

RULEMAKING NOTICE FORM

Notice Number 2017-162

Rule Number He-C 402

1. Agency Name & Address:
**Department of Health & Human Services
Therapeutic Cannabis Program
129 Pleasant St.
Concord, NH 03301**

2. RSA Authority: RSA 126-X:6, III
3. Federal Authority: _____
4. Type of Action:
Adoption _____
Amendment _____
Repeal _____
Readoption X
Readoption w/amendment X

5. Short Title: **Therapeutic Cannabis Program – Alternative Treatment Centers**

6. (a) Summary of what the rule says and of any proposed amendments:

He-C 402 sets forth the requirements necessary to establish, operate, and maintain an alternative treatment center (ATC) for the purposes of cultivating, processing, packaging, labeling, and dispensing therapeutic cannabis to qualifying patients or their designated caregivers. These requirements include the following: fees; application and renewal; organizational or service changes; policies and procedures; operations; transportation of cannabis; inventory control; cultivation, processing, testing, storage, packaging and labeling, dispensing, and disposal of cannabis; production of cannabis-infused products (CIP); sanitation; education; advertising restrictions; security; confidentiality; requirements for inspections, plans of correction, and enforcement actions; personnel; record keeping; and requirements for fire safety and emergency preparedness.

The proposal makes the following changes to He-C 402:

Definitions (He-C 402.03)

- Updates and adds various terms for clarity, including: “cannabis waste,” “corporate officer,” “executive employee,” and “limited access area.”
- Updates “provider” based on changes to the statutory definition.
- Two cannabinoids have been added to the definition of “cannabinoid profile”: tetrahydrocannabinolic acid (THCA) and cannabidiolic acid (CBDA).

Fees (He-C 402.04)

- Removes the transitional fee structure effective 1/1/17 that accounted for fees through state fiscal year 2017.
- Removes the fee for more than 3 inspections per state fiscal year.

Registration and Renewal (He-C 402.05 & He-C 402.06)

- Clarifies registration application elements and the renewal requirements.
- Removes transitional language regarding the registration period.

Prohibitions (He-C 402.08)

- Clarifies that an ATC shall not be prohibited from providing information to potentially qualifying patients about providers in the community who may issue written certifications.

Policy and Procedures (He-C 402.09 & various other rules)

Adds requirements for new policies:

- Use and possession of therapeutic cannabis by ATC agents who are qualifying patients.
- ATC agent participation at independently sponsored events on the subject of therapeutic cannabis.
- Annual review and updating of policies and procedures.
- Exceptions to requirement to have 2 agents at the registered premises during all hours of operation.
- Allowance for a guest, who is not a designated caregiver, to accompany a qualifying patient while in the dispensing area.
- Quality assurance of cannabis and CIP, requiring regular and periodic testing of finished, saleable product.
- A policy designed to increase the participation of qualifying patients in ATC activities related to voluntary patient feedback on therapeutic effectiveness of cannabis and program satisfaction.

Updates existing policy requirements:

- Strains of cannabis and CIP shall be categorized by high and low tetrahydrocannabinol (THC) and cannabidiol (CBD) concentrations.
- Brand names or commercial names of cannabis strains shall not be used in any public manner, except at the dispensary or in direct communication with patients or caregivers.
- Staffing plan shall meet the needs of qualifying patients.
- Patient affordability plans shall not include an administrative fee for determining hardship.

Operational Requirements (He-C 402.10)

Clarifies requirements regarding 2 agents being present at the registered premises during all hours of operation:

- Applicable during business hours and operational hours.
- Establishes exceptions under certain circumstances.
- Requires a written policy.

Updates requirements for the annual report:

- Changes submission deadline of the report from October 1 to August 1, to align with the registration period and the state fiscal year.
- Clarifies report requirements regarding categorization of cannabis strains by cannabinoid profile (eg, high and low THC/CBD strains), and administering a patient satisfaction survey.
- Adds requirement to describe the efforts made towards the ATC's mission as a charitable trust for the benefit of qualifying patients.

Transportation of Cannabis (He-C 402.11)

Allows cannabis to be transported by one ATC employee, removes requirement that the transporting agent be a technician, and requires the vehicle used for transport to be registered and inspected.

Inventory (He-C 402.13)

Establishes that the amount of usable cannabis contained in cannabis-infused products be based on the concentration of total active cannabinoids—as listed in the definition of “cannabinoid profile” in He-C 402.03(j)—contained in the cannabis concentrate used to produce the CIP, and not by weight of the cannabis used to produce such concentrate.

- Proposed equivalency ratio: 250 mg of total active cannabinoid = 1 gram of usable cannabis.

Testing (He-C 402.15)

- Updates testing requirements for cannabis concentrates by removing redundant testing for contaminants. (Note: All cannabis flower used to produce the concentrate are required to be tested for contaminants. Concentrates are still tested for residual solvents and cannabinoid profile).
- Clarifies that pesticide testing results shall be sent to the Department, not the ATC (to preserve the integrity of the chemicals being tested for).

Packaging and Labeling (He-C 402.19)

- Clarifies that all cannabis is to be packaged, including application of a tamper-resistant seal, at the cultivation location, and not at the dispensing location.
- Adds requirement for dosing information on labels for cannabis-infused products.

Education (He-C 402.21)

- Adds requirement for ATCs to administer intake and periodic efficacy and use surveys by patients.
- Adds requirement for ATCs to engage qualifying patients' certifying providers about their patients' therapeutic use of cannabis, subject to each patients' consent.

Cannabis Waste Disposal (He-C 402.22)

- Clarifies that cannabis waste shall be processed/disposed of at the cultivation location, not the dispensing location.
- Removes the requirement that certain cannabis waste be ground and made unrecognizable (stems, stalks, and roots).
- Removes the requirement that the roots and/or rootball of the cannabis plant be included in any record of inventory weight.

Advertising Restrictions (He-C 402.33)

- Clarifies the permitted activities under the rule's advertising restrictions, including the use of social media sites and electronic newsletters, and that educational material and activities and outreach efforts to providers, community leaders, and state and local officials for educational purposes shall be permitted.
- Adds the requirement that permitted material and activities shall not be directly targeted to minors or to persons who are under age 26 who are not qualifying patients or designated caregivers.

Security (He-C 402.24)

Regarding access to an ATC:

- Allows a qualifying patient to be accompanied by another person, who is not a designated caregiver or another qualifying patient, while in the dispensing area of the ATC, under certain restrictions, and in accordance with ATC policy.
- Clarifies that a "vendor" or "contractor" means a person who is performing temporary, specific activities like construction, maintenance, or inspection.

Enforcement Actions (He-C 402.30)

- Adds a new fine of \$500 for failure to pay the annual registration fee within 30 days of the Department's notice.
- Clarifies that using a chemical that is not permitted to be applied to cannabis, but which may not be specifically listed as a prohibited chemical, is subject to a fine of \$2000.

Personnel (He-C 402.31)

- Clarifies that an administrator shall be an "on-site" administrator.
- Clarifies that if an ATC has separate cultivation and dispensary locations, the ATC need employ only one administrator responsible for the operations of both locations.
- Clarifies, per statute, that the Department receive information related to felony convictions only, and not an ATC agent's entire criminal history record.
- Removes the requirement for 8 hours of annual training, and instead requires such training to be subject to ATC policy. Clarifies documentation requirements of such training (in He-C 402.32).
- Clarifies that independent contractors working at the ATC shall be considered employees for the purposes of these rules regardless of their status as "contractors."

Records (He-C 402.32)

Clarifies the requirements regarding the transfer of qualifying patient dispensing records when a patient transfers between ATCs.

Prohibited Chemicals (He-C 402.34)

Adds three chemicals to the list of prohibited chemicals: abamectin, imidacloprid, and myclobutanil.

6. (b) Brief description of the groups affected:

The three operators of New Hampshire’s Alternative Treatment Centers are affected by this proposal, as are the qualifying patients and designated caregivers they serve.

6. (c) Specific section or sections of state statute or federal statute or regulation which the rule is intended to implement:

Rule	RSA Implemented
He-C 402.01 – 402.03	RSA 126-X
He-C 402.04	RSA 126-X:6, III(a)(14); RSA 126-X:7, IV(a); RSA 126-X:7, V
He-C 402.05	RSA 126-X:7, IV(a); RSA 126-X:7, IX
He-C 402.06	RSA 126-X:6, III(a)(1); RSA 126-X:7, V; RSA 126-X:7, IX
He-C 402.07	RSA 126-X:6, III(a)(2)
He-C 402.08	RSA 126-X:3
He-C 402.09	RSA 126-X:6, III(a)(2)
He-C 402.10	RSA 126-X:6, III(a)(2)
He-C 402.11	RSA 126-X:2, IX(a)-(b); RSA 126-X:8, XV(b); RSA 126-X:8, XIV
He-C 402.12	RSA 126-X:8, XV(a)
He-C 402.13	RSA 126-X:8, VIII
He-C 402.14	RSA 126-X:7, IV(a)(8); RSA 126-X:8, X, XV(c)
He-C 402.15	RSA 126-X:6, III(a)(5); RSA 126-X:7, IV(a)(9), IV(c)(5)
He-C 402.15(q)	RSA 126-X:2, XV
He-C 402.16	RSA 126-X:1, III, XV
He-C 402.17	RSA 126-X:6, III(a)(5), III(b)
He-C 402.18	RSA 126-X:6, III(a)(5)
He-C 402.19	RSA 126-X:6, III(a)(9); RSA 126-X:8, XIV(b); RSA 126-X:8, XVI(a)
He-C 402.20	RSA 126-X:8, VII(b); RSA 126-X:8, XIII
He-C 402.21	RSA 126-X:8, XVI(b)-(c)
He-C 402.22	RSA 126-X:8, VII(a)
He-C 402.23	RSA 126-X:6, III(a)(12)
He-C 402.24	RSA 126-X:6, III(a)(3); RSA 126-X:7, IV(a)(5), (c)(7); RSA 126-X:8, III
He-C 402.25	RSA 126-X:6, III(b); RSA 126-X:7, IV(c)(6), IX; RSA 126-X:8, XVI(b)
He-C 402.26	RSA 541-A:22, IV
He-C 402.27	RSA 126-X:6, III(a)(2), (a)(11)
He-C 402.28	RSA 126-X:6, III(a)(iii); RSA 126-X:7, IX
He-C 402.29	RSA 126-X:6, III(a)(2)
He-C 402.30	RSA 126-X:6, III(a)(2), (a)(10); RSA 126-X:7, VII-VIII
He-C 402.31	RSA 126-X:6, III(a)(8); RSA 126-X:8, IV, V, XVII
He-C 402.32	RSA 126-X:7, IV(a)(13), IX; RSA 126-X:8, VI-VII; RSA 126-X:8, XVII(c)
He-C 402.33	RSA 126-X:6, III(a)(2), (a)(6)
He-C 402.34	RSA 126-X:7, IV(a)(9), IV(c)(5)

7. Contact person for copies and questions including requests to accommodate persons with disabilities:

Name:	Michael Holt	Title:	Rules Coordinator
Address:	Dept. of Health and Human Services Administrative Rules Unit 129 Pleasant St. Concord, NH 03301	Phone #:	271-9234
		Fax#:	271-5590
		E-mail:	michael.holt@dhhs.state.nh.us

TTY/TDD Access: Relay NH 1-800-735-2964 or dial 711 (in NH)

The proposed rules may be viewed and downloaded at:
<http://www.dhhs.nh.gov/oos/aru/comment.htm>

8. Deadline for submission of materials in writing or, if practicable for the agency, in the electronic format specified: **Friday, December 29, 2017**

Fax

E-mail

Other format (specify):

9. Public hearing scheduled for:

Date and Time: **Thursday, December 21, 2017 at 3:30 PM**

Place: **DHHS Brown Bldg., Auditorium, 129 Pleasant St., Concord, NH**

10. Fiscal Impact Statement (Prepared by Legislative Budget Assistant)

FIS # 17:159, dated 11/17/17

1. Comparison of the costs of the proposed rule(s) to the existing rule(s):

When compared to the existing rule, the proposed rule may benefit state citizens and have an indeterminable impact on independently-owned businesses, to the extent that those independently-owned businesses are alternative treatment centers governed by the rule.

2. Cite the Federal mandate. Identify the impact on state funds:

No federal mandate, no impact on state funds.

3. Cost and benefits of the proposed rule(s):

A. To State general or State special funds:

Pursuant to RSA 126-X:6, II(a), the fee structure established by the Department for registry identification cards and alternative treatment centers (ATC) shall generate sufficient revenues sufficient to offset all Department expenses of implementing and administering RSA 126-X. Accordingly, there is no net cost or benefit to the state general fund as a result of the fee and fine schedule changes contained in the proposed rule.

B. To State citizens and political subdivisions:

The proposed rule would allow a qualifying patient to be accompanied by a guest who is not a designated caregiver while in the dispensing area of the ATC. This change may result in a benefit to state citizens, to the extent that such individuals would otherwise have chosen to become designated caregivers. The direct cost of applying for and becoming a designated caregiver is approximately \$100, including the application fee and the cost of a criminal background check.

C. To independently owned businesses:

Independently owned businesses in New Hampshire (i.e., the three entities operating the four ATCs in the state) will experience the following costs and benefits:

- Removing the fee for more than 3 state inspections per state fiscal year will afford ATCs an indeterminable benefit to the extent that more than 3 inspections per state fiscal year would be required.
- Requirements for new and updated policies may incur an indeterminable one-time administrative cost to ATCs to develop such policies.
- To the extent that an ATC's patient affordability plan involves an administrative fee for determining hardship, that ATC will incur an indeterminable cost due to the requirement that imposing such a fee is prohibited.
- Implementing a quality assurance policy for the regular and periodic testing of finished, saleable cannabis and CIP will incur a cost to ATCs to the extent that such products are tested.

- Allowing exceptions to the rule requiring the presence of 2 ATC agents at the registered premises during all hours of operation may afford a benefit to ATCs to the extent that ATCs formerly would incur additional payroll costs for having 2 agents present.
- Allowing cannabis to be transported by one ATC employee will have an indeterminable benefit to ATCs relative to increased operational efficiency of the ATC related to staffing and potentially to payroll costs.
- To the extent that CIP labels do not include dosing information related to the amount of THC in a product, requiring such information may incur an indeterminable cost to ATCs to add the information to the labels.
- Allowing some cannabis waste not to be ground up prior to disposal may afford ATCs an indeterminable benefit with regard to staff time and the cost of grinding machinery.
- The addition of two new fines will incur a cost to ATCs to the extent that they are non-compliant with the underlying rules.

11. Statement Relative to Part I, Article 28-a of the N.H. Constitution:

The proposed rule modifies an existing program or responsibility, but does not mandate any fees, duties or expenditures on the political subdivisions of the state, and therefore does not violate Part I, Article 28-a of the N.H. Constitution.

CHAPTER He-C 400 THERAPEUTIC CANNABIS PROGRAM

PART He-C 402 ALTERNATIVE TREATMENT CENTERS

Readopt He-C 402.01 and He-C 402.02, effective 11/25/14 (Document #10731), to read as follows:

He-C 402.01 Purpose. The purpose of this part is to set forth the registration requirements for alternative treatment centers (ATCs) pursuant to RSA 126-X.

He-C 402.02 Scope. This part shall relate to the application, registration, and operation of ATCs and related matters pursuant to RSA 126-X.

Readopt with amendment He-C 402.03, effective 11/25/14 (Document #10731), as amended effective 10/23/15 (Document # 10961), to read as follows:He-C 402.03 Definitions.

(a) “Administrative remedy” means an action imposed upon an ATC in response to non-compliance with RSA 126-X or He-C 402.

(b) “Administrator” means the individual appointed by the ATC to be responsible for all aspects of the daily operation of the registered premises.

(c) “Advertingement” means all representations disseminated in any manner or by any means, other than by labeling or as allowed in He-C 402.23, for the purpose of inducing, or which are likely to induce, directly or indirectly, the purchase of cannabis or cannabis-infused products (CIPs).

(d) “Alternative treatment center (ATC)” means “alternative treatment center” as defined in RSA 126-X:1, I, namely, “a not-for-profit entity registered under RSA 126-X:7 that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, sells, supplies, and dispenses cannabis, and related supplies and educational materials, to qualifying patients, designated caregivers and ATCs.” For the purpose of this definition, “not-for-profit” means a corporation that is registered with the NH secretary of state under RSA 292 and is a charitable trust pursuant to RSA 7:19 et seq for the benefit of qualifying patients.

(e) “Applicant” means a not-for-profit corporation seeking a registration to operate an ATC pursuant to RSA 126-X.

(f) “Area of noncompliance” means any action, failure to act, or other set of circumstances that causes an ATC to be out of compliance with RSA 126-X, He-C 402, or other state law or local ordinance.

~~(g)~~ (g) “ATC agent (agent)” means “alternative treatment center agent” as defined in RSA 126-X:1, II, namely, “a principal officer, board member, employee, manager, or volunteer of an alternative treatment center who is 21 years of age or older and has not been convicted of a felony or any felony drug-related offense.” This term includes executive employees and corporate officers.

~~(g)~~ (h) “ATC technician (technician)” means an employee of the ATC who has been trained to dispense cannabis to qualifying patients and their designated caregivers.

~~(h)~~ (i) “Batch number” means any distinct group of numbers, letters, or symbols, or any combination thereof, assigned to a specific harvest batch of cannabis or a specific batch of cannabis concentrate.

~~(j)~~(j) “Cannabinoid profile” means the concentration, measured in percent by weight or milligrams per gram or ounce, of tetrahydrocannabinol (THC), tetrahydrocannabinolic acid (THCA), tetrahydrocannabivarin (THCV), cannabichromene (CBC), cannabidiol (CBD), cannabidiolic acid (CBDA), cannabidivarin (CBDV), cannabigerol (CBG), and cannabinal (CBN) contained in the cannabis sample to be tested or saleable cannabis product.

~~(k)~~(k) “Cannabis” means “cannabis” as defined in RSA 126-X:1, III, namely, “all parts of any plant of the Cannabis genus of plants, whether growing or not; the seeds thereof; the resin extracted from any part of such plant; and every compound, salt, derivative, mixture, or preparation of such plant, its seeds, or resin. Such term shall not include the mature stalks of such plants, fiber produced from such stalks, oil, or cake made from the seeds of such plants, any other compound, salt, derivative, mixture, or preparation of such mature stalks (except the resin extracted therefrom), fiber, oil or cake, or the sterilized seeds of such plants which are incapable of germination.”

~~(l)~~(l) “Cannabis concentrate” means any form of cannabinoid extracted from usable cannabis plant material using an extraction method, such as water, food, carbon dioxide, alcohol, or other chemical solvent as allowed by He-C 402.16(j)(1)c.

