

CHAPTER He-C 400 THERAPEUTIC CANNABIS PROGRAM

PART He-C 402 ALTERNATIVE TREATMENT CENTERS

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CHAPTER He-C 400 THERAPEUTIC CANNABIS PROGRAM

PART He-C 402 ALTERNATIVE TREATMENT CENTERS

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.

He-C 402.03 Definitions.

(a) “Administrative remedy” means an action imposed upon an ATC in response to non-compliance with RSA 126-X ~~and 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) “Advertisement” means all representations disseminated in any manner or by any means, other than by labeling, 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.”

(e) “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 ~~ATC~~ 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.”

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

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

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

(i) “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.”

(j) “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.

(k) “Cannabinoid profile” means the concentration, measured in percent or milligrams per ounce, level of tetrahydrocannabinol (THC), tetrahydrocannabinol (THCV), cannabichromene (CBC), cannabidiol (CBD), cannabigerol (CBG), and cannabinol (CBN) contained in the cannabis sample or saleable cannabis product.

(l) “Change of ownership” means the transfer of the controlling interest of a registered ATC to other individuals or another not-for-profit legal entity, and which shall be approved in advance by the department.

(m) “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 ~~normal~~ 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.

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

(o) “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.

(p) “Contaminant” means mold, fungus, bacterial diseases, rot, pests, non-organic pesticides, mildew, and any other harmful contaminant identified by the department.

~~(pq)~~ “Cultivation location” means a locked 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 may be at a separate location from the ATC.

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

~~(rs)~~ “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 ~~and-or~~ local ordinance.

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

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

- (1) Is at least 21 years of age;
- (2) 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;

(3) Has never been convicted of a felony or any felony drug-related offense; and

(4) Possesses a valid registry identification card issued pursuant to ~~He-C 401~~RSA 126-X:4.”

(~~tv~~) “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.

(~~w~~) “Dispense” means to distribute, leave with, give away, or sell one or more doses of cannabis or CIP that will be administered or taken at a later date, time, or location and the labeling thereof to a qualifying patient or designated caregiver.

(~~w~~) “Dispensing error” means ~~an act or omission relating to the dispensing of cannabis 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 the ATC, or dispensing cannabis that is mislabeled.~~

(y) “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.

(~~z~~) “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.

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

(~~z~~) “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.

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

(~~ab~~) “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.

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

(~~ad~~) “Limited access area” means a building, room, or other contiguous area of the registered premises where cannabis or CIP is grown, cultivated, stored, ~~weighed,~~ packaged, ~~sold,~~ processed for sale, or disposed where access is limited to authorized personnel to enhance security.

(~~ae~~) “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.

(afah) “Paraphernalia” means accessories, devices, and other equipment, such as smoking pipes or vaporizers, that facilitate the use of cannabis for therapeutic purposes.

(agai) “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.

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

(aiak) “Provider” means a 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 from the United States Drug Enforcement Administration to prescribe controlled substances.

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

(akam) “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.”

(alan) “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.”

(amao) “Registration certificate” means the document issued to an applicant at the start of operation as an ATC 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.

(anap) “Registered premises” means the building(s) that comprises the physical location(s) that the department has approved for the registered facility to conduct operations in accordance with its registration to include the cultivation, processing, storage, and dispensing of cannabis, CIP, and the sale of paraphernalia.

(aeaq) “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) ~~Any known~~ 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.

(~~apar~~) “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.”

(~~aqas~~) “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.

(~~arat~~) “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.”

(~~asau~~) “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.”

(~~atav~~) “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.”

(~~auaw~~) “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.”

(~~avax~~) “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.

He-C 402.04 Fees. Fees for ATCs shall be non-refundable, made payable to the “Treasurer, State of New Hampshire”, and shall include:

- (a) The request for proposal (RFP) submission fee shall be \$1500;
- (b) The initial registration fee shall be \$80,000 payable as follows:

- (1) A fee of \$20,000 due within 10 days of selection;

(2) A fee of \$30,000 due with the registration application; and

(3) A fee of \$30,000 due upon the issuance of the notice of registration approval as per He-C 402.05(j);

(c) The annual renewal fee shall be \$80,000;

~~(d) The satellite establishment fee shall be \$10,000;~~

~~(e) The annual satellite renewal fee shall be \$10,000;~~

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

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

(hf) The fee for compliance monitoring to verify the implementation of a plan of correction shall be \$1000; and

~~(i) The inspection fee following new construction or renovations for the ATC shall be \$1200; and~~

(jg) For a change in ownership, or a change in location, the fees for a new registration shall apply.

