedelics are cultivated, secured with one or more locks or other security devices in accordance with the provisions of this chapter.

IV. "Department" means the department of health and human services.

V. "Designated caregiver" means an individual who:

(a) Is at least 21 years of age;

(b) Has agreed to assist with one or more, not to exceed 5, qualifying patient's therapeutic use of psychedelics, except if the qualifying patient and designated caregiver each live greater than 50 miles from the nearest alternative treatment center, in which case the designated caregiver may assist with the therapeutic use of psychedelics for up to 9 qualifying patients;

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

VI. "Facility caregiver" means a residential care facility, nursing home, hospital, or hospice house licensed under RSA 151 which has agreed to allow one or more qualifying patients who are residents or patients of the facility to utilize therapeutic psychedelics obtained by the resident or the resident's designated caregiver from an alternative treatment center, and which has agreed to assist such residents in the therapeutic use of their psychedelics in accordance with a policy developed by the facility, and in accordance with rules adopted by the commissioner of health and human services pursuant to RSA 541-A. "Facility caregiver" shall also include community living facilities certified under RSA 126-A:19 and RSA 126-A:20.

VII. "Provider" means:

(a) A physician licensed to prescribe drugs to humans under RSA 329 and who possesses an active registration from the United States Drug Enforcement Administration to prescribe controlled substances;

(b) An advanced practice registered nurse licensed pursuant to RSA 326-B:18 and who possesses an active registration from the United States Drug Enforcement Administration to prescribe controlled substances;

(c) A physician or advanced practice registered nurse licensed to prescribe drugs to humans under the relevant state licensing laws in Maine, Massachusetts, or Vermont and who possesses an active registration from the United States Drug Enforcement Administration to prescribe controlled substances and who is primarily responsible for the patient's care related to his or her qualifying medical condition;

(d) A physician assistant licensed pursuant to RSA 328-D and who possesses an active registration from the United States Drug Enforcement Administration to prescribe controlled substances, with the express consent of the supervising physician;

(e) A nurse practitioner; or

(f) A licensed mental health provider, including counselors, psychiatrists, psychologists, and peer counselors.

VIII. “Psilocybin” means any part of Psilocybin-containing botanical fungus, of extract, including Psilocybin-producing spores.

IX. “Psychedelics” means any of the following substances: Psilocybin, lysergic acid diethylamide (LSD), and mescaline.

X. "Provider-patient relationship" means a medical relationship between a licensed provider and a patient that includes an in-person exam, a history, a diagnosis, and a treatment plan appropriate for the licensee's medical specialty.

XI. "Qualifying medical condition" includes:

(a) Anxiety.

(b) Depression.

(c) Panic disorder.

(d) Obsessive-compulsive disorder.

(e) Post-traumatic stress.

(f) Social anxiety.

(g) Body dysmorphia.

(h) Anorexia nervosa.

(i) Eating disorders.

(j) Substance use disorder.

(k) Sleep disorders.

(l) Insomnia.

(m) Personality disorder.

(n) Attention deficit.

(o) Chronic pain.

(p) Migraines and cluster headaches.

(q) Postpartum mental illnesses.

(r) Any novel or emergent mental illness which is not categorized in the Diagnostic and Statistical Manual of Mental Disorders but is diagnosed by a state licensed mental health professional, and so long as any efficacy, including self-reports, of Psilocybin has been observed in a study published in a medical or scientific journal, including preprint servers.

XII. "Qualifying patient" means a resident of New Hampshire who has been diagnosed by a provider as having a qualifying medical condition and who possesses a valid registry identification card issued pursuant to 126-EE:4.

XIII. "Registry identification card" means a document indicating the date issued, effective date, and expiration date by the department pursuant to 126-EE:4 that identifies an individual as a qualifying patient or a designated caregiver.

XIV. "Therapeutic use" means the acquisition, possession, cultivation, manufacture, preparation, use, delivery, transfer, or transportation of psychedelics or paraphernalia relating to the administration of psychedelics to treat or alleviate a qualifying patient's qualifying medical condition or symptoms or results of treatment associated with the qualifying patient's qualifying medical condition. It shall not include:

(a) The use of psychedelics by a designated caregiver who is not a qualifying patient; or

(b) Cultivation of natural psychedelics or purchase by a visiting qualifying patient from a qualifying patient or designated caregiver; or

(c) Cultivation of natural psychedelics by a designated caregiver or qualifying patient.