(m) “Cannabis waste” means:

- (1) The seeds, stalks, and roots of the cannabis plant;
- (2) Any usable or potentially usable cannabis, cannabis concentrate, or cannabis-infused product that is found to contain contaminants or that is otherwise recalled; and
- (3) Any usable cannabis or cannabis-infused product that is returned to the ATC for whatever reason.

~~(n)~~(n) “Cannabis-infused product (CIP)” means a product infused with cannabis that is intended for use or consumption, other than by smoking, including but not limited to edible products, ointments, aerosols, oils, and tinctures. These products, when created or sold by an ATC, shall not be considered a food or a drug. For the purpose of this definition, the term “smoking” shall not include vaporization.

~~(o)~~(o) “Child-resistant” means packaging that is:

- (1) Designed or constructed to be significantly difficult for children under 5 years of age to open and not difficult for adults to use properly;
- (2) Opaque so that the product cannot be seen from outside the packaging; and
- (3) Closable for any product intended for more than a single use or containing multiple servings.

~~(p)~~(p) “Commissioner” means the commissioner of the New Hampshire department of health and human services, or his or her designee.

~~(q)~~(q) “Compliance monitoring” means an on-site inspection of the registered premises by the department to monitor compliance with RSA 126-X or He-C 402, investigate a complaint, or verify the implementation of a plan of correction which addresses an area of noncompliance, a deficiency that has the potential to negatively impact the health or safety of ATC agents, qualifying patients, designated caregivers, or the general public, or a deficiency that is related to the theft or diversion of cannabis.

~~(r)~~ “Container” means the sealed package in which cannabis or CIP is placed for dispensing and which has been labeled according to the requirements set forth in He-C 402.19.

~~(s)~~ “Contaminant” means mold, fungus, bacterial diseases, rot, pests, non-organic pesticides, mildew, mycotoxins, heavy metals, and any chemical listed in He-C 402.34, Table 402.3.

~~(t)~~ “Corporate officer” means an individual who is employed, appointed, or otherwise engaged by an ATC or an ATC’s affiliated entities who has direct or indirect authority over, responsibility for, or impact on the ATC, its management or operations, or its policies.

~~(u)~~ “Cultivation” means a method or process of growing cannabis regardless of whether the growing medium is soil, soil-based, hydroponic, aeroponic, aquaponic, or other method.

~~(v)~~ “Cultivation location” means a locked, indoor, and enclosed site under the control of an ATC where cannabis is cultivated, and which is secured with one or more locks or other security devices in accordance with RSA 126-X and He-C 402.24, and which can be at a separate location from the dispensing portion of the ATC.

~~(w)~~ “Days” means calendar days unless otherwise specified in the rule.

~~(u)~~ “Deficiency” means any action, failure to act, or other set of circumstances that causes an ATC to be out of compliance with RSA 126-X, He-C 402, or other state law or local ordinance.

~~(x)~~ “Department” means the New Hampshire department of health and human services.

~~(y)~~ “Designated caregiver” means “designated caregiver” as defined in RSA 126-X:1, VI, namely, “an individual who:

- (a) Is at least 21 years of age;
- (b) Has agreed to assist with one or more (not to exceed 5) qualifying patient’s therapeutic use of cannabis, except if the qualifying patient and designated caregiver each live greater than 50 miles from the nearest ATC, in which case the designated caregiver may assist with the therapeutic use of cannabis for up to 9 qualifying patients;
- (c) Has never been convicted of a felony or any felony drug-related offense; and
- (d) Possesses a valid registry identification card issued pursuant to RSA 126-X:4.”

~~(z)~~ “Directed plan of correction” means a plan developed and written by the department that specifies the actions the ATC shall take to correct identified deficiencies.

~~(aa)~~ “Dispense” means to distribute, give away, or sell one or more doses of cannabis or CIP to a qualifying patient or designated caregiver to be administered or taken at a different location than the ATC.

~~(ab)~~ “Dispensing error” means an error related to the dispensing of cannabis including, but not limited to, dispensing a quantity of cannabis that exceeds the amount a qualifying patient is allowed to obtain in a 10-day period, dispensing cannabis to a person who has not ~~designated-registered with~~ the ATC, or dispensing cannabis that is mislabeled.

~~(aa)~~(ac) “Diversion” means the obtaining or transferring of cannabis from a legal possession or use to an illegal use or to a person not authorized to use or obtain cannabis under RSA 126-X or He-C 401 or 402.

~~(ab)~~(ad) “Duress alarm” means a silent security alarm system signal generated by the entry of a designated code into an arming station in order to signal that the alarm user is being forced to turn off the system.

~~(ae)~~(ae) “Emergency plan” means a document outlining the responsibilities of ATC personnel in an emergency.

~~(ad)~~(af) “Executive employee” means an individual who is responsible for the operations of the ATC, such as the chief executive officer (CEO) or executive director (ED), chief operations officer (COO) or director of operations, chief financial officer (CFO) or director of finance, administrator, director of human resources, chief medical officer, chief security officer, director of production or cultivation, director of retail or dispensing, and any other individual involved in responsible for the oversight and business management of one or more of the ATC operations or primary functions.

~~(ae)~~(ag) “Geographic area” means an area of the state of New Hampshire designated for use in the request for application process to encourage the geographic separation of ATCs throughout the state, but which does not limit in any way the choice of a qualifying patient to register with any ATC, and includes:

- (1) “Geographic area 1” means Belknap, Rockingham, and Strafford counties;
- (2) “Geographic area 2” means Hillsborough and Merrimack counties;
- (3) “Geographic area 3” means Cheshire and Sullivan counties, and the town of Hanover and the city of Lebanon in Grafton County; and
- (4) “Geographic area 4” means Carroll, Coos, and Grafton counties, not including the town of Hanover and the city of Lebanon in Grafton County.

~~(af)~~(ah) “Harvest batch” means a specifically identified quantity of processed cannabis, every portion or package of which is uniform in strain, cultivated using the same herbicides, pesticides, and fungicides, and harvested at the same time.

~~(ag)~~(ai) “Holdup alarm” means a silent alarm signal generated by the manual activation of a device intended to signal a robbery in progress.

~~(ah)~~(aj) “Inspection” means the process followed by the department to determine an applicant’s or an ATC’s compliance with RSA 126-X and He-C 402 or to respond to allegations of non-compliance with RSA 126-X or He-C 402.

~~(ai)~~(ak) “Known allergen” means milk, egg, fish, crustacean, shellfish, tree nuts, wheat, peanuts, and soybeans.

~~(aj)~~(al) “Limited access area” means a building, room, or other contiguous area of the registered premises where cannabis or CIP is grown, cultivated, stored, packaged, processed for sale, or disposed, where controls of such cultivation functions can be accessed, where security system equipment and recordings are located, where servers containing qualifying patient and inventory data are located, and where access is limited to authorized personnel to enhance security.

~~(ak)~~(am) “Panic alarm” means an audible security alarm system signal generated by the manual activation of a device intended to signal a life threatening or emergency situation requiring a law enforcement response.

~~(al)~~(an) “Paraphernalia” means accessories, devices, and other equipment, such as smoking pipes or vaporizers, that facilitate the use of cannabis for therapeutic purposes. This term includes “cannabis-related accessories.”

~~(am)~~(ao) “Plan of correction (POC)” means a plan developed and written by the ATC, which specifies the actions that will be taken to correct identified deficiencies.

~~(an)~~(ap) “Procedure” means an ATC’s written, standardized method of performing duties and providing services.

~~(ao)~~(aq) “Provider” means:

(1) aA physician or an advanced practice registered nurse licensed to prescribe drugs to humans under RSA 329 or 326-B:18, respectively, and who possesses ~~certification~~ an active registration from the United States Drug Enforcement Administration to prescribe controlled substances; or

(2) A physician or an advanced practice registered nurse licensed to prescribe drugs to humans under the relevant state licensing laws in Maine, Massachusetts, or Vermont, who possesses an active registration from the United States Drug Enforcement Administration to prescribe controlled substances, and who is primarily responsible for the patient’s care related to his or her qualifying medical condition.

~~(ap)~~(ar) “Qualifying medical condition” means “qualifying medical condition” as defined in RSA 126-X:1, IX(a).

~~(aq)~~(as) “Qualifying patient” means “qualifying patient” as defined in RSA 126-X:1, X, namely “a resident of New Hampshire who has been diagnosed by a provider as having a qualifying medical condition and who possesses a valid registry identification card issued pursuant to RSA 126-X:4.”

~~(ar)~~(at) “Registered premises” means the building(s) that comprises the physical location(s) that the department has approved for the registered ATC to conduct operations in accordance with its registration to include the cultivation, processing, storage, and dispensing of cannabis, CIP, and the sale of cannabis-related accessoriesparaphernalia.

~~(as)~~(au) “Registration certificate” means the document issued to an applicant or registrant at the start of operation as an ATC, and annually thereafter, which authorizes operation in accordance with RSA 126-X and He-C 402, and includes the name of the ATC, the name of the business, the physical address, the effective dates, the name of the ATC administrator, ~~and~~the registration number, and any waivers granted.

~~(at)~~(av) “Registry identification card” means “registry identification card” as defined in RSA 126-X:1, XI, namely, “a document indicating the date issued and expiration date by the department pursuant to RSA 126-X:4 that identifies an individual as a qualifying patient or a designated caregiver.”

~~(au)~~(aw) “Reportable incident” means:

(1) Confidential information accessed or disclosed in violation RSA 126-X or He-C 402;

- (2) Loss of or discrepancies in cannabis inventory including but not limited to theft or diversion;
- (3) Unauthorized intrusion or entry into the registered premises;
- (4) When there is reason to believe there is a violation of RSA 126-X or department rules by an ATC or its agents;
- (5) Alarm activation requiring a response by public safety personnel;
- (6) Failure of the security alarm system for a period greater than 8 hours;
- (7) Any accident occurring during transport of cannabis or CIP; or
- (8) Dispensing errors.

~~(av)~~(ax) “Seedling” means “seedling” as defined in RSA 126-X:1, XII, namely, “a cannabis plant that has no flowers and is less than 12 inches in height and less than 12 inches in diameter.”

~~(aw)~~(ay) “Statement of findings” means a document issued by the department following an inspection or investigation identifying areas in which the ATC is not in compliance with He-C 402 or RSA 126-X and which sets forth the evidence that supports the findings of noncompliance.

~~(ax)~~(az) “Therapeutic use” means “therapeutic use” as defined in RSA 126-X:1, XIII, namely, “the acquisition, possession, cultivation, preparation, use, delivery, transfer, or transportation of cannabis or paraphernalia relating to the administration of cannabis to treat or alleviate a qualifying patient’s qualifying medical condition or symptoms or results of treatment associated with the qualifying patient’s qualifying medical condition. It shall not include:

- (1) The use of cannabis by a designated caregiver who is not a qualifying patient; or
- (2) Cultivation or purchase by a visiting qualifying patient; or
- (3) Cultivation by a designated caregiver or qualifying patient.”

~~(ay)~~(ba) “Unusable cannabis” means “unusable cannabis” as defined in RSA 126-X:1, XIV, namely, “any cannabis, other than usable cannabis, including the seeds, stalks, and roots of the plant.”

~~(az)~~(bb) “Usable cannabis” means “usable cannabis” as defined in RSA 126-X:1, XV, namely, “the dried leaves and flowers of the cannabis plant and any mixture or preparation thereof, but does not include the seeds, stalks, and roots of the plant and does not include the weight of any non-cannabis ingredients combined with cannabis and prepared for consumption as food or drink.”

~~(ba)~~(bc) “Visiting qualifying patient” means “visiting qualifying patient” as defined in RSA 126-X:1, XVI, namely, “a patient with a qualifying medical condition who is not a resident of New Hampshire or who has been a resident of New Hampshire for fewer than 30 days and is not eligible to purchase therapeutic cannabis in New Hampshire or receive cannabis from a qualifying New Hampshire patient.”

~~(bb)~~(bd) “Written certification” means documentation of a qualifying medical condition by a provider for the purpose of issuing registry identification cards, after having completed a full assessment of the patient’s medical history and current medical condition in accordance with He-C 401.06(b)(2) and made in

the course of a provider-patient relationship, and which includes the date of issuance, the patient's qualifying medical condition, symptoms or side effects, the certifying provider's name, medical specialty, and signature.

Readopt with amendment He-C 402.04, effective 1/1/17 (Document #12076), to read as follows:

He-C 402.04 Fees.

~~—— (a) The department shall determine the actual expenses of the program incurred during the period through 12/31/16, including expenses for personnel and other expenses related to the administration of the program.~~

~~—— (b) The department shall subtract the amount of revenue received in the period described in (a) above, including request for application (RFA) submission fees, ATC registration fees, application fees received from qualifying patients and designated caregivers, and donations, from the total actual expenses in (a) above to determine the remaining balance due to the program.~~

~~—— (c) The balance in (b) above shall be allocated equally among each of the 4 ATCs.~~

~~—— (d) Each ATC shall pay to the department the allocated amount in (c) above within 30 days of the department's notice stating the balance due.~~

~~—— (e) For the period starting on 1/1/17 and ending on 6/30/17, paragraphs (f) through (k) shall apply.~~

~~—— (f) Each ATC which holds a registration certificate that is effective as of the effective date of this rule may notify the department that it wishes to convert its current registration certificate into a 6-month certificate. If an ATC exercises this right, then its current registration certificate shall convert to a 6-month registration certificate effective from 1/1/17 and ending on 6/30/17.~~

~~—— (g) Each ATC exercising its right pursuant to (f) above shall be reimbursed as a credit an allocated portion of its registration fee for the number of full months remaining in the ATC's current registration period.~~

~~—— (h) The department shall determine projected expenses for the period 1/1/17 through 6/30/17, including expenses for personnel and other expenses related to the administration of the program, minus the projected revenue received as application fees from qualifying patients and designated caregivers.~~

~~—— (i) The department shall add the total amount reimbursed as a credit to all ATCs in (g) above to the projected expenses in (h) above to determine the balance due to the department.~~

~~—— (j) The balance in (i) above shall be allocated among each of the 4 ATCs based on each ATC's percentage of the total quantity of ounces of usable cannabis projected to be dispensed from 1/1/17 through 6/30/17. Projected dispensing quantities shall be based on the dispensing history of each ATC for the 4 full months prior to 1/1/17.~~

~~—— (k) Each ATC shall pay to the department the allocated amount in (j) above within 30 days of the department's notice stating the balance due.~~

~~—— (l) Beginning on July 1, 2017, paragraphs (m) through (o) shall apply.~~

~~(m)~~(a) Each ATC shall be assessed a fee for its allocated portion of the expenses of the program, as follows:

(1) The department shall determine actual program expenses for the previous state fiscal year (SFY), ~~or the period from 1/1/17 to 6/30/17, as applicable;~~

(2) The department shall determine the actual allocation of program expenses based on each ATC's percentage of the total quantity of ounces of usable cannabis dispensed from the previous SFY, ~~or the period 1/1/17 through 6/30/17, as applicable;~~

(3) The department shall determine the prior year adjustment for each ATC based on (1) and (2) above;

(4) The department shall determine projected program expenses for the next state fiscal year (SFY), including expenses for personnel and other expenses related to the administration of the program, minus the projected revenue to be received as application fees from qualifying patients and designated caregivers;

(5) The department shall add to the projected program expenses in (4) above any remaining balance of program expenses from the prior SFY to determine the balance due to the department; and

(6) The total balance due in (5) above shall be allocated among each of the 4 ATCs based on each ATC's percentage of the total quantity of ounces of usable cannabis projected to be dispensed in the upcoming SFY and after applying the prior year adjustment for each ATC.

~~(m)(b)~~ Each ATC shall pay to the department the allocated amount in ~~(m)(a)~~(3) above within 30 days of the department's notice stating the balance due.

~~(n)(c)~~ If a new ATC joins the program during a SFY, the department shall recalculate the allocation among all the ATCs for that SFY.

~~(n)(d)~~ All fees shall be non-refundable and non-transferable.

~~(n)(e)~~ All fees shall be made payable to the "Treasurer, State of New Hampshire."

~~(n)(f)~~ Any fees submitted to the department in the form of a check or money order and returned to the state for any reason, shall be processed in accordance with RSA 6:11-a.

~~(n)(g)~~ Other fees for ATCs shall be as follows:

(1) The request for application (RFA) submission fee shall be \$3000;

(2) The RFA selection fee, which will be credited to the new ATC as part of the allocation described in (o) above, shall be \$20,000;

(3) For a change in name, the fee shall be \$250;

(4) For a change in administrator, the fee shall be \$250;

~~(5) The fee for any inspection more than 3 per SFY, for compliance monitoring to verify the implementation of a plan of correction, or for additional department personnel expenses related to~~

~~the direct administration or oversight of an ATC shall be billed on an actual expense basis and shall be payable within 30 days of the department's written notice stating the balance due; and~~

~~(6)(5)~~ For a change in location, the fee shall be \$30,000.

(h) All funds received under this section shall be deposited to the non-lapsing registry identification card and certificate account established pursuant to RSA 126-X:11.

Readopt with amendment He-C 402.05 & He-C 402.06, effective 1/1/17 (Document #12076), to read as follows:

He-C 402.05 Registration of ATCs.

(a) Only an ATC that is currently registered by the department and has been issued a registration certificate may dispense cannabis, or CIP, or paraphernalia to qualify ingied patients and designated caregivers who have been issued a registry identification card from the department. However, an entity that has been issued a conditional registration certificate in accordance with (i) below may perform all operations described in He-C 402 appropriate for that location, in anticipation that the entity will become fully operational.

(b) Each ATC selected as part of the RFA process shall provide to the department the fee of \$20,000 in accordance with He-C 402.04(s)(2) within 10 days of the department's notice that the entity has been selected. Failure to provide the fee within the required timeframe shall result in forfeiture of the selection and shall prevent the entity from submitting an application in (c) below.

