

LEGISLATIVE COMMITTEE MINUTES

SB38

Bill as Introduced

SB 38 - AS INTRODUCED

2021 SESSION

21-0893
11/08

SENATE BILL **38**

AN ACT relative to the organization of alternative treatment centers.

SPONSORS: Sen. Avard, Dist 12; Sen. Bradley, Dist 3; Sen. Cavanaugh, Dist 16; Sen. Watters,
Dist 4; Sen. Ward, Dist 8; Rep. McGuire, Merr. 29; Rep. Edwards, Rock. 4

COMMITTEE: Commerce

ANALYSIS

This bill permits alternative treatment centers to organize as business corporations and limited liability companies, and provides the procedure for alternative treatment centers organized as voluntary corporations to convert to business corporations or limited liability companies.

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 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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

AN ACT relative to the organization of alternative treatment centers.

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

1 1 Public Health; Use of Cannabis for Therapeutic Purposes; Definitions; Alternative Treatment
2 Center. Amend RSA 126-X:1, I to read as follows:

3 I. "Alternative treatment center" means a **domestic business corporation organized**
4 **under RSA 293-A, a domestic limited liability company organized under RSA 304-C, or a**
5 **not-for-profit [entity] voluntary corporation organized under RSA 292 that is** registered under
6 RSA 126-X:7 **and** that acquires, possesses, cultivates, manufactures, delivers, transfers, transports,
7 sells, supplies, and dispenses cannabis, and related supplies and educational materials, to qualifying
8 patients and alternative treatment centers.

9 2 Public Health; Use of Cannabis for Therapeutic Purposes; Departmental Administration;
10 Application Form. Amend RSA 126-X:7, IV(a)(4) to read as follows:

11 (4) The name, address, and date of birth of each principal officer and board member
12 of the alternative treatment center. The board of directors **or board of managers, as applicable,**
13 for the ~~nonprofit~~ **alternative treatment center** shall include at least one physician, advance
14 practice registered nurse, or pharmacist licensed to practice in New Hampshire and at least one
15 patient qualified to register as a qualifying patient. The majority of board members **or managers,**
16 **as applicable,** shall be New Hampshire residents. A medical professional listed in this
17 subparagraph may be a member of the alternative treatment center board **of directors or**
18 **managers, as applicable,** but shall not maintain an ownership interest in the center.

19 3 Public Health; Requirements for Alternative Treatment Centers. Amend RSA 126-X:8, I to
20 read as follows:

21 I. An alternative treatment center ~~shall~~ **may** be operated on a **for-profit or** not-for-profit
22 basis for the benefit of its patients. An alternative treatment center need not be recognized as a tax-
23 exempt organization by the Internal Revenue Service.

24 4 New Paragraphs; Public Health; Use of Cannabis for Therapeutic Purposes; Alternative
25 Treatment Centers; Requirements. Amend RSA 126-X:8 by inserting after paragraph XVIII the
26 following new paragraphs:

27 XIX. Except as otherwise provided in this chapter, an alternative treatment center shall be
28 subject to RSA 293-A if organized as a domestic business corporation, RSA 304-C if organized as a
29 domestic limited liability company, and RSA 292 if organized as a voluntary corporation.

30 XX. An alternative treatment center organized as a voluntary corporation under RSA 292
31 may, on or before December 31, 2021, convert from a voluntary corporation under RSA 292 to either

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1 a domestic business corporation organized under RSA 293-A or a limited liability company organized
2 under RSA 304-C in any of the following ways:

3 (a) By adopting a plan of entity conversion in accordance with RSA 293-A or RSA 304-C,
4 as applicable, that includes a provision prohibiting the sale of memberships or shares to a foreign
5 corporation for a period of 3 years, provided that each such conversion shall be authorized by a vote
6 of 2/3 of the members of the board of directors at a meeting duly called for the purpose or by
7 unanimous written consent.

8 (b) By adopting a plan of merger in accordance with RSA 293-A that includes a provision
9 prohibiting the sale of memberships or shares to a foreign corporation for a period of 3 years, for
10 which the domestic business corporation shall be the surviving entity, provided that, such merger
11 shall be authorized by a vote of 2/3 of the members of the board of directors of the alternative
12 treatment center at a meeting duly called for the purpose or by unanimous written consent.

13 (c) By adopting a plan of merger in accordance with RSA 304-C that includes a provision
14 prohibiting the sale of memberships or shares to a foreign corporation for a period of 3 years, for
15 which the domestic limited liability company shall be the surviving entity, provided that, such
16 merger shall be authorized by a vote of 2/3 of the members of the board of directors at a meeting duly
17 called for the purpose or by unanimous written consent.

18 XXI. Articles of entity conversion or articles of merger, as applicable, shall be signed and
19 submitted to the secretary of state pursuant to RSA 293-A or RSA 304-C, as applicable, and the
20 secretary of state shall approve all such filings submitted pursuant to this section.

21 XXII. The secretary of state shall certify such articles of entity conversion or articles of
22 merger and shall provide them to the department. Upon receipt, the department shall update the
23 existing licenses held by the converted or merged alternative treatment center.

24 XXIII. For the purposes of converting or merging an alternative treatment center pursuant
25 to this section, notwithstanding any provision in the articles of agreement or alternative treatment
26 center license applications to the contrary, the members of an alternative treatment center's board of
27 directors may determine that a plan of entity conversion or merger is consistent with its corporate
28 charter, and such voluntary corporation may surrender its articles of agreement in connection with
29 the plan of entity conversion or merger.

30 XXIV.(a) Any alternative treatment center choosing to convert or merge pursuant to this
31 section shall obtain an independent fair market valuation of its total assets as of June 30, 2021. The
32 valuation of the total assets of such alternative treatment center, if positive, shall be distributed to
33 one or more charitable organizations solely for charitable purposes. The director of charitable trusts
34 shall receive a copy of the valuation and may file any objection relating thereto with the court within
35 60 days. Except as set forth in this section and notwithstanding any other law to the contrary, no
36 portion of the assets of such alternative treatment center after the conversion or merger, as
37 applicable, shall be deemed to be charitable assets.

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1 (b) Any alternative treatment center choosing to convert or merge pursuant to this
2 section shall submit a copy of the plan of conversion or merger to the director of charitable trusts.
3 The director may file an objection relating to the plan with the court within 60 days.

4 (c) Any alternative treatment center that has converted or merged pursuant to this
5 section shall, on December 31, 2021 and thereafter for 2 years, annually file a letter with the director
6 of charitable trusts certifying compliance with the requirements of RSA 126-X:8, XX.

7 5 Voluntary Corporations; Powers of Corporations; Change of Name; Amending Articles;
8 Conversion and Merger. Amend RSA 292:7 to read as follows:

9 292:7 Change of Name; Amending Articles.

10 *I.* Any corporation now or hereafter organized or registered in accordance with the
11 provisions of this chapter, and any existing corporation which may have been so organized or
12 registered, may change its name, increase or decrease its capital stock or membership certificates,
13 merge with or acquire any other corporation formed pursuant to this chapter, or amend its articles of
14 agreement, by a majority vote of such corporation's board of directors or trustees, at a meeting duly
15 called for that purpose, and by recording a certified copy of such vote in the office of the secretary of
16 state and in the office of the clerk of the town or city in this state which is its principal place of
17 business. In the case of a foreign nonprofit corporation registered in New Hampshire, a copy of the
18 amendment or plan of merger, certified by the proper officer of the state of incorporation, shall be
19 filed with the secretary of state, together with the fee provided in RSA 292:5. The surviving
20 corporation in a merger shall continue to have all the authority and powers vested in the merging
21 corporations, including any powers previously conferred upon them by the legislature.

