

**NH Department of Health and Human Services
Division of Public Health Services
Therapeutic Cannabis Program**

Program Information for Medical Providers

Program Website: <https://www.dhhs.nh.gov/tcp>

Applications and Forms: <https://www.dhhs.nh.gov/tcp-forms>

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Provider Participation

- Any physician (MD/DO), physician assistant (PA), or advanced practice registered nurse licensed in NH is *permitted* by state law to certify their patients for the Therapeutic Cannabis Program.
- State law does not *require* any medical provider to certify their patients for the Program.
- Medical providers who choose to certify their patients for the Program are not required to register with the State, either with the Program or their licensing board, as a “marijuana doctor.”
- The Program does not maintain a public list of medical providers who have certified their patients, and the Program will not refer patients to any provider.
- There are no education, certification, or licensing requirements for medical providers to certify their patients for the Program.
- In order to be eligible to certify a patient for the Program, a medical provider must:
 - In New Hampshire, be a physician (MD or DO), physician assistant (PA), or an advanced practice registered nurse (APRN);
 - In Maine, Massachusetts, or Vermont, be a physician or an APRN;
 - Have an active license in good standing from the NH Board of Medicine or the NH Board of Nursing, or from the appropriate regulatory entity in the states of Maine, Massachusetts, or Vermont*; and
 - Have an active registration from the US Drug Enforcement Agency to prescribe controlled substances to humans.

*Certifying medical providers in Maine, Massachusetts, and Vermont must be “primarily responsible for the patient’s care related to his or her qualifying medical condition.” This means that a border-state provider must be the patient’s primary care provider or a specialist who is actively treating the patient’s qualifying medical condition.

Provider Protections

State law does not require a medical provider to “prescribe” cannabis or “recommend” its use. Rather, state law requires a medical provider to certify that a patient has a qualifying medical condition established in law.

The Written Certification form is not intended to be a prescription or medical recommendation for the therapeutic use of cannabis.

Pursuant to RSA 126-X:2, VIII, “a provider shall not be subject to arrest by state or local law enforcement, prosecution or penalty under state or municipal law, or denied any right or privilege, including but not limited to a civil penalty or disciplinary action by the New Hampshire board of medicine or any other occupational or professional licensing entity, solely for providing written certifications, provided that nothing shall prevent a professional licensing entity from sanctioning a provider for failing to properly evaluate a patient’s medical condition.”

Provider-Patient Relationship

A provider must certify on the Written Certification that there is a “provider-patient relationship.” A provider-patient relationship means a medical relationship between a licensed provider and a patient, during which the provider has conducted a “full assessment” of the patient’s medical history and current medical condition.

A full assessment, pursuant to administrative rule He-C 401.06(b)(4), includes the following:

- An in-person physical examination of the patient, which shall not be via telemedicine, except that telemedicine is permitted for follow-up care and for recertifications (renewals) by the same certifying provider;
- A medical history of the patient, including a prescription history;
- A review of laboratory testing, imaging, and other relevant tests;
- Appropriate consultations;
- A documented diagnosis of the patient’s current medical condition; and
- The development or documentation of a treatment plan for the patient appropriate for the provider’s specialty.

A certifying provider is required to provide the following education and counseling:

- *All patients:* Explain to the patient the potential health effects of the use of cannabis.
- *Minor patients:* Explain to the patient’s custodial parent or legal guardian both the potential health effects and the potential risks and benefits of the use of cannabis.
- *Women of child-bearing age:* Counsel the patient (and the custodial parent or legal guardian, if a minor) about the risks of cannabis use during pregnancy and while breastfeeding.
- *Adolescent 25 years of age or less:* Counsel the patient (and the custodial parent or legal guardian, if a minor) about the risks of cannabis use in adolescence.

The certifying provider is required to follow their patients clinically, at appropriate intervals at the discretion of the provider, to provide follow-up care and treatment for their qualifying medical condition, including but not limited to physical examinations, to determine the health effects of cannabis use for treating the patient’s qualifying medical condition for which the Written Certification was issued.

Qualifying Medical Conditions

The list of qualifying medical conditions for the therapeutic use of cannabis is established in state statute, as follows:

Stand-Alone Conditions

- Moderate to severe chronic pain
- Severe pain that has not responded to previously prescribed medication or surgical measures or for which other treatment options produced serious side effects
- Moderate or severe post-traumatic stress disorder
- Autism spectrum disorder
 - For patients under age 21, certification of this condition requires the provider to consult with a certified provider of child and/or adolescent psychiatry, developmental pediatrics, or pediatric neurology who has confirmed that the autism spectrum disorder has not responded to previously prescribed medication or for which other treatment options produced serious side effects, and who supports certification for the therapeutic use of cannabis
- Opioid use disorder, with associated symptoms of cravings or withdrawal
 - Certification of this condition may only be done by a provider who is board-certified in addiction medicine or addiction psychiatry, and is actively treating the patient for opioid use disorder

Combination of a Qualifying Diagnosis and a Qualifying Symptom

Any combination of a qualifying diagnosis from (1) AND a qualifying symptom or side effect from (2):

- (1) Cancer; glaucoma; positive status for human immunodeficiency virus; acquired immune deficiency syndrome; hepatitis C; amyotrophic lateral sclerosis; muscular dystrophy; Crohn’s disease; multiple sclerosis; chronic pancreatitis; spinal cord injury or disease; traumatic brain injury; epilepsy; lupus; Parkinson’s disease; Alzheimer’s disease; ulcerative colitis; Ehlers-Danlos syndrome; or one or more injuries or conditions that has resulted in one or more qualifying symptoms under (2); AND
- (2) Elevated intraocular pressure; cachexia; chemotherapy-induced anorexia; wasting syndrome; agitation of Alzheimer’s disease; severe pain that has not responded to previously prescribed medication or surgical measures or for which other treatment options produced serious side effects; constant or severe nausea; moderate to severe vomiting; seizures; severe, persistent muscle spasms; or moderate to severe insomnia.