(c) Each ATC selected as part of the RFA process shall submit the following to the department within 90 days of the department's notice that the entity has been selected:

(1) A completed application:

a. Signed by the applicant or 2 of the corporate officers affirming the following:

"I affirm that I have read and understand the requirements of RSA 126-X and the rules adopted thereunder and that the premises are in compliance with that statute and rule. I understand that providing false or misleading information shall be grounds for denial, suspension, or revocation of the registration and the imposition of a fine."; and

b. Containing the following information:

1. The name of the ATC;
2. The physical address of the ATC and, if applicable, the physical address of a second location for cultivation and processing operated by the ATC;
3. The mailing address of the ATC if different from the physical address;
4. The telephone number of the ATC;
5. The name of the ATC's administrator; and
6. The email address for the ATC's administrator, and for the ATC if different;

(2) A “Certificate of Good Standing” issued by the NH secretary of state authorizing the ATC to do business as a not-for-profit corporation in the state of New Hampshire;

(3) Proof of registration with the NH attorney general’s office as a charitable trust under RSA 7:19 et seq for the benefit of qualifying patients;

(4) A copy of the ATC’s articles of agreement;

(5) A copy of the ATC’s bylaws;

(6) A statement detailing any instances in which a prospective board member, corporate officer, or executive employee who previously ran a business or managed or sat on the board of directors of a corporation was convicted, fined, censured, or had a registration, certification, or license suspended or revoked in any administrative or judicial proceeding, or any instances in which the business or corporation itself was subject to such an action, if this information was not included in the RFA application;

(7) A floor plan of the prospective ATC, to include a complete description and layout of the indoor, enclosed, locked facility, in which all limited access areas are clearly indicated in the diagram of the registered premises, reflecting walls, partitions, counters, and all areas of entry and exit. Said diagram shall also show all propagation, vegetation, flowering, processing, production, storage, disposal, and retail sales areas;

(8) An organization chart indicating ATC board members, executive employees, and corporate officers. The chart shall contain, or be accompanied by a list of, the names of the individuals occupying these positions; and

(9) Resumes for the ATC board members, executive employees, and corporate officers; identifying the qualifications of:

a. The executive employees of the ATC; and

b. The ATC board members and corporate officers;

(9)(10) The name, address, and date of birth of each executive employee and corporate officer of the ATC, if the resumes in (9) above do not contain this information;

(10)(11) The name, address, and date of birth of each member of the board of directors of the ATC, if the resumes in (9) above do not contain this information. which The board shall:

a. Include at least one physician, advance practice registered nurse, or pharmacist licensed to practice in New Hampshire, except that such medical professional shall not maintain an ownership interest in the ATC;

b. Include at least one patient qualified to register as a qualifying patient; and

c. Consist of a majority of New Hampshire residents;

(11)(12) Written local approvals as follows:

a. For an existing building, the following written local approvals shall be obtained no more than 90 days prior to submission of the application, from the following local officials or if there is no such official(s), from the board of selectmen or mayor:

1. The health officer verifying that the applicant complies with all applicable local health requirements, drinking water and wastewater requirements;
2. The building official verifying that the applicant complies with all applicable state building codes and local building ordinances;
3. The zoning official verifying that the applicant complies with all applicable local zoning ordinances; and
4. The fire chief verifying that the applicant complies with Saf-C 6000, the state fire code, including, but not limited to, the applicable chapter of National Fire Protection Association (NFPA) 101, as adopted by the commissioner of the department of safety under RSA 153, and as amended pursuant to RSA 153:5, I, by the state fire marshal with the board of fire control, and local fire ordinances applicable for an agricultural processing and retail sales facility; or

b. For a building under construction or undergoing renovation:

1. The local approvals of the construction or renovation plans; and
2. The final local approvals required by a. above shall be submitted upon completion of the construction or renovation project;

~~(12)~~(13) The results of a federal and NH state criminal records check conducted by the NH department of safety for every corporate officer, board member, and executive employee pursuant to RSA 126-X:8, IV(a), and RSA 126-X:4, II-a;

~~(13)~~(14) If the ATC uses a private water supply, documentation that the water supply has been tested in accordance with and meets the requirements of RSA 485 and Env-Dw 700, or if a public water supply is used, a copy of a water bill;

~~(14)~~(15) The distance, in feet, from any pre-existing designated drug-free school zone located within 1320 feet of the registered premises;

~~(15)~~(16) A list of all persons or entities not included in the RFA and having direct or indirect authority over the management or policies of the ATC, including the members of the not-for-profit corporation, and a list of all persons or entities contributing \$5000 or more of the initial capital to operate an ATC, including capital that is in the form of land or buildings. Identify any conditions on such funds or property; and

~~(16)~~(17) Documentation of liability insurance coverage in the amount of 2 million dollars.

(d) The applicant shall mail or hand-deliver the documents in (c) above to:

Department of Health and Human Services
Health Facilities Administration
Therapeutic Cannabis Program

129 Pleasant Street
Concord, NH 03301

(e) An application for an initial registration shall be complete when the department determines that all items required by (c) above have been received.

(f) If an application does not contain all of the items required by (c) above, the department shall notify the applicant in writing of the items required before the application can be processed.

(g) The department shall deny a registration certificate request in accordance with RSA 126-X:8,V, after reviewing the information in (c)~~(12)~~(13) above if it determines that a corporate officer, a board member, or executive employee has been convicted of a felony in this or any other state.

(h) Following an inspection, a notice of registration approval shall be issued if the department determines that an applicant requesting an initial registration is in full compliance with RSA 126-X and He-C 402, including payment of all applicable fees.

(i) Notwithstanding (h) above, if an entity intends to have a cultivation location separate from its dispensing location, and if it completes construction of either location before it completes construction of the other location, the department shall issue a conditional registration certificate authorizing the entity to perform all operations described in He-C 402 applicable to that location, provided that:

(1) The entity has submitted an application for a registration certificate;

(2) The entity has paid all non-refundable fees required under He-C 402.04;

(3) The entity has received local approvals for the location required under He-C 402.05(c)~~(11)~~(12); and

(4) The location has been inspected by the department and found to be in full compliance with RSA 126-X and these rules.

(j) If a conditional registration certificate is issued under (i) above, the entity shall not open its other location and until such time as the department has inspected the other location, found it to be in full compliance with RSA 126-X and these rules, and informed the entity in writing that it may open its other location.

(k) In the event that a conditional registration certificate is issued under (i) above and the entity does not subsequently open its dispensing location pursuant to RSA 126-X:7, VIII, any cannabis cultivated or CIP produced shall either be transferred or sold to another NH ATC or, if such sale or transfer is not possible, shall be considered waste and shall be destroyed and discarded as waste in accordance with He-C 402.22 under the supervision of the department.

He-C 402.06 Renewal Requirements for ATCs.

~~(a) ATC registration periods shall be as follows:~~

~~(1) For the period starting on 1/1/17 and ending on 6/30/17, the current registration certificate of each ATC which exercises its right pursuant to He-C 402.04(f) shall be converted to a 6-month registration certificate, effective from 1/1/17 and ending on 6/30/17; and~~

~~(2) Beginning on 7/1/17, an~~

~~(a) An~~ ATC's registration certificate shall be effective for one year and shall expire on 6/30 of the following year unless a completed application for renewal is received prior to the expiration of the current registration.

(b) Each ATC shall complete and submit to the department an application form at least 120 days prior to the expiration of the current registration.

(c) The ATC shall submit with the renewal application:

(1) The materials required by:

a. He-C 402.05(c)(1);

b. He-C 402.05(c)(3);

c. He-C 402.05(c)(4) and (5), if either has changed;

d. He-C 402.05(c)(6), for new ~~personnel~~ board members, corporate officers, and executive employees, or new instances involving existing board members, corporate officers, and executive employees ~~personnel~~;

e. He-C 402.05(c)(7), if changed;

f. He-C 402.05(c)(8), ~~for if there are new personnel~~ board members, corporate officers, and executive employees, or if existing roles have changed; and

g. He-C 402.05(c)(9), for new board members, corporate officers, and executive employees; and

g-h. He-C 402.05(c)(9) and (10) and (11), for new board members, corporate officers, and executive employees, personnel or if ~~the name or address of any~~ existing personnel information has changed;

(2) If the ATC uses a private water supply, documentation that the water supply has been annually tested in accordance with and meets the requirements of RSA 485 and Env-Dw 700;

~~(3) The current registration number and expiration date;~~

~~(4)~~(3) A request for renewal of any existing non-permanent waiver previously granted by the department, in accordance with He-C 402.26, if applicable; and

~~(5)~~(4) A copy of any existing, non-permanent variances and any new variances applied for or granted by the state fire marshal, in accordance with Saf-C 6005.03 and Saf-C 6005.04.

(d) Following an inspection as described in He-C 402.28, a ~~notice of~~ registration certificate renewal shall be issued if the department determines that the ATC:

(1) Submitted an application containing all the items required by (c) above as applicable, prior to the expiration of the current registration;

(2) Has submitted a POC that has been accepted by the department and implemented by the ATC if deficiencies were cited at the last inspection or investigation; and

(3) Is in compliance with RSA 126-X and He-C 402.2; and

~~(4) Submits the fee described in He-C 402.04(e) within 30 days of the department's notice stating the balance due.~~

Readopt with amendment He-C 402.07 and He-C 402.08, effective 11/25/14 (Document # 10731), as amended effective 10/23/15 (Document #10961), to read as follows:

He-C 402.07 Requirements for Organizational or Service Changes.

(a) The ATC shall provide the department with written notice at least 30 days prior to changes in mailing address or name.

(b) When there is a change in the name, the ATC shall submit to the department a copy of the certificate of amendment from the New Hampshire secretary of state, if applicable.

~~(c)~~ (c) In the case of a change in physical location, at least 90 days prior to the move, an ATC shall submit the information required by He-C 402.05(c)(1), (6), (7), ~~(11)(12)~~, ~~(13)(14)~~, and ~~(14)(15)~~ for the new location, and a new registration certificate shall be issued by the department in accordance with He-C 402.05~~(h)(i)-(j)~~. An ATC shall not open at the new location until final approval is provided by the department.

~~(e)~~ (d) In the case of a change in physical location, the current registration certificate shall expire and a new registration certificate shall be issued for the new location by the department which shall be valid until the expiration date of the prior registration certificate.

~~(d) When there is a change in the name, the ATC shall submit to the department a copy of the certificate of amendment from the New Hampshire secretary of state, if applicable.~~

(e) An inspection by the department shall be conducted in accordance with He-C 402.28 prior to operation for changes in the physical location of the ATC.

(f) A change of ownership of the ATC shall not be allowed.

(g) The ATC shall notify the department whenever there is a proposed change in corporate officers, board members, or executive employees.

(h) The results of a federal and NH state criminal records check shall be submitted to the department for any change in corporate officers, board members, or executive employees of an ATC.

(i) The ATC shall inform the department in writing with 30 days advance notice, or as soon as practicable in the event of a death or other extenuating circumstances which would make impossible such notice, when there is a change in administrator and provide the department with the following:

(1) aA resume identifying the name and qualifications of the new administrator; and

(2) The results of a criminal records check from the NH department of safety for the new administrator.

(j) A revised registration certificate shall be issued for changes in the ATC name, location, administrator, mailing address, or when a waiver is granted.

(k) The ATC shall notify the department at least 90 days in advance of any renovations or new construction that alter the floor plan of the registered premises.

(l) Renovations or new construction at the ATC shall comply with all local and state building and fire codes based on the intended use of the registered premises.

(m) Local approvals shall be required for the fire department, building code enforcement, and zoning for all renovations and new construction at the ATC.

(n) An inspection by the department shall be conducted in accordance with He-C 402.28 prior to operation for all renovations and new construction at the ATC.

(o) An ATC shall provide notice of closure or cessation of services as follows:

(1) Written notice shall be provided to the department, and to all qualifying patients and designated caregivers registered with the ATC, no later than 60 days prior to the intended closure;

(2) Written notice provided to qualifying patients and designated caregivers shall be mailed in non-descript envelopes that do not identify the ATC in any way; and

(3) Notice of the closure shall be prominently posted in the ATC.

He-C 402.08 Prohibitions.

(a) An ATC may not dispense or otherwise transfer cannabis to a person other than a registered qualifying patient or his or her designated caregiver except that it may acquire cannabis from or sell cannabis to another New Hampshire ATC as allowed by RSA 126-X:8, XV(b)(3), and pursuant to He-C 402.

(b) Only an ATC technician may dispense cannabis, CIP, or cannabis-related accessoriesparaphernalia to qualifying patients and designated caregivers.

(c) No ATC agent shall dispense cannabis samples to any person.

(d) No ATC agent shall sell anything other than cannabis, CIP, cannabis-related accessoriesparaphernalia, and educational materials about cannabis.

(e) No ATC or ATC agent shall violate the confidentiality provisions of He-C 402.25.

(f) No cannabis or CIP shall be consumed on the registered premises or grounds of the ATC.

(g) An ATC shall not dispense cannabis or CIP unless labeled and packaged in accordance with He-C 402.19.

(h) No ATC technicians, employees, or agents shall make home deliveries of cannabis, CIP, or cannabis-related accessoriesparaphernalia, or dispense such products anywhere except at the ATC dispensary location.

(i) An ATC shall not adulterate cannabis or CIP, including with drugs or medication, alcohol, psychoactive additives, or illicit substances, except that alcohol may be used in the extraction process to create a cannabis concentrate and may be present as necessary in CIPs that are tinctures.

(j) The ATC shall not advertise their location or product in a manner prohibited by He-C 402.23.

(k) ATC agents shall not falsify any documentation required by law or provide false or misleading information to the department.

(l) No ATC agent or persons connected to an ATC shall:

(1) Accept or solicit any form of pecuniary remuneration from a provider, or offer any form of pecuniary remuneration to a provider except if the provider is employed by the ATC and the provider does not issue written certifications to patients;

(2) Offer a discount or other thing of value to a patient who uses or agrees to use a particular provider;

(3) Permit a provider to examine a patient in relation to issuing a written certification at a location where cannabis is sold or distributed; or

(4) Provide an economic benefit to a provider who issues written certifications to patients. This shall not prohibit an ATC from providing information to potentially qualifying patients about providers in the community which may issue written certifications.

(m) No ATC shall be located in a zoned residential district or within pre-existing drug-free school zones.

Readopt with amendment He-C 402.09, effective 11/25/14 (Document #10731), to read as follows:

He-C 402.09 Policies and Procedures.

(a) Each ATC shall comply with all relevant state and local laws, rules, codes, and ordinances as applicable.

(b) Each ATC shall have and follow-develop and implement a set of detailed written operating procedures and policies governing the operation of the ATC, to include, but not limited to, the following:

(1) Security measures in compliance with RSA 126-X, He-C 402.17(a) and He-C 402.24;

(2) Employee security policies, including personal safety and crime prevention techniques;

(3) A description of the ATC's hours of operation and after-hours contact information, that is updated as changes occur, and shall be provided to the department, and made available to local law enforcement officials upon request;

(4) Storage of cannabis in compliance with He-C 402.17;

(5) Description of the various strains of cannabis to be cultivated and dispensed, and the types of CIP to be dispensed, including:

a. Descriptions shall also be categorized by relative cannabinoid concentration, for example, high and low THC and CBD strains; and

b. Brand names or commercial names of cannabis strains shall not be utilized in any public manner, including on labels or being posted on an ATC's website, social media, or in newsletters, except that such brand names may be made available to qualifying patients and designated caregivers at the dispensary or by direct communication with the patient or caregiver, such as by phone or direct email communication;

(6) Procedures to ensure accurate recordkeeping, including inventory protocols;

(7) Plans for quality control, including procedures to avoid contaminants in compliance with He-C 402.14 through He-C 402.18;

(8) Personnel policies which govern all ATC agents, including volunteers, and which comply with He-C 402.31, and personnel records which comply with He-C 402.32;

(9) ~~Personnel records and a~~ staffing plan that will ensure staffing that covers business hours and meets operational requirements in a manner that meets the needs of qualifying patients and designated caregivers;

(10) Emergency procedures, including a disaster plan, with procedures to be followed in case of fire or other emergencies, and a plan for continuing operations in the case of such an event;

(11) A mandatory policy that prohibits the consumption of alcohol, tobacco, and illicit drugs in the workplace;

(12) A policy on the possession and use of therapeutic cannabis at the workplace by ATC agents who are qualifying patients which is consistent with the limitations established in RSA 126-X:3 or which may prohibit such use and possession;

~~(12)~~(13) A plan describing how confidential information will be maintained and the method by which release of information from a qualifying patient's record shall occur in accordance with He-C 402.25;

~~(13)~~(14) A description of the ATC's ~~patient~~ education activities in accordance with RSA 126-X and He-C 402.21;

~~(14)~~(15) The procedures by which the ATC determines the price it charges for cannabis, CIP, and ~~cannabis-related accessories~~paraphernalia, and a record of the prices charged, which records shall be maintained as required by He-C 402.32(a);

~~(15)~~(16) Written policies and procedures for the production and distribution of cannabis and CIP, which shall include but not be limited to:

a. Methods for identifying, recording, and reporting diversion, theft, or loss, and for correcting all errors and inaccuracies in inventories;

b. A procedure for handling voluntary and mandatory recalls of cannabis. Such procedure shall be adequate to deal with recalls due to any action initiated at the request or order of the department, and any voluntary action by an ATC to remove defective or potentially defective cannabis from the market, as well as any action undertaken to promote public health and safety;

c. A procedure for ensuring that any outdated, damaged, deteriorated, mislabeled, or contaminated cannabis is segregated from other cannabis and destroyed pursuant to He-C 402.22. This procedure shall provide for written documentation of the disposition of the cannabis; and

d. Policies and procedures for the transfer, acquisition, or sale of cannabis between ATCs;

~~(16)~~(17) A policy for the discipline of ATC agents who engage in unsafe practices with regard to the operation of the ATC, including the immediate dismissal of any agent who diverts cannabis; ~~and~~

~~(17)~~(18) The applicant's plan for making cannabis, CIP, and cannabis-related accessoriesparaphernalia available on an affordable basis to qualifying patients with verified financial hardship:

a. Which shall include qualifying patients enrolled in Medicaid or receiving Supplemental Security Income or Social Security Disability Insurance;

b. Which identifies the extent to which the plan includes other qualifying patients with verified financial hardship, and if so, the method by which financial hardship is determined; ~~and~~

c. Which shall include the alternate price list; ~~and-~~

d. Which shall not include an administrative fee for determining such hardship;

(19) A policy that requires ATC agents to receive approval from the ATC's administrator, or designee, to speak at independently sponsored events on the subject of therapeutic cannabis, and if such approval is granted, requires the ATC agent to disclose their employment or relationship with the ATC and make clear that the presentation is not one that is sponsored or sanctioned by the ATC and that the presenter does not represent the ATC;

(20) Any rule in He-C 402 that requires a policy or procedure; and

(21) Policy and procedure review, including:

a. Reviewing the policies and procedures at least annually and documenting such review; and

b. Revising them as needed.

Readopt with amendment He-C 402.10, effective 11/25/14 (Document #10731), as amended effective 10/23/15 (Document # 10961), to read as follows:

He-C 402.10 Operational Requirements.

(a) An ATC shall be required to be a not-for-profit corporation registered under RSA 292 and in good standing with the NH secretary of state.

(b) An ATC shall operate on a not-for-profit basis as a charitable trust pursuant to RSA 7:19 et seq. for the benefit of qualifying patients.