22 *II. An alternative treatment center registered pursuant to RSA 126-X and organized*
23 *under this chapter may, pursuant to RSA 126-X:8, XX, convert to either a domestic*
24 *corporation organized under RSA 293-A or a limited liability company organized under to*
25 *RSA 304-C, and may merge with a domestic business corporation organized under RSA 293-*
26 *A or a limited liability company organized under RSA 304-C.*

27 6 New Paragraph; Business Corporations; Conversion; Entity Conversion Authorized. Amend
28 RSA 293-A:9.50 by inserting after paragraph (f) the following new paragraph:

29 (g) Alternative treatment centers registered pursuant to RSA 126-X and organized
30 pursuant to RSA 292 may become a domestic corporation pursuant to a plan of conversion in
31 accordance RSA 126-X:8, XX and this subdivision. The alternative treatment center shall be deemed
32 to be a domestic unincorporated entity for purposes of applying RSA 293-A:9.50 through RSA 293-
33 A:9.56, except that approval of the conversion shall be as outlined in RSA 126-X:8, XX.

34 7 Limited Liability Companies; Statutory Conversion; Statutory Conversions of Other Business
35 Entities. Amend RSA 304-C:149, I to read as follows:

36 *I.* Any other business entity, *including alternative treatment centers pursuant to RSA*
37 *126-X:8, XX*, may make a statutory conversion of its business organization form to the limited

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1 liability company business organization form under this act by complying with the requirements of
2 this section and with applicable law governing the other business entity. ***Approval of a***
3 ***conversion of an alternative treatment center pursuant to this paragraph shall be as***
4 ***outlined in RSA 126-X:8, XX.***

5 8 New Paragraph; Limited Liability Companies; Statutory Conversion; Approvals of Statutory
6 Conversion. Amend RSA 304-C:149 by inserting after paragraph VIII the following new paragraph:

7 IX. In the case of the conversion of an alternative treatment center registered under RSA
8 126-X and organized pursuant to RSA 292, such conversion shall be approved by the board of
9 directors in accordance with RSA 126-X:8, XX.

10 9 Effective Date. This act shall take effect upon its passage.

SB 38 - AS AMENDED BY THE SENATE

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AN ACT

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1 1 Statement of Intent. The general court recognizes that the state of New Hampshire in 2013
2 authorized 4 regional licenses for alternative treatment centers to distribute therapeutic cannabis to
3 New Hampshire citizens who have been diagnosed by a provider as having a qualifying medical
4 condition and who possesses a valid registry identification card issued pursuant to RSA 126-X:4.
5 The licensed alternative treatment centers have been formed as voluntary not-for-profit entities
6 under RSA 292 as required by statute. The not-for-profit requirement has had a detrimental effect
7 on the ability of the licensed alternative treatment centers to distribute affordable products due to
8 their inability to finance operations through sales of equity rather than borrowing funds from private
9 lending sources. Therefore, the general court hereby addresses the patient affordability issues by
10 allowing only the alternative treatment centers holding licenses under RSA 126-X as of January 1,
11 2021 to convert their business under the provisions and definitions set forth below.

12 2 Public Health; Use of Cannabis for Therapeutic Purposes; Definitions; Alternative Treatment
13 Center. Amend RSA 126-X:1, I to read as follows:

14 I. "Alternative treatment center" means a ***domestic business corporation organized***
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17 RSA 126-X:7 ***and*** that acquires, possesses, cultivates, manufactures, delivers, transfers, transports,
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24 for the ~~[nonprofit]~~ ***alternative treatment center*** shall include at least one physician, advance
25 practice registered nurse, or pharmacist licensed to practice in New Hampshire and at least one
26 patient qualified to register as a qualifying patient. The majority of board members ***or managers,***
27 ***as applicable,*** shall be New Hampshire residents. A medical professional listed in this
28 subparagraph may be a member of the alternative treatment center board ***of directors or***
29 ***managers, as applicable,*** but shall not maintain an ownership interest in the center.

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8 subject to RSA 293-A if organized as a domestic business corporation, RSA 304-C if organized as a
9 domestic limited liability company, and RSA 292 if organized as a voluntary corporation.

10 XX. An alternative treatment center organized as a voluntary corporation under RSA 292
11 may, on or before December 31, 2021, convert from a voluntary corporation under RSA 292 to either
12 a domestic business corporation organized under RSA 293-A or a limited liability company organized
13 under RSA 304-C in any of the following ways:

14 (a) By adopting a plan of entity conversion in accordance with RSA 293-A or RSA 304-C,
15 as applicable, that includes a provision prohibiting the sale of memberships or shares to a foreign
16 corporation for a period of 3 years, provided that each such conversion shall be authorized by a vote
17 of 2/3 of the members of the board of directors at a meeting duly called for the purpose or by
18 unanimous written consent.

19 (b) By adopting a plan of merger in accordance with RSA 293-A that includes a provision
20 prohibiting the sale of memberships or shares to a foreign corporation for a period of 3 years, for
21 which the domestic business corporation shall be the surviving entity, provided that, such merger
22 shall be authorized by a vote of 2/3 of the members of the board of directors of the alternative
23 treatment center at a meeting duly called for the purpose or by unanimous written consent.

24 (c) By adopting a plan of merger in accordance with RSA 304-C that includes a provision
25 prohibiting the sale of memberships or shares to a foreign corporation for a period of 3 years, for
26 which the domestic limited liability company shall be the surviving entity, provided that, such
27 merger shall be authorized by a vote of 2/3 of the members of the board of directors at a meeting duly
28 called for the purpose or by unanimous written consent.

29 XXI. Articles of entity conversion or articles of merger, as applicable, shall be signed and
30 submitted to the secretary of state pursuant to RSA 293-A or RSA 304-C, as applicable, and the
31 secretary of state shall approve all such filings submitted pursuant to this section.

32 XXII. The secretary of state shall certify such articles of entity conversion or articles of
33 merger and shall provide them to the department. Upon receipt, the department shall update the
34 existing licenses held by the converted or merged alternative treatment center.

35 XXIII. For the purposes of converting or merging an alternative treatment center pursuant
36 to this section, notwithstanding any provision in the articles of agreement or alternative treatment
37 center license applications to the contrary, the members of an alternative treatment center's board of

1 directors may determine that a plan of entity conversion or merger is consistent with its corporate
2 charter, and such voluntary corporation may surrender its articles of agreement in connection with
3 the plan of entity conversion or merger.

4 XXIV.(a) Any alternative treatment center choosing to convert or merge pursuant to this
5 section shall obtain an independent fair market valuation of its total assets as of June 30, 2021. The
6 valuation of the total assets of such alternative treatment center, if positive, shall be distributed to
7 one or more charitable organizations solely for charitable purposes. The director of charitable trusts
8 shall receive a copy of the valuation and may file any objection relating thereto with the court within
9 60 days. Except as set forth in this section and notwithstanding any other law to the contrary, no
10 portion of the assets of such alternative treatment center after the conversion or merger, as
11 applicable, shall be deemed to be charitable assets.

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13 section shall submit a copy of the plan of conversion or merger to the director of charitable trusts.
14 The director may file an objection relating to the plan with the court within 60 days.

15 (c) Any alternative treatment center that has converted or merged pursuant to this
16 section shall, on December 31, 2021 and thereafter for 2 years, annually file a letter with the director
17 of charitable trusts certifying compliance with the requirements of RSA 126-X:8, XX.