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, CIP, or paraphernalia to qualified patients and designated caregivers who have been issued a registry identification card from the department.

(b) Each entity selected as part of the RFP process shall provide to the department a fee of \$20,000 within 10 days of the department's notice that the entity has been selected, pursuant to He-C 402.04(b)(1). 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.

(bc) Each entity selected as part of the RFP 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 form entitled "Application for Alternative Treatment Center Registration," signed by the applicant or 2 of the corporate officers, which shall include the address of the ATC and, if applicable, a second related ~~growing-cultivation~~ and processing ~~facilities-facility~~ operated by the ATC and affirming to 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.";

(2) A floor plan of the prospective ATC, to include a complete description and layout of the 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;

(3) If applicable, proof of authorization from the New Hampshire secretary of state to do business as a nonprofit or not-for-profit entity in the state of New Hampshire as follows:

- a. A “Certificate of Authority,” if a corporation; and
- b. The governing document and bylaws verifying operation on a non-profit basis for the benefit of registered qualifying patients;

(4) The ~~registration application~~ fee of \$~~8030~~,000 in accordance with ~~RSA 126-X:6He-C 402.04(b)(2), III(a)(14), payable by check or money order, in the exact amount of the fee made payable to the “Treasurer, State of New Hampshire”;~~

(5) A resume identifying the qualifications of the:

- a. The ATC administrator;
- b. The executive management of the ATC; and
- c. The ATC board members and principals;

(6) The name, address, and date of birth of each principal officer and board member of the ATC who 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;

(7) Written confirmation that the applicant has been approved by the department’s evaluation and competitive scoring process to open an ATC;

(8) 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 officer verifying that the applicant complies with all applicable local zoning ordinances; and

4. The fire chief verifying that the applicant complies with the state fire code, including the applicable chapter of NFPA 101 as adopted by the department of safety, and local fire ordinances applicable for an agricultural processing and retail sales facility; and

b. For a building under construction, the written approvals required by a. above shall be submitted upon completion of the construction project;

(9) The results of a federal and NH state criminal records check for every principal officer, board member, and the administrator pursuant to RSA 126-X:8, IV(a), and RSA 126-X:4, II-a;

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

(11) The distance, in feet, from the property line or extended drug-free zone of any pre-existing private or public preschool, kindergarten elementary or secondary school located within 1320 feet of the facility;

(12) A list of all persons or entities having direct or indirect authority over the management or policies of the ATC, including the members of the not-for-profit corporation, if any, and a list of all persons or entities contributing 5% or more of the initial capital to operate an ATC, including capital that is in the form of land or buildings;

(13) Documentation of liability insurance coverage in the amount of two million dollars; and

(14) Any other information requested by the department.

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

Department of Health and Human Services
Health Facilities Administration
129 Pleasant Street
Concord, NH 03301

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

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

(fg) Any ~~registration 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.

(gh) Registration fees shall not be transferable to any other application(s).

(hi) The department shall deny a registration certificate request in accordance with RSA 126-X:8,V, after reviewing the information in (bc)(9) above if it determines that the administrator or a principal officer or board member has been convicted of a felony in this or any other state.

(j) Following an inspection, a notice of registration ~~certificate 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.

(k) The entity shall submit the final \$30,000 of the initial registration fee upon receipt of the notice of registration approval in (j) above and as described in He-C 402.04(b)(3).

(j) A registration shall be effective on the date of issue and for a period of one year from the last day of the month in which it is issued.

He-C 402.06 Renewal Requirements for ATCs.

(a) The registration in He-C 402.05 shall expire the following year on the last day of the month in which the registration was issued ~~prior to issuance~~ 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 He-C 402.05 ~~(b)(c)(1) and (4)~~;

(2) The annual renewal fee of \$80,000, pursuant to He-C 402.04(c);

~~(2)(3)~~ The current registration number;

~~(3)(4)~~ 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

~~(4)(5)~~ 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 6005.04.