(c) An ATC shall ensure that its property, real and personal, revenue, and expenses are managed and controlled in furtherance of its not-for-profit purpose and that the board and all persons delegated by the board to manage and control its property, real and personal, revenue, and expenses shall have a fiduciary duty to benefit its patients and further its not-for-profit purpose.

(d) All transactions, financial or otherwise, shall be consistent with the not-for-profit provisions of RSA 126-X and for the benefit of qualifying patients.

(e) An ATC shall have bylaws that, at a minimum, include:

(1) Mission or purpose;

(2) Criteria for and composition of the board of directors, terms, and meetings;

(3) Procedures for the selection and replacement of corporate officers, their governance and duties;

(4) Provisions relative to dissolution of the not-for profit corporation's assets, which shall ensure that they are treated in accord with its not-for-profit purpose and for the benefit of qualifying patients;

(5) A conflict of interest policy governing the board and corporate officers; and

(6) A financial policy governing financial transactions, that ensures they are in the corporation's best interest and are consistent with the not-for-profit purpose of the corporation and RSA 7:19-a.

(f) The ATC shall be open for business for a sufficient number of hours to meet the needs of qualifying patients and designated caregivers, at a minimum of 20 hours per week. Such hours shall be posted at the ATC, ~~and~~ published on the ATC's website, if the ATC maintains a website, and made available to local law enforcement officials upon request.

(g) The ATC shall ensure the presence of an ATC technician whenever a qualifying patient or designated caregiver is in the dispensing area.

(h) At no time shall there be fewer than 2 ATC agents at each location of the registered premises during all hours of operation, including when the ATC is open for business and whenever the ATC's operations require agents to be present at the registered premises, except that an executive employee shall be allowed to be on-site at the registered premises, on a limited basis, for a specific identified need, with the approval of the administrator, and in accordance with the ATC's written policy including documentation of such instances.

(i) An ATC shall have an identification system in place for all ATC agents that meets the requirements of He-C 402.31.

(j) An ATC shall limit access to the registered premises to only those persons authorized to have access in accordance with He-C 402.24.

(k) The ATC shall post the following documents as follows:

(1) At the dispensing location, the current registration certificate issued in accordance with RSA 126-X, ~~the most recent all~~ statement of findings issued by the department in the prior year, for both the dispensing location and the cultivation location, as specified in RSA 126-X, the price list, and the hours of operation, in a public and conspicuous area ~~of the dispensing area;~~ and

(2) At the cultivation location, the current registration certificate issued in accordance with RSA 126-X and all statement of findings issued by the department in the prior year, for both the dispensing location and the cultivation location, in a conspicuous area.

(l) The ATC shall immediately report the diversion, loss, or theft of any cannabis to the appropriate law enforcement authority and to the department.

(m) Any disciplinary action taken against an agent pursuant to He-C 402.09(b)(16) shall be reported to the department.

(n) An ATC shall submit an incident report to the department no later than the next business day after it discovers a reportable incident.

(o) Incident reports shall include the following:

(1) The ATC name and contact information;

(2) A description of the incident, including its cause, and identification of injuries, if applicable;

(3) The name(s) of agents or other persons involved in the incident, if applicable;

(4) The date and time of the incident;

(5) The action taken in direct response to the incident;

(6) The identity of any law enforcement or emergency personnel contacted or allowed into the registered premises as a result of the incident; and

(7) The signature of the person reporting the incident.

(p) The ATC shall maintain a current database of qualifying patients and designated caregivers who have registered with the ATC, which shall be updated to include:

(1) The list transmitted by the department on a daily, monthly, and-or as-needed basis to the ATC, which includes a list of the names, ~~and~~ registry identification numbers, and contact information of qualifying patients and designated caregivers who have registered with that ATC or who are no longer registered with that ATC; and

(2) Any other updates provided by the department.

(q) The ATC shall submit an annual report to the department, not later than ~~October~~ August 1, containing the following information for the previous state fiscal year ending on June 30:

(1) The strains of cannabis dispensed, which shall also be categorized by the concentration of cannabinoids based on the cannabinoid profile, for example, high and low THC and CBD strains, the forms of prepared cannabis dispensed, and the effectiveness, as reported by the qualifying patient or designated caregiver, of cannabis used by patient registration number;

(2) Satisfaction of qualifying patients with the ATC and with the therapeutic cannabis program in general, including information received from qualifying patients via a satisfaction survey administered by the ATC;

(3) Any product recalls and cannabis batches destroyed, including the date, amount, and reasons therefor;

(4) A description of the ATC efforts to educate qualifying patients and designated caregivers;

(5) The annual financial report of the ATC including:

a. ¶The revenue received for the sale of cannabis by ~~strain-the form~~ of cannabis, either flower or CIP, and the type of CIP-sold, and the category of cannabis based on the concentration of cannabinoids, for example, high and low THC and CBD strains; and

b. ¶The expenditures, liabilities, and monetary reserves available;

(6) A report of the total number of qualifying patients and designated caregivers served;

(7) A description of the ATC's program for reduced cost for qualifying patients with documented financial hardship to include the number of qualifying patients eligible for the reduction, the amount of the reductions, and the total amount of the discounts provided;

(8) Information about security issues, including an aggregate report of all reportable incidents;

(9) Information about best practices, including any recommendations for program improvement; ~~and~~

(10) Information about any complaints received by the ATC from qualifying patients, designated caregivers, or the general public; ~~and~~

(11) A description of the efforts and activities of the ATC that contribute to the ATC's mission, as a charitable trust to benefit qualifying patients.

(r) Within 10 days of filing the annual report required by RSA 7:28 with the office of the New Hampshire attorney general charitable trusts unit, the ATC shall file the report with the department.

Readopt with amendment He-C 402.11 through He-C 402.14, effective 11/25/14 (Document #10731), to read as follows:

He-C 402.11 Acquisition and Transportation of Cannabis.

(a) An ATC may acquire cannabis from, or sell cannabis to, another New Hampshire ATC.

(b) Transportation of cannabis shall be permitted as follows:

- (1) Between ATCs;
- (2) From an ATC to a laboratory for testing;
- (3) From an ATC to a waste disposal site; and
- (4) To and from different locations of the registered ATC.

(c) Transportation of cannabis shall be conducted by at least one ATC employee~~2 agents, one of whom shall be an ATC technician.~~

(d) An ATC shall create a transport manifest for each transportation event, to include:

- (1) Departure date and time of departure;
- (2) Name, location address, and registration certificate number of the originating ATC;
- (3) Name, location address, and registration certificate number, as applicable, of the destination entity;
- (4) Product type and quantity, in weight, of all product to be transported;
- (5) Estimated time of arrival, which shall be the on same date as the product's departure; and
- (6) Name(s) of the ATC employee(s)~~agents~~ transporting the product.

(e) The originating ATC shall transmit a copy of the transport manifest to the destination entity prior to transport.

(f) The transport manifest shall be signed and dated by an ATC authorized employee upon departure at the originating ATC, other than ~~the driver an employee transporting the cannabis, upon departure~~ and by an authorized employee of the receiving entity upon arrival, other than an employee transporting the cannabis.

(g) The destination entity shall verify and document the type and quantity of the transported product against the transport manifest and return a copy of the signed and verified transport manifest to the originating ATC.

(h) All cannabis transported shall be tracked as inventory in accordance with He-C 402.13.

(i) All cannabis transported shall be packaged in sealed containers.

(j) All cannabis shall be transported in such a manner so as not to be visible or recognizable from outside the vehicle.

(k) The vehicle shall not bear any markings to indicate that the vehicle is transporting cannabis nor shall it bear the name of the ATC.

(l) Vehicles shall travel directly to the receiving entity.

(m) When circumstances require the vehicle to stop unexpectedly, a detailed log shall be created describing:

- (1) The reason for the stop;
- (2) The duration of the stop;
- (3) The location of the stop; and
- (4) The activities of those persons exiting the vehicle, if applicable.

(n) In no case shall a vehicle transporting cannabis be left unattended ~~by at least one ATC agent~~ at any time.

(o) ATC ~~agents-employees~~ transporting cannabis shall have communication access with personnel at the originating entity at all times that the vehicle contains cannabis.

(p) All records required by this section shall be maintained for a minimum of 4 years.

(q) Any vehicle used to transport cannabis shall be properly registered and inspected in the state in which it is registered.

He-C 402.12 Permitted Quantities of Cannabis at an ATC.

(a) An ATC shall not possess or cultivate cannabis in excess of the following quantities:

- (1) Three mature cannabis plants, 12 seedlings, and 6 ounces of usable cannabis for each qualifying patient who has ~~designated-registered with~~ the ATC to provide him or her with cannabis for therapeutic use; and
- (2) Up to an additional 80 mature cannabis plants, 160 seedlings, and 80 ounces of usable cannabis, including for start-up operations, to assist with a failed batch of cannabis, to allow sufficient quantity of cannabis for new qualifying patients, or to fill requests for the sale of cannabis to other ATCs.

(b) The quantities in (a) above shall be inclusive of all cannabis or CIP possessed or being cultivated at all registered premises under the control of the ATC.

He-C 402.13 Inventory.

(a) The ATC shall establish ongoing inventory controls and procedures for the conduct of inventory reviews and comprehensive inventories of cannabis, which shall enable the ATC to detect any diversion, theft, or loss in a timely manner.

(b) An ATC shall ~~limit-maintain~~ its inventory of cannabis plants and usable cannabis to reflect the projected needs of currently registered qualifying patients and new qualifying patients as required by He-C 402.12.

(c) An ATC shall conduct an initial comprehensive inventory on the date it first dispenses cannabis and maintain a real-time record of its inventory of cannabis plants, including mature plants, seedlings, and clones, usable cannabis ready for dispensing, and CIP, to include at a minimum:

- (1) The date and time of the inventory;
- (2) The summary of inventory findings; and
- (3) The names of the employee(s) conducting the inventory.

(d) An ATC shall also maintain a real-time record of its inventory of all damaged, defective, expired, or contaminated cannabis and CIP prepared for waste disposal, but this inventory shall not be included in the cannabis inventory limit established in He-C 402.12.

(e) An ATC shall be able to reconcile all on-premises and in-transit cannabis each day at the close of business, and shall be able to document such inventory reconciliation upon request of the department for any day within the current registration period.

(f) An ATC shall establish inventory controls and procedures for the conduct of inventory reviews, which shall include a monthly comprehensive inventory.

(g) An ATC shall utilize an electronic inventory tracking system.

(h) All scales used to weigh usable cannabis for purposes of assessing inventory and packaging and dispensing cannabis shall be certified annually by a licensed NH service technician in accordance with RSA 438 and Agr 1400. Documentation of such certification shall be made available to the department upon request.

~~_____ (i) If an ATC uses an extraction method to produce cannabis concentrates for use in the production of CIP, the amount of cannabis used to create the concentrate, and not the amount of the concentrate itself, shall be the amount that is included in the inventory limit established in He-C 402.12.~~

_____ (i) If an ATC uses an extraction method to produce cannabis concentrates for use in the production of CIP, the amount of usable cannabis contained in the concentrate shall be based on the cannabinoid profile of the concentrate, and not the amount of the concentrate itself nor the amount of cannabis used to create the concentrate, as follows:

- (1) 250 milligrams of total active cannabinoid shall equal one gram of usable cannabis;
- (2) The total active cannabinoid amount shall be the combined amounts of cannabinoids in the concentrate as indicated by the cannabinoid profile; and
- (3) The amount of usable cannabis contained in the concentrate, as determined by (1) and (2) above, shall be included in the inventory limit established in He-C 402.12.

He-C 402.14 Cultivation and General Processing.

(a) Only an ATC shall be permitted to cultivate cannabis.

(b) All phases of the cultivation of cannabis shall take place in designated, locked, indoor, limited access areas that are monitored by a surveillance camera system in accordance with He-C 402.24.

(c) Safe growing methods that are consistent with U.S. Department of Agriculture organic requirements at 7 CFR Part 205 shall be used.

(d) The cultivation process shall be designed to limit contamination, including, but not limited to, mold, fungus, bacterial diseases, rot, pests, non-organic pesticides, mildew, and any other harmful contaminant.

(e) A pesticide product may be applied to cannabis if:

(1) It is approved for organic cultivation in accordance with the requirements of the national organic program, 7 CFR Part 205; and

(2) The active ingredients contained in the pesticide product are exempt from federal registration under Section 25(b) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA).

(f) Only persons who are licensed in accordance with RSA 430:33 shall be permitted to apply those pesticides in (e) above to cannabis.

(g) No chemical listed in He-C 402.34 shall be used in any way in the cultivation of cannabis.

(h) An ATC shall process only the leaves and flowers of the female cannabis plant, which shall be:

(1) Well cured and ~~reasonably~~ free of seeds and stems;

(2) Free of dirt, sand, debris, and other foreign matter;

(3) Free of contamination by mold, mildew, rot, other fungus, bacterial diseases, pests, pest wastes, and any other harmful contaminant; and

(4) Prepared and handled on food-grade stainless steel tables.

Readopt with amendment He-C 402.15, effective 10/23/15 (Document #10961), to read as follows:

He-C 402.15 Testing.

(a) Each batch of cannabis harvested and each batch of cannabis concentrate produced shall be tested in accordance with this section.

(b) The testing required by this section shall be performed by an independent laboratory located in New Hampshire and licensed under RSA 151 and He-P 808.

(c) Each batch of cannabis harvested ~~and each batch of cannabis concentrate produced~~ shall be tested for:

(1) The cannabinoid profile; and

(2) Contaminants as described in ~~(d)~~(e) below.

~~(d) Each batch of cannabis concentrate produced shall be tested for the cannabinoid profile.~~

~~(d)~~(e) The testing required by (c)(2) above shall meet the following standards:

(1) For purposes of testing for microbiologicals and mycotoxins, a cannabis sample shall be deemed to have passed if it does not exceed the limits set forth in Table 402.1 below:

Table 402.1 – Contaminant Limits

Cannabis Material	Viable Aerobic Bacteria (CFU/g)	Yeast & Mold (CFU/g)	Viable Coliforms (CFU/g)	Bile-tolerant Gram Negative Bacteria (CFU/g)	E. Coli (pathogenic strains) & Salmonella spp.	Mycotoxins (alfatoxin B1, alfatoxin B2, alfatoxin O1, alfatoxin O2, ochratoxin A)
Harvested Cannabis	10 ⁵	10 ⁴	10 ³	10 ³	None detected in 1 gram	<20 µg /kg of material
Cannabis Concentrate	10 ⁴	10 ³	10 ²	10 ²	None detected in 1 gram	<20 µg /kg of material

CFU: colony forming unit

(2) For purposes of testing for heavy metals, a cannabis sample shall be deemed to have passed if it does not exceed the limits set forth in Table 402.2 below:

Table 402.2 – Contaminant Limits

Heavy Metal	Limit
Arsenic	4,206 ppb
Cadmium	2,704 ppb
Lead	8,712 ppb
Mercury	8,712 ppb

ppb: parts per billion

~~(e)~~(f) The department shall require testing for the presence of prohibited pesticides and prohibited chemicals listed in He-C 402.34, Table 402.3, as follows:

- (1) Testing shall be conducted for cannabis harvested ~~and cannabis concentrate produced~~ at each cultivation location;
- (2) Testing shall be conducted at least quarterly;
- (3) The department shall directly notify the laboratory when such testing shall be conducted;
- (4) Testing shall be conducted on samples provided to the laboratory for testing required by (c) above, or, if no samples have been provided at the time of notification in (3) above, on samples provided to the laboratory as directed by the department;
- (5) Testing results shall be sent from the laboratory to ~~both~~ the department ~~and the ATC~~; and

(6) A cannabis sample shall be deemed to have passed if no individual prohibited pesticide or chemical for which the laboratory tested is detected above 10 parts per billion.

~~(g)~~(g) Each batch of solvent-based cannabis concentrate shall be tested for residual solvents, which, except for ethanol and isopropanol, shall not exceed 500 parts per million.

~~(g)~~(h) The ATC shall segregate and withhold from use each batch of harvested cannabis and cannabis concentrate until the laboratory has completed its testing and ~~presented its results in writing to the ATC~~ either:

(1) The ATC receives written notice of passing results from the laboratory; or

(2) In the case of testing required in (f) above, the ATC receives written notice from the department that the batch has passed.

~~(h)~~(i) In addition to test results described in ~~(e)~~(f)(5) above, the laboratory shall send to the department copies of each test result that fails to meet the standards in ~~(d)~~(e) and ~~(f)~~(g) above.

~~(i)~~(j) Any cannabis batch whose test sample fails to pass the standards in ~~(e)-(g)~~(d)-(f) above shall be permitted for use or sale only under conditions specified in writing by the department, such as requiring disclaimers or notifications being made to qualifying patients and designated caregivers at the point of sale, or otherwise the cannabis batch shall be destroyed and discarded as waste in accordance with He-P 402.22.

~~(j)~~(k) An ATC shall be required to have cannabis or CIP re-tested for its cannabinoid profile when the department determines that there is reason to believe that the cannabinoid profile on the label ~~of the CIP~~ does not accurately reflect the actual ~~CIP~~ cannabinoid profile. Copies of the testing results shall be sent to the department from the laboratory.

~~(k)~~(l) Where testing indicates that the cannabinoid profile on the label does not accurately reflect its contents, the department shall be authorized to place conditions on the sale of such product, such as requiring disclaimers or notifications, or to seize, order recalls, or order destruction of such cannabis or CIP.

~~(l)~~(m) The ATC shall maintain the results of all testing for no less than 4 years.

~~(m)~~(n) The department shall require additional testing, copies of results for which shall be sent to the department, order recalls, or order destruction of cannabis or CIP:

- (1) In the event it has evidence of tampering or product contamination;
- (2) In order to determine the presence or absence of contaminants; or
- (3) In order to verify the accuracy of labeling.

~~(n)~~(o) The testing laboratory shall supply documentation to the ATC of the test sample size requirements, for all analytes tested, to determine a minimum yet adequate amount of cannabis required by the laboratory to perform the testing required by this section.

~~(o)~~(p) The ATC shall develop and implement a policy describing the procedures used to collect and provide samples for testing, which meets the following requirements:

(1) The ATC shall utilize a statistically valid sampling methodology to ensure that each sample is a random, homogenized sample; and

(2) The ATC shall document each sample collection, to include batch information, collecting agent information, and chain of custody information.

~~(p)(q)~~ Laboratories and laboratory employees shall be permitted to possess cannabis on the premises of the laboratory for the purpose of testing in accordance with this section.

~~(p)(r)~~ ATCs shall be responsible for all costs associated with the testing of cannabis samples.

~~(s)~~(s) No ATC agent shall have any financial or other interest in a laboratory providing testing services in accordance with this section.

~~(s)(t)~~ No individual employee of a laboratory providing testing services for ATCs may receive direct financial compensation from any ATC.