18 6 Voluntary Corporations; Powers of Corporations; Change of Name; Amending Articles;
19 Conversion and Merger. Amend RSA 292:7 to read as follows:

20 292:7 Change of Name; Amending Articles.

21 I. Any corporation now or hereafter organized or registered in accordance with the
22 provisions of this chapter, and any existing corporation which may have been so organized or
23 registered, may change its name, increase or decrease its capital stock or membership certificates,
24 merge with or acquire any other corporation formed pursuant to this chapter, or amend its articles of
25 agreement, by a majority vote of such corporation's board of directors or trustees, at a meeting duly
26 called for that purpose, and by recording a certified copy of such vote in the office of the secretary of
27 state and in the office of the clerk of the town or city in this state which is its principal place of
28 business. In the case of a foreign nonprofit corporation registered in New Hampshire, a copy of the
29 amendment or plan of merger, certified by the proper officer of the state of incorporation, shall be
30 filed with the secretary of state, together with the fee provided in RSA 292:5. The surviving
31 corporation in a merger shall continue to have all the authority and powers vested in the merging
32 corporations, including any powers previously conferred upon them by the legislature.

33 II. *An alternative treatment center registered pursuant to RSA 126-X and organized*
34 *under this chapter may, pursuant to RSA 126-X:8, XX, convert to either a domestic*
35 *corporation organized under RSA 293-A or a limited liability company organized under to*
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SB 38 - AS AMENDED BY THE SENATE

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2 RSA 293-A:9.50 by inserting after paragraph (f) the following new paragraph:

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6 to be a domestic unincorporated entity for purposes of applying RSA 293-A:9.50 through RSA 293-
7 A:9.56, except that approval of the conversion shall be as outlined in RSA 126-X:8, XX.

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9 Entities. Amend RSA 304-C:149, I to read as follows:

10 I. Any other business entity, *including alternative treatment centers pursuant to RSA*
11 *126-X:8, XX*, may make a statutory conversion of its business organization form to the limited
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21 (b) By adopting a plan of merger in accordance with RSA 293-A that includes a provision
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6 (g) Alternative treatment centers registered pursuant to RSA 126-X and organized
7 pursuant to RSA 292 may become a domestic corporation pursuant to a plan of conversion in
8 accordance RSA 126-X:8, XX and this subdivision. The alternative treatment center shall be deemed
9 to be a domestic unincorporated entity for purposes of applying RSA 293-A:9.50 through RSA 293-
10 A:9.56, except that approval of the conversion shall be as outlined in RSA 126-X:8, XX.

11 8 Limited Liability Companies; Statutory Conversion; Statutory Conversions of Other Business
12 Entities. Amend RSA 304-C:149, I to read as follows:

13 I. Any other business entity, *including alternative treatment centers pursuant to RSA*
14 *126-X:8, XX*, may make a statutory conversion of its business organization form to the limited
15 liability company business organization form under this act by complying with the requirements of
16 this section and with applicable law governing the other business entity. *Approval of a*
17 *conversion of an alternative treatment center pursuant to this paragraph shall be as*
18 *outlined in RSA 126-X:8, XX.*

19 9 New Paragraph; Limited Liability Companies; Statutory Conversion; Approvals of Statutory
20 Conversion. Amend RSA 304-C:149 by inserting after paragraph VIII the following new paragraph:

21 IX. In the case of the conversion of an alternative treatment center registered under RSA
22 126-X and organized pursuant to RSA 292, such conversion shall be approved by the board of
23 directors in accordance with RSA 126-X:8, XX.

24 10 Effective Date. This act shall take effect upon its passage.

25
26 VETOED 7/13/21

Amendments

Sen. Bradley, Dist 3
February 8, 2021
2021-0258s
11/05

Amendment to SB 38

1 Amend the bill by inserting after the enacting clause the following and renumbering the original
2 sections 1-9 to read as 2-10, respectively:

3
4 1 Statement of Intent. The general court recognizes that the state of New Hampshire in 2013
5 authorized 4 regional licenses for alternative treatment centers to distribute therapeutic cannabis to
6 New Hampshire citizens who have been diagnosed by a provider as having a qualifying medical
7 condition and who possesses a valid registry identification card issued pursuant to RSA 126-X:4.
8 The licensed alternative treatment centers have been formed as voluntary not-for-profit entities
9 under RSA 292 as required by statute. The not-for-profit requirement has had a detrimental effect
10 on the ability of the licensed alternative treatment centers to distribute affordable products due to
11 their inability to finance operations through sales of equity rather than borrowing funds from
12 private lending sources. Therefore, the general court hereby addresses the patient affordability
13 issues by allowing only the alternative treatment centers holding licenses under RSA 126-X as of
14 January 1, 2021 to convert their business under the provisions and definitions set forth below.

2021-0258s

AMENDED ANALYSIS

This bill permits alternative treatment centers to organize as business corporations and limited liability companies, and provides the procedure for alternative treatment centers organized as voluntary corporations as of January 1, 2021 to convert to business corporations or limited liability companies.

UNAPPROVED

Commerce
February 9, 2021
2021-0281s
11/05

Amendment to SB 38

1 Amend the bill by inserting after the enacting clause the following and renumbering the original
2 sections 1-9 to read as 2-10, respectively:

3

4 1 Statement of Intent. The general court recognizes that the state of New Hampshire in 2013
5 authorized 4 regional licenses for alternative treatment centers to distribute therapeutic cannabis to
6 New Hampshire citizens who have been diagnosed by a provider as having a qualifying medical
7 condition and who possesses a valid registry identification card issued pursuant to RSA 126-X:4.
8 The licensed alternative treatment centers have been formed as voluntary not-for-profit entities
9 under RSA 292 as required by statute. The not-for-profit requirement has had a detrimental effect
10 on the ability of the licensed alternative treatment centers to distribute affordable products due to
11 their inability to finance operations through sales of equity rather than borrowing funds from
12 private lending sources. Therefore, the general court hereby addresses the patient affordability
13 issues by allowing only the alternative treatment centers holding licenses under RSA 126-X as of
14 January 1, 2021 to convert their business under the provisions and definitions set forth below.

2021-0281s

AMENDED ANALYSIS

This bill permits alternative treatment centers to organize as business corporations and limited liability companies, and provides the procedure for alternative treatment centers organized as voluntary corporations as of January 1, 2021 to convert to business corporations or limited liability companies.

Committee Minutes

SENATE CALENDAR NOTICE
Commerce

Sen Harold French, Chair
Sen Bill Gannon, Vice Chair
Sen Jeb Bradley, Member
Sen Donna Soucy, Member
Sen Kevin Cavanaugh, Member

Date: January 13, 2021

HEARINGS

Tuesday	01/19/2021	
(Day)	(Date)	
Commerce	REMOTE 000	9:00 a.m.
(Name of Committee)	(Place)	(Time)
9:00 a.m.	SB 35	relative to membership in risk pools.
9:10 a.m.	SB 36	relative to residency under auto insurance policies.
9:20 a.m.	SB 37	relative to warning label requirements for marijuana products dispensed in alternative treatment centers.
9:50 a.m.	SB 38	relative to the organization of alternative treatment centers.
10:20 a.m.	SB 44	establishing the New Hampshire workforce pathway program and commission.

Committee members will receive secure Zoom invitations via email.

