



SENATE BILL 168: Expand Allowed Medical Uses/Cannabis Extract.

2019-2020 General Assembly

Committee:	Senate Judiciary. If favorable, re-refer to Rules and Operations of the Senate	Date:	March 20, 2019
Introduced by:	Sens. McKissick, Hise	Prepared by:	Bill Patterson
Analysis of:	PCS to First Edition S168-CSTG-6		Committee Co-Counsel

OVERVIEW: *The PCS for Senate Bill 168 would permit the possession and use of cannabis extract by caregivers to treat patients diagnosed with autism, multiple sclerosis, Crohn's disease, and Mitochondrial disease.*

The PCS would change the original bill by:

- *Naming the act "Bethany's Law."*
- *Substituting "cannabis extract" for "hemp extract" in the bill text and title.*
- *Modifying the chemical composition required for an extract to be considered "cannabis extract."*
- *Making a technical correction to the definition of "caregiver."*
- *Providing that one of the new requirements for the contents of a neurologist's statement supporting use of the extract only applies to caregivers who register with DHHS on or after December 1, 2019.*

CURRENT LAW:

The North Carolina Controlled Substances Act (CSA) establishes criminal penalties for the possession of cannabis as a Schedule VI drug.¹ Possession of cannabis in the form of hemp extract is punishable as a Class 3 misdemeanor or higher.² However, the CSA provides an exemption under which a caregiver may lawfully possess and use hemp extract to treat a patient diagnosed with intractable epilepsy in accordance with requirements set forth in the Epilepsy Alternative Treatment Act (EATA).³

"Hemp extract" is defined as an extract from a cannabis plant that is composed of less than 0.9% tetrahydrocannabinol (THC) by weight, is composed of at least 5% cannabidiol by weight; and contains no other psychoactive substance.⁴

"Intractable epilepsy" is defined in the EATA as "a seizure disorder that, as determined by a neurologist, does not respond to three or more treatment options overseen by the neurologist."⁵

¹ G.S. 90-94.

² G.S. 90-95(d)(4).

³ G.S. 90-94.1; Article 5G of Chapter 90 of the General Statutes.

⁴ G.S. 90-94.1(a).

⁵ G.S. 90-113.101(6).

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As used in the hemp extract-related provisions of the CSA and EATA, the term "caregiver" means a North Carolina resident at least 18 years of age registered with the Department of Health and Human Services who is the parent, guardian, or custodian of a patient suffering from intractable epilepsy, and who possesses a written statement dated and signed by a neurologist stating all the following:

- The patient has been examined and is under the care of the neurologist.
- The patient suffers from intractable epilepsy.
- The patient may benefit from treatment with hemp extract.⁶

Under the EATA, the Department of Health and Human Services is required to maintain a database for the registration of caregivers, patients, and neurologists.⁷

BILL ANALYSIS:

Section 1 of the PCS would name this act "Bethany's Law."

Section 2 would:

- Replace all references to "hemp extract" with "cannabis extract" in the "hemp extract" provisions of the CSA.
- Define "cannabis extract" as an extract that is composed of more than .03% and less than .09% THC by weight, is composed of at least .05% cannabinoids other than THC by weight, and contains no other psychoactive substance.
- Expand the existing CSA exemption for this extract to permit a caregiver to possess and use it to treat autism, multiple sclerosis, Crohn's disease, or Mitochondrial disease.
- Require the extract's percentages of cannabinoids other than THC by weight to be included in the certificate of analysis the caregiver is required to possess in close proximity to the extract.

Section 3 would:

- Change the name of the Epilepsy Alternative Treatment Act to the Alternative Treatment Act.
- Replace references in the Act to "hemp extract" with "cannabis extract."
- Expand the Act's stated purpose to include the additional conditions to be treated with cannabis extract.
- Make conforming changes to the General Assembly's findings set forth in the Act.
- Expand the definition of caregiver to include a nurse employed by a home health agency⁸ licensed under the Home Care Agency Licensure Act or other caregiver.
- Modify the requirements for the signed neurologist's statement that caregivers must have in their possession by:
 - Permitting the statement to state that the patient has been examined and is under the care of "a physician who has consulted with the neurologist about the patient's condition" in lieu

⁶ G.S. 90-94.1(b)(3); G.S. 90-113.101(1).

⁷ G.S. 90-113.102.

⁸ Under the Home Care Agency Licensure Act, a "home health agency" is "a home care agency which is certified to receive Medicare and Medicaid reimbursement for providing nursing care, therapy, medical social services, and home health aide services on a part time, intermittent basis as set out in G.S. 131E-176(12), and is thereby also subject to Article 9 of Chapter 131E." G.S. 131E-136(4).

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of stating that the patient has been examined and is under the care of the neurologist signing the statement.

- Including the new conditions from which a patient could be said to suffer in that portion of the neurologist's statement.
- Require the statement to recite that the patient's condition has not responded to three or more treatment options overseen by the neurologist or by a physician with whom the neurologist has consulted about the patient's condition.
- Rename the Intractable Epilepsy Alternative Treatment database maintained by DHHS as the Alternative Treatment database and require it to include the name, address and hospital affiliation of any physician with whom the neurologist consulted in recommending cannabis extract as an alternative treatment, which information would be provided to DHHS by the caregiver.
- Repeal the definition of "intractable epilepsy" and add a definition of "physician."
- Make conforming changes to expand the conditions for the treatment of which a caregiver may use cannabis extract to include autism, multiple sclerosis, Crohn's disease, or Mitochondrial disease.

EFFECTIVE DATE: The act would become effective December 1, 2019. The new requirement that a neurologist's statement recite that the patient has not responded to three or more treatment options would apply to caregivers who register with DHHS on or after December 1, 2019.

* *Jessica Boney, co-counsel to Senate Health Committee, substantially contributed to this summary.*