Requirements for Patients who Are Minors

Minors (under age 18) are permitted by law to engage in the therapeutic use of cannabis, and medical providers are permitted to issue Written Certifications to minors, under the following conditions:

- The Program must receive two Written Certifications for the minor patient, from two different medical providers. One of the Written Certifications must be issued by a pediatrician.
- Both medical providers must have a provider-patient relationship with the minor patient.
- The minor patient's custodial parent or legal guardian who is responsible for the health care decisions of the minor must be approved as the minor patient's designated caregiver.

Provider Recommendations/Instructions for a Patient's Therapeutic Use of Cannabis

If a certifying medical provider has recommendations or instructions for a patient's therapeutic use of cannabis, such as the type of cannabis to be dispensed or the route of cannabis administration, the provider may send such recommendations or instructions to the patient's Alternative Treatment Center (ATC) dispensary.

When dispensing cannabis to that patient, the ATC is required to follow any recommendations or instructions received by that patient's certifying medical provider.

The Program will facilitate the secure transfer of any recommendations or instructions to the ATCs at the provider's request.

Maintenance and Release of Records

Certifying providers must maintain medical records for all patients for whom they have issued a Written Certification, which support the certification of a qualifying medical condition.

On the Patient Application, the patient must sign a release which authorizes the release of medical information by the certifying medical provider to the Program if the Program determines that further information about the patient's qualifying medical condition or Written Certification is required.

For verification purposes, the Program may request, and the certifying provider must supply, a copy of such records which support the certification of a patient's qualifying medical condition.

Written Certification Form Instructions

In addition to the instructions on the Written Certification form, please note the following:

- Give the original, completed Written Certification form to the patient to submit to the Program, and retain a copy for your records. Do not send the completed form directly to the Program; it should accompany the patient's application.
- The Program will not accept a Written Certification if it is signed/dated more than 6 months prior to the date that the patient submits the application to the Program. In such cases, the Program will return the Written Certification to the provider with instructions to re-date the certification.
- The Program will notify the certifying provider when the patient's application has been approved, including the expiration date of the patient's Registry ID Card.

Duration of a Written Certification, Extensions and Renewals

A certifying provider may issue a Written Certification for any duration, up to 3 years. The standard duration of a Written Certification and Registry ID Card is one year.

Any Written Certification that has been issued for less than 3 years may be "extended" by the same certifying provider who issued the original Written Certification.

A Written Certification may be extended more than once, but the total duration of a Written Certification, including any extensions, shall not exceed 3 years, after which the patient must renew their Registry ID Card by submitting a new Patient Application, and new Written Certification, and an application fee.

Written Certification Extension Requirements

- The "Written Certification Extension" form must be signed by the same certifying medical provider that signed the patient's original Written Certification.
- The "Written Certification Extension" form must be signed and dated no later than the expiration date of the patient's current Registry ID Card.

- The Program allows a limited 30-day grace period after the patient's current Registry ID Card has expired to receive this signed form.

There are no exceptions to these extension requirements. If these requirements are not met, the patient will need to renew their card by submitting a new Written Certification, a new Patient Application, and the application fee.

Withdrawal of a Written Certification

A certifying provider may withdraw a previously issued Written Certification, for cause. Please submit a "Written Certification Withdrawal" form to the Program at any time if, in your opinion, your patient should no longer be certified for the therapeutic use of cannabis. The patient's card will be revoked or voided, as appropriate.

Provider Restrictions

- A provider issuing a Written Certification shall not delegate to any other health care professional or any other person, authority to diagnose a patient as having a qualifying medical condition.
- A provider issuing a Written Certification shall not issue a Written Certification for him or herself or for the provider's immediate family members.
- A provider shall not:
 - Offer a discount or other thing of value to a patient who uses or agrees to use a particular ATC;
 - Examine a patient in relation to issuing a Written Certification at a location where cannabis is sold or distributed; or
 - Hold any economic interest in an ATC, including but not limited to employment at an ATC, if the provider issues Written Certifications to patients.

Referrals to Regulatory Boards

- The Program is required by law to refer to the NH Board of Medicine, the NH Board of Nursing, or the appropriate regulatory entity in Maine, Massachusetts, or Vermont, any concerns it has regarding provider conduct.
- These regulatory entities may direct the Program to prohibit a provider's participation in the Program if the regulatory entity takes disciplinary action against a provider regarding the provider's involvement in the NH Therapeutic Cannabis Program or in their respective state.

Confidentiality

The Program will maintain the confidentiality of all information about applicants, patients, caregivers, and certifying medical providers that is provided to the Program. The Program will not maintain a public list or publicly release the names of medical providers who have issued, or have expressed willingness to issue, Written Certifications to patients.