Members of the public may attend using the following links:

1. Link to Zoom Webinar: <https://www.zoom.us/j/93224019555>
2. To listen via telephone: Dial (for higher quality, dial a number based on your current location): 1-301-715-8592, or 1-312-626-6799, or 1-646-558-8656, or 1-253-215-8782, or 1-346-248-7799, or 1-669-900-9128
3. Or iPhone one-tap: 13017158592,,93224019555# or 13126266799,,93224019555#
4. Webinar ID: [932 2401 9555](https://www.zoom.us/j/93224019555)
5. To view/listen to this hearing on YouTube, use this link:
<https://www.youtube.com/channel/UCjBZdtrjRnQdmg-2MPMiWrA>
6. To sign in to speak, register your position on a bill and/or submit testimony, use this link:
<http://gencourt.state.nh.us/remotecommittee/senate.aspx>

The following email will be monitored throughout the meeting by someone who can assist with and alert the committee to any technical issues: remotesenate@leg.state.nh.us or call (603-271-6931).

EXECUTIVE SESSION MAY FOLLOW

Sponsors:

SB 35

Sen. Cavanaugh

Sen. D'Allesandro

SB 36

Sen. French
Sen. Sherman

Sen. Hennessey
Sen. Soucy

Sen. Ricciardi
Sen. Reagan

Sen. Giuda
Rep. Pearl

SB 37

Sen. Gannon
Sen. Giuda

Sen. D'Allesandro
Sen. Prentiss

Sen. Ward
Rep. Weyler

Rep. M. Pearson

SB 38

Sen. Avard
Sen. Ward

Sen. Bradley
Rep. McGuire

Sen. Cavanaugh
Rep. Edwards

Sen. Watters

SB 44

Sen. Kahn
Sen. Rosenwald
Rep. Ladd

Sen. D'Allesandro
Sen. Hennessey
Rep. Myler

Sen. Whitley
Sen. Soucy
Rep. Luneau

Sen. Prentiss
Sen. Sherman

Aaron Jones 271-4063

Harold F. French
Chairman

Senate Commerce Committee
Aaron Jones 271-4063

SB 38, relative to the organization of alternative treatment centers.

Hearing Date: January 19, 2021

Time Opened: 9:50 a.m.

Time Closed: 10:12 a.m.

Members of the Committee Present: Senators French, Gannon, Bradley, Soucy and Cavanaugh

Members of the Committee Absent : None

Bill Analysis: This bill permits alternative treatment centers to organize as business corporations and limited liability companies, and provides the procedure for alternative treatment centers organized as voluntary corporations to convert to business corporations or limited liability companies.

Sponsors:

Sen. Avard
Sen. Watters
Rep. Edwards

Sen. Bradley
Sen. Ward

Sen. Cavanaugh
Rep. McGuire

Who supports the bill: Senator Kevin Avard, Senator Ruth Ward, Senator David Watters, Senator Kevin Cavanaugh, Representative Jess Edwards, Sian Leininger (Temescal Wellness), Michael McLaughlin (Sanctuary Alternative Treatment Center), Teresa Rosenberger (Temescal Wellness)

Who opposes the bill: No one

Who is neutral on the bill: Thomas Donovan (NH Charitable Trusts), Michael Holt (DHHS)

Summary of testimony presented in support:

Senator Kevin Avard

- This bill would allow licensed alternative treatment centers (ATCs) in New Hampshire to operate as traditional businesses.
- Currently, ATCs are required to operate as not-for-profit corporations, but they're unable to receive any of the benefits from that status. For example, ATCs are unable to raise money through traditional methods, such as having investors.

- Since commercial funds aren't allowed due to federal banking regulations, ATCs are required to borrow at interest rates as high as 15 percent.
- Instead of being able to use their money to lower the prices for patients suffering from chronic pain, ATCs are forced to pay creditors back monthly.
- Senator Avard emphasized that this bill would only serve to lower prices for patients, while keeping in place all existing regulations for therapeutic cannabis.

Michael McLaughlin, on behalf of Sanctuary Alternative Treatment Center

- Since March 2015, Sanctuary has been serving patients throughout the North Country.
- As Senator Avard stated, this bill wouldn't change existing regulations or oversight. This bill would simply allow an ATC to convert from a not-for-profit to a for-profit domestic corporation or LLC. Mr. McLaughlin emphasized that an ATC could remain as a not-for-profit if it wanted to.
- Over the last five years, Mr. McLaughlin said that surrounding states have increasingly funded their cannabis operations through traditional methods and lower interest rates.
- In contrast, New Hampshire ATCs are restricted in their ability to raise capital and they must pay their debt holders monthly. As a result, New Hampshire ATCs see a large amount of capital leave their operations, which undermines their ability to provide necessary services.
- In 2018, DHHS released a report, which showed that three New Hampshire ATCs had more than \$13 million in debt that they were forced to service.
- In 2019, the Senate and House passed a similar bill, SB 145; however, Governor Sununu vetoed it. To address Governor Sununu's concerns over the commercial industrialization of the cannabis market, this bill would prohibit the sale of shares or memberships for at least three years if an ATC does convert their operational status to for-profit.
- Mr. McLaughlin clarified that the sale of shares to a foreign corporation meant corporations outside of New Hampshire, not outside of the United States.
- Mr. McLaughlin said that the not-for-profit status places undue regulations on New Hampshire businesses and forces them to charge patients higher prices.
- **Senator French** asked how many ATCs would remain as not-for-profit entities if this bill passed.
 - **Mr. McLaughlin** said that he only represents one ATC, Sanctuary, which is hoping to change to a for-profit entity to allow for equity investors. As a for-profit entity, Sanctuary would be able to provide lower prices and better services to those in the North Country. Mr. McLaughlin reiterated that this bill wouldn't change existing regulations, areas where ATCs are permitted, or supervisions.
- Mr. McLaughlin said that ATCs try their best to not charge full retail price. For example, Sanctuary does offer discounts to veterans, people on disability,

Medicaid recipients, or those with low incomes. In 2018 alone, Sanctuary offered a total discount of \$347,000.

Sian Leininger, Retail Director, Temescal Wellness

- Temescal Wellness operates a therapeutic cannabis production facility in Manchester, dispensaries in Dover and Lebanon, and an upcoming satellite location in Keene.
- Ms. Leininger said Temescal supported this bill because the ability to restructure their business would allow them to stay viable in a rapidly changing environment as well as allow them to better serve their patients.
- Since ATCs are required to operate as not-for-profit entities, as stated by previous speakers, access to capital is severely restricted. As a result, most ATCs only raise debt and they must pay interest and principal monthly. According to Ms. Leininger, Temescal sends one-third of their revenue back to lenders.
- Restructuring would allow ATCs to lower their monthly debt services, which could allow additional capital to be used towards lowering prices, developing new products, and maintaining educational programs.
- Currently, Ms. Leininger said there's an aggressive and targeted campaign coming from Maine dispensaries to get New Hampshire patients to purchase their therapeutic cannabis out-of-state.
 - For example, according to Ms. Leininger, there have been instances where New Hampshire patients received a discount in Maine simply for being from New Hampshire.
- Both Maine and Massachusetts can undercut pricing because they don't require their businesses to register as not-for-profits. These lower prices, according to Ms. Leininger, are the reason patients are going out-of-state to obtain their therapeutic cannabis.
- By crossing state lines to obtain cannabis, patients are at risk of breaking federal law, receiving limited education about the products they're purchasing, and possibly purchasing products that have questionable safety and consistency.
- Ms. Leininger emphasized that it's preferred that patients receive their education from New Hampshire ATCs. Additionally, New Hampshire ATCs ensure that patients receive appropriate, quality tested products.
- Ms. Leininger concluded that this bill would only change how capital is acquired and there would be no regulatory changes. She reiterated that this would allow Temescal, and other ATCs, to lower prices to keep New Hampshire patients in-state and ensure they receive safe and quality products as well as an adequate education.