XV. "Use in adolescence" means the therapeutic use of psychedelics by any person whose age is within the generally accepted medical and psychiatric definition of an adolescent as ranging in age from 12-25 years old, as well as by individuals younger in age.

XVI. "Visiting qualifying patient" means a person who is not a resident of New Hampshire, or who has been a resident of New Hampshire for fewer than 90 days, who has been issued a valid registry identification card, or its equivalent, under the laws of another state, district, territory, commonwealth, or insular possession of the United States, or under the laws of Canada, that allows, in the jurisdiction of issuance, that person to possess psychedelics for therapeutic purposes.

XVII. "Written certification" means documentation of a qualifying medical condition by a provider pursuant to rules adopted by the department pursuant to RSA 541-A for the purpose of issuing registry identification cards, after having completed a full assessment of the patient's medical history and current medical condition made in the course of a provider-patient relationship.

126-EE:2 Therapeutic Use of Psychedelics; Protections.

I. A qualifying patient shall not be subject to arrest by state or local law enforcement, prosecution, or penalty under state or municipal law, be in violation of RSA 318-B, or denied any right or privilege for the therapeutic use of psychedelics in accordance with this chapter, if the qualifying patient possesses an amount of psychedelics that does not exceed the following:

(a) Two ounces of usable psychedelics; and

(b) Any amount of unusable psychedelics.

II. A designated caregiver shall not be subject to arrest by state or local law enforcement, prosecution, or penalty under state or municipal law, be in violation of RSA 318-B, or denied any right or privilege for the therapeutic use of psychedelics in accordance with this chapter on behalf of a qualifying patient if the designated caregiver possesses an amount of psychedelics that does not exceed the following:

(a) Two ounces of usable psychedelics, 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 psychedelics.

III. 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 psychedelics. Such compensation shall not constitute the sale of controlled substances.

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

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

(c) The presumptions made in subparagraphs (a) and (b) may be rebutted by evidence that conduct related to psychedelics 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.

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

(a) A visiting qualifying patient shall not purchase psychedelics at an alternative treatment center more than 12 times in a 12-month period, unless the visiting qualifying patient produces a statement from his or her health care provider stating that the visiting qualifying patient has a qualifying medical condition as defined in RSA 126-EE:1, XI.

(b) A visiting qualifying patient shall not cultivate natural psychedelics in New Hampshire or obtain or purchase psychedelics from a New Hampshire qualifying patient or designated caregiver.

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.

VII. For the purposes of medical care, including organ transplants, a qualifying patient's authorized use of psychedelics 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.

VIII. A provider 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, including but not limited to a civil penalty or disciplinary action by the New Hampshire board of medicine or any other occupational or professional licensing entity, solely for providing written certifications, provided that nothing shall prevent a professional licensing entity from sanctioning a provider for failing to properly evaluate a patient's medical condition.

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

(a) Acquire or purchase psychedelics seeds or seedlings;

(b) Possess, cultivate, manufacture, or transport psychedelics or the spores of natural fungi that contain psychedelic compounds; or

(c) Deliver, transfer, supply, sell, or dispense psychedelics and related supplies and educational materials to qualifying patients, to designated caregivers on behalf of the qualifying patients, to visiting qualifying patients, or to other alternative treatment centers.

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

XI. Any psychedelics, psychedelics paraphernalia, licit property, or interest in licit property that is possessed, owned, or used in connection with the therapeutic use of psychedelics as allowed under this chapter, or acts incidental to such use, shall not be seized or forfeited if the basis for the

seizure or forfeiture is activity related to psychedelics that is exempt from state criminal penalties under this chapter.

XII. An individual 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, including but not limited to a civil penalty or disciplinary action by a court or occupational or professional licensing entity, simply for being in the presence or vicinity of the therapeutic use of psychedelics as allowed under this chapter.

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

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

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

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

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

XV. A laboratory which conducts testing of psychedelics required under rules for alternative treatment centers adopted under this chapter, and the employees thereof, shall not be subject to arrest by state or local law enforcement, prosecution or penalty under state or municipal law, or search, for acting pursuant to this chapter and department rules to possess psychedelics on the premises of the laboratory for the purposes of testing, and, in the case of a laboratory employee, denied any right or privilege for working for such a laboratory.