(d) In addition to (c) above, if a private water supply is used, the ATC shall provide documentation that every 3 years the water supply has been tested for bacteria and nitrates and determined to be at acceptable levels, in accordance with Env-Dw 702 for bacteria and Env-Dw 704 for nitrates.

(e) Following an inspection as described in He-C 402.28, a registration shall be renewed if the department determines that the ATC:

(1) Submitted an application containing all the items required by (c) and (d) 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.

He-C 402.07 ATC 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) In the case of a proposed change in ownership, the following shall apply:

(1) At least 120 days prior to a change in ownership, the proposed new owner(s) shall submit the information required by the most recent RFP to the department;

(2) The information in (1) above shall be scored according to the scoring guidelines used in scoring the most recent RFP;

(3) If the proposed new owner(s) receives a score that meets or exceeds the minimum score required by the department in the ATC RFP process, an application for an initial registration certificate shall be submitted in accordance with He-C 402.05(bc);

(4) A change in ownership shall be approved, in advance of the ATC's operation, by the department; and

(5) A new registration certificate shall be issued or denied by the department in accordance with He-C 402.05(hi)-(j).

(c) In the case of a change in physical location, at least 90 days prior to the move, an application for an initial registration certificate shall be submitted for the new location in accordance with He-C 402.05(bc) and a new registration certificate shall be issued by the department in accordance with He-C 402.05(i)-(j). An ATC shall not open at the new location until final approval is provided by the department.

(d) In the case of a change of ownership or a change in physical location, the current registration certificate shall expire and a new registration certificate shall be issued to the new owner or for the new location by the department.

(e) 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.

(f) An inspection by the department shall be conducted in accordance with He-C 402.27-28 prior to operation for changes in the physical location of the ATC.

(g) The ATC shall notify the department whenever there is a change in principal officers, board members, or owners holding 5% or more of the ATC assets.

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

(i) The ATC shall inform the department in writing with 30 days advance notice or as soon as practicable when there is a change in administrator and provide the department with a resume identifying the name and qualifications of 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 facility.

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

He-C 402.08 Prohibitions.

(a) An ATC shall not acquire cannabis or cannabis plants from a location outside the state of New Hampshire, except that an ATC may acquire cannabis seeds or seedlings from ~~an ATC an entity,~~ other than an individual, legally authorized to grow and/or dispense cannabis ~~operate~~ in another state. ~~if necessary to maintain an adequate inventory of therapeutic cannabis.~~

(b) 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.

(c) Only an ATC technician may dispense cannabis, CIP, or paraphernalia to qualifying patients and designated caregivers.

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

(e) No ATC agent shall sell anything other than cannabis, CIP, paraphernalia, and educational materials about cannabis.

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

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

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

(i) No ATC technicians, employees, or agents shall make home deliveries of cannabis, CIP, or paraphernalia, or dispense such products anywhere except at the ATC.

(j) 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.

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

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

(m) 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) ~~Not p~~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) ~~Not p~~Provide an economic benefit to a provider who issues written certifications to patients.

(n) No ATC shall be located in a zoned residential district or within 1000 feet of the drug-free zone of a pre-existing public or private preschool, kindergarten, elementary, or secondary school.

He-C 402.09 ATC Policies and Procedures.

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

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

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

(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 402.18, 402.15, 402.16, and 402.18;~~

(8) Personnel policies which govern all ATC agents, including volunteers, ~~that and which~~ complies with He-C 402.31;

(9) Personnel records and a staffing plan that will ensure staffing that cover business hours and meets operational requirements;

(10) Emergency procedures, including a disaster, plan with procedures to be followed in case of fire or other emergencies;

- (11) A mandatory policy that prohibits the consumption of alcohol, tobacco, and illicit drugs in the workplace;
- (12) 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) A description of the ATC’s patient education activities in accordance with RSA 126-X and He-C 402.21;
- (14) The procedures by which the ATC determines the price it charges for cannabis, CIP, and paraphernalia, and a record of the prices charged, which records shall be maintained as required by He-C 402.32(a);
- (15) 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) 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) The applicant’s plan for making cannabis, CIP, and paraphernalia available on an affordable basis to qualifying patients with verified financial hardship which includes, but is not limited to, patients enrolled in Medicaid or receiving Supplemental Security Income or Social Security Disability Insurance, and the method by which financial hardship is determined and the alternate price list.

He-C 402.10 Operational Requirements.