~~(u)~~(u) All storage of cannabis at a laboratory providing cannabis-testing services shall comply with He-C 402.17.

(v) An ATC shall develop and implement a quality assurance policy regarding the testing of cannabis and CIP for cannabinoid profile and contaminants, not including pesticides, in addition to the required testing described in this section, as follows:

(1) The policy shall include provisions for regular and periodic testing of cannabis flower and finished CIP products so that a representative sample of flower and CIP types are tested throughout the registration period;

(2) The ATCs shall work with the testing laboratory for this purpose; and

(3) Any product, the results of which do not match the original testing results, or the results printed on the label, within a margin of error established by the laboratory, shall be withheld from sale or use, and the testing results shall be reported to the department, shall be subject to the actions described in (1) above.

Readopt with amendment He-C 402.16, effective 11/25/14 (Document #10731), as amended effective 10/23/15 (Document #10961), to read as follows:

He-C 402.16 Production of Cannabis-Infused Products.

(a) Except for registered qualifying patients or designated caregivers, subject to the limitations in He-C 401.18, only a registered ATC shall be permitted to produce CIP.

(b) An ATC, which chooses to produce CIP, shall do so in accordance with this section.

(c) CIP shall not be considered food and CIP production facilities shall not be considered food service establishments for the purpose of food service licensure under RSA 143.

(d) Production of CIP shall take place in a designated and separate limited access area of the registered premises.

(e) All edible CIP shall be prepared, handled, and stored in compliance with the sanitation requirements in He-P 2309.03, Sanitary Production and Distribution of Food, Food Processing Plant Standards.

(f) All ingredients of edible CIP shall be of food-grade quality.

(g) An ATC shall provide adequate refrigeration for perishable CIP that will be consumed.

(h) An ATC shall ensure that its production processes are designed so that the cannabinoid content of any edible CIP is homogenous.

(i) Edible CIP shall be individually packaged at the point of preparation except that smaller items may be packaged into larger quantities in a single wrapped package provided that the packaging meets the requirements of He-C 402.19(b)(1).

(j) An ATC that chooses to produce cannabis concentrate shall be subject to the following:

(1) The following shall be permitted categories of cannabis concentrate:

a. Water-based cannabis concentrate;

b. Food-based cannabis concentrate; ~~and~~

c. Carbon dioxide (CO₂) based cannabis concentrate; and

~~e-d.~~ Solvent-based cannabis concentrate, using only the following solvents:

1. Acetone;

2. Butane;

~~3. Carbon dioxide (CO₂);~~

~~43.~~ Ethanol;

~~54.~~ Heptane;

~~65.~~ Isopropanol; and

~~76.~~ Propane;

(2) The use of any solvent not listed in (1) ~~ed.~~ above shall be expressly prohibited;

(3) An ATC that engages in the production of cannabis concentrate, regardless of the method of extraction or category of cannabis concentrate being produced, shall:

a. Ensure that the space in which any cannabis concentrate is to be produced is a fully enclosed room and clearly designated on the current diagram of the registered premises;

- b. Ensure that the **written** standard operating procedure for each method used to produce a cannabis concentrate at the ATC includes step-by-step instructions on how to safely and properly conduct all aspects of the process;
- c. Establish written quality control procedures designed to maximize safety and minimize potential product contamination;
- d. Establish written emergency procedures to be followed in case of a fire, chemical spill, or other emergency; and
- e. Provide, document, and verify comprehensive training for all ATC agents involved in the cannabis concentrate production process to include:
 - 1. All standard operating procedures for each method of cannabis concentrate production used at that ATC;
 - 2. The ATC's quality control procedures;
 - 3. The ATC's emergency procedures;
 - 4. The proper use of any necessary safety or sanitation equipment;
 - 5. The hazards presented by all solvents used within the ATC as described in the material safety data sheet for each solvent;
 - 6. Clear instructions on the safe use of all equipment involved in each process and in accordance with manufacturer's instructions, where applicable; and
 - 7. Any additional periodic cleaning required to comply with all applicable sanitation and safety rules;

(4) An ATC that engages in the production of water-based or food-based cannabis concentrate shall:

- a. Meet the requirements of (e) above;
- b. Ensure that all equipment, counters, and surfaces used in the production of cannabis concentrate are thoroughly cleaned after the completion of each batch of cannabis concentrate;
- c. Ensure that any room in which dry ice is stored or used in processing cannabis concentrate is well ventilated to prevent the accumulation of dangerous levels of CO₂;
- d. Ensure that the necessary safety or sanitation equipment, including personal protective equipment, is provided and properly used by all agents involved in the process;
- e. Ensure that, if used, only food-grade propylene glycol or glycerin is used in the production of food-based cannabis concentrate; and
- f. Comply with (5) below related to the production of solvent-based cannabis concentrate if a pressurized system is used in the production process; and

- (5) An ATC that engages in the production of solvent-based cannabis concentrate shall:
- a. Comply with all state fire and building codes, including but not limited to the national electric code, all local ordinances, and with He-C 402.33(j)-(l) for the cannabis concentrate production area(s);
 - b. Obtain a material safety data sheet for each solvent used or stored in the cannabis concentrate production area and keep them in a book that is readily accessible to all agents working in the cannabis concentrate production area and is readily accessible outside the cannabis concentrate production area as well;
 - c. Determine and post the maximum amount of all solvents and/or flammable chemicals that are permitted both in the storage and work areas of the cannabis concentrate production area in accordance with Saf-C 6000, the state fire code, as adopted by the commissioner of the department of safety under RSA 153, and as amended pursuant to RSA 153:5, I, by the state fire marshal with the board of fire control;
 - d. Ensure that all solvent-based extractions using flammable solvents are performed under a static free fume hood, or an electrostatic discharge safe, electrostatic dissipative, or static resistant certified fume hood for use for a class IB flammable liquid such as ethanol or isopropyl alcohol, which shall be certified and inspected in accordance with the manufacturer's instructions, which shall be at least annually, to meet manufacturer's stated operational requirements, written documentation of which shall be made available to the department upon request;
 - e. Install throughout the registered premises an approved, supervised, automatic sprinkler system;
 - f. Install throughout the registered premises 110 Volt carbon monoxide detectors and a fire alarm system:
 1. Where initiation of the fire alarm system shall be by manual means in accordance with section 9.6.2 of NFPA 101 and by means of any required sprinkler system waterflow alarms, detection devices, or detection systems; and
 2. Which automatically notifies occupants in accordance with section 9.6.3 of NFPA 101;
 - g. Have portable fire extinguishers, appropriate for the area and use, in accordance with section 9.7.4.1 of NFPA 101;
 - h. Ensure that all equipment, counters, and surfaces used in the production process are food-grade and shall not react adversely with any of the solvents to be used in the ATC;
 - i. Ensure that the room in which the cannabis concentrate is produced has a properly functioning emergency eye-wash station;
 - j. Ensure that all solvents used in cannabis concentrate production are food grade or at least 99% pure;

k. Ensure that every batch of cannabis concentrate is tested for residual solvents which, except for ethanol and isopropanol, shall not exceed 500 parts per million per gram;

l. For ethanol and isopropanol, if residual solvents exceed 500 parts per million per gram, add a warning to the product label stating the amount of residual solvent, in parts per million per gram, contained in the product; and

m. Not use denatured alcohol in any part of the production process.

(k) A complete list of solvents and chemicals used in the production of any cannabis concentrate shall be made available to the department or a qualifying patient or designated caregiver upon request.

(l) No chemical listed in He-C 402.34 shall be used in any way in the production of CIP.

Readopt He-C 402.17, effective 11/25/14 (Document #10731), to read as follows:

He-C 402.17 Storage.

(a) All cannabis and CIP in the process of cultivation, processing, transport, and testing, and all saleable product, shall be kept and stored in such a manner as to prevent diversion, theft, or loss, including that:

(1) Such cannabis shall be accessible only to the number of specifically authorized ATC agents essential for efficient operation;

(2) Such cannabis shall be returned to a secure location immediately after completion of the process or at the end of the scheduled business day; and

(3) If a process is not completed at the end of a business day, the tanks, vessels, bins, or bulk containers containing cannabis or CIP shall be locked inside a secure area.

(b) All cannabis and CIP in the process of cultivation, processing, transport, and testing, and all saleable product, shall be kept and stored:

(1) Under conditions that will protect it against physical, chemical, and microbial contamination as well as against deterioration of the product and its container;

(2) In areas that shall be maintained in a clean, orderly, and well-ventilated condition; and

(3) In storage areas that shall be free from infestation by insects, rodents, birds, and pests of any kind.

(c) ATCs shall maintain a separate secure storage area for cannabis or CIP that is outdated, damaged, deteriorated, mislabeled, or contaminated, or whose containers or packaging have been opened or breached, until such products are destroyed.

Readopt with amendment He-C 402.18 through He-C 402.24, effective 11/25/14 (Document #10731), to read as follows:

He-C 402.18 General Sanitation Requirements. The ATC shall take all reasonable measures and precautions to ensure the following:

(a) That any person who, by medical examination or supervisory observation, is shown to have, or appears to have, an infectious illness, open lesion, including boils, sores, or infected wounds, or any other abnormal source of microbial contamination for whom there is a reasonable possibility of contact with cannabis and CIP shall be excluded from any operations which might be expected to result in contamination until the condition is corrected;

(b) That hand-washing facilities shall be:

(1) Furnished with running water at a suitable temperature;

(2) Located in the registered premises and also where good sanitary practices require **employees** ATC agents to wash or sanitize their hands, including in CIP preparation areas; and

(3) Equipped with effective hand cleaning and sanitizing preparations and sanitary towel service or suitable drying devices;

(c) That all persons working in direct contact with cannabis and CIP shall conform to hygienic practices while on duty, including, but not limited to:

(1) Maintaining personal cleanliness; and

(2) Washing hands thoroughly in a hand-washing area(s) before starting work and at any other time when the hands might have become soiled or contaminated;

(d) That litter and waste are removed and the operating systems for waste disposal are maintained so that they do not constitute a source of contamination in areas where cannabis and CIP are exposed;

(e) That floors, walls, and ceilings are constructed in such a manner that they may be cleaned and that each is kept clean and in good repair;

(f) That there is lighting in all areas where cannabis and CIPs are processed, stored, or sold, and where equipment or utensils are cleaned, sufficient to ensure that proper sanitation methods can be applied;

(g) That the ATC provides screening or other protection against the entry of pests, including that rubbish is disposed of so as to minimize the development of odor and the potential for the waste becoming an attractant, harborage, or breeding place for pests;

(h) That any buildings, fixtures, and other facilities are maintained in a sanitary condition;

(i) That toxic cleaning compounds, sanitizing agents, and other potentially harmful chemicals shall be identified, held, and stored in a manner that protects against contamination of cannabis and CIP and in a manner that is in accordance with any applicable local, state, or federal law, rule, regulation, or ordinance;

(j) That all contact surfaces, utensils, and equipment used in the production of cannabis and CIP shall be maintained in a clean and sanitary condition, including that such surfaces, utensils, and equipment shall be cleaned and sanitized as frequently as necessary to protect against contamination, using a sanitizing agent registered by the U.S. Environmental Protection Agency (EPA), in accordance with labeled instructions;

(k) That the ATC's water supply shall be sufficient for necessary operations;

(l) That plumbing shall be of adequate size and design, and adequately installed and maintained, to carry sufficient quantities of water to required locations throughout the ATC and remove waste without cross-contamination;

(m) That ~~employees-ATC agents~~ have readily accessible toilet facilities that are maintained in a sanitary condition and good repair; and

(n) That cannabis and CIP that can support the rapid growth of undesirable microorganisms are held in a manner that prevents the growth of these microorganisms.

He-C 402.19 Packaging and Labeling Requirements.

(a) The dispensing of cannabis or CIP shall be prohibited unless the cannabis is placed within a container and labeled ~~by an ATC technician~~ in accordance with this section.

(b) All cannabis or CIP to be dispensed shall be packaged as follows:

(1) Cannabis or CIP shall be packaged in plain, opaque, tamper-proof, and child-resistant containers, except that the container shall not be required to be child-resistant if the qualifying patient or designated caregiver has affirmed in writing that he or she would have difficulty opening a child-resistant container and that there are no young children living in his or her household;

(2) Cannabis or CIP shall be packaged in a manner that is not attractive to children;

(3) Depictions of the product, cartoons, or images other than the ATC's logo shall not be permitted on the packaging; ~~and~~

(4) The packaging of edible CIP shall not bear a reasonable resemblance to any commercially available product; ~~and~~

(5) Packaging, including the application of a tamper-proof seal on the package, shall be completed at the cultivation location and not at the dispensing location.

(c) The ATC shall not use any product or strain name that:

(1) Is identical to, or confusingly similar to, the name of an existing non-cannabis product;

(2) Is identical to, or confusingly similar to, the name of an unlawful product or substance;

(3) Is obscene or indecent, such as product names that are sexually suggestive, include curse words, are ethnic in nature, or are otherwise offensive to the sensibilities of a reasonable person;

(4) Might encourage the use of cannabis or CIP for recreational purposes;

(5) Might encourage the use of cannabis or CIP for a condition other than a qualifying medical condition;

(6) Is customarily associated with persons under the age of 18; or

(7) Is related to the benefits, safety, or efficacy of the cannabis product unless supported by substantial evidence or substantial clinical data.

(d) All cannabis or CIP dispensed shall meet the following labeling requirements:

(1) The ATC shall place a legible, firmly affixed label on all cannabis or CIP dispensed, which contains, at a minimum, the following information:

- a. The qualifying patient's registry identification number;
- b. If the cannabis or CIP is being dispensed to a designated caregiver on behalf of a qualifying patient, the designated caregiver's registry identification number;
- c. The qualifying patient's address;
- d. The name, registration number, address, and phone number of the ATC that dispensed the cannabis or CIP;
- e. The quantity, in ounces, of usable cannabis dispensed, which, for CIP that is produced by using a cannabis concentrate, shall be as determined by He-C 402.13(i)~~the amount of cannabis used to create the amount of concentrate included in the CIP;~~
- f. The date and time that the ATC dispensed the cannabis or CIP;
- g. The unique batch number of the cannabis or CIP dispensed;
- h. The strain(s) of cannabis dispensed or, for CIP that has been produced with more than one strain, terminology that indicates that multiple strains have been used to create the CIP, such as "blend" or "hybrid"~~otherwise used in the production of the CIP;~~
- i. The cannabinoid profile of the cannabis or CIP dispensed;
- j. This statement, including capitalization: "This product has not been analyzed or approved by the FDA. It is not certified to be free of contaminants. There is limited information on the side effects of using this product, and there may be associated health risks. Do not drive or operate heavy machinery when under the influence of this product. KEEP THIS PRODUCT AWAY FROM CHILDREN."; and
- k. This statement: "This cannabis or CIP is for therapeutic use only. Diversion of this product is a class B felony and shall result in the revocation of one's registry identification card.";

(2) In addition to (1) above, the ATC shall place a legible, firmly affixed label on all CIP including the following information:

- a. The type of the product;
- b. A list of ingredients;
- c. The net weight of the product;

- d. A warning if nuts or other known allergens are contained in the product;
- e. The date of product creation and the recommended “use by” or expiration date;
- f. A statement that the CIP, if perishable, should be refrigerated;
- g. Directions for use of the product if relevant; ~~and~~

h. Dosing information regarding the serving size of the product relative to the amount of THC in the product; and

~~h.i.~~ The estimated time the CIP may take to go into effect;

(3) In addition to (1) and (2) above, for any CIP that contains an ethanol- or isopropanol-based cannabis concentrate with a residual solvent level that exceeds 500 parts per million per gram, the ATC shall add a warning to the label stating the amount of residual solvent, in parts per million per gram, contained in the product;

(4) Labeling text shall not include any false or misleading statements regarding health or physical benefits to the consumer; and

(5) Multiple labels on a container shall be allowed, however, labels shall be unobstructed and conspicuous in that no information required by these rules shall be obstructed.

He-C 402.20 Dispensing Cannabis or CIP.

- (a) The dispensing of cannabis or CIP shall meet the requirements of this section.
- (b) Only ATC technicians shall be permitted to dispense cannabis.
- (c) Cannabis or CIP shall be dispensed only to those qualifying patients and designated caregivers who have been positively identified, as follows:

(1) A qualifying patient or designated caregiver shall produce his or her ~~valid and~~ active registry identification card ~~designating the ATC~~ and valid proof of identification;

(2) Valid proof of identification shall be limited to one of the following, which contains the person’s name, photograph, and date of birth:

- a. A driver’s license;
- b. A government-issued identification card;
- c. A military identification card; or
- d. A passport; and

(3) The ATC technician shall verify that the qualifying patient or designated caregiver’s registry identification number is on the list of active registry identification numbers provided to the ATC and updated by the department in accordance with He-C 401.10(p).

(d) The ATC shall not dispense cannabis or CIP to a qualifying patient who is a minor. Instead, cannabis or CIP intended for a minor qualifying patient shall only be dispensed to the patient's designated caregiver.

(e) The ATC shall limit the amount of cannabis or CIP dispensed to a qualifying patient, or through his or her designated caregiver, as follows:

- (1) A qualifying patient shall not obtain more than 2 ounces of usable cannabis during any 10-day period, including if a qualifying patient has newly registered with a different ATC;
- (2) The ATC technician shall consult the ATC's records to verify that the dispensing of the cannabis would not cause the qualifying patient to receive more cannabis than is permitted in (1) above; and
- (3) The ATC technician shall document each dispensing of cannabis or CIP by maintaining a transaction record that includes, at a minimum:
 - a. The date, time, and amount of cannabis or CIP dispensed and amount paid;
 - b. The type, strain, and batch number of cannabis dispensed;
 - c. The registry identification number of the qualifying patient and the designated caregiver, as applicable; and
 - d. That each transaction shall be verified and initialed by the ATC technician.

~~(f) All scales used to weigh usable cannabis for dispensing purposes shall be certified annually by a licensed NH service technician in accordance with RSA 438 and Agr 1400.~~

~~(g)(f)~~ When dispensing cannabis or CIP, an ATC shall follow any instructions or recommendations provided by the qualifying patient's certifying provider in accordance with He-C 401.06(b)(8).

~~(h)(g)~~ With each dispensing of cannabis or CIP, the ATC shall make available to the qualifying patient or designated caregiver, at a minimum, the educational materials ~~as~~ described in He-C 402.21.

~~(i)(h)~~ An ATC shall not dispense cannabis or CIP to a visiting qualifying patient.

~~(j)(i)~~ An ATC technician who is also a designated caregiver or qualifying patient shall not dispense cannabis to him or herself.

He-C 402.21 Educational Requirements.

(a) An ATC shall maintain and make available educational materials about cannabis and CIP and their use to qualifying patients, their designated caregivers, and their certifying providers.

