

SB 145 - VERSION ADOPTED BY BOTH BODIES

03/21/2019 1004s
05/15/2019 2061EBA

2019 SESSION

19-0856
11/04

SENATE BILL **145**

AN ACT relative to the organization of alternative treatment centers.

SPONSORS: Sen. Kahn, Dist 10; Sen. Cavanaugh, Dist 16; Sen. Dietsch, Dist 9; Sen. Hennessey, Dist 5; Sen. Watters, Dist 4; 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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Nineteen

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
8 qualifying 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

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1 may, on or before December 31, 2019, convert from a voluntary corporation under RSA 292 to either
2 a domestic business corporation organized under RSA 293-A or a limited liability company
3 organized under RSA 304-C in any of the following ways:

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

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

12 (c) By adopting a plan of merger in accordance with RSA 304-C for which the domestic
13 limited liability company shall be the surviving entity, provided that, such merger shall be
14 authorized by a vote of 2/3 of the members of the board of directors at a meeting duly called for the
15 purpose or by unanimous written consent.

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

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

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

28 XXIV. Any alternative treatment center choosing to convert or merge pursuant to this
29 section shall obtain an independent fair market valuation of its total assets as of June 30, 2019.
30 The valuation of the total assets of such alternative treatment center, if positive, shall be
31 distributed to one or more charitable organizations solely for charitable purposes. The director of
32 charitable trusts shall receive a copy of the valuation and may file any objection relating thereto
33 with the court within 60 days. Except as set forth in this section and notwithstanding any other
34 law to the contrary, no portion of the assets of such alternative treatment center after the
35 conversion or merger, as applicable, shall be deemed to be charitable assets.

36 5 Voluntary Corporations; Powers of Corporations; Change of Name; Amending Articles;
37 Conversion and Merger. Amend RSA 292:7 to read as follows:

38 292:7 Change of Name; Amending Articles.

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

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

18 6 New Paragraph; Business Corporations; Conversion; Entity Conversion Authorized. Amend
19 RSA 293-A:9.50 by inserting after paragraph (f) the following new paragraph:

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

25 7 Limited Liability Companies; Statutory Conversion; Statutory Conversions of Other Business
26 Entities. Amend RSA 304-C:149, I to read as follows:

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

33 8 New Paragraph; Limited Liability Companies; Statutory Conversion; Approvals of Statutory
34 Conversion. Amend RSA 304-C:149 by inserting after paragraph VIII the following new paragraph:

35 IX. In the case of the conversion of an alternative treatment center registered under RSA
36 126-X and organized pursuant to RSA 292, such conversion shall be approved by the board of
37 directors in accordance with RSA 126-X:8, XX.

38 9 Effective Date. This act shall take effect upon its passage.