- (a) The ATC shall be open for business for a sufficient number of hours to meet the needs of qualifying patients and designated caregivers. Such hours shall be posted at the ATC and published on the ATC website.

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

(c) At no time shall there be fewer than 2 agents ~~in the~~ at each location of the registered premises during all hours of operation.

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

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

(f) The ATC shall post the current registration certificate issued in accordance with RSA 126-X, the most recent statement of findings as specified in RSA 126-X, the price list and hours of operation in a public and conspicuous area of the dispensing area.

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

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

(i) An ATC shall submit an incident report to the department no later than the next business day after it discovers a reportable incident. The report shall indicate the nature of the incident and the corrective actions taken by the ATC. The report shall include:

- (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 employees 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 reportable incident.

(j) 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 monthly and as-needed basis to the ATC, which includes a list of the names and registry identification numbers 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.

(k) The ATC shall submit an annual report to the department, which shall contain the following information;

- (1) The strains of cannabis dispensed, 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 therapeutic cannabis program;
- (3) Any product recalls and cannabis batches destroyed, including the date, amount, and reasons thereof;
- (4) A description of the ATC efforts to educate qualified patients and designated caregivers;
- (5) The annual financial report of the ATC including the revenue received for the sale of cannabis by strain of cannabis and type of CIP sold and the expenditures, liabilities, and monetary reserves available;
- (6) A report of the total number of qualified patients and designated caregivers served;
- (7) A description of the ATC's program for reduced cost for patients with documented financial hardship to include the number of patients qualifying for the reduction, the amount of the reductions, and the total amount of the discounts provided; and
- (8) Any additional information requested by the department.

He-C 402.11 Acquisition and Transportation of Cannabis.

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

(b) An ATC may acquire cannabis seeds or seedlings from an ATC entity in another state which is that state's equivalent to a NH ATC, such as a dispensary or compassion center authorized to operate in another state.

(c) 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.

(d) Transport of cannabis shall be accompanied-conducted by at least one 2 ATC agents, one of whom shall be an ATC technician.

(e) 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) Names of the ATC agents transporting the product.

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

(g) The transport manifest shall be signed and dated by an ATC authorized employee, other than the driver, upon departure and by an authorized employee of the receiving entity upon arrival.

(h) 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.

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

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

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

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

(m) Vehicles shall travel directly to the receiving entity, ~~and shall not make any stops along the way. In case of an emergency~~ When circumstances requiring require the vehicle to stop, 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.

(n) In no case shall a vehicle transporting cannabis be left unattended.

(o) ATC technicians 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.

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 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 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 from other ATCs.
- (b) The quantities in (a) above shall be inclusive of all cannabis 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 its inventory of cannabis plants and usable cannabis to reflect the projected needs of registered 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.

(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 ~~that employs a seed-to-sale tracking methodology.~~

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

(i) If an ATC uses an extraction method to produce 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.

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, limited access areas that are monitored by a surveillance camera system in accordance with He-C 402.14.

(c) Soil for cultivation shall meet the U.S. Agency for Toxic Substances and Disease Registry's Environmental Media Evaluation Guidelines for residential soil levels.

(d) Only organic pesticides may be applied and safe growing methods shall be used such as those that -and all cultivation shall beare consistent with U.S. Department of Agriculture organic requirements at 7 CFR Part 205.

(e) 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 identified by the department.

(f) 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, and pest wastes; and
- (4) Prepared and handled on food-grade stainless steel tables.

(g) The department shall be authorized to require the destruction of any cannabis batch that tests positive for plant growth regulators, contaminants, or non-organic compounds exceeding the levels allowed in the soil or water as indicated by He-C 402.15(d) and (e).

He-C 402.15 Testing.

(a) Each batch of cannabis harvested by the ATC shall be tested in accordance with this section.

(b) Each batch of cannabis shall be tested for its cannabinoid profile, to include at a minimum, THC, THCV, CBC, CBD, CBN, and CBG, by an independent laboratory located in New Hampshire that is:

- (1) Accredited to International Organization for Standardization (ISO) 17025 by a third party accrediting body such as American Association for Laboratory Accreditation (A2LA) or ANSI-ASQ National accreditation Board (ACLASS); or
- (2) Certified under the Clinical Laboratory Improvement Act (CLIA).

(c) An ATC shall be required to have CIP 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.