XVI. A facility caregiver and those employees designated by the facility to assist qualifying patients, shall not be subject to arrest by state or local law enforcement, prosecution or penalty

under state or municipal law, or search, for acting pursuant to this chapter and department rules to possess psychedelics on the premises of the facility for the purpose of assisting a qualifying patient who is a resident or patient of the facility in the therapeutic use of the qualifying patient's psychedelics.

XVII. Authorized employees of the department shall not be subject to arrest by state or local law enforcement, prosecution, or penalty under state or municipal law, or search, when possessing, transporting, delivering, or transferring psychedelics and psychedelics infused products for the purposes of regulatory oversight related to this chapter.

XVIII. To maintain the validity of a patient license for the use of medical psilocybin, a qualifying patient may be required by state rules to attend regular appointments with a certified mental health professional.

(a) The required cadence of these appointments shall not exceed once per month. The purpose of these appointments is to monitor the patient's mental health status, and the efficacy of the psilocybin treatment.

(b) The department shall establish rules for these appointments, including the qualifications of the attending mental health professionals and the documentation required to verify the appointments.

126-EE:3 Conditions and Limitations on the Therapeutic Use of Psychedelics.

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

(a) Being under the influence of psychedelics while:

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

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

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

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

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

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

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

(d) The possession of psychedelics in any of the following:

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

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

(3) Any correctional facility; or

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

(5) Any law enforcement facility.

II. Nothing in this chapter shall be construed to require:

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

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

(c) Any accommodation of the therapeutic use of psychedelics on the property or premises of any place of employment or on the property or premises of any residential care facility, nursing home, hospital or hospice house, jail, correctional facility, or other type of penal institution where prisoners reside or persons under arrest are detained. This chapter shall in no way limit an employer's ability to discipline an employee for ingesting psychedelics in the workplace or for working while under the influence of psychedelics.

III. Any person who makes a fraudulent representation to a law enforcement official of any fact or circumstance relating to the therapeutic use of psychedelics 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 psychedelics other than use undertaken pursuant to this chapter.

IV. A qualifying patient or designated caregiver who is found to be in possession of psychedelics 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.

V. Any qualifying patient or designated caregiver who sells psychedelics to another person who is not a qualifying patient or designated caregiver under this chapter shall be subject to the penalties specified in this chapter, shall have his or her registry identification card revoked, and shall be subject to other penalties established under state or federal law.

VI. The department may revoke the registry identification card of a qualifying patient or designated caregiver for violation of rules adopted by the department or for violation of any other provision of this chapter, including for obtaining more than 2 ounces of psychedelics in any 10-day period in violation of this chapter and the qualifying patient or designated caregiver shall be subject to any other penalties established in law for the violation.

VII. A facility caregiver shall treat psychedelics in a manner similar to controlled prescription medications with respect to its storage, security, and administration when assisting qualifying patients with the therapeutic use of psychedelics.

126-EE:4 Departmental Administration; Registry Identification Cards.

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

(a) Written certification which includes the date of issuance, the patient's qualifying medical condition, symptoms, or side effects, and the certifying provider's name, medical specialty,

and signature. If a written certification has been previously issued for fewer than 3 years, a provider may extend the written certification, provided that the written certification shall not exceed 3 years.

(b) An application or a renewal application accompanied by the application or renewal fee. A renewal application and fee shall not be required if the applicant receives an extension to the written certification previously issued for fewer than 3 years.

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

(d) Name of the applicant's provider.

(e) Name and date of birth of the applicant's designated caregiver, if any. A qualifying patient shall have only one designated caregiver, except as follows:

(1) If the qualifying patient is a minor, the patient may have up to 2 designated caregivers, both of whom shall be the patient's parent or legal guardian.

(2) Where the court has appointed co-guardians for an adult qualifying patient, the patient may have up to 2 designated caregivers, both of whom shall be court appointed co-guardians for the patient.

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

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

(a) An application or a renewal application.

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

(c) Name, residential and mailing address, and date of birth of each qualifying patient for whom the applicant will act as designated caregiver, except that if the qualifying patient is homeless, no residential address is required.

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

III. The department shall verify the information contained in an application or renewal submitted pursuant to this section. The department shall approve or deny a complete application or renewal for a qualifying patient within 15 days of receipt of the application. The department shall approve or deny a complete application or renewal to serve as a designated caregiver within 15 days of receipt of the application. The department may deny an application or renewal only if the

applicant did not provide the information required pursuant to this section, or if the applicant previously had a registry identification card revoked for violating the provisions of this chapter or rules adopted by the department, or if the department determines that the information provided was falsified or did not meet the requirements of this chapter or rules adopted by the department. The department shall notify an applicant of the denial of an application. An applicant who is aggrieved by a department decision may request an administrative hearing at the department.