Summary of testimony presented in opposition: None

Neutral Information Presented:

Thomas Donovan, Director of NH Charitable Trusts, NH Attorney General's Office

- Mr. Donovan said the Attorney General's Office had no position on the bill; however, they wanted to ensure that one provision remained.
- Since their inception, ATCs have been treated as charitable organizations, which from a regulatory standpoint, has provided greater transparency.
- As Sen. Avard stated, ATCs aren't treated as traditional not-for-profit entities. Since marijuana is a classified substance at the federal level, the IRS doesn't permit ATCs to have 501(c)(3) status.
- As required by statute, Mr. Donovan said that ATCs file their reports with the Charitable Trust Fund and their tax returns are made available for public inspection. Those reports include information, such as conflicts of interest.
- While the department is neutral on whether ATCs should be for-profit businesses, Mr. Donovan stated they wanted the provision starting on page 2, line 30 to remain. This provision would ensure that if an entity becomes a for-profit, then they would be required to complete an appraisal to determine the value of their enterprise. The appraisal would be submitted to the Charitable Trust, which would have 60 days to object if they thought it wasn't a good evaluation. This is necessary because once assets are in the charitable sector, they cannot go into the business sector. The Charitable Trust would be responsible for overseeing all assets to ensure they're used for charitable purposes.
- **Senator French** wanted clarification that when the application process started for ATCs, it was required that they be non-profits.
 - **Mr. Donovan** said that would be correct.
- **Senator French** asked that since their application was based on that fact, wouldn't making these entities for-profit give the state the ability to create small monopolies on the sale of medical marijuana.
 - **Mr. Donovan** replied that there are limited licenses available; therefore, in a sense, there's a franchise given to a limited group.

Speakers

Commerce Committee Testify List for Bill SB38 on 2021-01-19

Support: 8 Oppose: 0 Neutral: 2 Total to Testify: 4

<u>Name</u>	<u>Representing</u>	<u>Position</u>	<u>Testifying</u>
Avard, Senator Kevin	District 12	Support	Yes
Ward, Senator Ruth	Senate District 8	Support	No
Watters, Senator David	Myself (SD 4)	Support	No
Leininger, Sian	Temescal Wellness	Support	Yes
Ward, Ruth	Myself	Support	No
mclaughlin, michael	Sanctuary Alternative Treatment Center	Support	Yes
Rosenberger, Teresa	Temescal Wellness	Support	No
Edwards, Jess	Rockingham District 4 (Auburn, Chester, Sandown)	Support	No
Donovan, Thomas	Myself - Director of Charitable Trusts	Neutral	Yes
Holt, Michael	DHHS	Neutral	No

Testimony

A REVIEW OF SENATE BILL 38

Synopsis:

Senate Bill 38 (SB38) amends Chapter 126-X: USE OF CANNABIS FOR THERAPEUTIC PURPOSES to allow New Hampshire's licensed and regulated Alternative Treatment Centers (ATC's) to operate as a domestic business corporation, a domestic limited liability corporation or a not-for-profit voluntary corporation.

SB38 makes no changes in the way New Hampshire ATC's are licensed, regulated or what services they can provide to patients who have qualified for a registry identification card issued the New Hampshire Department of Health and Human Services.

Paragraph 1:

Adds language to RSA 126-X:1, the definition of "Alternative Treatment Center", to create the opportunity for an ATC to operate as a domestic business corporation, a domestic limited liability corporation or a not-for-profit voluntary corporation.

Paragraph 2:

Amends RSA 126-X:7 IV (a) (4) "Application Form" in order to place in statute the necessary words required in the Application Form that will apply to the business entity chosen by an applicant for a license.

Paragraph 3:

Amends RSA 126-X:8 I to allow alternative treatment centers to operate as a for-profit or a not-for-profit basis.

Paragraph 4:

adds **new language** that creates new subparagraphs in RSA 126-X:8. (see Page 1 Line 24 through Page 3 Line 6)

XIX: enables an ATC to operate as a domestic business corporation a domestic limited liability company or a voluntary corporation by referencing the appropriate sections of New Hampshire corporate statutes.

XX: enables a voluntary corporation to convert to a domestic business corporation or a limited liability company in three different ways.

- (a) by adopting a plan of equity conversion in accordance with RSA 293-A or RSA 304-C that must contain a prohibition against the sale of shares or memberships to a foreign corporation for a period of three years.
- (b) by adopting a plan of merger in accordance with RSA 293-A that contains a prohibition against the sale of shares or memberships to a foreign corporation for a period of three years.
- (c) by adopting a plan of merger in accordance with RSA 304-C that contains a prohibition against the sale of shares or memberships to a foreign corporation for a period of three years.

XXI: requires that articles of conversion or articles of merger shall be submitted to the Secretary of State for approval.

XXII. articles of equity conversion or articles of merger shall be certified by the Secretary of State and provided to the Department of Health and Human Services. Upon receipt the Department shall update the existing license.

XXIII. the Board of Directors may determine that the plan of equity conversion or merger is consistent with the corporate charter and the voluntary corporation may surrender its articles of agreement in connection with the plan of equity conversion or merger.

XXIV.

(a) any ATC choosing to merge or convert shall obtain an independent fair market evaluation of its assets as of June 30, 2021. Any excess assets shall be distributed to one or more charitable organizations. The Director of Charitable Trusts shall receive a copy of the evaluation and may file any objection to it within 60 days.

(b) a plan of merger or conversion shall be submitted to the Director of Charitable Trusts. The Director may file an objection relating to the plan within 60 days.

(c) Any ATC that has converted or merged shall file a letter on December 31, 2021, and for the next two years, with the Director of Charitable Trusts certifying compliance with the provisions of RSA 126-X:8 XX.

Paragraph 5:

Adds paragraph II to RSA 292:7 to provide the power to an ATC that has merged or converted to change its name and amend its articles.

Paragraph 6:

Adds paragraph (g) to RSA 293-A:9 50 to provide the power to an ATC that has merged or converted to become an unincorporated entity.

Paragraph 7:

Amends RSA 304-C:149 I to allow an ATC to change its business form.

Paragraph 8:

Amends RSA 304-C:149 by adding paragraph IX that requires the approval of the Board of Directors in accordance with RSA 126-X:8

TESTIMONY IN SUPPORT OF SENATE BILL 38:
ON BEHALF OF
SANCTUARY ALTERNATIVE TREATMENT CENTER

Sanctuary Alternative Treatment Center has been providing services to New Hampshire citizens since May of 2015. First in its clinic located in Plymouth and now in both Plymouth and Conway. In the nearly six (6) years there have been no issue with New Hampshire's therapeutic cannabis program, it is a success. The one issue that needs improvement is the cost of products to New Hampshire citizens. Senate Bill 38 will help lower the cost of products sold by New Hampshire's Alternative Treatment Centers.

Senate Bill 38 will allow New Hampshire's Alternative Treatment Centers (ATC's) to conduct business in a form of their choosing, a voluntary not-for-profit corporation, a domestic business corporation or a domestic limited liability corporation. Current law prevents New Hampshire's ATC's from choosing the best way to do business for the benefit of their organizations, their employees and, most important, for their patients. It is an unnecessary burden on business that provides no tangible benefit to any party involved.