(d) The ATC's water supply shall be tested annually for contaminants and demonstrate results below the EPA maximum contaminant levels for organic and inorganic contaminants. If a water treatment system is needed, the department may require more frequent testing.

(e) Soil used to cultivate cannabis shall be tested annually and must meet the US Agency for Toxic Substance and Disease Registry's Environmental Media Evaluation Guidelines for residential soil levels.

~~(f) Each batch of cannabis harvested shall undergo dry heat exposure processing to kill all fungi, and quality control organisms for known mold spore testing shall be processed with the batch to document the effectiveness of the dry heat process.~~

~~(g)(f)~~ For each batch that If water or soil fails to meet the standards in (d) ~~(f)~~ and (e) above, the ATC shall perform and document both a root cause analysis and any corrective action taken.

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

~~(i)(h)~~ The department reserves the right to 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 and to seize product(s), order recalls, or order destruction of cannabis or CIP;

(2) In order to determine the presence or absence of contaminants; or

(3) In order to verify the accuracy of labeling.

~~(j)(i)~~ Where testing under ~~(b)~~ or (c) above indicates that the cannabinoid profile on the label does not accurately reflect its contents, the department reserves the right to seize, order recalls, or order destruction of cannabis or CIP.

~~(k)(j)~~ Prior to transferring a cannabis sample to a laboratory for testing, the ATC shall require the testing laboratory to supply documentation 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 (b) or (c) above.

~~(l) The ATC shall maintain documentation of the testing results required by (b) above for a minimum of 4 years.~~

~~(m)(k)~~ 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.

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

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

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

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

He-C 402.16 Production of Cannabis-Infused Products.

(a) Except for registered qualifying patients or designated caregivers, 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 separated 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) An ATC shall provide adequate refrigeration for perishable CIP that will be consumed.

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

(h) 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).

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 minimum 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.

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 may be expected to result in contamination until the condition is corrected;

(b) That hand-washing facilities shall be:

- (1) Adequate, convenient, and furnished with running water at a suitable temperature;
- (2) Located in the registered premises and also where good sanitary practices require employees to wash or sanitize their hands to include 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 may have become soiled or contaminated; and

(d) That litter and waste are properly removed and the operating systems for waste disposal are maintained in an adequate manner 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 adequately cleaned and that each is kept clean and in good repair;

(f) That there is adequate lighting in all areas where cannabis and CIP's are processed, stored or sold, and where equipment or utensils are cleaned;

(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 have adequate and 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 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.

(c) The ATC shall not use any product 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;
- (4) May encourage the use of cannabis or CIP for recreational purposes;
- (6) May encourage the use of cannabis or CIP for a condition other than a debilitating qualifying medical condition;
- (7) Is customarily associated with persons under the age of 18; or
- (8) 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 shall also be present;
 - 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’s that are produced by using concentrates, shall be 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 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, must be refrigerated; and
- g. Directions for use of the product if relevant;

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

(4) 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 registry identification numbers provided to the ATC and updated by the department in accordance with He-C 401.10(j).

(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;

(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 ~~by 2~~ and initialed by the ATC technicians ~~both of whom shall initial the record.~~

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

(g) When dispensing cannabis or CIP, an ATC shall follow any instructions or recommendations provided by the qualifying patient's provider.

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

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

(j) 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 or CIP and its use to qualifying patients, their designated caregivers, and their certifying providers.

- (b) Each ATC shall have an adequate supply of current educational material available for distribution to registered qualifying patients and their designated caregivers.
- (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;
 - (78) The warning information required to be included on the label as per He-C 402.19(d)(1)j. and k.; and
 - (89) The materials in (1)-(78) 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 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 methods of delivery as they relate to qualifying conditions and symptoms;
 - (2) Any side effects experienced; and
 - (3) Therapeutic effectiveness.

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

(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 (g) and (h) 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 unrecognizable prior to leaving the registered premises.

(d) Cannabis and CIP waste shall be rendered unusable and unrecognizable and disposed of as follows:

(1) Cannabis 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 pre-approved by the department that will render the cannabis and CIP waste unusable and unrecognizable as cannabis; and
- h. Soil; and

(2) After the therapeutic cannabis and CIP waste is made unusable and 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) An ATC shall not dispose of cannabis and CIP waste in an unsecured waste receptacle not in possession and control of the ATC.