IV. The department shall create and issue a registry identification card to a person applying as a qualifying patient or designated caregiver within 5 days of approving an application or renewal. Each registry identification card shall expire two years after the effective date of the card, unless the provider states in the written certification that the certification should expire at an earlier or later effective date, not to exceed 4 years, then the registry identification card shall expire on that date. Registry identification cards shall contain all of the following:

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

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

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

(d) A designation that the person is either a "qualifying patient" or a "designated caregiver."

(e) A statement that the qualifying patient or designated caregiver is permitted under state law to possess psychedelics pursuant to this chapter for the therapeutic use of the qualifying patient.

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

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

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

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

(1) Allow the applicant's therapeutic use of psychedelics; and

(2) Serve as the applicant's designated caregiver and control the acquisition of the psychedelics and the frequency of the therapeutic use of psychedelics by the applicant.

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

VI. The department shall provide each applicant and each approved qualifying patient and designated caregiver a statement with the registry identification card explaining current federal law on the possession of psychedelics, that possession of a state registry identification card does not protect a person from federal criminal penalties, and that by using psychedelics the qualifying patient may be subject to the denial of rights and privileges by federal agencies including, but not limited to, the loss of rights related to employment such as driving a commercial vehicle, the inability to pass a security clearance, and the right to own, possess, or purchase a firearm and/or ammunition. The statement shall be updated based on any relevant changes in federal law.

VII.(a) The department shall track the number of qualifying patients and issue a weekly written statement to the alternative treatment center identifying the number of qualifying patients along with the registry identification numbers of each qualifying patient and each qualifying patient's designated caregiver.

(b) The department shall track the number of qualifying patients certified by each provider and registered with the department.

(c) Any concerns regarding provider conduct shall be referred to the New Hampshire board of medicine, the New Hampshire board of nursing, or the appropriate regulatory entity in Maine, Massachusetts, or Vermont. The New Hampshire board of medicine, the New Hampshire board of nursing, or the appropriate regulatory entity in Maine, Massachusetts, or Vermont may direct the department to prohibit a provider's participation in New Hampshire's therapeutic psychedelics program if the regulatory entity takes disciplinary action against a provider regarding the provider's involvement in the therapeutic psychedelics program in New Hampshire or in his or her respective state.

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

(a) A qualifying patient is registered as a participating patient under this chapter; or

(b) A qualifying patient loses his or her status as a qualifying patient under this chapter.

IX.(a) A qualifying patient shall notify the department before changing his or her designated caregiver.

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

(c) When a qualifying patient or a designated caregiver notifies the department of any change to a name or address, the department shall issue the qualifying patient or designated caregiver a new registry identification card within 20 days of receiving the updated information.

(d) If a qualifying patient notifies the department of a change in his or her designated caregiver and the prospective designated caregiver meets the requirements of this chapter, the department shall issue the designated caregiver a registry identification card within 20 days of receiving the designated caregiver's application.

(e) If a qualifying patient or designated caregiver loses his or her registry identification card, he or she shall notify the department within 10 days of losing the card. Within 5 days after such notification, the department shall issue a new registry identification card. The fee for new registry cards shall be established in rules set by the department.

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

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

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

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

(4) Requests by law enforcement officials under this section to the department pursuant to a sworn affidavit, search warrant, or court order, regardless of whether or not the name or address was found in the registry, shall be confidential under this chapter and exempt from disclosure. Aggregate data relative to such requests may be made public if it does not contain any identifying information regarding the specific law enforcement request.

(5) Counsel for the department may notify law enforcement officials about falsified or fraudulent information submitted to the department where counsel has reason to believe the information is false or falsified.

XI. Within 5 days of learning of the death of a qualifying patient, a surviving family member, caretaker, executor, or the patient's designated caregiver shall notify the department that the qualifying patient has died. Within 5 days of learning of the death of a qualifying patient, the surviving family member, caretaker, executor, or the patient's designated caregiver shall either request that the local law enforcement agency remove any remaining psychedelics or shall dispose of the psychedelics in a manner specified.

126-EE:5 Affirmative Defense.

