

**HB 648 Has Been Amended to  
Address All of Gov. Lynch's Concerns**

**1. Residential Growing Replaced With Three Well-Regulated Compassion Centers**

Gov. Lynch's primary concern was the method of access; he was not comfortable allowing seriously ill patients and their caregivers to cultivate marijuana in private homes, as each of the 13 medical marijuana states does. In response to his concerns, the committee of conference amended the bill to no longer allow patients and caregivers to cultivate marijuana. Instead, HB 648 would set up a regulated system of distribution with only a few not-for-profit compassion centers, which would be allowed to dispense marijuana (126-S:8). This ensures control and includes numerous safeguards against diversion.

The compassion centers and each of their staff would have to register with the state, and each staffer would go through a background check to ensure they don't have any drug-related convictions (126-S:8 II, III (g)). The bill also provides for strict security requirements, including that the marijuana be cultivated only in enclosed, locked facilities and that compassion centers must have security alarm systems (126-S:8 II (a)(4), IX(e)). The compassion centers would be subject to inspections and strict recordkeeping requirements (126-S:8 V, II(a)(3)). When determining whether to grant an applicant a registration as a compassion center, the state Department of Health & Human Services would consider factors including their security plans, the wishes of patients, their plans for recordkeeping, and the wishes of the town or city where they propose to be located (126-S:8 III (c)). If a compassion center violated the rules or regulations, they would have their licenses suspended or revoked (126-S:8 II (a)(5)).

Initially, there would be no more than three compassion centers in the entire state (126-S:8 II (f)). If a legislative oversight committee determined that three compassion centers were not enough to serve the population, up to two additional compassion centers would be allowed (126-S:8 II (g)).

The compassion center provision is closely modeled after legislation which more than 94% of Rhode Island legislators voted to approve. Rhode Island, which already has a medical marijuana law allowing home cultivation, is expected to become the second state with state-regulated medical marijuana distribution. Both the Rhode Island bill and HB 648, as amended, incorporate many aspects of the New Mexico regulations on medical marijuana distribution.

**2. Allowing Only the Patient or Caregiver to Grow Marijuana for Medical Use**

Gov. Lynch was concerned that both the patient and caregiver could cultivate marijuana. The bill has been amended to address this concern. Now, neither the patient nor the caregiver can cultivate marijuana.

**3. Provisions for DHHS to Do Background Checks**

Gov. Lynch was concerned that the bill did not specify that the DHHS could perform background checks to ensure that caregivers did not have drug-related convictions. Language has been added to require potential caregivers and compassion center staffers to submit fingerprints and to require state and federal criminal records checks. In addition to adding language requiring

potential caregivers and compassion center staff to submit fingerprints, the following language was added:

*126-S:3 (IV). The department shall require a state and federal criminal records check on each person who is applying to be a designated caregiver or a principal officer, agent, employee, or volunteer of a compassion center. The department shall request the department of safety to perform the state and federal criminal records check and the department of safety shall complete such records checks and convey the findings of such check to the department within 30 days of the request. The department and the department of safety may exchange necessary data including fingerprint data with the Federal Bureau of Investigation without disclosing that the records check is related to the provisions of RSA 126-S and acts permitted by it. The department and the department of safety shall destroy each set of fingerprints obtained pursuant to this chapter after the criminal records check is complete.*

#### **4. Funding the Program**

Gov. Lynch was concerned about funding for the medical marijuana program. HB 648 provides that the department must set registry fees at an amount that will cover all of the program's costs (126-S:4, 126-S:8 II (a) (6)). The department will also set fees for patients, their caregivers, and staffers of compassion centers.

It should be noted that in other states, where the programs are required to cover their costs, they are not having problems doing so. For example, Oregon's program even had a close to \$1,000,000 surplus. Montana has been able to reduce its ID card fee from \$200 to \$50 and still cover all costs of administering the program.

*126-S:4 ... The department's rules shall establish application and renewal fees for registry identification cards in accordance with the following:*

*I. The total fees collected by the department for compassion centers and registry identification cards shall generate revenues sufficient to offset all state expenses of implementing and administering this chapter; and*

*II. The department may accept donations from private sources in order to reduce the application and renewal fees.*

*126-S:8 II (a) (6) The fees for the processing and review of applications submitted by an applicant for a compassion center and the fees for the licensing of a compassion center after it has been approved by the department. Such application and licensing fees shall be established in an amount that covers all costs of the department and other state agencies, as applicable, for the review and licensing of compassion centers.*

#### **5. The Definition of Debilitating Medical Condition**

The definition of qualifying conditions was narrowed down to include only specified chronic or terminal illnesses or diagnosed medical conditions that include specific enumerated serious symptoms (126-S:1 IV.) This definition is as limited as it can be without leaving out seriously ill patients in dire circumstances who could find relief from medical marijuana. Diagnosed debilitating medical conditions causing severe pain would only qualify if they had failed to respond to other prescribed or surgical means for three months.