(b) Each ATC shall have an adequate supply of current educational materials available for distribution to registered qualifying patients and their designated caregivers, including any materials supplied by the department to be made available.

(c) Educational materials shall be available for inspection by the department upon request.

(d) The educational materials shall include, at a minimum, information about the following:

- (1) Strains of cannabis, routes of administration, and their different effects in order to assist in the selection of prepared cannabis;
- (2) How to achieve proper dosage for different routes of administration with an emphasis on using the smallest amount of cannabis possible to achieve the desired effect, and the impact of potency;
- (3) Substance use disorder information on tolerance, dependence, and withdrawal;
- (4) Substance misuse signs and symptoms;
- (5) Referral information to substance abuse treatment programs;
- (6) Possible side effects from the use of cannabis for therapeutic purposes;
- (7) The extent to which the ATC's cannabis and CIP meet or do not meet organic certification standards, other information concerning organic growing methods used by the ATC, and information concerning other methods used for cultivation and processing;
- (8) The warning information required to be included on the label as per He-C 402.19(d)(1)j. and k. and (d)(2)h.; and
- (9) The materials in (1)-(8) above shall be available in languages accessible to all patients served by the ATC including for the visually and hearing impaired.

(e) ATCs shall offer tracking sheets to qualifying patients and their designated caregivers to keep track of the strains of cannabis used, the form of prepared cannabis used, and the effects of cannabis and CIP used.

(f) ATCs shall keep a record for each qualifying patient, which includes:

- (1) The strains of cannabis dispensed, including potency; and
- (2) The form of prepared cannabis or CIP dispensed.

(g) In addition to the information in (f) above, the ATC shall collect data from each qualifying patient who is willing to provide it regarding:

- (1) Strains used and routes of administration as they relate to qualifying conditions and symptoms;
- (2) Any side effects experienced;
- (3) Therapeutic effectiveness; ~~and~~
- (4) Overall satisfaction with the ATC and therapeutic cannabis program in general; and
- (5) Other efficacy and use surveys, as directed by the department, upon a qualifying patient's intake and at periodic and regular intervals.

(h) The ATC shall develop and implement a policy designed to increase the participation of qualifying patients in the activities described in (g) above.

~~(h)~~(i) The data collected under (f) and (g) above shall be maintained using the qualifying patient's registry identification number and shall be made available to the department upon request.

(j) The ATC shall strongly encourage the qualifying patient to sign a release of information so that the ATC may contact the patient's certifying medical provider regarding the patient's therapeutic use of cannabis.

(k) If the qualifying patient signs the release in (j) above, the ATC shall contact the qualifying patient's certifying medical provider in order to facilitate an exchange of information relative to the patient's therapeutic use of cannabis and to share information collected under (f) and (g) above.

(l) The ATC shall document the efforts made to engage each qualifying patient's certifying medical provider and include such documentation in the patient's record.

~~(i) Upon request from the qualifying patient, and after the qualifying patient provides a signed release to the ATC, the ATC may share information collected under (f) and (g) with the qualifying patient's certifying provider.~~

He-C 402.22 Cannabis Waste Disposal Requirements.

(a) Cannabis ~~and CIP~~ waste shall be stored, secured, and managed in accordance with all applicable state and local statutes, regulations, ordinances, or other requirements.

(b) Disposal of hazardous and chemical waste shall be conducted in a manner consistent with federal, state, and local laws.

(c) Cannabis ~~and CIP~~ waste shall be made unusable, and in the case of previously or potentially usable cannabis, unrecognizable, prior to leaving the registered premises.

(d) Notwithstanding (c) above, cannabis waste from a dispensing location shall be first transported to the ATC's cultivation location for proper disposal.

~~(d)~~(e) Cannabis ~~and CIP~~ waste shall be rendered unusable, and in the case of previously or potentially usable cannabis, unrecognizable, and disposed of as follows:

(1) Previously and potentially usable cannabis that is determined to be cannabis waste shall be ground so that it is unrecognizable;

~~(1)~~(2) Cannabis ~~and CIP~~ waste shall be ~~ground and~~ incorporated with non-consumable ~~solid~~ wastes listed below such that the resulting mixture is at least 50 percent non-cannabis waste:

- a. Paper waste;
- b. Plastic waste;
- c. Cardboard waste;
- d. Food waste;

- e. Grease or other compostable oil waste;
- f. Bokashi, or other compost activators;
- g. Other wastes that will render the cannabis ~~and CIP~~-waste unusable and unrecognizable as cannabis; or
- h. Soil; and

~~(2)(3)~~ After the cannabis ~~and CIP~~-waste is made unusable and, if applicable, unrecognizable, ~~then~~ the rendered waste shall be:

- a. Disposed of at a legal state-approved solid waste site and disposal facility;
- b. Deposited at a state-approved compost facility; or
- c. Composted on-site at a facility owned by the generator of the waste.

~~(e)(f)~~ An ATC shall not dispose of cannabis ~~and CIP~~-waste in an unsecured waste receptacle not in possession and control of the ATC.

~~(f)(g)~~ An ATC shall accept at no charge unused, excess, or contaminated cannabis and CIP from a registered qualifying patient or designated caregiver, and shall destroy it as provided in ~~(d)(e)~~ above, and shall maintain a written record of such disposal, including the name of the supplying registered qualifying patient or designated caregiver as applicable, as well as the date, the quantity, and type of cannabis or CIP returned.

~~(g)(h)~~ When cannabis ~~or CIP~~-waste is disposed of, the ATC shall create and maintain a written record of the date, the time, the type and quantity, the manner of disposal, and the names and signatures of the persons present during the disposal. ATCs shall keep disposal records for at least 4 years.

~~(h)(i)~~ Cannabis ~~and CIP~~-waste disposal shall be witnessed by no less than 2 ATC employees, ~~one of whom shall be an ATC technician~~.

~~(i)(j)~~ Cannabis ~~and CIP~~-waste, excluding the roots or root ball of the cannabis plant, shall be included in the overall inventory of cannabis possessed by the ATC, but shall not be included in the maximum allowed cannabis inventory limits.

He-C 402.23 Advertising Restrictions.

(a) An ATC shall be prohibited from advertising its products or services except as allowed in this section.

(b) The following shall not be considered advertising and shall be allowed:

(1) A business name and logo to be used in labeling, signage, and other materials, however, the use of medical symbols, images of cannabis products, cannabis-related accessories~~related cannabis paraphernalia~~, and colloquial references to cannabis or marijuana shall be prohibited from use in the business name or logo;

(2) An exterior sign on the ATC building, which displays the business name and logo, and which meets the following additional requirements:

- a. Such signage shall be designed to assist qualifying patients and designated caregivers to find the ATC without drawing undue attention to the ATC such as through the use of flashing lights;
- b. Such signage shall not be illuminated during non-business hours; and
- c. A second location for cultivation and processing which is separate from the location of the dispensary area of the ATC, shall not be permitted to have ~~such~~ an exterior sign;

(3) An ATC may maintain a website and social media site for its business, which contains the following information:

- a. ATC name and dispensary location;
- b. Contact information;
- c. Hours of operation;
- d. Services provided;
- e. Strains of cannabis available, except that brand names or commercial names of cannabis strains shall not be used;
- f. Products available;
- g. Prices of products, including any available discounts on products; ~~and~~
- h. Educational material, including information as described in He-C 402.21 and information regarding the department's therapeutic cannabis program in general; and
- h.i. Any other information related to the ATC that ~~does not~~ is not intended to induce, ~~or is likely to induce~~, directly or indirectly, the purchase of cannabis by persons who are not qualifying patients or designated caregivers; ~~and~~

(4) E-mail communication, including electronic newsletters, to ~~its~~ existing or potentially qualifying patients and designated caregivers, and to other individuals who sign up for such newsletters, containing information permitted by (3) above; and

(5) Outreach efforts to and communication with providers, community leaders, and state and local officials for educational purposes.

(c) Those activities and materials described in (b) above shall be subject to review by the department upon request.

(d) An ATC shall not specifically direct the materials and activities allowed in (b) above to minors, or to persons 25 years of age or younger who are not qualifying patients or designated caregivers, and shall make reasonable efforts to limit the exposure of such persons to these allowed materials and activities. However, incidental exposure to such materials and activities by such persons shall not be considered a violation of these rules.

~~(e)(e) Any displays of merchandise, signs, or any other exhibit depicting the activities of the ATC placed within the interior of the registered premises shall be arranged or screened to prevent not be visible to public viewing from outside such the exterior of the building or premises. This shall not prevent images of the interior of the ATC to be utilized by the ATC, on its website or social media sites or for other viewing, as long as the images do not include qualifying patients or designated caregivers, without their written consent, or security features which might compromise the security of the ATC.~~

He-C 402.24 Security Requirements

(a) An ATC shall implement security measures to deter and prevent unauthorized entrance into areas containing cannabis or CIP and to prevent diversion, loss, and theft of cannabis or CIP at the ATC or during transport of cannabis or CIP.

(b) Security measures to protect the registered premises, registered qualifying patients, designated caregivers, and agents of the ATC shall include but are not limited to the following:

- (1) The ATC shall limit access to the registered premises as described in (c) and (g) below;
- (2) The ATC shall establish limited access areas accessible only to specifically authorized personnel, and only the number of employees or ATC agents essential for efficient operation;
- (3) The ATC shall dispose of all cannabis ~~containing~~ waste including unused portions of the plant, contaminated cannabis product, and excess cannabis in accordance with He-C 402.22;
- (4) The ATC shall store all finished cannabis in a secure, locked safe, vault, or storage unit in such a manner as to prevent diversion, theft, and loss;
- (5) The ATC shall keep all safes, vaults, storage units, and any other equipment or areas used for the production, cultivation, harvesting, processing, or storage of cannabis and CIP securely locked and protected from entry, except for the actual time required to remove or replace cannabis;
- (6) The ATC shall keep all locks and security equipment in good working order;
- (7) Keys, and other access devices, as applicable, shall not be left in the locks, or stored or placed in a location accessible to persons other than specifically authorized personnel;
- (8) The ATC shall prohibit accessibility of security measures, such as combination numbers, passwords, or electronic or biometric security systems, to persons other than specifically authorized personnel;
- (9) The outside perimeter of the ATC shall be sufficiently lit to facilitate surveillance;
- (10) The ATC shall ensure that trees, bushes, and other foliage outside of the registered premises do not allow for a person or persons to conceal themselves from sight;
- (11) The ATC shall develop emergency policies and procedures for securing all product following any instance of diversion, theft, or loss of cannabis or CIP, and conduct an assessment to determine whether additional safeguards are necessary; and

(12) The ATC shall develop additional safeguards as directed by the department for registered premises or areas of operations that present security concerns.

(c) An ATC shall not permit any person to enter the ATC unless:

(1) Such person is an ATC ~~agent~~employee, is on duty, and is visibly displaying his or her badge;

~~(2)~~ Such person is an ATC agent, not including those in (1) above, such as a board member or corporate officer, who is logged in, escorted, and is displaying a visitor badge, in accordance with (e)(3) and (f) below:

~~(2)(3)~~ Such person is a qualifying patient or designated caregiver possessing a registry identification card issued by the department pursuant to He-C 401 and whose access shall be limited to the dispensing area of the ATC;

~~(4)~~ Such person is accompanying a qualifying patient while in the dispensing area of the ATC, and who:

a. Shall not be required to be a qualifying patient or a designated caregiver;

b. Shall not be a minor;

c. Shall be required to comply with (e)(3) and (f) below;

d. Shall be subject to the ATC's policy on such guests; and

e. Shall be limited to one guest at any one time;

~~(3)(5)~~ The Such person is an outside vendor or contractor whose responsibilities require access to the ATC and then only to the specific areas necessary and for only as long as necessary to perform the person's job duties;

a. For the purposes of this rule, an outside vendor or contractor is intended to mean an individual who requires temporary access to the registered premises for a specific purpose not related to a primary function of the ATC, such as to perform construction or maintenance, or to conduct system repairs or inspection;

~~(4)(6)~~ Such person is authorized by law, rule, or in writing by the commissioner to be in the registered premises; or

~~(5)(7)~~ Such person(s) are emergency responders in the course of responding to an emergency and the ATC documents the names, times, and dates of each responder at the time of the incident or as soon as is practicable after the emergency, as required by the incident report in He-C 402.10(n).

(d) The requirements of (c) above shall not be construed to prohibit access to authorized law enforcement personnel or local officials acting within their lawful jurisdiction.

(e) The ATC shall document:

(1) The dates and times that all agents are either in the registered premises or offsite transporting cannabis or CIP ~~for testing or disposal, between registered premises, or to another ATC;~~

(2) The registry identification numbers, dates, and times that all registered qualifying patients and designated caregivers are in the registered premises for either education or purchase of cannabis or CIP;

(3) Access to the registered premises by other persons authorized ~~persons~~ by (c) or (d) above, including the name, signature, date, times, stated purpose, and the name of the employee providing escort; and

(4) The signature and employee escort requirements in (3) above shall not apply for emergency responders in the event of a reportable incident.

(f) For all authorized persons who do not have either a registry identification card issued by the department or an employee or volunteer identification badge issued by the ATC, the ATC shall:

(1) Issue a temporary numbered visitor's badge that shall be worn for the duration of the visit to the ATC and returned prior to exit; and

(2) Provide an ATC employee who shall escort the authorized person(s) at all times while they are in the limited access areas of the registered premises.

(g) The limited access areas described in (b)(2) above shall be identified by the posting of a sign that shall be a minimum of 12" X 12" and which states: "Do Not Enter – Limited Access Area - Access Limited to Authorized Personnel Only" in lettering no smaller than one inch in height.

(h) An ATC shall have a security system designed to prevent and detect diversion, theft, or loss of cannabis and unauthorized intrusion, which shall, at a minimum, include:

(1) A perimeter alarm on all entry points and perimeter windows;

(2) A failure notification system that provides an audible, text, or visual notification of any failure in the surveillance system which alerts designated employees of the ATC within 5 minutes after the failure, either by telephone, email, or text message;

(3) A duress alarm, panic alarm, and holdup alarm connected to local public safety or law enforcement authorities or to an alarm monitoring company;

(4) Video cameras in all areas that may contain cannabis, at all points of entry and exit, on the entrance to the video surveillance room, and in any parking lot, which shall be appropriate for the normal lighting conditions of the area under surveillance. The cameras shall be directed at all safes, vaults, sales areas, and areas where cannabis is cultivated, harvested, processed, prepared, stored, handled, or dispensed. Cameras shall be angled so as to allow for the capture of clear and certain identification of any person entering or exiting the ATC or area;

(5) 24-hour recordings from all video cameras that are available for immediate viewing by the department upon request and that are retained for at least 90 calendar days. Recordings shall not be destroyed or altered, and shall be retained as long as necessary if the ATC is made aware of a pending criminal, civil, or administrative investigation, or legal proceeding for which the recording might contain relevant information;

(6) The ability to immediately produce a clear, color, still photo either live or from a recording;

(7) A date and time stamp embedded on all recordings which shall be synchronized, set correctly, and shall not obscure the picture;

(8) A video recording that allows for the exporting of still images in an industry standard image format, including .jpg, .bmp, and .gif. Exported video shall have the ability to be archived in a proprietary format that ensures authentication of the video and guarantees that no alteration of the recorded image has taken place. Exported video shall also have the ability to be saved in an industry standard file format that can be played on a standard computer operating system. All recordings shall be erased or destroyed prior to disposal; and

(9) The functionality that the security system shall remain operational during a power outage.

(i) In addition to the requirements listed in (h) above, each registered premises shall have a backup alarm system that shall detect unauthorized entry during times when the registered premises are closed and that shall be provided by a company which shall not be the same company providing the primary security system.

(j) All security system equipment and recordings shall be maintained in a secure location so as to prevent theft, loss, destruction, and alterations, access to which shall be limited to persons that are essential to security operations, including security system personnel.

~~(k) Access to surveillance areas shall be limited to persons that are essential to surveillance operations, law enforcement authorities acting within their lawful jurisdiction, security system service personnel, and the department. A current list of authorized employees and service personnel that have access to the surveillance room shall be available to the department upon request. If located on-site, surveillance rooms shall remain locked and shall not be used for any other function.~~

(l) Video surveillance records and recordings of point-of-sale areas shall be confidential, except that the ATC may provide such records and recordings, with notice to the department, to state or local law enforcement agency(s) acting within their lawful jurisdiction and if requested in connection with a law enforcement investigation or proceeding, or pursuant to a court order, or to the department.

(m) All policies, procedures, practices, plans, and physical layout pertaining to security, and the address of a second site for cultivation and processing if separate from the dispensing location, shall be confidential except that they shall be provided to the department upon request and as otherwise allowed by He-C 402.

(n) All security equipment shall be in good working order and shall be inspected and tested at regular intervals, of at least every 30 calendar days.

(o) Documentation of the inspection and testing in (n) above shall be maintained by the ATC.

(p) At all points of ingress and egress, the ATC shall ensure the use of commercial-grade, non-residential door locks.

(q) ATCs shall develop written security protocols which they shall share with local police department(s) having jurisdiction at the address(es) of the registered premises. The ATC shall document the efforts made to engage local police departments.

Readopt He-C 402.25, effective 11/25/14 (Document #10731), to read as follows:He-C 402.25 Confidentiality.

(a) All individually identifiable patient health or cannabis information which an ATC creates, receives, maintains, or transmits in an electronic form shall be deemed protected health care information for the purposes of the federal Health Insurance Portability and Accountability Act of 1996 as amended.

(b) All information held by the ATC which identifies certifying providers, registered qualifying patients, and designated caregivers shall be confidential pursuant to RSA 126-X and shall not be released except as provided by (e) below.

(c) The ATC shall have an electronic record keeping system that provides password protected restricted access to confidential information to only those ATC technicians who require access to perform the duties of their position.

(d) The electronic record keeping system in (c) above shall at a minimum:

(1) Be structured so that dispensing, data collection records, and any product effectiveness records shall be tracked according to qualifying patients' registry identification numbers to protect their confidentiality; and

(2) Have the capability of pairing the registry identification numbers with registered qualifying patient demographics when necessary to send reports to persons as identified by (e) below, such as providers.

(e) Information held by the ATC about registered qualifying patients, designated caregivers, and certifying providers may be released by the ATC to:

(1) The subject individual to whom the information applies, his or her designated caregiver, or his or her authorized representative;

(2) Persons designated in writing by the registered qualifying patient;

(3) Department staff for the purpose of carrying out official duties; and

(4) An individual or entity pursuant to an order from a court of competent jurisdiction.

(f) All ATC agents shall sign a statement of confidentiality that they have read and understand the policies required by He-C 402.09(b)(12) prior to the start of any duties within the ATC.