Under current law, Alternative Treatment Centers must be organized as a "not-for profit" corporation. A "not-for-profit" corporation enjoys significant benefits such as not paying real estate or income taxes. **None of the benefits available to traditional New Hampshire "not-for-profit" corporations are available New Hampshire's ATC's.** New Hampshire's Alternative Treatment Centers pay all taxes and fees charged to traditional business corporations and limited liability companies.

As a "not-for-profit" corporation New Hampshire's Alternative Treatment Centers cannot sell shares or have equity investors. Due to federal banking issues, New Hampshire's Alternative Treatment Centers cannot access conventional financing forcing them to look for money from lenders who charge interest rates far above what is available to

traditional business corporations. The net result is New Hampshire's Alternative Treatment Centers incur additional operating costs that directly impact the 8,500 patients they are serving. **The 2019 Data Report issued by the New Hampshire Department of Health and Human Services indicated that 86% of patients commenting on areas that need improvement state it is the "cost of product".**

Some of you may find this discussion familiar, that's because it is. In 2019 the Senate and the House passed Senate Bill 145. Unfortunately, the Governor vetoed the bill citing a fear of "*industrial commercialization of the marijuana business*". The vote to override the veto in the Senate fell one (1) vote short. In 2020 the House passed HB1345 on a voice vote, HB1345 was tabled in the Senate along with many other bills as a result of the pandemic. SB38, (as well as HB1345), has language prohibiting any sale of shares, or LLC memberships, to a foreign corporation (for the purposes of New Hampshire law a foreign corporation is a corporation formed in another state) for three (3) years. This provision will deter any form of industrial commercialization of the New Hampshire therapeutic cannabis market. It is important to remember that the New Hampshire Department of Health and Human Services controls who is licensed. If they feel a candidate is not right for New Hampshire they will not issue a license.

We urge you to pass SB38 so we can pass on the savings to New Hampshire citizens.

A REVIEW OF SENATE BILL 38

Synopsis:

Senate Bill 38 (SB38) amends Chapter 126-X: USE OF CANNABIS FOR THERAPEUTIC PURPOSES to allow New Hampshire's licensed and regulated Alternative Treatment Centers (ATC's) to operate as a domestic business corporation, a domestic limited liability corporation or a not-for-profit voluntary corporation.

SB38 makes no changes in the way New Hampshire ATC's are licensed, regulated or what services they can provide to patients who have qualified for a registry identification card issued the New Hampshire Department of Health and Human Services.

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Adds language to RSA 126-X:1, the definition of "Alternative Treatment Center", to create the opportunity for an ATC to operate as a domestic business corporation, a domestic limited liability corporation or a not-for-profit voluntary corporation.

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Amends RSA 126-X:7 IV (a) (4) "Application Form" in order to place in statute the necessary words required in the Application Form that will apply to the business entity chosen by an applicant for a license.

Paragraph 3:

Amends RSA 126-X:8 I to allow alternative treatment centers to operate as a for-profit or a not-for-profit basis.

Paragraph 4:

Page 1 Line 24 through Page 3 Line 6 add new language that create new subparagraphs in RSA 126-X:8.

XIX: enables an ATC to operate as a domestic business corporation a domestic limited liability company or a voluntary corporation by referencing the appropriate sections of New Hampshire corporate statutes.

XX: enables a voluntary corporation to convert to a domestic business corporation or a limited liability company in three different ways.

- (a) by adopting a plan of equity conversion in accordance with RSA 293-A or RSA 304-C that must contain a prohibition against the sale of shares or memberships to a foreign corporation for a period of three years.
- (b) by adopting a plan of merger in accordance with RSA 293-A that contains a prohibition against the sale of shares or memberships to a foreign corporation for a period of three years.
- (c) by adopting a plan of merger in accordance with RSA 304-C that contains a prohibition against the sale of shares or memberships to a foreign corporation for a period of three years.

XXI: requires that articles of conversion or articles of merger shall be submitted to the Secretary of State for approval.

XXII. articles of equity conversion or articles of merger shall be certified by the Secretary of State and provided to the Department of Health and Human Services. Upon receipt the Department shall update the existing license.

XXIII. the Board of Directors may determine that the plan of equity conversion or merger is consistent with the corporate charter and the voluntary corporation may surrender its articles of agreement in connection with the plan of equity conversion or merger.

XXIV.

(a) any ATC choosing to merge or convert shall obtain an independent fair market evaluation of its assets as of June 30, 2021. Any excess assets shall be distributed to one or more charitable organizations. The Director of Charitable Trusts shall receive a copy of the evaluation and may file any objection to it within 60 days.

(b) a plan of merger or conversion shall be submitted to the Director of Charitable Trusts. The Director may file an objection relating to the plan within 60 days.

(c) Any ATC that has converted or merged shall file a letter on December 31, 2021, and for the next two years, with the Director of Charitable Trusts certifying compliance with the provisions of RSA 126-X:8 XX.

Paragraph 5:

Adds paragraph II to RSA 292:7 to provide the power to an ATC that has merged or converted to change its name and amend its articles.

Paragraph 6:

Adds paragraph (g) to RSA 293-A:9 50 to provide the power to an ATC that has merged or converted to become an unincorporated entity.

Paragraph 7:

Amends RSA 304-C:149 I to allow an ATC to change its business form.

Paragraph 8:

Amends RSA 304-C:149 by adding paragraph IX that requires the approval of the Board of Directors in accordance with RSA 126-X:8

Aaron Jones

From: Jess Edwards
Sent: Monday, January 18, 2021 8:31 PM
To: Aaron Jones; Harold French; William Gannon; Kevin Cavanaugh; Jeb Bradley; Donna Soucy
Cc: Tricia Melillo; Shannon Girard; kathy.cummngs@leg.state.nh.us
Subject: Testimony on behalf of SB38 - Organization of alternative treatment centers.

To the Senate Commerce Committee,

Greetings! I have signed in online in support of the bill and share the following for committee consideration.

My view is that with recreational pot legal all around the borders of NH, that there is a ready supply of high-quality marijuana.

Basic economics tell us that the preexisting black market for cannabis will grow as supply becomes more reliable, of known quality, and with more competition.

I want our ATC structure to survive the new business challenges of an increasingly robust black market. To do that, the ATCs will need more managerial flexibility to include new capital alternatives, points of sale options, and pricing flexibility. SB38 provides some of the needed tools for management to survive and thrive in the coming decade.

My belief is that the ATCs will struggle and die without access to stronger capital markets. That would leave our NH patients who rely on medical cannabis to go on to the black market as criminals themselves or to experience poorer palliative results.