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

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

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

(c) The actor is an employee of a laboratory conducting testing required for alternative treatment centers pursuant to rules adopted under this chapter.

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

126-EE:6 Departmental Rules.

I. Not later than 4 months after the effective date of this chapter, the department shall adopt rules, pursuant to RSA 541-A, governing:

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

(b) The form and content of providers' written certifications, including the administrative process for tracking extensions.

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

(d) Fees for applications for registry identification cards and re-issuance of replacement registry identification cards.

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

(a) The fee structure by the department for alternative treatment centers and registry identification cards shall generate revenues sufficient to offset all department expenses of implementing and administering this chapter; however,

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

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

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

(2) Administrative requirements.

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

(4) Liability insurance.

(5) Sanitary requirements.

(6) Electrical safety requirements.

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

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

(9) Labeling standards.

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

(11) Procedures for inspections and investigations.

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

(13) Permissible hours of operation.

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

(15) Procedures for determining and enforcing the daily maximum amount of therapeutic psychedelics which an alternative treatment center may manufacture or possess.

(16) Laboratory testing of psychedelics cultivated, manufactured and/or processed by an alternative treatment center. Such testing shall only be conducted by a laboratory licensed by the department.

(b) The department shall adopt rules with the goal of protecting against diversion and theft, without imposing an undue burden on the alternative treatment centers or compromising the confidentiality of qualifying patients and their designated caregivers.

IV. The department may adopt rules regarding the establishment of second dispensary locations, including, but not limited to, fees, operational requirements, and geographic location.

V. The department shall adopt rules relative to the therapeutic psychedelics medical oversight board's public hearing process.

VI. The department shall adopt rules to document that counseling has been provided by the certifying provider to all women of child-bearing age and adolescents 25 years of age or less, and the parent or guardian of a patient less than age 18, about the risks of psychedelics use in adolescence, during pregnancy, and while breastfeeding, prior to issuing or reissuing a therapeutic psychedelics card to such individuals.

VII. The department shall adopt rules regarding an alternative treatment center's verification of a visiting qualifying patient's registry identification card, or its equivalent.

126-EE:7 Departmental Administration; Alternative Treatment Centers.

I. Within 6 months of the effective date of this section, each registration certificate shall include a registry number that is unique to the alternative treatment center.

II. The department may continue to accept applications for an alternative treatment center registration certificate on a rolling basis and shall award a registration certificate to any and all applicants to meet departmental criteria established pursuant to this chapter.

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

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

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

(3) A description of the enclosed, locked facility that would be used in the cultivation or manufacture of psychedelics by the alternative treatment center.

(4) The name, address, and date of birth of each principal officer and board member of the alternative treatment center.

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

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

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

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

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

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

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

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

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

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

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

(a) Committed violations of this chapter or department rules; or

(b) Is not operational.

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

VIII. The department may authorize alternative treatment centers to establish a second dispensary location. A second dispensary location shall be limited solely to the dispensing of psychedelics and educational efforts, and shall not be used for cultivation or other activities relative

to the production of psychedelics. A second dispensary location shall be subject to rules adopted by the department under RSA 541-A and all applicable provisions of this chapter relative to alternative treatment centers including, but not limited to, compliance with local zoning laws. The department shall, in conjunction with the local governing body of the town or city where the second dispensary location would be located, solicit input from qualifying patients, designated caregivers, and residents of the town or city in which the second dispensary location would be located.

126-EE:8 Alternative Treatment Centers; Requirements.

I. If the property of an alternative treatment center is exempt from taxation under RSA 72, the alternative treatment center shall make payments in lieu of property taxes to the municipality in which it is located in the amount that the buildings and land would have been subject to property taxes if they had been owned by a non-exempt owner. Such payments shall be made at the times and in the manner prescribed for ad valorem property taxes.

II. An alternative treatment center shall not be located in a residential district or within pre-existing designated drug free school zones.

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

IV.(a) A state and federal criminal records check shall be required for every person seeking to become a principal officer, board member, agent, volunteer, or employee of an alternative treatment center before the person begins working at the alternative treatment center. An alternative treatment center shall not allow any person to be an alternative treatment center agent who:

(1) Is under 21 years of age.

