

NH Department of Health and Human Services Therapeutic Cannabis Program

General Program Information for Medical Providers

Provider Participation

State law does not require medical providers to participate in the NH Department of Health and Human Services' Therapeutic Cannabis Program (Program), nor does it require medical providers to issue Written Certifications to their patients.

Medical providers who choose to certify their patients for the Therapeutic Cannabis Program are not required to register with the State, either with the Program or their licensing board.

The Program does not maintain a public list of medical providers who have issued, or have expressed willingness to issue, Written Certifications to Qualifying Patients.

In order to issue a Written Certification to a Qualifying Patient, a medical provider must:

- In New Hampshire, be a physician, physician assistant, or an advanced practice registered nurse (APRN);
- In Maine, Massachusetts, or Vermont, be a physician or an APRN;
- Have an active license in good standing from the NH Board of Medicine or the NH Board of Nursing, or from the appropriate regulatory entity in the states of Maine, Massachusetts, or Vermont*; and
- Have an active registration from the US Drug Enforcement Agency to prescribe controlled substances.

*Certifying medical providers in Maine, Massachusetts, and Vermont must be "primarily responsible for the patient's care related to his or her qualifying medical condition." [See RSA 126-X:1, VII(a)(3)]

Provider Protections

State law does not require a medical provider to "prescribe" cannabis or "recommend" its use. Rather, state law allows a medical provider to certify that a patient has a qualifying medical condition established in law. **The required Written Certification is not intended to be a prescription or medical recommendation for the therapeutic use of cannabis.**

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

Provider-Patient Relationship

A "provider-patient relationship" means a medical relationship between a licensed provider and a patient, during which the provider has conducted a full assessment of the patient's medical history and current medical condition.

A "full assessment," pursuant to administrative rule He-C 401.06(b)(2), includes all of the following:

- An in-person physical examination of the patient, which shall not be via electronic means, such as over the phone or via the Internet;
- A medical history of the patient, including a prescription history;
- A review of laboratory testing, imaging, and other relevant tests;
- Appropriate consultations;
- A diagnosis of the patient's current medical condition; and
- The development of a treatment plan for the patient appropriate for the provider's specialty.

The certifying provider is required to explain the potential health effects of the therapeutic use of cannabis to an adult patient. In the case of a minor patient, the provider must explain to the minor's custodial parent or legal guardian with responsibility for health care decisions for the minor patient the potential risks and benefits of the therapeutic use of cannabis.

Provider-Patient Relationship (continued)

The certifying provider is required to follow the patient clinically at appropriate intervals at the discretion of the provider to provide follow-up care and treatment to the patient for his or her qualifying medical condition including, but not limited to, physical examinations, to determine the health effects of cannabis for treating the patient's qualifying medical condition or the symptom of the qualifying medical condition for which the written certification was issued.

Qualifying Medical Conditions

The list of qualifying medical conditions for the therapeutic use of cannabis is established by law in RSA 126-X:1, IX(a), as follows:

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

A provider shall not consider a patient to have a qualifying medical condition if a patient who has had a diagnosis of a qualifying medical condition in the past no longer actively has a qualifying medical condition; except that a patient whose symptoms are mitigated by the therapeutic use of cannabis may still be considered to have a qualifying medical condition.

Requirements for Patients who Are Minors

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

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

Provider Recommendations for the Therapeutic Use of Cannabis

If you have recommendations or instructions for your patient's therapeutic use of cannabis, such as the type of cannabis to be dispensed or the means by which the cannabis should be administered, you may send such recommendations or instructions to the patient's designated Alternative Treatment Center (ATC), with your patient's approval. You must securely transmit such information to the ATC. When dispensing cannabis to a qualifying patient, the ATC is required to follow any recommendations or instructions provided by that patient's certifying medical provider.

The Program will inform you in writing when your Qualifying Patient is approved and which ATC the patient has selected, as well as the ATC contact information, so that you may send recommendations or instructions to the ATC.