(f) An ATC shall accept at no charge unused, excess, or contaminated cannabis from a registered qualifying patient or designated caregiver, and shall destroy it as provided in (d) 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 returned.

(g) When cannabis or CIP are 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) Cannabis or CIP disposal shall be witnessed by no less than 2 ATC employees one of which shall be an ATC technician.

(i) Cannabis waste and CIP waste 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 activities 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 or cannabis products, 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 cultivation location 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 for its business, which contains the following information:

a. ATC name and location;

b. Contact information;

c. Hours of operation;

- d. Services provided;
- e. Strains of cannabis available;
- f. Products available;
- g. Prices of products; and
- h. Any other information related to the ATC that does not induce, or is likely to induce, directly or indirectly, the purchase of cannabis; and

(4) E-mail communication to its existing qualifying patients and designated caregivers containing information permitted by (3) above.

(c) Any displays of merchandise, signs, or any other exhibit depicting the activities of the ATC placed within the interior of registered premises shall be arranged or screened to prevent public viewing from outside such building or premises.

He-C 402.24 ATC 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. Security measures to protect the premises, registered qualifying patients, designated caregivers, and agents of the ATC must include but are not limited to the following:

- (1) The ATC shall limit access to the facility as described in (b) and (f) below;
- (2) The ATC shall establish limited access areas accessible only to specifically authorized personnel, ~~which shall include~~ and only the minimum 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 402.19;
- (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 facility 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 facilities registered premises or areas of facilities-operations that present ~~special~~ security concerns.

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

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

(2) 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 cannabis dispensing area;

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

(4) Such person is authorized by law, rule, or in writing by the commissioner to be in the facility;

(5) Such person(s) are emergency responders in the course of responding to an emergency; or

(6) The ATC shall document 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(i).

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

(d) The ATC shall document:

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

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

(3) Access to the registered premises by other authorized persons, 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 (d)(3) above shall not apply for emergency responders in the event of a reportable incident.

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

(1) Issue a temporary numbered visitor's badge that must 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 facility.

(ef) The limited access areas described in (a)(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.

(hg) An ATC shall have a security system, to prevent and detect diversion, theft, or loss of cannabis or unauthorized intrusion, utilizing commercial grade equipment, 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 five 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 may 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) The functionality that the security system shall remain operational during a power outage; and

(9) 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.

(h) In addition to the requirements listed in (g) above each facility shall have a backup alarm system that shall detect unauthorized entry during times when the facility is closed and that shall be provided by a company supplying commercial grade equipment which shall not be the same company providing the primary security system.

(i) All security system equipment and recordings shall be maintained in a secure location so as to prevent theft, loss, destruction, and alterations.

(j) 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 must 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.

(k) 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) if requested in connection with a law enforcement investigation or proceeding state or local law enforcement proceedings or pursuant to a court order.

(l) All policies, procedures, practices, plans, and physical layout pertaining to security and the address of the cultivation location if separate from the dispensing location shall be confidential except that they shall be provided to the department upon request.

(m) 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.

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

(o) ATCs shall develop written security protocols which they shall share with local police department(s) having jurisdiction at the address of the ATC and its cultivation location if separate from the dispensing location. ~~regarding their involvement with security at the ATC. In cases where local police departments refuse to participate in the development of such protocols,~~ The ATC shall document the efforts taken to engage ~~them~~ local police departments.

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)(~~43~~12) prior to the start of any duties within the ATC.

(g) At the direction of the department, when an ATC closes, temporarily or permanently, the ATC shall make its complete patient dispensing records immediately available to another ATC and the ATC shall post a notice where the records are now located.

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) 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 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:

- (1) When the ATC submits its application for registration renewal pursuant to He-C 402.06(b) and (c); or
- (2) At least 15 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.

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 402.298(e) and/or 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, but 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.

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) A change in ownership;
- (3) Resumption of business after a change in the physical location of the ATC;
- (4) Occupation of space after construction, renovations, or alterations; or
- (5) 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.

(d) A statement of findings shall be issued when, as a result of any inspection, 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 a qualifying patient 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 achieves 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 a qualifying patient 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)(7);

(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)(8).