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

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

V. A person applying to be an alternative treatment center agent shall submit directly to the department of safety a criminal history records release form, as provided by the New Hampshire division of state police, authorizing the release of any felony convictions to the department. The applicant shall submit with the release form a complete set of electronic fingerprints taken by a qualified law enforcement agency or an authorized employee of the department of safety. In the event that the first set of fingerprints is invalid for whatever reason, a second set of fingerprints shall be necessary in order to complete the criminal history records check. If, after 2 attempts, a set

of fingerprints is invalid due to insufficient pattern, the department may, in lieu of the criminal history records check, accept police clearances showing no felony convictions from every city, town, or county where the person has lived during the past 5 years. The division of state police shall conduct a criminal history records check through its records and through the Federal Bureau of Investigation. Upon completion of the records check, the division of state police shall report to the department whether or not there are any felony convictions. The department shall maintain the confidentiality of criminal history record information received pursuant to this section. The applicant shall bear the cost of a criminal history records check.

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

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

(a) Records of the disposal of psychedelics that are not distributed by the alternative treatment center to qualifying patients.

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

VIII. Each alternative treatment center shall:

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

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

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

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

(b) Loss of inventory by theft or diversion;

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

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

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

X. Alternative treatment centers shall only use organic pesticides in psychedelics.

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

XII. An alternative treatment center shall submit an annual report to the department that shall provide information required by the department in order to allow the department to evaluate the effectiveness and operations of the alternative treatment center.

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

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

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

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

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

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

XV.(a) An alternative treatment center or alternative treatment center agent shall not dispense, deliver, or otherwise transfer psychedelics to any person or entity other than:

(1) A qualifying patient; or

(2) Such patient's designated caregiver; or

(3) Another alternative treatment center; or

(4) A visiting qualifying patient.

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

XVI.(a) All psychedelics dispensed by an alternative treatment center shall include a label specifying the type of psychedelics, the weight of the psychedelics, and any other information the department requires to appear on the label. The label shall also specify that the psychedelics are for therapeutic use and that diversion is a class B felony requiring revocation of one's registry identification card. An alternative treatment center may list the type of psychedelics available to be dispensed on its public Internet website.

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

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

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

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

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

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

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

(6) Information about possible side effects from the use of psychedelics for therapeutic purposes.

(7) Information about the risks of psychedelics use during pregnancy and while breastfeeding, as outlined by the therapeutic psychedelics medical oversight board. Such information shall include the posting of an informational poster regarding the risks of psychedelics use during pregnancy and while breastfeeding in a conspicuous location at the alternative treatment center's dispensary location.

(8) Information regarding safe storage and disposal of psychedelics and paraphernalia to prevent accidental poisonings, including the contact information for the Northern New England Poison Control Center.

(9) Information about the risks of psychedelics use in adolescence as outlined by the therapeutic psychedelics medical oversight board. Such information shall include the posting of an informational poster on the risks of psychedelics use in adolescence in a conspicuous location at the alternative treatment center's dispensary location.

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

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

(2) Training in and adherence to confidentiality laws.

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

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

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

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

XVIII. A provider shall not:

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

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

(c) Examine a patient in relation to issuing a written certification at a location where psychedelics are sold or distributed.

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

126-EE: 9 Annual Data Report; Release of Data.

I. The commissioner of the department of health and human services shall report annually on the therapeutic use of psychedelics program established under this chapter to the health and human services oversight committee, to the board of medicine, and to the board of nursing.

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

III. The initial report shall be filed no later than December 1, 2024.

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

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

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

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

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

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

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

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

V. A summary of the report submitted by alternative treatment centers as required under this chapter.

VI. Notwithstanding any other provision of law, data collected under this chapter, including de-identified or aggregate data contained in the confidential registry database, may be released, with the approval of the commissioner or designee, to individuals or entities for the purposes of public health, health care operations, or research if such release is consistent with all applicable HIPAA standards.

126-EE:10 Registry Identification Card and Certificate Fund. There is hereby established in the office of the state treasurer a fund to be known as the psilocybin registry identification card and certificate fund which shall be kept separate and distinct from all other funds. The fund is established to pay for the operational expenses of permitting the therapeutic use of psychedelics as established in this chapter. The monies in this fund shall be nonlapsing and continually appropriated to the department. Interest on fund balances shall accrue to the fund. All fines and

other income received by the department and all monetary fees, gifts, grants, and donations received by the department pursuant to this chapter shall be deposited in the fund.

126-EE:11 Therapeutic Psychedelics Medical Oversight Board Established; Membership; Duties.