Best Regards,

Jess Edwards

NH State Representative (Auburn, Chester, Sandown)
Chairman, Division III DHHS/Veterans Home, Finance Committee (2020-present)
Fiscal Committee of the General Court (2020-present)
Chair, NH General Court Veterans Interest Caucus (2019-present)

Rockingham County Long-Term Care Services Committee (2017-present)
Auburn Planning Board (2016-present)

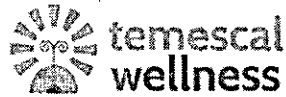
2019-2020 Ways and Means Committee
2019-2020 Commander Legislative Squadron, NH Civil Air Patrol, Lieutenant Colonel
2019-2020 Mental health and social service business process alignment and information system interoperability study committee

2017-2018 Health, Human Services, & Elderly Affairs Committee
2017-2018 Mental health and social service business process alignment and information system interoperability study committee
2018 Telemedicine and health care reimbursement for telemedicine and telehealth study committee
2018 Group home rate parity study committee

(603) 370-7885

Jess.Edwards@leg.state.nh.us

Profile: <http://gencourt.state.nh.us/house/members/member.aspx?member=408392>



MEMO TO: Senate Commerce Committee

DATE: January 19, 2021

CONTACT: sian@temescalwellness.com

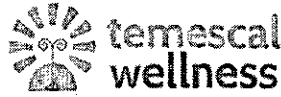
Testimony in Support of Senate Bill 38:

Sian Leininger, Director of Retail, On Behalf of Temescal Wellness Alternative Treatment Center

1. Good afternoon Chairman and members of the Committee. My name is Sian Leininger, I am the Director of Retail for Temescal Wellness of NH, which operates two of the four Alternative Treatment Center licenses in NH, with a therapeutic cannabis production facility in Manchester, and dispensaries in Dover, Lebanon, and a soon to be satellite location in Keene.
2. We are in support of SB 38 because of the good it will allow us to do for our patients. This change will not alter any regulations, but would mean that every single month, we have more money for lowering prices meaningfully for NH patients, for product development and for education for our patients.
3. We operate in a very strictly regulated industry and we are not proposing any regulatory changes here, simply the ability to restructure our business in order to stay viable in the rapidly evolving markets around us so that we may better serve NH Qualifying patients.

We are required to operate as a non-profit, but we do not get any of the benefits of a non-profit. Instead, we are simply not allowed to borrow money from traditional banks so we must borrow from individuals and end up paying upwards of 18% interest. That significant amount of money could be far better spent by lowering prices for our patients and helping to keep NH patients in NH.

4. There is currently an aggressive and targeted marketing campaign coming from ME dispensaries and ME Caregivers to entice NH patients to purchase cannabis there instead from their designated ATC.
 - a. There are regular and persistent print and radio advertisements in the Dover community
 - i. telling NH patients that ME is the best place for them to get quality and affordable cannabis in the area
 - ii. boasting that they are just 20 minutes from downtown Dover
 - iii. offering to help them get a NH card if they do not already have one
 - iv. We have even had NH patients report that they have received a discount at the time of purchase in ME *specifically* for being a NH patient.
5. ME and MA are both able to undercut our pricing due primarily to the differences in structure – neither state requires cannabis businesses to be nonprofit.



6. We have patients report to us daily that they are purchasing product in ME and MA solely due to the lower prices. In a survey we conducted his year of our patients, 1 in 3 patients reported purchasing cannabis out of state and over 50% reported price as the reason.
 - a. Patients do not like crossing state lines with cannabis product – thus violating federal law.
 - b. Patients do not like spending their money out of state rather than in NH.
 - c. Patients do not like that they have to question whether product they purchase in ME has been tested. Whether it is safe. Whether it is the same dose they had last time.
 - d. Patients do not like the lack of education they receive from the ME dispensaries and caregiver delivery network.

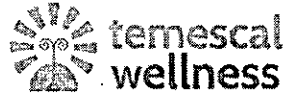
7. Every one of these patients report that they prefer coming to us
 - a. They prefer to receive proper education and compassionate care.
 - b. They prefer our quality, tested products.
 - c. They prefer to follow the law.
 - d. However, the bottom line is that NH patients rely on cannabis to help them with their qualifying conditions, and they need to go with what they can afford.

8. We are hoping that the state of NH can see the damage caused by more and more patients in the NH therapeutic cannabis program crossing state lines to purchase their cannabis:
 - a. The risk of breaking federal law
 - b. The lack of education patients receive over state lines
 - c. The questionable safety and consistency of the products they are purchasing

9. I understand that the original bill from in 2013 to create the ATC's and allow therapeutic cannabis, had every condition imaginable in it in order to get the bill passed. The thought being once the ATC's were established and therapeutic cannabis was being legally used, the state would then begin to amend the original legislation as the industry progressed.

And in fact, the last number of legislatures has done just that, expanding the conditions, evaluating the process of the registration cards, etc. Changing the corporate structure but not changing any of the regulatory requirements is just one more of the changes that needs to be made by the legislature to provide better access and affordability to those patients in NH qualified to use therapeutic cannabis.

10. Requiring us to be a non-profit severely restricts us. In an industry where access to capital is already severely limited, as a non-profit, we cannot raise equity. We are limited to raising debt and, like a mortgage, debt means that every single month, we are paying interest and principal. For a capital-intensive operation like ours, where we invest millions of dollars into cultivation and manufacturing, Temescal is sending a third of our revenue back to lenders. These monthly debt service payments mean:
 - a. Higher prices for our patients (despite our discounts).



b. Less education than what we would prefer and no ability to do research on new products.

11. We pride ourselves on providing quality cannabis products for our patients

- a. Ensuring consistency and safety with products being tested by an independent laboratory for potency, residual solvents, heavy metals and microbiologicals
- b. We pride ourselves on the level of education and support we provide our patients – ensuring every NH patient knows the products they go home with and how to properly and safely use them.

We had a patient come in for her first consultation and she spent the first 30 minutes crying because she was so anxious about leaving her house. She never left home if she did not have to. She also was wasting away with no appetite due to her treatment course, We saw her just two weeks later and she lit up when she told us how excited she was to be there, and that she would be going to the co-op after - not only because she was not afraid and anxious to go in anymore, but she was hungry!

We know that you all have recognized how cannabis can help NH patients. We are just asking that you help them get easier and more affordable access to the relief that cannabis brings them.

The only thing this bill would change is how we are able to acquire capital. The most critical thing this bill would allow us to do is lower our prices and help NH patients be able to stay in NH and receive safe, quality, affordable products, and the education to match.

Voting Sheets

Senate Commerce Committee
EXECUTIVE SESSION RECORD
2021-2022 Session

Bill # SB 38

Hearing date: 1/19/21

Executive Session date: 1/19/21

Motion of: OTP Vote: 3-2

Committee Member	Made by	Second	Yes	No
Sen. French, Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Sen. Gannon, V-Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Sen. Bradley	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Cavanaugh	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Soucy	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Motion of: _____ Vote: _____

Committee Member	Made by	Second	Yes	No
Sen. French, Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Gannon, V-Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Bradley	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Cavanaugh	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Soucy	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Motion of: _____ Vote: _____

Committee Member	Made by	Second	Yes	No
Sen. French, Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Gannon, V-Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Bradley	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Cavanaugh	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Soucy	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Reported out by: Sen. Bradley

Notes: _____

Senate Commerce Committee
EXECUTIVE SESSION RECORD
2021-2022 Session

Bill # SB 38

Hearing date: 1/19/21

Executive Session date: 2/8/21

Motion of: AMENDMENT (02585) Vote: 5-0

Committee Member	Made by	Second	Yes	No
Sen. French, Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Gannon, V-Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Bradley	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Cavanaugh	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Soucy	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Motion of: OTP-A Vote: 5-0

Committee Member	Made by	Second	Yes	No
Sen. French, Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Gannon, V-Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Bradley	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Cavanaugh	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Soucy	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Motion of: CONSENT Vote: 5-0

Committee Member	Made by	Second	Yes	No
Sen. French, Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Gannon, V-Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Bradley	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Cavanaugh	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Soucy	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Reported out by: SEN BRADLEY
 Notes: RE-REFERRED BACK TO COMMITTEE

Committee Report

STATE OF NEW HAMPSHIRE
SENATE
REPORT OF THE COMMITTEE

Tuesday, January 19, 2021

THE COMMITTEE ON Commerce

to which was referred SB 38

AN ACT

relative to the organization of alternative
treatment centers.