Maintenance and Release of Records

You must maintain medical records for all patients for whom you have issued a written certification which support the certification of a qualifying medical condition.

On your patient's application to the Program, he or she will be required to sign a release which authorizes the release of medical information by the certifying medical provider to the Program if the Program determines that further information about the applicant's qualifying medical condition is required. For verification purposes, the Program may request, and you must supply, a copy of such records which support the certification of a qualifying medical condition. Refusal to supply such records may adversely affect your patient's ability to obtain or maintain a Registry ID Card.

Written Certification Form Instructions

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

- Give the original, completed Written Certification form to your patient to submit to the Program, and retain a copy for your records. Do not send the completed form directly to the Program; it must accompany the patient's application.
- The Program will not accept a Written Certification if it is dated more than 6 months prior to the date that the applicant submits his or her application to the Program.
- The Program will notify you when your patient's application has been approved, including the contact information for the ATC that your patient has selected, so that you may engage with the ATC regarding your patient's care.

Renewals and Duration of a Written Certification

A patient must annually renew his or her Registry ID Card by submitting a new application to the Program, including the submission of a new Written Certification.

A patient's Registry ID Card will be valid for up to one year from the date of issuance. If you determine that the patient's card should be valid for a shorter duration, then you may indicate on the Written Certification the number of months the card shall remain valid. If you have indicated a duration shorter than one year and then later determine that the card should remain valid for a longer period, you may contact the Program in writing to extend the duration of the card. This is considered an extension, not a renewal, and does not require a new Written Certification. Such extensions shall not be longer than one year from the original issue date of the card.

You may contact the Program in writing at any time if, in your opinion, your patient should no longer be certified for the therapeutic use of cannabis, for whatever reason. Upon such notice the patient's card will be revoked or voided, as appropriate.

Provider Notifications

A certifying medical provider, or the Qualifying Patient's new medical provider if there has been a change in the Qualifying Patient's medical provider, may notify the Program if the provider acquires information indicating that a Qualifying Patient (1) should no longer be certified for the therapeutic use of cannabis; (2) falsified information that was the basis of the provider's written certification; (3) no longer suffers from a qualifying medical condition; or (4) should discontinue using cannabis. Upon such notice, the patient's registry identification card will either be revoked or voided, as appropriate.

Provider Restrictions

A provider issuing a Written Certification shall not delegate to any other health care professional or any other person, authority to diagnose a patient as having a qualifying medical condition.

A provider issuing a Written Certification shall not issue a Written Certification for him or herself or for the provider's immediate family members.

A provider shall not:

- Offer a discount or other thing of value to a patient who uses or agrees to use a particular ATC;
- Examine a patient in relation to issuing a written certification at a location where cannabis is sold or distributed; or
- Hold any economic interest in an ATC, including but not limited to employment at an ATC, if the provider issues Written Certifications to patients.

Referrals to Regulatory Boards

The Program is required by law to refer to the NH Board of Medicine, the NH Board of Nursing, or the appropriate regulatory entity in Maine, Massachusetts, or Vermont, any concerns it has regarding provider conduct.

These regulatory entities may direct the Department to prohibit a provider's participation in New Hampshire's Therapeutic Cannabis Program if the regulatory entity takes disciplinary action against a provider regarding the provider's involvement in the Therapeutic Cannabis Program in New Hampshire or in his or her respective state.

Confidentiality

The Program will maintain the confidentiality of all information about applicants, Qualifying Patients, Designated Caregivers, certifying medical providers, and alternative treatment centers that is provided to the Program. The Program will not maintain a public list or publicly release the names of medical providers who have issued, or have expressed willingness to issue, Written Certifications to Qualifying Patients. Exceptions include:

- The referrals described above regarding concerns the Department has regarding provider conduct.
- Information required to be reported to the Health and Human Services Oversight Committee, to the NH Board of Medicine, and the NH Board of Nursing in the Department's annual data report required by RSA 126-X:10. Such information shall be de-identified, aggregate data required by RSA 126-X:10, IV.