I. There is hereby established the therapeutic psychedelics medical oversight board which shall monitor and contribute to the oversight of the clinical, quality, and public health related matters of the use of psychedelics for therapeutic purposes under this chapter.

II. The board shall consist of the medical director, department of health and human services, or designee, a qualifying patient, appointed by the commissioner of the department, a clinical representative from an alternative treatment center, appointed by the commissioner, and 10 experts also appointed by the commissioner. They must be selected from the following sources. Each source must be represented at least once:

(a) An indigenous heritage group to New Hampshire.

(b) A non-university affiliated public policy expert in psychedelics.

(c) University faculty from a psychology, biology, chemistry, or medical field.

(d) Non-university affiliated person recognized as having significant experience overseeing psychedelic-assisted therapy.

III. The medical provider members of the board may be drawn from those that have the following expertise:

(a) Neurobiology.

(b) Psychiatry.

(c) Addiction.

(d) Psychology.

IV. At its first meeting the board shall elect by majority vote a chairperson and an alternate. A quorum shall consist of a majority of members.

V. The board shall convene at least 2 times per year to monitor and contribute to the oversight of the clinical, quality, and public health related matters of therapeutic psychedelics under this chapter by:

(a) Reviewing medical and scientific evidence pertaining to currently approved and additional qualifying conditions.

(b) Reviewing laboratory results of required testing of psychedelics cultivated, manufactured and/or processed by an alternative treatment center and the use of pesticides on products.

(c) Monitoring clinical outcomes.

(d) Reviewing training protocols for dispensary staff based on models from other states.

(e) Receiving updates from alternative treatment centers on effectiveness of various strains and different routes of administration for specific conditions.

(f) Reviewing best practices for medical providers regarding provider education, certification of patients, and patient access to the program.

(g) Reviewing any other clinical, quality, and public health related matter relative to use of psychedelics under this chapter.

VI. The board may make recommendations to the commissioner to add or remove qualifying medical conditions under RSA 126-EE:1, XI based on the findings pursuant to subparagraph IV(a) and after receiving input from the public through a public hearing process. The commissioner may recommend legislation based on the board's findings.

VII. On or before January 1 of each year, the board shall make a report to the president of the senate, the speaker of the house of representatives, the oversight committee on health and human services, the board of medicine, and the board of nursing.

126-EE:12 Protection of Contractual Rights.

I. No person shall be subject to any adverse action, penalty, or denied any right or privilege in a contractual dispute, solely for conduct permitted under this chapter.

II. The use of medical psilocybin in compliance with this chapter shall not be considered a factor or grounds for dispute in the establishment, execution, or enforcement of any contract, including but not limited to contracts involving employment, housing, insurance, or child custody.

III. No contract shall be unenforceable on the basis that medical psilocybin is prohibited by federal law. Any clause in a contract that purports to deny any right or privilege under this chapter, or to waive any right to sue or any remedy available under this chapter, is void and unenforceable.

IV. A person's use of medical psilocybin in compliance with this chapter shall not constitute a breach of contract or a default condition that triggers penalties, termination, or other adverse action under a contract.

126-EE:13 Independent Economic Audit. The state shall conduct an independent economic audit to assess the impact of regulations on the price of a gram of dried psilocybin. If the audit determines that regulations would raise the cost of supplying one gram of dried Psilocybin at retail by $25 or more, then the department must submit renewed regulations until an independent audit finds that commercial prices are below this threshold.

2 New Subparagraph; Dedicated Fund. Amend RSA 6:12, I(b) by inserting after subparagraph (394) the following new subparagraph:

(395) Moneys deposited in the registry identification card and certificate fund established in RSA 126-EE:10.

3 Effective Date. This act shall take effect January 1, 2025.

LBA
24-2523
12/12/23

HB 1693-FN- FISCAL NOTE
AS INTRODUCED

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

FISCAL IMPACT: [X] State [X] County [X] Local [ ] None

Estimated State Impact - Increase / (Decrease)				
	FY 2024	**FY 2025**	**FY 2026**	**FY 2027**
Revenue	$0	$0	Up to $260,000	Up to $550,000
Revenue Fund(s)	Patient an Alternative Treatment Center fees			
Expenditures	$0	$63,000+	$828,000+	$836,000+
Funding Source(s)	Newly-established dedicated fund			
Appropriations	$0	$0	$0	$0
Funding Source(s)	None			

- Does this bill provide sufficient funding to cover estimated expenditures? [X] See Below
- Does this bill authorize new positions to implement this bill? [X] No