Having considered the same, the committee recommends that the Bill

OUGHT TO PASS

BY A VOTE OF: 3-2

Senator Jeb Bradley
For the Committee

Aaron Jones 271-4063

COMMERCE

SB 38, relative to the organization of alternative treatment centers.

Ought to Pass, Vote 3-2.

Senator Jeb Bradley for the committee.

FOR THE CONSENT CALENDAR

COMMERCE

SB 38, relative to the organization of alternative treatment centers.

Ought to Pass with Amendment, Vote 5-0.

Senator Jeb Bradley for the committee.

Currently, alternative treatment centers, otherwise known as ATCs, are required to operate as not-for-profit corporations. This bill would allow ATCs to convert into for-profit business corporations or limited liability companies. By converting, ATCs would be able to raise the necessary equity to lower costs for patients dealing with chronic pain. As amended, this bill would only allow ATCs to convert their businesses if they were licensed under RSA 126-X as of January 1, 2021. This bill wouldn't affect any existing regulations for therapeutic cannabis nor require an ATC to convert their business operations if they didn't want to. Additionally, if an ATC converts, then they're required to submit an appraisal to the Charitable Trust to determine the value of their enterprise. If an ATC is determined to have any net assets, those assets would have to be used for a charitable purpose.

Docket of SB38**Bill Title:** relative to the organization of alternative treatment centers.**Official Docket of SB38.:**

Date	Body	Description
1/12/2021	S	Introduced 01/06/2021 and Referred to Commerce; SJ 3
1/13/2021	S	Remote Hearing: 01/19/2021, 09:50 am; Links to join the hearing can be found in the Senate Calendar; SC 7
1/19/2021	S	Committee Report: Ought to Pass, 02/04/2021; SC 9
2/4/2021	S	Sen. Bradley Moved to Rerefer to Committee, RC 24Y-0N, MA; 02/04/2021; SJ 3
2/9/2021	S	Committee Report: Ought to Pass with Amendment #2021-0281s , 02/18/2021; Vote 5-0; CC; SC 11
2/18/2021	S	Sen. Giuda Moved to Remove SB 38 from the Consent Calendar; 02/18/2021; SJ 5
2/18/2021	S	Committee Amendment #2021-0281s, RC 18Y-6N, AA; 02/18/2021; SJ 5
2/18/2021	S	Ought to Pass with Amendment 2021-0281s, RC 18Y-6N, MA; OT3rdg; 02/18/2021; SJ 5
3/10/2021	H	Introduced (in recess of) 02/25/2021 and referred to Commerce and Consumer Affairs HJ 4 P. 48
3/17/2021	H	Public Hearing: 03/24/2021 09:45 am Members of the public may attend using the following link: To join the webinar: https://www.zoom.us/j/97709851457 / Executive session on pending legislation may be held throughout the day (time permitting) from the time the committee is initially convened.
5/5/2021	H	Executive Session: 05/13/2021 10:00 am Members of the public may attend using the following link: To join the webinar: https://www.zoom.us/j/93883325643
5/25/2021	H	Committee Report: Ought to Pass (Vote 11-8; RC) HC 26 P. 15
6/3/2021	H	Ought to Pass: MA VV 06/03/2021
6/3/2021	H	Reconsider (Rep. Homola): MF DV 114-257 06/03/2021
6/25/2021	H	Enrolled Bill Amendment #2021-2044e: AA VV (in recess of) 06/24/2021
6/25/2021	S	Enrolled Bill Amendment #2021-2044e Adopted, VV, (In recess of 06/24/2021); SJ 20
7/1/2021	H	Enrolled (in recess of) 06/24/2021
7/1/2021	S	Enrolled Adopted, VV, (In recess 06/24/2021); SJ 20
7/15/2021	S	Vetoed by Governor 07/13/2021

Other Referrals

June 23, 2021
2021-2044-EBA
10/04

Enrolled Bill Amendment to SB 38

The Committee on Enrolled Bills to which was referred SB 38

AN ACT relative to the organization of alternative treatment centers.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

FOR THE COMMITTEE

Explanation to Enrolled Bill Amendment to SB 38

This enrolled bill amendment makes a grammatical correction.

Enrolled Bill Amendment to SB 38

Amend RSA 292:7, II as inserted by section 6 of the bill by replacing line 3 with the following:

corporation organized under RSA 293-A or a limited liability company organized under



STATE OF NEW HAMPSHIRE
OFFICE OF THE GOVERNOR

CHRISTOPHER T. SUNUNU
Governor

July 13, 2021

Governor's Veto Message Regarding Senate Bill 38

By the authority vested in me, pursuant to part II, Article 44 of the New Hampshire Constitution, on July 13th, 2021, I have vetoed Senate Bill 38, relative to the organization of alternative treatment centers.

I have been supportive of New Hampshire's therapeutic cannabis program and I recognize the difficulties some patients face regarding the price of medical marijuana. There is a tried and true method for the government to make a positive impact on pricing in almost any market: Get out of the way. This is done through reducing regulations, allowing for greater competition, addressing constraints on supply and demand, etc. Throughout my time as Governor, New Hampshire has greatly increased the number of patients and qualifying conditions, removed regulatory hurdles within the therapeutic cannabis program and expanded the number of ATC locations. However, Senate Bill 38 could lead to a circumstance with long-term repercussions on New Hampshire's cannabis policies.

This bill would create pre-ordained for-profit monopolies in New Hampshire's medical marijuana marketplace, with no opportunity for other entities to compete or otherwise enter into the marketplace. In a circumstance where recreational marijuana became legal in New Hampshire, these monopolies would be well situated to dominate the marketplace. I share the concerns of Republicans on the House Commerce Committee who noted that the conversion that Alternative Treatment Centers are seeking would give these entities an even more significant advantage over their competitors if recreational marijuana is legalized. The State of New Hampshire should not guarantee profit-making monopolies to only three companies statewide.

For the reasons stated above, I have vetoed Senate Bill 38.

Respectfully submitted,

A handwritten signature in black ink that reads "Christopher T. Sununu".

Christopher T. Sununu
Governor

Senate Inventory Checklist for Archives

Bill Number: SB 38

Senate Committee: Commerce

Please include all documents in the order listed below and indicate the documents which have been included with an "X" beside

Final docket found on Bill Status

Bill Hearing Documents: {Legislative Aides}

Bill version as it came to the committee

All Calendar Notices

Hearing Sign-up sheet(s)

Prepared testimony, presentations, & other submissions handed in at the public hearing

Hearing Report

Revised/Amended Fiscal Notes provided by the Senate Clerk's Office

Committee Action Documents: {Legislative Aides}

All amendments considered in committee (including those not adopted):

- amendment # 21-0258s - amendment # _____

- amendment # 21-0281s - amendment # _____

Executive Session Sheet

Committee Report

Floor Action Documents: {Clerk's Office}

All floor amendments considered by the body during session (only if they are offered to the senate):

_____ - amendment # _____ _____ - amendment # _____

_____ - amendment # _____ _____ - amendment # _____

Post Floor Action: (if applicable) {Clerk's Office}

_____ Committee of Conference Report (if signed off by all members. Include any new language proposed by the committee of conference):

Enrolled Bill Amendment(s) 2044 EBA

Governor's Veto Message

All available versions of the bill: {Clerk's Office}

as amended by the senate _____ as amended by the house

final version

Completed Committee Report File Delivered to the Senate Clerk's Office By:

Aaron Jones
Committee Aide

7/21/21
Date

Senate Clerk's Office [Signature]