126-S:1 IV. “Debilating medical condition” means the presence of both:

(a) A chronic or terminal disease, or other diagnosed medical condition, and

(b) Whose symptoms or result of treatment includes at least one of the following: cachexia or wasting syndrome, severe pain that has not responded to previously prescribed medication or surgical measures for more than 3 months, severe nausea, severe vomiting, seizures, or severe, persistent muscle spasms.

126-S:1 II. “Chronic or terminal disease” means cancer, glaucoma, positive status for human immunodeficiency virus, acquired immune deficiency syndrome, hepatitis C currently receiving antiviral treatment, amyotrophic lateral sclerosis, muscular dystrophy, Crohn’s disease, agitation of Alzheimer’s disease, or multiple sclerosis.

## **6. Ensuring That the Language Doesn’t Prevent Law Enforcement From Sharing Information About Drug Dealers**

Language was added to specify that the provision designed to prevent any subversion of the law does not prevent the sharing of information if there is probable cause to believe that the person is distributing marijuana to anyone not allowed to use it, or where the primary offense is unrelated to marijuana.

*126-S:3 XI. Where a state or local law enforcement agency encounters an individual who, during the course of the investigation, credibly asserts that he or she is a qualifying patient or designated caregiver, the law enforcement agency shall not provide any information from any marijuana-related investigation of the individual to any law enforcement authority that does not recognize the protection of this chapter and any prosecution of the individual 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 marijuana to a person who is not allowed to possess it under this chapter, nor shall it prevent the sharing of information if the primary offense is unrelated to marijuana.***

*(Bolded text is new.)*

## **7. Issue With Non-Discrimination**

The language about non-discrimination was expanded upon and clarified in response to Gov. Lynch’s concerns. In addition to verifying whether an ID card is valid to law enforcement, HB 648 was amended to provide that the department would verify a card’s validity to employers, landlords, health care professionals, and court and administrative hearing officers who are presented with a patient card (126-S:3 IX b(2)).

*126-S:3 IX (b)(2) An employer, landlord, court, administrative hearings officer, or health care provider that has been presented with a registry identification card by a person asserting that they are entitled to protections under RSA 126-S:2 may contact the department to verify the validity of the registry identification card. The department shall verify a registry identification card to an employer, landlord, court, or health care provider*

*who requests verification pursuant to this paragraph, provided that the employer, landlord, court, or health care provider provides the random identification card number on the registry identification card. In verifying the validity of a registry identification card, the department shall only confirm whether a card bearing the random identification card number is a valid card issued and the name of the person to whom it was issued.*

## **8. Do Landlords Have to Allow Patients to Grow or Smoke Marijuana?**

As was mentioned, patients and caregivers will no longer be allowed to cultivate under the revised version of HB 648, so the concern about patients who are tenants cultivating is no longer an issue. In addition, language was added to provide that landlords who forbid smoking can include in the policy smoking of marijuana, and that those patients instead would be allowed to use smoke-free vaporizers or eat their marijuana (126-S:5 I, II (d)).

*126-S:5 I. A qualifying patient may use medical marijuana on privately-owned real property only with the permission of the property owner or in the case of leased property with the permission of the tenant in possession of the property, except that a tenant shall not allow a qualified patient to smoke medical marijuana on rented property if smoking on the property violates the lease or the lessor's rental policies that apply to all tenants at the property. However, a tenant in possession may permit a qualified patient to use medical marijuana on leased property by ingestion or inhalation through vaporization even if smoking is prohibited by the lease or rental policies. For purposes of this chapter, vaporization shall mean the inhalation of marijuana without the combustion of the marijuana.*

*126-S:5 II*

*Nothing in this chapter shall be construed to require:*

*(d) A landlord to permit a qualified patient to smoke marijuana on any leased property in a manner that would violate a lease or the rental policies that prohibits smoking by tenants or guests on the property, except that a landlord may not prohibit the medical use of marijuana on leased property by a qualified patient through means that do not violate a no smoking rule, including but not limited to the ingestion of medical marijuana or the inhalation through vaporization, as long as the tenant in possession of the property provides permission to the qualified patient to use medical marijuana in the rented property.*