

Senate Judiciary Committee

Matthew Schelzi 271-3266

HB 431, permitting qualifying patients and designated caregivers to cultivate cannabis for therapeutic use.

Hearing Date: April 20, 2023

Time Opened: 1:16 p.m.

Time Closed: 1:51 p.m.

Members of the Committee Present: Senators Carson, Whitley and Chandley

Members of the Committee Absent : Senators Abbas and Gannon

Bill Analysis: This bill permits qualifying patients and designated caregivers to cultivate cannabis for therapeutic use.

Sponsors:

Rep. W. Thomas

Rep. Toll

Rep. Phinney

Rep. Wheeler

Rep. Cannon

Who supports the bill: In total, **84** individuals signed in, in support of HB 431. The full sign in sheets are available upon request to the Legislative Aide, Matthew Schelzi.

Who opposes the bill: In total, **23** individuals signed in, in opposition to HB 431. The full sign in sheets are available upon request to the Legislative Aide, Matthew Schelzi.

Who is neutral on the bill: The full sign in sheets are available upon request to the Legislative Aide, Matthew Schelzi.

Summary of testimony presented in support:

Representative Wendy Thomas said this bill would permit qualifying patients and designated caregivers to cultivate cannabis for therapeutic use. Cannabis is not covered by insurance, and it can be expensive for patients who are part of vulnerable populations. This bill would enable low income, immobile, or homebound patients to grow their own medical cannabis. Currently, there are barriers to access since there are only seven dispensary locations throughout the state. Certain strains may be discontinued; therefore, Rep. Thomas said home cultivation would be a good option. The New Hampshire Therapeutic Cannabis Program began in 2013, and it has been modified to meet the needs of patients.

Patients would be bound by the guidelines of the Therapeutic Cannabis Program. If cannabis is grown outside, plants cannot be viewed from another private property. Patients would be allowed to grow three mature plants, two immature plants, and 12 seedlings. Patients could grow plants from these seedlings, and Representative Thomas said some dispensaries have offered to provide seedlings. Plants must be kept in a locked and secure location, which would be reported to the state, to prevent unauthorized access. Patients would have access to state labs for the testing of cannabinoids or possible contamination.

Rep. Thomas emphasized that this bill did not mean that every patient in the program would grow their own plants. This bill would not create dealers or suppliers. The program is self-regulating, and participants must sign a contract with stipulations on how much cannabis they can have, where it can be kept, and when it can be used. If conditions are disregarded, a patient can be kicked out of the program or penalized. Rep. Thomas reiterated this bill was a medical program for patients who are very sick. For states that have reasonable safeguards, there have been no problems. In fact, no states have repealed their home cultivation laws.

By allowing home cultivation, therapeutic patients are given financial relief for medication that is not covered by insurance. Rep. Thomas gave examples of what is allowed in other states. In Connecticut, a patient is allowed up to 3 mature and immature plants. In Maine, patients are allowed 5 flowering plants, 12 immature plants, and unlimited seedlings. In Massachusetts, patients are allowed up to 6 plants and no more than 12 plants. In Rhode Island, patients are allowed 12 mature and immature plants. In Vermont, patients are allowed up to 2 mature plants and 7 immature plants. This bill was bipartisan, and Rep. Thomas said it passed the House on the Consent Calendar. Dispensaries support homegrown, and they are willing to roll out courses to support it. The Therapeutic Cannabis Board voted unanimously to support this bill. Rep. Thomas concluded that this program has been alive since 2013, and it has only gotten stronger as they have listened to the needs of patients.

Senator Whitley asked if the Board had participated in the drafting of the bill and the controls within it.

Rep. Thomas deferred the question to former Representative Jerry Knirk.

Matt Simon, on behalf of Prime ATC, stated he was in support of this bill. He believed most patients would not want to grow their own plants. For those who do, however, they should have a legal alternative available to them. All other states in New England have legalized home cultivation for registered patients and adults over 21 years old.

Jerry Knirk, Chair of the Therapeutic Cannabis Medical Oversight Board (TCMOB), said the Board was statutorily charged with overseeing the Therapeutic Cannabis Program. He said cannabis has been demonstrated to be helpful from a therapeutic standpoint for medical conditions. The program has served 13,000 people, and it has provided valuable educational resources. The median age of participants has been between 50 to 70 years old. To enroll in the program, a patient must be certified by a medical provider as having a qualifying condition.

The Board held a listening session, and the most common concerns were affordability of products, accessibility to ATCs, and availability to specific strains. Different strains have different cannabinoids and profiles; thus, they have different effects on symptoms. He felt home cultivation would solve a lot of problems by allowing patients to grow what they need, without having to drive, at a cheaper price. The Board unanimously endorsed the concept of home cultivation; however, they did not get into the wording of the bill. Their concern has been about quality control; therefore, he thought a good feature of the bill was allowing products to be submitted for lab testing. Personally, he felt robust protections were in place to satisfy the concerns of law enforcement. On Page 5, Lines 13 to 18, he disagreed with allowing potentially qualifying patients without a card to participate in home cultivation.

Jim Riddle, policy advisor to the NH Cannabis Association, supported this bill. He said he uses medical cannabis for a debilitating disease, and it made sense to allow patients to grow a few plants for their own use. Patients are already registered and regulated by the state, so there is accountability built in. He said there is no evidence that medical cannabis is diverted to the black market. When an individual can grow their own cannabis, it has a better quality.

Zach Wilson supported HB 431 based on his medical experiences. If he decided to grow three plants, he might produce about 6 total dry ounces of flower at a cost of \$300 in electricity and materials. While it would be about \$50 per ounce, this bill would provide people with options without having to purchase from the commercial market.

Grant Ellis, who is a disabled medical cannabis patient, said he helped to draft medical use laws in Massachusetts. Those who are suffering are among the most vulnerable medical patients. If they do not have access to cannabis, they may turn to more damaging drugs. He believed allowing medical home grow would be key to reducing prices and increasing access to care. There would be no commercial incentive because the bill is limited to three plants. Since prices have not gone down, he urged the Committee to pass the bill.

Heather Brown, Vice Chair of the TCMOB, was in favor of the bill. She noted that patients are concerned about affordability and accessibility. Dispensaries would be given another opportunity to educate the public on therapeutic cannabis and proper cultivation. She believed this bill was good, and patients have proven that they are responsible and trusted. She urged the Committee to pass the bill.

Timothy Egan, Chair of the NH Cannabis Trade Association, said he was in support. The state has struggled with the issue of those addicted to opioids, and he believed cannabis provided an exit opportunity for those patients. This bill was important because patients could be immobile or low income. For medical patients who are struggling, they have a lot of medical costs. The opportunity for them to grow their own medicine, however, would be cost effective and create a sense of control.

Summary of testimony presented in opposition: None.

Neutral Information Presented:

Michael Holt, Administrator of the Therapeutic Cannabis Program at DHHS, said the Department did not have a position on the bill; however, they worked closely with the House to ensure its operational viability. The Department said they could implement the provisions of the bill. He reiterated that the cultivation location must be at a person's residence, and it must be reported to the Department. If it is not reported to the Department, it is unlawfully cultivated cannabis. The bill would allow Alternative Treatment Centers (ATCs) to sell seedlings to patients and caregivers. The bill would allow the one independent testing laboratory in the state to accept products from patients and caregivers for testing of profiles and contamination, which is key to ensuring the quality of products grown. The Department would have the authority to revoke a person's permission to cultivate if rules are violated. He said this bill was important to patients with regards to cost, access, and product availability.

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Date Hearing Report completed: April 24, 2023