Estimated Political Subdivision Impact - Increase / (Decrease)				
	FY 2024	**FY 2025**	**FY 2026**	**FY 2027**
County Revenue	$0	$0	$0	$0
County Expenditures	$0	Indeterminable	Indeterminable	Indeterminable
Local Revenue	$0	$0	$0	$0
Local Expenditures	$0	Indeterminable	Indeterminable	Indeterminable

METHODOLOGY:

This bill requires the Department of Health and Human Services to create and administer a new program regulating the use of psychedelics for therapeutic purposes. The bill models the proposed statute after RSA 126-X, which established the use of cannabis for therapeutic purposes program. Among other things, the bill:

- Legalizes the therapeutic use of psychedelics by removing criminal penalties for certain uses;
- Limits the types of psychedelics that are legalized for therapeutic use to psilocybin, lysergic acid diethylamide (LSD), and mescaline;
- Allows patients diagnosed with a qualifying medical condition and certified by a medical provider to use psychedelics for therapeutic purposes;

- Establishes the types of licensed providers, medical and otherwise, who can certify patients for the therapeutic use of psychedelics;
- Establishes various legal limitations and restrictions on the possession and use of psychedelics for therapeutic purposes.
- Establishes processes for applying for and issuing registry ID cards to patients and their caregivers.
- Establishes a confidential registry of patients, and their caregivers and providers, to be maintained by the Department.
- Establishes processes for applying for and issuing registrations to be an alternative treatment center (ATC) for the cultivation, production, and dispensing of psychedelics to patients.
- Requires the Department to issue an annual data report on the therapeutic use of psychedelics.

As with the use of cannabis for therapeutic purposes program, the new program is designed to be revenue neutral, with a fee structure for patients and alternative treatment centers that shall "generate revenues sufficient to offset all department expenses of implementing and administering this chapter." This bill does not contain an appropriation for program start-up, maintenance, or staff.

The Department states that it is impossible to determine how many patients will enroll in the program, if any, or how many entities will apply for ATC registration, if any; therefore, the intended revenue sources to fund the implementation and maintenance of this new program may not exist at all. The Department suggests the following potential fee/revenue structure, which makes the following assumptions: (1) a $100 application fee (every three years); patients applications in the following numbers: 100 (FY26) / 500 (FY27) / 1,000 (FY28); a $50,000 annual application fee for ATCS; and ATC applications in the following numbers: 5 (FY26) / 10 (FY27) / 15 (FY28).

Potential Fee/Revenue Structure								
	FY25		**FY26**		**FY27**		**FY28**	
	Number	*Amount*	*Number*	*Amount*	*Number*	*Amount*	*Number*	*Amount*
Patients	0	$0	100	$10,000	500	$50,000	1000	$100,000
ATCs	0	$0	5	$250,000	10	$500,000	15	$750,000
TOTAL		$0		$260,000		$550,000		$850,000

If the Department assumes that implementing and maintaining the new program would involve similar costs as implementing and maintaining its Therapeutic Cannabis Program, then the estimated cost for implementing and maintaining this new program would be approximately $828,000 for FY2026 and $836,000 for FY2027. This includes three new staff and other direct

and allocated costs, including an estimated $25,000 for compliance audits and $500,000 for a vendor contracted registry database. The Department anticipates needing the following three positions to implement the new program: Administrator I (labor grade 27), Program Specialist III (labor grade 23), and Program Assistant II. The Department anticipates that the latter two positions will begin July 1, 2025, but the first will needed by January 1, 2025 in order to begin implementing the program, accounting for the program's $63,000 cost in FY25.

It should be noted that the financial projections described above will not result in the program becoming self-funded until FY28, its fourth year of operation.

The Department of Safety states that the bill's fiscal impact on that Department is indeterminable.

In addition to the above, the bill impacts criminal penalties. Therefore, this bill may have an impact on the judicial and correctional systems, which could affect prosecution, incarceration, probation, and parole costs, for the state, as well as county and local governments. A summary of such costs can be found at:

https://gencourt.state.nh.us/lba/Budget/Fiscal_Notes/JudicialCorrectionalCosts.pdf

AGENCIES CONTACTED:

Department of Health and Human Services, Department of Safety, Judicial Branch, Judicial Council, Department of Justice, Department of Corrections, New Hampshire Association of Counties, and New Hampshire Municipal Association