Readopt with amendment He-C 402.26, effective 11/25/14 (Document #10731), to read as follows:He-C 402.26 Waivers.

(a) Applicants or ATCs seeking waivers of specific rules in He-C 402 shall submit a written request for a waiver to the department that includes:

(1) The specific reference to the rule for which a waiver is being sought;

(2) A full explanation of why a waiver is necessary; ~~and~~

(3) How the granting of the waiver would not negatively impact the health, safety, and well-being of qualifying patients and the public and would not negatively affect the quality of services provided to qualifying patients; and

~~(3)~~(4) The period of time for which the waiver is sought if less than permanent.

(b) No provision of statute shall be waived by the department.

(c) A waiver shall be permanent unless the department specifically places a time limit on the waiver.

(d) A request for waiver shall be granted if the department determines that the alternative proposed by the applicant or ATC:

(1) Meets the objective or intent of the rule;

(2) Does not negatively impact the health, safety, or well-being of the qualifying patients or public; and

(3) Does not negatively affect the quality of qualifying patient services.

(e) The ATC's subsequent compliance with the alternatives approved in the waiver shall be considered equivalent to complying with the rule from which waiver was sought.

(f) Waivers shall not be transferable.

(g) When an ATC wishes to renew a time limited waiver beyond the approved period of time, the ATC shall apply for a new waiver by submitting the information required by (a) above, and any other relevant information that supports the continuation of the waiver:

(1) When the ATC submits its application for registration renewal pursuant to He-C 402.06(b) and (c); or

(2) At least ~~15~~ 30 days prior to the expiration of the waiver if the waiver expires on a date other than the expiration date of the registration.

(h) The request to renew a waiver shall be subject to (b) through (f) above.

Readopt He-C 402.27, effective 11/25/14 (Document #10731), to read as follows:

He-C 402.27 Complaints.

(a) The department shall investigate complaints that allege a violation of RSA 126-X or He-C 402.

(b) Complaints that allege that an individual or entity is operating as an ATC without being registered shall be turned over to the state or local law enforcement.

(c) When practicable the complaint shall be in writing and contain the following information:

(1) The name and address of the ATC, or the alleged unregistered individual or entity;

- (2) The name, address, and telephone number of the complainant; and
 - (3) A description of the allegations that supports the complaint and the alleged violation(s) of RSA 126-X or He-C 402.
- (d) For an ATC, the department shall:
- (1) Provide written notification of the results of the investigation to the ATC along with a statement of findings if deficiencies were found as a result of the investigation; and
 - (2) Notify any other state or local agencies of suspected violations of their statutes or rules based on the results of the investigation, as appropriate.
- (e) If the investigation results in deficiencies being cited, the ATC shall be subject to an administrative remedy in accordance with He-C 402.29 and an enforcement action in accordance with He-C 402.30.
- (f) Any statement of findings issued as a result of a complaint investigation shall be considered public information, however, complaint investigation files shall be confidential in accordance with RSA 126-X, and shall not be disclosed publicly.
- (g) Such files shall be released by the department on written request only:
- (1) To the department of justice when relevant to a specific investigation;
 - (2) To law enforcement when relevant to a specific criminal investigation;
 - (3) When a court of competent jurisdiction orders the department to release such information; or
 - (4) When used by the department as exhibits in prosecuting an enforcement action in an administrative or judicial hearing.

Readopt with amendment He-C 402.28 through He-C 402.34, effective 11/25/14 (Document #10731), to read as follows:

He-C 402.28 Inspections.

- (a) For the purpose of determining compliance with RSA 126-X and He-C 402, as authorized by RSA 126-X:7, IX, the ATC shall admit and allow any authorized department representative at any time to inspect the following:
- (1) The registered premises;
 - (2) All programs and services provided by the ATC; and
 - (3) Any records required by RSA 126-X or He-C 402.
- (b) At a minimum, the department shall conduct an inspection to determine full compliance with RSA 126-X and He-C 402, prior to:
- (1) The issuance of an initial registration;

- (2) Resumption of business after a change in the physical location of the ATC;
- (3) Occupation of space after construction, renovations, or alterations; or
- (4) The renewal of a registration.

(c) In addition to (b) above, the department shall retain the right to conduct an inspection to verify the implementation of any POC accepted or issued by the department, to investigate complaints, and to conduct compliance monitoring.

(d) A statement of findings shall be issued when, as a result of any inspection, complaint, monitoring, the department determines that the ATC is in violation of any of the provisions of He-C 402, RSA 126-X, or any applicable code.

(e) If the inspection results in deficiencies being cited, the ATC shall be subject to a plan of correction in accordance with He-C 402.29, an enforcement action in accordance with He-C 402.30, or both.

He-C 402.29 Plans of Correction.

(a) When the department issues a statement of findings, the ATC shall submit a POC that addresses the areas of noncompliance cited in the statement.

(b) A POC shall be developed and enforced in the following manner:

(1) Upon receipt of a statement of findings, the ATC shall submit a POC containing:

- a. How the ATC intends to correct each area of noncompliance;
- b. What corrective action will be implemented and maintained to ensure that the noncompliance does not recur; and
- c. The date by which each area of noncompliance shall be corrected;

(2) The ATC shall submit a POC to the department within 21 calendar days of the date on the cover letter that transmitted the statement of findings unless the ATC requests, either verbally or in writing, and the department agrees, to extend that deadline, based on the following criteria:

- a. The ATC demonstrates that he or she has made a good faith effort to develop and submit the POC within the 21 calendar day period but has been unable to do so; and
- b. The department determines that the health, safety, or well-being of qualifying patients or the public will not be jeopardized as a result of granting the extension;

(3) The department shall review and accept each POC that:

- a. Will achieve compliance with RSA 126-X and He-C 402;
- b. Corrects all findings of noncompliance as cited in the statement of findings;

c. Does not create a new violation of RSA 126-X or He-C 402 as a result of the implementation of the POC; and

d. Specifies the date upon which the deficiencies will be corrected;

(4) If the POC is acceptable, the department shall issue a registration certificate or provide written notification of acceptance of the POC, whichever is applicable;

(5) If the POC is not acceptable:

a. The department shall notify the ATC in writing of the reason for rejecting the POC;

b. The ATC shall develop and submit a revised POC within 14 days of the date of the written notification from the department that states the original POC was rejected unless, within the 14 day period, the ATC requests an extension, either verbally or in writing, and the department grants the extension, based on the following criteria:

1. The ATC demonstrates that he or she has made a good faith effort to develop and submit the POC within the 14 day period but has been unable to do so; and

2. The department determines that the health, safety or well being of qualifying patients or the public will not be jeopardized as a result of granting the waiver;

c. The revised POC shall comply with (b)(1) above and be reviewed in accordance with (b)(3) above; and

d. If the revised POC is not acceptable to the department, or is not submitted within 14 days of the date of the written notification from the department that states the original POC was rejected, the ATC shall be subject to a directed POC in accordance with (c) below and a fine in accordance with He-C 402.30(c)(8);

(6) The department shall verify the implementation of any POC that has been submitted and accepted by:

a. Reviewing materials submitted by the ATC;

b. Conducting a follow-up inspection; or

c. Reviewing compliance during the next annual inspection;

(7) Verification of the implementation of any POC shall only occur after the date of completion specified by the ATC in the plan; and

(8) If the POC or revised POC has not been implemented by the completion date at the time of the next inspection, the ATC shall be issued a directed POC in accordance with (c) below and shall be subject to a fine, as appropriate, in accordance with He-C 402.30(c)(9).

(c) The department shall develop and impose a directed POC that specifies corrective actions for the applicant or ATC to implement when:

(1) As a result of an inspection, investigation, or compliance monitoring, areas of noncompliance were identified that require immediate corrective action to protect the health and safety of the qualifying patients, designated caregivers, ATC agents, or the public;

(2) A POC is not submitted within 21 days of the written notification from the department;

(3) A revised POC is not submitted within 14 days of the written notification from the department; or

(4) A revised POC submitted by the ATC has not been accepted.

(d) If at the time of the next inspection the directed POC referenced in (c) above has not been implemented by the completion date stated in the directed POC, the department shall, as appropriate:

(1) Impose a fine;

(2) Deny the application for a renewal of a registration; or

(3) Revoke the registration in accordance with He-C 402.30.

(e) The department shall offer an opportunity for informal dispute resolution to any registrant who disagrees with a deficiency-an area of noncompliance cited by the department on a statement of findings, provided that the registrant submits a written request for an informal dispute resolution.

(f) The informal dispute resolution shall be requested in writing by the registrant no later than 14 days from the date the statement of findings was issued by the department.

(g) The department shall review the evidence presented and provide a written notice to the registrant of its decision.

(h) An informal dispute resolution shall not be available for any registrant against whom the department has initiated action to impose a fine, suspend, revoke, deny or refuse to issue or renew a registration.

He-C 402.30 Enforcement Actions and Hearings.

(a) The department shall impose administrative remedies for violations of RSA 126-X or He-C 402 including:

(1) Imposing conditions upon an ATC including suspending any or all portions of the ATC's operations, such as its ability to cultivate cannabis or produce CIP;

(2) Imposing administrative fines upon an ATC;

(3) Denying an application for an ATC registration;

(4) Suspension of a registration certificate; or

(5) Revocation of a registration certificate.

(b) When taking enforcement action against an applicant or registrant, the department shall send to the applicant or registrant a written notice that sets forth:

- (1) The action to be taken by the department;
- (2) The reasons for the proposed action;
- (3) The right of an applicant or registrant to a hearing in accordance with RSA 541-A:30, III, or He-C 200, as applicable, before the enforcement action becomes final; and
- (4) The automatic reduction of a fine by 25% if the fine is paid within 10 days of the date on the written notice from the department and the area of noncompliance deficiency has been corrected, or a POC has been accepted and approved by the department.

(c) The department shall impose fines as follows:

(1) For a failure to cease operations after a registration is revoked or after receipt of an order to cease and desist immediately, in violation of RSA 126-X:7, VII and VIII, and RSA 541-A:30, the fine for an applicant or an ATC shall be \$2000.00 for each day operations continue following the effective date of the order of revocation or the issuance of the cease and desist order;

(2) For violating the advertising restrictions or requirements of He-C 402.23, the fine for an applicant or ATC shall be \$2000.00;

(3) For a failure to submit a renewal application for a registration at least 120 days prior to the expiration date, in violation of He-C 402.06(b), the fine for an ATC shall be \$1000.00;

(4) For failure to submit the required annual fee within 30 days of the department's notice stating the balance due, in violation of He-C 402.04(n), the fine for an ATC shall be \$500;

~~(4)~~(5) For the use or possession of any chemical prohibited in He-C 402.34, or the use of any chemical not permitted under He-C 402.14(e), the fine shall be \$2000.00 for each chemical used or possessed;

~~(5)~~(6) For a failure to notify the department of closure or cessation of services at least 60 days prior to the intended closure, in violation of He-C 402.07(n)(1), the fine for an ATC shall be \$5000.00;

~~(6)~~(7) For a failure to notify the department prior to a change in physical location, in violation of He-C 402.07(c), the fine for an ATC shall be \$2000.00 per day from the effective date of the change in location until the date the department learns of the change;

~~(7)~~(8) For a failure to allow access by the department to the ATC's registered premises, programs, services, or records, in violation of He-C 402.28(a), the fine for an applicant or ATC shall be \$10,000.00;

~~(8)~~(9) For a failure to submit a POC or revised POC, within 21 or 14 days, respectively, of the date on the letter that transmits the statement of findings, in violation of He-C 402.29(b)(2) and (5), the fine for an ATC shall be \$1000.00;

~~(9)~~(10) For a failure to implement any POC that has been accepted or issued by the department, in violation of He-C 402.29(b)(8), the fine for an ATC shall be \$2000.00;

~~(10)~~(11) For the commission of any act prohibited under He-C 402.08, the fine for an ATC shall be \$2000.00;

~~(11)~~(12) For a failure to establish, implement, or comply with ATC policies, as required by He-C 402.09(b), the fine for an ATC shall be \$1000.00 per policy not established, implemented, or complied with;

~~(12)~~(13) For exceeding inventory capacity, in violation of He-C 402.13, the fine for an ATC shall be \$3000.00;

~~(13)~~(14) For providing false, misleading, or deceptive information to the department including verbally to agents of the department, on an application, or on any records required to be maintained by the ATC, in violation of He-C 402.32, the fine for an applicant or ATC shall be \$5000.00 per offense;

~~(14)~~(15) For making false, misleading, or deceptive representations to the public, the fine shall be \$1000.00;

~~(15)~~(16) For not employing a qualified administrator or for employing an administrator or other personnel who do not meet the qualifications for the position, in violation of He-C 402.31, the fine for an ATC shall be \$1000.00;

~~(16)~~(17) For engaging an ATC agent who has a felony conviction, in violation of RSA 126-X:8, IV(a), the fine shall be \$3000.00;

~~(17)~~(18) For failure to notify the department of a reportable incident as required by He-C 402.10(n) and (o) by the required date, the fine shall be \$2000.00;

~~(18)~~(19) For failure to maintain effective controls against diversion, theft, or loss of cannabis or CIP the fine shall be \$5000.00;

~~(19)~~(20) For failure to keep accurate records of all cannabis or CIP dispensed to qualifying patients or designated caregivers, transported, or disposed of, the fine shall be \$5000.00;

~~(20)~~(21) When an inspection determines that a violation of RSA 126-X or He-C 402 has the potential to jeopardize the health, safety, or well-being of a qualifying patient, designated caregiver, ATC agent, or the public, in addition to any other enforcement actions taken by the department, the fines assessed shall be as follows:

a. If the same an area of noncompliance deficiency is cited within 2 years of the original an area of noncompliance deficiency, an additional fine of \$5000.00 shall be imposed; or

b. If the same an area of noncompliance deficiency is cited a third time within 5 years of being fined in a. above, an additional fine of \$10,000.00 shall be imposed; and

~~(21)~~(22) Each day that the individual or ATC continues to be in violation of the provisions of RSA 126-X or He-C 402 shall constitute a separate violation warranting additional fines in accordance with this section.

(d) Payment of any imposed fine to the department shall meet the following requirements:

- (1) Payment shall be made in the form of check or money order made payable to the “Treasurer, State of New Hampshire” in the exact amount due;
- (2) Money order or certified check shall be required when an applicant or ATC has issued payment to the department by check, and such check was returned for insufficient funds; and
- (3) All funds received ~~under the cannabis program as fines under this section~~ shall be deposited to the non-lapsing registry identification card and certificate account pursuant to RSA 126-X:11.

(e) The department shall revoke or deny a registration certificate, as applicable, if the department determines that:

- (1) An applicant or a registrant violated a provision of RSA 126-X or He-C 402 which poses a risk of harm to a qualifying patient’s, designated caregiver’s, ATC agent’s, or the public’s health, safety, or well-being;
- (2) The ATC failed to maintain effective controls against diversion, theft, or loss of cannabis or CIP;
- (3) The ATC failed to keep accurate records of all cannabis cultivated, or CIP produced, and all cannabis and CIP dispensed to qualifying patients or designated caregivers, transported, stored, or disposed of;
- (4) An applicant or registrant has failed to pay an administrative fine or fee imposed by the department;
- (5) The applicant, registrant, or any representative or employee of the applicant or registrant:
 - a. Provides false or misleading information to the department;
 - b. Prevents, interferes, or fails to cooperate with any inspection or investigation conducted by the department; or
 - c. Fails to provide requested files or documents to the department;
- (6) The registrant failed to implement or continue to implement a POC that has been accepted or imposed by the department in accordance with He-C 402.29(b), (c), and (d);
- (7) The registrant is cited a third time under RSA 126-X or He-C 402 for the same violation within 5 years;
- (8) Upon inspection, the applicant or registrant’s registered premises or operations are not in compliance with RSA 126-X or He-C 402;
- (9) A diversion of cannabis has occurred under circumstances that indicate complicity or negligence on the part of the ATC; or

(10) A corporate officer, a board member, or an executive employee has been convicted of a felony in this or any other state.

(f) An applicant or registrant shall have 30 days after receipt of the notice of enforcement action to request a hearing to contest the action.

(g) If a written request for a hearing is not made pursuant to (f) above, the action of the department shall become final.

(h) The department shall order the immediate suspension of a registration, the cessation of operations, and the transfer of qualifying patients when it finds that the public health, safety, or well-being requires such emergency action in accordance with RSA 541:A-30, III.

(i) If an immediate suspension is upheld, the ATC shall not resume operating until the department determines through inspection that compliance with RSA 126-X and He-C 402 is achieved.

(j) Hearings under this section shall be conducted in accordance with RSA 541-A and He-C 200.

(k) No ongoing enforcement action shall preclude the imposition of any remedy available to the department under RSA 126-X, RSA 541-A:30, III, or He-C 402.

(l) An ATC that has had its registration revoked shall not be eligible to apply to be an ATC for a period of 5 years.

(m) If an application for an initial registration is denied pursuant to He-C 402.30(e), the applicant shall not be eligible to apply to be an ATC for a period of 5 years.

He-C 402.31 Personnel.

(a) The ATC shall employ a full-time, on-site administrator who shall be responsible for all aspects of the daily operation of the registered premises, except that an ATC that has a separate location for cultivation shall not be required to employ 2 separate administrators, as long as the single administrator splits on-site working hours between both facilities.

(b) Each ATC shall develop a detailed job description for all employees and a volunteer agreement for all volunteers, which includes duties, authority, responsibilities, qualifications, ~~and~~ supervision, and physical requirements, if any, of the position.

(c) All ATC agents shall be at least 21 years of age.

(d) An ATC shall have conducted a NH department of safety state and federal criminal records check for corporate officers, board members, and executive employees before they are chosen, and for volunteers and employees before they begin working at the ATC.

(e) Prior to the ATC conducting ~~a state and federal~~ criminal records check in (d) above on a prospective ATC agent, the ATC shall notify the department, in writing, of its intent to hire or otherwise engage such person.

(f) An ATC shall not allow any person to be an ATC agent who has been convicted of a felony.