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

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 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 a failure to notify the department prior to a change of ownership, in violation of He-C 402.07(b), the fine for an ATC shall be \$5000.00 per day from the effective date of the change in ownership until the date the department learns of the change;

(5) 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;

(6) 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;

(7) 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;

(8) 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;

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

(10) 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;

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

(12) 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;

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

(14) 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;

(15) 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;

(16) For failure to notify the department of a reportable incident as required by He-C 402.10(i) by the required date, the fine shall be \$2000.00;

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

(18) 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;

(19) 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 deficiency is cited within 2 years of the original deficiency an additional fine of \$5000.00 shall be imposed; or
- b. If the same deficiency is cited a third time within 5 years of being fined in a. above the additional fine of \$10,000.00 shall be imposed; and

(20) 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 shall be deposited to the non-lapsing registry identification card and certificate account.

(e) The department shall revoke or deny a registration certificate 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 or CIP dispensed to qualifying patients or designated caregivers, transported 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 ~~the last 7 inspections~~ 5 years;

(8) Upon inspection, the applicant or registrant's premises 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) The administrator, a principal officer, or a board member 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) RSA 541-A shall govern further appeals of department decisions under this section.

(l) No ongoing enforcement action shall preclude the imposition of any remedy available to the department under RSA 126-X1, RSA 541-A:30, III, or He-C 402.

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

(n) 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.

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

(p) 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 license.

(q) An ATC that has had its registration revoked shall not submit an application for a new registration for a period of at least 5 years.

(r) If an application for an initial registration is denied pursuant to He-C 402.30(e)(1) or (e)(3), the applicant shall not apply for an initial registration for a period of at least 5 years.

He-C 402.31 ATC Personnel.

(a) The ATC shall employ ~~an~~ a full-time administrator who shall be responsible for all aspects of the daily operation of the registered premises.

(b) Each ATC shall develop a job description for all employees and a volunteer agreement for all volunteers, which includes duties, responsibilities, qualifications, and supervision.

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

(d) An ATC shall conduct a state and federal criminal records check for principal officers and board members 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 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 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 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, including at any cultivation location, 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 and drug-free workplace policies.

(m) All employees and volunteers shall receive 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.

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

- (1) Knowledge of all facility policies for security and tracking the sale of cannabis;
- (2) Maintenance of qualifying patient 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.

(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 premises than is necessary for the efficient operation of the ATC;
- ~~(13)~~ Volunteers shall not dispense cannabis; and
- ~~(24)~~ Volunteers shall not transport cannabis.

He-C 402.32 ATC 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 caregiver's name, date of birth, and registry number;
 - b. The name, address, registry 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, 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 to the qualifying patient;
- 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 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 released in accordance with He-C 402.25 and other applicable law.

(e) Qualifying patient's 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) The ATC shall maintain legible, current, and accurate records for inventory tracking ~~from seed to sale or disposal~~ as required by He-C 402.13.

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

(j) 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 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) Documentation of required training for facility policies in security, safety, and confidentiality, which shall include the signature of the individual receiving training, and indicates the date, time and place of training and topics discussed including the name and title of the presenter;
 - (7) The resume or completed application for each ATC agent;
 - (8) A job description for each ATC employee and volunteer position and a volunteer agreement for each volunteer which shall include duties, authority, responsibilities, qualifications and supervision;
 - (9) Documentation of required training for all ATC technicians dispensing cannabis, which shall include the signature of the individual receiving training, and indicates the date, time and place of training and topics discussed including the name and title of the presenter, to include:
 - a. Knowledge of all facility 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 17;
 - (10) A record of any disciplinary actions; and
 - (11) Documentation of periodic performance evaluations.
- (k) Personnel records shall be kept for a minimum of 4 years after the agent is no longer associated with the ATC.
- (l) The ATC shall maintain documentation of all staff with the dates and times worked.
- (m) The ATC shall keep documentation of any reportable incident as required by He-C 402.10(j).
- (n) The ATC shall maintain access documentation in He-C 402.24(e).
- (o) 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, if any.

He-C 402.33 Fire Safety and Emergency Preparedness.

(a) The registrant 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 shall immediately notify the department by phone, fax or e-mail within 24 hours 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 perform cannabinoid extractions using flammable chemicals such as butane, it shall be performed under a static free hood, which shall be certified and inspected annually to meet manufacturers stated operational requirements.

(m) A written plan for fire safety, evacuation and emergencies covering all hazards shall be adopted and posted in multiple locations throughout the ATC [and shared with the local fire department.](#)