

Governor's Veto Message Regarding SB 409

By the authority vested in me, pursuant to part II, Article 44 of the New Hampshire Constitution, on June 21, 2012, I vetoed SB 409, an act relative to the use of marijuana for medical purposes.

In 2009, I vetoed HB 648, which would have established compassion centers in New Hampshire to cultivate and distribute marijuana for use by persons suffering from serious illness. I acknowledged then and continue to express my personal compassion for those that suffer from debilitating medical conditions who wish to use marijuana to help alleviate their symptoms and the side effects of medical treatment.

I also recognize the considerable work undertaken by the sponsors and committee members of both legislative bodies in trying to address the concerns I raised in my veto message of HB 648 in 2009. While SB 409 takes a different approach regarding how marijuana would be cultivated and distributed than the 2009 legislation, this new legislation will not ensure the limited use of marijuana for medical purposes.

Under this bill, the number of potential marijuana cultivation sites is virtually unlimited. The distribution of marijuana under SB 409 cannot effectively be controlled, with the result being the proliferation of marijuana for unlawful use. Marijuana remains among the most widely abused drugs in this state, and SB 409 will not provide tightly controlled access for medical use.

Law enforcement has serious concerns about preventing the unauthorized use of marijuana under this legislation. SB 409 requires that the cultivation locations be registered with the N.H. Department of Health and Human Services. But the bill restricts the identification of those cultivation locations to law enforcement only in the very narrow instances where an individual has been arrested and claims to be engaged in the medical use of marijuana, or where state and local law enforcement have probable cause that marijuana is being cultivated or used at a particular location and seek confirmation that the cultivation or use is for medical purposes.

While SB 409 requires that marijuana for medical use be cultivated in a "locked and enclosed site," neither state nor local law enforcement is authorized to generally inspect and confirm that these conditions are being maintained. The inspection and oversight of cultivation sites is assigned to the Department of Health and Human Services. The Department has neither the staff nor the statewide presence to adequately regulate the security of marijuana cultivation sites, which are unlimited in number. Effective and continuous oversight of cultivation sites is critical to prevent unlawful access to marijuana.

In this regard, the fiscal note accompanying the bill omits any mention of the personnel and cost for inspection and oversight of the cultivation locations by the Department. I believe that the fiscal impact of this legislation is considerably understated, and I am concerned that the fees required to be charged to administer this program will be far greater than presently identified and may be prohibitive for some qualifying patients.

SB 409 also authorizes marijuana use by minors under the age of 18. At a time of increased use of marijuana by minors across the country, I am very concerned that legislation allowing marijuana use by teenagers even for medical purposes will downplay the perceived risk of use of this drug and will lead to increased adolescent use in New Hampshire. Even with parental consent and supervision, as the bill provides, allowing minors access to marijuana also increases the potential for its unlawful distribution.

SB 409 authorizes a patient to cultivate and transport up to 6 ounces of marijuana at any given time, and to possess for their use up to 2 ounces of marijuana at any point in time. While the bill requires the patient to obtain a written certification from a physician attesting to their qualifying

medical condition before the patient is eligible to obtain a registry card authorizing medicinal marijuana use, the bill does not contemplate any medical guidance by the certifying physician concerning the amount or frequency of marijuana use. This is a significant difference from the prescription and use of any other controlled drug, where the patient is given specific medical guidance on how much of a drug to take and how often to take it.

Given that there are many types of marijuana with different degrees of potency, I am concerned that the absence of restrictions on the amount and frequency of use of marijuana combined with the amounts allowed under the bill for possession could pose significant health dangers.

This legislation also allows the transfer to and use of marijuana by "visiting qualifying patients," who are persons that have a qualifying medical condition but who are not residents of New Hampshire. Oversight and control of the medical use of marijuana by those who are not residents of New Hampshire is unclear in SB 409 and presents challenges for the verification of their status, qualifying conditions, and regulating the amount of marijuana provided to them by a qualifying patient. I do not believe that the bill contains sufficient protections against the potential re-distribution of marijuana by a visiting qualifying patient.

I continue to believe that the most effective manner in which to facilitate the safe and controlled use of marijuana for medical purposes is to distribute the drug like any other controlled substance through a regulated prescription system. I recognize that such a system is unlikely as long as marijuana use for medicinal purposes remains illegal under federal law. As well intentioned as the efforts reflected in SB 409 are, I cannot support establishing a system for the use of medical marijuana that poses risks to the patient, lacks adequate oversight and funding, and risks the proliferation of a serious drug.

For all of these reasons, I am vetoing SB 409.

Respectfully submitted,

John H. Lynch

Governor

Date: June 21, 2012