(g) In order to satisfy the requirement of (d) above:

- (1) Prospective ATC agents shall submit directly to the department of safety:
 - a. A notarized criminal history records release form, as provided by the New Hampshire division of state police, authorizing the release of his or her criminal history record, if any, to the department;
 - b. A complete set of electronic fingerprints taken by a qualified law enforcement agency or an authorized employee of the department of safety; and
 - c. Any associated fee;
- (2) The division of state police shall conduct a criminal history records check through its records and through the Federal Bureau of Investigation;
- (3) Upon completion of the records check, the division of state police shall release ~~a copy of the criminal history records~~ information about any felony convictions to the department;
- (4) In the event that the first set of fingerprints is invalid for whatever reason, a second set of fingerprints shall be necessary in order to complete the criminal history records check; and
- (5) In the event that, after 2 attempts, the applicant's electronic fingerprints are invalid due to insufficient pattern:
 - a. The applicant shall obtain a police clearance from the local police department of each town, city, or county where the applicant has lived during the past 5 years;
 - b. The applicant shall submit the police clearances obtained in a. above to the division of state police; and
 - c. The department shall receive from the division of state police the results of the police clearance check process.
- (h) Upon receipt of the results of a criminal history records check or a police clearance check, the department shall notify the ATC whether or not the ATC is prohibited or permitted to hire or otherwise engage such person.
- (i) Annually thereafter, the ATC agent shall sign an affidavit, which states that he or she has not been convicted of a felony.
- (j) All agents shall notify the ATC upon conviction of a felony.
- (k) ATCs shall create and issue identification badges for each ATC agent who works at the ATC as follows:
 - (1) The badges shall include the ATC's registration certificate number, a unique number for each agent, his or her name, and a photo of the agent;
 - (2) No agent, who has not been issued a badge, shall possess, cultivate, or transport cannabis;

- (3) An ATC agent shall wear his or her badge at all times while at the registered premises and when transporting cannabis;
- (4) Badges shall be properly displayed by wearing the badge in a plainly visible manner, at or above the waist;
- (5) The agent shall not alter, obscure, damage, or deface the badge in any manner; and
- (6) An agent shall return his or her badge to the ATC when no longer employed by, or otherwise engaged with, the ATC.

(l) Within the first 7 days of employment, ATC employees and volunteers shall receive a tour of the ATC and an orientation that includes training on the following:

- (1) The ATC's confidentiality policy;
- (2) The duties and responsibilities of the position;
- (3) Employee security policies, including personal safety and crime prevention techniques;
- (4) Emergency procedures, including a disaster plan with procedures for fire or other emergencies;
- (5) Procedures to ensure accurate recordkeeping, including inventory protocols; and
- (6) Alcohol, ~~smoke-tobacco~~, and illicit drug-free workplace policies.

(m) All employees and volunteers shall receive initial and annual training tailored to the roles and responsibilities of the job function of each ATC agent ~~and at a minimum shall receive 8 hours of on-going training annually. Such training shall be in accordance to ATC policy and shall be documented in the agent's personnel file.~~

(n) In addition to the training required by (l) and (m) above, ~~employees who will be dispensing cannabis-ATC technicians~~ shall have training to include:

- (1) Knowledge of all ATC policies for security and tracking the sale of cannabis;
- (2) Maintenance of qualifying patient and designated caregiver records;
- (3) Knowledge of all labeling and dispensing requirements as described in He-C 402.16 and He-C 402.17; and
- (4) Patient educational materials.

(o) Except when transporting cannabis, an ATC agent shall only possess cannabis at the ATC location where he or she is employed. This shall not prohibit an ATC agent who is a qualifying patient or designated caregiver from possessing cannabis outside the ATC as permitted by RSA 126-X.

(p) The following shall apply to volunteers:

- (1) Volunteers shall be supervised by an ATC employee;

- (2) At no time shall there be more volunteers on the ATC registered premises than is necessary for the efficient operation of the ATC;
- (3) Volunteers shall not dispense cannabis; and
- (4) Volunteers shall not transport cannabis.

(q) An ATC shall be permitted to hire or engage independent contractors to work at the registered premises of an ATC, but for the purposes of these rules such persons shall be considered ATC employees and shall be subject to the requirements contained in He-C 402 for agents and employees.

He-C 402.32 Record Requirements.

- (a) The ATC shall maintain all required records for a minimum of 4 years.
- (b) The ATC shall maintain a current and accurate record for each qualifying patient and designated caregiver registered with the ATC.
- (c) At a minimum, qualifying patient and designated caregiver records shall contain the following:
 - (1) Identification data, including:
 - a. The qualifying patient and designated caregiver's name, date of birth, and registry identification number;
 - b. The name, address, registry identification number, and contact information for the qualifying patient's designated caregiver, if applicable;
 - c. The name, address and telephone number of the qualifying patient's certifying medical provider;
 - (2) Dispensing documentation for each dispensing transaction, tracked by using the qualifying patient's and designated caregiver's registry identification number, to include:
 - a. The date, amounts of cannabis and/or CIP dispensed, and amount charged;
 - b. The form of cannabis or CIP dispensed;
 - c. The strain of cannabis dispensed; and
 - d. Whether the cannabis was dispensed to the qualifying patient or the designated caregiver;
 - (3) For qualifying patients who are willing to provide it, the ATC shall document, by the qualifying patient's registry identification number, any side effects and the effectiveness of the cannabis product used;
 - (4) Documentation verifying the qualifying patient's eligibility to purchase cannabis at a reduced cost, if applicable;

(5) Documentation of educational material provided to the qualifying patient or designated caregiver; and

(6) Documentation of any reportable incident involving the qualifying patient or designated caregiver.

(d) Qualifying patient and designated caregiver's records in (c) above shall be considered confidential and only be released in accordance with He-C 402.25 and other applicable law.

(e) Qualifying patient and designated caregiver's records shall be safeguarded against loss or unauthorized use or access.

(f) Records shall be retained for 4 years after a qualifying patient is no longer registered with the ATC, except that when the qualifying patient is a minor, records shall be retained until the minor reaches the age of 19, but no less than 4 years after the qualifying patient is no longer registered with the ATC.

(g) The ATC shall arrange for storage of, and access to, qualifying patient and designated caregiver's records as required by (e) above in the event the ATC ceases operation.

(h) An ATC shall transfer a qualifying patient's dispensing records to the qualifying patient's newly ~~designated-registered~~ ATC as follows:

(1) Upon department notice that the qualifying patient has registered with a new ATC, the original ATC shall transfer the qualifying patient's dispensing records for the 10 days prior to the effective date of the qualifying patient's change of ATC~~request to designate a new ATC through the date that the new ATC is designated;~~ or

(2) The original ATC shall transfer the records in (1) above as soon as practicable, but no later than 5 business days after receipt of the department's notice;

(3) The new ATC shall not dispense cannabis or CIP to a transferred qualifying patient, or his or her designated caregiver, until it has received the transfer of records in (1) above; and

~~(2)~~(4) Upon department notice that the qualifying patient has registered with a new ATC, and upon written authorization from the qualifying patient or the qualifying patient's legally authorized representative, the original ATC shall transfer all of the qualifying patient's dispensing records as soon as practicable.

(i) The ATC shall maintain legible, current, and accurate records for inventory tracking as required by He-C 402.13.

(j) The ATC shall maintain legible, current, and accurate security records as required by He-C 402.24.

(k) The ATC shall maintain personnel records for each ATC agent that include:

(1) The name, address, and contact information for the agent;

(2) A photocopy of the agent's identification badge;

(3) The written notification from the department indicating that the agent has not been found guilty of a felony in this or any other state and can work for or be otherwise engaged by the ATC;

(4) Documentation of verification of references;

(5) The annual affidavit signed by the agent stating that the agent has not been found guilty of a felony in this or any other state;

(6) A statement signed by the agent that he or she has received the initial orientation and copies of and training on those elements required by He-C 402.31(1);

(7) A statement signed annually by the agent:

a. That he or she has received annual training on the ATC policies for confidentiality, security, and safety;

b. That he or she has received annual training on the ATC policies and procedures that specifically relate to the agent's job function(s); and

c. Which includes the date, time, and place of the training, the topics discussed, and the name and title of the trainer.

~~(6) Documentation of required training for ATC policies in security, safety, and confidentiality, which shall include the signature of the individual receiving training, the date, time, and place of training, topics discussed, and the name and title of the presenter;~~

~~(7)(8) The resume or completed application for each ATC agent;~~

~~(8)(9) A detailed job description for each ATC employee and a volunteer agreement for each volunteer which shall include duties, authority, responsibilities, qualifications, ~~and supervision,~~ and physical requirements, if any;~~

~~(9) Documentation of required training for all ATC technicians dispensing cannabis, which shall include the signature of the individual receiving training, the date, time, and place of training, topics discussed, and the name and title of the presenter, to include:~~

~~a. Knowledge of all ATC policies for security and tracking the sale of cannabis;~~

~~b. Maintenance of qualifying patient records required by (b) above; and~~

~~c. Knowledge of all labeling and dispensing requirements as described in He-C 402.16 and 402.17;~~

(10) A record of any disciplinary actions; and

(11) A copy of a valid and current driver's license if the employee transports cannabis, and proof of insurance if the transport is to be done in the employee's own vehicle;

~~(11)(12) Documentation of periodic-annual performance evaluations.~~

(1) Personnel records shall be kept for a minimum of 4 years after the agent is no longer associated with the ATC.

(m) The ATC shall maintain documentation for all ~~personnel-agents~~ of the dates and times worked.

(n) The ATC shall ~~keep-maintain~~ documentation of any reportable incident as required by He-C 402.10(n) and (o).

(o) The ATC shall maintain access documentation in accordance with He-C 402.24(e).

(p) The ATC shall maintain business records, which shall include manual or computerized records of:

(1) Assets and liabilities;

(2) Monetary transactions;

(3) Books of accounts, which shall include journals, ledgers, and supporting documents, agreements, checks, invoices, and vouchers; and

(4) Salary and wages paid to each employee, stipend paid to each board member, and any executive compensation, bonus, benefit, or item of value paid to any individual affiliated with an ATC, including members of the non-profit corporation.

~~(q) The ATC shall be able to document verification of compliance with all rules contained in He C 402.~~

He-C 402.33 Fire Safety and Emergency Preparedness.

(a) The ~~registrant-ATC~~ shall comply with all federal, state, and local laws, rules, codes, and ordinances for:

(1) Buildings;

(2) Health;

(3) Fire; and

(4) Waste disposal.

(b) The ATC shall have all entrances and exits to the registered premises accessible at all times.

(c) The ATC shall be clean and maintained in a safe manner and good repair and kept free of hazards.

(d) All supplies shall be stored in enclosed storage areas.

(e) All corridors shall be free from obstruction.

(f) Cleaning solutions, compounds, and substances, which might be considered hazardous or toxic materials, as defined in RSA 147-A:2, VII, shall be:

(1) Distinctly labeled and legibly marked so as to identify the contents;

(2) Stored in a place separate from food and supplies; and

(3) Kept in an enclosed section separated from other cleaning materials.

(g) Toxic materials shall not be used in a way that contaminates equipment or in any way that constitutes a hazard to personnel or other persons, or in any way other than in full compliance with the manufacturer's labeling.

(h) The ~~registrant-ATC~~ shall, as soon as practicable and no later than 24 hours, notify the department by phone, fax, or e-mail, and in writing within 72 hours, of any fire or situation, excluding a false alarm, that requires the evacuation of the registered premises.

(i) The written notification under (h) above shall include:

(1) The date and time of the incident;

(2) A description of the location and extent of the incident, including any damage;

(3) A description of events preceding and following the incident;

(4) The name of any personnel who required medical treatment as a result of the incident, if applicable; and

(5) The name of the individual the registrant wishes the department to contact if additional information is required.

(j) Flammable gases and liquids shall be stored in metal fire retardant cabinets as required by the department of safety in Saf-C 6000.

(k) Quantities of flammable gases and liquids under 500 milliliters may be retained at the bench work area when directly in use.

(l) If the ATC chooses to produce solvent-based cannabis concentrates using flammable chemicals such as acetone, butane, ethanol, heptane, isopropanol, or propane, it shall be performed under a static free hood, or an electrostatic discharge safe, electrostatic dissipative, or static resistant certified fume hood for use for a class IB flammable liquid such as ethanol or isopropyl alcohol, which shall be certified and inspected in accordance with the manufacturer's instructions, which shall be at least annually, to meet manufacturer's stated operational requirements.

(m) A written plan for fire safety, evacuation, and emergencies covering all hazards shall be adopted and available in multiple locations throughout the ATC and shared with the local fire department.

He-C 402.34 Prohibited Chemicals. The chemicals listed in Table 402.1 below shall be prohibited from use in the cultivation and processing of cannabis and from being possessed and maintained on the ATC registered premises.

Table 402.1 – Prohibited Chemicals

Chemical Name	CAS ¹ Registry Number (or EDF ² Substance ID)
<u>ABAMECTIN</u>	<u>65195-56-4 & 65195-55-3</u>
ALDRIN	309-00-2
ARSENIC OXIDE (3)	1327-53-3

ASBESTOS (FRIABLE)	1332-21-4
AZODRIN	6923-22-4
1,4-BENZOQUINONE, 2,3,5,6-TETRACHLORO-	118-75-2
BINAPACRYL	485-31-4
2,3,4,5-BIS (2-BUTENYLENE) TETRAHYDROFURFURAL	126-15-8
BROMOXYNIL BUTYRATE	EDF-186
CADMIUM COMPOUNDS	CAE750
CALCIUM ARSENATE [2ASH3O4.2CA]	7778-44-1
CAMPHECHLOR	8001-35-2
CAPTAFOL	2425-06-1
CARBOFURAN	1563-66-2
CARBON TETRACHLORIDE	56-23-5
CHLORDANE	57-74-9
CHLORDECONE (KEPONE)	143-50-0
CHLORDIMEFORM	6164-98-3
CHLOROBENZILATE	510-15-6
CHLOROMETHOXYPROPYLMERCURIC ACETATE [CPMA]	EDF-183
COPPER ARSENATE	10103-61-4
2,4-D, ISOCTYL ESTER	25168-26-7
DAMINOZIDE	1596-84-5
DDD	72-54-8
DDT	50-29-3
DI(PHENYLMERCURY)DODECENYLSUCCINATE [PMDS]	EDF-187
1,2-DIBROMO-3-CHLOROPROPANE (DBCP)	96-12-8
1,2-DIBROMOETHANE	106-93-4
1,2-DICHLOROETHANE	107-06-2
DIELDRIN	60-57-1
DIMETHYL SULFOXIDE	67-68-5
4,6-DINITRO-O-CRESOL	534-52-1
DINITROBUTYL PHENOL	88-85-7
ENDRIN	72-20-8
EPN	2104-64-5
ETHYLENE OXIDE	75-21-8
FLUOROACETAMIDE	640-19-7
GAMMA-LINDANE	58-89-9
HEPTACHLOR	76-44-8
HEXACHLORO BENZENE	118-74-1
1,2,3,4,5,6-HEXACHLOROCYCLOHEXANE (MIXTURE OF ISOMERS)	608-73-1
1,3-HEXANEDIOL, 2-ETHYL-	94-96-2
<u>IMIDACLOPRID</u>	<u>138261-41-3</u>
LEAD ARSENATE	7784-40-9
LEPTOPHOS	21609-90-5
MERCURY	7439-97-6
METHAMIDOPHOS	10265-92-6
METHYL PARATHION	298-00-0
MEVINPHOS	7786-34-7
MIREX	2385-85-5
<u>MYCLOBUTANIL</u>	<u>88671-89-0</u>
NITROFEN	1836-75-5

OCTAMETHYLDIPHOSPHORAMIDE	152-16-9
PARATHION	56-38-2
PENTACHLOROPHENOL	87-86-5
PHENYLMERCURIC OLEATE [PMO]	EDF-185
PHOSPHAMIDON	13171-21-6
PYRIMINIL	53558-25-1
SAFROLE	94-59-7
SODIUM ARSENATE	13464-38-5
SODIUM ARSENITE	7784-46-5
2,4,5-T	93-76-5
TERPENE POLYCHLORINATES (STROBANE6)	8001-50-1
THALLIUM(I) SULFATE	7446-18-6
2,4,5-TP ACID (SILVEX)	93-72-1
TRIBUTYLTIN COMPOUNDS	EDF-184
2,4,5-TRICHLOROPHENOL	95-95-4
VINYL CHLORIDE	75-01-4

¹ CAS – Chemical Abstracts Service; ² EDF – Environmental Defense Fund

APPENDIX

RULE	STATUTE
He-C 402.01 – 402.03	RSA 126-X
He-C 402.04	RSA 126-X:6, III(a)(14); RSA 126-X:7, IV(a); RSA 126-X:7, V
He-C 402.05	RSA 126-X:7, IV(a); RSA 126-X:7, IX
He-C 402.06	RSA 126-X:6, III(a)(1); RSA 126-X:7, V; RSA 126-X:7, IX
He-C 402.07	RSA 126-X:6, III(a)(2)
He-C 402.08	RSA 126-X:3
He-C 402.09	RSA 126-X:6, III(a)(2)
He-C 402.10	RSA 126-X:6, III(a)(2)
He-C 402.11	RSA 126-X:2, IX(a)-(b); RSA 126-X:8, XV(b); RSA 126-X:8, XIV
He-C 402.12	RSA 126-X:8, XV(a)
He-C 402.13	RSA 126-X:8, VIII
He-C 402.14	RSA 126-X:7, IV(a)(8); RSA 126-X:8, X, XV(c)
He-C 402.15	RSA 126-X:6, III(a)(5); RSA 126-X:7, IV(a)(9), IV(c)(5)
He-C 402.15(q)	RSA 126-X:2, XV
He-C 402.16	RSA 126-X:1, III, XV
He-C 402.17	RSA 126-X:6, III(a)(5), III(b)
He-C 402.18	RSA 126-X:6, III(a)(5)
He-C 402.19	RSA 126-X:6, III(a)(9); RSA 126-X:8, XIV(b); RSA 126-X:8, XVI(a)
He-C 402.20	RSA 126-X:8, VII(b); RSA 126-X:8, XIII
He-C 402.21	RSA 126-X:8, XVI(b)-(c)
He-C 402.22	RSA 126-X:8, VII(a)
He-C 402.23	RSA 126-X:6, III(a)(12)
He-C 402.24	RSA 126-X:6, III(a)(3); RSA 126-X:7, IV(a)(5), (c)(7); RSA 126-X:8, III
He-C 402.25	RSA 126-X:6, III(b); RSA 126-X:7, IV(c)(6), IX; RSA 126-X:8, XVI(b)
He-C 402.26	RSA 541-A:22, IV
He-C 402.27	RSA 126-X:6, III(a)(2), (a)(11)
He-C 402.28	RSA 126-X:6, III(a)(iii); RSA 126-X:7, IX
He-C 402.29	RSA 126-X:6, III(a)(2)
He-C 402.30	RSA 126-X:6, III(a)(2), (a)(10); RSA 126-X:7, VII-VIII
He-C 402.31	RSA 126-X:6, III(a)(8); RSA 126-X:8, IV, V, XVII
He-C 402.32	RSA 126-X:7, IV(a)(13), IX; RSA 126-X:8, VI-VII; RSA 126-X:8, XVII(c)
He-C 402.33	RSA 126-X:6, III(a)(2), (a)(6)
He-C 402.34	RSA 126-X:7, IV(a)(9), IV(c)(5)